

The full reports on these investigations into potential breaches by licensees are on the ACMA website, [www.acma.gov.au](http://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.

# Nine breached M classification provisions

ACMA has found that General Television Corporation Pty Ltd (Nine), the licensee of commercial television service GTV Melbourne, breached the *Commercial Television Industry Code of Practice 2004* by incorrectly classifying an episode of the program *Outrageous Fortune*.

ACMA received a complaint on 22 February 2007 about an episode of *Outrageous Fortune* broadcast by GTV Melbourne on 8 January 2007.

The complainant alleged that the program contained sexual material that exceeded the M classification. Not satisfied with the response by the licensee, the complainant forwarded the matter to ACMA.

ACMA found that the program breached clause 2.4 of the code (Classification of Other Material) by not complying with clauses 4.2 and 4.6 of Appendix 4 (the M Classification) of the code.

In ACMA's view, the program contained a visual depiction of intimate sexual behaviour that was not restrained, as required by the M guidelines. The licensee also failed to handle an intense theme with care.

In response to the breach finding, Nine has undertaken to reclassify the program MA15+ for any future broadcasts, and, accordingly, will only rebroadcast the program during an MA15+ viewing period.

ACMA is satisfied that Nine has addressed the compliance issues raised by the breach finding.

## INTERNET COMPLAINTS, JULY 2007

ACMA's internet complaints hotline, established under Schedule 5 to the *Broadcasting Services Act 1992*, enables Australian residents to complain to ACMA about prohibited or potentially prohibited internet content. Complaints can be registered at [www.acma.gov.au/hotline](http://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 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. In addition, 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, July 2007

Complaints received	60
Invalid complaints <sup>1</sup>	4
Investigations terminated <sup>2</sup>	3
Investigations completed	32
Items actioned <sup>3</sup>	32

1. A complaint is not investigated by ACMA if:
  - the complaint does not meet the statutory requirements under subclause 22(3) and clause 25 of Schedule 5 (eg no internet address provided; complainant not an Australian resident); or
  - the complaint falls within the meaning of subclause 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 (eg the complaint relates to an electronic 'virus').
2. A complaint is terminated under subclause 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.

### Items actioned, July 2007

Classification and description of internet content <sup>4</sup>	Australian-hosted items (take-down notice issued)	Overseas-hosted items (referred to makers of filters)	Total
X 18+ – Actual sexual activity	0	8	8
RC – Child – depiction	0	11	11
RC – Bestiality – depiction	0	1	1
RC – Sexual violence – depiction	0	2	2
RC – Sexual fetish – depiction	0	8	8
RC – Sexual fantasy – depiction	0	2	2
Totals	0	32	32

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](http://www.oflc.gov.au/resource.html?resource=62&filename=62.pdf)