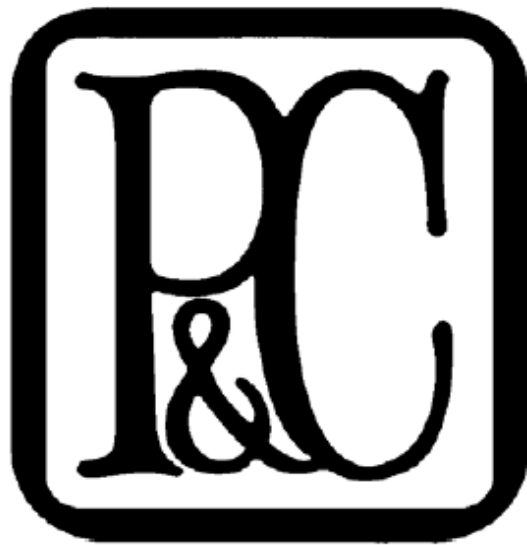


# Federation of Parents and Citizens' Associations of New South Wales

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## SUBMISSION



PARLIAMENT OF AUSTRALIA  
Senate Standing Committee on Environment,  
Communications and the Arts

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

**May 2008**

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Approved by: Dianne Giblin, President

## PREAMBLE<sup>1</sup>

The Federation is committed to a free public education system which is open to all people, irrespective of culture, gender, academic ability and socio-economic class and empowers students to control their own lives and be contributing members of society.

This commitment is based on the belief that:

- All students have the capacity to learn;
- The Government has prime responsibility to provide an education system open to all, which is free and secular;
- Schools should be structured to meet the needs of individual students and should respect the knowledge those students bring to school and build on that knowledge to foster their understanding about the world.

Parents as partners in the education process, have a right and a responsibility to play an active role in the education of their children.

P&C Federation and its representatives share a responsibility of ensuring representative decision making for the benefit of all students.

## INTRODUCTION

The Federation of Parents and Citizens' Associations of New South Wales is thankful for this opportunity to contribute to the "Inquiry into the effectiveness of the broadcasting codes of practice in Australia."

Federation policy affirms that:

"Television, radio and the printed media are the most effective means of mass communication available and exert a profound influence on society. Television and radio should be used as tools to enrich the quality of life. They are public utilities which should act in the interest of, and be accountable to, the consumer, particularly in reference to children's entertainment and educational programs."<sup>2</sup>

While broadcast media is a valuable agent for the enrichment of children's educational and recreational needs, there is definite scope for the improvement of child safeguards when considering broadcasting regulation and the operation of broadcasting codes of practice. There has been ongoing debate in the public sphere about the impact of television on the upbringing of children. It is the view of the Federation that whenever broadcast media is available to children, by law there should be an onus of responsibility enforced upon broadcasters to ensure the well-being of children as vulnerable and impressionable receptors of their programming.

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<sup>1</sup> Federation of P&C Associations of NSW (2008) *P&C Handbook* (p6)

<sup>2</sup> Federation of P&C Associations of NSW (2008) *P&C Handbook: Media*. Section 2.V.E(p90-92)

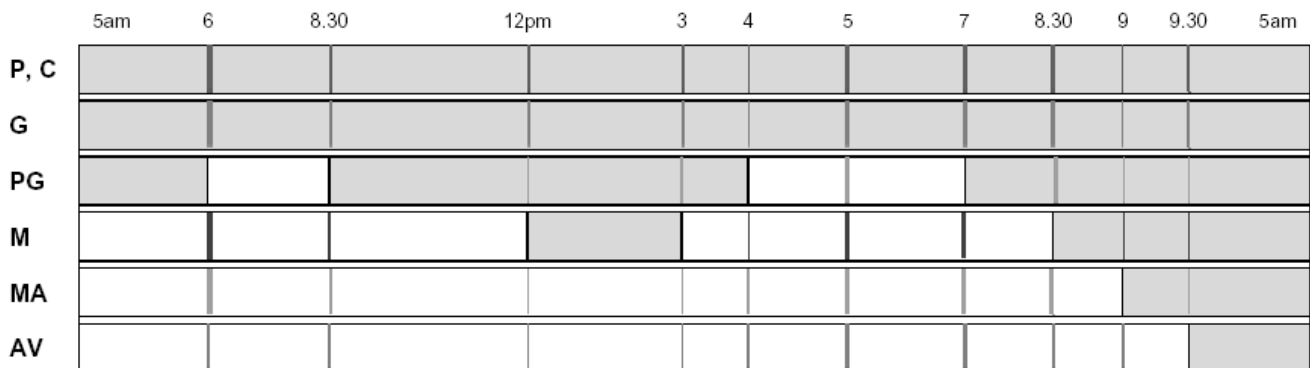
Additional precautions for children must be taken with regards to limiting exposure of targeted advertising, removing inappropriate content from the reasonable reach of children and the provision of a variety of child friendly programming.

## RESPONSES TO TERMS OF REFERENCE

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

- (a) Determine and enforce clear and stringent language criteria for the selection of appropriate time slots/classification zones;

Whilst the current broadcasting codes of practice thoroughly address the issue of time slots and the subsequent time-appropriate language, over time the zones have become out of touch with the realistic television patterns of children. Recent studies show that young teenagers find it difficult to get to sleep early in the evening and often remain awake until late at night<sup>3</sup>. It is of concern that the current classification zones are not appropriate, with M and MA material reaching child audiences as their bed times get later.



 Allowed  
 Restricted

<sup>3</sup> Hood, M (2008, April 2). *Tired Teens Are Night Owls: Study*. Retrieved from: <http://www.news.com.au/heraldsun/story/0,21985,23471381-5005961,00.html> on 20.04.08

The above table outlines the classification zones as set out in the Commercial Television Industry Code of Practice for a typical school day<sup>4</sup>. If a teenager is still awake as early as 9:00pm in the evening, they are potentially exposed to programs of MA content including course language. The Commercial Television Industry Code of Practice defines MA content as, "viewing only by persons aged 15 years or over because of the intensity and/or frequency of sexual depictions, course language, adult themes and drug use."<sup>5</sup> This is inappropriate material for audiences of a 9:00pm timeslot as in reality many children are still awake at this time.

Whilst the Federation acknowledges parental responsibility for children's bed times, this should not diminish the need for broadcasting censorship. If children's bed times are getting later as the studies show, then regulation needs to change to reflect the community's lifestyle in order to operate effectively. Course language used before 10:30pm at night should be censored during the editing process of a program. This measure should be used in conjunction with current language warning devices such as pre-program voice-overs warning viewers of following content and the clear display of classification symbols after every advertisement break.

### **CASE STUDY 1: *Ramsay's Kitchen Nightmares* (M)**

This program features controversial celebrity chef Gordon Ramsay helping other restaurant owners improve their businesses by overhauling the restaurants. The program is rated M and is screened twice a week in an 8:30pm timeslot on the Prime network. The timeslot and rating of the program has caused public debate due to the frequent and prolific occurrence of language in each episode. It is reported that in one episode Ramsay uses the same expletive 80 times in a 40 minute period. This would seem unfit for the language requirement of M rated programs in the Commercial Television Industry Code of Practice that coarse language must be, "*...appropriate to the story line or program context, infrequent and not aggressive. It may be used more than infrequently only in certain justifiable circumstances when it is particularly important to the story line or program context.*"<sup>6</sup>

The swearing in the program is not justifiable in circumstances where there is a high pressure situation or the kitchen's are filthy children are exposed to inadequate coping mechanisms such as anger and expletives as a resource.

(b) More frequent review of the codes
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The Broadcasting Services Act 1992 requires periodic review of the broadcasting codes of practice<sup>7</sup>. Currently they are reviewed every three years which is not frequent enough to keep up with societal and broadcasting trends that may occur within this time period. Changes in the content, nature and presentation of material occur rapidly over time. Given these changes, the codes must constantly be evaluated in order for them to operate effectively and perform their role as a community safeguard. The current Commercial Television Industry Code of Practice was written in 2004, meaning broadcasting is operating under guidelines that are now four years old.

<sup>4</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Classification Zones Table (p17)

<sup>5</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Section 4. Television Classification Guidelines (p25)

<sup>6</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Section 4.3. Television Classification Guidelines (p 25)

<sup>7</sup> The Broadcasting Services Act (1992) Section 123A (p272)

Due to broadcasting's status as a progressive technology, it should be reviewed every year in order to remain effective.

(c) Exposure to coarse language as an influence on children's social behaviour

The incremental creep of coarse language into broadcasting programs is conditioning the community to become more accepting and tolerant of swearing, even when used by children. The Federation acknowledges that it is unrealistic to blame children's exposure to the media for anti-social behaviours and that parental responsibility for child behaviour should prevail. However it is undeniable that children are influenced by what they see on television and exposure to foul language can influence negative social behaviours such as swearing and other abusive language. A child will often imitate language used on television and develop an illusion that they can act like an adult.<sup>8</sup> Adolescent psychologist Dr Carr-Gregg says that slipping TV standards will affect younger viewers by desensitising their perceptions of swearing as unnecessary. The normalisation of coarse language can impede a child's ability to maintain and build healthy relationships, social skills and learning abilities.

*"Constant swearing normalises it and sanitises it, maybe even glamorises it, and it should be discouraged because we should be educating children to express themselves in a more eloquent fashion."<sup>9</sup>*

*Dr Carr-Gregg  
Adolescent Psychologist  
(March 20, 2008)*

The Federation concurs that a child's ability to communicate effectively and clearly is drastically impaired if swearing is instead used to express themselves. Without the skills to communicate clearly, children may then develop the inability to connect to others socially. Learning disadvantages may also occur if a child resorts to swearing rather than developing a more serviceable vocabulary.

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

(a) Develop less ambiguous classification standards

The current guidelines for classification standards assume a certain knowledge or ability to interpret the guidelines by audiences. In the public policy process, it is important to never underestimate the public's intelligence or knowledge about a certain subject. However it is also important not to overestimate their ability in the same way. This delicate compromise is not achieved in current broadcasting regulation with a sense of concreteness lacking from the guidelines. This is particularly concerning in the references to special allowances for content

<sup>8</sup> Kaur, B. (N.D) *Children and Television*. Retrieved from <http://www.penrithcity.nsw.gov.au/index.asp?id=2828> on 21.04.08

<sup>9</sup> Ife, H. (March 20, 2008) *Have TV and Radio Gone Too Far?* Retrieved from: <http://www.news.com.au/heraldsun/story/0,21985,23405788-662,00.html> on 22.04.08

classification where appropriate to the story line or context of the program. It is unrealistic to assume that all viewers understand the contexts of the program's they watch. **Case Study 1** highlights this concern, with a personality swearing twice a minute on average. This was deemed allowable due to the high pressure situation involved in running a restaurant; however swearing was also used in praise and encouragement. This is unacceptable, as many people would not fully understand the specific context, let alone warrant swearing as a positive language transaction. This is similarly evident in **Case Study 2** as it is irresponsible to assume that all viewers understand the program is a dramatised documentary of real life events that occurred in Australia and thus the explicit content is justified by its context. Viewers inevitable ignorance of a program's intended contextual detail must be considered for regulation purposes to reflect real community standards, not assumed community standards.

### CASE STUDY 2: *Underbelly* (MA15+)

This Australian program recounts the gruesome story of the 10 year Melbourne gangland war depicting explicit violence, swearing, drug use, sex scenes, murder and suicide. The program is rated MA and is shown on the Nine network in an 8:30pm timeslot. It is arguable that the program is adequately classified as set out in the MA guidelines of the Commercial Television Industry Code of Practice<sup>10</sup>, however the timeslot is extremely inappropriate for the explicit content. It is justifiable in the view that the program documents real, local events and any attempt to censor the program could be perceived as maintaining false realities. Whilst the pre-program parental warnings are commendable, displaying this material in an 8:30pm timeslot is going to reach an audience under the recommended age of 15 who are not always equipped with the maturity to handle such adult themes. The Sopranos (MA), an American show with content of a similar magnitude to *Underbelly*, was screened in a 9:30pm timeslot in Australia which would seem much more appropriate.

*Underbelly* has also sparked the re-occurring debate in the public sphere that violence on television can have profound, negative effects on young viewers. "The Inquiry into the Effects of Television and Multimedia on Children and Families in Victoria"<sup>11</sup> suggests that while the media does not cause violence in children, it certainly doesn't discourage it. Brown (1996) says, "*They do not necessarily indicate a direct 'cause and effect' relationship. Rather, they suggest that exposure to media depictions of violence enhance the risk that the viewer will engage in subsequent aggressive behaviour.*"<sup>12</sup>

Murray (1999)<sup>13</sup> identifies three possible affects that televised violence can have on persons watching:

- The 'direct effect';
- 'desensitisation'; and
- fear of the world around them, or the 'mean world syndrome'.

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<sup>10</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Section 5. Television Classification Guidelines (p25)

<sup>11</sup> Family and Community Development Committee, Victoria. (October, 2000). *The Inquiry into the Effects of Television and Multimedia on Children and Families in Victoria*. Aggressive/violent behaviour (Section 7). Retrieved from: <http://www.parliament.vic.gov.au/fcdc/PDF%20Files/TV%20&%20MM/7%20-%20Television%20pg%20173-206.pdf> on 21.04.08

<sup>12</sup> Brown, M. (1996) *The portrayal of violence in the media: Impacts and implications for Policy. Trends and Issues in Crime and Criminal Justice*. Australian Institute of Criminology (p55)

<sup>13</sup> Murray, JC (1999). *The Impact of Televised Violence*. The Inquiry into the Effects of Television and Multimedia on Children and Families in Victoria. Section 7. Aggressive/violent behaviour. Retrieved from: <http://www.parliament.vic.gov.au/fcdc/TV%20&%20MM%20Disc%20Paper%20Files/chap7.htm> on 21.04.08

The 'direct effect' proposes that children may directly re-enact the violence they see on television in what is commonly known as 'copy cat' actions. They may become more aggressive and lose their ability to resolve issues without the use of violence. 'Desensitisation' suggests that children may become indifferent to violence, less sensitive to other peoples feelings or develop a sense of tolerance to violence around them. The 'mean world syndrome' suggests a child may think the world is a threatening place, believing the violence they see on television is a component of real life.

(b) Increased power to the ACMA to impose civil sanctions upon broadcasters
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The ACMA's role is to check and balance the operations of broadcasting outlets, adjudicate and facilitate community complaint and make rulings as to whether a complaint constitutes a breach. Actions available to ACMA in relation to a breach of a broadcasting code of practice include suspending or revoking a license, imposing an additional condition on the license, referral of the matter to the Director of Public Prosecutions and issuing a notice of action for compliance. Due to this limited list of sanctions the body uses as enforcement measures, the ACMA is often regarded as a toothless tiger, diminishing respect for the codes and the ACMA's authority. These sanctions are not enough to deter broadcasters from breaching a code condition.

Criminal prosecutions are available to the ACMA however under existing laws it is difficult to mount enough evidence to fulfil the burden of proof required in criminal proceedings being 'beyond reasonable doubt'. One effective way to ensure the ease of code compliance for broadcasting would be to impose serious civil sanctions such as heavy fines for the breach of a broadcasting code of conduct. Currently it is not within the ACMA's power to distribute fines for breaches as the codes are a set of industry guidelines and do not have a legislative function. Civil prosecutions would be easier to carry out with the burden of proof standing at the 'balance of probabilities,' increasing the chance of prosecution and thus also increasing broadcaster's deterrence to breach another code in the future.

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

Mill (1859)<sup>14</sup> states that people should be given the chance to hear even the most disagreeable opinion because;

*"If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error."*

This is an important philosophical foundation of public policy in that discussing opposing opinions aids progress and helps achieve just outcomes. The operation of an effective public complaints system is crucial in the area of broadcasting regulation policy. Section 1.1.3 of the Commercial Television Industry Code of Practice outlines the objective to;

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<sup>14</sup> Mill, J S (1859). *Marketplace of Ideas*. The Stanford Encyclopedia of Philosophy. Retrieved from: <http://plato.stanford.edu/archives/fall2007/entries/mill/> on 10.04.08

*“provide uniform, speedy and effective procedures for the handling of viewer complaints and matters covered by the code”<sup>15</sup>.*

As it stands, the complaints process does not fulfil this objective and is not an efficient vehicle for community consultation. This falter defeats the Broadcasting Codes of Practice purpose of providing appropriate community safeguards in the broadcasting realm.

(a) Current inadequacies of the complaints process impeding democracy

The current complaints system is a long winded, complicated process involving many phases. Section 7 of the Commercial Television Industry Code of Practice outlines the ‘Handling of Complaints to Licensees’<sup>16</sup> and the steps required to lodge a complaint. If one calculates the possible time frames of these steps, it can take over 90 days to complete a complaint from the time the viewer sees the offensive material to the time the ACMA has responded (if necessary). This is an unreasonable time period, as complainants may become frustrated and lose the immediate motive and perceptions of their complaint. Complainants must also deal with more than one body. The first being the offending broadcaster station and if an unsatisfactory outcome is reached then the complaint must be lodged to the ACMA. Each step can take up to 30 days to complete and must be performed in writing whilst satisfying all criteria in section 7.2 of the Commercial Television Industry Code of Practice<sup>17</sup>. The requirements to make a complaint in this section stipulate the complaint *“must be in writing and adequately identify the material broadcast, the nature of the complaint, and the identity of the complainant.”*

If a viewer finds something in the broadcast media offensive they should not be discouraged to complain due to the incompetence of the complaints system. The stringent requirements are too formal which can often intimidate and alienate the complainant. The connotations of making a formal complaint in writing are serious, sometimes daunting and time consuming, which can often disadvantage audiences that do not possess strong writing skills.

(b) Develop a faster more effective system to promote an accessible, democratic complaints system

If the Broadcasting Codes of Practice exist to provide community safeguards then an effective two-way communication stream must be established so the authorities can mediate the concerns of those they are safeguarding – the public. The requirements for complaints are much too formal and stringent to be accessible to all members of the public. The inadequacies of the process outlined above warrants scope to improve the complaints system so it becomes both accessible and democratic in nature.

The utilisation of technology is paramount in improving the complaints system. Whilst a viewer can complain orally, they are advised that a written complaint should be made in order to take the

<sup>15</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Section 1.1.3 (p1) Retrieved from:

[http://www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm\\_tv\\_industry\\_cop-060907.pdf](http://www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm_tv_industry_cop-060907.pdf) on 22.04.08

<sup>16</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Section 7. Handling of Complaints to Licensees. (p50-52) Retrieved from: [http://www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm\\_tv\\_industry\\_cop-060907.pdf](http://www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm_tv_industry_cop-060907.pdf) on 23.04.08

<sup>17</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Section 7.2 (p50) Retrieved from:

[http://www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm\\_tv\\_industry\\_cop-060907.pdf](http://www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm_tv_industry_cop-060907.pdf) on 23.04.08

matter further, as set out in Section 7.7 of the Commercial Television Industry Code of Practice<sup>18</sup>. The condition the complaint must be made in writing automatically rules out 80% of complainants.<sup>19</sup> Audiences should be able to lodge a formal complaint via telephone where they can comfortably voice their concerns as they think of them. Telephone is an instant medium, whereas writing takes longer for the complainant to compose and then transmit to the authorities. The internet and e-mail should also be utilised as it is a fast, cost effective and environmentally friendly method.

The allowance of 30 days for the completion of each step is far too generous as complainants become frustrated and the offensive material may become hazy or difficult to remember over the time consuming process. This time period should be reduced to as little as 10 days for a response to be made. Allocation of more resources to the field of complaints should compensate for this reduction. This will bring complaints to the fore, making them a priority for broadcasters and possibly encouraging them to take more care and give further consideration to the appropriateness of the content being broadcast.

The condition that complainants must lodge a formal complaint within 30 days of the broadcast of the offensive material<sup>18</sup> is also something that needs to be considered. If a viewer finds something offensive and the material has possibly breached a code then it should not matter when the content was broadcast. Audiences should be given much longer than 30 days to complain about offensive material in order for the process to become fairly accessible and democratic. It seems this time restriction is some what of a loop hole for broadcasters to effectively brush aside what could be a valid complaint.

### 3. OTHER RELATED MATTERS:

(a) The inefficiencies of a self-regulated industry
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It is the view of the Federation that:

“It is the responsibility of the Australian Communications and Media Authority to be ever mindful that it is the guardian of the airways and the servant of the public. It is not, and should never be seen to be, the promoter of the licensees. Until licensees show an intention to produce, purchase and schedule quality programs especially for children, self-regulation is unacceptable.<sup>20</sup>”

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<sup>18</sup> ABA (July, 2004). *Commercial Industry Code of Practice*. Section 7.7 Oral Complaints and Advising Callers of the Code Complaint Procedure (p51)

<sup>19</sup> 'Frontline' Executive Producer. (Nov 2006). *Australian Media: In Urgent Need of Reform?* Retrieved from: <http://members.tip.net.au/~terryg/media1.htm> on 20.04.08

<sup>20</sup> Media: Premise 2.V.E, 2.168. P&C Handbook 2008 (p90)

The '*Cash for Comment*<sup>21</sup> scandal in 2000 is proof that the self-regulated broadcasting system does not always operate effectively. The scandal involved radio presenters passing off advertisements for editorial comment in exchange for undisclosed monetary agreements. This dishonest arrangement carried on for some time unbeknownst to the public and the former Australian Broadcasting Authority (now the ACMA). Media Watch, an ABC television program serving as a media watch-dog was the first to discover the unauthorised operation. Self-regulation measures clearly failed to uncover the scandal.

(b) Children as vulnerable receptors to advertising

According to current advertising standards, the average child consumes four hours of advertisements in just one week, making them vulnerable targets to ad campaigns aimed directly at young age groups. Whilst there are effective safeguards in place regarding advertising and their effects on children, the Federation would like to draw further attention and emphasis to the following policy point to:

"Establish and maintain standards for advertising directed to children which show due regard and protection for developing children and their abilities and which prevent their exploitation through the use of techniques which they are unable to handle.<sup>22</sup>"

Section 122 of the Broadcasting Services Act (1992) outlines the development of Children's Television Standards<sup>23</sup> which explains certain children's advertising requirements. Whilst the precautions outlined in this section such as limited pressure in advertisements and clear not ambiguous presentation of material are applauded by the Federation, further requirements should be detailed to include other persuasive techniques. Advertisements can be highly persuasive at a subconscious level for children, especially with the use of manipulative visual and sensual techniques and film devices. These include but are not limited to 'cool' images, the use of 'cute' animals or pets, flattery, humour, anecdotes, colour scheme, catch phrases and jingles. Although it is not possible to set guidelines for most of these techniques, broadcasters should conduct some consideration towards these devices as unfair, persuasive instruments affecting audiences not equipped to understand the intent of the advertisement.

(c) Regulations for pay TV

Currently, pay TV is operating under an entirely different set of rules and regulations. Considering the rapid increase in subscriptions and availability, the Federation would strongly recommend a closer look at the parameters that are established for pay TV. The duality in the standards for content sends mixed messages and does little to protect young people from exposure to violence, coarse language or adult themes. A comprehensive review of these standards is necessary to ensure the same protections currently being enforced on broadcast television. As pay TV becomes more and more a part of each household, the importance of establishing codes of practice is paramount.

<sup>21</sup> Australian Broadcasting Authority: Commercial Radio Inquiry (August, 2000). Cash for Comment Final Report.

<sup>22</sup> Federation of P&C Associations of NSW (2008) *P&C Handbook*. Section 2.V.E: 2.168 (e) (p90)

<sup>23</sup> ACMA (2002) *Advertising to Children Television Standards*. CTS13-21(p10-12) Retrieved from: [http://www.acma.gov.au/webwtr/aba/contentreg/codes/television/documents/chstdvarn\\_03.pdf](http://www.acma.gov.au/webwtr/aba/contentreg/codes/television/documents/chstdvarn_03.pdf) on 23.04.08

## CONCLUSION:

In conclusion, the Federation of Parents and Citizens' Associations of New South Wales believes there is scope for improvement of the effectiveness of the Broadcasting Codes of Practice. In order for the codes to fulfil their purposes of providing community safeguards in the broadcasting realm, the following issues discussed in this document are in need of consideration and updating;

- Classification zones and appropriate content for inherent time slot,
- The frequency of code reviewal,
- Content as a possible influence on children's behaviour,
- Appropriateness of course language,
- Increased enforcement options including civil sanctions for the ACMA,
- The inadequacies of the complaints system and the need to improve the process,
- The inefficiencies of self-regulation; and
- Children as vulnerable receptors to advertising.

The Federation would like to thank the Senate Standing Committee on Environment, Communications and the Arts for the opportunity to participate in this inquiry. We look forward to hearing the results and welcome any further discussion this may evoke.

## RESOURCE LIST

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