

Australian Government Australian Communications and Media Authority

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

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# Reality Television Review

Volume 1

Final Report

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# Executive summary

This report has been prepared by the Australian Communications and Media Authority (ACMA), in response to a Direction from the Minister for Communications, Information Technology and the Arts, to investigate the current regulatory arrangements for reality television programming on commercial free-to-air television.

The Direction asked ACMA to investigate whether the Commercial Television Industry Code of Practice (Code) is operating to provide appropriate community safeguards and reflects community standards in relation to reality television programming. Specifically, ACMA was directed to consider the appropriateness of the classification arrangements for reality television programs, the mechanisms for ensuring content that is or would be classified M or MA is not shown at inappropriate times and the effectiveness and timeliness of the complaints handling mechanisms for reality television programs.

ACMA has now concluded its review of these matters, and has reached the conclusion that the current regulatory arrangements are generally providing appropriate community safeguards. ACMA also considers that the Code generally reflects current community standards. In the absence of 'convincing evidence' to the contrary,<sup>1</sup> ACMA considers that it has no grounds to determine a program standard in this area.

However, there are some areas in which ACMA considers the Code should be improved.

In reaching these conclusions, ACMA relied upon an evidence-based approach that integrated a variety of quantitative and qualitative research strands. Information considered by ACMA in the course of the review included:

- a national survey of 1000 viewers aged 15 years and above of commercial free-to-air television;
- four focus groups of 15–17 and 18–24 year-old viewers of reality television programming;
- 2005 and 2006 five-city metropolitan OZTAM ratings data;
- complaints and investigations data held by the commercial free-to-air broadcasting industry and ACMA;
- ACMA's experience in responding to unresolved Code complaints and conducting investigations; and

<sup>&</sup>lt;sup>1</sup> Broadcasting Services Act 1992, s. 125(1) requires that ACMA must be satisfied that there is 'convincing evidence' that a code of practice has failed prior to imposing a program standard.

• 184 public submissions responding to a Discussion Paper released by ACMA on matters relating to the Direction.

These sources of information yielded different types of data, with varying degrees of scope and robustness. While the national survey yielded statistically valid data, the focus groups and public submissions provided greater understanding of particular viewpoints, although it is not appropriate methodologically to draw any statistical conclusions from the latter two sources. In particular, ACMA has considered carefully the strong concerns of some members of the Australian community in relation to reality television (in particular the *Big Brother* series) as identified in submissions.

ACMA has also used its own expertise as the administrator of the co-regulatory scheme set up under the *Broadcasting Services Act 1992* to help assess the extent of community concern and the effectiveness of the Code in the areas identified by the Direction. In particular, it relied upon its experience in investigating complaints about reality television programs to ascertain whether there were areas where the intent of the Code was not in accord with its drafting.

In concluding that the Code was, in general, reflecting community standards and providing appropriate safeguards for reality television programming, the following national survey findings were relevant:

- Of all persons surveyed, 90.0 per cent consider that they should be able to decide what they watch on commercial free-to-air television, and 93.5 per cent consider parents should be able to decide what their children watch.<sup>2</sup> These results are indicative of a high level of acceptance of the current arrangements for the regulation of broadcasting content, and a commitment on behalf of viewers to regulate their own viewing and that of their children.
- Consumers are very aware of the classification tools that assist them in regulating access to content for themselves and their families. Of all persons surveyed, 96.8 per cent are aware of classification symbols, 94.0 per cent are aware of consumer information, and 88 per cent are aware that broadcasting content is subject to classification time zone restrictions.
- Of all persons surveyed, 78.0 per cent had seen no content of concern on commercial freeto-air television in the last 12 months. Of the 22.0 per cent of Australians who had seen anything that did concern them (234 responses), the largest area of concern was in regard to sex scenes/sexual content (32.8 per cent, reflecting 76 responses), followed by lewd or inappropriate behaviour (19.8 per cent, reflecting 46 responses) and violence (19.6 per cent, reflecting 46 responses).

The national survey did, however, point to some concerns with reality television programming:

- Of all persons surveyed, 54.0 per cent agreed with the statement that reality television programs exploit the people who participate in them.
- Of all persons surveyed, 46.0 per cent agreed with the statement that reality programs encourage inappropriate attitudes towards women.

<sup>&</sup>lt;sup>2</sup> To ensure consistency in the reporting of data from the national survey, ACMA has adopted the same rounding conventions used by its research provider, Newspoll. For the purposes of this report, all survey data will be reported to one decimal place. This convention aims to strike a balance between maximising the usefulness of the data for analytical purposes and retaining a sense of the underlying precision of the estimates.

• People had considerably higher levels of concern for program types that involved real people, such as news and current affairs and reality television programming, than for program types featuring professional actors, such as drama programs and films.

In relation to complaints handling, concerns were expressed in the public submissions about the time taken to resolve complaints about reality television issues. These concerns focused on time given to licensees under the Code to respond to complaints and the inability to refer complaints direct to ACMA to speed up the process.

In considering its own investigations into reality television programming, ACMA concluded that the low number of investigations and the general lack of breach findings into reality television programs indicated there were no overarching causes for concern. Where breaches have occurred, however, they have been at the MA classification level, indicating a lack of clarity about the limit of content permitted at this level.

Based on these findings, ACMA recommends a number of amendments to the current regulatory arrangements, to ensure that they continue to reflect community standards in relation to reality television programming.

ACMA considers that the following recommendations will enhance the operation of the current Code, and ensure it continues to provide appropriate community safeguards with respect to reality television programming:

**Recommendation 1**: That a clause be included in the Code that prohibits the broadcast of material presenting participants in reality television programs in a highly demeaning or exploitative manner. This provision should be supported by an advisory note to the Code that provides guidance to program producers on the interpretation of this provision.

**Recommendation 2**: That the complaints handling procedures in the Code be enhanced to expedite the process for handling complaints, and increase viewers' awareness of the process as follows:

- Licensees introduce a system whereby formal complaints relating to Code matters can be lodged electronically. This system would need to incorporate the checks and balances of the current paper-based system, including that viewers provide sufficient relevant information to aid timely investigation by the broadcasters of the matters of concern.
- A licensee is to report to ACMA within three days of observing any significant spikes in viewer complaints about a Code matter regarding a particular reality television program, to alert ACMA, as the regulator, to emerging issues of concern.
- Free TV Australia Limited (Free TV) provides ACMA with a monthly report on Code complaints, containing sufficient detail to enable ACMA to analyse complaints trends on an ongoing and timely basis.

**Recommendation 3**: That the Television Classification Guidelines for MA-classified material set out in Appendix 4 of the Code be amended to clarify the limit of material permitted at the MA classification level, by:

- Including specific advice in relation to 'sexual references' at the MA level; and
- Including 'cumulative intensity' as an element to be considered in classifying material at the MA level.

In addition to these recommendations, ACMA proposes to undertake the following actions:

- Discuss with Free TV, in advance of the formal Code review, the adoption by agreement of the recommendations (for example, through industry-agreed charters).
- Undertake analysis of the additional complaints data supplied by Free TV in accordance with Recommendation 2, monitor complaints trends for both reality television and other forms of programming and publish information on these trends periodically.
- If a commercial television licensee plans to broadcast an MA-classified reality television program, seek voluntary undertakings (similar to those given to ACMA by Network Ten for the 2006 series of *Big Brother Adults Only*) in relation to that program. ACMA would monitor the broadcast of such a program, including the adoption as part of the undertakings of a streamlined investigations process to enable timely consideration of any issues arising from the program.

# Chapter 1: Purpose and methodology

In October 2006, the Minister for Communications, Information Technology and the Arts directed ACMA<sup>3</sup> to examine whether the code of practice for the commercial free-to-air television broadcasting sector provides appropriate community safeguards with respect to reality television programming. The purpose of this review is to examine both whether the code of practice reflects community standards regarding reality television programming and whether it is operating effectively to provide appropriate community safeguards with respect to such programming.

## **Terms of reference**

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

The Direction, which was issued under section 171 of the *Broadcasting Services Act 1992* (Broadcasting Services Act), instructs ACMA to:

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

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

<sup>&</sup>lt;sup>3</sup> References in this report to ACMA include its predecessor organisation, the Australian Broadcasting Authority (ABA), which merged with the Australian Communications Authority to become ACMA on 1 July 2005.

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

## Scope of the review

In accordance with the terms of reference provided by the Direction, this review examined the effectiveness of current regulation of reality television programming broadcast on commercial free-to-air television. The primary focus of the review was on whether the *Commercial Industry Code of Practice* (Code) continued to reflect community standards with respect to reality television, taking into account the views of both the industry and the broader community. In addition, ACMA considered whether existing Code mechanisms are operating effectively to provide appropriate community safeguards with respect to reality television programming, with particular reference to classification criteria, news and current affairs programming provisions and the complaints handling mechanism.

The Code is developed by Free TV Australia Limited (Free TV), and registered by ACMA. The current Code was registered in 2004.

# Methodology

ACMA has been required to determine community standards in relation to reality programming for the purpose of this review. ACMA has chosen to rely strongly on an evidence-based approach in determining such standards, against which the current Code is to be assessed. ACMA has also sought a wide range of community viewpoints to further inform itself on the diversity of views in the Australian community. In addition, ACMA has drawn on its own experience in overseeing the co-regulatory scheme for commercial free-to-air broadcasting, including its own complaints and investigation processes.

Information considered by ACMA in the course of the review included:

- A national survey of 1000 viewers of commercial free-to-air television aged 15 and above, commissioned by ACMA from an independent research company, Newspoll—to ascertain the demographic profile and attitudes of the Australian community to television programming and concerns that arise in relation to content, including reality television;
- Four focus groups with men and women aged 15–17 and 18–24—to provide in-depth information relating to the particular viewpoints of young viewers;
- 2005 and 2006 OZTAM ratings data, the official source of television audience measurement, covering the five-city metropolitan areas—to ascertain the relative popularity and profile of the viewing audience for this program style;
- Complaints and investigations data held by the commercial free-to-air broadcasting industry and ACMA—to scrutinise particular aspects of the current regulatory approach;
- ACMA's experience responding to Code complaints to ACMA that have not been resolved by the licensee and conducting investigations—to identify patterns in breach findings; and
- 184 public submissions from individuals and organisations—to provide in-depth information relating to particular viewpoints expressed by the community and the industry.

These various sources of information and inquiry have also provided ACMA with a strong evidence base from which to assess whether the Code is operating to provide appropriate community safeguards in relation to reality television.

Different types of evidence are not equivalent in terms of scope or rigour. The national survey, for example, obtained reliable statistically valid data regarding community views towards television generally, as well as reality television programming in particular, whereas the qualitative focus groups explored in detail attitudes of viewers aged 15–24 to reality television specifically. Neither the focus groups nor the public submissions are vehicles for any statistical conclusions but they certainly assist in the understanding of particular viewpoints

ACMA also engaged with the production industry and with the commercial free-to-air networks to provide background for itself and to gain a better understanding of the issues involved in creating and airing reality television programming and understand how reality television program formats may be expected to evolve.

## Structure of this report

The remainder of this report is structured as follows.

**Chapter 2** provides an overview of the regulatory framework for reality television programming shown on commercial free-to-air television, with particular reference to the obligations under the Broadcasting Services Act and the *Classification (Publications, Films and Computer Games)* Act 1995 (Classification Act). In this context, this chapter outlines the National Classification Scheme as applied to commercial free-to-air television, as well as the co-regulatory arrangements for the broadcasting industry. Chapter 2 also indicates how ACMA has assessed community standards for the purposes of this review.

The characteristics of reality television programming are considered in **Chapter 3**, including the use of non-actors and the high level of control exerted by producers. In addition, this chapter provides information on how reality television programs are created, with particular attention to program design, participant selection and monitoring, and filming and editing methods. Some information on the cost of creating reality television programs is also provided, as is ratings data relating to the popularity of reality television programming.

The results of the commissioned quantitative and qualitative research into community attitudes regarding reality television programming are considered in **Chapter 4**. The findings from both the national survey and the focus groups are presented here.

**Chapter 5** considers community views as conveyed by complaints and investigations statistics, the details of particular investigations into reality television programming and the public submissions made to this review.

Based on the findings of the review, **Chapter 6** provides the recommendations responding to the issues raised in the Direction. This discussion presents ACMA's findings on whether the Code is operating to provide appropriate community standards, with particular reference to classification provisions, news and current affairs programming and the function of the complaints handling mechanism.

ACMA has taken a proportional response to identifying actions to be taken as outcomes of the review. That is, ACMA has relied on the evidence before it to determine the depth and breadth of community concern on aspects of the Code and developed recommendations that it considers appropriately reflect any such concerns.

The **appendixes** to this report provide further background on the results of research and public consultation aspects of the review.

# Chapter 2: Regulatory framework for reality television

# Overview

The regulation of broadcasting content proceeds principally from two legislative instruments: the Classification Act and the Broadcasting Services Act.

The Classification Act underpins the classification of films broadcast on television, and contains overarching principles that apply to all material broadcast. The *National Classification Code* (a federal legislative instrument enabled by the Classification Act) identifies the principles to which classification decisions are to give effect:

- (a) Adults should be able to read, hear and see what they want;
- (b) Minors should be protected from material likely to harm or disturb them;
- (c) Everyone should be protected from exposure to unsolicited material that they find offensive;
- (d) The need to take account of community concerns about:
  - (i) depictions that condone or incite violence, especially sexual violence; and
  - (ii) the portrayal of persons in a demeaning manner.

These instruments are supported by guidelines which, following a consultative process, are ratified on agreement by all Commonwealth, State and Territory Censorship Ministers, ensuring they are broadly reflective of the wider Australian community. The scheme under which classification decisions are made is known as the National Classification Scheme.

The concept of community standards is central to classification principles and practices. The process of determining community standards is not a straightforward matter, as such standards are not able to be readily expressed or quantified. A pluralistic society such as Australia's will necessarily encompass multiple viewpoints.

The concept of a classification framework is, however, based around the understanding that some form of aggregation can be made, and the standards so defined will be broadly accepted by the community. ACMA has been required to determine community standards in regard to reality television as part of this review. The evidence on which it has based this assessment is outlined later in this report.

The Broadcasting Services Act sets up a framework for classifying programming broadcast on commercial television, which is consistent with the Classification Act. It requires that

broadcasters will not broadcast certain programs, and regulates the time periods in which some programming can be shown.

Regulation of broadcasting content functions under a co-regulatory model. Industry and government each have a role to play. In keeping with this approach, the Broadcasting Services Act allows for the development of particular operational details and parameters in industry codes of practice, which are registered by ACMA.

The *Commercial Television Industry Code of Practice* (referred to here simply as 'the Code') reproduces guidelines made under the Classification Act for the classification of films, and also contains the Television Classification Guidelines, which apply to other material broadcast on television. All material broadcast on commercial free to air television must be classified, with the exception of news, current affairs and sport. The Code also requires the provision of consumer advice on the principal elements that contribute to the classifications of certain programs.

The co-regulatory model requires that complaints are, in relation to Code matters, handled by the licensees in the first instance. This ensures that licensees maintain a strong and direct responsibility for dealing with consumer concerns. Referral to the regulator as the escalated complaints handling body is available and ACMA has enforcement powers available to it to ensure industry compliance. This approach is broadly consistent with the co-regulatory model also in place for regulation of the telecommunications industry.

The Code is subject to regular review to ensure that it keeps pace with community standards. The next review of the Code is due to commence by July 2007 and requires extensive community consultation.

Section 125 of the Broadcasting Services Act also allows for the imposition of program standards by ACMA if a code is found not to be providing adequate consumer safeguards.<sup>4</sup>

# The current rules

Two key legislative instruments inform the regulation of broadcasting content

The Classification Act sets out general rules for classification. The Classification Act supports the National Classification Code, which sets out the overarching principles for classification.<sup>5</sup> The Classification Act also allows for the creation of new guidelines with more detailed advice on the classification of films, computer games and publications.

The Broadcasting Services Act refers to this classification system. It also allows for the development of industry codes of practice containing more detailed classification provisions for material broadcast on commercial television, time zones, and advice to consumers on classification matters.

The intent of both Acts is to provide the flexibility for particular points of detail, for example, in relation to the classification of content, to be developed through codes of practice or guidelines. This approach provides the opportunity for changing community standards to be reflected in the classification system.

<sup>&</sup>lt;sup>4</sup> Section 122 of the Broadcasting Services Act also empowers ACMA to make program standards for children's programs and Australian content.

<sup>&</sup>lt;sup>5</sup> The current version of the *National Classification Code* (Legislative Instrument F2005L0128) (National Classification Code) was approved by Commonwealth, State and Territory Censorship Ministers on 29 July 2004 and commenced on 26 May 2005.

#### THE CO-REGULATORY APPROACH

The approach to classification in the Broadcasting Services Act is consistent with the Act's co-regulatory approach.

On its introduction in 1992, the Broadcasting Services Act marked 'a departure from earlier forms of regulation of broadcasting services, which relied on more extensive intervention and action by the broadcasting regulator'.<sup>6</sup>

Under the Broadcasting Services Act, particular roles are assigned to industry and the government. As the Explanatory Memorandum indicates, the intent of the Broadcasting Services Act is to:

...establish general rules for the industry which are clear, stable and predictable; to establish minimum requirements expected of industry participants; to introduce flexibility into the regime to enable responsiveness to changing circumstances; to monitor outcomes and trends against policy objectives; and to provide a range of redressive measures to the regulatory authority to deal with breaches or adverse trends.<sup>7</sup>

Objects of the Act with particular relevance to the Review are:

- 3(1)(b) to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs; and ...
- (h) to encourage providers of broadcasting services to respect community standards in the provision of program material; and ...
- (j) to ensure that the providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them.

The Explanatory Memorandum recognises 'that there may be tension between the objects' and that it is intended that the regulator:

...should have regard to the competing objectives, drawing on its ability to assess community views and needs, and to monitor developments in the broadcasting industry.<sup>8</sup>

One strategy used by ACMA to broker potentially competing objectives has been to commission research, as in this review, to obtain feedback from the community on particular issues and attitudes.

# **Classification provisions**

#### CLASSIFICATION ACT AND NATIONAL CLASSIFICATION CODE

Reality television programs shown on commercial free-to-air television are regulated by a set of classification rules that are based on the principles set out in the Classification Act and the National Classification Code.

<sup>&</sup>lt;sup>6</sup> S Shipard and C Matthies, 'Broadcasting Commentary', in P Leonard and A Henderson, eds., *Communications Law and Policy in Australia* (loose-leaf service) (Butterworths Australia 2001), ¶ 5010.

 <sup>&</sup>lt;sup>7</sup> The Parliament of the Commonwealth of Australia House of Representatives, *Explanatory Memorandum to the Broadcasting Services Act 1992*.

<sup>&</sup>lt;sup>8</sup> The Parliament of the Commonwealth of Australia House of Representatives, *Explanatory Memorandum to the Broadcasting Services Act 1992*.

These instruments contain overarching principles in conjunction with detailed guidance that frames how classification decisions will be made. Key to this approach, and a central principle behind any particular classification decision, is the concept of community standards.

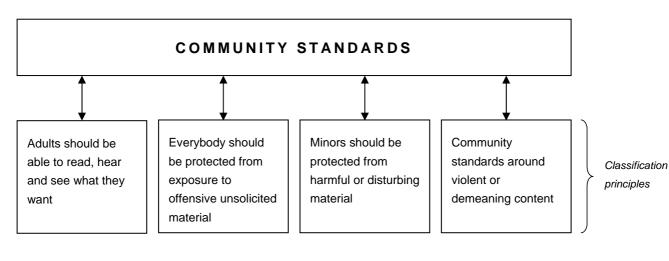
As the Classification Act envisages, the process of making classification decisions is one of balancing rights and protections. A key guiding principle is that adults should be able to read, hear and see what they want. This principle must be balanced against the consideration that children should be protected from material that may harm or disturb them, and that everyone should be protected from exposure to unsolicited material that they find offensive.

Particular tensions occur in relation to the classification of content where competing needs must be balanced. These needs are formally expressed in the National Classification Code, which states:

- 1. Classification decisions are to give effect, as far as possible, to the following principles:
- (a) Adults should be able to read, hear and see what they want;
- (b) Minors should be protected from material likely to harm or disturb them;
- (c) Everyone should be protected from exposure to unsolicited material that they find offensive;
- (d) The need to take account of community concerns about:
  - (i) depictions that condone or incite violence, especially sexual violence; and
  - (ii) the portrayal of persons in a demeaning manner.

Figure 2.1 conceptualises the application of these overarching principles in the classification process. Ultimately, decisions as to where classification thresholds lie, and the suitability of material for any particular audience, are based on an assessment of community standards.

#### Figure 2.1: Relationship of community standards to classification principles



Potentially competing needs managed through specific tools (for example, classification symbols and consumer advice)

The classification tools set out in the system are intended to be sufficiently flexible to allow classification thresholds to be amended in line with changes over time in community standards. Elements of the system are subject to periodic review to ensure that the classification tools remain in step with views about the suitability of material for the Australian community and for particular age groups within that community.

The National Classification Code sets out a graduated hierarchy of classification categories, together with a series of broad descriptors for the type of material suitable for each level of classification. The following classification categories are established under the National Classification Code:

- G (General)
- PG (Parental Guidance Recommended)
- M (Recommended for mature audiences)
- MA 15+ (Not suitable for people under 15. Under 15s must be accompanied by a parent or adult guardian)
- R 18+ (Restricted to 18 and over)
- X 18+ (Restricted to 18 and over)
- RC (Refused Classification)

The general guidance in relation to these classification categories is supplemented by the ability to formulate the classification guidelines. These guidelines (one set applying to films and computer games and the other to publications) provide more detailed advice as to how the overarching principles in the Classification Act and the National Classification Code are to be given practical effect at each level of classification.

Formal mechanisms exist to build community standards into the classification process. The legislative instruments (the Classification Act and the National Classification Code) contain explicit reference to the need to take into account community views. The guidelines are subject to a periodic review process, generally comprising both a public submission process and research into community attitudes, to ensure they are in line with community expectations. They are ratified on agreement by all Commonwealth, State and Territory Censorship Ministers, ensuring they are broadly reflective of the wider Australian community.

#### WHAT ARE COMMUNITY STANDARDS?

As identified in Figure 2.1, the concept of 'community standards' is central to the classification principles and the co-regulatory arrangements set out later in this Chapter.

Through the Broadcasting Services Act, ACMA is assigned the role of assessing community standards in relation to broadcasting content and making decisions on the basis of its expertise in administering the co-regulatory system. The process of determining community standards is not a straightforward matter, as such standards are not able to be readily expressed or quantified. A pluralistic society such as Australia's will necessarily encompass multiple viewpoints, and there will be a variety of needs in relation to being able to access material, or being offered protections. The concept of a classification framework is, however, based around the understanding that some form of judgment can be made, and that the standards so defined will be broadly accepted by the community.

Some material may also be regarded as offending against generally accepted standards of public decency to the extent that it is refused classification under the Classification Act: examples include the promotion or provision of instruction in pedophile material or descriptions or depictions of child sexual abuse.

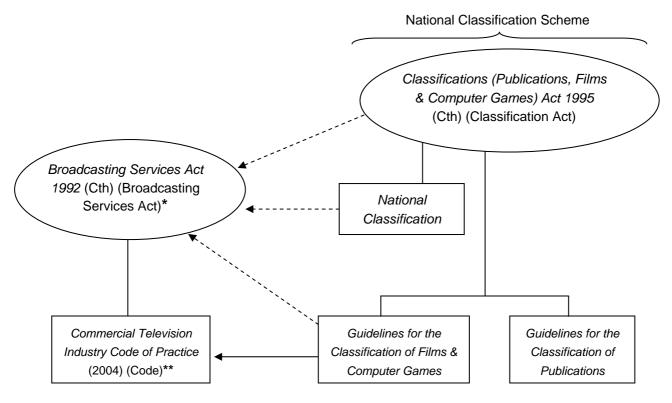
Chapter 1 described the quantitative and qualitative mechanisms that ACMA has used to determine community standards for the purposes of this investigation. In Chapters 3, 4 and 5 the evidence generated through these mechanisms will be presented.

To respond to the questions posed by the Ministerial Direction, ACMA will assess what each strand of evidence indicates in relation to the community standards around reality programming on commercial free-to-air television. ACMA will look to be convinced, on the basis of evidence, whether or not the current regulatory arrangements are in accordance with the expectations of the community, and recommend changes to the current system where these bring the arrangements more closely into alignment with community preferences. Chapter 6 summarises ACMA's findings based on these results and makes recommendations.

# CLASSIFICATION ARRANGEMENTS FOR COMMERCIAL FREE-TO-AIR TELEVISION

The Broadcasting Services Act sets out the general principles for classification of commercial free-to-air television content, with the specific arrangements contained in the Code.<sup>9</sup> The relationship between these arrangements and the National Classification Scheme is depicted in Figure 2.2.

# Figure 2.2: Relationship between the National Classification Scheme and the framework for classification under the Broadcasting Services Act



 \* The Broadcasting Services Act refers to the 'film classification system administered by the Office of Film and Literature Classification': s. 123(3A)(a).

\*\* The Code incorporates the Guidelines for the Classification of Films and Computer Games.

<sup>&</sup>lt;sup>9</sup> The current version of the Code was registered by the ABA in July 2004. Copies of the Code are available from Free TV (http://www.freetvaust.com.au/) at http://www.freetvaust.com.au/Content\_Common/pg-Codeof-Practice.seo or by calling (02) 8968 7100. Excerpts of the Code relevant to this review are reproduced at Appendix A of the Discussion Paper (which is provided as Appendix A to this report).

#### **Broadcasting Services Act**

The Broadcasting Services Act refers to the 'film classification system administered by the Office of Film and Literature Classification',<sup>10</sup> requiring that codes of practice apply this system for classifying film.

Schedule 2 to the Broadcasting Services Act sets out other high-level requirements for the classification of content broadcast on commercial free-to-air television. Licence conditions at Schedule 2 stipulate that the licensee will not broadcast a program that has been classified RC or X 18+ by the Classification Board, and will not broadcast films classified R 18+ unless these have been modified to make them suitable for broadcast.

The Broadcasting Services Act also specifies that codes of practice for commercial television licensees must limit the time periods in which films classified as M or MA can be shown.

Section 123(3A) states that licensees must ensure that:

- c) those codes require that films classified as 'M' may be broadcast only:
  - i. between the hours of 8:30 pm on a day and 5.00 am on the following day; or
  - ii. between the house of noon and 3.00 pm on any day that is a school day; and
- d) films classified 'MA 15+' may be broadcast only between the hours of 9.00 pm on a day and 5.00 am on the following day.

#### **Commercial Television Industry Code of Practice**

More detailed guidance on classification is contained in the Code. The Code contains two sets of classification guidelines, which permit the broadcast of material classified from the G to MA levels.

- The Code reproduces the Guidelines for the Classification of Films and Computer Games for films (Film Guidelines). 'Films' are defined in the Code as 'any feature film, documentary or short film that has had first release in Australia through public exhibition (including cinematic release) or sale/hire and which has been classified by the classification board administered by the OFLC'. These provisions are incorporated as Appendix 5 to the Code.
- The Code also contains the Television Classification Guidelines, which have their genesis in the former Australian Broadcasting Tribunal's Television Program Standards and have been further developed by Free TV over the past decade. These provisions apply to other material broadcast and are incorporated as Appendix 4 to the Code.

The two sets of guidelines generally use the same classification symbols (with the exception of the AV category for television programs), and have classification thresholds that are broadly the same at most classification levels. Where there are differences in classification thresholds, there is a community expectation that the Television Classification Guidelines will be somewhat stricter than the Film Guidelines, because of the ready access within the home to material screened on free-to-air television.<sup>11</sup>

<sup>&</sup>lt;sup>10</sup> Broadcasting Services Act, s. 123(3A)(a).

<sup>&</sup>lt;sup>11</sup> For example: 'Traditionally, the classification of television material has been on a stricter basis [than the classification of cinema/video] because of considerations of the place of television in the home and the fact that children have ready access to it.' Australian Broadcasting Tribunal, *Inquiry into the Classification of Program Material On Television—Information Paper* (IP/91/46) (November 1991), 24. Also: '...the

All material broadcast on commercial free-to-air television is required to be classified under one of the sets of guidelines, with the exception of news, current affairs and sporting events.

The following classification categories are permitted under the Code:

- G (General)
- PG (Parental Guidance)
- M (Mature)
- MA (Mature Audience in the Television Classification Guidelines, Mature Accompanied in the Film Guidelines)
- AV (Adult Violence applying to television programs only).

The classification time zones are listed at clauses 2.6 to 2.12 of the Code. These stipulate the time of day at which material can be broadcast.

Classification	Time zone	Type of content		
G	Can be shown at any time	Material classified G is not necessarily intended for children but it must be very mild in impact and must not contain any matter likely to unsuitable for children to watch without supervision.		
PG	<i>School days</i> : 5.00 am–6.00 am 8.30 am–12.00 noon 3.00 pm–4.00 pm 7.00 pm–8.30 pm <i>School holidays</i> : 5.00 am–6.00 am 8.30 am–4.00 pm 7.00 pm–8.30 pm <i>Weekends</i> : 5.00 am–6.00 am 10.00 am–8.30 pm	Material classified PG may contain careful presentation of adult themes or concepts but must be mild in impact and remain suitable for children to watch with supervision.		
Μ	School days: 12.00 pm–3.00 pm only 8.30 pm–5.00 am only Weekends and school holidays 8:30 pm–5.00 am only	Material classified M is recommended for viewing only by persons aged 15 years or over because of the matter it contains, or of the way this matter is presented.		
MA	9.00 pm–5.00 am only	Material classified MA is suitable for viewing only by persons aged 15 years or over because of the intensity and/or frequency of sexual depictions, or coarse language, adult themes or drug use.		
AV	9.30 pm–5.00 am only	Material classified AV is suitable for viewing only by persons aged 15 years or over. It is unsuitable for the MA classification because of the intensity and/or frequency of violence, or because violence is central to the theme. In other respects the classification's requirements are identical to the MA classification.		

Table 2.3: Classification categories permitted for commercial free-to-air television content

ABT/OFLC research indicates that there is a strong degree of support for classification guidelines which are the same for both television and cinema/video, with the qualification that television programming should continue to be more tightly regulated than cinema/video.' Australian Broadcasting Tribunal, *Inquiry into the Classification of Program Material on Television—Report and Recommendations* (September 1992), 22.

Time zones are based on the most likely viewing audience for that time of day. They mandate, for example, that at times when children are most likely to be watching television without parental guidance, only material carrying a G classification may be shown. Further details as to time zones and the type of material permitted are presented in Table 2.3.

Material that would be classified R 18 + (Restricted) under the Film Guidelines is not permitted on commercial free-to-air television.

The Code also contains a non-exhaustive list, at clauses 2.16 and 2.17, of material which is unsuitable for television and must not be broadcast. This may be because of the matter it contains, or the way that it is treated.

The general classification categories, which are set out at Appendices 4 and 5 of the Code, each include a series of classifiable elements, such as violence, sex, nudity coarse language, drug use and themes. For each element there is guidance on what level of content is suitable for the particular classification level. For example, for depictions of violence in films at the G classification level must 'have only a low sense of threat or menace, and be justified by context' (Appendix 5).

There are a series of additional mechanisms in the Code designed to enhance consumer protection.

#### Consumer advice

Further to the classification categories and their descriptions, consumer advice provides viewers with information about particular classifiable elements that have contributed to a program's classification. It is intended to assist viewers in making informed choices about the type of programming that is suitable for them and their families to watch, alerting them both to the nature of the content, and the strength and/or frequency with which it is depicted.

A list of consumer advice text is set out at section 2.21.2 of the Code.

Examples of consumer advice are:

- mild coarse language;
- some violence; and
- supernatural themes.

Under the Code, consumer advice is required for all programs classified MA and AV, for oneoff programs (including films) and very short series classified M, for all PG films and for PG programs broadcast at certain times that are of a strength or intensity which the licensee believes parents or guardians of young children may not expect.

The Code requires that consumer advice must be shown on screen with voice-over at the commencement of a program, and shown on screen in abbreviated form following the resumption of the program after each break. Clearly visible consumer advice also accompanies press advertising by licensees.

#### Community standards in the Code

Like the scheme set out under the Classification Act, the classification provisions in the Code are underpinned by the concept of community standards. The Broadcasting Services Act makes references to the Code reflecting community views, including taking into account community attitudes to matters such as portrayals of violence, sexual conduct and nudity, and offensive language.

On each of these matters a range of views exists in Australian society. Research therefore has an important place in ascertaining community views, with the Broadcasting Services Act stating that the Code development process should take account 'of any relevant research conducted by the ACMA' (s. 123). Research assists ACMA in the maintenance of its awareness of community standards.

There are several examples of the Code's Television Classification Guidelines being amended when there is sufficient evidence of changes in community expectations about the suitability of content.

- Following events in Port Arthur in 1996, the Government established the Committee of Ministers on the Portrayal of Violence in the Media. The Committee's public submission process resulted in over 700 submissions, and its public opinion polling found that up to 75.0 per cent of the population believed depictions of violence on television were excessive.
- As a result of the work undertaken by the Committee, and in light of community concern on the issue, the industry body, then known as the Federation of Australian Commercial Television Stations (the precursor agency to Free TV) undertook a number of measures to tighten the Code. It adopted a separate classification category, Adult Violence (AV), denoting material with MA-level violence. The classification time zone for this category was further tightened from that for general MA material, now extending from 9.30 pm to 5.00 am.
- In 1999, commercial television broadcasters strengthened the MA provisions for 'sex and nudity', in light of concerns following the broadcast of a sexually-themed program. The extended provision was intended to place an upper limit on depictions of sexual behaviour and nudity at MA, by stipulating that 'a program or program segment will not be acceptable where the subject matter serves largely or wholly as a vehicle for gratuitous, exploitative or demeaning portrayal of sexual behaviour or nudity'. This tighter provision remains in place in the current version of the Code.

The July 2004-registered Code also formally adopted, for films, the Film Guidelines that had been reformulated on 30 March 2003, following a public consultation process.

#### ACMA's role in program classification

In line with the responsibilities conferred on industry by the co-regulatory scheme, it is the role of licensees to classify content screened on commercial free-to-air television.

As with other material broadcast, ACMA can investigate complaints about such content if the complainant has referred the matter to the licensee, and is either not satisfied with that licensee's response, or has not received that response within 60 days.

Under section 170 of the Broadcasting Services Act, ACMA can also initiate its own investigations for the purposes of the performance or exercise of any of its broadcasting, content (or datacasting) functions as defined in section 10 of the *Australian Communications and Media Authority Act 2005*. ACMA may, for example, initiate an investigation into a matter relating to classification, where it is of the view that there is sufficient evidence of public concern in relation to a matter, or a clear public interest reason for opening an investigation. ACMA uses its expert knowledge in assessing where such an action is desirable.

The Broadcasting Services Act, however, specifically limits ACMA's ability to require that programs be pre-approved by ACMA prior to broadcast. Section 129 states:

- (1) Subject to subsection (2), the ACMA must not determine a standard that requires that, before programs are broadcast, the programs, or a sample of the programs, be approved by the ACMA or by a person or body appointed by the ACMA.
- (2) The ACMA may determine such a standard in relation to programs to children.

The Explanatory Memorandum emphasises the limits of ACMA's powers in this area:

... this clause makes it clear that [the ACMA] may not make a standard which requires prior approval (or in effect, censorship) of programs before the programs are broadcast. This limitation does not apply in relation to programs for children.

## Other broadcasting regulatory arrangements

#### **CODES OF PRACTICE**

Besides the classification provisions, a number of other regulatory arrangements set out in the Broadcasting Services Act are relevant for the current review.

Key to the co-regulatory approach embodied in the Broadcasting Services Act is that the various sectors of the broadcasting industry are responsible for developing their own codes of practice, which are to be observed in the conduct of their broadcasting operations. The Broadcasting Services Act intends that codes of practice provide flexible, responsive and cost-effective means for regulation.

Such codes confer direct responsibility for managing program content on the broadcaster:

It is expected that relevant broadcasting service industry groups will appreciate that it is in their interests to ensure that an appropriate balance is struck between the public interest in maintaining community standards of taste and decency, and licensees' desire to provide competitive services—such groups will be aware that [ACMA] will have the power to impose program standards (under clause 125) where it considers that codes of practice have failed or have not been developed.<sup>12</sup>

The Broadcasting Services Act sets out those matters to which codes of practice may relate, for example:

Codes of practice developed for a section of the broadcasting industry may relate to:

- (a) preventing the broadcasting of programs that, in accordance with community standards, are not suitable to be broadcast by that section of the industry; and
- (b) methods of ensuring that the protection of children from exposure to program material which may be harmful to them is a high priority; and
- (c) methods of classifying programs that reflect community standards....
- (h) methods of:
  - i. handling complaints from the public about program content or compliance with codes of practice; and

<sup>&</sup>lt;sup>12</sup> Parliament of the Commonwealth of Australia House of Representatives, *Explanatory Memorandum on the Broadcasting Services Bill 1992* (commentary on clause 123).

ii. reporting to the ACMA on complaints so made.<sup>13</sup>

ACMA's role in relation to the codes is set out in section 123(4) of the Broadcasting Services Act. ACMA is required to register codes of practice developed by the relevant section of the broadcasting industry, on being satisfied that certain conditions have been met. ACMA must be satisfied that:

- the code provides appropriate community safeguards for the matters contained in the code;
- the code is endorsed by a majority of the providers of the broadcasting services in that section of the industry; and
- members of the public have had an adequate opportunity to comment on the code.

#### **PROGRAM STANDARDS**

The Broadcasting Services Act further provides that if ACMA is satisfied that there is 'convincing evidence' that a registered existing code of practice is not operating to provide appropriate community safeguards, or where no code of practice has been developed for a matter referred to in section 123(2) of the Act, ACMA may itself determine a standard (section 125).

#### PARLIAMENT'S ROLE IN RELATION TO CODES AND STANDARDS

Section 128 of the Broadcasting Services Act allows Parliament to amend a code of practice developed by a sector of the broadcasting industry and registered by ACMA, or a standard determined by ACMA.

#### **ACMA'S ENFORCEMENT POWERS**

ACMA has a range of enforcement powers enabling it to deal effectively with breaches of the rules established by the Broadcasting Services Act in a manner commensurate with the seriousness of the breach.<sup>14</sup>

ACMA's powers differ depending on the particular provision of the Act with which compliance is sought. Compliance with program standards is a standard condition of all commercial television broadcasting licences, whereas, unless ACMA has imposed an additional licence condition on an individual licence, compliance with a code of practice is not a condition of the licence. For that reason, ACMA has a greater range of enforcement powers available for breach of a standard than it has when taking action for breach of a broadcasting code.

#### Codes

ACMA's powers under the Broadcasting Services Act with regard to breaches by commercial television broadcasting licensees of the applicable codes are limited. ACMA may impose an additional licence condition under section 43 requiring the licensee to comply with an applicable code of practice.

<sup>&</sup>lt;sup>13</sup> Broadcasting Services Act, s. 123(2).

<sup>&</sup>lt;sup>14</sup> Broadcasting Services Act, s. 5(2) states: '[where] it is necessary for the ACMA to use any of the powers conferred on it by this Act to deal with a breach of this Act or the regulations, the Parliament intends that the ACMA use its powers, or a combination of its powers, in a manner that, in the opinion of the ACMA, is commensurate with the seriousness of the breach concerned.'

In imposing an additional licence condition, ACMA must give the licensee written notice of its intention and give the licensee a reasonable opportunity to make representations to ACMA on the proposed action, as well as publishing the proposed changes in the *Gazette*. If, following this process, ACMA decides to impose a new condition it must also publish the new condition in the *Gazette*. This process normally takes some months to complete.

Where a licensee breaches such an additional licence condition, ACMA may issue a remedial direction requiring compliance. In the event that the licensee does not comply with the remedial direction ACMA may:

- pursue a civil penalty;
- refer the matter for prosecution as an offence;
- suspend or cancel the licence; or
- at any time, accept an enforceable undertaking.

ACMA may also take informal action in relation to code breaches. ACMA has, for example, previously accepted undertakings which, while voluntary and without the legislative sanction of an enforceable undertaking, have been successfully employed.

#### Standards

Schedule 2 of the Broadcasting Services Act states that it is a condition of a commercial television broadcasting licence that licensees comply with program standards applicable to the licensee under Part 9 of the Act.<sup>15</sup>

Where ACMA is satisfied there has been a breach of a standard it may:

- impose an additional condition on the licence;
- refer the matter for prosecution as an offence;
- issue a civil penalty notice;
- issue a remedial direction;
- suspend or cancel the licence; or
- at any time, accept an enforceable undertaking.

ACMA may also take informal action in relation to breaches of standards. ACMA has, for example, previously accepted undertakings which, while voluntary and without the legislative sanction of an enforceable undertaking, have also been successfully employed.

#### **COMPLAINTS HANDLING**

Part 11 of the Broadcasting Services Act sets out the provisions relating to complaints handling for matters covered by a code of practice.

The Broadcasting Services Act sets out a two-tiered approach in relation to the handling of complaints made under the Code. Such complaints must be made to the relevant licensee in the first instance. The complainant can refer the matter to ACMA if he or she has not received a response within 60 days, or considers the licensee's response to the matter to be inadequate. In all cases, complaints must be made in writing.

<sup>&</sup>lt;sup>15</sup> Broadcasting Services Act, Schedule 2, cl. 7(1)(b).

The Explanatory Memorandum describes the process in the following terms:

It is envisaged that, in the first instance, the complainant would take up the complaint directly with the service provider...This Part provides for complaints to be made to [ACMA] as an avenue of last resort if other mechanisms have failed; however complaints [for matters covered by licence conditions] can be directed straight to [ACMA]...

These provisions strike a reasonable balance by placing the onus in the first instance on service providers to respond to consumer needs and dissatisfactions while providing appropriate consumer mechanisms and avenues for reporting to [ACMA] breaches of the Act or licence conditions.<sup>16</sup>

Whereas the approach taken in the legislation predating the current Act (the *Broadcasting Act* 1942) was for complaints to be made direct to the regulator, the introduction of the coregulatory scheme was intended to deliver a complaints handling process whereby complaints resolution would be handled in the first instance by the body with which primary responsibility resides—the broadcasting licensee. This approach, emphasising licensee responsibility and referral to the regulator as an escalated complaints mechanism, is intended to promote streamlined, cost effective complaints resolution, with a mechanism for review by ACMA as a safety net.

In relation to classification matters, this approach does not apply to content which has been, or would be, designated as illegal content, or which would be likely to be harmful to children. Such content (which would be classified R 18+, X 18+ or Refused Classification) is not permitted for broadcast on commercial free-to-air television. In the event that any such content was broadcast, the matter can be referred directly to ACMA for investigation without recourse to the two-step process.

Section 7 of the Code details the procedures that licensees must follow after receiving a complaint about a matter covered by the Code. While the Code includes procedures for receiving oral complaints, for a complaint to have the status of a formal code complaint it must be made in writing to the licensee concerned, and adequately identify the material broadcast, the nature of the complaint and the identity of the complainant (cl. 7.2).<sup>17</sup> A complaint may be sent by facsimile, but email complaints and complaints lodged via computer disk are currently not considered to be Code complaints.

The obligations on licensees set out in the Code include:

- licensees must provide a substantive written response to complaints made about material broadcast by a station within 30 days of its broadcast. The response must be made as soon as practicable, but in any case no longer than 30 working days after receipt of the complaint (cl. 7.9);<sup>18</sup> and
- the licensee's substantive reply must advise the complainant that he or she can refer the matter to ACMA if not satisfied with the licensee's response (cl. 7.12).

<sup>&</sup>lt;sup>16</sup> The Parliament of the Commonwealth of Australia House of Representatives, *Explanatory Memorandum to the Broadcasting Services Act 1992* (commentary on Part 11).

<sup>&</sup>lt;sup>17</sup> Clause 7.3.2 of the Code allows telephoned complaints and audio complaints where a complainant cannot lodge a written complaint by reason of disability.

<sup>&</sup>lt;sup>18</sup> The licensee is permitted an additional 10 working days to respond to the complainant if the material complained of was provided on relay by another licensee, or was otherwise the responsibility of another licensee (Code, cl. 7.11).

Clause 7.15 of the Code provides that if ACMA requests a response about a complaint referred to it by a viewer, the licensee will provide the response within 30 working days of receipt of the request (an extension may be granted where it is not practicable for the licensee to respond within this period).

The Code also contains a set of provisions requiring licensees to report to Free TV within 15 working days of the end of each calendar quarter, detailing the number and substance of Code complaints received in that quarter (cl. 7.16). Free TV is required to provide a summary of this information to ACMA within 10 days of receiving it (cl. 7.17). These mechanisms are intended to ensure that the industry body and ACMA are kept informed of emerging or systemic issues in program content or the complaints resolution process.

To enhance the effectiveness of the co-regulatory scheme, licensees are also obliged to provide regular on-air information about the Code and complaints procedures. Clause 7.5.1 requires licensees to broadcast 360 on-air spots each calendar year, across all viewing time zones.

#### ACMA'S REVIEW OF UNRESOLVED COMPLAINTS

ACMA must investigate code of practice-related complaints that have not been resolved by the licensee and have been referred by the complainant to ACMA, unless satisfied that a complaint is frivolous or vexatious or has not been made in good faith.

When a complaint is received and is to be investigated, the relevant licensee is provided with an opportunity to comment on compliance with the relevant Code matter raised by the complainant. Where appropriate, a copy of the material broadcast is requested. When the licensee's comments and the recording are received, the complaint is assessed against the relevant clause of the Code.

ACMA must provide procedural fairness to an affected licensee in broadcasting investigations. Affected licensees are provided an opportunity to provide comments about any proposed breach finding at the preliminary report stage. Under section 180 of the Broadcasting Services Act, ACMA is obliged to allow a person whose interests may be adversely affected by the publication of matter in a report to make representations in relation to the matter. ACMA must provide a 'reasonable period, not exceeding 30 days,' for representations prior to the publication of that report. After comments are received, these are taken into account in deciding whether to publish the full report or parts of the report.

ACMA may make a finding that a licensee has breached a code or a licensee may admit a breach of a code. Breaches of the codes are not breaches of the Broadcasting Services Act, although ACMA may make compliance with a code a condition of a licence. Any action taken by ACMA as a result of a breach will depend on the seriousness of the breach. ACMA seeks to ensure licensees take action to remedy breaches or put in place procedures to ensure they not recur.

# THE CURRENT COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE

Within this co-regulatory context, the current code of practice for commercial free-to-air television broadcasters has been developed by Free TV and its stakeholders (Australia's commercial free-to-air television licensees). The Code contains a mechanism for ongoing review to ensure it continues to reflect community standards, with the next review due to commence in mid–2007.

The Code sets out rules around the treatment of material on commercial free-to-air television. The objectives, at section 1.1, are listed as follows:

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

In addition to the classification provisions, the Code contains general rules about program content, as well as particular rules in relation to the broadcast of program promotions, rules for the treatment of material in news and current affairs programs, limits on advertising content and complaints handling procedures to be followed by licensees in handling Code complaints.

The Code also contains a number of advisory notes, which provide guidance, directed to program producers, reporters, classifiers or viewers, on how particular matters should be approached in considering material for broadcast. Advisory notes cover topics such as the portrayal of Aboriginal and Torres Strait Islander Peoples, portrayal of people with disabilities, portrayal of women and men, and obligations with respect to privacy. Advisory notes are not formally part of the Code and ACMA cannot undertake investigations into matters covered by the note, but they are linked to specific Code provisions.

#### CONCLUSIONS

The regulatory tools underpinning the classification of broadcasting content have, since the 1990s, provided a stable platform for content regulation on commercial free-to-air television, which has been increasingly well understood by the Australian community.<sup>19</sup>

Under the National Classification Scheme, certain matters will be of particular relevance to this review. Amongst these is how the balance is struck between the rights of adults to read, hear and see and read what they like, the rights of minors to be protected from material that is likely to harm or disturb them and the rights of everyone to be protected from unsolicited material that they find offensive.

Under the Broadcasting Services Act and the Code, the co-regulatory approach aims to foster an efficient and competitive broadcasting industry, while remaining responsive to community standards around content and complaints handling.

<sup>&</sup>lt;sup>19</sup> For example, research conducted by the Office of Film and Literature Classification indicated that at least 88 per cent of all people aged 14 and above were aware of the classification symbols G–MA in 2002, which figure rose to at least 93 per cent in 2005: Office of Film and Literature Classification, *Classification Study* (July 2005), 17. Prior to the passage of the Broadcasting Services Act, research undertaken in 1989 by the Australian Broadcasting Tribunal found that only 24 per cent of Australian adults were aware of classification, 19.0 per cent were aware of censorship, 4.0 per cent were aware of warnings before programs and 2.0 per cent were aware of timeslots as methods of regulating television content: Australian Broadcasting Tribunal, *TV Violence in Australia: Report to the Minister for Transport and Communications* (January 1990), Vol. II, 246-247.

The concept of community standards underpins these regulatory tools, and the general acceptance of the current framework is dependent on the extent to which it will be amenable to changes in community tolerance. Subsequent chapters will assess current community attitudes in relation to reality television programming on commercial free-to-air television, to ascertain whether changes in the current set of rules for such programming are necessary.

# Chapter 3: What is reality television?

### Overview

Reality television—in some shape or form—has been part of the broadcasting landscape since the 1940s.

Programs that could be described as reality television are highly popular with Australian audiences and are cost-effective for broadcasters. These programs range from *RPA* and *Border Security* (which could each equally be defined as documentaries) through to *Big Brother* and *The Biggest Loser* (which may have more in common with game shows).

In general, reality television programs present unscripted dramatic or humorous situations, document actual events and feature ordinary people instead of professional actors. Beyond these generalisations, it is difficult to develop a more specific definition of reality television programming, given the diversity of programs that could be described under such a banner.

In light of this difficulty, ACMA has focused in this review on analysing the characteristics of reality programming. ACMA has discerned that these characteristics are:

- an emphasis on factual, unscripted content;
- the use of real people (and not professional actors);
- the portrayal of unscripted interactions between (ordinary) people;
- a competitive or 'game show' element, in which participants compete with one another;
- situations or environments controlled by the producers, which, at one extreme, may be highly contrived or manipulated;
- the editing of 'live' footage to enhance or create story lines.

While not all reality television programs contain all of these characteristics, ACMA found that they are shared by a range of reality television programming, including *Big Brother*. This approach has allowed ACMA to consider whether these programs have particular characteristics that may give rise to particular community concerns.

# 'Highly edited reality'

While 'reality television' is sometimes assumed to have emerged in the twenty-first century and to refer to a distinct genre including programs such as *Survivor* and *Big Brother*, this type of programming is neither a recent phenomenon, nor an identifiable genre. Reality television programming has a long history and contains elements of several recognised program genres and formats.

Across all the evidence considered by the review, there was no agreement on a single definition of reality television programming, although there was a general consensus that it conveys a 'highly edited reality'.<sup>20</sup> As a result, the focus here is on identifying characteristics of reality television programming, including those that may give rise to community concerns. In doing so, this chapter considers reality television's developments and antecedents, identifies some general types of reality television programming and considers production methods used for a range of reality television programs. It also provides some data on the popularity of this type of programming with Australian audiences.

# A brief history of reality television

Reality television is not a new phenomenon. Indeed, as a format it is 'as old as television itself'.<sup>21</sup> What might be labelled generally as 'unscripted' programming originates from a range of programming types, including panel, game and quiz shows, documentaries, home improvement and variety shows.<sup>22</sup>

A number of aspects of present-day reality television programs are evident from as far back as the early years of broadcast television: filming people's reactions to everyday or contrived situations; showing ordinary people live their lives, including carrying out their jobs; involving ordinary people as active participants in television programs; the fascination of the viewing public with ordinary people and ordinary (and even mundane) events; placing ordinary people in competitive situations; and watching what happens when a group of strangers are left to interact in a closed (and controlled) environment.

These elements emerge as early as the 1940s and 1950s, which saw the broadcast of a range of unscripted programs involving 'real' people. In 1948, *Candid Camera* first put ordinary people into contrived situations and then portrayed how those people reacted.<sup>23</sup> In the United States, a number of talent shows including amateur competitors and audience voting features, as well as game shows incorporating stunts and practical jokes, were also introduced during this period.<sup>24</sup>

During the 1960s and 1970s, series following individuals or families live their lives emerged in both the United States and the United Kingdom. The first instalment of *Seven Up!*, which has followed the lives of fourteen British children since they were seven years old, was released in 1964 and was an early example of how television can celebrate ordinary lives (the most recent instalment, 49 Up, was released in 2005).<sup>25</sup>

<sup>&</sup>lt;sup>20</sup> The Nielsen Company, A Qualitative Research Report: Reality TV Review Project—Focus Group Research (prepared for ACMA) (23 February 2007) (Focus Group Report), 14 (Female, 18-24, Sydney). The focus group methodology and results are described in detail in Chapter 4 and a copy of the Focus Group Report is provided as Appendix D to this report.

<sup>&</sup>lt;sup>21</sup> David Lyle, 'An Introduction to Reality', Fox Reality Presents the Encyclopedia of Reality Television (Fox Reality Channel, Inc., 2005), 3.

<sup>&</sup>lt;sup>22</sup> A Hill, Reality TV: Audiences and Popular Factual Television (London: Routledge, 2005), 24.

<sup>&</sup>lt;sup>23</sup> At least one commentator argues that *Candid Camera* is 'arguably the first 'Reality TV' programme': BD Clissold, '*Candid Camera* and the Origins of Reality TV: Contextualising a historical precedent', in S Holmes and D Jermyn, eds., *Understanding Reality Television* (London: Routledge, 2004), 33.

<sup>&</sup>lt;sup>24</sup> For example: Ted Mack's Original Amateur Hour (1948); Arthur Godfrey's Talent Scouts (1948); Beat the Clock (1950); and Truth or Consequence (1950).

<sup>&</sup>lt;sup>25</sup> J Freedland, 'A poignant, human drama in the era of Celebrity Shark Bait', *The Guardian* (14 September 2005), http://www.guardian.co.uk/Columnists/Column/0,5673,1569502,00.html.

A further step was taken when cameras were introduced into people's homes and intensive filming over a number of weeks was used to produce a targeted series. The first of these programs was the 12-part series *An American Family* (1973), which followed a family in Santa Barbara, California, including through a divorce. The editing process involved in producing this series was considerable, with 300 hours of footage being reduced to 12 broadcast hours. The program attracted some degree of controversy, including from the family participating, who felt that the program misrepresented the actual events.<sup>26</sup> *The Family* (1974), a program from the United Kingdom, followed a similar format and also generated a great deal of attention for the family in question.

During the 1980s talk shows started to address controversial issues and involve members of the studio audience as active participants. In addition, viewers during this time showed an interest in seeing ordinary people on television. Similarly, ordinary people demonstrated a willingness to reveal their personal details to be on television.<sup>27</sup>

A significant development took place in 1989, with the first season of *COPS*, an American program in which hand-held cameras follow police officers on their rounds. This program, which is still in production, incorporates neither scripted dialogue nor narration, but simply allows events to unfold on camera. *Real Stories of the Highway Patrol* (1993) included interviews and re-enactments in addition to following policeman in real time. Both programs were developed during a time of writers' union strikes in the United States.

Australian reality television programs were present by 1992, when *Sylvania Waters* followed the Donaher-Baker family over a six-month period. While the format was novel to Australia, it was similar to that used in *The Family* (even sharing the same producer).

During the 1990s, the notion of watching ordinary, even boring, events unfold gained momentum. One milestone in this respect took place not on the television screen but in cyberspace. In 1991, the first webcam pointed to the coffee pot in Cambridge University's computer labs—simply so that people in the building would know whether the coffee pot was empty or not without leaving their desks. From 1993, the webcam was connected to the internet, allowing anyone to observe if it was time to brew another pot.<sup>28</sup> Popular interest in the webcam was both global and considerable, culminating with the auction of the (then broken) coffee pot in question for £3,350 on eBay.<sup>29</sup>

The idea of putting a group of strangers in a house together and filming what happens also originated in the 1990s, with MTV's *The Real World* (1992). This format has proved to be popular, demonstrated not least by the fact that the show is in its eighteenth season.

Thus, although the current crop of reality television programs (and their popularity) dates from around 2000, the origins of these programs are not as recent. Programs following law enforcement officers and other professionals doing their jobs (*Border Security, The Force, Real Crime, Forensic Investigators, Medical Emergency, RPA*) have clear precedents as far back as the 1950s. Talent-related competitions (*Australian Idol, Dancing with the Stars, The*)

<sup>&</sup>lt;sup>26</sup> K Murphy, *TV Land: Australia's Obsession with Reality Television* (Milton, Qld: John Wiley & Sons Australia, Ltd, 2006), 4-5.

K Murphy, *TV Land: Australia's Obsession with Reality Television* (Milton, Qld: John Wiley & Sons Australia, Ltd, 2006), 6.

<sup>&</sup>lt;sup>28</sup> K McCarthy, 'World's first Webcam coffee pot to be scrapped', *The Register* (7 March 2001), http://www.theregister.co.uk/2001/03/07/worlds\_first\_webcam\_coffee\_pot/.

<sup>&</sup>lt;sup>29</sup> S Left, 'Webcam coffee machine fetches a high price, *Guardian Unlimited* (14 August 2001), http://www.guardian.co.uk/internetnews/story/0,7369,536807,00.html.

*X Factor*) look to variety shows from the 1940s. Programs following the lives of people, more or less as they normally live them (*Wife Swap, Super Nanny*) or in more contrived circumstances (*Big Brother, Survivor*), have their origins in documentary-style programs such as *Seven Up!* and *An American Family* from the 1960s and 1970s. The intense competition reality television programs of today also owe a great deal to the pervasive game show format of programming. *Survivor*, in which a group of strangers competes to 'survive' in a uninhabited location, is one case in point.

An increasingly popular model for reality television programming globally has been the use of licensed formats, which originate in one country, but are exported and adapted to other local markets. The *Survivor, Pop Idol, Big Brother* and *The Biggest Loser* franchises are just a handful of successful examples of this approach.<sup>30</sup> The nature of reality television formats, which are often easily adapted to local tastes simply by casting local participants and using local settings, have made the licensing approach successful, both in terms of ratings success and economically. While *Pop Idol* (in Australia, *Australian Idol*) has been created for over 30 markets, and *Big Brother* for over 70, each version has been adapted to local preferences.

# Not a single genre

Given the range of programming that is now generally referred to as 'reality television', it is not surprising that no generally accepted definition exists, or that the phrase 'reality television' was not even created by the television industry.<sup>31</sup>

ACMA has found that viewers also find it difficult to draw generalisations about reality television programming. As noted by two focus group participants:

How many are there? You can't be like categorising it into one type of show. There are so many different types of reality TV shows.<sup>32</sup>

I find it so hard to talk in terms of reality in general, like it's almost like there are categories now. Things like *Queer Eye* and *Jamie's Kitchen*, which like are completely different to like *Australian Idol*, that sort of thing.<sup>33</sup>

The concept of 'reality television programming' is thus best used as a label for a wide variety of programming types, rather than as a specific genre that can be defined in a meaningful way.

A range of descriptions exists for reality television programming. Most of these focus on 'factual' and 'unscripted' entertainment, as opposed to scripted fictional dramas or comedies. The notions of 'live' (or nearly 'live') television, and the use of ordinary people rather than actors, are also used. However, within these broad parameters, a range of programming falls under the reality television label, demonstrating that reality television programming does not form a single 'genre' in the same way as drama, comedy or news and current affairs.

<sup>&</sup>lt;sup>30</sup> The significance of format licensing is discussed below under the heading *The economics of reality television—Production costs.* 

<sup>&</sup>lt;sup>31</sup> While there is a general consensus in the industry that the 'reality television' label came from the media, it is not possible to identify its first use.

<sup>&</sup>lt;sup>32</sup> Focus Group Report, 17 (Male, 18-24, Adelaide).

<sup>&</sup>lt;sup>33</sup> Focus Group Report, 17 (Female, 18-24, Sydney).

#### POSSIBLE REALITY TELEVISION PROGRAM TYPES

The range of programs broadcast on Australian commercial free-to-air television that might be considered to be reality television programming tend to belong to one of a handful of general formats. Table 3.1 groups a number of reality television programs that have been aired on commercial free-to-air television in the past two years according to four general categories. The general themes prevalent in each general category are: (1) watching people live or work; (2) self-improvement/home improvement; (3) competition; and (4) competition in a special living situation. These categories span from more observational programs to ones in which the situation faced by participants has been precisely designed by program producers. While there may be other ways of analysing the broad range of reality television programs, ACMA believes that this approach captures most general types currently prevalent.

The boundaries between these groups are not fixed, and a program may belong to more than one of the groups listed below. For example, home-improvement shows may contain a competitive element (*The Block*) and competition programs may also follow the personal lives of the people involved (*Jamie's Kitchen Australia*). Programs designed around a competition may also involve watching people live or work (*My Restaurant Rules, The Apprentice*).

The distinctions between these categories emphasise the most variable aspects of reality television programming: the extent to which they involve a competitive element and/or are contrived in some way (for example, through the use of a special living situation, participant selection or editing). While Category 1 in Table 3.1 does not involve a competitive element, and tends not to be contrived in the situations they portray, the other categories appear to be more contrived, and in many cases more competitive.<sup>34</sup> Ranking the level of competitiveness portrayed in these programs is relatively straightforward, but it should be noted that determining the true level of contrivance is not possible, as only the producer will be aware of the extent to which decisions were made that render a program less like reality, even as it appears to be 'real'.

	•				
Program type and examples					
1. Watching people live or work					
Air Crash Investigations	Medical Emergency				
Airline USA	Newlyweds				
Airport	Real Crime				
Amazing Medical Stories	• RPA				
Border Security	The Force				
Cheaters	The Real Seachange				
COPS	The Simple Life				
Forensic Investigators	Wife Swap				
2. Self-improvement/home-improvement					
Honey We're Killing the Kids!	Queer Eye for the Straight Guy				
How Clean is your House?	The Block				
It's Me or the Dog	Trading Spouses				
Judge Judy	You Are What You Eat				
My Big Fat Obnoxious Boss					
Super Nanny					

Table 3.1: Reality television program types and examples<sup>35</sup>

<sup>&</sup>lt;sup>34</sup> For the purposes of this analysis, 'competitive' includes self-improvement situations as well as those in which participants compete with one another.

<sup>&</sup>lt;sup>35</sup> The programs listed in Table 2.1 were recently or are currently broadcast on Australian commercial free-toair television.

Progra	Program type and examples					
3. Competition						
•	Australian Idol	•	So You Think You Can Dance			
•	Dancing with the Stars	•	The X Factor			
•	Jamie's Kitchen Australia					
•	My Restaurant Rules					
4. Competition in a special living situation						
•	Australian Princess	٠	The Amazing Race			
•	Big Brother	•	The Apprentice			
•	Paradise Hotel	•	The Biggest Loser			
•	Survivor/Celebrity Survivor	•	The Mole			

#### THE CHILD OF GAME SHOWS AND DOCUMENTARIES

Although reality television programming does not form a stand-alone genre, it does owe a debt to two recognised programming formats: game shows and documentaries.

Game shows provide the structure for many reality television programs. If game shows are thought of as unscripted programs in which contestants are set tasks and compete for a prize, it is clear that the reality television programs that feature a competition between the participants function in a similar way. Programs like Survivor, Big Brother and The Amazing *Race* all involve a number of contestants who are competing through a series of tasks for a prize. The method of elimination may vary from traditional game shows (particularly when the viewing audience is involved by voting), but the general structure is similar. Programs that most closely echo game shows tend to fall into Category 3 or Category 4 in Table 3.1.

Documentaries provide a different type of example for reality television programs. Whereas game shows provide a structural example, documentaries provide more of a methodological one, with respect to the filming of events and later editing that footage. Both reality television programs and documentaries are likely to involve real people in actual situations, and a number of reality programs might also be considered to be documentaries, such as Airport, Border Security and Air Crash Investigation.<sup>36</sup> Reality television programs that owe the most to documentaries tend to fall into Category 1 and Category 2 in Table 3.1.

#### CHARACTERISTICS OF REALITY TELEVISION

What, then, is reality television? Given the diversity and variety of programs generally thought of as 'reality television', this type of programming eludes an accurate definition. ACMA has focused on the typical characteristics of a range of reality television programs, to avoid oversimplifying a range of programming that includes multiple and evolving format types.

ACMA has identified the characteristics of reality television to include:

- an emphasis on factual, unscripted content;
- the use of real people (and not professional actors);
- the portrayal of unscripted interactions between (ordinary) people;

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http://www.acma.gov.au/webwr/aba/tv/content/requirements/australian/documents/documentaryguidelines.pdf.
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ACMA has previously developed guidelines on the meaning of 'documentary' for the purposes of the Australian Content Standard, and noted both the overlaps between reality programs and documentaries, and the distinct features of documentaries. Australian Broadcasting Authority, Documentary Guidelines: Interpretation of 'documentary' for the Australian Content Standard (16 December 2004),

- a competitive or 'game show' element, in which participants compete with one another;
- situations or environments controlled by the producers, which, at one extreme, may be highly contrived or manipulated;
- the editing of 'live' footage to enhance or create story lines.

Reality television presents a combination of characteristics prevalent in other types of programming that *may* give rise to particular community concerns. While most of these characteristics are displayed in *Big Brother* and by other programs combining a special living situation with a competition, it should be noted that this is because this variety of reality television programs incorporate the widest range of characteristics from other programming types.<sup>37</sup>

Specific reality television programs will not necessarily include all of these characteristics. For example, some competition programs feature celebrities rather than 'ordinary' people (*Celebrity Survivor*). Other programs contain no competitive elements at all (*Border Security, RPA, The Real Seachange*). The characteristics listed above are not intended to be definitive and may change over time as reality television programming models evolve.

Ultimately, what unites reality television programs may simply be their claim to being 'real'.<sup>38</sup> However, as the following discussion demonstrates, the high level of control exerted over reality television productions makes that claim unlikely to be true.

# How 'real' is 'reality'?

The extent to which so-called reality television shows accurately reflect 'reality' varies depending on the nature of the situation being filmed, the manner of filming and the way that footage is edited. As one public submission noted, reality television 'is television, not reality'.<sup>39</sup> Similarly, a common theme in the focus groups was that reality television programs depict 'real situations, but not real life.'<sup>40</sup>

Producers have the ability to control the environment in which reality television show participants interact, as well as how those interactions are presented to the public. According to industry participants, the risks inherent in designing a program around real people often mean that reality television programs are some of the most highly controlled forms of programming, particularly at the pre-production and production stages. In addition, producers are able to control the presentation of footage through editing.

All television programs involving the presentation of real people—including news and current affairs, documentaries and reality television programs—involve editorial decisions as to what footage will be presented and why. This means that programs showing real events necessarily involve some form of manipulation or contrivance. Focus group participants possessed a high awareness that reality television programs are the product of editorial control. One focus group participant commented that:

<sup>&</sup>lt;sup>37</sup> Programs such as *Big Brother*, in which the post-production stage is highly condensed (allowing between one day and one week for the editing of footage), allow less scope for editing footage to enhance or create story lines, in contrast to programs that are 'block shot'. See *-How 'real' is reality'—Post production* below.

 <sup>&</sup>lt;sup>38</sup> S Holmes and D Jermyn, 'Introduction: Understanding Reality TV, in S Holmes and D Jermyn, eds., *Understanding Reality Television* (London: Routledge, 2004), 13-14.

<sup>&</sup>lt;sup>39</sup> McKee (submission 145), 3. All submissions made in response to the Discussion Paper published by ACMA (Appendix A to this report) are available at http://www.acma.gov.au/WEB/STANDARD//pc=PC 101044

<sup>&</sup>lt;sup>40</sup> Focus Group Report, 13 (Male, 18-24, Adelaide).

It's highly edited I think. Highly edited reality. I don't know if it's a good thing but I really think I'm getting a bit cynical now. I'm getting to the stage now that when I watch something I just consider it to be all edited.<sup>41</sup>

While reality television programs are often designed to give the appearance of having no limits, to create the impression that what is seen on the screen is 'real life', the commercial imperatives involved in creating such shows means that they are highly controlled—even when they do not appear to be.

The remainder of this chapter considers some of the key tasks involved in creating different types of reality television programs, with an emphasis on the opportunities for control by the producers at each of the following stages: pre-production, production and post-production.

#### **PRE-PRODUCTION**

In general, the pre-production stage involves all tasks completed prior to filming. In scripted programming (such as a drama), the pre-production stage focuses on casting actors, writing and editing scripts, selecting locations, hiring crew, and designing sets, costumes and makeup.

The emphasis in reality television programming is somewhat different. In the more observational varieties (primarily Category 1 in Table 3.1), pre-production tasks focus on the choice of program subject, focus and emphasis of program, location of filming, time of filming and how many cameras will be used. For the most part, these reality television programs focus on events that would take place regardless of the presence of cameras. The other general types of reality television programs (Categories 2, 3 and 4) contain situations that are designed for the purpose of creating television programs, and thus involve a greater degree of planning at the pre-production stage.

#### Program design

The primary reality television programming pre-production tasks include designing the basic premise and format of the program. This may involve designing a format from scratch, or obtaining a licence to use a format that has been used elsewhere. Even when a format is licensed from abroad, as is the case with programs such as *Australian Idol, Big Brother*, *Survivor* and *The Biggest Loser*, adjustments are made to adapt the format to local conditions and tastes.<sup>42</sup> The very act of casting local participants provides 'local' content.<sup>43</sup>

A clear example of how local adjustments have been made may be seen in *Big Brother*, where the Australian version takes a different approach to the house in which participants live (located in a theme park and containing modern comforts, in contrast to the sparse and functional settings used in some other versions of the program).<sup>44</sup> Even when a tested format is used adjustments may be made to refresh the format, such as introducing new tasks for participants or changing the setting, so as to maintain levels of interest in subsequent seasons.

<sup>&</sup>lt;sup>41</sup> Focus Group Report, 14 (Female, 18-24, Sydney).

<sup>&</sup>lt;sup>42</sup> Not all Australian reality television programs in which the format has been licensed involve the use of foreign-sourced formats in Australia. Some domestically-created formats have also been exported for use in other countries, including *The Block* (which was exported to the United Kingdom).

<sup>&</sup>lt;sup>43</sup> J Roscoe, 'Watching Big Brother at Work: A Production Study of Big Brother Australia', in E Mathijs and J Jones, eds., *Big Brother International: Formats, Critics and Publics* (London: Wallflower Press, 2004), 184.

<sup>&</sup>lt;sup>44</sup> J Roscoe, 'Watching Big Brother at Work: A Production Study of Big Brother Australia', in E Mathijs and J Jones, eds., *Big Brother International: Formats, Critics and Publics* (London: Wallflower Press, 2004), 183-184.

#### Participant selection and screening

Reality television producers do not have problems finding people who would like to be participants, as many people, particularly in younger generations, have a strong desire to be on reality television programs.<sup>45</sup> Given the centrality of 'real' people to reality television programs, the selection of program participants is a large element of the pre-production stage.

In those reality television programs that are more observational in format (such as those identified in Category 1), care towards participants takes the form of obtaining consent from individuals while or after footage is captured, including ceasing filming when consent is withdrawn and confirming after production is completed that consent has been obtained.

The situation is somewhat different in those programs that involve placing participants in an artificial environment, particularly those in which a competitive element is involved (Category 3 and Category 4). In these productions, participants are selected with care, although this practice is generally not well publicised. ACMA understands that in those reality television programs involving competitive situations a number of safeguards tend to be used in the selection of participants, including written applications, interviews, police checks, health checks, psychiatric testing and speaking to relatives and friends to ensure that the prospective participant can handle production periods of several weeks. Prospective participants are briefed in detail about what to expect during and after production.

The interests of the industry are generally closely aligned with the welfare of participants and their ability to endure the demands of production and publicity. A situation in which a participant drops out of a reality television program mid-production is problematic for the producer and broadcaster as well as for the participant, as broadcast time and advertising revenue may be lost and negative media coverage for the program itself may result.

However, it should be noted that participants are carefully selected to serve the end of the production, which is to entertain. Participants are selected for their potential interest to the viewing public, which may be deliberately developed by putting them in specially-designed circumstances or setting participants certain tasks.

As a result, the potential exists for a conflict between the aims of the production company and broadcaster (to create an entertaining and profitable program) and program participants (to have an experience that will benefit them in some way and not be the source of embarrassment or worse).

Nonetheless, reality television program participants are, for the most part, legal adults capable of evaluating the risks of taking part in a particular program. ACMA understands that most production companies require participants to sign a release as a condition of taking part.

### PRODUCTION

#### **Filming methods**

Depending on the reality television program, one of two filming methods is employed: block shooting or 'live' (or almost live) footage. The choice of method largely determines the type of control that producers have in the post-production stage.

<sup>&</sup>lt;sup>45</sup> For example, approximately 10,000 people applied to be in the 2007 season of *The Biggest Loser* in Australia. Of those, 400 were interviewed, and 14 were selected. S Jackson, 'Weight watchers', *The Australian* (10 March 2007), http://theaustralian.news.com.au/printpage/0,5942,21334625,00.html.

In typical block-shot productions (such as *Australian Princess, Celebrity Survivor* and *The Biggest Loser*) all footage for the series is filmed in one block. Only after production is completed is the footage edited. In programs involving a competitive element, in which participants are eliminated during the course of the season, this method enables producers to choose which themes or 'plots' to emphasise—and to create story arcs as desired—consistent with the ultimate outcome of the program (for example, who wins the competition).

Some of the most popular reality television programs are not block shot, but are focused around the idea of 'live' (or, more accurately, almost live) television, in which the program unfolds on air as production takes place with a delay of minutes (*Australian Idol*) or days (*Big Brother*). In *Australian Idol*, footage is shown to air with only a slight delay, but is essentially live. In *Big Brother*, most of the programs are aired a day after the footage is show (*Big Brother Daily Show*), while some content (including participant elimination) is shown live and other content is a composite of footage shot over the course of a week (*Big Brother Uncut/Big Brother Adults Only*).

The act of filming itself creates a certain level of contrivance in all styles of production. Even in fairly straightforward situations, where cameras are used to track people as they go through their daily routines at work or at home, the very presence of cameras may alter the behaviour of those people, even if the situation itself is not controlled. Industry sources consistently state that participants are very aware of the presence of cameras and only occasionally forget about them.

#### **Participant monitoring**

In those programs where participants are in a confined situation, or put under considerable stress, mechanisms exist to monitor their welfare. In most cases this involves the presence of a person on site who could be consulted by participants during filming. Some programs provided access to counselling or a psychologist or psychiatrist. In some circumstances a medical doctor is kept on site.

#### **POST-PRODUCTION**

The post-production stage includes all tasks following filming, including editing, recording soundtracks, mixing video and audio and providing titles.

#### Editing of footage

Just as pre-production can be used to control the situation in which participants are placed, so can editing be used to control the presentation of that situation.

In 'live' (or almost 'live') programs, the ability of producers to create story lines or emphasise certain themes is constrained, in part by the fact that the ultimate outcome of the program is not known at the time of filming. In these programs, the post-production stage may be either minimal or truncated, limiting the potential editorial control over footage. However, except for truly live broadcasts, it should be noted that producers always have the ability to decide whether particular footage goes to air or not.

In block-shot programs, producers have the additional ability to shape story lines and develop characters over the length of the season.

In a program suite like *Big Brother*, where many hours of footage are used in multiple formats, the opportunity also exists to design different versions of a program for different purposes. For example, while *Big Brother Uncut* and *Big Brother Adults Only* (both classified

MA contained primarily MA-classified material, *Big Brother Daily Show* is a PG-classified program.

#### Participant monitoring

Participant monitoring does not play a large role in the post-production stage. However, some contact may be maintained with participants from some programs, for example, when participants are considered particularly vulnerable to media attention, or for promotional purposes.

## The economics of reality television programming

Reality television has considerable economic value for the local television industry, providing a fertile source of programming that is responsive and easily adaptable to changes in viewers' tastes and preferences. While creating an hour of reality television programming may not always be less expensive than producing other forms of programming, the investment necessary to launch new shows is less than for locally-produced drama.

Most reality television programs require less investment than scripted content, generally requiring fewer sunk costs than a drama, including script writing, editing and the production of polished pilots.

The relative cost of reality television programs is influenced by whether the program is blockshot or 'live' (or almost live) and by the extent of screening and monitoring of participants.

At one end of the spectrum *Big Brother* employs over 340 staff over the course of a series. During the 2006 season, 96 hours of footage per day was captured by 39 cameras and 96 microphones.<sup>46</sup> In addition, production of this program involves costs related to participant screening and monitoring, as well as a set rebuild each year. High costs are associated with acquiring the right to use a program format; Network Ten paid \$28 million for the rights to the second season of *Big Brother* (2002) and the first *Celebrity Big Brother*.<sup>47</sup>

No public data appears to be available on the cost of producing reality television programs in contrast to other formats in Australia. Table 3.2, which presents data on the relative costs involved in producing successful drama or reality television series in the United States, may be useful as a benchmark. It is notable that while one out of three reality television programs created in the United States are broadcast on television, only one in four drama series are successful. Accordingly, the total costs per series and per episode take into account the costs of producing failed series. In addition, the cost of producing pilots and commissioning scripts adds a substantial level of costs for drama programming.

If the program is based on a format created elsewhere, there may also be a cost involved in licensing for local use.<sup>48</sup> However, producing a program based on a format that has been successful elsewhere, and adapting it to the local environment and local tastes, is generally less risky than producing a new program based on an unproven format—and thus less costly

<sup>&</sup>lt;sup>46</sup> Provided courtesy of Endemol Southern Star, the producers of *Big Brother*.

<sup>&</sup>lt;sup>47</sup> J Roscoe, 'Watching Big Brother at Work: A Production Study of Big Brother Australia', in E Mathijs and J Jones, eds., *Big Brother International: Formats, Critics and Publics* (London: Wallflower Press, 2004), 182.

<sup>&</sup>lt;sup>48</sup> Examples of reality television programs in which formats have been licensed internationally (and their countries of origin) include *Australian Idol* (United Kingdom), *Survivor* (Sweden), *Big Brother* (Netherlands), *The Biggest Loser* (United States), *The Block* (Australia) and *The Mole* (Belgium).

in terms of risking failure.<sup>49</sup> Adapting a reality television program format to local conditions is considerably more straightforward than adapting scripted content, as the casting of local participants achieves much of the adaptation.<sup>50</sup>

Table 3.2: Estimated relative cost of producing successful drama and reality television series	
in the United States (2007–08) <sup>51</sup>	

	Drama	Reality
Success rate	One out of four	One out of three
Cost	<ul> <li>13 episodes at US\$1.9 million each = US\$19.5 million</li> <li>Cost of failed series = 3 x \$US\$19.5 million = \$58.5 million</li> <li>Six pilots at US\$2.2 million each = \$13.2 million</li> <li>Twenty scripts at US\$125,000 each = US\$2.5 million</li> </ul>	<ul> <li>10 episodes at US\$1 million each = US\$10 million</li> <li>Cost of failed series = 2 x \$10 million = US\$20 million</li> <li>Testing, options and other costs = 6 x US\$50,000 = US\$0.3 million</li> </ul>
Total cost per successful series	US\$92.7 million for 13 episodes	US\$30.15 million for 10 episodes
Cost per episode of a successful series	US\$7.21 million	US\$3.02 million
Other factors	This calculation does not take into account other costs such as overhead deals, options and publicity. Also note the existence of considerable markets for repeats, overseas sales and DVD sales that offset costs.	This calculation includes the cost of purchasing the license to use program formats. Also note the existence of markets for repeats and format licensing that offset costs.

## Popularity of reality television programming

Reality television programming in all its forms is one of the most popular types of programming on Australian commercial free-to-air television. This popularity is clearest from ratings data, which indicates the extent to which reality television programming is valued by he Australian community.

During 2002–06, reality television has been the second most popular type of programming on commercial free-to-air television after sport, based on an analysis of the top-20 rated programs in each year.<sup>52</sup>

Beyond this level of analysis, when full series of reality television programs are considered for the 2005 and 2006 ratings seasons the most popular programs clearly emerge.

<sup>&</sup>lt;sup>49</sup> S Holmes and D Jermyn, 'Introduction: Understanding Reality TV, in S Holmes and D Jermyn, eds., Understanding Reality Television (London: Routledge, 2004), 13-14.

<sup>&</sup>lt;sup>50</sup> K Murphy, *TV Land: Australia's Obsession with Reality Television* (Milton, Qld: John Wiley & Sons Australia, Ltd, 2006), 23-25.

<sup>&</sup>lt;sup>51</sup> D Lyle (COO and General Manager, Fox Reality), 'American Focus: Reality Television—Past, Present & Future', speech to Rose D'Or Festival (Montreaux, Switzerland, 2005); updated by the author to reflect current costs.

<sup>&</sup>lt;sup>52</sup> Free TV (submission 178), 4 (and Appendix 1), based on OZTAM data of the top 20 programs on commercial free-to-air television during the 2002-2006 period.

In 2005 (Table 3.3), the most successful reality television franchises in terms of ratings were *Big Brother* and *Border Security* (and, to a lesser extent, *Australian Idol*), with *Big Brother* leading with viewers aged 5–49, and *Border Security* with those aged 50–64.

Table 3.3: Top three reality television programs broadcast in 2005 ranked by average audience
size—breakdown by age band <sup>53</sup>

Age	Reality TV Program Rank 1	Reality TV Program Rank 2	Reality TV Program Rank 3
band	(average audience)	(average audience)	(average audience)
5–9	Big Brother – Live Surprise	Australian Idol – Audition 1	Australian Idol Live From
	(102000)	(98000)	Opera House (95000)
10–12	Big Brother – The Winner	Australian Idol – Audition 3	Australian Idol – Final 30
	Announced (109000)	(101000)	(95000)
13–14	Big Brother – The Winner Announced (89000)	<i>The X Factor</i> – Audition 1 (75000)	Big Brother – Lies Exposed (72000)
15–17	Big Brother – The Winner	<i>Australian Idol</i> – Audition 1	Big Brother – Lies Exposed
	Announced (131000)	(112000)	(104000)
18–24	Big Brother – The Winner	Big Brother – Live Surprise	Big Brother – Viewer's Verdict
	Announced (266000)	(235000)	(224000)
25–29	Big Brother – The Winner	Big Brother – The Final	Big Brother – Lies Exposed
	Announced (234000)	Eviction (195000)	(168000)
30–34	Big Brother – The Winner	Big Brother – The Final	Australian Idol – The Final
	Announced (276000)	Eviction (230000)	Verdict (215000)
35–39	Big Brother – The Winner	Australian Idol – The Final	Big Brother – The Final
	Announced (221000)	Verdict (182000)	Eviction (165000)
40–44	Big Brother – The Winner	Australian Idol – The Final	Big Brother – The Final
	Announced (231000)	Verdict (185000)	Eviction (159000)
45–49	Australian Idol – The Final	Border Security – Aust's Front	Big Brother – The Winner
	Verdict (153000)	Line-Tues (140000)	Announced (136000)
50–54	Border Security – Aust's Front	Big Brother – The Winner	Amazing Medical Stories
	Line-Tues (150000)	Announced (127000)	(117000)
55–59	Border Security – Aust's Front Line-Tues (184000)	Amazing Medical Stories (112000)	Border Security – Aust's Front Line (107000)
60–64	Border Security – Aust's Front	Amazing Medical Stories	Border Security – Aust's Front
	Line-Tues (104000)	(70000)	Line (68000)

<sup>&</sup>lt;sup>53</sup> OZTAM Television Audience Survey data—Survey calendar 2005—Weeks 7 to 48 excluding Easter (Weeks 15 and 16).

In 2006 (Table 3.4), *Australian Idol, Big Brother, Border Security*, and *The Biggest Loser* earned top reality television program ratings. While the most popular reality television series for those aged 5–49 was split between *Big Brother*, *The Biggest Loser* and *Australian Idol*, *Border Security* remained the most popular reality television program with those aged 50–64.

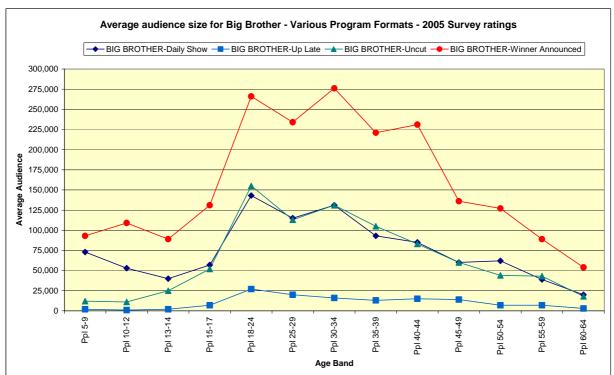
Age	Reality TV Program Rank 1	Reality TV Program Rank 2	Reality TV Program Rank 3
band	(average audience)	(average audience)	(average audience)
5–9	The Biggest Loser – Finale (125000)	Australian Idol – Audition 2 (119000)	Big Brother Launch (113000)
10–12	Australian Idol – Audition 2	Australian Idol – The Final	Australian Idol – Audition 4
	(125000)	Verdict (113000)	(112000)
13–14	Big Brother – The Winner Announced (72000)	Big Brother – Launch (70000)	Australian Idol – Audition 2 (67000)
15–17	Big Brother – Launch (101000)	Big Brother – The Winner Announced (94000)	Australian Idol – Top 100 (90000)
18–24	Big Brother – Intruders Go In (268000)	Big Brother – Launch (267000)	Big Brother – The Winner Announced (248000)
25–29	The Biggest Loser – Finale	Big Brother – Intruders Go In	The Biggest Loser – Launch
	(225000)	(181000)	(178000)
30–34	The Biggest Loser – Finale	Big Brother – The Winner	Big Brother – The Final Eviction
	(235000)	Announced (231000)	(212000)
35–39	Austral <mark>i</mark> an Idol – The Winner	The Biggest Loser – Finale	Australian Idol – The Final
	Announced (217000)	(208000)	Verdict (192000)
40–44	The Biggest Loser – Finale	Australian Idol – The Final	Australian Idol – The Winner
	(228000)	Verdict (205000)	Announced (201000)
45–49	Australian Idol – The Winner	The Biggest Loser – Finale	Australian Idol – The Final
	Announced (202000)	(181000)	Verdict (179000)
50–54	Border Security – Aust's Front	The Biggest Loser – Finale	Australian Idol – The Winner
	Line (191000)	(161000)	Announced (153000)
55–59	Border Security – Aust's Front Line (207000)	Missing Persons Unit (130000)	Border Security – Aust's Front Line-Wed (129000)
60–64	Border Security – Aust's Front Line (145000)	Border Security – Aust's Front Line-Wed (105000)	Missing Persons Unit (102000)

Table 3.4: Top three reality television programs broadcast in 2006 ranked by average audience size—breakdown by age band  $^{\rm 54}$ 

<sup>&</sup>lt;sup>54</sup> OZTAM Television Audience Survey data—Survey calendar 2006—Weeks 7 to 48 excluding Easter (Weeks 15 and 16).

### **BIG BROTHER RATINGS DATA**

Given the popularity of the *Big Brother* suite of programs, ratings around individual *Big Brother* program formats were also analysed. Figures 3.5 and 3.6 present the average audience size for various *Big Brother* program formats detailed by age band, for 2005 and 2006, respectively. For each year, ratings for the following program formats are presented: *Big Brother Daily Show* (PG), *Big Brother Up Late* (PG), *Big Brother Uncut* (MA) (2005 only), *Big Brother Adults Only* (MA) (2006 only)<sup>55</sup> and *Big Brother Winner Announced* (PG). (While *Big Brother Winner Announced* (PG) is a single program rather than a series, it is shown because of its ratings success amongst all types of programming. In the 2005 ratings period the program was rated the ninth most popular of all programs, and in the 2006 ratings period it was rated 22.)



#### Figure 3.5: Ratings for various Big Brother program formats - 2005

Figure 3.5 and Figure 3.6 indicate that from the age of 15 and above, audience sizes for *Big Brother Daily Show* and *Big Brother Adults Only/Big Brother Uncut* roughly track each other across age bands, although the MA-classified program attracts a smaller overall audience. The broad viewership of these series is also evident among the focus group participants, who were generally very familiar with *Big Brother Daily Show* and *Big Brother Uncut/Big Brother Adults Only*, whether or not they actually liked watching the programs.

<sup>&</sup>lt;sup>55</sup> Big Brother Uncut was a MA-classified series within the Big Brother suite of programs, which was aired for one hour each week of the Big Brother season from 2001-2005. Big Brother Uncut was replaced in the 2006 season by Big Brother Adults Only, also MA-classified. Big Brother Uncut was not broadcast for the full season in 2006, stopping after week seven (approximately halfway through the season).

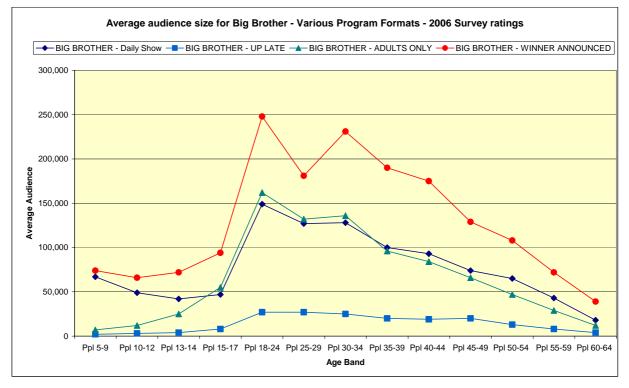


Figure 3.6: Ratings for various Big Brother program formats – 2006

### What people enjoy about reality television programming

Given the high levels of popularity of reality television programs in general—and *Big Brother* in particular—it is pertinent to consider why viewers enjoy these programs.

As is discussed in Chapter 4, ACMA commissioned independent quantitative and qualitative research (a national telephone survey of 1000 people and four focus groups) to gather data on community views. As part of the national survey, ACMA explored what people enjoy about reality television in general, and the *Big Brother* program in particular. Focus groups with men and women aged 15–17 and 18–24 exploring opinions of reality television were also conducted. A detailed description of the survey and focus group methodologies is provided at *Chapter 4—Commissioned research processes*, including survey sample structure and the scope of the focus groups. The following results should be read in light of this information.

Over two thirds (67.0 per cent) of all 1000 survey participants, including those who do not necessarily watch reality television programs, believed that there is too much reality television programming on commercial free-to-air television. Only 1.6 per cent indicated that there was not enough. The proportion of respondents who believed there is too much reality television programming increased with age, and included 83.1 per cent of those survey participants who had not viewed reality television programs on commercial free-to-air television at all during the last twelve months (and 64.9 per cent of those respondents who had). The 23.6 per cent of respondents who believed that there is 'about the right amount' of reality television were primarily drawn from the 15–29 age band (representing 38.7 per cent of that group).

Focus group participants supported these findings, many stating that there are too many reality television programs, and that many reality television programs are very similar to one

another.<sup>56</sup> Nevertheless, it was evident that the focus group participants viewed a great deal of reality television in general, including *Big Brother*.

As part of the survey, reality television viewers (702 of all 1000 surveyed) were asked to identify what about reality television programs they enjoyed (Figure 3.7).<sup>57</sup> The greatest number of respondents said that they enjoy 'nothing' about reality television programs (23.3 per cent), meaning that they did not enjoy anything about them. Of the specific responses given, the largest group indicated that they watch reality television programs because they are entertaining (20.9 per cent). Other reasons included that reality television shows are unscripted and use real people (13.7 per cent), promote inspirational/positive values (9.0 per cent) and that viewers enjoy watching the competition (8.9 per cent).

The focus group results supported this data, with participants emphasising that they primarily watched reality television programs for entertainment. Focus group participants noted that they liked reality television for a range of reasons, including because it was unpredictable, reflects everyday experiences, shows unusual or novel situations, engages the viewer (including through voting for competitors), has an element of suspense, is educational/can teach a lesson and because viewers like to think that the program participant 'could be me'.<sup>58</sup>

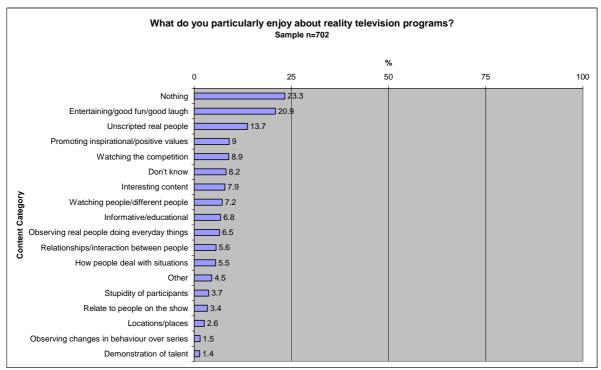


Figure 3.7: What viewers enjoy about reality television programs

While focus group participants saw social value in some reality television programs (*The Biggest Loser, Jamie's Kitchen Australia, The Apprentice*), at the same time they tended not to take these programs very seriously.<sup>59</sup> When discussing whether they had ever complained about something that they had seen on a reality television program, although many had

<sup>&</sup>lt;sup>56</sup> Focus Group Report, 18 (Male, 18-24, Adelaide). The focus group methodology and results are discussed in Chapter 4, and a copy of the Focus Group Report is provided at Appendix D.

<sup>&</sup>lt;sup>57</sup> A copy of the national survey results is provided at Appendix B.

<sup>&</sup>lt;sup>58</sup> Focus Group Report, 20-21.

<sup>&</sup>lt;sup>59</sup> Focus Group Report, 20 (Female, 18-24, Sydney).

concerns with more sexually overt content, most seemed to be of the view that 'it's [just] TV',<sup>60</sup> and thus of not great moment.

At the same time, focus group participants expressed a high awareness of the potential for editing and other forms of manipulation by program producers, although they were generally more concerned with the effect of such manipulation on viewers, and less with the impact on program participants. Some focus group participants were of the view that producers actively manipulated programs and program participants to increase revenues (through viewer voting for program contestants) and ratings.<sup>61</sup>

## WHAT PEOPLE ENJOY ABOUT BIG BROTHER

*Big Brother* is, according to the national ratings data discussed above, one of the most popular reality television programs in Australia. This popularity is not true for all viewers, however. The survey results demonstrate that just under half (49.1 per cent ) of viewers who watched commercial free-to-air television in the last 12 months reported ever having watched *Big Brother*, with half of those respondents watching the program regularly or occasionally (25.2 per cent), and the other half watching the program rarely (23.9 per cent). Just over half of all viewers reported that they never watched *Big Brother*.

Based on the national survey sample, regular or occasional viewers of *Big Brother* were slightly more likely to be female (27.9 per cent) than male (22.4 per cent), and more than twice as likely to be from households in the highest income bracket (31.6 per cent) than in the lowest (12.3 per cent). *Big Brother* viewing declined with age, with the 15–29 age band the most likely to be regular/occasional watchers of program (42.2 per cent), and the 60+ age band the least (3.1 per cent).

When *Big Brother* viewers  $(n=470)^{62}$  were asked, unprompted, what they enjoyed about *Big Brother*, 38.1 per cent (n=179) answered 'nothing', meaning that they did not enjoy anything about the program. These respondents tended to be among those who watched Big Brother rarely (59.4 per cent) and to be in the 60+ age band (64.2 per cent). Of the specific responses given, *Big Brother* viewers noted that they enjoyed watching the competition (13.6 per cent), relationships/interaction between people (12.6 per cent) and seeing different people/personalities (8.6 per cent).

## Conclusions

In general, reality television presents unscripted dramatic or humorous situations, documents actual events and features ordinary people instead of professional actors. Beyond these generalisations, it is difficult to define reality television with any accuracy. In addition, the term 'reality' is often a misnomer, as these programs present situations that are often highly contrived and may involve participants in controlled situations, as well as footage manipulated through editing and other post-production techniques.

However, it may be said that most reality television programming makes use of ordinary people, purports to be 'real' and is subject to tight controls in the way it is made.

<sup>&</sup>lt;sup>60</sup> Focus Group Report, 52 (Female, 18-24, Sydney).

<sup>&</sup>lt;sup>61</sup> Focus Group Report, 4 (Female, 18-24, Sydney).

<sup>&</sup>lt;sup>62</sup> Of the 491 people who indicated that they watched *Big Brother* regularly, occasionally or rarely, 470 provided responses to this question. References to the national survey sample size for particular questions and responses is provided where appropriate, for example, n=1000 (for questions asked of the entire sample).

These controls extend to the way in which participants are selected. The process of selecting participants, and designing the circumstances in which they are placed, is primarily directed at constructing a program that is entertaining to the viewing public.

At the same time, many reality television productions have in place safeguards for the welfare of participants about which the public may not be familiar. Publicising these procedures and controls could mitigate some concerns regarding reality television programming.

It is understandable that such a popular type of programming will attract both positive and negative views. The extent to which any aspects of reality television programming might be of concern to the Australian public is considered in the following chapters. Chapter 4 considers the results of the quantitative and qualitative commissioned research undertaken for this review, while Chapter 5 considers community views in the forms of complaints and investigations, as well as from the public consultation process.

# Chapter 4: Community views commissioned research

## Overview

ACMA's commissioned research (in the form of a national survey and focus groups) indicates that viewers of commercial free-to-air television have very low levels of concern in regard to reality television programming.

Generally, the vast majority of Australians (90.0 per cent) consider that people should be able to watch what they like on television and that parents and guardians should decide what their children watch on television (93.5 per cent).

In regard to *any* content on commercial free to air television, 78.0 per cent of Australians had *not* seen anything of concern to them in the last 12 months. Of the 22.0 per cent of Australians who had seen anything that did concern them, the largest area of concern was in regard to sex scenes/sexual content (32.8 per cent), followed by lewd or inappropriate behaviour (19.8 per cent) and violence (19.6 per cent).

ACMA's research also shows that 70.3 per cent of Australian viewers of commercial free-toair television do not relate to the people involved in reality television programs, nor do they think that these programs provide role models (70.9 per cent).

When all survey participants, including those who do not necessarily watch reality television, were asked to evaluate a series of statements about viewing choices generally and reality television programming in particular, some concerns emerged. When prompted, 54.8 per cent of all survey respondents agreed that reality television programs exploit the people who participate in them and 46.2 per cent agreed that reality television programs encourage inappropriate attitudes towards women.

Of all surveyed, 73.7 per cent indicated that they had watched reality television in the past 12 months. Of those who watched reality television programming, 70.8 said that they had not seen a reality television program that they felt should have been shown in a later timeslot. Of that same group, 76.8 per cent reported that they had not seen a reality television program on commercial television that they felt should not have been broadcast at all.

Among the reality television viewers surveyed, the majority indicated that they had no concern with different content areas of reality television. To illustrate, when prompted about their attitudes about the amount of nudity on reality television programs, 64.8 per cent indicated that they had no concern. Similarly, findings were observed in relation to the amount of coarse language (56.2 per cent of reality television viewers surveyed had no concern) sexual references/sex scenes (54.5 per cent) and the exploitation of participants (53.3

per cent). However, of this group, 60.0 per cent agreed that they were concerned with the socially irresponsible behaviour of participants on these programs.

The survey and, to a lesser extent, the focus groups, indicated that there was some concern amongst viewers of reality television programs in regard to the exploitation of people who participate in them (55.8 per cent) and that they encourage inappropriate attitudes towards women (46.2 per cent).

ACMA's research found that while some of the characteristics of reality television programming identified in Chapter 3 did give rise to some concerns, particularly in relation to *Big Brother*, the actual number of survey respondents who reported concerns was very low. Reality television programming in general did not raise concerns.

In relation to *Big Brother* specifically, more than 65.4 per cent of viewers indicated that there were no aspects of the program that caused them offence. Of the 34.6 per cent who did have concerns (n=181),<sup>63</sup> these focused on coarse language (24.3 per cent) and sexual content (22.5 per cent). Of this group, 38.8 per cent (representing 70 responses) said the program should be not shown at all.

The survey found that there is very strong awareness of controls relating to programs shown on television with 96.8 per cent of the survey sample aware of the requirement for classification symbols before programs. More than 90 per cent of reality television viewers considered that reality television was always (71.7 per cent) or sometimes (20.0 per cent) appropriately classified.

The quantitative survey data includes a number of different sample sizes. Specific references are made throughout the text to indicate the relevant survey sample. These differences have been carefully considered by ACMA in its analysis.

## Scope of this chapter

This chapter considers evidence generated by both a national survey and focus groups. The national survey, which was commissioned by ACMA from an independent research company, Newspoll, polled 1000 viewers of commercial free-to-air television aged 15 and above on their attitudes towards television programming, as well as concerns that arise in relation to television content (including reality television programming). ACMA also commissioned independent research company AC Nielsen to conduct four focus groups with men and women aged 15–24, to provide further detail on the views of younger viewers towards reality television programming.

The survey provided quantitative data on a series of issues relating to commercial free-to-air television generally and reality television in particular. Some of these issues were explored with the entire survey sample, which included all viewers (whether or not they necessarily watched reality television). Other questions were asked of subgroups of the survey sample: reality television viewers (survey participants who had watched reality television programs on commercial free-to-air television in the past 12 months) or *Big Brother* viewers (survey participants who had watched the *Big Brother* program). The nature of the survey sample and the structure and content of the survey are described in greater depth below.<sup>64</sup>

<sup>&</sup>lt;sup>63</sup> References to the sample size (n) responding to specific survey questions are provided where appropriate.

<sup>&</sup>lt;sup>64</sup> See *Commissioned research processes—The national survey.* 

The survey used open-ended questions to elicit an unprompted response about the community's level of concern about content on commercial free-to-air television. Where a concern was identified, additional open-ended questions were asked to clarify the nature of this concern and identify the respondent's view (unprompted by the survey) on what action should be taken in response to the content being broadcast. Open-ended questions were used in the national survey to ensure that respondents provided their own answer and were not limited to a structured set of potential responses. Where necessary, the survey prompted respondents on key issues for the review. This included: (1) the use of attitudinal statements; (2) prompting on levels of concern in relation to six categories of broadcast content (for example, coarse language, nudity); and (3) prompting on levels of concern across different programming contexts. The prompted questions were designed to limit respondents' answers to a fixed set of responses, the basis of which were evaluated during the survey development phase. The value of these prompted questions lay in their capacity to provide an estimate of the community's views on, or response to, a specific issue (such as awareness of classification symbols or concern about exploitation of participants on reality television programs) under investigation by the review.

The focus groups provided qualitative information on the opinions of viewers aged 15-17 and 18-24 regarding reality television specifically. The findings from the focus groups have been provided below when they enhance the survey results. The focus group methodology is described in further detail below.<sup>65</sup>

The evidence from both the survey and the focus groups is presented in this chapter under the following topics, which reflects the three general areas explored by those research tools:

- *concerns* regarding content on commercial free-to-air television generally and with respect to reality television programming in particular;
- *attitudes* towards television viewing choice and reality television programming; and
- awareness of *classification* tools and their appropriateness when applied to reality television programming.

## **Commissioned research processes**

This chapter provides an overview of the quantitative and qualitative research commissioned by ACMA for this review. The results of this research provide a means of identifying the nature and level of community concerns with reality television, and thus determine the nature of community standards with respect to such programming. As described above in Chapter 1, views of the Australian public were canvassed in the following forms:

- a national telephone survey of 1000 people; and
- focus groups with men and women aged 15–17 and 18–24.

ACMA also invited public submissions on issues raised by the Direction. These submissions are considered in Chapter 5, which also presents statistics from ACMA's investigations into potential breaches of the Code, both with respect to commercial free-to-air television in general and reality television programming in particular. Data on how many complaints are received by the commercial free-to-air networks, which was provided by Free TV Australia as part of their public submission, was considered in this context.

<sup>&</sup>lt;sup>65</sup> See Commissioned research processes—The focus groups.

The remainder of this chapter summarises the findings from these various sources, considering the following:

- concerns with commercial free-to-air television content generally and with reality television programming in particular; and
- viewers' understanding of the current mechanisms for regulating content, including the appropriateness of classification and content warnings.

#### THE NATIONAL SURVEY

The national survey (the format and full results of which are provided as Appendix B to this report) provided robust quantitative data on the viewing public's impressions of reality television, as well as on their concerns with such programming.<sup>66</sup> The survey included a combination of prompted and open-ended responses. Where responses were prompted, including in response to a series of statements about reality television, questions were cycled to avoid bias. Where the response allowed was open-ended, the survey firm recorded the response verbatim and later coded the responses with input from ACMA staff. The survey was structured to provide findings from three groups of respondents: viewers of commercial free-to-air television generally; viewers of reality television programs on commercial free-to-air television; and viewers of *Big Brother*.

#### Sample size and selection

#### Target population

The target population was people in the Australian community aged 15 years and over who had watched commercial free-to-air television in the past 12 months. For the purposes of this research, a total of 1,036 respondents were approached to determine their eligibility for inclusion in the reality television review national survey sample. Of those approached, 36 respondents indicated that they had not watched commercial free-to-air television in the past 12 months, and were therefore deemed ineligible to participate in the survey (Figure 4.1). A detailed analysis of the response rate for the national survey is provided in Appendix C.<sup>67</sup>

This chapter reports the findings from 1000 interviews with Australians who had watched commercial free-to-air television in the past 12 months.<sup>68</sup>

Survey respondents were selected by means of a stratified random sample process which included:

- A quota for each capital city and non-capital city area (within each of which a quota was set for each telephone area code);
- Random selection of household telephone numbers drawn from current telephone listings for each area code; and
- Random selection of an individual respondent in each household by a 'last birthday' screening question.

<sup>&</sup>lt;sup>66</sup> Newspoll Market Research, *Reality Television* (prepared for ACMA) (January 2007), provided as Appendix B to this report.

<sup>&</sup>lt;sup>67</sup> Newspoll Market Research, *Survey Quality Statement*, provided as Appendix C to this report.

<sup>&</sup>lt;sup>68</sup> Reference to the national survey sample size for particular questions and responses are provided where appropriate, for example, n=1000 (for questions asked of the entire sample).

#### Survey methodology

Newspoll, an independent research company, was commissioned by ACMA to undertake this study into community attitudes to reality television programming content. The survey was administered using a Computer-Assisted Telephone Interviewing (CATI) system. CATI allows for the efficient recruitment of a random sample of respondents from the Australian community and enabled the ongoing validation of the survey data. To ensure that the sample included those people who tend to spend a lot of time away from their household, a system of call backs and appointments was incorporated into the recruitment design. The Australian Standard for conducting Market and Social Research requires that 10 per cent of all completed survey interviews be validated. A random sample of interviews was monitored by a supervisor who listened in to determine whether the interview was being conducted according to quality standards. For the reality television survey, a total of 107 out of the 1,000 completed interviews were validated.

Interviewing for this study was conducted from Friday 12 January to Wednesday 17 January 2007.<sup>69</sup> The survey took approximately 15.5 minutes to complete.<sup>70</sup>

In order to reflect the population distribution, the survey data was post-weighted to Australian Bureau of Statistics data<sup>71</sup> on age, highest level of schooling completed, sex and area.

#### Survey content and structure

ACMA worked closely with Newspoll to construct a survey instrument that would systematically collect data on community attitudes to reality television programming.

The national survey consisted of six sections. These sections covered the following areas:

- Content concerns on commercial television (Section A of the survey);
- Attitudes to reality television on commercial television (Section B);
- Reality television (Section C);
- *Big Brother* (Section D);
- Content in the context of news and current affairs, movies and reality television programs (Section E); and
- Classification (Section F)

Of the six sections that comprised the survey, Sections C and D on reality television and the *Big Brother* program were optional. Respondents only completed these sections if they had watched a reality television program in the past 12 months or they had ever watched *Big Brother*.

The remaining four sections of the survey were mandatory and had to be completed by *all* survey respondents.

<sup>&</sup>lt;sup>69</sup> Prior to the commencement of fieldwork, the survey was piloted to ensure that the questionnaire length was appropriate, the response code frames were adequately developed and that there was no ambiguity in the questionnaire wording.

<sup>&</sup>lt;sup>70</sup> The majority of the survey fieldwork was completed before news of an alleged racist incident in the *Celebrity Big Brother* (United Kingdom) house broke in mid-January 2007.

<sup>&</sup>lt;sup>71</sup> Based on Australian Bureau of Statistics population weights from the 2001 Census.

At the start of the survey, all respondents were informed that the survey was 'interested in your views about programs shown on the free-to-air commercial channels'. To avoid any potential bias, Section A did *not* mention reality television programming.

Section A began by asking all survey participants whether they had seen any content on freeto-air commercial television in the past 12 months that had caused them 'offence or concern'. If a survey respondent nominated such content they were then asked to identify the name of the program that this content was shown on, followed by any action that they felt should be taken in response to this content being broadcast on free-to-air commercial television. Respondents were also asked to indicate whether they personally took any action in response to viewing the nominated content. The questions in this section of the survey were unprompted and open-ended, as the survey sought to determine the Australian community's level of concern about any form of content (and not just reality television programming) broadcast on free-to-air commercial television.

Reality television programming was mentioned for the first time in Section B. In this section, all survey respondents were exposed to a series of eight attitudinal statements about various aspects of television programming, with specific reference to reality television programs. These statements ranged from the perceived value of the programming (for example, provision of role models, examples of how to deal with real-life situations) through to community views about the exploitation of program participants. The statements also addressed the regulation of reality television programs by testing the community's views on the individual responsibility of viewers and whether people should have the right to watch what they want on television, including reality television programs.<sup>73</sup>

Consistent with the approach taken in Chapter 3 towards describing reality television programming, survey respondents were not provided with a definition of reality television, but used their own in answering the survey questions. If a respondent asked the interviewer for explanation as to what was meant by 'reality television' in the survey, they were told to consider programs such as *The Biggest Loser*, *Border Security*, *Survivor* and *Big Brother*.

As noted above, Section C was completed by survey respondents who had watched reality television programs on free-to-air commercial television in the past 12 months. In this section, reality television viewers were prompted about their level of concern in relation to the use of specific types of content (for example, nudity, coarse language, sexual references/sex scenes<sup>74</sup>) in reality television programming. This respondent subgroup was also prompted about whether they had seen reality television content that they thought should have been shown in a later timeslot or not at all and the details of that content. Section C also asked reality television viewers to identify what they enjoyed about these programs and to consider the efficacy of current program content warnings in the context of this programming.<sup>75</sup>

Section D was completed by respondents who had watched the Big Brother program. Using a series of unprompted questions, Big Brother viewers were asked to identify what they enjoyed about the program and whether there were any aspects of the program's content that had caused offence or concern. If concerns were identified, Big Brother viewers were asked to identify what action should be taken in response to the broadcast of the content as well as

<sup>&</sup>lt;sup>72</sup> See Concerns.

<sup>&</sup>lt;sup>73</sup> See Attitudes.

<sup>&</sup>lt;sup>74</sup> See *Concerns*—*Concerns about reality television programming*.

<sup>&</sup>lt;sup>75</sup> See Concerns—Concerns about reality television programming and Classification—Appropriateness of reality television classification. Also see What people enjoy about reality television programming in Chapter 3.

identifying their personal response. Section D also prompted Big Brother viewers to consider whether their concerns were elicited due to the use of 'real people' instead of actors on the Big Brother program.<sup>76</sup>

In Section E, all survey respondents were prompted about their level of concern about the broadcast of specific content, namely coarse language, nudity and sexual themes or sex scenes, in the context of news and current affairs, movies and reality television programs.<sup>77</sup>

Section F deals with the community's awareness of the different types of regulation or controls on programs broadcast on free-to-air commercial television. All survey respondents were asked about their awareness of classification symbols, program consumer information, program content warnings (such as before a news or current affairs story) and the use of time zones.<sup>78</sup>

In addition, if a survey respondent had indicated that they had watched reality television programming over the past 12 months, they were prompted to provide an assessment of the appropriateness of the program classifications for this type of programming on free-to-air commercial television.<sup>79</sup>

The survey also collected demographic information from all survey participants on a range of variables including gender, age, level of education, employment, socio-economic status, daily television viewing and strength of religious beliefs. In this chapter, these factors are considered where they are a discriminator in determining how people responded to a particular question, and so to clarify or enhance understanding of the survey results. Where particular demographic factors are not relevant, they are not considered in detail.

#### Interpreting the survey findings

Since populations are almost always too large to test, a fundamental strategy of social science research is to select a random sample from a defined target population and then use the data yielded by the sample to generalise to the population. By definition, all statistical data yielded by samples are an estimate of the distribution of responses for the population from which the sample has been drawn.<sup>80</sup> As such, the results for the current survey sample provide reliable estimates of the distribution of responses for the Australian population aged 15 years and over, due to the recruitment of a large, randomly selected sample. However, the possibility of random variation due to sampling needs to be considered.

To illustrate, if 70 per cent of the sample of 1000 respondents answered a question in a certain way, one can estimate that the response that would be given if the whole population was surveyed would fall somewhere within an interval of 2.8 per cent above or below this sample value (based on a 95 per cent confidence interval). Based on this, the estimated population response would be somewhere between 67.2 per cent and 72.8 per cent.

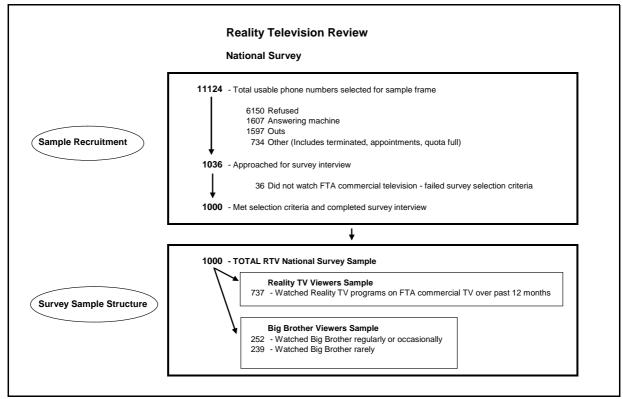
<sup>&</sup>lt;sup>76</sup> See *Concerns—Concerns about reality television programming*. Also see *What people enjoy about reality television* in Chapter 3.

<sup>&</sup>lt;sup>77</sup> See Concerns—Concerns about content on commercial free-to-air television.

<sup>&</sup>lt;sup>78</sup> See Classification—Attitudes about and awareness of classification and warnings.

<sup>&</sup>lt;sup>79</sup> See Classification—Appropriateness of reality television program classification.

<sup>&</sup>lt;sup>80</sup> JF Healey, *Statistics: A tool for social research*, 2<sup>nd</sup> edn. (California: Wadsworth Publishing, 1990).



#### Figure 4.1: National survey sample

Given the relevance of sample size to interpreting the survey results, specific references are made throughout the text to the survey group or subgroup answering a particular question, to indicate the relevant survey sample (Figure 4.1). The primary survey groups are the following:

- All survey participants (n=1000);
- Reality television viewer subgroup (n=737); and
- Big Brother viewer subgroup (n=491).

Depending on the particular question asked of each of these groups, responses may not reflect the full sample size and may reflect the impact of post-weighting the data. Moreover, depending on the filters used for particular questions, the size of the sample responding may be somewhat smaller than the group questioned. For example, when all survey participants were asked if they had seen anything on commercial free-to-air television in the last 12 months that caused them concern (n=1000), 22.0 per cent responded affirmatively. A total of 234 responses to the subsequent questions (the nature of those concerns, what should be done in response and how they personally responded) were provided. As a result, the size of the actual sample responding to a particular question or set of questions is given where helpful for interpretation of the data.

#### THE FOCUS GROUPS

The main aim of the focus group research was to provide qualitative information on the opinions of viewers aged 15 to 24 regarding reality television programming on commercial free-to-air television. The research design comprised four focus group discussions (two hours in length, eight participants in each) which were structured by gender, geographic location and age (Table 4.2).

Gender	Age band	Location
Female	15–17	Adelaide
Female	18–24	Sydney
Male	15–17	Sydney
Male	18–24	Adelaide

#### Table 4.2: Focus group design

AC Nielsen conducted the focus group research on behalf of ACMA. Focus group participants were selected on the basis of the following criteria: participants had to be regular viewers of a range of reality television programs and each group had to contain a minimum of three participants who were regular viewers of the *Big Brother* programs.<sup>81</sup> ACMA representatives observed all focus groups.

Focus groups were organised around a number of themes, including: perceptions of editing and its impact on content in reality television programs; the use of real people versus actors; role models; the impact of reality television content; understanding of television classification and consumer advice; and complaints. Participants were shown a number of clips from a range of reality television programs recently aired on Australian commercial free-to-air television to prompt discussion around various topics within these themes. These clips, most of which were produced for the Australian market, were taken from the following programs: *Big Brother, Border Security, Cheaters, Jamie's Kitchen Australia* and *The Biggest Loser* (Australian version). Participants were also shown an item on a news and current affairs program in which footage from a reality television program was aired.

Appendix D to this report provides a copy of the AC Nielsen report on the focus group research. This provides a detailed description of the focus group methodology and findings.<sup>82</sup>

## Concerns

This section considers the concerns raised by survey and focus group participants regarding content on commercial free-to-air television generally, as well as regarding reality television content and *Big Brother* programming in particular.

Concerns reflected in the form of complaints to licensees and ACMA's investigations, as well as those raised by members of the public in the form of submissions to this review, are considered in Chapter 5.

<sup>&</sup>lt;sup>81</sup> 'Regular' viewers of reality television programs was defined as viewers who had watched at least half the episodes in a season of at least three different series of reality television programs shown on commercial free-to-air television in the past 12 months. Participants were provided with a list of reality television programs shown during this period. 'Regular' viewers of *Big Brother* was defined as people who had watched *Big Brother* at least three times a week for the past two seasons. Focus Group Report, 10.

 <sup>&</sup>lt;sup>82</sup> Where focus group findings are relied upon in this report, the group from which particular views originate is identified, for example, 'Female, 18–24, Sydney'.

# CONCERNS ABOUT CONTENT ON COMMERCIAL FREE-TO-AIR TELEVISION

#### Concerns raised in response to open-ended questions about television content

When all survey respondents were asked whether they had seen anything on free-to-air commercial television over the last 12 months that had caused offence or concern, 78.0 per cent did not report any concerns.

When those respondents who had concerns with content they had seen (n=234) were asked to specify the content that caused them offence or concern, 32.8 per cent (76 responses) nominated sex scenes/sexual content as the major source of concern. This was followed by lewd/inappropriate behaviour (19.8 per cent, reflecting 46 responses), violence (19.6 per cent, reflecting 46 responses), coarse language/swearing (19.0 per cent, reflecting 44 responses) and adult content on in early timeslots (15.6 per cent, reflecting 37 responses) (Figure 4.3).

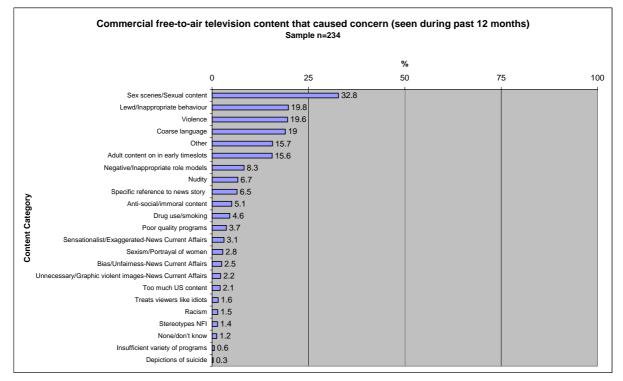


Figure 4.3: Nature of concern with commercial free-to-air television

While a range of programs were nominated as causing concern, the greatest number (87 responses) could not remember or name the offending program (Table 4.4).Within this context, while *Big Brother* raised the most concerns of any nominated program (36 responses), as a group reality television programs did not cause a great deal of concern. Instead, concerns were concentrated on news and current affairs programs (28 responses) and dramas (including *CSI*, *Nip/Tuck*, *Home and Away* and *Neighbours*) (25 responses)

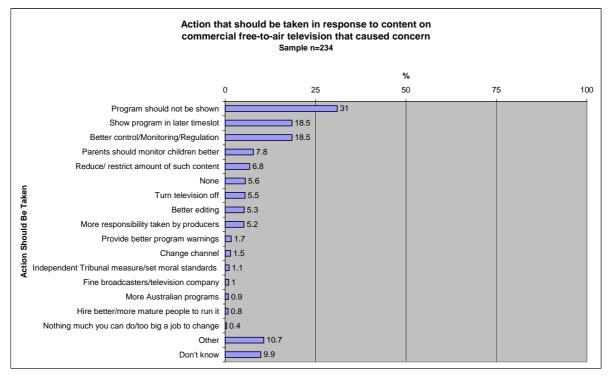
Instead, responses focused on news and current affairs programs as a group, with 28 responses mentioning all three commercial free-to-air networks, as well as particular current affairs programs (*A Current Affair, Today/Tonight*). Mentions of drama programs accounted for the next highest group of concerns (25 responses), with both Australian-produced (*Home & Away, Neighbours*) and foreign programs (*CSI/CSI Miami, Nip/Tuck, The Shield*) being named.

Program Title	Respondents (n=)	Program Category (n=)
Big Brother	36	Reality television (38)
The Biggest Loser	2	
News – Channel 9	6	News and current affairs
News – Channel 10	4	(28)
News – Channel 7	3	
News – NFI	4	
A Current Affair	3	
Today Tonight	4	
Current affairs – NFI <sup>83</sup>	4	
CSI/CSI Miami	7	Drama (25)
Nip Tuck	6	
Home and Away	6	
Neighbours	4	
The Shield	2	
NYE coverage – Channel 10	8	Variety (11)
Big Night In	3	
The Simpsons	5	Animation (5)
Specific film/movie – NFI	4	Film (4)
Other	27	Other (27)
None	12	None (12)
Don't know	87	Don't know (87)

Table 4.4: Name of program shown on commercial free-to-air television in past 12 months that caused concern

When those survey respondents who nominated concerns were questioned about the action that should be taken, a total of 234 responses were provided by the survey sample of 1000 participants. Of these, 31.0 per cent indicated that the program should not be shown, 18.5 per cent indicated that the program should be shown in a later timeslot and 18.5 per cent said there should be stronger regulation and control (Figure 4.5).

<sup>&</sup>lt;sup>83</sup> No further information, that is, the respondent did not provide any further details.



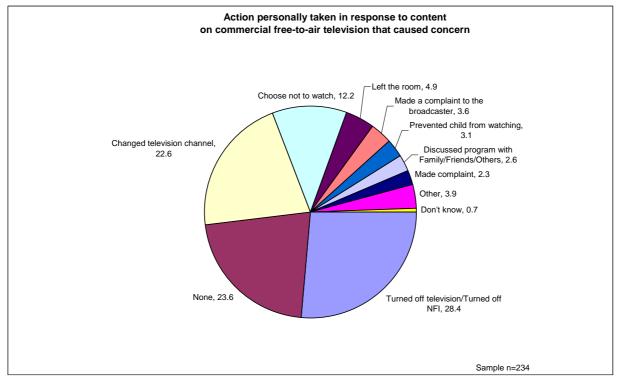
## Figure 4.5: Action that should be taken in response to content on commercial free-to-air television that caused concern

However, when asked what action they *personally* took in response to the content that generated their concern, 28.4 per cent nominated turning off the television, 22.6 per cent changed channels and 12.2 per cent refused to watch the program in question. Almost a quarter (23.6 per cent) took no action at all in response to the content (Figure 4.6).

In terms of lodging a complaint about the content, the survey results show that only 3.6 per cent of respondents with a concern made a complaint to the broadcaster. Another 2.3 per cent indicated that they had complained but did not provide any further information about their complaint. In total, the reported level of complaint (to the broadcaster or otherwise) was low, at less than 6 per cent (n=14) of those respondents who identified concerns (Figure 4.6).

Focus group participants were generally disinclined to make complaints. However, most noted that if they did complain, they would either contact the broadcaster or search online to determine how best to make a complaint.<sup>84</sup>

<sup>&</sup>lt;sup>84</sup> Focus Group Report, 52.



## Figure 4.6: Action personally taken in response to content on free-to-air commercial television that caused concern

#### Concerns raised in response to prompted statements about television content

All survey respondents (n=1000) were prompted about their level of concern regarding the use of coarse language, nudity, and sexual themes/sex scenes across three types of programming: news and current affairs, movie/drama with actors, and reality television program with real people.<sup>85</sup> Respondents made a clear distinction between programming that featured real people or professional actors, nominating the most concern regarding news and current affairs and then reality television programs (Table 4.7).

Content category	Level of concern	News and current affairs (%)	Movie/drama with actors (%)	Reality television program with real people (%)
Sexual themes/	Very/quite concerned	68.1	31.7	63.7
sex scenes	Not concerned	28.8	64.6	33.4
Coarse language	Very/quite concerned	62.4	38.6	52.3
	Not concerned	35.4	59.8	45.3
Nudity	Very/quite concerned	53.6	25.8	52.6
	Not concerned	42.9	71.9	44.8

Table 4.7: Concern with use of content across different programming types—based on
responses from all survey participants (n=1000)

<sup>&</sup>lt;sup>85</sup> To remove any bias caused by question order, the programming type (for example, news and current affairs, movie/drama with actors and reality television program) referred to in these questions were rotated.

The majority of survey respondents, when prompted, were concerned about the use of content involving sexual themes/sex scenes in the context of news and current affairs programs (68.1 per cent) and reality television programs featuring real people (63.7 per cent) (Table 4.7).

The national survey results also demonstrated a concern with the use of coarse language in news and current affairs programming (62.4 per cent). Albeit at a lower level (52.3 per cent), this concern was also evident in the context of reality television programs. A majority of respondents, when prompted, also had concerns with nudity that involved real people (that is, non-actors). The level of concern regarding this type of content was at a similar level across news and current affairs (53.6 per cent) and reality television programs (52.6 per cent).

In the focus groups, participants expressed generally low levels of concern regarding content shown on commercial free-to-air television. As one participant said, 'it doesn't get [to] us that much. It's [just] TV.<sup>86</sup>

#### CONCERNS ABOUT REALITY TELEVISION PROGRAMMING

All survey participants (n=1000) were prompted around a series of attitudinal statements regarding reality television. Of this group, 54.8 per cent agreed that reality television programs exploit the people who participate in them, and 46.2 per cent agreed that they encouraged inappropriate attitudes towards women. As this aspect of the survey sought to determine attitudes regarding reality television, and did not frame the questions in terms of concern, these results are discussed below in the context of attitudes about reality television programming.<sup>87</sup>

The following discussion considers concerns of reality television viewers regarding reality television generally and the concerns of *Big Brother* viewers with respect to that program in particular.

#### Concerns raised by reality television viewers

Within the reality television viewer subgroup (those 702 survey respondents who had watched reality television programming in the last 12 months), issues were also evident. When prompted as to whether particular types of content in reality television programming had caused them to be concerned, 30.2 per cent were concerned with the amount of nudity, 40.1 per cent with the amount of coarse language, and 41.8 per cent with the use of sexual references or sex scenes (Table 4.8).

While a larger group was concerned with the exploitation of participants (43.1 per cent) and harassment (47.1 per cent), this group did not represent a majority of respondents. The only concern held by a majority of respondents (60 per cent) was with respect to 'socially irresponsible behaviour'. Of regular and occasional *Big Brother* viewers, 45.3 per cent shared this concern.

<sup>&</sup>lt;sup>86</sup> Focus Group Report, 52 (Female, 18-24, Sydney).

<sup>&</sup>lt;sup>87</sup> See *Attitudes* below.

Possible area of concern	Concern (%)	No concern (%)	Neither/don't know (%)
Amount of nudity	30.2	64.8	5.0
Amount of coarse language	40.1	56.2	3.7
Sexual references/sex scenes	41.8	54.5	3.7
Exploitation of participants	43.1	53.3	3.5
Harassment	47.1	48.2	4.7
Socially irresponsible behaviour	60.0	37.1	2.8

Table 4.8: Areas of concern with respect to reality television content—based on responses from the reality television viewer subgroup (n=702)

With respect to the information presented in Table 4.8, levels of concern regarding the amount of nudity or coarse language, or the use of sexual references or sex scenes, rose with age. Female respondents had higher levels of concern than male respondents with respect to these kinds of content.

Analysis of the responses to the more amorphous categories of exploitation, harassment, and socially irresponsible behaviour is less straightforward, in part due to the numerous possible meanings of each term.

With respect to exploitation of participants or harassment, concern rose with age, except that the 30–44 age band was the least concerned (and not the 15–29 age band). There was less concern amongst regular or occasional *Big Brother* viewers than amongst respondents who did not watch *Big Brother* at all. Gender made little difference to the nature of responses to these two issues.

Of those concerned about socially irresponsible behaviour on reality television programs, female respondents (65.7 per cent) were significantly more concerned than male respondents (53.8 per cent). Levels of concern rose with age. Those respondents with strong religious beliefs were more concerned that reality television reflects socially irresponsible behaviour (67.8 per cent), while those with no beliefs were almost evenly split between concerned (48.4 per cent) and not concerned (49 per cent). According to the national survey results, a high proportion of regular/occasional *Big Brother* viewers were not concerned with socially irresponsible behaviour on reality television programs, in comparison to those who never watch *Big Brother* (26.4 per cent).

In the focus groups, there was no tolerance for a range of content, including racism, emotional or physical abuse, highly explicit sexual content or violence.<sup>88</sup> However, focus group participants tended not to perceive such behaviour in reality television programming generally.

Overall, participants in the focus groups were possibly more concerned about the manipulative aspect of reality television, particularly with respect to viewers. While focus group participants wanted to be entertained by reality television programs, there was a high awareness that producers might selectively edit footage.<sup>89</sup> Some were concerned that editing

<sup>&</sup>lt;sup>88</sup> Focus Group Report, 45.

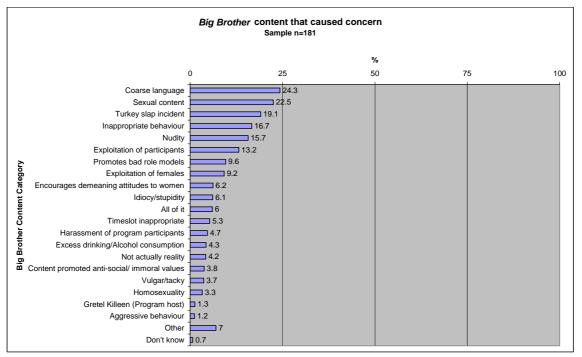
<sup>&</sup>lt;sup>89</sup> Focus Group Report, 25.

decisions meant that what they saw was biased or not the complete story, and felt strongly that 'viewers should be able to see all sides'.<sup>90</sup>

#### Concerns raised by Big Brother viewers

Of the *Big Brother* viewer subgroup (n=491), 34.6 per cent (181 of all survey respondents) agreed that there were aspects of *Big Brother* that caused them offence or concern. When asked in an open-ended question to articulate the nature of that concern (Figure 4.9), the greatest number listed coarse language (24.3 per cent), sexual content (22.5 per cent), the alleged 'turkey slap' incident (19.1 per cent), inappropriate behaviour generally (16.7 per cent) and nudity (15.7 per cent). Only 5.3 per cent noted that the timeslot in which the program was broadcast was inappropriate.

Figure 4.9: *Big Brother* content that caused offence or concern—based on responses from members of the *Big Brother* viewer subgroup who had concerns (n=181)



It should be noted that some of the types of content that caused viewers offence or concern may overlap, such as coarse language containing sexual references or covering adult themes, sexual content involving nudity, or coarse language that is inappropriate behaviour. In addition, the survey respondents who nominated the alleged 'turkey slap' incident from *Big Brother* did not distinguish between the broadcast of the footage as part of a news or current affairs program, in its original form on the internet and allusions made to the incident on aspects of *Big Brother* that were broadcast on television as part of the series (for example, the general discussion of the event between Big Brother and the housemates).

Perceptions in the focus groups regarding the alleged 'turkey slap' incident in the *Big Brother* house varied, with one participant stating that its broadcast during the early evening as part of a news or current affairs program was unacceptable, and another perceiving it as a 'joke' that the woman involved welcomed.<sup>91</sup> Other focus group participants responded more strongly to

<sup>&</sup>lt;sup>90</sup> Focus Group Report, 28 (Male, 15-17, Sydney).

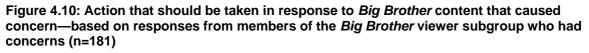
<sup>&</sup>lt;sup>91</sup> Focus Group Report, 47 (Male 15-17, Sydney; Female, 18-24, Sydney).

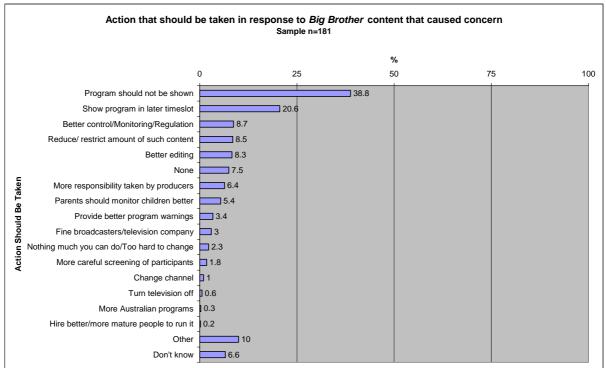
the incident, stating that the behaviour was inappropriate.<sup>92</sup> Some noted that the behaviour should not have been given any more attention than other sexual acts taking place in the house.<sup>93</sup>

Focus group participants experienced general discomfort with *Big Brother* footage containing sexual content. When an intimate scene between two *Big Brother* housemates was shown, some felt voyeuristic.<sup>94</sup> While in general the focus group participants were not personally offended by the content, some had concerns for viewers younger than themselves.<sup>95</sup>

Focus group participants generally held a strong view that reality television contestants had consented to their treatment on such programs (including editing that could lead to embarrassment), as they had general (if not specific) knowledge of how a program worked by watching previous seasons and had given consent to be on the program.<sup>96</sup>

Looking at the survey results, when those members of the *Big Brother* viewer subgroup who had nominated concerns with *Big Brother* content were asked what kind of action should be taken, more than a third (38.8 per cent, reflecting 70 responses) stated that the program should not have been shown at all (Figure 4.10). Others responded that the program should have been shown in a later timeslot (20.6 per cent), that there should be better monitoring and regulation (8.7 per cent) or that the amount of such content should be restricted (8.5 per cent). Only 5.4 per cent of respondents to this question stated that parents should monitor children better.





<sup>&</sup>lt;sup>92</sup> Focus Group Report, 48 (Female, 15-17, Adelaide).

<sup>&</sup>lt;sup>93</sup> Focus Group Report, 48 (Female, 18-24, Sydney).

<sup>&</sup>lt;sup>94</sup> Focus Group Report, 43.

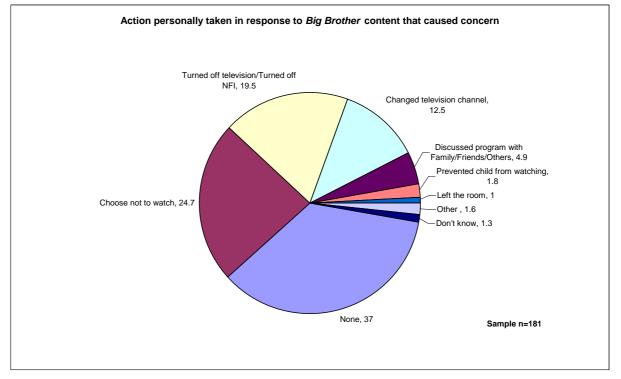
<sup>&</sup>lt;sup>95</sup> Focus Group Report, 43-44 (Female, 18–24, Sydney; Female, 15–17, Adelaide).

<sup>&</sup>lt;sup>96</sup> Focus Group Report, 31-32.

By contrast, when asked what action they *personally* took in response to *Big Brother* content that caused them offence or concern (Figure 4.11), 37.0 per cent (67 responses) said that they did nothing at all. Others stopped watching the program (24.7 per cent), turned off the television (19.5 per cent) or changed the channel (12.5 per cent). Some respondents reported having prevented a child from watching (1.8 per cent).

Focus group participants said that they would discuss controversial content with family or friends, and would stop watching programs if they were concerned about content. However, they were very unlikely to make a formal complaint. One focus group participant stated that 'it doesn't get [to] us that much. It's [just] TV.' Another participant in the same group said that she simply 'decided not to watch [the program] again.' <sup>97</sup>

Figure 4.11: Action personally taken in response to *Big Brother* content that caused concern based on responses from members of the *Big Brother* viewer subgroup who had concerns (n=181)



When all *Big Brother* viewers who saw content on *Big Brother* that caused them offence or concern (181 of all survey respondents) were also asked whether the involvement of 'real people' and not actors in the program gave rise to their concern, over one third of respondents (36.4 per cent) said 'yes'.

<sup>&</sup>lt;sup>97</sup> Focus Group Report, 52 (Female, 18-24, Sydney).

## Attitudes

In addition to giving survey respondents the opportunity to nominate concerns about any content that they had seen on commercial free-to-air television in the past 12 months, and to explore the possible concerns of the reality television and the *Big Brother* viewer subgroups, ACMA also used the survey to explore the Australian public's attitudes towards television viewing choices and reality television. This part of the survey prompted all survey participants around a series of attitudinal statements.

In this context, the popularity level of reality television programming should be noted. While reality television programming is undoubtedly popular among Australian viewers in absolute terms, and as a programming type is second in popularity only to sport,<sup>98</sup> not all people watch reality television. Survey data indicated that 73.7 per cent of people had watched reality television programs on commercial free-to-air television in the last twelve months. Further analysis revealed that while reality television programs were popular across all groups in the population, they tended to be less popular as people aged and more popular as income and education levels rose. Other factors such as gender and strength of religious belief were not relevant in predicting whether a respondent was likely to watch reality television programs.

All survey participants, including those who did not necessarily watch reality television, were asked to evaluate a series of prompted statements about viewing choices generally and reality television programming in particular (Table 4.12). An overwhelming majority agreed that people should be able to watch what they like on television, including reality television (90.5 per cent), and even more agreed that parents and guardians should decide what their children watch on television (93.5 per cent).

Statement	Total agree (%)	Total disagree (%)	Neither/don't know (%)
Parents and guardians should decide what their children watch on television	93.5	3.9	2.7
People should be able to watch what they like on television, including reality television programs	90.0	7.6	2.4
Reality television programs exploit the people who participate in them	54.8	33.0	12.2
Reality television programs encourage inappropriate attitudes towards women	46.2	34.8	19.0
Reality television programs are worth watching because they provide examples of how to deal with real-life situations	22.7	67.2	10.1
You relate to the people involved in reality television programs	20.6	70.3	9.1
Reality television programs provide role models	20.4	70.9	8.7

Table 4.12: Attitudes towards reality television programming—based on responses from all survey participants (n=1000)

When prompted, 54.8 per cent of all survey respondents agreed that reality television programs exploit the people who participate in them and 46.2 per cent agreed that reality television programs encourage inappropriate attitudes towards women.

With respect to whether viewers agreed that *reality television programs exploit the people who participate in them*, age was found to have a linear relationship to responses, with

<sup>&</sup>lt;sup>98</sup> See *Chapter 3—Popularity of reality television programming.* 

viewers in the 15–29 age band least likely (42.7 per cent) and respondents in the 60+ age band most likely (63.6 per cent) to agree with the statement. Gender did not appear to be a factor as to whether someone thought that reality television exploits participants, with 43.1 per cent of female respondents agreeing as compared to 49.4 per cent of male respondents. *Big Brother* viewers were less likely to agree with the statement (although it should be noted that there is little distinction between those who watch *Big Brother* rarely or never). There was no real difference between strength of religious belief and whether a group of respondents was likely to agree or disagree. It should be noted that 12.2 per cent of respondents neither agreed nor disagreed with the statement.

With respect to whether viewers agreed that *reality television programs encourage inappropriate attitudes towards women*, 46.2 per cent agreed and 34.8 per cent disagreed. A high proportion of respondents (19.0 per cent) neither agreed nor disagreed.

Again, age was found to have a linear relationship with responses, with approximately 36 per cent of the lower two age bands (viewers aged 15–44) and approximately 56 per cent of the higher two age bands (viewers aged 45 and above) agreeing with the statement. Regular/occasional viewers of *Big Brother* were more likely to disagree (59.5 per cent) than agree (28.0 per cent) with the statement. The opposite was true of those with very strong religious beliefs, with 58.5 per cent agreeing and 31.8 per cent disagreeing. Concern levels dropped off as household income levels rose.

Focus group participants expressed some concerns that reality television program participants were humiliated, embarrassed and, in some cases, demeaned.<sup>99</sup> Focus group participants were also concerned that producers were misleading viewers in not showing all sides to a story, and editing footage selectively.<sup>100</sup> Younger focus group participants (aged 15–17) considered reality television program participants to be mistreated when purposefully tempted or pushed beyond their comfort zone.<sup>101</sup>

Less than one-quarter of respondents believed that reality television programs provided them with examples of how to work through real-life situations (22.7 per cent), presented people to whom they related (20.6 per cent) or provided role models (20.4 per cent).

Survey participants aged 30–44 were least likely to agree that *reality television programs are worth watching because they provide examples of how to deal with real-life situations* (15.8 per cent), in contrast to those in the 15–29 age band (29.3 per cent). Of those who were regular/occasional *Big Brother* viewers, almost one-third (32.6 per cent) agreed.

Focus group participants expressed some support for this statement, noting that reality television programs allowed viewers to compare participants' actions with what their own would be in the same situation, and sometimes provided examples of how not to act in a given circumstance.<sup>102</sup> In response to the clips shown to them, some participants noted that certain reality television programs gave positive lessons for them, including the importance of being prepared (*Jamie's Kitchen Australia*<sup>103</sup>) and the value of perseverance and sacrifice (*The Biggest Loser*, <sup>104</sup> *The Amazing Race*<sup>105</sup>).

<sup>&</sup>lt;sup>99</sup> Focus Group Report, 26.

<sup>&</sup>lt;sup>100</sup> Focus Group Report, 28.

<sup>&</sup>lt;sup>101</sup> Focus Group Report, 33 (Male, 15-17, Sydney; Female, 15-17, Adelaide).

<sup>&</sup>lt;sup>102</sup> Focus Group Report, 38 (Female, 15-17, Adelaide); Focus Group Report, 40 (Male, 18-24, Adelaide).

<sup>&</sup>lt;sup>103</sup> Focus Group Report, 38 (Male, 15-17, Sydney).

<sup>&</sup>lt;sup>104</sup> Focus Group Report, 36 (Male, 15-17, Sydney).

However, only 20.6 per cent of the survey sample agreed with the statement that they *relate to the people involved in reality television programs*. Those agreeing were more likely to be female (24.6 per cent) than male (16.5 per cent), with agreement declining as age and educational levels rose. Regular/occasional *Big Brother* viewers were more likely to agree (32.1 per cent) than those who watched the program rarely (21.4 per cent) or never (14.6 per cent).

Focus group participants noted that an appeal of reality television programs was that they showed 'people that could be me'<sup>106</sup> and 'characters' to whom they related.<sup>107</sup> Some participants felt that programs such as *Air Crash Investigations*, *Missing Persons Unit* and *Forensic Investigators* were valuable because it was possible that what was portrayed could happen to them.<sup>108</sup>

Those survey respondents who agreed that *reality television programs provide role models* (20.4 per cent) were more likely to be female (23.1 per cent) than male (17.5 per cent).

While focus group participants felt that a number of reality television programs provided positive role models and even inspirational content (*Jamie's Kitchen Australia, The Biggest Loser, Australian Idol, My Restaurant Rules* and *The Apprentice*),<sup>109</sup> some participants commented that reality television programs provided examples of how *not* to behave.<sup>110</sup>

Focus group participants admired contestants on *The Biggest Loser* for their determination and efforts to achieve a better quality of life,<sup>111</sup> and praised *Jamie's Kitchen Australia* (and Jamie Oliver himself) as providing a good opportunity for the participants.<sup>112</sup> Other programs were inspirational to the focus group participants because they showed people who worked hard and progressed over the course of the series (*The Apprentice, My Restaurant Rules, Australian Idol, Australian Princess*).<sup>113</sup>

Some commentators have argued that teenage viewers value *Big Brother* because it provides them with an example of how people navigate relationships and other situations.<sup>114</sup> While the review did not address whether *Big Brother* specifically serves this purpose for younger people, the attitudinal statements regarding reality televisions programming in general indicate that the proposition is not true regarding reality television programming as a whole. Less than a third of Australians aged 15–29 agreed that they related to the people involved in reality television programs generally (31.3 per cent), that reality television programs are worth watching because they provide examples of how to deal with real-life situations (29.3 per cent), or that reality television programs provide role models (28.2 per cent). The focus group findings, discussed above, support these results; while some programs were inspirational or provided positive behavioural examples to viewers aged 15–24, the general

<sup>&</sup>lt;sup>105</sup> Focus Group Report, 37 (Male, 18-24, Adelaide).

<sup>&</sup>lt;sup>106</sup> Focus Group Report, 20 (Female, 18-24, Sydney).

<sup>&</sup>lt;sup>107</sup> Focus Group Report, 30 (Male, 15–17, Sydney).

<sup>&</sup>lt;sup>108</sup> Focus Group Report, 20 (Female, 18–24, Sydney).

<sup>&</sup>lt;sup>109</sup> Focus Group Report, 36-37.

<sup>&</sup>lt;sup>110</sup> Focus Group Report, 38 (Female, 15-17, Adelaide).

<sup>&</sup>lt;sup>111</sup> Focus Group Report, 20 (Male, 15-17, Sydney).

<sup>&</sup>lt;sup>112</sup> Focus Group Report, 37 (Female, 15-17, Adelaide).

<sup>&</sup>lt;sup>113</sup> Focus Group Report, 20 (Australian Idol), 36 (The Apprentice, My Restaurant Rules), 37 (Australian Princess).

 <sup>&</sup>lt;sup>114</sup> C Lumby and D Fine, *Why TV is Good for Kids: Raising 21<sup>st</sup> century children* (Sydney: Macmillan, 2006), 267 (referring to C Lumby and E Probyn, *Girl Cultures: Young women and media consumption*, ARC Large Discovery Project, University of Sydney (2001–2004)); Albury (submission 166), 8.

view shared by focus group participants is that they watched reality television programs because they were entertaining.<sup>115</sup>

A consistent theme from the focus groups was although this content was not of concern to them personally, focus group participants worried about the exposure of younger children to some reality television content (such as MA-classified *Big Brother Adults Only*, which males aged 15–17 thought was not appropriate for viewers under 13 years, and females aged 18–24 characterised as 'soft porn' and should be shown in a later timeslot).<sup>116</sup>

## Classification

Survey participants were asked a number of questions regarding their awareness of classification, consumer information shown before programs, warnings about news/current affairs content, and on classification time zones. In addition, reality television viewers were asked whether they thought the classification of the reality television programs they watched was appropriate, and whether they had ever seen a reality television program that they thought should have been broadcast in a later timeslot or not at all. Focus group participants also discussed issues relating to program classification, consumer advice, and timeslots during which certain programs were broadcast.

# ATTITUDES ABOUT AND AWARENESS OF CLASSIFICATION AND WARNINGS

Australian television audiences have consistently claimed a high level of familiarity with classification and other mechanisms used to regulate and control programming on commercial free-to-air television.

When all survey participants were asked to respond to a series of prompted statements, 96.8 per cent stated that they were familiar with classification symbols shown before programs (Table 4.13). This same group claimed high levels of familiarity with consumer information shown before programs (94.3 per cent), warnings about story content before a particular news/current affairs item (90.7 per cent) and restrictions on the time different types of programs can be shown (88.0 per cent).

These figures are consistent with results from a previous ACMA survey in 2003. At that time, ACMA's predecessor, the ABA, conducted a study into viewers' attitudes about violence on commercial free-to-air television.<sup>117</sup> As part of that study, questions were posed in a national survey to determine viewers' awareness of various mechanisms for regulation and control, such as classification, and those viewers' understanding of the classification system in particular.

In both 2003 and 2007, the Australian viewing public overwhelmingly indicated awareness of classification symbols, consumer information shown before programs, warnings about story content before an item in a news/current affairs program, and restrictions on the times when different types of programs may be shown (Table 4.13).

<sup>&</sup>lt;sup>115</sup> Focus Group Report, 53.

<sup>&</sup>lt;sup>116</sup> Focus Group Report, 43-45.

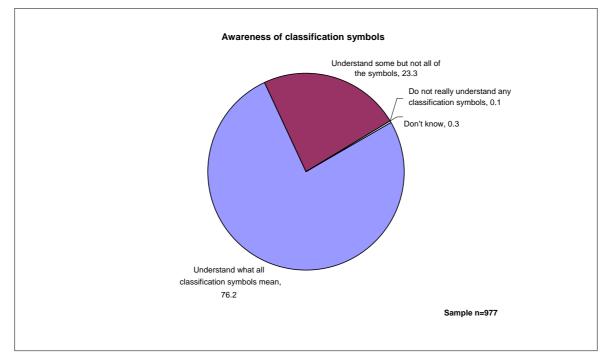
<sup>&</sup>lt;sup>117</sup> Australian Broadcasting Authority, *Research into Community Attitudes to Violence on Free-to-Air Television* (conducted by AC Nielsen) (2003).

## Table 4.13: Awareness of types of regulation/control regarding programs shown on free-to-air commercial television (2003 and 2007)

Regulation/control mechanisms	Awareness (%) Television violence research (2003) <sup>118</sup>	Awareness (%) <i>Current reality television</i> <i>review</i> (2007)
Classification symbols shown before programs	98.0	96.8
Consumer information shown before programs (eg. 'contains sex scenes')	94.0 <sup>119</sup>	94.3
Warnings about story content before a particular news/current affairs item	93.0	90.7
Restrictions on the time different types of programs can be shown	83.0	88.0

In addition, over three-quarters of viewers are confident that they understand what all classification symbols used on television mean, with almost all of the remainder understanding some of the symbols used (Figure 4.14).

Figure 4.14: Knowledge of classification symbols



Focus group participants supported these findings, demonstrating a good understanding and awareness of the classification system, including the general distinction between M/MA and other content.<sup>120</sup> However, focus group participants tended not to use classification as a tool in deciding what to watch on television, but instead relied upon what they had heard or read about a program.<sup>121</sup>

<sup>&</sup>lt;sup>118</sup> Australian Broadcasting Authority, *Research into Community Attitudes to Violence on Free-to-Air Television* (conducted by AC Nielsen) (2003), 63.

<sup>&</sup>lt;sup>119</sup> Participants in the 2003 research were asked about their level of awareness of 'consumer advice/information before programs'. Australian Broadcasting Authority, *Research into Community Attitudes to Violence on Free-to-Air Television* (conducted by AC Nielsen) (2003), 63.

<sup>&</sup>lt;sup>120</sup> Focus Group Report, 49-51.

<sup>&</sup>lt;sup>121</sup> Focus Group Report, 50.

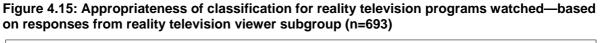
These findings demonstrate a marked improvement since 1989 in the Australian public's awareness of mechanisms used to regulate television content. At that time, a national survey revealed, in response to an open-ended question, that only 24 per cent of 1815 adults surveyed were aware of classification, 19.0 per cent were aware of censorship, 4.0 per cent were aware of warnings before programs, and 2.0 were aware of timeslots as methods of regulating television content.<sup>122</sup>

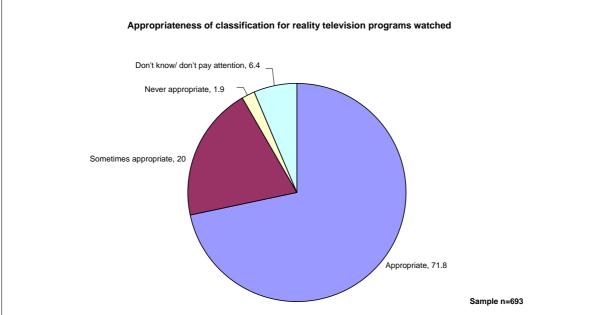
# APPROPRIATENESS OF REALITY TELEVISION PROGRAM CLASSIFICATION

When all survey respondents were asked whether reality television programs are usually broadcast during appropriate times of the day, almost two thirds (62.2 per cent) agreed.

Survey participants who identified themselves as viewers of reality television programs were also asked questions regarding the classification of reality television programs.

The reality television viewer subgroup was asked for views on the appropriateness of classification for those reality television programs they watched over the past 12 months on commercial free-to-air television. Over 90 per cent responded that the classification of reality television programs that they had watched were always/usually appropriate (71.7 per cent) or sometimes appropriate (20.0 per cent) (Figure 4.15). The proportion of viewers who were unable to answer the question because they did not know or did not pay attention (6.4 per cent) was higher than those who responded that the classification of reality television programs on commercial free-to-air television was never appropriate (1.9 per cent).





 <sup>&</sup>lt;sup>122</sup> Australian Broadcasting Tribunal, TV Violence in Australia: Report to the Minister for Transport and Communications (January 1990) Vol. II, 246-247.

Some focus group participants expressed concerns that MA content should not be shown in an earlier timeslot, so younger children would not be exposed to it.<sup>123</sup> It was clear, however, that the personal decision of these viewers aged 15–24 to watch a particular program was less likely to be related to its classification than to what they had heard or read about the program. These viewers decided what to watch based simply on whether they wanted to see it or not.<sup>124</sup>

In the survey, the reality television viewer subgroup was prompted to consider whether they had seen reality television content that they thought should have been shown in a later timeslot or not at all, and the details of that content. Of these respondents (n=702), 70.8 per cent said that they had not seen a reality television program on commercial free-to-air television that should have been shown in a later timeslot, and 76.8 per cent said that they had not seen a reality television program that should not have been shown at all (Table 4.16).

Table 4.16: Timeslot for reality television programs—based on responses from reality television viewer subgroup (n=702)

Question	Yes (%)	No/don't know (%)
Have you ever seen a reality television program on commercial television that should have been shown in a later timeslot?	29.2	70.8
Have you ever seen a reality television program on commercial television that should not have been shown at all?	23.2	76.8

Of the 221 survey respondents who indicated that they had seen a reality television program that should have been shown in a later timeslot, most were concerned with sex scenes/sexual content (40.6 per cent), coarse language (26.2 per cent), adult content (22.2 per cent) and nudity (18.7 per cent) (Figure 4.17).

The majority of these respondents (86.8 per cent) nominated *Big Brother* as the program that should have been broadcast later. There was no survey evidence indicating which *Big Brother* format was the source of these concerns, that is, *Big Brother Daily Show* (PG; broadcast at 7.30 pm) or the *Big Brother Adults Only/Big Brother Uncut* (MA; broadcast at 9.40 pm).

Those reality television viewers who had seen a reality television program that they thought should have been shown in a later timeslot were more likely to be female (32.6 per cent) than male (25.4 per cent). They were also most likely to be from the 45–59 age band (34.7 per cent), with agreement otherwise rising in a direct relationship with age. This group also tended to watch *Big Brother* rarely (42.1 per cent), rather than regularly/occasionally (22.0 per cent) or never (25.7 per cent).

<sup>&</sup>lt;sup>123</sup> Focus Group Report, 44.

<sup>&</sup>lt;sup>124</sup> Focus Group Report, 50.

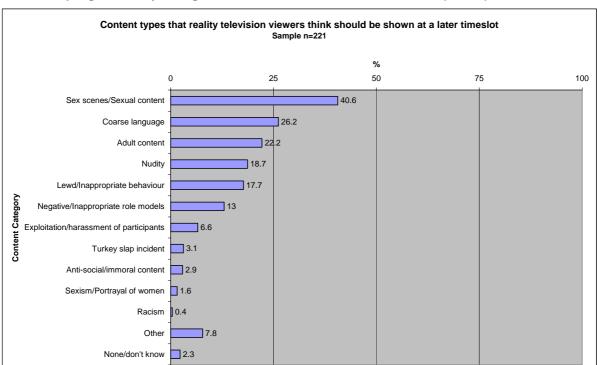


Figure 4.17: Content of reality television program that should have been shown in a later timeslot—based on responses from reality television viewer subgroup who had seen reality television programs they thought should be shown at a later timeslot (n=221)

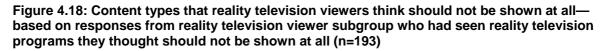
Although many focus group participants had concerns with more sexually overt content in reality television programming, most seemed to be of the view that 'it's just television' and thus of not great significance.<sup>125</sup> Nonetheless, some concerns were raised about the exposure of younger viewers (namely children under 13) to certain content on reality television programs. Some participants expressed the view that MA-classified program *Big Brother Uncut* should be shown in a later timeslot.<sup>126</sup>

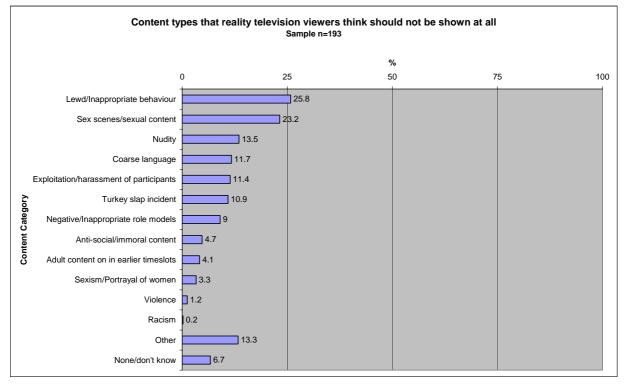
Even fewer respondents from the reality television subgroup (23.2 per cent) had seen a reality television program that they thought should not have been broadcast at all, with 76.8 per cent responding that they had no such concerns. Of the 193 survey respondents who indicated that they had seen a reality television program that should not have been shown at all, most were concerned with lewd/inappropriate behaviour (25.8 per cent), sex scenes/sexual content (23.2 per cent), nudity (13.5 per cent), coarse language (11.7 per cent) and exploitation/harassment of participants (11.4 per cent) (Figure 4.18). Again, *Big Brother* was the program nominated by most respondents (83.6 per cent) as the reality television program that should not have been shown at all (Figure 4.18).

Those reality television viewers who had seen a reality television program that should not have been shown at all were more likely to be female (26.5 per cent) than male (19.6 per cent), unlikely to be aged 15–29 (15.7 per cent), and more likely to have only completed primary or secondary school (29.1 per cent). They were also most likely to watch *Big Brother* rarely (28.5 per cent), and to have very or quite strong religious beliefs (29.0 per cent).

<sup>&</sup>lt;sup>125</sup> Focus Group Report, 52 (Female, 18-24, Sydney).

<sup>&</sup>lt;sup>126</sup> Focus Group Report, 49 (Female, 18-24, Sydney).





Of the 306 respondents (under a third of the entire sample polled) who had seen reality television programming that they thought should have been shown in a later timeslot or not at all, almost half (47.8 per cent) agreed that the program warnings about content were sufficient for what they saw. The group that found the warnings to be sufficient were more likely to be male (59.2 per cent) than female (39.3 per cent), be regular or occasional *Big Brother* viewers (54.2 per cent) and hold no religious beliefs (55.9 per cent).

## Chapter 5: Community views complaints, investigations and public submissions

## Overview

This chapter considers complaints made to television broadcasting licensees, investigations conducted by ACMA and public submissions made to this review.

Complaints data provided by commercial free to air broadcasters and ACMA indicates relatively low levels of concern by viewers in regard to reality television.

Statistics supplied by Free TV indicate that, of the 3,834 Code complaints received by free-toair licensees between 2001 and 2007, 9.8 per cent concerned reality television.<sup>127</sup> Of these only 14 complaints were referred to the regulator.<sup>128</sup> This data would indicate that, in general, broadcasters are handling complaints about reality television (and other Code matters) relatively effectively and to the satisfaction of complainants.

ACMA itself has undertaken 26 investigations into reality television since July 2001. Of these, 23 were the result of 18 unresolved complaints to commercial free-to-air television,<sup>129</sup> and three were initiated by ACMA under section 170 of the Broadcasting Services Act. Twenty investigations related to the *Big Brother* suite of programs. ACMA also conducted investigations into single episodes of *Australian Survivor Auditions, Australian Idol, Australia's Funniest Home Video Show, Queer Eye For The Straight Guy, The X Factor* and *Forensic Investigators*.

ACMA received 184 submissions in response to its Discussion Paper on the regulation of reality television programs broadcast on commercial free-to-air television.<sup>130</sup> Of the 169 individuals who made submissions, 68 per cent expressed general concerns with reality television. The main program of concern was *Big Brother* (63 per cent) and the main general area of concern was sexual content (47.3 per cent). Community organisations also expressed

<sup>&</sup>lt;sup>127</sup> Free TV Australia (submission 178), 22 (Appendix 3).

<sup>&</sup>lt;sup>128</sup> ACMA's investigation statistics indicate that there were 18 investigations into reality television programming over the same time period. The variance is most likely due to lack of a uniform categorisation of 'reality television programming'.

<sup>&</sup>lt;sup>129</sup> Three complainants complained about multiple programs, resulting in multiple investigations by ACMA.

<sup>&</sup>lt;sup>130</sup> ACMA, *Reality television review: discussion paper* (December 2006) (provided as Appendix A to this report). Copies of submissions are available at http://www.acma.gov.au/WEB/STANDARD//pc=PC 101044.

specific concerns in relation to *Big Brother*, particularly its potential to draw younger viewers to watch the MA version by building up their interest through other related programs.

A number of submissions from community groups also identified issues in relation to the potential exploitation of participants.

Some submissions advocated the capacity for ACMA to pre-classify programs, have the power to take material off-air and provide a 'one-stop complaints shop'.

ACMA recognises the genuine concerns raised by some submissions on reality television programming. It also recognises that these submissions provide valuable insight into the particular concerns of some areas of the Australian community. ACMA has carefully considered the submissions alongside quantitative and qualitative data gathered elsewhere in the review process.

## **Complaints and investigations**

As outlined in Chapter 2, the Broadcasting Services Act provides that a person may make a complaint to ACMA about program content or compliance with a code of practice if the person has first made a complaint to the relevant television broadcasting licensee, and either the person has not received a response within 60 days, or the person considers the response received to be inadequate (s. 148).

Under section 7 of the Code, television broadcasting licensees must respond to written complaints about material broadcast by a licensee relating to matters covered by the Code. Under clause 7.10 of the Code, broadcasters have up to 30 working days to respond to the complainant. Consistent with section 148 of the Broadcasting Services Act, complaints that are not resolved by the licensee may be forwarded by the complainant to ACMA for investigation.

## **COMPLAINTS TO LICENSEES**

As part of its submission to this review, Free TV provided data on the number of written Code complaints received by commercial television licensees from July 2001 to 22 January 2007. This data included overall complaint numbers as well the number of complaints relating to reality television programming.

According to this data, commercial television licensees received a total of Code 3,834 complaints during this period, 9.8 per cent of the total number of complaints received (344 complaints) concerned reality television programming (Table 5.1 and Figure 5.2). Of these, 14 were referred to ACMA for investigation, (3.7 per cent of reality television programming complaints, and less than 1 per cent (0.03 per cent) of all complaints received during that period).<sup>131</sup>

<sup>&</sup>lt;sup>131</sup> While Free TV did not specify which programs were included in its categorisation of 'reality programs' for this data, it has indicated to ACMA that the category included a broad group of programs, consistent with the approach taken in the Discussion Paper (Appendix A to this report) and in this report.

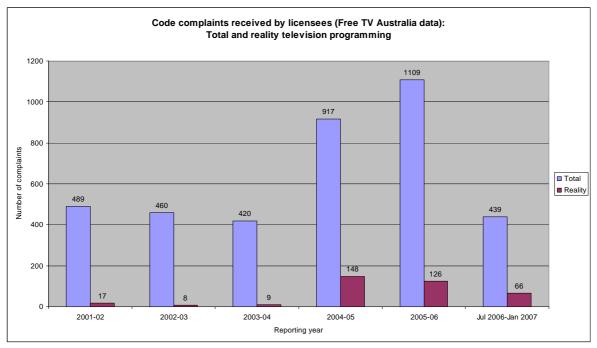
	2001–02	2002–03	2003–04	2004–05	2005–06	Jul 2006–22 Jan 2007*	Total
Reality television programming complaints	17	8	9	148	126	66	374
Reality television programming complaints (% of total)	3.5	1.7	2.1	16.1	11.4	15.0	9.8
All Code complaints	489	460	420	917	1,109	439	3,834

Table 5.1: Complaints to licensees (Free TV Australia data)

Source: Free TV (submission 178).

The largest number of reality television programming complaints was received by the commercial television licensees in the 2004–05 reporting year, in which the 148 reality television programming complaints received represent 16.1 per cent of all 917 complaints received in that year.

While a greater volume of complaints overall was received in 2005–06, the proportion of reality television programming complaints fell to 11.4 per cent, but increased in the current reporting period to date (1 July 2006 to 22 January 2007) to 15.0 per cent of the total number of complaints received.



#### Figure 5.2: Complaints to licensees (Free TV Australia data)

Source: Free TV submission 178.

During the period considered by Free TV, the majority of complaints arguing that the Code had been breached was rejected by the commercial television licensees (94.8 per cent) as not being breaches of the Code. A smaller proportion of complaints was upheld by the licensees

(4.5 per cent). According to this data, 8.0 per cent of all complaints received by the licensees were investigated by ACMA.<sup>132</sup>

Looking at all complaints received by commercial free-to-air licensees across all program types, 4.5 per cent (173 complaints out of 3,834) were upheld during the 1 July 2001 to 22 January 2007 reporting period. None of the complaints regarding reality television programming were upheld by licensees.<sup>133</sup>

## COMPLAINTS INVESTIGATED BY ACMA

ACMA has also examined its own data regarding Code investigations during the past five and a half reporting years (1 July 2001 to 31 December 2006).<sup>134</sup> During this period, ACMA conducted 26 investigations into reality television programs, representing 7.6 per cent of all 341 investigations conducted. These investigations include both those regarding unresolved complaints to free-to-air commercial television licensees (23 investigations), and investigations commenced by ACMA under section 170 of the Broadcasting Services Act (three investigations).

For the purpose of categorising investigations data ACMA has assessed investigations against the general characteristics of reality television identified in Chapter 2.

The largest number of investigations into reality television programs conducted in any year during this period was in the current incomplete financial year (July to December 2006), in which reality television program investigations accounted for 27.0 per cent of all investigations (Table 5.3 and Figure 5.4).

Table 5.3: ACMA investigations (July 2001 to December 2006)—reality television and other	
programming formats	

	2001–02	2002–03	2003–04	2004–05	2005–06	July–Dec 2006	Total (by format)
Current affairs	20	17	14	26	13	4	94
Drama	5	3	2	3	6	1	20
News	15	2	10	15	11	4	57
Promotions	3	7	5	15	4	9	43
Reality	4	1	0	2	9	10	26**
Sport	0	0	3	5	1	1	10
Other*	29	7	16	18	12	8	90
Total (by year)	76	37	50	84	56	37	340

\* The category 'other' includes the following categories: 'commercial', 'documentary', 'information', 'infotainment', 'light entertainment' (not including reality television programs), 'movies', 'music videos', and 'other programs'. The categories listed in this table include those with the highest number of unresolved complaints during the reporting period.

\*\* Of the 26 ACMA investigations into reality television programs, 23 were the result of unresolved complaints to commercial free-to-air television, and three were initiated by ACMA under section 170 of the Broadcasting Services Act.

Looking at earlier years during the period considered, ACMA conducted twice as many investigations into reality television programs in 2005–06 than in any of the four years prior.<sup>135</sup> From July 2001 through December 2006, the vast majority of ACMA investigations

<sup>&</sup>lt;sup>132</sup> Free TV Australia (submission 178), 22 (Appendix 3).

<sup>&</sup>lt;sup>133</sup> Free TV (submission 178) (Appendix 3).

<sup>&</sup>lt;sup>134</sup> ACMA is required to open an investigation regarding each valid complaint: s.149 Broadcasting Services Act. 'Investigation' is used in this report in this sense.

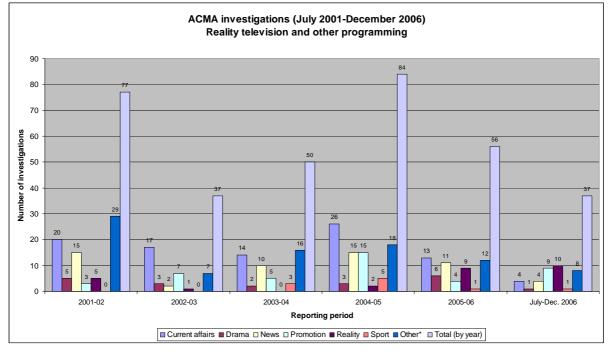
 <sup>&</sup>lt;sup>135</sup> As illustrated in Tables 5.6 and 5.7 below, all but two investigations into reality television programs from July 2005 through December 2006 concerned *Big Brother* programs.

have concerned current affairs programs (27.6 per cent), followed by news programs (16.7 per cent), promotions (12.6 per cent) reality television programs (7.6 per cent) and dramas (5.9 per cent).

Over this period there were:

- more than three times as many investigations into current affairs programs as reality television programs;
- more than twice as many investigations into news programs as reality television programs; and
- slightly more investigations into reality television programs than into drama programs.

Figure 5.4: ACMA investigations (July 2001 to December 2006)—reality television and other formats



Since July 2004, the number of investigations into reality television programs has risen steadily, while the number of investigations into current affairs and news programs has dropped. The rise in ACMA investigations into reality television programs is attributed to an increased number of investigations into the *Big Brother* suite of programs, including those investigations initiated by ACMA under section 170 of the Broadcasting Services Act.

Three investigations into reality television programs since July 2001 have resulted in breach findings (Table 5.5). One breach finding was the result of the investigation of an unresolved viewer complaint and the remaining two were the result of investigations commenced by ACMA. Each of these breach findings concerned *Big Brother* programming broadcast during 2005.

Assuming that the 'reality television' categories used by Free TV and ACMA are broadly consistent, this data illustrates that over the reporting period considered:

• 6.4 per cent of complaints about reality television programs received by commercial freeto-air television licensees have resulted in ACMA investigations (23 investigations resulting from 374 complaints); and • one unresolved viewer complaint about a reality television program resulted in a breach finding by ACMA.

Reporting year	Breach findings	Non-breach findings	Total
2001–02	0	4	4
2002–03	0	1	1
2003–04	0	0	0
2004–05	0	2	2
2005–06	3	6	9
July–Dec 2006	0	10	10

Table 5.5: ACMA investigations into reality television programs: findings

## DETAILS OF ACMA INVESTIGATIONS INTO REALITY TELEVISION

Of the 26 investigations into reality television programs conducted by the ABA or ACMA since July 2001, 20 investigations were into the *Big Brother* suite of programs. Other investigations were into single episodes of *Australian Survivor Auditions, Australian Idol, Australia's Funniest Home Video Show, Queer Eye for the Straight Guy, The X Factor* and *Forensic Investigators* (Table 5.6).

In the same period ACMA also conducted three investigations into promotions for reality television programs: two into promotions for *There's Something About Miriam* and one into a promotion for *Stupid Behaviour Caught On Tape*. No breach findings against the relevant Code provisions resulted from these investigations.

Program	Broadcast Date	Complaint	Decision
Australian Survivor Auditions	12/02/2002	Nudity in PG	No breach
Australia's Funniest Home Video Show	22/02/2003	Nudity in PG	No breach
Queer Eye For The Straight Guy	06/09/2004	Sexual references in PG	No breach
The X Factor	27/09/2004	Coarse language in PG	No breach
Australian Idol	16/08/2005	Cultural sensitivity in PG	No breach
Forensic Investigators	20/09/2006	Tobacco advertising	No breach

Table 5.6: ACMA investigations into reality television programs other than Big Brother

## **Big Brother**

The high proportion of investigations into *Big Brother* indicates it is worth separate consideration as a program of concern. *Big Brother* consists of a suite of reality television programs, broadcast as an annual series by Network Ten licensees since 2001, in which a group of people share a house for approximately three months and compete for a cash prize. *Big Brother Uncut* (renamed *Big Brother Adults Only* in 2006) is an MA-classified program which contains content that would not be suitable for broadcast in other time periods. MA content is only suitable for audiences aged 15 years and over, because of the intensity and/or frequency of sexual depictions, coarse language, adult themes or drug use.

Investigations into the *Big Brother* suite of programs have focused on sexual behaviour, nudity, adult themes and coarse language (Table 5.7). Nine of the 20 investigations have been into the MA-classified *Big Brother Uncut* and *Big Brother Adults Only*.

Program	Broadcast date	Complaint	Decision
Big Brother	06/05/2001	Promotions unclassified, PG program shown in G time.	No breach
Big Brother	09/05/2001	Language/nudity in G	No breach
Big Brother Uncut	17/05/2001	Language/demeaning behaviour in MA	No breach
Big Brother Live Surprise	09/05/2005	Nudity in PG	No breach
Big Brother Uncut	30/05/2005	Sex/nudity/adult themes in MA	Breach
Big Brother Uncut	06/06/2005	Sex/nudity/adult themes in MA	No breach
Big Brother Uncut	13/06/2005	Sex/nudity/adult themes in MA	Breach
Big Brother Daily Show	07/06/2005	Nudity in PG	No breach
Big Brother Uncut	27/06/2005	Nudity in MA	No breach
Big Brother Uncut	04/07/2005	Adult themes in MA	Breach
Big Brother Up Late	08/07/2005	Sex/nudity/language in MA	No breach
Big Brother Daily Show	31/05/2006	Language in PG	No breach
Big Brother Daily Show	02/07/2006	Sex/adult themes in PG	No breach
Big Brother Live Nominations	03/07/2006	Language in PG	No breach
Big Brother—The Interview	03/07/2006	Sex/adult themes in PG	No breach
Big Brother Adults Only	15/05/2006	Sex refs/Adult themes in MA	No breach
Big Brother Adults Only	29/05/2006	Sex refs/Adult themes in MA	No breach
Big Brother Adults Only	12/06/2006	Sex refs/Adult themes in MA	No breach
Big Brother Up Late	22/06/2006	Cross promotion in MA	No breach
Big Brother Daily Show	25/07/2006	Language in PG	No breach

Table 5.7: ACMA investigations into Big Brother programs

#### Big Brother 2001

In 2001, the ABA conducted investigations into:

- an alleged PG program broadcast in a G time slot (*Big Brother* broadcast on 6 May 2001);
- bleeped coarse language and pixilated nudity in a G-classified program (*Big Brother* broadcast on 9 May 2001); and
- sexual references, coarse language and nudity (the MA-classified *Big Brother Uncut* broadcast on 17 May 2001).

No breaches were found.

No investigations were conducted into Big Brother programs in 2002, 2003 and 2004.

#### Big Brother 2005

In 2005, ACMA investigated five episodes of the MA-classified *Big Brother Uncut*, and found breaches of the Code in three instances.

#### Section 170 investigations

On 23 June 2005, investigations into three episodes of *Big Brother Uncut* (30 May 2005, 6 June 2005 and 13 June 2005) were initiated by ACMA under section 170 of the Broadcasting Services Act. The decision to investigate the three episodes of the program was taken because of considerable public comment about the nature of the program, including comment that the program was not likely to meet the classification criteria set out in the Code. Material in the 30 May and 13 June episodes was found to be in breach of the Code.

The episode of *Big Brother Uncut* broadcast on 30 May 2005 contained a scene in which a male massaged a female's shoulders, while, unknown to her, he had deliberately exposed himself, and simulated rubbing his penis in her hair. The male appeared to intend the action as a practical joke, and the men present responded with laughter. ACMA considered that depiction was demeaning to the female, who was oblivious to the action of the male, and unaware of the reasons for the other contestants' amusement. The gratuitous nature of the depiction, in conjunction with the high intensity depiction of nudity, contributed to the impact of the scene. The program was found to exceed the MA classification provisions.

The episode of *Big Brother Uncut* broadcast on 13 June 2005 contained scenes in which a group of males composed a song containing detailed and explicit reference to sexual activity and defecation. It was considered that the references to sexual activity in this song comprised 'very coarse language', despite the fact that the language did not belong to a list of 'conventional profanities' that would generally be considered to comprise 'very coarse language' at the MA level. ACMA found that the references in the song exceeded the impact level for language at the MA classification, and a sizeable part of the community would be likely to consider the references unsuitable for 15 year-olds.

ACMA also noted that a number of scenes in the episodes under investigation raised concerns due to the frequency or intensity of the sexual references. ACMA noted that the sexual references were generally made in a conversational manner rather than in a sexual context. However, the pervasive nature of the references, the extent of some of the sexually explicit discussions, and the nature of the terminology used, added considerably to their impact and meant that material in the programs approached the upper limits of what is permissible in the MA category.

ACMA further noted that the lack of specific provision for sexual references at MA meant that the boundaries for this material were poorly defined.<sup>136</sup>

#### Unresolved complaints

Following receipt of two unresolved complaints by members of the public ACMA investigated a fourth episode of *Big Brother Uncut* broadcast on 4 July 2005. Both complainants considered sexual references in the program to be inappropriate for the MA classification level.

In its investigation, ACMA again noted the lack of specific provision for sexual references at the MA classification level, but considered that the adult nature of the content was such that they could be considered as 'adult themes'. ACMA found that the program as a whole failed to satisfy the requirement that material be suitable for viewers aged 15 years because:

• the strength of the adult themes, particularly the sexual references, combined with other classifiable elements such as implied sexual behaviour and nudity, meant the program had

<sup>&</sup>lt;sup>136</sup> ACMA, Report: Investigations No. 1557, 1558, 1559 (2005).

a 'cumulative intensity' that was not able to be justified by the story line or program context; and

• the pervasive nature of the adult themes meant that program as a whole failed to satisfy the overarching requirement for MA material, that it remain suitable for viewers aged 15 years.<sup>137</sup>

ACMA also conducted investigations into a fifth episode of *Big Brother Uncut* (broadcast on 27 July 2005), an episode of the PG classified *Big Brother Live Surprise* (broadcast on 9 May 2005) and an episode of the MA-classified *Big Brother Up Late* (broadcast on 8 August 2005). These programs were found to have complied with the Code requirements.

#### Network Ten's undertakings

In October 2005, in response to ACMA's breach findings in relation to *Big Brother Uncut*, Network Ten provided ACMA with comprehensive undertakings about the approach it would take in ensuring the suitability of the 2006 series of *Big Brother Uncut* for 15 year-old viewers. The undertakings were intended to ensure that future breaches of the MA classification provisions did not occur.

With respect to Big Brother Uncut, Network Ten undertook to:

- Ensure two classifiers, one of whom would be the senior Network classifier, independently assess each episode of *Big Brother Uncut* prior to broadcast;
- Amend production processes for *Big Brother Uncut* to allow time for classifiers to view the program, and to make time and production resources available for the recompilation of the program if necessary, for classification purposes;
- Conduct a two-day educational program for the production crew, prior to the start of the 2006 series of the program, with a focus on ACMA's breach findings and the requirements of the MA classification level;
- Develop detailed internal classification guidelines for the production crew and circulate ACMA's investigation report along with an explanation of ACMA's decision to production staff and management at Network Ten and Endemol Southern Star (the producers of *Big Brother*); and
- For the duration of the 2006 series of *Big Brother Uncut*, provide a weekly report to ACMA on any Code related complaints regarding the program and Ten's response to such complaints. In addition to the formal undertakings, Network Ten provided ACMA with informal notification throughout the 2006 season of *Big Brother Uncut* regarding the number and subject matter of telephone complaints.

#### **Big Brother 2006**

In 2006 ACMA conducted nine investigations into the *Big Brother* suite of programs in response to unresolved viewer complaints, and found no breaches of the Code. It investigated three episodes of *Big Brother Adults Only*, three episodes of *Big Brother Daily Show* and single episodes of *Big Brother Live Nominations*, *Big Brother Up Late* and *Big Brother—The Interview*.

In relation to the three episodes of the MA-classified *Big Brother Adults Only*, ACMA found that the episodes contained a number of classifiable elements, including sexual behaviour, sexual references, adult themes, nudity and coarse language. The classifiable elements of

<sup>&</sup>lt;sup>137</sup> ACMA, Report: Investigation No. 1579 (2006).

sexual behaviour, nudity and language contributed to each episode having a strong intensity, but the episodes did not exceed the upper limits of the MA classification.

In relation to the episode of the MA-classified *Big Brother Up Late*, ACMA found that the episode contained only indirect sexual references which were not sufficiently explicit or intense to exceed the classification.

The PG-classified episodes of *Big Brother Daily Show* broadcast on 31 March 2006 and 25 July 2006 and the episode of *Big Brother Live Nominations* broadcast on 3 July 2006 were found to contain low-level coarse language which was mild in impact and could be accommodated at the PG level.

The PG-classified episodes of *The Big Brother Daily Show* broadcast on 2 July and *Big Brother—The Interview* broadcast on 3 July 2006 contained references to an incident of alleged sexual harassment but did not contain any depictions of or overt verbal references to sexual behaviour or sexual harassment and were found not to breach the PG guidelines.

Network Ten ended the 2006 *Big Brother Adults Only* on 23 June 2006, after broadcasting seven episodes, one month ahead of schedule. Ten received eight Code complaints in the 2006 season, a dramatic drop from the 96 complaints received with respect to the first seven episodes of the 2005 series. Two of the complaints were received after Ten had cancelled the show and it was no longer on air.<sup>138</sup> Ten claimed that it was confident that the program had consistently complied with the classification provisions in the Code, but was ending the series early because of the ongoing controversy in relation to the program.

The fact that ACMA found no breaches for MA programming in 2006 indicated that the undertakings given by Ten following the 2005 breach findings had influenced the 2006 programming, enabling it to remain within the limits of the MA classification.

#### Investigations into reality television on news and current affairs programs

Since July 2001, ACMA has conducted three investigations into the broadcast of excerpts of reality television in news and current affairs programs (Table 5.8).

Under the Code, news and current affairs programs are exempt from the classification requirements. This is subject to the requirement that the licensee exercises care in selecting material for broadcast, having regard to the likely audience of the program and any identifiable public interest reason for presenting the program material (cl. 2.4.1). Only if there is an identifiable public interest reason may a licensee broadcast material which would be likely to distress or offend a substantial number of viewers (cl. 2.14). In cases where such material would be likely to seriously distress or seriously offend substantial numbers of viewers, warnings about the program content must be provided (cl. 2.14.1).

ACMA investigated a complaint into the broadcast, during Network Ten's *News At Five* on 1 August 2006, of an excerpt of *Big Brother* depicting two men kissing. It concluded that the licensee exercised appropriate care in broadcasting the segment, noting that the program attracts a predominantly adult audience, and that the footage was brief and contextualised by the segment as a whole. The material was not likely to seriously distress or seriously offend substantial numbers of viewers, and no warning was required.

<sup>&</sup>lt;sup>138</sup> Free TV (submission 178), 12-13.

ACMA investigated the broadcast of segments relating to an alleged incident of sexual harassment in the Big Brother house on Channel Nine's *A Current Affair* program (broadcast on 3 July 2006) and Channel Seven's *Today Tonight* program (broadcast on 10 July 2006). The segments included indistinct footage of two males and one female in a bed, as captured on a black & white 'night-vision' camera, as well as commentary on the incident that had occurred in the Big Brother house. In both cases ACMA found that the licensee exercised appropriate care in broadcasting the segment, having regard to the likely audience of the program and an identifiable public interest reason for presenting the material. In neither case was the material likely to seriously offend or seriously distress viewers, and no warning was required.

 Table 5.8: ACMA investigations into excerpts of reality television programs in news and current affairs

Program	Broadcast date	Complaint	Decision
News at Five	01/08/2006	Sexual content on Big Brother	No breach
A Current Affair	03/07/2006	Segment on an alleged incident of sexual harassment on Big Brother	No breach
Today Tonight	10/07/2006	Segment on an alleged incident of sexual harassment on Big Brother	No breach

## The public consultation process

As part of the current review process, ACMA sought comments on the regulation of reality television programs on commercial free-to-air television. On 8 December 2006, ACMA published a Discussion Paper to assist members of the public in providing submissions with respect to certain issues raised in the Direction.<sup>139</sup> In response, 184 submissions were received. <sup>140</sup> These submissions came from industry (3),<sup>141</sup> academics (2),<sup>142</sup> politicians (2),<sup>143</sup> community organisations (8)<sup>144</sup> and individuals (169).

<sup>&</sup>lt;sup>139</sup> A copy of the Discussion Paper is provided as Appendix A to this report.

<sup>&</sup>lt;sup>140</sup> Copies of the public submissions are available at

http://www.acma.gov.au/WEB/STANDARD//pc=PC\_101044.

 <sup>&</sup>lt;sup>141</sup> The Australian Screen Directors' Association (submission 163); Free TV Australia (submission 178); and the Screen Producers' Association of Australia (submission 180).

<sup>&</sup>lt;sup>142</sup> Associate Professor Alan McKee (Queensland University of Technology) (submission 145); and a joint submission by Dr Kath Albury (University of Sydney), Ms Kate Crawford (University of Sydney), Professor Stuart Cunningham (Queensland University of Technology), Professor Stephanie Hemelryk Donald (University of Technology, Sydney), Professor John Hartley (Queensland University of Technology), Associate Professor Catharine Lumby (University of Sydney), Professor Elspeth Probyn (University of Sydney), Associate Professor Sue Turnbull (La Trobe University) and Professor Graeme Turner (University of Queensland) (submission 166, listed as 'Lumby et al' on ACMA's website).

 <sup>&</sup>lt;sup>143</sup> Senator Steve Fielding (Family First, Vic) (submission 144); the Classification Issues Group (Trish Draper MP (SA) and Senator Barnaby Joyce (Qld)) (submission 183).

<sup>&</sup>lt;sup>144</sup> The Australian Christian Lobby (submission 118); Australian Family Association (submission 169); Catholic Women's League (submission 157); Catholic Women's League (Vic) (submission 176); Dads In Family Foundation (submission 24); Thomas More Centre For Young Adults (submission 165); Festival of Light (submission 88); and Salt Shakers (submission 147).

## INDUSTRY

ACMA received three submissions from industry bodies.

Free TV, the industry body representing Australia's commercial television licensees, submitted that reality programs are amongst the most popular Australian programs,<sup>145</sup> and receive few audience complaints relative to their popularity. Free TV noted that since 2001–02 there have been 374 complaints to licensees regarding reality television programs (out of a total of 3,834 complaints reported by licensees about all programs), only 14 were referred on to ACMA and just four complaints were upheld.<sup>146</sup> Complaints about reality television programs have made up 9.75 per cent of the total complaints about television content over the past five years.

The submission argued that there is no evidence that the Code cannot deal effectively with any concerns raised around reality television programming. However, the industry body recommended that Free TV and ACMA work together to develop an advisory note in the upcoming Code review, to assist the industry and viewers to understand how the classification guidelines apply in a reality television context.<sup>147</sup>

Free TV also argued that the existing co-regulatory complaints process deals effectively with complaints about reality television programming. Under this system, the majority of cases are quickly resolved between the viewer and the broadcaster, with viewers assured of a timely and substantive response. The submission argued that amending this system is likely to add an extra layer of bureaucracy to an already efficient system.

The submission from the Screen Producers Association of Australia (SPAA) also argued that there is no evidence that the Code cannot deal effectively with any concerns raised around reality television programming.<sup>148</sup> SPAA noted that producers of reality television are motivated to ensure the ongoing well-being and participation of the contestants. Contestants on programs such as *Big Brother, Australian Idol, Dancing with the Stars*, and *The Biggest Loser* are heavily screened and vetted for suitability, (generally and in relation to the specifics of the program) before being selected. Contestants are often employees of the production company, so are protected by employment regulations, laws and Workcover. The submission also stated that there is significant anecdotal evidence that contestants have gained great positive experiences from their engagement with television production process.

SPAA recommended that ACMA, in partnership with the industry, develop a professional briefing forum to assist the industry in understanding the nature of all recent programming breaches, and how such breaches inform ongoing practice as well as outlining how classification guidelines apply in the reality television context.

The Australian Screen Directors Association (ASDA) argued in its submission that the current regulatory system is generally working effectively, and that it is not necessary to make any substantive changes to the existing legislation or regulations in order to address any issues of

<sup>&</sup>lt;sup>145</sup> In 2006, 30 per cent of the top 20 programs were reality programs. Free TV Australia (submission 178), 4.

<sup>&</sup>lt;sup>146</sup> Free TV (submission 178), 5, 22 (Appendix 3).

<sup>&</sup>lt;sup>147</sup> Advisory notes provide guidance, directed to program producers, reporters, classifiers or viewers, on how particular matters should be approached in considering material for broadcast. Advisory notes are not formally part of the Code and ACMA cannot undertake investigations into matters covered by the note, but they are linked to specific Code provisions. See *Chapter 2—Commercial Television Industry Code of Practice* for further details.

<sup>&</sup>lt;sup>148</sup> Screen Producers Association of Australia (submission 180).

community concern about reality television. Having said this, ASDA would support ACMA working with Free TV Australia to develop an advisory note concerning the application of the guidelines to reality television.<sup>149</sup>

## ACADEMICS

ACMA received two submissions from academics.

The submission by Dr Kath Albury and her colleagues summarised existing scholarly research on reality television.<sup>150</sup> The submission stated that viewers of reality television shows are highly media literate, and, far from being passive consumers, are part of a new interactive audience who have strong opinions about the content and outcome of their favourite programs.

Addressing community concerns regarding reality television the submission noted that it is critical to make a distinction between the concerns individuals or groups have about behaviours and attitudes expressed on reality television shows, and pre-existing concerns about those behaviours and attitudes. The submission argued that the public debates that sometimes erupt about behaviours or attitudes exhibited on reality television programs are not simply the result of opposition by community groups, but also reflect healthy debate by individual viewers.

The submission argued that there is no good evidence to suggest that the producers of reality programs are any more likely than the producers of other programs, including news and current affairs, to act unethically towards the people they depict on their programs or in terms of their implicit duty of care towards viewers.

Associate Professor Alan McKee<sup>151</sup> conducted a qualitative analysis of complaints relating to reality television programming since 2001, based on media coverage. He concluded that there is no general community concern about reality television as a genre, noting that a small number of individuals have made moral complaints about *Big Brother*, but that evidence suggests the complainants do not represent the wider community.<sup>152</sup>

## POLITICIANS

ACMA received two submissions from politicians. The submission from Senator Steve Fielding argued that the Code should be strengthened to take into account the impact of reality television.<sup>153</sup> The submission cites *Big Brother* as a source of significant concern. The submission recommended that ACMA's powers be strengthened to stop programs going to air and to issue fines for clear breaches of the Code. Regarding the complaints process it argued that ACMA should provide a 'one-stop shop' including a website where people can lodge an email complaint to their local television station.

The submission from the Classification Issues Group (comprising Trish Draper MP and Senator Barnaby Joyce) is specifically concerned with *Big Brother*.<sup>154</sup> The submission argued

<sup>&</sup>lt;sup>149</sup> Australian Screen Directors Association (submission 163)

<sup>&</sup>lt;sup>150</sup> Albury (submission 166).

<sup>&</sup>lt;sup>151</sup> McKee (submission 145).

<sup>&</sup>lt;sup>152</sup> 'The ACMA briefing paper lists thirty six examples of reality television programs broadcast on free-to-air television. *Big Brother* is the only one of these about which individuals have made moral complaints: McKee (submission 145), 2.

<sup>&</sup>lt;sup>153</sup> Fielding (submission 144).

<sup>&</sup>lt;sup>154</sup> Draper (submission 183).

that *Big Brother Adults Only* exceeds section 5.2 of the Code, relating to the treatment of sex and nudity in the MA classification. It calls for the tightening of the Code and greater regulatory powers for ACMA, including canceling offending programs while investigations are being undertaken.

## **COMMUNITY ORGANISATIONS**

ACMA received eight submissions from community organisations. All the submissions argued that there were significant community concerns about aspects of *Big Brother*. Other programs of concern cited include *Survivor*, *Australian Idol*, *The Biggest Loser*, *Australian Princess*, *The Bachelor*, *The Block*, *There's Something About Miriam*, and *Playing It Straight*.

Several submissions noted that the format of *Big Brother*—a suite of programs including an MA classified program broadcast at a later time zone—distinguishes it from other reality programs. One submission argued that this is because younger children, who have become regular viewers of the other programs in the suite, are likely to want to watch the MA classified program, and not all parents will enforce restrictions on children under 15 who want to watch these programs.<sup>155</sup>

Several submissions said that the impact of classifiable elements is greater in the context of reality television where participants are known to be real people and not acting a fictional role.<sup>156</sup> Submissions expressed concern for the participants in reality television, one stating that the Code should protect participants from exploitation.<sup>157</sup>

Most submissions argued that greater care should be required to avoid airing problematic reality television content in early evening news timeslots.

Submissions argued that the complaints process was too slow and that ACMA's enforcement powers should be expanded.

#### INDIVIDUALS

169 individuals<sup>158</sup> made submissions to the review. Overall, submissions from individuals were critical of reality television, while 2.3 per cent expressed a positive view (representing four out of 169).<sup>159</sup>

Most submissions put general concerns rather than engaging with the issues set forth in the Discussion Paper (68 per cent of the individuals). A small number of submitters said they did not watch reality television at all (8.6 per cent).<sup>160</sup>

Concerns raised in submissions from individuals focused on *Big Brother*. The program was cited by 107 submissions (63 per cent). Thirty submissions (17.7 per cent) referred to other

<sup>&</sup>lt;sup>155</sup> Festival of Light (submission 088).

<sup>&</sup>lt;sup>156</sup> See, for example, Festival of Light (submission 088).

<sup>&</sup>lt;sup>157</sup> Australian Family Association (submission 169).

<sup>&</sup>lt;sup>158</sup> In some cases, these submissions were made on behalf of families.

<sup>&</sup>lt;sup>159</sup> See, for example, Brunero (submission 179), a submission from a contestant in the 2005 series of *Big Brother*.

<sup>&</sup>lt;sup>160</sup> In the national survey results, approximately 26 per cent of all viewers of commercial free-to-air television had not watched reality television in the past 12 months. See *Chapter 4—Overview*.

programs.<sup>161</sup> The remainder of submissions from individuals did not refer to any particular programs at all.

Some submissions (13.1 per cent) cited a specific incident that caused them concern. These included the *Big Brother* 'turkey slap' incident (7.7 per cent), although it was not clear whether concern stemmed from a belief that it had actually been televised on the *Big Brother* program, or whether it related to post-event discussions about the incident (either on *Big Brother* or on news and current affairs programs). It also included the widely-reported incident of racial vilification in the recent series of *Celebrity Big Brother UK* 2006 (2.9 per cent), and the 'Michael and Gianna' incident (see discussion of 30 May 2005 breach finding) in *Big Brother* 2005 (8.1 per cent).

Submissions from individuals expressed concerns with sexual content (47.3 per cent), nudity (17.7 per cent), and coarse language (13.6 per cent). A number of submissions argued that reality television programs provided poor role models for young people (40.4 per cent)<sup>162</sup> and encouraged bullying (10.1 per cent) and harassment (5.4 per cent). A small number of submissions (4.1 per cent) said that reality television was voyeuristic.<sup>163</sup> These concerns were often linked to a perceived decline in standards community-wide.

A relatively small number of submissions expressed concern for the treatment of participants in reality television programs (13.0 per cent).

The submission by former *Big Brother* contestant Tim Brunero described the positive impact the program has had on his life, including developing new skills and employment opportunities.<sup>164</sup>

Most submissions from individuals that addressed the question put in the discussion paper as to whether the Code reflects community standards with respect to reality television programming (37.5 per cent) felt that it was too permissive, generally with little discussion of the reasons for this opinion. However Rachel Williams, a consultant television classifier responding in an independent capacity, noted that if there is a disparity between the Code and community standards it is that the Code can be seen to be 'overly constraining in comparison to their public broadcasting counterparts in relation to the treatment of coarse language, nudity, and other classifiable elements.<sup>165</sup>

Some submissions from individuals expressed concern regarding the complaints handling mechanism (35.1 per cent). Specific concerns related to the length of the process, particularly the amount of time stations had to respond to complainants before complainants could approach ACMA (14.8 per cent) and the number of steps in the process (8.3 per cent). Five submissions expressed dissatisfaction with the outcomes of the process (2.9 per cent).

Some submissions addressed the issue of community safeguards for the broadcast of reality television programming excerpts in the context of news and current affairs programs (27.9 per

<sup>&</sup>lt;sup>161</sup> Programs based on a competition of skill (examples cited include Australian Idol and Dancing With the Stars) were praised or described as non-problematic. So too were programs which the submitter felt focused on positive outcomes for the participants, such as Backyard Blitz. However, Big Brother was criticised for encouraging participants to behave badly towards each other and encouraging viewers to make adverse judgments about the personal worth of each contestant.

<sup>&</sup>lt;sup>162</sup> See, for example, Nyhuis (submission 058).

<sup>&</sup>lt;sup>163</sup> See, for example, Coker (submission 061).

<sup>&</sup>lt;sup>164</sup> Brunero (submission 179).

<sup>&</sup>lt;sup>165</sup> Williams (submission 173), 3.

cent). Those that did address this issue expressed concern that adult content was re-broadcast in an earlier timeslot when young people were viewing.

### SUMMARY OF VIEWS EXPRESSED IN PUBLIC SUBMISSIONS

The majority of submissions to the review were critical of reality television (177 out of 184), with only 3.8 per cent expressing a positive view. Concerns raised in submissions focused on *Big Brother*. The program was cited by 120 submissions (65.2 per cent). Thirty-nine submissions (21.1 per cent) referred to other programs (sometimes in addition to referring to *Big Brother*). The remainder of submissions did not refer to any particular programs at all.

Some submissions (14.6 per cent) were able to cite a specific incident of concern. These included the alleged *Big Brother* 'turkey slap' incident (9.7 per cent), although it was not clear whether concern stemmed from a belief that it had actually been televised on the *Big Brother* program, or whether it related to post-event discussions about the incident (either on *Big Brother* or on news and current affairs programs). Of the 177 submissions that were critical of reality television, primary concerns were with sexual content (48.5 per cent), nudity (18 per cent) and coarse language (13.5 per cent). Concerns were also raised regarding bullying (10.7 per cent) and harassment (5.6 per cent).

Sixty-six submissions (37.2 per cent) expressed dissatisfaction with the complaints handling process. Of those, 30 expressed dissatisfaction with the length of the complaints process, most citing the length of time stations had to reply to a complainant before the complaint could be assessed by ACMA. Submissions expressing a positive view of reality television were generally satisfied with the complaints process.

## Conclusion

The statistics on complaints and investigations considered in this chapter demonstrate that reality television programming has raised a relatively low number of concerns, in relation to the numbers of complaints and investigations overall. When these figures are considered with reference to the large numbers of people watching reality television programs as supported by ratings figures, the absolute level of concerns is placed in additional context.

The public submissions made to this review represent a broad range of views. One group of submissions (primarily from industry bodies and academics) generally maintain that the Code adequately addresses concerns raised regarding reality television programming, accurately reflects community standards, and that the existing mechanisms of the Code are working well with respect to reality television programming on commercial free-to-air television. However, the majority of submissions (primarily from individuals, politicians and community groups) maintain that the Code does not reflect community standards with respect to reality television programming, and that the existing mechanisms of the Code are thus not adequate with respect to concerns around reality television programming.

The public submissions, particularly those from individuals, provide insights as to the community standards held by some strands of Australian society. When the submissions are placed in the context of the quantitative data considered in Chapter 4, it can be concluded that they are reflective of relatively small groups or subsets of opinion and ACMA would not claim that the opinions are those of a representative sample (in the sense of being statistically valid). However, the submissions provide useful signals for consideration and attention in this review process.

## Chapter 6: Findings and recommendations

## Overview

As a result of this review, ACMA is of the view that a formal industry standard under the Broadcasting Services Act is not required. There is no convincing evidence that the current regulatory arrangements are not able to provide appropriate community safeguards in respect to the matters set out at s123(2) of the Broadcasting Services Act.

Information considered by ACMA in the course of the review includes:

- a national survey of 1,000 viewers of commercial free-to-air television aged 15 and above;
- four focus groups with men and women aged 15–17 and 18–24;
- 2005 and 2006 OZTAM ratings data;
- complaints and investigations data held by the commercial free-to-air broadcasting industry and ACMA;
- ACMA's experience responding to unresolved Code complaints and conducting investigations; and
- public submissions from individuals and organisations, responding to issues raised in ACMA's Discussion Paper.

Following careful consideration of all available evidence, ACMA does not consider that additional formal regulation of reality television programming imposed by ACMA is warranted. Based on the evidence available, ACMA does consider some Code amendments are advisable:

- the treatment of participants in reality television programs;
- complaints handling; and
- the classification of MA material.

ACMA recommends that industry amend the Code to provide practical assistance and guidance to the industry and provide sufficient protection for viewers.

The recommendations of the review are:

**Recommendation 1**: That a clause be included in the Code that prohibits the broadcast of material presenting participants in reality television programs in a highly demeaning or exploitative manner. This provision should be supported by an advisory note that provides guidance to program producers on the interpretation of this provision (see discussion of section (1)(d) of the Direction below).

**Recommendation 2**: That the complaints handling procedures in the Code be enhanced to expedite the process for handling complaints, and increase viewers' awareness of the process as follows:

- Licensees introduce a system whereby formal complaints relating to Code matters can be lodged electronically. This system would need to incorporate the checks and balances of the current paper-based system, including that viewers provide sufficient relevant information to aid timely investigation by the broadcasters of the matters of concern.
- A licensee is to report to ACMA within three days of observing any significant spikes in viewer complaints about a Code matter regarding a particular reality television program, to alert the regulator to emerging issues of concern.
- Free TV provides ACMA with a monthly report on Code complaints, containing sufficient detail to enable ACMA to analyse complaints trends on an ongoing and timely basis (see discussion of section (1)(c) of the Direction below).

**Recommendation 3**: That the Television Classification Guidelines for MA-classified material set out at Appendix 4 to the Code be amended to clarify the limit of material permitted at the MA classification level, by:

- including specific advice in relation to 'sexual references' at the MA level; and
- including 'cumulative intensity' as an element to be considered in classifying material at the MA level (see discussion of section (1)(b) of the Direction below).

## **Findings and recommendations**

This chapter presents ACMA's findings with reference to the evidence base for each recommendation, organised according to the Direction (the source of the evidence is indicated in parentheses).

## **SECTION (1): COMMUNITY SAFEGUARDS**

Section (1): Whether the Commercial Television Industry Code of Practice (the Code) is operating to provide appropriate community safeguards for a matter referred to in subsection 123(2) of the Broadcasting Services Act 1992 (the Act) in relation to reality television programming in the commercial free-to-air television sector

ACMA is not satisfied that there is convincing evidence that the Code is failing to provide appropriate community safeguards for a matter referred to in subsection 123(2) of the Broadcasting Services Act in relation to reality television programming in the commercial free-to-air television broadcasting industry. For this reason, ACMA is not satisfied that it should determine an industry standard at this time.

ACMA considers that the Code of Practice is generally working to provide appropriate community safeguards. ACMA bases this conclusion on the following findings:

- 78.0 per cent of people have not seen content on commercial free-to-air television during the last 12 months that caused them offence or concern. (*national survey*)
- 90.0 per cent of people consider that they should be able to watch what they like on television, including reality television, and 93.5 per cent consider that parents and guardians should decide what children watch on television. (*national survey*)

- Focus groups, which were conducted to gain further understanding of the opinions of viewers aged 15–24, indicated a low level of concern about television content. Focus group participants did not express strong concerns about television content generally, and considered that they should be responsible for their own decisions about what to watch on commercial free-to-air television. (*focus groups*)
- Reality television programs are second only to sports programming in terms of ratings popularity, indicating a high level of satisfaction with these programs across age bands. (*ratings data*)

However, ACMA considers that in some areas enhancements to the Code are necessary. As outlined below, ACMA considers that the Code is *not* adequately reflecting community standards in relation to the *treatment of participants* in reality television programs. See discussion of section (1)(d) of the Direction below for further details.

# SECTION (1)(A): CLASSIFICATION OF REALITY TELEVISION PROGRAMS

Section (1)(a): Whether the Code provides appropriate methods of classifying reality television programs

Recommendation 3 relates to this matter.

The review has indicated that the current classification provisions are generally appropriate for reality television programming, but would benefit from some clarification. There is no basis to impose a separate classification category for reality television. However, the MA criteria for programs on commercial free-to-air television could beneficially be clarified through focused amendments.

The following findings are relevant to this conclusion:

- Of all viewers surveyed, 90.0 per cent consider they should be able to watch what they like on television, including reality television programs, and 93.5 per cent think parents should be responsible for deciding what their children watch. (*national survey*)
- Consumers have very high levels of awareness of classification tools:
  - 96.8 per cent of all persons surveyed are aware of the classification shown before programs;
  - 94.3 per cent of all persons surveyed are aware of consumer information shown before programs;
  - 88.0 per cent of all persons surveyed are aware of the classification time zones; and
  - 76.2 per cent of all persons surveyed understood what all of the classification symbols mean, and almost all of the remainder understood some of the symbols. A very small percentage—less than 1 per cent of those surveyed—did not understand any of the classification symbols. (*national survey*)
- Focus group participants were similarly well informed as to the meaning of the classification symbols, although they personally did not tend to use classification as a tool in deciding what they watched on television. (*focus groups*)
- Of all viewers surveyed, 78.0 per cent reported having seen no content of concern on commercial free-to-air television in the last 12 months. Of the 22.0 per cent of Australians who had seen anything that did concern them (234 responses), 3.6 per cent made a

complaint to the broadcaster, while 28.4 per cent turned off the television and 23.6 per cent said that they took no action at all in response to viewing the content. (*national survey*)

• Amongst reality television viewers, there is a high level of support for the proposition that the classification of reality programs is always appropriate (71.8 per cent of viewers agree with this statement), and very little support for the proposition that this classification is never appropriate (1.9 per cent). (*national survey*)

Given these findings, ACMA believes that viewers aged 15 and above accept a commitment to regulating their own viewing and that of their children, providing that licensees act responsibly within the current regulatory framework. ACMA considers that the right of adults to regulate their own viewing should only be curbed on compelling grounds.

When considering possible amendments to the Code, ACMA notes:

- When asked whether they had seen reality television programming that should have been shown later (702 respondents), 70.8 per cent of reality television viewers said no. When asked if they had seen content that should not have been shown at all, 76.8 per cent of reality television reviewers also said no. Prominent causes of concern for these respondents were sexual content, adult content in early timeslots, and lewd or inappropriate behaviour. These elements may overlap—for example, what one respondent refers to as 'sex scenes' may be referred to by another as 'lewd behaviour'. (*national survey*)
- When reality television viewers who had seen a reality television program that they thought should have been shown in a later timeslot (221 responses) were asked to nominate a specific program that had caused concern, 86.8 per cent agreed that the program should have been shown in a later timeslot nominated *Big Brother*. There was very little concern about other reality programs. (*national survey*)
- A majority of the public submissions from individuals, community organisations and politicians did not think that the Code is operating effectively with respect to reality television programming broadcast on commercial free-to-air television. Submissions from industry groups argued that the Code is working effectively, as evidenced by the low level of complaints, and by the lack of concern about reality television programming expressed in public submissions during the 2004 Code review process. (*public submissions*)
- The number of unresolved complaints to ACMA about reality television programs is low. ACMA has conducted 26 investigations into the classification of reality television programs in the last five and a half years, representing 7.6 per cent of all investigations conducted by ACMA during that period. By contrast, ACMA undertook 94 investigations into current affairs programs, and 57 investigations into news programs. (*Free TV statistics and ACMA investigations*)
- From these 26 investigations into reality television programs AMCA made three breach findings. All related to *Big Brother* programs at the MA classification level, and concerned the classification elements of sexual behaviour, nudity, adult themes and coarse language. These classification elements overlap, with a key element of concern being the strong sexual references. (*ACMA investigations*)

Based on these findings, ACMA notes that it is particularly important that the current classification rules are clear and well understood by licensees and viewers. In particular,

ACMA considers that further clarity needs to be provided in regard to the MA classification criteria.

#### Recommendation with respect to section (1)(a) of the Direction

ACMA recommends that the MA classification provision set out in Appendix 4 of the Code be amended by industry to clarify the level of sexual references appropriate at this classification level, and to make explicit the obligation to have regard to a program's 'cumulative intensity' in considering its suitability for an audience aged 15 years and over. The revised provision could read (*new language underscored*):

- 5. Material classified MA is suitable for viewing only by persons aged 15 years and over because of the intensity and/or frequency, <u>including cumulative intensity</u>, of sexual depictions, or coarse language, adult themes, drug use.
- 5.2 Sex and nudity: Visual depiction of intimate sexual behaviour (which may only be discreetly implied or discreetly simulated) or of nudity only where relevant to the program context. Verbal sexual references may contain detail, but the impact shall not be high. However, a program or program segment will not be acceptable where the subject matter serves largely or wholly as a vehicle for gratuitous, exploitative or demeaning portrayal of sexual behaviour or nudity. Exploitative or non-consenting sexual relations must not be depicted as desirable.

These amendments would achieve the following:

#### Sexual references

The current MA category for 'Sex and Nudity' does not contain specific advice in relation to sexual references, and therefore the limit for content of this nature is not defined. This was made evident in the *Big Brother Uncut* investigations, in which the breach findings were made under other classifiable elements, whilst the strong sexual references added considerably to the programs' intensity.

The M classification does provide some guidance on sexual references, stating that 'verbal references to sexual activity should not be detailed'. In accordance with the classification hierarchy, under which stronger material is permitted at higher classification levels, this indicates that detailed sexual references may be permitted at MA. However, this does not indicate that there is no upper limit on content, as all MA content remains subject to the requirement that it be suitable for persons aged 15 years.

ACMA has therefore recommended that the limit of content permitted at MA be clarified by indicating that detailed references are allowed, but they must not be of a 'high impact'.<sup>166</sup>

#### The impact of material classified R18+ should not exceed high.

<sup>&</sup>lt;sup>166</sup> The proposed test for content unacceptable at the MA level is borrowed from the classification hierarchy in the Film Guidelines. Under those Guidelines, material which is of a high impact would be classified R (18+). R-classified material is not permitted on commercial free-to-air television. The Film Guidelines relevantly state, for the R classification level:

Note: This classification category applies only to films. Material classified R 18+ is legally restricted to adults. Some material classified R 18 + may be offensive to some sections of the adult community.

#### Cumulative intensity

The concept of 'cumulative intensity' is included as a matter to which licensees must have regard when making decisions about whether material is suitable at the MA level. Programs such as the MA-classified versions of *Big Brother* are made up of material which has been selected for inclusion in the program on the basis that it is consistently at or near the MA classification level. This is likely to generate a program that has a consistently strong intensity. The addition of the 'cumulative intensity' test is intended to remind program producers that, in considering classification matters, regard must be had to this overall intensity, as well as the intensity of any individual depictions.

## SECTION (1)(B): BROADCAST OF M/MA REALITY TELEVISION PROGRAMMING AT INAPPROPRIATE TIMES

Section (1)(b): Whether the Code provides an appropriate mechanism for ensuring that classified matter or matter which if classified would be classified at M or above is not shown at inappropriate times having regard to the likely audience

An important aspect for consideration here is the broadcast of excerpts from reality television programs during news and current affairs programming, particularly programs screened at times in which children are likely to be in the viewing audience.

Another aspect is whether certain reality programs should have been screened in later timeslots.

The review process has provided no evidence that the Code fails to provide an appropriate mechanism for ensuring that classified matter, or matter which if classified, would be classified at M or above, is not shown at in appropriate times having regard to the likely audience. The following findings are relevant to this conclusion:

- Over 90.0 per cent of all surveyed are aware of warnings about story content before a particular news or current affairs item is broadcast. (*national survey*).
- Of all persons surveyed, 78.0 per cent had not seen content of concern on commercial free-to-air television the last 12 months. Of those who had concerns, there is no evidence that any were concerned with the broadcast of excerpts from reality television programs at inappropriate times in the context of news and current affairs programming. (*national survey*).
- Some survey respondents who had seen content that caused them concern nominated 'adult content on in early timeslots' (15.6 per cent of the 22.0 per cent who expressed concerns). However, there is no evidence that the material that caused concern includes the broadcast of excerpts from M- or MA-classified reality television programs during news and current affairs programs. (*national survey*)
- Those survey respondents who had seen content that caused them concern *and* nominated specific news stories as the source of that concern did not mention the broadcast of reality television programs during news or current affairs programs (*national survey*).
- Of those *Big Brother* viewers surveyed who had seen content on *Big Brother* in the last 12 months that had caused them concern (181 respondents, accounting for 34.6 per cent of *Big Brother* viewers and approximately 18 per cent of all survey respondents), 19.1 per cent nominated the alleged 'turkey slap' incident (relating to alleged sexual harassment in the *Big Brother* house). However, the survey did not provide evidence as to the source of viewers' exposure to this footage. ACMA is aware that it may have come from various

sources (including news and current affairs, internet streaming, reference to the incident on *Big Brother* itself, or coverage in other media). (*national survey*)

- Of reality television viewers surveyed, 70.8 per cent said that they had not seen a reality program that should have been shown in a later time zone (as opposed to an excerpt of a reality program in a news and current affairs program). (*national survey*)
- Of all 184 public submissions, 9.7 per cent referred to the alleged 'turkey slap' incident, but the broadcast of the footage on a news or current affairs program was not mentioned. As with the survey results, the source of submitters' exposure to this footage was unclear. (*public submissions*)
- Of the 151 investigations conducted by ACMA into news and current affairs programming generally over the past five and a half years, ACMA has investigated three matters regarding the broadcast of footage from reality television programs in the context of news and current affairs programming. No breach findings have been made. (*ACMA investigations*)

#### Recommendation with respect to section (1)(b) of the Direction

ACMA recommends that no action be taken in regard to mechanisms ensuring that classified matter or matter which if classified would be classified at M or above is not shown at inappropriate times having regard to the likely audience.

## SECTION (1)(C): COMPLAINTS HANDLING

Section (1)(c): Whether the complaints mechanism in the Code is operating effectively and in a timely matter in relation to reality television programming

Recommendation 2 relates to this matter.

#### The complaints handling mechanism is generally working effectively and in a timely manner. However some enhancements could be made to expedite and improve the visibility of the complaints process.

The following findings are relevant to this matter:

- The relatively small percentage of viewers (22.0 per cent) who had seen content on commercial free-to-air television during the last 12 months that caused them offence or concern tended to take actions other than making a complaint. For example, 28.4 per cent (of the 22.0 per cent of all survey participants with concerns) chose to turn off the television, 23.6 per cent took no action and 3.6 per cent made a complaint to the broadcaster in relation to the content. (*national survey*)
- The inclination of *Big Brother* viewers to make complaints is lower again. Of the 34.6 per cent of *Big Brother* viewers who had seen something on *Big Brother* in the last 12 months that had caused them concern (181 of all surveyed), 37 per cent took no action at all in response to the content. No respondents stated that they made any type of complaint in reaction to the content on *Big Brother* that caused them concern. (*national survey*)
- The focus group findings support the general disinclination of viewers to make complaints. However, if there is a decision to make a complaint the manner in which the complainant is able to do so is relevant. Some focus group participants noted, for example,

that if they were to make a complaint, they would search online for information on how to do so. (*focus groups*)

- Of all Code complaints to commercial television licensees over the past five and a half years, 9.8 per cent have related to reality programs. At the same time, ratings figures indicate that the appeal of these programs is high. (*Free TV statistics and ratings data*)
- Of all public submissions received, 37.2 per cent expressed dissatisfaction with the complaints handling process for reality television programs. These included the duration of the investigation process, the length of time taken by licensees to respond to initial viewer complaints, the inability to refer matters direct to ACMA, and the inconvenience of having to make a written complaint. (*public submissions*)
- During the 2006 season of Big Brother Uncut, Network Ten provided ACMA with comprehensive undertakings, to ensure that future breaches of the MA classification provisions did not occur. In addition to the formal undertakings, Network Ten provided ACMA with informal notification throughout the 2006 season of *Big Brother Uncut* regarding the number and subject matter of telephone complaints. (*ACMA investigations*)

#### Recommendation with respect to section (1)(c) of the Direction

ACMA recommends that, in order to expedite and raise awareness of complaints processes, the Code be strengthened by industry through the following amendments:

- Licensees introduce a system whereby formal complaints relating to Code matters can be lodged electronically. This system would need to incorporate the checks and balances of the current paper-based system, including that viewers provide sufficient relevant information to aid timely investigation by the broadcasters of the matters of concern.
- That a licensee is to report to ACMA within three days of observing any significant spikes in viewer complaints about a Code matter regarding a particular reality television program, to alert the regulator to emerging issues of concern.
- Free TV provides ACMA with a monthly report on Code complaints, containing sufficient detail to enable ACMA to analyse complaints trends on an ongoing and timely basis.

## SECTION (1)(D): COMMUNITY STANDARDS

Section (1)(d): Whether the Code reflects community standards, taking into account the views of the community and commercial broadcasting licensees.

Recommendation (1) relates to this matter.

In determining community standards for the purpose of this review, ACMA has considered a wide range of qualitative and quantitative evidence. ACMA concludes the code is generally reflecting community standards, for the reasons listed in the discussion of section (1) of the Direction above.

There is, however, a particular area of concern in relation to reality television programming given that, when asked to respond to a series of prompted attitudinal statements:

• Of all persons surveyed, 54.8 per cent agreed with the statement that reality television programs exploit the people who participate in them. *(national survey)* 

- Of all persons surveyed, 46.2 per cent agreed with the statement that reality television programs encourage inappropriate attitudes towards women (with 34.8 per cent disagreeing with this statement, and 19.0 per cent responding that they did not know). (*national survey*)
- In terms of level of concern, a clear distinction was made between programming that featured real people, and programming that featured professional actors. When asked to indicate their concern about sexual content, coarse language and nudity in various program types, people were most concerned about such content in news and current affairs, followed closely by reality television programming. People were less concerned about such content in movies or drama programs. (*national survey*)
- The focus group findings also indicate some concerns among viewers aged 15–24 as to how participants in reality television programs are treated, generally with regard to the selective editing of footage, or the broadcast of matters that should remain private. (*focus groups*)
- Of the 177 public submissions that were critical of reality television, 10.3 per cent expressed concern that reality television programming encouraged bullying. Of these submissions, 5.4 per cent expressed concerns that reality television programming encouraged harassment. Submissions from eight community organisations expressed concern for participants in reality television programs, with one submission noting that the Code should protect participants from being exploited.<sup>167</sup> (*public submissions*)
- ACMA's 2005 breach findings regarding *Big Brother Uncut* related, in part, to conduct that demeaned a female participant (the 30 May 2005 episode). A high number of complaints on this issue indicated it caused particular concerns. (*ACMA investigations*)

#### Recommendation with respect to section (1)(d) of the Direction

ACMA recommends that industry add provisions to the Code to safeguard against the presentation of participants in reality television programs in a 'highly demeaning or exploitative manner.' For example, a new provision could read (*new language underscored*):

#### **Proscribed material**

1.8 A licensee may not broadcast a program, program promotion, station identification or community service announcement that is likely, in all the circumstances, to:

## <u>1.8.7 Present participants in reality television programs in a highly demeaning or exploitative manner.</u>

ACMA also recommends that the new Code provision be accompanied by an Advisory note guiding producers of reality television programs as to best practice procedures to avoid presenting participants in a highly demeaning or exploitative manner. This may include recommending briefing processes for producers to raise awareness of issues relating to demeaning or exploitative presentations of participants.

<sup>&</sup>lt;sup>167</sup> Australian Family Association (submission 169), 3.

## SECTION (1)(E): FAILURE TO PROVIDE COMMUNITY SAFEGUARDS

Section (1)(e): Whether there is a basis for ACMA to be satisfied that the Code is not operating to provide appropriate community safeguards for a matter referred to in subsection 123(2) of the Broadcasting Services Act

This matter is considered in the discussion of section (1) of the Direction above.

## SECTION (1)(F): WHETHER FURTHER ACTION IS NECESSARY

Section (1)(f) – having regard to its investigation into the matters above, further action by ACMA or any other person is necessary

#### Actions by Free TV

ACMA has recommended above that Free TV makes amendments to its industry Code, in accordance with the recommendations above.

#### Actions by ACMA

In addition, ACMA proposes to undertake the following actions:

- Discuss with Free TV—ahead of the formal Code review—the adoption by agreement of the recommendations, for example, through an industry-agreed charter.
- Undertake analysis of the additional complaints data supplied by Free TV in accordance with these recommendations.
- ACMA intends to use this data to monitor complaints trends for both reality and other forms of programming. This will assist ACMA in keeping across community concerns and allow it to act quickly if problems arise, either in relation to a particular program, or a program type.
- Where a commercial television licensee plans to broadcast an MA classified reality television program, ACMA will seek voluntary undertakings, similar to those given to ACMA by Network Ten for 2006 *Big Brother Adults Only*, in relation to that program. The undertakings should cover matters such as classification procedures, training for production crew, and regular reporting to ACMA on complaints trends for that program. ACMA would monitor the broadcast of such a program, including adopting a streamlined investigations process that enabled any issues arising from the program to be speedily considered.