



SUBMISSION TO AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY CHILDREN'S TELEVISION STANDARDS REVIEW

AUGUST 2007

Young Media Australia welcomes the opportunity to make a submission to this review.

This submission has been prepared for Young Media Australia by Associate Prof. Elizabeth Handsley (Vice President) and Barbara Biggins OAM (Hon CEO) on behalf of the Board of the Australian Council on Children and the Media (trading as Young Media Australia (YMA)). For further information, please contact Barbara Biggins at above address.

Prof. Elizabeth Handsley is a specialist in media law as it relates to children, and Barbara Biggins is CEO of YMA, and a former member of the Children's Program Committee of the Australian Broadcasting Tribunal, with 9 years of experience in using the CTS in the assessment of programs for the C and P quotas.

INTRODUCTION

1. Young Media Australia (YMA) is the trading name of the Australian Council on Children and the Media (ACCM). The ACCM is a not-for-profit national community organisation structured as a company limited by guarantee. The ACCM has a national Board of Directors representing the states and territories of Australia, and has a national membership of organisations and individuals who support the aims of the organisation, viz to stimulate and maintain public interest in the provision of suitable films and television programs for children.
2. The ACCM has a comprehensive organisational membership which includes ECA (Early Childhood Australia (formerly AECA Australian Early Childhood Association)), ACSSO (Australian Council of State Schools Organisations), AHISA (Association of Heads of Independent Schools of Australia), AEU (Australian Education Union), SAPPA (South Australian Primary Principals Association), Federation of NSW P&C (Parents & Citizens), and the Mothers' Union in Australia. Our members have a special interest and/ or expertise in media issues and children.
3. Young Media Australia's mission is to promote a quality media environment for Australian children and to raise community awareness of children's needs in relation to the media.
4. YMA's core activities include the collection of research and information about the impact of media on children's development, and advocacy for the needs and interests of children in relation to the media.

5. Young Media Australia's core services include

- a 24/7 freecall helpline 1800 700 357,
- a website www.youngmedia.org.au containing a wealth of media-related information (attracting over 1000 visits per day),
- a popular child-friendly movie review service (*Know before you go*),
- the development of parent media awareness materials, and
- making submissions, and participating in media interviews, related to media regulation.

6. This submission reflects the following principles

6.1 The International Convention on the Rights of the Child Article 17, viz

"Parties recognise the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production of, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority groups or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Article 13 and 18."

6.2 The Charter for Childrens' television

This was formulated at the first World Forum on Children and Television held in Melbourne in 1995, and revised during the following years.

1. Children should have programs of high quality which are made specifically for them. These programs, in addition to entertaining, should allow children to develop physically, mentally and socially to their fullest potential.
2. Children should see, hear and express themselves, their culture, their languages and their life experiences, through television programs which affirm their sense of self, community and place.
3. Children's programs should promote an awareness and appreciation of other cultures in parallel with the child's own cultural background.
4. Children's programs should be wide-ranging in genre and content, but should not include gratuitous scenes of violence and sex.
5. Children's programs should be aired in regular slots at times when children are available to view, and/or distributed via other widely accessible media or technologies.
6. Sufficient funds must be made available to make these programs to the highest possible standards.

7. Government, production, distribution and funding organisations should recognise both the importance and vulnerability of indigenous children's television and take steps to support and protect it.

6.3 Objectives b), e), f), h) i) and j) of the *Broadcasting Services Act* at para 3. of The Act.

- (b) to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs; and
- (e) to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity; and
- (f) to promote the provision of high quality and innovative programming by providers of broadcasting services; and
- (h) to encourage providers of broadcasting services to respect community standards in the provision of program material; and
- (i) to encourage the provision of means for addressing complaints about broadcasting services; and
- (j) to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them;

6.4 The Objective of the Children's Television Standards of the Australian Communications and Media Authority, viz

"Children should have access to a variety of quality television programs made specifically for them, including Australian drama and non-drama programs.

6.5 The Policy Guidelines on Children's Television of the Australian Council for Children and the Media.

7. In the preparation of this submission, YMA has also:

- relied on its experience and active involvement in the use and maintenance of the CTS since their inception in 1979
- informed itself of the current state of C and P programs, in particular by conducting a review of those C and P programs screened during July and August this year (see Appendix 1) .
- reviewed the research literature as it relates to the impact of media on children. This is an ongoing activity of YMA.

YMA SUBMISSION

This submission is divided into 3 parts, viz **A. General Comment** on the operation of the CTS, **B. detailed comment on the Key Questions** as set out in the ACMA Issues paper, and **C. Comment on other issues** related to the CTS but not canvassed by ACMA in its issues paper.

A: General comment

YMA considers the ACMA's decision to review the operation of the CTS for effectiveness and efficiency within the **current** television environment to be a sensible approach.

Positive provision: YMA has always supported the role of the CTS in promoting access by Australian children to quality age-specific programs and dramas, and especially in encouraging the production of Australian made TV product for children. YMA strongly believes that it's important for Australian children to see Australian faces, places and voices on their TV screens. From small beginnings in 1979, the CTS have been expanded in response to community need and demand, and remain relevant in today's society, regardless of the growth in new media.

This is particularly so considering that the preponderance of children's screen time is still taken up with television. In a recent study published in the *Australian and New Zealand Journal of Public Health* Olds, Ridley and Dollman found that median screen time was 229 minutes per day. For boys, the median was 264 minutes, and girls 196 minutes. 73% of time was devoted to TV, 19% to video games and 6% to computer use (not games). (Olds, T, Ridley K, Dollman J, (2006) "Screenieboppers and extreme screenies: the place of screen time in the time budgets of 10-13 year old Australian children", *Australian and New Zealand Journal of Public Health*, 2006, vol. 30, No. 2, p.137).

See also levels of viewing by 4 and 5 yr old children in Australia as reported in the Australian Institute of Family Studies *Growing up in Australia* project.

a) in Baxter, J (2007) Children's time use in the longitudinal study of Australian children. Technical paper No 4. p33 (mean time watching TV or movie 134 mins per day at weekends and 125 mins on weekdays).

b) in Australian Institute of Family Studies (2004) Annual Report "How do Australian infants and 4-5 yr old children spend their time? P27 " 4-5 yr old children are relatively heavy watchers of television, 89% of 4-5yr olds watched television, a video, or DVD, on average for 2.3 hrs per day, and 46% of infants (3 and under) watched television for 1.4 hrs per day. "

More widely, the trend that new media have not supplanted old media use by children is reported in New Zealand Broadcasting Authority (2007) at p12-13.

The commercial free-to-air TV industry, in general, has rarely been happy with having to broadcast age-specific programs and dramas for children, and has fought against quotas, citing costs as a major issue. But many producers have found success in marketing their C dramas overseas, and there is no reason why that should not continue, given that the criteria for C programs only require the provision of entertaining, well made, age-specific programs that enhance children's understanding

and experience and which have relevance to Australian children. Surely this is a recipe for success, assuming creativity in the creator and a commitment to an adequate budget!

YMA believes that those who operate in a protected media environment must observe their public interest obligations to the child audience.

Protection from harm: YMA has also long recognised that the CTS provide a measure of protection from harm for the child audience via C and P programs, as required by the *Broadcasting Services Act*, but believes that revision of the CTS is required in some sections (see Comment in B. *Key Questions*, and C. *Other Issues*) for the effectiveness of these measures to be increased.

One of the background documents upon which ACMA appears to rely in its review of the CTS related to advertising, is the *Review of Advertising to Children*. This reliance is particularly seen in the area of food advertising.

YMA, as an organisation which is involved in the ongoing collection and review of the research on the impact of advertising on children, finds this review to be

- a) deficient in its collection of all important major reviews in this field, and
- b) flawed in the conclusions drawn from its review.

YMA sought the opinions of two recognised experts in the field of advertising to children in regard to a) the adequacy of coverage of research papers included in the review, and b) the validity of the conclusions drawn by the review. These supported our assessment there were important papers which were omitted, and that the conclusions drawn were not well supported by others with long experience, and extensive research standing in this field. See *Appendix 2* and *3* for copies of both opinions. For further YMA comment, see *Key Question 14*.

Other issues not canvassed in this review: Following YMA's comment on the *Key Questions*, YMA raises a number of other issues which need to be addressed by ACMA if children are to be better protected than they presently are.

AANA Code revision: YMA notes that the AANA has announced that it is to commence a review of its Code of advertising to children. YMA considers that the AANA should not reach its conclusions until the ACMA has completed its review of the CTS.

Consultation for this review: YMA notes that ACMA sought the views of representatives of the production and broadcasting industries before producing the Issues Paper, but did not consult YMA, the peak body representing children's interests in relation to the media. We trust that this does not reflect on the importance that will be accorded children's interests in the review as a whole. As will become clear, we think that the very fact some of the questions below are being asked betrays a solicitousness of industry interests that the CTS do not require or indeed support. Certainly ACMA should not 'over-regulate', but we are some way away from the level of regulation that would threaten to make either industry non-viable. Moreover, the question of regulation cannot be separated from that of protection in the case of either the production or the broadcasting industry, as both are the beneficiaries of a

substantial degree of government protection. Indeed, the whole issue for the production industry is not one of regulation, much less over-regulation, but what they seem to see as under-protection on the part of the government. Debate on such a matter needs to be played out on a field that does not risk drawing children's interests into the cross-fire.

In this submission, we make numerous comments that can be read as critical of both the children's television production industry and the broadcasting industry. We are at pains to point out that these comments are based on the picture painted by the *Issues Paper*, and not on our previous perceptions of the situation. We therefore trust that those reading this submission will understand if our criticisms seem to be misguided, based on their perception of the situation.

B. Key Questions for the CTS Review

Quota levels

1.

a) Are the current C and P quota levels still appropriate for today's Australian child audience?

Yes. The levels of 5 hours per week, and 2.5 hours per week for C and P respectively provide a reasonable level of access to age-appropriate programs for primary age children and preschool children.

As TV remains a major entertainment source for children (see Olds et al, and Australian Institute of Family Studies 2007, 2004), NZ Broadcasting Standards Authority (2007)), it would always be desirable for there to be more programs for children and preschool children made with the C and P criteria in mind, instead of subjecting children to many mass market cartoons intended as vehicles for merchandising.

b) If current C and P quota levels are inappropriate, what are appropriate levels for C and P quotas and why?

No comment

2.

a) Is the current balance between CTS sub-quota requirements (for example first release Australian drama) appropriate for today's Australian child audience?

Yes.

The requirements of 50% Australian for C programs and 100% for P are appropriate given the universally recognised need for children to see their own cultures reflected on the screen, and also some of other cultures (see World Summit statement at 6.2).

However, it seems to YMA that, in recent years, most of the C programs are geared to the upper section of the C age range, and that the 6-9 group may be missing out. (See YMA report on C and P programs Appendix 1) This may be a reflection of the change made to the upper age definition, by the ABA some years back. Viz "children under the age of 13 yrs and in primary school", to "children under the age of 13 yrs". YMA considers that this definition should be changed back (see *C. Other issues*)

b) If the current balance between CTS sub-quota requirements is not appropriate, how should it be amended?

If the upper age limit is not to be changed back to “children under the age of 13 years and who are in primary school”, then YMA requests ACMA to consider a subquots of programs for the 6-9 yr old audience.

3.

a) Are the changes to film funding announced in the 2007–08 Budget likely to affect the production of children’s television in Australia?

No comment

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a) Are the classification criteria for C and P programs still appropriate for today’s Australian child audience? If so, why?

Yes. The classification criteria will always be appropriate as they simply embody the principles that any maker of quality children’s programs should rely on. The best programs for children will always be those that are made specifically for, and meet the needs and interests of particular age groups of children (age appropriate); they will engage their audience (be entertaining) ; they will have high standards of production (technically and artistically well produced); they will add something positive to children’s experience, be it through humour, drama, documentary, news, or knowledge, rather than harming or inhibiting (enhance a child’s understanding and experience); and have relevance to and be understandable by Australian children (be appropriate to Australian children).

Within the framework of these criteria there is unlimited scope for diversity of program type, topics, treatments and themes.

b) If the classification criteria for C and P programs are not appropriate, what modifications need to be made?

None

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a) Can the current classification criteria for C and P programs be easily understood and interpreted?

YMA believes that the criteria are simply stated and should be easily understood by anyone really interested in engaging children with quality programming. However, YMA understands that some producers over the years have professed themselves unable to tell what is wanted

b) If the current classification criteria for C and P programs cannot be easily understood and interpreted, how could they be amended to ensure clarity?

YMA does not think the criteria need amending, but perhaps the understanding of them, for those not previously successfully engaged in producing quota programs, could be enhanced by a small guide to the criteria, if not already available would help, such as a booklet and/or DVD with examples. Alternatively, or in addition, a structure could be established whereby producers could seek guidance from ACMA (or another

body) on an as-needed basis, and/or ACMA could run workshops or seminars on the criteria.

6.

a) Do the current classification criteria for C and P programs impede innovation in C and P programming?

Looking at the five criteria for C and P programs, it is extremely difficult to see how they could impede innovation. How can it impede innovation to require that a program be child-specific? That it be entertaining? That it be well-produced? That it contribute to children's entertaining and experience? That it be suitable for Australian children?

The ACMA Issues paper at p16-17 refers to CTS 11 (drama) as an impediment to innovation. An alleged insistence on a 'story arc' is cited as stifling innovation in genres. This is somewhat puzzling as CTS 11 is generally an inclusive definition, excluding only 'sketches within variety programs, or characterisations within documentary programs, or any other form of program or segment within a program which involves only the incidental use of actors'. We do not read this as amounting to insistence on a story arc, and we cannot help but wonder what kinds of genres the industry would like to explore that could not be accommodated within the terms of CTS 11.

A further suggestion is made that C and P criteria stifle industry's ability to meet the demand for 'user-generated content and content available across platforms'. (Issues Paper, 17) However the point is tellingly made that this is more a matter of network executives being focussed on meeting their C and P quotas and not being interested in engaging children across platforms. Therefore the problem is one of attitudes within the broadcasting industry, rather than one created by the C and P criteria themselves.

Similarly, ACMA has already noted that the perceived problem with 30-minute formats can ultimately be sheeted home to attitudes within the broadcasting industry, and not to the CTS themselves. (Issues Paper, 17) It is not the job of the CTS to change those attitudes in ways that make the meeting of a perceived demand more attractive and remunerative for the television production industry. Rather, that is the production industry's job.

Returning to the 'story arc' issue, the producer being quoted is not really complaining about innovation being stifled, but about international competition being made more onerous. That is, the producer does not mind so much being limited to a story arc, as being put 'out of step with the rest of the world'. (Issues Paper, 17)

Therefore the real issue is that there may be certain kinds of marketable material that would not provide access to the C and P market. A producer who has historically had access to that market may need to weigh up the costs and benefits of giving up access to that market in order to gain access to other markets. This is the kind of decision business people make every day.

We suggest that the fundamental problem, as indicated at various points in the Issues Paper, is that the children's television production industry has failed to negotiate with

broadcasters from the position of strength that the CTS give it. It appears that over the years the broadcasters have been allowed to get away with paying less and less for the C and P content they are required to purchase.

The opening-up of international markets for children's television programs should have been cause for celebration in the Australian production industry but instead it appears to have been cause for celebration for Australian broadcasters, as the primary effect of this development has been to drive down the local price of the programming. YMA is dismayed by this state of affairs too. However, we do not see changes to the CTS as the solution to the problem.

The fundamental fallacy that appears to underlie all of this discussion is that Australian television producers are obliged to produce material that meets the C and P criteria. This is not the case at all. Rather they are free to make, and sell, whatever programs they wish. They have understandably tended to make material for the C and P market, because the quotas make it a captive market. However, if they believe that they can do better in either the Australian or the global market by making a different kind of children's material, there is nothing in the CTS, or elsewhere in Australian law, to prevent them from doing so.

Not to put too fine a point on it, the C and P quotas have given Australian television producers a meal ticket since 1979. YMA does not oppose such an arrangement at all; rather we support it. We regard it as an added bonus that the C and P quotas provide a means of support for the Australian production industry. However we are dismayed by the indications in the Issues Paper that members of the production industry whom ACMA has consulted now seem to want to bite the hand that feeds them. It is not enough that they have access to a captive market for C and P programming, they seem to expect to be able to access that market *in tandem with* anything else they might want to do.

We wonder if the children's television production industry has become a little complacent under the protection it has had from the CTS, unwilling to take risks or build up a sub-sector in the way that other industries do all the time. For example, the industry has claimed to ACMA that there is an international demand for 'user-generated content and content available across platforms' (Issues Paper, 17). With respect we are unable to see why they should need either access to the C and P quotas, or indeed the support of Australian broadcasters, to work towards meeting that demand. Once again, it is not the role of the CTS to smooth the production industry's path in this way.

For all the above reasons it is impossible to see how the current classification criteria could impede innovation in children's programming. The worst that can be said is that they do not support the children's television production industry in everything it might want to do. In this regard it needs to be remembered that the quotas exist to serve the interests of children, not the industry. Even assuming that the classification criteria impeded innovation (as we do not accept they do), the question is whether it would serve children's interests to change the classification criteria so as to allow greater innovation. It is not at all obvious to us that this is necessarily the case. Rather the C and P criteria, *ex hypothesi*, serve children's interests, and anything that changes them is contrary to those interests.

b) If the current classification criteria for C and P programs impede innovation, how could they be amended to encourage innovative programming?

For the reasons explained above, we do not believe that there is a problem with innovation under the C and P criteria. Rather, the problem lies first in the attitude of the broadcasters, and second in the attitude of the producers.

The broadcasters, it appears, are unwilling to support the children's television production industry in anything that does not earn them points towards their C and P quotas. It also appears that they have been grudging about paying the full cost of the material they need to purchase to fill their quota. In a sense they can hardly be blamed for this; they are business people and they like to buy things as cheaply as possible. However the obligations of broadcasters under the CTS are not part of ordinary business dealings, but rather a public service they are required to undertake. YMA believes that it is important that broadcasters be reminded of the nature and foundation of this obligation. The *Broadcasting Services Act* has established (or rather continued) a commercial free-to-air oligopoly, protecting licensees from competition within their sector, and in return the licensees fulfil certain community obligations, including the C and P quotas. Any approach to the cost of fulfilling those obligations that does not take into account the value of the protection the community affords the licensees, through the legislation, misses the point in a fundamental way.

YMA understands that the value of the commercial free to air oligopoly may have eroded somewhat in recent years because of the introduction of subscription broadcasting, the internet and other technological innovations. But it needs to be remembered that commercial free to air television is still the most influential and widely used medium, especially among children, and the most remunerative as well. The fact that times are not as good for the industry as they once were does not mean that they are not still very good indeed. At the very least it can be said that things have not changed so much that the fundamental logic of the obligation needs to be rethought. Rather it needs to be reaffirmed.

Therefore YMA would like to see ACMA state very clearly the expectation that broadcasters pay (at least) the full production cost of any C or P material they purchase to fulfil their quota obligations. If broadcasters are able, from time to time, to negotiate to shift some of those costs onto other parties, such as international purchasers, there is no reason to object to that. But such arrangements should not then become the default expectation.

Moreover, ACMA should make it clear that there is no expectation that C and P material pay for itself in advertising. Rather, its cost should be cross-subsidised from other more remunerative aspects of broadcasting, of which there are plenty (precisely because of the legislative oligopoly). Alternatively a levy should be placed on broadcasting licence fees to build up a fund to pay for C and P material. Under such a scheme the government would act as a clearinghouse for the funds in question, commissioning the production of the material, and the broadcasters' only obligation would be to screen the material produced. Broadcasters could have a say in the material that is produced but the funding of production would not be left up to the two industries which have so far failed to keep the arrangements on a sustainable footing that places children's interests first.

7.

a) Do the current CTS impede the development of specific forms of innovative content, such as user-generated content or television content that also utilises cross-platform delivery, for example, the internet or mobile phones?

YMA believes that this begs the question of whether such forms of content would serve the purposes of the CTS, or any other child-friendly purposes. We do not express a view either way, but we do not take it for granted that they would.

It is clear that the question is driven by a concern not for children's interests but rather for the interests of the production industry, whose members believe that there is demand for such content, but they have been unable to interest broadcasters in any content that does not meet the C or P criteria.

First, we do not see how the kind of content mentioned cannot necessarily fit in with C or P programs, albeit perhaps in some cases as add-ons to those programs. Of course, the preclassification requirements are there to protect the quality of content, and we could ask whether user-generated content in real time, might cut across this. Developing interactive content on the internet might well be a way of building up the following for C and P programs.

Second, we do not see why broadcasters should be expected to pay for or otherwise support the development of content that is not delivered by commercial free-to-air television.

Third, the only reason given in the Issues Paper for being concerned about this is that producers believe there is a demand for such content. Therefore we can only point out that, if there is demand for the content, the industry should be able to meet that demand without accessing the CTS at the same time. Once again there is no law against such content. It is impossible to see why the CTS should be changed to encourage the development of something for which there is already a demand. The only way this could be logical is if producers had some kind of guarantee of access to the CTS captive market in everything they do. Obviously, they do not. If they did, the CTS would not be children's television standards but rather industry protection standards.

YMA also raises the issue of how pre-classification standards would be protected in the case of user-driven content in real time?

b) If so, how could they be amended to encourage that type of content?

As YMA disagrees that the CTS stifle the development of such content, it is strictly unnecessary to answer this question. However, we have no objection in principle to measures to support the production industry in developing high-quality user-generated content for children, or children's content for platforms other than television. Obviously such measures would have no place in the Children's *Television* Standards but there is certainly a role for government in assisting the development of creative industries in new fields. For example, there may be a case to impose an equivalent to the C quotas on mobile phone providers. However the same regulatory policy cannot easily be extended to such providers, as they do not have legislative protection in the form of an oligopoly.

8.

a) Do the current criteria encourage the production of C and P programming that is contrary to international trends in content and style of programming?

Once again we think this begs a more important question: why should the criteria *not* encourage programming that is contrary to international trends?

It is not the role of the CTS to provide the children's television production industry with access to an international market. An important part of the role of the CTS is to ensure that material is broadcast that is suitable for *Australian* children, which in principle could be quite different from that which is judged suitable for children elsewhere in the world. There is no need to be apologetic about this.

Similarly, the CTS aim to maintain a certain standard of quality in children's television. If there is a global race to the bottom going on, the CTS absolutely should act as a bulwark against that. If these changes in international trends are about something other than quality, then in principle the CTS should not stand in the way of accessing those markets with the same material.

However, if it appears that there is a problem with the CTS and we are to have a debate, it must be driven by a commitment to those things – suitability for Australian children and quality – and not by a concern to accommodate the demands of the production and broadcasting industries. The production industry seems to be demanding CTS criteria that allow it also to access international markets. As discussed above, that is not the role of the CTS. The broadcasting industry seems to be demanding access to C and P material at the lower price made possible by overseas sales. Once again, it is not the role of the CTS to guarantee such access.

Rather it is up to the production industry to negotiate with the broadcasting industry for a fair price for their C and P material, and it is up to the broadcasting industry to pay whatever price is required to make this material available to Australian children.

b) If so, how could the criteria be amended to address this?

No change required

Timing

9.

a) Are the current C and P time bands prescribed in CTS 3 appropriate for Australian children today?

CTS 3 provides in part:

- (c) A licensee must broadcast C material for a continuous period of time of not less than 30 minutes:
 - (i) every weekday between the hours of 7.00am and 8.00am or 4.00pm and 8.30pm; to a total of at least 130 hours per year; and in addition
 - (ii) at any time in the C band to a total of at least 130 hours per year.

- (d) A licensee must broadcast P material for a period not less than 30 minutes every weekday in the P band.

We presume that this question intended to refer to the C and P bands defined in CTS 1 as follows:

C band means the following periods of time:

- (a) 7.00am to 8.00am Monday to Friday;
- (b) 4.00pm to 8.30pm Monday to Friday;
- (c) 7.00am to 8.30pm Saturday, Sunday and school holidays. ...

P band means the period of time 7.00am to 4.30pm Monday to Friday.

The answer to this question has to be guided by a further question: what arrangements are most likely to maximise the numbers of Australian children who see C and P programs? From this perspective, YMA has never seen a problem with the C bands. They do not prevent broadcasters from showing C and P material at times when children are best able to access it. The problem lies with the fact that broadcasters do not in fact show (especially) C programs at such times.

The Issues Paper makes it very clear that, for whatever reason, the child audience is a good deal larger, later on weekday evenings. YMA would support measures to encourage or even require broadcasters to screen C material at these times. However this may be taking broadcasters' community obligations too far, as we realise that prime time advertising revenue is an important part of their business.

Therefore we tend to see the answer to the problem as lying more in

- showing C programs in larger blocks of time eg 1 hr, and
- proper promotion of C programs,
- regular scheduling (discussed elsewhere in the submission).

One reason why we support fairly broad and flexible C and P 'bands' is that they provide an opening for broadening the advertising restrictions that currently (appear to) apply only to C and P 'periods'. The C band equates roughly to times when children are likely to be watching television, so it could provide a useful way of keeping the advertising restrictions linked to the CTS quotas, but more realistic as to what is likely to influence children and easier for the public to understand. However the G and PG zones could be used to the same effect.

b) If the current C and P time bands are not appropriate, what amendments should be made to them?

Although we do not necessarily see the current C and P bands as inappropriate, there may be changes that could be made to boost the audiences especially for C programs. One idea for boosting their audiences would be to tighten the advertising restrictions during C programs so that they would be suitable for showing in after-school care. Promotion within this sector could really increase children's access to the programs.

It might be in children's interests, too, to rethink the regularity requirements of CTS 3, at least in relation to C programming. (Preschool children require regularity).

The current reality of children's program scheduling is that C programs are screened on all 3 commercial stations at the same time (4pm) on weekdays, and at similar times on Saturdays on 2 channels, with one a little later, and at the same times on Sundays. (This is despite the change to the scheduling provisions more than 15 years ago to allow flexibility in screening C programs. Prior to that C programs had to be shown in one-hour blocks on week days.)

Each child, obviously, can watch only one C program. The audience could be boosted by encouraging licensees to vary the timing between them, rather than splitting the audience. Alternatively, they could show blocks of longer than half an hour, but not every day of the week.

For example we can imagine that if Channel 7 had two hours of C programming on Mondays, Channel 9 on Tuesdays and Channel 10 on Thursdays this might heighten the audiences for the programs. It would be easier to promote the programs if they came in a block like that, or to promote a particular day as children's day (much as the channels currently promote certain evenings as 'comedy' evenings or 'crime drama' evenings).

To some extent these suggestions are based on speculation as to what would heighten audiences, and/or the networks' willingness to promote their C programs, and /or not program their children's C programs up against each other. Ideally there would be proper research done as to what would have these effects. However the above suggestions provide at least some questions to ask in the context of such research.

Further, some kinds of C programming, say for example C drama, could be concentrated during school holidays. ,

10.

a) Should ACMA provide more incentives to licensees to show children's programs in more desirable timeslots?

YMA already believes that licensees already have plenty of incentive to show C programs during prime time, and they have not taken up the opportunity. We have always had reservations about those special arrangements, because they do potentially represent a formula for having a smaller overall amount of C programming on television. However, on balance, they could mean more children seeing the material, which is also a worthy goal.

Once again, we see the problem as being one that lies in the promotion of children's programs. It is a matter of some wonderment to us that, when other children's properties (and even some M non-children's properties) such as films are so aggressively promoted to children through toy tie-ins and fast food restaurant offers, there is very little promotion of C programs. No figurines, no colouring in books, no pencil cases, no shopping centre appearances, not even any novelisations.

We believe the most important thing to be done is to find out exactly why the networks are so reluctant to promote this material. Logically the fact that they are required to

show it cannot justify the failure to promote it. Rather one might think that this was all the more reason that they might want to heighten the audiences for such material, to maximise the recoupment of the costs of obtaining it. In all honesty this is a mystery to us.

b) If so, what form should these incentives take?

As mentioned above we do not see any use for further incentives, but we would like to take this opportunity to state our opposition to any further 'bonus points' schemes. So far it seems that these do not work. If anything we would like to see a sub-quota, that is, an additional requirement that a certain proportion of C periods be scheduled during prime time.

Program placement

11.

a) Is the requirement to show C and P programs every weekday still appropriate?

Yes, as children tend to look for TV entertainment on daily basis (see Olds et al; Australian Institute of Family Studies) .

However, this requirement, combined with a minimum of 30minutes has resulted in C programs being shown on weekdays in ½ hour blocks isolated from other programming for children. As presently scheduled, they are mostly preceded by PG programs, and followed by News services on 2 channels and The Bold and the Beautiful on the third. A better context for C programs could be for them to be shown in minimum of one hour blocks.

b) If not, how should this requirement be amended?

YMA suggests that C programs could be required to be shown in minimum blocks of 1 hr on 3 or 4 weekdays, with a minimum of 1 hr on Saturday mornings.

This could cater for children's access to daily programming which is appropriate for them, and allow for better recognition of the presence and the promotion of C programs. One hour of C programs on Saturday mornings could fill the gap left by the ABC which has no children's programs on early Saturday mornings.

12.

a) Does the requirement to show C and P material in 30-minute blocks impede the scheduling of C and P material in larger blocks?

The present standard only requires a *minimum* of 30 mins, and does not prevent the screening of larger blocks.

b) If so, how should this be amended?

See 11 b

Program promotion

13.

a) Should program promotion be addressed within the CTS?

YMA is pleased to see ACMA taking the highly realistic and practical approach of considering program promotions as an issue touching the accessibility of programs to the child audience. As previously noted, YMA's view is that the underlying question must always be "what will boost the audience for C and P programmes?". The onus should be on licensees to do so, not just as part of their community obligations, but as businesses. As previously noted, YMA is bemused at the way licensees seem to act against their own business interests in failing to promote this particular aspect of their offerings.

Program promotion should definitely be addressed somewhere; perhaps in the CTS, but YMA is not particularly concerned. Stations could be required to report annually to ACMA on promotion conducted.

Having said that, YMA believes that an important part of program promotion is regularity of scheduling which enables programs to build up a following. This is something that we regard as essential to the accessibility of programs, and combined with effective promotion could build audiences. (We note that for the past year almost all C programs shown on weekdays have been shown in half hour blocks at 4pm)

If so, what form should this take?

As mentioned, YMA does not necessarily see the CTS as the most appropriate way of addressing the issue of program promotion. However if it were introduced, in the form of say minimum requirements for the number of minutes spent promoting C and P programs, it should be directly supervised by ACMA, by means of a reporting system, rather than relying on the public to bring complaints. Perhaps a suitable system would be one that extends the C and/or P quota (though YMA sees this problem as one applying far more to the C quota) by a certain amount and gives points for promotions of those programs. Or there could be an additional sub-quota for promotion.

A preferable approach might be to fund a trial, to find out what impact program promotions have. Under a co-operative scheme between ACMA, the three commercial free-to-air broadcasters and one or more academics, different approaches to program promotion could be trialled, in order to determine which are the most effective in increasing audience numbers. The findings could then be used to consider the best way forward for regulation.

For example there could be a default expectation that each licensee's C period should remain the same for at least a school term. This should be able to be changed only in exceptional and unforeseeable circumstances. It may also be appropriate to require licensees to show each season, or say 6 episodes, of a C drama in consecutive weeks at the same time, or at least 10 episodes of other kinds of C programming, or enough to fill a school term.

Issues not specifically addressed

14. ACMA is of the view that the following provisions of the CTS are operating effectively:

- program promotions and station identifications (CTS4)
- community service announcements (CTS 4A)

- news flashes and announcements (CTS 5)
- unsuitable material (CTS 10)
- advertising during P time (CTS 13)
- time limits for advertising during C time (CTS 14)
- separation of advertisements and sponsorship announcements (CTS 15)
- repetition of advertisements (CTS 16)
- undue pressure in advertisements (CTS 18)
- competitions (CTS 21)
- use of program personalities and characters (CTS 22)
- advertising of alcoholic drinks (CTS 23)

a) Are these provisions still appropriate?

This section mainly relates to issues concerning advertising to children.

SPECIAL NOTE: At this point YMA repeats its concerns in relation to the review paper “Television advertising to children” which appears to be relied upon in this section, and in the subsequent sections on food advertising to children, and premium offers.

YMA, as an organisation which is involved in the ongoing collection and review of the research on the impact of advertising on children, finds this review to be a) deficient in its collection of all important major reviews in this field, and b) flawed in the conclusions drawn from its review.

YMA sought the opinions of two experts in the field of advertising to children, viz W Doug Evans and Dale Kunkel (see bios in Appendix 2 and 3) in regard to a) the adequacy of the review’s coverage of relevant research, and b) the validity of the conclusions drawn by the review. Overall, it seems that there have been important papers omitted, especially in the field of food advertising, and that the conclusions drawn both on the usefulness of the research on advertising, and on food advertising in particular were not well supported by others with well developed expertise in the field.

Kunkel says

“in summarizing the relevant research, the study is right on target in emphasising that age-related differences in children’s cognitive development are the most important factors in shaping how children understand and are influenced by television advertising”.

However, he is critical of some aspects, viz

“the study is too generous in asserting that “between the ages of six to 11 years children begin to develop the ability to think skeptically about advertising” (p. 5). In my view, the relevant research indicates quite consistently that children below age 8 do not evidence any meaningful capability to defend effectively against televised commercial persuasion. On the contrary, children below age 8 tend to accept commercial claims and appeals as mostly fair, accurate, and balanced information, in much the same way that an adult would understand the message conveyed by an anchorperson on a credible newscast. Even after age 8, *it is a slow and gradual process* for the developing child to master and apply the notion that advertisers exaggerate and engage in puffery to present their product in the most favorable light. Without this “discounting” of the messages contained in persuasive communication efforts, younger children are at a clear disadvantage, as compared to older children or adults, in defending against advertising. “ [emphasis added]

Kunkel continues

“Young children’s lack of a mature comprehension of the nature and purpose of advertising raises fundamental questions of fairness in allowing commercials to be targeted at this audience. Such

concern forms the foundation of numerous regulatory policies in the United States that restrict television advertising to children. For example, host-selling (i.e., including the same character in both the program content and an adjacent ad) has been restricted by the Federal Communications Commission since 1974, while the amount of time that may be devoted to advertising during children's programming has been limited by Congressional statute since 1990. There is strong and long-standing consensus in the U.S. about the need for policy protections in the area of television advertising to children, and that consensus is grounded in the relevant scientific evidence."

"Indeed, no scholar who has reviewed the totality of evidence in the area of children and advertising has ever characterized the overall state of knowledge in this realm as "poor," as the Brand report concludes on page 8. It is on this point that I must disagree strongly with Dr. Brand. Besides the issue of television violence, which most observers agree has been studied more frequently than any subject in the field of communication, the topic of children and advertising is among those subjects that have attracted the most extensive research interest and examination over the past 30 years. "

On the adequacy of collection of relevant research in the field Kunkel says

"The Brand report indicates at the outset that it is based on a review of "more than 200 sources on children and television advertising, including 100 refereed primary sources" (p. 4). This body of evidence would constitute only a sub-set of the overall scientific evidence in this realm. By way of comparison, a recent textbook in the area (Barrie Gunter, Caroline Oates, & Mark Blades, *Advertising to Children on TV: Content, Impact, and Regulation*, Lawrence Erlbaum Associates, 2005) includes approximately 500 citations, while a review study that I helped to conduct for the National Academies of Science in the U.S. (Committee on Food Marketing and the Diets of Children and Youth, Institute of Medicine of the National Academies of Science, *Food Marketing to Children and Youth: Threat or Opportunity?* Washington, DC: National Academies Press, 2006) identified a total of 122 empirical studies on just a single area of advertising effects: the influence of food marketing on the diet and health of children. "

On the ACMA Review paper's conclusion that "the scope, consistency and quality of research literature about children and advertising is poor", Kunkel says

"To summarize my perspective, I believe the level of knowledge about the relationship between children and advertising is quite strong and mature in most regards, and affords scientists strong ability to draw conclusions across studies. While it is true that researchers in any area are rarely satisfied and constantly thirst for more studies and a richer understanding of their subjects, the available evidence in this realm is both rich and compelling. Academics have not wasted their extensive efforts over the past 30+ years in studying the topic of children and advertising. The existing knowledge is more than sufficient to buttress regulatory action by responsible policy-makers."

"To conclude, the Brand report offers many accurate and helpful conclusions about the nature and extent of research on the topic of children and advertising. As I have noted above, however, there are several aspects of the report that I find to be insufficiently developed and/or justified. Specifically, I do not believe the totality of the evidence examining the issue of children and advertising can be characterized as "poor," and I am confident that most experts in this area would agree with me. "

Kunkel also disagrees with the report's conclusion on food advertising

"Secondarily, I believe that the Brand report's conclusions about the influence of food marketing on children seriously underestimate the existing body of scientific knowledge on this issue. There is a strong body of evidence, including a convergence of findings across both survey and experimental designs, that warrants clear causal conclusions about the influence of food marketing on children."

W Doug Evans is also critical of the conclusions drawn by the review report .

"Overall, I think the report does a pretty good [job]of surveying the relevant research literature and accurately describes the studies reported. However, I have some specific concerns about interpretations of the evidence and conclusions, noted below. In particular, the report tends in several cases to take an overly narrow interpretation of evidence, and concludes that no effects of certain types (e.g., premiums, pester power) can be concluded from the evidence.

On the contrary, these seem to be the most likely explanations given the available evidence. Overall, while well documented and argued, the report has a surprising tendency to understate what is known on the subject of advertising effects on children, and in many cases seems unwilling to adopt the most likely explanation given the evidence (e.g., that advertising causes pestering for unhealthy food products), holding the field to an unreasonably high standard and refusing to accept likely explanations based on the evidence.”

On food advertising, Evans says

“We know advertising can be a negative health influence, but we don't really know HOW. This is an important gap in the knowledge base, but it doesn't change the fact that a very large and growing body of evidence points to the strong behavioral effects of advertising on children, and the negative health effects of TV advertising (alone or in concert with other marketing strategies) of certain products on children's health. The report seems to miss this major point.”

Bios for Dale Kunkel and for W Doug Evans can be found at:

http://datamonster.sbs.arizona.edu/communication/faculty/each_detail.php?option=1&detail=11&mtitle=Core%20Faculty

<http://www.rti.org/experts.cfm?objectid=119713C3-4480-44D8-99300B120F72BC6D>

See Appendices 2 and 3 for full text of the Kunkel and Evans opinions.

YMA therefore argues that ACMA should review with great care any provision in the CTS that relate to advertising to children. From the evidence it is clear that advertising to children under the age of 8 years is certainly an unfair practice.

At this time, YMA argues that at the very least, ACMA must take seriously the impact on children's health posed by advertising of foods of low nutritional value, the impact of host and character selling in all its forms, and the issue of sexualised images of children (see **C. Other Issues**)

General discussion of Key question 14.

As a general point, the application of most of the restrictions listed is limited to C periods or C programs. For reasons discussed elsewhere in this submission, and recognised in the Issues Paper, this does not go nearly far enough to catch the times when children do most of their viewing. Of course it is to be hoped that as a result of other changes to come out of this review, more children will be watching C programs. But that is not to say that they will necessarily be watching any less of other G and PG programs. At the very least the majority of children's viewing will still be outside C and P periods.

A related matter that is not directly raised by question 14, but is of concern to YMA, is the precise reach of the CTS advertising restrictions. There is currently room for confusion as to which provisions apply only to C periods, which apply to C programs and which apply to broadcasting generally. There is a statement in the Definitions section that the CTS as a whole apply to all C and P *programs* and to advertisement breaks before, during and immediately after C or P *programs*. (CTS 1(2)) This would seem to indicate that the advertising restrictions apply to C and P *programs*, rather than only to C *periods*.

However CTS 13 applies CTS 10 and 17-21 to advertising in C *periods*. Some of these standards are on their own terms expressly limited to C periods, for example

CTS 10 (demeaning, frightening and dangerous material), CTS 22 (endorsements by characters) and CTS 23 (alcoholic drinks). Others contain no such limitation, for example CTS 17 (misleading or deceptive advertising), CTS 18 (pressure in advertisements), CTS 19 (clear presentation), CTS 20 (disclaimers and premium offers) and CTS 21 (competitions). If the latter group of Standards really do apply to all programming and/or all C programs, as they appear to, it is not immediately clear why CTS 13 is needed in order to apply them to C periods, unless the intention is to limit the application of all the listed Standards to C periods only.

Indeed, CTS 17 requires that 'No advertisement may mislead or deceive children', and goes on to say that 'nothing in these standards is to be taken to limit the obligation imposed by this standard.' Does that extend to the provision in the definitions section saying that the standards apply (only) to C programs? In that case, CTS 17 would apply to broadcasting generally.

While the issue as to the scope of the CTS might seem trivial and technical, it has real significance when it comes to a consumer deciding to whom to complain. A lay person could be forgiven for feeling considerably confused by these matters. It needs to be asked whether some consumers simply find it too difficult to work out which rules apply, and give up.

A further difficulty is that the distinction between C programs/periods and other children's programming is a difficult one for the average viewer to determine. A C period is defined as:

A period nominated by, or on behalf of, a licensee under CTS 3(1)(e) during which the licensee will broadcast C programs.

However, a C program is not necessarily in a C period. As best we have been able to determine, there is no publicly available means of determining what the C periods are on any given day.

CTS 4 YMA does not necessarily agree that program promotions and station identifications should be treated differently from any other advertising. Broadcasters are businesses like any other, selling a product, and they should not have any special dispensations when it comes to promotion of that product. This is especially so considering the aggressive way in which they have been promoting themselves in recent years, for example by using a watermark in the bottom right-hand corner of the screen through entire programs, and by running program promotions on a band at the bottom of the screen during programs.

YMA is concerned at the suitability of the frequent promotions of G classified programs that occur in C programs. The issue may well be one of the appropriateness of the G classification commonly given to such programs as *Neighbours*, given many of the themes and their treatment. Our reviewers have commented on the non-G nature of trailers of *Neighbours*. (see Appendix 1)

YMA is especially concerned about promotions for M-rated programs occur in C time bands. We take up this issue further in Section **C Other issues**.

CTS 13 On ACMA's own admission, the ban on advertising during P periods has been made ineffective by the funding structure of the sector. That is, 'networks can often obtain P independent programming for a very low, or no, licence fee because the producers derive their returns from merchandising, DVD sales and concerts.' (Issues Paper, 9) This means that far from being ad-free, P programs are actually program-length commercials for the merchandise, DVDs and concerts. There is no functional difference between recouping the cost of a program purchase through advertising and receiving it at a reduced price because of product sales that will be derived from it. It all amounts to the same thing from a consumer's point of view, because both structures fund the program by selling products to the audience. This is precisely what the ad ban during P periods is supposed to prevent.

YMA sees these merchandising arrangements as a breach of the trust that exists between television personalities and their pre-school audience. We do not suggest that it would be possible to do away with them completely, and we recognise that something similar goes on with ABC children's television programs. However, we think the time has come to recognise that P programs are not ad-free, and that once again broadcasters have been able to get away without paying the full price of observing their community obligations.

CTS 16 on the repetition of advertisements is easily circumvented by producing a number of advertisements for the same product, or related products, that are nevertheless not 'the same advertisement'.

CTS 18 on undue pressure is often thought of as a provision against 'pester power' but in fact it is little more than window-dressing. This is because it addresses ads that place *undue pressure on children* to ask their parents to buy the product, whereas pester power is where ads inspire children, by whatever means, to put *undue pressure on their parents*. It would be well to have a provision that no ad can openly suggest that children ask their parents for the product, but that would not go nearly far enough to deal with pester power, because there are any number of ways besides direct exhortation that ads can inspire children to ask their parents for a product.

We have become aware of an interpretation of CTS 18 in response to a complaint about fast food ads that used highly exhortatory language to encourage children to collect the toys used in meal packs, for example 'for a limited time only'; 'start collecting today'; 'collect them all and then get swapping'; 'the more tokens you collect the more times you can enter'. This was ruled not to amount to 'undue pressure' but rather the normal practice of advertising to create demand for the product. If this kind of language is not undue pressure, it is difficult to imagine what is not.

In a sense it is impossible to do away with 'pester power' without doing away with advertising. That is, pester power is part and parcel of advertising to children. If the advertising is effective, it makes the children want the product, and children do not need advertising to tell them how to pester. The question is whether they want the product badly enough. Therefore what is needed are provisions against ads that make children want products badly.

CTS 22 The Issues Paper rightly concludes that use of program personalities and characters is a highly effective advertising strategy. Given this effectiveness, the CTS provision on the practice is well-intended but woefully inadequate. While it can be agreed that personalities and characters from C programs should not be used in advertising during C programs, this will make little difference to the influence of advertising on children as long as C programs are little-watched. Even if C audiences were built up as a result of reforms following this review, the programs would still make up only a small proportion of the viewing of the average child and characters from those programs would make up only a small proportion of the possible personalities who could be used with great effect.

We might also question the assumption built into CTS 22 that program characters and personalities have a shelf-life of only 12 months. Merchandising may keep them alive well after that length of time. And surely the advertisers would not be interested in using the personality or character if it were not considered that he, she or it had some sway with the audience?

YMA is concerned about the use of a range of different personalities in advertising to children – not just entertainers or fictional characters, but also and especially sportspeople. In recent years we have seen a champion swimmer endorsing high-sugar breakfast cereal as ‘fully sick’ and a champion netballer endorsing sugary ice blocks. We regard this kind of advertising as being at least as manipulative as any involving a program personality or character.

Like many of the other provisions listed under question 14, CTS 23 against the advertising of alcoholic drinks is fine as far as it goes, but it should be extended to give recognition to the fact that most of children’s TV watching goes on outside P and C periods.

b) If not, how should they be amended?

Most if not all of the restrictions here should be extended beyond C programs or periods to cover the broader hours when significant numbers of children are likely to be watching television. We have suggested that the CTS use the *C bands*, rather than C programs or periods, to define their application. Alternatively ACMA could use the G and PG zones to define its restrictions, or rely on viewer data to determine the times at which, say, at least 10% of children are likely to be watching television.

A further reason for using the C bands is that these are easily understood by the general public, on whom the burden falls to complain if the CTS are breached. Of course YMA’s ideal preference would be for a system that provides effective monitoring by an independent expert body, but as long as reliance is placed on the general public, it is important that it be absolutely clear to the average person which rules apply. This is because people are unlikely to take the trouble to complain unless they can be fairly confident that their complaint will make a difference, and to have this confidence they must also have confidence that their complaint will be upheld.

As noted above, we understand that there is currently no publicly accessible means of determining what the C periods are in any given week. Normally a guess can be made based on the nature of the programming but because the C classification of a program is not always promoted or advertised this can rarely be more than a guess. The C

bands, by contrast, can be easily determined simply by looking at the CTS and a clock.

In addition YMA suggests the following changes to particular provisions.

CTS 4: YMA would like to see new Standards introduced limiting the indirect promotion of M programs that appeal to children, or are otherwise marketed to children. (for eg via cereal packets etc). Ideally these would extend through the C bands and/or through PG zones.

At the very least a rule should be adopted that the allowable classification for program promotions (and indeed all advertising) extends for the whole of a program that starts in one zone and extends to another. When a G or PG program goes over into the next classification zone, the same advertising and program promotion restrictions should apply for the whole program.

CTS 13(2): While YMA wholeheartedly supports the ban of all advertising during P periods, we believe that changes are necessary to the P criteria to make this effective. We suggest that the P criteria be amended to include restrictions on the kinds of merchandise that can be endorsed by those properties, or by personalities appearing in them. At the very least these restrictions should aim to keep the related merchandise in keeping with the spirit of the P concept. For example one P program has recently been linked with a range of hair-care products for children, including kiwifruit-scented hair gel. We do not see products encouraging the development of vanity in preschoolers as an appropriate use of the P privilege. We would also like to see some strict limits on the kinds of foods with which P programs can be linked.

CTS 16: This should be amended to provide that more than two advertisements for the same product, or related products, cannot be broadcast in any 30-minute period.

CTS 18: In relation to 'pester power', YMA suggests the introduction of provisions to curb some of the more effective techniques of marketing to children and in particular those that tap into children's insecurities by linking the product to social success. and those that link the brand of the product to a concept or a lovable character (eg an anthropomorphic animal) without any reference to the qualities of the product itself. Some of the CTS go some way towards addressing such manipulative techniques, but in our view not far enough.

CTS 22: The ban on the use of personalities or characters should be extended well beyond C and P periods (see above), and also well beyond C and P personalities and characters.

We have expressed our concern about the use of sportspeople in advertising likely to attract the attention of children. It might be taking

matters too far to say that no sportsperson can endorse any product on television, but if there is any reason to think the ad might attract the attention of children, eg the kind of product it promotes, then the CTS should prevent this. And/or, such ads should be disallowed during children's viewing periods, as defined elsewhere in this submission.

Such a new restriction should not be based on whether the ad is, on balance, directed to children. Rather it should be based on the presence of any single element that would tend to attract the attention of children. This is for the obvious reason that the point of the restriction is to moderate the impact of advertising on children. The fact that an ad might be seen as, on balance, directed to adults does not mean that it will have no impact on children. Moreover, a balancing approach is too easily manipulated and experience shows that the default will always be against finding that an ad is directed to children.

A clear illustration of this proposition is provided by the recent ad where a children's entertainer promoted a sugary breakfast cereal in a script that was addressed ostensibly to adults. It was held not to be direct to children for the purposes of the *Commercial Television Industry Code of Practice*. This was in spite of the fact that two of the three major elements of the ad were such as to attract the attention of children ie the nature of the product and the identity of the entertainer.

Similarly the 'fully sick' campaign cleverly had the swimmer speaking to the children via their mother, helping her to persuade them to eat the product. This too, presumably, was sufficient to prevent it being considered an ad directed to children. A 'balancing' test is simply too easy to circumvent. Greater strictness is required to provide children with adequate protection.

CTS 23: We would suggest a rule against the advertising of alcoholic drinks during P and (especially) C time bands; or failing that a total ban during G zones and a ban during PG zones against ads containing any single element that would have a tendency to attract the attention of children.

It needs to be noted that there is not a huge problem with the alcohol industry marketing their products to children of the age that the CTS cover; rather it is children in the 15-17 year age group who are of interest to them. Therefore, it may be worth considering having a different definition of 'child' for these purposes.

Food and beverage advertising to children

15 -20.

For comment on these questions, YMA relies on and supports the submission made by the Coalition on Food Advertising to Children CFAC. YMA again draws attention to its views of the adequacy of the ACMA discussion paper on advertising to children, (particularly in relation to the conclusions that it draws in relation to food advertising) as set out at **Special Note Key Question 14** above, and supported by opinions of overseas experts in this field as appended (app 2 and app 3)

Regulating the use of premium offers

21. – 24. YMA relies on the submission made by CFAC on these questions.

Regulating prizes

25.

a) Should the restrictions in relation to the presentation of prizes contained in CTS 9 be maintained in their current form? If so, why?

Yes. Any commendation of the prizes by hosts or characters in a TV program (whether by reference to the price or by description of its qualities) is a form of host selling and basically a commercial for the prize. This practice adds to children's confusion about commercials and programs. See also Kunkel at Section 14.above.

b) If not, how should the requirements contained in CTS 9 be amended?

NO

Schedule variation and displacement

26.

a) Should the current notification requirements (as contained in CTS 3) for the variation and displacement of C and P programs be maintained in their current form? If so, why?

Yes . Children's right to access their programs with regularity should be preserved so far as possible.

b) If not, how could the notification requirements be amended, while still ensuring accountability in scheduling?

N/A

27.

a) Should the displacement restrictions for P programs be brought into line with the requirements for the displacement of C programs?

No

b) Why or why not?

Preschool children are creatures of habit, who like to see their programs at the same time each day. It is particularly difficult to explain to a preschooler where their favourite program has gone. Therefore P Programs should not be displaced except as a matter of national emergency

28.

a) Should displacement requirements for C programs be amended to allow for displacement in a case where a major sporting event can reasonably be expected to run overtime?

No

b) Why or why not?

If it can be reasonably expected that an event will run overtime, the licensee has 14 days in which to notify a change of C periods (CTS 3(1)(h)). This should be sufficient.

Classification process

29.

a) Should the current classification process for C and P programs be maintained in its current form?

YMA questions whether the issues set up in this part of the Issues Paper are really about the process at all. Reference is made to 'ACMA's role in interpreting the classification criteria' (page 39) but the discussion surrounding this makes it clear that the concern is not with the fact that ACMA is involved, but more with the approach that ACMA take to interpreting the criteria – in other words they are more strict and conservative than the industry would like. There is nothing surprising about this. The industry would like the regulator to provide it with more leeway to produce the kind of material with which they can access other markets. The broadcasters want the producers to be able to access other markets because that will save them money. The question, as always, is whether it would be in the interests of Australian children for that to happen. We see no evidence that it would be.

Therefore there is no warrant for changing the process. YMA strongly supports the idea of a well-qualified, independent body to make the kinds of assessments that are required. We believe that this part of the report contains some unnecessarily pejorative and emotive language, for example producers being led to 'self-censor' when all they are doing is making programs to fit certain criteria. Once again if they want to make other material they are quite free to do so, and it looks very much like they are biting the hand that feeds them. We are also disappointed by the further evidence, in this part of the report, of the attitude displayed by broadcasters, who almost seem to want to cut off their nose to spite their face with their negative and apathetic approach to their obligations under the C quotas. They appear to be determined to spend as little money as possible on C and P programs, and also to make as little money as possible out of them.

With all the options, the implicit assumption seems to be that they would lead to different outcomes as to what material was considered to meet the C and P criteria. If this is the real issue, once again, the answer is to look at the criteria. Or at the very least, the debate should be about decisions that ACMA has taken in interpreting and applying the criteria, and issue taken with them, arguments mounted about why they are wrong. Yet all the industries seem to be have argued so far is that the interpretations have prevented them from making as much money as they would like to. It goes with the territory of regulation of industry that money-making is balanced against other interests, or regulatory policies. The argument is really an argument against regulation; and here once again is the irony that it is precisely the regulatory structure that provides the captive market!

Assessment by independent assessors is essential, and must be maintained to a high standard. YMA draws attention to its assessment of C and P programs shown in July and August this year. YMA requested a person with child development qualifications and considerable experience in reviewing children's entertainment to assess these against the C and P criteria. Their findings are at Appendix 1.

b) If not, what form should the process take—for example, a peer assessment model, an audit model, a minimum total annual expenditure model, reduced assessment for accredited producers or another model?

As discussed, we see no evidence of any need for change so we support Option 13.1, the status quo. In particular we oppose any approach that does away with pre-classification. It simply does not gel with the logic of the C and P quota systems to allow anybody other than ACMA to decide whether a program meets the criteria and this needs to be done before it is shown.

Option 13.2. In response to this option, we would ask: “What if the programs are later found not to have met the criteria?” Too late for the children. One might also wonder what would happen to the licensee’s obligation: must it then scramble to find other material to make up the deficit left by the screening of material in C periods that has turned out not to be C after all?

Option 13.3 We ask, how would ‘children’s television’ be defined for this purpose? And who would decide what meets the definition? Clearly this brings us back to square one. Nor is it easy for us to tell how the option would help with innovation, unless once again it led to a *de facto* change in the criteria. If that is what is wanted, the criteria should be transparently changed in the CTS and not left up to anyone but ACMA. (It might however address the problem identified elsewhere in this submission, of the broadcasters having gotten in the habit of not providing proper financial support for C and P programs.)

Option 13.4, This is essentially the model of the Children’s Program Committee which was rejected in 1992 by the industry for being too slow and inflexible (the “Fat Cat and Skippy “saga).

Once again, this would only encourage innovation if it led to a *de facto* change in the criteria. These should be changed, if at all, after a full debate on their merits and based on the needs and interests of children in relation to the innovations that are proposed. Such a debate should be joined by the whole community, not just a peer assessment panel.

Option 13.5. is strongly opposed. This would effectively create a licence to print money for an oligopoly of producers who have thus far failed to show themselves to be willing to place the interests of Australian children first. Nor do we see how this option would lead to innovation. We believe that the children’s television production industry could probably do with some new, dynamic blood to take the risks needed to be taken to keep P and C healthy while moving into other markets. This option would militate strongly against that.

30.

a) Does the current classification process for C and P programs impede innovation in children’s programming?

We have seen no evidence that the classification process (or indeed the criteria themselves) impedes innovations, though it is difficult to say without knowing what kind of innovation is intended. We note with interest that this part of the Issues Paper is very vague as to the kind of innovation that the production industry would like to engage in but is being prevented by the CTS ‘process’. Under these circumstances it is difficult to say more than that, once again, we question whether any and every innovation would be in children’s interests. We applaud the general standard of C

programming to date, and we feel that the main problem is how to get more children exposed to it.

Logically, the certainty of the market provided by the C and P quotas should provide producers with the courage to innovate. Perhaps they have more leeway than they realise.

It is telling, in our view, that this question asks about innovation in *children's* programming as distinct from *C and P* programming. This recalls once again the point we have made a few times now: the CTS do not prevent producers from making any children's material they want. If they are unable to interest broadcasters in innovative children's material that does not pass muster under the CTS criteria, that is unfortunate. However it begins to seem that it is time for this industry to realise it is a very particular sector, that is unlikely ever to be profitable without quotas and criteria. These are the producers' friend, not their enemy, and this fact cannot be sidestepped by focussing on 'process' when the concern is really the criteria themselves and their application.

b) If so, how could the process be amended to encourage innovative children's programming?

BB what impedes innovative programming is money

As noted above, YMA questions the whole basis for this question. As explained above, the problem seems to be with the criteria and/or the way they have been interpreted, and not with the process. It is simply illogical to say that the removal of pre-classification by ACMA would lead broadcasters to be better disposed to innovative material; this could only happen with a change to the way the criteria were interpreted and applied. Therefore the debate should be about those things, not the pre-classification process.

31. If pre-classification were not required for C and P programs, what alternative measures could be used to ensure that C and P programs continued to meet the CTS classification criteria?

YMA's short answer is: none. We see pre-classification as the only process that can provide the requisite certainty that material broadcast to meet the quotas also meets the criteria. One might have expected that the production and broadcasting industries would also be glad of the certainty.

On the other hand, it occurs to us that there may be ways of providing producers with a more effective input into decisions about how their material is classified. Perhaps the real issue here is the lack of a structure that enables the industry to engage with ACMA over their frustrations, either in individual cases or in relation to general trends. YMA would support such measures, in principle, provided that the final say rested with ACMA, or some other body that represented community interests and not only those of the industry. We would also, it goes without saying, be willing to contribute our experience and expertise to any such process or structure.

Tradable obligations

32. What would be the benefits of a tradable obligations scheme

YMA made a submission to the Australian Broadcasting Authority on this matter in Nov 2003 in response to the Allen Consulting Group report. At that time YMA opposed tradeable obligations as a viable option, and sees little reason to change that view.

However, a tradable obligations scheme would provide some flexibility for licensees, and might have the effect of making them less resentful of their obligations under the CTS. Also, ironically, making those obligations tradable, and thereby placing a market value on them, might make licensees take them more seriously.

There may also be benefits for children in having quality programming concentrated on one or two channels, rather than spread across three. This might make the programming more accessible to children which, as we have indicated previously, is an important goal for the CTS and for this review.

33. What would be the challenges for such a scheme?

We believe it is unlikely that any of the free-to-air commercial broadcasters is likely to be terribly interested in taking on another broadcaster's obligations. We would find it highly ironic if one station were willing to pay another station more to accept its obligations than it is currently willing to forego in advertising revenue in order to meet its obligations. But this is precisely what would need to happen for such a scheme to make commercial sense.

Yet we see it as absolutely crucial that a tradable obligations scheme should not diminish the number of hours of quality children's programming available to Australian children. For this reason we argue below that any such scheme should be available only between members of the same sub-sector, namely commercial free-to-air television.

A particular challenge would be to ensure that the station(s) that traded away their obligations did not fill the gap by putting lower quality children's material up against the C programs their competitors would be obliged to show. We presume that such material has some kind of market advantage, or there would be no need for the CTS quotas. Therefore the replacement of C programs by lower quality material on one or more stations would have the potential to erode the audience for C programs, rather than building it up. This concern could be allayed to some extent by applying the tradable obligations scheme only to C drama. This way all stations would continue to show their weekday afternoon/evening C programs and their P programs.

We have argued elsewhere in this submission in favour of extending advertising restrictions beyond C periods to those C time bands when a substantial proportion of children watch television. If for any reason this did not happen, YMA would submit that under a tradable obligations scheme, those stations that traded their obligations away should still be bound by the CTS advertising restrictions during any programming with which they replaced their C programming that would be of appeal to children. This would necessitate the introduction of a formal system for determining which programming meets the definition.

34. Could a tradable obligations scheme better position the CTS for the future media environment?

No

35

a) Would a tradable obligations scheme assist in achieving the CTS objective of providing for children to be specifically catered for in programming?

YMA believes that the CTS already achieve their objective of providing for children to be specifically catered for in programming. The problem lies in ensuring that such programming is made *sufficiently accessible* to children. It has become clear that this is not achieved under current conditions. We are unsure whether a tradable obligations scheme would assist in this regard. The answer depends to some extent on the kind of body to which the obligation is traded.

YMA is strongly of the view that the scheme should extend only to trades between commercial free-to-air broadcasters. Trades to other sectors would risk either derogating from the achievement of the objective of catering to children, or making the material even less accessible to the child audience.

b) Why or why not?

The principal reason for our uncertainty as to the likely effect of trades between commercial free-to-air broadcasters is that we are unsure why such broadcasters currently do so little to make C programming accessible to the child audience, by scheduling it at regular times and otherwise promoting it. This would need to be determined before any firm predictions could be made.

In particular, YMA finds it difficult to predict how a tradable obligations scheme would affect the attitude of a commercial free-to-air broadcaster that received payment for taking on another's obligations. As noted above, there are indications in the *Issues Paper* that broadcasters are currently taking a negative and apathetic attitude to C programming, paying only the attention required to fulfil their obligations and not seeing C programming as any kind of opportunity. Perhaps a broadcaster that decided to specialise in children's programming would take a more positive attitude, and make greater efforts to promote its C programs. On the other hand it is possible that such a broadcaster would see itself as having already made enough money on that programming, in the fee it would have been paid under the scheme, and be even more apathetic about it.

Trading obligations to national broadcasters, at least to the ABC, would be very unlikely to expand the amount of quality children's programming available overall. This is because the ABC is already more or less at saturation point with children's programming. Therefore the only effect of tradable obligations would be take quality children's programs off the commercial channels and to pay the ABC for doing what it already does. It is possible that the ABC would displace some overseas material with Australian material, which could be a useful development.

Matters are slightly different for the SBS, which does have space for additional children's programming. However as with the ABC it must be ensured that any trade did not lead to a diminution in the overall amount of quality children's programming available.

Trades to open narrowcasters might not have that effect because (we presume) relatively little children's material of the requisite quality is available on those platforms. However the issue here is one of accessibility. Not all Australian households have access to open narrowcasting; in fact it is part of the definition of this platform that it is of narrow reach. YMA is opposed to anything that could have the effect of reducing the accessibility of quality children's programming.

YMA has difficulty seeing how material suitable for datacasting could fulfil the C or P criteria. Also we question how accessible this platform is to Australian children.

Trading to community service broadcasters could be beneficial for that sector, while avoiding a diminution of the amount of quality children's programming available overall and remaining accessible in a general sense. However not all families have their sets tuned to community channels, or indeed are even aware of their existence. Therefore the practical accessibility of this platform by Australian children can be questioned.

36. How would a tradable obligations scheme be best structured to ensure the desired outcomes for the child audience were achieved?

The best structure would limit trades to between commercial free-to-air broadcasters and include requirements for promotion of C programming on all stations (even those that had bought themselves out of their obligation). Also CTS advertising restrictions should continue to apply during the same periods for all broadcasters.

37. What structure or conditions would need to be put in place to facilitate trading?

YMA does not support trading as a viable option

38. If a tradable obligations scheme were to be introduced, who should be able to participate in trading:

i) free-to-air commercial television licensees;

For the reasons given above, provided other concerns were met and the station taking on the obligation were obliged to enhance the accessibility of the programs, YMA believes it would be appropriate for commercial free-to-air licensees to trade obligations amongst themselves. However we recommend that the introduction of any such scheme be done strictly on a trial basis in the first instance, for a limited time, followed by a thorough review.

ii) national broadcasters;

This should be allowed only if there could be certainty that the overall amount of quality material available to Australian children would not be diminished. This could be determined only by establishing a base-line of the amount and kinds of children's programs shown by the national broadcaster prior to the announcement of the scheme, and requiring that any traded obligations led the objectives of the CTS to be met at a higher level than previously.

iii) open narrowcasters;

For the above reasons we do not believe that this sector should be involved.

iv) datacasters;

For the above reasons we do not believe that this sector should be involved.

or

v) community service broadcasters?

For the above reasons we do not believe that this sector should be involved.

39. Are there any other issues, not identified above, which would need to be addressed to ensure a successful tradable obligations scheme?

YMA does not support tradeable obligations as a viable option

C. Other issues not raised by ACMA in this review-

YMA believes that there are other issues of importance for the provision of age specific programming for children, and for their protection, which are not raised above. These include:

a) the age range for C programs

The categories of children to which C programs cater is of concern to YMA. In 2002, the focus on primary aged children was removed (from “children under 14 yrs and who are in primary school” to “children under the age of 14 yrs”). While this has enabled some programs to focus on the early adolescent audience, it has resulted in fewer programs for the primary school aged child (for whom the quotas were originally set up) and in more advertising directed at the “tween market”.

See Appendix 1 for further comment.

- b) C programs as PG.** YMA notes that some dramas classified C have been classified on video/DVD as PG.(for eg Legacy of the Silver Shadow eps 1-9) YMA is of the view that C programs should not contain PG content. The Quota is for programs specifically made for children. The implication of a C is that the material in the program should be able to be coped with by children without the need for Parental Guidance. Parents also have the expectation that C programs are “safe” for children to watch on their own.

- c) sexualisation of children:** YMA notes the referral of this issue to ACMA by the Minister for Communications. YMA acknowledges that this issue is not confined to television, but there are instances which ACMA should investigate. These include some advertisements and promos which have been included in C programs (see Appendix 1), and some programs, including P programs, where there are presentation issues which need to be reviewed.

d) Promotion of M films on TV via programs and advertising.

YMA is especially concerned about promotions during PG time for M-rated programs that nevertheless appeal to children, and in some cases are marketed to children in other ways. These should be looked at carefully, especially since the extension of PG time in the recent review of the *Commercial Television Industry Code of Practice*.

A related concern that is not yet addressed in the CTS, but we believe it should be, is the promotion of M-rated films to children, especially violent superhero-type films. The M rating means that the film is not recommended for children, and yet it is marketed in a way that makes it almost a foregone conclusion that large numbers of young children will see it. This is a knotty issue legally, and extends well beyond television advertising, but the CTS could make a substantial difference and lead the way in expressing community and government condemnation of the practice. In addition, many films are allowed to be advertised before they have been classified and changes should be introduced to address this as well.

We have become aware of a practice on the part of some networks of ‘trapping’ their audience by making a popular programme go over time. By the time the program is over, it is too late for the audience to switch to another channel. We would like to see this addressed in the interests of *all* viewers, but of particular concern is the situation where a PG program starts in PG the PG zone, and runs into the M zone. Children watching the program cannot be expected to switch off part-way through the program, yet the allowable advertisements and program promotions are ramped up as soon as the PG zone ends.

We would support the introduction of a provision against the advertisement of M films during G zones at the very least, and ideally PG zones as well. This would be well in keeping with the legislative objective of avoiding the broadcast of material that may harm children.

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APPENDIX 1

A review of C and P programs screened on networks 7, 9 and 10 in 2007

YMA commissioned a person with tertiary qualifications in child development, teaching experience with young children, and with extensive experience in reviewing children's media, to review P and C programs screened in the months of July and August 2007 for age specificity and quality, and to note any commercial practices relating to high rates of repetition of ads, ads related to sexualisation of children or to , violent M classified films, or promos of later G programs, which might be of concern.

Their report on programs reviewed follows:

Blinky Bill (C Classification)

A C Classification is suitable for Blinky Bill as it caters for children on the younger end of the C bracket (approx. 5 – 7). However the show does contain a fair amount of slapstick violence, some name calling, and depicts a greedy ringmaster who is always trying to trap Blinky (a koala) and his friends. While the program may also entertain children under the age of 5 (due to the coarseness and potentially scary scenes) I would not recommend it.

Commercial content warnings ; My Scene Roller girls: issues of sexualization of girls, Ninja Challenge: danger from imitative behaviour

Don't Blame I (C Classification)

A C Classification is suitable as the episodes met all of the criteria for a C program. The show featured main characters from a range of ages and would probably be OK for kids from 7 or 8 on up. There was some of the negative "girly" behaviour.

Commercial Content warnings: Nil

Fairy Tale Police (C Classification)

The C classification is accurate as this program will appeal to children between the ages of 6 to 11 (roughly). That being said my children don't watch it as it tends to have that animated coarseness that lends itself to an older audience (violence, slapstick comedy, distorted vanity, etc.) Positive aspects include that the show challenges fairy tale notions and plays to the strengths of the female officer as opposed to her partners.

Commercial content and warnings: Ads for Spygear shown 3 times in 1 half hour; This is me doll: sexualization of girls

Foreign Exchange (C Classification)

C classification seems accurate. It seems best suited to children 8 and over, although there is nothing terribly detrimental to younger viewers.

Commercial content and warnings: Nil

Go, Go Stop (C Classification)

This is one specifically designed for children around the middle primary age range (7 – 10) and deserves a C rating. The children represented on the show are around the same age and the program is both educational and entertaining. The only issue is that their prize give-aways are often similar to ads.

commercial content and warnings: Digi Makeover: sexualization of girls, Look of the year promo shown 4 in ½ hour block

Hi -5 (P Classification)

If Hi-5 were to tone down their show so that it wasn't all about image and wasn't flashy and showy; if the girls were to dress in normal clothes, without high heels, tight shirts, short skirts, heaps of make-up and every imaginable hair accessory then the P rating would be more appropriate. The show's "educational content" (which, by the way, I believe often gets lost in the glitz and glamour) is best suited to preschoolers, but the overall program package is not suitable for children, of any age. Without serious changes I don't think Hi-5 should be allowed to continue to act as role models for children, much less preschoolers.

Commercial content and warnings: N/A

Holly's Heroes (C classification)

Aimed at a C market but best suited to kids 9 years and over due to attitudes and conduct of some of the main characters.

Commercial content and warnings: Jack Sparrow Weapon Gear: very violent; Bratz magic hair: sexualization of children

Lockie Lennard (C Classification)

C classification but better suited to children 11 or 12 years and older due to concepts and themes contained in the episodes, such as dating issues, wet dreams, bullying etc.

Commercial content and warnings: -

Puzzle Play (P Classification)

Accurate classification as this show is clearly aimed at the preschool market. The show demonstrates positive interaction and teamwork as the presenters work together to solve the daily puzzle. At times Kel's (the female presenter) attire is somewhat questionable with leggings, short skirt, snug layered tops and a rhinestone belt.

Commercial content and warnings: N/A

Raggs (P Classification)

The educational content and general essence of the show is aimed at a preschool audience, hence the P classification. My main problem with the program is that it is very flashy and that a good portion of each program (about three performances per show) depicts the dogs on stage giving a rock concert to young children who jump around wildly.

Commercial content and warnings: N/A

Rock It! (P Classification)

Its educational content deserves a P classification. It does, however, need to be very careful as it is extremely close to following in the steps of Hi -5. The two female characters wear a noticeable amount of makeup and on one occasion Asteroid wore a mini-dress (costume) while performing on stage; the other female wears fitted (not quite tight) space style pants and a sleeveless top. Not highly recommended.

Commercial content and warnings: N/A

Scope (C Classification)

Deserves a C Classification but will probably most interest upper primary students and those with a special interest in science and technology. Many of the concepts are too advanced for younger viewers and the show is far more educational than it is entertaining. Much of the program is given to scientists who discuss issues such as binary code and cellular division.

Commercial content and warnings: Promos for Neighbours incl a wedding scandal. The G classification for Neighbours is called into question.

Scooter Secret Agent: (C Classification)

The show is more suited to the older end of the C spectrum and due to some questionable content is not appropriate for younger children.

Commercial content and warnings: Promotions for Video Hits (featuring raunchy dancing) and Neighbours.

Seaside Hotel: (C Classification)

C classification is fine. The show is geared towards children between the ages of 6 – 9 (approximately). An undercurrent in the show is a competition between two hotels, both of which attempt to gain customers for themselves at seemingly any cost.

Commercial content and warnings: Nil

Snobs: (C Classification)

The C appears appropriate. While the main actors seem to be of middle primary age the content lends itself to a slightly older audience 9 or 10 to 13, approximately.

Commercial content and warnings: Jack Sparrow action gear (violent action)

Note: Pirates of ... is an M classified film.

Stanley: (C Classification)

The C Classification is fine. This is one of the few that is perfectly appropriate for children in the 5 -8 (approx) age bracket. The show is entertaining and includes a good deal of educational information, specifically relating to animals, but also in terms of human relationships and sun safety.

Commercial content and warnings:

The Lost Children: (C Classification)

A C Classification is reasonable, but due to the themes, intensity and suspense of some of the scenes that depict four children at the mercy of thieves, convicts, soldiers and people in power who think they are doing the best by them, the show is more suited to middle primary and up (9 - 10ish onwards).

Commercial content and warnings: Commercial breaks often exceed 6 minutes per ½ hour, Roller Disco: sexualization of girls; Neighbours promo.

The Shack: (C Classification)

C Classification is accurate. The show is educational in nature and its content is more suited to middle and upper primary aged children.

Commercial content and warnings: Jack Sparrow's Weapon gear: violent and inappropriate)

Timeblazers: (C Classification)

The show is both entertaining and educational. While it takes history and explains specific points or concepts making them interesting and memorable, some of the information will be too heavy for younger viewers, but will most likely interest children 8 or 9 and older. It deserves a C classification.

Commercial content and warnings: Bratz magic Hair: sexualization of girls

Totally Wild: (C Classification)

An educational show that will most likely appeal to children aged 8 and over, but that includes nothing detrimental to younger viewers. The C classification is accurate.

Commercial content and warnings: Video Hits promo: raunchy dancing; Neighbours promo.

Streetsmartz: (C Classification)

It seems to me to be a show best suited to children 9 or 10 and over. The C classification is fairly accurate, although the production quality could certainly be improved upon. It, more often than not, feels like you're watching something filmed on home video equipment.

Commercial content and warnings: Nil

Wicked Science: (C Classification)

Definitely a show for the older ones (I would say about 12 and up) based on the content and nature of the episodes. One of the main characters is an evil genius who is obsessed with a boy to the point that she will stop at nothing, including hurting (killing?) other people. Definitely not recommended for younger viewers.

Commercial content and warnings: Video Hits promo: raunchy dancing

Overall I think that children between the ages of 5 - 9 are missing out. There are many programs for preschoolers, quite a few for older children, but the number of shows that specifically cater for junior primary (and younger middle primary) aged children seem few and far between.

END

APPENDIX 2

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August 24, 2007

Ms. Barbara Biggins
Young Media Australia
Delivery via internet
<http://www.youngmedia.org.au>

Dear Ms. Biggins:

I am responding to your recent request for comments regarding the report titled “Television Advertising to Children” prepared by Dr. Jeffrey Brand for submission to the Australian Communications and Media Authority.

This report’s analysis has been organized and presented quite professionally, and there are many fundamental aspects of it with which I agree. In summarizing the relevant research, the study is right on target in emphasizing that age-related differences in children’s cognitive development are the most important factors in shaping how children understand and are influenced by television advertising. Moreover, the report is reasonably comprehensive in terms of including the full range of relevant sub-topics that have been the subject of investigation in this realm.

There are several important aspects of this report, however, with which I disagree. First, the study is too generous in asserting that “between the ages of six to 11 years children begin to develop the ability to think skeptically about advertising” (p. 5). In my view, the relevant research indicates quite consistently that children below age 8 do not evidence any meaningful capability to defend effectively against televised commercial persuasion. On the contrary, children below age 8 tend to accept commercial claims and appeals as mostly fair, accurate, and balanced information, in much the same way that an adult would understand the message conveyed by an anchorperson on a credible newscast. Even after age 8, it is a slow and gradual process for the developing child to master and apply the notion that advertisers exaggerate and engage in puffery to present their product in the most favorable light. Without this “discounting” of the messages contained in persuasive communication efforts, younger children are at a clear disadvantage, as compared to older children or adults, in defending against advertising.

Young children’s lack of a mature comprehension of the nature and purpose of advertising raises fundamental questions of fairness in allowing commercials to be targeted at this audience. Such concern forms the foundation of numerous regulatory policies in the United States that restrict television advertising to children. For example, host-selling (i.e., including the same character in both the program content and an adjacent ad) has been restricted by the Federal Communications Commission since 1974, while the amount of time

that may be devoted to advertising during children's programming has been limited by Congressional statute since 1990. There is strong and long-standing consensus in the U.S. about the need for policy protections in the area of television advertising to children, and that consensus is grounded in the relevant scientific evidence.

The Brand report notes that "few empirical studies report a statistical relationship between children's age ... and the influence of advertising on children" (p. 5). This is an accurate assessment, but may easily be misunderstood without more clarity and context. It is indeed surprising and disappointing that researchers have neglected to document that younger children are more readily or more powerfully influenced by advertising than older children as a function of their limited cognitive development. The data do not contradict this expectation, but rather the issue has largely gone unaddressed in most studies. Indeed, the Brand report notes that Livingstone and Helspur (2006), who engage this issue directly in a recent review, observed that there are many complicating factors that make this relationship difficult to document, including the variable appeal of different products to differing age groups as well as the use of differing persuasive tactics in advertising targeted at various age groups. While it would be helpful to obtain additional data on this point, this is hardly a major shortcoming that in any way diminishes the extensive knowledge that has accumulated about children's vulnerability to commercial persuasion over many years.

Indeed, no scholar who has reviewed the totality of evidence in the area of children and advertising has ever characterized the overall state of knowledge in this realm as "poor," as the Brand report concludes on page 8. It is on this point that I must disagree strongly with Dr. Brand. Besides the issue of television violence, which most observers agree has been studied more frequently than any subject in the field of communication, the topic of children and advertising is among those subjects that have attracted the most extensive research interest and examination over the past 30 years.

The Brand report indicates at the outset that it is based on a review of "more than 200 sources on children and television advertising, including 100 refereed primary sources" (p. 4). This body of evidence would constitute only a sub-set of the overall scientific evidence in this realm. By way of comparison, a recent textbook in the area (Barrie Gunter, Caroline Oates, & Mark Blades, *Advertising to Children on TV: Content, Impact, and Regulation*, Lawrence Erlbaum Associates, 2005) includes approximately 500 citations, while a review study that I helped to conduct for the National Academies of Science in the U.S. (Committee on Food Marketing and the Diets of Children and Youth, Institute of Medicine of the National Academies of Science, *Food Marketing to Children and Youth: Threat or Opportunity?* Washington, DC: National Academies Press, 2006) identified a total of 122 empirical studies on just a single area of advertising effects: the influence of food marketing on the diet and health of children.

To summarize my perspective, I believe the level of knowledge about the relationship between children and advertising is quite strong and mature in most regards, and affords scientists strong ability to draw conclusions across studies. While it is true that researchers in any area are rarely satisfied and constantly thirst for more studies and a richer understanding of their subjects, the available evidence in this realm is both rich and compelling. Academics have not wasted their extensive efforts over the past 30+ years in studying the topic of children and advertising. The existing knowledge is more than sufficient to buttress regulatory action by responsible policy-makers.

Finally, it is unfortunate that one of the most significant reviews of children and advertising research yet conducted in the United States, which was released in December 2005, was not considered as part of the Brand report. The Institute of Medicine of the National Academies of Science commissioned an expert advisory committee with the task of reviewing all existing evidence about the influence of food marketing on the diets and diet-related health of children. The committee conducted a systematic analysis of the empirical evidence, and concluded that “food and beverage marketing practices geared to children and youth are out of balance with healthful diets and contribute to an environment that puts their health at risk.” This conclusion was grounded in the committee’s confidence that the evidence of the effects of food marketing is consistent and compelling. For example, one of the key findings of the committee was that:

“Given the findings from the systematic evidence review of the influence of marketing on the precursors of diet, and given the evidence from content analyses that the preponderance of television food and beverage advertising relevant to children and youth promotes high-calorie and low-nutrient products, it can be concluded that television advertising influences children to prefer and request high-calorie and low-nutrient foods and beverages.” (pp 260-261).

Similarly, the committee concluded that “there is strong evidence that television advertising influences the short-term consumption of children ages 2-11 years” (p. 266) as well as weak to moderate evidence that it influences the regular diet of children. (The qualification in the latter conclusion is related to the modest base of empirical evidence bearing directly on the relationship; few studies have yet explored regular diet as an outcome variable.)

Thus, the report from the National Academies of Science in the U.S. stands at odds with the Brand report’s key conclusion regarding food marketing to children. Brand concludes:

“Empirical research shows correlations but not causal relationships between children’s exposure to advertising and knowledge about diet and nutrition, and preferences as indicated by requests (but not necessarily actual consumption) of advertised foods.” (p. 7, and repeated at p. 42)

I suspect that the variance in our conclusions regarding the relevant scientific evidence stems at least in part from the limited amount of evidence examined by Brand. Indeed, our committee reviewed a greater number of empirical studies of the influence of food marketing on children than the Brand report considered across the entire landscape of children and advertising concerns.

To conclude, the Brand report offers many accurate and helpful conclusions about the nature and extent of research on the topic of children and advertising. As I have noted above, however, there are several aspects of the report that I find to be insufficiently developed and/or justified. Specifically, I do not believe the totality of the evidence examining the issue of children and advertising can be characterized as “poor,” and I am confident that most experts in this area would agree with me. Secondarily, I believe that the Brand report’s conclusions about the influence of food marketing on children seriously underestimate the existing body of scientific knowledge on this issue. There is a strong body of evidence, including a convergence of findings across both survey and experimental designs, that warrants clear causal conclusions about the influence of food marketing on children.

I respectfully submit my views for your consideration, and encourage Australians interested in the topic of children and advertising, as well as the more particular focus on food marketing to children, to carefully peruse the National Academies of Science report I have referenced above. It reflects the efforts of a large committee of scientific experts who labored for approximately 18 months to produce an impressive analysis in this critical area. I am confident that the National Academies report will be helpful in informing ACMA's consideration of the issue of television advertising to children.

Sincerely yours,

Dale Kunkel, Ph.D.
Professor of Communication

APPENDIX 3

MEMORANDUM

August 11, 2007

TO: Barbara Biggins
FROM: W. Douglas Evans, Ph.D.
RE: Review of report entitled "Television Advertising to Children"

This memo summarizes my review of the above referenced report. All views expressed in this review are my own, and do not necessarily reflect the views of RTI International.

General comments:

The report is well written and provides a reasonably thorough overview of the main areas of research on advertising effects on audiences, research on the effects of specific advertising features and strategies, and specifically on the effects of advertising on children's knowledge, attitudes, beliefs, and behaviors. Overall, I think the report does a pretty good of surveying the relevant research literature and accurately describes the studies reported. However, I have some specific concerns about interpretations of the evidence and conclusions, noted below. In particular, the report tends in several cases to take an overly narrow interpretation of evidence, and concludes that no effects of certain types (e.g., premiums, pester power) can be concluded from the evidence.

On the contrary, these seem to be the most likely explanations given the available evidence. Overall, while well documented and argued, the report has a surprising tendency to understate what is known on the subject of advertising effects on children, and in many cases seems unwilling to adopt the most likely explanation given the evidence (e.g., that advertising causes pestering for unhealthy food products), holding the field to an unreasonably high standard and refusing to accept likely explanations based on the evidence. In some cases, these explanations should be considered working hypotheses deserving of further study. In others, they are the overwhelmingly likely explanation, awaiting final confirmation through appropriately designed studies. The report fails to acknowledge this situation in many of the domains it addresses.

Specific comments:

The report did a reasonably good job of reporting on the child development literature, citing research from the US, UK, Sweden, Australia and other countries. The results reported are consistent with my own reading of this research literature, and the specific domains explored (in terms of stages of cognitive development) are appropriate.

Similarly, the research on advertising repetition and its effects on food preference and choice is reasonably good. Some of the more recent studies from 2000 to present were not cited (e.g., work by Pollay et al. in the UK), but some very good ones (e.g., Kotler, 2005) were discussed and the overall conclusions of this section that characters and other advertising strategies/features can affect children's preferences and behavior are well founded.

The section on the effects of premiums on children's behavior is highly questionable in my opinion. The overall conclusion that evidence does not point to any effects of premiums

marketed through televised advertising on children is not well supported. The argument is that only qualitative evidence supports this narrow claim, which is true. However, there are numerous quantitative studies that support the general claim that TV-advertised premiums affect adult consumer behavior. It is easy to conclude at a minimum that there may be an effect on children as well, and that this hypothesis should be assumed until further evidence to contrary is uncovered. Instead, the authors point to 2 studies from the 1970s and early 1980s that showed no effect on TV-advertised premiums on children, hardly convincing given their antiquity and the massive changes in advertising to children since that time.

The section on pester power is similarly questionable in my opinion. Numerous studies showing correlation between advertising exposure and increased requests for unhealthy food and other products by pre-operational children are cited, as are studies showing that older children are also affected and are even more successful in having their request fulfilled by parents. While it is true that these studies do not isolate TV advertising as the sole causal agent in these requests, TV advertising is typically the most salient form of advertising in the overall marketing mix to which children in these studies were exposed. The most likely explanation is that it plays a major role in the pester power effect. Yet inexplicably, the report fails to acknowledge this and plays down the role of TV advertising. This seems to me a misleading interpretation of the evidence.

The section on children's exposure to food and beverage advertising is well reasoned and provides a thorough review of research literature. However, the conclusions again seem overly conservative. The authors state that "[e]mpirical research shows correlations but not causal relationships between children's exposure to advertising and knowledge about diet and nutrition, and preferences as indicated by requests (but not necessarily actual consumption) of advertised foods. The research also establishes correlations between television advertising and 'healthy' as well as 'unhealthy' knowledge, attitudes and behaviours on a broad range of issues to do with diet and lifestyle." But later they go on discount the evidence on effects of TV advertising on childhood obesity and other health behavior. This seems far too conservative. We know that TV is the predominant advertising medium. While it may be difficult to disentangle the proportion of effects of the overall marketing mix on a particular childhood health behavior, we can rest assured that TV plays a major role. The relative exposure to TV advertising compared to other media for children and adults makes this a relatively straightforward conclusion. Granted, more evidence is needed, but there is no reason to discount the most likely explanation given a substantial body of evidence for lack of a precise estimate of the effects of TV advertising. It is reasonable to conclude that the effect is large given the reach of TV advertising. The report fails to acknowledge this obvious point.

The section on interactive technology is weak. There is a much more substantial body of evidence on video games, online gaming, viral marketing in online entertainment, and so on. The report fails to cover any of this ground in depth. For example, the work of Sandra Calvert, who has worked on this topic for many years in the US, is not mentioned at all. This is the weakest section of the report in terms of evidence reviewed. I would suggest that this section of the report needs substantial additional work to be comprehensive and its conclusions deserving of serious consideration.

The section on media literacy draws reasonable conclusions about the limited evidence for this intervention strategy. However, it fails to cite several important projects, such as the Media Smart intervention funded by NIH in the US.

Overall, I would argue that the research on advertising effects on children's health that certainly points to behavioral effects, such as the effects of premiums, characters, viral marketing, a variety of effective marketing mixes using TV, pestering, etc. on negative health outcomes (e.g., obesity, smoking). But little is known about the cognitive and affective mechanisms (e.g., does ad content cause obesity-promoting behavior?) by which advertising affects behavior. We know advertising can be a negative health influence, but we don't really know HOW. This is an important gap in the knowledge base, but it doesn't change the fact that a very large and growing body of evidence points to the strong behavioral effects of advertising on children, and the negative health effects of TV advertising (alone or in concert with other marketing strategies) of certain products on children's health. The report seems to miss this major point.

If you have any questions regarding my review, please contact me at my Washington, DC, USA office at 202-728-2058 or by e-mail at devans@rti.org. Thank you for the opportunity to review and comment on the report.

Sincerely,

W. Douglas Evans, Ph.D.
Vice President
Public Health and Environment
RTI International