



SUBMISSION TO THE SENATE COMMITTEE ON COMMUNITY AFFAIRS

PROTECTING CHILDREN FROM JUNK FOOD ADVERTISING (BROADCASTING AMENDMENT) BILL 2008

OCTOBER 2008

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.

Promoting healthy choices and stronger voices in children's media since 1957

Australian Council on Children and the Media trading as Young Media Australia
President: Jane Roberts Vice-President: Elizabeth Handsley
Honorary CEO: Barbara Biggins, OAM Patron: Steve Biddulph

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 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 Children's television Standards since their inception in 1979
- informed itself of the current state of advertising in programs watched by children
- reviewed the research literature as it relates to the impact of media on children. This is an ongoing activity of YMA.

YMA SUBMISSION

A: General comment

A 1. Time with TV

This Bill is most welcome given that children, despite the advent of new media, are still spending large amounts of their screen time with television. In a 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 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. “

A 2. Protection from harm within C programs

As a consequence of the large amounts of time spent with television, children are subject to up to 15 mins of advertising per hour spent with commercial TV. For children under 7 yrs the research evidence is clear- they do not understand the selling intent of commercials, and so advertising to them is an unfair practice. Children over 7 yrs still have difficulty in processing advertising.

A2.1 The role of ACMA

The ACMA 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 YMA believes that revision of the CTS is required in relation to food advertising directed to children.

A2.1.1 The evidence relied on by ACMA

One of the background documents upon which ACMA relied on in its present review of the CTS related to advertising, is the *Review of Advertising to Children* (Brand, J 2007). 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 experts in the field of advertising to children, viz Prof Dale Kunkel 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."

A2.2 AANA Code revision: YMA notes the AANA revised Code relating to food advertising and considers it to be deficient in protecting children.

A3. Protection for children outside of C time

There is a significant need to provide regulatory protections for children during the times that significant numbers of children are watching. There are more children watching TV outside of most C programs. Extension of the Bill so that the provisions apply to C "time bands" would be more effective.

B. Detailed comment

B 1. YMA supports the intent of this Bill for the reasons outlined above in 1.1 and A 2.

B 2. However, we believe the Bill would be more effective if the provisions in Schedule 1 Para 1 (2A) were to apply to C time bands, rather than C periods.

A related matter which 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.

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..

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.

B3. YMA has considerable concern about the provision in Schedule 1 Para 1 (2B) which allows the Minister to exempt advertisements. YMA believes that any exemptions should be allowable only on transparent criteria, and should be applied by ACMA, rather than the Minister.

References

Australian Institute of Family Studies *Growing up in Australia* 2007

Baxter, J *Children's time use in the longitudinal study of Australian children*. Technical paper No 4. p33

Australian Institute of Family Studies. (2004) Annual Report: growing up in Australia. VIC AIFS

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