

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 summary series is compiled by Trish Cohen, ABA Investigations section.

Complaints and investigations

ABA investigations into programming matters

Summary of ABA investigations into unresolved complaints completed in the six months to 31 December 2003

Number of ABA investigations finalised:	56
Investigations resulting in a breach:	9
(the 9 investigations resulted in:	
• 5 breaches of a code of practice	
• 3 breaches of a licence condition	
• 1 breach of the Act	
• 1 breach of the Children's Television Standards)	
Investigations resulting in no breach	47

Of the nine investigations finding a breach, four related to commercial television, two to community radio, one to commercial radio, and one to open narrowcast radio, one to ABC television. The breaches covered the following issues:

- accurate presentation of factual material in current affairs on commercial television (two)
- failure to present news fairly and impartially on commercial television (one)
- failure to comply with a licence condition requiring compliance with a program standard by commercial television (one)
- failure to comply with the Children's Television Standards in a program on commercial television
- complaints handling breaches by commercial radio (one)
- providing a commercial service without a licence in breach of the Act by an open narrowcast radio service (one)
- the broadcasting of advertisements by community radio services (two)
- broadcast of inappropriate material in news updates during children's programming by ABC television (one).

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.

Summaries

The ABA publishes summary tables of its investigations into unresolved complaints and complaints about possible breaches of the Act or licence conditions. Summaries of the findings relating to major investigations are also in *ABA Update*.

This edition also contains, with the cooperation of Free TV Australia* and Commercial Radio Australia (CRA)^, a six monthly report of the number and substance of complaints made directly to the commercial broadcasters.

• Formerly the Commercial Television Australia (CTVA)

• ^ Previously Federation of Australian Radio Broadcasters (FARB)

ABA investigations July – December 2003

Breach findings

<i>Callsign</i>	<i>Program/advertisement/ issue</i>	<i>Substance of complaint</i>	<i>Code/licence condition applicable to breach finding</i>
Commercial television			
TCN 9 Sydney	<i>Sunday</i>	Claim of inaccuracies in two program segments about people smuggling from Indonesia and alleged involvement of the Australian Federal Police.	Accurate presentation of factual material in current affairs.
NBN 9 Newcastle	<i>A Current Affair</i>	The program contained material that was inaccurate and the material broadcast invaded the privacy of the complainant and her husband.	Accurate presentation of factual material and privacy in current affairs.
ATV 10 Melbourne	<i>In the Box</i>	A presenter on the program used a knife in an unsafe manner.	P and C children's programs – not encourage children to engage in activities dangerous to them.*
GTV 9 Melbourne	<i>National Nine News and Nightline</i>	News item re Telstra and phone calls to Bali did not present factual material accurately or viewpoints fairly.	Fair and impartial presentation of news.
Commercial radio			
2MMM Sydney	The Local	Concerned at sexist and homophobic comments and inappropriate discussion about alcohol consumption. Complaints handling.	Complaints handling.
Community radio			
3BBB (Voice FM) Ballarat	Sponsorship	Alleged that the licensee of Voice FM was broadcasting advertisements and also exceeding sponsorship time limits.	Broadcasting advertisements.*
Temporary community radio			
Hellenic Radio Kiama (TCBL)	Sponsorship	Claim that TCBL Hellenic Australian Radio Inc. broadcast advertisements through the Symban Radio Network and that its president/station manager is also a licensee of a low powered open narrowcast service.	Broadcasting advertisements.*
Open narrowcast radio			
WOW FM Mackay	General program content	Alleged broadcast of format of broad appeal by licensee of narrowcast service.	Providing a commercial service without a licence.*
ABC Television			
ABC TV	<i>ABC Kids</i>	Iraq war news updates broadcast during daily children's program periods were inappropriate.	Appropriate material in news updates during children's programming.

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

Your Say

Licensees took the following action in relation to these breaches :

NBN 9 – the Nine Network stated that it would forward and discuss the ABA report with the current executive producer, producers and journalists in the employ of *A Current Affair*. Nine stated that it would also conduct further training with *A Current Affair* journalists in relation to the provisions of the code with particular emphasis being given to the requirements of clause 4.3.1 of the code.

ATV 10 – Network Ten advised that the episode has been withdrawn from the series and will not be broadcast again. The finding was also brought to the attention of key production personnel in

Ten’s children’s television unit for their reference for future P productions.

WOW FM – Following the ABA’s investigation, the licence changed hands and the new licensee has provided the ABA with detailed information about its new format.

2MMM – The licensee has since tightened its systems to avoid a recurrence of a failure to respond, by ensuring that its general manager is aware of the status of such responses routinely.

3BBB – The licensee undertook to take remedial action including reviewing and updating training procedures and consulting with the Community Broadcasting Association of Australia and other com-

munity groups to obtain ‘best practice’ examples of training material.

Hellenic Radio (TCBL) – The licensee undertook to improve procedures put in place last year to ensure that all sponsorship announcements are tagged.

ABC TV – The broadcaster acknowledged that the bulletins broadcast at 3 pm and 4 pm on 26 March 2003 contained images unsuitable for broadcast at times when subsequent programs were directed at children. Accordingly, ABC management has emphasised to news staff the need to take care with images used in programs, particularly in children’s viewing times.


No breach findings

<i>Callsign</i>	<i>Program/advertisement/issue</i>	<i>Substance of complaint</i>	<i>Relevant code/licence condition</i>
Commercial television			
CBN Prime Canberra/Sthn NSW	Lynx deodorant advertisement	Concerned that the advertisement contained inappropriate sexual content.	M – sex and nudity, appropriate classification of commercials.
CBN Prime Canberra/Sthn NSW	<i>Mile High</i> promotion	Complainant considered that the promotion was pornographic and should not have been broadcast in G. Complaints handling.	Promotions in G, complaints handling.
CTC 10 Canberra	V8 Supercar promotion	Complainant considered that a promotion for the V8 supercars contained a reference to ‘f’ language that was inappropriate in a G program.	Promotions in G for sports program.
ATN 7 Sydney	<i>Sunrise</i>	Alleged that the licensee faked a news report by using footage of the NSW Royal Commission when featuring a story on the WA Royal Commission Into Police Corruption. Complaints handling.	Accurate presentation of factual material and fair representation of viewpoints in current affairs, complaints handling.
TCN 9 Sydney	<i>Freesport</i>	Tobacco advertising throughout a race shown in this program. Mild Seven may have been a sponsor of the event.	Broadcasting a tobacco advertisement.*
TCN 9 Sydney	<i>Sunday</i>	Alleged that program failed to present viewpoints regarding an incident involving Macquarie Bank with fairness and accuracy.	Accurate presentation of factual material and fair representation of viewpoints in current affairs.
TCN 9 Sydney	<i>Comedy Inc.</i>	A sketch in the program contained violence that was inappropriate to its M classification.	M – violence.
WIN Sthn NSW	<i>Today</i>	Coverage of the Waterfall train disaster contained factual inaccuracies regarding the number of fatalities. Complaints handling.	Accurate presentation of factual material and complaints handling.
ATV 10 Melbourne	<i>Cheez TV</i>	Inappropriate language in a G classified program.	G – language.
ATV 10 Melbourne	<i>The Panel</i>	Panel member, Rob Sitch, used offensive language.	M – language.
GTV 9 Melbourne	<i>Comedy Inc.</i>	A skit on program depicted a child being cooked in an oven.	M – adult themes.
GTV 9 Melbourne	<i>Comedy Inc.</i>	Objected to sexual overtones in skit featuring the Cougar alcoholic beverage.	M – sex and nudity.

Callsign	Program/advertisement/ issue	Substance of complaint	Code/licence condition applicable to breach finding
GTV 9 Melbourne	<i>News</i>	Complaint regarding lack of warning given before broadcast of the dead bodies of Uday and Qusay Hussein.	Appropriate regard to the feelings of viewers, provide warnings for material that may seriously distress or seriously offend a substantial number of viewers.
BTQ 7 Brisbane	<i>Seven News</i>	Claim that news item about complainant was inaccurate and unfair.	Accurate presentation of factual material, fair and impartial presentation of news.
BTQ 7 Brisbane	<i>Mile High</i> promotion	Promotion for movie contained explicit nudity and sex scenes. Complaints handling.	Promotion in G – sex and nudity, complaints handling.
STQ 7 Regional Qld	<i>News</i>	Claim that footage of the complainant which was shown during a news bulletin was an invasion of privacy.	Privacy in news.
ADS 10 Adelaide	<i>The Simpsons</i>	Concern about father's advice to son on how to fight someone.	G – violence.
ADS 10 Adelaide	<i>The Mummy</i>	The promotion for the M classified film was inappropriate for viewing by young audiences because of its menacing content and vision of decayed bodies.	Promotion in G – close up vision of dead/wounded bodies, more than low sense of threat/menace, care taken to minimise distress to children if material contains atmosphere of tension or fear.
ADS 10 Adelaide	<i>Kiss the Girls</i>	Considered that the film contained violence that exceeded its M classification.	M – violence.
SAS 7 Adelaide	<i>Doctor Dolittle</i>	The program contained themes (suicide, psychiatric treatment of patients, child alienation from a parent) not suitable for a G classification.	G – suicide, social or domestic conflict.
NWS 9 Adelaide	<i>News</i>	News coverage of bushfires unnecessarily focused on grieving victims. Complaints handling.	Care in broadcasting images of grief or trauma in news and current affairs, complaints handling.
SSW 7 SW Western Australia	<i>News</i>	Concern that footage of the complainant was broadcast without his consent and his privacy invaded. Complaints handling.	Privacy, complaints handling.
TNT Tasmania	<i>Southern Cross Nightly News</i>	The news item about Syria exporting guns to Iraq was inaccurate and licensee failed to correct the error at the earliest convenience.	Accurate presentation of factual material, fair representation of viewpoints, impartiality in news.
TVT-WIN Tasmania	<i>Sunday</i>	The program was not accurate or fair.	Accurate presentation of factual material, fair representation of viewpoints.

Commercial radio

2DAY FM Sydney	<i>Hot 30.com</i>	Program segment was considered distasteful, offensive and distressing.	Standards of decency of likely audience.
2UE Sydney	John Laws	Forum on Australia's Islamic relations offended by statement 'most terrorists are Muslim'. Complaints handling.	Hatred, vilification, complaints handling, retention of records.
2UE Sydney	John Laws	Alleged that advertisements were indistinguishable from program matter.	<i>Broadcasting services (Commercial Radio Advertising) Standard 2000.*</i>
2UE Sydney	John Laws	John Laws was making unacceptable jokes about suicide bombers.	Vilification, standards of decency of likely audience.
2CS Coffs Harbour	John Laws	Complaint that John Laws used terminology that was racist and encouraged hatred towards ethnic people and indigenous Australians. Complaints handling.	Vilification, standards of decency of likely audience, complaints handling.
3AW Melbourne	<i>Glossing Over With ...</i>	Alleged that an interview with an actor to publicise the performer's live show, presented the misuse of drugs as desirable. Complaints handling.	Promote the use of alcohol or drugs, complaints handling.



Your Say

<i>Callsign</i>	<i>Program/advertisement/ issue</i>	<i>Substance of complaint</i>	<i>Code/licence condition applicable to breach finding</i>
3AW Melbourne	Derryn Hinch	Complaint that comments regarding Melbourne's Calabrian community were offensive, inaccurate and vilifying.	Hatred, vilification, distinguish factual material from commentary.
7TTT Hobart	Regina Bird bumper sticker	Concern at station promotion of Regina Bird, <i>Big Brother</i> contestant, for use as radio bumper sticker.	Vilification, standards of decency of likely audience, complaints handling.
Open narrowcast radio			
2KY Deniliquin	<i>Big Sports Breakfast Show</i>	Alleged that a significant proportion of the program provided by 2KY narrowcast racing radio service at Deniliquin comprised content that is not relevant to racing or of interest to people in racing.	Providing a commercial service without an appropriate licence. Provision of a narrowcast service by virtue of provision of programs of limited appeal.**
90.5 Mt Lofty	General program content	Narrowcast service (90.5 MHz Ambersky Pty Ltd) was conducting test broadcasts in the Mt Lofty area, which were indistinguishable from the content of local commercial station 8SAT and did not satisfy any of the section 18 criteria.	Providing a commercial service without an appropriate licence.*
ABC television			
ABC TV	<i>Australian Story</i>	Objection to use of obscene language in a program broadcast at 8 p.m.	PG – language.
ABC TV	<i>Foreign Correspondent</i> 'Ethiopia'	Concerned that the segment lacked balance.	Balance and impartiality in news and current affairs.
ABC TV	<i>Fortress Australia</i>	Alleged that the documentary about the Jervis Bay nuclear reactor was inaccurate and that the viewpoint of Mr Keith Alder was misrepresented.	Factual accuracy and representation of viewpoints.
ABC TV	<i>Four Corners</i>	Claim that a story on Woomera detainees was inaccurate, unfair, biased and omitted crucial material.	Discrimination, accuracy, impartiality, balance over time in current affairs.
ABC TV	<i>Lateline</i>	Alleged that the report regarding a motion proposed in the Federal Parliament on Israel's occupation of the West Bank and Gaza Strip demonstrated a pro-Israeli bias.	Impartiality, balance over time in current affairs.
ABC TV	<i>News</i>	Complaint regarding discrimination and stereotyping of homosexuals in a segment about seizure of CDs, DVDs and computer equipment in Darwin NT.	Discrimination, avoidance of stereotypes, accuracy.
SBS television			
SBS TV	<i>The Cutting Edge</i>	Program on the Great Barrier Reef was inaccurate and unbalanced. Complaints handling.	Discrimination, accuracy, balance over time, complaints handling.
SBS TV	<i>SBS World News</i>	Complaint regarding inaccurate and unbalanced reporting in respect to the Israel and Palestinian conflict. Claim that the content also encouraged anti-semitism.	Accuracy, balance, fairness, objectivity and professionalism in news reporting, prejudice, discrimination.
ABC radio			
ABC Metro 2BL Sydney	Sally Loane	Claim of impartial and unbalanced presentation of information in a segment entitled 'Community Attitudes to Violence on Free-To-Air Television'.	Accuracy, impartiality and balance over time.

Callsign	Program/advertisement/ issue	Substance of complaint	Code/licence condition applicable to breach finding
ABC Radio National	AM	Report on discussion by Israeli Government official of hypothetical kidnap of the president of Palestinian Authority and exiling him lacked balance and impartiality.	Impartiality, balance over time.
ABC Radio National	<i>The World Today</i>	Alleged the story was one-sided in favour of Israel and ignored the point of view of Syria, Lebanon and Iran.	Impartiality, balance over time.
ABC Radio National	AM	Complaint that three separate broadcasts on AM were biased against Iran and in favour of Israel. Complaint handling.	Impartiality, balance over time, complaints handling.
ABC Regional	<i>Morning Talkback</i>	Complainant considered that a talkback caller inaccurately stated that Gunns Pty Ltd would be spraying Agent Orange.	Accuracy, impartiality, balance over time.

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

Complaint handling by commercial television stations July – December 2003

The Commercial Television Industry Code of Practice requires each commercial television broadcaster to report to Free TV², within 15 working days of the end of each quarter, the number and substance of written complaints alleging specific breaches of the code.

Commercial television stations reported 274 written complaints about matters covered by the Code of Practice in the six months to 31 December 2003, compared with 383 in the previous six months.

The number of complaints was steady or decreased in most areas. In particular, there was an increase in the number of complaints concerning bias and inaccuracy and commercial placement. There was a decrease in the number of complaints concerning classification, language, sex and nudity, violence and discrimination.

Complaints upheld

In one instance a station agreed that a complaint identified a breach of the Code (there were 14 instances in the previous six months). The upheld complaint related to the placement of a commercial for the movie *The Real Cancun* shown during *Everybody Loves*

Raymond. The network agreed that the commercial was wrongly placed (due to a computer error) and has made modifications to the placement process to prevent any similar mistakes in the future.

Complaints not upheld

The following programs received the highest number of complaints (not upheld).

Nine Network

- *A Current Affair* – there were 16 complaints mostly concerning perceived bias and inaccurate reporting in a news item.

- *A Current Affair* – there were 17 complaints mostly concerning perceived bias and inaccurate reporting in a news item and images considered unsuitable for the G classification.

- *60 Minutes* – there were 16 complaints mostly concerning perceived bias and inaccurate reporting in a news item and distressing images shown at a time considered to be unsuitable for PG classification.

- *National Nine News* – there were three complaints concerning perceived inaccurate reporting and disturbing material.

- *Sunday* – there were three complaints concerning perceived bias and inaccurate reporting and nudity considered unsuitable for G classification.

- *Sunday* – there were eight complaints

mostly concerning inaccurate and impartial reporting.

- *The Block* – there were eight complaints mostly concerning sexual behavior considered unsuitable for a G classification.

Seven network


- *Mile High* – there were four complaints concerning promotions and sexual content considered unsuitable for the time zone.

- *Mile High* – there were nine complaints mostly concerning inappropriate and offensive promotions which were considered unsuitable.


- *Seven News* – there were seven complaints mostly concerning perceived bias in reporting and the distressing nature of a news item considered to be unsuitable for G classification.

Network Ten

- *MTV Music Video Awards* – there were seven complaints mostly concerning content and program promotions considered unsuitable for G and M classifications.

- *Fox FM Commercial* – there were five complaints mostly concerning sexual references and nudity unsuitable for M classification. 

¹ Commercial Television Australia changed its name to Free TV on 10 June 2004

See page 14 for the table of complaints made to commercial television stations 

Your Say

Complaints made to commercial television stations about programs: July – December 2003

Program type	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		1	1				2					8	2.9
Comedy	2	5	3	1		6			1						18	6.6
Current affairs	1					3	54	1		2					61	22.3
Drama	9	1	2			10									22	8.0
Information	4	7				3	1			2					17	6.2
Movies	7	3	9			4									23	8.4
Music Video	1					1									2	0.7
News			1			9	16	1							27	9.9
Program promo	15	2	5			11	1		2	1					37	13.5
Quiz			1												1	0.4
Sport	4	1				1	1		2	1					10	3.6
Unspecified	10	1	1			3			1	2	5	1			24	8.8
Variety	5	3	2			10			2	1			1		24	8.8
Total	60	24	25	1	1	62	73	2	6	5	13	1	0	1	274	100
%																
All complaints	21.9	8.8	9.1	0.4	0.4	22.6	26.6	0.7	2.2	1.8	4.7	0.4	0.0	0.4	100	

Source: Free TV Australia

Complaint handling by commercial radio stations

The Commercial Radio Codes of Practice require each commercial radio broadcaster to provide Commercial Radio Australia with an extract of the record of complaints received.

Member stations recorded 168 written complaints alleging breaches of the Commercial Radio Codes of Practice during the six months to 31 December 2003.

	Talkback & discussion	News & current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	64	2	9	27	12	114
Prohibited matter in	7	0	1	0	3	11
Other complaints	14	1	4	6	18	43
Total	85	3	14	33	33	168

Source: Commercial Radio Australia