



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.

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 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 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)

^ Formerly the Federation of Australian Radio Broadcasters (FARB)

ABA investigations

Investigations by the ABA into unresolved complaints completed in the quarter ended 31 March 2003

Number of ABA investigations finalised in the quarter:	26
investigations resulting in a breach	10
(the 10 breach investigations resulted in:	
• 12 breaches of a code of practice	
• 4 breaches of a licence condition)	
investigations resulting in no breach	16

Of the ten investigations resulting in a breach, four related to commercial television, four to community radio, one to community television and one to SBS television.

The 16 breaches covered nine broad issues: complaints handling by community television, community radio and SBS television (five); broadcasting advertisements by community radio services (three); unfair representation of viewpoints (two); inaccuracy in current affairs on commercial television (one); inappropriate language on community radio (two); promotions in G and PG (one); and adult themes in PG on commercial television (one); establishment of practices to protect children by community radio (one); and broadcasting sponsorships more than five minutes per hour by community radio (one).

Breach findings

Investigations completed by the ABA January - March 2003:

<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			
ADS 10 Adelaide	<i>The Mummy</i>	Concerned about movie promotions broadcast in G viewing times/programs.	Promotions in G – violence.
CBN PRIME	<i>Titanic</i>	Concerned about violence and depiction of suicide in a PG classified movie.	PG – adult themes.
Regional Victoria			
QTQ 9 Brisbane	<i>A Current Affair</i>	Segment on complainant and her business was inaccurate, did not represent viewpoints fairly, invaded her privacy.	Accuracy and fair representation in current affairs.
TCN 9 Sydney	<i>60 Minutes – NRMA</i>	Program about crisis in insurance industry failed to represent fairly the NRMA's viewpoint.	Failure to represent viewpoints fairly in current affairs.
Community television			
CH31 Sydney	Actively Radical	Claimed segment on Israel/Palestinian conflict was liable to incite hatred and gratuitous vilification of Jews, complaints handling.	Complaints handling.
Permanent community radio			
2XX Canberra	<i>Words Apart</i>	Alleged program used obscene and offensive language.	Language – regard for likely audience, complaints handling.
2LVR Parkes/ Forbes	Various	Complainant alleged that interviews with artists about their CDs amounted to advertisements; a program taken directly from 2UE contained advertisements.	Broadcasting advertisements.*
Temporary community radio			
Edge FM Hobart, Tasman FM	Sponsorship, <i>The Footy Show</i>	Alleged that community radio service 7RGY Huon and TCBLs^ Edge FM Hobart and Tasman FM	Broadcasting advertisements (Tasman FM and Edge FM),* broadcasting sponsorship announcements in excess of five minutes per hour (7RGY).*
Nubeena (TCBLs), 7RGY Huon		Nubeena broadcast more than five minutes of sponsorship announcements during <i>The Footy Show</i> .	Protection of children and language – consideration of likely audience.
West FM Blacktown	<i>The Swish Show</i>	Complaint about broadcast of a song containing offensive language, complaints handling.	
SBS television			
SBS TV	SBS World News	Inaccurate information presented by an interviewee in a news item on Palestine, complaints handling.	Complaints handling.

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

^ Temporary community broadcasting licensees

In relation to the above breaches licensees have taken the following action:

ADS 10 – The licensee indicated that it will take the ABA's findings on this matter into account and reinforce the G requirements of the code for program

promotions in order to prevent future similar breaches.

CBN Prime – The licensee stated that it would in future ensure that when Network Seven reclassifies a program, when possible and there is sufficient time

before telecast, it will seek to determine what effects the edits have had on the compliance of the program with the code.

QTQ 9 – The licensee undertook:

- to review the ABA's decision with staff involved in the presentation of the story



Y o u r S a y

- to discuss treatment of file footage with the program's Executive Producer to avoid the implication that those depicted have willingly participated in the story
- to use this matter as an example for staff training on the code.

TCN 9 – The licensee did not agree with the ABA's findings. The ABA notes that the licensee was found to be in breach of code 4.3.1 on 7 June 2002. The ABA proposes no further action at this stage, but will monitor the licensee's compliance.

Channel 31 – The licensee advised that

it accepted all the ABA's findings and would make every effort, in future, to comply with all the regulations as set out in the code.

2XX – The licensee undertook to be more vigilant in the future when vetting broadcast material with the aim of avoiding recurrences. The licensee's board reaffirmed that these matters are to take the very highest priority in the future.

2LVR – Steps taken by the licensee, included cessation of retransmission of the program *Over the Fence*.

7RGY, Edge FM, Tasman FM – Each licensee has provided the ABA with

details of the steps each will take to ensure future compliance with the licence conditions pertaining to the broadcast of sponsorship announcements and shared programs.

West FM – Although the temporary community licensee advised the ABA that it did not accept that there had been any fault on its part, it advised that it has terminated *The Swish Show*, the subject of this complaint.

SBS TV – The national broadcaster acknowledged an administrative error in failing to respond to the complainant and says it has rectified the error.

No breach findings

Investigations completed by the ABA January – March 2003:

Call sign	Program/advertisement/ issue	Substance of complaint	Relevant code/licence condition
Commercial television			
NBN 9 Newcastle	General program content	Complaint that films and programs broadcast during prime time viewing did not include captioning.	Captioning standards, monitoring and advice about non-transmission.
QTQ 9 Brisbane	The Haunting (promotion)	Promotion for an M classified feature film contained disturbing images inappropriate for a G time zone.	Promotions in G – low level threat or menace, special effects.
STW 9 Perth	60 Minutes – Bali Bombing Victims Reunion	The promotion for 60 Minutes did not present factual material accurately and represent viewpoints fairly.	Presenting facts accurately and representing featured viewpoints fairly in promotions for current affairs programs – portrayal of all aspects not required.
TVW 7 Perth	Blue Heelers	Closed captioning was not broadcast during programs.	Captioning standards.
Commercial radio			
2GB Sydney	Jim Ball	Complained that the presenter's comment was inaccurate and vilified the Muslim community.	Vilification, accuracy in current affairs.
2UE Sydney	Steve Price	Complained that Steve Price's comments were offensive and bordering on inciting racial hatred.	Inciting hatred against any person or group on the basis of ethnicity or race.
5AA Adelaide	Bob Francis	Language used in program was offensive.	Contemporary standards of decency, gratuitous use of offensive language.
5DN Adelaide	The Cordeaux Show	Alleged breached of the ABA disclosure standards relating to commercial radio.	Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000; Broadcasting Services (Commercial Radio Advertising) Standard 2000.
3AW Melbourne	Stan Zemanek	Alleged unacceptable language and vilification.	Vilification, gratuitous use of offensive language.
Permanent community radio			
2PSR Port Stephens	Management	Complaint that the licensee failed to continue to represent its community and prevented community involvement.	Represent community interest, community participation.

Callsign	Program/advertisement /issue	Substance of complaint	Relevant code/licence condition
2PSR Port Stephens	Management	Complainant claimed licensee did not advise him of rights as volunteer and had also breached the code regarding the station's conflict resolution policy.	Discrimination policies, volunteer rights and written policy re conflict resolution.
2WOW Penrith	Management	Allegations that licensee was not encouraging community participation in the station's management.	Community participation in management.
Open narrowcast radio			
AIR FM Penrith	General program content	Complaint that licensee has not complied with a section 137 notice and is continuing to provide a community service without a licence.	Provision of narrowcast service by virtue of being locally focused programming transmitted on low, one-watt power.
88 GOLD FM Mt Barker	General program content	Providing a commercial service as program music mirrors two local commercial stations.	Provision of narrowcast service by virtue of provision of programs of limited appeal.
88 GOLD FM Gawler	General program content	Providing a commercial service as program music mirrors two local commercial stations.	Provision of narrowcast service by virtue of provision of programs of limited appeal.
SBS television			
SBS TV	Dateline	Complaint regarding accuracy and fairness in SBS program dealing with the 1915 Armenian genocide, complaints handling.	Current affairs material accurate, fair, objective and balanced over time, complaints handling

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

Complaints handling by commercial television stations

January – March 2003

Commercial television stations reported 159 written complaints about matters covered by the code of practice in the first quarter of 2003. This was 15 per cent down on the 188 complaints reported in the previous quarter.

Complaint levels were steady or decreased in most areas. In particular, there was a decrease in the number of complaints concerning bias and inaccuracy, classification, closed captioning, commercial content, sex and nudity and suicide. There was an increase in the number of

complaints concerning discrimination, language, privacy and violence.

In 11 instances a station agreed that a complaint identified a breach of the code (as against two instances in the previous quarter). These were:

- four complaints regarding the broadcast of unsuitable program promotions during a G classified program: two related to program promotions for *The Guardian* and *The Secret Life of Us* broadcast during the program *The Land Before Time*; one related to a program promotion for *True Lies* broadcast during the program *Annie: A Royal Adventure*; one was in relation to a program promotion for the Adelaide International Film Festival broadcast during the program *Madeline*. The network has taken steps to ensure that the program promotions and programs are shown during approved classification times
- three complaints regarding incomplete consumer advice (coarse language) for

the *Sea of Love*. In these cases the network has taken measures to ensure that any future broadcasts of this program will include the correct consumer advice

- two complaints regarding *National Nine News*. One related to a school unfairly identified in a story on exam cheats. The network apologised to the complainant and stated that the footage referred to will not be used again; one related to a breach of privacy in a story about a hospitalised AFL player. The network has taken steps to ensure that its news crews are aware of the importance of taking care not to identify persons in sensitive situations. The network has also amended its journalists' Code of Practice to ensure that this does not happen again

- one upheld complaint concerning unsuitable G classification (coarse language) during the broadcast of *Bob Jane T-Marts Bathurst 1000*. The station/network has reviewed their

The Commercial Television Industry Code of Practice requires that each commercial television broadcaster report to Commercial Television Australia (CTVA), within 15 working days of the end of each quarter, the number and substance of written complaints alleging specific breaches of the code. CTVA provides a consolidated report to the ABA.



Complaints made to commercial television stations about programs: January – March 2003

	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			1			1						4	2.5
Comedy	12	2	7		1	6			4						32	20.1
Current Affairs	2						20	1	6						29	18.2
Documentary						1									1	0.6
Drama	4	1	3			5				1					14	8.8
Information			2			2			1						5	3.1
Movies		4				7			1	1			1		14	8.8
Music Video	3		1												4	2.5
News				1		6	8	8	2						25	15.7
Program Promo	1	1				2	3		1		1				9	5.7
Religion	1														1	0.6
Sport		1													1	0.6
Unspecified	1	2	1			5				6	1				16	10.1
Variety			1			1			1	1					4	2.5
Total	24	11	17	1	1	36	31	9	17	2	8	1	1	0	159	100.0
% All Complaints	15.1	6.9	10.7	0.6	0.6	22.6	19.5	5.7	10.7	1.3	5.0	0.6	0.6	0.0	100.0	

Drama Series includes Serials

Source: CTVA Commercial Television Industry Code of Practice: Complaints summary March quarter 2003

procedures in relation to repackaged sporting events in order to prevent a similar occurrence in the future

- one upheld complaint regarding unsuitable G classification of a news review segment during *New Year's Eve* coverage. The network agreed that it would have been better to play a different year in review package instead the news review package broadcast. The station has taken steps to ensure that they have suitable back-up programming in the future.

Programs receiving the highest number of complaints (not upheld) were:

- *Australia's Funniest Home Video Show*

(Nine Network) – 18 complaints mostly concerning nudity, cruelty to animals or sexual references considered unsuitable for the G classification

- *A Current Affair* (Nine Network) – there were 11 complaints mostly concerning perceived bias in interviewing or reporting

- *National Nine News* (Nine Network) – nine complaints mostly concerning perceived bias in reporting and breach of privacy

- *60 Minutes* (Nine Network) – seven complaints mostly concerning perceived bias in reporting and leading questions in relation to the Bali bombing

- *Seven News* (Seven Network) – seven complaints mostly concerning perceived bias in a news item, privacy and distressing images shown at a time considered to be unsuitable for the classification

- *Comedy Inc* (Nine Network) – six complaints mostly concerning perceived vilification on the basis of race or religion and violence and language considered unsuitable for the M classification

- *Burke's Backyard* (Nine Network) – five complaints mostly concerning cruelty to animals and a sexist remark.

Complaints handling by commercial radio stations

January – March 2003

Member stations recorded 140 written complaints alleging breaches of the Commercial Radio Codes of Practice during the first quarter of 2003.

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.

	Talkback & discussion	News & current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	107	1	1	4	3	116
Prohibited matter in						0
Other complaints	4	4	2	4	10	24
Total	111	5	3	8	13	140

Source: CRA Commercial Radio Codes of Practice: Complaints summary March quarter 2003.