



**Submission by
Free TV Australia Limited**

Senate Environment, Communications and
the Arts Committee

Inquiry into the sexualisation of children in
the contemporary media environment

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EXECUTIVE SUMMARY

- The commercial free to air television industry does not support the sexualisation of children.
- All material on commercial free to air television is heavily regulated.
- All material broadcast is consistent with the Office of Film and Literature Classification Guidelines.
- The Commercial Television Code of Practice contains a classification scheme which is not only consistent with the OFLC Guidelines but which also divides the viewing day into time zones.
- This ensures that material broadcast during the viewing day is appropriate for the viewing audience available at that time.
- Children's programming is specifically regulated through the Children's Television Standard which includes a pre classification process. This regulation is unique in the world.
- All advertising must comply with the classification guidelines.
- Advertising directed to children must "exercise special care and judgment and comply with the Children's Television Standards".
- Commercial free to air broadcasters do not broadcast advertisements which sexualise children.
- There is a very low level of complaint to broadcasters in relation to this issue.
- Broadcasters are confident that the current regulation provides appropriate community safeguards.

1 Introduction

Free TV Australia is the peak industry body representing all of Australia's commercial free to air television licensees.

Free TV welcomes the opportunity to comment on the Senate Environment, Communications and the Arts Committee's inquiry into the sexualisation of children in the contemporary media environment.

Content of advertisements and programs on commercial free to air television is regulated by the Commercial Television Code of Practice (Code) and in the case of programs for children, the Children's Television Standard (CTS). In addition advertising is regulated by various Codes developed by the Australian Association of National Advertisers (the "AANA Codes").

The television classification system is comprehensive and detailed to ensure it covers the whole range of television content (which includes drama, documentary, sport, news and current affairs, light entertainment and variety).

The Code and CTS are legislated for under the *Broadcasting Services Act 1992* (the BSA). The BSA provides that the commercial television industry group "develop, in consultation with the Australian Communications and Media Authority (ACMA) and taking into account any relevant research conducted by ACMA, codes of practice that are to be applicable" to the industry.

This system of regulation is working well and is underpinned by a complaints handling process both in the case of the Code, the CTS and the AANA Codes.

There is a very low level of complaint generally in relation to the broad range of programming (including advertisements) on commercial free to air television.

The existing co-regulatory complaints process deals effectively with complaints about all programming on television. Complaints to broadcasters about the sexualisation of children are non-existent both in advertisement and program content and there is no evidence of significant community concern around the sexualisation of children on commercial free to air television.

There is, built-in to the Code of Practice, a requirement for regular reviews of the Code to ensure it is in accordance with prevailing community standards.¹ The most recent Code review was undertaken in 2003/04 and the current Code was registered by ACMA in July 2004. The Code is currently being reviewed by Free TV and will include a process of public consultation in the third quarter of 2008.

In the 2003/04 Code Review the period of public consultation was 6 weeks which following request by some groups, was extended by a further 2 weeks. In that Code review over 1300 submissions were received from members of the public and interested community groups. There were 47 substantive submissions.

¹ Broadcasting Services Act 1992, s 123 and 123A

The CTS is currently being reviewed by ACMA and 76 submissions have been received.

No concerns were raised during either review about the sexualisation of children.

This submission addresses the following topics:

- **Section 2** – addresses the regulation of commercial free to air television content under the Code of Practice and the CTS.
- **Section 3** – addresses the question of the regulation of advertisements on commercial free to air television.
- **Section 4** – addresses whether there is a level of concern around the sexualisation of children in commercial free to air television content.
- **Section 5** - addresses the question of whether the Code and the CTS reflect community standards.
- **Section 6** – addresses the complaints mechanism in the Code and CTS.
- **Section 7** – addresses the changing media landscape.

2 Regulation of Content on Commercial Free to Air Television

Content on commercial free to air television is regulated primarily through the Code and in the case of children's television the Children's Television Standards. Compliance with the Code of Practice and the CTS are a condition of licence for the networks. Networks take their responsibilities under both the Code and the CTS very seriously and conduct detailed training sessions for all relevant staff. ACMA has available to it a wide range of enforcement powers which act as a significant deterrent against Code and CTS breaches.

2.1 Children's Television Standard

ACMA has developed standards for children's programming. The objective of the CTS is to ensure that children have access to a variety of quality television programs made especially for them, including Australian drama and non-drama programs.

The CTS requires networks to broadcast 390 hours of programming specifically for school aged children and preschoolers. Only programming which has been cleared by ACMA can be counted toward this quota. The programming must be suitable for viewing by children and must be specifically designed with their educational and emotional needs in mind.

2.2 The Commercial Television Code of Practice

Managing the impact of programming on viewers of all ages is dealt with comprehensively through a system of classification spelt out in detail in the Commercial Television industry Code of Practice.

2.2.1 Code's Classification System

The Code's classification system was drawn from the Office of Film and Literature Classification guidelines for its general categories (G, PG, M and MA15+). The television classification system differs in that it is more detailed to enable the system to suit the range of content shown on television. This enables a wide range of program genre to be classified consistently against one set of guidelines. The television classification system also includes specific time zones which provide when certain programs may be broadcast.

The time zone system is designed to ensure that only material appropriate to the available audience is shown in particular time zones. Programs classified G (general) can be broadcast at any time of the viewing day. Programs with a classification greater than G are restricted from broadcast during certain time zones. Material which has appeal to an adult audience but which is clearly not appropriate for children is broadcast later in the evening.

The classification (and corresponding time zone) given to a program is determined according to the impact (frequency and intensity) of key elements such as violence, sexual behaviour, nudity and coarse language.² Close consideration is given to the context of the material and its likely audience. Advertisements for some products such as alcohol and condoms can only be scheduled at certain times of the day, irrespective of the intensity of material in the ad itself.

2.2.2 Consumer Advice

In addition to classification categories and time zones broadcasters also provide consumer advice for all M and MA15+ programs and for PG programs broadcast between 7pm and 8.30pm on weekdays or between 10am and 8:30pm on weekends if the program contains material of a strength or intensity which the parents or guardians of young children may not expect. Examples of consumer advice are: some coarse language, mild violence, sexual references, a sex scene, and adult themes.

2.3 Time Zones are unique

Time zones are unique to commercial free to air television and provide an important level of protection for the child audience. They are designed to ensure that material broadcast at times of the viewing day when children are likely to be watching is appropriate for them. The time zones and classification types also serve to provide information to parents and guardians so they can monitor their children's viewing habits.

The time zones reflect the principle that to the greatest extent possible, adult viewers should be free to choose what they watch on commercial television. More adult programming with fewer restrictions is therefore more available in the evening hours.

² Commercial Television Code of Practice – Appendix 4: Television Classification Guidelines Pg 23.

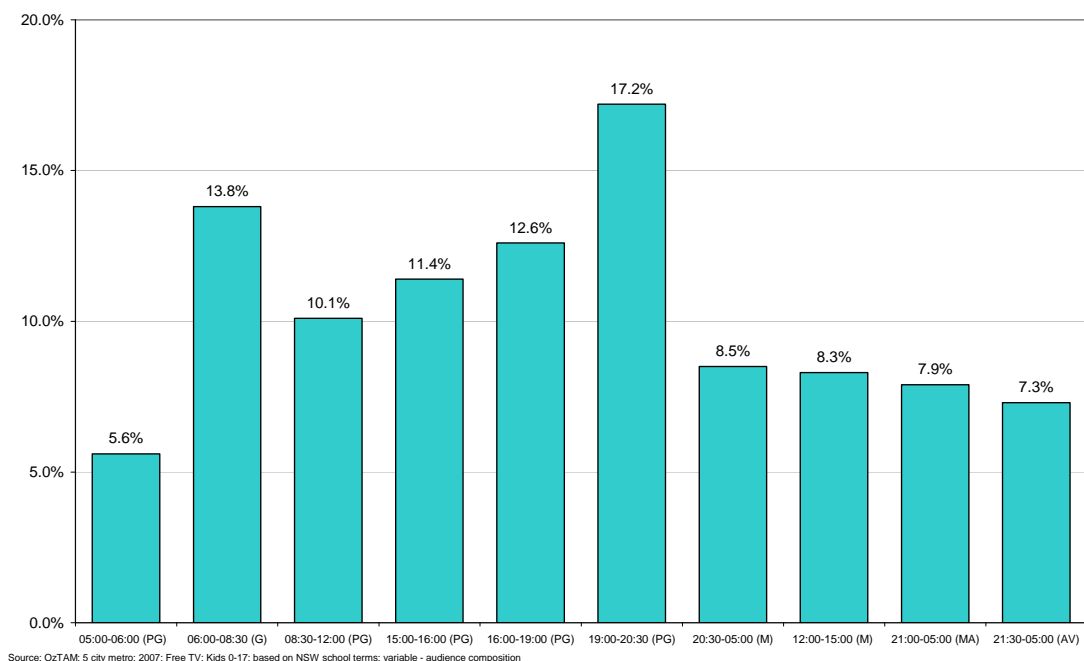
This concept is widely accepted. ACMA’s research commissioned for the Reality Television Review 2007 showed that:

“Generally, the vast majority of Australians (90.0 per cent) consider that people should be able to watch what they like on television and that parents and guardians should decide what their children watch on television (93.5 per cent).³

2.4 Child Audience Composition throughout the viewing day

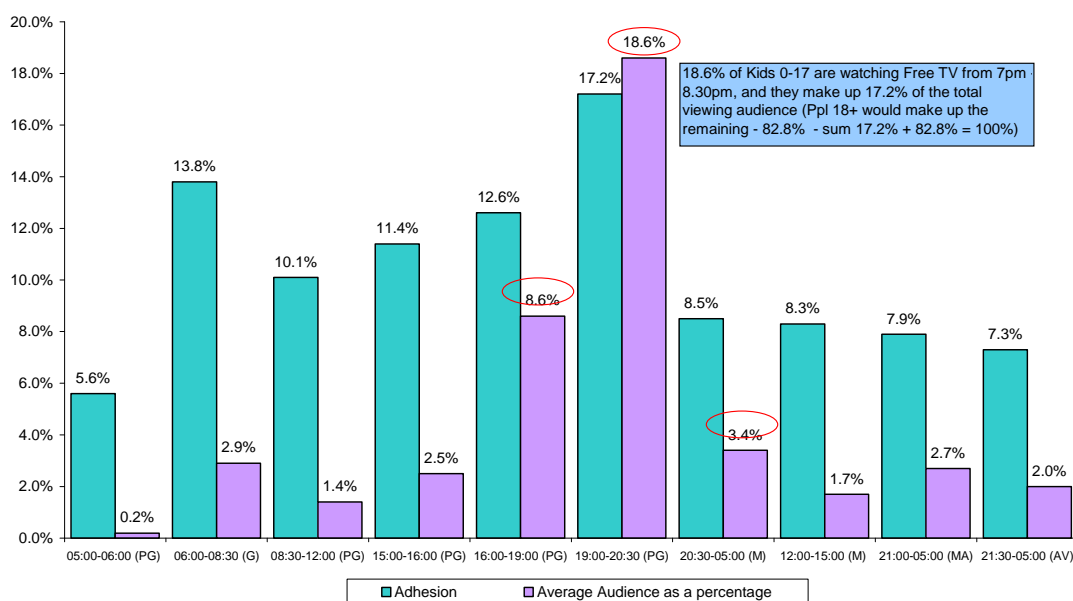
Children make up the bigger proportion of the audience in G and PG time zones. This pattern is seen consistently on weekdays, during school holiday and weekends.

Weekdays (school days) - Free TV Audience Composition by Day Part - Kids 0-17



³ ACMA Reality Television Review – Final Report 30 March 2007, page 45

Weekdays (school days) - Free TV Audience Composition and Average Audience (%) by daypart - Kids 0-17



While the greatest numbers of children are watching in the early evening hours, 60 per cent of these children are watching with an adult. This is slightly higher on the weekend, where 65% of nightly viewing is with an adult.⁴

2.5 Networks Commitment to classification responsibilities

Networks take their classification responsibilities very seriously and are mindful of the need to protect children from harmful images. Each television station employs expert, in-house classifiers who review programs before they go to air. Classifiers take into account the classification elements and the audience available at the time of broadcast. The impact on that audience and the general context of the material are important factors.

All networks have specialised children’s programming producers and departments and all children’s programming under the CTS is classified by ACMA.

2.6 Specific Guidelines for classification of certain programs

For some program genres and for specific time zones, the networks employ more detailed guidelines internally for their classification staff.

2.6.1 Reality Television

When classifying reality television programs, the classifiers allow for the fact that the programs feature real people in unscripted situations,

⁴ OzTAM; 5 City Metro; Jan – June 2007; Children 5-12 co viewing with an adult

and there the impact is likely to be higher when compared to a fictitious drama program.

2.6.2 Video Clip programs

In the case of programs of video clips, an experienced classifier reviews every clip that is shown on the program. If the material is determined to be unsuitable for the relevant time zone (usually G or PG), then the video is edited before broadcast or else is not included in the respective program. For G classified programs networks take extra steps to ensure the videos are very mild in impact and safe for children to watch without adult supervision as required under the Code. For a PG show, the networks apply the Code at the lower end of the PG classification requirements as they are mindful that younger viewers could be watching these programs. The PG classified program must be mild in impact and remain suitable for children to watch with supervision.

Interestingly, music video programs on pay TV channels showing at the same time as those on commercial free to air are predominantly classified MA15+.

3 Review and regulation of advertising on Commercial Free to Air Television

Advertising and program content on commercial free to air television is heavily regulated. Advertising is regulated through a combination of AANA codes, the Code and the CTS. Content is regulated through a classification and time zone system in the Code and for children's programming, the CTS. The regulation provides appropriate community safeguards and is well established under the BSA.

3.1 Advertising Industry Self Regulation

The advertising industry has a suite of voluntary codes which are administered by the Australian Association of National Advertisers (AANA). The AANA Codes are the Advertiser Code of Ethics, the Advertiser Code for Advertising to Children and the Food and Beverages Code.

Complaints about the AANA Codes are considered by the Advertising Standards Board (ASB). The ASB considers complaints about any form of published or broadcast advertising in relation to issues including the use of language, the discriminatory portrayal of people, concern for children, portrayal of sexuality and nudity and health and safety.

Networks have undertaken to the ASB to withdraw from broadcast any advertisement which they find in breach of an AANA Code.

In addition to the AANA Codes, any advertiser wishing to advertise on commercial free to air television must comply with the classification regime and placement restrictions in the Code and the CTS.

The time zones in the Code of Practice and the advertising restrictions in the CTS impose limits on the scheduling and content of advertisements during the broadcast day. This is to ensure that children do not see advertising material which is not appropriate for them. This is an additional layer of regulation which is unique to commercial free to air television

3.2 Commercials Advice

All advertisements on commercial free to air television are classified and cleared by Commercials Advice, an entity set up by the members of Free TV. The advertisements are checked for compliance with a range of state and federal legislation and then classified under the Code of Practice. A placement code is assigned to each advertisement and this advises the broadcasters of the times of the day the advertisement can be broadcast.

Some ads, for example those dealing with important social issues, such as drug abuse, or anti speeding ads, Commercials Advice will advise the networks to exercise care in placement. This signals to the networks that they should be mindful of the program and available audience within which they place the advertisement.

4 No Level of Community Concern about Commercial Free to Air Television

4.1 2003 Code Review

In the last review of the Code there were no substantive submissions received relating to the sexualisation of children. None of the 1300 submissions received raised concern that television content or advertising was contributing to the sexualisation of children.

4.2 Review of the CTS

The CTS is currently under review by ACMA. None of the 76 submissions received by ACMA have indicated concern about the contribution of children's programming to the sexualisation of children.

4.3 No viewer complaints

There is no level of viewer concern expressed in relation to the contribution of free to air television to the sexualisation of children.

ACMA's own research shows that:

“In regard to *any* content on commercial free to air television, 78.0 per cent of Australians have *not* seen anything of concern to them in the last 12 months”⁵

This result is consistent with research conducted by the Australian Broadcasting Authority ⁶ in 2003 looking at attitudes to violence on television which found that there was an “extremely high awareness” of classification symbols, consumer advice and restrictions on the time a program is shown.

ACMA’s Report noted:

“In both 2003 and 2007, the Australian viewing public overwhelmingly indicated awareness of classification symbols, consumer information shown before programs, warnings about story content before an item in news/current affairs program, and restrictions on the times when different types of programs may be shown”.⁷

Despite the thousands of hours of programming and hundreds of hours of advertising broadcast last year by each of the 48 licensees, viewers have not expressed concern that the content of advertisements or programming have contributed to the sexualisation of children.

This clearly indicates that Australians, who watch an average of over 2 hours of Free TV a day, do not believe that the content they see on commercial television contributes to this problem.

Video clips have been identified through discussion of this issue as a contributing factor to the sexualisation of children. Network complaint figures do not support this view.

There is a negligible level of complaint about video clips programs. In the past five years, there have been a total of 3,907 complaints reported by licensees about all programs. In the same period there have been only 32 complaints about music video programs. In other words, complaints about music video programs have made up just 0.8 per cent of the total complaints about television content over the past five years.⁸

5 Ensuring the Code and the CTS reflect community standards

5.1 Code Review Process

The entire Code process is designed to ensure that programming on television is inline with community standards. It is a requirement of the BSA that the regulator must only register the Code if it is confident it reflects community standards and there has been sufficient public consultation.

⁵ ACMA Reality Television Review – Final Report 30 March 2007, page 45

⁶ “Research into Community Attitudes to Violence on Free-to-Air Television”. Research conducted by AC Nielson for the Australian Broadcasting Authority.

⁷ ACMA Reality Television Review – Final Report 30 March 2007, page 66

⁸ Complaints registered with Free TV from all TV licensees from July 2002 to end of June 2007.

The system for ensuring that the Code continues to reflect community standards is very thorough. The Code is reviewed every three years.

The process for the review includes:

- a detailed negotiation between Free TV and the regulatory authority in the development of the draft revised code
- an extensive public consultation process which includes national advertising of the draft Code and a six week submission period
- a thorough review of all submissions by Free TV followed by a detailed report to the regulatory authority including making all submissions available to the regulator
- a final discussion between Free TV and the regulator on the issues arising from the public consultation
- amendments to the revised Code taking into account the public submissions submitted to ACMA by Free TV.

ACMA registers the Code in line with its obligations under the BSA to ensure that the Code meets community standards.

The Code review process is a flexible one which is designed to ensure the Code evolves and changes to reflect community concerns. Concerns raised by the public during the consultation phase of a Code review are taken into account by both ACMA and Free TV in determining the final form of the revised Code.

An example of the responsiveness of Free TV to issues, particularly in the area of the need to protect children from harmful images, is the incorporation of a specific clause which restricts the content of food and beverage advertisements directed to children. The proposed amendment meant that food and beverage advertisements directed to children could not encourage or promote an unhealthy eating habits combined with an inactive lifestyle.

Submissions to the review raised concerns that the clause was not sufficiently restrictive. Following discussions with relevant individuals and community interest groups the clause was tightened so as to prohibit food and beverage advertisements encouraging or promoting unhealthy eating habits or an inactive lifestyle. A new Advisory Note was added to clarify when advertisements are directed to children.

In between Code Reviews, the Code's consistency with community standards is measured through a carefully managed complaints process. As noted earlier in this submission, there is no level of complaint in relation to the sexualisation of children.

5.2 Review of the CTS

ACMA is currently conducting a review of the CTS to ensure their continued relevance and effectiveness. The review is looking at whether the current CTS are meeting their objective of promoting quality children's viewing times

on free-to-air commercial television and providing appropriate safeguards during designated children's viewing times.

ACMA conducted research to inform the review. The research focussed on the children's viewing patterns, importance of children's programming to the production sector and the impact of television advertising to children. None of this research indicated a concern or a correlation between television programming (including advertising) on the sexualisation of children.

The review included a public consultation period of 8 weeks during which time 76 submissions (and a large number of campaign postcards) were received by ACMA. The submissions do not reflect a level of community concern around the issue of sexualisation of children.

ACMA is currently considering the submissions and will release a draft of the proposed amendments to the CTS shortly.

6 The Complaints Mechanisms

6.1 The Code of Practice

The Code is underpinned by a well managed complaints process which is publicised widely by all networks. Following the 2004 Code review, the complaints process was enhanced in the following ways:

- each television network must advertise the Code and the complaints process 360 times a year. The advertisement must be rotated across viewing times so that it is seen in prime time, children's programming and in sport and current affairs.
- An electronic complaints form is available for viewers to download, complete and fax into networks.
- The Free TV website provides comprehensive information to direct viewers to the relevant network and takes viewers through the complaints process.
- Viewers calling into a network with a complaint are advised of the Code complaint process. Switchboard staff record the substance of telephoned comments from viewers about Code matters and this is brought to the attention of key staff.
- Viewers often call, email or write to Free TV and Free TV provides assistance by advising viewers of the Code complaints process and directs the viewers to relevant networks. Free TV also provides copies of the Code to individuals and groups who cannot access the Free TV website.

After the last Code review Free TV distributed copies of the new Code to everyone who made a submission. Since then over 1400 copies of the Code have been distributed.

Not only are viewers made aware of the Code and the complaints process, the complaints process itself has worked well to address public concerns. Individuals can complain directly to the relevant network who must respond within 30 days (although the actual response time is considerably shorter). The response must inform the complainant that if they are not satisfied with the response they can refer the complaint to ACMA.

ACMA then conducts its own investigation and determines independently whether there has been a breach of the Code. ACMA's Annual Report provides a summary of the Code complaints, investigations and breaches. This ensures complete transparency of the process for both viewers and networks.

6.2 Complaints under the CTS

Complaints under the CTS can be made directly to ACMA. Free TV is not aware of a level of complaint under the CTS in relation to the sexualisation of children.

7 The Changing Media Landscape

Broadcasters take very seriously their responsibility to ensure that television content, and the way it is presented, accords with community expectations, particularly in regards to children and young audiences.

Accordingly, there is a comprehensive suite of regulatory measures already in place which control both the content of programming (including advertisements) and when it can be shown. These measures are complemented by extensive requirements for consumer advice, a robust complaints process and requirements for periodic review and public consultation.

In 2008, a range of entertainment and information technologies compete for viewers' attention. Children in particular are availing themselves of the full range of screen and non-screen based entertainment activities.

A recent report by the UK Communications regulator Ofcom confirmed that children are at the forefront of changes to technology and as a result, the in-home media landscape for children has changed dramatically in recent years. The majority of households with children have a wide range of media equipment in the home, including more than on TV set (91%), a DVD player (96%), CD player (90%), radio (89%), games console (85%), computer (81%) and internet access (72%).⁹

When responding to issues which involve the media industry, such as the sexualisation of children, the Government must take these trends into account and take a cross-platform view in order to ensure an effective response.

⁹ Ofcom The Future of Children's Television Programming: Discussion Paper (October 2007) p 21



This is particularly important in the advertising context as market dynamics dictate that as advertising is restricted on one medium, the advertising expenditure redistributes to other, competing media. This leads to a disproportionate impact within the media industry and also means no overall decrease in the kinds of advertising that Government is seeking to address.

Advertisers have recognised this as an issue in its recent announcement of the *AANA Code for Advertising and Marketing Communications to children*. This Code includes a direct prohibition against the sexualisation of children or the use of sexual imagery in advertising/marketing communications to children.

Importantly, the AANA Code takes a broad view of 'advertising' and will cover the full range of marketing channels, such as product websites or sampling activity targeted at children.

Broadcasters support this cross-platform approach and urge the Government to take a similarly comprehensive view in considering this important issue.