

# Code of Practice

*The following preamble, guiding principles, guidance notes and appendices are designed to help stations effectively implement the Code of Practice. These are not testable conditions as they sit outside Codes 1-8.*

## **PREAMBLE**

Community broadcasting plays an important role in Australia as the third tier of broadcasting operating in tandem with commercial and public broadcasters (ABC and SBS). It depends largely on volunteers to sustain stations on a day-to-day basis. Community stations vary enormously, from licence to licence, depending on the community they serve, whether it be Indigenous, youth, ethnic, RPH, Christian, Muslim, classical music or gay and lesbian.

### **Legislative obligations for all stations**

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

### **The role of the Australian Broadcasting Authority (ABA)**

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

#### **The Broadcasting Services Act (BSA) – some key points**

- “The licensee will continue to represent the community interest that it represented at the time when the licence was allocated” (paragraph 9(2)(b) of Schedule 2 of the Act)
- The BSA requires that stations have organisational mechanisms in place which “encourage members of the community that it serves to participate in the operations of the licensee in providing the service; and the selection and provision of the programs under the licence” (at paragraph 9(2)(c) of Schedule 2 of the Act)
- Stations that rely heavily on syndicated programming will be at risk of not meeting licence conditions (at paragraphs 9(2)(b) and (c) of Schedule 2 of the Act), to represent the community and encourage participation
- The licensee must not broadcast advertisements but may broadcast sponsorship announcements for a total of not more than 5 minutes in any hour of broadcasting (at paragraphs 9(1)(b) and 9(3) of Schedule 2 of the Act).
- ‘Community broadcasting services are provided for community purposes and are not operated for profit\* or as part of a profit making enterprise’ (section 15 BSA)

**Guidance Note:** \*Not-for-profit relates to the corporate structure of a station and not to a stations ability to generate “surpluses” from year to year in annual budgets.

### **The Code of Practice in context**

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

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

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

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## Guiding Principles

- There are a number of general principles that unite all community broadcasters across Australia. In pursuing these principles stations endeavour to:
- Promote harmony and diversity in contributing to a cohesive, inclusive and culturally diverse Australian community;
- Pursue the principles of democracy, access and equity, especially to people and issues under-represented in other media;
- Enhance the diversity of programming choices available to the public and present programs which expand the variety of viewpoints broadcast in Australia;
- Demonstrate independence in their programming as well as in their editorial and management decisions;
- Support and develop local and Australian arts, music and culture in the station's programming, to reflect a sense of Australian identity, character and cultural diversity;
- Widen the community's involvement in broadcasting.

## ***THE FOLLOWING 8 CODES ARE REGISTERED WITH THE ABA, AND ARE THE TESTABLE COMMUNITY BROADCASTING CODES OF PRACTICE***

### **Code No.1: Responsibilities of Broadcasting to the Community: Principles Of Democracy, Diversity And Independence**

The purpose of this code is to ensure that the 'Guiding Principles' are reflected in the day to day operations and programming of community broadcasters.

Community broadcasting stations will:

- 1.1 Have policies and procedures in place, relating to the licensee's community of interest, which ensure access and equity and encourage participation by those not adequately served by other media.
- 1.2 Be controlled and operated by an autonomous body which is representative of the licensee's community of interest.
- 1.3 Have organisational mechanisms to provide for active participation by the licensee's community in its management, development and operations.
- 1.4 Incorporate policies that apply to all station activities, which oppose and attempt to break down prejudice on the basis of ethnicity, race, chosen language, gender, sexual preference, religion, age, physical or mental ability, occupation, cultural belief or political affiliation.

### **Code No. 2: Guidelines For All Programming**

The purpose of this code is to encourage programming that reflects the principles of community broadcasting; to break down prejudice and discrimination; and to prevent the broadcast of material, which is contrary to community standards.

- 2.1 Community broadcasting licensees shall not broadcast material which may:
  - (a) incite, encourage or present for their own sake violence or brutality;
  - (b) simulate news or events in such a way as to mislead or alarm listeners; or
  - (c) present as desirable the misuse of drugs including alcohol, narcotics and tobacco.
- 2.2 Community broadcasting licensees will avoid censorship wherever possible, however, consideration shall be given to the audience; the context; the degree of explicitness; the propensity to alarm, distress or shock; and the social importance of the event.
- 2.3 Community broadcasting licensees shall not broadcast material which may stereotype, incite, vilify, or perpetuate hatred against, or attempt to demean any person or group on the basis of ethnicity, nationality, race, chosen language, gender, sexual preference, religion, age, physical or mental ability, occupation, cultural belief or political affiliation. The requirement is not intended to prevent the broadcast of material which is factual, or the expression of genuinely held opinion in a news or current affairs program, or in the legitimate context of a humorous, satirical or dramatic work.
- 2.4 Community broadcasting licensees will establish programming practices which protect children from harmful program material.

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2.5 Community broadcasting licensees in observance of privacy laws will:

- (a) respect each person's legitimate right to protection from unjustified use of material, which is obtained without an individual's consent, or other unwarranted and intrusive invasions of privacy;
- (b) not broadcast the words of an identifiable person unless:
  - (i) that person has been informed in advance that the words may be transmitted; or
  - (ii) in the case of words which have been recorded without the knowledge of the person, the person has subsequently, but prior to the transmission, indicated consent to the transmission of the words; or
  - (iii) the manner of the recording has made it manifestly clear that the material may be broadcast.

## News and Current Affairs Programming

This code is intended to promote accuracy and fairness in news and current affairs programs.

2.6. News and current affairs programs (including news flashes) programs should:

- (a) provide access to views under-represented by the mainstream media;
- (b) present factual material accurately and ensure that reasonable efforts are made to correct substantial errors of fact at the earliest possible opportunity;
- (c) clearly distinguish factual material from commentary and analysis;
- (d) not present news in such a way as to create public panic or unnecessary distress to listeners;
- (e) not misrepresent a viewpoint by giving misleading emphasis, editing out of context or withholding relevant available facts.

## Indigenous programming and coverage of Indigenous Issues

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

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

2.7 When reporting on Indigenous people and issues, stations will take care to verify and observe the best way to respect Indigenous cultures and customs by:

- (a) considering regional differences in the cultural practices and customs of Indigenous Australians.
- (b) Seeking appropriate advice on how to best respect Indigenous bereavement customs on the reporting of people recently deceased;
- (c) Using the appropriate words and phrases for referring to an Indigenous Australian and his/her regional group.

2.8 Broadcasters will seek to involve and take advice from Indigenous Australians, and where possible Indigenous media organisations and/or Indigenous broadcasters, in the production of programs focusing on Indigenous people and issues.

2.9 Broadcasters will avoid prejudicial references to, or undue emphasis on a person who is Aboriginal or Torres Strait Islander.

**Practice Notes:** *The CBAA will support stations in this area of work by providing contact details and referring enquires on to the most relevant indigenous media contacts in Australia.*

## Code No. 3: Australian Music Content

**'Australian Music'** is defined as any music composed or performed by a citizen or ordinary resident of Australia.

This Code reinforces the community broadcasting sector's reputation as a medium committed to developing and recognising Australian composers and/or performers by providing opportunities to have their material broadcast on a regular basis.

The BSA does not require community broadcasters to maintain minimum content levels of Australian music. However, given the nature of the community broadcasting sector and its commitment to reflecting the diversity of Australian culture and the interests of local communities, it is crucial for a significant proportion of local and Australian music, including indigenous Australian music, to continue to be broadcast by community stations.

In selecting Australian musical items, community broadcasting stations should have regard for the make-up of the community served by the licensee.

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3.1 Community broadcasters will ensure a proportion of the total number of musical items broadcast consist of:

- (a) not less than 25% Australian music items for all community broadcasting licensees except ethnic and classical stations as cited Clause 3.1(b) below;
- (b) not less than 10% Australian musical items for ethnic and classical stations.
- (c) (a) and (b) to be determined over one month

3.2 The music requirements cited (3.1 above) exclude the use of music in sponsorship announcements and program or station promotions.

**Guidance Note:** *In the interests of best practice stations endeavour to play more Australian Music than the minimum requirements outlined in Code 3.*

## Code No. 4: Sponsorship

The purpose of this Code is to augment the sponsorship conditions set down in Schedule 2 of the BSA, including the requirement that not more than 5 minutes of the sponsorship announcements by broadcast in any one hour [Schedule 2 clause 9 (3)], and the need for each sponsorship announcement to acknowledge the financial support of the sponsor [Schedule 2 clause 2 (2) (b) (ii)].

Commensurate with the need to ensure active participation by the community in the station's management, development and operations, community broadcasters will adopt and implement - in consultation with their communities - a sponsorship policy which:

- 4.1 Ensures that sponsorship will not be a factor in determining access to broadcasting time.
- 4.2 Ensures that the content and style of individual programs is not influenced by the sponsors of programs.
- 4.3 Ensures that overall programming of community broadcasting stations is not influenced by sponsors.

***It is noted that there are no statutory restrictions on the broadcast of legitimate community service announcements [Schedule 2, clause 2 (2) (a)].***

A community service announcement is defined as:

- 4.4 An announcement for which no payment is made, either in cash or in kind.
- 4.5 The provisions of Code No. 2 are taken to be part of Code 4.

## Code No. 5: Volunteers

The purpose of this code is to recognise the community broadcasting sector's reliance on volunteer workers for its continued operation and to ensure that the rights and responsibilities regarding volunteering are addressed by individual stations.

- 1.1 Community broadcasting licensees will have guidelines in place that outline:
  - (a) principles of volunteering;
  - (b) the rights and responsibilities of volunteers within the organization.
- 5.2. Community broadcasting licensees will make these guidelines easily available **to all volunteers in document form.**

## Code No. 6: Conflict Resolution For Internal Disputes

The purpose of this code is to ensure licensees have appropriate dispute resolution procedures in place to deal with internal disputes. This code also ensures stations act in a timely and conscientious manner in resolving disputes, and actively manage the conflict resolution process.

Internal conflict is the situation where the goals, values, interests or opinions of one group or individual are incompatible with, or perceived to be incompatible with, those of another individual or group.

The role of the ABA is to determine whether the Code of Practice has been implemented and not to determine the outcome of disputes. The ABA cannot resolve disputes or offer a mediating role for internal conflict resolution.

- 6.1 A complaint is an assertion made in writing, relating to station activities, its licence conditions, and responsibilities under the code, to a licensee or to a person at the station acting with apparent authority of the licensee, by a station member who provides his or her name and address.

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6.2 Community broadcasting licensees will have a **written policy & procedure** in place, which outline mechanisms to facilitate internal conflict resolution within the organisation.

## **Practice Notes - Best Practice in Internal Conflict Resolution**

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

*A best practice internal complaints policy and procedure should:*

1. *Include a definition of 'complaint' as set out in code 6.1*
2. *Be easy to access by all station members (for example be supplied as part of the station induction and training processes, and be posted on notice boards)*
3. *Include a commitment to acknowledge in writing all complaints within 30 days of receipt along with a copy of the stations policy & procedure document*
4. *Include a commitment to begin resolution of the conflict within 60 days of receipt of complaint in a conscientious and impartial manner*

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

**Guidance Note: To find a more specific example of an internal complaints process see Appendix No 1.**

## **Code No. 7: Handling Complaints From The Public**

The purpose of this code is to outline the most appropriate way for stations to respond to complaints, and other comments from members of the public.

7.1 Community broadcasting licensees acknowledge the rights of their audiences to comment and make complaints in writing concerning:

- (a) compliance with the Codes of Practice or a condition of the licence;
- (b) program content; and
- (c) the general service provided to the community.

7.2 Licensees will provide a minimum of 50 on-air announcements every year containing information about Community Broadcasting Codes of Practice and how audiences may obtain them.

7.3 Community broadcasting licensees will make every reasonable effort to resolve complaints, except where a complaint is clearly frivolous, vexatious or not made in good faith.

7.4 Licensees will ensure that:

- (a) complaints will be received by a responsible person in normal office hours;
- (b) complaints will be conscientiously considered, investigated if necessary and responded to as soon as practicable; and
- (c) complaints will be responded to in writing within 60 days of receipt (as required in the BSA Section 14B), and will include a copy of the Community Broadcasting Code of Practice.
- (d) complainants are advised in writing that they have the right to refer their complaint to the ABA provided they have first:
  - (i) formally lodged their complaint with the licensee
  - (ii) received a substantive response from the licensee and are dissatisfied with this response

7.5 A record of complaints in a permanent form will be maintained, for a period of at least 2 years, by a responsible officer of the licensee.

7.6 The record of complaints will be made available to the ABA on request, in a format advised by the ABA.

## **Code No.8: Review Of Codes**

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

8.1 The Community Broadcasting Sector, as coordinated by the sector organization representing the majority of licensees, will review the Community Broadcasting Code of Practice every three to five years, in the context of the rapidly changing media and broadcasting environment, to ensure that all codes remain accurate and relevant.

8.2 Prior to any changes to the codes, the sector, as represented by the sector organization representing the majority of licensees, will consult with the ABA, and seek agreement with the majority of community broadcasting stations, together with public comment.

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## Appendix No 1

*This is an example of an Internal Complaints Policy that would ensure Code 6 is implemented and that best practice is achieved in this important area of station management.*

### Internal Complaints Process

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

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

#### Stage 1: Investigation and internal complaint resolution

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

The investigation process will generally follow these steps:

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

#### Stage 2: Mediation

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

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

#### Stage 3: Reporting and Record Keeping

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

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

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

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