

Sponsorship on Community Television

Handbook for Community Television Program Providers

1. Who regulates community television?

Community television operates under a system called “co-regulation”. That means the rules under which it operates are developed jointly by the community television sector and the government regulator, the Australian Communications and Media Authority (ACMA, formerly the ABA).

Key **licence conditions** for CTV are set down by Parliament in the Broadcasting Services Act 1992 (Cth). If these licence conditions are breached, ACMA can impose penalties, including fines and loss of licence.

In addition, the Community Broadcasting Association of Australia (CBAA), in consultation with ACMA and the general public, developed the Community Television **Codes of Practice**.

If any member of the public believes the Codes have been breached, they must first make a complaint in writing to the relevant CTV station. The CTV station must investigate and respond. If the complainant is not satisfied with that response, or the station does not respond within 60 days, they may then take the complaint (in writing) to ACMA.

Complaints about licence conditions may be made directly to ACMA without reference to the station.

ACMA will not investigate a complaint that does not relate to a licence condition or Code violation, or if the complaint is considered trivial or vexatious.

ACMA will consider the information that the person making a relevant complaint has provided, and may then offer the station the opportunity to comment and respond. When it has gathered all the information it needs, ACMA will assess the complaint against the rules. When it has reached a decision, it may publish an investigation report.

The Minister for Communications may direct ACMA undertake an investigation or ACMA may initiate its own investigation into an alleged breach.

2. Why can't community television have advertising?

The Government issues community television licences and commercial television licences for different purposes and with different licence conditions.

When the Parliament legislated for permanent CTV services in 2002, it made it clear that CTV was not allowed to operate as commercial television services. At the same time, it recognised that CTV channels must balance community and non-profit obligations with the need to raise revenue to meet operating costs.

For this reason, CTV stations are allowed to raise revenue through a limited form of "sponsorship"; any announcement for which the program or channel has received payment in cash or in kind ("contra").

CTV Licensees are permitted to run "Sponsorship Announcements" but limited to seven minutes an hour. They must only run before or after programs or during natural program breaks; and must clearly acknowledge that the sponsor has provided financial support.

CTV stations are also allowed to sell up to eight hours of programming a day to profit-making businesses.

3. Broadcasting Services Act 1992 (Cth)

Schedule 2 of the BSA sets down the following licence conditions relating to sponsorship on community television services:

- The licensee must not broadcast advertisements s9(1)(b) Sch 2)
- Stations must provide the service for community purposes (s9(2)(d))
- Stations must not operate the service for profit or as part of a profit making enterprise (s9(2)(e))
- The licensee may broadcast sponsorship announcements for no more than seven minutes in any hour (s9(3)(a) Sch 2)
- Sponsorship announcements may only be broadcast before and after programs or during natural program breaks (s9(4) Sch 2)

Any person whose conduct breaches the condition that the licensee must not broadcast advertisements could be fined by ACMA up to \$5,500 (s 139(4)).

In addition, ACMA can impose stronger penalties for breaching the licence conditions. In the most serious cases, ACMA may **suspend or even cancel** the community television service's licence to broadcast.

4. CTV Code of Practice

Code 6 of the CTV Code of Practice augments the sponsorship conditions set down in Schedule 2 of the BSA . Under this Code, CTV licensees must ensure that:

- 6.1. The licensee retains editorial control and independence in all programming, and shall not enter into any sponsorship arrangements which are likely to affect the independence and integrity of the service.
- 6.2. Sponsorship will not be the sole factor in determining access to broadcast time.
- 6.3. As far as practical, all Sponsorship Announcements will be pre-classified to comply with the current CTVA Commercials Acceptance Division Television Commercials Production Checklist, and will also observe the classification requirements in Code 5.
- 6.4. Licensees will provide a minimum of 53 minutes of program content, including station/program announcements and community service announcements, within any hour of programming.
- 6.5. All sponsors will be clearly recognised as supporters of the program and/or station, and sponsorship messages will be "tagged" as such by:
 - (a) placement of a "sponsor" watermark in a corner of the screen for at least 10 seconds at the beginning of the announcement; or
 - (b) "pull through" text at the bottom of the screen; or
 - (c) a text and spoken word "station/program sponsor announcement" at the beginning or end of one, or a bracket of more than one, sponsorship announcement.
- 6.6. Any support, either financial or in kind, during information-based programming or buying guides, will be clearly indicated at the close of the program.

In addition, if ACMA believes that the Codes of Practice are not providing adequate community safeguards, it has the power to impose additional written standards (s 125 BSA). These written standards will be imposed on every community television station.

5. Why is advertorial not allowed?

Commercial television stations frequently broadcast programs that are full of “advertorial”: that is, where paid advertisements are made to look like editorial content. For example, commercial television programs may visit a particular venue, highlight a product or conduct an interview about a service because they have been paid to do so. This is not permitted under community television’s licence conditions or Codes of Practice.

Advertorial programs breach nearly all of the rules governing sponsorship on community television and are not allowed on CTV channels.

Producers are not permitted to offer their sponsors promotions within the body of their programs. Doing so could lead to the program being investigated by ACMA, causing the program provider and/or the station to be fined, and in the worst case scenario, causing the station’s licence to be suspended or cancelled. At the very least, program providers could be banned from access to CTV stations.

6. What kind of promotional material is allowed and does not count as sponsorship, advertising or advertorial?

Some promotional material does not count as sponsorship or advertising. It can be placed in your program and does not need to be tagged and will not exceed the seven minute hourly limit. The following is “allowable” promotional material:

(i) Community information or promotional material

This is material that promotes a community service or event for which the station or program has not received any payment in cash or in kind. This kind of material does not need to be tagged.

If payment has been received for broadcasting the material, it will count towards the station’s hourly sponsorship limit.

Some examples of community material include:

- Announcements about an appeal by a registered charity, or not-for-profit or volunteer group.
- Announcements that meet the needs of the program’s community of interest, such as an upcoming local festival, or information or events of a cultural, welfare or educational nature.

- Announcements about goods or services where the money raised benefits the community or charitable purpose.

(ii) Station promotions

This is material which promotes the station's services, programs or events. It includes telethons and appeals to support (financially or otherwise) the station.

Examples include: an announcement about promotional events such as The Antennas, on-air competitions run by the station, sale of station merchandise and promotion of upcoming programs.

This material does not need a tag, but if payment has been received, it will count towards the hourly sponsorship limit.

(iii) Advertising material that is accidental or incidental accompaniment to the broadcast of other matter, where there is no payment involved.

The BSA states that material will not be considered advertising where:

- the material of an advertising character is broadcast as an **accidental or incidental accompaniment** to the broadcasting of other matter; and
- no payment in cash or kind is received.

What is meant by accidental accompaniment?

This means the material appeared by mere chance or casually without being planned. If it was deliberately placed in the program in any way, it was obviously not accidental.

What is meant by incidental accompaniment?

This means the material consists of a reference to a product, service, organisation etc merely as a minor part of the broadcast. This casual reference must be one which could be considered likely to occur in the context of the topic being discussed.

ACMA accepts that passing references to businesses and products will occur naturally in programs, during a conversation about another matter and without payment. However, if references to a particular product or organisation occur frequently, it is unlikely to be considered incidental. In this case, it may cross the line and constitute advertising. Note that the definition of advertising is very wide and includes unpaid advertising.

In short, "accidental or incidental accompaniment" is material which has a sound editorial basis for appearing in the program, which does not promote one product

or brand to the exclusion of others, and which has not been specifically paid for by a sponsor.

(iv) Interviews with experts that do not promote a particular product or service

ACMA also accepts that interviews with experts or industry representatives are common to television broadcasting. That expert may represent a particular business. That business could even be a sponsor. In this instance, program providers need to be extremely careful. Any interview must be generic in nature, focusing on the person's area of expertise rather than promoting their product or service.

If the interview turns from being a general discussion to a discussion about a particular product, service or organisation, then the material may constitute an advertisement and breach the station's licence conditions.

7. Case studies

Case study 1:

Michael produces a cooking program. One of his sponsors is a local restaurant. Every week, Michael has a segment set at the restaurant where he interviews the head chef about the menu that week. He ends each segment by telling viewers to visit the restaurant and refers them to the address and website.

This is not allowed. It is primarily a promotion of the restaurant's services. It serves no editorial purpose except to plug the business. It constitutes advertising.

Case study 2:

Sam is a presenter on a Chinese language and cultural program. He tells his co-host: "Last night I went to the Chinese Moon Festival and came across a food stall called Noodle House that served up some wonderful noodles. And then we watched some local dancers who had the most beautiful costumes ..."

This is allowed. This reference to the Noodle House is only a casual, passing reference and it occurs naturally within the context of discussing another matter, the Chinese Moon Festival, and without payment. Therefore, it does not constitute advertising.

Case study 3:

Sarah presents and produces a gardening program. During one segment, she is discussing the best ways of fertilizing your garden. She says, "You need a high phosphate fertilizer, otherwise the tree won't fruit. Brand X is one, but there are many others that are just as good and cheaper in price."

This is allowed. The reference to Brand X occurred only once and it was acknowledged that there were other products that were equivalent and even better value; therefore it was not a gratuitous plug. It took place in the context of another matter and it was not paid for in cash or kind. It does not constitute advertising.

Case study 4:

Marissa produces and presents a program about computing. She has a very high opinion of Apple Macs... Throughout her program, all presenters are shown working on Apple Macs, with prominent close-ups of the brand. Presenters also wear clothing with the Apple brand emblazoned across it. In many segments, Marissa takes the opportunity to tell viewers that Apple Macs are superior PCs.

This is not allowed. Gratuitous product placement with frequent close-ups strays into advertising and compromises the editorial integrity of the program. Marissa's frequent praise for Apple Macs is not accidental or incidental but deliberately placed to plug her sponsor's products as often as possible. The entire program could be seen as constituting advertising.

Case study 5:

John produces a program about cars, sponsored by a local car dealer. During one episode, he interviews the dealer as part of a segment about the effect of rising petrol prices on driving habits. He introduces him by saying, "My guest is Pete Black, a local car dealer with 25 years experience in the industry", and asks his first question. He does not discuss the car dealership, any of the cars they are selling and he does not mention the dealer's business name, website, address or phone number.

This is allowed. It has a clear editorial purpose and the dealer is being interviewed because of his expertise on a particular issue, not as a way of promoting his dealership. The interview does not stray into discussion of the cars he sells or his business. His business is not mentioned, identifying him only as a local car dealer with relevant expertise on the subject. It does not constitute advertising.

Case study 6:

Bill produces a program about ice hockey, and has a number of corporate and sporting sponsors for his show, that give him financial and in-kind support. As a studio based show, Bill has set up his backdrop with clearly visible logos from his sponsors. These logos are visible both in wide shots of the panel, and in close ups of each presenter.

This is not allowed. Bill's placement of sponsor's logo on his backdrop is not "accidental", but a deliberate attempt to promote his sponsor. Bill could easily have changed the background of his set to something neutral that does not constitute advertising. Bill should have kept within the guidelines of referring viewers to his show's website, which can show information and links to his sponsors without breaching any licence conditions or codes of practice.

NB: What about situations where producers have little control over the background? For example, what if a producer attends a press conference of a footballer, who stands in front of a backdrop covered in his own team's logo? Community television producers should do their best to avoid focusing for any length of time on advertisements of this nature, but in this example the shot including logos would be seen as "accidental" (ie. Not planned) and also no payment/in kind support has been received by the producer or the CTV station.

Case study 7:

Miriam produces a show about health and fitness. Miriam interviews a nutritionist for five minutes some new healthy breakfast bars on the market. The nutritionist is one of the show's sponsors, and has previously made a financial contribution to the show. In a five minute interview, Miriam asks the nutritionist about his brand of breakfast bars, and other health care products in the brand's product line. The conversation, rather than concentrating on healthy eating and nutrition, is mainly focused on the health food bars in the nutritionist's product range. At the end of the segment, Miriam gives the nutritionist's website and phone number and encourages viewers to buy the products.

This is not allowed. Miriam, as an interviewer, asked questions mainly about the particular line of health care products, instead of contributing to a general discussion about healthy eating. Miriam also supplied the nutritionist's phone number and web address for viewers to buy the products, and continually endorsed the products. Miriam has also received a financial contribution from this sponsor, and therefore this segment can be perceived as advertorial. The promotional or advertorial nature of this discussion also made up more than a minor part of the segment, so could not be considered "incidental".

REMEMBER: ACMA assesses complaints about advertising on a case-by-case basis, so if you're in doubt, err on the side of caution. **Two community television stations were found to breach licence conditions in 2006, for incidents similar to those outlined in the examples above.** Another station is currently being investigated for a breach of licence conditions. ACMA's recent findings have shown a stringent interpretation of licence conditions, so do not assume that no-one will take notice of small breaches, ACMA will take into consideration issues such as timing (a strict seven minutes of sponsorship announcements are allowed each hour), Penalties can be severe, so **if you think your show may be in breach of licence conditions, check out the resources below and talk to our CTV Co-ordinator.**

8. More information

Want to know more? Check out these resources.

- CTV Code of Practice
<http://www.acma.gov.au/acmainterwr/aba/contentreg/codes/television/documents/ctvcodeofpractice.pdf>
- ACMA (then ABA) sponsorship guidelines for community television
http://www.aba.gov.au/newspubs/radio_TV/licensing/documents/guidelines.pdf
- Contact the CBAA's CTV Co-ordinator, [Laura Kelly](#), phone 03 9660 3120, for individual advice.