

# Broadcasting complaints investigations, October to December 2007

**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 October to 31 December 2007.

There is also, with the cooperation of Free TV Australia and Commercial Radio Australia (CRA), a three-month report on 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 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 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 first.

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 BSA, 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 five investigations finding a breach, one each related to commercial television, community television and SBS television; and two to community radio. The breaches covered five issues as follows:

1. Broadcast of poor quality captions which affected the program's overall comprehensibility to a deaf or hearing-impaired viewer (one breach for commercial television).
2. Complaints-handling (one breach for community television).
3. Broadcast of material which contained sex and nudity excessive for the classification of the program (one breach for SBS television).
4. Breach of a licence condition by not encouraging participation (one breach for community radio).
5. Breach of a licence condition by broadcasting advertisements (one breach for community radio).

## COMPLAINTS-HANDLING BY COMMERCIAL RADIO STATIONS

The *Commercial Radio Codes of Practice 2004* require 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 48 written

complaints alleging breaches of the codes during the October–December quarter of 2007.

## 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 347 written complaints about matters covered by the code during the October–December quarter of 2007—31 per cent fewer than the 498 complaints reported in the previous quarter. Of this total, 132 complaints related to a single program (*Californication*) and a number of these complaints were identical.

## COMPLAINTS UPHELD BY TELEVISION STATIONS

There were two upheld complaints for two program items that stations agreed breached the code for this quarter—one about inaccuracy during a news report and one about the advertisement of a film. Four complaints were upheld in the previous quarter.

## Completed ACMA investigations into unresolved broadcasting complaints, October to December 2007

Number of ACMA investigations finalised in the three months	22
Investigations resulting in a breach of a code of practice	2
Investigations resulting in a breach of a licence condition	3
Investigations resulting in breaches of both a code of practice and a licence condition	0
Investigations resulting in no breach	17

## Written complaints to commercial radio broadcasters, October to December 2007

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	21	0	3	5	1	30
Prohibited matter in	2	0	0	1	1	4
Other complaints	3	0	2	4	5	14
Total	26	0	5	10	7	48

Source: CRA, *Commercial Radio Codes of Practice: Complaints summary October to December 2007*

## Complaints to commercial television stations about programs, October to December 2007

	Bias/ Inaccuracy	Classification	Closed caption	Commercial general	Commercial placement	Commercial Time	Discrimination	Privacy	Program general	Unsettling material	Total
Children	0	3	0	0	0	0	0	0	0	0	3
Comedy	0	128	0	0	0	3	14	0	0	0	145
Commercial	0	8	0	5	5	1	0	0	0	0	19
Current affairs	8	0	2	0	0	0	3	1	0	0	14
Documentary	0	6	0	0	0	0	0	0	0	0	6
Drama	0	7	2	0	1	1	0	0	0	0	11
Information	0	1	0	0	0	0	0	0	0	0	1
Light entertainment	0	10	0	0	0	0	3	0	2	0	15
Movie	0	7	0	0	1	0	0	0	0	1	9
Music video	0	4	0	0	0	0	0	0	40	0	44
News	19	5	0	0	0	0	12	0	0	0	36
Program promos	0	7	0	0	0	0	1	0	1	0	9
Quiz	0	7	0	0	0	0	2	0	0	0	9
Reality	0	17	0	0	1	1	2	0	1	0	22
Shopping Guide	0	0	0	0	0	1	0	0	0	0	1
Sport	0	0	0	0	0	3	0	0	0	0	3
Total	27	210	4	5	8	10	37	1	44	1	347
%	7.8	60.5	1.2	1.4	2.3	2.9	10.7	0.3	12.7	0.3	100.0

Source: Free TV Australia, Commercial Television Industry Code of Practice 2004: Complaints Summary October to December 2007

## ACMA Investigations, October to December 2007

Call sign	Program	Substance of complaint	Code/licence condition applicable to breach finding
<b>Breach findings</b>			
<b>COMMERCIAL TELEVISION</b>			
<b>New South Wales</b>			
TEN Sydney	<i>House, The Simpsons</i> and <i>NCIS</i>	Poor quality of captioning	<p>Captioning of the program <i>The Simpsons</i> was such that the deaf and hearing-impaired would not be able to attain overall comprehensibility program*</p> <p>The captioning of the programs <i>House</i> and <i>NCIS</i> were found to provide an overall level of comprehensibility*</p>
<b>COMMUNITY RADIO</b>			
<b>Northern Territory</b>			
8KNB Darwin		Station not accepting membership applications and changing its community of interest	Found to be in breach for not encouraging participation*, but no breach for not representing the community interest*
<b>Victoria</b>			
3SER Sydney		Broadcast of a football match contained advertisements	Advertising*
<b>COMMUNITY TELEVISION</b>			
<b>South Australia</b>			
C31 Adelaide Ltd		Complaints handling	Complaints handling
<b>SBS TELEVISION</b>			
<b>Western Australia</b>			
SBS National	<i>Obscene Machines</i>	Inappropriate sexual references in MA program	Sex and nudity in MA

# INVESTIGATIONS

## breaches by **broadcasters**

No breach findings			
COMMERCIAL TELEVISION			
New South Wales			
NBN Northern NSW	<i>NBN News</i>	Failure to caption News	Captioning*
WIN Southern NSW	<i>20 to 1</i>	Broadcast of inappropriate themes in PG	Themes PG
Victoria			
ATV Melbourne	<i>Numb3rs, The Simpson, NCIS, Law &amp; Order (SVU), Law &amp; Order (Criminal Intent) and House</i>	Poor quality of captioning	Captioning*
GLV Eastern Victoria	<i>House and Medium</i>	Poor quality of captioning	Captioning*
Queensland			
QTQ Brisbane	<i>A Current Affair</i>	Poor quality of captioning	Captioning*
TVQ Brisbane	<i>Channel Ten News</i>	Poor quality of captioning	Captioning*
Western Australia			
NEW Perth	SMS Flirt Chat Commercial	Broadcast of a commercial for a telephone sex line during the Spanish Formula One Grand Prix	Commercial relating to products of a particularly intimate nature
NEW Perth	<i>Neighbours, House, NCIS and Medium</i>	Poor quality of captioning	Captioning*
Tasmania			
TDT Tasmania	<i>Medium, Law &amp; Order (SVU) and Law &amp; Order (Criminal Intent)</i>	Poor quality of captioning	Captioning*
South Australia			
NWS Adelaide	Advertisement	Broadcast an advertisement in breach of <i>Children's Television Standards 2005</i>	<i>Children's Television Standards 2005</i>
SUBSCRIPTION TELEVISION			
Foxtel Cable Television	'Destination Calabria' – music video clip	Depictions of sexual behaviour inappropriate for the MA classification	Sex and nudity in MA
COMMERCIAL RADIO			
South Australia			
5MMM Adelaide	'Whispering David Howard'	Discussion between the presenter and a caller included racist remarks	Vilification
COMMUNITY RADIO			
New South Wales			
2HHH Hornsby		Licensee did not represent community interest, it broadcast advertisements and it did not give all candidates the opportunity to appear on air before the NSW state election	Representing community interests, encouraging participation, advertising, keeping records of broadcast matter*
2GLF Liverpool	Radio Lehren	Licensee broadcast sponsorship announcements in excess of five minutes per hour	Sponsorship*
SBS TELEVISION			
New South Wales			
SBS TV Sydney	<i>South Park</i>	Program contained content that exceeds the MA classification	Content MA
SBS TV Sydney	<i>World News Australia</i>	Program item on Beijing bakers putting cardboard in their steam buns was prejudiced and partial	Impartiality and accuracy
ABC TELEVISION			
Queensland			
ABQ Brisbane	<i>Four Corners</i>	Program lacked balance and impartiality	Balance and 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*