

# *Submission Document*

*Australian Senate Inquiry into  
the Effectiveness of the Broadcasting Act*

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# **Contents**

**1.0 – Contents**

**Page 2**

**Terms of Reference**

**Page 3**

**1.1 – Introduction**

**Page 4**

**1.2 – Outline**

**Page 4**

**1.3 – Program Breaches & Interest Groups**

**Page 4**

**1.4 – Australian Parents**

**Page 7**

**1.5 – Contextual Shifts in Society**

**Page 8**

**1.6 – What can be done to increase effectiveness?**

**Page 8**

**1.7 – Conclusion**

**Page 10**

**1.8 – Recommendations:**

**Page 10**

**Appendix A – References**

**Page 11**

**Appendix B – Relevant Press Coverage**

**Page 12**

## ***Terms of Reference***

*The Senate has referred the following matter to the Committee for inquiry and report by the 9 June 2008:*

*An examination into the effectiveness of the broadcasting codes of practice operating within the radio and television industry, with particular reference to:*

- a. the frequency and use of coarse and foul language (swearing) in programs;*
- b. the effectiveness of the current classification standards as an accurate reflection of the content contained in the program;*
- c. the operation and effectiveness of the complaints process currently available to members of the public; and*
- d. any other related matters.*

*The Committee invites **written submissions** from interested individuals and organisations, preferably in electronic form sent by email, to [eca.sen@aph.gov.au](mailto:eca.sen@aph.gov.au). The email must include full postal address and contact details. The closing date for submissions is **Friday, 2 May 2008**.*

## 1.1

### Introduction

*Broadcasting as a communication method has been around for the better part of the last century and continues to evolve as technology is re-engineered to send messages, signals and waves faster and further with more clarity than ever before. The ABC loosely defines Broadcasting as “Using radio waves to distribute radio or TV programs which are available for reception by the general public...” (Australian Broadcasting Corporation). Australian broadcasting and production are two segments of a media driven society within our country. It informs the public through free-to-air and pay-TV mediums and entertains with a variety of dramas, comedies and thrillers. However, the major concern of public policy makers since the advent of Broadcast mediums is regulation of content. Questions relating to censorship have been lobbed from trenches of the for and against for decades with regulations groups like the Office of Film and Literature Classification and the Australian Communications and Media Authority in no-mans-land attempting to cater a broad policy of regulation to an ever changing contextual landscape.*

## 1.2

### Outline

*This submission paper will discuss the use of specific devices on television such as foul-language use, sexual content and violence; an outline of the current complaints process with specific instances of regulation against networks for breaches in the Code as well as what can be done to effectively regulate content for Australian television viewers and outline better ways to inform viewers exactly what they are consuming in their media environment.*

## 1.3

### Program Breaches & Interest Groups

*Currently on Australian free-to-air broadcasting, the practise of censorship is employed in various ways to combat possible breaches of the Codes of Conduct for commercial television. Methods such as the content ratings system, warnings placed before explicit material and the placement of lewd content in late-night time slots are used to shield and censor material, however in a self regulated industry, many networks are beginning to push the envelope. If viewers believe that a breach in the code has occurred, they often have the option of being represented by interest groups who hold vested significance in giving viewers a voice.*

*Programs pushing the boundaries of decent content include Californication; a “no holds barred” approach towards the seedier side of Californian sexual lifestyles. The program aired in a 9:30pm timeslot to many viewer complaints directed at Network Ten and the ACMA. Sexual content, foul language, violence and frequent nudity were Californication’s calling card, as many consumers and rights groups attempted to have it taken off-air, with advertisers boycotting the show.*

*Interest groups such as Festival of Light and the Australian Families Association spearhead the campaign against lewd content on Australian television. The Australian Families Association "encourage parents to be alert and pay attention to classifications and...to be informed" (Conway, 2008); and the Festival of Light Australia is a "Christian ministry to our nation promoting true family values in the light of the wisdom of God" (<http://www.fol.org.au/welcome/index.html>), and subsequently voice concerns regarding inappropriate content on television. FoL believed that*

*"Californication...exceeded the MA15+ guidelines. We thought the level of sexually explicit scenes was too much for Free-to-air television...it should never have been shown...Festival of Light ran a big campaign with the advertisers and I think between 50-60 companies agreed to withdraw advertising from Californication...some of them had standing instructions...not to have their ads placed in shows with high levels of sexual violence."*

*(Richard Egan, National Policy Officer, Festival of Light)*

*Interest groups like FoL and the AFA also call for the appropriate classification and monitoring of programming. They recently launched complaints into the Channel Nine series "Underbelly", which dramatises the gangland wars of Melbourne. The show has been frequently complained about to the Nine Network and other interest groups, yet it continues to average millions of viewers each week, as shows with active complaints are not removed from broadcast while being investigated for breaches – a result which often frustrates interest groups as the networks continue to profit from high advertising revenues.*

*"Festival of Light had some early complaints on Californication and the turnaround time was a couple of months after the complaints (were viewed)...30 days is a very long time for a complaints process...With Underbelly, the series will probably finish before it is dealt with..."*

*(Richard Egan, National Policy Officer, Festival of Light)*

*"What do you do with your teenage girls who want to watch cop shows with male hunks? Sit them in front of horrific crime shows...in an 8:30 timeslot when reasonably tame shows like 'Numb3rs' are placed at 9:30?"*

*(Angela Conway, National Spokesman, Australian Families Association)*

*The AFA follow the same stance regarding inappropriate programming on Australian television, with shows such as Big Brother, Two and a Half Men and Ramsay's Kitchen Nightmares – most notably renowned for the liberal use of the foul language as over 80 "F" words were clocked up in a one hour, 8:30pm time slot. The AFA believes that such language present an almost violent display of sexual language in such a short time that is bound to offend some viewers:*

*"Language in shows like Gordon Ramsay normalizes the aggressive use of language and I think many people in our community who see that as normal, but then again there are others who try to avoid that."*

*(Angela Conway, National Spokesman, Australian Families Association)*

## 1.4

### **Australian Parents**

*Deciding what exactly is or is not appropriate for a child ultimately falls onto a parents shoulders. Parents are the legal guardians of their children and their development is of paramount concern.*

*For example the responsibility would ultimately fall upon the parent if they allowed their child to watch programming specifically designed for older audiences like Underbelly and Californication. Shows such as these, while classified for "Mature" audiences, are justified by context or storyline according to the Television Broadcasting Codes of Practise;*

***"Violence:** May be realistically shown only if it is not frequent or of high impact, and is justified by the story line or program context."*

***"Sex and nudity:** Visual depiction of intimate sexual behaviour may only be implied or simulated in a restrained way. It must be justified by the story line or program context."*

***"Language:** The use of coarse language must be appropriate to the story line or program context..."*

*(Television Broadcasting Codes of Practise)*

*These three key content concerns for Australian parents inside the code are engineered with loopholes in order for the broadcasting communities to evade a complaint. In Underbelly's case for example, justification by context could include gross acts of violence being portrayed in an 8:30pm timeslot in full breach of the Code of Conduct, however due to these small inconsistencies inherent to the rules, a strong moral compass and a knowledge of how to appropriately classify material would be beneficial – which we will come to later.*

*Other interest groups such as FoL also believe that Underbelly in particular continues to be broadcast in flagrant disregard for the rules and regulations of a free-to-air broadcaster.*

*"Accurate classification needs to be addressed. In the case of Underbelly, the notion of applying and MA classification is overwhelming. A warning is issued for very frequent, very coarse language; any reading of the guidelines state that it's only allowed in an MA. It's beyond me that it could be rated only M"*

*(Richard Egan, National Policy Officer, Festival of Light)*

*A level of self-regulation and ethics must be applied here by networks, as once again, we are reminded of how little self-regulation is carried out and just how much has been “justified by context”.*

*One of the main arguments within this debate is that parents of an evening, need to be comfortable leaving their children in front of the television while they are preparing dinner, etc. If they do not, it simply means that the broadcaster(s) has/have failed in creating an easy, accessible viewing experience for free-to-air users as Angela Conway remarks:*

*"What we find is that alot of parents have things to do at that time of night and they have some trust in broadcasters so that in...family viewing time, families assume that this content is viewable for this timeslot. I think that this is reasonable for parents to assume"*

*(Angela Conway, National Spokesman, Australian Families Association)*

*But parents must also realise that times do change, and media environments surrounding them constantly adjust content to appeal to as broad an audience as possible.*

## **1.5**

### **Contextual Shifts in Society**

*When analysing the current broadcasting act and its effectiveness, one must take into account the current contextual shift in Australian viewing audiences. A transformation in audience expectation of television programming has occurred over the last fifty years with programming now exhibiting more risqué behaviour than has ever been seen before such as high levels of sexual content, violence and foul language. Interest groups such as the AFA however, believe that the rise of questionable content on Australian television is not due to a shifting context, but an instrumental shove by the writers, who continue to push the envelope of television standards:*

*"(A change in viewing context) might be the excuse the writers use but I think the writers themselves have been instrumental if it has in fact occurred."*

*(Angela Conway, National Spokesman, Australian Families Association)*

*If such a contextual shift is possible however, one must place themselves a decade ahead and understand that, if left unchecked, the Australian Television Media environment will be no place for children's viewing, instead playing host to a greater variety of explicit content and misclassified programming.*

## **1.6**

### **What can be done to increase effectiveness?**

*The regulation of the broadcasting industry in Australia has become a laissez-faire business. As it has been mentioned above, broadcasters continue to push the*

*envelope of fair and accurate content and classification. When a breach occurs, the consumer can complain to the network on which they saw the content, however a thirty day response time is employed for the initial complaint alone. In the ever-changing media environment we live in where thirty days often means another four episodes (and as such more possible breaches) are broadcast for a weekly show.*

*A streamlined process needs to be employed whereby a consumer can complain to a regulatory body designed to handle these complaints alone. The body would consist of one member from each major broadcaster in the country, a member from the Advertising Standards Board, interest group representatives, and an ACMA representative to report back to government bodies. This group would operate on a fourteen day turnaround schedule whereby the members would vote on a whether or not a program has breached a code and a majority "yes/no" basis would be employed. While the program is being investigated, it will not be removed from broadcast, however if a breach is proven to have occurred then the show will be removed for a certain period of time, or until the offensive content is rectified to reflect current standards.*

*By using a process such as this, consumers, advertisers, interest groups, and broadcasters are represented fairly and equally and therefore an effective regulation process for Australian commercial television can take place and the process of loose self-regulation can be stopped. As the AFA remarked when asked about self regulation:*

*"For self regulation to work...you shouldn't really need heavy penalties, you just need to remind people where the line is if they do accidentally overstep it. Self regulation can only work if the players have a willingness and respect for the system"*

*(Angela Conway, National Spokesman, Australian Families Association)*

*However, prevention has always been a better method for fixing a problem than a cure; prevent the issue from occurring and the issue never arises in the first place. One of the prominent issues we face in a situation such as this is the possibility of families and children consuming content which is inappropriate to their viewing habits. A system of watermarking ratings on programs must be employed with the title and OFLC rating of the program clearly displayed in the bottom left corner of the program to accurately advise consumers what they are watching and what it is rated. A level of compliance must also be applied, and this would work hand in hand with the new Television Standards Board outlined above.*

*This plan would work hand in hand with a new viewer education campaign which would outline what ratings mean according to the codes and what type of things can and cannot be shown at certain times. An information pack and DVD should follow, outlining the need/employment of a watermarking system as well as what a viewer can do if a breach in the code occurs.*

*This is required due to the fact that there is a fine line between where the responsibilities of parents stop and the responsibilities of broadcasters start.*



*While broadcasters hold much of this responsibility not to put lewd content in inappropriate timeslots, the parents of children must decide what their children are allowed to watch and not shift blame onto television networks when the child uses foul language they saw on television for example. An information pack would help parents and families decide what to view and how.*

## 1.7

### **Conclusion**

*What we as a media consuming society are approaching is the inevitable fault line of moral codes – no two people will have the same moral or ethical code. Individuality should not be compromised in favour of censorship, however what free-to-air and cable viewers must be made aware of is the level of self-censorship and discretion required when consuming broadcast media. For example a watermarking system where the rating as well as abbreviated warnings are included at the bottom of the screen with the broadcasters watermark. This way, inadvertent viewing of mature, inappropriate content can be avoided by parents or other concerned individuals.*

*Furthermore, a broader campaign of education must be undertaken across all broadcast mediums to help viewers understand what is and is not appropriate content according to the Codes of Practise for Commercial Television. Armed with the knowledge of proper censorship and content guidelines, parents can educate their children as well as screen what they consume on television. Social context differs throughout the world as is seen in the different levels of censorship placed on Chef Gordon Ramsey’s “Kitchen Nightmares” – Australia and Great Britain leave the show uncensored, whereas American audiences are subject to the full extent of censorship. What the Australian viewing public as well as broadcasting networks and organisations such as the ACMA must decide is where the line between heavy censorship and viewer education and information is drawn.*

## 1.8

### **Recommendations:**

- *Introduction of a ratings “watermark” in ALL broadcasted television which clearly displays ratings warnings and program classification*
- *Undertaking of a viewer education program where an information pack is sent to viewers of television which clearly outlines each rating classification, the times it can be viewed and the complaints process for the ACMA if viewers feel a breach has [occurred](#).*
- *An advertising campaign to run hand in hand with the information pack system, which gives consumers a brief yet concise explanation of each classification, similar to DVD classification announcements of the late 1990’s and early 2000’s.*
- *A streamlined complaints process whereby a level of self-regulation is taken away from broadcasters and given to a new complaints investigator where a fast turnaround time is employed by representatives of all parties in broadcasting.*

**Appendix A:**  
**References**

*Angela Conway*  
*Spokesman, Australian Families Association*

*Richard Egan*  
*National Policy Officer and Spokesman, Festival of Light Australia*

ACMA  
<http://www.acma.gov.au/WEB/HOMEPAGE/PC=HOME>

AFA  
<http://www.family.org.au/>

*Festival of Light*  
<http://www.fol.org.au/>

*Television Code of Practise*  
[http://acma.gov.au/WEB/STANDARD..PC/pc=PC\\_90096](http://acma.gov.au/WEB/STANDARD..PC/pc=PC_90096)

**Appendix B:**  
**Relevant Press Coverage**

*“Underbelly under investigation”*  
April 16, 2008 - 7:01PM  
AAP

*“You can’t say c\*nt in the kitchen”*  
March 23, 2008 – 11:32 am  
<http://www.somebodythinkofthechildren.com/you-cant-say-cnt-in-the-kitchen/>

*“Kitchen Nightmares”*  
*Liberal Cory Bernardi's speech to the Senate*  
[http://www.refused-classification.com/TV\\_kitchen\\_nightmares.htm](http://www.refused-classification.com/TV_kitchen_nightmares.htm)

*Foul call on Ramsay's Kitchen Nightmares*  
Holly Ife March 20, 2008 06:56am  
<http://www.news.com.au/entertainment/story/0,26278,23406979-10388,00.html>

*Celebrity chef under fire over foul language*  
PM - Thursday, 20 March , 2008 18:42:00  
Reporter: Daniel Hoare  
<http://www.abc.net.au/pm/content/2008/s2196065.htm>