

Under the Broadcasting Services Act each broadcasting industry sector is required to develop codes of practice applicable to the broadcasting operations of its section of the industry. The ABA monitors the operation of these codes and performs an independent adjudicator role where complaints are not resolved between the complainant and the broadcaster concerned. This quarterly series is compiled by Trish Cohen, ABA Investigations section.

# ABA investigations into programming matters

## **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, Australian content and commercial radio), of the Act itself and of licence conditions 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.

In the period 1 April 2002 to 30 June 2002, nineteen investigations completed by the ABA resulted in twenty-five breaches being found of a code of practice, a licence condition or the Act.

Of the nineteen investigations where the ABA found that a breach had occurred, nine related to commercial television, three to temporary community radio, two to commercial radio and one each to community radio, ABC radio, ABC television, subscription television and narrowcast radio. The twenty-five breaches covered eleven broad issues. These were complaints handling (seven), conflict resolution at community radio stations (five) accuracy in current affairs programs on commercial television (four), correction of factual errors (two), program content on commercial radio (two), unfair representation of viewpoints, unfair identification of a person as representing a group and privacy in current affairs programs on commercial television, program classification on commercial television, and providing a community broadcasting service without a licence.

### *Investigations by the ABA into unresolved complaints completed in the quarter ended 30 June 2002*

Number of ABA investigations finalised in the quarter:	47
investigations where a breach was found	19
investigations where no breach was found	28



# Your Say

## Breach finding

### Investigations completed by the ABA April – June 2002:

<i>Callsign</i>	<i>Program/advertisement/ issue</i>	<i>Substance of complaint</i>	<i>Code/section of the Act applicable to breach finding</i>
<b>Commercial television</b>			
TCN 9 Sydney	<i>60 Minutes</i>	Inaccurate presentation; and failure to correct errors in relation to the tactics used by Palestinians in the conflict with Israel.	Inaccurate presentation of factual material; and correction of significant errors of fact at earliest opportunity in current affairs.
TCN 9 Sydney	<i>Sunday</i>	Inaccurate presentation of facts in item concerning Sri Lankan High Commission; complaints handling.	Inaccurate presentation of factual material in current affairs.
TCN 9 Sydney	<i>A Current Affair</i>	Alleged use of hidden camera and recording equipment to record footage broadcast.	Use of material relating to a person's private affairs which was not in the public interest.
TCN 9 Sydney	<i>A Current Affair</i>	The report was a one-sided version that favoured a patient's claim about treatment by a plastic surgeon.	Fair representation of viewpoints; and unfair identification of a single person when commenting on the behaviour of a group.
TCN 9 Sydney	<i>News</i>	Failure to broadcast a correction after notification concerning a news poll.	Inaccurate presentation of factual material in news; and correction of significant errors of fact at the earliest opportunity.
GTV 9 Melbourne	<i>A Current Affair</i>	Inaccurate presentation; invasion of privacy; viewpoints not represented fairly; failure to correct errors; and complaints handling.	Advise telephone complainants of option to put complaint in writing in relation to code.
SAS 7 Adelaide	<i>Today Tonight</i>	Alleged inaccuracy and breach of complainant's privacy.	Inaccurate presentation of factual material in current affairs.
NWS 9 Adelaide	<i>Murder Call</i>	Concern about violence in PG classified time.	Violence in a PG classified program.
TNT Tasmania	<i>Today Tonight</i>	'Good Girls/Bad Girls' segment denigrated women; complaints handling.	Provide a written response within 30 days to Code complaints lodged within 30 days of the broadcast.
<b>Pay TV</b>			
Austar	soccer promotion	Promotion for a game between England and Germany used racist WWII references; and complaints handling.	Complaints handling.
<b>Commercial radio</b>			
2WFM/2MIX Sydney	<i>Don't Tell Us Your Name, Tell Us Your Secret</i>	Alleged that segment promoted criminal behaviour.	Content to meet contemporary standards of decency of likely audience.
2ROC Canberra	Music	Use of unacceptable language by presenters; tape not retained; and complaint handling.	Advise complainants of right to refer complaint to the ABA.
<b>Permanent community radio</b>			
2WOW Penrith	management	Issues relating to dispute resolution; failure to retain records of matter broadcast; not responding to complaints.	Mechanisms in place to facilitate conflict resolution; responding to complaints; retention of records of matters broadcast.*
<b>Temporary community radio</b>			
SWR FM Blacktown	<i>Sunday for Maltese</i>	Defamation; issues relating to dispute resolution; complaints handling.	Mechanisms in place to facilitate conflict resolution; reasonable efforts taken to resolve disputes including alternatives such as mediation.
Great Southern FM Victor Harbour	management	Unfair suspension of seven volunteers.	Mechanisms in place to facilitate conflict resolution.

Callsign	Program/advertisement/ issue	Substance of complaint	Code/section of the Act applicable to breach finding
Great Southern FM Victor Harbour	management	Unfair suspension of a volunteer; no dispute resolution process followed.	Mechanisms in place to facilitate conflict resolution.
<b>Open narrowcast radio</b>			
Air FM Penrith	general program content	Open narrowcaster is providing a service that does not satisfy any of the narrowcast criteria.	Providing a community broadcasting service without a licence.*
<b>ABC Radio</b>			
ABC Regional	<i>Breakfast Show</i>	Alleged ridiculing of Christian beliefs; and complaints handling.	Complaints handling.
<b>ABC Television</b>			
ABC TV	<i>Lock Stock &amp; Four Stolen Hooves</i>	Segment featured unacceptable language and images; and complaints handling.	Complaints handling.

All breaches were of a code of practice unless indicated: \* breach of a licence condition or the Broadcasting Services Act 1992

In relation to the above breaches licensees took the following action:

**SAS** – The licensee undertook to advise the relevant parties of the ABA’s findings.

**TCN 60 Minutes** – The station issued a clarification as to the intended meaning of the statement which was the subject of the breach finding. The clarification stated that both sides had engaged in terrorist tactics.

**TCN Sunday** – The ABA’s findings have been raised with the executive producer of ‘Sunday’ and the reporter responsible for the preparation of the story. In relation to complaints handling, all ‘Sunday’ staff have been advised that they must refer code complaints to the executive producer immediately they are received.

**GTV A Current Affair** – The licensee counselled relevant staff and sent a memorandum to the executive producer and supervising producer regarding compliance with the relevant code provisions that requires that where complaints are made by telephone, complainants be advised of their option to make the complaint in writing.

**TCN A Current Affair** (hidden camera) – The licensee advised that the ABA’s finding had been referred to the relevant executive producer and reporter and that the case will be used as an example of

the provisions of code clause 4.3.5 during code compliance training conducted by the Nine Network.

**TCN A Current Affair** (plastic surgery) – The licensee advised that the reporter in question would be required to attend a training session in code compliance and in accuracy in court reporting. It further advised that the matter would be included as case study material for future training sessions.

**TCN News break** – The finding in this matter has been reviewed with the director of news for the Nine Network and staff involved in preparing the report of the news poll have been counselled in relation to the importance of factual accuracy and the provisions of the code.

**TNT Today Tonight** – Station staff have been instructed to follow the code provisions that relate to where a written complaint is received which notes that the complaint has also been provided to another licensee as the ‘responsible licensee’.

**2WOW** – The station will ensure that logging tapes of relevant program matter are maintained for the required period, that conflict mechanisms will be implemented and that complaints procedures will be followed in future.

**SWR FM** – The station indicated that it

had decided to adopt a grievance handling procedure developed by the Community Broadcasting Association of Australia which sets out methods of dealing with complaints from members and from the general public. Station staff will be required to go through further training responsibilities as radio broadcasters.

**Great Southern FM** (two similar matters) – The station advised that it now has a Station Operating Manual in place and that its Constitution will be amended prior to the next AGM to incorporate mechanisms to deal with internal conflict.

**2WFM/2MIX** – An amended policy regarding not broadcasting calls involving disclosure of criminal activity has been adopted.

**2ROC** – All station managers attended a training session regarding complaint handling provisions of the codes.

**AUSTAR** – The licensee stated that its aim was to meet higher standards in complaint handling.

**AIR FM** – The ABA issued a notice to the licensee on 2 July 2002 pursuant to section 137 of the Act, directing it to cease providing a community radio broadcasting service without a licence to provide that service and to do so by 2 August 2002.

# Your Say

## No breach finding

### Investigations completed by the ABA April 2002 – June 2002:

<i>Callsign</i>	<i>Program/advertisement/ issue</i>	<i>Substance of complaint</i>	<i>Relevant code/licence condition</i>
<b>Commercial television</b>			
ADS 10 Adelaide/ TEN Sydney	<i>I Still Know What You Did Last Summer</i>	Portrayal of violence in an M classified program.	Violence in an M classified program.
SAS 7 Adelaide QTQ 9 Brisbane	<i>Face Off</i> <i>Watchdog</i> promotions	Portrayal of violence in an M classified program. Promotions contained unfair and inaccurate content regarding the RSPCA Queensland; complaints handling.	Violence in an M classified program. Accurate and fair representation in promotions for news and current affairs; complaints handling re emails.
NBN 9 Newcastle	<i>The Footy Show</i>	Nudity and unacceptable verbal references to 'cracking the fat'.	Sex/nudity and language in an M classified program.
TEN Sydney	<i>Jerry Springer</i>	The program promotes aggression and does not address social issues; complaints handling.	Violence and adult themes in an M classified program; complaints handling.
NWS 9 Adelaide	<i>Today</i>	Concern about footage which identified detainees and mention of a teenager's suicide threat.	Invasion of privacy in current affairs; reporting of suicide.
NWS 9 Adelaide	<i>A Current Affair</i>	Alleged inaccuracy and bias in segment which described the Government's treatment of illegal immigrants; complaints handling.	Accuracy and fair representation of viewpoints in news and current affairs; complaints handling.
QTQ 9 Brisbane	<i>Australian Survivor Auditions</i>	Scenes of nudity including bare buttocks unacceptable in PG program.	Sex and nudity in PG time.
ADS 10 Adelaide	<i>The Quick and the Dead</i>	Content too violent for an M classification.	Violence in M classified programs.
NWS 9 Adelaide	<i>I Know What You Did Last Summer</i>	Content too violent for an M classification.	Violence in M classified programs.
ATN 7 /TCN 9 Sydney	<i>Morning News</i>	Marlboro advertisement placed on the tailfin of a racing car with an onboard camera was deliberate, to ensure the ad was included in all broadcasts.	Contravention of <i>Tobacco Advertising Prohibition Act 1992</i> . *
STW 9 Perth	banner tobacco advertisements	Use of banner tobacco advertisements during the Monaco Grand Prix.	Contravention of Tobacco Advertising Prohibition Act. *
<b>Commercial radio</b>			
3AW Melbourne	<i>Steve Price</i>	Alleged that presenter encouraged the supply of drugs.	Licensee not to use broadcasting bands in commission of an offence.*
6PR Perth	<i>Baz &amp; Barra Breakfast Program</i>	Vilification of Catholic community; complaints handling.	Incite or perpetuate hatred against or vilify any person or group on the basis of religion; complaints handling.
3FOX Melbourne	<i>Tracy &amp; Matt Breakfast Show</i>	Presenters made comments that the Prime Minister is a liar and a bastard.	The gratuitous use in a program of language likely to offend the anticipated audience for that program must be avoided.
<b>Permanent community radio</b>			
2FBI Sydney	management	Not a suitable licensee, failure to encourage access and participation.	Remain a suitable licensee*; access and participation by the community.*
2HHH Hornsby	<i>Thank God It's Friday</i>	Program mentioned complainant by name and included factual inaccuracies; complaints handling.	Accurate presentation of factual material and unjustified use of private material in news and current affairs programs.
2HHH Hornsby	management	No response to letter of complaint.	Complaints handling.
<b>Temporary community radio</b>			
Coraki FM Coraki	management	Broadcasting outside its designated licence area.	Licensee will not provide community broadcasting services outside its licence area.*

<i>Callsign</i>	<i>Program/advertisement/ issue</i>	<i>Substance of complaint</i>	<i>Relevant code/licence condition</i>
<b>SBS Television</b>			
SBS TV	<i>Is Scientology Above the Law?</i>	Allegation that program was prejudiced and not balanced over time; complaints handling.	Aim to avoid stereotyping; self-identification when referring to groups; responsibly examine the role of religion in society; balance over time; complaints handling.
SBS TV	<i>Nude for Satan</i>	Reference to a scene where Satan presides over group orgies, simulated sacrifices and homosexual relationships.	Degree, impact and relevance of sex and nudity to program content.
<b>Narrowcast television</b>			
ITV64 Darwin	management	Open narrowcaster is providing a commercial television service without a licence.	Providing a commercial service without a licence. Providing a narrowcast service.*
Ch31 Sydney	election advertisement	ALP election advertisement was screened during the blackout period.	A broadcaster must not broadcast an election advertisement during the relevant period.*
<b>Narrowcast radio</b>			
Country FM Geelong	<i>Saturday Morning</i>	Use of the F word and unacceptable language; complaints handling.	Program content will be consistent with standards acceptable to the relevant specific audiences; complaints handling.
88 Gold FM Roxby Downs	all program material	Service is broadcasting music of wide appeal and has networking aspects.	Narrowcast service by virtue of being intended for a limited location.*
<b>ABC Radio</b>			
3LO Melbourne	<i>Sunday Night Talk</i>	Presented discriminatory and unbalanced views about the Earth's creation; complaints handling.	Portrayal of people which is likely to denigrate or discriminate; impartiality and balance in news and current affairs; complaints handling.
Radio National	<i>The World Today</i>	Member appointed to the Pharmaceutical Benefits Advisory Committee was inaccurately described as 'an industry representative'.	Accuracy of factual content in news and current affairs programs.
Radio National	<i>Late Night Live</i>	Phillip Adams referred to President Bush as 'President Shrub'; complaints handling.	Portrayal of a person which is likely to denigrate or discriminate; complaints handling.

All potential breaches were of a code of practice unless indicated: \* potential breach of a licence condition or the Broadcasting Services Act 1992

## Complaint handling by commercial radio stations

The Commercial Radio Codes of Practice require each commercial radio broadcaster to provide Commercial Radio Australia\* with an extract of the record of complaints received. Commercial Radio Australia provides this consolidated report to the ABA.

### April – June 2002

Member stations recorded 61 written complaints alleging breaches of the Commercial Radio Codes of Practice during the second quarter of 2002.

	Talkback & discussion	News & current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	25		2	2	4	33
Prohibited matter in	3	2	1			6
Other complaints	4	2	2	1	13	22
<b>Total</b>	<b>32</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>17</b>	<b>61</b>

Source: Commercial Radio Codes of Practice: Complaints summary June quarter 2002

\* Previously Federation of Australian Radio Broadcasters (FARB)