Real Media Real Change
1 George Drive
Chilcotts Grass
NSW 2480

12th July 2013

Australian Communications and Media Authority
Level 5,
The Bay Centre
65 Pirrama Rd
Pyrmont NSW

Attn: Management

Re: Contemporary Community Safeguards Inquiry Issues Paper (CCSIIP)

Please find enclosed four Submissions from members of Real Media Real Change.

Real Media Real Change (RMRC) provides a broad range of services - from thought leadership and consulting on Media-related issues to community consultation, media education and community engagement through conferences and events. Our publications address a variety of issues relating to the role Media plays in our lives, with the view that Media can play a supportive and constructive role in a caring and connected community.

We present from the understanding that all stakeholders, from Media outlets, to journalists and consumers - create the nature and quality of the media landscape through the individual choices that are made; with this comes great opportunity and responsibility and forms the foundation of our focus and discussion.

As a team of currently 17 members with a wealth of experience in a variety of industries, from network television and Internet professionals to retail managers, researchers, analysts and healthcare practitioners, we come together with a diverse range of experiences but with a common purpose: We are inspired by the possibility that the media can play a great role in the health, well-being and development of our communities.

We feel strongly that with continued dialogue we can collaboratively build a media culture that makes care for people and community paramount. This is only possible when all stakeholders choose to bring ethical considerations to all aspects of their communications. They are supported to do this with robust guidelines and standards. It is for this reason we welcome the opportunity extended to us to contribute to the community standards that will inform the media’s content.

Policy is not just that, it has the power when enacted to greatly inform what we allow to define us as a society. In an era where media is more prolific and versatile than ever before it is imperative that the consistency of our standards is not compromised due to the scale and scope of the media and its many modes of delivery. From bloggers to broadcasters there is a great responsibility and a great power in our communications.
Media outlets are skilled and strategic in waving the ‘freedom of speech’ banner as a means to enable an ‘anything goes’ approach which underlies their pursuit of profit. It is however well within our means and capacity as a community to cultivate care and connection as an underlying principle which informs the nature and quality of Media – whilst this does not discount profit, it is an acknowledgement that others factors such as truth, integrity, responsibility and accountability are paramount.

Together we can ensure that standards in place truly have the public's interest at their essence. It is important to note that this need not necessarily be defined by what the public have come to deem as unavoidable or insurmountable before finally conceding to it becoming ‘normal,’ ‘begrudgingly accepted’ and or ‘just the way it is’. Harmful content and practices remain harmful irrespective of their rise in uptake. In recent years the largely unregulated internet space, has seen a ‘new-normal’ emerge in which the irresponsible have made their own benchmarks. And in ‘a race to the bottom’ in some areas we have seen traditional media proponents lament their own Codes of Ethics and conduct because it puts them at a disadvantage when competing with unscrupulous bloggers and new media entrepreneurs ‘unfettered’ by industry or Community standards.

In order to put a stop to this worrying trend and its eroding effects on our communities we must call for a consistency across the board. Our standards should be just that. Standards that are tangible and solid and do not shift with the sands or dissolve to accommodate fast-paced changes in ‘societal norms’ that in truth do not serve the health and well-being of our communities.

Intentionally misleading and harmful content goes directly against the spirit of ‘freedom of speech’ as outlined in the ‘Fundamental Freedoms’ as stipulated by the Australian Government on behalf of the Australian people; a statement which we support:

“..Free speech comes from facts, not rumors, and the intention must be constructive, not to do harm....Freedom of speech is not an excuse to harm others.”

We look forward to a continued relationship with ACMA to support the objectives outlined in the enclosed submission and the many more that will unfold as our organisation grows. We appreciate the great role ACMA plays in the provision of these standards and the work and commitment needed to deliver them in a cohesive form through which they can be implemented. We are here to support the role of ACMA in whatever ways we can contribute.

Yours sincerely,

Sarah Davis and Rebecca Baldwin
On behalf of the RMRC Team

Real Media Real Change (RMRC) consists of everyday members of the public who come together with a common purpose – to support and create Media that puts PEOPLE before ‘page views’ and paper sales’. 
12th July 2013

Australian Communications and Media Authority
Level 5,
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Attn: Management

Re: Contemporary Community Safeguards Inquiry Issues Paper (CCSIIP)
Submission #1

Please find provided the written submission #1 by Deborah McInnes as a representative of Real Media Real Change (RMRC) in response to your community invitation of involvement in the current broadcasting regulatory decision-making process. This submission is 19 pages in total.

The viewpoints represented by RMRC’s submission to ACMA represent the people’s voice – we speak with heart on behalf of all of humanity the countless many and often, silent majority of parents, children, businesses and individuals, users, listeners, viewers, those reported on and those reporting who are calling for a more accountable and responsible media that will put ‘people’ before ‘profits’ and which will reflect true societal values and care for human beings whilst providing absolute integrity with regard broadcasting standards.

We welcome further discussion and involvement in the ACMA’s regulatory decision-making process in further facilitating true communication and effective regulation of broadcasting and communications both in the present and henceforth.

Yours Truly,

Deborah McInnes
(On behalf of the RMRC Team)

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http://www.realmediarealchange.org/
Real Media Real Change (RMRC)
Response to the ACMA Contemporary Community Safeguards Inquiry Issues Paper (CCSIIP)

Real Media Real Change

Real Media Real Change (RMRC) is comprised of everyday people who are committed to establishing and supporting true communication within the community. We see the potential for humanity to choose and have media that puts people before page views and paper sales.

To this end RMRC’s focus is to:
- Cultivate environments that foster true care and respect for all people within our communities
- Raise public awareness of the harmful effects of ill-communication in the current digital age
- Advocate for change, whilst supporting the change-makers to create policies that will provide for greater consideration of and true care for the well-being of all people within our communities, online and off.

The media are not above the law. Reckless and intentional misinformation and misrepresentation by the media is unacceptable in any community - it harms each of us individually and society as a whole, influences people’s perceptions, beliefs and ideals about human life, each other and the communities we live within and destroys peoples trust in being fairly represented, respected, protected and accurately informed by the media.

For the health of our communities it is imperative we support steps to foster an accountable media across all platforms. It is time to say enough is enough to the denigration of men and women within the media, to a ‘sex sells’ and ‘violence pays’ mainstream (and non-mainstream) media currency. On behalf of humanity who appears to be calling for a new way within the media landscape, RMRC says people must always come before ‘profits’ without exception.

RMRC is deeply committed to the reclaiming of our media platform as one reflecting true societal values and an inspiring reflection of and for all human beings. We see great value in the ACMA reviewing the current regulatory decision making process and the potential for effective reform in re-shaping broadcasting codes of practice and ensuring active co-regulation, if acted upon. We encourage the ACMA’s regulatory decision-making process to be one promoting true communication and responsible service to the public by all broadcasters and by the ACMA.

http://www.realmediarealchange.org
contact@realmediarealchange.org
Response to the ACMA CSIP by
Deborah McInnes
On behalf of the Real Media Real Change team

A. Uniform Regulation and Balance is needed.

Inconsistencies in regulation and within existing codes of practice requirements have been identified by the ACMA, and we submit that this is an area which the ACMA can take leadership on. It is our view that uniform regulation is needed for broadcasting, datacasting, internet industry and commercial content services to provide a balanced, fair and equitable standard of broadcasting delivered to the community.

We welcome the guiding core principles of broadcasting codes identified by the ACMA as ‘enduring concepts’ (questions 3, 18, 26 74, 92, 97, 103,107) with regard current and future contemporary broadcasting codes of practice.

Whilst we appreciate constraints the ACMA may be under, we encourage the ACMA to foster a sincere connection with the public and to consider a more proactive, publicly visible presence in the monitoring and regulation of these codes. We would like to see the ACMA commit in full to all policies and courses of action, utilising all available resources to effectively ensure a consistent code of ethics within broadcasting and stakeholder responsibility upheld.

Shared Responsibility
Shared responsibility has been acknowledged by the ACMA as relevant in the assessment of regulatory intervention within a converged media and communications environment.

Whilst it seems fair that responsibility for outcomes in media and communications must be shared between Government, industry- specific regulators, multilateral institution, suppliers and users, it appears that the ACMA has placed a somewhat strong emphasis on a users' responsibility within converged media given a users 'ever-growing control over what content they consume and how they consume it' and have postulated that 'it is no longer possible, nor perhaps appropriate for Governments, industry regulators and industry-specific bodies to do everything.'

Ultimate accountability must surely be shared between broadcasters and users with broadcasters encouraged to maintain higher standards of content classification across all platforms, to be provided for in the codes. We hold the view that irrespective of a user’s choice to consume content, there remains a responsibility to the public by broadcasters to ensure harmful or misleading content is not readily available across respective platforms - and more so that there is not an attempt to intentionally mislead users through misinformation and disinformation. This is a clear abuse of power by Media outlets, using the public platform for profit first and foremost, especially if there is a demonstrated understanding that the content was harmful, misleading or false.
This is not about being ‘big brother’ or an ‘oppressive’ force - it is about taking leadership in terms of the nature and quality of our communication and hence our relationships. The view to ‘put it all out there’ for the public to ‘discern’ does not come from a place of responsibility and care on behalf of Media outlets - it comes from a violence/sex sells approach where the motive is purely profit and not from a consideration of the consequences and impact of such content on the nature and quality of our lives as a community. Media outlets like to wave the ‘freedom of speech’ banner as a means to enable an ‘anything goes’ approach which drives their pursuit of profit. It is well within our means and capacity as a community to cultivate care and connection as an underlying principle which informs the nature and quality of Media – whilst this does not discount profit, it is an acknowledgement that others factors such as truth, well-being, care and connection are paramount.

Intentionally misleading and harmful content goes directly against the spirit of ‘freedom of speech’ as outlined in the ‘Fundamental Freedoms’ as stipulated by the Australian Government on behalf of the Australian people; a statement which we support:

> Australians are free, within the bounds of the law, to say or write what we think privately or publicly, about the government, or about any topic. We do not censor the media and may criticise the government without fear of arrest. **Free speech comes from facts, not rumours, and the intention must be constructive, not to do harm.** There are laws to protect a person’s good name and integrity against false information. There are laws against saying or writing things to incite hatred against others because of their culture, ethnicity or background. **Freedom of speech is not an excuse to harm others.**


A lack of leadership and action from bodies such as the ACMA basically enables Media outlets a free ticket to big profits, with little to no consideration of the nature, quality and impact of the images and content that is distributed to the public.

The ACMA could provide tremendous support to broadcasters in this regard (together with the Government and other regulators) by ensuring broadcasters are encouraged to comply with a much higher standard of regulation across all broadcasting platforms and all modes of delivery.

Given current regulatory activity is skewed towards traditional media and communications, it seems fitting for the ACMA to play a more active role in establishing and enforcing appropriate codes that will more adequately safeguard community standards across all broadcast media and communications platforms rather than taking a somewhat remiss view that the existence of convergent media negates intervention action and strict responsibility by the ACMA, Government and other regulatory bodies in any way.

**Community Expectation**
The ACMA's reference to ‘Digital Australian's’ identified the impact of increased digital media use on community attitudes and expectations in reference to media content and regulation with research indicating that:

- Public expectation relating to content type was far more significant than its delivery method
- Content produced by traditional media organisations was seen as professional regardless of how it was accessed or delivered
- Consumer's expectations of regulation remained with similar content accessed online.

This research highlights well that there is a clear and evident expectation by consumers for all media and content to be uniformly regulated, regardless of the delivery method be that radio, television, online content or another mode.

This is important in regard to the questions now raised by the ACMA such as classification question (6): Should broadcast content continue to be classified even if that content is not subject to classification requirements on other platforms? We say absolute uniformity in regulation of content is essential across all platforms with no material on television exempt from classification (9) in the interests of adequately safeguarding the public.

**Related Matters**

We note that not all broadcasters refer to ‘related matters’ in their codes such as simulation of news and events to mislead the public or cause alarm, presenting news in a way that causes public panic and presentation of violence in a way that causes alarm.

It is of concern that some television broadcasting codes provide for public panic yet have not equally considered provisions for distress to the public. It seems significant that neither the ABC nor SBS codes have provisions for public distress or public panic.

There should be no distinction between broadcasters on this crucial issue in the interests of appropriately safeguarding the public and we purport that uniformity must be responsibly considered for all code provisions across all broadcasting codes to enable more effectual regulation.

**Regulation inconsistencies to be addressed and find balance within existing broadcasting codes of practice include:**

**Technology Considerations**

- Current community standards protections appear to be technology specific, favoring traditional media and are inconsistently regulated across all platforms.

**Content Considerations**
- Provisions currently place emphasis on visual content and are inconsistent across all delivery methods.
- Content-specific, platform-specific and provider-specific rules are inconsistent, confusing and inflexible as identified by the ACMA
- Absence of content regulation across all delivery platforms

**Privacy Considerations**
- Privacy focuses solely on news and current affairs (which needs to be upheld) however does not equally apply to other services.

**Code provisions**
- Contrasting provisions between subscription television and commercial television
- Commercial radio and commercial television have less code provisions than other broadcasting services

**Classification Considerations**
- Classification requirements across platforms are not uniform
- Classification of content is inconsistent.
- The News and Current Affairs Act allows news and current affairs to be exempt from classification. Radio content is not classified. There is a need for industry codes to be upheld, together with a need for greater consistency in content across all broadcasting services. Radio, news and current affairs content needs to brought into line with content classification requirements of all other broadcasting services.

**Ethical Considerations**
- Ethical Standards and fairness provisions vary across the codes
- Accuracy requirements are inconsistent between the codes
- Redress clauses are not uniform for accuracy breaches

**Influence Considerations**
- Regulation control applied to broadcasters is evidenced to differ according to the degree of influence rather than having an equal required standard of conduct and accountability for all broadcasters. This can be seen by the general public as big media players pushing their influence.

**Accountability Provisions**
- Accountability and upheld responsibility required of broadcasters appears inconsistent if not absent, within existing codes of practice.
- There are provisions and remedies for factorial inaccuracy within commercial television and radio however not in relation to fairness and significant viewpoint requirements
- ‘Related matters’ are not referred to in all broadcasting codes or uniform across existing codes
- Provisions vary for programs simulating news or events in alarming and misleading ways
Many television broadcasting codes cover public panic provision but have no provisions for public distress. Of note, neither the ABC nor SBS Codes appear to have clearly defined public panic or distress provisions as above mentioned.

The current codes do not impose obligations of balanced reporting and it remains possible for a licensee to emphasise one viewpoint if not a strong viewpoint in its broadcast. Significant viewpoints as identified by ACMA are frequently relied upon by broadcasters to influence community perceptions. We see unbalance reporting frequently within our current media landscape. Let us consider Peter Slipper, one of the parliamentarians who was recently a recipient of relentless (and unproven) allegations by Murdoch newspapers. Despite Peter Slipper being exonerated in Dec 2012 of the most serious allegations by a federal court judge, this fact received very little coverage in the Australian media.

Media Bias Considerations
- Media bias is not adequately provided for within all codes of practice, across the board yet media bias provisions are of great importance in appropriately safeguarding the public. If we consider the Lindy Chamberlain case in the 80's the far reaching harm of biased reporting can be seen, when broadcasters at the time were said to have deliberately planted and then fostered a presumptuous idea that Lindy was guilty of killing her 9 week old baby and most of the Australian public subsequently condemned her. 32 years later, four inquests and a royal commission and a stint in prison later, the official verdict was handed down which proved her innocence. With the more recent Madeleine McCann case in Portugal it didn't take long before the media insinuated her parents had done away with her or sold Madeleine and no amount of evidence to the contrary could put a stop to the innuendo being broadcast at the time.

Classification Considerations
- Classification of children’s broadcast programs is inconsistent across platforms.
- Deeper consideration is required within the classification process as to what in truth constitutes harm to children together with further time-zone restrictions surrounding advertising of violence within sport and certain content on news and current affairs programs aired during the early hours of the morning and evening which potentially may incite fear, panic and distress to children
- Time-zone restrictions do not apply or are limited on many platforms that children currently access content on. This requires more consistent regulation across platforms rather than the removal of time-zone intervention altogether as proposed by the ALRC National Classification Scheme Review discussion paper of 2011

Parental Education
- Parents are uneducated in the use of parental locks.
- It would appear that many parents lack understanding of the inconsistency that exists within classification across the multiple platforms that content is delivered upon and then accessed by their children – it is expected by parents that all content is uniformly regulated and their children are protected when this is not the case
Multi-channels are permitted to broadcast PG Classified material at any time of the day which may not be age-appropriate and suitable for young children who may not have parental supervision at the time they are accessing this material. This again demonstrates a need for parental education on their responsibility with regard to the content being consumed by their children as well as a clear responsibility to parents and children by broadcasters.

Privacy Considerations
- Some activities of media organisations carried out in the course of journalism are currently exempt from the operation of the Privacy Act as required, however definitions of acceptable standards may readily be stretched and then relied upon by broadcasters to justify unethical conduct.
- Commercial television and radio allows for broadcasting of information that may invade a person’s privacy and negates consent if there is public interest in doing so. However this is not uniformly regulated across all modes of delivery. Given these exemptions it is imperative that broadcasters abide precisely with provisions of irrefutable due cause.
- ‘Public interest’ gives rise to loose interpretation by broadcasters and may be relied upon them to breach privacy provisions
- Secret recording is provided for by some codes in the ‘interest of the public’ or if material cannot be obtained by other means yet is not consistent across all services.
- There are inconsistent and absent consent provisions across broadcasting codes

Emergency Considerations
- Interventions needed to provide for immediate, accurate and regularly updated emergency broadcasts across all platforms and all modes of delivery

Complaints- handling Considerations
- There is a clear absence of consistent and transparent complaints-handling provisions within broadcasting codes
- Some codes oblige broadcasters to publicise the existence of codes whereas others do not
- There is little obligation for broadcasters to publish the existence of codes which would allow for the public to be made aware of all avenues of complaints-handling available to them
- Many existing broadcasting codes fail to provide explicit timing for responses, required specifications as to what may constitute a breach and do not specify the complainants obligation to provide sufficient detail and in what capacity
- Effective information about complaints handling avenues is lacking with identified need for very simple and transparent redress standards and avenues broadcast uniformly across all broadcasting sectors and delivery platforms

B. Public Expectation for Ethical Standards of Conduct
Listeners and viewers have an enduring expectation for professionalism, fairness, accuracy, ethical standards and unbiased viewpoints to be inherent in all broadcasting content.

Broadcasters, the ACMA, Government and other regulating bodies therefore have an equal responsibility to the public to ensure ethical standards of conduct and appropriate community safeguards are comprehensively and unequivocally addressed by all broadcasting code provisions and applied.

C. Media Bias

Media Bias has been lightly touched upon by some codes in reference to ‘significant viewpoints’ however, has not adequately been provided for by all codes and services across the board. Again, the current codes do not impose obligations of balance in reporting and it remains possible for a licensee to emphasis one viewpoint, a strong viewpoint or media bias within it’s broadcast. Current code provisions do not consider equal time or emphasis given to each viewpoint. They provide for ‘reasonable effort’ in presenting more than one significant viewpoint while the issue has immediate relevance to the community. Is reasonable effort an adequate assurance? It would appear there is no standard benchmark of what reasonable effort is which leaves scope for interpretation by broadcasters.

It is paramount that broadcasters apply absolute accuracy and fairness in all coverage without exception and that existing broadcasting codes are developed to include provisions for all areas of media bias including deceiving the public, innuendo, influential tone and use of language, skewed viewpoints and negative coverage of events.

Broadcasters have an inherent obligation to the public in respect of known community values and standards to maintain ethics, fairness and respect of privacy in all methods of information gathering and reporting and to be wholly accountable for providing true unbiased representation and unquestionable conduct at all times.

Inconsistent regulation control applied to broadcasters according to their degree of power and influence on the public is unacceptable.
All broadcasters must be held publicly accountable and responsible as expected of society as a whole or we will continue to support growth of a wayward, rogue media that does what it likes.

D. Role of the ACMA in relation to regulation and the codes

The ACMA’s regulatory role is essential in ensuring broadcasters comply with standards set out by the Act and appropriate codes are established in the interests of the public.

The ACMA has the power to ensure that community values, attitudes and concerns are not breached under the pretense of ‘matters of public interest.’
The ACMA is responsible for monitoring broadcasting, datacasting, internet industry and commercial content services industries with a range of given function and regulatory powers given by the Government.

Is ACMA strictly active in monitoring and regulating these services or simply acting upon extreme complaints and breaches that have attracted mass publicity? It would appear that ACMA is not fulfilling its public responsibility in exercising the regulatory powers bestowed upon it and is rather cautiously managing or observing inadequacies rather than committing in full to ensuring all codes are equally enforced by all.

There are countless examples of breaches to the codes without any real recourse or accountability for the broadcaster’s harmful behavior.

2DayFM’s Kyle and Jackie O show, which saw a 14-year-old girl interviewed about her sex life and drug experiences and publicly outed as a rape victim on air, breached many obvious code provisions, yet without appropriate recourse. There was a call across many news sites at the time for the station to lose its license without effect. The ACMA at the time acknowledged receiving a number of calls however appeared to not enforce its full regulatory powers. There was little if any recourse for 2DayFM who provided a brief apology at the time however, continued to actively promote further inappropriate content on their station’s homepage which included searching for a man with Sydney’s smallest penis, a video of Kyle Sandilands drinking breast milk and Kyle and 2 other men racing to see who could produce a semen sample the fastest. Reckless, irresponsible (and regulator allowed) behavior such as this by broadcasters harms everyone in our community and serves to strengthen public mistrust in the media, who are perceived as not having to abide by commonly held public standards of decency and accountability.

In 2012 the Media Watch program highlighted Channel 7’s coverage of the death of Molly Lord finding that they were responsible in July 2012 for the inappropriate filming of Molly Lord’s grieving mother. The intrusions included flying a helicopter over their property in what was described as being harassing in manner and trespassing on the property in order to get a close up picture of the Ms Goldspink-Lord holding her dead child. The mother released a statement on or about the 21st July 2012 of the pain and harassment by Channel 7 that she experienced and how the story had been broadcast publicly before her immediate family were able to learn of the death. The mother’s statement and all related comments were promptly removed by Channel 7, who claimed this occurred ‘by error’ and further denied many of Ms. Goldspink-Lord’s claims. Is this perhaps another recent example of inadequate and loose code provisions or a failure by regulators to appropriately monitor and regulate broadcasters compliance to existing codes of practice?

How could harmful broadcasting methods and material such as this be allowed if ACMA were performing its full regulatory duties in ensuring adequate, current and consistent code provisions and ensuring broadcasting codes of practice are strictly adhered to by all?
We encourage ACMA to play a more active role in monitoring and guiding broadcasters. ACMA is positioned to ensure that all broadcasting service groups adhere to the highest level of public responsibility, without exception thereby seeing to it that the principles and tenets of the Broadcasting Act are committed to, and applied in full.

Society looks to the ACMA, the Government and industry regulators and other related bodies to provide a flexible and responsive mean of regulation, to uphold existing and future Broadcasting codes of practice whilst ensuring the highest level of fair and appropriate community safeguards are contained within the codes, adhered to by broadcasting service providers and breaches to these codes investigated thoroughly and effectively acted upon.

E. The Future for Broadcasting Regulation within Australia

The public looks to the ACMA, the Government and other regulators to hold Broadcasters strictly accountable to their codes of practice and espoused broadcasting standards, to raise public awareness of significant issues and to continue to establish relevant and uniform codes and standards required equally of all broadcasting services, and delivered across all platforms.

Broadcasters across the board may be held more accountable to these codes by effective regulation and monitoring by the ACMA. In respect to breaches of broadcasting codes of practice we would encourage the ACMA to see that broadcasters address all breaches and all public complaints within a timely, effective manner and provide appropriate responses detailing action steps that will be taken by the broadcasters to rectify them, offer compensation, appropriate apology, tto strictly prevent their future occurrence and to actively intervene as required.

F. Response to Core Guiding Principles of Broadcasting Codes

1. Community Values

Community values and attitudes must incessantly be reflected and endorsed to their full extent in the delivery of all media, content and communication services and are paramount in the establishment of all broadcasting codes of practice. Community values must reflect in classification requirements, program material and all allowable published and broadcast content in order to broadly and comprehensively safeguard the public from all material with the potential to harm, offend, incite hatred, vilify, humiliate, debase or to mislead public perception via propaganda, misinformation and bias.

It is of paramount importance that due diligence is given in further expanding upon existing broadcasting codes to more adequately and comprehensively encompass current and progressive true community values, attitudes and concerns thereby providing absolute protection of the public.
Community values espoused by the Broadcasting Services Act 1992 must not be limited to considerations to matter containing, portraying, reflecting or permitting 'physical and psychological violence, sexual conduct and nudity, offensive language, drugs, alcohol and tobacco or the portrayal in programs of matter that is likely to incite or perpetuate hatred against, or vilifies and person or group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or physical or mental disability.'

The ACMA has an essential regulatory role in ensuring that broadcasters comply with the standards currently set by the Act (and all improvements to it) and that broadcasters do not discount true community values, attitudes and concerns, in breach to the Act under the guise of 'public interest'.

Broadcasters have an obligation to the public to provide fair and accurate coverage of all public interest matters in respect of all known community values first and foremost and the ACMA has a pivotal responsibility to the public in adequately monitoring, regulating and ensuring broadcasters compliance with the codes - relentlessly so, to appropriately safeguard the public and to prevent community discord and public distrust of the media.

We would agree with ACMA's connection between community values and interventions of classification requirements and decency provisions as raised by question (4) and that classification of material without exception is an absolutely necessary intervention in safeguarding the public as asked in (5) and (9).

In the interests of protection of the public and appropriately safeguarding children, promotional material with higher classifications should not be aired with material of a lower classification (10).

Classification and Decency

The CCSIIP identified the inconsistent regulation of television and radio with television content formally classified while radio content is not.

How can we claim there to only be value in classification - based regulation of visual based content services such as television when evidence shows that the content itself is more significant than the delivery method? There is a clear need for classification categories to be applied equally to all platforms given consumers consume content expecting it to be uniformly regulated and adhering to equally high standards (when it is not) across all platforms. We note support of this view by the ABC, SBS and ASTRA to the general principle 'consistency in the assessment and classification of content to be delivered on any platform, as submitted by them to the ALRC National Classification Scheme Review in July 2011, p4, November 2011, p14 and 18th November 2011 p2.
Research undertaken by the ACMA ‘the community attitudes to the presentation of factorial material and viewpoints in commercial current affairs programs 2008’ indicated that viewers noticed differences in content format and personal impact on individuals between news and current affairs. Current affair television programs were seen as containing more entertaining segments than news.

Whilst the current act allows for news and current affairs programs to be exempt from classification, how is this appropriately safeguarding our communities and in the public's best interests? How too, can we allow a situation in which news and current affairs programs can potentially breach decency provisions such as extreme sensitivity, fearful tone, lewd language, misleading the public, inciting social unrest, panic or distress under the guise of 'matters of public interest'. This is unacceptable.

Whilst News and current affairs programs do take some responsibility for the broadcasting of offensive or disturbing images, words and sounds, we encourage all broadcasters to abide by equal code provisions across all programs and services in the interests of fairness, public decency and protection of the public.

There are timezone considerations to consider in reference to absent classification of News and current affairs programs, given many children potentially have access to such programs that air during the early hours of the morning and evening when children are at home or in the car, with their families. Often these programs have age-inappropriate content and communication with implications for decency, privacy and ethical standard provisions in relation to inadequate protection of children from harm.

2. Protection of Children – Timezones

We propose more attention be given to the classification process itself with regard what constitutes acceptable and harmful program content in order to ensure adequate protection of children from material that may be harmful to them.

It would seem that classification has become more lax over time with some program content that may have currently been classified as PG or M, currently classified as G. There are also considerations of the effect of ‘free to air’ television in terms of delivering potentially inappropriate content to young viewers. There is an assumption by such broadcasters that parents will monitor their childrens television consumption when this may not be the case and often isn't.

Research indicates that many parents lack education in the use of parental locks.

Children may be protected from violent content of M and MA classifications for instances as a result of timezone restrictions, however a similar level of violence is regularly allowed within children's television shows of G and PG classifications with violence often displayed by cartoon
and other characters. How is any violence acceptable? Violence impacts and influences irrespective of whether performed by cartoons or real people, as both are equally considered real to children with children often modeling their behavior on television characters. The same can be said about many music videos broadcast for children, which at times portray sexual imagery and inappropriate communication, which our children may model themselves upon. Is it possible that the classifications themselves are not adequately regulated to ensure protection of our children? Is it possible the bar has been lowered for classification with programs for example that were once classed as G now classified as PG or even M?

We ask that consideration be given to further timezone restrictions surrounding the advertising of violence within sport and content within news and current affairs programs aired during the early hours of the morning and evening which potentially may incite fear, panic and distress to children.

In addition to tightening up on the classifications themselves, children’s program content could be focused on delivering more education and support on a myriad of crucial social issues such as abuse, violence, cyber bullying and social media which are deeply relevant emerging issues for this current technology dependent generation of children to be aware of if not equipped to deal with together a continuing education focus on health, wellbeing, social skills and exercise. It is crucial that children today see technology as a tool to use in life and not a tool that dictates the life they will live.

It would appear that Broadcast time zones are a key community safeguard in protection our children from harmful content with enduring importance (20). Whilst it has been proposed that timezones may be phased out in coming years because of the way in which content is accessed by children on currently unregulated technology platforms, there exist many flaws with such a proposal.

Does the existence of multiple modes of content delivery not highlight the need for more consistent regulation across technology platforms in keeping with the current technological age, not less? Consideration must be given to the lack of supervision of many parents of their children’s viewing on any platform together with community’s high expectation that all children’s programs will not contain age-inappropriate, harmful content and children will therefore be protected from harm. Classifications being sound and consistently regulated across platforms is relied upon heavily by many parents who lack understanding of the inconsistency in classification regulation.

There is also, evidently a low community understanding of parental lock technology (22) as reflected in the ALRC Classification Review 2011 and education is needed for parents to understand the different technology platforms accessed by their children that equal time-zone restrictions do not directly apply to. Many parents are not aware of the dangers to their children, assuming regulation to be uniform across platforms irrespective of content delivery.
Parental locks do not appear an adequate tool to rely upon to protect children from being harmed by age-inappropriate content. They have known inadequacies in preventing access to non-classified programs such as news, current affairs and sporting programs, which often portray violence, and potentially disturbing images to children. Possible education (23, 24) may include consistent tutorials and advertising over a significant period of time targeting parents on topics of parental locks and technology platforms in regard to classification and content.

Education programs could potentially run simultaneously within schools educating parents and children through workshops and school newsletters, allowing more community understanding and responsibility.

Inconsistencies in regulation of classifications raise further concerns. Multi-channels are permitted to broadcast PG Classified material at any time of the day which may not be age-appropriate and suitable for young children who may not have parental supervision at the time they are accessing this material. (25). It would need seem that this issue has been adequately addressed by these broadcasters who rely upon parents having access to parental controls however may not have addressed the evident lack of parental understanding of these devices and education of the lack of uniformity in the classification of content.

Commercial Radio must not broadcast programs with explicit sexual themes as its core component between 5.30am and 9.30pm yet the provisions do not make mention of any other harmful content or communications and there is an absence of time zone restrictions in subscription television broadcasting. The rationale being that audiences having 'different expectations about access to content'.

Is classification inconsistency adequate protection of our children from harm? Are all broadcasters and the ACMA doing all that they possibly can do in the interests of protecting children and safeguarding the community? We encourage broadcasters and the ACMA to do more.

3a Ethical Standards - Accuracy and Fairness

Ethical Standards are a crucial guiding core principle in contemporary broadcasting codes of practice in order to ensure fairness and accuracy considerations within intervention (26, 27) are strictly adhered to by all broadcasters in the interests of safeguarding the public.

Consumers have a right to fair, accurate and transparent information including accuracy and fair communication and viewpoints within news and current affairs programs (including talkback radio programs).

The Act’s regulatory control applied to broadcasting currently differs according to the degree of influence that different broadcasting services may have in shaping community views in Australia. We propose for regulation to be equally applied to all broadcasting, to ensure fairness
and uniformity in broadcasting standards and to allow a higher standard of public responsibility to be sustained by broadcasters.

Transparency of advertising interventions are relevant to ensuring ethical standards are maintained by broadcasters yet it would appear this is not a principle currently applied in full by the media.

Requirements currently differ for commercial radio and television fairness and accuracy interventions depending on whether a program is news or current affairs whereas there is not the same distinction in requirements for many other broadcasting services. This again emphasises an overall lack of consistency between broadcasting codes.

The contrasting way in which accuracy interventions are addressed within codes is of concern. Commercial Radio Codes of Practice and Guidelines, 2013’ require ‘reasonable effort’ to ensure facts are accurate within current affairs yet in relation to news programming facts must be presented accurately. We question the merits of a provision of ‘reasonable effort’. Does this not provide opportunity for a broadcaster to negate their ethical and moral responsibility?

The Commercial Television Industry code of practice 2010 requires both news and current affairs programs and factual material to be presented accurately whereas the Subscription broadcast TV Codes of practice 2007 requires news to be presented accurately, but not factually (35).

How can we allow a situation in which it is acceptable regulation practice to have provisions requiring absolute accuracy of some broadcasters and reasonable efforts of others? Absolute accuracy is essential in preventing misleading, influential and biased reporting. How could any responsible regulator of broadcasting codes possibly justify subscription television’s absent obligation to present news factually?

There is a definite need for regulatory intervention to be consistent for television and radio (32) with all programming material subject to strict accuracy requirements. (28, 29) Talkback programs should be subject to the same requirements for accuracy as traditional current affair programs (30). Accuracy and fairness requirements should be the same for all news and current affairs programs across all broadcasting services (28).

A fact is a fact and true by it’s very nature. It is not possible to have unequal facts, let alone unequal truth. Something is either true or it is false in the same way that it is either factual or inaccurate. It is of great concern that any responsible regulator would even consider raising a question such as (34). Are all facts equal and why? Is a lack of culpability being sought for broadcasters? An exemption or pretense for broadcasters to bend fair, accurate and ethical standards into part facts or half-truths?

News and current affairs programs provided by subscription broadcasting television licensees should be subject to the same requirements of fairness without exception (45). Balance is
needed and uniformity between all broadcasting services and platforms. It is essential in interests of fairness and accuracy for broadcasters to provide balanced viewpoints, more than one viewpoint and give equal time and standing to both viewpoints, without bias or possible influence (47).

Talk back programs should be subject to the same requirements for fairness and accuracy as other news and traditional current affairs programs (29, 50).

Listeners expect fairness, accuracy, ethical standards and unbiased viewpoints on topics and there is community expectation that all broadcasters be required to adhere to high ethical standards and provisions in responsibility to their audience (51).

3b Ethical Standards – Advertising

We support code provisions for identifying promotional material, sponsorship, branded content and embedded advertising as clearly distinguishable from program content with consistently regulated inclusions for subliminal techniques and hypnosis which are immoral and completely unacceptable methods of misleading and harming the public with strong ethical implications (72, 73).

It is equally crucial that regulation ensures Broadcasters commercial relationships for profit do not negate their public responsibility nor mislead the public. Transparency, fairness, accuracy and ethical standards must apply to advertising and promotional material by ensuring it is identified as advertising or sponsored content in order to not mislead the public.

Code requirements necessitating disclosure of commercial relationships by broadcasters are essential in ensuring the public are clear as to who is seeking to influence them and if the promotion of an organisation, product or service is motivated by the broadcasters relationship with the organisation concerned.

The explanatory papers to the 'Broadcasting Services Bill 1992' described the 'conflict between the public interest and the needs of service providers operating on a commercial basis.' This highlights an impetus for sponsorship, branded content and embedded advertising to be transparent (63, 65).

It is a completely unacceptable scenario for advertising material to be inadequately disclosed and non-transparent given public expectation otherwise. Misleading the public in this way would surely promote strong public distrust in broadcasting media and communications.

It is equally crucial (66) that licensees present advertisements in a manner that easily and clearly distinguishes them from program material. A simple and consistent icon, symbol or code
may be useful to easily distinguish embedded advertising or a clear verbal explanation, dependent on the mode of delivery (67). This is upfront and honest and will be seen as a willingness of the broadcasters to be more upfront and honest.

The Commercial TV Broadcasting Code of Practice and the SBS code set out requirements aimed at ensuring there is reasonable balance between programs and non-program material however this is not the case in other codes.

Given the commercial relationship that exists between advertisers and broadcasters, it may be in the best interests of the public for there to be time-limit restrictions on advertising and non-program material to ensure profits do not come before public interests (70).

4A Protection of the Public - Privacy

Protection of the public in connection with privacy is an essential core guiding principle in broadcasting codes of practice (74,75). Although privacy codes protect against broadcasting of personal and private material including invading persons privacy, this remains inconsistently provided for within broadcasting codes and inconsistently regulated with many media organisations exempt from the Privacy Act. Broadcasting codes provide for privacy to be breached under the auspices of ‘public interest’.

Inconsistently regulated and absent consent provisions within broadcasting codes allow for intrusion into a person’s private life under the pretense of ‘public interest’ with the extent of intrusion provided by in some codes to be proportionate to the circumstance.

‘Public interest’ gives rise to loose interpretation by broadcasters and may be relied upon by them to breach privacy provisions and intrude upon a person’s private life without consent.

We need only consider the prior given example of the media interviewing a 14 year old about their sex life. Where exactly was the identifiable public interest in this case that negated all broadcasting integrity, privacy and decency provision?

Commercial TV and radio allows for broadcasting of information that may invade a person’s privacy without consent if there is ‘public interest’ in doing so. Secret recording is provided for by some codes in the ‘interest of the public or if material cannot be obtained by other means. Whilst recording has been used responsibly in some instances in the interest of the public, the concern remains that without uniform and well regulated code provisions and standards by all broadcasters there exists the potential for
secret recording to be used in blatant disregard for a person’s fundamental human right to privacy, as evidenced in other reported cases.

Commercial Radio does not appear to require consent from a person before broadcasting their words and in cases where consent is not given - informing or assuming a person will be aware their words may be broadcast is considered enough. It would seem that more defined and carefully regulated provisions are needed here.

Commercial TV provisions do not appear to focus on consent instead providing for disturbing, offensive or upsetting imagery. Words provided for in these codes are 'exercise sensitivity' and 'take all reasonable steps' again loose terms, open to interpretation by broadcasters.
Broadcasting code provisions clearly require tighter privacy definitions to be consistently regulated across all broadcasting services and platforms (77).

To consider that broadcasters need not necessarily ensure they have consent before broadcasting personal material highlights some inadequacy in the code provisions in regard to consent. Why is it that consent is currently treated differently within media and broadcasting to elsewhere in society where consent is taken more seriously and often obligatory?

With regard to safeguarding children’s privacy, The ALRC's recommendation seems wise that irrespective of parental consent in the case of children’s personal information, the best interests of the child or youth must also be considered.

Given the extent of information sharing, regulation of broadcast media in relation to online content is of contemporary importance and broadcasters must be well regulated in regard to their rebroadcasting of material from social networking sites (76). This content should not be broadcast without the person's consent (to be sought with respect and sensitivity by the media) with provisions for commonly held privacy and decency standards to be upheld by broadcasters (without exception) in respect of their great public responsibility (78-79).

There is a need for uniformity with regard privacy protection, with application to all broadcast programs including reality TV and observational documentaries, which are known to push privacy limits and not limited to news and current affairs.

The right to privacy is a fundamental human right of all people, including people within public positions, who have been caught on camera or filmed in documentaries.

Every living human being has an equal right to be protected from harm and to have privacy respected. A person’s expectation that their privacy will be protected must be considered and appropriate consent must be sought with sensitivity by broadcasters who must disclose the intended use of the material and how it will be presented to viewers or listeners, before broadcasting material that may invade commonly held privacy standards.
Detailed consent provisions are needed within all broadcasting codes in this regard (81-84).

**4B Protection of the public- Interventions designed to address matter that is likely to incite hatred against or vilify**

There is a clear connection between protection of the public and interventions designed to address matter likely to incite hatred against or vilify (86). In addition to the provisions of the Broadcasting Services Act 1992 which address matter’s portrayal in programs likely to incite or perpetuate hatred against, or vilifies any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, age, religion or physical or mental disability, it seems important to ensure inclusion of stereotyping, demeaning and bullying.

As referred to earlier in section C. Media Bias, further inclusions are needed to more comprehensively protect the public and to allow for balanced reporting by broadcasters. Interventions are needed within code provisions to specifically address media bias which is not limited to and includes deceiving the public, influential tone and use of language, skewed viewpoints or emphasis on a viewpoint, negative coverage of events, prompting social outrage, panic and misleading the public (86).

As raised earlier in section D. Role of the ACMA in relation to regulation and the codes, strict regulation by ACMA, the Government and other regulatory bodies is essential in monitoring the above mentioned interventions and ensuring they are consistently applied within all broadcasting codes and applied by all broadcasters, in all instances.

Consistency within the codes is currently lacking with some broadcasting codes not requiring intervention concerning stereotyping, demeaning or cultural sensitivity whereas other codes provide for these. The ABC Radio and Television codes allow for use of stereotypes or discrimination contact that could be interpreted as encouraging or condoning prejudice yet the somewhat narrow definition is open to interpretation and does not appear to adequately provide for vilification, demeaning, material or views, bullying and hatred. Similarly, SBS Radio and Television codes provide for discriminatory stereotyping however don't address all aspects of matter likely to incite hatred against or vilify.

The codes provisions allow for different interpretations and tests of discriminatory behaviors and don’t require a uniform (and needed) high level of accountability by broadcasters.

Uniformity is needed within these code provisions to create balance with interventions providing for broad interpretations of discrimination, vilification, hatred, media bias and prejudice. These protections, consistently tested and regulated across all broadcasting services are essential in preventing the broadcasting of material harmful to the public and ensuring social harmony, total accountability by broadcasters and establishing public trust in the media (87-89).
There exists a public expectation as referred to throughout this document that broadcasting services be obliged to include provisions to protect the public at all times and that these provisions will be consistent across all broadcasting services and all modes of delivery, including online content. An impeccable standard of integrity and a high standard of responsibility to public protection, safety and trust must be applied by all broadcasters, irrespective of their degree of influence and this will require ongoing consistent, strict monitoring and regulation by the ACMA (90-91).

4C Protection of the public- Emergency information

The connection between protection of the public and emergency information safeguards is essential within broadcasting codes. Further interventions to protect the public for inclusion are abovementioned in 4B(93).

Given there currently remains high reliance by the public on the broadcast of emergency information across all delivery platforms (94) it is essential and appropriate for broadcasting codes to include regulatory interventions that provide for all emergency information.

There is a strong public expectation that broadcasters will keep communities continuously informed with immediate, accurate and regularly updated information in all emergency situations and events and that this (relied upon) material and communication will be delivered consistently across all broadcasting platforms and all modes of delivery.

Not withstanding the public's greater reliance upon devices during emergencies in locating individuals which was raised by ACMA’s Enduring Concepts paper 2011 p.55 and the importance of social media in delivery vital community info during emergency situations and disasters, there remains an absolute expectation by the community that broadcasters will exercise a high degree of social obligation, integrity and responsibility at all times in ensuring the public is immediately, accurately and consistently well informed of all matters of public urgency and safeguarded without exception, across the full range of delivery platforms (95-96).

7. Redress – methods of handling and responding to complaints from members of the public.

The connection between redress and complaints- handling is valid (108).

The ACMA has a key role in redress, both in dealing with direct viewer and listener complaints about compliance with the Act, license conditions or program standards together with matters referred to it by the public who are unsatisfied with a broadcasters handling of or failure to respond to their complaint.
It is evident there is a clear need for consistency across all broadcasting sectors in relation to provisions for complaints handling and redress.

Code breaches by broadcasters are not uncommon, and it would appear often without recourse. It is evident that redress clauses are not consistent (and in many cases absent) across broadcasting sectors for accuracy breaches, which appear to be reflective of an overall lack of accountability to the public and to broadcasting codes of practice by broadcasters.

The Hon. R. Finklestein QC in his recent report of the Inquiry into the Media and Media Regulation 2012 drew attention to the clear need for accountability within Australia’s media standards and for people to have their complaints taken seriously.

With regard to existing redress clauses, many existing broadcasting codes fail to provide the explicit timing for responses, required specifications as to what may constitutes a breach and do not specify the complainants obligation to provide sufficient detail or in what capacity. This lack of uniformity within broadcasting also applies to the publication of codes with some codes obliging broadcasters to publicise the existence of codes whereas others do not. Current remedies exist for inaccurate facts within commercial TV and radio yet remedies are notably absent in regard to fairness, media bias or significant viewpoint requirements in many codes. **We say that there is an unequivocal need for consistent, transparent and uniform complaints-handling provisions within broadcasting codes.**

There must also be an obligation by broadcasters to publish the existence of codes to allow full public awareness of all avenues of complaints handling available to them (109). There is an enduring public expectation that complaints will be resolved quickly necessitating precise timing of corrections to be set out clearly within all codes and published (40.43).

Errors must be corrected and broadcast immediately to ensure the public is made aware that an error has occurred (40.43). The manner in which errors are presented to the public is of distinct importance as are commensurate apologies long overdue to the public. **For example, a clear public apology at the beginning of a program provides far more accountability by broadcasters than a hidden mention at the end of a program often missed by viewers and listeners.** Admission of error by broadcasters is ethically and morally important and displays integrity and accountability by the broadcasters, which has implications for public perception, expectation and trust within the media.

Effective information about complaints handling avenues needs to be very simple, transparent and broadcast uniformly across all sectors and delivery platforms. Published code provisions and actions available to the public for breaches to these conditions by broadcasters must be easily identifiable to the public. A clear step-by-step flowchart of the full complaints handling avenues available to the public with appropriate contact information and escalation options would be a useful resource.
By publishing the existence of the codes and redress avenues holds broadcasters fully accountable to the public and allows for an everyday person’s complaint to be taken seriously.

Valid complaint requirements would need to be developed with equal conditions across all broadcasting services, with inclusions of required specifications, what constitutes a breach, precise timing and would allow for vexatious claims to be struck out. The public have a right to complain about a broadcast program irrespective of whether they have viewed it should this program breach existing code provisions (109-112).

It is the ultimate responsibility of the ACMA to carry out investigation into specific breaches of code efficiently, promptly and appropriate to the complexity of the complaint and to record and publish such breaches, investigations carried out, and the total no of complaints made directly to broadcasters and to the ACMA and what the outcome of these complaints were.

The ACMA is being called to take a more active and responsive role in monitoring and strictly regulating broadcasting codes. The ACMA has been given many powers of regulation that appear yet to be acted upon. The role of the ACMA must be transparent with great accessibility to the ACMA by the public.

A more proactive ACMA will require far more accountability by broadcasters to adhere to broadcasting code provisions and to their inherent great public responsibility.

Real Media Real Change (RMRC) consists of everyday members of the public who come together with a common purpose – to support and create Media that puts PEOPLE before ‘page views’ and paper sales.

http://www.realmediarealchange.org/

RMRC team members:
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12th July 2013

Australian Communications and Media Authority
Level 5,
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65 Pirrama Rd
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Attn: Management

Re: Contemporary Community Safeguards Inquiry Issues Paper (CCSIIP)
Submission #2

Please find provided the written submission by Elizabeth Dolan, Katie Walls and Mary-Louise Myers in response to your community invitation of involvement in the current broadcasting regulatory decision-making process.

These viewpoints cover areas of Ethical Standards and Protection of the Public – Privacy. The information included cover points of view that are a representation of a cross section of people that care about the standards within broadcasting and the harm that is caused via the lack of responsibility and accountability within this industry.

People are asking for much more than what is currently in place in regards to regulation within broadcasting. People are asking for a system within broadcasting that considers the human element before profits. A system that reflects human decency, accountability and integrity in all aspects of broadcasting, without exception.

This invitation has provided a much-needed opportunity for the public to contribute to this very important issue.

Yours sincerely,

Independent members of RMRC
Elizabeth Dolan, Katie Walls and Mary-Louise Myers

Real Media Real Change (RMRC) consists of everyday members of the public who come together with a common purpose – to support and create Media that puts PEOPLE before ‘page views’ and paper sales’.

http://www.realmediarealchange.org/
3A. Ethical standards— accuracy and fairness

Question 26. Should the concept of “ethical standards” be relevantly included as a guiding core principle in contemporary broadcasting codes of practice?

Answer: Could it be that the wrong question is being asked here? Can you for a moment consider a world where there are NO “ethical standards” being applied to the media? This is really what the above question is asking us to consider. What kind of world would that be, where we never held the media accountable? Does it not conjure up pictures of a world of lies being sold as fact and passed around as truths, people being manipulated with whatever version of a story the media wants to present, what ever brings the best revenue.

But hold on – isn’t this exactly what is going on as it stands?

Now contemplate again if this question may indeed be a little bit absurd.

If we were to take the question out of the context of the media and introduce it to say the area of medicine - imagine the public outcry. Imagine asking the public if the concept of ‘ethical standards’ were relevant to medicine? Imagine a surgeon who did not feel it was important to tell you the truth. Or a nurse who felt it was ok to treat you with disrespect. Or a dentist who did not show you the correct x-rays, thereby giving you a false picture (and price) about what was going on with your teeth.

So the question in fact is – if it is an absolute must for medicine to have ethical standards – then why is it not the same absolute must for the media?

What is it about the media that we even consider to ask such a question?

To answer this question we need to look at what ethical standards are. Ethical standards are not just something that are separate from who we are. They are not just something outside of us that we need to uphold so that we are “good” and do the “right thing”. By our very nature we are ethical because we know right from wrong. We know it because we feel it. We may choose to shut down and not let ourselves know what we feel but never-the-less we have inherent in us a knowing of what is wrong and what is right. The problem lies in the fact that we do not chose to honour this knowing and therefore live less than who we are hence the need for ethical standards.

We established above that it is unthinkable to consider that it would be in any way ok for medically trained people to not abide by ethical standards. As it would be for accountants, lawyers, nurses, shop keepers etc. Why then is it not the same for the media?
Do the media hold themselves above what is expected from equal members of society? If this is the case then this is proof in itself that there need to be strong regulatory standards for the media – as they proof themselves to not be able to live by the very natural ethical standard inbuilt in every human being.

**Question 27.** The ACMA has drawn a connection between “ethical standards” and fairness and accuracy interventions. Do you agree with this connection? Are there other interventions or safeguards that should be included here?

**Answer:** If there were a hierarchy within ethical standards then fairness and accuracy would be at the bottom. Once again imagine you are about to have some surgery, let’s say a coronary artery bypass graft. The surgeon approaches you and tells you that he/she is not obliged to be ethical, that is he/she does not need to really care about you and what happens to you, his/her only concern is to ensure the operation goes to plan and that once the incision is made it is not there responsibility how things turn out. They talk with you about accuracy and fairness. They talk with you about the best they can do is to be accurate in this technique and be fair about how long they keep you waiting for the surgery. Is it possible that this is a huge step down from caring about you as a whole person?

Now consider the media. They present ‘a story’. They say all they can strive for is be accurate and fair. Their highest ideal is on the lowest step of the ladder when it comes to ethical standards. The only thing lower is to consider that it is ok to lie – which a large part of the media thinks it is.

**3A.2.1 Accuracy**

**Question 28.** What type of programming material should be subject to requirements for accuracy? For example, news, current affairs or some broader category of factual programming?

**Answer:** All forms of news, current affairs, or interviewing, discussion panel style of program including all forms of radio broadcasting not just specific programs as a reference can be made as any time throughout any program should be subject to requirements for accuracy. Unless something is promoted as a fiction it has to be true and accurate or else it is misleading.

**Question 29.** Should talkback programs that feature opinion-rich material be subject to the same requirements for accuracy as traditional current affairs programs? If so, why. If not why not?

**Answer:** What if ‘freedom of speech’ is a term that has been totally misinterpreted, misunderstood as well as twisted to serve ones own agenda? What if it was a term that originally was introduced to show and establish a way of being to deal with the tyranny of oppression? Is that not totally different from the way we use it today whereby we think it is a license to say anything we want to no matter what the consequences?
All talkback programs and all forms of program material such as news, current affairs, information presentations style shows such as Sunrise and Today or those on throughout the day, all should absolutely be subject to the same requirements for accuracy as traditional current affairs programs for the very reason that they can equally cause the same level of harm to individuals if what is being discussed, presented, commented on or referred to is not factual. The audience size is not determined on the program being talk back or current affairs, Chinese whispers does not discriminate between audience size or program structure.

It only takes one miss representation or inaccurate fact to set a seen that can paint a very unattractive and completely inaccurate portrayal of a situation and the person or people involved and from that one situation can and does generate many future comments on TV talk back programs, radio and articles generated by the media at large both in print and on line that can all participate in creating a chain of very harmful Chinese whispers. To promote personal opinions in such cases is highly harmful towards the persons being misrepresented in the story. In fact it should never be a ‘story’ but always be the thoroughly researched ‘facts’.

We have to hold the original source accountable and equally so all those that choose to piggy back and elaborate of the inaccurate material. There is far too much deliberate misrepresentation within media today twisting things around, outright lying and deceitful misrepresentation that paints a picture that supports the produced agendas but does hardly contain accuracy or fact.

Its time to call this corruption to account – as that is what it is. Many people have stories to tell about the hurt and destruction created by media misrepresentation, outright lying and deceit using people to suit an objective causing great and significant harm to the lives and families of many. It is well and truly time for all talkback programs featuring all forms of material (not just opinion-rich material) to be subjected to the same and equal requirements for accuracy as traditional current affairs programs.

**Question 30. Should news and/or current affairs programs provided by a subscription broadcasting television provided by a subscription broadcasting television licensee be subject to the same requirements for accuracy as news and current affairs on commercial television? If so, why? If not, why not?**

**Answer:** To consider anything less then the fact that all of the above programs should have the same responsibility and commitment to airing accurate information/news seems ludicrous. It takes only one inaccurate comment about a member of the public, on any one of the above stations, to have a detrimental effect. Often a lie aired by a subscription broadcasting television is picked up by news and/or current affair programs and spread even further afield having not been checked whether the original source was correct or not and now is pasted on as truth (the ‘because all of them are saying it, it must be true’ effect)
Question 31. Should requirements for accuracy be treated equally across news and current affairs programs? That is, is there a good rationale for treating news differently to current affairs and if so what is that rationale?

Answer: as above

Question 35. What is the appropriate yardstick for measuring accuracy? That is, is it a question of absolute accuracy, a measure based on reasonable efforts or a combination of both concepts?

Answer: Accuracy is accuracy, there should be no measure. Before any thing goes to air or print it needs to be properly researched and that all the facts are absolutely accurate. This is the responsibility of the media, as it plays a huge role in shaping peoples ideas and thoughts about people, places, etc. and those in these roles have an opportunity to take up this position of true power and report facts and news that will inspire the general public, that will lift them from the daily grind of their lives into feeling like the world is a worthwhile place to live in. This would of course mean that there has to be a more balanced way of reporting where we also report on stories that are inspiring and not just the ones that feed of others misery.

Question 36. What is the most appropriate way to remedy established errors of fact?

Answer: If an article has been published on the front page of a paper that has misrepresented and or has even one inaccuracy about a member of the public or business or company or what ever it may be, then the apology for this error needs to be the same length and on the same page as the original article. This needs to be done immediately while it is still in people’s awareness. Not, as it stands now with apologies being one paragraph or less hidden in the middle or back of the paper or a short reference at the end of a program often weeks later where it can be missed by many after the damage has been well and truly done. There seems to be no ethical standards when it comes to rectifying lies and the harm that this causes a member of the public /business/company etc. Responsibility is not truly accepted and acted on.

Could it be that media has a lot to answer for and as yet to take on the huge responsibility it has in reporting absolute facts and if a mistake is made then correct this error immediately in the manner it deserves. The same principal applies to on air broadcasting. If an error is made it requires addressing the error at the beginning of the next program this would be taking the responsible and ethical steps to rectify the mistake, misrepresentation and inaccuracy. Currently this happens at the end of the program therefore not giving the issue the significance it deserves.

Question 40. If it is appropriate to correct an error how and when should that correction be made?

Answer: See above.

3A.2.3 Fairness

Question 44: What type of programming material should be subject to
requirements for fairness? For example, news, current affairs or some broader category of factual programming?

**Answer:** All programming material that makes comments on, references to, or presents information about people in general, any member of community is required to report fairly and with accuracy. This should include all News and current affairs programs, and children’s interactive programs and all categories of radio. Basically any program where someone is presenting information that can be perceived as fact about another. We have to ensure that opinion is not being passed on as fact.

**Question 45:** Should requirements for fairness be treated equally across news and current affairs programs? That is, is there a good rationale for treating news differently to current affairs and, if so, what is that rationale?

**Answer:** Yes, requirements for fairness should be treated equally across news and current affairs programs. There is absolutely no rationale for treating news differently to current affairs. If this is not applied equally – current affairs should be titled differently – ‘latest fictions’ for example, to make very clear that nothing shown is actually accurate.

**Question 46:** Should news and/or current affairs programs provided by a subscription broadcasting television licensee be subject to the requirements for fairness? If so, why? If not, why not?

**Answer:** There should be no difference whatsoever when it comes to the requirements for fairness within broadcasting television and therefore the subscription broadcasting television licensee issue is irrelevant as the issues of fairness should apply to all regardless of the broadcasting set up.

**Question 47:** Given that there are so many sources of professionally produced content available to citizens, is it still necessary to require broadcasters to provide balance or ‘significant viewpoints’ on a particular topic?

**Answer:** It is absolutely essential and necessary and a requirement that broadcasters provide a balanced report on ‘all topics’, not just a particular topic. This is not currently happening within broadcasting. There are many stories with bias and inaccuracies swaying the publics’ views and perceptions causing much harm to individuals.

**Question 50:** Should talkback programs that feature opinion-rich material be subject to the same requirements for fairness as traditional current affairs programs? If so, why? If not, why not?

**Answer:** Yes, without a doubt, talkback programs that feature ‘opinion-rich’ material should be subject to the same requirements for fairness as traditional current affairs programs. There is actually no fair and logical reason why they shouldn’t be. Talkback programs have an equal opportunity to discredit and cause great harm to members of the public by inaccurately tarnishing reputations depending on the presenters or broadcasting stations pitch and desires outcome. This then is not fair broadcasting as the program has been set on a predetermined agenda. Opinions cannot be passed as facts.
It is a much needed and called for requirement

4A. Protection of the public—privacy

The enduring concept of ‘protection of the public’ is that: Australians should be appropriately protected from harm when using media and communications, and Australians should have access to emergency services to protect life, health and safety of individuals and communities.114

This concept covers a range of matters broadly aligned with ‘protection from harm’. One such relevant matter is privacy. Generally, the right to privacy is considered a fundamental human right and seen to be of ‘key importance to the preservation of our free and democratic society’.115

Question 74: Should the concept of ‘protection of the public’ be relevantly included as a guiding core principle in contemporary broadcasting codes of practice?

Answer: This answer applies to many various categories and questions within this report, and is certainly not isolated to question 74. There have been far too many serious situations that have caused significant turmoil, trauma and deliberating stress to members of the public via Australian broadcasting outlets both TV and Radio. Of late there have been two significant situations that can here be used as examples that have breached not only the ‘protection of the public’ but all areas of ethics, morality, protection of the public and human decency. The situation with Kyle Sanders prank on a 14 year old girl strapped to a lie detector and being asked extremely indecent questions leading to her disclosure of being raped. This prank was outrageous, the public outcry was testament to this fact, and situations like this deserve serious reprimand with significant legal consequences.

The second to here mention was the prank by Mel Greig and Michael Christian with 2 Day FM championing this tragedy as “the Biggest Royal Prank Ever” which resulted with Jacintha Saldanha taking her own life due to the humiliation she felt as a result of being on the receiving end of this disastrous prank. After writing to 2 Day FM board of directors at 2Day FM to complain and demand those involve take responsibility and that a serious investigation be taken and consequences in action to fit this crime. The response letter received from 2Day FM clearly indicated that the board at 2Day FM were finding loopholes within the broadcasting code of conduct and stated that they had in fact complied with the ACMA regulations. How can one possibly comply doing something of this nature? This same station has already received a previous warning and here they are back again to their old tricks. This is a call to readdress the current regulations as this type of conduct should result in most serious breaches of ethics and protection of the public.

This is not a case of trying to find loopholes for compliance, these situations are but two
examples of the many tragic outcomes due to the lack of protection of the public and ethical standards within broadcasting and the media at large. If someone taking their own life due to a prank is not enough to shake us all up and readdress and enforce tighter regulations, then what will? Currently as things stand the public at large are not protected within broadcasting from harm.
12th July 2013

Australian Communications and Media Authority
Level 5,
The Bay Centre
65 Pirrama Rd
Pyrmont NSW
Attn: Management

Re: Contemporary Community Safeguards Inquiry Issues Paper (CCSIIP)
Submission #3

Please find attached our written submission in response to your community invitation of involvement in the current broadcasting regulatory decision-making process.

These viewpoints cover area of Community Values. The information included cover points of view that are a representation of a cross section of people that care about the standards within broadcasting and the harm that is caused via the lack of responsibility and accountability within this industry.

It is our view that people want a broadcasting framework that considers the human element and the costs and benefits to society before profits. Broadcasting that embodies quality, accountability and integrity.

Thank you for the opportunity for the public to contribute to this very important issue.

Yours sincerely,

Independent members of RMRC
Jennene Greenall and Terri-Anne Connors

Real Media Real Change (RMRC) consists of everyday members of the public who come together with a common purpose – to support and create Media that puts PEOPLE before ‘page views’ and paper sales’.

http://www.realmediarealchange.org/
Response to the ACMA CSIP by
Jennene Greenall
Terri-Anne Connors
*Individual member of Real Media Real Change*

**Question 3: Should the concept of ‘community values’ be relevantly included as a guiding core principle in contemporary broadcasting codes of practice?**

Yes we see this framework as essential.

Regulation of broadcast content needs to be community-led but with a much higher purpose than simply providing a (very low) minimum benchmark.

Imagine if broadcasters and content producers aspired to elevate the potential of society rather than compete to deliver perverse content to chase ratings and revenue?

The guiding principles should enshrine both ‘Community Values’ and ‘Community VALUE’. By this we mean the possible value and benefit that broadcasters can bring to our society – The industry needs to ask themselves if their content harms, degrades or elevates the quality of our community.

**Question 4: The ACMA has drawn a connection between ‘community values’ and the interventions of classification requirements and decency provisions. Do you agree with this connection? Are there other interventions or safeguards that should be included here as particularly relevant to 'community values'?**

Yes, there is a clear connection between community values and interventions.

We feel there are additional interventions that may prove appropriate including:
- A more complete set of guiding principles (signed by broadcasters) with the purpose of elevating the overall quality of content and community/society
- Truthful labeling
- Net benefits
- Independent complaints process
- Auditing
- Accountability
- An effective penalty system

**Question 5: Do submitters consider classification of material is a useful and relevant intervention in the current environment? If not, what sort of intervention or regulatory tool do submitters think would be more appropriate in a contemporary communications environment?**
It is necessary to have uniform classifications across all media platforms that is supported by clear and truthful labeling, and an effective complaints process which is totally independent of industry.

**Question 6: Should broadcast content continue to be classified even if that content is not subject to classification requirements on other platforms?**

We feel the differentiation between platforms serves no true purpose. Programming on radio has equal influence to that of TV or social media. In addition, radio and online media is no longer ephemeral (eg Podcasting) and can be appropriately content-managed in the same way television is. There is also the issue of many radio programs now producing visual content that is streamed on their websites.

A recent example of content that went to air on radio but would not have been screened on television is when Kyle Sandilands and Jackie O conducted an explicit and intrusive interview of a 14 year old girl about her sexual experiences. In this case the ‘verbally explicit’ was equal to the ‘visually explicit’ in terms of child exploitation and should have be subject to labeling and classification.

**Question 7: Does industry see value in code-based harmonisation ahead of any proposed legislative reform?**

In our view all the stakeholders will never come to a unified agreement for the following reasons:

- There are too many competing interests and they do not share a common vision for what is acceptable.
- There is also the issue of how to identify ALL the stakeholders particularly in the online content space.

Legislation needs to drive the agenda.

**Question 8: Are there any residual community concerns about the proposal to harmonise classification categories and criteria across media?**

See question 8.

**Question 9: What, if any, material on television is appropriately exempt from classification?**

We feel that all broadcasts require classification and labeling. Even with news and current affairs there are often stories that are not framed appropriately for viewing by children in the early timeslot – but clearly the framing is a conscience choice by the producers.
In terms of current affairs classification it would be refreshing to see the broadcast material labeled honestly, for example: 'This content contains unsubstantiated opinion' or 'This story has been funded by X company' or 'This story depicts women as victims and or denigrates women'. With truthful disclosure we foresee advertisers redirecting funds and the industry would be encouraged to improve the quality of their content.

Question 10: How should promotions for material with a 'higher' (e.g. M, MA and AV) classification be managed within material that has a 'lower' classification (e.g. a promotion for an M program in a PG or G timeslot)?

We don’t feel that there is any justification that can be made for promoting an M program in a PG or G timeslot. In our experience mature content is promoted in a way that is attractive to young viewers and encourages inappropriate viewing habits.

Question 11: Is there a continuing need to include code interventions pitched at moderating material that is deemed to offend decency?

Absolutely – industry has demonstrated that it is not self-regulating under the current code of practice. In addition, as identified in the ACMA Issues Paper, the community expects regulation is taking place.

Question 12: If the answer to the preceding question is ‘yes’, Is the ‘accepted community standards’ test effective, appropriate and meaningful? If not, why not? If not, what sort of intervention or regulatory tool do submitters think would be more appropriate in a contemporary communications environment?

Appropriateness
Yes we feel that the community standards test is an appropriate mechanism however the framework needs to be balanced and reflect both the minimum requirements under the code (current focus), and the higher potential to be realised through broadcasting to remind broadcasters of their responsibility in providing material that elevates society.

Effectiveness
We don’t feel the community standards test is sufficiently effective because whilst the intent to protect the consumer is evident, there is a very low benchmark for what contravenes the standard in any specific case.

In addition, programming needs to be looked at as a package. For example: Is there an over-representation of 'CSI' type programs in one viewing block? Individual programs might meet the classification standard, but over time and through over-exposure this has the tendency to desensitise the community and pervert values and then this becomes the new acceptable community standard and norm. We have noticed how news services now reflect this appetite for
more explicit and perverse descriptions of crime (and news escapes classification in early time slots).

**Meaningfulness**
The meaning is lost because it is not having a sufficient influence on all stakeholders (broadcasters, advertisers and consumers) to drive behavioural change. The standards are a responsive approach, rather than proactive.

**Question 13:** If the accepted community standards test is effective, appropriate and meaningful, how should the ACMA determine the current consensus of recognised present day propriety? And, is the ACMA’s formulation (See Figure 3 above) in relation to assessing community standards (the matters to which it has regard) in line with community expectations? If not, what other criteria may be appropriate in this context?

The appropriate and truthful labeling of content this negates the need to develop consensus-based propriety standards. Please refer to Question 16.

**Question 14:** What purpose is served by the requirement to have ‘regard to the demographic characteristics of the audience of a relevant program’? In particular, what does basic demographic information (geographic, gender, age etc) tell us, if anything, about attitudes to content?

It is not relevant. All consumers need to be treated with an equal level of respect by broadcasters. In our view this is used as a loophole by industry to broadcast content that should fall under uniform classification guidelines, for example sexually explicit conversation and content aired on radio before 9pm at night (Austereo programs consistently do this). While demographic information can inform content choice this shouldn’t be a substitute for content classification and labeling.

**Question 15:** In addition to any applicable content restrictions, should broadcasters provide listeners with consumer advice and information to assist them to make appropriate decisions about the material they listen to?

Yes. We suggest labeling standards apply in addition to classifications.

**Question 16:** If consumer information/advice is appropriate what information would assist listeners to make appropriate decisions about the material they listen to?

The labeling of contents has to be broader than the current scope and should include labeling that goes to the essence of what the program is about. For
example: in our view it is not nudity that offends viewers, but the way it is used, thus in certain programs nudity may have an appropriate context however in others it may clearly objectify the character/person involved.

The following examples may explain this further:

<table>
<thead>
<tr>
<th>Current labelling</th>
<th>Labelling the essence of content</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violence</td>
<td>Assault, mental abuse, domestic violence etc</td>
</tr>
<tr>
<td>Nudity</td>
<td>Objectification of women/men/children</td>
</tr>
<tr>
<td>Sexual References</td>
<td>Denigration of women/men</td>
</tr>
<tr>
<td>Drug Use</td>
<td>Self Harm, Self Abuse, Trafficking</td>
</tr>
<tr>
<td>Sex Scenes</td>
<td>Intimacy, Sexual violence etc</td>
</tr>
<tr>
<td>Offensive Language</td>
<td>Abusive language</td>
</tr>
</tbody>
</table>

This labeling approach is not about being pious or promoting over-regulation rather it is truthful disclosure of the content of programs for consumers.

Labeling in this manner better reflects the themes, tenor, language and attitudes that the ACMA attempts to capture through their Accepted Community Standards Test. It also puts broadcasters on notice around how their content aligns to community standards and criminal law.

**Question 17: If any consumer information were to be provided, how and when should it be provided?**

We believe labeling should occur both on promotional material, prior to screening/airing and in the program guides. This give the community a clear access and the ability to make an informed choice based on uniform criteria. For example if the consumer wishes to watch a program labeled as containing ‘perverse crime’ then the viewer at the very least is honestly informed of the nature of the content in advance. By association the producers, broadcasters and advertisers become aware, responsible and accountable for the truth of what is contained in the material they choose to broadcast.
12th July 2013

Australian Communications and Media Authority
Level 5,
The Bay Centre
65 Pirrama Rd
Pyrmont NSW

Attn: Management

Re: Contemporary Community Safeguards Inquiry Issues Paper (CCSIIP)
Submission #4

Please find provided the written submission by Lucy Dahill in response to your community invitation of involvement in the current broadcasting regulatory decision-making process.

These viewpoints cover the area of ‘Protection of the Public’. General comment if you feel

This invitation has provided a much-needed opportunity for the public to contribute to this very important issue.

Yours sincerely,

Independent member of RMRC
Lucy Dahill

Real Media Real Change (RMRC) consists of everyday members of the public who come together with a common purpose – to support and create Media that puts PEOPLE before ‘page views’ and paper sales.

http://www.realmediarealchange.org/
Response to the ACMA CSIP by
Lucy Dahill
*Individual member of Real Media Real Change*

4A. Protection of the public - privacy

**Question 74:** Should the concept of ‘protection of the public’ be relevantly included as a guiding core principle in contemporary broadcasting codes of practice?

Absolutely- the public need independent governing bodies such as ACMA to support them in the establishment of basic standards of decency, accountability and behaviour. It is a sad indictment of our society that we need guidelines, and now protection of the public from media, it shows how far our standards have fallen under self-regulation.

Stations like TodayFM who have had so many breaches of your regulations are a perfect point in question of why we need you to continue to represent us. The fact that in June this year Today FM sought an injunction to overturn your new licence amendment (ACMA investigation report 2751) of the 16th May clearly shows they do not abide by those standards as they are intended and are concerned with interpreting the words in your guidelines and rulings to suit their demographic. What you asked for was that the Today FM not broadcast programs that do not offend the generally accepted standards of decency. To quote from the Administrative Appeals Tribunal File number 2012/2202

> Today FM, however, asserts that cl 1.3 is not amenable to being imposed as a condition, because it lacks certainty. It argues that cl 1.3 is inherently vague and uncertain and rests on indefinite phrases such as “generally accepted standards of decency” and “unjustified language”. Today FM contends that the task of determining whether content may “offend generally accepted standards of decency” is further complicated by the requirement that that assessment be undertaken “having regard to the demographic characteristics” of the subject program’s audience. ¹

cl 1.3 - Program content must not offend generally accepted standards of decency (for example, through the use of unjustified language), having regard to the demographic characteristics of the audience of the relevant program.

It is important that large corporations finally feel there are real consequences to their behaviour then they will look at the decision of whether to be free with their radical opinions, print an article or run with a story purely for the headlines, without checking it is factually correct, or even decent. These programmes, in whatever medium from print to radio to television to online, can then go viral within minutes.

‘protection of the public’ has to be a guiding core principle in contemporary broadcasting codes of practice.
Question 75: The ACMA has drawn a connection between ‘protection of the public’ and privacy interventions. Do you agree with this connection? Are there other interventions or safeguards that should be included here?

When I consider this question I am reminded of the undercover work done by the News International journalists in the UK, which we have clearly been watching very closely. How appropriate was it that the trap that Rupert Murdoch found so acceptable was the same trap that caught him. Was it in invasion of his privacy? Technically yes because he did not know it was being recorded and certainly hadn’t signed a release form. Yet was it in the public interest? Very much so. It showed very clearly a lack of consistency between what he said in public when he was being called to account and what he said to his staff in private and clearly showed the company ethos and pressure journalists are under to do anything to get the headlines. The key is balancing protection of the public interest and privacy of the person. There has to be good reason to justify the covert filming, these justifications should be able to stand up in a court of law.

Protection of the public has to include some safeguards that stop people taking out grudges in a very public arena.

The ABC self regulate and their regulations for factual television go across the board. They are no different for news as current affairs, there are not varying degrees of truth as far as I can tell when it comes to accuracy, fairness, balance and good journalism. I cannot understand why that is not the same across the board for commercial television too.

I find it very interesting that in the summary for the codes, there are the summaries of intervention are listed as those that apply to radio and then television but the ABC and SBS are equally the same – as it should be. To have it any differently means you are placing less emphasis on this responsibility to be accountable and responsible for what is broadcast. It suggests that there is room for interpretation. My opinion is clearly reflected in the research the ACMA conducted in September 2010 – I am part of the 68% saying these standards to be important. How incredibly sad is it that we need to remind those who produce media that people need protecting when it comes to what they are producing, that on the end of these stories of death, rape, murder and other headline news are families, children and relatives who might be unnecessarily distressed.

Question 76: Given the extent of information sharing in the online context and the comparative lack of regulation in relation to online content, is it appropriate to continue to regulate the broadcast media in this regard? If not, why not?

YES, you have to lead the way. There will need to be some sort of accountability online – it can be a playground for inflammatory, defamatory and irresponsible behaviour. It is an abuse of free speech as it stands. Yet the lack of accountability
and suitable protection online does not mean deregulation in the broadcast or print media or any less integrity, in fact you should be leading the way, not jumping ship. **You** be the change you want to see – you uphold the standards, that is what you have said you want to do so I want to see you do it and support you all the way.

**Question 77:** If the answer to the last question is ‘yes’, do the current code protections provide appropriate and proportionate safeguards? If not, why not and what changes should be made?

The current code is a toothless tiger. If you don’t follow through then it is just words and media lawyers will run rings round it. The ABC and SBS self regulate, they clearly, according to all your tables, set themselves very decent ethical standards, so why is that not the benchmark across all media? The distribution method, should in fact, be irrelevant.

This will be addressed in ‘redress’ but, how much airtime the story had, however big the spread, equal space should be given or left blank when there is an apology to be written. For example –

- In print - headline for headline, 4-page spread for 4-page spread. Not hidden as 3 lines at the end of the paper.
- In radio and television terms it might need mean a spoken apology and correcting of factual information at the beginning of the relevant show. These corrections must be made in a timely manner as soon after the offending event as possible. Clearly highlighting and making reference to the program that was in breach.

How quickly would editors across all media think twice about printing, speaking or uploading content if they knew there were such severe repercussions if they got it wrong? Particularly if the consequences impacted on their advertisers and therefore their shareholders. There would be much more focus on checking sources and facts and much more care taken with choice of presenters.

**Question 78:** If someone posts material onto YouTube or onto a social networking site, should broadcasters be limited in their re-broadcast of that material? If so, why, how and when?

Yes, the codes should still apply. There should be consideration of decency, age appropriate viewing slots, protection of privacy safeguards in place. The key is to remember that even if there are a lack of codes protecting people online that does not mean you do not protect the codes of common decency in other mediums. People want their 10 minutes of fame – that is why U-Tube works, they want a larger audience, they want to be discovered. If what they have posted lacks decency it doesn’t mean we let go of our code of ethics to comply. It touches on all your codes of decency, age appropriateness.
Question 79: If a third party posts material onto YouTube or onto a social networking site unbeknown to the subject—should broadcasters seek the consent of the subject? Should broadcasters take extra care in the case of subjects that are children?

Yes and Yes – do we really need to ask those questions? Due diligence.

Question 80: While it may be regarded, in certain circumstances, as permissible to broadcast certain information (such as criminal behaviour) that is already in the public domain, can such information become private again through, for example, the passage of time?

The question here is relevancy, if it is showing a pattern and the past is being repeated then it is relevant – as in the case of Rupert Murdoch. However if it is simply inflammatory sensationalism that would bias or influence the viewer, reader, listener then I believe it should not be permitted. We have to take each case on its individual merit. We also have to appreciate the human capacity to learn from past mistakes. The record that is now afforded to us of all our past misdeeds makes it very difficult to make mistakes and yet that is part of growing up. Psychologically this will have an impact. So once again, we have to address each instance within the parameters of the relevant situation.

Question 81: Should public figures be subject to different privacy protections? If so, why and what should these be? If not, why not?

Yes, I feel the same privacy protections should apply. Common decency should prevail under every circumstance. You should not be able to stalk and you should not be able to go through people’s bins, you should not be able to make things up and you should not be able to exaggerate. To share details like peoples’ addresses should not be acceptable under any circumstances. It leaves the person open to stalkers, vigilantes and the like.

However there are some public figures or people who want to be public figures who are actively involved in their own self-promotion which blurs the lines of privacy. It is important for the awareness on both sides of the potential for abuse and the need for balance, sometimes ensuring that we educate the public in regard to privacy.

Question 82: Are privacy protections appropriately confined to news and current affairs programs? If so, why? If not, why not?

No. privacy protections are not only or should not only be confined to news and current affairs. This is perhaps something current affairs shows such as Today Tonight and A Current Affair abuse most but really privacy protections should be afforded to all. The danger is when a good story gets in the way of good journalism
and then the angle is decided upon and the program interviews have to fit into that. Privacy should be afforded to all till there is clear evidence to the contrary. Protection of the public always outstrips privacy.

**Question 83: If the answer to the last question is ‘yes’ should codes of practice include privacy protections to people filmed in observational documentaries, and or the broadcasting of real-life events?**

Observational Documentaries: The largest complaint from people who participate in observational documentaries is that they feel misrepresented, that their actions or words have been taken out of context. So there is clearly a responsibility on the broadcaster or the producer of the content to edit the footage with respect to the people who have signed up for the program in good faith.

Real life events – This does not refer to live transmission, therefore the same standards apply, care should be taken with transmission time, decency, defamation, potential to incite vilification, cause harm etc.

**Question 84: What should be appropriate practices and procedures for obtaining consent from subjects, particularly when they are filmed in observational documentaries or other situations where they are ‘caught on camera’?**

In most circumstances it is highly unusual for a person in an observational documentary not to have consented for their footage to be used. However, there are certain circumstances where it has clearly been shown to be for the greater public interest. I reference the current exposing of Rupert Murdoch and his disparity between what he says in public and what he says in private, thereby proving employer knowledge of the abhorrent practices at the News of the World Newspaper in the UK. There are other examples such as proving sexual harassment, workplace bullying, human trafficking.

There are many examples where this has been the only way to get proof but it has to be clear and justified and able to stand the test of our legal system. I once again refer to the importance of keeping the quotes in context. If the recording is genuine and the proof is clear there should be no need to take any words out of context.
4B Protection of the public – interventions designed to address matter that is likely to incite hatred against or vilify

Question 85: Should the concept of ‘protection of the public’ be relevantly included as a guiding core principle in contemporary broadcasting codes of practice?

YES

Question 86: The ACMA has drawn a connection between ‘protection of the public’ and interventions designed to address matter that is likely to incite hatred against or vilify. Do you agree with this connection? Are there other interventions or safeguards that should be included here?

I agree with this connection.

I would like to add ‘a consistent set of guidelines and the highest standards’.

I feel it worth considering the difference between protection of the public and protection of the individual – where does protection of the public override protection of the individual and where is the line with regard to inciting hatred or vilifying. Once again – why is there a different way of treating this at the ABC and SBS and in the rest of the media – surely, once again it is a question of set the standard across all media. This seems to be a reflection of the way the states and territories deal with discrimination and human rights which is not consistent and therefore open to confusion and abuse.

Question 87: What is the role of protections in relation to the incitement / provocation of hatred etc on certain grounds in contemporary codes of practice?

The role is to ensure that minority groups or individuals are not targeted. It protects freedom of expression. Australia is an inherently multi-cultural society and our broadcasting codes should protect and reflect that diversity of views and religions.
Question 88: What should an appropriate and proportionate regulatory intervention look like?

I don’t feel it should look that different from what you currently have, I do feel, however that you need to implement it and I feel this is where the ACMA should be focusing. How to discern what is vilifying, inciting hatred and protects those who are targeted based on age, gender, ethnicity, nationality, race, disability, religion and sexual preference. As can be seen so clearly by the lack of consequences for the way the media behaved towards a female Prime Minister there is no holding back by those who are supposed to be setting the standards – the politicians, and there is no holding back by the opinion generators in the media. It became so normal that there was a new bar set for what is acceptable and what is not. It is disgraceful that we have walked away from decent human relations in the way we have and that there is no governing body to redress that balance. Will you I wonder?

The appropriate and proportionate regulatory intervention would be headline size for headline size – page for page apology, airtime for airtime. On radio, with personality programs there should be a 3 minute delay to ensure any breaches were captured before they went to air.. Or on television, eat into their airtime – that is money and as such will have a greater effect on their decision making in the first place.

Question 89: Is it necessary and appropriate for contemporary codes of practice to include these protections? Should the tests and attributes be aligned across the sectors? If not, why not?

Absolutely, clearly the commonwealth and the states and territories laws are not sufficient a deterrent and legal recourse is expensive. The onus should be put on the broadcaster to uphold these standards and ACMA to enforce then by representing the individual against these huge corporations.

The Codes should and tests should be aligned across the sectors, the practicalities may vary.

Question 89: If it is necessary and appropriate for contemporary codes of practice to include these protections, should the test and the attributes be aligned across sectors?

Tests and attributes should be aligned across all sectors – they should be the same standards but they will have different practices. Self-regulation has thrown up many abuses as clearly shown by TodayFM’s attempt to regulate itself. It has shown there there are repeated breaches – Kyle Sandiland and Jacquie O’s lie detector test fiasco, Kyle Sandilands’ abuse and vilification of a journalist, Mel Greig and Michaels Christian’s hoax phone call, Alan Jones’ constant abuse of Julia Gillard which culminated in remarks about her dead father.
Question 90: Is there an expectation that there is an additional or greater obligation on providers of broadcasting services (than for example, providers of online services) to include relevant protections aimed at preventing the perpetuation of harmful material with the potential to contribute to social discord?

Yes there is but it also assumes that online has less reach which is untrue, it is not bound by geographical constraints. We expect to be able to listen and watch programs with the assumption that certain guidelines have been followed. We expect that what is put out there is morally and ethically responsible and that it will not contribute to social discord.

This understanding cannot be said of the online landscape where there is no true regulation and it has turned into a hotbed of content including vilification, slander, forums to incite hatred, vilification and porn is freely available and unrestricted, all under the banner of freedom of speech. Since when was freedom of speech another word for ‘go for it’. The hosts of these abusive web pages and websites fall back on legal loopholes to leave sites and comments up. There has to be a benchmark set up by the ACMA of what is right human relations and then the ability to implement or perhaps campaign on our behalf for consequences to breaches of their codes.

Question 91: Is the obligation, if any, on providers of broadcasting services to include protections and the way in which these protections are framed affected by the degree of influence associated with a relevant broadcaster? If yes, how is it affected and how should associated regulatory interventions be calibrated? If not, why not?

Some rules apply to all. The larger corporations are expected to set the benchmarks, to set the standards. Broadcasters such as the ABC and SBS are accountable and because it is a public institution the feedback is swift and every complaint dealt with due diligence. The same cannot be said of the large corporations in the private sector and that is evident in their codes of conduct and their distinction between news and current affairs.

The standards should be the same across the board, with no difference with regard to the influence. The cross contamination of media means that it is very simple for a piece on an website with relatively small reach and influence to be picked up and distributed to ensure it has wide reach and enormous influence. For example a radio station which is specifically set up to broadcast to a local community might find they have an opinion on a particular event, what they could influence, incite reactions in others and be re-distributed, re-reported online.