



FACTS TV Code Gets Up

Commercial television viewers probably may not have noticed the introduction early this month of a new regime of TV program regulation.

But from 5 September commercial TV stations will abide by a code of practice developed by the Federation of Commercial Television Stations (FACTS) in all areas of programming except children's TV and Australian content which will continue to be subject to ABA standards. The introduction of self-regulation for program content was a controversial feature of the Broadcasting Services Act 1992.

The code began life in its first draft just over a year ago. Even though it has been available to the public for comment since then (see *CU 88*), the final version is not remarkably different from FACTS's original draft. Under the Act FACTS was required, in developing the code, to provide 'adequate opportunity' for the public to comment during the drafting process. The Communications Law Centre and other industry groups responded to FACTS with lengthy comments on both drafts. Neither submission was acknowledged by FACTS until after the code was finalised and no opportunity was made available to discuss concerns raised in the submissions.

In May this year the CLC made a submission to the Australian Broadcasting Authority based on the final draft of the code. The ABA is required to register a code if it provides adequate community safeguards and if the public have been given an adequate opportunity to comment on it. The thrust of the CLC's submission was that the code as it stood did not provide adequate community safeguards and should not be registered. The major areas of concern were the sections of the code dealing with advertising time and complaints handling. In August the ABA registered the code with very few alterations to the final draft.

The new code covers: **program classification** (descriptions of what is appropriate to be shown in pro-

grams rated G, PGR, M, MA); **program promotions** (restricting what may be shown in promotions during G time, etc); **news and current affairs programs** (including obligations to be accurate and fair, to take account of privacy, to have regard to the likely presence of children in the audience, and similar matters); **time occupied by non-program matter** (advertising time); **classification and placement of commercials**; and **complaints handling**. The introductory code refers to proscribed material, code compliance and the code's review.

A Model of Good Practice?

The Australian Federation of Consumer Organisations (AFCO) has identified seven elements needed for a good industry code of practice:

1. Appropriate regulatory mechanisms.
2. A representative administration panel.
3. Accountability.
4. Effective complaints procedures and dispute resolution processes.
5. Adequate distribution of information about the codes.
6. Suitable sanctions.
7. Regular evaluation.

While the adequacy of the code's administration remains to be seen, the content of the FACTS code does not measure up too well against the relevant criteria. Areas of community concern about television, such as the representation of women, indigenous people and ethnic minorities, are not covered in the codes at all - these areas are only referred to in 'advisory notes' (see below). Other areas of concern such as the portrayal of violence, sex and sexuality and language are only addressed in so far as they relate to the classification of programs. While the

codes of practice developed by the ABC and the SBS directly address these issues, the FACTS code provides no guidance to viewers about the criteria commercial TV stations will use in deciding the limits of acceptable programming when these issues come up.

Complaints Handling

Perhaps the greatest deficiency in the existing code is in the complaint handling procedures, and provisions for review and monitoring. The complaints procedure applies only to written complaints about matters covered by the code - that is, only to contraventions of the code. Telephone complainants will be advised to put their complaint in writing. Licensees must respond to written complaints within 30 days, with an expectation that responses should be made within 10 days. A dissatisfied complainant has to write again in order to have the complaint referred to the Chairman of FACTS, or be advised to take the matter to the ABA. Licensees are obliged to make quarterly reports to FACTS on 'the number and substance of written complaints alleging specific breaches of the Code'; FACTS will provide the ABA with a summary of this information, and publish an annual report on the number, substance and outcome of written complaints received.

While it is good that the television stations are taking direct responsibility for dealing with complaints, it will take a determined (and literate) complainant to see the whole process through. Many complainants may find that what troubles them is not a code matter at all (for example, absence of Aboriginal faces in television drama, or denigration of women); the system will not log and report these expressions of community concern.

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Advertising Time

There are also concerns about whether the code will guarantee viewers effective limits on the amount of advertising or non-program time. While this section of the code does not appear to differ dramatically from the previous standard (an average limit of 13 minutes in prime time and 15 minutes in non-prime time), the limits refer to the amount of non-program matter 'scheduled'; not the amount actually broadcast. This has been introduced to take account of the impracticality in the old standard of strict hour-by-hour limits and is explicitly 'not intended to allow increased levels of non-program matter', but the change will make monitoring difficult for non-industry observers. The monitoring difficulty is compounded by the code's extension of prime time: it is now 6:00pm to midnight.

Portrayal of Women.....and Men

Two Advisory Notes accompany the codes: the Portrayal of Women and Men and the Portrayal of Aboriginal and Torres Strait Islander People. They are similar to but less substantial than the radio broadcasters' (FARB) Guidelines on portrayal. The Advisory Notes are principally aimed at program makers and journalists, rather than viewers. They do not provide any commitment to viewers about increasing the on- and off-screen representation of women and Aboriginal and Torres Strait Islander people. More important though, is the fact that these Notes are outside the scope of the codes which effectively leaves these areas outside the complaints handling and monitoring system. There is no Advisory Note or section of the codes addressing the portrayal of people from non-English speaking backgrounds.

Program Classification

On a positive note the code's adoption of the Office of Film and Literature Classification guidelines means that viewers will not need to become familiar with a new system of program classification. While TV programs will continue to be classified by the stations themselves, the same classification categories and symbols as those used by the Censor for films and videos will be used from now on i.e. G, PG, M, and MA. Material which cannot be classified as MA cannot be shown.

Feature films which are classified M and all MA classified programs must carry, in addition to the classification symbol, brief consumer advice giving

the principal elements which have contributed to the classification and indicating their intensity and frequency. These elements are violence; sex and nudity; offensive language; depiction of drugs; and how suicide is depicted (for M classification).

So how is all this going to affect what we see on commercial TV? The short answer is probably not a lot. The real concern is that in making television stations more directly accountable, and responsible for developing standards, we may have lost important avenues for the public expression of, and monitoring of, concerns about the content of commercial television. □

Sue Cowden and Helen Mills

A copy of the code is available from
FACTS ph (02) 960 2622

Annals of the Press Council

“The Press Council made for the bush for its latest deliberations, choosing the attractive little riverside town of Corowa.....A very successful meeting held in the local Court House was packed with an enthusiastic audience.

The Council members were the guests of Corowa at dinner in the bowling club, attended by the mayor and local dignitaries, one of whom, Shirley Nolan, was in charge of the culinary arrangements for the visit of Prime Minister Paul Keating the following night.....

The next day the Press Council was entertained in Albury by the proprietors of the Border Mail.....

Mrs Nolan's menu for the Keatings included the local Bunge pork rolled round smoked salmon; roast rack of lamb; veal medallions, or chicken with local ingredients.

No doubt the Keatings felt - just as Press Council members did - that the hospitality of Corowa was magnificent.

During a lull between our meetings, some of us took a sweep over the border.....

We lunched at Beechworth Bakery, famed throughout Victoria and with good reason. Then on to visit some excellent wineries which lie around Rutherglen.....”

David McNicoll, The Bulletin, 17 August 1993.