

The full reports on these investigations into potential breaches by licensees are on the ACMA website, www.acma.gov.au (go to About ACMA: Publications & research > Broadcasting publications > Investigations, then Radio operations or Television operations). The reports are arranged in order of licensee.

Enforceable undertaking from 2UE Sydney accepted

ACMA has accepted an enforceable undertaking from the licensee of commercial radio service 2UE Sydney, Radio 2UE Sydney Pty Ltd, following its finding that 2UE breached the Commercial Radio Disclosure Standard and the Commercial Radio Compliance Program Standard. The breaches were reported to ACMA in August 2006 by 2UE's parent company, Southern Cross Broadcasting.

The breaches of the Disclosure Standard arose in August 2006 during discussion of the Telstra T3 share offer by Mr John Laws on his program *The John Laws Morning Show*. Disclosure announcements were not broadcast during this program at the time Mr Laws mentioned Telstra, one of his sponsors. The issue of Telstra privatisation was discussed in detail on six occasions during the three-hour program, including an interview on the subject and a discussion with a caller. During the program, Mr Laws mentioned the name 'Telstra' on 20 occasions, none of which included a disclosure announcement.

The licensee informed ACMA that the required details of the

commercial agreement between Mr Laws and Telstra Corporation Limited were disclosed on the licensee's website. However, the licensee breached the Disclosure Standard by failing to provide ACMA with written notification of that commercial agreement within 14 days of the licensee being notified of the agreement.

While ACMA acknowledges that the licensee has a compliance program that contains the individual elements required by the Compliance Program Standard, it found that the licensee breached this standard by failing to adequately formulate, implement and maintain important parts of the program to ensure compliance with the *Broadcasting Services Act 1992*, the program standards and the *Commercial Radio Codes of Practice 2002*.

ACMA has accepted an enforceable undertaking that requires the licensee to have its compliance with the Compliance Program Standard and the enforceable undertaking externally audited every six months, and to report the results of these audits to ACMA. The licensee must also report six-monthly

on its compliance with the notification provisions in the Disclosure Standard.

In addition, the licensee has undertaken to monitor each broadcast of *The John Laws Morning Show* to ensure the required disclosure announcements are made, and if not, the licensee will cause one to be broadcast as soon as possible during the program and report to ACMA within 72 hours. The licensee has also undertaken to appoint an external person to audit and report to ACMA fortnightly on its compliance with the disclosure announcement provisions in *The John Laws Morning Show*.

If a licensee fails to comply with an enforceable undertaking, ACMA may apply to the Federal Court for an order directing the licensee to comply with the undertaking.

ACMA commenced an investigation into Radio 2UE Sydney after being notified on 31 August 2006 by Southern Cross Broadcasting that Mr John Laws did not comply with the Disclosure Standard during his program broadcast on 28 August 2006. Compliance with any applicable

program standard is a condition of a commercial radio broadcasting licence.

On 12 October 2006, ACMA decided to commence an investigation under section 170 of the Broadcasting Services Act into the following matters:

- whether the licensee has complied with the obligations set out in the Disclosure Standard in a commercial agreement to which Mr Laws was a party in relation to the program broadcast on 28 August 2006;
- whether the licensee has complied with obligations set out in the Compliance Program Standard in commercial agreements in place on 28 August 2006;
- whether the licensee breached the condition of its licence set out at paragraph 8(1)(b) of Schedule 2 to the Broadcasting Services Act by failing to comply with the Disclosure Standard and/or the Compliance Program Standard; and
- what action, if any, should be taken as a result of ACMA's findings on the matters identified.

Seven breached code's complaints-handling provisions

ACMA has found that Channel Seven Perth Pty Ltd, the licensee of commercial television service TVW Perth, breached the complaints handling provisions of the *Commercial Television Industry Code of Practice 2004*.

ACMA investigated a complaint received in May 2007 about a commercial for *Zoo Magazine*,

broadcast by Seven in April 2007. The complainant alleged that the commercial contained inappropriate sexual references that exceeded the PG classification.

ACMA determined that the *Zoo Magazine* commercial broadcast by Seven did not breach the code as, in ACMA's view, the commercial contained no depictions of sexual

behaviour or nudity and did not exceed the guidelines for PG programming.

However, ACMA did find that Seven breached the complaints-handling provisions of the code because it failed to advise the complainant that he or she may refer the matter to ACMA if not satisfied with the licensee's response.

In response, Seven has reiterated the complaints-handling requirements set out in the code to all Seven staff during recent network-wide code training sessions. ACMA will continue to monitor Seven's compliance with the code in this area.