

Advocacy Report

November 2015

ASTRA ACTIVITY

- **Media reform** – Press speculation regarding media reform has intensified over the last month, with reports suggesting Cabinet has asked the Minister to form a proposal and consult with cross-bench Senators. Reform of the 75% reach rule for commercial free-to-air television is spoken about as a fait accompli, with most speculation being around timing and whether any further reforms will be attached (eg, anti-siphoning, reform of the '2 out of 3' and 4/5 voices rules, minimum regional content requirements).

Some reporting has claimed the Department of Communications is drafting a Cabinet submission, whilst other reporting suggests it has progressed to the drafting of legislation. Meanwhile there has been no formal or informal announcement from the Government regarding any elements of reform.

ASTRA has continued to advocate for holistic reform, rather than piecemeal deregulation which merely serves to further entrench free-to-air regulatory privilege.

Coverage is available [here](#), [here](#), [here](#), and [here](#).

- **Free TV Code of Practice** – The ACMA has approved and registered a new Code of Practice for commercial free-to-air television. The Code includes significant liberalisations of timezone restrictions, bringing forward the times at which PG, M and MA15+ content can be broadcast. As result of these liberalisations, a range of 'targeted safeguards' have been introduced to address the risks of children's exposure to potentially harmful content (higher-rated content, alcohol advertising). There are also some changes to the rules for current affairs programs and no set requirement for further review of the Code.

Of note for ASTRA members is the relatively fast conclusion of the Free TV Code review process. Free TV went out for public consultation in early 2015 with a Code finalised in November. In contrast, ASTRA's last Code review took 3 years and 3 months to complete. ASTRA is due to review its Codes in 2016.

The revised Code is available [here](#), and the ACMA's media release is available [here](#).

- **NSW Government announcement on wagering advertising** - On 7 November 2015 the Deputy Premier Troy Grant announced live odds advertising during sports matches would be banned in NSW. The announcement was made with no prior consultation with the media industry or the gambling industry.

ASTRA is concerned the NSW Government has not taken into account the adequacy of the existing, comprehensive restrictions on gambling advertising in our Codes of Practice. We are also concerned to ensure any regulations are drafted with reference to the operational complexities of sports broadcasting and reflect the exemptions set out in the Codes for pay-per-view channels, on-demand services, licensed premises, international programs and services and accidental and incidental references.

ASTRA is pursuing further detail of the proposals from the NSW Government. The Government's press release is available [here](#).

- **ACMA consultation on live captioning quality** – Following ASTRA's submission to the ACMA on live captioning quality, ASTRA and representatives from Foxtel and Fox Sports met with the ACMA to discuss the issues. The meeting helped further cement the ACMA's understanding of the operational considerations which mean that live captioning is sometimes required for programming which is not live to air, but which is completed very close to the time of broadcast.

ACMA staff also discussed the upcoming discussion paper on the Captioning Quality Standard, noting it will consider the merits of quantitative and qualitative tests for adequate captioning quality (see further detail below).

- **Australian content** – Screen Australia has released its 2014/15 Drama Report and this year subscription television made a record contribution to the overall adult TV drama slate. Screen Australia have noted that this year's figures do not yet reflect the budget cuts to ABC, SBS and Screen Australia and there is likely to be a drop off in investment in next year's report.

ASTRA issued a press release noting the industry's record contribution and advocating for an increase in the Producer Offset (see October Advocacy Report) to help further stimulate screen sector activity.

The Drama Report is available [here](#) and ASTRA's press release is available [here](#).

- **Copyright** - With regards to the Federal Court litigation involving the rights holders for *Dallas Buyers' Club*, there have been no publicly reported developments since the October Advocacy Report. The parties are expected to return to court on 9 December.

With regards to the draft Code of Practice for a Copyright Notice Scheme, the Australian Communications and Media Authority (ACMA) continues its consideration of the code and negotiations continue between rights holders and ISPs regarding issues such as costs and indemnities.

The final text of the Trans Pacific Partnership has been released and it appears that no legislative changes to Australia's copyright laws will be required to ensure compliance with the TPP.

All of ASTRA's publicly available submissions are on the [ASTRA website](#).

NEWS

ACMA Investigation – *Catching Milat promotion (Seven)*

On 24 October 2015, the ACMA found a breach of classification requirements in the Commercial Free-to-Air Television Codes of Practice in relation to a program promotion for *Catching Milat* (classified as M). The program promotions were broadcast on 7Two by Channel Seven Adelaide at approximately 7.30 pm. The complainant alleged that the program promotions were unsuitable for broadcast within the G classified program, *Better Homes and Gardens*.

The ACMA found that the promotions breached the special restrictions placed on the promotion of higher-rated content within G time periods.

Further information is available [here](#).

Advertising Standards Bureau findings – ASTRA receives updates from the Advertising Standards Bureau (ASB) when it issues final case reports where complaints about an advertisement have been considered. The ASB issued one report since the last Advocacy Report.

The ASB upheld a complaint in relation to a subscription TV advertisement for an Insinkerator. In the advertisement, a woman is shown pushing food down into an Insinkerator and the complaint was that this was a depiction of unsafe behavior which may be copied by adults and children. The Board found that the ad displayed behavior that was contrary to prevailing community standards on health and safety by depicting the unsafe practice of placing a hand into an Insinkerator. The advertiser has modified the advertisement to remove the depiction of a hand in the Insinkerator.

Copies of ASB Case Reports are available to ASTRA members on request.

DISCUSSION PAPERS/REQUESTS FOR COMMENT

Productivity Commission Inquiry into Intellectual Property

The Productivity Commission has released an Issues Paper for its inquiry into Australia's intellectual property laws. The paper is a very high level consideration of the laws and does not contain specific reform proposals. However as stakeholders are likely to raise specific reforms, subscription television will look to provide a submission which addresses previously considered reforms. Submissions are due 30 November 2015.

ACMA Discussion Paper – Captioning Quality Standard

The ACMA has released a Discussion Paper as part of its review of the Captioning Quality Standard. Comment is sought on two options for potentially amending the Standard. These two options relate to whether the Standard for determining the quality of captioning services should be metric or non-metric. In addition, alternative suggestions to amend the Standard are sought. Submissions are due 18 December 2015.

AANA Discussion Paper – Wagering Advertisements

The AANA has released a Discussion Paper proposing a new self-regulatory Code of Ethics for wagering advertising. The Code would apply to all advertising and marketing communications across platforms, and would relate to the content, rather than the placement or volume, of advertisements. The proposed restrictions primarily relate to the need to restrict the appeal of gambling advertising to children and other vulnerable groups. Submissions are due 18 December 2015.