

1 May 2008

Committee Secretary
Senate Standing Committee on Environment,
Communications and the Arts
Parliament House
Canberra ACT 2600

By email: eca.sen@aph.gov.au

Dear Sir/Madam

Inquiry into the Effectiveness of the Broadcasting Codes of Practice

SBS appreciates the opportunity to provide comment to the Committee on this matter.

Background

SBS is a national broadcasting service established under the *Special Broadcasting Service Act 1991* (SBS Act). Its principal Charter function is to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians, and, in doing so, reflect Australia's multicultural society. SBS broadcasts its programming to a national television and radio audience and delivers content online on its website www.sbs.com.au.

SBS is not subject to the programming standards contained in the *Broadcasting Services Act 1992* (BSA) (s. 13(5)). The standards under which it operates are provided for in the SBS Act.

Section 10(1)(j) of the SBS Act requires SBS to develop and publicise codes of practice relating to programming matters, which are to be notified to the Australian Communications and Media Authority (ACMA).

The SBS Act establishes a framework which gives SBS authority and independence over its programming matters. Section 11 provides that the Minister may give directions to the Board 'in relation to the performance of SBS's functions as appear to the Minister to be necessary in the public interest' but 'must not give a direction in relation to the content or scheduling of programs to be broadcast'.

In respect of its accountability, to both Parliament and the community, sections 150–153 of the BSA provide for an external review of complaints by ACMA about SBS's programming (see below under 'External review of complaints by ACMA'). In its annual report to Parliament SBS details the number and nature of complaints it receives each year and also the results of any complaints made to ACMA.

SBS Codes of Practice – General

The current *SBS Codes of Practice* were notified to ACMA in October 2006, following a review process which included extensive public consultation. Public comment was invited at the outset of the review and on the proposed draft amendments through advertisements

on all SBS platforms – Television, Online and in 68 languages on SBS Radio. Stakeholder groups were also invited to comment. A total of 314 submissions were received and considered by an internal working group, the SBS Executive Committee and the SBS Board.

The Codes of Practice set out the principles and policies SBS uses to guide its programming. SBS staff are given training in relation to the Codes in general and specific training where their area of work is affected by a particular Code or Codes.

An important consideration in their application, acknowledged in Code 1 'General Programming', is context: 'What is unacceptable in one context may be appropriate and acceptable in another'.

Under section 70A of the SBS Act, SBS 'may determine to what extent and in what manner political matter or controversial matter will be broadcast by SBS' and Code 1 acknowledges that 'SBS's programming can be controversial and provocative and may at times be distasteful or offensive to some'.

These provisions are important for SBS to be able to fulfil its Charter functions, particularly its ability to expose audiences to a wide range of cultures, languages and perspectives.

SBS's Television Classification Code

SBS's Television Classification Code (Code 4, see Appendix 1) applies to all programs broadcast on SBS Television, with the exception of news and current affairs, sports programs and general information (such as 'WeatherWatch').

Television programs are classified by SBS based on the 'Guidelines for the Classification of Films and Computer Games' (Guidelines) made under the *Classification (Publications, Films and Computer Games) Act 1995* (Classification Act) which requires films to be classified before they are released or advertised. The Guidelines have been developed to 'help explain the different classification categories, and the scope and limits of material suitable for each category'¹ set out in the Classification Act. The Guidelines are a component of the national classification scheme and 'are revised from time to time, with extensive community input'² in order to reflect community standards.

SBS broadcasts television programs classified G, PG, M, MA15+ and MAV15+, taking into account the requirements set out in Code 4.5 (see Appendix 1) and the Guidelines. Time zones are specified for each classification category, with higher classified content being progressively restricted. The classification symbol of PG, M, MA15+ and MAV15+ programs is displayed at the start of each program.

Where a program is classified M, MA15+ or MAV15+, it is preceded by a spoken and written notice announcing the program's classification along with a list of elements (consumer advice lines) that identify the reasons for the classification. SBS may also provide other appropriate consumer advice, as well as a classification notice and consumer advice lines as an accompaniment to the broadcast of PG-classified programs.

As well as the Guidelines, the Television Classification Code takes into account other factors specific both to the television broadcasting environment and the SBS Charter. As stated in Code 4, SBS believes that the integrity of programs is best retained if programs are broadcast unaltered. However it schedules programs, and modifies them where

¹ Guidelines for the Classification of Films and Computer Games, 'Introduction to the Guidelines: Background'.

² *ibid.*

necessary, in accordance with the Guidelines in order to ensure that they are suitable for broadcast or for broadcast at particular times.

SBS's classification system also gives special attention to levels of violence, sex and nudity and use of language.

Low number of complaints about coarse language

The Guidelines set out three essential principles that underlie their use: the importance of context, assessing impact and the six classifiable elements, of which language is one element. SBS takes these principles into account when classifying television programs.

SBS's Television Classification Code contains further guidance on how language will be taken into account in its program classification:

4.4 Variations of language and terminology

SBS programming includes variations of language and terminology used by different groups and communities. Expressions used by one group may be distasteful to another. Accordingly, SBS will take into account use of language when classifying programs and deciding the kinds of warnings provided to viewers.

SBS believes that audiences should receive programs unaltered. Therefore, strong language will only be removed from original programs if SBS believes it is inappropriate to the classification time zone.

Consumer advice may also be broadcast, including, for example, that the program contains 'coarse language'. This advice is intended to provide viewers, especially parents and guardians, with the opportunity to decide whether or not they or those in their care watch the program containing the language.

SBS considers that the Television Classification Code, in particular as it applies to language, is working effectively. This is evident in the low number of formal complaints SBS has received in relation to this category of complaints, with less than twenty being made in the last three years.

Most of these complaints were not upheld by the Audience Affairs Manager on the basis that the programs were classified appropriately, were broadcast in appropriate time slots and contained relevant consumer advice including 'coarse language', 'occasional coarse language', 'frequent coarse language' and 'adult themes'. Only one of these complaints has been appealed to ACMA (outcome pending).

Three complaints have been upheld and swift action was taken by SBS, with the two programs in question being immediately re-classified in response to viewer concerns. As these complaints are recent, it cannot be confirmed that no appeal has been made to ACMA.

No complaints about coarse language on SBS Radio

SBS Radio broadcasters are encouraged to broadcast language warnings where any coarse language is included in music or in an interview. To date no formal complaints have been made about the use of language on SBS Radio.

SBS has an effective complaints process

SBS has a comprehensive complaints process which is accessible, easy to understand, independent and timely. SBS conducted a comprehensive review of its complaints handling process in 2004 and the current scheme was implemented in February 2005.



The complaints process is set out in Code 8 of the Codes of Practice. Members of the public may lodge a complaint to SBS about content broadcast on SBS's television and radio services and online content produced by SBS and published on its website. Complaints must be received by SBS within six weeks of the broadcast. SBS may, at its discretion, investigate complaints made outside this time.

Complaints may also be made in a language other than English. These are then independently translated at cost to SBS.

A complaint that alleges that SBS has acted contrary to its Codes of Practice is a formal complaint.

Formal complaints are investigated by the Audience Affairs Manager, who is independent of all programming divisions and who reports directly to the Managing Director.

The Audience Affairs Manager is responsible for undertaking a proper and fair investigation of each formal complaint within stated timeframes, and endeavours to provide a written response within 30 days of receipt of the complaint, but must provide a response within 60 days at the latest.

The Audience Affairs Manager or the manager of an SBS Division can refer a complaint to SBS's Complaints Committee, consisting of relevant senior executives, for further consideration.

If a formal complaint is upheld SBS may, at its discretion, take action, including acknowledging that a breach has occurred, apologising for its impact, placing a correction, retraction or apology on the SBS website, broadcasting the correct information, or broadcasting an apology for the impact of the breach. SBS also acts to ensure that where a breach has occurred relevant staff are appropriately counselled. Examples of breaches are used in regular training conducted with staff to inform them of the obligations imposed by the Codes of Practice.

External review of complaints by ACMA

The BSA provides for ACMA to investigate complaints relating to SBS programming where the complainant has made a complaint to SBS that it acted contrary to its Codes of Practice and either the complainant has not received a response within 60 days or they consider SBS's response to be inadequate (s. 150). Under Code 8, the Audience Affairs Manager must advise all complainants of the circumstances in which SBS's response can be reviewed by ACMA.

If ACMA is satisfied that the complaint was justified and that it should take action to encourage SBS to comply with the relevant Code of Practice, it may recommend that SBS do so, as well as specify other action that it considers SBS should take, such as broadcasting or otherwise publishing an apology or retraction (s. 152).

If ACMA has so recommended and SBS does not respond within 30 days, ACMA may give the Minister a written report on the matter which the Minister must cause to be laid before each House of Parliament (s. 153).

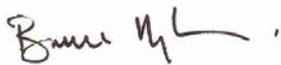
This framework, which is unique to the national broadcasters, ensures that SBS operates in an appropriate manner, making it strongly and directly accountable to the Parliament and the people of Australia. The fact that there have been no instances where ACMA has made such a report to the Minister is evidence that the current accountability mechanisms are appropriate and working effectively.

Summary

- The SBS Codes of Practice are operating effectively.
- The SBS Television Classification Code is based on the 'Guidelines for the Classification of Films and Computer Games 2005' and reflects community standards.
- SBS has received few complaints on the use of coarse language, particularly in light of the number of hours of television and radio programming broadcast by SBS each year.
- The SBS complaints process is accessible, easy to understand, independent and timely.
- The SBS Codes of Practice are reviewed on a regular basis and community input is invited and taken into account.

Please contact Georgie McClean, Manager Policy and Research (02 9430 3817; georgina.mcclean@sbs.com.au) if you require any further information in relation to the matters raised in this submission.

Yours sincerely



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Director, Strategy and Communications

Appendix 1

SBS CODES OF PRACTICE

4 TELEVISION CLASSIFICATION CODE

4.1 INTRODUCTION

This Code applies to all programs broadcast on SBS Television, with the exception of news and current affairs, sport programs and general information.

The SBS system of television program classification is based on the 'Guidelines for the Classification of Films and Computer Games 2005' (published at Appendix A) made under the *Classification (Publications, Films and Computer Games) Act 1995*.

SBS believes that the integrity of programs is best retained if programs are broadcast unaltered. However, SBS will schedule programs or, if necessary, modify them in accordance with the 'Guidelines for the Classification of Films and Computer Games 2005' to ensure that they are suitable for broadcast, or for broadcast at particular times. SBS's classification system gives special attention to levels of violence, sex and nudity, and use of language.

4.2 VIOLENCE

SBS acknowledges that violence is part of everyday life which must be dealt with responsibly. SBS recognises that for some people, particularly children, the portrayal of physical and psychological violence has a unique potential to distress and disturb. Accordingly, it is SBS policy not to present violence gratuitously.

In assessing program content involving violence, consideration is given to numerous factors including:

- context;
- degree of explicitness;
- propensity to alarm, distress or shock;
- significance in relation to the 'message'; and
- social importance of content.

SBS believes that violence should not be presented in such a manner as to glamorise it or make it attractive. It is important when violence is portrayed that, as a rule, its serious consequences are not glossed over.

Where violence is presented, SBS will, where appropriate, broadcast an advance warning to viewers. (Code 2.4 deals with violence in news and current affairs.)

The presentation of violence in drama requires careful consideration. SBS rejects the use of violence as an easy substitute for other dramatic values. However, violence has always been a powerful ingredient in the dramatic tradition and SBS accepts that there are occasions when authors and directors use violence to make a substantial point about society and human relationships.

4.3 SEX AND NUDITY

In assessing program content involving sex and nudity, consideration is given to factors including:

- judgement of a program's bona fides;

- the responsibility with which visuals and subject matter are treated, particularly the treatment of non-consensual sexual activities and any sexual activity involving children or minors;
- the degree of explicitness of visuals; and
- the impact which visuals have in the context of a program as a whole.

4.4 VARIATIONS OF LANGUAGE AND TERMINOLOGY

SBS programming includes variations of language and terminology used by different groups and communities. Expressions used by one group may be distasteful to another. Accordingly, SBS will take into account use of language when classifying programs and deciding the kinds of warnings provided to viewers.

SBS believes that audiences should receive programs unaltered. Therefore, strong language will only be removed from original programs if SBS believes it is inappropriate to the classification time zone.

4.5 CLASSIFICATION CATEGORIES

SBS will broadcast programs with the following classifications:

- General (G)
- Parental Guidance Recommended (PG)
- Mature Audience (M)
- Not suitable for people under 15 (MA 15+)
- Not suitable for people under 15 – strong violence (MAV 15+)

With the exception of news and current affairs, general information, and sports programs, the classification symbol of the PG, M, MA 15+ or MAV 15+ program being shown will be displayed at the start of the program.

G – General (suitable for all ages)

G programs, which include programs designed for pre-school and school-age children, are suitable for children to watch on their own. They may be shown at any time.

PG – Parental Guidance (parental guidance recommended for persons under 15 years of age)

PG programs may contain adult themes and concepts which, when viewed by those under 15 years, may require the guidance of an adult. They may be shown:

- between 8.30am and 4.00pm on weekdays; and
- before 6.00am and from 7.00pm on weekdays; and
- before 6.00am and after 10.00am on weekends.

M – Mature Audience

MA 15+ – Not suitable for people under 15

MAV 15+ – Not suitable for people under 15 (strong violence)

M, MA 15+ and MAV 15+ programs are those which, because of the material they contain, or because of the way the material is treated, are recommended for viewing only by persons aged 15 years or over. While most adult themes may be dealt with, the degree of explicitness and intensity of treatment will determine what can be accommodated in the M, MA 15+ and MAV 15+ classification categories.

M: The less explicit or less intense material will be included in the M classification. M programs may be shown between:

- noon and 3.00pm on weekdays that are school days; and
- 8.30pm and 5.00am on any day of the week.



MA 15+: The more explicit and more intense material will be included in the MA 15+ classification. MA 15+ programs may be shown between:

- 9.00pm and 5.00am on any day of the week.

MAV 15+: Material classified MAV 15+ is unsuitable for MA 15+ classification because of the intensity and/or frequency of violence. MAV 15+ programs may be shown between:

- 9.30pm and 5.00am on any day of the week.

X 18+, R 18+ and RC – Refused Classification (not suitable for television)

X 18+, R 18+ and RC (Refused Classification) programs are those programs that contain material which cannot appropriately be classified by SBS as G, PG, M, MA 15+ or MAV 15+ because the material itself, or the way it is treated, renders them unsuitable for television. X 18+, R 18+ and RC (Refused Classification) programs must not be shown at all.

4.6 CONSUMER ADVICE

The reasons for a M, MA 15+ and MAV 15+ classification will be shown before the program. SBS may provide other appropriate consumer advice at the start of the program. In particular, SBS will provide appropriate consumer advice at the start of a PG classified program where SBS considers that the program contains material of a strength or intensity which SBS reasonably believes parents or guardians of young children may not expect.

4.7 TIME ZONES

The time zones indicated for each classification in Code 4.5 are guides to the most likely placement of programs within that classification. The recommended placements are not hard and fast rules and there will be occasions when programs or segments of programs will appear in other time slots. For example, an arts program or a segment of an arts program classified M may appear during a weekend daytime schedule. SBS should have sound reasons for any departure from the time zone for a program classification.

Programs that deal in a responsible manner with serious moral, social or cultural issues may appear outside their normal classification period provided a clear indication of the nature and content of the program, in the form of consumer advice for example, is given at the start of the program.

Some individuals and groups choose to access programming directly from a satellite signal outside of the area for which the signal is intended. In these cases, SBS cannot guarantee that people will receive SBS programs in their local areas at the times for which the programs are classified and scheduled.