

SUBMISSION

BY

MEDIA STANDARDS AUSTRALIA INC.

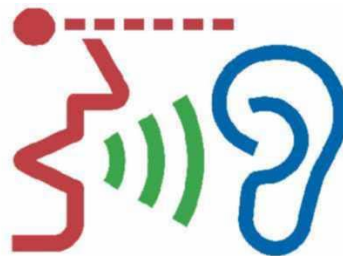
TO

SENATE ENVIRONMENT,
COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS COMMITTEE

REGARDING

INQUIRY INTO THE EFFECTIVENESS
OF THE BROADCASTING CODES OF
PRACTICE

APRIL 2008



Media Standards Australia Inc.

Media Standards Australia

Media Standards Australia (MSA) is a community group that seeks to relay community concerns about standards in the Australian Media to relevant media organizations and regulators, educate the community about media issues, and support community members to express their concerns. MSA is Perth-based and has an Australia-wide supporters' network of over 4000 people.

More information about the organization can be found on our website, www.mediastandards.org, or we can be contacted via:

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Media Standards Australia would like to thank the Senate for this opportunity for us to put forth our views on the broadcasting codes of practice, and for taking the time out to address this problem.

The Australian Broadcasting Authority

Over the years, Media Standards Australia has taken a keen interest in how the complaints system has been working, and wondering how effective has it been. It has to be admitted that, through reading the Australian Broadcasting Authority reports, it has been intriguing, somewhat surprising and even disappointing that whenever a complaint was raised, the stock answer from the TV stations was, essentially: "We are sorry, and we have taken measures to ensure that the situation won't happen again". Clearly, the ABA has been satisfied by this repeated response.

The problem, of course, is that when the concern is first raised one would expect the answer; that strict measures have been put into place. But what happens when they appear for the tenth or twentieth time? It is obvious that, at the very least, there has never been any accountability.

"Big Brother"

As an example, Channel Ten and "Big Brother" can be cited. When "Big Brother" was first aired, MSA members were concerned about the voyeuristic aspect of the show. As it turned out, sales for spy cameras sky-rocketed (the press linked this to "Big Brother") and, since then, many people have been prosecuted for placing spy cameras in bathroom and bedroom vents.

We were also concerned about Channel Ten promoting the nudity part of the show for its "Adults Only" segment of "Big Brother". We further believed that the housemates were being exploited, because they were being provided with alcohol, to reduce inhibitions, and their uninhibited actions were then used for producing DVDs to sell at video outlets. Furthermore, we were concerned about the constant "sex talk" in "Big Brother" and the influences it would have on the younger audiences.

One certain thing is that the show did encourage illegal activities by some of the housemates, both during the show, and after they had left "Big Brother". Hot Dogs was arrested in Queensland for "exposing himself". Axel Whitehead (Channel Ten employee) also "exposed himself" on stage at the ARIA awards, to the horror of Peter Garrett and his daughters, and two 'Big Brother' housemates

“turkey slapped” another female housemate, and were consequently told to leave the house as punishment.

Amazingly, however, Hot Dogs was then awarded, by Channel Ten, a contract to host its “Uplate” programme. Axel Whitehead got a recording contract in the music industry and it may only be a matter of time before the “turkey slappers” get some sort of reward.

The problem with “Big Brother”, and a lot of the similar Channel Ten TV shows, is that the culture of sex that it promotes appears to have few, or no, guidelines. We see a very real danger in the promotion of sexual promiscuity without limits. Where does this lead, and how does it benefit society? If the producers and programmers directly associated with Channel Ten are having problems controlling themselves, as evidenced by the material that they produce and promote, what level of control can be expected by viewers, and what type of social culture is this producing?

After the “turkey slapping” incident, the then Australian Prime minister, John Howard publicly announced that Channel Ten needs to do some self-censorship in this area. Channel Ten now has the arrogance to use the piece of the report by John Howard to actually promote itself and the next “Big Brother” series. In fact, Channel Ten is promoting ‘Big Brother 2008’ by boasting about how **controversial** it is – after ACMA found that Channel Ten had made two breaches of the code of practice!!!

Channel Ten has also given positive promotional advertising to the 17 year old boy who hosted a party where 500 party revelers turned up, vandalised the home, and disturbed the peace to the extent that a contingent of Police had to be called in. This is how Channel Ten is making a mockery of, not only the justice system, but the broadcasting system as well! This is clearly yet another way to reward those who rebel against society and exploit them for financial gain!

The Complaints Process

MSA is a body whose main goal is to speak out when the members see elements of the media that go against community standards. As (often mature) members of the Australian community, we believe that our standards have as much right as anyone else’s to form our opinions and attitudes, and to guide our decisions in relation to “community standards”.

MSA’s experience of the complaints process has been far from adequate – this is an area that needs a great deal of reform.

Many a time our members have complained, to MSA, about certain content on TV. We’ve done the right thing and sent them a complaints form, with instructions on to whom to complain, etc. We also ask them to get back to us and let us know how they went. They never follow up.

The complaints process for television goes like this:

- People are asked to phone, or write, for the 64-paged book,
- If, while watching TV, they see something that offends them,
- They have to make sure that they have taken down accurate details of the offensive item.
- Next, they have to check the Codes of Practice book,
- If they believe that the Codes of Practice has been breached, they have to complain to the responsible TV station,

- If they are not satisfied with the response, they must then send a complaint to the ACMA.

This is a lengthy process, and most people are very busy. Therefore, we question: Why does the Government expect the public to go through this lengthy process?

People feel as though they are not being heard when: a) the complaints process is so difficult to pursue, and then, b) there is no effective, or relevant, answer given.

The actual process of applying first to the station about your complaint, and then to the ACMA, is clearly flawed for another reason. Although the “Broadcasting Services Act 1992” was first introduced as new in an era of media self-regulation, it is not applicable to today’s media. The boundaries of “appropriate content” continue to be pushed again and again – the idea of self-regulation is clearly not working any longer. The ACMA needs to take on a proper regulatory role – with complaints going straight to them. Commercial stations are too ratings-driven to immediately take up the complaints of viewers, when they can very efficiently **stall the matter** by having it taken up by the ACMA. The ACMA itself has proved to be a “toothless tiger” on more than one occasion, which only adds to the difficulties.

MSA also questions the way that Free TV puts the Codes of Practice together. Free TV invites the public to place submissions, but research by MSA shows that when the majority of those submissions have a **collective concern** about certain areas of TV programming, it does not necessarily mean that Free TV will introduce those concerns into its considerations, when submitting the final draft of the Code of Practice to the ACMA. In fact, most of the time, there seems to be no consideration whatsoever given to the ongoing concerns of citizens seeking decency in programming. There is a clear “self-interested bias” in “self-regulation”.

This ineffective “self-regulation” can lead to unsuitable, and even potentially dangerous and harmful, content being shown on the air. **An incident during 2007, at a “Big Brother: Uplate” saw the host holding up a photograph. Clearly written and visible, in the corner of the photograph, was a website address that glorified sexual violence and, in particular, rape. The rating by the OFLC for this particular website would have certainly been an “RC” (refused classification).**

MSA contacted Free TV for the Codes of Practice. We then studied the 64-page book for the possible breaches that Channel Ten had made, and found two. We then sent a complaint, on a complaint form, to Channel Ten, to complain about the website address that it was “advertising”. **We received no answer.** Channel Ten should have replied to our complaint within 30 days, but they didn’t.

By rights, we should have then sent our complaint to the ACMA, as the next step in the complaints process. However, we had become so disheartened by the ACMA’s response to our former complaints that we did nothing further. We realized that **we would have been wasting our time.**

When MSA had previously sent a complaint, about “Big Brother”, to the ABA/ACMA, it was rejected because the complaint had to be about one specific incident on a TV show, and not about the show as a whole.

The Broadcasting Code of Practice, and the complaints system, is genuinely **ineffective**. The complaints process itself is a **detering** regulation – it has become such an arduous task that the common viewer feels powerless to speak his/her mind. Media Standards Australia often feels the

need to complain about a show as a whole, without referring to a specific incident (such as the concept of “Big Brother” as an entire show), but are unable to do so, as we must be able to point out a **specific point** in the Code of Practice. A show can be morally degrading, sensationalist and corrupting but still walk that knife-edge between being deserving, and not deserving, of official complaint, as specified and justified by the code. Further, are the sorts of people likely to pick up legitimate complaints about a show likely to be watching it every night, keeping a look out for possible breaches? The ACMA needs to start taking a proper watchdog role.

The complaints process, therefore, has the following limitations:

1. It is difficult within itself,
2. The two-fold process of complaining first to the offending station, and then to the regulatory body, makes it more lengthy and onerous,
3. The offending station has a vested interest in stalling the complaints process,
4. The current Codes of Practice require the specification of individual instances (or elements), in order to comply with the Codes of Practice complaints process, rather than allowing more generalized complaints,
5. The Codes of Practice are set up, and funded, by those in the industry itself,
6. The consultation process, before the setting-up of the Codes of Practice, has been shown to take little or no account of the concerns of citizens like the members of MSA, and
7. As an ongoing exercise, the complaints process yields no result except failure and discouragement.

The Frequency, and Use of, Coarse and Foul Language in Programmes.

There was a time in TV programming where it was forbidden to even think of allowing any form of swearing into the airwaves. Now, it is different. There are still those (perhaps even a majority) who object to foul language, and some even who consider it an assault on one’s person. These people, however, have no say over what is allowed in programming. Their sensibilities are to be assaulted with impunity, while someone else decides that there is “no offense” caused by foul language.

Last year “The American Music Awards” was televised, very late at night. It seemed quite strange, since music is so popular with almost everyone. It was obvious, however, after seeing the show, that the most popular music was “rap” or “hip hop” and most of the language was coarse or obscene.

As quoted in an article in TIME Magazine, “words are like colours and swear words are fluorescent, so save them for when you want to make a big impression.” If this is so, the colour palette for recent TV programs such as “Ramsey’s Kitchen Nightmares” would be an eye-watering neon, with the f-word dropped 80 times in one episode. This amount of swearing is **unnecessary** and **gratuitous**. The c-word was also slipped through uncensored – our members were shocked, as was Senator Bernardi.

Channel Nine claims that the foul language in “Ramsey’s Kitchen Nightmares”, is “justified” (presumably within the context) and that the pressure in that environment is real. According to their classification officer Richard Lyle, “Ramsay’s use of the f-word was indicative of the high-stress environment in restaurant kitchens, and in another context might be bleeped out.” But really, should that make any difference? Do other cooking show hosts (Jamie Oliver, Iain Hewitson, etc.) use foul language, to excess, or at all? Is it really a fact that kitchen stress requires, or creates the absolute need for, obscene language? Surely it is possible for Channel Nine to give Gordon Ramsey an ultimatum: Stop the swearing or we will stop filming! Does Channel Nine’s justification, that it is the

environment that has “been created in the kitchen”, necessarily mean that that particular environment needs to spread into our living rooms?

The truth is that even an expletive-rich “high-stress environment” can still be entertainingly portrayed to television audiences with **these words censored out**. The swear words used in this programme have no purpose but to shock – they are *not* funny, they are *not* entertaining, and they are *not* necessary.

When viewers were asked to comment on the report by News.com, people said this....

“I worked in the hospitality industry for over 30 years. No chef had ever used the f word in any kitchen in any country that I have worked in. In fact, if any chef ever spoke to me like that I would have quit and walked out. Regardless of age or background there is no room in this or any other industry for this kind of language. I do not use the f word in my common tongue and I don't see the need for it in any other.” – A News.com.au reader commenting on the issue

In the US, Gordon's expletives are bleeped out and it makes no difference to the enjoyment of the show I can assure you. They could do that here. I would support that as although I like Gordon, I would prefer to maintain higher standards regarding what is acceptable on television, as they do in the states. What REALLY bothers me is the soft porn images and advertisements for sex lines which hit our tv screens every night. That is UNACCEPTABLE. I should be able to watch late night tv - often a crime documentary or whatever without having sex line commercials, strippers, lesbian romps & sleazy hookers writhing around panting & grunting. WHO IS RESPONSIBLE for this outrage? Get it off our tv screens. I urge a boycott of commercial tv stations until this has been outlawed. I for one will not be partaking of late night tv on commercial tv any more as my individual protest until this abomination is history.

More responses are available at.....

<http://www.news.com.au/entertainment/story/0,26278,23387696-10388,00.html#latest-comment>

This obscene language can have no effect but a negative one, especially on children. Children are like sponges. We have all experienced this – hearing a child parrot something that you and I would have long forgotten. Swear words would stick in a child’s mind even more than everyday language, because of the force with which they are spoken, and what they are spoken in reaction to. According to a recent survey by the [Raising Children Network](#) (an Australian parenting website), half of kids aged one to eight swear, and 20% of those swear daily. This is so clearly an unacceptable level, and no doubt has to do with the pervasiveness of foul language in broadcast media today.

Swearing has a negative influence on society itself. According to author of the book “Cuss Control”, Jim O'Connor, swearing has a three-pronged effect:

Swearing Imposes a Personal Penalty

It gives a bad impression
It makes you unpleasant to be with
It endangers your relationships
It's a tool for whiners and complainers
It reduces respect people have for you
It shows you don't have control
It's a sign of a bad attitude
It discloses a lack of character
It's immature
It reflects ignorance
It sets a bad example

Swearing is Bad for Society

It contributes to the decline of civility
It represents the dumbing down of [the nation]
It offends more people than you think
It makes others uncomfortable
It is disrespectful of others
It turns discussions into arguments
It can be a sign of hostility
It can lead to violence

Swearing corrupts the English language

It's abrasive, lazy language
It doesn't communicate clearly
It neglects more meaningful words
It lacks imagination
It has lost its effectiveness

The US bleeps out the swearing in Gordon Ramsey's program, much to their credit. Australia does not, and our lack of regulation and sense of decency can only create a bad impression of the country itself.

"Turn it off" and its consequences

Most people who commented on the news.com report said this; "If you don't like it, turn it off!" Those who object to anything offensive are being provided with an easy option: Turn it off! The truth is that most people these days would do just that: either turn the TV off, or turn to another channel.

Sadly, however, the more concerned people do just switch off, the longer the unacceptable levels of offensive material continue unchecked, and uncommented upon. **One cannot complain about**

something that one does not see. And that is how the producers and broadcasters want things to stay: As long as someone is happy to view the offensive material, others have no right to speak.

Furthermore, MSA wonders: Of those who had a legitimate comment or complaint, how many **actually complained** to Channel Nine and ultimately the ACMA about “Ramsey’s Kitchen”? How many **ever** complain to the particular channel and then to the ACMA? We sincerely believe that the answer is: Very few, or perhaps none. Certainly the number would be far fewer than the actual number of those who found the programme offensive.

The Advertising Standards Board

Advertising plays a big part in the survival of television and we certainly appreciate that advertising is important for commercial television. However, when a TV station airs an inappropriate advertisement, the viewer is then directed to send their complaint to the TV station-sponsored body called The Advertising Standards Board. Unfortunately, it is a little-known fact that this Board is paid/supported by those **in the advertising industry itself**. We therefore ask: Whose interests can this Board be really protecting?

Many a time people have directed complaints to the ASB and what has been allowed to continue being advertised just beggars belief.

Complaints to this body are brushed off in exactly the same way as commercial stations, and it is completely unacceptable. Viewers have the right to complain about what they see on television without being made to feel that their opinions are worthless, and their actions powerless.

The ASB maintain that they regularly gauge community standards by canvassing the public with questionnaires. We are very interested to know: What questions? How are they asked? To whom are the questions directed? In other words, a question may be “Are you embarrassed by nudity?” – and could that person be a nudist? Are questions asked to truck drivers if they are offended by foul language? For a survey to be meaningful, it needs to genuinely ask objective questions, of a truly representative sample of the Australian viewing public. For instance, it would be clearly nonsensical to canvass pornography consumers about their views on the harmful effects of pornography, or paedophiles on the strictness of rules about access to children’s playgrounds.

Furthermore, even if something may seem to be perfectly normal in the context of a person’s individual environment, it may not mean that is acceptable as TV viewing.

Programming Time-slots

Do TV programmers, and the ASB, honestly think that young kids do not stay up past 8.30pm during school holidays, or even in school terms, to watch TV? Do they seriously believe that children viewing soft porn constitutes acceptable programming? Is this the TV stations’ way of desensitizing the viewing public, to make way for hard core pornography when technologies merge; when TV is viewed over the internet? We find it hard to believe that it isn’t, since there seems no other rationale for such wrong-headed thinking.

The fact is that these soft-porn advertisements are advertising hard-core pornography on free to air TV. Just as marijuana is the gateway drug for harder drugs, so too is soft porn the gateway for hard-core porn consumption.

Advertising Content and Classification Time-slots

The current classification of advertisements according to the **content they advertise**, is ineffective, and is allowing unsuitable material to be made available for broadcast. We speak more specifically about the advertisements for phone sex lines and the like, which contain images and sound that are no less than pornography. The classification of advertisements should be considered on an “ad-by-ad” basis, not lumped together under the product they sell.

Media Standards Australia recommends a later timeslot for such advertisements, and, regardless of classification level, a ban on these ads being shown during a show that contains no sexual content. Their absence from a “religious program or sports program or in any drama program with a religious theme” is not enough – they should only ever be allowed to be broadcast during a programme with an MA level of sex and nudity, of which there should be, in reality, no programmes at all aired on TV. During the school holidays, these advertisements should be banned altogether – the risk of exposing children to these advertisements is too great. After all, these soft-core ads are advertising hard-core pornography, so easily accessible to children and teens with mobile phone technology, and internet access.

Radio Content

As a non-visual medium, radio is often considered not to have the same impact as far as content ratings go. But the regulation of radio content is just as important as television, and can have just as much of a negative impact as television on an unsuitable audience.

Radio talkback about sex seems to be aired earlier and earlier, and some commercial radio stations in Perth, especially, talk about sex and advertise erection nasal sprays, during times when children are listening in, in drive times to and from schools. There are no warnings for this sort of talk – in fact, there are no warnings for radio content at all. What is the governing body for radio stations, and why are these highly offensive, and inappropriate, advertisements allowed to be aired at these, and other, time-slots?

A similar classification structure as for television, therefore, should be put into place for radio, with announcements before programmes that are aimed at mature audiences, based on both the programme content, and the advertising content. There is also a need for warnings to be announced at various times throughout a programme, since not everyone tunes in before a programme begins.

Government Radio in Rural Areas

MSA is, in particular, concerned about the low number of music radio stations available to young people in rural areas. Triple J, a Government-run station, plays heavy metal thrash music (which is well-known as violent music, and for its ill-effects on listeners) into remote areas where drugs are also prevalent. We have seen evidence where Aboriginal gangs (see box) in communities such as Wadeye, have named themselves after heavy metal music groups. The radio music has sparked violence and clearly even influenced the formation of gangs. Drugs already play a large part in their

contemporary culture, and are also being promoted by this type of music. We question what the Government has done about this. The problem isn't just in remote areas, but also other rural areas throughout Australia. Ironically, and sadly, youth suicide is also a major problem.

The two big gangs of Wadeye -- the ones that destroyed so many houses and beat up so many people -- call themselves Judas Priest and Evil Warrior.

The first is named after the British heavy metal band that sings hymns of menace with lines like: "Out of control, about to explode, it's coming at ya", and "Here comes the revolution, time for retribution".

Evil Warrior's members prefer the hate-music of Pantera: "We're gonna take what's ours to have... Sparks fly everywhere in sight, from my double-barrel 12-gauge".

This is a subculture pushed by big-money record execs and stuff-you radio stations, and injected into homes already broken by feckless parenting and eaten away by goof-off benefits and cheap drink and drugs.

Herald Sun, June 9, 2006

Although the playing of this music does not contravene any Codes of Practice, or other regulations, it still needs to be looked at in terms of **community standards**. Is it really acceptable for this sort of music to be broadcast in areas where it has been the cause of violence and gang warfare? Lyrics that incite violence, or are effectively pornographic, ought to be banned, and should be controlled by Codes of Practice. Just as there is no specific point in any of the Codes of Practice for condemning "Big Brother", so there are none for this issue. Sadly, that does not change the fact that they both have a potentially, and in some cases demonstrably, detrimental effect on society.

Indigenous Australians and the Broadcast Media

At Media Standards Australia, we are also concerned about the effect that late night SBS television is having on the Indigenous Community. Last year, the Australian community was horrified by the claims of child sexual abuse in remote areas of Australia amongst the Indigenous people. This concern was raised after Federal Minister for Aboriginal Affairs, Mal Brough, said that Indigenous women in Alice Springs complained about SBS. They were calling it "the porn channel" with too much graphic sex, and that it was having a bad influence on the region's men. SBS dismissed this, saying that they were "abiding by the Codes of Practice". This raises the point, yet again, that individual codes of practice and self-regulation are not effective, and the ACMA needs to be more vigilant in its role.

What measures have the Government put in place to reduce this problem with SBS? This is particularly pertinent, since it is well-documented, and well-reported, that pornography is/was a major problem throughout these remote areas.

Conclusions

The level of course language on television is at an unacceptable level, and a stricter censoring of foul and obscene language is necessary, and long overdue. Stations should not be led to think that shock value can come before decent community values.

Television advertisements that are, in effect, soft-core pornography should not be shown with any other programme other than those with an “MA” classification or higher that contains sexual content. People watching a late-night drama, for one example, should not have to be subjected to such content.

We submit, furthermore, that soft-core pornography should not be allowed on the television screen at all, and only ineffective regulating has allowed this state of affairs to proliferate.

The complaints process, and the idea of self-regulation, needs a complete overhaul. The process is clearly no longer working, if it ever did work, with our complaints going unheard and stations continually pushing the boundaries of decency. The Australian Communications and Media Authority needs to take on a more effective regulatory role, and create a more efficient complaints handling department. They also need to regulate advertising, as the Advertising Standards Bureau is ineffective as an industry-funded body.

Does Free TV actually consider the public’s concerns in its deliberations in putting together the Codes of Practice?

Free TV will report that complaints are quite considerably down from previous years and be proud that the TV stations are on the right track. Yet clearly it is obvious that while TV content standards are worse, the complaints are down because people in general are intimidated by the complaints process. Even on Free TV’s website there is a whole page dedicated to the complaints process and just looking at it can remind a person of how daunting it really looks.

We actually congratulate Free TV and commercial stations for regularly advertising the complaints process and we acknowledge that the commercial TV industry is taking an active approach in promoting the complaints process on the TV screens and websites but we wonder, is Free TV and the ASB legitimate in today’s world of TV programming? Obviously financed by the TV stations themselves, whose interests are they really protecting?

It is very obvious that:

- there is too much sex, graphic violence, and foul language on TV these days,
- a lot more prevalent than it used to be, and
- gradually becoming more prevalent.

MSA asks, why aren’t the codes of practice working? Is it because they have no accountability? Can something be done? We believe that it can.

Recommendations

Since the current complaints system is clearly not working. We believe that:

- The complaints process needs to direct the public to a section of ACMA for **both** TV systems (Government & commercial),

- The Codes of Practice need to be the same for all, (not one for ABC, SBS and Commercial TV).
- Each complaint lodged with the regulatory body ought to be treated seriously, and as one representative of many, given that the complaints process is, by its very nature, burdensome, and that very few people complain in relation to the numbers who are offended,
- The complaints/regulatory body should be required to send a report to the TV station in question, and
- Each offense should be dealt with effectively, and appropriately, depending on the offense.
- If Free TV continues to invite submissions in its deliberations for the codes of practice, those public submissions must be available for ACMA to check to show that the deliberations have been fair.

In addition:

- Radio stations need to have an effective regulatory body and uniform Codes of Practice.
- There should be an advertising complaints section within the **ACMA for all media**.
- The ACMA should be responsible for the regulation of advertisements as well as television programs. After all, they are both being broadcast into our homes in a similar manner. The appointment of an Independent Reviewer by the ASB recently was a good start, but the ACMA needs to be involved in this process as well.

As a community-minded organization, Media Standards Australia would like to thank the Senate again for providing this avenue for change, for the opportunity to contribute to this inquiry. We are glad to have been able to contribute to policy-shaping in such an important area.

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