



This is the second quarterly summary of investigations by the ABA into unresolved complaints and of complaints made to the Federation of Australian Commercial Television Stations and the Federation of Australian Radio Broadcasters.

Investigating programming issues

Under the *Broadcasting Services Act 1992*, each broadcasting industry sector is required to develop codes of practice applicable to the broadcasting operations of its section of the industry. The ABA supervises the operation of the codes and performs the role of an independent adjudicator where complaints are not resolved between the complainant and the broadcaster concerned.

The ABA publishes quarterly summary tables of its investigations into unresolved complaints and complaints about possible breaches of the Act or licence conditions.

This edition of *ABA Update* also contains, with the cooperation of the Federation of Australian Commercial Television Stations (FACTS) and the Federation of Australian Radio Broadcast-

ers (FARB), their quarterly reports of the number and substance of complaints made directly to the commercial broadcasters.

The complaints process

Under codes of practice, primary responsibility for the resolution of complaints rests with the broadcasters themselves. The Act lays down a general procedure for complaint handling whereby complainants are required to approach the broadcaster first, who in turn is obliged to respond. However, if a complainant does not receive a response within 60 days, or considers the response received to be inadequate, the matter can be referred to the ABA for investigation. The ABA refers to these as unresolved complaints

and must investigate complaints so made.

Complaints in relation to possible breaches of the formal program standards (children's television standards, Australian content etc.) and condition of licence may be made directly to the ABA. That is, complainants are not obliged to contact the broadcaster first.

The ABA may make a finding that a broadcaster has breached a code of practice or a broadcaster may admit a breach of a code. Breaches of the codes are not breaches of the Act, although the ABA may make compliance with a code a condition of licence. Generally the ABA seeks to ensure that broadcasters take action to remedy breaches or to put in place procedures to ensure they do not recur.

Investigations by the ABA into unresolved complaints completed in the quarter ended 31 December 1996.

Breaches found 1-10-96 to 31-12-96

Number of ABA investigations resulting in breaches: 13

- ABA investigation, breach decision 11
- breach admitted by licensee 2

Investigations completed by the ABA: October - December 1996: Breach finding

| <i>Callsign</i> | <i>program/ advertisement/issue</i> | <i>substance of complaint</i> | <i>relevant code/program standard/ licence condition</i> |
|-----------------|---|--|--|
| TCN 9 Sydney | The Today Show | Dissatisfied with response to complaint. | Complaint handling |
| TVI Tasmania | News | Network did not respect embargo on broadcasting name deceased. | Use of material relating to person's of personal/private affairs. |
| SAS 7 Adelaide | Agro's Cartoon Connection | Commercial content. | Distinguishing program material from commercials; exercising care with commercials directed to children. |



| <i>Callsign</i> | <i>program/ advertisement/issue</i> | <i>substance of complaint</i> | <i>relevant code/program standard/ licence condition</i> |
|---------------------------------|--|---|--|
| Continued | | | |
| RTQ 9 Rockhampton. | News | Failure to respond to complaint | Complaint handling |
| IMP Northern Territory | Advertisement | Broadcasting an election advertisement during 'blackout' period. | Broadcasting of election advertisement during 'blackout' period. * |
| SPN Sydney | Better Gay Sex | Broadcasting of offensive and pornographic material. | Unauthorised use of a transmitter * |
| 2MW Murwillumbah | Australia Tonight | Announcer vilified and incited hatred against homosexuals. | Vilification and incitement of hatred; presentation of significant viewpoints; retention of audio tapes. |
| 3AW Melbourne | Paul Barber | Viewpoint misrepresented during on air interview; failure to respond adequately to complaint. | Misrepresentation of viewpoints; complaint handling. |
| 6PPM Perth | Morning Program | Dissatisfied with response to complaint. | Complaint handling. |
| 4EB Brisbane | Sponsorship announcements on community radio | Sponsorship announcements exceeded four minutes per hour. | Sponsorship announcements; no advertisements on community radio. * |
| Western Visitor Radio, Dubbo | General program content | Providing a service of broad rather than narrow appeal. | Apparatus licence specifies that service must be low power open narrowcasting. * |

All breaches were of a code of practice unless otherwise indicated

* breach of licence condition

Investigations completed by the ABA October - December 1996: Breach admitted by the licensee

| <i>Callsign</i> | <i>program/ advertisement/issue</i> | <i>substance of complaint</i> | <i>relevant code/program standard/ licence condition</i> |
|-----------------|---|--|--|
| ATN 7 Sydney | News | Failure to respond adequately to complaint | Complaint handling. |
| TCN 9 Sydney | News | Failure to respond to complaint. | Complaint handling. |

In the period 1 October to 31 December 1996, nine ABA investigations resulted in finding breaches of industry codes of practice, one in a breach of both an industry code of practice and a condition of broadcasting licence, one in a breach of a condition of broadcasting licence and two in a breach of a condition of apparatus licence. Two of the 13 breaches were admitted by the station concerned before the ABA finalised its investigation.

Of the 11 investigations where the ABA decided a breach had occurred, five related to commercial television, three to commercial radio, one to community radio and two to an open narrowcaster broadcasting under a class licence. The 11 investigations covered nine issues: complaints handling (four instances across two sectors); use of material relating to a person's personal and private affairs, commercials during a children's program, broadcasting an election advertisement during a 'black-

out' period, vilification and incitement to hatred, presentation and misrepresentation of viewpoints, retention of records of broadcast matters, advertising on community radio, a narrowcaster providing programs of broad rather than narrow appeal, and operating a transmitter otherwise than as authorised by an apparatus licence.

The four instances of breaches in complaints handling were: one each for commercial television stations TCN 9 Sydney and RTQ 9 Rockhampton; and one each for commercial radio stations 3AW Melbourne and 6PPM Perth.

In relation to complaints handling breaches, the management of the stations concerned have reviewed and improved complaints handling procedures since the incidents complained about, as follows:

1. TVT (WIN):

- conducted workshops for news staff regarding the requirements of the code;
- introduced tighter controls by the

News Editor over coverage of all news stories involving fatalities; and

- now issues all new staff with a copy of the code.

2. SAS 7, 'Agro's Cartoon Connection':

- the Seven network implemented new policies for the presentation of sponsored segments and the promotion of 0055 telephone numbers associated with competitions during the program.

3. Imparja Television:

- the ABA, whilst regarding the breach as a serious one, was satisfied that the breach was not intentional and noted that Imparja had implemented a system to ensure that a similar breach did not occur again.

4. SPN Sydney:

- the ABA determined that as the service provider who was responsible for the broadcast in question was in liquidation by the time its investigation report was finalised no further action would be taken.

Your say

5. 2MW, 'Australia Tonight':

- station management terminated the employment of the announcer who had made the comments later found to be in breach of the code.
- the licensee arranged for relevant programming and administrative staff to be addressed by a legal representative regarding the requirements of both the code and the Act.

6. 3AW, 'Paul Barber' show:

- the ABA noted that this was the first time that 3AW had been found to be in breach of this section of the code and that the announcer who had con-

ducted the interview which resulted in the breach finding had had his employment at 3AW terminated early in 1996.

7. 4EB broadcast of advertisement:

- the station undertook to advise all on air broadcasters of this finding and to instruct them to cease such announcements forthwith.

8. Western Visitor Radio:

- as a result of the ABA's findings the station made substantial changes to the content of its live-to-air programming:
 - reducing the music and comedy component;

- dropping all news bulletins and non-tourist oriented advertisements; and
- identifying the station on air as a tourist radio service.

In all of the above cases, the ABA was satisfied with the action taken by the various licensees as a result of the ABA's findings and decided not to take any further action.

It should be noted that some of these breach findings relate to incidents which occurred well before the reporting period and should not be seen as indicative of any trend in that period.

Investigations completed by the ABA October - December 1996: No breach finding

| Call sign | program/ advertisement/issue | substance of complaint | relevant code/program standard/ licence condition |
|--|---|--|--|
| National broadcasters | | | |
| ABC TV | Lateline | Inaccurate reporting and failure to provide substantive response to complaint. | News/current affairs - accuracy, complaints handling. |
| SBS TV | House Call/1900 | Promotions were offensive and exploited women. | Classification and portrayal of women. |
| Commercial television | | | |
| GTV 9 Melbourne | A Current Affair | Presentation of only one side of argument; failure to respond to complaint. | News/current affairs - impartiality, complaints handling. |
| GTV 9 Melbourne | The Footy Show | Segment ridiculed disabled people. | Stir up severe ridicule on the basis of mental disability. |
| TCN 9 Sydney | 60 Minutes | Bias against shooters. | News/current affairs - accuracy & fairness. |
| HSV 7 Melbourne | today tonight | Interview edited to give false impression. | News/current affairs - accuracy & fairness. misrepresentation of viewpoints. |
| TWV 7 Perth | News | Inaccurate reporting. | News/current affairs - accuracy. |
| TWV 7 Perth | The Man Who Made Husbands Jealous (promotion) | Movie promotion shown in 'G' time showed nudity and sexual activity. | Promotions in 'G' viewing period. |
| BTQ 7 Brisbane | Rising Sun | Movie contained graphic sexual scene. | M - sex and nudity. |
| ATN 7 Sydney | Who Dares Wins | Failure to respond to telephone complaints. | Complaints handling. |
| SSW Albany | Classic Choc Milk (advertisement) | Reference to drug use. | M - drug use. |
| WIN Southern NSW | A Current Affair | Failure to present material accurately. | News/current affairs - accuracy & fairness. |
| TNQ 10 Townsville | News | Unsatisfactory response to complaint. | Complaints handling. |
| Commercial radio | | | |
| 4KZ Brisbane | Gary Beatty | Response to complaint was dismissive. | Complaints handling. |
| 2UE Sydney | John Laws | Objectionable comments re homosexuals; inadequate response to complaint. | Offensive language; gratuitous vilification; complaints handling. |
| 2MMM Sydney | Erotica USA | Use of offensive material. | Unsuitable for broadcast. |
| Community radio | | | |
| 2000 FM Sydney | Management | Denial of access to Filipino radio group. | Access / community participation. * |
| 4ZZZ Brisbane | Not specified | Frequent use of four-letter words. | Offensive language. |
| Open narrowcasting radio | | | |
| Information Radio 88FM Razorback | Technical | Excessive transmitter power. | Apparatus licence technical specifications* |

All potential breaches of a code of practice unless otherwise indicated:

* potential breach of licence condition



Complaint handling by commercial television stations

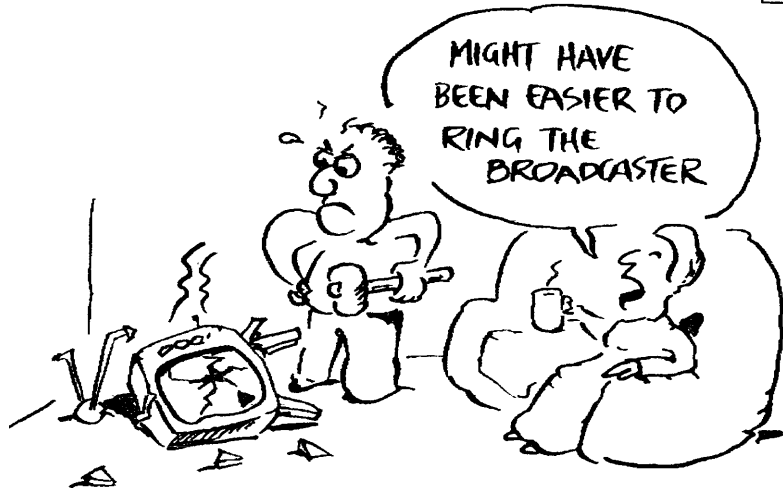
The Commercial Television Industry Code of Practice requires each commercial television broadcaster to report to FACTS, within 15 working days of the end of each quarter, the number and substance of written complaints alleging specific breaches of the code. FACTS provides a consolidated report to the ABA.

The figures and summaries below were provided to the ABA by FACTS. They cover the final quarter of 1996.

October - December 1996

Commercial television stations reported 242 written complaints relating to matters covered by the code of practice in the final quarter of 1996.

The number of complaints about sex and nudity was down, although as a proportion of all complaints they rose to almost fifty per cent. Complaints about bias, discriminatory references and violence remained largely unchanged. Complaints about language continued to decline.



Regarding the programs attracting a substantial number of complaints in the December quarter, the largest number of complaints (43) was about the content and scheduling of the program 'Sex/Life' at 8.30 p.m. on the Ten network, whilst promotions for 'sex/life' attracted a further 13 complaints. There were 33 complaints of cruelty to animals in a segment of the Nine network's 'Australia's Funniest Home Video Show'. The scheduling of the Nine network's Australian serial drama 'Pacific Drive' at 3.30 p.m. on weekdays attracted 10 complaints.

In six instances a station agreed that a

complaint identified a breach of a code provision. They were:

- unfair representation of views in a 'Sixty Minutes' report on alleged sexual assaults on children by members of the Christian Brothers Order (three complaints);
- program promotion for the movie *Hard Target* on TEN Victoria too violent for G time (one complaint);
- use of a gun in a G program promotion for the Seven network 'Today Tonight' program (one complaint); and
- failure to respond promptly to a code complaint by TCN 9 (one complaint).

In the previous quarter, 23 complaints were upheld by the station concerned.

Complaints made to commercial television stations about programs: October - December 1996

| | Sex/Nudity | Language | Violence | Classification | Bias/Inaccuracy | Privacy | Trauma | Discrimination | Comm. Content | Comm. Placement | Closed Caption | Complaint Handling | Total | % All Complaints |
|-----------------|-------------|------------|-------------|----------------|-----------------|------------|------------|----------------|---------------|-----------------|----------------|--------------------|--------------|------------------|
| Children's | 5 | | 1 | | | | | | 1 | | | | 7 | 2.9 |
| Comedy | 22 | 2 | 19 | 1 | | | | 3 | | | | | 47 | 19.4 |
| Current Affairs | | | 2 | 1 | 34 | | 1 | 8 | | | | 1 | 47 | 19.4 |
| Documentary | 3 | | 1 | | | | | | | | | | 4 | 1.7 |
| Drama Series | 18 | | 4 | | | | | | | | | | 22 | 9.1 |
| Game | | | | | | | | | | | | | 0 | 0.0 |
| Information | 51 | | | | | | | 4 | | | | | 55 | 22.7 |
| Movies | 5 | | 2 | 1 | | | | 1 | | 1 | | | 11 | 4.5 |
| Music Video | | | | | | | | | | | | | 0 | 0.0 |
| News | | | | 1 | 6 | | 3 | 5 | | | | | 15 | 6.2 |
| Sport | | | | | | | | 1 | | 1 | | | 2 | 0.8 |
| Variety | | | | | | | | 1 | | | | | 1 | 0.4 |
| Unspecified | 1 | | | | | | | | 1 | 2 | 1 | | 5 | 2.1 |
| Promos | 12 | | 6 | 8 | | | | | | | | | 26 | 10.7 |
| Total | 117 | 2 | 35 | 12 | 40 | 0 | 4 | 23 | 1 | 5 | 2 | 1 | 242 | 100.0 |
| % All | 48.3 | 0.8 | 14.5 | 5.0 | 16.5 | 0.0 | 1.7 | 9.5 | 0.4 | 2.1 | 0.8 | 0.4 | 100.0 | |
| Complaints | | | | | | | | | | | | | | |

Drama Series includes Serials

Source: FACTS Commercial Television Industry Code of Practice. Complaints Summary December Quarter 1996

Your say

Complaint handling by commercial radio

The Commercial Radio Codes of Practice & Guidelines requires each commercial radio broadcaster to provide FARB with an extract of the record of complaints received. FARB provides a consolidated report to the ABA.

The figures and summaries below were


provided to the ABA by FARB. They cover the final quarter of 1996.

October - December 1996

Member stations recorded 305 complaints during the final quarter of 1996. As with previous quarters, complaints in relation to 'Talkback and Discussion' continue to dominate the number of complaints received under the codes.

The previous quarters results are available in the December issue of ABA Update. Back copies of this issue and others are available from the ABA, price \$5. Earlier results are in the 1995 and 1996 editions of Your Say. A review of audience concerns about Australia's broadcast media, price \$10 each. Call (02) 9334 7700 or 1800 226 667 for your copies.

| | <i>Talkback and Discussion</i> | <i>News and Current Affairs</i> | <i>Music Programs</i> | <i>Advertising</i> | <i>Miscellaneous</i> | <i>Total</i> |
|----------------------|--------------------------------|---------------------------------|-----------------------|--------------------|----------------------|--------------|
| Offensive Matters in | 77 | 2 | 9 | 11 | 6 | 105 |
| Prohibited Matter in | 1 | | | | | 1 |
| Other Complaints | 82 | 20 | 15 | 10 | 72 | 199 |
| Total | 160 | 22 | 24 | 21 | 78 | 305 |

Source: FARB Commercial Radio Codes of Practice: Complaints Summary December Quarter 1996 

Investigations

'sex/life', Ten network

Complaint

The ABA commenced an investigation into 'sex/life' last year after a viewer was dissatisfied with Ten's response to her complaint about the program. The complainant considered the program to be pornographic and because of its content, to be broadcast too early in the evening when children may still be in the audience.

As the complaint did not relate to a particular episode, the ABA reviewed four episodes of the program broadcast in August and September 1996. The episodes reviewed were all classified 'M', for mature audiences, were broadcast after 8.30 p.m. and commenced with warnings that the program contained 'Sex scenes, Adult themes and Nudity'.

Relevant codes and legislation

Section 149 of the Act requires the ABA

to investigate the complaint unless it is satisfied that the complaint is frivolous, vexatious or not made in good faith. The ABA must notify the complainant of the results of such an investigation.

Section 2.14 of the commercial television industry code of practice relates to material classified 'M'. Specifically, section 2.14.2 of the code relates to the portrayal of sex and nudity in 'M' classified programs and provides:

Intimate sexual behaviour may only be implied i.e. at most, inexplicitly simulated. It must be relevant to the story line or program context.

Portrayal of nudity must be relevant to the story line or program context.

Decision

The ABA considered the program in the context of the codes classification criteria. Discussion of sex and sexuality is not prohibited by the code and is appropriate to a program designed for and directed at adults.

However, the ABA found that one segment of the episode of 'sex/life' broadcast on 19 September 1996 had breached the code in that it was not consistent with the 'M' classification criterion for portrayal of sex and nudity.

The particular segment, concerning 'Swingers Parties', included vision of intimate sexual behaviour which in the opinion of the ABA was not 'inexplicitly simulated' as the code requires. While the relevant sequences are relatively brief and depict sexual foreplay, the ABA is of the view that they are not consistent with the classification for 'M' programs.

Action taken

The ABA intends to meet with representatives of the Ten network in the near future to discuss classification issues arising from the investigation of the 'sex/life' program. 