

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.

4MMM Brisbane did not respond to a complaint

ACMA has found that the licensee of 4MMM, Triple M Brisbane Pty Ltd, breached the *Commercial Radio Australia Codes of Practice 2004* by failing to provide a response to a complaint.

The complaint was made on 19 September 2006 about content on 4MMM's program *Tough Love*, which was also aired on Triple M stations in Sydney, Melbourne and Adelaide. Under the codes of practice, a licensee must use its best endeavours to respond to a complaint within 30 days.

The complaint related to a segment on the program *Tough Love* about a

Papuan child, Wa-Wa, and media coverage surrounding the child at the time. The complainant alleged that the segment could incite hatred against or vilify Wa-Wa on the basis of age or race and did not meet contemporary standards of decency. The complainant did not receive a response from 4MMM. The station attributed this failure to human error.

ACMA found that while 4MMM did not breach the relevant provisions of the code in the material broadcast on the program, it did breach the complaints-handling process.

In response to the breach finding, the licensee has set up a dedicated

complaints fax line and a complaints-specific email address. The fax number is in the 'contact us' section of the 4MMM website and the email address is complaints.bne@austereo.com.au.

ACMA considers that these are acceptable measures to address the complaints-handling failure and will monitor their effectiveness. This is the licensee's first breach of this section of the code.

Internet complaints March 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. 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 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.

Items actioned, March 2007

Classification and description of internet content ⁴	Australian-hosted items (take-down notice issued)	Overseas-hosted items (referred to makers of filters)	Total
X 18+ – Actual sexual activity	0	11	11
RC – Crime – promotion/instruction	0	1	1
RC – Violence – depiction	0	1	1
RC – Child – depiction	0	35	35
RC – Sexual fetish – depiction	0	2	2
RC – Sexual fantasy	0	1	1
Totals	0	52	52

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.

Internet complaints, March 2007

Complaints received	34
Invalid complaints ¹	7
Investigations terminated ²	2
Investigations completed	39
Items actioned ³	52

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.