



# Commercial Radio Code of Practice

**15 March 2017**

**(incorporating changes to section 9 from March 2018)**

**Commercial Radio Australia Limited ACN 059 731 467**

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# **1. Application**

- 1.1. This Code commences on 15 March 2017.
- 1.2. This Code applies to all commercial radio broadcasting services operated by a Licensee.
- 1.3. Licensees must comply with the Code, but a failure to comply will not be a breach of the Code, if the non-compliance was in respect of a minor, peripheral, incidental or trivial matter, or was due to:
  - 1.3.1. a reasonable mistake;
  - 1.3.2. reasonable reliance on information supplied by another person;
  - 1.3.3. the broadcast of material which was accidental, provided that the Licensee took reasonable precautions and exercised due diligence; or
  - 1.3.4. an act or default of another person, which was outside the Licensee's control, or an accident, technical/engineering issue, or some other cause beyond the Licensee's control.
- 1.4. Each Licensee must, on at least one occasion in each week, broadcast on each commercial radio service operated by it, an announcement publicising the existence of this Code, how to access the Code, and a general description of the nature and effect of its operation. Such announcements must be broadcast at different times and in different Programs from week to week.
- 1.5. CRA will maintain a series of Guidelines which are published on the CRA website. The Guidelines do not form part of this Code, but are intended to assist the commercial radio industry in understanding and responding to a range of matters, including the portrayal of indigenous Australians, women, family violence, emergency information, suicide and mental illness. The Guidelines may be updated from time to time.
- 1.6. In determining whether material has been broadcast in breach of a provision of this Code, the meaning conveyed by the relevant material is considered. This is assessed according to the understanding of an ordinary, reasonable listener.

## **2. Material not suitable for broadcast**

- 2.1. A Licensee must not broadcast a Program which in all of the circumstances:
  - 2.1.1. is likely to incite or encourage violence or brutality or present gratuitous violence or brutality;
  - 2.1.2. simulates news or events in such a way that is likely to mislead or alarm;
  - 2.1.3. presents as desirable:
    - (a) the misuse of alcoholic liquor; or
    - (b) the use of illegal drugs, narcotics or tobacco;
  - 2.1.4. is likely to incite in a reasonable listener, hatred against, or serious contempt for, or severe ridicule of, any person or group of persons because of age, ethnicity, nationality, race, gender, sexual preferences, religion, transgender status or disability; or
  - 2.1.5. depicts suicide favourably, or presents suicide as a means of achieving a desired result.
- 2.2. 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.
- 2.3. A Licensee must not broadcast audio of actual sexual acts.
- 2.4. A Licensee must not broadcast a feature Program which has an explicit sexual theme as its core component unless it is broadcast between 7.00pm and 6.00am and an appropriate warning is made prior to commencement of the Program and at hourly intervals during broadcast of the Program.
- 2.5. Nothing in 2.1 and 2.4 prevents a Licensee from broadcasting a Program of the kind or kinds referred to in those provisions if the material is presented:
  - 2.5.1. reasonably and in good faith for academic, artistic (including comedy or satire), religious instruction, scientific or research purposes, or discussion or debate about any act or matter in the public interest; or
  - 2.5.2. in the course of a broadcast of a fair report of, or fair comment on, a matter of public interest.

### **3. News and Current Affairs Programs**

- 3.1. In broadcasting News Programs, a Licensee must use reasonable efforts to:
  - 3.1.1. present news accurately and impartially;
  - 3.1.2. present news in a way that is not likely to create public panic, or cause serious distress to reasonable listeners, unless it is in the public interest to do so; and
  - 3.1.3. distinguish news from comment.
- 3.2. In broadcasting Current Affairs Programs, a Licensee must use reasonable efforts to ensure that:
  - 3.2.1. factual material is reasonably supportable as being accurate;
  - 3.2.2. factual material is clearly distinguishable from commentary and analysis; and
  - 3.2.3. viewpoints expressed to the Licensee for broadcast are not misrepresented or presented in a misleading manner by giving wrong or improper emphasis on certain material or by editing material out of context.
- 3.3. In broadcasting News Programs and Current Affairs Programs, a Licensee must not broadcast material relating to a person's personal or private affairs, or which invades an individual's privacy, unless it is in the public interest to do so, or the person has provided implied or express consent for the material to be broadcast (or in the case of a person under 16, a parent or guardian has given implied or express consent).
- 3.4. A Licensee must make reasonable efforts to correct or clarify significant and material errors of fact which would be readily apparent to a reasonable person in the Licensee's position or which have been demonstrated to the Licensee's reasonable satisfaction in a timely manner.<sup>1</sup>
- 3.5. There will be no breach of the accuracy requirements at 3.1.1 or 3.2.1 if:
  - 3.5.1. the Licensee can establish on the balance of probabilities that the news or factual material is accurate; or
  - 3.5.2. a disputed fact was not a material fact; or
  - 3.5.3. a correction, which is appropriate in all the circumstances, is made within 30 Business Days of the Licensee receiving either a Code

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<sup>1</sup> For the avoidance of doubt, a Licensee will not breach this provision by failing to correct errors of fact which are of a trivial or minor nature.

Complaint, or notice of a Code Complaint being referred to the ACMA (whichever is later).

- 3.6. A correction under this section 3 may be made in one or more of the following ways:
- 3.6.1. during a later episode of the relevant Program or a comparable Program;
  - 3.6.2. on the Program's website, the station's home page or the Licensee's main website as appropriate; or
  - 3.6.3. in any other way that is appropriate in all the circumstances.
- 3.7. For the purposes of 3.2 above, a contribution made to a Current Affairs Program by a talkback participant will not be considered factual material, unless it is factual material that is endorsed or adopted by the Presenter. 'Talkback participant' means a member of the public who contributes to open-line discussions via the Licensee's dedicated talkback line or by other communication methods accepted by the Licensee.
- 3.8. Nothing in this section 3 obliges the Licensee to allocate equal time to different points of view, nor to include every aspect of a person's viewpoint, nor does it preclude a critical examination of, or comment on, a controversial issue as part of a fair report on a matter of public interest.
- 3.9. Current Affairs Programs are not required to be impartial and may take a particular stance on issues. However, a Licensee must provide reasonable opportunities for significant alternative viewpoints to be presented when dealing with controversial issues of public importance, while the issue has immediate relevance to the community.<sup>2</sup>
- 3.10. Compliance with 3.1 and 3.2 must be assessed by taking into account all of the circumstances at the time of preparing and broadcasting the material, including:
- 3.10.1. the facts known, or readily ascertainable, at that time;
  - 3.10.2. the context of the material within the News Program or Current Affairs Program in its entirety;
  - 3.10.3. the time pressures associated with the preparation and broadcast of News Programs and Current Affairs Programs; and
  - 3.10.4. in relation to a Current Affairs Program, the format and style of the Current Affairs Program.

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<sup>2</sup> For the purposes of this provision, 'reasonable opportunities' can be accommodated within the same Program or a similar Program. The requirement does not impose an obligation on Licensees to allocate equal time to different points of view, nor to broadcast all viewpoints expressed to it.

## 4. Advertising

- 4.1. Advertisements broadcast by a Licensee must be presented in such a manner that a reasonable listener is able to identify them, at the time of the broadcast, as advertising material.<sup>3</sup>

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<sup>3</sup> Note: *Whether an Advertisement is identifiable as advertising material depends on a range of factors including content, format, style, tone, scripting and the placement of the Advertisement. Cues and signals that listeners use to identify advertising material (including the timing and frequency of these cues and signals) might include:*

- a) mentions or detailed discussions of a brand, product, service, corporation or organisation;*
- b) provision of contact details for a corporation or organisation or details of how particular products or services can be obtained;*
- c) overly positive or unbalanced descriptions and discussions of particular brands, products or services;*
- d) a scripted or artificial feel associated with discussions of particular brands, products or services.*

## 5. Australian Music

- 5.1. A Licensee must ensure that during the Australian Performance Period, either:
- 5.1.1. the applicable proportion of the total time occupied by the broadcasting of Music by the radio service consists of Music performed by Australians; or
  - 5.1.2. in the case of a Licensee which broadcasts Musical Items of a reasonably similar duration, the applicable proportion of the total number of Musical Items broadcast by the radio service consists of Musical Items performed by Australians.
- 5.2. For the purposes of 5.1, the applicable proportion of total time or total number of Musical Items (as the case may be) in respect of a radio service, must be determined based upon the predominant format of the service in accordance with the following scale:

Category	Format of Service	Applicable Proportion
A	<ul style="list-style-type: none"><li>➤ Mainstream Rock</li><li>➤ Album Oriented Rock</li><li>➤ Contemporary Hits</li><li>➤ Top 40</li><li>➤ Alternative</li></ul>	Not less than 25%
B	<ul style="list-style-type: none"><li>➤ Hot/Mainstream Adult Contemporary</li><li>➤ Country</li><li>➤ Classic Rock</li></ul>	Not less than 20%
C	<ul style="list-style-type: none"><li>➤ Soft Adult Contemporary</li><li>➤ Hits &amp; Memories</li><li>➤ Gold - encompassing Classic Hits</li><li>➤ Hip Hop</li></ul>	Not less than 15%
D	<ul style="list-style-type: none"><li>➤ Oldies</li><li>➤ Easy Listening</li><li>➤ Easy Gold</li><li>➤ Country Gold</li></ul>	Not less than 10%
E	<ul style="list-style-type: none"><li>➤ Nostalgia</li><li>➤ Jazz</li><li>➤ NAC (smooth jazz)</li></ul>	Not less than 5%
F	<ul style="list-style-type: none"><li>➤ All other formats of service (including, without limitation, programs which are predominately comprised of open-line, news, talk and sport content)</li></ul>	N/A



- 5.3. In the case of a radio service whose format is within categories A, B or C of 5.2, the broadcast of New Australian Performances as a proportion of total Australian Performances prescribed by this provision, shall be in accordance with the following table, when calculated across all Australian Performance Periods occurring in any financial year, subject to 5.5.

<b>Category</b>	<b>New Australian Performances As a Proportion of Total Australian Performances</b>
<b>A</b>	Not less than 25%
<b>B</b>	Not less than 20%
<b>C</b>	Not less than 15%

- 5.4. The commitment on the part of a Licensee to play a minimum level of New Australian Performances in accordance with 5.3, is subject to the release of such Performances by the Australian record industry in numbers that are substantially the same as those released in the financial year ending June 1998. If, in any financial year, there is a substantial decrease in the release of New Australian Performances, CRA may revise the proportions of New Australian Performances as a proportion of total Australian Performances, contained at 5.3, provided that any change that may eventuate will not affect the Licensee's obligations under 5.1.
- 5.5. The provision at 5.3 does not apply to a Licensee that does not include New Releases in its weekly play lists, having regard to its format.
- 5.6. For the purposes of 5.3, the category into which a radio service falls must be nominated by the Licensee.
- 5.7. For the purposes of 5.2 and 5.3, where more than one performer is involved in a musical performance, the Musical Items concerned shall be regarded as being performed by an Australian if the performance is predominantly by one or more Australians.
- 5.8. A Licensee must notify CRA by written notice of any material change to the format of a radio service operated by it, having regard to the tables in 5.2, no later than 7 days after the change is made.
- 5.9. CRA will provide regular yearly reports to ARIA on the performance by Licensees in relation to this section 5.
- 5.10. This section 5 does not apply to Digital-Only services. This exemption will be reviewed in conjunction with the next material review of this Code.

## **6. Interviews and talkback Programs**

6.1. A Licensee must not broadcast the words of an identifiable person unless:

- (a) that person has been informed in advance or a reasonable person would be aware that the words may be broadcast; or
- (b) in the case of words which have been recorded without the knowledge of the person, that person has subsequently, but prior to the broadcast, expressed consent to the broadcast of the words.

## **7. Broadcast of emergency information**

- 7.1. A Licensee will, in consultation with appropriate emergency and essential service organisations, implement a set of internal procedures, to enable the timely and accurate broadcast of warnings and information, supplied by such organisations relating to an existing or threatened emergency.
- 7.2. A designated position in relation to each station is to be identified as the contact officer during business and non-business hours for all matters relevant to this section 7.
- 7.3. Compliance by the Licensee with this section 7 is dependent upon the cooperation of the emergency or essential service organisations. A Licensee will not be in breach of this section 7 if any emergency or essential service organisation fails to respond to a Licensee's request for information, provides inaccurate information or otherwise fails to comply with agreed procedures.
- 7.4. A Licensee may choose to update procedures established under 7.1 above as it considers necessary.

## 8. Live hosted entertainment Programs

8.1. Subject to 8.3 and 8.4 below, a Licensee must not broadcast a Program which, in all of the circumstances:

- (a) treats participants in Live hosted entertainment Programs in a highly Demeaning or highly Exploitative manner; or
- (b) treats Children participating in Live hosted entertainment Programs in a Demeaning or Exploitative manner.

8.2. In this section 8, the terms below have the following meanings:

**Demeaning:** a depiction or description, sexual in nature, which is a serious debasement of the participant;

**Child/Children:** a person/people under 16 years old;

**Exploitative:** clearly appearing to purposefully debase or abuse the participant for the enjoyment of others, and lacking moral, artistic or other values;

**Live hosted entertainment Program:** a Program (excluding any News Program and any Current Affairs Program) that is produced and broadcast live to air and is a hybrid Program, a substantial part of which includes the following components:

- (a) a live host; and
- (b) one or more of the following:
  - competitions;
  - stunts;
  - pranks.

8.3. Straightforward telephone only competitions, such as “call to win”, shall be excluded from the scope of “competitions” for the purposes of this section 8.

8.4. The obligation on a Licensee under 8.1 will not be taken to have been breached in relation to adults if:

- (a) the participant has consented to the broadcast of the relevant content in the Program; and
- (b) the Licensee informed the participant of the character of the relevant segment to be broadcast.

## **9. Promotion of gambling and betting odds in live sports coverage**

### **Commercials relating to Betting or Gambling during a Live Sporting Event**

#### **5.00am to 8.30pm**

9.1 From 5.00am to 8.30pm a Commercial relating to Betting or Gambling during the broadcast by the Licensee of a Live Sporting Event is not permitted:

from:

9.1.1 five minutes before the Scheduled Start of Play of the Live Sporting Event, where live-to-air coverage of Play commences no earlier than the Scheduled Start of Play;

9.1.2 in all other cases, five minutes before the broadcast of the first Program that includes the Live Sporting Event;

to:

9.1.3 five minutes after the conclusion of live-to-air coverage of Play by the Licensee or 8.30pm, whichever is sooner.

9.2 The restrictions at section 9.1 above do not apply to:

9.2.1 a Program that is not a Related Program and:

- (a) that is broadcast within a planned suspension of coverage of a Live Sporting Event or a Scheduled Break; and
- (b) that is at least 30 minutes duration; and
- (c) the start time of which is separately published by the Licensee on its website for at least 24 hours prior to its broadcast in a way that reasonably brings the information to the attention of listeners;

9.2.2 a Program that is not a Related Program and that is:

- (a) broadcast within an Unscheduled Break in Play or due to changes in the broadcast schedule; and
- (b) at least 30 minutes duration; and
- (c) accompanied by an advice that alerts the listener that the Live Sporting Event will be suspended;

9.2.3 a live cross to a Live Sporting Event, from within a Program that is not a Related Program, so long as the total duration of all live crosses to Live Sporting Events within the Program is no more than five minutes in any 30 minute period. The 30 minute period will be based on the time of commencement of the Program.

For the avoidance of doubt, a live cross as contemplated in this section 9.2.3 will not make the program a Related Program.

9.3 Any Commercial relating to Betting and Gambling broadcast pursuant to sections 9.2.1 or 9.2.2 must not be broadcast:

9.3.1 within five minutes immediately following the suspension of the broadcast of the Live Sporting Event; or

9.3.2 five minutes immediately before the re-commencement of the broadcast of the Live Sporting Event.

### **8.30pm to 5.00am**

9.4 From 8.30pm to 5.00am a Commercial relating to Betting or Gambling during the broadcast by the Licensee of a Live Sporting Event is permitted only:

- (a) before Play;
- (b) during Scheduled Breaks;
- (c) during Unscheduled Breaks; and
- (d) after Play.

### **Promotion of Betting Odds**

9.5 The Promotion of Betting Odds by Commentators during a Live Sporting Event is not permitted at any time:

- (a) from 30 minutes before Play;
- (b) to 30 minutes after Play.

### **5.00am to 8.30pm**

9.6 From 5.00am to 8.30pm, a Promotion of Betting Odds during the broadcast of a Live Sporting Event by the Licensee is not permitted:

from:

9.6.1 five minutes before the Scheduled Start of Play of the Live Sporting Event, where live-to-air coverage of Play commences no earlier than the Scheduled Start of Play;

9.6.2 in all other cases, five minutes before the broadcast of the first Program that includes the Live Sporting Event  
to:

9.6.3 five minutes after the conclusion of live-to-air coverage of Play by the Licensee or 8.30pm, whichever is sooner.

9.7 The restrictions at section 9.6 above do not apply to:

9.7.1 a Program that is not a Related Program and:

- (a) that is broadcast within a planned suspension of coverage of a Live Sporting Event or a Scheduled Break; and
- (b) that is at least 30 minutes duration; and
- (c) the start time of which is separately published by the Licensee on its website for at least 24 hours prior to its broadcast in a way that reasonably brings the information to the attention of listeners;

9.7.2 a Program that is not a Related Program and that is:

- (a) broadcast within an Unscheduled Break in Play or due to changes in the broadcast schedule; and
- (b) at least 30 minutes duration; and
- (c) accompanied by an advice that alerts the listener that the Live Sporting Event will be suspended; and

9.7.3 a live cross to a Live Sporting Event, from within a Program that is not a Related Program, so long as the total duration of all live crosses to Live Sporting Events within the Program is no more than five minutes in any 30 minute period. The 30 minute period will be based on the time of commencement of the Program.

For the avoidance of doubt, a live cross as contemplated in this section 9.7.3 will not make the program a Related Program.

9.8 Any Promotion of Betting Odds broadcast pursuant to sections 9.7.1 or 9.7.2 must not be broadcast:

9.8.1 within five minutes immediately following the suspension of the broadcast of the Live Sporting Event; or

9.8.2 five minutes immediately before the re-commencement of the broadcast of the Live Sporting Event.

### **8.30pm to 5.00am**

9.9 From 8.30pm to 5.00am the Promotion of Betting Odds during a Live Sporting Event is permitted only:

- (a) before Play; and
- (b) after Play.

9.10 From 8.30pm to 5.00am, the prohibition at 9.9 does not prevent a Promotion of Betting Odds (in the form of spot commercials or paid, clearly identified sponsorship segments, delivered by persons other than Commentators) during a Long Form Live Sporting Event, in accordance with the rules set out below:

- (a) during Play, as part of a distinct break of 90 seconds, and otherwise in accordance with the rules set out below for each Long Form Live Sporting Event:

Tennis	Not more than once per Session. To be placed between matches where the broadcast moves from one match to another.
Golf	Not more than once on each day of competition.
Formula 1, Moto GP and V8 Supercars	Not more than once on each day of competition. To be placed no later than the end of the warm-up lap for V8 Supercars Championship Series Race, or the relevant feature race.
Cricket	Not more than once on each day of competition. To be placed between Sessions.
Olympic and Commonwealth Games	Not more than once every 3 hours on each day of competition.
Other	Not more than once on each day of competition.

provided that the Promotion of Betting Odds is not for a race, event, match or game that has already commenced.

### **Representatives of gambling organisations**

9.11 During a Live Sporting Event, a representative of a gambling organisation must be clearly identified at all times and must not:

- (a) appear as a Commentator; or
- (b) appear in a Promotion of Betting Odds, or a Commercial relating to Betting or Gambling, at or around the venue, or be represented as being at or around the venue, where the game or match which is the subject of the Live Sporting Event is taking place.



## **General**

- 9.12 The Promotion of Betting Odds and Commercials relating to Betting or Gambling during Live Sporting Events must be accompanied by a short responsible gambling message.
- 9.13 The Promotion of Betting Odds and Commercials relating to Betting or Gambling must not be directed at children, portray children as participating in betting or gambling, or portray betting or gambling as a family activity.
- 9.14 The Promotion of Betting Odds and Commercials relating to Betting or Gambling must be socially responsible and not mislead the audience.
- 9.15 The Promotion of Betting Odds and Commercials relating to Betting or Gambling must not make exaggerated claims, associate betting or gambling with alcohol, or associate betting or gambling with success or achievement.

## **Exceptions**

- 9.16 It will not be a breach of this section where:
  - (a) a failure to comply arises from a Live Sporting Event originating from outside Australia; and
  - (b) the Licensee has not added the Promotion of Betting Odds or the Commercial relating to Betting or Gambling; and
  - (c) it is not reasonably practicable to remove material that includes the Promotion of Betting Odds or a Commercial relating to Betting or Gambling; and
  - (d) the Licensee does not receive any direct or indirect benefit for the Promotion of Odds or the Commercial relating to Betting or Gambling in addition to any direct or indirect benefit received from broadcasting the event.
- 9.17 This section 9 does not apply where the listener's exposure to the Promotion of Betting Odds or Commercials relating to Betting or Gambling is the result of an active choice to switch to an alternative service related to the broadcasting of the event (for example, by accessing a url or subscription service).
- 9.18 This section 9 does not apply to a Live Sporting Event that focuses on live horse, harness or dog racing.
- 9.19 Sections 9.1.2 and 9.6.2 will not be contravened in respect of any Promotion of Betting Odds or Commercial relating to Betting or Gambling broadcast during a Live Sporting Event in circumstances where:
  - (a) the Live Sporting Event has a Scheduled Start of Play; and
  - (b) Play commences at a different time to the Scheduled Start of Play; and

- (c) the Licensee was only made aware less than one hour prior to the broadcast of the first program that includes the Live Sporting Event, that the commencement of Play would be different to the scheduled start time for that event; and
- (d) there would have been no contravention had Play commenced at or after the Scheduled Start of Play.

### **Time Zones**

- 9.20 Where a Live Sporting Event takes place outside the Licensee's licence area, the 5.00am to 8.30pm time-zone should be determined by reference to the time-zone of the Licensee's licence area.
- 9.21 Where a Licensee's licence area covers areas in which different time-zones are observed, the time-zone for the part of the licence area that contains the largest proportion of the population will apply.

### **Commencement**

- 9.22 The commencement date of section 9 is 30 March 2018.

## 10. Complaints

### Code Complaints

- 10.1. Licensees welcome feedback from listeners. Feedback can be made by any means and regarding any subject area. By contrast, Code Complaints are formal complaints made about a matter covered by this Code and must satisfy the criteria set out below. In no circumstances will feedback be treated as a Code Complaint.
- 10.2. A Code Complaint must be made in one of two ways:
  - 10.2.1. by letter addressed to the complaints officer of the Licensee; or
  - 10.2.2. by an online electronic complaint form, if available on the Licensee's website.
- 10.3. A Code Complaint must contain the following information:
  - 10.3.1. name of the complainant;
  - 10.3.2. the complainant's contact details (including address, which may be a PO Box or a c/o address);
  - 10.3.3. sufficient detail about the material broadcast (such as the date, time, station, program and brief description of the material); and
  - 10.3.4. sufficient details of the complaint for the nature of the complaint to be understood.
- 10.4. A Code Complaint must be:
  - 10.4.1. about a matter covered by this Code;
  - 10.4.2. about a matter that the complainant has heard broadcast by the Licensee in Australia; and
  - 10.4.3. received within 30 days of the relevant broadcast.
- 10.5. Complaints made under 3.3 above (relating to privacy) are not subject to 10.4.2 of this Code. For the avoidance of doubt, complaints under 3.3 must still relate to material that has been broadcast by the Licensee in Australia and be received within 30 days of the broadcast.
- 10.6. A Code Complaint made in relation to 3.3 can only be made by the person (or an authorised representative of the person) who considers their privacy was intruded upon.
- 10.7. A Code Complaint need not specify the particular provision of the Code to which the complaint relates.

- 10.8. Complaints that do not fulfil the requirements set out in 10.2, 10.3, 10.4 and 10.6 (where relevant) will not be treated as Code Complaints under this section 10.
- 10.9. Complaints that relate to any content that was not accessed via a broadcast by the Licensee – such as content accessed through the Licensee’s website or social media – are not valid Code Complaints.
- 10.10. Where, by reason of a disability, a complainant cannot lodge a complaint that satisfies the requirements of this Code, a telephone complaint or a complaint in another audio format accessible by the Licensee will be a Code Complaint, provided in each case that it otherwise satisfies the relevant code criteria.

### **Responding to complaints**

- 10.11. Subject to 10.13, the Licensee must use its best endeavours to respond to a Code Complaint substantively in writing within 30 Business Days of the receipt of the complaint.
- 10.12. The response provided by the Licensee under 10.11 must inform the complainant that he or she has the right to refer the Code Complaint to the ACMA if the complainant is not satisfied with the response of the Licensee.
- 10.13. If the Licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within the time frame in 10.11, the Licensee must acknowledge receipt of the Code Complaint within 30 Business Days and provide a final reply within 45 Business Days of receipt of the complaint.
- 10.14. The Advertising Standards Bureau (ASB) manages the complaint resolution process of a national advertising self-regulation system. Licensees will refer complaints to the ASB where the ASB is better placed to deal with the substance of the issues raised. In particular, as a general rule, complaints received by a Licensee in relation to an Advertisement or other marketing communication broadcast by the Licensee for a third party will be dealt with as follows:
- (a) to the extent that (in the Licensee’s reasonable opinion) a complaint relates to whether material broadcast complied with section 9 (Promotion of gambling and betting odds in live sports coverage) or section 4 (Advertising) of this Code, that aspect of the complaint must be treated as a Code Complaint and responded to in accordance with 10.11 and 10.12;
  - (b) to the extent that (in the Licensee’s reasonable opinion) a complaint relates to the content of an Advertisement or other marketing communication but does not relate to matters covered in paragraph (a), that aspect of the complaint may be referred to the ASB. A complaint referred to the ASB will not be treated as a Code Complaint.

10.15. A Licensee is not required to provide a written response to a Code Complaint that:

- (a) is frivolous, vexatious, or an abuse of the Code Complaint process;
- (b) is offensive or vulgar;
- (c) is the second or later complaint in a series of complaints from a single person about the same issue in a particular broadcast of a Program; or
- (d) expressly indicates that a response is not required.

10.16. If a Code Complaint is about a broadcast that the Licensee reasonably believes is, or may become, the subject of existing or threatened proceedings in any Court or Tribunal in Australia, where the Licensee or any of its agents or employees is a party or intended party, then the Licensee may choose not to treat the matter as a Code Complaint, provided that the Licensee acknowledges receipt of the complaint in writing and indicates the reason the matter will not be dealt with under this Code.

#### **Record of complaints**

10.17. Each Licensee must keep a record of the number and substance of Code Complaints. Licensees who are members of CRA will provide these records on a quarterly basis to CRA.

10.18. CRA will provide the ACMA with an annual report containing a summary of the number and substance of the Code Complaints received by Licensees.

10.19. If a Licensee is not a member of CRA then it will supply directly to the ACMA an annual report containing a summary of Code Complaints that it has received.

## DEFINITIONS

**In this Code:**

**ACMA** means the Australian Communications and Media Authority.

**Accidental** means an unscripted and unplanned reference (including remarks by a Commentator) for which the Licensee does not receive any direct or indirect benefit (whether financial or not, and in addition to any direct or indirect benefit that the Licensee receives for the broadcast).

**Advertisement** means material broadcast:

- (a) which draws public attention to, or promotes, directly or indirectly, a corporation, organisation, brand, product, service, belief or course of action; and
- (b) for which Consideration has been provided by, or on behalf of, a corporation, organisation or supplier of the product or service, to a Licensee, a Presenter, or an Associate of a Presenter.

**ARIA** means the Australian Recording Industry Association.

**ARIA Report** means any report issued by ARIA that contains details of the date of release in Australia of sound recordings of music performed by Australians.

**Associate of a Presenter** means:

- (a) a person (other than a Licensee) who has the authority to enter into agreements for the provision of the Presenter's services; or
- (b) a corporation (other than a Licensee) or trust in which the Presenter has a greater than 50% company or beneficial interest; or
- (c) a corporation (other than a Licensee) of which the Presenter is a director.

**Australian** means a person who is a citizen of, or is ordinarily resident in, Australia.

**Australian Performance Period** means the total period of 126 hours occurring in each week between the hours of 6.00am and 12.00 midnight daily.

**Betting Odds** means comparative, generally monetary, odds offered in respect of a game or event for a bet on the chance of any occurrence or outcome within that particular game or event, or the overall outcome of the game or event. For the avoidance of doubt, Betting Odds includes comparative odds offered in respect of horse, harness or greyhound racing.

**Business Days** means Monday to Friday (inclusive), excluding Public Holidays in the relevant State or Territory. Where a licence area covers areas in which different Public Holidays are observed, the Public Holidays for the area containing the largest proportion of the population of the licence area will apply.

**Code Complaint** means a complaint received by a Licensee about a matter that is directly covered by the Code and complies with the requirements set out in section 10 above.

**Commentator** means a person who is a host, guest, or is otherwise participating in, a Live Sporting Event and includes a person calling, or providing analysis on, the sporting event or game. It does not include bona fide talk-back callers or other contributors, such as clearly identified representatives of gambling organisations.

**Commercial relating to Betting or Gambling** means a distinct audio promotional reference to:

- (a) a gambling or betting service; or
- (b) a gambling or betting organisation that provides generic information about the organisation's brand, business or services.

A Commercial relating to Betting or Gambling does not include:

- a commercial relating to such things as Government sanctioned lotteries, lotto, keno or competitions; or
- a commercial relating to entertainment or dining facilities at places where betting or gambling takes place, or a tourism commercial which incidentally refers to betting or gambling, provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use; or
- a reference that is Accidental; or
- a reference that is an Incidental Accompaniment.

**Consideration** means any money, service or other valuable benefit or consideration that is directly or indirectly paid, promised, charged or accepted for material that is broadcast, or is to be broadcast, but does not include a product or service provided free to a person solely for the purpose of having the product or service reviewed.

**CRA** means Commercial Radio Australia Limited.

**Current Affairs Program** means a Program the predominant purpose of which is to provide interviews, analysis, commentary or discussion, including open-line discussion with listeners, about current social, economic or political issues.

**Digital-Only** means services broadcast using DAB+ technology that are not also transmitted in analogue form.

**Incidental Accompaniment** means a reference or other material which occurs in the normal course of broadcasting a Live Sporting Event for which the Licensee does not receive any direct or indirect benefit (whether financial or not, and in addition to any direct or indirect benefit that the Licensee receives for broadcasting the Live Sporting Event) and includes:

- (a) the name of a sporting venue; and
- (b) advertising at the venue of the Live Sporting Event.

**Licensee** means a holder of a commercial radio broadcasting licence.

**Live Sporting Event** means live-to-air coverage of a sporting event that includes Play. A Live Sporting Event includes a Long Form Live Sporting Event.

Live-to-air includes:

- (a) a delay of less than 90 minutes where broadcast as plausible live without reformatting; and
- (b) replay material during Play and any Unscheduled Break in Play.

**Long Form Live Sporting Events** include:

- sporting events of extended duration, such as golf, cricket (excluding 20/20 cricket) and motor sports events; and
- tournaments for single sports that involve concurrent games or matches, such as tennis championships; and
- multi-sport events, such as the Olympic and Commonwealth Games.

**Music** or **Musical Item** does not include music in Advertisements, Program promotions, station promotions or theme or bridging music.

**New Australian Performance** means a sound recording of a previously unpublished performance of a Musical Item performed by an Australian, which has been on sale to the Australian public for a period not exceeding twelve (12) months, from the date which is recorded in the ARIA Report as the date of its initial release in Australia.

**New Release** means a previously unpublished sound recording, that has been on sale to the Australian public for a period not exceeding twelve (12) months from the date which is recorded in the ARIA Report as the date of its initial release in Australia.

**News Program** means a Program, bulletin or news flash, the predominant purpose of which is to present factual new information on current events and which is typically prepared by journalists.

**Play** means the period of the actual run of play or active progress of the sporting event which is the subject of a Live Sporting Event. It commences at the formal commencement of the relevant match/game, race or similar (for example, first siren, whistle, coin toss or the commencement of active play as applicable), and concludes at the formal conclusion of play (for example, final siren, whistle or the conclusion of active play) for the relevant match, game, race or similar. In respect of Long Form Live Sporting Events over multiple days and/or involving multiple concurrent matches or events, Play commences at the formal commencement of the first match, game or race or each day, and ends at the conclusion of active play of each day.

Play includes *ad hoc* unscheduled breaks such as:

- stoppages for injuries; and
- stoppages for adjudication by third or TV umpires/referees; and



- time outs and substitutions in games such as basketball.

**Presenter** means a person who is an on-air presenter of a Program broadcast by a Licensee.

**Program/s** means any material broadcast by the Licensee except for Advertisements.

**Promotion of Betting Odds** means any audio message that provides Betting Odds. A Promotion of Betting Odds does not include Accidental references or an Incidental Accompaniment, such as a bona fide caller to the program inadvertently mentioning Betting Odds.

**Public Holiday** means a day proclaimed, Gazetted or nominated as a public holiday under the relevant State or Territory legislation. Where a licence area covers areas in which different Public Holidays are observed, the Public Holidays for the area containing the largest proportion of the population of the licence area will apply.

**Related Program** means a program that:

- (a) is hosted and/or takes place at the venue of the Live Sporting Event; or
- (b) contains commentary or analysis on the Live Sporting Event; or
- (c) contains highlights or replay coverage of the Live Sporting Event; or
- (d) involves or profiles participants in the Live Sporting Event.

A news or current affairs program will not be a Related Program where the items in (b), (c) and/or (d) form no more than an insubstantial part of the program as a whole.

**Scheduled Breaks in Play** means pre-determined stoppages in a sporting event or game, as determined by the rules and regulations of the sport that is the subject of a Live Sporting Event. A Scheduled Break in Play will differ depending on the sporting event or game that is the subject of the broadcast, for example:

Sport	Scheduled Break
Test Cricket	Between each Session (i.e. lunch break and tea break).  Drinks break  Change of innings
One Day International Cricket	Between each Session/change of innings  Drinks break
T20 Cricket	Between each Session/change of innings
Rugby League	Half time Between full time and commencement of golden point
Rugby Union	Half time Between full time and extra time

Soccer	Half time Between full time and extra time
AFL	Quarter time, half time and three quarter time Between full time and extra time
Tennis	Between each set.  In a break of at least 90 seconds between two matches during a Session (including where during a Session the broadcast switches from one match still in Play to another match in Play at the same time)
Formula One and Moto GP	Between each practice round, qualifying round and races
Basketball	Between each quarter  Between full time and overtime
Golf, V8 Supercars (endurance races), Swimming Championships	Not more than once every hour as part of a distinct break of at least 90 seconds.
Netball	Quarter time, half time and three quarter time Between full time and extra time
Olympic and Commonwealth Games	Between each day, twilight and night Session. Not more than once every two hours as part of a distinct break of at least 90 seconds (including when during a Session the broadcast switches from one event still in Play to another event in Play at the same time).

This is not an exhaustive list and other sporting events or games may also contain Scheduled Breaks in Play as determined by the rules and regulations of the sport, or if the sport does not provide for breaks, then a Scheduled Break will be not more than once every hour as part of a distinct break of at least 90 seconds.

**Scheduled Start of Play** means the scheduled commencement of live-to-air coverage of Play as published by the Licensee on its website for at least 24 hours prior to broadcast in a way that reasonably brings the information to the attention of listeners.

**Session** means:

- in relation to tennis, the day, twilight or evening session of matches as scheduled by the organisers of the relevant tournament or competition; and
- in relation to Olympic or Commonwealth Games, the day, twilight and night group of events as scheduled by the organisers; and
- in relation to test cricket, the three distinct sessions of a match that are divided by lunch, tea or dinner breaks; and
- in relation to one-day cricket, each innings; and
- in relation to motorsport, an individual race or practice session or qualifying session.

**Unscheduled Break in Play** means a break when Play is suspended or delayed due to weather or other uncontrollable events, and participants are yet to enter the area of Play or have left the area of Play.