

Code of Practice Preamble

The CBAA developed the following preamble, guiding principles, guidance notes and appendices to help stations implement the Code of Practice. These are not testable conditions as they sit outside Codes 1 to 7 listed below. Codes 1 to 7 will be registered with the ABA in 2003 when the first CTV licences are issued.

Introduction

Community broadcasting plays an important role in Australia as the third tier of broadcasting operating in tandem with commercial and public broadcasters (ABC and SBS). The sector is sustained largely by volunteers on a day-to-day basis. Community stations vary enormously, from licence to licence, depending on the community they serve, whether it be rural, regional or major metro licences.

Legislative obligations for all stations

All community broadcasters must abide by a number of legislative requirements in their programming content and station operations. The Broadcasting Services Act (BSA) outlines a number of licence conditions and a few program standards that are applicable to all stations. Licensees are also bound by the conditions upon which they were issued their licence in the original application process. Community broadcasters are also required to observe the Code of Practice, which guides all areas of station activity. This Code seeks to enshrine agreed standards amongst community television broadcasters.

The role of the Australian Broadcasting Authority (ABA)

The BSA charges the ABA with the responsibility of producing regulatory policy, monitoring the broadcasting industry and conducting investigations and hearings into breaches of the Act. All stations are legally bound by the licence conditions of the BSA. To assist stations in their operations some key conditions have been highlighted below:

The Broadcasting Services Act (BSA) – some key points

- ◆ *“The licensee will continue to represent the community interest that it represented at the time when the licence was allocated or was last renewed.” (paragraph 9(2)(b) of Schedule 2 of the Act)*
- ◆ *“The licensee will encourage members of the community that it serves to participate in:
(i) the operations of the licensee in providing the service; and
(ii) the selection and provision of programs under the licence...” (at paragraph 9(2)(c) of Schedule 2 of the Act)*
- ◆ *“The licensee will provide the service for community purposes...” (at paragraph 9(2)(d) of Schedule 2 of the Act)*
- ◆ *“The licensee will not operate the service for profit or as part of a profit-making enterprise”* (at paragraph 9(2)(e) of Schedule 2 of the Act)*
- ◆ *The licensee must not broadcast advertisements but may broadcast sponsorship announcements for a total of not more than 7 minutes in any hour of broadcasting (at paragraphs 9(3)(a) of Schedule 2 of the Act).*

- ◆ *The “...licensee may broadcast sponsorship announcements only during periods before programs commence, after programs end or during natural program breaks.” (at paragraphs 9(4) of Schedule 2 of the Act).*
- ◆ *“In working out the length of time devoted to the broadcasting of sponsorship announcements, account is not to be taken of the broadcasting by a community broadcasting licensee of any of the following:*
 - (a) material that publicises programs to be broadcast by the licensee;*
 - (b) material that promotes the licensee's products, services or activities for the broadcast of which the licensee does not receive any consideration in cash or in kind;*
 - (c) community information or community promotional material for the broadcast of which the licensee does not receive any consideration in cash or in kind;*
 - (d) sponsorship announcements consisting of moving text that is overlaid on a test pattern.” (at paragraphs 9(5) of Schedule 2 of the Act).*
- ◆ *Stations that rely heavily on syndicated programming will be at risk of not meeting licence conditions (at paragraphs 9(2)(b) and (c) of Schedule 2 of the Act), to represent the community and encourage participation*
- ◆ *Stations must ensure that control and operation of the service remains at all times with the licensee.*

Additional conditions on CTV licences (BSA section 87A)

Policy underlying additional conditions

(1) It is the intention of the Parliament that services provided under CTV licences be regulated in a manner that causes them not to operate in the same way as commercial television broadcasting services.

Conditions relating to sale of access to airtime

(2) Each CTV licence is subject to the condition that the licensee must not sell access to more than 2 hours of air-time in any day to a particular person who operates a business for profit or as part of a profit-making enterprise, unless the person is a company that has a sole or dominant purpose of assisting a person in education or learning.

(3) Each CTV licence is subject to the condition that the licensee must not sell access to a combined total of more than 8 hours of air-time in any day to people who operate businesses for profit or as part of profit-making enterprises.

(4) Each CTV licence is subject to the condition that the licensee must not sell access to more than 8 hours of airtime in any day to a particular person.

(5) For the purposes of the conditions imposed by subsections (2), (3) and (4), the sale of access to airtime to any of the following is taken to be the sale of access to airtime to a company:

- (a) the sale of access to airtime to any person in a position to exercise control of the company;
- (b) the sale of access to airtime to any related body corporate (within the meaning of the *Corporations Act 2001*) of the company.

(6) The ABA may, by written determination, impose other conditions on all CTV licences relating to sale of access to airtime.

Conditions relating to other matters

(7) The ABA may, by written determination, impose other conditions on all CTV licences, including, but not limited to, conditions relating to:

- (a) community access to air-time; or
- (b) the governance of CTV licensees (including conditions relating to provisions that the constitution of the licensee must at all times contain); or
- (c) the provision of annual reports to the ABA and the form in which they are to be provided.

Guidance Note: *Not-for-profit relates to the corporate structure of a station and not to a station's ability to generate "surpluses" from year to year in annual budgets.

The Code of Practice in context

The BSA requires each broadcasting sector to develop its own Code of Practice and register this with the ABA. The Code of Practice is a document of self-regulation that relates to programming and operational standards for all stations holding a community television broadcasting licence.

The ABA's role is to determine whether stations have implemented the processes outlined in the Code, and are therefore upholding the standards applicable to all community broadcasters.

It is the role of the ABA to assess whether stations comply with this Code and to determine if a breach of the Code has occurred. The ABA does not mediate or determine outcomes of internal disputes or conflict resolution processes. The ABA may determine program standards where it decides that the Code of Practice falls short.

Guiding Principles

There are a number of general principles that unite all community broadcasters across Australia. In pursuing these principles stations endeavour to:

- ◆ Promote harmony and diversity in contributing to a cohesive, inclusive and culturally diverse Australian community;
- ◆ Pursue the principles of democracy, access and equity, especially to people and issues under-represented in other media;
- ◆ Enhance the diversity of programming choices available to the public and present programs which expand the variety of viewpoints broadcast in Australia;
- ◆ Demonstrate independence in their programming as well as in their editorial and management decisions;
- ◆ Support and develop local and Australian arts, music and culture in the station's programming, to reflect a sense of Australian identity, character and cultural diversity;
- ◆ Widen the community's involvement in broadcasting.
- ◆ Demonstrate a commitment to participate in the development of the community-broadcasting sector at a state and national level in order to support continuous improvement across all community television service providers.

Community Television Code of Practice

The following 8 codes are to be registered with the ABA as the testable codes that make up the Community Television Code of Practice.

Code 1 - Governance

The purpose of this code is to ensure that the 'Guiding Principles' are reflected in the day-to-day operations of community television broadcasters. It also ensures licensees have appropriate corporate governance and dispute resolution procedures in place to deal with internal disputes, and that stations act in a timely and conscientious manner in resolving disputes, actively managing the conflict resolution process.

Stations will:

- 1.1. Have written policies and procedures in place to ensure sound financial, managerial and technical expertise is consistent across the organisation to provide an efficient and effective service.

Community and Access Principles

Community television service providers operate not-for-profit, and commit to a business philosophy- which optimises community access to station resources and management structures. To do this stations will:

- 1.2. Have written policies and procedures in place, relating to the licensees community of interest, which enable access and equity and encourage participation by those not adequately served by other media.
- 1.3. Be controlled and operated by an autonomous body, which is representative of the community of interest in the service area.
- 1.4. Have written policies and procedures, that apply to all station activities, which promote tolerance and respect of social and cultural difference and attempt to break down prejudice on the basis of ethnicity, race, chosen language, gender, sexual preference, religion, age, physical or mental ability, occupation, cultural belief or political affiliation.

Volunteers

Community Television stations recognise and value volunteer contributions, which enable stations to continue their operation on a daily basis. To this end stations will ensure that the rights and responsibilities of volunteers and will:

- 1.5. Have written policies and procedures in place that outline the rights and responsibilities of volunteers within the organisation including:
 - (a) fair access to information, equipment and training opportunities; and
 - (b) fair access to contribute to policy-making and operational processes.

Dispute Resolution – Internal Complaints

Internal conflict is the situation where the goals, values, interests or opinions of one group or individual are incompatible with, or perceived to be incompatible with, those of another individual or group. Where disputes occur the role of the ABA is to determine whether the Code of Practice has been implemented and not to determine the outcome of disputes. The ABA cannot resolve disputes or offer a mediating role for internal conflict resolution.

Definition: A complaint, in relation to this code, is an assertion made in writing, relating to station activities, and other internal governance issues. The complaint must be made to the licensee, or person at the station acting with apparent authority of the licensee, by a station member who provides his or her name and street or postal address.

- 1.6. Stations will have a **written policy & procedure** in place, which outlines mechanisms to facilitate internal conflict resolution within the organisation, including membership access and disputes around broadcast material.

Practice Notes - Best Practice in Internal Conflict Resolution

The following notes are not testable code conditions and are provided to support stations develop best practice in developing policies and procedures, which ensure a fair and transparent approach to internal conflict resolution.

A best practice internal complaints policy and procedure should:

1. *Include a definition of 'complaint' as set out in code 2.5*
2. *Be easy to access by all station members (for example be supplied as part of the station induction and training processes, and be posted on notice boards)*
3. *Include a commitment to acknowledge in writing all complaints within 30 days of receipt along with a copy of the station's policy & procedure document*
4. *Include a commitment to begin resolution of the conflict within 60 days of receipt of complaint in a conscientious and impartial manner*
5. *Outline that complaints about internal governance are a matter for the office of fair trading in each state, and matters about the Code may be referred to the ABA after all other avenues of resolution have been pursued*

N.B. Stations are under no obligation to respond to or record comments provided anonymously to the licensee.

Guidance Note: An example internal complaints process is attached as Appendix A.

Code 2 - Handling Complaints From The Public

Definition: A complaint, in relation to this code, is an assertion made in writing, relating to station activities, its licence conditions, and responsibilities under the code. The complaint must be made to the licensee, or person at the station acting with apparent authority of the licensee, by a member of the public who provides his or her name and street or postal address.

- 2.1. Community broadcasting licensees acknowledge the rights of their audiences to comment and make complaints in writing concerning:
 - (a) compliance with the Code of Practice or a condition of the licence;
 - (b) program content; and
 - (c) the general service provided to the community.
- 2.2. Licensees will provide a minimum of 50 on-air announcements every year-containing information about the Community Television Code of Practice and how audiences may obtain it.
- 2.3. Community broadcasting licensees will make every reasonable effort to resolve complaints, except where a complaint is clearly frivolous, vexatious or not made in good faith.
- 2.4. Licensees will ensure that:
 - (a) complaints will be received by a responsible person in normal office hours;

- (b) complaints will be conscientiously considered, investigated if necessary and responded to as soon as practicable; and
 - (c) complaints will be responded to in writing within 60 days of receipt (as required in the BSA Section 148), and will include a copy of the Community Television Code of Practice.
 - (d) complainants will be advised in writing that they have the right to refer their complaint to the ABA provided they have first:
 - (i) formally lodged their complaint with the licensee
 - (ii) received a response from the licensee and are dissatisfied with this response
- 2.5. A record of complaints in a permanent form will be maintained, for a period of at least 2 years, by a responsible officer of the licensee.
- 2.6. The record of complaints will be made available to the ABA on request, in a format advised by the ABA.

Code 3 - Programming

Community television licensees aim to broadcast material that promotes local and Australian culture, representing diversity in a responsible manner, breaking down prejudice and discrimination, and preventing the broadcast of material- which is contrary to community standards.

Community Television stations will:

- 3.1. Broadcast programming for entertainment, information and education, with priority being given to matters relating to the local community; **and/or** of artistic and cultural relevance.
- 3.2. Promote freedom of speech and avoid censorship wherever possible, however, consideration shall be given to the audience; the context; the degree of explicitness; the propensity to alarm; distress or shock; and the social importance of the event being broadcast.
- 3.3. Ensure no material is broadcast which may:
 - (a) incite, encourage or present for their own sake violence or brutality;
 - (b) simulate news or events in such a way as to mislead or alarm viewers;
 - (c) present as desirable the misuse of drugs including alcohol, narcotics and tobacco; or
 - (d) induce a hypnotic state or use subliminal techniques.
- 3.4. Ensure material is not broadcast which may stereotype, incite, vilify, or perpetuate hatred against, or attempt to demean any person or group on the basis of ethnicity, nationality, race, chosen language, gender, sexual preference, religion, age, physical or mental ability, occupation, cultural belief or political affiliation.

Note: This requirement is not intended to prevent the broadcast of material which is factual, or the expression of genuinely held opinions in a news or current affairs program, or in the legitimate context of a humorous, satirical or dramatic work.
- 3.5. Observe an individual's privacy by:
 - (a) respecting each person's legitimate right to protection from unjustified use of material- which is obtained without an individual's consent.

- (b) not broadcasting the words or appearance of an identifiable person unless:
 - (i) that person has been informed in advance that their words or actions may be transmitted; or
 - (ii) in the case of words or actions having been recorded without the knowledge of the person, the person has subsequently, but prior to the transmission, indicated consent to the transmission of the material; or
 - (iii) the manner of the recording has made it manifestly clear that the material may be broadcast.
- (c) not use material relating to a person's personal or private affairs, or which invades an individual's privacy (in particular when dealing with bereaved relatives and survivors or witnesses of traumatic incidents), other than where there are 'identifiable public interest' reasons for the material to be broadcast.
- (d) taking extra care before using material relating to a child's personal or private affairs in the broadcast of a report of a sensitive matter concerning the child. The consent of a parent or guardian should be obtained before naming or visually identifying the child or a member of the child's immediate family, or a report which discloses sensitive information concerning the health or welfare of a child, unless there are exceptional circumstances or an identifiable public interest reason not to do so.

Definition: "child" means a person under 16 years

News and Current Affairs Programming

These codes are in addition to the above programming codes and are intended to promote accuracy and fairness in news and current affairs programs. The likely composition of the audience at the time of broadcast, in particular the presence of children and the personal and cultural composition of a community, will be taken into account.

- 3.6. News, current affairs, magazine and opinion programs (including news flashes) will:
- (a) present factual material accurately and ensure that reasonable efforts are made to correct substantial errors of fact at the earliest possible opportunity;
 - (b) clearly distinguish factual material from commentary and analysis;
 - (c) situate issues in context, identifying all interviewees, not misrepresenting a viewpoint by giving misleading emphasis, editing out of context or withholding relevant available facts
 - (d) not broadcast a news or current affairs program containing visual or aural material which, in the licensee's reasonable opinion, is likely to seriously distress or offend a substantial number of viewers, with the exception of material that is of identifiable public interest and then only if adequate prior warning is given to viewers

Indigenous programming and coverage of Indigenous Issues

This code acknowledges Indigenous peoples' special place as the first Australians, and offers a way to demonstrate respect for Indigenous cultures and customs, and to avoid offence with inappropriate words, phrases and actions.

In the following section, 'Indigenous Australians' refers to the Aboriginal peoples and Torres Strait Islanders of Australia.

- 3.7. When reporting on Indigenous people and issues, stations will take care to verify and observe the best way to respect Indigenous cultures and customs by:
- (a) considering regional differences in the cultural practices and customs of Indigenous Australians.
 - (b) seeking appropriate advice on how to best respect Indigenous bereavement customs on the reporting of people recently deceased;
 - (c) using the appropriate words and phrases for referring to an Indigenous Australian and his/her regional group.
- 3.8. Broadcasters will seek to involve and take advice from Indigenous Australians, and where possible Indigenous media organizations and/or Indigenous broadcasters, in the production of programs focusing on Indigenous people and issues.
- 3.9. Broadcasters will avoid prejudicial references to, or undue emphasis on, a person who is Aboriginal or Torres Strait Islander.

Practice Notes: The CBAA will support stations in this area of work by providing contact details and referring enquires on to the most relevant indigenous media contacts in Australia. Also see the www.CBOnline.org.au Indigenous almanac.

Local and Australian Program Content

The community television sector plays an important role in Australian cultural development by involving communities in the production of diverse original programming. This Code also reinforces the community broadcasting sector's reputation as a medium committed to developing and recognising Australian arts and culture. Licensees will aim to achieve the highest level of community-oriented and diverse Australian programming.

Definitions:

- 'Local programs' are defined as programs generated from within the service area of the station.
 - 'Australian originated programming' is defined as any program material created, produced or performed by a citizen or ordinary resident of Australia.
- 3.10. Australian originated programming will form a significant proportion of a stations programming, with each station aiming for the highest practicable level of Australian content.
- 3.11. Programs- which do not originate in Australia will be of relevance to identifiable communities of interest within a licensee's service area, and will be complementary to non-Australian programming available on other free-to-air services.
- 3.12. Community television service providers will initiate or support the development and production of local and Australian programming where possible.

Code 4 - Children's Television

Community television licensees will ensure the objects of the BSA are met by placing a high priority on the protection of children from exposure to

program material which may be harmful to them. Licensees will have written policies in place which detail how they intend to achieve this objective and which also address the issue of appropriate content of material broadcast between, and immediately before and after, children's programs.

Definitions:

- Children are people younger than 14 years of age.
- Pre-school children are those not yet old enough to attend primary school.

Community television services will cater to the special requirements of children by ensuring:

- 4.1 Any children's programming is broadcast between 7.00am and 8.30pm Monday to Sunday and any preschool children's programming is broadcast between 7.00am and 4.30pm Monday to Friday.
- 4.2 All children's programming must be tagged, identifying suitable material for preschool children and primary school children.
- 4.3 No prizes will be offered or given during preschool children's programming.
- 4.4 References to competitions during children's programming must:
 - (a) include a summary of the rules; and
 - (b) not misrepresent the chances of winning.
- 4.5 News flashes or announcements will not be broadcast during children's or preschool children's programming, except for an announcement which cannot, in the public interest, be delayed until the completion of the program.

Code 5 Program Classification and Identification

This Code provides guidelines for the broadcast of "G", "PG", "M" and "MA" material. Definitions of these program classifications are in accordance with the Guidelines for the Classification of Films and Computer Games issued by the Office of Film and Literature Classification and current at the time of publication of this Code of Practice (see Appendix B).

- 5.1. All material for broadcast must be appropriately classified "G", "PG", "M", or "MA", except for news, current affairs and sporting programs.
- 5.2. Audio and/or visual information advising of the program's classification will be broadcast at the commencement of all programs 'PG' and above.
- 5.3. Audio and/or visual advice on the reasons for a particular classification will be given prior to the commencement of:
 - all programs classified 'MA'
 - one-off programs classified 'M' and very short series classified M, that is, feature films, telemovies, mini-series, series episodes presented in a feature film format, documentaries and specials
 - any PG classified program broadcast between 7.00pm and 8.30pm on weekdays or between 10.00am and 8.30pm on weekends that contains material of a strength or intensity which the licensee reasonably believes parents or guardians of young children may not expect; and
 - any other program which contains material of a strength or intensity which the licensee reasonably believes viewers may not expect.

5.4. **General (G) classification zones**

Weekdays	6.00am - 8.30am 4.00pm - 5.00 pm
Weekends	6.00am - 8.30am

5.4.1 In G zones, only material classified G (and news, current affairs and sporting programs) may be broadcast.

5.5. **Parental guidance recommended (PG) classification zones**

Weekdays (school days)	5.00am – 6.00am 8.30am – 12.00pm 3.00pm – 4.00pm 5.00pm – 8.30pm
Weekdays (school holidays)	5.00am – 6.00am 8.30am – 4.00pm 5.00pm – 8.30pm
Weekends	5.00am – 6.00am 8.30am – 8.30pm

5.5.1 In PG zones, only material classified PG and G (and news, current affairs and sporting programs) may be broadcast.

5.6. **Mature (M) classification zones**

Weekdays (school days)	8.30pm – 5.00am 12.00 noon – 3.00pm*
Weekdays (school holidays) & Weekends	8.30pm – 5.00am

* When the time of reception anywhere in a licence area is more than one hour in advance of the time of the origin of the service, the M classification zone on schooldays extends between noon and 2.30pm, rather than 3.00pm.

5.6.1 In 'M' zones, only material classified M, PG and G (and news, current affairs and sporting programs) may be broadcast.

5.7. **Mature audience (MA) classification zones**

All days between 9.00pm and 5.00am

5.7.1 In MA zones, any material which qualifies for a television classification (and news, current affairs and sporting programs) may be broadcast.

Code 6 - Sponsorship and Community Service Announcements

This Clause augments the sponsorship conditions set down in schedule 2 of the Broadcasting Services Act. Community Television licensees will ensure that:

- 6.1. The licensee retains editorial control and independence in all programming, and shall not enter into any sponsorship arrangements- which are likely to affect the independence and integrity of the service.
- 6.2. Sponsorship will not be the sole factor in determining access to broadcast time.
- 6.3. As far as practical, all sponsorship announcements will be pre-classified to comply with the current CTVA Commercials Acceptance Division Television Commercials Production Checklist, and will also observe the classification requirements in Code 5.
- 6.4. Licensees will provide a minimum of 53 minutes of program content, including station/program announcements and community service announcements, within any hour of programming.
- 6.5. All sponsors will be clearly recognised as supporters of the program and/or station, and sponsorship messages will be "tagged" as such by:
 - a) placement of a "sponsor" watermark in a corner of the screen for at least 10 seconds at the beginning of the announcement; or
 - b) "pull through" text at the bottom of the screen; or
 - c) a text and spoken word "station/program sponsor announcement" at the beginning or end of one, or a bracket of more than one, sponsorship announcement.
- 6.6. Any support, either financial or in kind, during information based programming or buying guides, will be clearly indicated at the close of the program.

Code 7 - Review Of Codes

The purpose of this clause is to ensure that all codes are maintained and, where necessary, revised to accurately reflect contemporary community broadcasting principles.

- 7.1. The Community Television Sector, as coordinated by the sector organization representing the majority of licensees, will review the Community Television Code of Practice every three to five years, in the context of the rapidly changing media and broadcasting environment, to ensure that all codes remain accurate and relevant.
- 7.2. Prior to any changes to the codes, the sector, as represented by the sector organization representing the majority of licensees, will consult with the ABA, and seek agreement with the majority of community broadcasting stations, together with public comment.

APPENDIX

- A. Best Practice Complaints Handling Policy and Procedure
- B. OFLC Program Classifications and Identification

Appendix A

This is an example of an Internal Complaints Policy that would ensure Codes 1 & 2 are implemented and that best practice is achieved in this important area of station management.

Internal Complaints Process

(example only)

In managing internal complaints from station members our station will pursue the following commitments:

1. A fair, transparent and impartial investigation process;
2. To make all reasonable effort to resolve the internal conflict within 90 days;
3. To provide all parties involved with reasonable notice of meetings;
4. Access to some form of independent mediation processes where resolution is not easily achieved;
5. Access to an appeals process;
6. To respect all individuals rights to privacy and to fair and equal treatment.

Stage 1: Investigation and internal complaint resolution

The station will investigate complaints with all parties concerned by a nominated officer with the authority to represent the licensee (e.g. Station Manager or President), or a complaints committee made up of representatives of the board of management or other impartial members appointed to the committee.

The investigation process will generally follow these steps:

- i. Establish if there has been any breach of station policy, broadcasting law, or other legal requirement;
- ii. Recommend appropriate action in relation to programmers/volunteers/staff if a breach has occurred;
- iii. Negotiate for dispute resolution by managing discussion between disputants, which is aimed to bring about agreement or a settlement of opposing demands or attitudes;
- iv. Recommend appropriate legal response if legal action is likely or is taking place;
- v. Recommend appropriate response to the complainant/s after taking legal advice if necessary;
- vi. Recommend appropriate action/s needed to avoid future breaches;
- vii. Write to all parties involved in the investigation outlining the outcomes of the investigation and informing them that they have a right to lodge a letter of Appeal regarding the determination made by the investigating party to the full board of the station at their next sitting.

Stage 2: Mediation

Where Complaints are not resolved through the findings of the investigation process:

- i. Consider independent mediation or arbitration if a reasonable outcome for all parties cannot be achieved. (A range of free services are available to not-for-profit organisations, or the station may use a person/party agreed by all to be independent and impartial to mediate an outcome)
- ii. Consider impartial legal or other expert advice as required

Stage 3: Reporting and Record Keeping

To ensure stations can make a full response to the ABA if requested the station is advised to include in their procedures the following steps:

To keep a record of material relating to complaints, including logging tapes or audio copies of broadcast material, and written documentation for 1 year, including:

- i. The date and time the complaint was received;
- ii. The name and address of the complainant;
- iii. The substance of the complaint;
- iv. The substance and date of the licensee's response.