

Broadcasting complaints investigations

OCTOBER TO DECEMBER 2006

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 October to 31 December 2006. There is also, with the cooperation of Free TV Australia and Commercial Radio Australia, a three-month report of 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 in relation to 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 in these instances. 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 13 investigations finding a breach, two related to commercial television, five to commercial radio, one to ABC radio, four to community radio and one to subscription broadcasting television. The breaches covered 16 issues as follows:

Commercial television

- broadcast of material which was factually inaccurate (one breach)
- broadcast of material which was

Written complaints to commercial radio broadcasters, October to December 2006

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	15	0	1	27	4	47
Prohibited matter in	5	0	0	3	4	12
Other complaints	3	1	0	2	1	6
Total	23	0	1	32	9	65

Source: Commercial Radio Australia, Commercial Radio Codes of Practice: Complaints Summary October to December 2006

- incorrectly classified and did not comply with requirements for PG classification (one breach)
- complaints handling (two breaches)

Commercial radio

- breach of a licence condition by broadcasting tobacco advertisements (one breach)
- racial vilification (one breach)
- broadcast of material which was factually inaccurate (two breaches)
- complaints handling (one breach)
- material presented in a misleading manner (one breach)

ABC radio

- broadcast of material which was factually inaccurate (one breach)
- broadcast of material which was not balanced (one breach)

Community radio

- breach of a licence condition by broadcasting advertisements (one breach)
- breach of a licence condition by broadcasting sponsorship announcements in excess of five minutes per hour (one breach)
- failed to incorporate policies that apply to on air activities which

- oppose and attempt to break down prejudice on the basis of race (one breach)
- broadcasting material that may stereotype a caller to the station and persons associated with a reconciliation initiative on the basis of their race (one breach)
- complaints handling (three breaches)

Subscription broadcasting television

- broadcast of material that was incorrectly classified and did not comply with requirements for PG classification (one breach).

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 65 written complaints alleging breaches of the Codes of Practice during the October to December quarter of 2006.

Completed ACMA investigations into unresolved broadcasting complaints, October–December 2006

Number of ACMA investigations finalised in the three months	35
Investigations resulting in a breach of a code of practice	10
Investigations resulting in a breach of a licence condition	3
Investigations resulting in no breach	22
Investigations terminated when complaint withdrawn	0

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 241 written complaints about matters covered by the Commercial Television Industry Code of Practice in the October to December quarter, nine per cent more than the 221 complaints reported in the previous quarter. There was a fall in the number of complaints about bias/inaccuracy, commercial placement, disclosure and program general. There was a small increase in the number of complaints about closed caption, commercial general, commercial time, privacy, upsetting material and a significant increase in the number of complaints about discrimination. Complaint numbers for other categories were similar to the previous quarter.

Complaints upheld by television stations

There were 13 complaints upheld about six program items that stations agreed breached the Commercial Television Industry Code of Practice for this quarter, compared with four upheld in the previous quarter.

1. There were four complaints upheld about coarse language used during an interview segment on *Video Hits* (Network Ten). The network agreed that, due to an oversight during production, the coarse language should have been modified for the 'G' classified time-slot within which it was broadcast. By the following day, the network had already instituted several procedural changes to guard against this happening again.
2. There were four complaints upheld about a 'Wild SMS' commercial aired during the movie *Annie* (Seven Network). The network agreed that, due to an unintentional human error, this commercial should not have been aired at this time. The issue was immediately identified and steps have been taken to guard against any future recurrence.
3. There were two complaints upheld about a sex-line commercial aired during the V8 Supercars program (Southern Cross). The network agreed due to an unintentional human error this commercial should not have been aired at this time. This commercial was initially scheduled for broadcast the night before, but was not broadcast due to external program supply issues. A key classification procedure was not followed during the rescheduling process, which resulted in the material being broadcast in an incorrect time-slot. As a result of this error, all presentation staff members have undertaken further in-depth training in the placement of non-program content.
4. There was one complaint upheld about coarse language during a live interview broadcast after the AFL Grand Final (Network Ten). The network is taking measures to reduce the likelihood of a similar occurrence and has written formally to the AFL and the AFL Player's Association offering to work closely with both bodies, clubs and players to continually educate the players about the impact of their actions, their responsibilities as professional athletes, and to ensure such language is not used again. They hope through this cooperative process to assist players to behave in a manner consistent with community standards.
5. There was one complaint upheld about an advertisement for 'Premix King' aired during an AFL football game (Southern Cross). The network agreed, due to human error at the production company, the script did not go through the appropriate approval procedures for alcohol commercials. The commercial has been deleted from the station's library to prevent any future broadcast. The error within the script has been brought to the attention of the commercial production company. The network has reviewed and will continue to upgrade their commercial-accepting procedures to prevent a recurrence and ensure similar incidents do not occur in future.
6. There was one complaint upheld about an advertisement for 'Puppetry of the Penis' during *Australian Idol* (Southern Cross). The network agreed that the

commercial should not have been aired in this time-slot. Due to human error, the incorrect classification was applied to the commercial. The classification has since been changed and it is now broadcast in time-slots appropriate to the 'M' classification.

Complaints not upheld

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

- *Australian Idol* (Network Ten)—38 complaints, mostly about perceived discrimination, language and sexual references considered to be inappropriate for the time-slot
- *The Ronnie Johns Half Hour* (Network Ten)—22 complaints, mostly about perceived language and discrimination considered inappropriate for the time-slot
- *Today Tonight* (Seven Network)—12 complaints, mostly about perceived inaccuracy in reporting
- *Seven Nightly News* (Seven Network)—nine complaints, mostly about perceived inaccuracy in reporting
- *David Tench Tonight* (Network Ten)—seven complaints, mostly about perceived discrimination
- *Futurama* (Network Ten)—seven complaints, mostly about inappropriate advertisement placement, themes and language considered to be inappropriate
- *Weeds* (Nine Network)—seven complaints, mainly about perceived language, sex/nudity, and drug use considered inappropriate for the time-slot.

Complaints to commercial television stations about programs, October to December 2006

	Bias/ inaccuracy	Classification	Closed caption	Commercial general	Commercial placement	Commercial time	Discrimination	Privacy	Program general	Upsetting material	Total	%
Children	0	2	0	0	0	0	0	0	0	0	2	0.8
Comedy	0	36	0	0	0	0	17	0	0	0	53	22.0
Commercial	0	22	0	1	8	0	0	0	1	0	32	13.3
Current affairs	10	6	0	0	0	0	2	2	1	1	22	9.1
Documentary	0	2	0	0	0	0	0	0	0	0	2	0.8
Drama	0	18	0	0	2	3	1	0	0	1	25	10.4
Light programs	0	2	0	0	0	0	2	0	0	0	4	1.7
Movie	0	8	0	1	1	0	0	0	0	0	10	4.1
Music video	0	4	0	0	0	0	0	0	0	0	4	1.7
News	3	2	2	0	0	0	5	2	0	1	15	6.2
Program promos	0	14	0	0	0	0	0	0	0	0	14	5.8
Reality	0	15	0	0	0	0	24	0	0	0	39	16.2
Sport	0	1	0	0	0	1	0	0	0	0	2	0.8
Variety	0	8	1	0	0	1	6	0	0	1	17	7.1
Total	13	140	3	2	11	5	57	4	2	4	241	100.0
%	5.4	58.1	1.2	0.8	4.6	2.1	23.7	1.7	0.8	1.7	100.0	

Source: Free TV Australia, Commercial Television Industry Code of Practice 2004: Complaints Summary October to December 2006

ACMA INVESTIGATIONS, OCTOBER TO DECEMBER 2006**Breach findings**

Call sign	Program/issue	Substance of complaint	Code/licence condition applicable to breach finding
COMMERCIAL TELEVISION			
New South Wales			
1716 NBN 9 Regional NSW	<i>National Nine News</i>	Factual inaccuracy in report about rights of mining companies, no substantive response to complaint.	Accuracy and complainants handling
Victoria			
1719 ATV 10 Melbourne Vic	<i>The Supernatural</i>	Promotion contained images which were not mild in impact.	Classification of material: failure to comply with PG requirements – content not mild in impact and contained more than mild sense of threat or menace
COMMERCIAL RADIO			
New South Wales			
1665 2GB Sydney NSW	<i>The Open-Line Show</i>	Comments vilified people of Lebanese background.	Vilification
1668 2GB Sydney NSW	<i>Mornings with Ray Hadley</i>	Presenter incorrectly asserted that local government councillor used public money to fund private travel.	Accuracy
1700 2GB Sydney NSW	<i>Mornings with Ray Hadley</i>	Presenter misled listeners by giving improper emphasis to the material and by editing that material out of context.	Present material in a misleading manner
Victoria			
1698 3AW Melbourne Vic	<i>The Overnights</i>	Alleged broadcast of tobacco advertisements	Broadcast tobacco advertisements*
Tasmania			
1527 7XXX Hobart Tas	<i>John Laws Morning Show</i>	Inaccurate information presented about a political party's policies.	Accuracy and complaints handling
COMMUNITY RADIO			
New South Wales			
1584 2HHH Sydney NSW	(Interview program)	Comments incited racial hatred – demeaned and vilified a group of people.	Failed to incorporate policies that apply to on-air activities to oppose and attempt to break down prejudice and stereotypes
1711 2000 Sydney NSW	<i>Bosnian Program</i>	Broadcast of advertisements and more than five minutes per hour of sponsorship announcements, failure to represent community interest and profit making	Broadcasting advertisements*
1753 2GLA Sydney NSW	<i>Easy Listening</i>	Comments broadcast were misleading and did not distinguish fact from commentary. Complaints handling.	Complaints handling
Queensland			
1689 4CSB	Management practice	Broadcasting advertisements and sponsorship announcements in excess of five minutes per hour.	Sponsorship announcements in excess of five minutes*
ABC RADIO			
New South Wales			
1630 2RN Sydney NSW	<i>The Science Show</i>	Broadcast of 3/9/05 ('Scientific Whistleblowers') contained inaccurate information and lack of balance.	Accuracy and balance
SUBSCRIPTION TELEVISION			
1701 Foxtel	<i>How to be a Property Developer</i>	Coarse language exceeds PG classification.	Broadcasting material not consistent with language requirements of PG classification guidelines

ACMA INVESTIGATIONS, OCTOBER TO DECEMBER 2006
No breach findings

Call sign	Program/issue	Substance of complaint	Code/licence condition applicable to breach finding
COMMERCIAL TELEVISION			
New South Wales			
1691 SSW 7 Regional WA	<i>Seven Nightly News</i>	Segment broadcast at the end of the news amounted to an ad for Marlboro cigarettes.	Tobacco advertising*
1734 NEN 7 Northern NSW and Gold Coast	<i>The Days</i>	Adult themes, sexual and drug references	PG – Adult themes, drugs and sex references
1771 TEN 10 Sydney NSW	<i>The Ronnie Johns Half Hour</i>	Excessive coarse language	MA – Language
Queensland			
1747 TVQ 10			
Brisbane Qld	<i>Big Brother Adults Only</i> (15 May 2006 broadcast)	Program contained strong adult themes and sexual references.	MA – Adult themes
1748 TVQ 10 Brisbane Qld	<i>Big Brother Adults Only</i> (29 May 2006 broadcast)	Program contained strong adult themes and sexual references.	MA – Adult themes
1749 TVQ 10 Brisbane Qld	<i>Big Brother Adults Only</i> (12 June 2006 broadcast)	Program contained strong adult themes and sexual references.	MA – Adult themes
1750 TVQ 10 Brisbane Qld	<i>Big Brother Up Late</i> (22 June 2006 broadcast)	Program contained inappropriate comments by the host encouraging viewers to watch <i>Big Brother Adults Only</i> .	MA – Adult themes
1755 RTQ 9 Regional Qld	<i>Magda's Funny Bits</i>	Inappropriate sexual content	PG – Sexual behaviour
Western Australia			
1759 NEW 10 Perth, WA	<i>The Wedge</i>	Program promotion mocked and ridiculed people with Tourette Syndrome.	Ridicule on grounds of disability
1768 SSW 7 Regional WA	<i>Forensic Investigators</i>	Tobacco advertising for Marlboro cigarettes	Tobacco advertising*
Victoria			
1740 HSV 7	<i>Today Tonight</i>	Incorrect identification of a company's product as 'home brand'	Factual accuracy
1743 ATV 10	<i>Ten News</i>	Invasion of privacy	Privacy
1757 ATV 10	<i>Big Brother</i>	Unsuitable language	PG – Language
1761 HSV 7 Melbourne Vic	<i>Titanic</i>	Incorrect consumer advice for program	Consumer advice
1766 ATV 10 Melbourne Vic	<i>Australian Motor Grand Prix</i>	Broadcast of a billboard on the racing circuit amounted to tobacco advertising for a cigarette brand.	Tobacco advertisements*
COMMUNITY RADIO			
New South Wales			
1670 2RBR Sydney NSW	Management practice	Broadcast advertisements and sponsorship announcements in excess of five minutes per hour	Broadcasting advertisements and sponsorship announcements in excess of five minutes*
Victoria			
1744 3CR Melbourne Vic	<i>Left After Breakfast</i>	Anti Israeli and USA comments amounted to incitement of hatred and discrimination.	Incite hatred
Western Australia			
8ACR Regional WA		Retransmitted commercial radio stations, 8HA and 8SUN, contrary to its licence.	Providing commercial service without licence to do so*
1729 8KIN Regional WA		Retransmitted commercial radio stations 8HA and 8SUN, contrary to its licence.	Providing commercial service without licence to do so*
ABC TELEVISION			
1723 ABN NSW	<i>ABC News Update</i>	Lack of care in broadcast of news updates at 10.00 am, immediately following Playschool	Exercise care in the selection of sounds and images and no news updates during children's viewing except in exceptional circumstances
1763 ABN NSW	<i>Louis Malle – in camera</i>	Broadcast inappropriate sexual behaviour.	PG Classification – Sex and sexuality, themes, program placement
SBS TELEVISION			
1752 SBS Melbourne Vic	<i>Sugihara: Conspiracy of Kindness</i>	Comments broadcast were derogatory, discriminatory and prejudiced against Polish people.	Discrimination

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