



**The ABA has found TCN Channel Nine has exceeded the advertising limits set out in the Commercial Television Industry Code of Practice.**

## Channel Nine exceeds advertising limits

**T**he ABA has found that TCN Channel Nine Pty Ltd, licensee of commercial television station TCN Sydney, has breached the Commercial Television Industry Code of Practice in relation to the amount of non-program matter scheduled to be broadcast.

'Advertising is the life blood of commercial television broadcasting. But this has to be balanced, as far as is reasonably possible, with the viewers' wish to see programs uncluttered by excessive advertising,' said Professor David

Flint, ABA Chairman. 'The code, registered with the ABA, imposes firm limits on the scheduling of advertising. I stress that the limits are on the amount of advertising scheduled, not that broadcast.'

'This investigation reveals that there are different interpretations of the code, which result in confusion and misunderstandings. Neither the public, nor the broadcasters who wish to compete fairly with one another, are well served by this. The relevant part of the code will have to be reviewed to clarify these

matters,' Professor Flint added.

In response to a complaint from the Seven network, the ABA investigated TCN's scheduling of non-program matter over 17 nights in April and May of this year. The ABA's investigation focussed on non-program matter scheduled between 6 p.m. and midnight (the six hour period regarded by the code as 'prime-time').

The ABA found that on each of the nights investigated TCN exceeded the amount of scheduled non-program mat-

ter allowable under the code. The excess resulted from either scheduling an average of more than 13 minutes per hour and/or scheduling more than 15 minutes in any one hour. The ABA found a total of 27 breaches of the code over the 17 nights.

The ABA is particularly concerned by two incidents where TCN incorrectly regarded segments of a clearly commercial nature as community service announcements.

Nine Network Australia Pty Ltd, responding on behalf of TCN, acknowledged some

### Commercial television code of practice

#### Scope

5.2 This section sets limits for non-program matter scheduled, as distinct from non-program matter actually broadcast. This is intended to avoid the need for complex exemption provisions when operational problems (e.g. unpredictable program segment lengths in live programs) make it difficult for licensees to comply with an 'as broadcast' clock hour requirement without compromising high quality program presentation. It is not intended to allow increased levels of non-program matter, and may not be interpreted by licensees in that way. Nothing in this Section relates to the classification of non-program

material, which is dealt with in Section 2: Classification, and Section 3: Program Promotions. 5.3 In this Section, non-program matter comprises: 5.3.1 spot commercials, namely advertising for products, services, beliefs or courses of action which is scheduled within program breaks or between programs, or by full-frame visual superimposition on a program, and for which licensees receive payment or other valuable consideration. This includes bonus and make-good advertisements, but excludes community service announcements, announcements on behalf of election authorities and sponsorship announcements

before and after a program or program segment.

5.3.1.1 community service announcements are announcements which promote a charitable cause or activity or which constitute a public service, and which are broadcast free-of-charge by a licensee.

5.3.2 Program promotions. These include station identifications and program line-ups which contain more than 10 seconds of visual material from any program for which the licensee holds television rights, but exclude voice-over program promotions transmitted during the closing credits of a program, or superimposed text occupying only part of the screen.

#### Hourly Limits

5.4 Subject to paragraph 4 of this Section, on any day licensees may schedule on average in each hour up to:

5.4.1 between 6.00pm and midnight, 13 minutes of non-program matter;

5.4.2 at all other times - other than in 'P' or 'C' periods - 15 minutes of non-program matter.

5.5 In any hour, licensees may (provided that the averages in 5.4 are satisfied) schedule the following amounts of non-program matter:

5.5.1 between 6.00 p.m. and midnight - up to 15 minutes per hour, but with no more than 14 minutes scheduled in any four of those hours;





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## New radio services for Gunnedah, Moree and Narrabri

breaches and accepted the ABA's findings in respect of others. Nine has assured the ABA that it will take steps to limit the likelihood of further breaches occurring.

### Code of practice

The Code of Practice was developed by the Federation of Australian Commercial Television Stations pursuant to section 123 of the *Broadcasting Services Act 1992*.

Section 5 of the code covers the time allowed to be occupied by non-program matter.

5.5.2 at all other times—up to 16 minutes.

5.6 In 'P' and 'C' periods scheduled in accordance with the Children's Television Standards:

5.6.1 no commercials may be broadcast in any 'P' period;  
5.6.2 each 30 minutes of a 'C' period may contain no more than 5 minutes of commercials and one minute of 'G'-classified program promotions or station identification.

Copies of the investigation report are available from the ABA, price \$10. The report is also available on the ABA's web site, [www.aba.gov.au](http://www.aba.gov.au).

The ABA has made FM channels available for five new radio services in the Gunnedah and Moree regions of New South Wales.

Channels have been made available for three new community radio services, one each in Gunnedah, Moree and Narrabri. A channel for a high power open narrowcasting service has been made available in Gunnedah and a channel for a medium power open narrowcasting service has been made available in Moree.

The licences for the community radio services in Gunnedah and Moree will not be available for allocation for at least two years. This will give existing aspirant groups the opportunity to consolidate and new aspirant groups time to emerge.

The timing for the licence allocation of the open narrowcasting service in Gunnedah is dependent on the community radio service in Tamworth, 2YOU, changing frequency.

The ABA's decisions are contained in its final licence area plans for radio in Gunnedah and Moree.

### Community radio

Narrabri Shire Community Radio Inc. has expressed inter-

est in providing a community radio service in Narrabri and 2RPH has expressed interest in providing services in both Gunnedah and Moree.

The ABA has decided to delay allocation of the Gunnedah and Moree community radio licences for at least two years to allow time for RPH to obtain funding and to also allow for new groups to emerge. Any new community radio licences will be made available by means of a merit-based allocation process.

### Open narrowcasting

NSW Race Narrowcasts Pty Ltd has expressed interest in providing open narrowcasting radio services in Gunnedah and Moree.

The licence for an open narrowcasting service in Gunnedah will be available for allocation after 2YOU Tamworth changes frequency.



The ABA expects to finalise the Tamworth LAP in the near future.

All the licences made available for open narrowcasting services will be allocated via a price-based allocation system.

### National radio

The licence area plan for Moree reserves spectrum capacity for the existing four national radio services operating in the Upper Namoi. Goondiwindi, Lightning Ridge and Walgett each have ABC Radio National and ABC Regional Radio transmitted locally.

Details of the radio licence area plan for Gunnedah and Moree are available for viewing at local public libraries, or can be obtained from the ABA by calling Freecall 1800 810 241.