



The ABA's *Annual Report 2001-02* shows there were 91 breaches of codes of practice, licence conditions or the *Broadcasting Services Act 1992* by broadcasters in the 2001-02 financial year.

Broadcasting breaches down by 36%

There were 93 breaches of codes of practice, licence conditions or the *Broadcasting Services Act 1992* by broadcasters in the 2001-02 financial year, according to the ABA's Annual Report tabled in Parliament on 23 October 2002.

The total number of breach findings was 36 per cent lower in 2001-02 than in the previous financial year, when 142 breaches were found.

Of the 93 breaches in 2001-02, there were 71 breaches of the various broadcasting codes of practice, 20 of licence conditions (compared with 15 in 2000-01), and two of the Act (compared with four in 2000-01).

Thirty-four of the 93 code of practice breaches were committed by commercial television stations (22 less than last year). Seven of these (20 per cent) involved the failure of licensees to handle viewers' complaints in accordance with code requirements. This is 10 per cent fewer than the total for commercial television in 2000-01.

Commercial radio licensees were found to have breached

their code on five occasions, compared with 36 in the previous reporting period. Twenty-nine of the 36 breaches in 2000-01 related to the final breach findings made in the Commercial Radio Inquiry.

The ABA found 25 breaches of the community broadcasting codes of practice, nine more than in 2000-01. Conflict resolution has emerged as the most problematic area in these codes.

The ABA is concerned about the operation and adequacy of the community radio code provisions concerning dispute resolution. The four investigations conducted during the reporting period into dispute resolution have highlighted deficiencies in the code that the sector is addressing during the current review of its code of practice.

There were six breaches of the ABC Code of Practice, three relating to television and three to radio, compared to 14 in 2000-01. Five of these breach findings related to the manner in which the ABC had handled complaints.

The ABA found one code breach in relation to subscrip-

tion broadcasting television (pay TV) and none in the previous reporting period.

There were no breach findings regarding the SBS Code of Practice.

The ABA found 18 breaches of licence conditions. Of these, 16 related to community radio, one to commercial television (the broadcast of a tobacco advertisement) and one to

Table 1 Investigations resulting in breach findings

Investigations summary	2001-02	2000-01
Investigations started	120	148
Investigations completed	162	156
Breaches		
Code of practice	71	123
Licence condition	20	15
Broadcasting Services Act	2	4
Total	93	142

Note: five investigations did not proceed to a finding. Four complaints were withdrawn and the ABA decided not to proceed in one instance.

Table 2 Code breaches (by type of service)

Service	2001-02	2000-01
Commercial television	34	56
Commercial radio	5	36
Community radio	25	16
SBS TV	-	1
ABC TV	3	10
ABC radio	3	4
Subscription broadcast TV (pay TV)	1	-
Total	71	93



commercial radio (political matter not correctly identified). Of the 16 community radio breaches, 12 related to the licence condition prohibiting community licensees from broadcasting advertisements. In the previous reporting period, six breaches related to this condition.

There were two breaches of the Broadcasting Services Act, one related to a temporary community broadcaster exceeding

its licence period and the other related to the provision of a community service without a licence.

In total, the ABA completed 163 investigations in the 2001–02 financial year, an increase of four per cent over the previous year. The average time taken for the ABA to complete investigations was similar to the previous reporting period at approximately 11 weeks.

Table 3 Licence condition breaches (by type of service)

Service	2001–02	2000–01
Commercial television	3	4
Commercial radio	1	1
Community radio	16	7
Open narrowcast radio	–	1
Subscription broadcast TV	–	2
Total	20	15

Table 4 Broadcasting Services Act breaches (by type of service)

Service	2001–02	2000–01
Subscription broadcast TV	–	1
Open narrowcast radio	1	3
Community radio (TCBL)	1	–
Total	2	4

The complaint process

The complaint process administered by broadcasters and the ABA is laid down in the Broadcasting Services Act.

If the ABA receives a complaint that there has been a breach of the Act or of a licence condition, it immediately begins an investigation.

The Act requires that complaints from viewers and listeners about program content matters that are covered by a code of practice be directed in the first instance to the broadcaster concerned. It is the broadcaster's responsibility to deal with the complaint and to resolve it to the satisfaction of the complainant.

If a station fails to respond to a written complaint within 60 days, or if the complainant believes the response to be inadequate, the complainant has the right to take the matter to the ABA for investigation. The ABA is obliged to investigate these unresolved complaints.

As part of its investigation procedure, the ABA seeks a report from the broadcaster on its own investigation into the unresolved complaint.

A breach of a code of practice is not a breach of a licence condition or of the Act. The ABA may make compliance with a code a condition of a broadcaster's licence, but the code is intended to be an integral part of a self-regulatory process. The ABA's response to a breach of a code is to work with the broadcaster to ensure that the broadcaster concerned rectifies problems with its performance against the code. The ABA has the power to make compliance with a code a licence condition where it considers this appropriate.

Complaints received by the ABA

Although under the codes of practice for the various sectors of the broadcasting industry primary responsibility for the resolution of complaints rests with the broadcasters themselves, many members of the public contact the ABA directly with complaints about radio and television. These complainants are informed of the complaint procedure and directed to the relevant broadcaster. (See also pp.13–17).



Printed copies of the ABA's *Annual Report 2001–2002* are available on request: tel 9334 7700; 1800 226 667 or email: info@aba.gov.au It is also available on the ABA website: www.aba.gov.au/abanews/annRpt/an01-02/index.htm