

Investigations ...

regard to this clause in determining the suitability of the segment in question for broadcast during a G classification zone.

The ABA found a breach of section 2.7 of the code which states,

Licensees may broadcast a news or current affairs program containing visual or aural material which, in the licensee's reasonable opinion, is likely to seriously distress or offend a substantial number of viewers only if there are identifiable public interest reasons for broadcasting the material and if adequate prior warning is given to viewers. (see Clause 2.25)

Nine News

Complaint

The ABA received a complaint about a segment contained in the six o'clock evening news bulletin broadcast by TCN Channel Nine Pty Ltd (Channel Nine). The bulletin contained a news item about a murder victim which used a photograph of the wrong person as the murder victim.

The complainant alleged that the news item breached the following sections of the FACTS Code:

4.3 In broadcasting news and current affairs programs, licensees:

4.3.1 must present factual material accurately and represent viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program;

4.3.2 must not present material in a matter which creates public panic;

4.3.5 must not use material relating to a person's personal or private affairs, or which invades an individual's privacy, other than where there are identifiable public interest reasons for the material to be broadcast.

Relevant codes

Also relevant to this matter are the following codes:

1.3. Licensees must endeavour to comply fully with the Code, but a failure to comply will not be a breach of the Code if that failure was due to:

1.3.1 a reasonable mistake;

The ABA did not uphold that part of the complaint referring to sections 4.3.5

because:

■ the program contained visual material which, in the licensee's reasonable opinion was likely to offend a substantial number of viewers; and

■ the extent of the display of nudity and titillation was not warranted in the public interest.

The ABA found a breach of section 4.1.2 of the code is intended to ensure that 'news and current affairs programs are presented with due care, having regard to the likely composition of the viewing audience at the time of broadcast (and, in particular, the presence of

and 4.3.2 of the FACTS Code for the following reasons:

■ whilst Channel Nine had erred in presenting the wrong photograph in the news item, the ABA did not consider this to amount to an invasion of privacy as the broadcast of the photograph of the wrong person did not reveal material relating to that person's personal or private affairs (4.3.5); and

■ the distress caused as a result of the broadcast of the incorrect photograph, while creating anguish for the relatives involved, did not amount to public panic (4.3.2).

Accuracy

The ABA is aware that there are occasions when, in the compilation of news stories, errors are made. These may be due to time constraints, or reliance on information provided by another person involved in an event. However, for a commercial television broadcaster to comply with section 4.3.1 of the FACTS Code, the ABA expects that the news compilation process be thoroughly conducted and that all reasonable steps are taken to ensure the accuracy of an item's visual and audio content.

In this case the correct photograph was pointed out to the news cameraman. However, additional material adjacent to the photograph was also filmed. The ABA expects that, where additional information is gathered, whether it be in the form of pictures or sound, appropriate steps are taken to verify the

children)' because the licensee failed to present the segment in question with due care, having regard to the likely composition of the viewing audience at the time of broadcast and given the nature and frequency of the sequences shot on board the boat.

The network advised that the ABA's report will be circulated to all news directors and 'Today Tonight' producers within the network in order that they be aware of the ABA's decision.



accuracy of the material. Such steps would ensure that correct photograph material is used in the production of a news item.

Reasonable mistake

When determining what constitutes a reasonable mistake pursuant to section 1.3.1 of the FACTS Code, the ABA applied an objective test. The intention of the broadcaster is not determinative. Instead, the ABA considers the circumstances of the particular case and determines whether an ordinary and reasonable broadcaster would have made the mistake. A reasonable broadcaster, when reporting crime such as murder, would be particularly sensitive to the impact of a news item on victims and their families. In this regard, the ABA expects a high degree of care to be exercised in the selection and broadcast of visual images accompanying a news item.

The ABA found that the broadcast of the incorrect photograph failed to comply with section 4.3.1 of the FACTS Code.

The Report of Investigation was circulated in the Channel Nine news room and journalists were instructed to take even greater care in identifying persons accurately and with appropriate sensitivity. ☐