

Win TV Tasmania breached complaints handling code

ACMA has found that WIN Television TAS Pty Ltd, the licensee of commercial television service TVT Tasmania, breached the Commercial Television Industry Code of Practice 2004, by not providing a substantive written response to a complaint about an item on *WIN News*.

On 13 July 2005, ACMA received a complaint regarding a *WIN News* item broadcast on 16 March 2005 about the court appearance of a woman charged over a road accident that had occurred almost two years previously. The complainant considered that the broadcast had shown a lack of compassion for the family of a child killed in the accident and no respect for their privacy. ACMA also decided to investigate TVT's failure to respond to the letter of complaint.

ACMA determined that the licensee of TVT breached clause 7.9 of the code by not providing a substantive written response to a complaint about the broadcast. ACMA also found the licensee did not breach clause 4.3.3 of the code in relation to regard to the feelings of relatives or clause 4.3.5 of the code in relation to material relating to a person's personal or private affairs and invasion of privacy.

ACMA noted that the licensee has revisited its complaints handling procedure and highlighted the circumstances of this case to news staff so that letters such as the complainant's are drawn to the attention of relevant officers. ACMA considers this action addresses the compliance issue raised by the investigation and will continue to monitor the licensee's performance in this regard.

INTERNET COMPLAINTS IN SEPTEMBER

Established under Schedule 5 to the Broadcasting Services Act, ACMA's internet complaints hotline enables Australian residents to complain to ACMA about prohibited or potentially prohibited internet content. Complaints can be registered at www.acma.gov.au/hotline

Internet content is assessed in accordance with the National Classification Code and Guidelines.

The prohibited categories for Australian-hosted content are RC (Refused Classification), X 18+ (consensual sexually explicit material), and material rated R 18+ (Restricted) that is not protected by adult verification procedures. For overseas-hosted content the prohibited categories are RC and X 18+.

For Australian-hosted prohibited items, ACMA issues a take-down

notice to the relevant internet content host (ICH), directing the ICH not to host the content. Failure to comply with such a notice may result in a maximum penalty per day of \$5,500 for an individual and \$27,500 for a corporation. For overseas-hosted prohibited or potentially prohibited items, ACMA notifies the content to the suppliers of approved filter software in accordance with

procedures outlined in the internet industry codes of practice. Under the codes, internet service providers are required to provide one or more approved filters for the use of their subscribers.

If ACMA finds internet content is of a 'sufficiently serious' nature (such as child pornography), it will notify the relevant police force and/or the relevant accredited hotline overseas.

COMPLAINTS

Complaints received	119
Invalid complaints ¹	14
Investigations terminated ²	31
Investigations completed	75
Items actioned ³	103

ITEMS ACTIONED

CLASSIFICATION AND DESCRIPTION OF INTERNET CONTENT ⁴	AUSTRALIAN-HOSTED ITEMS (TAKE-DOWN NOTICE ISSUED)	OVERSEAS-HOSTED ITEMS (REFERRED TO MAKERS OF FILTERS)	TOTAL
X 18+ – Actual sexual activity	1	24	25
RC – Child – depiction	0	65	65
RC – Bestiality – depiction	0	1	1
RC – Sexual violence – depiction	0	6	6
RC – Sexual fetish – depiction	0	1	1
RC – Sexual fantasy – depiction	0	5	5
TOTALS	1	102	103

¹ A complaint is not investigated by ACMA if:

- the complaint does not meet the statutory requirements under clause 22(3) and clause 25 of Schedule 5 (e.g. no internet address provided; complainant not an Australian resident) or
- the complaint falls within the meaning of clause 26(2) of Schedule 5 (frivolous, vexatious, not made in good faith, or made for the purpose of frustrating or undermining the effective administration of the scheme) or
- the complaint concerns matters not within the scope of Schedule 5 (e.g. the complaint relates to an electronic 'virus').

² A complaint is terminated under clause 26(4) of Schedule 5 if ACMA has insufficient information to conclude the investigation.

³ ACMA assesses each piece of internet content, such as a single web page or newsgroup posting, separately (these are referred to as 'items' of internet content). Action is taken in relation to items of internet content found to be prohibited or potentially prohibited.

⁴ Descriptions of internet content in this table are based on the National Classification Board's Guidelines for the Classification of Films and Computer Games 2005, available at www.oflc.gov.au/resource.html?resource=62&filename=62.pdf