



**Australian Government**  
**Australian Communications  
and Media Authority**

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

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# Review of the Children's Television Standards 2005

## Report of the Review

Closing date for submissions: 17 October 2008

August 2008

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# Contents

<b>1. INTRODUCTION .....</b>	<b>5</b>
Purpose .....	5
Background .....	5
Call for submissions .....	6
Guiding principles .....	7
Proposed package of changes .....	8
<b>2. PROTECTION PROVISIONS .....</b>	<b>10</b>
Food and beverage advertising .....	10
Premium offers .....	13
Promotions and endorsements by program characters .....	14
Presentation of prizes .....	15
<b>3. PROGRAMMING PROVISIONS .....</b>	<b>16</b>
Definition of children .....	16
Quotas .....	17
Timing of C programs .....	18
Block scheduling for C programs .....	19
Timing of P programs .....	20
Scheduling, schedule variation and displacement .....	21
Notification requirements for C and P programs .....	23
Classification process and criteria for C and P programs .....	24

Tradable obligations .....25

**APPENDIXES..... 26**

# 1. Introduction

## Purpose

This paper reports on the outcomes of the review by the Australian Communication and Media Authority (ACMA) of the *Children's Television Standards 2005* (CTS).

The purpose of the paper is to facilitate public comment on the draft *Children's Television Standards 2008* (CTS 2008). The aim of the proposed changes to the CTS is to ensure that children continue to be protected from the possible harmful effects of television and are specifically catered for in programming.

## Background

On 26 June 2007, ACMA released the CTS review issues paper (the issues paper). The paper emphasised the review's primary focus on the effectiveness of the CTS **within the current media environment**. However, it also identified and explored options to ensure the relevance and viability of the CTS in the future digital and multi-channelling broadcasting environment.

In response to the issues paper, ACMA received 76 public submissions and 20,521 postcards signed by individual members of the public as part of the Cancer Council's 'Pull the Plug Campaign'.

In reaching a preliminary view on the CTS, ACMA considered stakeholder submissions and issues of concern to the community, broadcasters and the television production industry.

ACMA also drew on a significant body of research including:

- *Media and Communications in Australian Families 2007*—a major research project on the influence of media and communications on children. This comprised a literature review and a community survey of 751 families including a parent questionnaire and time-use diaries for 1,003 children aged 8–17 years;
- *Television Advertising to Children*—an independent literature review undertaken for ACMA by Dr Jeffrey Brand (2007) on television advertising to children, including the relationship between children's television advertising exposure and their food and beverage preferences (the Brand literature review);

- *Children's Viewing Patterns on Commercial, Free-to-air and Subscription Television*—an analysis of OzTAM ratings data undertaken by ACMA, that uses data from 2001, 2005 and 2006 to provide information about children's television viewing trends, including the times when children watch television and the type of programs they watch;
- the *Children's Television Production Project*—qualitative research commissioned by ACMA that reviewed the funding structure of children's television production in Australia and interviewed producers, representatives from funding bodies and network executives in order to identify and explore key issues for children's television; and
- *Economic Impact of Restrictions on Television Food and Beverage Advertising Directed at Children*—economic modelling of the likely impact of various restrictions on food advertising undertaken by ACMA, using industry data from AC Nielsen.

This research is available from the ACMA website at [www.acma.gov.au](http://www.acma.gov.au).

## Call for submissions

Submissions are invited from interested parties on the draft CTS 2008. The closing date for submissions is 17 October 2008.

Submissions received after this date are unlikely to be considered in the second consultative stage.

Electronic submissions in Microsoft Word or rich text format are preferred and should be emailed to [ctsreview@acma.gov.au](mailto:ctsreview@acma.gov.au). Submissions can also be posted to:

CTS Project Manager  
 Content Monitoring and Review Section  
 Australian Communications and Media Authority  
 PO Box Q500  
 Queen Victoria Building NSW 1230

For more information about making a submission to the review, contact ACMA on (02) 9334 7700.

## PUBLICATION OF SUBMISSIONS

While all submissions will be considered by ACMA, interested parties will not receive an individual response to their submissions. ACMA generally publishes all submissions it receives on its website.

ACMA prefers to receive submissions that are not claimed to be confidential. However, AMCA 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.

## **NEXT STEPS**

Following the closing date for submissions, ACMA will consider comments on the draft CTS 2008 and make any changes it considers necessary in response to submissions.

Following this, the new children's television standards are expected to be finalised and gazetted by early 2009. Due to the extent of the changes being proposed, it will be necessary to revoke and remake the Children's Television Standards.

## **Guiding principles**

In reviewing the CTS with a focus on the current media environment, ACMA applied general principles drawn from the objectives and regulatory policy provided in the *Broadcasting Services Act 1992* (the BSA). Licensee compliance with program standards for programs for children is a licence condition to which all commercial television broadcasting licensees are subject (Schedule 2, paragraph 7(1)(b)).

These general principles are:

- protecting children from harm;
- providing for children to be catered for in television programming;
- reflecting prevailing community standards;
- providing flexibility for licensees;
- balancing public interest considerations and the burden on industry; and
- operating in a co-regulatory framework.

ACMA has applied these general principles, taking into account available evidence and stakeholder submissions, when reaching preliminary views on issues identified in the issues paper. In doing so, ACMA has aimed to provide standards which foster a regulatory environment for children's broadcasting services that appropriately address the needs of the child audience, community and industry, in line with its regulatory responsibilities and in the context of a transitioning television broadcasting landscape.

## **PROTECTING CHILDREN FROM HARM**

Section 3(1)(j) of the BSA provides that it is an objective of the BSA to ensure that providers of broadcasting services place a high priority on protecting children from exposure to program material that may be harmful to them, including advertising and sponsorship matter. The Explanatory Memorandum (EM) to the BSA notes the intention of Section 122(2) of the BSA to provide for the protection of children from possible harmful effects from television.

## **PROVIDING FOR CHILDREN IN PROGRAMMING**

Section 122 of the BSA requires ACMA to determine standards to be observed by commercial television broadcasting licensees for children's programs. The EM to the BSA notes that the standards are intended to provide for children to be specifically catered for in programming and are intended to include the times at which children's

programs are broadcast and how programs televised during children’s viewing times are classified.

## **COMMUNITY STANDARDS**

ACMA is required to encourage providers of broadcasting services to respect community standards in the provision of program material. This includes mandating broadcasting requirements through instruments such as the CTS. In conducting its review, ACMA has been attentive to prevailing community standards and expectations, acknowledging that the provision of children’s programs and advertising are two areas of community concern that could conflict with broadcasters’ wider objectives. ACMA has gauged community opinion through submissions to the issues paper, public surveys and research studies.

## **FLEXIBILITY FOR LICENSEES**

ACMA recognises the heightened importance of flexibility for licensees to operate strategically in a changing environment, but notes that this must be accommodated within prevailing community standards. In reviewing the CTS, ACMA aimed to provide a degree of greater flexibility to licensees while taking into account the interests of the child audience.

## **BALANCING PUBLIC INTEREST CONSIDERATIONS AND THE BURDENS ON INDUSTRY**

Section 4(2)(a) of the BSA notes parliament’s intention that public interest considerations are addressed in the regulation of broadcasting services in ways that do not impose unnecessary financial and administrative burdens on licensees. In reviewing the CTS, ACMA considered its regulatory responsibility to balance public interest considerations with the impact of its decisions on industry.

## **CO-REGULATION OF BROADCASTING SERVICES**

The CTS operate within a multi-layered framework of commercial free-to-air television regulation. Government regulation coexists with industry codes such as the *Commercial Television Industry Code of Practice* and voluntary industry codes such as the *Australian Association of National Advertisers’ Code for Advertising to Children*. ACMA recognises that the standards it develops in consultation with industry and the community are part of this framework.

## **Proposed package of changes**

The proposed package of changes seek to enhance the provision and quality of children’s programming on commercial free-to air-television within a co-regulatory context and ensure that children continue to be protected from harmful material. The proposed amendments seek to appropriately balance the needs of the child audience, the broader community and licensees who are moving into an increasingly converged broadcasting world.

- ACMA acknowledges the continued importance of television in the lives of children. ACMA has committed to ensuring children continue to be provided for in

programming by maintaining the quota levels for C and P material. In order to ensure that the content of C and P programs continues to meet the needs of the child audience, ACMA is proposing biannual forums between ACMA and industry to provide feedback to ACMA on the classification issue for children's programs and to inform a review of the classification process.

- ACMA has decided to make changes to the CTS which are intended to help ensure that children can better access programs that are made specifically for them. These changes include encouraging licensees to create viewing destinations for the C audience through block programming and new requirements to notify children and their parents of schedule changes.
- ACMA has strengthened and clarified provisions governing advertising to children, including further restricting the use of character endorsements in advertising and clarifying the provisions relating to the use during C periods of advertisements that contain premium offers.
- In relation to food and beverage advertising, ACMA has decided, at this stage, against introducing general restrictions. Current evidence is that the association between food advertising and obesity is quite modest and there is limited research on the benefits of banning food advertising. In addition, restricting food advertising without a tool to identify high in fat, salt and sugar (HFSS) foods would be a blunt form of regulatory intervention. ACMA would consider reviewing its position should the body of research find a stronger association between food advertising and obesity or when there is a more established body of research illustrating the benefits of banning food and beverage advertising; and when a food identification standard (appropriate to the Australian market) is successfully introduced.

In addition to these changes to specific provisions, ACMA has decided that the CTS be restructured in order to make it easier for broadcasters to identify their responsibilities under the CTS and to help members of the public in locating relevant provisions if they wish to make a complaint. In that regard, ACMA has decided to separately group all provisions on programming and all other provisions, such as advertising.

The following sections outline the proposed changes to the CTS in more detail.

## 2. Protection provisions

### Food and beverage advertising

#### PRELIMINARY VIEW

**ACMA has decided not to impose any additional requirements on industry at this time concerning food and beverage advertising. CTS19(6) will remain the only provision that specifically addresses food and beverage advertising.**

The issue of food and beverage advertising has been a core component of ACMA's review of the CTS, having regard to the considerable community concern that has been publicly expressed. Of the 76 submissions to ACMA following the publication of the CTS issues paper, 67 raised issues about food and beverage advertising to children. ACMA also received 20,521 postcards calling on ACMA to ban junk food advertising to children as part of the Cancer Council's 'Pull the Plug' campaign.

Consistent with its general approach, ACMA has taken an evidence-based approach to considering the issue of food and beverage advertising to children. ACMA is not a health advisory body, nor does it have internal expertise to advise on health matters. It has therefore needed to rely on the current body of evidence developed by experts in relevant fields to guide and ultimately inform its decision-making on whether additional restrictions should be introduced.

The Brand literature review, commissioned by ACMA, examined a wide range of studies on food and beverage advertising. The review found that factors influencing childhood obesity and overweight are complex with public health literature identifying a range of factors, including the interplay of hereditary, social, cultural and environmental factors. This is consistent with the conclusions of Ofcom, the communications and media regulator in the UK. Ofcom commissioned research in this area and stated that it was difficult to determine the relative contribution of television advertising in comparison with all other factors that influence children's food choice and health, and difficult to disentangle the contribution of television viewing as a factor associated with obesity.<sup>1</sup>

The Brand literature review concluded that there was a correlation between advertising and children's knowledge about the nutritional value of foods, their food preferences and their requests for certain types of food. There was also a correlation

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<sup>1</sup> Brand, J. (2007) *Television Advertising to Children* p.42.

between television viewing (as distinct from television advertising specifically) and obesity in children. However, Brand found that existing research did not clearly demonstrate that any of these relationships were causal. The relative contribution of food advertising to childhood obesity has therefore not been isolated in the current research.

It is therefore difficult to define with any clarity what the benefit of banning food advertising to children would be in the Australian context. Estimates of the impact of banning food and beverage advertising on childhood obesity vary. Some research indicates that banning food and beverage advertising would have little effect, while other research—for example, Haby et al (2006) outlined in *Media and Communications in Australian Families 2007*—proposes that it would be beneficial. Despite the complexities, Ofcom estimated that the strength of the association is quite modest, with television advertising/viewing accounting for about two per cent of the variation on food choice/obesity.

ACMA took very seriously the views of various members of the Australian health research community that there is sufficient evidence to suggest a relationship between advertising and childhood obesity. ACMA recognised the considerable community concern submitted through the review process as an expression of some unmet community expectations in relation to the current CTS.

In undertaking its regulatory role, ACMA was also mindful of a key objective of the BSA—that ‘public interest considerations be addressed in a way that does not impose unnecessary financial and administrative burdens on providers of broadcasting services’ (section 4(2)(a)). ACMA therefore undertook economic modelling to estimate the costs of a range of options for restricting advertising of foods and beverages in the commercial free-to-air broadcasting sector. Despite the lack of a tool in Australia to identify high fat, salt, sugar (HFSS) foods, the costs of banning advertisements for HFSS foods were also estimated, in addition to the costs of banning advertisements for all foods and beverages. The modelling report is available in [Appendix A](#).

ACMA’s economic modelling used two different approaches to estimate the likely cost range:

- estimating the value of the advertisements that would be prohibited if food and beverage advertising was banned at different times; and
- estimating the impact on revenue resulting from a change in the advertising rate that could be expected to occur if bans were implemented.

ACMA then looked at the expected costs of each ban, including the likely impact on the profitability of the commercial free-to-air broadcasters and the potential impact on production quality. ACMA also looked at the reduction in obesity-related costs that would need to be achieved in order for the benefits to the broader Australian community from the ban to exceed the expected costs to the commercial television industry.

ACMA found that there would be a significant impact on broadcaster revenue and profitability from all options explored. Minimal restrictions—such as banning all food and beverage advertising during C programming periods of five hours per week—would have an impact of about one to four per cent on broadcasters’ profitability, with

a considerable impact on revenue, estimated to be \$8.2 million to \$24.5 million per annum.

The most significant impact (estimated to be between 23 and 70 per cent of broadcaster profit) would result from a total ban on food and beverage advertising between 6.00 am and 9.00 pm. Such a reduction in profitability could potentially dampen future industry investment, would be likely to have an impact on programming quality and would require a reduction in obesity-related costs of between four and 12 per cent across the economy to outweigh costs to broadcasters.

Ultimately, in reaching a decision, ACMA could only consider restrictions that might apply to **all** food and beverage advertising on free-to-air television, given that a more calibrated option, such as a ban specifically targeting HFSS foods, as was implemented by Ofcom in the UK, is not possible in Australia, given the lack of a tool to identify HFSS foods. In the light of the economic modelling, ACMA considers that the impact on industry of any ban on all food and beverage advertising would be significant in even the most limited circumstances.

As stated above, the conclusions of research on the benefits of a ban on food and beverage advertising in addressing obesity vary and the impact of advertising alone remains relatively unclear. In this context and lacking a causal link, a reduction in obesity costs through the banning of advertising of food to children is not assured. ACMA therefore does not have evidence currently before it that would persuade it that an offsetting reduction in obesity-related costs would be achieved.

Current evidence is that the association between food advertising and obesity is quite modest and there is limited research on the benefits of banning food advertising. In addition, restricting food advertising without a tool to identify HFSS foods would be a blunt form of regulatory intervention. As a consequence, ACMA has decided not at this time to implement restrictions on food and beverage advertising.

ACMA would consider reviewing its position should the body of research find a stronger association between food advertising and obesity or when there is a more established body of research illustrating the benefits of banning food and beverage advertising and when a food identification standard (appropriate to the Australian market) is successfully introduced.

ACMA considers that the retention of the CTS quotas, and other proposed changes to the CTS relevant to this issue, will further assist parents in guiding decision-making about their children's television viewing habits.

ACMA also considers that industry should have regard to the strong concerns of interested parties in this area and consider how it can effectively address these concerns without additional regulation.

## Premium offers

### PRELIMINARY VIEW

ACMA has decided that CTS20 should be amended to:

- **emphasise that the primary purpose of the provision is to ensure that the premium is incidental to the product being advertised;**
- **ensure that where a food product is advertised, references to non-food products must be incidental to the food product; and**
- **provide a list of factors that will be considered when determining whether something is incidental.**

In deciding that CTS20 should be clarified instead of altered to impose further restrictions on the use of advertisements which contain a premium offer, ACMA considered the available evidence and community concerns.

ACMA recognises community concern about the use of advertisements containing a premium offer. Forty-one of the 76 submissions addressed premium offers. The majority of submitters were concerned about the use of premium offers in food advertising and advocated further restrictions on their use, such as banning advertisements containing a premium offer before 9.00 pm, or during C programs.

Submitters generally argued that the use of premium offers increases children's 'pester power' which may influence the purchasing decisions of parents. This view was advanced in the *National Community Survey of TV Food Advertising to Children* which showed that 10 per cent of parents surveyed, who indicated they were concerned about food advertising, identified toys/giveaways in advertising as a concern. When asked directly if they were concerned about the use of toys/giveaways, about 75 per cent said they were concerned.

Six submitters felt that the provisions required clarification. They argued that the provisions may not be effective because they are ambiguous and open to misinterpretation. They also argued that CTS20 should clarify that food and non-food items cannot be treated as a single product and should emphasise that the primary focus of the advertisement should be the food, with any mention of any non-food item incidental. Submitters also proposed that 'incidental' should be measured in terms of time and emphasis within the advertisement and that 'incidental' should not be interpreted as a subset of 'unreasonable expectation'.

Brand's literature review identified that the use of premium offers in advertising may affect children's preferences for products by attracting and generating their interest. However, Brand found that there is no evidence to suggest that children request or purchase the product as a result of exposure to the premium offer. In addition, Brand found that children aged six to 14 can evaluate products using a range of criteria, which reduces the potential of a premium offer to influence their product purchase or choice decisions.

In this context, ACMA considers that the current level of restriction is appropriate but shares community concerns that the ambiguity of CTS20 does not adequately ensure that children are not unduly influenced by premium offers in advertising. ACMA

therefore considers it appropriate to further strengthen CTS20 by clarifying the requirements.

The proposed provision explicitly states that an advertisement containing a premium offer must not make reference to the premium in a way that is more than merely incidental to the reference to the product advertised. It also provides a list of matters that are relevant in the consideration of whether a premium offer is merely incidental. These amendments will provide clarity around the responsibilities of broadcasters in the use of premium offers in advertising to children and provide appropriate protections during C programs.

## Promotions and endorsements by program characters

### PRELIMINARY VIEW

**ACMA has decided that CTS22 should be amended to ban, during C periods, promotion and endorsement of commercial products and services by:**

- **program characters;**
- **figures;**
- **cartoons;**
- **celebrities including popular personalities;**
- **licensed characters; and**
- **C and P program characters.**

**This prohibition will not apply to advertisements for non-commercial products or services that use the characters or personalities outlined above if the advertisements contains only generic statements about nutrition, safety, education or like matters, and are suitable to be broadcast during C periods.**

In reaching this view, ACMA has considered the available evidence and community concerns that children should be protected from harmful program material.

Twenty-nine of the 76 submissions addressed the issue of promotions and endorsements by program characters. The majority of these argued that the CTS22 restrictions should be extended to prohibit the use of celebrities, popular personalities, athletes and animated characters, in addition to C and P program characters, in promotions and endorsements during C programming.

Brand's literature review found that the use of program characters and other celebrities in promotions and endorsements to children influence their purchasing choices, by blurring the distinction between commercial promotions and program or editorial material. Brand found that the use of celebrities, real-life and animated characters in advertising is persuasive, which enhances children's inherent susceptibility to advertising.

Brand found that children are vulnerable to this type of advertising at each stage of their development. Children aged zero to six are generally unable to distinguish between program material and advertising featuring the same characters.

Moreover, they see celebrities (or people they perceive to be celebrities) as experts, which increases the popularity of the product. Children aged over eight are susceptible to this marketing technique because they are likely to form an emotional attachment to program characters and celebrities whom they regard as heroes.

ACMA considers that this research establishes the influential role of program characters and other celebrities in advertising to children. Therefore, ACMA's preliminary view is to strengthen CTS22 by expanding the list of people and characters that cannot be used in advertising during C periods. However, ACMA considers that there is benefit in allowing the characters and personalities outlined above to be used in advertising of non-commercial products and services during C periods if the advertising contains only generic statements about nutrition, safety, education or like matters.

In imposing these restrictions during C periods, rather than broader time periods, ACMA recognises its particular role in protecting children during the times they are specifically catered for. ACMA also recognises its responsibility to balance the needs of the child audience and the broader viewing adult audience, noting the adult audience's capacity to differentiate between advertising and program content, including the persuasive intent of advertising.

## Presentation of prizes

### **PRELIMINARY VIEW**

**ACMA has decided to amend CTS9 to allow the disclosure of a prize value, where the prize being offered is a cash prize.**

In the issues paper, ACMA sought comment on CTS9 which states that the value of a prize may not be mentioned during C programs which involve the giving or offering of prizes.

Most submitters who addressed the issue of prizes considered that the provision was operating effectively. However, Free TV Australia identified an area for improvement. In its submission, Free TV argued that the prize value provision in CTS9 is too restrictive in its interpretation and application and should be amended to allow the host to reveal the value of a prize in appropriate circumstances, for example where it is a cash prize. This concern was also raised by producers and network executives in the *Children's Television Production Project*.

ACMA considers that amending CTS9 to enable the disclosure of the value of a cash prize is reasonable and does not create an undue risk that the prize-giving segment will become embedded advertising or promotional material. Rather, being able to disclose the value of a cash prize is important for the flow of some C programs, particularly quiz shows in which children compete for a cash prize for their school or where the only prize being offered is a cash prize.

## 3. Programming provisions

### Definition of children

#### PRELIMINARY VIEW

**ACMA has decided to maintain the existing definition of ‘children’ as ‘people younger than 14 years of age’.**

ACMA considers that the current definition in the CTS of ‘children’ as ‘people younger than 14 years of age’ is appropriate. The CTS provisions are targeted to this age group to ensure that children are protected from inappropriate programming and advertising, and provided with programming that meets their intellectual and social needs.

ACMA took an evidence-based approach in considering this issue. An independent literature review of children’s development, conducted by Durkin for the former Australian Broadcasting Authority (ABA) in 2002, concluded that the current age definition of children is appropriate for the provision of programming and the protection of children.<sup>2</sup> The current age range allows for the variance in the stages of children’s cognitive development identified in the Durkin and Brand literature reviews.

For advertising, ACMA considers that the arguments of health and food lobby groups to broaden the definition of ‘children’ to include older teenagers are inappropriate in the broadcasting context. As Durkin found, the examples given where the definition ‘children’ includes persons of 16 or 18 are generally legal criteria which are too all-encompassing for the regulation of commercial free-to-air television.

However, ACMA considers it is inappropriate to lower the upper limit of the definition of ‘children’ to 12, as was proposed by advertising and manufacturing industry groups. Developmental research reviewed by both Brand and Durkin shows that, while children’s cognitive abilities advance at about age 11, there is no clear age at which this development is complete, and indeed it continues throughout early adolescence.

ACMA therefore considers that the current age definition of ‘children’ as ‘people younger than 14 years of age’ is reasonable and consistent with available evidence.

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<sup>2</sup>Durkin, K. (2002). *Understanding Today’s Child Audience*. Comments prepared for the Australian Broadcasting Authority.

## Quotas

### PRELIMINARY VIEW

**ACMA has decided to maintain overall quotas and sub-quotas at their current levels.**

In deciding to maintain rather than increase or decrease existing quota and sub-quota levels, ACMA considered stakeholder submissions and evidence of children's television consumption.

Twenty of the 76 submissions discussed quota levels. The majority considered that current quota levels should be increased or maintained because they ensure that a variety of highly valued Australian content is delivered to children, and provide positive cultural and educational outcomes.

ACMA's *Media and Communications in Australian Families 2007* research report found that free-to-air commercial television remains the dominant form of media consumption for children. The report found that children watched television for an average of one hour and 27 minutes per day, which is significantly higher than time spent on any other media activity. The report also found that parents consider that television positively influences children's social development, interactions and wellbeing by promoting and encouraging creativity, cultural literacy and social diversity.

Moreover, network executives and producers interviewed for the *Children's Television Production Project* argued that there may be no Australian children's drama without explicit quota requirements placed on commercial television. As noted in the issues paper, the CTS quotas appear to drive the networks provision of Australian children's programming.

Free TV Australia argued that quotas should not be increased as this would undermine the quality of children's programming and enhance the regulatory burden on broadcasters.

ACMA considers that maintaining existing quota and sub-quota levels is appropriate. Minimum quotas ensure that children are specifically catered for in commercial free-to-air television programming and that the BSA's cultural objectives are met, particularly the broadcast of Australian children's drama.

## Timing of C programs

### PRELIMINARY VIEW

ACMA has decided to:

- **maintain the existing commencement time of the C band on weekday afternoons; and**
- **amend the CTS so that the morning C band is extended to 8.30am on weekdays.**

Ensuring that children can access programs made for them is a key part of providing for children to be specifically catered for in programming.

### AFTERNOON COMMENCEMENT TIME

ACMA considers that the current C band commencement times on weekday afternoons should be maintained. This will enable licensees to continue to cater for the needs of the child audience and meet their other programming responsibilities.

Twenty-four of the 76 submissions addressed this issue and argued that the current broadcast times for C programs are unsuitable. Submitters argued that programs should be shown in the evenings when children view free-to-air television in greater numbers. While several submitters suggested this be achieved by requiring C programs to be broadcast in prime time, many thought that incentives or other forms of encouragement would be appropriate. However, Free TV Australia observed that any incentive to show C programs during prime time would be unlikely to have any impact on network schedules.

OzTAM ratings data shows that requiring C programs to be broadcast later in the evening would clearly make these programs more accessible to children. However, such a change would also have a significant impact on the adult audience—which doubles to just over 2,000,000 viewers between the periods of 4.00–5.00 pm and 5.00– 6.00 pm.

Prime time timeslots from 6.00 pm onwards are highly lucrative. Therefore, requiring C programs to be shown from 6.00 pm onwards would be likely to have a significant impact on broadcaster revenue. As noted in the BSA, it was parliament’s intention that ACMA regulate broadcasting services in the public interest without imposing unnecessary financial burdens on broadcasters.

ACMA also considers that further incentives to show C programming in prime time would be ineffective given that current incentives have been overwhelmingly unsuccessful, having been taken up only several times since 2005.

### MORNING COMMENCEMENT TIME

Free TV Australia submitted that time bands for C programs should commence at 6.00 am on weekdays and weekends, instead of 7.00 am as currently specified, to increase flexibility and make programming more accessible to the child audience. ACMA does not consider that commencing the C band at 6.00 am is justified due to the significantly lower audience numbers at this time.

However, the data shows that child audience numbers between 8.00–8.30 am on weekday mornings are comparable to audience numbers during the existing morning C band (the average 0–14 years audience is 144,000 from 8.00–8.30 am compared to 149,000 from 7.30–8.00 am and 97,000 from 7.00–7.30 am). Therefore, ACMA has decided to extend the C band in the morning to 8.30 am to provide additional flexibility to licensees to schedule C program at times when children can better access them.

Supporting data is available in [Appendix B](#).

## Block scheduling for C programs

### PRELIMINARY VIEW

**ACMA has decided to amend the CTS to provide licensees with an additional flexible scheduling option for C periods. While the mandatory annual quota of 260 hours per year has not changed, licensees can choose to broadcast C periods in blocks of a minimum of 60 minutes duration and on a minimum of two days per week.**

ACMA considers that giving licensees the alternative option of broadcasting C periods in minimum 60-minute blocks and on a minimum of two days per week has the potential to benefit the child audience by providing increased flexibility for broadcasters to determine how better placement of C programs could occur.

Under the amendment, broadcasters could choose to continue to broadcast the currently mandated 30 minutes per weekday. Alternatively, they could choose to broadcast all C programming in a minimum of 60-minute blocks and on at least two days per week (including weekdays and weekends). In addition to these minimum requirements, broadcasters would still need to schedule programming that ensured that the yearly CTS quota of 260 hours was achieved.

In determining these parameters for block scheduling, ACMA paid extensive regard to the importance of C programming being consistent, routine and frequent to maintain regularity in children's programming. ACMA will review this exploratory change 12 months after the introduction of the CTS to satisfy itself that it is not adversely affecting the scheduling of C programs.

The Senate Standing Committee on Environment, Communications and the Arts made a recommendation in the June 2008 report *Sexualisation of children in the contemporary media* that was not inconsistent with this approach. The committee recommended that the CTS revise the 30 minutes per weekday requirement for C programs and allow block programming to increase accessibility.

Fourteen submissions addressed the scheduling of C programs. The majority of these supported the exploration of block programming, citing benefits such as improved accessibility of programming and the potential to create a 'viewing destination' for the child audience.

Submitters who supported block programming generally acknowledged that removing the current daily weekday 30 minutes requirement could be an appropriate trade-off. However, several specified that this trade-off would only be appropriate if it was

combined with a prime time broadcast requirement. It was also noted that the success of block scheduling may depend on adequate promotion.

One issue emphasised by some submitters on this initiative was the importance of keeping the requirement to show C programs on every weekday. ACMA considered this option and determined that it may inhibit innovative programming schedules without increasing accessibility to children, given that child audience numbers for C programs are generally much lower on weekdays than on weekends. For example, average weekday child audience numbers from 4.00–4:30 pm are 74,000, compared to 133,000 in the same timeslot on weekends. Not prescribing a minimum weekday requirement increases the flexibility for the licensee and therefore the potential benefits to the child audience.

In addition to support from submitters, the popularity of the ABC's *Rollercoaster* and children's programs shown on subscription television suggests that child audiences are drawn to 'destinations'. This could be facilitated by allowing licensees to undertake block scheduling, rather than providing 30 minutes of programming on each weekday as currently required. The *Children's Television Production Project*, for example, observed that the weekday afternoon C band suffers in terms of its placement in the general environment where it is surrounded by adult programming that does not appeal to children.

ACMA therefore considers that allowing licensees to block schedule their C programs is an appropriate exploratory means of trying to increase access to C programs for the child audience, in the context of the generally low audience numbers that C programs currently attract.

Supporting data is available in [Appendix B](#).

## Timing of P programs

### PRELIMINARY VIEW

**ACMA has decided to maintain the current P time bands.**

ACMA considers that the current P time bands are appropriate in ensuring the preschool audience has access programs made specifically for them. This is supported by OzTAM data which shows that apart from the evening prime time hours (when it can be assumed that most preschoolers are watching television with their families), the preschool audience during P periods is comparable in size to the preschool audience at other times of the day.

Most submitters who addressed the issue of timing for P programs believed that the current time bands for P programs were appropriate and should not be changed.

There is no evidence to suggest that commencing P bands at 6.00 am rather than 7.00 am would increase the accessibility of programs to the child audience. OzTAM ratings data shows that audience numbers are significantly lower from 6.00–6.30 am and 6.30–7.00 am than from 7.00 am onwards. Any change to commence the time bands earlier than 7.00 am would decrease the accessibility of programs to the child audience.

There does not appear to be merit in removing the 30-minute weekday requirement for P programs. Developmental research suggests that regularity in programming is particularly important for the preschool age group. Literature reviews undertaken by Brand and Durkin for ACMA and the ABA both drew from Piagetian theory that predictable, recurrent events play an important role in infants and toddlers mastering the spatial and object-oriented world. In this context, ACMA has decided to maintain the P time band and daily programming requirement on weekdays.

## **Scheduling, schedule variation and displacement**

### **PRELIMINARY VIEW**

**ACMA has decided to amend CTS3 to:**

- **require licensees to submit their P and C period schedules to ACMA on an annual basis, in a form approved by ACMA;**
- **allow P periods to be displaced in line with the displacement provisions for C periods;**
- **require licensees to submit variations and displacements to their P and C period schedules, in a form approved by ACMA;**
- **allow for displacement of a P or C program in the case where a sporting event can reasonably be expected to run over time; and**
- **include an event of state or territory in the list of scenarios for which program displacement is allowed.**

Six of the 76 submissions addressed issues of scheduling, schedule variation and displacement. These submitters supported the existing variation provisions, but the majority argued to strengthen displacement provisions. Free TV Australia provided specific suggestions for increasing scheduling flexibility, which ACMA considered to have merit.

ACMA also considered developmental research that showed the importance of routine activity in the lives of preschool-aged children. Independent literature reviews undertaken by Brand and Durkin reported that predictable, recurrent events play an important role in infants and toddlers in mastering the spatial and object-oriented world.

In this context, ACMA has decided on a package of measures that balances its responsibility to the child audience to ensure predictability and accountability in scheduling with licensees' need for flexibility.

### **ACCOUNTABLE SCHEDULING**

ACMA considers it appropriate that the CTS be amended to require licensees to submit their P and C period schedules on an annual basis. This will help ACMA to monitor the P and C period schedules of licensees, particularly in the light of the block-scheduling option.

Licensees will also be required to submit the schedule in a form approved by ACMA. This would provide consistency in reporting for the licensee and enhance ACMA's

capacity to verify broadcasters' compliance with these provisions. ACMA considers that these provisions build on existing schedule variation and displacement notification provisions, and any increase in the administrative burden on licensees is balanced by the important safeguarding function of the provisions.

In addition, licensees will be required to submit variations and displacements to their P and C period schedules in a form approved by ACMA. This builds on existing notification requirements with the key difference being that ACMA would require the schedule to be submitted in a form it has approved.

## **ALLOWING FOR THE DISPLACEMENT OF P PERIODS**

The current CTS provisions allow for the unexpected displacement of P programs in certain circumstances and for the variation of the times that P programs are shown within the day at any time, provided advance notice is given. These provisions provide some flexibility in P program scheduling but interplay with other scheduling provisions that require the timely and predictable broadcast of the P program. This aligns with developmental research outlined in Brand's report showing the importance of predictability, routine and regularity in the lives of preschool-aged children.

ACMA considers that allowing for the displacement of P periods in line with displacement provisions for C periods accords with the existing level of flexibility within the CTS for P programming. Although this may present some risk of disruption to the younger child audience, this additional flexibility interplays with the new notification requirements to ensure that preschoolers continue to have predictable and routine programming.

## **SPORTING EVENTS**

ACMA considers that Free TV Australia's request to allow for the displacement of a C and P program when a major sporting event can be reasonably expected to run over time (but where live coverage of the event may not be shown because the event does not, in fact, end up running over time) is appropriate.

This will provide more certainty in programming for the child audience as licensees could plan the displacement in advance of the overrun of a sporting event. When combined with new promotional requirements, this could lead to more predictable schedules for children's programs, while also providing for uninterrupted broadcast of major sporting events.

## **EVENTS OF STATE, TERRITORY OR NATIONAL IMPORTANCE**

ACMA believes it is important that both the child audience and the broader viewing audience have access to footage of important events, including significant state and territory events. Therefore, ACMA considers that Free TV Australia's suggestion to allow significant state and territory events, in addition to national events, to displace P and C programs is appropriate and would build on existing provisions.

In any instance of a P or C program being displaced, the current requirements for the rescheduling of displaced programs will still apply.

## Notification requirements for C and P programs

### PRELIMINARY VIEW

ACMA has decided to:

- **amend the CTS to require licensees to publish information identifying their P and C programs in the main program guide on their websites; and**
- **amend the CTS to provide clear and consistent guidelines for notification requirements in cases of schedule variation or displacement and where a licensee opts in or out of block programming. This includes at least two on-air promotions:**
  - **one at a time when children and adults can reasonably be expected to be watching television, to give appropriate advance notice of the schedule change; and**
  - **one immediately before or during the time the program was originally due to be scheduled.**

In proposing to strengthen notification provisions for schedule variation and displacement rather than mandate broader promotional requirements, ACMA considered its regulatory responsibility to balance competing needs. ACMA considers that its amendments provide industry with a clear and flexible framework for notification that helps children to access programs that have been made specifically for them.

ACMA recognises stakeholder concern that children may find it difficult to access P and C programs as a result of schedule changes and that better notification can increase children's awareness of scheduling changes and programming made specifically for them.

In this context, ACMA has decided that licensees should publish information identifying their P and C programs in the main program guide on their website. This would provide children and parents with broadcast times of children's programming and a reference point for subsequent scheduling changes. ACMA considers that online program identification would complement published program guides and will not place an unnecessary administrative burden on licensees in the context of the improved accessibility of programming to children this requirement will provide.

ACMA also considers that the effectiveness of existing notification requirements for schedule variation and displacement can be enhanced by mandating clear guidelines about the type, extent and timing of notification, including defining what constitutes 'appropriate notification'. These notification provisions would apply equally to displaced programs (other than for unexpected live coverage) and varied schedules.

ACMA has decided that in instances of schedule variation or displacement (other than displacement for unexpected live coverage), licensees should continue to provide the child audience with details of when the program will be broadcast and, if appropriate, the reason for the scheduling change. The licensee will be required to broadcast this information on air at least twice—once at a time when children and parents can

reasonably be expected to be watching television and once immediately before or during the time that the program was originally due to be scheduled. These changes build on current requirements, providing licensees with clearer, more consistent guidelines about what ACMA considers to be ‘appropriate notification’ of the child audience and their parents when C and P program schedules are changed.

ACMA has decided that the existing notification provisions should remain in instances of a C or P program being displaced due to the unexpected live coverage of an event of national, state or territory importance or a major sporting event that is suitable for viewing by children.

ACMA considers that these provisions complement other changes to the CTS. These include provisions that offer more flexibility to licensees, including allowing displacement of P programs and allowing licensees to show C programming in blocks rather than the current daily 30-minute requirement. Without clear guidelines for notification of and scheduling variations or displacements, this increased flexibility could have a negative impact on the predictability of programming and therefore on the accessibility of programs to the child audience.

## **Classification process and criteria for C and P programs**

### **PRELIMINARY VIEW**

**ACMA has decided to:**

- **maintain the classification criteria contained in CTS2 in their current form;**
- **amend the CTS to provide scope for classification to be undertaken by a person or body appointed by ACMA. Following further exploration of the most appropriate model of classification, this amendment would allow for classification to be undertaken by an external party or parties; and**
- **establish bi-annual forums between ACMA staff and industry to provide feedback on classification issues for children’s programs and to inform reviews of classification guidelines.**

Fifteen submitters commented on the classification process and criteria for C and P programs. Submitters generally felt that the current classification criteria were broad and appropriate. However, there were concerns with the interpretation of the CTS2 criteria by ACMA assessors in the classification process. These concerns were also expressed in the *Children’s Television Production Project*. Noting these concerns, ACMA considered that there is scope for making the classification process more flexible and responsive to changing community standards.

In the issues paper, ACMA explored a range of models for amending the classification process, including classification by a body other than ACMA and the removal of the pre-classification process. There was minimal support from stakeholders for any of the models explored in the issues paper.

In this context, ACMA considers that further exploration is needed to determine how best to classify C and P programs. Therefore ACMA has decided to amend the CTS to enable an external person or body to undertake the classification, if approved by ACMA. This provides the flexibility to explore the most appropriate means of classification, without requiring further amendment to the CTS, once a model has been decided on.

Forums involving ACMA and industry would provide an ideal opportunity to explore classification options. As suggested by stakeholders, these forums would also ensure the classification process and interpretation of the criteria remain relevant in the changing media environment and encourage the production of quality, innovative children's programs that respect community standards.

## Tradable obligations

### PRELIMINARY VIEW

**ACMA has decided that the current CTS should not be amended to allow trading of CTS obligations. However, the concept be explored further in a mature multi-channel environment.**

In the issues paper, ACMA sought comment on the introduction of tradable obligations for children's programming, whereby a commercial broadcast licensee could, for commercial consideration, trade a portion or all of its compulsory children's programming quota to another licensee. ACMA indicated that this scheme could potentially enhance the outcomes of content regulation, allowing increased flexibility for industry and more innovative approaches to programming and scheduling.

The idea of a tradable obligations scheme was previously considered in the context of the 2002 review of the Australian Content Standard. In 2003, the ABA invited submissions in response to a report prepared by the Allen Consulting Group, *Trading the Regulatory Obligations of Broadcasters*. The only support for this scheme came from Commercial Television Australia (now Free TV Australia). However, details of how such a scheme would benefit the audience were not provided.

Since then, exploration of tradable obligations has progressed thinking on the issue. Yet there remains only qualified support for the scheme from Free TV Australia and very minimal support from other key stakeholders. Many submitters opposed the scheme because they felt there was no evidence that trading would benefit the child audience.

Against this background, ACMA has decided that the CTS will not be amended to allow trading of CTS obligations at this time. However, ACMA remains of the view that a tradable obligations scheme is likely to be more appropriate and may provide better outcomes for the child audience in a mature multi-channel environment and should be further explored at a later time.

# Appendixes

- A ECONOMIC IMPACT OF RESTRICTIONS ON TELEVISION FOOD AND BEVERAGE ADVERTISING**
- B OZTAM RATINGS DATA**