

# The new FACTS code

*The Australian Broadcasting Authority has registered and updated the Federation of Australian Commercial Television Stations' Code of Practice. This table, prepared by Michelle Lam, highlights the key changes*

	Old FACTS Code	New FACTS Code
<b>Section 1: Introduction</b>	Sets out the objectives, scope and interpretation of Code, compliance, review, proscribed material, presentation of broadcast material, use of closed captioning and broadcasting of interviews and telephone conversations	Remains mostly the same except for the introduction of a section on the regulatory framework explaining ABA power to penalise; and guidelines about premium rate telephone services
<b>Regulatory framework</b>	No specific provision	Describes existing ABA power to impose a condition on licensee to comply with Code, and notice to comply with condition. Breach of such notice is an offence and can attract a penalty of up to 20,000 penalty points (\$2,200,000) (s.1.3.1)
<b>Premium charge for telephone services</b>  This applies where viewers are invited to use phone charge services to obtain information, register a view or participate in a competition	No specific provision	<ul style="list-style-type: none"> <li>In C programs or C viewing periods, and G programs with a substantial child audience that commences before 5.00pm, information about the cost of the call must be understandable to children, and must be presented visually and orally (s. 1.16.1.1)</li> <li>Children must be invited orally to seek parental permission before calling (s.1.16.1.2)</li> </ul>
<b>Section 2: Classification</b>	Sets out the type of material that can be broadcast during a particular time period that has been classified C, P, G, PG, M or MA; and as to the level of violence, sex and nudity, language, drugs, suicide, and other material that is allowed	Generally, the changes in this area involve tightening the permissible levels of violence and depictions of suicide. There is more emphasis on licensee responsibility for broadcasting of moral and social issues. Introduction of a new classification period, AV (Adult Violent)
<b>C and P classification</b>	Must satisfy ABA's Children's Television Standards (s.2.9)	No change in provisions (s.2.10)
<b>G classification</b>	<ul style="list-style-type: none"> <li>Material not intended for children but must be mild and not contain material not suitable for children (s.2.10)</li> <li>Times: (s.2.11) <ul style="list-style-type: none"> <li>Weekdays 6.00am-8:30am 4.00pm-7:30pm</li> <li>Weekends 6.00am-7:30pm</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Classification levels remain substantially the same (s.2.11)</li> <li>Times remain the same (s.2.12)</li> </ul>

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	Old FACTS Code	New FACTS Code
<p><b>PG classification</b></p> <ul style="list-style-type: none"> <li>• Children should watch with adult supervision</li> <li>• Low level adult themes/ violence sex and nudity/ coarse language/drug use/ depiction of suicide</li> </ul>	<ul style="list-style-type: none"> <li>• Careful presentation of adult themes and concepts (s.2.12)</li> <li>• Times: (2.13) <ul style="list-style-type: none"> <li>Schooldays 5.00am-6.00am 8:30am-12.00pm 3.00pm-4.00pm 7:30pm-8:30pm</li> <li>Holidays 5.00am-6.00pm 8:30am-4.00pm 7:30pm-8:30pm</li> <li>Weekends 5.00am-6.00am 7:30pm-8:30pm</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Generally the same, now allowing themes for more adult audience with mild impact (s.2.13.6) and supernatural and horror themes (s.2.13.7)</li> <li>• Times remain the same (s.2.14)</li> </ul>
<p><b>M classification</b></p> <ul style="list-style-type: none"> <li>• For viewing of people more than 15 years old</li> <li>• Medium level adult themes/ violence/sex and nudity/ coarse language/drug use/ depiction of suicide</li> </ul>	<p><b>Violence:</b> allows realistically depicted violence if not frequent or impactful and must be appropriate to storyline (s.2.14.1)</p> <p><b>Sex and nudity:</b> may only be implied or simulated and relevant to the storyline (s.2.14.2)</p> <p>Times: (s.2.15)</p> <ul style="list-style-type: none"> <li>Schooldays 12.00am-5.00am 12.00pm-3.00pm 8:30pm-12.00am</li> <li>Holidays/ weekends 12.00am-5.00am 8:30pm-12.00am</li> </ul>	<p><b>Violence:</b> tighter controls on gratuitous violence or those occurring in a sexual context (s.2.15.1)</p> <p><b>Sex and nudity:</b> visual depiction of nudity must not be detailed if in a sexual context; verbal references to sexual activity should not be detailed (s.2.15.2)</p> <p>Times remain the same (s.2.16)</p>
<p><b>MA classification</b></p> <ul style="list-style-type: none"> <li>• For viewing of people more than 15 years old</li> <li>• Medium to high level adult themes/ violence/sex and nudity/coarse language/drug use/depiction of suicide</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Violence:</b> not to be presented as desirable; sexual violence must be justified and within context and no sustained, relished or excessively detailed acts of violence (s.2.16.1)</li> <li>• <b>Sex and nudity:</b> no explicit depiction of sexual acts, or exploitative or non-consenting sexual relations as desirable (s.2.16.2)</li> <li>• Times: (s.2.17)</li> </ul> <p>All days 9.00pm-5.00am</p>	<ul style="list-style-type: none"> <li>• <b>Violence:</b> same as M classification (s.2.17.1)</li> <li>• <b>Sex and nudity:</b> not acceptable to have gratuitous, exploitative or demeaning portrayal of sexual behaviour or nudity (s.2.17.2)</li> <li>• <b>Suicide:</b> new suicide provision that methods of suicide should not be shown in realistic detail or promote or encourage suicide (s.2.17.6)</li> </ul> <p>Times remain the same (s.2.18)</p>
<p><b>AV classification</b></p> <ul style="list-style-type: none"> <li>• For viewing of persons more than 15 years old</li> <li>• High levels and frequency of violence</li> </ul>	<p>No specific provision - closest under this Code is the M/ MA Classification</p>	<ul style="list-style-type: none"> <li>• <b>Violence:</b> realistic depictions may contain some detail, but should not be prolonged nor unduly bloody or horrific; and must be justified by the story. Violence occurring in a sexual context must not be detailed, must be brief and infrequent, justified by the story line and not exploitative (s.2.19.1)</li> <li>• For all other categories, classification is identical to MA</li> <li>• Times: all days between 9.30pm and 5.00am (s.2.20)</li> </ul>
<p><b>Not suitable for television</b></p> <ul style="list-style-type: none"> <li>• Cannot be classified under any of the existing classification zones</li> <li>• Cannot be broadcast</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Violence:</b> sustained, relished or excessively detailed acts of violence (s.2.19.1)</li> <li>• <b>Sex and nudity:</b> explicit depiction of sexual acts, or depiction of exploitative or non-consensual sexual relations as desirable (s.2.19.2)</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Violence:</b> unduly bloody or horrific depictions, strong violence that has high impact or which is gratuitous or exploitative or depiction of exploitative or non-consensual sexual relations as desirable (s.2.22.1)</li> </ul>

**Old FACTS Code**

**New FACTS Code**

**Section 3: program promotions**

- Promotion of programs for which the licensee has rights
- During breaks within or between programs or visual superimposition

Sets out the type of program promotions allowed during the various classification zones.

- P and C: s.3.4
- MA: s.3.5
- G: s.3.6
- PG: s.3.7-3.8
- News and Current Affairs: s.3.11

- **Sex and nudity:** detailed genital nudity in a sexual context, or explicit depiction of sexual acts (s.2.22.2)
- **Suicide:** realistic depiction of methods of suicide, or promotion or encouragement of suicide (s.2.22.5)

- Times remain the same: P and C (s.3.4); G (s.3.6-3.8); PG (s.3.9-3.10); and News and Current Affairs (s.3.13)
- MA or AV: may not be broadcast between 5.00am-7:30pm on any day or in G programs between 7:30pm-8:30pm (s.3.14)

**Section 4: News and current affairs programs**

Applies to news programs, flashes, updates and current affairs programs

Sets out the guidelines that have to be followed in reporting of news and current affairs

Similar provisions except for increased sensitivity towards relatives of victims, responsibility in representing views and identifying individuals. Need for public interest

**Have regard to feelings of viewers and people involved**

Must include only sparingly material likely to cause some distress to a substantial number of viewers (s.4.3.4)

Should have appropriate regard to the feelings of relatives and viewers when including images of dead or seriously wounded people; these should only be displayed when there is a public interest (s.4.3.3)

**Identity of individual**

No specific provision except to protect the privacy of the individual (s.4.3.5)

Should avoid unfairly identifying a single person or business when commenting on a group of persons or businesses (s.4.3.7)

**To be "reasonable" in cases of reporting death**

Must display sensitivity in broadcasting images of, or interviews with, bereaved relatives and survivors or witnesses of traumatic incidents (s.4.3.6)

- Must exercise sensitivity in broadcasting images or interviews with bereaved relatives and survivors or witnesses of traumatic incidents (s.4.3.6.)
- Take all reasonable steps to ensure that victims are not identified directly or indirectly before their families are notified by authorities (s.4.3.8)

**Fair representation in promotion of news and current affairs**

No specific provisions but licensees must present news/news flashes fairly and impartially (s.4.4.1)

Factual material must be presented accurately and represent featured viewpoints fairly; this does not mean that licensee has to portray all aspects or viewpoints in program or program segment (4.5)

**Section 5: Time occupied by non-program matter**

The Code sets limits for non-program matter scheduled. This is to avoid the need for complex exemption provisions when operational problems make it difficult for licensees to comply with an "as broadcast" clock hour requirement

The new Code defines more clearly what falls under the definition of an "as scheduled" broadcast of non-program matter and extends the definition of exempt non-program matter

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	Old FACTS Code	New FACTS Code
<b>Method of calculating</b>	No specific provisions except those set out in the section on hourly limits (s.5.2-5.6)	<ul style="list-style-type: none"><li>• Final Schedule: 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 (s.5.2.1)</li><li>• Exception: non-program matter originally in Hour A is scheduled in an adjoining hour (Hour B) due to length of a program segment or segments (s.5.2.2); non-program matter falling in Hour B must be intended to fall in Hour A (s.5.2.2.1); no more than one break intended to fall in Hour A is scheduled in Hour B in the Final Schedules (s.5.2.2.2); total amount contained in Hour B when combined with that in Hour A would not exceed the relevant limit for Hour A (s.5.2.2.3)</li></ul>
<b>Exempt non-program matter</b>	<ul style="list-style-type: none"><li>• Community service announcements promote a charitable cause or activity; or constitute a public service (s.5.3.1.1)</li><li>• Sponsorship announcements before and after a show (s.5.3.1)</li></ul>	<ul style="list-style-type: none"><li>• A prize, competition or information segment (s.5.5.1)</li><li>• A community service announcement bearing any advertising must be discreet and clearly subsidiary to the message (s.5.5.2.2)</li><li>• Sponsorship relationship must be made clear (s.5.5.4.1); this must make no reference to the price of goods or services (s.5.5.4.2) and must last no longer than 10 seconds for a single sponsor or 30 seconds for multiple sponsors (s.5.5.4.3)</li><li>• A shopping guide, infomercial or similar material which is an integral part of the program or segment (s.5.5.5)</li><li>• An announcement of change in scheduled programs (s.5.5.8.1); listing of programs to be broadcast that day/evening (s.5.5.8.2); a brief announcement of the next program (s.5.5.8.3); a movie opener (s.5.5.8.4); or a station identification (s.5.5.8.5)</li><li>• A plot summary at the start of the second or subsequent episode of a program series or serial (s.5.5.9)</li><li>• A program trailer before the closing credits (s.5.5.10)</li></ul>
<b>Hourly limits on non-program matter allowed</b>	<ul style="list-style-type: none"><li>• Maximum per day (average): Between 6.00pm-12.00am, 13 minutes (s.5.4.1)</li><li>• All other times, except P or C, 15 minutes (s.5.4.2)</li><li>• Maximum in any hour: Between 6.00pm-12.00am, 15 minutes per hour but no more than 14 minutes in any four of those hours (special provision for election periods (s.5.5.1)</li><li>• All other times, 16 minutes (s.5.5.2)</li><li>• No commercials allowed in P period (s.5.6.1)</li><li>• During C period, five minutes maximum in each 30 minutes (s.5.6.2)</li></ul>	<ul style="list-style-type: none"><li>• No changes in the hourly limits allowed for non-program matter (s.5.6-5.8)</li></ul>

**Old FACTS Code****New FACTS Code****Section 6: Classification and placement of commercials**

Covers commercials and community service announcements

This section deals with compliance issues (s.6.3), approval of commercials (s.6.4), classification (s.6.5), commercials on alcoholic drinks (s.6.6-6.8), betting and gambling (s.6.9-6.10), intimate products (6.11), public health messages (s.6.12), film commercials (s.6.13-6.15) and commercials targeting children (s.6.16-6.17)

Similar coverage in the new Code. New provisions tighten the rules on commercials targeting children; also now cover commercials for sex-lines and phone charge commercials

**Promotion of products or services in programs directed to children**

No specific provisions - just a directive to "exercise special care and judgment" (s.6.16)

- Host or other regular presenter or character in the program not to promote products or services (s.6.23.1); no promotions within the program (s.6.23.2); product placement must be discrete
- Sponsorship relationship must be clear (s.6.23.3)
- References to prizes must be brief (s.6.23.4)

**Commercials relating to products of a particularly intimate nature (phone sex-lines)**

No specific provision - limits on being able to broadcast only in PG, M and MA classification periods (s.6.11).

Must be classified "MA" and may only be scheduled after 11.00pm and before 5.00am on any day; should not be placed within any religious, sport or religious drama program (s.6.16)

**Premium charge telephone services in certain commercials**

No specific provision

- If directed at children, or placed in a G program with a substantial child audience and commences before 5.00pm, terms (s.6.24.1) and cost of call (s.6.24.2) must be presented so children can understand
- Children must be invited orally to seek parental permission before calling (s.6.24.3)

**Section 7: Handling of complaints to licensees**

Handling of complaints to be carried out by the licensees (s.7.1-7.7)

- 10 working day limit on responses to written complaints (maximum 30 days); for relay broadcasts, 10 working days to contact complainant (30 working days for other licensee to reply to complainant)
- Referrals can be made to ABA or chairman of FACTS (s.7.13-7.15)
- Licensee to report written complaints to FACTS within 15 working days (s.7.16)

Similar provisions in the new Code

- Separate section on complaints about the content of commercials (s.7.8) - previously s.7.7
- Time limits on responses remain the same (s.7.9-7.12)
- Referrals can now only be made to ABA (s.7.14-7.15) and licensee has 30 working days to provide substantive response
- Time for reportage of written complaints to FACTS remains at 15 days (s.7.16)

