

Broadcasting complaints investigations, April to June 2008

Under the *Broadcasting Services Act 1992 (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 April to 30 June 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 provisions of the BSA 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 that licensees take action to remedy breaches or put in place procedures to ensure they do not recur.

Of the 19 investigations finding a breach, seven related to commercial television, one to commercial radio, 10 to community radio and one to open narrowcast radio. The breaches covered a number of issues:

1. Breach of licence condition by broadcasting a political advertisement during the blackout period (one breach for commercial television).
2. Broadcast of material that was factually inaccurate and misrepresented viewpoints (one breach for commercial television).
3. Breach of Children's Television Standards, a licence condition, by broadcasting an advertisement promoting an offer broadcast during 'C' time (one breach for commercial television).
4. Failure to respond to written complaints in the appropriate time frame (one breach for commercial television).
5. The depiction of suicide with no warnings given (one breach for commercial television).
6. Broadcast of material that was excessive for the classification of the program (two breaches for commercial television).
7. Breach of licence condition by broadcasting advertisements (three breaches for community radio).
8. Breach of licence condition by broadcasting more than five minutes of sponsorship announcements per hour (three breaches

for community radio).

9. Breach of licence condition by not encouraging community participation (three breaches for community radio).
10. Breach of complaints-handling provisions (one for commercial radio and one for community radio).
11. Providing a commercial broadcasting service without a licence (one breach for open narrowcast radio).

COMPLAINTS-HANDLING BY COMMERCIAL RADIO STATIONS

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

Member stations recorded 73 written complaints alleging breaches of the codes during the first 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.

Commercial television stations reported 217 written complaints about matters covered by the code in the second quarter of 2008. Overall, complaints increased by 19 per cent from the previous quarter. There were slight increases in complaints about bias/inaccuracy, classification and discrimination. All other categories attracted a lower level of complaints, as per the previous quarter. The majority of complaints related to classification of reality programs.

COMPLAINTS UPHELD BY TELEVISION STATIONS

There was one partially upheld complaint about program promotions broadcast. This compares to no upheld complaints in the previous quarter.

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

Number of ACMA investigations finalised in the three months	51 ¹
Investigations resulting in a breach of a code of practice	7
Investigations resulting in a breach of a licence condition	12
Investigations resulting in no breach	29
Investigations withdrawn	3

¹Three investigations were concluded by ACMA.

Written complaints to commercial radio broadcasters, April to June 2008

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	33	0	4	7	8	52
Prohibited matter in	5	0	0	2	2	9
Other complaints	4	1	1	0	6	12
Total	42	1	5	9	16	73

Source: CRA, Commercial Radio Codes of Practice: Complaints summary April to June 2008.

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breaches by **broadcasters**

Complaints to commercial television stations about programs, April to June 2008

	Inaccuracy	Bias/ inaccuracy	Closed caption	Commercial general	Commercial placement	Commercial time	Consumer advice	Discrimination	Privacy	Program general	Upsetting material	Total
Comedy	0	12	0	0	0	0	0	3	0	0	0	15
Commercial	0	11	0	0	8	4	0	0	0	0	0	23
Current affairs	7	0	1	0	0	0	0	3	0	0	0	11
Documentary	0	3	0	0	1	0	0	0	0	0	0	4
Drama	0	22	1	0	0	0	0	2	0	0	0	25
Light entertainment	0	4	0	0	0	0	0	1	0	0	0	5
Movie	0	6	0	1	0	0	1	0	0	0	0	8
Music video	0	1	0	0	0	0	0	0	0	0	0	1
News	11	6	0	0	0	0	0	2	0	0	10	29
Program promos	1	8	0	0	0	0	0	7	1	0	0	17
Quiz	0	1	0	0	0	0	0	0	0	0	0	1
Reality	0	65	0	0	0	0	0	4	0	1	0	70
Religion	0	1	0	0	0	0	0	0	0	0	0	1
Sport	0	2	0	1	0	2	0	1	0	0	0	6
Unspecified	0	0	1	0	0	0	0	0	0	0	0	1
Total	19	142	3	2	9	6	1	23	1	1	10	217
Percentage	8.8	65.4	1.4	0.9	4.1	2.8	0.5	10.6	0.5	0.5	4.6	100.0

Source: Free TV Commercial Television Industry Code of Practice 2004: Complaints Summary April to June 2008.

ACMA investigations, April 2008 to June 2008

Call sign	Program	Substance of complaint	Code/licence condition applicable to breach finding
Breach findings			
COMMERCIAL TELEVISION			
New South Wales			
TCN	<i>60 Minutes</i>	Coverage of teen suicide, no warnings given	Depiction of suicide and provision of warnings
TEN	<i>Californication</i>	Sex scenes and references exceeded code provisions for sex/nudity	Television classification guidelines, classification of other material and MA—sex and nudity
Victoria			
ATV	Election advertising	Broadcast of political advertising during the blackout period	During the relevant 'blackout' period no election advertising to be broadcast*
ATV	Advertisement	Advertisement directed at children promoting an 'offer' broadcast during 'C' time	Children Television Standards 2005*
GTV	<i>A Current Affair</i>	A segment contained inaccurate and misleading material	Fair representation of viewpoints
HSV	Channel Seven News	A news report portrayed suicide as 'glamorous'	Breached time limits on responses to code complaints; no breach on the reporting of suicide
Western Australia			
NEW	<i>Californication</i>	Sex scenes and references exceeded code provisions for sex/nudity	Television classification guidelines, classification of other material and MA—sex and nudity
COMMERCIAL RADIO			
New South Wales			
2GB	<i>Overnight with Jim Ball</i>	Use of inappropriate language, no response from station to a complaint received	Complaints-handling—respond substantively in writing
COMMUNITY RADIO			
New South Wales			
2BFM	<i>Radio Dosti</i>	Advertisements broadcast during the <i>Radio Dosti</i> program	Broadcast of advertisements*

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Call sign	Program	Substance of complaint	Code/licence condition applicable to breach finding
2CCR	<i>Radio Mirchi</i>	Advertisements broadcast during the Radio Mirchi program	Broadcast of advertisements*
2GLF		Licensee not representing community interest or encouraging community participation	Found to be in breach of not encouraging community participation; no breach under community interest*
2MCR	2MCR	Promotion of events outside coverage area, personal interests not disclosed and airing promotional material without a tag	Breach for complaints-handling; no breach under advertising or community interest
2SWR	<i>Punjabi</i>	Broadcast of advertisements	Broadcast of advertisements*
Victoria			
3BBB		Broadcast of advertisements, five-minute sponsorship limit exceeded	Advertisement and time limit on sponsorship announcements *
3RIM		Licensee not representing the community interest and not encouraging participation	Breach for not encouraging community participation; no breach under representing community interest*
3RIM		Licensee not encouraging participation	Encourage community participation*
Queensland			
4DDB		Broadcast of advertisements, five-minute sponsorship limit exceeded	Advertisement and time limit on sponsorship announcements *
Western Australia			
6NR	Curtin FM	Exceeding hourly sponsorship limit	Advertisement and time limit on sponsorship announcements *
OPEN NARROWCAST RADIO			
Western Australia			
FLY FM		Providing a commercial broadcasting service	Providing a commercial broadcasting service without the appropriate licence*
Non-breach findings			
COMMERCIAL TELEVISION			
New South Wales			
ATN	<i>Today Tonight</i>	Broadcast did not represent viewpoints fairly, contained factually inaccurate material and invaded an individual's privacy	Factual accuracy of material, representing viewpoints and privacy
ATN	<i>Today Tonight</i>	Report was misleading and wrongly identified a business	Factual accuracy of material, unfair identification of a person or business when commenting on behaviour of group of persons or businesses
ATN	<i>Kath and Kim</i>	Inappropriate language and gestures for timeslot	Television classification guidelines, classification of other material and classification of a PG-rated program
NBN	<i>60 Minutes</i>	Inappropriate language for timeslot	Television classification guidelines, language and classification of a PG-rated program
NRN	<i>The Biggest Loser</i>	Broadcast contained inappropriate coarse language for PG program	Television classification guidelines, classification of other material and language
TEN	<i>Californication</i> , Episode 5	Offensive depiction of clergy and alter boys, and inappropriate sexual references	Television classification guidelines, consumer advice for certain programs, material not suitable for television, severe ridicule on the basis of religion and classification of other material
TEN	<i>Californication</i> , Episode 6	Inappropriate sexual material, language and themes	Television classification guidelines, consumer advice for certain programs, material not suitable for television and classification of MA program
TEN	<i>Californication</i> , Episode 7	Inappropriate sexual material, language and themes	Television classification guidelines, consumer advice for certain programs, material not suitable for television and classification of MA program
TEN	<i>Californication</i> , Episode 8	Inappropriate sexual material, language and themes	Television classification guidelines, consumer advice for certain programs, material not suitable for television, classification of MA program
Victoria			
ATV	<i>Sexpo</i> advertisement	Inappropriate commercial during PG program	Television classification guidelines, classification and placement of commercials
ATV	<i>Californication</i> , Episode 5	Inappropriate sexual material, language and themes, ridicule of the Christian faith	Television classification guidelines, consumer advice for certain programs, material not suitable for television, severe ridicule on the basis of religion and classification of other material
GTV	<i>Penn & Teller: Signs from Heaven</i>	Program vilifies and mocks Christian religion	Classification and proscribed material, discrimination and severe ridicule on the basis of religion and classification of other material

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Call sign	Program	Substance of complaint	Code/licence condition applicable to breach finding
Queensland			
RTQ	<i>A Current Affair</i>	Broadcast of blurred images of children attending a karate class	Privacy and special care for identifying children
STQ	<i>Serious Crash Unit</i>	Broadcast of words 'if it is too loud, you're too old' offensive	Proscribed material—discrimination
South Australia			
NWS	<i>ER promotion</i>	Promotion included clips of scenes not appropriate for the timeslot	Television classification guidelines, promotions in G programs and consumer advice
COMMERCIAL RADIO			
Queensland			
4KQ	<i>Classic Hits Breakfast Show</i>	Broadcast of racist comments	Programs unsuitable for broadcast—proscribed matter
ABC TELEVISION			
New South Wales			
ABN	<i>Sideshow with Paul McDermott</i>	Broadcast of inappropriate language about John Howard	Language, context and acceptability
Queensland			
ABQ	<i>The Chaser's War on Everything</i>	Coarse language exceeding M classification	Classification of TV programs, general content—sex and sexuality, context and acceptability, and language.
South Australia			
ABS	<i>Angelmouse</i>	Cartoon broadcast material that promoted Christian themes to children	Religious content
ABS	ABC News	Inaccuracy of a news broadcast and lack of impartiality	Impartiality in news programs, accuracy and factual context
ABS	ABC News	The word 'sexual' in context of child molestation was inaccurate	Accuracy, impartiality and context
ABC RADIO			
New South Wales			
2JJJ	<i>This Sporting Life</i>	Broadcast of offensive language and lack of response to complaint	Language and complaints-handling
SBS TELEVISION			
Northern Territory			
SBS	World News Australia	Prejudiced and partial in its presentation of a news story	Accuracy, impartiality and balance
COMMUNITY TELEVISION			
New South Wales			
TSN31		Licensee not suitable, representing community interest or encouraging participation	Suitability, representation and participation*
COMMUNITY RADIO			
New South Wales			
2YOU		Licensee not representing community interest or encouraging participation	Represent community interests and encourage community participation*
2YOU		Licensee not encouraging community participation.	Encourage community participation*
2YYY		Broadcast of advertisements	Broadcast of advertisements*
Queensland			
4RED		Licensee not encouraging community participation	Encourage community participation*
South Australia			
5TRX		In response to a request for documents, the licensee referred complainant to its website	Complaints-handling; volunteers—principles of volunteering, rights and responsibilities of volunteers

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