

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.

2GB Sydney's *Breakfast with Alan Jones* broadcast material likely to encourage violence and vilify people

ACMA has found that the licensee of commercial radio service 2GB Sydney, Harbour Radio Pty Ltd, breached the *Commercial Radio Codes of Practice 2004* by broadcasting material likely to vilify people of Lebanese and Middle-Eastern background on the basis of their ethnicity.

ACMA also found that the licensee breached the codes of practice by broadcasting material likely to encourage violence or brutality.

The breaches arose from material broadcast during the *Breakfast with Alan Jones* program between 5 and 9 December 2005.

While ACMA found that the material was presented for a purpose in the public interest, being discussion of factors contributing to unrest in the Cronulla area of southern Sydney

in December 2005, ACMA was not persuaded that the relevant comments were presented reasonably and in good faith.

Clause 1.3(a) of the codes of practice provides that a licensee must not broadcast a program which is likely to incite, encourage or present for its own sake violence or brutality. Clause 1.3(e) provides that a licensee must not broadcast a program which is likely to incite or perpetuate hatred against or vilify any person or group on the basis of a number of attributes, including ethnicity.

During the investigation, the licensee submitted that ACMA's analysis of the codes of practice and findings raise significant practical problems for commercial radio licensees, especially those providing

talk-back services.

This is the third time in the last six months that ACMA has found the licensee in breach of the vilification provision of the code, for broadcasts in the past two years. In addition to the finding of a breach of clause 1.3(e) in this investigation, ACMA previously found the licensee to have breached clause 1.3(e) in broadcasts on *Your Sydney Weekend* and *The Open-Line Show*.

In light of this, ACMA will now move to pursue significantly heightened compliance measures in relation to the potential for future breaches by the licensee of clause 1.3(e) of the codes of practice. ACMA will write to Harbour Radio Pty Ltd about the proposed compliance action, details of which will be

announced when finalised.

Following extensive media commentary about its investigation report and findings, ACMA issued a statement that it was inappropriate to make further public comment on the matter until discussions with 2GB management had been held and decisions made on appropriate sanctions.

Codes of practice are developed by industry in consultation with ACMA and must have regard to matters set out in the *Broadcasting Services Act 1992*. The Commercial Radio Codes of Practice are due for review in late 2007 and the commercial radio industry and the public will have an opportunity to comment on clauses 1.3(a) and (e) and other provisions at that time.

3EON Bendigo and Castlemaine failed to encourage community participation

ACMA has found that the licensee of 3EON, Radio KLFM Inc, has breached the *Broadcasting Services Act 1992* by failing to encourage members of the community it serves to participate in the operations and programming of the service.

Five complainants alleged that 3EON was not representing community interests, not encouraging participation, not providing the service for community purposes and not being a suitable licensee.

In response to the breach finding,

the licensee has acknowledged that it had not been diligent in encouraging community participation nor in keeping membership records. To redress this, it has undertaken to develop a members' page on the KLFM website, reinstate its Program Committee, provide a clear distinction between the three levels of 'listener support' (membership, honorary life membership and Club KLFM) and collate all membership data into a central membership register.

This is the first time the licensee

has been found to be in breach of its licence conditions.

ACMA considers that, once implemented, these measures should substantially address the matters of concern in encouraging members of the licensee's community to participate in the operations and programming of the service. ACMA will monitor the effectiveness of 3EON's new measures, requiring reports in July 2007 and July 2008.