

Under the *Broadcasting Services Act 1992*, each broadcasting industry sector is required to develop codes of practice applicable to the broadcasting operations of its sector. The ABA monitors the operation of these codes and adopts an independent adjudicator role where complaints are not resolved. This quarterly series is compiled by David Smith, 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 *Broadcasting Services Act 1992* (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 and Australian content), 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.

Quarterly summary

The ABA publishes in *ABA Update* quarterly summary tables of investigations by the ABA into unresolved complaints and complaints about possible breaches of the Act or licence conditions. Summaries of the findings relating to major investigations will continue to appear monthly in *ABA Update*.

This edition also contains, with the cooperation of the Federation of Australian Commercial Television Stations (FACTS) and the Federation of Australian Radio Broadcasters (FARB), quarterly reports of the number and substance of complaints made directly to the commercial broadcasters themselves.

Investigations by the ABA into unresolved complaints completed in the quarter ended 30 September 2001

Number of ABA investigations finalised in the quarter:	52
investigations where a breach was found	13
investigations where no breach was found	39

In the period 1 July 2001 to 30 September 2001, 13 investigations completed by the ABA resulted in 17 breaches being found of a code of practice, a licence condition or the Act.

Of the 13 investigations where the ABA found that a breach had occurred, five related to community radio, four to commercial television, two to temporary community radio and one each to commercial radio and ABC television. The 17 breaches covered 11 broad issues. These were advertising on community radio (4), complaints handling (3), keeping a record of matter broadcast (2), broadcasting the required particulars after the broadcast of political matter, dispute resolution, accurate presentation of factual material, denigration on the basis of religion, impartiality in a news broadcast, presenting as desirable the misuse of drugs, use of inappropriate language, and providing a community broadcasting service without a licence. #

Your Say

Breach finding

Investigations completed by the ABA July - September 2001

<i>Callsign</i>	<i>Program/advertisement/issue</i>	<i>Substance of complaint</i>	<i>Code/section of the Act applicable to breach finding</i>
Commercial television			
WIN Western Australia	National Lampoon's Christmas Vacation	No closed-captioning or subtitling; complaints handling.	Complaints handling.
TCN 9 Sydney	60 Minutes	Inaccurate and biased report on Middle East; complaints handling.	Complaints handling.
NBN 9 Newcastle	Local News	Biased news report regarding The Dead Persons Society.	Fairness or impartiality in a news program.
GTV 9 Melbourne	Special – Ray Martin with Michael Crawford	Offensive content unsuitable for timeslot; complaints handling.	Complaints handling.
Permanent community radio			
2GLA Forster	John Laws	Station broadcasting advertisements.	Broadcasting advertisements*.
2YOU Tamworth	John Laws	Station broadcasting advertisements.	Broadcasting advertisements; retention of record of matter broadcast*.
2LVR Parkes/ Forbes	John Laws	Station broadcasting advertisements.	Broadcasting advertisements; retention of record of matter broadcast*.
2000 Sydney	Arabic language program	Sponsorship announcements exceed five minutes per hour.	Broadcasting advertisements*.
2WET Kempsey	Management	Internal conflicts not being resolved.	Conflict resolution.
Commercial radio			
3MP Melbourne	Live outdoor broadcast	Broadcast, which was paid for by the Liberal Party, did not give reasonable opportunities to other political parties and was not identified as political matter.	Political matter was not accompanied by the 'required particulars'*.
ABC television			
ABC TV	Backberner	Item on Cat 'Yusuf Islam' Stevens vilified and reinforced stereotypes of Muslims.	Denigration on the basis of religious beliefs.
Temporary community radio			
Voice of Islam Sydney	Think and Win	Program inciting violence.	Accurate presentation of factual material.
SWR FM Blacktown	Various	Licensee continued to broadcast after the expiry of its licence and broadcast offensive material.	Providing a service without a licence*; presenting drug misuse as desirable; broadcasting explicit sexual references.

All breaches were of a code of practice, except * breach of the *Broadcasting Services Act 1992*.

The licensees concerned have taken the following action:

2GLA – As the sourcing of commercial programs by community radio stations appears to be an industry-wide problem, the ABA is pursuing this matter with the Community Broadcasting Association of Australia (the CBAA).

2YOU – As the sourcing of commercial programs by community radio stations appears to be an industry-wide problem, the ABA is pursuing this matter with the CBAA. The issue of retention of matter broadcast is being pursued separately with the licensee.

2LVR – The station introduced a logging system that now records all necessary programs. As the sourcing of commercial programs by community radio stations appears to be an industry-wide problem, the ABA is pursuing this matter with the CBAA.

2000 – The station suspended the principal announcer of the Arabic language program for one month. Resource material on media law has been

distributed to all broadcasters and training courses in media law have been implemented.

2WET – The station has reviewed its Grievance Procedures to ensure compliance with the Code. A Grievance Committee will be set up that will be independent of the Management Committee.

Voice of Islam – The ABA has alerted the Islamic organisation that was the subject of the offending item as to the findings of its report.

SWR FM – Procedures in cases where the station has to shut down and hand-over the frequency to another aspirant broadcaster have been revised and tightened. The presenter responsible for the offending broadcast has been suspended for twelve months and obligations of presenters have been reviewed and overhauled.

3MP – The station has introduced a training program that 'has assisted core members of staff in all operational areas of 3MP in their understanding and,

therefore, compliance with the Act, Standards and the Codes'.

WIN – A computer-generated template has been set up for written responses to viewer complaints.

TCN – Training of '60 Minutes' staff involved in responding to complaints is to be conducted and is to specifically address the issue of identifying and responding to Code complaints.

NBN – The licensee of NBN did not accept the ABA's finding. The ABA is continuing to pursue the matter with the licensee.

GTV – Staff involved in responding to complaints have been told that responses should address the substance of the complaint and provide an explanation as to why, in the opinion of the station, a breach has not occurred.

ABC TV – The ABC remains of the opinion that the program in question did not breach the Code. The ABC has, however, apologised to the complainant for the content of the segment.



Complaint handling by commercial television stations

The Commercial Television Industry Code of Practice (the Code) 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 third quarter of 2001.

July - September 2001

Commercial television stations reported 204 written complaints relating to matters covered by the Code in the third quarter of 2001. This was 31% fewer than the number of complaints reported in the previous quarter.

There were decreases in complaint levels in most areas, although the number of complaints about violence, discriminatory references and commercial placement were at or slightly above the previous quarter's levels.

In 19 instances a station agreed that a complaint identified a breach of a Code provision. These instances involved:

- three complaints about persons being ridiculed on the basis of their intellectual disability on *The Footy Show* on TCN 9 Sydney, GTV 9 Melbourne and QTQ 9 Brisbane;
- a complaint about nudity on *The Footy Show* on GTV 9 Melbourne;
- a complaint that the Nine Network's *The Footy Show* contained inappropriate sexual references;
- a complaint about the treatment of a story on a female stalker on the Nine Network's *A Current Affair*;
- a complaint about the identification of brand names in a story on the safety and efficiency of home heaters on the Nine Network's *A Current Affair*;
- a complaint that a G viewing zone promotion for the Nine Network's *A Current Affair* contained inappropriate nudity in excerpts from Kylie Minogue's new video;
- a complaint about insensitivity towards relatives of a murder victim in a

story on organised crime in Cabramatta on the Nine Network's *60 Minutes*;

- a complaint that the Nine Network's *Today Show* disregarded viewers' feelings in showing footage of an infant who had died as the result of a miscarriage;
- a complaint about the representation of the Islamic community in a report on the terrorist attacks in the United States on GTV 9 Melbourne's evening *News*;
- a complaint about the absence of consumer advice concerning sex and nudity in the movie *Frantic* on GTV 9 Melbourne;
- a complaint that comments about the German community on the Nine Network program *Burke's Backyard* were offensive;
- a complaint that coarse language in the movie *Blade* on GTV 9 Melbourne was inappropriate for the timeslot;
- a complaint that a G viewing zone promotion for *Jimeoin's Just for Laughs* on TEN 10 Sydney contained unsuitable coarse language; (continued pp26)

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Your Say

No breach finding Investigations completed by the ABA July - September 2001

<i>Callsign</i>	<i>Program/advertisement/issue</i>	<i>Substance of complaint</i>	<i>Relevant code/licence condition</i>
Commercial television			
BTQ 7 Brisbane	Hard Rain	Inappropriate language; complaints handling.	Language in an 'M' rated movie; complaints handling.
BTQ 7 Brisbane	On The Beach	Inappropriate language; complaints handling.	Language in an 'M' rated movie; complaints handling.
BTQ 7 Brisbane	Extreme Measures	Objected to the use of the 'F' word.	Language in an 'M' rated program.
ATV 10 Melbourne	Beauty and the Beast	Use of the word 'retard' in a derogatory fashion.	Provoking severe ridicule on the basis of disability.
ATV 10 Melbourne	News	News item featured a racist comment about Germans.	Perpetuating intense dislike on the basis of nationality.
ATV 10 Melbourne	News	News items on WA elections and petrol excise were inaccurate and unfair; complaints handling.	Accurate presentation of factual material during a news program; complaints handling.
HSV 7 Melbourne	News	Report on 1996 election campaign was inaccurate.	Accurate presentation of factual material during a news program.
HSV 7 Melbourne	News	Report on Tatts lotto amounted to a promotion and was not an impartial presentation.	Paid-for material must be distinguishable from other material; impartial presentation of news.
GTV 9 Melbourne	Today	Interview demonstrated prejudice; complaints handling.	Accuracy and fair representation of viewpoints during a current affairs program; complaints handling.
GTV 9 Melbourne	Malcolm in the Middle	Reference to Aborigines was racist.	Provoking intense dislike on the basis of race.
NBN 9 Newcastle	60 Minutes	Offensive language used, including 'sucking the pipe of another man'.	Care in selection and broadcast of material during current affairs programs; adequate consumer advice.
NBN 9 Newcastle	Backyard Blitz	Footage of a child kicking an actor was inappropriate for the timeslot.	Portrayal of violence and imitable behaviour during a 'G' rated program.
TEN 10 Sydney	The Simpsons	Unsuitable depictions of violence during a PG program.	Depiction of violence and the supernatural during a 'PG' rated program.
TEN 10 Sydney	Rove Live	Comedy routine unsuitable for television; consumer warnings were not adequate.	Complaint withdrawn, investigation terminated.
TVT/WIN Hobart	60 Minutes	Bias and inaccuracies in item on Styx Valley Forest; complaints handling.	Accurate presentation of factual material in current affairs; complaints handling.
TVT/WIN Hobart	Australian Army advertisement	Advertisement scheduled inappropriately during G time.	Classification and placement of commercials; portrayal of sex and nudity in 'G' time.
TCN 9 Sydney	Getaway	Item on Vietnam described the delights of eating dog.	Portrayal of dangerous or imitable behaviour during a 'G' rated program.
TVW 7 Perth	Program promotion for Titanic	Inappropriate program promotion shown in 'G' time.	Classification of program promotions during 'G' time; 'G' classification criteria.
ADS 10 Adelaide	News	Nudity in a segment on the Pirelli Calendar.	Care in selection and broadcast of material during the news.
TNQ 10 Townsville	News	News poll broadcast during an election blackout period was an election advertisement.	Broadcasting election advertisements during 'blackout' period*.
RTQ 9 Rockh'ton	News	Footage of complainant's backyard was broadcast without permission.	Use of material that invades an individual's privacy.
WIN Rockh'ton	Burke's Backyard	Program contained sexual references in relation to fruit.	Portrayal of sex and nudity in a 'G' rated program.

All potential breaches were of a code of practice, except * potential breach of licence condition or the *Broadcasting Services Act 1992*.

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<i>Callsign</i>	<i>Program/advertisement/issue</i>	<i>Substance of complaint</i>	<i>Relevant code/licence condition</i>
Permanent community radio			
2CCR Parramatta	Management	Complainant has been denied airtime.	Encouraging participation and providing access*.
4EB Brisbane	Management	Adequate dispute resolution procedures are not being followed.	Conflict resolution.
4DDB Toowoomba	Management	Membership was terminated for no good reason.	Conflict resolution.
Commercial radio			
3AW Melbourne	The Breakfast Show	Comments made about the mentally ill were derogatory and defamatory.	Inciting/perpetuating hatred on the basis of mental disability.
3AW Melbourne	Rex Hunt's Fishing World	Presenter does not declare his personal interests.	Declaration of personal interests by presenters of current affairs programs*.
3AW Melbourne	News	Item on voting survey was misleading.	Accuracy in a news broadcast.
3BBO Bendigo	News	Item on anti-smoking failed to distinguish fact from comment.	Distinguishing factual material from commentary and analysis.
2NM Mus'brook	News	Reporting of a social security case involving the complainant was inaccurate.	Accuracy in a news broadcast.
2MC Kempsey	Local News	Inaccurate assertions made about the complainant.	Accuracy in a news broadcast.
5AA Adelaide	Tony Pilkington	Coarse language used in referring to the complainant.	Contemporary standards of decency; gratuitous use of offensive language.
Temporary community radio			
RIO FM Blacktown	Period covered by TCBL	Station commenced broadcasting before the start of its TCBL period.	Providing a community broadcasting service without a licence.
ABC television			
ABC TV	Landline	'Dixie Chicks' video was violent and offensive.	Portrayal of violence.
ABC TV	News	WA election result was only partially reported.	Impartiality in a news program.
ABC TV	News	Reports are biased in favour of Labor Party.	Accuracy, impartiality and balance in news programs.
SBS television			
SBS TV	Closed captioning	Programs not being captioned.	Provision of closed-captioning*.
SBS TV	Mum's The Word	Program was abusive towards women and unsuitable for its timeslot.	Program classification.
ABC radio			
ABC Radio	PM program	Repeated use of the word 'backflip' when referring to Coalition policy demonstrates political bias.	Balance and impartiality in news and current affairs.

All potential breaches were of a code of practice, except * potential breach of licence condition or the *Broadcasting Services Act 1992*.

Your Say

- a complaint that sexual references in a G viewing zone promotion for the comedy *Gross Pointe* on ADS 10 Adelaide were unsuitable;
- a complaint that an advertisement containing drug references on ADS 10 was inappropriate for a G viewing zone; and
- a complaint that a promotion for the

movie *The Street* was inappropriately placed in the Saturday movie *Loch Ness* on CTC Southern NSW.

In the previous quarter, there were 59 complaints upheld by the stations concerned.

Several programs or items attracted significant levels of complaint during the quarter.

There were multiple complaints about:

- various segments on *60 Minutes*, *Australia's Funniest Home Videos*, *Today*, *A Current Affair* and *Today Tonight*;

- the drama series *Charmed* and *The Secret Life of Us*; and
- the movie *I Still Know What You Did Last Summer*.



Complaints made to commercial television stations about programs: July - September 2001

	Sex/ nudity	Language	Violence	Suicide	Drug use	Classification	Bias/inaccuracy	Privacy	Discrimination	Comm. content	Comm. placement	Comm. general	Closed caption	Complaint handling	Total	% All complaints
Children's															0	0.0
Comedy	10	1	3			3			5	2					24	11.8
Current affairs	1					7	32	4	4	1			1		50	24.5
Documentary	4		2			3									9	4.3
Drama series	7		3			2			2	2				1	17	8.3
Quiz															0	0.0
Information	6		5			4			4	1					20	9.8
Movies	2	7	6			3			1	1	1		2		23	11.3
Music video	2	1													3	1.5
News						7	9	1			3		1	1	22	10.8
Sport										1					1	0.5
Variety	4								4						8	3.9
Unspecified										5					5	2.5
Promos	6	2	2			12									22	10.8
Total	42	11	21	0	0	41	41	5	20	1	16	0	3	3	204	100.0
%																
All Complaints	20.6	5.4	10.3	0.0	0.0	20.1	20.1	2.5	9.8	0.5	7.7	0.0	1.5	1.5	100.0	

Drama series includes serials

Source: FACTS Commercial Television Industry Code of Practice: Complaints Summary September Quarter 2001

Complaint handling by commercial radio

The Commercial Radio Codes of Practice require 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 third quarter of 2001.

April - June 2001

Member stations recorded 130 written complaints alleging breaches of the Commercial Radio Codes of Practice during the third quarter of 2001.



	Talkback & Discussion	News & Current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	45	5	7	8	26	91
Prohibited matter in				1		1
Other complaints	8	4	9	2	15	38
Total	53	9	16	11	41	130

Source: FARB Commercial Radio Codes of Practice: Complaints Summary September Quarter 2001