

Broadcasting complaints investigations, January to March 2008

Under the *Broadcasting Services Act 1992* (the BSA), 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 BSA or licence conditions, completed in the three months from 1 January to 31 March 2008.

There is also, with the cooperation of Free TV Australia and Commercial Radio Australia (CRA), 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 BSA lays down a general procedure for complaints-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 disclosure), about the BSA itself and about licence conditions may be made directly to ACMA—complainants are not obliged to contact a licensee.

ACMA may find 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 BSA, 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 eight investigations finding a breach, four related to commercial television and four to

community radio. The breaches covered seven issues as follows:

1. Broadcast of material that was factually inaccurate and misrepresented viewpoints (six breaches for one investigation by commercial television).
2. Significant errors of fact not corrected (five breaches from the same investigation as above).
3. Broadcast of material that contained nudity or violence excessive for the classification of the program (one breach for commercial television).
4. Breach of Children's Television Standards, a licence condition, by broadcasting an advertisement during P time period (one breach for commercial television).
5. Breach of a licence condition by broadcasting advertisements (one breach for community radio).
6. Breach of a licence condition by broadcasting more than five minutes of sponsorship announcements per hour (two breaches for community radio).
7. Breach of a licence condition by not encouraging community participation (two breaches for community radio).

COMPLAINTS-HANDLING BY COMMERCIAL RADIO STATIONS

The *Commercial Radio Codes of Practice 2004* requires each commercial radio broadcaster to provide Commercial Radio Australia (CRA) with an extract of the record of complaints received. CRA provides a consolidated report to ACMA.

Member stations recorded 43 written

complaints alleging breaches of the codes during the January to March quarter of 2008.

COMPLAINTS-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 provides a consolidated report to ACMA.

There were significant decreases in complaints about general program classification. All other categories attracted a very low number of complaints, as per the previous quarter. Commercial television stations reported 182 written complaints about matters covered by the code in the first quarter of 2008. This is 52 per cent fewer than the 347 complaints reported in the previous quarter. However, last quarter had 304 complaints about a single program and a number of these complaints were identical (that is, a 'campaign' complaint).

The majority of complaints were about classification of reality programs. All other categories attracted a very low level of complaints, as per the previous quarter.

COMPLAINTS UPHeld BY TELEVISION STATIONS

There were no upheld complaints that breached the code for this quarter, in comparison to two

Completed ACMA investigations into unresolved broadcasting complaints, January to March 2008

Number of ACMA investigations finalised in the three months	23
Investigations resulting in a breach of a code of practice	3
Investigations resulting in a breach of a licence condition	5
Investigations resulting in no breach	15
Investigations withdrawn	1

One investigation was concluded by ACMA pending the outcome of the ABC's Independent Complaints Review Panel.

Written complaints to commercial radio broadcasters, January to March 2008

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	21	0	2	5	2	30
Prohibited matter in	2	1	0	2	2	7
Other complaints	0	1	1	0	4	6
Total	23	2	3	7	8	43

Source: CRA, *Commercial Radio Codes of Practice: Complaints Summary January to March 2008*

Complaints to commercial television stations about programs, January to March 2008

	Bias/ inaccuracy	Classification	Closed caption	Commercial general	Commercial placement	Commercial time	Complaints- handling	Disclosure	Discrimination	Program general	Upsetting material	Total
Children	0	3	0	0	0	0	0	0	0	0	0	3
Comedy	0	8	0	0	0	1	0	0	3	0	0	12
Commercial	0	8	0	3	6	0	0	0	1	0	0	18
Current affairs	7	3	0	0	0	0	1	1	4	0	0	16
Documentary	0	2	0	0	0	0	0	0	1	1	0	4
Drama	0	25	5	0	0	0	0	0	0	0	0	30
Light entertainment	0	5	0	0	0	0	0	0	1	1	0	7
Movie	0	8	0	0	0	0	0	0	0	0	0	8
News	3	3	0	0	0	0	0	0	2	5	1	14
Program promos	0	15	0	0	1	0	0	0	2	0	0	18
Reality	0	48	0	0	0	0	0	0	0	1	0	49
Sport	0	1	0	0	0	0	0	0	0	0	0	1
Unspecified	0	1	0	0	0	0	1	0	0	0	0	2
Total	10	130	5	3	7	1	2	1	14	8	1	182
Percentage	5.5	71.4	2.7	1.6	3.8	0.5	1.1	0.5	7.7	4.4	0.5	100

Source: Free TV Commercial Television Industry Code of Practice 2004: Complaints Summary January to March 2008

ACMA investigations, January to March 2008

Call sign	Program	Substance of complaint	Code/licence condition applicable to breach finding
Breach findings			
COMMERCIAL TELEVISION			
Queensland			
QTQ Brisbane	<i>A Current Affair</i>	A series of inaccurate and unfair broadcasts; factual errors not corrected; complaint not responded to	Failure to present factual material accurately and represent viewpoints fairly (six breaches); significant errors of fact not corrected (five breaches)
QTQ Brisbane	<i>Holy Smoke</i> (movie)	Sex scenes, level of nudity and coarse language too strong for classification level	Sex scenes in an M-classified movie
Victoria			
HSV Melbourne	<i>The Fairies</i>	Closing credits of a program broadcast in 'P' time included an advertisement	<i>Children's Television Standards 2005*</i>
Western Australia			
STW Perth	<i>National Nine News Break</i>	Inappropriate material for a G time zone; complaint not responded to	Failure to provide a substantive written response
COMMUNITY RADIO			
New South Wales			
2EAR Moruya		Unsuitable licensee; is not representing community interest or encouraging participation	Encouraging community participation*
2EAR Moruya		Not representing community interest or encouraging participation	Encouraging community participation*
Queensland			
4TTT Townsville		Not representing community interest; excessive broadcasting advertisements and sponsorship announcements	Broadcasting advertisements and broadcasting more than five minutes of sponsorship announcements per hour*
Western Australia			
6NR Perth		Broadcasting excessive sponsorship announcements	Broadcasting more than five minutes of sponsorship announcements per hour*

INVESTIGATIONS

breaches by **broadcasters**

Call sign	Program	Substance of complaint	Code/licence condition applicable to breach finding
No breach findings			
COMMERCIAL TELEVISION			
New South Wales			
ATN Sydney	<i>Sunrise</i>	Offensive comments about Muslims	Provoking intense dislike on the basis of religion
TCN Sydney	<i>A Current Affair</i>	Poor quality of captioning	Captioning*
WIN Southern NSW	<i>A Current Affair</i>	Segment was factually inaccurate, did not represent viewpoints fairly and discriminated on the basis of race; significant errors not corrected; complaint not responded to	Factual accuracy; fair representation of viewpoints; discrimination on the basis of race; correction of significant errors; complaints-handling
Queensland			
BTQ Brisbane	<i>Today Tonight</i>	Privacy invaded during interview	Use of material that invaded an individual's privacy
Tasmania			
TVT Regional Tasmania	<i>News</i>	Inaccuracies in story about firearms	Factual accuracy
COMMERCIAL RADIO			
New South Wales			
2AD Armidale		Advertisement of a sexual nature broadcast when children were likely to be listening; complaint not responded to	Contemporary standards of decency; complaints-handling
2UE Sydney	<i>The John Laws Show</i>	Offensive material and gratuitous bad language broadcast; complaint not responded to	Contemporary standards of decency; avoidance of gratuitously offensive language; complaints-handling
COMMUNITY RADIO			
New South Wales			
2WAY Port Macquarie		Programming decisions made without input from presenters or volunteers	Encouraging community participation*; sponsorship policy
2YOU Tamworth		Not encouraging participation	Encouraging community participation*
South Australia			
5EBI Adelaide	<i>Ethiopian Amharic Language</i>	Not encouraging participation; not representing the community interest; inciting hatred on the basis of ethnicity and religion	Encouraging community participation*; representing the community*; inciting hatred on the basis of ethnicity and religion
Tasmania			
7TFM Georgetown	<i>Breakfast Show</i>	Record of broadcast matter not retained	Retention of broadcast matter*
ABC RADIO			
New South Wales			
2RN	<i>PM</i>	Factual inaccuracies during interview	Accuracy and impartiality
Queensland			
4JJJ	<i>Hack</i>	Inappropriate content and language of a sexual nature	Use of language; treatment of sex and sexuality
ABC TELEVISION			
South Australia			
ABC	<i>7.30 Report</i>	Segment biased and not impartial; complaint not responded to	Impartiality; complaints-handling
Victoria			
ABC	<i>Compass</i>	Program about evolution not impartial	Impartiality

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