

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 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 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 31 March 2002*

Number of ABA investigations finalised in the quarter:	33
investigations where a breach was found	16
investigations where no breach was found	17

In the period 1 January 2002 to 31 March 2002, sixteen investigations completed by the ABA resulted in 21 breaches being found of a code of practice, a licence condition or the Act.

Of the 16 investigations where the ABA found that a breach had occurred, six related to community radio, three to temporary community radio, two each to commercial television, commercial radio and ABC radio and one to ABC television. The 21 breaches covered nine broad issues. These were broadcasting advertisements on community radio (5), complaints handling (3), program classification on commercial television (3), participation in community radio (2), providing information about the community radio code of practice (2), program content on commercial radio (2), conflict resolution at community radio stations (2), guidelines for community radio volunteers, and sponsorship influencing community radio programming. (Refer page 26)

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**Breach finding****Investigations completed by the ABA January - March 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>Permanent community radio</b>			
6SON Perth	Sponsorship announcement	Sponsorship announcements were in fact advertisements.	Broadcasting of advertisements on community radio. <sup>^</sup>
2CHY Coffs Harbour	Management	Volunteers being denied opportunities; pre-taped music is replacing community participation.	Encouraging community participation; <sup>^</sup> mechanisms in place that encourage community oriented programming.
3WRB	Vietnamese language program	An interview with a sponsor was in fact an advertisement.	Broadcasting of advertisements on community radio. <sup>^</sup>
West Melbourne 3ZZZ Melbourne	Sinhalese language program	Program is being run by an unlawful person; complaints not being responded to.	Conflict resolution. <sup>^</sup>
2UUU Ulladulla	Management	Issues relating to dispute resolution; station not representing community of interest.	Sponsorship influencing programming; provision of on-air information about the code; providing code to complainants.
2NUR Newcastle	<i>Business, The Law and You</i>	Program includes advertisements.	Broadcasting of advertisements on community radio. <sup>^</sup>
<b>Temporary community radio</b>			
Sunshine FM	Not specified	An advertisement was broadcast.	Broadcasting of advertisements on community radio. <sup>^</sup>
Sunshine Coast 2ERA Kiama	Management; technical	Station is operating as part of a profit-making enterprise; transmitter power is exceeding allowable limit.	Broadcasting of advertisements on community radio. <sup>^</sup>
Great Southern Radio Victor Harbour	Management	Complainant was unfairly dismissed.	Guidelines for volunteers; conflict resolution.
<b>Commercial television</b>			
BTQ 7 Brisbane	<i>Frank Warrick's World Around Us</i>	Image of a dummy that appeared to be half-eaten too horrific for 'G' time zone.	Violent images in a 'G' classified program.
BCV/GLV 10 Bendigo	<i>Charmed</i> program promotion	Promotion, shown during a 'G' program, was too violent and threatening.	Violent images in a 'G' time zone; violent and threatening images in a program promotion shown during 'G' time.
<b>Commercial radio</b>			
2DAY Sydney	<i>Hot30.com Countdown:</i> <i>Bucket of Truth</i>	Program included material unsuitable for radio.	Content to meet contemporary standards of decency.
3AW Melbourne	Steve Price	Use of the word 'f***' on-air.	Gratuitous use of language likely to offend.
<b>ABC radio</b>			
ABC Regional	A.M.	Complaints handling.	Complaints handling.
ABC Radio	A.M.	Imbalance in story on nurse shortages; complaint not responded to.	Complaints handling.
<b>ABC television</b>			
ABC TV	<i>Micallef</i> program	Segment featured a statue with a huge, erect penis; complaints handling.	Complaints handling.

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

## No breach finding

Investigations completed by the ABA January - March 2002

Callsign	Program/advertisement/issue	Substance of complaint	Relevant code/licence condition
<b>Commercial television</b>			
QTQ 9 Brisbane	<i>A Current Affair</i>	Hidden cameras used to entrap and invade privacy.	Invasion of privacy in news and current affairs.
QTQ 9 Brisbane	<i>A Current Affair</i>	Item on drugs in schools was inaccurate, unfair and likely to create panic.	Accuracy and fairness; creation of public panic.
QTQ 9 Brisbane	<i>Sale of the Century</i>	Panellist was smoking a cigar on camera.	Contravention of <i>Tobacco Advertising Prohibition Act</i> . <sup>^</sup>
QTQ 9 Brisbane	<i>Today on Saturday</i>	Biased commentary with no time for opposing viewpoints.	Provision of reasonable opportunities for all parties re the broadcast of election matter. <sup>^</sup>
BCV/GLV 10 Bendigo	<i>Ed and Grosse Point</i> program promotions.	Promotions for 'PG' programs broadcast during 'G' program.	Program promotions in 'G' viewing period.
TCN 9 Sydney	<i>A Current Affair</i>	Hidden camera footage was an invasion of privacy.	Accuracy and fairness; privacy; complaints handling.
GTV 9 Melbourne	<i>Delta Force</i>	Denigration of Muslims; telephone complaints handling.	Provoking intense dislike on the basis of religion; complaints handling.
NBN 9 Newcastle	<i>Misery Guts</i>	Too much violence.	Violence in a 'G' classified program.
ADS 10 Adelaide / ATV 10 Melbourne	Movie <i>Saving Private Ryan</i>	'AV' classified movie should not have been broadcast at 8.30pm.	'AV' classified programs; broadcasting programs outside relevant time zone.
<b>Permanent community radio</b>			
2HHH Hornsby	Management	Failure to represent community interest or encourage access and participation.	Representing the community interest <sup>^</sup> ; access and participation by the community.
2HHH Hornsby	Management	Membership renewal refused; complaint not responded to.	Encouraging community participation <sup>^</sup> ; complaints handling.
2000 FM Sydney	Arabic language program	Advertisements are being broadcast.	Broadcasting of advertisements on community radio. <sup>^</sup>
1CMS Canberra	Sinhala ethnic program	Program incited violence against the complainant.	Inciting/encouraging violence; accuracy; complaints handling.
3WRB West Melbourne	Vietnamese language program	Advertisements are being broadcast; station is part of a profit-making enterprise.	Broadcasting of advertisements on community radio. <sup>^</sup>
<b>ABC television</b>			
ABC TV	<i>Backburner</i>	Use of the name 'Jesus Christ' vilified Christians; complaints handling.	Language; discrimination; complaints handling.
ABC TV	<i>Backburner</i>	Use of grossly offensive language.	Language.
<b>ABC radio</b>			
Radio National	<i>A.M.</i>	Unbalanced coverage of global warming issue; complaints handling.	Impartiality and balance; complaints handling.

All potential breaches were of a code of practice unless otherwise indicated: <sup>^</sup> potential breach of a licence condition or the *Broadcasting Services Act 1992*



# Your Say

The licensees concerned have taken the following action:

**6SON** – Existing sponsorship announcements have been adjusted so as to include the tag: 'station sponsor'. Instructions have also been issued to the licensee's copy and production department to ensure that all future announcements will be correctly tagged.

**2CHY** – The station has changed its program content in order to make it more community-oriented, adults are now actively encouraged to become volunteer members and presenters, and a student-based programming committee has now been formed.

**3WRB** – The General Manager conducted numerous meeting with the station's Vietnamese on-air presenters who also underwent a period of retraining under the General Manager's direct guidance.

**3ZZZ** – An amended policy regarding on-air complaints and other disputes has been adopted. The new policy includes alternative methods of dispute resolution.

**2UUU** – The licensee advised the ABA that it had taken action to ensure that it meets the complaints handling

requirements of the code and that it had amended its policy regarding the content of an entertainment program.

**2NUR** – A general presenters' workshop has been conducted to address the issues identified, station procedures have been changed and the offending announcements have been rewritten and re-recorded.

**Sunshine FM** – The station has introduced provisions banning unpaid advertisements, has trained staff in the nature of unpaid advertising, no longer broadcasts sponsorship announcements for any business that is not yet a sponsor and ensures that those preparing sponsorship announcements do not omit the acknowledgment of sponsorship.

**2ERA** – The station has now sought the help of a media consultant and media lawyer to help it to understand its obligations under the legislation.

**Great Southern Radio** – Volunteer guidelines and conflict resolution procedures have now been developed, accepted and incorporated into the station's operating procedures manual.

**BTQ** – The station did not advise the ABA as to what, if any, action it had taken as a result of the ABA's finding.

**BCV/GLV** – The matter was referred to the Ten Network's classifiers, who have resolved to approach the classification of future program promotions with reference to the ABA's findings.

**2DAY** – The majority of the program's interviews are now pre-recorded and its presenters have been instructed to switch off the microphone during an interview if necessary. The general manager also now conducts routine audits of the program's content and meets regularly with the program's presenters.

**3AW** – Program production staff have been further reminded of their responsibilities regarding the codes of practice.

**ABC Regional** – The complainant has been asked to send all future correspondence to the Director of Corporate Affairs.

**ABC Radio** – The complainant has been asked to send all future correspondence to the Director of Corporate Affairs.

**ABC TV** – The ABC stated that it is continuing to improve the timeliness of responses to viewer complaints.



## 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 first quarter of 2002.

### January - March 2002

Commercial television stations reported 154 written complaints relating to matters covered by the code in the first quarter of 2002. This was 37% less than the number of complaints reported in the previous quarter. In particular, complaints were significantly down in the areas of bias/inaccuracy, discrimination, language, privacy and sex/nudity.

There was a slight increase in complaints about classification, commercial placement and violence. Most of the complaints concerning commercial placement and violence related to a Magnum Streets ice cream commercial, which was subsequently re-classified by FACTS' Commercials Acceptance Division. Most of the complaints concerning classification related to images shown on news and current affairs programs.

In five instances, a station agreed that a complaint identified a breach of a code provision. These instances involved:

- three complaints about the placement of a Streets Magnum ice cream commercial during a 'G' rated program;
- a complaint about an advertisement for a local shoe store broadcast by a regional station that depicted a woman using a mobile phone and throwing

material out of the window whilst driving. The commercial was withdrawn from broadcast; and

- a complaint about a promotion for the movie *The Relic* during daytime viewing hours that was allegedly too violent and graphic for daytime viewing. The station revised the classification of the promotion.

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

There were also small numbers of complaints (that were not upheld) about:

- mistreatment of animals on *Australia's Funniest Home Videos*;
- bias and inaccuracy in news and current affairs programs; and
- unsuitable classification for certain programs; and
- the broadcast of images of burn victims during the Channel Seven *News*.



## Complaints made to commercial television stations about programs: January - March 2002

	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						2				8					10	6.5
Comedy	1	1	4		2	4			1	1					14	9.1
Current affairs	1		2			5	18		1						27	17.6
Documentary	2					2									4	2.6
Drama series	2	3	1			3				2	3				14	9.1
Quiz										1					1	0.6
Information	4	1				1			1						7	4.5
Movies		4	9			3				1					17	11.1
Music video										1					1	0.6
News						6	6	1							13	8.5
Sport	1					2				3					6	3.9
Variety						1				1	1				3	1.9
Unspecified	1		1			9				2	13	1			27	17.6
Promo	4	1	2			2									9	5.8
<b>Total</b>	<b>16</b>	<b>10</b>	<b>19</b>	<b>0</b>	<b>2</b>	<b>41</b>	<b>24</b>	<b>1</b>	<b>3</b>	<b>5</b>	<b>32</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>154</b>	<b>100.0</b>
<b>%</b>																
<b>All Complaints</b>	<b>10.4</b>	<b>6.5</b>	<b>12.4</b>	<b>0.0</b>	<b>1.3</b>	<b>26.7</b>	<b>15.6</b>	<b>0.6</b>	<b>1.9</b>	<b>3.2</b>	<b>20.8</b>	<b>0.6</b>	<b>0.0</b>	<b>0.0</b>	<b>100.0</b>	

Drama series includes serials

Source: FACTS Commercial Television Industry Code of Practice: Complaints Summary March Quarter 2002

## Complaint handling by commercial radio

The Commercial Radio Codes of Practice (the code) 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 first quarter of 2002.

	Talkback & discussion	News & current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	15	3	3	3	13	37
Prohibited matter in						0
Other complaints	9	7	9	3	12	40
<b>Total</b>	<b>24</b>	<b>10</b>	<b>12</b>	<b>6</b>	<b>25</b>	<b>77</b>

Source: FARB Commercial Radio Codes of Practice: Complaints Summary March Quarter 2002

### January - March 2002

Member stations recorded 77 written complaints alleging breaches of the code during the first quarter of 2002.

