



REVIEW OF THE COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE

INVITATION FOR PUBLIC COMMENT

20 February 2015

Overview and contents

Free TV Australia is conducting a review of the Commercial Television Industry Code of Practice ('the Code'), which regulates the content on Australian commercial free-to-air television networks, and now releases the proposed new Code for public comment.

This package supports the public consultative process and contains three documents:

- An overview of the new Code (part A)
- The proposed new Code (part B)
- Detailed explanatory notes on the Code clauses (part C)

Key dates

Public comments must be received by no later than **Friday, 3 April 2015** and may be submitted to Free TV by:

- **Post** to 44 Avenue Road, Mosman NSW 2088; or
- **Email** to Code2015@freetv.com.au

Guidelines

In making comments, viewers should bear in mind:

- the purpose of the Code, and the statutory context in which it operates;
- the changes in the media landscape, the way you consume content, and the operation of the Code since it was last reviewed in 2009; and
- this Code operates alongside other regulatory instruments, including the requirements of the *Broadcasting Services Act 1992* (BSA) and other ACMA Standards, and has therefore avoided reproducing provisions that exist in those regulatory instruments.

Comments received will be considered in the preparation of the final version of the Code. The Code will then be submitted to the Australian Communications and Media Authority (ACMA) for registration. Before registering the Code, the ACMA must be satisfied that:

- it provides appropriate community safeguards for the matters it covers;
- it is endorsed by a majority of commercial television stations; and
- members of the public have been given an adequate opportunity to comment on it.

PART A: OVERVIEW OF THE CODE

The purpose of the Code

The content of commercial television is regulated under the Commercial Television Industry Code of Practice (Code), which is developed by Free TV Australia in consultation with the public and registered with the ACMA.

The Code regulates content in accordance with community standards, assists viewers in making informed choices about their television viewing and provides effective procedures for receiving and handling viewer complaints. The Code covers the following key areas:

- **Classification of material.** All content other than news and sport is required to be classified and scheduled in timezones appropriate to that classification. Broadcasters provide on-screen classification information, including consumer advice for higher-classified programs;
- **Accuracy, fairness and respect for privacy in news and current affairs.** A range of provisions ensure appropriate standards in news and current affairs;
- **Time limits on non-program matter.** These balance the need to fund the thousands of hours of program material broadcast by each television station each year against the desire of viewers for a relatively uncluttered program presentation;
- **Classification and placement of commercials;** and
- **Complaints-handling by stations.**

The Code operates alongside the requirements of the *Broadcasting Services Act 1992* (BSA), other ACMA Standards and a number of other regulatory requirements. The provisions of the BSA mean that stations may ultimately be subject to serious penalties for non-compliance with the Code.

In addition to these requirements, broadcasters are subject to a broad range of other laws and regulations, including in relation to competition and consumer protection, defamation, contempt, surveillance, and reporting of certain legal proceedings.

Development of the new Code

This proposed Commercial Television Industry Code of Practice reflects the fact that television has moved to a new, digital era. This is a Code to catch up with the times. Many of the provisions in the old Code have been around for 20 years or more - from the analogue era where viewers could only source content from three commercial free-to-air channels and two channels operated by national broadcasters.

Consistent with the ACMA's recent Contemporary Community Safeguards Inquiry (CCSi) the Code has been simplified and streamlined to catch up with the modern media

environment, with a fresh look at what safeguards are actually necessary and appropriate for commercial free-to-air television today.

Commercial free-to-air broadcasters take very seriously their responsibility to ensure that television content, and the way it is presented, aligns with community expectations, particularly in regards to children and young audiences. The Code therefore focuses on key protections and safeguards, as is appropriate for a co-regulatory instrument. The new Code does not replicate obligations or rules which are present in legislation, another industry document, or another industry code (such as the AANA *Code for Marketing and Advertising Communications to Children*).

Fundamental viewer concerns such as accuracy, privacy, anti-discrimination, upsetting material and classification are all covered by provisions in the new Code. However, the level of regulatory intervention in some areas has been recalibrated to appropriately take into account the diversified digital media environment, in which viewers are accessing content from a variety of platforms, many of which are not regulated.

Under the new Code, free-to-air television will still be the most heavily regulated platform for accessing content, as the following chart illustrates:

	Free TV	Pay TV/Foxtel	SVOD services (eg Netflix)	Commercial Radio	Apple TV/iTunes	Other online (eg YouTube)
Restrictions on alcohol advertising						
Time zones - classification based viewing times						
Advertising time limits						
Restrictions on gambling advertising						
No content higher than MA15+						
Restrictions on advertising other adult products and services						

Satisfaction and Compliance

Free to air television remains the first choice for Australian audiences, providing high quality Australian drama, news and current affairs and live sport all for free. Most Australians are highly satisfied with the standard of content on commercial television.

¹ Denotes some regulation

- Around 13.6 million Australians watch commercial free-to-air television every day.
- The majority of viewing time is spent watching broadcast television content on in-home TV sets.²
- The average Australian viewer watches over 3 hours of television per day, with the vast majority spent on commercial free-to-air stations.³
- Free TV is the leading provider of Australian programming and supporter of the Australian production sector, which is vital to our national and cultural identity. Commercial free-to-air broadcasters invested a record \$1.54 billion on Australian content in 2013-14.

Taking into account the large number of viewers and the amount of content that is broadcast on free-to-air television every day, complaints figures indicate that broadcasters have very high levels of compliance and are meeting community standards in the delivery of their services. The introduction of the online complaints system in 2010 has made it easier than ever before for viewers to provide feedback and broadcasters are responsive to audience concerns. In 2013-14, commercial free-to-air broadcasters received 2142 complaints under the Code. The vast majority of these complaints were resolved satisfactorily between the complainant and the broadcaster. During the same period, the ACMA made just 4 breach findings under the Code against commercial free-to-air television broadcasters.

² Regional TAM, OzTAM, Nielsen *Australian Multi-screen Report* Quarter 3 2014, pp 3

³ *Australian Multi-Screen Report* Q1 2011 -Q3 2014

SUMMARY OF KEY ELEMENTS

Topic	Approach
<p>Classification changes:</p> <ul style="list-style-type: none"> • PG all day on all channels • M from 7.30 pm (12-3 on School Days retained) • MA from 8.30 pm • Removal of AV classification • Simplification of program promotion placement rules and consumer advice provisions • Simplification of classification guidelines 	<p>The changes proposed to classification zones will mean that networks can show a greater range of programs at a time that viewers want to watch them. However the classification zones will continue to limit the availability of content that is not intended for children.</p> <p>The ACMA's CCSi research indicated that time zones were not one of the top three methods used by parents/carers to manage their children's viewing.</p> <p>There are now a range of other options for managing viewing including dedicated children's channels, ubiquitous availability of parental locks and information contained in EPGs (electronic program guides), and the accessibility of on-demand content on a range of platforms.</p> <p>No other media platform contains classification zone restrictions. The evolving digital media landscape means that classification zones are under strain as a regulatory tool because content is now available across a range of platforms that are not subject to time based restrictions. This has been recognised by both the ACMA and the Australian Law Reform Commission (ALRC).</p> <p>G and PG programs can be shown at any time of day. PG level content across the day is consistent with the national broadcasters and commercial licensees' multi-channels.</p> <p>M from 7.30 pm and MA15+ from 8.30 pm represents a gradual relaxation of the M/MA15+ classification zones. MA15+ from 8.30 pm is in line with the SBS.</p> <p>AV is a classification that applies only to commercial free-to-air television. In the interests of consistency it has been subsumed into MA15+ in line with ALRC recommendations.</p> <p>The Classification guidelines have been updated and simplified. They are still the most comprehensive and detailed classification guidelines for any media platform in Australia.</p> <p>The complex and onerous platform-specific rules regarding placement of program promotions have been removed and replaced with a simple rule that requires all material to comply with the applicable classification zone in which it is shown. Comprehensive program information including program classification is now available to viewers at any time on their EPG, so the new Code is less prescriptive about the display of classifications and consumer advice.</p> <p>The classification symbols will continue to be shown at the beginning of each program, and after each break. However displaying additional consumer advice will be discretionary for some programs.</p> <p>These provisions are in Section 2 and Appendix 1 of the new Code.</p>

<p>News and current affairs</p>	<p>Key provisions regarding accuracy, fairness and privacy in news and current affairs programming have been included, although there are some changes to the previous Code which are designed to improve the practical operation of the provisions and reflect the modern 24 hour news cycle.</p> <p>For example, the new Code stipulates that accuracy should be regulated in relation to material facts only.</p> <p>Unnecessary detail and provisions where there is some overlap have been removed, as well as provisions that apply only to the commercial television platform. The privacy requirements have been simplified and brought more closely into line with the national broadcasters.</p> <p>Licensees now also have the option to make corrections on their website.</p> <p>These provisions are in Section 3 of the new Code.</p>
<p>No increase in advertising limits</p>	<p>The new Code does not increase the amount of advertising permitted on commercial free-to-air television.</p> <p>Section 5 of the new Code contains the rules about advertising time limits.</p>
<p>Gambling advertising</p>	<p>Advertising restrictions for odds promotions and gambling advertisements in live sport were introduced to the Code in 2013 following extensive consultation and have not changed (except a minor amendment to enable the ACMA to determine the restrictions that apply to additional sports).</p> <p>In addition to the restrictions that apply during live sport the new Code does not allow Commercials relating to Betting and Gambling during a Program that is classified G or lower, and screened between:</p> <ul style="list-style-type: none"> • 6.00 am and 8.30 am; or • 4.00 pm and 7.00 pm. <p>This provision is directed to limiting children’s exposure to gambling advertising, by prohibiting it during the times and programs that are likely to have significant child audiences.</p> <p>These provisions mean that commercial free-to-air television is still the most heavily regulated platform regarding gambling advertising.</p> <p>These provisions are in Section 6 of the new Code.</p>
<p>Alcohol advertising</p>	<p>Under the new Code, alcohol advertising is only permitted during the M or MA classification zones or as an accompaniment to a sports broadcast on a Weekend or Public Holiday.</p> <p>The provision reflects the fact that the audience for sport is overwhelmingly comprised of adults. Ratings data shows that children constitute a very small percentage of the audience for sporting events, and those children viewing are doing so predominantly in the company of an adult.</p>

	<p>Commercial free-to-air television is the only platform where alcohol advertising is restricted.</p> <p>These provisions are in Section 6 of the new Code.</p>
<p>Complaints handling</p> <p>Changes to standing and process for making a complaint</p> <p>Some complaints do not require a response</p>	<p>The complaints handling provisions have been simplified and streamlined.</p> <p>Complainants will need to have viewed the broadcast on terrestrial television in order to make a formal Code complaint. Complaints about privacy and vilification can only be made by those directly affected, in line with the national broadcasters and the Australian Human Rights Commission, respectively.</p> <p>The rules around telephone complaints have been removed, and there will be an address for each broadcaster specified at the end of the Code for complaints that are made in writing. This makes it easier for viewers to know where to complain. The option for complaints by facsimile has also been removed, recognising that most people now lodge complaints using the online complaints system.</p> <p>Broadcasters are no longer required to respond to complaints regarding issues that may be the subject of legal proceedings, obscene or offensive complaints, or complaints that expressly state that a response is not required.</p> <p>These provisions are in Section 7 of the new Code.</p>
<p>Duplicate or unnecessary rules removed</p>	<p>There are a number of provisions in the former Code of Practice which have been removed because they are dealt with in legislation, Standards, or other industry Codes. For example, the provisions about captioning have been removed as Part 9D of the <i>Broadcasting Services Act 1992</i> now contains comprehensive captioning requirements. Similarly, the specific provisions about advertising to children have been removed as the Children's Television Standards and the Australian Association of National Advertisers' Codes (which apply to all media) already provide strong community safeguards in this area.</p>

The table above is intended to provide information about some key areas of interest in relation to the new Commercial Television Industry Code of Practice. It is not an exhaustive list. Full details in relation to the proposed new Code are set out in Part C: Detailed Explanatory Notes on the Code Clauses.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE
2015**

1. APPLICATION	1
2. CLASSIFICATION AND PROSCRIBED MATERIAL.....	2
2.1 Classification - General rules	2
2.2 Classification zones.....	2
2.3 Exceptions	2
2.4 Viewer information.....	4
2.5 Material not suitable for broadcast	4
3. NEWS AND CURRENT AFFAIRS	5
3.1 Scope and Interpretation.....	5
3.2 Material which may cause distress.....	5
3.3 Accuracy and fairness	5
3.4 Privacy	6
4. DISCLOSURE OF COMMERCIAL ARRANGEMENTS	7
5. ADVERTISING LIMITS.....	8
5.1 Non-Program matter	8
5.2 Exempt non-Program matter.....	8
5.3 Hourly Limits - Primary commercial television broadcasting services	10
5.4 Hourly Limits - Multi-channels	10
5.5 Make-Up of Non-Program Matter from Certain Broadcasts	11
5.6 Assessing compliance with advertising limits.....	12
5.7 Additional requirements.....	12

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE
2015**

6. ADVERTISING RESTRICTIONS	14
6.1 Commercials for Alcoholic Drinks.....	14
6.2 Intimate products and services	14
6.3 General restrictions on Commercials relating to Betting and Gambling	14
6.4 Promotion of Odds and Commercials relating to Betting or Gambling during Live Sporting Events	15
7. FEEDBACK AND COMPLAINTS	19
7.1 Feedback.....	19
7.2 Code Complaints	19
7.3 Responding to Code Complaints.....	20
7.4 Transparency	20
8. INTERPRETATION.....	22
APPENDIX 1: TELEVISION CLASSIFICATION GUIDELINES	29
APPENDIX 2: TELEVISION STATION CONTACTS FOR CODE COMPLAINTS	33

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

1. Application

- 1.1.1 This Code applies to all commercial television broadcasting services operated by a licensee.
- 1.1.2 The Code is intended to regulate the broadcast content of commercial free-to-air television according to current community standards, and to assist viewers in making informed choices about their television viewing. It also provides a procedure for handling viewer complaints about matters covered by the Code.
- 1.1.3 Licensees will seek to comply fully with the Code, but a licensee will not be in breach of the Code if the non-compliance was due to:
- a) a reasonable mistake;
 - b) reasonable reliance by the licensee on information supplied by another person;
 - c) the broadcast of material which was accidental, peripheral or incidental;
 - d) an act or failure to act of another person which was outside of the licensee's control, or an accident or technical/engineering issue or some other cause beyond the licensee's control; or
 - e) any other minor or trivial matter.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

2. Classification and Proscribed Material

2.1 Classification – General rules

2.1.1 Subject to the exceptions in section 2.3 below, all Programs and non-Program material (including Program Promotions) must be:

- a) classified in accordance with the criteria set out at Appendix 1; and
- b) broadcast in accordance with the classification zones set out at section 2.2.

Note: For example, a Program Promotion for a Program which is classified M may be broadcast in a PG classification zone, provided that the content of the Program Promotion is classified PG.

2.1.2 Where a licence area covers areas in which different classification zones are observed, the classification zones for the area containing the majority of the licence area population will apply.

2.1.3 In relation to the classification of Commercials and Community Service Announcements, a licensee may satisfy its obligations under clause 2.1.1(a) by obtaining the advice of a qualified third party.

2.2 Classification zones

2.2.1 **PG Classification zone.** Material that has been classified C, P, G or PG may be broadcast at any time.

2.2.2 **M Classification zone.** Subject to clause 2.3.2(a), material that has been classified M may only be broadcast at the following times:

- a) School days
7.30 pm to 6.00 am
12 noon to 3.00 pm
- b) Weekends and School holidays 7.30 pm to 6.00 am
- c) Public Holidays 7.30 pm to 6.00 am

2.2.3 **MA15+ Classification zone.** Subject to clause 2.3.2(b), material that has been classified MA15+ may only be broadcast between 8.30 pm and 5.00 am on any day.

2.3 Exceptions

2.3.1 Films must be classified by applying the classification system provided for by the *Classification (Publications, Films and Computer Games) Act 1995*.

Note: Films may be modified by a licensee to ensure they are suitable for broadcast, or for broadcast at particular times.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

- 2.3.2 For as long as subsection 123(3A) of the Act is in force:
- a) a Film classified M may only be broadcast:
 - i. between the hours of 8.30 pm and 5.00 am on any day, or
 - ii. between the hours of noon and 3.00 pm on any school day;
 - b) a Film classified MA15+ may only be broadcast between the hours of 9.00 pm and 5.00 am on any day.
- 2.3.3 News, current affairs and sporting Programs and Program Promotions for news, current affairs or sporting Programs do not require classification and may be shown at any time, however a licensee will exercise care in selecting material for broadcast, having regard to:
- a) the likely audience of the Program or Program Promotion; and
 - b) any identifiable public interest reason for presenting the Program or Program Promotion.
- 2.3.4 A Program or non-Program matter may be broadcast outside the applicable classification zone if:
- a) it deals in a responsible manner with significant moral or social issues;
 - b) its scheduling is justified by the availability of its target audience;
 - c) for a Program, clear advice is given about the nature and content of the Program at its commencement; and
 - d) it is not a Film classified M or MA15+.
- 2.3.5 Excerpts from material (including a Film, Program or computer game) which has been classified M or above (or refused classification) may be broadcast at any time provided that the excerpt is suitable for the classification zone, or the material is shown:
- a) in a news or current affairs Program;
 - b) as part of a review Program or segment;
 - c) in conjunction with an interview directed at a predominantly adult audience; or
 - d) in a Program which deals in a responsible manner with significant moral or social issues.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

2.4 *Viewer information*

2.4.1 Audio and visual consumer advice regarding the key elements that contributed to a classification must be given directly before the start of:

- a) a Film classified PG or above;
- b) any other Program classified MA15+.

In all other cases, consumer advice is a matter for the licensee to determine.

2.4.2 Classification symbols for a classified Program must be clearly displayed by a broadcaster:

- a) as soon as possible after the commencement of a Program or Film; and
- b) as soon as possible after a break in the Program or Film (whether due to a commercial or for another reason).

2.5 *Material not suitable for broadcast*

2.5.1 A licensee must not broadcast any material that cannot be classified MA15+ or any lower television classification.

Note: Material may be modified by a licensee to ensure that it is suitable for broadcast, or for broadcast at particular times.

2.5.2 A licensee must not knowingly broadcast any Program, Program Promotion or Station ID which is likely, in all the circumstances, to provoke or perpetuate in, or by a reasonable person, intense dislike, serious contempt or severe ridicule against a person or group of persons because of the age, colour, gender, national or ethnic origin, disability, race, religion or sexual preference of the person or group of people.

2.5.3 A licensee will not be in breach of clause 2.5.2 if the relevant conduct is said or done in good faith:

- a) in broadcasting an artistic work (including comedy or satire);
- b) in the course of any broadcast with a public interest purpose (including a statement, discussion or debate concerning academic, artistic or scientific matters); or
- c) in the course of a broadcast of a report of, or comment on, a matter of public interest.

PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

3. News and Current Affairs

3.1 *Scope and Interpretation*

3.1.1 This section applies to news and current affairs Programs.

3.1.2 This section must be interpreted taking into account:

- a) all of the circumstances at the time of preparing and broadcasting the material; and
- b) the time pressures associated with the preparation and broadcast of such programming.

3.1.3 News updates, news flashes or Program Promotions for a news or current affairs Program must comply with this section to the extent practicable, taking into account the additional consideration of brevity.

3.2 *Material which may cause distress*

3.2.1 In broadcasting a news or current affairs Program, a licensee must:

- a) not include material which, in the opinion of the licensee, is likely to seriously distress or seriously offend a substantial number of viewers, having regard to the likely audience of the Program, unless there is a public interest reason; and
- b) include a spoken warning before a segment that contains material which, in the opinion of the licensee, is likely to seriously distress or seriously offend a substantial number of viewers having regard to the likely audience of the Program; and
- c) not broadcast reports of suicide or attempted suicide unless there is a public interest reason do to so, and exclude any detailed description of the method used, and exclude graphic details or images; and
- d) exercise sensitivity in broadcasting images of or interviews with bereaved relatives or people who have witnessed or survived a traumatic incident.

3.3 *Accuracy and fairness*

3.3.1 In broadcasting a news or current affairs Program, a licensee must ensure that material facts included in the Program are presented accurately.

3.3.2 Whether the material facts presented are accurate is to be determined in the context of the segment in its entirety, and taking into account the facts known at the point in time of the broadcast in question.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

- 3.3.3 Licensees must make reasonable efforts to correct or clarify significant and material errors of fact that are brought to the licensee's attention in a timely manner.
- 3.3.4 If a licensee corrects a fact pursuant to clause 3.3.3 in relation to a particular matter within 30 days of a complaint being received or referred to the ACMA (whichever is later), then they will not be in breach of clause 3.3.1 in relation to that matter.
- 3.3.5 A correction made under 3.3.4 may be made in one or more of the following ways:
- a) during a later episode of the Program containing the relevant error;
or
 - b) on a licensee's website; or
 - c) on the official website of the Program containing the relevant error.
- 3.3.6 In broadcasting a news Program, a licensee must:
- a) present news fairly and impartially;
 - b) clearly distinguish the reporting of factual material from commentary and analysis.
- 3.3.7 Nothing in clause 3.3.6 requires a licensee to allocate equal time to different points of view, or to include every aspect of a person's viewpoint, nor does it preclude a critical examination of or comment on a controversial issue as part of a fair report on a matter of public interest.
- 3.3.8 Current affairs Programs are not required to be impartial and may take a particular stance on issues.

3.4 *Privacy*

- 3.4.1 In broadcasting a news or current affairs Program, a licensee must not broadcast material relating to a person's personal or private affairs unless:
- a) there is a public interest reason for the material to be broadcast; or
 - b) the person has provided implicit or explicit consent for the material to be broadcast (or in the case of a person under 16, a parent or guardian has given implicit or explicit consent).
- 3.4.2 Material that is publicly available or recorded in a public place is not private information.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

4. Disclosure of Commercial Arrangements

4.1.1 If a Factual Program endorses or features a third party's products or services in accordance with a Commercial Arrangement, the licensee must bring this to the attention of viewers in accordance with clause 4.1.2.

Note: For the avoidance of doubt, a disclosure under 4.1.1 is not required for the provision of products and services at no charge, including for the purposes of review.

4.1.2 A disclosure under clause 4.1.1 may be made in one or more of the following ways:

- a) during the Factual Program; or
- b) in the closing credits of the Factual Program; or;
- c) in a Billboard appearing directly before, during or after the Factual Program; or
- d) on the official website of the Factual Program; or
- e) on the licensee's website; or
- f) any other way that adequately brings the arrangement to the attention of viewers.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

5. Advertising Limits

The rules in this section operate subject to other regulatory obligations placed on broadcasters, such as those in the *Children's Television Standards 2009*.

5.1 Non-Program matter

5.1.1 For the purposes of this section, the following material is counted as non-Program matter (unless it is exempt under section 5.2 below):

- a) a Commercial, including bonus and make-good advertisements;
- b) a Program Promotion that is greater than 10 seconds in length; and
- c) material which otherwise satisfies the definition of Commercial or Program Promotion, but occurs during a Program and is in the form of superimposed text or visual matter that occupies all of the screen during a Program.

5.2 Exempt non-Program matter

5.2.1 For the purposes of this section, the following is counted as exempt non-Program matter:

- a) a Program Promotion that is 10 seconds in length or less;
- b) a prize, competition or information segment which refers to commercial products or services;
- c) product placement and commercial integration within a Program, including material which refers to and/or depicts commercial products or services or brands within a Program in an integrated manner;
- d) short Program excerpts broadcast during a Program break;
- e) a Community Service Announcement;
- f) an announcement on behalf of an election authority;
- g) a sponsorship announcement, before or after a Program, segment or other material, provided that:
 - i. it is made clear to the viewer either visually or aurally that there is a sponsorship relationship between the sponsor and the Program, segment or other material;
 - ii. it consists of no more than 10 seconds in the case of a single sponsor, or 10 seconds per sponsor in the case

PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

of multiple sponsors, to a maximum of 30 seconds in any instance;

- h) a shopping guide, infomercial or similar material, in which the presentation of advertising and information of general interest is an integral part of the Program or segment (including a shopping guide within a Program break that is clearly distinguishable from other advertising e.g. as a community billboard);
- i) a promotion transmitted during the closing credits of a Program;
- j) superimposed text or visual matter occupying only part of the screen during a Program;
- k) any matter of the kind set out below, providing that it contains no more than 30 seconds of visual material from any Program or Programs broadcast by the station:
 - i. a spoken or visual announcement that a Program will not be shown at the advertised time;
 - ii. a spoken or visual listing/line-up or depiction of Programs to be broadcast;
- l) a brief announcement of the next Program (“next-on”);
- m) a movie opener, namely a brief introductory sequence to a feature film which typically identifies the station and the film to be presented;
- n) a Station ID, provided that there is no reference to the day and/or time of broadcast of any Program or Programs;
- o) a plot summary at the start of an episode of a Program series or serial;
- p) a Program trailer at the end of an episode of a Program series or serial, provided that it is broadcast before the commencement of the next Program;
- q) a promotion, announcement, or information segment which is broadcast without charge or consideration by the licensee and which promotes free to air television services (including associated platforms such as HbbTV), provided that no specific product or brand is promoted or endorsed (unless that product or brand is Freeview, or other similar group or organisation comprised of some or all free to air television broadcasters). Such a promotion,

PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

announcement or information segment may include reference to or depictions of a specific Program, Programs or channel broadcast by the licensee, provided that the primary focus of the spot is the promotion of free to air television.

5.3 *Hourly Limits – Primary commercial television broadcasting services*

5.3.1 This section 5.3 applies to a licensee's Primary commercial television broadcasting service only.

5.3.2 On any day each licensee may in each hour schedule on average no more than the following amounts of non-Program matter:

- a) between 6.00 pm and midnight outside election periods - 13 minutes;
- b) between 6.00 pm and midnight in election periods - 14 minutes, provided that on average no more than 13 minutes per hour comprises non-Program matter that is not political matter;
- c) subject to clause 5.3.2(d), at all other times outside election periods - 15 minutes;
- d) where the hour includes a news Program during an election period - 16 minutes, provided that on average no more than 15 minutes per hour comprises non-Program matter that is not political matter.

5.3.3 In any hour, each licensee may (provided that the averages in clause 5.3.2 are satisfied) schedule the following amounts of non-Program matter:

- a) between 6.00 pm and midnight outside election periods - up to 15 minutes per hour, but with no more than 14 minutes scheduled in any four of those hours;
- b) between 6.00 pm and midnight in election periods - up to 15 minutes per hour, plus one minute per hour of non-Program matter that is political matter;
- c) at all other times outside election periods - up to 16 minutes;
- d) at all other times in election periods - up to 16 minutes per hour, plus one minute per hour of non-Program matter that is political matter and scheduled in a news Program.

5.4 *Hourly Limits – Multi-channels*

5.4.1 This section 5.4 applies to a licensee's Multi-channels.

PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

5.4.2 In any hour, each licensee may schedule the following amounts of non-Program matter:

- a) between 6.00 pm and midnight outside election periods – up to 15 minutes per hour;
- b) between 6.00 pm and midnight in election periods – up to 15 minutes per hour, plus one minute per hour of non-Program matter that is political matter;
- c) at all other times– up to 16 minutes.

5.5 *Make-Up of Non-Program Matter from Certain Broadcasts*

5.5.1 If a licensee broadcasts:

- a) the policy speech of a political party or a debate between leaders of political parties; or
- b) a Program or part of a Program of a clearly charitable or community service nature (including telethons and other Programs broadcast on behalf of a charity or community service, or which carry a strong community service message); or
- c) extended coverage of a major news story or public event (for example, disasters, funerals of public figures, events of war);
- d) with a reduced amount of non-Program matter than permitted by clauses 5.3.2 and 5.4.2, then the licensee may schedule elsewhere additional non-Program matter equivalent to the shortfall, and the additional non-Program matter will not be included in the calculation of the number of minutes of non-Program matter permitted in that hour under section 5.3 or 5.4 (or the calculation of the average number of minutes). That additional non-Program matter may be scheduled on that day or on other days within 14 days before or after the broadcast, up to a maximum of one minute per hour. Where the shortfall occurs in off-peak (midnight – 6.00pm), the additional matter must be scheduled in off-peak.

5.5.2 Where the amount of non-Program matter scheduled during any hour of a broadcast of a Live Sporting Event is less than the average permitted under clauses 5.3.2 and 5.4.2, additional non-Program matter may be scheduled during breaks from the live action (including pre-match, post-match & half-time coverage) or elsewhere on that day. Where the shortfall occurs in off-peak (midnight – 6.00 pm), the additional matter must be scheduled in off-peak. However, a licensee must ensure that:

PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

- a) the amount of non-Program matter made up does not exceed one minute in any hour; and
- b) the averages required by clause 5.3.2 are maintained.

5.6 *Assessing compliance with advertising limits*

5.6.1 In determining compliance with this section, the amount of non-Program matter indicated on the Final Schedules will be used as the reference point.

5.6.2 The amount of non-Program matter set out in the Final Schedules for an hour must not exceed the hourly limit in clause 5.3.3. The only exception permitted is where non-Program matter originally intended to fall in one hour (Hour A) is scheduled in an adjoining hour (Hour B) because of the length of a Program segment or segments. This exception is subject to the following conditions:

- a) the station's earlier schedule prepared prior to the determination of break start times shows that the non-Program matter falling in Hour B was intended to fall in Hour A; and
- b) no more than one break intended in the earlier schedule to fall in Hour A is scheduled in Hour B in the Final Schedules; and
- c) the amount of non-Program matter contained in that break in Hour B in the Final Schedules, when combined with the amount of non-Program matter contained in Hour A in the Final Schedules, would not have exceeded the relevant limit for Hour A.

5.6.3 Clause 5.6.2 does not prevent non-Program matter which was intended in the earlier schedule to fall in another adjacent hour to also be scheduled in Hour A or Hour B in the Final Schedules, provided that the scheduling satisfies the conditions set out in subclauses 5.6.2(a) - (c). In such circumstances, the calculation in subclause 5.6.2(c) would be performed separately in relation to each occurrence.

5.7 *Additional requirements*

5.7.1 Television advertisers are expected to ensure that their commercials comply with the following Codes, as amended from time to time:

- a) the AANA Code of Ethics
- b) the AANA Code for Marketing & Advertising Communications to Children;

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

- c) the AANA Food and Beverages: Advertising and Marketing Communications Code;
- d) the AANA Environmental Claims in Advertising and Marketing Code; and
- e) the ABAC Responsible Alcohol Marketing Code, where applicable.

5.7.2 A licensee will only broadcast a Commercial that complies with the requirements of Free TV's Operational Practice Notes 48 (Audio Levels and Loudness) and 59 (Measurement and Management of Loudness in Soundtracks for Television Broadcasting), as amended from time to time. This will be satisfied if a person submitting the Commercial certifies compliance with all requirements.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

6. Advertising restrictions

6.1 *Commercials for Alcoholic Drinks*

6.1.1 A Commercial for Alcoholic Drinks may be broadcast at any of the following times:

- a) in M or MA15+ classification zones (as set out in clause 2.2.2 and 2.2.3 respectively); and
- b) as an accompaniment to a sports broadcast on a Weekend or a Public Holiday; and
- c) during a sports broadcast shown across more than one licence area, if one of subclauses (a) or (b) are satisfied for:
 - i. the licence area in which the sporting event being broadcast is held, for an event taking place in Australia;
 - ii. the majority of metropolitan licence areas in which the sports broadcast is shown, for an event taking place overseas.

6.2 *Intimate products and services*

6.2.1 A Commercial or Community Service Announcement promoting condoms or other contraceptive products must not be broadcast in a Program that is classified G or lower, unless it contains a public health or safety message.

6.2.2 A Commercial for a sex service (including a sex line) must only be broadcast between 11.00 pm and 5.00 am.

6.2.3 A licensee must not broadcast a Commercial which is a direct advertisement for an X rated Film.

6.3 *General restrictions on Commercials relating to Betting and Gambling*

6.3.1 A Commercial relating to Betting or Gambling must not be broadcast in any Program classified G or lower between:

- a) 6.00 am and 8.30 am; and
- b) 4.00 pm and 7.00 pm.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

6.3.2 For the avoidance of doubt, the restrictions in clause 6.3.1 do not apply to Commercials relating to Betting and Gambling during news, current affairs or sporting Programs.

Note: Section 6.4 sets separate restrictions on Commercials relating to Betting and Gambling which are broadcast during a Live Sporting Event.

6.4 Promotion of Odds and Commercials relating to Betting or Gambling during Live Sporting Events

Scope

6.4.1 The requirements of this section 6.4 do not apply to Live Sporting Events that consist of horse, harness or greyhound racing.

6.4.2 It will not be a breach of this section if:

- a) a failure to comply arises from a Live Sporting Event originating from outside Australia; and
- b) the licensee has not added the Promotion of Odds or the Commercial relating to Betting or Gambling; and
- c) it is not reasonably practicable for the licensee to remove the Promotion of Odds or the Commercial relating to Betting or Gambling; and
- d) the licensee does not receive any direct or indirect benefit for the Promotion of Odds or the Commercial relating to Betting or Gambling in addition to any direct or indirect benefit received from broadcasting the event.

Promotion of Odds during a Live Sporting Event

6.4.3 Subject to clause 6.4.5, a Promotion of Odds is not permitted at the following times during a Live Sporting Event:

- a) during Play; or
- b) in Scheduled Breaks; or
- c) in Unscheduled Breaks.

6.4.4 Promotion of Odds by a Commentator is not permitted during a Live sporting event:

- a) within 30 minutes before the commencement of Play; and
- b) within 30 minutes after the conclusion of Play.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

6.4.5 Clause 6.4.3 does not prevent Promotion of Odds (including Commercials and paid, clearly identified sponsorship segments delivered by persons other than Commentators) during a Long Form Live Sporting Event:

- a) before Play has commenced; and
- b) during Play, as part of a break of at least 90 seconds and in accordance with the rules set out below for each Long Form Live Sporting Event:

Tennis	Not more than once per Session. To be placed between matches where the broadcast moves from one match to another.
Golf	Not more than once on each day of competition.
Formula 1, Moto GP and V8 Supercars	Not more than once on each day of competition. To be placed no later than the end of the warm-up lap for V8 Supercars Championship Series Race, or the relevant feature race.
Cricket	Not more than once on each day of competition. To be placed between Sessions.
Olympic and Commonwealth Games	Not more than once every 3 hours on each day of competition.
Other	As determined by the ACMA.

provided that the Promotion of Odds is not for a race, match or game that has already commenced; and

- c) after Play has concluded.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

6.4.6 For a Long Form Live Sporting Event (other than tennis) which lasts for more than 1 day, Play commences 5 minutes before the broadcast coverage of the run of play or active progress of competition for that day commences, and concludes 5 minutes after the broadcast coverage of the run of play or active progress of competition for that day concludes.

Note: Play does not include periods of analysis, re-play footage or discussion that occurs before and after the coverage of the run of play or active progress of the event for each day.

Rules for Commercials relating to Betting or Gambling and the Promotion of Odds

6.4.7 A Commercial relating to Betting or Gambling or a Promotion of Odds during a Live Sporting Event must not:

- a) be directed to children;
- b) portray children as participating in betting or gambling;
- c) portray betting or gambling as a family activity;
- d) make exaggerated claims;
- e) promote betting or gambling as a way to success or achievement; or
- f) associate betting or gambling with alcohol.

6.4.8 A Commercial relating to Betting or Gambling or a Promotion of Odds during a Live Sporting Event must:

- a) be socially responsible; and
- b) not mislead or deceive the audience.

6.4.9 A Commercial relating to Betting or Gambling or a Promotion for Odds is not permitted during a Live Sporting Event unless it contains or concludes with a Responsible Gambling Message as defined at section 8 of this Code of Practice.

Commercials relating to Betting or Gambling during a Live Sporting Event

6.4.10 Subject to clause 6.4.11, Commercials relating to Betting or Gambling are not permitted during Play during a Live Sporting Event.

6.4.11 Commercials relating to Betting or Gambling are only permitted at the following times during a Live Sporting Event:

- a) before Play has commenced;
- b) during Scheduled Breaks;
- c) during Unscheduled Breaks; and

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

d) after Play has concluded.

6.4.12 The rules at clause 6.4.11 apply to each sporting event or game in tournament for a single sport (such as the Rugby World Cup) or a Long Form Sporting Event (such as the Australian Open Tennis) as if each sporting event or game was broadcast on an individual match basis.

Rules for representatives of gambling organisations during a Live Sporting Event

6.4.13 During a Live Sporting Event, a representative of a gambling organisation:

- a) undertaking a Promotion for Odds; or
- b) appearing in a Commercial relating to Betting or Gambling;

must not be at or around the venue, or appear to be at or around the venue, where the game or match that is the subject of the Live Sporting Event is taking place.

Note: For the avoidance of doubt, clause 6.4.13 does not apply to a venue that is a horse, harness or greyhound racing venue.

6.4.14 During a Live Sporting Event, a representative of a gambling organisation must be clearly identified and not appear as a Commentator.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

7. Feedback and Complaints

7.1 *Feedback*

7.1.1 Licensees welcome feedback from viewers at all times. Feedback is an informal way for viewers to communicate their views with a licensee and can be provided via a number of methods, including by telephone, via social media or by letter.

7.1.2 Feedback is distinguished from a Code Complaint, which is a formal complaint made about a matter covered by this Code of Practice, and which must satisfy the criteria set out at section 7.2.

7.2 *Code Complaints*

7.2.1 A Code Complaint must be made in one of the following ways:

- a) in writing, posted or hand delivered to the person and address nominated by the licensee in the Table at Appendix 2; or
- b) by lodging an electronic form on the Free TV Australia website.

7.2.2 To enable a licensee to respond formally, a Code Complaint must contain the following information:

- a) sufficient detail about the material broadcast (including the approximate date, time, channel/service and name or brief description of the material);
- b) the nature of the complaint;
- c) the identity of the complainant;
- d) the location where the material was seen; and
- e) accurate contact details (including address).

7.2.3 A Code Complaint can only be made:

- a) about a matter covered by the Code;
- b) about a matter that the complainant has seen broadcast by the licensee in Australia;
- c) within 30 days of the relevant broadcast;
- d) in the case of a Code Complaint under clause 2.5.2, by a member or representative of the aggrieved group; and

PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

- e) in the case of a Code Complaint under clause 3.4.1, by the person (or a representative of the person) who considers their privacy was intruded upon.

Note: For example, material that appears on an internet site (whether operated by the licensee or another person), in social media, or on a social media app (such as FANGO, JUMP-IN or BEAMLTY) is not covered by the Code.

7.3 Responding to Code Complaints

- 7.3.1 A licensee must send a written response to a Code Complaint within 30 working days of them receiving the complaint, unless clause 7.3.3 or 7.3.4 applies.
- 7.3.2 A written response provided by a licensee under clause 7.3.1 will inform the complainant that they may refer the complaint to the ACMA if they are not satisfied with the response.
- 7.3.3 If a Code Complaint relates to material provided on broadcast relay by another licensee, or was otherwise the responsibility of another licensee, the first licensee may refer the Code Complaint to that licensee (the second licensee) within 10 working days of receipt of the complaint. The second licensee will have 30 working days from receipt of the referred Code Complaint to provide a response to the original complainant.
- 7.3.4 A licensee is not required to provide a written response to a Code Complaint that:
 - a) is about a broadcast that the licensee is aware is the subject of threatened or formal proceedings in any Court or Tribunal in Australia, where the licensee or any of its agents or employees is a party or intended party;
 - b) is frivolous, vexatious, or an abuse of the Code process;
 - c) is offensive or vulgar;
 - d) is the second or later complaint in a series of complaints from a single person about a Program or series of Programs and does not raise new and distinct issues; or
 - e) expressly indicates a response is not required.

7.4 Transparency

- 7.4.1 Each licensee will report quarterly to Free TV Australia the number and substance of the Code Complaints.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

- 7.4.2 Free TV will publish an annual report containing a summary of the number and substance of Code Complaints received by licensees.
- 7.4.3 A licensee must broadcast Community Service Announcements which provide viewers with information about the Code.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

8. Interpretation

In this Code, unless the contrary intention appears, the following words have the meaning set out below:

Accidental means an unscripted and unplanned reference (including remarks by a Commentator) for which the licensee does not receive any direct or indirect benefit (whether financial or not, and in addition to any direct or indirect benefit that the licensee receives for the broadcast).

ACMA means the Australian Communications and Media Authority.

Act means the *Broadcasting Services Act 1992* (Cth).

Alcoholic Drink means a beverage which at 20° Celsius contains more than 1.15 per cent alcohol by volume.

Code Complaint means a complaint received by a licensee about a matter that is directly covered by this Code of Practice and complies with the requirements set out at section 7.2.

Commentator means a person who is a host, guest or otherwise participating in a Live Sporting Event and includes a person calling, or providing analysis on, the sporting event or game. It does not include discrete and distinguishable contributors, including clearly identified representatives of gambling organisations

Commercial means any advertising for a product, service, belief or course of action which is scheduled within a Program break or between Programs, and for which a licensee receives payment or other valuable consideration.

Commercial Arrangement means an arrangement under which a licensee, or a presenter employed by a licensee, agrees with a third party to endorse or feature the third party's products or services in a Factual Program in return for payment or other valuable consideration.

Commercial for Alcoholic Drinks means a Commercial that directly promotes the use or purchase of one or more Alcoholic Drinks. It does not include:

- a) Program sponsorship announcements;
- b) a Commercial which does not directly promote an alcoholic drink for an entity or company that participates in the manufacture, distribution or sale of alcoholic drinks;

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

- c) a Commercial where alcohol or a brand associated with alcohol is incidental and any alcohol consumption responsibly depicted;
- d) a Commercial for a licensed restaurant or club, entertainment venue, tourist attraction or dining establishment.

Commercial relating to Betting or Gambling means a distinct promotional reference for a gambling or betting organisation and includes any writing, still or moving pictures, signs, symbols or other visual images or any audible message/s (or any combination of those things) that provides generic information about the organisation's brand, business or services. A Commercial relating to Betting or Gambling does not include:

- a) a Commercial relating to such things as Government lotteries, lotto, keno or contests;
- b) a Commercial relating to entertainment or dining facilities at places where betting or gambling take place, or a tourism commercial which incidentally depicts betting or gambling, provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use;
- c) a reference that is Accidental; or
- d) a reference that is an Incidental Accompaniment, including an Incidental Accompaniment that occurs during a replay of a Live Sporting Event.

Community Service Announcement means an announcement or other material broadcast by a licensee, which promotes a charitable cause or activity or which constitutes a service to the community, and for which the licensee does not receive payment or other valuable consideration.

Documentary Program has the same meaning as in the *Broadcasting Services (Australian Content) Standard 2010* or subsequent equivalent instrument made pursuant to section 122 of the Act.

Exempt non-Program matter means the material listed at section 5.2.

Factual Program means a current affairs Program, Infotainment Program or Documentary Program.

Film means any feature film, documentary or short film that has had first release in Australia through public exhibition (including cinematic release) or sale/hire and

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

which has been classified by the Classification Board.

Final Schedules are the last schedules prepared prior to broadcast, which indicate the scheduled commencement time of each break and identify the items to be broadcast within the break. The Final Schedules are intended to be used in the final presentation of a Program.

Freeview means Freeview Australia Pty Limited, the company formed by some or all Australian free to air television broadcasters to promote the free to view platform.

Incidental Accompaniment means a reference or other material which occurs in the normal course of broadcasting a Live Sporting Event for which the licensee does not receive any direct or indirect benefit (whether financial or not, and in addition to any direct or indirect benefit that the licensee receives for broadcasting the Live Sporting Event) and includes:

- a) the name of a sporting venue;
- b) a player's or official's uniform; and
- c) advertising or signage at the venue of the Live Sporting Event, for example, on a field barrier, big screen or scoreboard.

Infotainment Program means a Program which has the sole or dominant purpose of presenting factual information in an entertaining way through one or more presenters.

Licensee means a person who is licensed to provide a commercial television broadcasting service pursuant to Part 4 of the Act.

Live Sporting Event includes:

- a) live-to-air sporting broadcasts;
- b) broadcasts delayed in the licence areas in which the event is being held pursuant to a requirement of the relevant sporting organisation ("delay against the gate");
- c) sporting broadcasts delayed for time zone reasons and broadcast as plausible live.

For the purposes of section 6.4, a Live Sporting Event does not include broadcasts of sports Programs that contain only analysis, award presentations or information and the rules in those clauses do not apply to such Programs.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

Long Form Live Sporting Events include:

- a) sporting events of extended duration, such as golf, cricket (excluding 20/20 cricket) and motor sports events;
- b) tournaments for single sports that involve concurrent games or matches, such as tennis championships; and
- c) multi-sport events, such as the Olympic and Commonwealth Games.

Multi-channel means the commercial television broadcasting services authorised by a licensee's commercial television broadcasting licence, excluding the Primary Commercial Television Broadcasting Service.

Odds means comparative, generally monetary, odds offered during a Live Sporting Event for a bet on the chance of any occurrence or outcome within a particular game or event, or the overall outcome of a game or event. For the avoidance of doubt, Odds includes comparative odds for horse, harness and greyhound racing.

Play means the period of the actual run of play or active progress of the sporting event or game which is the subject of a Live Sporting Event. It commences at the time the players enter the field of play directly before the start of the sporting event or game, and concludes at the time the players leave the field of play after the end of the sporting event or game. It includes ad hoc unscheduled breaks such as:

- a) stoppages for injuries; and
- b) stoppages for adjudication by third or TV umpires/referees; and
- c) time outs and substitutions in games such as basketball.

For the avoidance of doubt, Play does not include:

- a) periods of on-field training before a sporting event or game where a player or participant returns to the dressing rooms or sheds before formally re-entering the field of play;
- b) any period prior to the first coin toss for a Session of tennis and any period commencing 5 minutes after the broadcast coverage of the run of play or active progress for each Session of tennis.

Primary Commercial Television Broadcasting Service means the primary commercial television broadcasting service declared by the ACMA.

Promotion of Odds means a distinct promotional reference that provides Odds and

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

includes any writing, still or moving pictures, signs, symbols or other visual images or any audible message/s (or any combination of those things). It does not include a reference that is:

- a) Accidental; or
- b) an Incidental Accompaniment.

Program means material the primary purpose of which is to entertain, educate or inform an audience and excludes matter such as Commercials, Community Service Announcements, Station ID and Program Promotions and all other matter set out in sections 5.1 and 5.2. Program includes a Film.

Program Promotion means material broadcast by a licensee within a Program break or between Programs which is designed to promote or draw attention to a Program, Film or Programs on the licensee's broadcasting services and includes reference to the date and time of the Program which is being promoted.

Public Holiday means a day proclaimed, Gazetted or nominated as public holidays under the relevant State or Territory legislation. Where a licence area covers areas in which different public holidays are observed, the public holidays for the area containing the majority of the licence area population will apply.

Responsible Gambling Message means a short statement designed to encourage the listener and/or viewer to gamble responsibly. Responsible Gambling Messages include statements required by State Laws and industry codes of practice or where not required by law or a code, includes: "Gamble Responsibly", "[name of advertiser] supports responsible gambling", "Bet within your limits", or "Stay in control when gambling".

Scheduled Breaks means pre-determined stoppages in a sporting event or game that is the subject of a Live sporting event. A Scheduled Break will differ depending on the sporting event or game that is the subject of the broadcast, for example:

Sport	Scheduled Break
Test Cricket	Between each Session (ie., lunch break and tea break) Drinks break Change of innings
One Day International Cricket	Between each Session / Change of innings Drinks break

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

T20 Cricket	Between each Session / Change of innings
Rugby League	Half time Between full time and commencement of golden point
Rugby Union	Half time
Soccer	Half time Between full time and extra time
AFL	Quarter time, half time and three-quarter time
Tennis	Between each set In a break of at least 90 seconds between two matches during a Session (including when during a Session the broadcast switches from one match still in Play to another match in Play at the same time)
Formula 1, Moto GP and V8 Supercars	Between each practice round, qualifying round and race
Basketball	Between each quarter Between full time and overtime
Netball	Quarter time, half time and three-quarter time
Golf, Swimming Championships	Not more than once every hour as part of a distinct break of at least 90 seconds
Olympic and Commonwealth Games	Between each day, twilight and night Session Not more than once every two hours as part of a distinct break of at least 90 seconds (including when during a session the broadcast switches from one event still in Play to another event in Play at the same time)

This is not an exhaustive list and other sporting events or games may also contain Scheduled Breaks, as determined by the rules and regulations of the sport, or as determined by the ACMA where the rules and regulations of the sport do not provide for breaks.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

School Day means a weekday that is not during the School Holidays and is not a Public Holiday.

School Holidays means Government primary school holidays in the relevant State or Territory. Where a licence area covers areas in which different School Holidays are observed, the School Holidays for the area containing the majority of the licence area population will apply.

Session means:

- a) in relation to tennis, the day, twilight, or evening session of matches as scheduled by the organisers of the relevant tournament or competition;
- b) in relation to Olympic and Commonwealth Games, the day, twilight and night group of events as scheduled by the organisers; and
- c) in relation to test cricket, any of the three distinct sessions of a match that are divided by lunch and the tea break; and
- d) in relation to one-day cricket, an innings.

Station ID means material broadcast by a licensee which is designed to promote or draw attention to the licensee's broadcasting services.

Unscheduled Break means a break when Play is suspended or delayed due to weather or other uncontrollable events, and participants are yet to enter the arena of play or have left the arena of play.

Weekends commence at 6.00 pm on a Friday and conclude at midnight on the following Sunday.

Working Days means Monday to Friday (inclusive), excluding public holidays in the relevant State or Territory. Where a licence area covers areas in which different public holidays are observed, the public holidays for the area containing the majority of the licence area population will apply.

In this Code, where a word appears in the singular it also applies in the plural, unless otherwise specified.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

Appendix 1: Television Classification Guidelines

These Guidelines apply to all broadcast material required to be classified.

Using these guidelines: essential principles

The suitability of material for broadcast will depend on the context, frequency and intensity of key elements such as violence, sexual behaviour, nudity and coarse language, and on the time of day at which it is broadcast. It will also depend on such factors as the merit of the production, the purpose of a sequence, the tone, the camera work, the relevance of the material, and the treatment; be it dramatic, comedic or documentary.

These factors must be all taken into account and carefully weighed. This means that some actions, depictions, themes, subject matter, treatments or language may meet current community standards of acceptability in one Program, but in another Program may require a higher classification, or be unsuitable for television. In other circumstances sequences that clearly depict comedy or slapstick behaviour may reduce the classification.

Children’s (C) and Preschool Children’s (P) Classifications



Material classified C or P must satisfy the requirements of the ACMA’s Children’s Television Standards.

The General (G) Classification



Material classified G is not necessarily intended for children but it must be very mild in impact and must not contain any matter likely to be unsuitable for children to watch without supervision.

Violence: Depictions of physical and psychological violence must be very restrained. The use of weapons, threatening language, sounds or special effects must have a very low sense of threat or menace, must be infrequent and must not show violent activity to be acceptable or desirable.

Sex: Depictions of, and verbal references to, sexual activity must be brief, infrequent, and contain little or no detail.

Nudity: Restrained, brief and infrequent visual depiction of nudity only when absolutely necessary to the story line or program context.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

Language: Very mild coarse language considered socially offensive or discriminatory may only be used infrequently when absolutely justified by the story line or program context.

Drugs: Depictions of, or verbal reference to illegal drugs must be absolutely justified by the story line or program context, contain very little detail and be handled with care. The program must not promote or encourage drug use in any way. The use of legal drugs must also be handled with care.

Suicide: Only limited and careful verbal reference to suicide is acceptable, when absolutely justified by the story line or program context, and provided that it is not presented as romantic, heroic, alluring or normal.

Themes: Themes dealing with social or domestic conflict must have a very low sense of threat or menace to children.

Dangerous imitable activity: Dangerous imitable activity should only be shown when absolutely justified by the story line or program context, and then only in ways which do not encourage dangerous imitation.

Other: Music, special effects and camera work may be used to create an atmosphere of tension or fear, but the overall impact should be very mild.

The Parental Guidance Recommended (PG) Classification



Material classified PG may contain adult themes or concepts but must be mild in impact and remain suitable for children to watch with supervision.

Violence: Depictions of violence must be inexplicit and restrained. More leeway is permitted when the depiction is stylised and/or unrealistic.

Sex: Depictions of and verbal reference to sexual activity must be restrained.

Nudity: Restrained depictions of nudity are permitted.

Language: Mild or socially offensive coarse language may be used infrequently, when justified by the story line or program context.

Drugs: Depictions of and restrained verbal reference to illegal drug use are permitted, but the program must not promote or encourage illegal use. The use of legal drugs must be handled with care.

Suicide: Visual depiction of and verbal reference to suicide or attempted suicide must be inexplicit and restrained. It must not be presented as the means of achieving a desired result or as an appropriate response to stress, depression or other problems.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

Themes: The treatment of social or domestic conflict and psychological themes should be carefully handled. Supernatural or mild horror themes may be included.



The Mature (M) Classification

Material classified M is for mature audiences. It is recommended for viewing only by persons aged 15 years or over.

Violence: Depictions of violence may be realistically shown only if they are not detailed or prolonged. Any depiction of or verbal reference to violence occurring in a sexual context must be infrequent and restrained, and strictly justified by the story line or program context.

Sex: Depictions of sexual activity may be implied or simulated in a restrained way. Verbal references to sexual activity may be more detailed than depictions if this does not increase the impact.

Nudity: Depictions of nudity are permitted but must not be detailed if in a sexual context.

Language: The use of coarse language is permitted but aggressive or strong coarse language should be infrequent overall.

Drugs: The use of illegal drugs may be shown but the program must not promote or encourage their use.

Suicide: Suicide must not be promoted or encouraged by the program and methods of suicide must not be instructional.

Themes: Most adult themes can be dealt with, but intense adult themes should be handled with care.



The Mature Audience (MA) Classification

Material classified MA is suitable for viewing only by persons aged 15 years or over because of the intensity and/or frequency of violence, sexual depictions, or coarse language, adult themes or drug use. The impact may be strong.

Violence: Realistic depictions may contain some detail, but should not be prolonged and should not be unduly bloody or horrific. Violence occurring in a sexual context must not be detailed.

Sex: Depictions of implied sexual activity may contain detail. Non-consenting sexual relations must not be depicted as desirable. Verbal sexual references may be detailed.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

Nudity: Depictions of nudity must be justified by the narrative context.

Language: The use of very coarse language must be appropriate to the story line or program context and not overly frequent or impactful.

Drugs: No detailed depiction of intravenous use of illegal drugs. The program must not promote or encourage the use of illegal drugs.

Suicide: Methods of suicide should not be shown in realistic detail. The program must not promote or encourage suicide.

Themes: The treatment of strong adult themes should be justified.

**PART B –
PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015**

Appendix 2: Television Station Contacts for Code Complaints

A Code complaint under section 7.2 of the Code can be made online via the [Free TV website](#), or in writing to the following addresses:

Channel	Address
7 7Mate 7Two	Complaints Officer Seven Network Pty Limited PO Box 777 PYRMONT NSW 2009
Nine GEM GO!	Complaints Officer Nine Network Pty Ltd PO Box 27 WILLOUGHBY NSW 2068
Ten One Eleven	Complaints Officer Network Ten Limited GPO Box 10 SYDNEY NSW 2000
WIN	Complaints Officer WIN Television NSW Pty Ltd Locked Bag 8800 WOLLONGONG NSW 2500
Prime	Regulatory Affairs Prime Television PO Box 878 DICKSON ACT 2602
Southern Cross	Complaints Officer Southern Cross Private Bag 10 DICKSON ACT 2602
Imparja	Complaints Officer Imparja Television Pty Ltd PO Box 52 Alice Springs NT 5750
NBN	Complaints Officer NBN Limited PO Box 750 NEWCASTLE NSW 2300

Written complaints to all licensees may also be sent to:

Code complaints
Free TV Australia
44 Avenue Road
Mosman NSW 2088

PART C: DETAILED EXPLANATORY NOTES ON THE CODE CLAUSES

Section 1- Application

Clause 1.1.1

Clause 1.1.1 specifies that the Code applies to all commercial television broadcasting services operated by a licensee. This includes the primary commercial television broadcasting service, and any other commercial television broadcasting services (known as “Multi-channels”), but excludes any datacasting services which are provided by a television broadcasting licensee.

Clause 1.1.2

Clause 1.1.2 is an informative provision which sets out the purpose of the Code of Practice.

Clause 1.1.3

Clause 1.1.3 notes that while a licensee will seek to comply fully with the Code, there are some instances when a licensee will not be in breach. These generally deal with circumstances that are beyond the control of the licensee, or relate to reasonable mistake or reliance on third parties.

Section 2- Classification and Proscribed Material

This section deals with the classification of material for broadcast on commercial free-to-air television, and prohibits certain material from being broadcast.

Section 2.1 - Classification - General rules

Section 2.1 sets out the general rules for classification of material shown on commercial free-to-air television. Classification is a core information service for viewers. Audiences value knowing what to expect from a program and whether it will be suitable for themselves and children in their care, before deciding whether or not to view.

Research conducted by the Australian Communications and Media Authority (ACMA) confirms that the classification system as it applies to television programs is reflective of broad community standards.⁴ The *Digital Australians* Report also highlighted the importance and usefulness of the existing classification system in assisting people to make decisions about their own viewing, and viewing for children.⁵

⁴ Australian Communications and Media Authority *Digital Australians – Expectations about media content in a converging media environment* October 2011, p 53

⁵ Op. cit., pp 53-54

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 2.1.1

Clause 2.1.1 requires all material to be classified in accordance with the criteria at Appendix 1 of the Code, and broadcast in accordance with the classification zones set out at section 2.2 of the Code.

This clause applies to all material broadcast, including Programs, Commercials, Program Promotions, Community Service Announcements, and Station IDs.

As the explanatory note to the clause indicates, this means that a Program Promotion which satisfies the PG classification criteria may be broadcast in a PG classification zone, even if the Program Promotion is for a Program that is classified M.

This rule is subject to a number of exceptions which are set out at section 2.3.

It is also relevant to note that the *Children's Television Standards* contains separate rules which apply to the content of Commercials, Program Promotions, Community Service Announcements and Station IDs screened during a C program. Commercials are not permitted during P programs.

Clause 2.1.2

Clause 2.1.2 clarifies which classification zones apply to a licensee if their licence area covers different time zones. The clause stipulates that a licensee is required to comply with the classification zones which apply to the majority of the population in the relevant licence area.

Clause 2.1.3

Clause 2.1.3 clarifies that a licensee may rely on the advice of a qualified third party (such as Commercials Advice or an independent classifier) in meeting its obligations under clause 2.1.1 for Commercials and Community Service Announcements.

Section 2.2 - Classification zones

The Australian Law Reform Commission (ALRC) found that classification zone restrictions as they currently apply to commercial broadcasting services may become unnecessary in coming years, noting developments in content delivery such as the proliferation of online, on-demand and catch-up services, pay TV, dedicated children's channels and the widespread availability of parental locks and EPGs.⁶

Similarly, the ACMA identified that classification zones were "under strain" as a regulatory tool in its *Contemporary Community Safeguards Inquiry* (CCSi) Issues paper.⁷ Research

⁶ Australian Law Reform Commission *Classification – Content Regulation and Convergent Media Report*; February 2012, p 196

⁷ Australian Communications and Media Authority *Contemporary Community Safeguards Inquiry – Issues paper*, June 2013, pp 32

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

conducted by the ACMA as part of the CCSi found that “time of day” was not one of the top three methods used by parents and carers to make viewing decisions.⁸

Acknowledging that some viewers continue to use classification zones as a tool to make viewing choices, the Code therefore incorporates classification zones which reflect the current digital media landscape.

Clause 2.2.1

Clause 2.2.1 stipulates that material classified PG, G, P or C may be broadcast at any time. This rule operates subject to the requirements of the *Children’s Television Standards* which require the broadcast of P and C material at certain times of day.

This classification zone means that G and PG content may be broadcast all day, as is currently the case with the national broadcasters and the commercial free-to-air multi-channels.

Clause 2.2.2

Clause 2.2.2 sets out the times when content classified M may be screened, as follows:

School days	7.30 pm to 6.00 am 12 noon to 3.00 pm
Weekends and School holidays	7.30 pm to 6.00 am
Public Holidays	7.30 pm to 6.00 am

This rule does not apply to Films which have been classified M by the Classification Board. Films are subject to separate rules which are set out at section 123(3A) of the *Broadcasting Services Act 1992* (BSA) and addressed at clause 2.3.2 of the Code.

The M classification zone reflects the popularity of prime time M classified programming and provides flexibility to broadcast appropriate M classified content at a more convenient time for viewers, who can otherwise access the same content at this time without restriction via other media.

Clause 2.2.3

Clause 2.2.3 provides that content classified MA15+ can only be screened between 8.30 pm and 5.00 am.

This classification zone ensures that content which is unsuitable for children will not be screened at a time when they are likely to be viewing. The MA15+ classification zone in the Code is in line with the SBS Code of Practice.

⁸ Australian Communications and Media Authority *Community research informing the Contemporary Community Safeguards Inquiry – Qualitative and Quantitative Findings*, February 2013, pp 2

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Section 2.3 - Exceptions

Clause 2.3.1

Clause 2.3.1 provides that Films must be classified in accordance with the system set out by the *Classification (Publications, Films and Computer Games) Act 1995* (Cth), rather than the classification criteria set out at Appendix 1 of this Code. This distinction is required by section 123(3A) of the BSA.

The note to this clause clarifies that a broadcaster may modify a Film so it is suitable for broadcast, or broadcast at a particular time, as enabled by section 123(3A)(b) of the BSA.

Clause 2.3.2

Clause 2.3.2 stipulates that Films classified M or MA15+ may only be shown at certain times of day, as required by section 123(3A)(c) and (d) of the BSA.

However, it is noted that the ALRC recommended that classification zones should no longer be included in legislation.⁹ No other media has classification zones specified in the BSA. The clause therefore provides that these separate rules for Films only apply so long as section 123(3A) of the BSA is in force.

Clause 2.3.3

Clause 2.3.3 provides for a classification exception for news, current affairs and sporting programs and Program Promotions. Even though such material is not required to be classified, a licensee is still required to exercise care in selecting material for broadcast, having regard to the likely audience, as well as any public interest in the broadcast.

In relation to news, it is critically important for broadcasters to be able to accurately report news events in a timely and informative manner. In doing so, it will sometimes be necessary to deal with issues that may not satisfy a PG classification. Timing for breaking news is critical in the current 24-hour news environment, and the evening news bulletins on commercial television are relied on by millions of Australians to keep informed about the day's events.

News and current affairs programs are not directed towards children, however the clause requires licensees to have regard to the likely viewing audience, including the presence of children. This may mean, for example, that the material presented in a 5 pm news bulletin may be different to the material in a 10 pm news bulletin.

The exception for sporting events recognises that viewers want to watch sporting events on a live basis where possible, and that the vast majority of people watching sporting events on television are adults.

Exempting these categories of content from classification is in line with recommendations by the ALRC Classification review.¹⁰

⁹ ALRC, p 196

¹⁰ ALRC, p 141

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 2.3.4

Clause 2.3.4 sets out the circumstances where a Program, or other non-Program matter (such as a Community Service Announcement) can be broadcast outside the applicable classification zone. The clause recognises that there will be some cases where this may be justified and includes safeguards to ensure that, in the case of a Program, clear advice is provided at the beginning.

Clause 2.3.5

Clause 2.3.5 provides that excerpts of material which is classified M or above may be broadcast at any time, so long as the excerpt satisfies the criteria for the relevant classification zone, or the excerpt is part of a news and current affairs Program, review Program or segment, an interview directed at adults, or a Program which deals responsibly with significant moral or social issues.

Section 2.4 – Viewer information

This section sets out the information that broadcasters will provide to viewers.

It reflects the fact that classification information and Program descriptions are now readily available to all viewers via the digital Electronic Program Guides, which may be accessed at any time during a program.

Clause 2.4.1

Clause 2.4.1 requires a licensee to provide audio and visual consumer advice for Programs classified MA15+, and Films classified PG or higher. This advice sets out the key elements that contributed to the classification of the Program or Film.

A licensee may provide consumer advice for other programs if it determines that it is appropriate under the circumstances.

Clause 2.4.2

Clause 2.4.2 requires a licensee to display the classification symbol for a Program or Film as soon as possible after the commencement, and after any breaks.

This provides viewers with clear and easily accessible on-screen classification information.

Section 2.5 – Material not suitable for broadcast

This section sets out the material which is not suitable for broadcast by a commercial television broadcasting licensee at any time.

Clause 2.5.1

Clause 2.5.1 states that a licensee may not broadcast material that cannot be classified MA15+ or lower. This prohibits the screening of material that is classified R, X18+, or material that has been refused classification.

A licensee may modify such material for broadcast, so long as the edited version satisfies the criteria for classification as MA15+ or lower. Excerpts from such material may be shown in certain circumstances as provided for by clause 2.3.5, so long as the excerpt is suitable for the relevant classification zone.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 2.5.2

Clause 2.5.2 prohibits a licensee from knowingly broadcasting a Program, Program Promotion, or Station ID that provokes or perpetuates intense dislike, serious contempt, or severe ridicule against a person or group of persons due to certain factors such as age or ethnicity.

Clause 2.5.3

Clause 2.5.3 sets out the limited circumstances where a licensee will not be in breach of clause 2.5.2. This clause reflects the delicate balance required between ensuring freedom of expression and reports in the public interest, and protecting groups and individuals from material that may be harmful.

Section 3 – News and Current Affairs

News and current affairs are a particular genre of programming, where viewers reasonably expect certain journalistic standards in fairness and accuracy.

Australian viewers want credible sources of news and information that they can trust. Consumers of news and current affairs seeking accuracy and integrity will seek out news providers who maintain and demonstrate high standards in accordance with these general principles.

Section 3.1 – Scope and Interpretation

Clause 3.1.1

Clause 3.1.1 clarifies that the provisions in section 3 apply to news and current affairs Programs broadcast by a licensee.

Clause 3.1.2

Clause 3.1.2 requires the provisions in section 3 to be interpreted with regard to the circumstances of the broadcast and the time pressures associated with news and current affairs programming.

This clause reflects that many news and current affairs Programs will be reporting on stories as they develop, and that timely delivery of breaking news is critical in the current 24-hour news environment.

Clause 3.1.3

Clause 3.1.3 applies the additional considerations of practicality and brevity when considering whether short-form news and current affairs content (such as updates and Program Promotions) comply with the requirements of section 3.

Section 3.2 – Material which may cause distress

Clause 3.2.1

Clause 3.2.1 sets out certain requirements for a licensee regarding the broadcast of potentially distressing material as part of a news or current affairs Program.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Subclause (a) prohibits the broadcast of material which is likely to seriously distress or offend a substantial number of viewers, unless there is a public interest reason. This clause is to be interpreted with regard to the likely audience of the program.

Subclause (b) requires a spoken warning before any segment that is permitted by subclause (a) because the broadcast is in the public interest. This ensures that viewers receive prior warning before any potentially distressing material is broadcast. This clause is to be interpreted with regard to the likely audience of the program.

Subclause (c) prohibits reports about suicide or attempted suicide, unless there is a public interest reason. When reporting suicide or attempted suicide in the public interest, licensees must exclude any detailed description of the method used, as well as any graphic images or details.

Subclause (d) requires a licensee to exercise sensitivity in broadcasting images of, or interviews with bereaved relatives, or persons who have witnessed or survived a traumatic incident.

Section 3.3 – Accuracy and fairness

This section sets out important protections regarding accuracy and fairness in news and current affairs Programs.

Clause 3.3.1

Clause 3.3.1 requires all material facts contained in a news or current affairs Program to be accurate.

Broadcasters adhere to the basic proposition that factual material presented in news and current affairs Programs should be accurate. While news and current affairs Programs strive to be accurate in relation to all matters, regulatory consequences should apply only in the case of material facts. This is in line with the ABC Code of Practice.¹¹ The ACMA's CCSi Report also noted that future safeguards should focus on materiality, simplification and clarification.¹²

Clause 3.3.2

Clause 3.3.2 provides that a determination under clause 3.3.1 as to accuracy must be made in the context of the segment in its entirety, and taking into account the facts known at the time of the broadcast.

This clause reflects the fact that many news stories are fluid and new information may come to hand as a story develops.

Clause 3.3.3

Clause 3.3.3 requires a licensee to correct significant and material errors of fact that are brought to their attention in a timely manner.

¹¹ ABC Code of Practice, Standard 2.1, page 5

¹² Australian Communications and Media Authority *Contemporary Community Safeguards inquiry – Consolidated Report*, February 2014, pp 72-3

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 3.3.4

Clause 3.3.4 provides that a licensee will not be held in breach of clause 3.3.1 if they make a correction in accordance with clause 3.3.3.

Clause 3.3.5

Clause 3.3.5 sets out a range of ways that a licensee can make a correction under clause 3.3.3 of the Code. The options for corrections recognise the increased availability and use of online news sources by viewers.

The appropriate form of correction will clearly depend on a wide range of matters including the significance of the error, the length of time between the error being broadcast and it being brought to the attention of the broadcaster, the nature of the program in which the error was made and whether the error is simple to explain or would require the information in the original broadcast to be repeated.

Clause 3.3.6

Clause 3.3.6 requires broadcasters to present news Programs fairly and impartially, and clearly distinguish factual reporting from commentary and analysis. This provision does not apply to current affairs Programs, which are covered by clause 3.3.8.

Clause 3.3.7

Clause 3.3.7 clarifies the operation of clause 3.3.6, noting that it does not require a licensee to present all viewpoints on a matter equally.

Clause 3.3.7 also clarifies that clause 3.3.6 does not preclude a critical examination of, or comment on, a controversial issue as part of a fair report on a matter of public interest.

This balances the need to provide certain safeguards in relation to fairness with the ability for licensees to engage in robust reporting and expression in the public interest.

Clause 3.3.8

Clause 3.3.8 provides that current affairs Programs may take a particular stance on issues and are not required to be impartial. This is an acknowledgement that current affairs Programs are of a different nature to news and may present a report from one particular perspective.

Section 3.4 - Privacy

As the ACMA noted in its CCSi Report, there is widespread community and industry support for privacy safeguards in the context of broadcasting Codes. This section sets out those safeguards for commercial free-to-air broadcasters.

It is also relevant to note that there are a range of legislative provisions at both Federal and State level which prevent the identification and broadcast of certain material about individuals. These Code safeguards are in addition to those legislative provisions.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 3.4.1

Clause 3.4.1 prohibits a licensee from broadcasting material relating to a person's private or personal affairs, unless there is a public interest reason or the person has provided consent (or, in the case of a person under 16, consent has been provided by the parent or guardian).

This provision balances the public interest in maintaining an individual's privacy with the public interest in the disclosure of information and freedom of expression.

Clause 3.4.2

Clause 3.4.2 provides that material which is available to the public or recorded in a public place is not private information.

For example, if material is available on a social media site and there are no privacy controls in place, then that material should not be considered private as it is freely available to any member of the public.

Similarly, it is presumed that material recorded in a public place will not be private. This is consistent with clause 1.9 of the SBS Code of Practice.

Section 4 – Disclosure of Commercial Arrangements

Clause 4.1.1

Clause 4.1.1 requires a licensee to disclose certain Commercial Arrangements in factual programming. This ensures transparency for viewers in relation to products and services featured in certain Factual Programs.

Clause 4.1.2

Clause 4.1.2 enables a disclosure under clause 4.1.1 to be made to viewers in a range of ways, reflecting the fact that many Factual Programs now include a strong online and social media presence and provide further information, including program credits, online.

Section 5 – Advertising Limits

Advertising plays a critical role in the provision of commercial free-to-air television broadcasting services. Revenue from advertising enables the provision of competitive services and innovative content to Australians which is free to view. No other commercial content delivery platform in Australia has restrictions on the amount of advertising that it may include.

Viewers understand the necessary compact that exists between access to free-to-air television and advertising. Many viewers also recognise and appreciate that advertisements on television can inform them of new products and services which they might not otherwise be aware of.

It is recognised that there is also a desire for viewers to experience programming with minimal disruptions. The provisions of the Code balance these competing interests by setting time limits for the number of advertisements throughout the day, with specific limits on the amount of advertising in prime time.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

The section also reflects the fact that Program breaks may include a mix of paid advertising and other material, such as Community Service Announcements or Station IDs.

Section 5.1 – Non-Program matter

Clause 5.1.1

Clause 5.1.1 sets out what constitutes non-Program matter, for the purposes of calculating compliance with the advertising limits at sections 5.3 and 5.4.

Non-Program matter includes Commercials as defined at section 8 of the Code, Program Promotions lasting longer than 10 seconds, and material which satisfies the definition of a Commercial or Program Promotion and occupies all of the screen during a Program.

Section 5.2 – Exempt non-Program matter

Section 5.2 outlines the non-Program matter that is exempt for the purposes of calculating compliance with the advertising limits at sections 5.3 and 5.4.

Clause 5.2.1

This clause lists the material that is not included in the time limits set out in sections 5.3 and 5.4.

Broadcasters may include exempt non-Program matter in their Program breaks for a number of reasons, including to screen Community Service Announcements, election authority announcements, Station IDs, Program displacement information, or short Program Promotions.

Clause 5.2.1 also stipulates that certain product placement, competition information, advertising or promotions which occur within (or adjacent to) Programs are not included in the advertising time limits set out in sections 5.3 and 5.4. It is relevant to note that such material is subject to the disclosure provisions at section 4 of the Code if it occurs in a Factual Program as a result of a Commercial Arrangement.

Promotions, announcements and information segments about Freeview (and associated platforms such as HbbTV) are also excluded from the calculation of the advertising limits where a licensee does not receive consideration. These segments are designed to raise awareness and inform viewers about developments in the free-to-air viewing platform.

Section 5.3 – Hourly limits – Primary commercial television broadcasting services

Clause 5.3.1

Clause 5.3.1 specifies that section 5.3 applies only to the Primary Commercial Television Broadcasting Service provided by a licensee, as declared by the ACMA.

Clause 5.3.2

Clause 5.3.2 sets rules about the average number of minutes per hour of non-Program matter (as defined by clause 5.1.1) that a licensee may schedule on its Primary Commercial Television Broadcasting Service.

Prime time (between 6pm and midnight) has the lowest amount of permitted non-Program matter, with an average of 13 minutes per hour permitted outside an election period.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

During an election period, an additional minute of non-Program matter is permitted in prime time, if that extra minute is only used for political matter.

At other times of the day, outside an election period, an average of 15 minutes per hour of non-Program matter is permitted.

If an election period is in force and a news program is being shown, then a licensee may schedule an average of 16 minutes per hour of non-Program matter, although at least one minute must comprise only political matter.

The additional non-Program matter allowed during an election period is limited to political matter only, regardless of the time of day. This additional minute facilitates the community's access to political information that is relevant to the election.

Clause 5.3.3

Clause 5.3.3 sets maximum limits on the amount of non-Program matter that is permitted to be scheduled on a licensee's Primary Commercial Television Broadcasting Service, provided that the licensee otherwise complies with the averages set out at clause 5.3.2.

The combination of maximum and average non-Program matter limits on the Primary Commercial Television Broadcasting Service gives licensees some flexibility over their scheduling and programming across prime time and throughout the day, while still ensuring a reasonable balance of Program and non-Program matter.

Section 5.4 - Hourly limits - Multi-channels

Clause 5.4.1

Clause 5.4.1 stipulates that section 5.4 applies only to a licensee's Multi-channels (as defined at section 8 of the Code).

Clause 5.4.2

Clause 5.4.2 sets out the permitted scheduled amount of non-Program matter per hour on a licensee's Multi-channel service.

Unlike the rules at section 5.3 for the Primary Commercial Television Broadcasting Services, the non-Program matter limits for Multi-channels do not distinguish between average number of minutes per hour and maximum minutes per hour.

Subclause 5.4.2(a) states that up to 15 minutes per hour of non-Program matter is permitted between 6pm and midnight, if an election period is not in force.

An additional minute of non-Program matter which is political matter is permitted in prime time during an election period (subclause (b)). This facilitates the community's access to political information that is relevant to the election.

Subclause 5.4.2(c) sets a limit of 16 minutes per hour of non-Program matter outside of prime time, regardless of whether there is an election period.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Section 5.5 – Make up of non-Program matter from Certain Broadcasts

This section enables a broadcaster to displace and “make-up” non-Program matter in certain circumstances.

Clause 5.5.1

Where a licensee does not screen the maximum amount of non-Program matter in certain broadcasts, clause 5.5.1 allows that licensee to “make-up” the shortfall amount elsewhere in its schedule, within 14 days before or after the shortfall and up to a maximum of one minute per hour. If the shortfall occurs between midnight and 6 pm, then the shortfall amount must be made up in that time span.

This clause applies only to non-Program matters shortfalls that occur during certain Programs that are beneficial to the community, such as telethons, political debates, or during extended coverage of a significant news story.

Clause 5.5.2

Clause 5.5.2 enables a licensee to make up a non-Program matter shortfall which occurs as a result of coverage of a Live Sporting Event. The conditions for such a “make-up” are more restrictive than in clause 5.5.1, although the same time band restrictions apply if the shortfall occurs between midnight and 6pm.

A licensee must make up any non-Program matter shortfall which occurs as a result of coverage of a Live Sporting Event on the same day as the shortfall occurs, up to a maximum of one minute per hour, and ensuring that the averages required by clause 5.3.2 are maintained.

Section 5.6 – Assessing compliance with advertising limits

Broadcasting can sometimes be unpredictable and a Program can run beyond the scheduled finish time, especially if it is broadcast live, or involves coverage of a news story. This section provides some guidance and reference points for assessing a licensee’s compliance with the provisions of section 5 and reflect long-standing industry practices.

Clause 5.6.1

Clause 5.6.1 stipulates that the Final Schedules (as defined at section 8) will be used as the reference point when assessing a licensee’s compliance with section 5 of the Code.

Clause 5.6.2

Clause 5.6.2 states that the amount of non-Program matter set out in the Final Schedules cannot exceed the hourly limits at clause 5.3.3, unless a range of technical scheduling conditions are satisfied.

Clause 5.6.3

Clause 5.6.3 clarifies the calculation that applies to measuring a licensee’s compliance in the event that an earlier schedule differs from the Final Schedule.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Section 5.7 – Additional requirements

Clause 5.7.1

Clause 5.7.1 states that all television advertisers are expected to comply with the Australian Association of National Advertisers (AANA) *Code of Ethics*, the AANA *Code for Marketing and Advertising Communications to Children*, the AANA *Food & Beverages: Advertising & Marketing Communications Code*, the AANA *Environmental Claims in Advertising & Marketing Code*, and the ABAC *Responsible Alcohol Marketing Code*, where applicable.

These industry Codes provide a range of protections which are directed to responsible and ethical marketing. They apply to advertising across all platforms, including to user-generated content on social media.

The platform-neutral nature of these Codes ensures regulatory consistency in certain advertising content. The Commercials Advice division of Free TV supports this form of regulation by removing classification for television Commercials that are found to be in breach of the AANA Codes or the ABAC.

Clause 5.7.2

Clause 5.7.2 provides that Commercials broadcast by a licensee must comply with the Free TV Operations Practice Notes concerning Loudness and Audio Levels.

Section 6 - Advertising Restrictions

Section 6 of the Code sets out restrictions on the placement of Commercials for certain adult products and services.

Commercial free-to-air broadcasters recognise that there is a level of community concern about the exposure of children to certain television Commercials. Viewer feedback indicates that this level of concern is low when compared to other issues dealt with in the Code.

The restrictions at section 6 provide some safeguards to limit the exposure of children to Commercials for adult products and services. It is relevant to note that no comparable safeguards exist on other content delivery platforms such as pay TV or commercial radio.

Section 6.1 – Alcohol advertising

Clause 6.1.1.

Clause 6.1.1 sets limits on when a Commercial for an Alcoholic Drink may be broadcast.

Subclause (a) allows the broadcast of Commercials for Alcoholic Drinks during M and MA15+ classification zones, as set out at clauses 2.2.2 and 2.2.3 respectively.

Subclause (b) permits the broadcast of a Commercial for Alcoholic Drinks during sports broadcasts on Public Holidays and Weekends. This provision recognises that the audience for sport is made up overwhelmingly of adults. Ratings data shows that children constitute a very small percentage of overall commercial free-to-air television sports viewing, and those children viewing are doing so predominantly in the company of an adult.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Subclause (c) clarifies how the provision operates in relation to a sports broadcast across different time zones.

It is relevant to note that clause 5.7.1(e) of the Code states that advertisers are expected to ensure that Commercials comply with the ABAC *Responsible Alcohol Marketing Code*, which includes a range of provisions to ensure that alcohol marketing is undertaken in a responsible manner and does not appeal to children.

Section 6.2 – Intimate products and services

Clause 6.2.1

Clause 6.2.1 prohibits the broadcast of a Commercial or Community Service Announcement promoting condoms or other contraceptives in Programs that are classified G or lower, unless it contains a public health or safety message.

Clause 6.2.2

Clause 6.2.2 restricts the broadcast of Commercials for sex services to the time band of 11 pm to 5 am.

Clause 6.2.3

Clause 6.2.3 prohibits the broadcast of a Commercial which is a direct advertisement for a Film that is classified X18+. Such Commercials are not permitted at any time.

Section 6.3 – General restrictions on Commercials relating to Betting and Gambling

Clause 6.3.1

Clause 6.3.1 prohibits the broadcast of a Commercials relating to Betting and Gambling during a Program that is classified G or lower, and screened between:

- 6.00 am and 8.30 am; or
- 4.00 pm and 7.00 pm.

This provision is directed to limiting children's exposure to Commercials relating to Betting and Gambling, by prohibiting such Commercials during the times and Programs that are likely to have significant child audiences.

Clause 6.3.2

Clause 6.3.2 clarifies that the prohibition at clause 6.3.1 does not apply to news, current affairs or sports Programs. These Programs are not classified, in accordance with clause 2.3.3 of the Code, and do not have a substantial child audience.

Section 6.4 – Promotion of Odds and Commercials relating to Betting and Gambling during Live Sporting Events

This section sets out special rules for the Promotion of Odds and placement of Commercials relating to Betting and Gambling during Live Sporting Events. This section was introduced to the Code in 2013 following extensive government and public consultation. The section is unchanged except for a minor amendment to enable the ACMA to determine the restrictions that apply to additional sports.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 6.4.1

Clause 6.4.1 clarifies that the rules in section 6.4 do not apply to horse, harness or greyhound racing. This clause recognises that these sports are historically associated with the provision of Odds and gambling activity.

Clause 6.4.2

Clause 6.4.2 provides some parameters for a licensee's compliance with section 6.4. It states that a licensee will not be in breach if the relevant broadcast satisfies certain criteria, including that the licensee did not receive any direct or indirect benefit for the relevant Promotion of Odds or Commercial relating to Betting and Gambling.

Clause 6.4.3

Clause 6.4.3 prohibits the Promotion of Odds during a Live Sporting Event at specified times, including during Play (once a game or event has commenced), in Scheduled Breaks (such as half or quarter time), or in Unscheduled Breaks (for example, if there is a stoppage due to injury).

Clause 6.4.4

Clause 6.4.4 prohibits the Promotion of Odds by a Commentator within 30 minutes of the commencement or conclusion of Play for a Live Sporting Event.

Clause 6.4.5

Clause 6.4.5 sets out separate rules for the Promotion of Odds during Long Form Live Sporting Events (as defined at section 8 of the Code). These events usually run for a period of days or weeks.

Clause 6.4.5 allows the Promotion of Odds in Long Form Live Sporting Events before Play has commenced, after Play has concluded, and occasionally in long breaks.

The Promotions of Odds that are permitted in long breaks in Play for a Long Form Live Sporting Event must be limited in accordance with the table at subclause 6.4.5(b), and may not be for a race, match or game that has commenced.

Clause 6.4.6

Clause 6.4.6 is a clarifying provision that sets out when Play commences and concludes for a Long Form Live Sporting Event lasting longer than 1 day.

Clause 6.4.7

Clause 6.4.7 sets out the harm minimisation measures that must be included in any Commercial relating to Betting or Gambling that is broadcast by a licensee during a Live Sporting Event.

Clause 6.4.8

Clause 6.4.8 requires any Commercial relating to Betting or Gambling broadcast during a Live Sporting Event to be socially responsible, and not mislead or deceive the audience.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 6.4.9

Clause 6.4.9 requires any Commercial relating to Betting or Gambling broadcast during a Live Sporting Event to contain a Responsible Gambling Message.

Clause 6.4.10

Clause 6.4.10 prohibits a Commercial relating to Betting or Gambling from being broadcast during Play during a Live Sporting Event.

Clause 6.4.11

Clause 6.4.11 sets out the times when a Commercial relating to Betting or Gambling may be broadcast during a Live Sporting Event. Such a Commercial is only permitted before Play, during Scheduled Breaks, during Unscheduled Breaks, and after Play has concluded.

Clause 6.4.12

Clause 6.4.12 is a clarifying provision which stipulates how clause 6.4.11 applies in relation to Long Form Live Sporting Events.

Clause 6.4.13

Clause 6.4.13 prohibits a representative of a gambling organisation from engaging in a Promotion of Odds, or appearing in a Commercial relating to Betting or Gambling at the sporting venue where the Live Sporting Event is taking place.

In practical terms, this clause means that a representative of a gambling organisation cannot appear on a pitch or sideline to promote their services when a Live Sporting Event is taking place.

Clause 6.4.14

Clause 6.4.14 prohibits a representative of a gambling organisation from appearing as a Commentator during a Live Sporting Event.

Section 7 – Feedback and Complaints

The Code provides a system for viewers to make formal complaints about matters that are covered by the Code. The key principles that underpin an effective complaints handling system are accountability and transparency.

Under the co-regulatory system set out in the BSA, a Code Complaint is initially made to the broadcaster. The overwhelming majority of Code Complaints are resolved in the first instance between the broadcaster and the complainant. If a complainant is not satisfied with the response from the broadcaster, then the complaint may be escalated to the ACMA for investigation.

This formal complaints system operates in addition to the informal feedback that licensees receive through a range of sources.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Section 7.1 - Feedback

Clause 7.1.1

Clause 7.1.1 notes that licensees welcome feedback, which may be provided through a number of sources.

Clause 7.1.2

Clause 7.1.2 distinguishes feedback from a complaint made under the Code of Practice. A Code Complaint must satisfy certain criteria (set out at section 7.2), because it forms part of a formal regulatory process for licensees.

Section 7.2 – Code complaints

Section 7.2 sets down the framework for making Code complaints to licensees.

Clause 7.2.1

Clause 7.2.1 provides that a Code Complaint must be in writing. It can be posted or delivered to a specified address, or lodged online at the Free TV website. Broadcasters publicise this information on their websites.

Subclause (a) provides for Code Complaints to be made in writing. An option for written postal complaints recognises that not all potential complainants may be in a position to lodge a Code Complaint online. Specifying an address for written complaints as part of the Code will ensure that the complaint is directed to the correct person and a response can be provided in a timely way. Appendix 2 also provides an easy reference point for complainants who need a licensee's address.

Subclause (b) enables a Code Complaint to be made via the online lodgement system on the Free TV website. The centralised online lodgement system for Code Complaints which was established in 2010 has made the complaints process easier and more accessible for viewers, as well as improving accountability and transparency.

The online lodgement system is set up to ensure that complaints made online are directed to the correct staff at each network in a timely manner. These designated staff are in a position to action complaints and respond appropriately. It is an accountable and efficient system which can reliably track and audit complaints.

Clause 7.2.2

Clause 7.2.2 sets out the information that must be included as part of a Code Complaint, to enable a licensee to respond.

These provisions allow a licensee to readily identify the Program that is the subject of the complaint, and provide a formal response in line with the requirements of section 7.3 of the Code.

Subclause (a) requires the complainant to provide details about the material of concern. The identification of the material that is the subject of the Code Complaint is important because it enables the licensee to quickly identify and review it. For example, a complaint that relates to “a Program on one of your channels last week that had a dog in it” will not contain

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

sufficient information to satisfy the criteria at clause 7.2.2(a), because the licensee will be unable to identify the material that is the subject of the complaint.

Subclause (b) relates to the nature of the complaint, so that a broadcaster can provide a response to the complainant's concerns.

Subclause (c) requires the identity of the complaint to be included, so that the licensee can prepare a response. It is also relevant to the provisions at clauses 7.2.3(d) and (e).

Subclause (d) states that a complainant must indicate the location where the material was seen. This enables a licensee to ascertain whether the complaint has been correctly directed. For example, a complaint may be made to a metropolitan network in error, when the material was viewed in a regional licence area. Subclause (d) also allows a licensee to ascertain whether a complainant has seen the relevant material on television in Australia, which is a requirement of clause 7.2.3(b).

Subclause (e) requires a complainant to provide an address for correspondence, so that a licensee can respond to a Code Complaint in accordance with section 7.3 of the Code.

Clause 7.2.3

Clause 7.2.3 sets some parameters about Code Complaints.

Subclause (a) requires a Code Complaint to be about a matter covered by the Code. Feedback or concerns about other matters may be forwarded to broadcasters at any time through a range of mechanisms, in accordance with clause 7.1.1 of the Code.

Subclause (b) provides that a complainant must have seen the material that is the subject of the complaint on television, as part of a terrestrial television broadcast in Australia. The Code is directed to providing safeguards in relation to the content of commercial television broadcasting services. It does not apply to material that would otherwise be unregulated, such as DVDs, content on a licensee's website or social media platform.

Subclause (c) requires a complaint to be made within 30 days of the broadcast. The 30 day time limit for Code Complaints provides a reasonable time frame for viewers to raise concerns, and ensures that a broadcaster will have retained the relevant audio-visual records to enable them to deal with the complaint.

Subclause (d) requires a Code Complaint made under clause 2.5.2 (regarding material that provokes or perpetuates intense dislike, serious contempt, or severe ridicule against a person or group of persons) to be made by or on behalf of a person aggrieved by the broadcast. This is in line with the requirements at section 20(1)(b) of the *Australian Human Rights Commission Act 1986* (Cth).

Subclause (e) states that a Code Complaint under clause 3.4.1 (privacy) may only be made by or on behalf of the person who is aggrieved by the broadcast. This approach is in line with the ABC and SBS Code privacy provisions.

Subclauses (d) and (e) ensure that the complainant has a sufficient interest in the subject matter of the complaint.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Section 7.3 – Responding to Code complaints

Section 7.3 sets rules that licensees must adhere to in responding to Code complaints.

Clause 7.3.1

Clause 7.3.1 requires a licensee to send a written response to a Code Complaint within 30 working days of its receipt, unless it falls within the exclusions set out at clauses 7.3.3 or 7.3.4.

Clause 7.3.2

Clause 7.3.2 requires a licensee to advise a complainant that they can escalate their Code Complaint to the ACMA if they are not satisfied with the licensee's response. This ensures that complainants are fully informed of their rights as part of the Code Complaints process.

Clause 7.3.3

Clause 7.3.3 provides a mechanism for a licensee to refer a Code Complaint if it is the responsibility of another licensee. The first licensee must refer the Code Complaint within 10 working days of its receipt. The second licensee then has 30 working days to respond to the Code Complaint from the date that they receive it. This provision means that a Code Complaint will be dealt with in a timely way, even if it is initially sent to a licensee who was not responsible for the relevant material.

Clause 7.3.4

There are some instances where it is not reasonable for a licensee to be required to respond to a Code complaint, or where a response is not required. Clause 7.3.4 sets out the circumstances where a licensee does not need to respond to a Code Complaint.

Subclause (a) applies if a complaint is in relation to a broadcast that is the subject of threatened or formal legal proceedings and the licensee or its agents or employees are involved.

Subclauses (b) and (c) state that a licensee is not required to respond to a Code Complaint that is frivolous, vexatious, an abuse of the Code process, or is offensive or vulgar.

Subclause (d) states that a licensee is not required to respond to a Code Complaint that is part of a series of complaints from a single person about a particular Program or series of Programs, and does not raise any new issues.

Subclause (e) states that a licensee is not required to respond to a Code Complaint where the complainant has expressly stated that they do not wish for a response.

Section 7.4 – Transparency

Clause 7.4.1

Clause 7.4.1 requires each licensee to report to Free TV Australia the number and substance of Code Complaints received on a quarterly basis.

PART C – EXPLANATORY NOTES ON CLAUSES - PROPOSED COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE 2015

Clause 7.4.2

Clause 7.4.2 requires Free TV Australia to compile an aggregated report of Code Complaints on an annual basis and publish that report. This provides transparency about the number and substance of complaints made to commercial television broadcasters.

Clause 7.4.3

Clause 7.4.3 requires a licensee to broadcast Community Service Announcements which provide viewers with information about the Code.

Section 8 - Interpretation

Section 8 of the Code sets out a number of defined terms that are used throughout the Code.

Appendix 1

Appendix 1 sets out the criteria and symbols used to classify material in accordance with section 2 of the Code.

It specifies the level and intensity of content that may be expected for each classification category in relation to a range of factors such as Violence, Language or Drug use.

Appendix 2

Appendix 2 provides the address for lodgement of written Code Complaints to a licensee, if the online lodgement system is not used for a Code Complaint.

This ensures that a complaint is directed to the appropriate person, and also provides accessible relevant information for a complainant wishing to lodge a written Code Complaint.