



ATN 7 Sydney: Today Tonight

Failure to present factual material accurately

The ABA has found that Channel Seven Sydney Pty Ltd, the licensee of ATN 7, breached the commercial television code of practice by failing to ensure the accurate presentation of factual material in an episode of *Today Tonight* broadcast in April 2004.

The ABA also found Channel Seven Sydney Pty Ltd had breached the complaint handling provisions of the code in relation to a complaint about the broadcast.

In July 2004 the ABA received a written complaint regarding a segment entitled *Homesbuck* broadcast by ATN 7 on the *Today Tonight* program on 15 April 2004. The segment concerned the failure of a real estate agent to advise the purchasers of a property that the house was subject to a demolition order. The complainant alleged that ATN 7 failed to present factual material accurately. The ABA also considered whether the licensee had breached the complaints handling requirements in the Commercial Television Industry Code of Practice.

The ABA determined that during a broadcast of the *Homesbuck* segment on the *Today Tonight* program on 15 April 2004, the licensee of ATN 7:

- breached clause 4.3.1 of the code by failing to present factual material accurately; and
- breached clauses 7.9 and 7.12 of the code by failing to provide a substantive written response to the complainant and failing to advise the complainant that it could make a complaint to the ABA about the matter if it considered the response inadequate.

The licensee advised that once the ABA has issued its final investigation report regarding this matter, it will provide a copy of the decision to key personnel involved in news and current affairs, along with an explanation of the decision

and directions to ensure that future programs are consistent with the ABA's findings in this matter.

In light of the licensee's undertakings, the ABA does not propose to take any enforcement action in relation to the breach on this occasion.

Code provisions

The relevant provisions of the commercial television code of practice are clauses 4.3.1, 7.9 and 7.12:

4.3 In broadcasting news and current affairs programs, licensees:

4.3.1 must present factual material accurately and represent viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program.

7.9 Where a Code complaint is made about material broadcast by a station within thirty days of its broadcast, the licensee must provide a substantive written response

7.12 In all cases, a licensee's substantive reply will also advise the complainant that he or she may refer the matter to the Australian Broadcasting Authority if not satisfied with the licensee's response.

The complaint

On 16 July 2004 the ABA received a complaint regarding a segment entitled *Homesbuck* broadcast by Channel Seven Sydney Pty Ltd (the licensee) on the *Today Tonight* program on 15 April 2004.

The complainant alleged that the licensee breached clause 4.3.1 of the code as it failed to present factual material accurately and represent viewpoints fairly, and in particular that:

- the segment implied that the misrepresentation was deliberate on the part of the principal of Ray White's real estate franchise in Altona, Mr D, despite a

finding made by the Victorian Civil and Administrative Tribunal that the misrepresentation was unintentional

- the segment erroneously suggested that Mr D had direct conduct of the sale of the property and had personally made the misrepresentation to the purchasers
- the segment portrayed the couple who purchased the property as being unaware of the demolition order, despite the fact that the contract for sale included relevant Council letters relating to outstanding works and
- the reporter suggested that Mr D had only paid the outstanding compensation monies after *Tonight Tonight's* involvement in the matter.

The program

The segment was introduced by the host, Naomi Robson, as follows:

Imagine buying a dream home only to discover you have been tricked and the house you thought was perfect was in fact under a demolition order. That's what happened to one devastated family ...

The segment featured an interview with the couple who purchased the property; an attempted interview with the principal of the Ray White real estate in Altona, Mr D; and a spokesman for the Consumer Law Centre. The reporter is shown attempting to interview Mr D at his home with Mr D closing the front door.

The reporter indicated that ultimately, the house was not demolished. Rather, the purchasers carried out extensive renovations to correct the building defects.

This matter was the subject of a claim made to the Victorian Civil and Administrative Tribunal by the purchasers of the property against the D Group Pty Ltd (the company which owns the Ray White franchise) alleging misleading conduct.



On 24 November 2004, the Victorian Civil and Administrative Tribunal found that the respondent's conduct was misleading and deceptive, albeit not intentionally, and ordered it to pay \$7500 in damages to the purchasers.

Assessment

The ABA sought and received a tape of the relevant segment from the licensee and comments in regard to the program's compliance with the relevant clauses of the code.

The ABA assessed the allegations against the code's requirement to 'present factual

material accurately having regard to the circumstances at the time of preparing and broadcasting the program.'

The ABA found that in three of the matters complained about, that is:

- the implication that the misrepresentation was deliberate on the part of Mr D
- the suggestion that Mr D had personally made the misrepresentation to the purchasers, and
- omitting to point out that the demolition order was attached to the contract for sale
- the licensee did not present factual material accurately.

In relation to the suggestion that Mr D

had only paid the outstanding compensation monies after *Today Tonight's* involvement in the matter, the ABA found that the licensee did not breach clause 4.3.1 of the code.

The ABA also found that the licensee's response to the complaint did not specifically address the four issues raised by the complainant in its letter of 20 April 2004. It merely refuted the complainant's allegations in three sentences. The ABA considers that the response was not substantive in terms of code 7.9. Further, the ABA notes that the response did not advise the complainant that it could make a complaint to the ABA about the matter if it considered the response inadequate. ☐

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Accuracy, representation of viewpoints, correcting significant errors of fact at the earliest opportunity

The complaint

On 11 March 2004, the ABA received a complaint from Centrelink regarding factual content, representation of viewpoints and correcting significant errors of fact at the earliest opportunity in the 'Ruthless Centrelink' segment broadcast on *Today Tonight* on 18 December 2003.

The complainant's concerns related primarily to the omission of relevant information provided by the complainant and the failure of the licensee to include the complainant's 'side of the story in response to inaccurate allegations', which resulted in a negative representation of Centrelink.

Decision

The ABA determined that in relation to the broadcast of the item 'Ruthless Centrelink' in the program *Today Tonight* on 18 December 2003, the licensee, Channel Seven Sydney Pty Ltd:

- breached clause 4.3.1 of the Commercial Television Industry Code of Practice 1999 as factual material was not presented accurately
- breached clause 4.3.1 of the code, as viewpoints were not represented fairly
- breached clause 4.3.11 of the code, as reasonable efforts were not made to correct a significant error of fact at the earliest opportunity and
- did not breach clause 4.5 of the code, as viewpoints were represented fairly in the program promotion.

Action taken

In its 18 October 2004 submission the licensee advised the ABA that it would be: ... providing a copy of the ABA's final investigation report to relevant senior news and current affairs management as well as to the reporting and research staff involved with the preparation of the segment.

The ABA also notes that on 20 May 2004, in regard to an investigation into another

Today Tonight report, the ABA sought a written undertaking from the licensee that it conduct a code training program with relevant staff within the following three months. Training for news and current affairs staff should focus on section 4 of the code, using relevant ABA investigations as practical examples to illustrate code requirements. In a letter dated 9 November 2004, the licensee advised that:

- training sessions were conducted with News & Current Affairs, Sales Programming/Admin and the Switchboard
- each session was specifically tailored to those areas of the code of most significance to the relevant business area and
- for the News & Current Affairs groups, training focused on clause 4 (News and Current Affairs) of the code and the complaints handling requirements of clause 7. All areas of the relevant code were covered. ☐