

Investigations

4EL Cairns

Complaints handling, retention of record of broadcast

The complaint

On 5 May 2004, the ABA received a complaint about racist and offensive comments in broadcasts on various dates on *John McKenzie Mornings* on 4EL.

Decision

The ABA determined that in relation to a broadcast on 14 January 2004, the licensee, AMI Radio Pty Ltd:

- breached clause 5.6 of the Commercial Radio Codes of Practice 2001, by failing to provide a final reply to the complaint within 45 days of receiving the complaint
- breached clause 5.7 of the codes by failing to inform the complainant that he had the right to refer the complaint to the ABA if he was not satisfied with the response from the licensee; and
- breached clause 5(3) of Schedule 2 to the Broadcasting Services Act, by not retaining in its custody for 60 days from

the date of broadcast a record of matter about which a complaint had been made.

The ABA also determined that in relation to broadcasts on 30 October 2003, 16 December 2003 and 18 December 2003 respectively, the licensee did not breach clauses 5.6 or 5.7 of the codes, in relation to handling of complaints, and did not breach clause 5(3) of Schedule 2 to the Act, in relation to retention of records of broadcasts.

The ABA found that it was unable to assess the substantive complaint, as it had no taped evidence of the broadcasts with which to do so.

Action taken

The licensee advised that following receipt of the ABA's preliminary findings, it undertook the following in order to help ensure that any future complaints are dealt with according to the code and the Act:

- informed all staff of the ABA's preliminary findings, re-issued them with a copy of the licensee's compliance policy and instructed them to review station handbooks, containing guidelines on the codes and the Act
- compiled a detailed analysis of the licensee's handling of the complaint, its actions and thought processes at the time, and a dissection of how the complaint should have been handled in order to comply in full with the codes and the Act; and
- scheduled the posting of this analysis, and a full copy of the ABA's preliminary report, to all of the licensee's station managers.

The licensee also advised that any future letter from it, to any complainant, would include an official notification of the right to forward complaints to the ABA.

In light of the licensee's acknowledgements and undertakings, the ABA decided not to take any further action on this occasion. ☐

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.

