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The Commercial Television Industry Code of Practice has been in place for three years, since September 1993. The Federation of Australian Commercial Television Stations (FACTS) is now reviewing the code. Tony Branigan, FACTS General Manager, discusses the review, and the operation of the code, with *ABA Update*.



How well is the code working - is it achieving what it set out to achieve?

I think the code has worked very well.

There are a number of benchmarks for deciding that: the first is the level of public awareness of the code. There is a pretty good general level of awareness which reflects the fact we have publicised it quite widely on all stations. There is a better level of awareness of the code and the complaints procedure that goes with it than there was of the old Australian Broadcasting Tribunal procedures — even though they had been in place for some time. I think the ABA research bears this out.

Another benchmark is, how well it has been implemented in practice? The evidence is that stations have been pretty conscientious in applying the code and the complaints procedures. These procedures have been new and quite demanding on station resources but we have treated them as a high priority.

Stations have trained staff and made new staff aware of the requirements of the code and generally it has worked pretty well. Obviously there's scope to do it even better and I hope we will achieve that with the review.

The third benchmark is the number of complaints. That is an indication of how conscious the public is that the code exists and that the local television station is the appropriate place to lodge a complaint. Stations have recorded around two thousand complaints in the three year period, which is not very many given the huge number of hours of programming each station puts out every year. This relatively low level of complaint shows that the system is working pretty well. It is also shown by the small number of complaints that have been upheld by either the station or by the ABA, on appeal. That is probably the best simple indicator that the stations are applying the code of practice conscientiously and effectively.



Has self regulation, and the fact the broadcaster is the first port of call for a complaint, made any difference to what goes to air?

I think it has made stations and staff more aware of the requirements. When the rules were simply tablets of stone handed down from on high, and the complaints procedure meant viewers went direct to the regulator, some station staff probably didn't take an active enough interest in making sure they understood the rules and observed them. The whole process of developing the code, which involved a great many people in each station, made staff far more aware of the rules and what the rules are trying to achieve.

How has the viewing audience reacted to the code? Are there fewer frivolous complaints?

Generally speaking there haven't been many complaints that we could accurately describe as frivolous.



A lot of the complaints are fairly predictable and fairly general. The complaints tend to be about the general suitability of programs rather than relating to specific aspects of programs. They're expressions of general dissatisfaction with what some viewers perceive as the low quality of commercial television.

I think that portion of the complaints has remained fairly constant over the years — I would not describe them as trivial, but they could be described more as background complaints.

These complaints are written, not phoned?

Stations have always encouraged people to use the telephone to make complaints, and they still do. But since the code came in three years ago we have treated formal code complaints, or written complaints, as something quite separate from the telephone complaint system. The telephone complaint is the initial contact. Relatively few people want to take a complaint further, but if anyone does, station staff inform them how to do it: to put it in writing.

There are two avenues of complaint: one for those who just want to get it off their chest, and one for those who want a more considered response.

How is FACTS conducting the review of the code?

We thought the most productive way to proceed was to put out a draft for discussion. We thought that was better than putting out a discussion paper which canvassed options but did not actually provide a draft for people to comment on. We have developed a draft which reflects the changes the industry wanted to see in the code.

We made quite a number of preliminary amendments to the code. A lot of these changes are simply intended to make it clearer and more workable. We have put that draft out along with a discussion paper which flags other options. That seems to us to give the process a bit of focus and makes it easier for people to develop their thoughts about what they would like to see in the code over the next three years.

How have you advertised the review?

We've advertised this process in the main papers in each state. We have sent copies of the discussion draft to about six hundred people — all those who have contacted us on

code related matters in the past: individuals, interest groups and government agencies. We have sent it to all Federal parliamentarians as Parliament, and particularly the Senate, has expressed close interest in the development of the code over the last three years.

The review has attracted a lot of media interest: we had interviews on a dozen or so radio programs in most states when we advertised the review. We are confident a broad cross section of the community is aware of the review.

Has there been much reaction to the review?

We have had 75 submissions so far, and we have allowed extensions of time to several dozen other interested groups and individuals. We should have well over a hundred submissions when the last of those late submissions comes in.

What comparisons can you draw with the process three years ago?

That was different — then we went through two periods of public exposure because the classification requirements were substantially changed after the initial public exposure. The government legislated to bring in the MA classification and we decided we needed to expose the draft again for public comment before we could finalise it. That time round we had a total of about six hundred submissions on the code of practice: the bulk from individuals, the remainder from community organisations and government agencies.

The approach has been broadly the same this time although we can now draw on our mailing list of around four hundred who have expressed active interest in the code in the last three years. They are on our database as they either commented on the code of practice three years ago or on the minor revision of the code we proposed earlier this year, but didn't proceed with.

What aspects of the code have you amended?

We have made a lot of minor amendments to clarify clauses of the code which had proved to be not as clear as we had intended.

We also made a number of substantive changes. The most significant of these was to redraft the classification section of the code in line with the Office of Film and Literature Classification guidelines which were exhaustively reviewed late last year. It seemed to us that since we are required to devise



classifications which are based on those guidelines, it was sensible to use the same language as much as we could. The new wording is substantially the same as that of the guidelines. So, without trying to change the substance of the classification guidelines we have expressed them in simpler, clearer language.

There is one important change in the classification area: the introduction of the new classification: MA programs with high levels of violence. Those programs will be restricted to 9.30 p.m. and later. We have tentatively called this MA-V.

There are also several additions to the news and current affairs section of the code, reflecting complaints made over the three years — in particular complaints about privacy issues. One is a new requirement about images of dead or seriously wounded people which are often a cause of concern or distress to people. The draft of the code says that staff should have appropriate regard to the feelings of relatives and viewers when they include images of dead or seriously wounded people. If an image is likely to cause serious distress to or offend a substantial number of viewers, it should be displayed only when there is an identifiable public interest reason for doing so.

We are not banning such footage, but imposing a pretty stiff public interest test on stations before they show it.

Other clauses have been added which focus more on privacy issues. One recommends that stations avoid unfairly identifying an individual or business when commenting on the behaviour of a group. That's intended to make stations think twice before they use stock footage when they do a story about a shonky dealer, for example.

The two main areas for amendment seem to be the portrayal of violence and privacy. Is this because community standards in these two areas have changed, or was the code inadequate?

I think there has been some change in the community's attitudes over the years to both these issues.

The portrayal of violence was one of the issues we gave closest thought to three years ago when developing the current code. The new provision takes the code a couple of steps further in the depiction of violence or the results of violence. We have done this with some hesitation and a great deal of care because we are very conscious that the

balance between concern over violence and sanitising material is a very fine one. We think that we probably have the balance right in the draft that is out for comment. We are very keen to hear what the community has to say.

What was FACTS' reaction to the recommendations of the Ministerial Committee on the Portrayal of Violence, and in particular the V-chip?

We haven't included anything in the current draft that relates directly to the V-chip, the reason being that the implementation of the V-chip is in all probability some years down the track. It may be something that we can sensibly focus on next time we review the code, which will be roughly three years from now. We have of course taken on board the main recommendation: that programs which have a high level of violence not start before 9.30 p.m. Our proposed MA-V classification is intended to implement that.

Stations also have the option of rescheduling programs, as they did earlier this year.

Stations took the view that in the aftermath of something as shocking as the murders at Port Arthur, it was simply good manners not to show any programs that had medium to high levels of violence in what was effectively a national mourning period. I don't think any station took the view those programs were no longer suitable to be shown on television, simply that they were not appropriate for showing during that mourning period.

Why have you chosen three years for the review period?

We proposed a three year review when we introduced the code. That seems to be a sensible period in which to review a document of this kind. The code covers a wide range of matters, none of which is likely to change overnight. But, in our assessment, all code matters are subject to change in community attitudes and require regular, systematic review.

What are you looking for from the review and from the new code?

We are looking for a document that reflects community attitudes accurately and is workable from the industry perspective, which is easy to understand from the community point of view and actively helps stations to provide a better service to the community.