

Community Radio Broadcasting Codes of Practice Review

Stage 2: Circulation of proposed amendments

29 June 2012



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Preamble

Stage 2: Final Draft for circulation

The 2012 Community Radio Broadcasting Codes of Practice review is coordinated and conducted by the CBAA in keeping with item 8.1 of the Community Radio Broadcasting Codes of Practice.

This document is a draft containing proposed amendments to the Community Radio Broadcasting Codes of Practice. Stage 1 of the review was conducted over a 9-week period of consultation during which feedback on the current Codes was sought from community broadcasters, sector organisations and the general public and gathered via online surveys, direct email and postal submissions. Stage 2 of the review incorporates the circulation of this document to community broadcasters and sector organisations for comments and feedback on the proposed amendments outlined within. These amendments were approved by the CBAA Board in June 2012.

Please submit your comments and feedback to Amy Moon, CBAA Membership and Development Manager via one of the following options:

Email amoon@cbaa.org.au

Post PO Box 564, Alexandria 1435

The closing date for Stage 2 feedback is **Wednesday 25 July, 2012**

The concluding stage of the 2012 Community Radio Broadcasting Codes of Practice Review will see a final submission prepared and endorsed by the CBAA Board, a copy of which will be released for public comment. This will then be submitted to the Australian Communications and Media Authority for approval and registration under the Broadcasting Services Act 1992.

Introduction to Community Radio Broadcasting Codes of Practice

Part A. Background

The community broadcasting sector plays a vital role in the Australian media environment. The sector distinguishes itself from commercial and national broadcasters in a range of ways, including by actively promoting community access and participation, and volunteers are largely responsible for the operations of community broadcasting stations. Stations vary significantly depending on the audience and community interest they serve. These communities can be defined geographically as general stations or by communities of interest such as Indigenous, ethnic and multicultural, radio for the print handicapped (RPH), religious, gay and lesbian, youth, seniors, education or fine music.

The Broadcasting Services Act 1992 (the Act) outlines the legal framework for community broadcasting and explains the role the sector plays in delivering diverse media services that reflect a sense of Australian identity, character and cultural diversity. The Community Radio Broadcasting Codes of Practice (the Codes) set out the guiding principles and policies for programming on community broadcasting stations. They also outline the operational standards for stations that hold a community broadcasting licence. The Codes are complementary to the licence conditions in the Act and community broadcasting licensees are legally obliged to follow both the licence conditions and the Codes.

Under Section 123 of the Act, industry groups must develop the Codes in consultation with the Australian Communications and Media Authority (ACMA). The Codes require that the sector organisation representing the majority of licensees will be responsible for coordinating a review of the Codes. During 2012, the Community Broadcasting Association of Australia (CBAA) coordinated this review process.

Part B. Guiding Principles

Community broadcasters are united by six guiding principles. These principles exist to:

- Promote harmony and diversity and contribute to an inclusive, cohesive and multicultural Australian community,
- Pursue the principles of democracy, access and equity, especially for people and issues not adequately represented in other media,
- Enhance the diversity of programming choices available to the public and present programs that expand the variety of viewpoints broadcast in Australia,
- Demonstrate independence in programming as well as in editorial and management decisions,
- Support and develop local arts and music,
- Increase community involvement in broadcasting.

Throughout the Codes, community broadcasting licensees are referred to as 'we' or 'our'. These terms are legally binding.

Part C. Legal Obligations

Each community broadcasting station has legal obligations that relate to programming and station operations. The Broadcasting Services Act 1992 (the Act) outlines a number of licence conditions and program standards that apply to all stations.

Key provisions in the Act require community broadcasters to:

- provide community broadcasting services for the benefit of the community and not operate them to make a profit,
- continue to represent the community interest that it represented when the licence was allocated or last renewed, although a licensee can apply to change that community interest at renewal,
- encourage community access and participation in all aspects of station operations, from programming to management, and
- only broadcast sponsorship announcements, rather than advertising, which total no more than five minutes in any hour of broadcasting.

Part D. Australian Communications and Media Authority (ACMA)

The broadcasting regulator, the Australian Communications and Media Authority, is responsible for ensuring that community broadcasting stations meet the licence conditions in the Act and requirements outlined in the Codes.

Some other key responsibilities of the ACMA are to:

- Promote a system whereby broadcasters take responsibility for making sure they meet the licence conditions and the requirements in the Codes,
- Foster an environment in which electronic media respect community standards and respond to audience and user needs,
- Manage access to the radiofrequency spectrum and make sure that a range of media services is provided in all areas, and
- Administer the licence allocations and renewals process, including for temporary community broadcasting licences.

The ACMA investigates complaints made relating to licence conditions or the Codes. The complaints procedure is detailed in Code 7.

The process complaints follow is outlined in the following table:

Type of complaint:	Responsibility for handling complaint:
A station's choice of programming	Station's responsibility according to its policies and procedures under Code 2 or 3.
Disputes among station volunteers and members.	Station's responsibility according to its policies and procedures under Code 1. Sector organisations may be able to provide some assistance to stations in this area.
Internal conflict resolution	Station's responsibility according to its policies and procedures under Code 1. Sector organisations may be able to provide some assistance in this area.
Internal management or constitution matters	Consult the State or Territory Office of Fair Trading or Consumer Affairs Department. Sector organisations may be able to provide some assistance in this area.
Defamation claims against station	Station to seek own legal advice

For further information on community broadcasting, see ACMA's website: www.acma.gov.au

Part E. Sector Organisations

Community broadcasting sector organisations exist to provide support, advice and representation to their members. They include national, state and regionally-based organisations and those focused on special interests or communities. These organisations also work to influence the regulatory environment through lobbying, advocacy and briefing government.

None of these sector organisations regulates community broadcasting. They have no legal role to play in monitoring complaints, solving disputes or ensuring that community broadcasters meet their legal obligations. However, collectively they contribute information and ideas to the Codes of Practice review in consultation with ACMA, and may assist stations to meet their legal obligations.

A list of current membership-based community broadcasting sector organisations can be found at www.cbonline.org.au

Codes of Practice:

Code 1 - Current	Proposed amendments
<p>Our responsibilities in broadcasting to meet our community interest</p>	
<p>Purpose: To make sure that community radio stations operate according to the guiding principles and within a framework of sound corporate governance</p>	<p>Purpose: To ensure that community radio stations operate according to the guiding principles and within a framework of sound governance</p>
<p>1.1 Each community radio station will be controlled and operated by an independent body that represents its community interest.</p>	
<p>1.2 We will have in place written corporate governance policies and procedures that support management, financial, and technical operations to meet all legal requirements.</p>	<p>1.2 We will have in place written governance policies and procedures that support management, financial, and technical operations to meet all legal requirements.</p>
<p>1.3 We will have training in place to ensure that everyone is aware of his or her legal obligations and is able to effectively participate in providing the service.</p>	
<p>1.4 We will have written policy documents in place that outline: (a) the principles of financial membership, (b) the rights and responsibilities of financial members within the organisation, and (c) the rights and responsibilities of the organisation to financial members. A register of financial members will also be kept and made available to ACMA on request.</p>	
<p>1.5 We will have written policies and procedures in place to effectively deal with internal conflict</p>	
<p>1.6 We will have policies and procedures in place to handle complaints from our members and volunteers.</p>	
<p>See Code 7: Complaints for more information.</p>	

<p>1.7 We will broadcast at least one on-air announcement each week that contains information about the Codes and where listeners can get a copy. A copy of the announcement is to be made available to ACMA on request.</p>	
<p>References:</p> <ul style="list-style-type: none">• Appendix 1: Codes of Practice Checklist• Appendix 2: Codes of Practice announcement example	

Code 2 - Current	Proposed amendments
Principles of diversity and independence	
Purpose: To make sure that community radio stations have written policies and procedures in place that promote diversity and encourage community participation	Purpose: To ensure that community radio stations have written policies and procedures in place that promote diversity and encourage community participation
2.1 Our station will make sure that people in our community who are not adequately served by other media are encouraged and assisted to participate in providing our service. We will have in place policies and procedures to support this commitment. We will document evidence of our efforts to encourage community participation.	2.1 Our station will ensure that people in our community who are not adequately served by other media are encouraged and assisted to participate in providing our service. We will have in place policies and procedures to support this commitment. We will document evidence of our efforts to encourage community participation.
2.2 Our policies and procedures will include mechanisms to enable active participation by our community in station management, programming and general operations.	
2.3 We will have policy documents in place that outline: (a) the principles of volunteering, (b) the rights and responsibilities of volunteers within the organisation, (c) the rights and responsibilities of the organisation to volunteers, whether they are members or not, and (d) grounds and procedures for the dismissal of volunteers.	
2.4 All policy documents will be freely available.	
2.5 In all station activities and our behaviour we will oppose and break down prejudice on the basis of ethnicity, race, language, gender, sexuality, age, physical or mental ability, occupation, religious, cultural or political beliefs.	
References: <ul style="list-style-type: none"> • Appendix 3: Rights and responsibilities of volunteers example • Appendix 4: Procedures for disciplinary action and dismissal of volunteers example 	

Code 3 - Current	Proposed amendments
General programming	
<p>Purpose: To encourage programming that reflects our community interest and guiding principles</p>	<p>Purpose: To ensure programming decisions reflect our community interest and guiding principles</p>
<p>3.1 Our community radio station will not broadcast material that may:</p> <ul style="list-style-type: none"> (a) incite, encourage, or present for its own sake violence or brutality, (b) mislead or alarm listeners by simulating news or events, (c) present as desirable the use of illegal drugs, the misuse of tobacco or alcohol as well as other harmful substances, and (d) glamorise, sensationalise, or present suicide as a solution to life problems. In particular, broadcast material should not provide explicit details about the method and/or location of a suicide attempt or death. 	
<p>3.2 We will attempt to avoid censorship where possible. However, in our programming decisions we will consider our community interest, context, degree of explicitness, the possibility of alarming the listener, the potential for distress or shock, prevailing Indigenous laws or community standards and the social importance of the broadcast.</p>	<p>3.2 We will avoid censorship where possible. However, in our programming decisions we will consider our community interest, laws and legislation, context, degree of explicitness, the possibility of alarming the listener, the potential for distress or shock, prevailing Indigenous laws or community standards and the social importance of the broadcast.</p>
<p>3.3 We will not broadcast material that is likely to stereotype, incite, vilify, or perpetuate hatred against, or attempt to demean any person or group, on the basis of ethnicity, nationality, race, language, gender, sexuality, 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.</p>	

<p>3.4 We will have programming practices that protect children from harmful material but will avoid concealing the real world from them.</p>	
<p>3.5 We will follow applicable privacy laws by:</p> <ul style="list-style-type: none"> (a) respecting people’s legitimate right to protection from unjustified use of material which is obtained without consent or through an invasion of privacy, (b) only broadcasting the words of an identifiable person where: <ul style="list-style-type: none"> (i) that person has been told in advance that the words may be broadcast, or (ii) it was clearly indicated at the time the recording was made that the material would be broadcast, or (iii) in the case of words that have been recorded without the knowledge of a person, that person has indicated his/her agreement prior to broadcast 	
<p>3.6 News, current affairs (including news updates and promotions), documentaries, feature programs and interviews shall:</p> <ul style="list-style-type: none"> (a) provide access to views not adequately represented by other broadcasting sectors, (b) present factual material accurately and ensure that reasonable efforts are made to correct substantial errors of fact as quickly as possible, (c) clearly distinguish factual material from commentary and analysis, (d) present news in such a way that it does not create public panic or unnecessary distress to listeners, and, (e) represent viewpoints fairly without having a misleading emphasis, editing out of context or withholding relevant and available material. 	<p>3.6 (d) be presented in such a way that does not create public panic or unnecessary distress to listeners, and,</p>

<p>3.7 Community broadcasters play a vital role in broadcasting emergency information. Community radio stations with the ability to offer emergency broadcasts will:</p> <ul style="list-style-type: none"> (a) have procedures in place to enable appropriate local emergency broadcasts, (b) liaise with appropriate emergency and essential service organisations, and (c) ensure the accuracy of emergency information. 	
<p>References:</p> <ul style="list-style-type: none"> • Appendix 5: Reporting suicide and mental illness responsibly – resources available 	

Code 4 - Current	Proposed amendments
Indigenous programming and coverage of Indigenous issues	
Purpose: To acknowledge the unique status of Indigenous peoples as the first Australians and to offer a way to demonstrate respect for their cultures and customs. In the Code 'Indigenous Australians' refers to the Aboriginal and Torres Strait Islander peoples of Australia	Purpose: To acknowledge the unique status of Indigenous peoples as the first Australians and to demonstrate respect for their cultures and customs. In the Code 'Indigenous Australians' refers to the Aboriginal and Torres Strait Islander peoples of Australia
4.1 We will seek to involve and take advice from Indigenous Australians in the production of programs focusing on Indigenous Australians and issues. Where possible, we will consult the appropriate Indigenous media organisation broadcaster on appropriate forms of communication.	4.1 We will seek to involve and take advice from Indigenous Australians in the production of programs focusing on Indigenous Australians and issues. We will take steps to consult an Indigenous media organisation or Indigenous broadcaster on appropriate forms of communication.
4.2 When reporting on Indigenous peoples and issues, we will take care to verify and observe the best way to respect culture and customs by: (a) considering regional differences, that is, be mindful of differences between Indigenous local groups, (b) using appropriate words and phrases in referring to Indigenous peoples and their regional groups, (c) seeking proper advice on how to best respect Indigenous bereavement customs when reporting on people who are recently deceased, and (d) using suitable words and phrases when reporting on the social and emotional well-being of Indigenous people.	4.2 When reporting on Indigenous peoples and issues, we will take measures to verify and observe the best way to respect culture and customs by: (a) being mindful of differences between Indigenous peoples and their regional groups, (b) using appropriate words and phrases in referring to Indigenous peoples and their regional groups, (c) seeking proper advice on how to best respect Indigenous bereavement customs when reporting on people who are recently deceased, and (d) using suitable words and phrases when reporting on the social and emotional well-being of Indigenous people.
References: For more information on Indigenous cultural protocols for media workers see http://abc.net.au/indigenous	References: For more information on Indigenous cultural protocols for media workers see http://www.aicainc.org.au

Code 5 - Current	Proposed amendments
Australian music	
<p>Purpose: To reflect the commitment of community radio stations to develop Australian music and provide opportunities for performers to have their work regularly broadcast</p>	
<p>5.1 In selecting Australian music for broadcast in each month we will consider our community interest.</p>	
<p>5.2 Of all music programming, we will broadcast at least: (a) 25 per cent of Australian music, except for ethnic and classical music stations, and (b) 10 per cent of Australian music for ethnic and classical music stations. Australian music played is calculated as a percentage of all music played over a calendar month.</p>	<p>5.2 Of all music programming, we will broadcast a minimum of: (a) 25 per cent of Australian music, except for ethnic and classical music stations, and (b) 10 per cent of Australian music for ethnic and classical music stations. Australian music played is calculated as a percentage of all music played over a calendar month.</p>
<p>5.3 The requirements above do not include music used in sponsorship announcements, programs, or station promotions.</p>	<p>5.3 The requirements above do not include music used in sponsorship announcements or program or station promotions.</p>
<p>References:</p> <ul style="list-style-type: none"> • Appendix 6 Music policy example 	

Code 6 - Current	Proposed amendments
Sponsorship	
Purpose: To complement the licence condition in the Act relating to sponsorship announcements	
6.1 We will have in place a written sponsorship policy that reflects the licence condition in the Act. This includes: (a) broadcasting no more than five minutes of sponsorship announcements in one hour, and (b) tagging each announcement to acknowledge the financial and/or in-kind support of the sponsor.	
6.2 Sponsorship will not be a factor in deciding who can access broadcasting time.	
6.3 We will ensure editorial decisions affecting the content and style of individual programs are not influenced by program or station sponsors.	
6.4 We will ensure that editorial decisions affecting the content and style of overall station programming are not influenced by program or station sponsors	
References: <ul style="list-style-type: none"> • Appendix 7 Sponsorship policy example See also ACMA's Community Broadcasting Sponsorship Guidelines 2008 at www.acma.gov.au	

Code 7 - Current	Proposed amendments
Complaints	
<p>Purpose: To outline our legal requirements relating to complaint handling</p>	
<p>7.1 We acknowledge the rights of our listeners, members and volunteers to make complaints in writing about alleged non-compliance with both the licence conditions in the Act and the requirements outlined in the Codes.</p>	
<p>7.2 We will make every reasonable effort to resolve complaints, except where the complaint is clearly frivolous, without sufficient grounds or not made in good faith.</p>	
<p>7.3 We will ensure that:</p> <ul style="list-style-type: none"> (a) complaints will be received by a responsible person in normal office hours and receipt is acknowledged in writing, (b) complaints will be conscientiously considered, investigated if necessary, and responded to substantively as soon as possible, (c) complaints will be responded to in writing within 60 days of receipt, as required by the Act, and the response will include a copy of the Codes, and (d) complainants are advised in writing that they have the right to refer their complaint about a Code matter to ACMA provided they have first: <ul style="list-style-type: none"> (i) formally lodged their complaint with the licensee in writing, and (ii) received a substantive response from the licensee and are dissatisfied with this response, or have not received a response from the licensee within 60 days after making the complaint. <p>A written complaint or response can be a letter, fax, or email.</p>	
<p>7.4 A responsible person of the licensee will maintain a record of complaints and responses for at least two years from the date of the complaint.</p>	
<p>7.5 The record of complaints and responses will be made available to ACMA on request.</p>	

References:

- **Appendix 8** Complaints policy example

See also AMCA's *Complaints about programs: How to make a complaint about radio and television programs* brochure at www.acma.gov.au

Code 8 - Current	Proposed amendments
Codes of Practice review	
Purpose: To ensure that the Codes continue to reflect changing community standards and remain relevant in the contemporary media environment	
8.1 The community radio sector, as coordinated by the sector organisation representing the majority of licensees, will review the Community Radio Codes of Practice every three to five years in consultation with other sector organisations.	
8.2 Before any changes are made to the Codes, the sector, as represented by the sector organisation representing the majority of licensees, will consult with other sector organisations and ACMA. The organisation will strive to seek agreement with the majority of community broadcasting stations and incorporate public feedback before the Codes are provided to ACMA for registration under the Act	

Appendices - Current	Proposed amendments
Appendix 1 Codes of Practice Checklist	
Appendix 2 Codes of Practice Announcement Example	
Appendix 3 Rights and Responsibilities of Volunteers Example Under Principles of Volunteering: <ul style="list-style-type: none"> • respects the rights, dignity and culture of others, 	Appendix 3 Rights and Responsibilities of Volunteers Example Under Principles of Volunteering: <ul style="list-style-type: none"> • respects the rights, dignity, language and culture of others,
Appendix 4 Procedures for Disciplinary Action and Dismissal of Volunteers Example	
Appendix 5 Reporting Suicide and Mental Illness Responsibly - resources	
Appendix 6 Music Policy Example Under Policy: <ol style="list-style-type: none"> 2. All programs will endeavor to ensure that of the total music played throughout a program, at least 30% of this is Australian unless: <ol style="list-style-type: none"> a. The program aim is to focus on music or culture other than Australian 	Appendix 6 Music Policy Example Under Policy: <ol style="list-style-type: none"> 2. All programs will endeavor to ensure that of the total music played throughout a program, at least 30% of this is Australian unless: <ol style="list-style-type: none"> a. The program aim is to focus on music or culture from countries other than Australia
Appendix 7 Sponsorship Policy Example	
Appendix 8 Complaints Policy Example	