

# BROADCASTING COMPLAINTS



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. ACMA monitors the operation of these codes and performs an independent adjudicator role where complaints are not resolved between the complainant and the licensee concerned.

This summary is of ABA investigations into unresolved complaints, as well as complaints about possible breaches of the Broadcasting Services Act or licence conditions, completed in the six months to 30 June 2005.

There is also, with the cooperation of FreeTV Australia and Commercial Radio Australia, a six-month report of the number and substance of complaints made directly to the commercial broadcasters.

## THE COMPLAINTS PROCESS

Primary responsibility for the resolution of code-related complaints rests with the licensees themselves. The Broadcasting Services Act lays down a general procedure for complaint handling whereby a complainant is required to approach a licensee 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 may then be referred to ACMA for investigation. ACMA refers to these as unresolved complaints and must investigate such complaints unless satisfied that a complaint is frivolous, vexatious or not made in good faith.

Complaints about possible breaches of program standards (children's television, Australian content and commercial radio), about the Broadcasting Services Act itself and about licence conditions may be made directly to ACMA—complainants are not obliged to contact a licensee first.

ACMA may make a finding that a licensee has breached a code of practice or a licensee may admit a breach of a code. Breaches of codes are not breaches of the Broadcasting Services Act, although ACMA may make compliance with a code a condition of licence. Generally, ACMA seeks to ensure that licensees take action to remedy breaches or to put in place procedures to ensure they do not recur.

## SIX-MONTH SUMMARY OF ABA INVESTIGATIONS INTO BROADCASTING

### INVESTIGATIONS BY THE ABA INTO UNRESOLVED COMPLAINTS COMPLETED IN THE SIX MONTHS TO 30 JUNE 2005

Number of investigations finalised in the six months: **78<sup>1</sup>**

Investigations resulting in a breach: **33**

(The 33 investigations resulted in 41 breaches of a code of practice, seven breaches of a licence condition and one breach of the Broadcasting Services Act.)

Investigations resulting in no breach: **44**

Investigations terminated: **1**

1 Includes one investigation which was withdrawn by the complainant—no finding was reached

Of the 33 investigations finding a breach, 15 related to commercial television, six to community radio, four to commercial radio, two to each of ABC Radio, ABC Television, SBS Television and subscription television narrowcast services. The investigations resulted in 49 breaches which covered 16 broad issues as follows:

#### COMMERCIAL RADIO

- complaints handling (3)
- vilification (1)
- broadcasting an election advertisement during the 'blackout' period before an election (breach of licence condition) (1)

#### COMMERCIAL TELEVISION

- complaints handling (7)
- failure to present news or current affairs accurately, fairly or impartially (4)
- broadcast of material exceeding the classification level of a rated program or a pre-classified viewing time (8)
- lack of captioning thereby breaching the Broadcasting Services Act (1)
- loudness of advertisements (1)
- broadcast more than allowable minutes per hour of non-program matter (1)
- privacy (3)
- lack of consumer advice before a program (1)

**COMMUNITY RADIO**

- complaints handling (3)
- breach of a licence condition by broadcasting more than the permissible five minutes of sponsorship announcements per hour (1)
- breach of a licence condition by broadcasting advertisements (3)

- not encouraging members of the community to participate in the operations and programming provided by the service (1)

**ABC TELEVISION**

- gratuitous language (1)
- failure to present factual material in news or current affairs accurately (1)

**ABC RADIO**

- complaints handling (1)
- gratuitous language (1)
- failure to present news or current affairs in a balanced and impartial manner (1)

**SBS TELEVISION**

- complaints handling (1)
- failure to present news or current affairs accurately (1)

**SUBSCRIPTION TELEVISION  
NARROWCAST SERVICES**

- X classified content broadcast (2)
- class of licence prohibited thereby breaching a licence condition (1)

# ABA investigations January–June 2005

## BREACH FINDINGS

CALLSIGN	PROGRAM/ ADVERTISEMENT/ISSUE	SUBSTANCE OF COMPLAINT	CODE/LICENCE CONDITION
<b>COMMERCIAL TELEVISION</b>			
<b>NEW SOUTH WALES</b>			
ATN 7 Sydney	<i>Desperate Housewives</i> promotion	Promotion shown during the Australian Open Tennis men's final depicted a woman pointing a gun to her head which was not suitable viewing for children.	Broadcasting material classified M during sports coverage in PG time zone.
ATN 7 Sydney	<i>Today Tonight</i> —Centrelink	Program was inaccurate and views not represented fairly.	Accuracy.
ATN 7 Sydney	<i>Today Tonight</i> —Homeshock	Real estate agent segment contained inaccuracies and unfairly represented the agent. Complaints handling.	Accuracy, fair representation of viewpoints in current affairs, complaints handling.
TCN 9 Sydney	<i>A Current Affair</i> —Neighbourhood Dispute	Neighbourhood dispute segment which featured complainant's wife was not balanced or fair. Complaints handling.	Complaints handling.
TCN 9 Sydney	<i>A Current Affair</i> —Identity Fraud	Report contained inaccuracies and was unfair. Complaints handling.	Complaints handling.
NBN Northern NSW	Morisset Power Barn advertisement	Complaint that advertisement was excessively loud. No response was provided to complainant.	Advertisement volume exceeded level of programming volume. Complaints handling.
NBN Northern NSW	<i>60 Minutes</i> —The Devil's Playground	Confidential video footage shown during the broadcast where complainant was clearly identifiable. Footage was presented as being recent and was broadcast without complainant's consent or knowledge.	Privacy.
NEN Northern NSW & Gold Coast	<i>Local News</i>	Lack of captioning on local news.	Captioning.
<b>QUEENSLAND</b>			
BTQ 7 Brisbane	<i>The Battle of Britain</i>	Licensee broadcast more than the allowable minutes per hour of non-program matter and as a result scenes were cut from the movie.	Scheduling of more than the permissible 13 minutes per hour of non-program matter on the day.
TVQ 10 Brisbane	<i>Channel Ten News</i>	Privacy was invaded as complainants were identified during a news segment on bullying.	Privacy, privacy of children, complaints handling.
STQ Regional Queensland	<i>Local News</i>	Report about the effect of liquor limitations in Weipa was biased and uncorroborated, and reinforced racial stereotypes.	Fairness and impartiality in news presentation.
<b>South Australia</b>			
SAS 7 Adelaide	<i>Desperate Housewives</i> promotion	Promotion shown during the Australian Open Tennis men's final depicted a woman pointing a gun to her head which was not suitable viewing for children.	Broadcasting material classified M during sports coverage in PG time zone.
<b>VICTORIA</b>			
GTV 9 Melbourne	<i>Today Show</i>	Steve Leibman's interview of Lindsay Tanner contained factual inaccuracies and Telstra was not provided with an opportunity to provide its viewpoint.	Accuracy.
HSV 7 Melbourne	<i>Home and Away</i>	The program contained violence and adult themes inappropriate for a child audience.	Incorrectly classifying material as G and not supplying consumer advice warning for a PG classified program containing material of a strength or intensity, which the licensee would have reasonably believed parents or guardians of young children may not expect.
HSV 7 Melbourne	24 promotion	The promotion contained violence that was inappropriate for a G timeslot.	Broadcasting material during G timeslot with more than a very low sense of threat or menace, including weapons and physical and psychological violence against people.
<b>COMMERCIAL RADIO</b>			
<b>AUSTRALIAN CAPITAL TERRITORY</b>			
ICBR Canberra	ABFACTS	Broadcasting an election advertisement during the 'blackout' period.	Broadcasting of election advertisements.