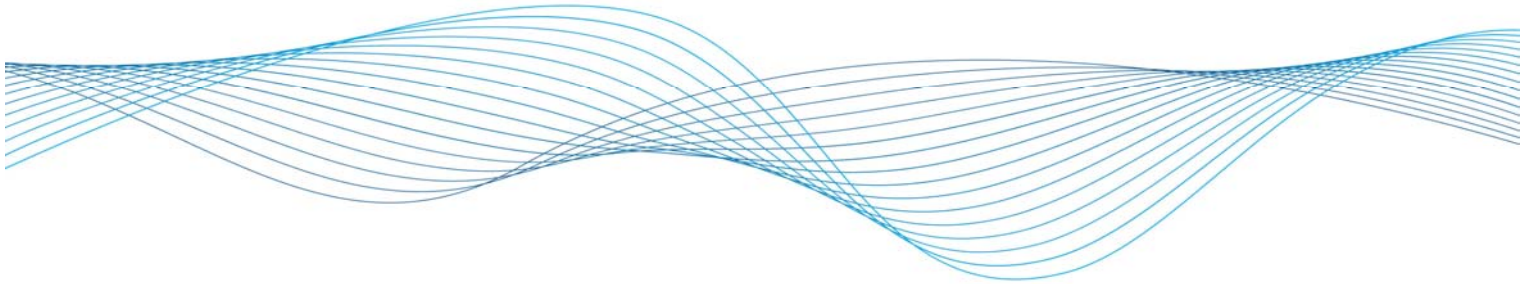




Codes of Practice 2009
Open Narrowcast Television



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INTRODUCTION

(A) PREAMBLE

1. The Australian Subscription Television and Radio Association Inc. ('**ASTRA**') is the industry body representing those operating television narrowcasting services under class licences in accordance with the provisions of the Broadcasting Services Act 1992.
2. Narrowcasting services provide a wide range of innovative services, catering to specialised interest. As these services have well-defined audiences and appeal, they come under a class licence regime, with minimum levels of regulation.
3. The Broadcasting Services Act ('**the Act**'), under Section 17 and 18, defines narrowcasting services as broadcasting services whose reception is limited by:
 - being targeted to special interest groups;
 - intended only for limited locations;
 - provided during a limited period of time;
 - because they provide programs of limited appeal;
 - or for some other reason.
4. Subscription narrowcasting services differ from open narrowcasting services in that they are made available only on payment of subscription fees.

(B) GENERAL LICENCE CONDITIONS

1. As narrowcasters operate under class licences they are subject to the conditions provided under Part 7 Schedule 2 of the Act, which covers matters including:
 - a ban on tobacco advertising;
 - a requirement to comply with any applicable program standards approved by the Australian Communications and Media Authority ('**ACMA**');
 - a condition not to use the broadcasting service to commit an offence;
 - requirements to comply with the Act in relation to broadcast of political and electoral material and advertisements relating to medicines; and
 - a requirement to keep a record of material broadcast.

The relevant sections of Schedule 2 of the Act forms Attachment A to these Codes.

2. The purpose of the Codes is to establish specific obligations for narrowcasters within the self-regulatory framework, in relation to programming, handling of complaints, and where applicable, the classification and placement of programs and customer service.

(C) REVIEW AND AMENDMENT OF CODES

These Codes will be reviewed every three years. Any review will be undertaken in full consultation with the public and representative organisations

If any substantive changes to the codes are necessary, such amendments will be made in consultation with ACMA.

(D) PUBLICISING THE CODES

Narrowcasters will publicise the availability of the ASTRA Codes of Practice at regular intervals in program guides. Copies of the codes will be available to the public on request. The Codes are also available on the ASTRA website www.astra.org.au.

DEFINITIONS:

“closed captioning” means the subtitling of programs for the hearing impaired, accessible through digital terrestrial receivers for digital transmissions and teletext decoders for analogue transmissions.

“consumer advice” is a printed or spoken notification explaining why a program is classified for example as ‘M’, or ‘MA15+’, indicating the presence and level of violence, explicit sex scenes and/or language in the program.

“Drama program” means

(a) a program that has a fully scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; or

(b) a program that has:

(i) a partially scripted screenplay in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure; and

(ii) actors delivering improvised dialogue that is based on a script outline or outlines developed by a writer or writers; or

(c) a program that has actors delivering improvised dialogue that is based on a script outline or outlines:

(i) developed by a writer or writers; and

(ii) in which the dramatic elements of character, theme and plot are introduced and developed to form a narrative structure;

and includes:

(d) a fully scripted sketch comedy program; and

(e) an animated drama; and

(f) a dramatised documentary;

but does not include:

(g) a program that involves the incidental use of actors; or

(h) advertising or sponsorship matter (whether or not of a commercial kind).

“narrowcaster” means the person or organisation providing a narrowcast service as defined in the Act.

“personal information” means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion (Definition taken from the Privacy Act 1988).

“program” as defined in the Act and can reasonably be taken to include all programs, promotions, community service announcements etc.

“program promotions” are announcements and previews advertising scheduled programs.

CODE NO. 1

GENERAL GUIDELINES FOR PROGRAMMING

- 1.1 The content of program material and advertisements delivered on narrowcast services will be consistent with standards acceptable to the relevant specific audiences involved.
- 1.2 Narrowcasters will present accurate and fair news and current affairs programs, and where practicable, will ensure that:
 - (a) factual material will be clearly distinguished from commentary, analysis or simulations; and
 - (b) news or events are not simulated in a way that misleads or alarms the audience.
- 1.3 Narrowcasters will not broadcast programs which are likely to incite or perpetuate hatred against or gratuitously vilify any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, transgender status, HIV/AIDS status, religion, age, colour or disability. A narrowcaster may not broadcast a program which is likely in all the circumstances to seriously offend the cultural sensitivity of Aboriginal and Torres Strait Islander people or culturally and linguistically diverse communities in Australia.
- 1.4 Narrowcasters will not broadcast programs that:
 - (a) depict the actual process of putting a person into a hypnotic state; or
 - (b) are designed to induce a hypnotic state in the audience; or
 - (c) use the process known as "subliminal perception" or any other technique that attempts to convey information by broadcasting messages below or near the threshold of normal awareness.
- 1.5 Narrowcasters are subject to relevant Federal and State law when broadcasting interviews and television conversations.
- 1.6 A narrowcaster will not breach clause 1.2(b), 1.3, 1.4(a) or 1.4(c) if a program includes matter said or done reasonably and in good faith:
 - (a) in broadcasting an artistic work including comedy and satire;
 - (b) in the course of any broadcast or statement, discussion or debate made or held for an academic, artistic or scientific purpose or any other identifiable public interest purpose;
 - (c) in broadcasting a fair report of, or a fair comment on, any event or matter of identifiable public interest.
- 1.7 Narrowcasters must seek to comply fully with all Codes, but a failure to comply will not be a breach of the Codes if that failure was due to:
 - (a) a reasonable mistake;
 - (b) reasonable reliance on information supplied by another person;
 - (c) an act or failure to act of another person, or an accident or some other cause beyond the narrowcaster's or service provider's control, provided that the narrowcaster or service provider took reasonable precautions and exercised due diligence to avoid the failure;
 - (d) an act or failure to act which, in all the circumstances, was clearly peripheral or

incidental, and unlikely to offend or materially mislead viewers.

Where it is possible to remedy a failure to comply with the Codes, narrowcasters must do so promptly.

- 1.8 Where closed captioning programming is made available it will be clearly identified with program schedule information provided to the press and in program guides.

When a narrowcaster introduces closed captioned programming, or extends the range of programs captioned, it will consult with organisations representing viewers who are deaf or hearing impaired and organisations specialising in providing closed-captioning.

CODE NO. 2

HANDLING COMPLAINTS

- 2.1 In the first instance, complaints should be made to the narrowcaster.
- 2.2 Narrowcasters will make every reasonable effort to resolve complaints except where a complaint is clearly frivolous, vexatious or not made in good faith.
- 2.3 Reasonable effort will be made to deal with a telephone complaint during the course of the telephone call. If that is not possible, the complainant may be asked to make the complaint in writing.
- 2.4 Written complaints will be acknowledged and answered in writing, within sixty days from the receipt of the complaint. If the complainant has not received a response within sixty days they may refer the complaint to ACMA.
- 2.5 A complainant will be advised that they are entitled to refer the matter to ACMA, where they are not satisfied with the response.
- 2.6 Narrowcasters will maintain a record of written complaints received, and on request make a summary available to ACMA.

CODE NO. 3

CLASSIFICATION AND PLACEMENT OF PROGRAMMING

- 3.1 Television open narrowcasters will classify films and drama programs, applying relevant aspects of the program classification system contained in the Guidelines for the Classification of Film and Computer Games ('**Guidelines**'). Program classification categories are contained at section 3.1 of the Subscription Broadcast Television Codes of Practice (STB Codes) and the full text of the Guidelines are attached as an Annexure to the STB Codes.
- 3.2 Written and spoken consumer advice on the reasons for program classification will be given at the commencement of film and drama programs in such cases where the program would be classified as PG or higher under the Guidelines.
- 3.3 Classification symbols for films and drama programs will be displayed at the commencement of the program, and during a program promotion for the program. Program promotions will be at the same or lower classification level to the program within which the promotion appears.
- 3.4 Programs that are either refused classification, classified X18+ (or which would be so rated if presented for classification) will not be broadcast by Television Open Narrowcasters.
- 3.5 M Classified material may only be shown between 8.30pm and 5am each day. MA15+ classified material may only be shown between 9.00pm and 5am each day. Material rated R18+ for cinema or video release (or would be so rated if presented for classification) may only be shown when modified to come within the MA15+ classification criteria. Material classified MA15+ due to its violent content may only be shown between 9.30pm and 5am each day.
- 3.6 Program material will be scheduled with appropriate sensitivity to the audience and, as far as possible, the likely composition of the audience at the time of broadcast. Narrowcasters will have particular regard to ensure the protection of children from harmful or distressing material in the selection and scheduling of programs, program promotions and advertisements.
- 3.7 An open narrowcaster will, where practicable, ensure that it does not broadcast any locally originated advertisement designed to put undue pressure on children to ask their parents or other people to purchase an advertised product or service, and that no advertisement may state or imply:
- (a) that a product or service makes children who own or enjoy it superior to their peers; or
 - (b) that a person who buys an advertised product or service for a child is more generous than a person who does not.
- 3.8 An open narrowcaster will, where practicable, ensure that locally produced advertisements:
- (a) must accurately represent the advertised product or service;
 - (b) will not include ambiguous claims;
 - (c)
 - (i) in which children are depicted using products (including toys and games) must fairly represent the performance which a child of the age depicted can obtain from those products;
 - (ii) in which the size of the product is not clear in a live action advertisement it must be made clear by reference to something which a child can readily recognise;
 - (c) in which accessories (for example batteries, transformers or doll's clothes) are needed to operate or enjoy a product depicted in an advertisement then:
 - (i) this must be clearly understood by children;
 - (ii) reference to price must clearly differentiate between the price of the product and the price of any accessories.

- (e) in which prices are mentioned, they must be accurately presented in a way which can be clearly understood by children, and not minimised in words such as 'only' or 'just'.
 - (e) if for a food product then it may not contain any misleading or incorrect information about the nutritional value of that product.
- 3.9 An open narrowcaster will, where practicable, in a locally originated program ensure that:
- (a) if competitions for children are referred to in programs or advertisements, a summary of the basic rules must be stated, and
 - (b) any statement about the chance of winning must be clear, fair and accurate.
- 3.10 Open narrowcasters will, where practicable, ensure that advertisements broadcast will be consistent with the relevant industry codes applicable to advertising, and:
- (a) broadcast advertisements appropriately in the light of current community attitudes and the need to limit exposure of children to material intended for adult viewing;
 - (b) subject television advertisements for products and services which are of particular concern or sensitivity to additional placement restrictions;
 - (c) reasonably restrict public health and safety messages;
 - (f) comply with the Federal and State law in respect of television advertisements.