

EXPLANATORY NOTE

REVIEW OF THE COMMERCIAL RADIO CODES OF PRACTICE

REQUEST FOR PUBLIC COMMENTS

1. What this package contains

This package contains two documents being:

- this Explanatory Note which contains details about how to make a written submission on the review of the *Commercial Radio Codes of Practice (Codes)*, an overview of the Codes (**Part A**) and an overview of the main proposed changes to the Codes (**Part B**); and
- the draft revised Codes.

2. Request for public comments by Friday, 27 February 2009

Commercial Radio Australia, the industry body for commercial radio broadcasting stations, is conducting a review of the Codes and now releases the draft revised Codes and invites comments from members of the public.

All public comments should contain your name and address and must be received by Friday, 27 February 2009. You can submit your comments to Commercial Radio Australia by either:

- **post:** addressed to “**Codes Review, Commercial Radio Australia, Level 5, 88 Foveaux Street, Surry Hills NSW 2010**”;
- **fax:** to **(02) 9281 6599** marked “**Attention: Codes Review**”; or
- **email:** to codes@commercialradio.com.au.

In making comments for the Codes review, you should **have regard to the:**

- **objectives of the Codes and the statutory context in which they operate;** and
- **way in which the Codes have operated since their last review in 2004.**

These issues are discussed further in Parts A and B below.

Comments received will be considered by Commercial Radio Australia in the preparation of the final draft of the Codes. The Codes will then be submitted to the Australian Communications and Media Authority (**ACMA**), along with all public comments received. Before registering the Codes, the ACMA must be satisfied that the Codes:

- adequately deal with the subject matter covered and provide appropriate community safeguards;
- are endorsed by the majority of commercial radio stations; and
- members of the public have been given adequate opportunity to comment on the draft Codes.

PART A: OVERVIEW OF THE CODES

1. The purpose of the Codes

The content of all commercial radio programs is regulated under the *Commercial Radio Codes of Practice (Codes)*. The Codes have been developed by the commercial radio industry and the industry body Commercial Radio Australia¹ in consultation with the public and are registered by the Australian Communications and Media Authority (ACMA).

The last public consultation on the Codes took place in March 2004 as part of the 2003/04 review of the Codes. In September 2004, the Codes were registered by the ACMA.

The Codes are part of the Government's co-regulatory regime for the commercial radio broadcasting sector. They operate alongside the *Broadcasting Services Act 1992*² and the three ACMA Standards which commenced operation in January 2001 following the *Commercial Radio Inquiry*³. These Standards require licensees to ensure that advertising on commercial radio stations is distinguishable from all other programs, to disclose commercial agreements that have the potential to affect the content of current affairs programs and to provide regulatory compliance training for staff.

Please note that the Standards do NOT form part of this current review and will be the subject of a separate review announced by the ACMA to be held later in 2009.

The Codes regulate commercial radio content in accordance with community standards, assist listeners in making informed choices about their radio listening and provide effective procedures for the receiving and handling of listener complaints.

The Codes are intended to provide clear guidance to radio station staff and listeners on what is required in each of the areas covered by the Codes. Because the Codes are developed under the Broadcasting Services Act, commercial radio stations that breach the Codes can ultimately be subject to serious penalties.

In terms of coverage, the Codes deal with a number of diverse areas including the following:

- *standards of decency* – designed to ensure that commercial radio stations have regard to prevailing community standards in their programming choices. This means that while commercial radio stations, unlike TV stations, are not subject to time classification periods which determine the placement of programs, they are still required to have regard to the characteristics of their target audiences and not to broadcast programs which their target audiences would regard as unsuitable;
- *accuracy and fairness in news and current affairs programs;*
- *advertising;*
- *Australian music quotas;*
- *procedures for handling complaints related to possible breaches of the Codes; and*
- *broadcasts of emergency information in times of emergency.*

¹ Previously known as the Federation of Australian Radio Broadcasters or FARB.

² The *Commercial Radio Codes of Practice* have been developed in accordance with section 123 of the Broadcasting Services Act.

³ The *Broadcasting Services (Commercial Radio Advertising) Standard 2000*, *Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000* and *Broadcasting Services (Commercial Radio Compliance Program) Standard 2000*.

Attached to the Codes (but **not** forming part of the Codes due to their advisory nature) are guidelines which are designed to assist radio station staff by providing further clarification on some aspects of the Codes.

The guidelines provide clarification in relation to the requirements to broadcast emergency information, and the portrayal of Indigenous Australians, women, suicide and mental illness on commercial radio.

Please note that the guidelines do not form part of the Codes.

2. The complaints process

A key function of the Codes is to provide a complaints process through which a listener can make an official complaint to a licensee if, in the listener's reasonable opinion, the commercial radio station has broadcast material which breaches any of the Codes.

Consistent with the co-regulatory regime in which the Codes operate, all complainants are required to write to the relevant licensee first, setting out the nature of the complaint, and giving the licensee an opportunity to investigate and resolve the complaint. If the licensee fails to respond within time or the complainant receives a response which he or she considers inadequate, the complainant can then refer the complaint to the ACMA.

According to Codes of Practice 5 and 7, each commercial radio station is required to:

- broadcast an announcement once a week which promotes the Codes and the complaints process across different time zones;
- investigate and respond in writing to written complaints which allege that a broadcast made by the station has breached the Codes. The station's response must state that the complainant can refer the matter to the ACMA if not satisfied with the station's response;
- advise a caller making an oral complaint, which alleges a breach of the Codes, to lodge a written complaint; and
- provide a quarterly report to Commercial Radio Australia which contains an extract of each station's record of complaints for that period⁴.

Because the Codes require all complaints relating to possible Code breaches to be made to the licensee first and for the licensee to respond to bona fide complaints, the complaints process encourages a responsive and interactive dialogue between the industry and the community it serves. Experience confirms that listeners and stations benefit from this interaction because listeners have immediate access to comments on program material, and station staff can use this feedback to monitor community standards.

Commercial radio stations must investigate all properly submitted written complaints relating to matters covered by the Codes and provide a substantive written response to each complainant. The Codes place strict timelines on commercial radio stations to respond to such complaints.

If, after an internal investigation, a station forms the view that the broadcast in question did not breach the Codes, it will communicate this view to the complainant in writing.

⁴ Commercial Radio Australia compiles this information and provides industry wide figures to the ACMA. This information is reported by the ACMA.

If the station decides that the complaint is a valid one and that it has breached the Codes, it will not only communicate this view to the complainant but will also take remedial action to minimise the risk of recurrence.

A complainant who is not satisfied with a station's response is entitled to refer the matter to the ACMA for investigation.

3. The operation of the Codes

The Codes attempt to strike a balance between the various interests and standards of Australia's diverse society. Commercial Radio Australia has 261 member radio stations which every day provide a diversity of programming to cater to the interests of a large demographic range of the Australian community. Statistics show that the average listener, aged over 10, listens to over 17 hours of commercial radio per week⁵.

Listener feedback received by member stations shows that an overwhelming majority of listeners are highly satisfied with the standard of programming broadcast on commercial radio.

In light of this, it is the view of Commercial Radio Australia that the Codes are operating effectively by delivering the regulatory outcomes intended by the Broadcasting Services Act.

In the financial year 2007-08, the ACMA conducted 86 investigations into radio and television licensees' compliance with codes of practice and found 23 breaches. However, only 2 of those breach findings were attributed to commercial radio stations.⁶

These results are consistent with a downward trend in the number of breach findings made by the ACMA in relation to compliance with the broadcasting codes of practice. In 2006-07, the number of breach findings was 10 (out of 32 across the entire broadcasting sector).⁷

Having considered the relatively low level of complaints and breach findings concerning the content of programs on commercial radio, Commercial Radio Australia is satisfied that the Codes are operating satisfactorily and delivering the outcomes intended by the Government.

⁵ The Nielsen Company, *Radio Advisor*, Surveys 1 to 8, 2008.

⁶ *Australian Communications and Media Authority: Annual Report 2007-08*, pp. 44-46. The other services include commercial television stations, the community radio sector and the national broadcasters ABC and SBS.

⁷ *Australian Communications and Media Authority: Annual Report 2006-07*, p. 36.

PART B: OVERVIEW OF THE MAIN PROPOSED CHANGES

The following section provides an overview of the main proposed changes to the Codes. A copy of the draft Codes is also attached below.

1. Proscribed Matter (Code 1.1)

The amendment is designed to align this Code with the corresponding statutory provisions in State and Territory anti-vilification legislation in Australia.

The amended Code 1.1(a) requires an objective assessment of the impact of the broadcast, from the perspective of an ordinary listener, taking into account the context of the broadcast.

The categories set out in Code 1.1(e) have been extended to include transgender status.

Further safeguards are added by the additional requirement that the Code be interpreted in accordance with judicially developed principles of case law.

2. Program Content and Language (Code 1.3)

The proposed amendments to Code 1.3(a) are intended to clarify its meaning, rather than to impose any substantive changes.

Licensees have found the current “contemporary standards of decency” wording hard to understand and difficult to explain to listeners. The more easily identifiable goal is simply not to offend people. The suggested amendments make the provision easier to understand and more user friendly.

The amendments to Code 1.3(b) establish a clear mechanism – official ratings surveys – by which to determine the program audience. This makes the provision easier to understand and apply.

3. News and Current Affairs (Code 2.2(e))

The current Code 2.2(e) is vague and ambiguous in its terms. It is not clear what rights this Code seeks to protect and this makes it extremely difficult to apply.

The commercial radio industry proposes that Code 2.2(e) be deleted, particularly as Code 6 already provides consumers with their essential privacy protection by placing restrictions on the broadcast of the words of identified individuals without their consent.

4. Advertising (Code 3)

The proposed changes to Code 3.1 are designed to integrate the *Broadcasting Services (Commercial Radio Advertising) Standard 2000 (Advertising Standard)* into the Code.

The content of the Advertising Standard sits logically within Code 3. The core requirement of the Standard – that licensees ensure that advertisements are distinguishable from other programs – is consistent with the existing provisions of Code 3.

Code 3.3 has been added in order to clarify the terms on which “in-program” advertising is allowed under the revised Code. The Code acknowledges and reflects the widespread trend across all forms of media away from “program interruption” advertising.

The proposed amendment provides for appropriate disclosure by way of an announcement that identifies the commercial nature of embedded elements within the program.

Embedded advertising is already common place in other forms of media and is now frequently demanded by advertisers. Commercial radio will be at a significant disadvantage if it cannot formulate a basis upon which to accommodate this trend in advertising.

5. Australian Music Code (Code 4)

The proposed changes to Code 4 remove the references to the role and function of the Australian Music Performance Committee (**AMPCOM**).

The current requirement to liaise with and report to AMPCOM provides an additional and unnecessary administrative layer. Currently, the commercial radio industry reports to AMPCOM, who in turn reports to the ACMA.

The proposed process whereby the industry reports directly to the ACMA on its compliance with the Australian and New Australian Music Codes will be more efficient, quicker and less administratively burdensome.

For clarity, a new Category F is proposed, in addition to the current categories. This covers formats other than music, particularly open line and sports formats.

A new Clause 4.6 has been inserted to cause Code 4 automatically to expire on the date of any amendment to or repeal of section 152(8) of the Copyright Act 1968. This reflects the balance that exists between this part of the Copyright Act and the Australian Music Quotas in maintaining an equality of negotiating positions between the music industry and the commercial radio industry.

6. Complaints (Code 5)

The proposed amendment to Clause 5.1 is intended to clarify that complaints should be made by a natural person as distinct from a corporation or organisation.

The amended Code also requires that the person confirm that they heard the broadcast about which they are making a complaint. This is because the context of broadcast content is important in understanding whether the Codes have been breached.

The Code has been amended to allow the submission of complaints by a downloadable electronic complaint form.

Code 5.6 has been changed, to reflect other Codes administered by the ACMA, to insert the word *business* in relation to the number of days within which a response is required.

The proposed Code 5.9 has been added to address the issue of the ACMA investigating stale complaints. It means that if a complaint is made to the ACMA more than 45 days after the date a complainant receives a final reply from the licensee, the ACMA will not investigate the complaint. This prevents the inefficient use of the ACMA's resources in investigating old complaints, and it affords certainty to the licensees.

7. Compliance with the Codes (Code 7)

A new Code 7.1(a) is proposed in order to clarify the existing provisions of Code 7.1.



DRAFT

Codes of Practice

&

Guidelines

January 2009

Commercial Radio Australia Limited ACN 059 731 467

TABLE OF CONTENTS

| | |
|--|----|
| The Codes Of Practice | 3 |
| Definitions..... | 4 |
| Code Of Practice 1: Programs Unsuitable for Broadcast | 5 |
| Code Of Practice 2: News and Current Affairs Programs..... | 7 |
| Code Of Practice 3: Advertising | 8 |
| Code Of Practice 4: Australian Music..... | 9 |
| Code Of Practice 5: Complaints | 13 |
| Code Of Practice 6: Interviews and Talkback Programs | 16 |
| Code Of Practice 7: Compliance with the Codes | 17 |
| Code Of Practice 8: Broadcast of Emergency Information | 18 |
| List of Guidelines & Explanatory Notes | 19 |
| Guidelines on Broadcasts of Emergency Information..... | 20 |
| Guidelines on the Portrayal of Indigenous Australians on Commercial Radio..... | 21 |
| Explanatory Notes to the Guidelines on the Portrayal of Indigenous Australians on Australian Commercial Radio | 23 |
| Guidelines & Explanatory Notes on the Portrayal of Women on Commercial Radio | 26 |
| Guidelines & Explanatory Notes on the Portrayal of Suicide and Mental Illness on Commercial Radio | 28 |

THE CODES OF PRACTICE

Purpose

These Codes have been developed in accordance with the requirements of section 123 of the *Broadcasting Services Act 1992* and have been registered by the Australian Communications and Media Authority (**ACMA**) after endorsement by commercial radio broadcasters and consultation with the listening public. The Codes aim to ensure that commercial radio broadcasters have regard to prevailing community standards in broadcast material, while protecting their right to responsible freedom of speech.

Review of the Codes

It is intended that the Codes will be formally reviewed after they have been in effect for three (3) years. If, within that time, it is shown that the Codes require substantive change, the public will be given adequate opportunity to comment on the changes that may be proposed.

DEFINITIONS

advertisement means: material broadcast a substantial purpose of which is to draw public attention to, or to promote, directly or indirectly, an organisation, product or service, belief or course of action; **and**

consideration has been provided by or on behalf of an organization or a supplier of the product or service to a licensee, or to a presenter, or an associate of a presenter for the broadcast of that material by the licensee.

Australian means a person who is a citizen of, or is ordinarily resident in, Australia.

Australian performance period means the total period of 126 hours occurring in each week between the hours of 6.00 am and 12.00 midnight daily.

CRA means Commercial Radio Australia Limited.

licensee means a holder of a commercial radio broadcasting licence.

music or musical item does not include music in advertisements, program promotions, station promotions or theme or bridging music.

natural persons means a natural person and for the avoidance of doubt does not include partnership, body corporate, association, governmental or local authority or agency or other entity.

new Australian performance means a sound recording of a previously unpublished performance of a musical item performed by an Australian which has been on sale to the Australian public for a period not exceeding 12 months from the date which is recorded in *The ARIA Report* as the date of its initial release in Australia.

news program means a program or bulletin, the predominant purpose of which is to present factual new information on current events and which is typically prepared by journalists.

program/s means all matter broadcast and is specifically referred to in and applicable to Code of Practice 1.

CODE OF PRACTICE 1: PROGRAMS UNSUITABLE FOR BROADCAST

Purpose

The purpose of this Code is to prevent the broadcast of programs which are unsuitable, having regard to prevailing community standards and attitudes.

Proscribed Matter

- 1.1 A licensee must not broadcast a program which, in all of the circumstances:
- (a) incites, encourages or presents for its own sake violence or brutality;
 - (b) simulates news or events in such a way as to mislead or alarm listeners;
 - (c) presents as desirable:
 - (i) the misuse of alcoholic liquor; or
 - (ii) the use of illegal drugs, narcotics or tobacco.
 - (d) depicts suicide favourably or presents suicide as a means of achieving a desired result; or
 - (e) incites hatred against, or serious contempt for, or severe ridicule of, any person or group of persons because of age, ethnicity, nationality, race, gender, sexual preferences, religion, transgender status or disability.
- 1.2 Nothing in sub-clause 1.1 prevents a licensee from broadcasting a program of the kind or kinds referred to in those sub-clauses if the program:
- (a) is a fair report of a public act; or
 - (b) would be subject to a defence of absolute privilege in proceedings for defamation; or
 - (c) is presented reasonably and in good faith for academic, artistic (including comedy or satire), religious instruction, scientific or research purposes or for any other purposes in the public interest, including discussion or debate about any act or matter.

Interpretation

Codes 1.1 (e) and 1.2 shall be interpreted according to the principles in case law that apply to the interpretation of corresponding legislation.

Program Content and Language, including Sex and Sexual Behaviour

- 1.3 (a) Program content must not offend generally accepted standards of decency (for example, through the use of unjustified language), having regard to the demographic characteristics of the primary audience of the relevant program.
- (b) For the purposes of determining:
- (i) the primary audience of the relevant program; and
 - (ii) the demographic characteristics of that audience,
- regard must be had, in particular, to the results of any official ratings surveys of the licensee's service in the prior 12 months, (or, in the case of any licensee service operating in regional areas, the most recent official ratings surveys for the licensee's service).
- 1.4 Licensees must not broadcast audio of actual sexual acts.
- 1.5 Licensees must not broadcast a feature program which has an explicit sexual theme as its core component unless it is broadcast between 9.30 pm and 5.00 am and an appropriate warning is made prior to commencement of the program and at hourly intervals during broadcast of the program.
- 1.6 Nothing in clause 1.5 prevents a licensee from broadcasting a program at any time, of the kind referred to in that clause, if the program is in the public interest, including discussion or debate about current events.

CODE OF PRACTICE 2: NEWS AND CURRENT AFFAIRS PROGRAMS

Purpose

The purpose of this Code is to promote accuracy and fairness in news and current affairs programs.

- 2.1 News programs (including news flashes) broadcast by a licensee must:
- (a) present news accurately;
 - (b) not recklessly present news in such a way as to create public panic, or unnecessary distress to listeners;
 - (c) distinguish news from comment; and
 - (d) not use material relating to a person's personal or private affairs, or which invades an individual's privacy, unless there is a public interest in broadcasting such information.
- 2.2 In the preparation and presentation of current affairs programs, a licensee must ensure that:
- (a) factual material is presented accurately and that reasonable efforts are made to correct substantial errors of fact at the earliest possible opportunity;
 - (b) the reporting of factual material is clearly distinguishable from commentary and analysis;
 - (c) reasonable efforts are made or reasonable opportunities are given to present significant viewpoints when dealing with controversial issues of public importance, either within the same program or similar programs, while the issue has immediate relevance to the community; and
 - (d) viewpoints expressed to the licensee for broadcast are not misrepresented and material is not presented in a misleading manner by giving wrong or improper emphasis or by editing out of context.

CODE OF PRACTICE 3: ADVERTISING

Purpose

The purpose of this Code is to ensure that advertisements satisfy one of two tests in clause 3.1 of this Code and otherwise comply with other Codes where applicable, and, to limit the time devoted to advertisements in certain licence areas.

- 3.1 Advertisements broadcast by a licensee must:
- (a) be clearly distinguishable from all other programs; or
 - (b) satisfy the requirements of clause 3.3 of this Code of Practice
- 3.2 Advertisements broadcast by a licensee must not be presented as news programs, but may be included in news programs, subject to compliance with all applicable disclosure requirements.
- 3.3 Subject to clause 3.2 of this Code, a licensee may broadcast an advertisement that is integrated within the content of a program (**in-program advertisement**) and in a manner which is not clearly distinguishable from the other content of the relevant program, if the licensee ensures that a general disclosure announcement is made at either the beginning or the end of the relevant program which identifies by name each advertiser for whom an in-program advertisement is broadcast, (**in-program advertiser**).
- 3.4 Where a commercial radio station is the only commercial station in a licence area in which 30% or less of the licence is attributed to overlap, the licensee of that station must not broadcast more than 18 minutes of advertisements in a period of an hour.

CODE OF PRACTICE 4: AUSTRALIAN MUSIC

Purpose

The purpose of this Code is to set out the Australian music quotas required of licensees in relation to their radio broadcast activities.

Broadcast of Australian Music

- 4.1 Subject to this Code, a licensee must ensure that during the Australian Performance Period, either:
- (a) the applicable proportion of the total time occupied by the broadcasting of music by the radio service consists of music performed by Australians; or
 - (b) in the case of a licensee which broadcasts musical items of a reasonably similar duration, the applicable proportion of the total number of musical items broadcast by the radio service consists of musical items performed by Australians.

- 4.2 (a) for the purposes of clause 4.1, the applicable proportion of total time or total number of musical items (as the case may be) in respect of a radio service must be determined based upon the predominant format of the service in accordance with the following scale:

| Category | Format of Service | Applicable Proportion |
|-----------------|---|------------------------------|
| A | <ul style="list-style-type: none"> ➤ Mainstream Rock ➤ Album Oriented Rock ➤ Contemporary Hits ➤ Top 40 ➤ Alternative | Not less than 25% |
| B | <ul style="list-style-type: none"> ➤ Hot/Mainstream Adult Contemporary ➤ Country ➤ Classic Rock | Not less than 20% |
| C | <ul style="list-style-type: none"> ➤ Soft Adult Contemporary ➤ Hits & Memories ➤ Gold - encompassing Classic Hits ➤ Hip Hop | Not less than 15% |
| D | <ul style="list-style-type: none"> ➤ Oldies ➤ Easy Listening ➤ Easy Gold ➤ Country Gold | Not less than 10% |
| E | <ul style="list-style-type: none"> ➤ Nostalgia ➤ Jazz ➤ NAC (smooth jazz) | Not less than 5% |
| F | <ul style="list-style-type: none"> ➤ All other formats of service (including, without limitation, programs which are predominately comprised of open-line and sport content) | 0% |
| | | |

- (b) In the case of a radio service whose format is within categories A, B or C of clause 4.2(a), the broadcast of New Australian Performances as a proportion of total Australian Performances prescribed by this clause shall be in accordance with the following table, when calculated across all Australian Performance Periods occurring in any financial year, subject to clause 4.2(d).

| Category | New Australian Performances As a Proportion of Total Australian Performances |
|-----------------|---|
| A | Not less than 25% |
| B | Not less than 20% |
| C | Not less than 15% |

- (c) The commitment on the part of licensees to play a minimum level of New Australian Performances in accordance with sub-clause 4.2(b) is subject to the release of such Performances by the Australian record industry in numbers that are substantially the same as those released in the financial year ending 30 June, 1998. If, in any financial year during the time that this Code is in force, there is a substantial decrease in the release of New Australian Performances, Commercial Radio Australia may revise the proportions of New Australian Performances as a proportion of total Australian Performances, contained at clause 4.2(b), provided that any change that may eventuate will not affect the licensees' obligations under clause 4.1 and 4.2(a).
- (d) Clause 4.2(b) does not apply to a licensee that does not include New Releases in its weekly play lists, having regard to its format.

4.3 For the purposes of clause 4.2, the category into which a radio service falls must be nominated by the licensee and if any dispute arises as to the appropriateness of any such nomination the category will be determined by the ACMA, on the basis of the predominant format of the service.

4.4 For the purposes of clause 4.2, where more than one performer is involved in a musical performance, the musical items concerned shall be regarded as being performed by an Australian if the performance is predominantly by one or more Australians

Changes to Formats

- 4.5 A licensee must notify ACMA by written notice (through Commercial Radio Australia) of any material change to the format of a radio service operated by it, having regard to the tables in Clause 4.2, no later than 7 days after the change is made and must provide ACMA with all documentation reasonably required by it in relation to the change to the format.

Expiry of Code 4

- 4.6 This Code of Practice 4 will automatically expire on the date of any amendment to or repeal of section 152(8) of the *Copyright Act 1968*.

CODE OF PRACTICE 5: COMPLAINTS

Purpose

The purpose of this Code is to prescribe:

- (a) the method of handling complaints made by members of the public to licensees regarding compliance with these Codes; and
- (b) the manner of reporting by the commercial radio industry to ACMA on complaints so made.

Complaints

5.1 For the purposes of this Part, a complaint is an assertion:

- (a) made in writing by letter or fax or downloadable electronic complaint form by a natural person who signs the letter, fax or electronic complaint form, provides his or her name and address and who certifies that they have listened to the program that is the subject of their complaint;
- (b) to a licensee or a person at the radio station concerned who is acting with the apparent authority of the licensee;

that the licensee has broadcast matter which, in the opinion of the complainant, breaches these Codes. Complaints need not specify the particular section of the Code to which the complaint relates, but must adequately identify the material broadcast and the nature of the complaint.

5.2 The licensee must make appropriate arrangements to ensure that complaints are received and recorded by a responsible person during normal office hours.

5.3 The licensee must make available a downloadable electronic complaint form for complainants to use, provided that complainants print and sign the electronic complaint form, before returning it by fax, post or scanned copy to the licensee. Unsigned electronic complaint forms will not be treated as complaints for the purposes of this Code.

Telephone Comments

- 5.4 Licensees welcome telephoned comments from listeners, which they regard as valuable feedback on reactions to their service.
- 5.5 Listeners who telephone a station alleging a breach of the Codes, and who wish to make a complaint, will be asked to make the complaint in writing, in accordance with the provisions of clause 5.1.

Advice in Writing

- 5.6 Written complaints must be conscientiously considered by the licensee and the licensee must use its best endeavours to respond substantively in writing within 30 business days of the receipt of the complaint. If the licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within 30 business days, the licensee must, in any event, acknowledge receipt of the complaint within 30 business days and provide a final reply within 45 business days of receiving the complaint.
- 5.7 The response must inform the complainant that he or she has the right to refer the complaint to the ACMA within 45 days if the complainant is not satisfied with the response of the licensee.

Stale Complaints

- 5.8 If a complaint is made more than 30 days after the broadcast of the material on which the complaint is based, the licensee is not obliged to comply with this Code of Practice 5.
- 5.9 If a complaint is made to the ACMA more than 45 days after the date a complainant receives a final reply from the licensee, the ACMA will not investigate the complaint.

Unwarranted Complaints or Anonymous Material

- 5.10 The licensee must make every effort to resolve complaints made in accordance with this Code, except where the complaint is, in the reasonable opinion of the licensee, frivolous, vexatious or an abuse of the complaint process under the Code.
- 5.11 The licensee is under no obligation to respond to or record complaints provided anonymously to the licensee or not made in accordance with this Code.

Record of Complaints

5.12 A record of complaints must be kept by the licensee in written form and must include:

- (a) the date and time the complaint is received;
- (b) the name and address of the complainant;
- (c) the substance of the complaint;
- (d) the substance and date of the licensee's response(s)

and each such record must be retained by the licensee for a period of one (1) year from the date of receipt of the complaint.

- 5.13
- (a) The licensee must cause an extract of the records of complaint prepared in accordance with Clause 5.11 to be supplied to Commercial Radio Australia in a form agreed between the ACMA and Commercial Radio Australia upon 14 days' notice by Commercial Radio Australia to the licensee, for inclusion in industry complaints data provided by Commercial Radio Australia to the ACMA.
 - (b) Where a licensee is not a member of Commercial Radio Australia, the licensee must provide the extract of the record of complaints directly to the ACMA and in the same form agreed to by ACMA and Commercial Radio Australia.

CODE OF PRACTICE 6: INTERVIEWS AND TALKBACK PROGRAMS

Purpose

The purpose of this Code is to prevent the unauthorised broadcast of statements by identified persons.

- 6.1 A licensee must not broadcast the words of an identified person unless:
- (a) that person has been informed in advance or a reasonable person would be aware that the words may be broadcast; or
 - (b) in the case of words which have been recorded without the knowledge of the person, that person has subsequently, but prior to the broadcast, expressed consent to the broadcast of the words.

CODE OF PRACTICE 7: COMPLIANCE WITH THE CODES

Purpose

The purpose of this Code is to promote compliance with the requirements of these Codes of Practice.

7.1 Licensees must comply with the Codes, but a failure to comply will not be a breach of the Codes if that failure is due to:

- (a) material being broadcast in good faith which the licensee believed on reasonable grounds did not breach the Codes; or
- (b) a reasonable mistake; or
- (c) reasonable reliance on information supplied by another person; or
- (d) an act or default of another person, or to an accident or some other cause beyond the licensee's control

and the licensee took reasonable precautions and exercised due diligence to avoid the failure.

7.2 Each licensee must on at least one occasion in each week during the period that the Codes are in force broadcast on each commercial radio service operated by it an announcement publicising the existence of the Codes and a general description of the nature and effect of their operation. Such announcements must be broadcast at different times and in different programs from week to week.

CODE OF PRACTICE 8: BROADCAST OF EMERGENCY INFORMATION

Purpose

The purpose of this Code is to ensure licensees have procedures in place to enable the timely and accurate broadcast of emergency information.

Broadcast of emergency information

- 8.1 A licensee will, in consultation with appropriate emergency and essential service organizations, implement a set of internal procedures to enable the timely and accurate broadcast of warnings and information supplied by such organizations relating to an existing or threatened emergency.
- 8.2 A designated position in relation to each station is to be identified as the contact officer during business and non-business hours for all matters relative to this Code.
- 8.3 It is recognised that compliance by the licensee with clause 8.1 of this code is dependent upon the cooperation of the emergency or essential service organisations. A licensee will not be regarded as in breach of this code if any emergency or essential service organisation declines or fails to respond to the licensee's request to consult or provide relevant information.
- 8.4 In developing internal procedures pursuant to clause 8.1, a licensee will not be responsible for inaccurate information provided by any emergency or essential service organisation or for the failure of an emergency or essential service organisation to comply with the procedures.
- 8.5 A licensee will review and, where necessary, update procedures annually.

GUIDELINES AND EXPLANATORY NOTES

Broadcasts of Emergency Information

Portrayal of Indigenous Australians on Commercial Radio

Portrayal of Women on Commercial Radio

Portrayal of Suicide and Mental Illness on Commercial Radio

GUIDELINES ON BROADCASTS OF EMERGENCY INFORMATION

These guidelines are to assist in defining an emergency and identifying appropriate emergency service organisations – these guidelines do not form part of the Codes.

An emergency is generally regarded as a situation in which there is an imminent or actual threat within the community, where life and/or property are at risk and which requires a significant and coordinated response by emergency or essential service organisations.

A range of emergency and essential service organisations will be relevant for each licence area.

As a general guide, emergency or essential service organisations include Police, Fire, Rural Fire Service, Ambulance, State Emergency Service (SES), water, port or health authorities and the Bureau of Meteorology.

The licensee and appropriate emergency or essential service organisations in the licence area should jointly identify, develop and maintain effective lines of communication.

A licence area may have an Emergency Management Committee/Counter Disaster Council or equivalent organisation formed under State/Territory legislation, which is responsible for issuing guidelines to identify key emergency organisations and procedures for broadcasting emergency information. If so, it may be useful to become familiar with such guidelines and procedures.

GUIDELINES ON THE PORTRAYAL OF INDIGENOUS AUSTRALIANS ON COMMERCIAL RADIO

These guidelines are to assist in defining acceptable practice in the portrayal of Indigenous Australians on commercial radio – these guidelines do not form part of the Codes.

Broadcasters are encouraged to refer to these guidelines in relation to the Code of Practice 1.1(e):

Guidelines

1. A broadcaster should avoid prejudicial or belittling references to, or undue emphasis on, a person because of their being Aboriginal or Torres Strait Islander peoples.
2. It is not up to a broadcaster to question a person's aboriginality. Acceptance of a person's claims of aboriginality can only come from within the Aboriginal community.
3. Media reports about Aboriginal and Torres Strait Islander peoples should respect the protocols of those people.
4. Care should be exercised in depicting problems encountered by Aboriginal and Torres Strait Islander communities to achieve a balanced approach that does not unduly emphasise negative aspects to the exclusion of positive developments (eg descriptions of problems could usefully include efforts being made by the people themselves to resolve them).
5. As part of this balance, where material is broadcast that:
 - reports on a negative aspect of a person, a group of Aboriginal or Torres Strait Islander people, and
 - draws attention to the person or group being Aboriginal or Torres Strait Islanders:

the broadcaster of the material should use reasonable endeavours to give the person or group an opportunity to reply to the material, and should cause the reply to be broadcast.

6. The positive portrayal of Indigenous Australians in programs and news media should ideally assist those communities to:

and

- maintain and pass on to their descendents their cultures and traditions;
- facilitate an understanding of Indigenous Australians' cultures among all Australians.

EXPLANATORY NOTES TO THE GUIDELINES ON THE PORTRAYAL OF INDIGENOUS AUSTRALIANS ON AUSTRALIAN COMMERCIAL RADIO

The Guidelines can be assisted by the initiation of programs which sensitise non-Indigenous journalists and program-makers to the values of Indigenous people.

Representatives of the National Indigenous Media Association of Australia (NIMAA) may be contacted for advice on an appropriate spokesperson on a news story focussing on the Aboriginal or Torres Strait Islander communities, or simply checking on the sensitivity of broadcasting details of an issue concerning those people.

Of particular offence to Aboriginal people are what they claim to be the myths, allegations and incidents which reinforce negative stereotypes and generalisations which range from the totally untrue, through the partially untrue, to true statements taken out of context.

Terminology

It is preferable to refer to Indigenous Australians or Aboriginal People rather than an Aborigine. It is also acceptable to refer to Indigenous Australians by their regional identification:-

| | |
|---------|-----------------|
| Koori | (NSW, Vic, Tas) |
| Murri | (Qld) |
| Nungar | (SA) |
| Nyungar | (WA – southern) |
| Yamatyi | (WA – northern) |
| Wongi | (WA – eastern) |
| Yolngu | Arnhem Land |

Note: The above regions are not necessarily defined by state borders. Refer to the local Aboriginal Media Unit to determine the correct terminology for your region. If there is any doubt, check with a second source, otherwise you could cause offence.

Other common terminology

| | |
|-------------------------------|--|
| Aboriginal | See Aborigine. The word “Aboriginal” is an adjective used to describe something associated with Aborigines. |
| Aboriginality | The qualities inherent in being an Aborigine relating to Aboriginal heritage and culture. |
| Aborigine | An Indigenous person of Australia. Descendant of the first inhabitants of Australia with a living history spanning more than 40,000 years. The word “Aborigine” is a noun which also refers to any Indigenous person, but is not a popular term (see earlier reference). |
| Racism | Less favourable treatment of a person or group on the basis of race and discriminatory behaviour towards, serious contempt for, or severe ridicule of, any person or group on the basis of race. |
| Sacred Site | A tract of land that has strong religious meaning to all or some Aboriginal people. |
| Site of Significance | A tract of land that has strong meaning to all or some Aboriginal people but may not have strong religious meaning. |
| Torres Strait Islander | A person of Torres Strait island descent living in or coming from the group of islands between the Northern Australian and New Guinea coasts. |
| Visitors Permit | A permit to enter designated Aboriginal areas. Obtained from Aboriginal Community Councils or Land Councils. |

Unacceptable terminology

The following terms are offensive to Aboriginal people and should be avoided. The alternatives are listed.

| | |
|------------------|--|
| Abo, Abbo | Aboriginal person, Indigenous Australian, Koori (NSW, Murri (QLD), etc |
|------------------|--|

| | |
|--|--|
| Boong/Black | See Abo |
| Gin | Aboriginal woman, Aboriginal person, Koori, etc |
| Half-Caste Quarter-Caste Part Aboriginal Full-Blood | A concept used by non-Aborigines to divide Aborigines. The definition of Aborigine relates to self-identification and acceptance by the Aboriginal community. Degrees of descent are irrelevant and act against the solidarity of Aboriginal people. |
| Lubra | See Gin |
| Native | See Aborigine |

GUIDELINES AND EXPLANATORY NOTES ON THE PORTRAYAL OF WOMEN ON COMMERCIAL RADIO

These guidelines are to assist in defining acceptable practice in the portrayal of women on commercial radio – these guidelines do not form part of the Codes.

Women represent 53% of the Australian population and as such there should be fair and accurate portrayal in the media that recognises the significant and ongoing changes in women's attitudes and their evolving role in society.

In recognition of this, members of Commercial Radio Australia are encouraged to use the following Guidelines to assist in understanding and meeting the objects of Code 1.1(e).

Guidelines

In the portrayal of women on commercial radio, broadcasters should avoid promoting or endorsing inaccurate, demeaning or discriminatory descriptions of women.

- 1. Do not place undue emphasis on gender and resisting stereotyping.**
 - Sexist language is language that unnecessarily excludes one sex or gives unequal treatment to women and men.
 - Negative or inequitable sex-role portrayal refers to language, attitudes or representations which tend to associate particular roles, modes of behaviour, characteristics, attributes or products to people on the basis of gender, without taking them into consideration as individuals.
 - Examples of non-sexist language are:
 - Leader, chair not chairman
 - Police officer not policeman
 - Fire fighter instead of fireman
 - Sales representative not salesman
 - Business executive not businessman
- 2. Ensure that reporting and “on-air” discussions respect the dignity of women and are non-exploitive.**

- Avoid expressions that infer that a person is inferior because she is a woman, or that men have exclusivity, i.e. “that’s a man’s job” or “a woman wouldn’t understand that”, “it’s a man’s world” (the tone of voice can cause more offence than the actual remark).
 - Avoid the use of overt sexual references in relation to a woman’s physical characteristics which have no relevance to the issue under discussion.
3. **Recognise the changing roles of women and men in society.**
 4. **Endeavour to achieve a balance in the use of women and men as experts and authorities and giving equal prominence to the achievements of women.**
 5. **Do not broadcast material which condones or incites violence against women.**
 6. **Report and discuss appropriate incidences of violence against women in a way that does not over-emphasise detail, but does include analysis of issues underlying such acts.**
 - Media reports of violence against women generally focus on the issue of stranger violence and ignore domestic violence because it does not fit the newsworthiness criteria of being unusual. This does not mean that all stories of domestic violence should be reported, but that incidents of domestic violence, and the reasons for it, should not be ignored on the basis that “it’s only a domestic”.
 - Media reports can tend to emphasise violence that occurs in public places and even if they do report violence in the home, it is more likely to be stranger break-in, rather than violence by an acquaintance. Reporting should therefore be balanced to reflect all violence in society and be factual without being sensational.
 - Care should be taken when reporting instances of violence by men against women which might be seen to offer explanations to diminish men’s responsibility for their actions and even shift blame to the victim.
 - The dignity of a victim can easily be forgotten. Care should be exercised to avoid gratuitous and repetitive detail, such as the state of undress of a victim or description of the crime.

GUIDELINES AND EXPLANATORY NOTES ON THE PORTRAYAL OF SUICIDE AND MENTAL ILLNESS ON COMMERCIAL RADIO

These guidelines are to assist in defining acceptable practice in the portrayal of people suffering from mental illness and in the broadcast of incidents of suicide on commercial radio – these guidelines do not form part of the Codes

Approximately 2,500 Australians die by suicide each year and about one in five people will experience a mental illness at some stage in their lives.

Codes of Practice 1.1(d) and 1.1(e) are designed to provide appropriate community safeguards by prohibiting licensees from broadcasting programs on suicide that are irresponsible or programs that are derogatory towards, or stigmatise people with, mental illness.

The following guidelines on the portrayal of suicide and mental illness on commercial radio do not form part of the Codes. However, members of Commercial Radio Australia are encouraged to use these guidelines to assist them in understanding and meeting the obligations of Codes 1.1(d) and (e).

Guidelines

Portrayal of Suicide

In programs about or relating to suicide, stations should avoid depicting suicide favourably or presenting it as a means of achieving a desired result.

- 1. Check that the language used does not glamorise or sensationalise suicide, or present suicide as a solution to problems.**

For example, it would be better to use “non-fatal” rather than “unsuccessful” when describing a suicide attempt and “increasing rates” rather than “suicide epidemic” when describing rates of suicide. Research shows that over-use of the word suicide may normalise the act.

2. Avoid an approach which glamorises or sensationalises celebrity suicide.

Celebrity suicides usually attract a lot of public attention. Higher rates of suicide have sometimes been recorded after celebrity suicides which received prominent coverage. If a celebrity suicide is reported, care should be taken to ensure that any description of the method used is disclosed only if there is a public interest in providing that information.

3. Exclude detailed descriptions about method of suicide.

Stations should broadcast reports of suicide or attempted suicide only where there is a public interest reason to do so and should exclude any detailed descriptions of the method of suicide or attempted suicide. Such reports should be straightforward and should not include graphic details. Research shows that there may be some correlation between the reporting of methods of suicide and ‘copycat suicides’.

Portrayal of Mental Illness

Studies have shown that the negative portrayal of mental illness impacts significantly on people experiencing mental illness and may influence community attitudes, which in turn may lead to stigmatisation and discrimination against people with mental illness.

In the portrayal of mental illness on commercial radio, licensees should avoid broadcasting a program that stigmatises or vilifies people in the community who are living with a mental illness,

1. Avoid the use of certain derogatory terminology.

Terms such as “cracked up”, “nutcase”, “psycho” and “lunatic asylum” stigmatise and may perpetuate discrimination against people suffering with mental illness. Language that implies mental illness is a life sentence should be avoided – e.g. a person is not “a schizophrenic”, rather, they are experiencing or being treated for schizophrenia. In addition, care should be taken to ensure medical terms are not used out of context – e.g. “psychotic dog”, “schizophrenic economy”.

2. Remember that people with a mental illness are not inherently violent, unable to work, weak or unable to get well.

There are some negative misconceptions about mental illness in the community and radio programs should avoid reinforcing these misconceptions.

Research indicates that people receiving treatment for a mental illness are no more violent or dangerous than the general population and when unwell are more likely to harm themselves than others. In addition, most people with a mental illness recover well with appropriate treatment and support – they work, they have families and contribute to society in many ways.

Recommended resources and further information

Reporting Suicide and Mental Illness: A Resource for Media Professionals. (Commonwealth Government) 2002, 2004.

The resource is available on-line at www.mindframe-media.info or by contacting Auseinet, c/o CAMHS, Flinders Medical Centre, Bedford Park, South Australian, 5042. Telephone: (08) 8201 7670.

Listeners seeking help can be referred to Lifeline 13 11 14 (suicide) or and SANE Australia 1800 68 83 82 (mental illness) or to a GP or health care professional.