



GPO Box 3161
MELBOURNE VIC 3001
Ph: (03) 9670 6422
Fax: (03) 9670 6433
Email: info@libertyvictoria.org.au

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Inquiry into the effectiveness of the broadcasting codes of practice

Liberty Victoria – Victorian Council for Civil Liberties Inc

GPO Box 3161

Melbourne VIC 3001

Ph: 9670 6422

Fax: 9670 6433

Email: info@libertyvictoria.org.au

Julian Burnside QC

President

Liberty Victoria submission

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1. Introduction

- 1.1 Liberty Victoria - The Victorian Council for Civil Liberties Inc is an independent non-government organisation which traces its history back to the first Australian civil liberties body established in Melbourne in 1936. Liberty is committed to the defence and extension of human rights and civil liberties. It seeks to promote Australia's compliance with the rights and freedoms recognised by international law.
- 1.2 Liberty Victoria welcomes this opportunity to comment on the inquiry into the broadcasting codes of practice. Liberty Victoria has had the benefit of reading the New South Wales Council for Civil Liberties submission and wishes to endorse the views expressed in that submission. In addition we make the following comments.

2. The frequency and use of swearing in programs

- 2.1 We note that the concern, and major objection, by Senator Bernardi centre around the television program *Ramsay's Kitchen Nightmare*, and in particular on the amount of swearing in the program. Indeed, most of the submissions calling for reform also focus on this topic, again specifically concentrating on the swearing in this program or using this program as an example by which to make more general criticisms of television programming. This is particularly so in relation to children's accessibility to the programs and the perceived influence that such programs have on children.
- 2.2 The first point to be made about these concerns is a simple point. The viewing public, or that small proportion of that public, who find such material offensive should simply not watch the program. The NSWCCCL points out in its submission that *Ramsay's Kitchen Nightmares USA* was one of the most watched programs when it aired in Australia in March 2008. In addition they further point to the fact that it has continued to be a consistently high rating program. This suggests that the majority of the viewing public do not find the program offensive, and consequently are not offended by Ramsay's swearing.
- 2.3 Whatever one's personal view of the program may be, Liberty Victoria believes that adults are entitled to determine for themselves what they will or will not watch. It is not the role of an individual Senator or a small minority of the public to dictate to the broader public what they can and cannot see. The NSWCCCL

highlights in its submission that 90% of Australians surveyed by the Australian Communications and Media Authority agreed with this view.

- 2.4 In one sense the issue of swearing on television may be trivial however it points to a more serious and increasing problem, censorship. In the past 10 years and specifically since the events in the United States in September 2001 the Australian Government has engaged in the censorship of books, films, the shutting down of websites, raiding radio stations for interview material, attempting to prosecute whistle-blowers and journalists who refuse to reveal their sources. These are more serious issues than swearing or sex on television but together they document a very disturbing trend, ranging from the silencing of dissent to a puritan censoring of what is essentially ordinary everyday behaviour.
- 2.5 Liberty Victoria agrees with the sentiments expressed by the NSWCCCL that it is disappointing to see the Senate expend public resources on this inquiry when other issues are far more important. We note that governments around Australia are concerned about the rising issue of obesity particularly amongst school age children yet when doctors and medical professions, including the AMA, and many parents groups, call for the banning of junk food during children viewing hours politicians either remain silent or support the corporate sector's right to freedom of speech to advertise their products when they wish. Indeed, Tony Abbott, the then Minister for Health, was of the view, that there was no role for government to ban junk-food advertising as it was the responsibility of parents to lead by example and promote exercise and a healthy diet.
- 2.6 Liberty Victoria believes that parents who are concerned about swearing and sex on television are entitled to stop their children viewing such material. However, this should not be undertaken by banning access to these programs for the whole adult population. This is a decision for parents and the responsibility of parents to ensure that their children do not watch programs they object to.

3. The operation and effectiveness of the current classification standards

- 3.1 Liberty Victoria is not aware of any evidence indicating that the current classification standards are ineffective. The classification standards are advertised at the beginning of each program and is also printed in the television guides and daily newspapers. Liberty Victoria concurs with the NSWCCCL views on this issue. We believe that the current classification standards reflect current community standards. We do not believe that there is any evidence to support further restrictions to the classification standards.

4. The operation and effectiveness of the complaints mechanism

- 4.1 See the NSWCCCL submission.

5. Other relevant matters

- 5.1 The NSWCCCL submission provides all the facts and figures in relation to surveys on issues such as public opposition to censorship and the belief that the Government should not dictate what adults can watch, we will not repeat them here but refer the Committee to their submission. There is however, one point their submission makes that we would like to reiterate. That relates to the

criticisms made by Senator Bernardi regarding the time it takes to investigate a complaint. Some complainants may expect a quick response but the rules of natural justice, which apply right across the justice system from courts to tribunals to disciplinary committees are extremely important and should not be cast aside just to ensure a speedier process. Senator Bernardi should know this. Politicians who make such complaints are being disingenuous. They should know through the parliamentary process, their knowledge of a democratic system, and their parliamentary training that natural justice is a fundamental aspect of any investigatory and adjudicatory process in a democratic system. You cannot speed up a fair process without resulting in an unfair one.

- 5.2 As stated above, while swearing and sex on television may seem a trivial issue it is none the less related to freedom of speech. In a democracy adults must be free to determine for themselves what they wish to see just as they should be free to express and debate different viewpoints on important issues. Taking away adults right to view material on television interferes with their freedom to make informed decisions and their democratic right to freedom of speech.

6. Conclusion

- 6.1 Liberty Victoria accepts that children should be protected from viewing certain material and that that material should be restricted in children's viewing times. However, Governments should refrain from applying a puritan code to adults viewing. The fact that one Senator and a small minority find such programs distasteful is not a legitimate argument to support change to the Broadcasting Codes of Practice. Indeed, the factual material cited by the NSWCCCL and the ratings of the subject programs, demonstrates beyond doubt that the 'silent majority' do not view the Code as inadequate nor do they require a change to the system. Liberty Victoria believes that the case for change has not been made and that the Committee should reject the call to restrict adults viewing matter.