

Broadcasting complaints investigations

April to June 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 April to 30 June 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.

BROADCASTING COMPLAINTS PROCESS

Primary responsibility for the resolution of broadcasting code-related complaints rests with the licensees. 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 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 licence condition. 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 in this quarter (see page 16), two related to commercial television, one to commercial radio, one to

community radio, one to community television, one to SBS television and one to a temporary community broadcasting licensee. The breaches covered eight issues :

- broadcast of material which was factually inaccurate and misrepresented viewpoints—one breach for commercial television
- complaints handling—two breaches for commercial radio
- principles covering volunteers—one breach for community radio
- breach of a licence condition by failing to encourage participation—one breach for community radio and one for temporary community broadcasting licence
- failure to incorporate conflict resolution policy—one breach for community radio
- breach of a licence condition by broadcasting sponsorship

COMPLETED ACMA INVESTIGATIONS INTO UNRESOLVED BROADCASTING COMPLAINTS, APRIL-JUNE 2007

Number of ACMA investigations finalised in the three months	26
Investigations resulting in a breach of a code of practice	4
Investigations resulting in a breach of a licence condition	2
Investigations resulting in breaches of both a code of practice and a licence condition	1
Investigations resulting in no breach	19

WRITTEN COMPLAINTS TO COMMERCIAL RADIO BROADCASTERS, APRIL-JUNE 2007

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	15	1	5	3	3	27
Prohibited matter in	5	2	3	2	2	14
Other complaints	2	4	1	7	1	15
Total	22	7	9	12	6	56

Source: Commercial Radio Australia, *Commercial Radio Codes of Practice: Complaints Summary April to June 2007*

announcements in excess of five minutes per hour—one breach for temporary community broadcasting licence

- broadcast of material which contained nudity or violence excessive for the classification of the program—one breach for SBS television and one for commercial television
- breach of a licence condition by broadcasting advertisements—one breach for community radio.

COMPLAINT-HANDLING BY COMMERCIAL RADIO STATIONS

The *Commercial Radio Codes of Practice 2002* 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 56 written complaints alleging breaches of the codes of practice during the April–June 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 alleging specific breaches of the code. Free TV Australia provides a consolidated report to ACMA. Commercial television stations reported 182 written complaints about matters covered by the

code of practice in the April–June quarter—33 per cent less than in the previous quarter. There were decreases in complaints about classification, commercial placement and upsetting material, and increases in complaints about discrimination, and bias and inaccuracy. All other categories attracted a very low level of complaints, as in the previous quarter.

Complaints upheld by television stations

There no upheld complaints for this quarter.

Complaints not upheld

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

- *Today Tonight* (Seven Network)—16 complaints,

mostly about perceived inaccuracy in reporting and racism

- *The Biggest Loser* (Network Ten)—15 complaints, mostly about language considered inappropriate for the time slot
- *Rove* (Network Ten)—12 complaints, mostly about perceived discrimination
- *Ten News at Five* (Network Ten)—eight complaints, mostly about perceived inaccuracy in reporting
- *The Footy Show* (Nine Network)—seven complaints, mostly about sexual references considered inappropriate for the time slot and drug use references
- *Big Brother – Friday Night Live* (Network Ten)—seven complaints about discrimination.

COMPLAINTS TO COMMERCIAL TELEVISION STATIONS ABOUT PROGRAMS, APRIL–JUNE 2007

	Bias/inaccuracy	Classification	Commercial general	Commercial placement	Commercial time	Consumer advice	Disclosure	Discrimination	Privacy	Program general	Upsetting material	Total	%
Children	0	1	0	0	0	0	0	0	0	0	0	1	0.5
Comedy	0	6	0	0	0	0	0	1	0	0	0	7	3.8
Commercial	0	30	1	2	3	0	0	0	0	0	0	36	19.8
Current affairs	10	2	0	0	0	0	0	8	2	0	1	23	12.6
Drama	0	4	0	0	0	0	0	0	0	0	0	4	2.2
Light entertainment	0	23	0	0	0	0	0	11	0	0	0	34	18.7
Movie	0	7	0	0	0	1	0	0	0	0	0	8	4.4
Music video	0	4	0	0	0	0	0	0	0	0	0	4	2.2
News	5	4	0	0	0	0	1	1	0	1	2	14	7.7
Program promos	0	17	0	0	0	0	0	1	0	0	0	18	9.9
Reality	0	9	0	0	0	0	0	9	0	0	0	18	9.9
Sport	0	1	0	1	0	0	0	0	0	0	0	2	1.1
Variety	2	10	0	0	0	0	0	1	0	0	0	13	7.1
Total	17	118	1	3	3	1	1	32	2	1	3	182	100.0
%	9.3	64.8	0.5	1.6	1.6	0.5	0.5	17.6	1.1	0.5	1.6	100.0	

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

ACMA INVESTIGATIONS, APRIL TO JUNE 2007

Call sign	Program/issue	Substance of complaint	Code/licence condition applicable to breach finding
Breach findings			
COMMERCIAL TELEVISION			
New South Wales			
TCN 9 Sydney	<i>A Current Affair</i>	Report on chicken meat had false and misleading claims and lacked balance.	Representation of viewpoints and accuracy
Victoria			
HSV 7 Melbourne	<i>Disorderly Conduct Caught on Tape</i>	Excessive violence in that actual footage of a person being run over by a car was broadcast.	Violence in PG
COMMERCIAL RADIO			
Queensland			
4EL Cairns	<i>John MacKenzie's Morning</i>	Incorrect and misleading comments broadcast; complaints handling.	Complaints handling
COMMUNITY RADIO			
New South Wales			
2QBN Queanbeyan		Various complaints about management of station.	Encourage participation*, volunteer guidelines and conflict resolution procedures
COMMUNITY TELEVISION			
Victoria			
MGV31 Melbourne	<i>Geelong Cricket Show</i>	Beer commercial inappropriately broadcast during G time zone.	Advertising*
SBS TELEVISION			
Victoria			
SBSTV Melbourne	<i>Inspector Rex</i>	Inappropriate and excessive sexual activity for time of broadcast.	Sex and nudity in PG
TEMPORARY COMMUNITY BROADCASTING LICENCE			
New South Wales			
Lambing Flat Community Broadcasting Inc., Young, NSW	<i>Breakfast Show</i>	Broadcasting advertisements and time given to these exceeds permissible five mins per hour of sponsorship. Also not providing the community with access to the station's operations.	Encourage participation and time limit for sponsorship announcements*
No breach findings			
COMMERCIAL TELEVISION			
New South Wales			
TCN 9 Sydney	<i>Weeds</i>	Depictions of sexual activity, drug use, coarse language and nudity in the MA classified TV drama, <i>Weeds</i> .	Sex and nudity, drugs, language MA
NEN 7 Northern NSW and Gold Coast	<i>The Recruit</i> (program promotion)	The promotion contained images of sexual behaviour inappropriate for G zone.	Sex and nudity G
ATN 7 Sydney	<i>Today Tonight</i>	Report on a bank selling a borrower's home against her will was factually inaccurate.	Factual accuracy
Queensland			
QTT 9 Brisbane	Human Body (commercial)	Commercial for the Brisbane exhibition of the Human Body contained inappropriate content ('dead human bodies, partly dissected in artistic poses') and was broadcast during children's viewing times.	Classification of commercials, other material, program promotions
QTT 9 Brisbane	<i>A Current Affair</i>	A doctor's identity was confused with that of a second doctor, thereby falsely accusing him of misconduct.	Accuracy

Victoria			
HSV 7 Melbourne	<i>Heroes</i>	Violence and drug references in M.	M violence and drugs
ATV 10 Melbourne	<i>Channel Ten News</i>	Misrepresentation of information relating to Gerald Ford's never having been elected to the presidency of the USA; complaints handling.	Accuracy and complaints handling
ATV 10 Melbourne	Mentos (commercial)	Sexually suggestive content in a commercial which depicts a man whose nipples grow after eating product. Broadcast in an inappropriate time slot.	Commercials and viewing periods restrictions in G
Western Australia			
NEW 10 Perth	<i>Big Brother</i>	Inappropriate nudity broadcast at 745 pm.	PG sex and nudity
COMMERCIAL RADIO			
New South Wales			
2GB Sydney	<i>Afternoons with Chris Smith</i>	Comments made by host incited violence against and vilified a Muslim imam.	Violence, brutality and hatred, vilification
6PR Perth	<i>Drive</i>	Inciting racial hatred, vilification	Hatred/vilification
COMMUNITY RADIO			
New South Wales			
2QBN Queanbeyan		Generalist community station has deviated to become a predominantly country music station	Represent community interest*
2MCR Campbelltown		Licensee is not encouraging participation. The complainant had his request for air time rejected, the licensee did not encourage the complainant to become a member, not tell him to wait for a spot to become available.	Encouraging community participation*
COMMUNITY TELEVISION			
New South Wales			
TVS Sydney	<i>Child Bride</i>	Scene featuring a young girl removing her clothes and swimming nude regarded as child pornography and broadcast at inappropriate time zone; complaints handling.	Program classification and identification, complaints handling
South Australia			
C31 Adelaide	<i>SK82 Death</i>	Consumer advice and display of classification symbols.	Written and spoken consumer advice and display of classification symbols
SBS RADIO			
New South Wales			
2SBSFM	<i>Russian Language Program</i>	Inaccurate and impartial material.	Accuracy, impartiality and balance
SBS TELEVISION			
Victoria			
SBS Melbourne	<i>World News Australia</i>	Alleged visual misrepresentation of information in a news item showing effects of agent orange on children where one child had cerebral palsy (that was unlikely to be due to agent orange)	Balance
ABC RADIO			
Tasmania			
7JJJ Launceston	<i>Mornings with Zan</i>	Language, sex and sexuality, discrimination and stereotypes	Language, sex and sexuality, discrimination and stereotypes
ABC TELEVISION			
New South Wales			
ABN Sydney	<i>Australian Story</i>	Lack of audio conclusion to program did not allow those with macular degeneration disease to follow what was going on.	Accessible television for people who have a visual impairment
Queensland			
ABQ Brisbane	<i>Compass</i>	Discrimination	Accuracy and representation of viewpoints

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