



**Submission in response to
the Senate Standing Committee on Environment,
Communications and the Arts**

*Inquiry into the effectiveness of the broadcasting
codes of practice*

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Background

The Community Broadcasting Association of Australia (CBAA) is the peak membership body for community broadcasting licensees throughout Australia. We provide leadership, advocacy, and support for our members to actively provide independent broadcasting services and to build and strengthen local communities. Membership of the CBAA currently includes 232 permanently licensed community radio stations and 23 temporarily licensed community radio stations.

Until February 2008 our membership also included all four permanently licensed community television stations and one open narrowcaster. However, a new representative body, the Australian Community Television Alliance (ACTA) has been established with a sole focus on community television matters. One community television station remains a member of the CBAA. The CBAA and ACTA will work together collaboratively for the benefit and development of the community television sector.

As the body representing the majority of community broadcasting licensees, the CBAA has in the past been responsible for coordinating the review of both the community radio and community television Codes of Practice (the Codes). The community radio Codes are currently under review and are due to be released in November 2008.

The former Australian Broadcasting Authority (ABA) registered the community television Codes on 23 September 2004 and, therefore, are due to be reviewed during 2009.

Both the community radio and television Codes have been designed to reflect and enshrine the core principles of community broadcasting – accessibility, participation, diversity and independence. The community broadcasting sector has framed the Codes to be flexible – in order to cater for the diverse nature of the sector – while clearly articulating the legal obligations of broadcasters.

With direct reference to the terms of reference of the *'Inquiry into the effectiveness of the broadcasting codes of practice'*, by the Senate Standing Committee on Environment, Communications and the Arts, the CBAA provides the following submission.

1. THE FREQUENCY AND USE OF COARSE AND FOUL LANGUAGE (SWEARING) IN PROGRAMS

1.1 *A need for flexibility*

Community broadcasters serve extremely diverse communities including Christian, ethnic groups, youth, and classical music listeners, among many others. Clearly, what one community deems appropriate for broadcast could be deemed entirely inappropriate for another. As such, it is vital for the community broadcasting sector to have a flexible approach with regard to the use of coarse language in programs.

This flexibility is largely enshrined in the respective Codes of Practice (the Codes) for community radio and television licensees. Code 2.2 of the community radio Codes and Code 3.2 of the community television Codes state:

Community broadcasting licensees will avoid censorship wherever possible, however, consideration shall be given to the audience; the context; the degree of explicitness; the propensity to alarm, distress or shock; and the social importance of the event.

Taking this approach, community broadcasters develop their own programming policies and guidelines that reflect the interests and the sensitivities of the communities they serve. The low instance of breach findings from ACMA – and formerly the Australian Broadcasting Authority (ABA) – in the area of program content and suitability to audience tends to indicate that this approach has worked quite successfully for community broadcasting stations and that these stations are generally very adept at determining what is acceptable for their communities and audiences.

1.2 *Protecting children from harmful program material*

Further, Code 2.4 of the community radio Codes states that:

Community broadcasting licensees will establish programming practices which protect children from harmful program material.

Once again, this Code is reflected in the program policy making processes at community broadcasting stations and ensures that consideration is given to the appropriateness of different program content for different audiences. Generally speaking, many stations have established quite rigorous policies and procedures to ensure that – should coarse language be permitted at some time – consideration is given to whether children are likely to be listening. This is particularly the case with stations that have a youth focus as there is a need to achieve a balance between what a young audience would find acceptable, which generally speaking includes coarse language, and what could be deemed ‘harmful for children’, who may make up part of that young audience.

2. THE EFFECTIVENESS OF THE CURRENT CLASSIFICATION STANDARDS AS AN ACCURATE REFLECTION OF THE CONTENT CONTAINED IN THE PROGRAM

2.1 *Community radio and classification*

Program classifications are not codified under the community radio Codes of Practice (the Codes) and therefore this term of reference is not directly applicable to community radio.

2.2 *Community television codes and classification*

Community television, however, has adopted a classification system that reflects the one used by commercial television. The community television Codes contain a schedule that specifies what times of day programs of different classifications can be broadcast. It further specifies that the classification of programmes is the responsibility of the licensee and that definitions of these program classifications are in accordance with the *Guidelines for the Classification of Films and Computer Games* issued by the former Office of Film and Literature Classification (now the Classification Board.)

2.3 *Classification in practice*

Community television stations will generally classify a program in consultation with the program producers in order to make well informed classification decisions, which ensures that appropriate timeslot schedule decisions can be made. It is also generally stipulated that a program producer must inform the station if an episode in a series is likely to contain material that may warrant a different classification. Programs are also previewed before transmission by staff and volunteers who have received classification training to ensure that programs are correctly classified and do not exceed the limits of their timeslot allocation.

Further, it is largely the case that community television stations approach classification quite cautiously. For example, if there is any doubt or question about the program classification it will usually be classified at the higher level to ensure a more sensitive audience is not likely to watch and be offended.

2.4 *Difficulty with the classification system*

The primary difficulty with the aforementioned classification system relates to the Classification Board guidelines that are expressed in rather subjective terms, such as 'mild', 'moderate', or 'strong' impact, and the classification given to a program often depends on the context of the material. As a result, classification decisions are often made due to the personal opinion of the classifier.

Conversely, the understanding of program classification by the audience can also be a matter of opinion and perception. Various members of the

community will have widely differing ideas of what may constitute 'moderate' or 'strong' impact. However, development of a more prescriptive framework for classification would be highly problematic.

3. THE OPERATION AND EFFECTIVENESS OF THE COMPLAINTS PROCESS CURRENTLY AVAILABLE TO MEMBERS OF THE PUBLIC

3.1 *Community broadcasters and complaints handling*

The Codes of Practice (the Codes), both television and radio, outline a clear, two-step complaints process that both licensees and complainants can easily follow. Under this process, once a complaint has been made in writing, the station is required to provide a substantive response in writing within sixty days, in accordance with Section 147 (c) (i) the *Broadcasting Services Act 1992* (the Act). The station is also required to include a copy of the Codes with their response.

This process ensures that both the licensee and complainant are aware of the Codes. It also places the onus on stations to advise the complainant of their right to refer the matter to the Australian Communications and Media Authority (ACMA) if they are dissatisfied with the station's response.

3.2 *Regulatory powers*

It is acknowledged that the complaints process cannot guarantee that a community broadcasting licensee will respond appropriately to the substance of a complaint from the public. However, in practice community broadcasters are diligent in responding to complaints from the public as it is seen as part of the overall aim of being responsive to their community's interests and needs. Furthermore, the ability of complainants who are dissatisfied with a response from a licensee to then take their complaint to the ACMA provides a regulatory mechanism that, ultimately, ensures all complaints are appropriately dealt with.

The CBAA feels that this structure has achieved a well functioning balance of station responsibility and accountability and regulatory oversight.

4. ANY OTHER RELATED MATTERS.

4.1 *Key development areas for the Codes*

The community radio Codes of Practice (the Codes) are currently under review. A first round of consultation with the sector and public has now taken place and a first draft is currently being reviewed by ACMA.

As with previous Codes reviews, several key areas have been identified as requiring development. In this instance, one of the key areas is that of dealing with complaints and conflict from within the station, by contrast to dealing with complaints from the public.

Under the current Codes review process, it is proposed that a structure for handling internal station complaints – that reflects the system described above for handling complaints from the public – be placed into the Codes. Again, it is felt that such a system will instil an appropriate level of accountability and responsibility upon the licensee, while maintaining an overall regulatory mechanism to deal with issues should they not be appropriately solved at the station level.

A further objective under this review is to ensure the Codes are written and structured in clear and simple fashion. This will provide a document that is straightforward for stations to implement and can be easily understood by the general public.