

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 31 December 2004.

There is also, with the cooperation of Free TV 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 31 DECEMBER 2004

Number of investigations finalised in the six months: **76**

Investigations resulting in a breach: **26**
(The 26 investigations resulted in 33 breaches of a code of practice and three breaches of a licence condition.)

Investigations resulting in no breach: **50**

Of the 26 investigations finding a breach, 17 related to commercial television, three each to community radio, commercial radio and ABC Television and resulted in 36 breaches. These covered the following 10 broad issues, grouped by category of service:

COMMERCIAL RADIO

- complaints handling (two breaches)
- breach of a licence condition by not retaining records (one)
- vilification (one)
- presenting the misuse of alcohol as desirable (one)

COMMERCIAL TELEVISION

- complaints handling (10)
- failure to present news or current affairs accurately, fairly or impartially (six)
- broadcast of material exceeding the classification level of a rated program or a pre-classified viewing time (eight)
- breach of a licence condition by not including required particulars with political matter broadcast at the request of another person (one)

COMMUNITY RADIO

- breach of a licence condition by broadcasting advertisements (one)
- lack of internal dispute resolution policy and procedure (one)
- lack of programming practices to protect children (one)

ABC TELEVISION

- complaints handling (one)
- failure to present news or current affairs accurately, fairly or impartially (two)