

Investigations

ABA reminds broadcasters of the importance of adequate community safeguards

In considering a number of investigations recently, the ABA has noticed that some broadcasters do not have adequate community safeguards that, in particular, protect children from exposure to program material that may be harmful to them. In order to comply with relevant code provisions, the ABA reminds broadcasters that they must take care in providing programming, in particular, at times when children might be listening or watching.

The ABA supports the provision of vibrant and innovative programming, however, this must be done in a way that is mindful of the potential audience. This requires broadcasters to be vigilant, including having in place adequate policies and practices that minimise the risk of broadcasting programming that might not comply with relevant code provisions, in particular, content that expose children to material that might be harmful to them. In this regard, policies and practices would include guidance on the time at which broadcasts take place. ☒

2FBI Sydney

Protecting children from harmful material

Complaint

On 21 November 2003, the ABA received a written complaint concerning the broadcast, at 3.52 pm, of a music track containing explicit and offensive language. The complainant was concerned that the broadcast took place at a time when children may have been listening.

Decision

The ABA determined that, during the Arvo program, broadcast on 29 October 2003 at 3.52 pm, the licensee of community radio service FBI, Free Broadcast Inc:

- breached sub-clause 2.4 of the Community Broadcasting Code of Practice 2002 in relation to the establishment of

programming practices which protect children from harmful programming material and

- did not breach sub-clause 2.2 of the code in relation to the consideration given to audience, context, degree of explicitness, propensity to alarm, distress or shock, and the social importance of the event.

Action taken

The licensee advised that in light of the ABA's findings, it had decided to develop a policy guideline to distribute to broadcasters and make available to listeners. The Station Guide-Sheet includes a number of points to consider in relation to broadcasts including the time of day the material is to be broadcast and possible audience characteristics. ☒

TND Darwin

Breach of the Children's Television Standards

The ABA has found that Telecasters Australia Ltd (TND Darwin) breached the Children's Television Standards (CTS), in April 2003. TND broadcast an unclassified program in children's program time periods.

The CTS provide that only children's (C) or preschool (P) programs classified by the ABA may be broadcast within C or P periods and claimed towards a licensee's annual sub-quota requirements.

One of the main objectives of the CTS is to ensure that Australian children have access to a variety of quality programming made specifically for them. The ABA considers the broadcast of non-C classified material within C periods as a serious matter.

Action taken

TND notified the ABA of the breach when it discovered its error and scheduled extra C programming to ensure that its

Investigation reports : breach findings

To view the full report on these investigations, go to the ABA web site: www.aba.gov.au/tv/investigations/breach_findings/ or www.aba.gov.au/radio/investigations/breach_findings/ where the reports are arranged according to month of completion.



children's program sub-quota requirements were met in 2003. The licensee also implemented new procedures to prevent further breaches.

Given the action taken by the licensee on discovering the breach and the efforts made to ensure it does not recur, the ABA has decided to take no further enforcement action against the licensee.

Children's Television Standards

The Children's Television Standards require that free-to-air commercial licensees broadcast a minimum annual quota of children's programs that have been classified by the ABA. The programs must be broadcast during specific children's and preschool time bands.

CTS 3 sets out a licensee's obligations to broadcast annual minimum amounts of C and P programming. CTS3(1)(g) provides that

In C periods and P periods a licensee shall not broadcast any program other than a C program or P program, as the case may be.

Under section 122 of the Broadcasting Services Act the ABA is required to determine standards that are to be observed by commercial broadcasting licensees in relation to programs for children. It is a condition of a commercial broadcasting licence that a licensee will comply with program standards (clause 7(1)(b) of Part 3 of Schedule 2 to the Act). ☒

3AW Melbourne

Vilification

Complaint

On 22 April 2004 the ABA received a written complaint about the broadcast of a segment during a talkback program on commercial radio service 3AW. The complainant alleged that, in a segment of the program presented by Rex Hunt, the licensee vilified him on the basis of mental disability and presented factual material inaccurately.

Decision

The ABA determined that, during the *Drive – with Derryn Hinch* program broadcast on 13 February 2004, the licensee of 3AW:

- breached clause 1.3(e) of the Commercial Radio Codes of Practice 1999 by broadcasting programming content, which was likely to vilify the complainant on the basis of his mental disability and
- did not breach clause 2.2(a) of the Codes as it presented factual material accurately.

Action taken

The licensee of 3AW agreed that the comments made by Rex Hunt on the Derryn Hinch *Drive* program of 13 February 2004 vilified the complainant in breach of the codes, and both the presenter and the licensee apologised to the complainant. The presenter also gave the licensee an assurance that any similar comments would not be repeated. ☒

ABC Television

Accurate and impartial news

Complaint

On 19 April 2004, the ABA received a complaint regarding an ABC television news bulletin which was about the status of defamation action being taken against Channel 9 and broadcast on 27 February 2004.

The complainant alleged that the news segment was not factually accurate, gave a biased account of proceedings and was misleading.

Decision

The ABA determined that, in relation to the broadcast of the ABC TV News of 27 February 2004, the ABC:

- breached clause 4.1 of the ABC Code of Practice, 2002, by not presenting factual material accurately and
- did not breach clause 4.2 of the ABC Code.

Action taken

The ABC gave a commitment in a letter to the complainant dated 18 May 2004, that the broadcaster will provide further training to court reporters in its News & Current Affairs Division, to ensure that the process of defamation actions in New South Wales are fully understood. ☒