

Under the *Broadcasting Services Act 1992* (the 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.

## **Quarterly summary**

The ABA publishes in *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 *Update*.

This edition also contains, with the cooperation of Commercial Television Australia (CTVA)\* and Commercial Radio Australia (CRA)\*\*, quarterly reports of the number and substance of complaints made directly to the commercial broadcasters themselves.

\* Formerly the Federation of Australian Commercial Television Stations (FACTS).

\*\* Previously the Federation of Australian Radio Broadcasters (FARB).

In the period 1 October 2002 to 31 December 2002 there were nine investigations completed by the ABA which resulted in:

- 9 breaches of a code of practice
- 5 breaches of a licence condition.

Of the nine investigations finding a breach, seven related to community radio, one to commercial television and one to community television. The fourteen breaches covered six broad issues. These were conflict resolution by community radio services (six), broadcasting advertisements by community radio services (four), unfair representation of viewpoints on community television (one), current affairs broadcast in an inappropriate timeslot on commercial television (one), failure to retain a record of political broadcast for required period (one) and complaints handling (one).

### *Investigations by the ABA into unresolved complaints completed in the quarter ended 31 December 2002*

Number of ABA investigations finalised in the quarter:	24
investigations where a breach was found:	9
investigations where no breach was found:	15

## Breach finding

### Investigations completed by the ABA October 2002 – December 2002

All breaches were of a code of practice, unless marked with an asterisk (\*).

Those marked with an asterisk were breaches of a licence condition or the *Broadcasting Services Act 1992*.

<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>			
GTV 9 Melbourne	<i>A Current Affair</i>	Promotion and program contained material not suitable for a G classification zone.	Care with news and current affairs in G time.
<b>Community television</b>			
CH31 Sydney	<i>Focus Talkshow</i>	Practitioners of Falun Gong alleged that the program instigated hatred towards the spiritual group, in particular that the broadcast on 17 May perpetuated hatred and vilified on grounds of religion; complaints handling.	Unfair presentation in current affairs and complaints handling.
<b>Permanent community radio</b>			
2MCR Campbelltown	Management issue	Alleged breach of CBAA Code (1996) lack of conflict resolution policy.	Failure to make a reasonable effort to resolve disputes and failure to seek alternative dispute resolution mechanisms.
2000 FM Sydney	<i>Breakfast Program</i>	Interview with playwright was an advertisement for the play.	Broadcasting a number of advertisements.*
2000 FM Sydney	<i>Arabic Program</i>	Alleged that a broadcast of interviews with singers and a competition for Ace Travel Services included advertisements.	Broadcasting advertisements.*
2000 FM Sydney	<i>Arabic Program</i>	Competitions for a free concert and theatre tickets constituted advertisements.	Broadcasting an advertisement.*
2PSR Port Stephens	Management issue	Alleged that disputed matters not dealt with by licensee as required by CBAA Code (1996) and is not providing adequate community access and participation.	Conflict resolution.
3YYR Geelong	<i>Radio Real Estate</i>	Broadcasting advertisements in program.	Broadcasting advertisements.*
8MAB Borroloola	Political matter	Political matter was not 'tagged' with the required particulars.	Record of political matter.*

# Your Say

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

**GTV** – The Nine Network informed the ABA that its findings would be used in future code training and that the executive producer of *A Current Affair* will provide a note to all relevant staff concerning the requirements of clause 2.7.1 of the code, particularly in relation to the handling of issues which contain sexual references.

**Ch31 Sydney** - The licensee advised the ABA that it had invited the complainants to meet and discuss their concerns, which included an offer of access to Channel 31 to present the complainants' view regarding the program in question and other Falun Gong material.

**2MCR** - The licensee did not agree with the ABA's findings, claiming that the complainant was responsible for the disputes and for frustrating all attempts to resolve them.

**2000 FM** (three similar matters) – The licensee undertook to implement measures to ensure that similar breaches would not occur in the future.

**2PSR** - The licensee advised that it had adopted a 'Grievance and Complaint Resolution Policy' and 'Grievance Procedure' on 8 September 2002, that it was seeking assistance from the CBAA regarding code compliance and that the complainant was to be reinstated at a future date.

**3YYR** – The licensee stated that it was a lack of understanding of the guidelines

that led to a breach and that in future it would be much more conscious of ensuring that this information is given out without inadvertently advertising.

The licensee also proposed a number of measures to address the issues raised by the ABA.

**8MAB** – Following the ABA's findings, the licensee advised the ABA that all station announcers are verbally instructed to:

- adhere to the community code kept in the studio
- not broadcast political statements of a personal nature
- tape all interviews with visiting politicians on a video player set up at the studio console.

## No breach finding

### Investigations completed by the ABA October 2002 – December 2002

All breaches were of a code of practice, unless marked with an asterisk (\*).

Those marked with an asterisk were breaches of a licence condition or the *Broadcasting Services Act 1992*.

Callsign	Program/advertisement/issue	Substance of complaint	Relevant code/licence condition
<b>Commercial television</b>			
ATV 10 Melbourne	<i>The Secret Life of Us</i>	Complaint about drug use, sex and violence in an M classified program.	Violence, sex and nudity and drug references in M.
BTQ 7 Brisbane	<i>Ricki Lake</i>	Concern about verbal references to sexual activity in a PG classified program.	Sex and nudity and adult themes in PG.
CTC 10 Canberra	<i>Beauty and the Beast</i>	Complainant alleged that the way a panelist advocated prostitution as a job was graphic and offensive.	Sex and nudity and adult themes in PG.
SAS 7 Adelaide	Various advertisements in children's programs	Alleged that ads for McDonald's 'Pop Up Dogs Happy Meal', Hungry Jack's 'Kids Club Meal', Wonka 'Oompa Candy' and 'Mondo Lollipops' contravened the Children's Television Standards.	Undue pressure on children in advertisements, unreasonable stimulation in premium offers.*
SAS 7 Adelaide	<i>Today Tonight</i>	Alleged that the segment was unfair and improper and that his privacy was invaded.	Accuracy and presenting viewpoints fairly and invasion of privacy in news and current affairs.
SAS 7 Adelaide	<i>Today Tonight</i>	Alleged that report on complainant's business practice was unfair and inaccurate and was an invasion of privacy.	Accuracy and presenting viewpoints fairly and invasion of privacy in news and current affairs.
STW 9 Perth	<i>A Current Affair</i>	A complaint that Muslims seemed to be discriminated against during the segment; complaints handling.	Portrayal of person or group in a negative light; complaints handling.
STW 9 Perth	<i>60 Minutes</i>	Program segment about gang rapists in Sydney discriminated against Australian Lebanese Muslims; complaints handling.	Portrayal of person or group in a negative light; complaints handling.

<i>Callsign</i>	<i>Program/advertisement/issue</i>	<i>Substance of complaint</i>	<i>Relevant code/licence condition</i>
<b>Commercial radio</b>			
2UE	<i>Mike Carlton</i>	Complainant was repeatedly vilified and had her name and address broadcast; complaints handling.	Vilification, standards of decency and privacy; complaints handling.
2UE	<i>John Laws</i>	Claimed that John Laws failed to make the disclosure announcement when he interviewed a Telstra spokesperson.	Standard requiring commercial radio current affairs disclosure.*
<b>Permanent community radio</b>			
2MCR Campbelltown	Management issue	Complainant alleged licensee lacked a conflict resolution policy required by the CBAA Code (2002) when dealing with his issues.	Written conflict resolution policy in place.
<b>ABC television</b>			
ABC TV	<i>New Dimensions with George Negus</i>	Complainant alleged that the program contained false information, viz. that genetically modified foods were labelled; complaints handling.	Accuracy of factual content in current affairs; complaints handling.
ABC TV	<i>Lateline</i>	The program contained inaccurate fact, viz. the number of people marching the Sydney Harbour Bridge in 2000; complaints handling.	Accuracy of factual content in current affairs; complaints handling.
<b>SBS television</b>			
SBS TV	<i>World News</i>	News segment about a Jenin refugee camp was biased, inaccurate and emotive; complaints handling.	Prejudice, racism or discrimination, accuracy and balanced reporting; complaints handling.
<b>ABC radio</b>			
ABC Radio National	<i>News</i>	Report of Palestinian conflict omitted key facts and consequently was inaccurate, racist and anti-Semitic.	Discrimination and accuracy of factual content, impartiality and balance in news presentation.

## Complaint handling by commercial radio stations

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

### October - December 2002

Member stations recorded 41 written complaints alleging breaches of the Commercial Radio Codes of Practice during the final quarter of 2002.

	Talkback & discussion	News & current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	8		1			9
Prohibited matter in	11			1		12
Other complaints	2	4	3	2	9	20
<b>Total</b>	<b>21</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>9</b>	<b>41</b>

Source: Commercial Radio Codes of Practice: Complaints summary December quarter 2002  
\* Previously Federation of Australian Radio Broadcasters (FARB)