

Broadcasting complaints investigations January to March 2007

Under the *Broadcasting Services Act 1992*, 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 ACMA investigations into unresolved broadcasting complaints, as well as complaints about possible breaches of the Broadcasting Services Act or licence conditions, completed in the three months from 1 January to 31 March 2007. There is also, with the cooperation of Free TV Australia and Commercial Radio Australia, a three-month report on the number and substance of complaints made directly to the commercial broadcasters themselves.

BROADCASTING COMPLAINTS PROCESS

Primary responsibility for the resolution of broadcasting 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 or vexatious or not made in good faith.

Complaints about possible breaches of program standards (children’s television, Australian content, captioning 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 broadcasting code of practice or a licensee may admit a breach of a code. Breaches of the 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 licensees take action to remedy breaches or put in place procedures to ensure they do not recur.

Of the seven investigations finding a breach, two related to commercial television, two to commercial radio, two to community radio and one to ABC television. The breaches covered six issues as follows:

- broadcast of material that was factually inaccurate—one breach by commercial television, one by ABC television
- complaints handling—two breaches by commercial television, one by commercial radio and one by community radio
- racial vilification—one breach by commercial radio
- encouraging violence—one breach by commercial radio

- breach of licence condition by failing to encourage participation—one breach by community radio
- failed to incorporate conflict resolution policy—one breach by community radio.

COMPLAINT HANDLING BY COMMERCIAL RADIO STATIONS

The Commercial Radio Codes of Practice require each commercial radio broadcaster to provide Commercial Radio Australia with an extract of the record of complaints received. Commercial Radio Australia provides a consolidated report to ACMA. Member stations recorded 66 written complaints alleging breaches of the codes of practice during the January to March quarter of 2007.

COMPLAINT HANDLING BY COMMERCIAL TELEVISION STATIONS

The *Commercial Television Industry Code of Practice 2004* requires each commercial television broadcaster to report to Free TV Australia, within 15 working days of the end of each quarter, the number and substance of written complaints

Completed ACMA investigations into unresolved broadcasting complaints, January–March 2007

Number of ACMA investigations finalised in the three months	28
Investigations resulting in a breach of a code of practice	6
Investigations resulting in a breach of a licence condition	1
Investigations resulting in no breach	21
Investigations terminated when complaint withdrawn	0

Written complaints to commercial radio broadcasters, January–March 2007

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	20	3	1	9	6	39
Prohibited matter in	3	0	0	1	0	4
Other complaints	7	9	0	2	5	23
Total	30	12	1	12	11	66

Source: Commercial Radio Australia, *Commercial Radio Codes of Practice: Complaints Summary January to March 2007*

alleging specific breaches of the code. Free TV Australia provides a consolidated report to ACMA. Commercial television stations reported 270 written complaints about matters covered by the code of practice in the January to March quarter (up by 11 per cent from the previous quarter) and 38 of the 270 complaints related to a single broadcast item.

COMPLAINTS UPHELD BY TELEVISION STATIONS

Only one complaint was upheld this quarter, which related to inaccurate reporting of an item within the *Ten Late*

Night News program. After reviewing the story, network management agreed that there was an inaccuracy in the reporting and has spoken to the team responsible for the story to ensure that more care is taken in portraying the context of quoted material accurately.

COMPLAINTS NOT UPHELD

Programs receiving the highest number of complaints (not upheld) were:

- *New Year's Eve 2006* (Network Ten)—38 complaints, mostly about sexual references considered inappropriate during this

program

- *Today Tonight* (Seven Network)—19 complaints, mostly about perceived inaccuracy in reporting
- *Neighbours* (Network Ten)—14 complaints, mostly about language considered inappropriate for the time zone
- *Ten News at Five* (Network Ten)—14 complaints, mostly about sexual references considered inappropriate during this program
- *Sunrise* (Seven Network)—seven complaints, mostly about discrimination and language considered

inappropriate for the time zone

- *Ugly Betty* (Seven Network)—seven complaints, mostly about sexual references considered inappropriate for the time zone
- *Weeds* (Nine Network)—seven complaints, mostly about language, sex/nudity, and drug use considered inappropriate for the time zone
- *The Biggest Loser* (Network Ten)—six complaints, mostly about language considered inappropriate for the time zone.

Complaints to commercial television stations about programs, January–March 2007

	Bias/inaccuracy	Classification	Closed caption	Commercial placement	Commercial time	Discrimination	Privacy	Program general	Upsetting material	Total	%
Children	0	1	0	0	0	0	0	0	0	1	0.4
Comedy	0	17	0	0	0	0	0	0	0	17	6.3
Commercial	0	41	0	18	2	0	0	1	0	62	23.0
Current affairs	5	17	0	1	0	5	1	0	2	31	11.5
Documentary	0	3	0	0	1	0	0	0	0	4	1.5
Drama	0	37	0	0	4	0	0	0	0	41	15.2
Information	0	0	0	0	1	0	0	0	0	1	0.4
Light entertainment	0	9	0	0	0	0	0	0	0	9	3.3
Movie	0	10	0	0	0	0	0	0	0	10	3.7
Music video	0	2	0	0	0	0	0	0	0	2	0.7
News	7	8	0	0	0	1	0	0	13	29	10.7
Program promos	0	7	0	0	0	0	0	0	0	7	2.6
Quiz	0	1	0	0	0	1	0	0	0	2	0.7
Reality	0	10	0	0	0	0	0	0	0	10	3.7
Religion	0	0	0	0	0	1	0	0	0	1	0.4
Variety	0	25	0	0	0	0	0	0	0	25	9.3

Source: Free TV Australia, *Commercial Television Industry Code of Practice 2004: Complaints Summary January to March 2007*

ACMA INVESTIGATIONS, JANUARY TO MARCH 2007

Call sign	Program/issue	Substance of complaint	Code/licence condition applicable to breach finding
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BREACH FINDINGS
COMMERCIAL TELEVISION
New South Wales

TCN 9 Sydney	<i>A Current Affair</i>	Inaccurate comments made about mayor misappropriating council funds and mayor unfairly identified, and complaints handling.	Complaints handling
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Queensland

QTQ 9 Brisbane	<i>National Nine News</i>	Inaccurate comments made about a local politician in relation to dealings with property developers and failure to refer to ACMA if unsatisfied.	Accuracy and complaints handling
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COMMERCIAL RADIO
New South Wales

2GB Sydney	<i>Breakfast with Alan Jones</i>	Comments broadcast amounted to vilification and incited violence.	Encourage violence and vilification
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Queensland

4MMM Brisbane	<i>Tough Love</i>	Comments about Papuan child were offensive, likely to incite violence and vilify on racial grounds, and failure to respond to complaint.	Complaints handling
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COMMUNITY RADIO
New South Wales

2HHH Sydney		No written policies and procedures for conflict resolution, and did not respond to complaint within 60 days.	Lack of conflict resolution policies and procedures and complaints handling
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Victoria

3EON Bendigo		Licensee is unsuitable, does not represent the community (senior citizens) and does not encourage participation.	Participation*
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ABC TELEVISION
New South Wales

ABN Sydney	<i>Foreign Correspondent</i>	Report on Estonia was factually inaccurate, unbalanced and impartial in that it did not represent the views of ethnic Estonians.	Accuracy
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NO BREACH FINDINGS
COMMERCIAL TELEVISION
New South Wales

ATN 7 Sydney	<i>Today Tonight</i>	Segment about the sale of mortgagees' property contained factual inaccuracies and misrepresented viewpoints.	Accuracy/fairness
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NBN 9 Northern NSW	<i>A Current Affair</i>	Report about unfair dismissal of three employees was inaccurate, unfair and an invasion of privacy.	Simulating news/events, accuracy/fairness, privacy and unfair identification
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TCN 9 Sydney	<i>What a Year</i>	Inappropriate nudity was shown during PG timeslot.	Sex and nudity
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TCN 9 Sydney	<i>A Current Affair</i>	Language used in audio broadcast of a police interview with 'person of interest' in the death of a person was inappropriate for 6.30 pm timeslot and showed a lack of sensitivity to the murder victim's family.	Likely audience/public interest, regard to feelings of relatives and provide warnings
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Call sign	Program/issue	Substance of complaint	Code/licence condition applicable to breach finding
Queensland			
BTQ 7 Brisbane	<i>Today Tonight</i>	Segment ('Targeting kids') broadcast cigarette advertisements.	Tobacco advertising*
BTQ 7 Brisbane	<i>Today Tonight</i>	Segment did not present factual material accurately or represent viewpoints fairly.	Accuracy and fairness
BTQ 7 Brisbane	<i>Today Tonight</i>	Report on the Big Brother 'turkey slapping' incident was inappropriate for G timeslot.	Exercise care in the selection of material for broadcast, and material seriously distressing or offending substantial number of viewers
TVQ 10 Brisbane	Flirt Phone Dating Service (advertisement)	Inappropriate content was broadcast during sports and PG-classified programs.	Classification and placement of commercials in MA classification, commercial for telephone sex-line or similar
Western Australia			
WAW 7 Remote Western Australia	<i>Seven News</i>	News report failed: <ul style="list-style-type: none"> to take account of feelings of relatives or viewers when broadcasting images of wounded person to take reasonable steps to ensure victims were not identified and to present the news fairly and impartially. 	Images of dead or seriously wounded people, privacy, care with identity of murder/accident victims and fairness/impartiality
TVW 7 Perth	<i>Today Tonight</i>	Report about a company was factually inaccurate and did not represent viewpoints fairly.	Accuracy and fair representation of viewpoints
COMMERCIAL RADIO			
Victoria			
3TTT/ 3KKZ/3MMM/ 3FOX Melbourne		Advertisements were inappropriate for broadcast during times when children may be listening.	Contemporary standards of decency
Queensland			
4EL Cairns	<i>John MacKenzie's Morning</i>	Profanity and vilification	Hatred/vilification and offensive language
Western Australia			
6PR Perth	<i>Drive</i>	Inciting racial hatred; vilification	Hatred/vilification
COMMUNITY RADIO			
New South Wales			
2WET Kempsey		Licensee did not represent community interest or encourage participation.	Represent community interest or encourage participation*
COMMUNITY TELEVISION			
TSN31 Sydney	<i>On the Job</i>	Program vilified women and shocked viewers.	Alarm, shock/distress, stereotype and vilify women
TSN31 Sydney		Licensee did not represent community interest or encourage participation.	Represent community interest or encourage participation*
TVS31 Sydney		Licensee did not represent community interest or encourage participation.	Represent community interest or encourage participation*
ABC TELEVISION			
ABN Sydney	<i>Foreign Correspondent</i>	Report on Estonia was factually inaccurate, unbalanced and biased in that it did not represent the views of ethnic Estonians.	Accuracy
ABC RADIO			
4QR Brisbane	<i>Mornings With Madonna King</i>	There was a lack of balance in that only one side of a toll bridge debate was presented.	Impartiality and balance
SBS TELEVISION			
SBS TV Melbourne	<i>Dateline</i>	There was a lack of balance and racist content in an interview with a Human Rights Watch representative.	Balance/objectivity
SBS TV Melbourne	<i>World News Australia</i>	Accuracy, balance over time	Accuracy, balance over time

All potential breaches were of a code of practice unless otherwise indicated: *potential breach of a licence condition or the *Broadcasting Services Act 1992*.