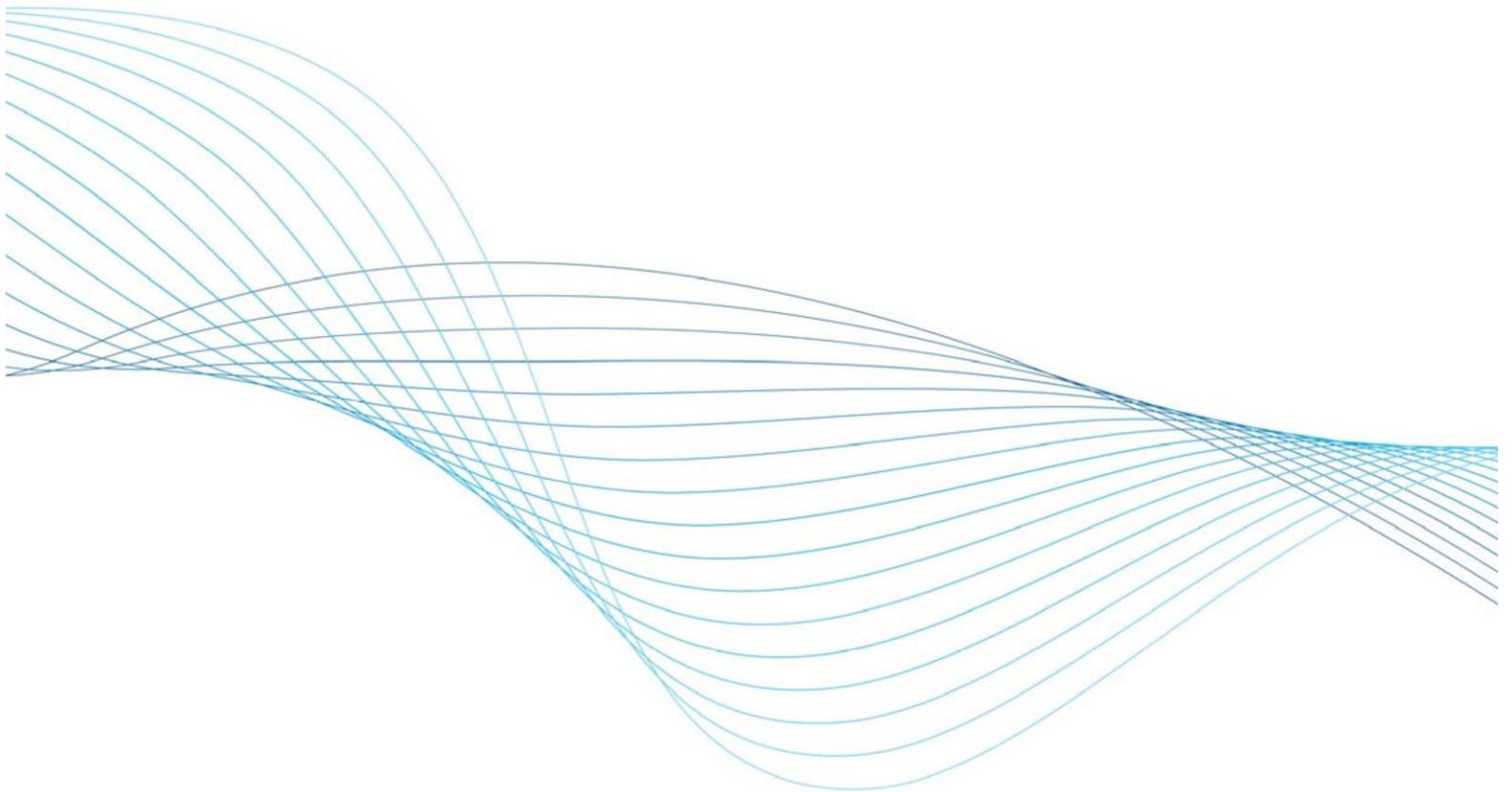




Codes of Practice 2007
Subscription Narrowcast Radio



SUBSCRIPTION NARROWCAST RADIO CODES OF PRACTICE

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INTRODUCTION

(A) PREAMBLE

1. The Australian Subscription Television and Radio Association Inc. ('**ASTRA**') is the industry body representing those operating radio and television narrowcasting services under class licences in accordance with the provisions of the Broadcasting Services Act 1992 (the Act).
2. Narrowcasting services provide a wide range of innovative services, catering to specialised interest. As these services have well-defined audiences and appeal, they come under a class licence regime, with minimum levels of regulation.
3. Section 17 and 18 of the Act, defines narrowcasting services as broadcasting services whose reception is limited by:
 - being targeted to special interest groups;
 - intended only for limited locations;
 - provided during a limited period of time;
 - because they provide programs of limited appeal;
 - or for some other reason.
4. Subscription narrowcasting services differ from open narrowcasting services in that they are made available only on payment of subscription fees.

(B) GENERAL LICENCE CONDITIONS

1. As narrowcasters operate under class licences they are subject to the conditions provided under Part 7 Schedule 2 to the Act, which covers matters including:
 - a ban on tobacco advertising;
 - a requirement to comply with any applicable program standards approved by the Australian Communications and Media Authority ('**ACMA**')
 - a condition not to use the broadcasting service to commit an offence;
 - requirements to comply with the Act in relation to broadcast of political and electoral material and advertisements relating to medicines; and
 - requirement to keep record of material broadcast.

The relevant sections of Schedule 2 to the Act forms Attachment C to these Codes.

2. The purpose of the Codes is to establish specific obligations for narrowcasters within the self-regulatory framework, in relation to programming, handling of complaints, and where applicable, the classification and placement of programs and customer service.

(C) REVIEW AND AMENDMENT OF CODES

These Codes will be reviewed every three years. Any-review will be undertaken in full consultation with the public and representative organisations.

If any substantive changes to the Codes are necessary, such amendments will be made in consultation with ACMA.

(D) PUBLICISING THE CODES

Narrowcasters will publicise the availability of the ASTRA Codes of Practice at regular intervals in program guides and/or during broadcast time, where appropriate. Providers of subscription services will advise subscribers at the time of subscription that the Codes (including complaint procedures) are available. Copies of the codes will be available to the public on request. The codes are also available on the ASTRA website www.astra.org.au

DEFINITIONS:

“narrowcaster” means the person or organisation providing a narrowcast service as defined in the Act.

"personal information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion (Definition taken from the Privacy Act 1988)

“program” as defined in the Act, and can reasonably be taken to include all programs, promotions, community service announcements etc.

“program promotions” are announcements and previews advertising scheduled programs.

CODE NO. 1

GENERAL GUIDELINES FOR PROGRAMMING

- 1.1 The content of program material and advertisements delivered on narrowcast services will be consistent with standards acceptable to the relevant specific audiences involved.
- 1.2 Narrowcasters will present accurate and fair news and current affairs programs, and where practicable, will ensure that:
 - (a) factual material will be clearly distinguished from commentary, analysis or simulations; and
 - (b) news or events are not simulated in a way that misleads or alarms the audience.
- 1.3 Narrowcasters will not broadcast programs which are likely to incite or perpetuate hatred against or gratuitously vilify any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, transgender status, HIV/AIDS status, religion, age, colour or disability. A narrowcaster may not broadcast a program which is likely in all the circumstances to seriously offend the cultural sensitivity of Aboriginal and Torres Strait Islander people or culturally and linguistically diverse communities in Australia.
- 1.4 Narrowcasters will not broadcast programs that:
 - (a) are designed to induce a hypnotic state in the audience; or
 - (b) use the process known as "subliminal perception" or any other technique that attempts to convey information by broadcasting messages below or near the threshold of normal awareness.
- 1.5 A narrowcaster must not broadcast the words of an identifiable person unless:
 - (a) that person has been informed in advance or is 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, indicated consent to the broadcast of the words.
- 1.6 A narrowcaster will not breach clause 1.2(b), 1.3, 1.4(a) or 1.4(c) if a program includes matter said or done reasonably and in good faith:
 - (a) in broadcasting an artistic work including comedy and satire;
 - (b) in the course of any broadcast or statement, discussion or debate made or held for an academic, artistic or scientific purpose or any other identifiable public interest purpose;
 - (c) in broadcasting a fair report of, or a fair comment on, any event or matter of identifiable public interest.

1.7 Narrowcasters must seek to comply fully with all Codes, but a failure to comply will not be a breach of the Codes if that failure was due to:

- (a) a reasonable mistake;
- (b) reasonable reliance on information supplied by another person;
- (c) an act or failure to act of another person, or an accident or some other cause beyond the narrowcaster's or service provider's control, provided that the narrowcaster or service provider took reasonable precautions and exercised due diligence to avoid the failure;
- (d) an act or failure to act which, in all the circumstances, was clearly peripheral or incidental, and unlikely to offend or materially mislead viewers.

Where it is possible to remedy a failure to comply with the Codes, narrowcasters must do so promptly.

CODE NO. 2

HANDLING COMPLAINTS

- 2.1 In the first instance, complaints should be made to the narrowcaster.
- 2.2 Narrowcasters will make every reasonable effort to resolve complaints except where a complaint is clearly frivolous, vexatious or not made in good faith.
- 2.3 Reasonable effort will be made to deal with a telephone complaint during the course of the telephone call. If that is not possible, the complainant may be asked to make the complaint in writing.
- 2.4 Written complaints will be acknowledged and answered in writing, within sixty days from the receipt of the complaint. If the complainant has not received a response within sixty days they may refer the complaint to ACMA.
- 2.5 A complainant will be advised that they are entitled to refer the matter to ACMA, where they are not satisfied with the response to a telephone or a written complaint.
- 2.6 Narrowcasters will maintain a record of written complaints received, and on request make a summary available to ACMA.

CODE NO. 3

CUSTOMER SERVICE

- 3.1 Subscription narrowcasters will provide written agreements for subscribers which, in “plain language” clearly and accurately indicate:
- (a) the service(s) to be provided;
 - (b) the price of the service(s);
 - (c) contract period and termination provisions, and
 - (d) method of billing and credit management.
- 3.2 **Subscriber Privacy:**
Narrowcaster will collect, use, disclose and store subscribers’ personal information in accordance with the Privacy Act 1988 and the National Privacy principles, as set out in Schedule 3 of the Privacy Act 1988 as amended. These principles are included at Attachment A
- 3.3 Subscribers should initially contact the service provider with questions or disputes about fault repair. In the event that the subscriber is not satisfied with the outcome of discussions, the subscriber will be referred to the relevant consumer advisory service of the state or territory in which the subscriber resides.
- 3.4 Subscribers should initially contact the narrowcaster with questions or disputes about credit management and billing. In the event that a subscriber is not satisfied with the outcome, the relevant consumer advisory service of the state or territory in which the subscriber resides should be contacted for advice. Relevant contact details are included at Attachment B.