

2UE breached complaints handling code but not vilification code

ACMA has found that comments about Carson Kressley, one of the hosts of the US television program, *Queer Eye for the Straight Guy*, broadcast during the *John Laws Morning Show* on commercial radio service 2UE Sydney did not breach the anti-vilification provisions of the commercial radio codes of practice. ACMA did find the licensee of 2UE (Radio 2UE Sydney Pty Ltd) breached the complaints-handling provisions of the codes by not provide a reply to complaints within the time limits stipulated.

The ABA received complaints on 7 January 2005 and 1 February 2005 about the *John Laws Morning Show* broadcast on 2UE Sydney on 3 November 2004. The broadcast occurred on the day after the 2004 Melbourne Cup, at which Mr Kressley had judged the Fashions on the Field competition.

The complainants alleged that the broadcast had incited homophobia and vilified homosexual identifying people as a group. The complainants were also concerned that the licensee had not provided a response to their letters of 8 November 2004 and 7 January 2005 respectively.

The Australian Media and Communications Authority took

over the role and responsibilities of the ABA from 1 July 2005.

ACMA found that while the *John Laws Morning Show* broadcast on 3 November 2004 included comments that were offensive and tasteless, the licensee of 2UE did not breach clause 1.3(e) of the Commercial Radio Australia Codes of Practice 2004, as it was unlikely to have incited or perpetuated hatred against or vilified any person or homosexual identifying people as a group, on the basis of their sexual preference.

ACMA found the licensee did breach clause 5.6 of the codes, as it did not provide a reply to the complaints within the time limits stipulated in the codes.

In arriving at its decision, ACMA acknowledged the sensitivity that the gay community may have to matters such as that broadcast. However, ACMA also recognised that it was important for community views on such issues to be aired.

Under the codes, the licensee has an obligation to provide either an acknowledgement of receipt or a substantive response within 30 days of receiving a complaint. A final reply is to be provided within 45 days of

receiving the complaint. ACMA found that the licensee did not comply with these provisions. Under the current co-regulatory scheme, radio and television stations have primary responsibility for handling complaints. This is seen as an intrinsic element of the co-regulatory scheme.

ACMA noted that in response to the breach finding, the licensee has apologised to the complainants for the unintentional oversight which resulted in the responses not being sent within the stipulated time limits and it has reminded relevant staff of the importance of ensuring that responses to listener complaints are dispatched promptly within the time limits stipulated by the codes.

ACMA considers that these actions address the compliance issues raised by the investigation and will continue to monitor the licensee's compliance with this requirement.

The full reports on these investigations into potential breaches by licensees are on the ACMA website, www.acma.gov.au. Go to ACMA > Publications > Broadcasting > Investigations and then Radio operations and Television operations. The reports are arranged in order of licensee.