

Supplementary Submission

on

**Content and access: The future of program standards and
captioning requirements on digital television
multi-channels: Discussion paper**

to

Review of Program Standards and Captioning Requirements on Digital Multi-channels

The Manager

Digital TV Policy

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1. Introduction

Since FamilyVoice Australia made a submission dated 12 December 2009 to this review, the Australian Communications and Media Authority (ACMA) has announced that it has registered a new Commercial Television Code of Practice to come into effect on 1 January 2010.¹

This Code, unlike the draft Code put out for public comment by Free TV Australia, does include a definition of “multi-channels” in its Multi-Channel Appendix.

1.3 In this Code, “multi-channels” means:

(a) during the simulcast or simulcast-equivalent period for a licensee’s licence area, the commercial television broadcasting services authorised by a licensee’s commercial television broadcasting licence other than:

(i) a licensee’s “core commercial television broadcasting service” as that term is defined in the Broadcasting Services Act 1992; or

(ii) a licensee’s primary commercial television broadcasting service declared by the ACMA under clause 41G(1) of Schedule 4 to the Broadcasting Services Act 1992; or

(b) after the simulcast or simulcast-equivalent period for a licensee’s licence area, the commercial television broadcasting services authorised by a licensee’s commercial television broadcasting licence other than the primary commercial television broadcasting service declared by the ACMA under clause 41G(2) of Schedule 4 to the Broadcasting Services Act 1992.²

The concept of a “primary commercial television broadcasting service” is currently linked in the Act solely to provisions for the broadcast of anti-siphoning events (events specified by the Minister as an event, or events of a kind, the televising of which should, in the opinion of the Minister, be available free to the general public).³

However, clause 41G(2) of Schedule 4 of the Act does give ACMA a general power to “*by legislative instrument, declare that a specified SDTV multi-channelled commercial television broadcasting service provided by a commercial television broadcasting licensee after the end of the simulcast period, or the simulcast-equivalent period, for the licence area of the licence is the licensee’s primary commercial television broadcasting service in the licence area.*”⁴

2. Distinct classification time zones for multi-channels

As the power to declare a primary service is a discretionary power it remains possible that ACMA may not exercise this power at all, or may not exercise it for each licensee in respect to each licence area. In this case the concern raised in the principal submission about the possibility that there would be no classification time zone in which only G programming could be broadcast remains valid.

However, even if ACMA were to declare a primary service for each licensee in each licence area, the main objection to the provisions in the Multi-Channel Appendix of the Commercial Television Code of Practice regarding classification time zones would still apply. The Code would allow PG programming during all hours on all channels except the “primary service”. This outcome would, as detailed in the principal submission, make it much more difficult for families to ensure that their younger children are not exposed to programming which, by definition, may be unsuitable for children to view without parental supervision.

Recommendation 6 in the principal submission therefore still applies, notwithstanding the provisions in the new Code relating to a primary service.

Recommendation 6 (in the principal submission):

The same classification time zones should apply to all commercial free-to-air television broadcasting including multi-channels both during and after the simulcast period. There must be an exclusive G classification time zone that is at least as extensive as that in force under the current code.

3. Commercials during P and C programs on multi-channels

For the same reasons given above in relation to classification time zones, recommendation 7 in the principal submission relating to commercials during P and C programs on multi-channels still applies notwithstanding the provisions in the new Code relating to a primary service.

Recommendation 7 (in the principal submission):

Rules for broadcast of non-program material during P and C periods should apply to all channels, including multi-channels.

4. Endnotes

1. *Commercial Television Code of Practice*, Free TV Australia, 2010, www.freetv.com.au
2. *Ibid.*, p.52
3. *Broadcasting Services Act 1992*, Subsection 6 (1); Subsection 115(1); Schedule 4, Clauses 41A-41F.
4. *Broadcasting Services Act 1992*, Clause 41G(2).