

Broadcasting investigations, April to June 2010

This summary is of ACMA broadcasting investigations completed in the three months from 1 April to 30 June 2010.

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.

The broadcasting complaints process

Primary responsibility for the resolution of broadcasting code-related complaints rests with the licensees. The *Broadcasting Services Act 1992* (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 the ACMA for investigation. The ACMA refers to these as unresolved complaints and must investigate them unless satisfied that they are frivolous or vexatious or not made in good faith.

Complaints about possible breaches of program standards (children's television, Australian content, captioning and disclosure), provisions of the BSA and licence conditions may be made directly to the ACMA. Complainants are not obliged to contact a licensee first in these instances.

The 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 the ACMA may make compliance with a code a condition of licence. Generally, the ACMA seeks to ensure that licensees take action to remedy breaches or to put in place procedures to ensure they do not recur. ☺

Most investigation reports (with the exception of community non-breach investigation reports) are published on the ACMA website at www.acma.gov.au (go to About ACMA: Publications & research > Publications > Broadcasting publications > Broadcasting investigations reports).

Broadcasting investigations completed, 1 April to 30 June 2010

Type of service	Breaches			Non-breaches		
	Code of practice	Licence condition or standard	BSA	Code of practice	Licence condition or standard	BSA
Commercial television	6	–	–	8	11	–
ABC television	–	–	–	3	–	–
SBS television	–	–	–	1	–	–
Commercial television	–	–	–	–	–	–
Subscription broadcasting television	–	–	–	–	–	–
Subscription narrowcast television	–	–	–	–	1	–
Open narrowcast television	–	–	–	–	–	–
Commercial radio	1	1	–	2	–	–
ABC radio	–	–	–	1	–	–
SBS radio	–	–	–	–	–	–
Community radio	1	3	–	–	1	–
Temporary community radio	–	–	–	–	–	–
Open narrowcast radio	–	–	–	–	–	–
Total	8	4	–	15	13	–

Broadcasting investigations, April to June 2010

Investigations were against provisions of a code of practice unless otherwise indicated.

Commercial television

Breach findings: 6

Station	Investigation number	Program	Substance of complaint	Outcome
NWS Channel Nine South Australia Pty Ltd SA	2331	<i>The AFL Footy Show</i> 17/09/2009	Likely to incite or perpetuate hatred against or vilify person or group on basis of colour or race.	Breach—likely to incite or perpetuate hatred against or vilify person or group on basis of colour or race.
SAS Channel Seven Adelaide Pty Ltd SA	2339	<i>Packed to the Rafters</i> 22/09/2009	Complainant alleged the PG classified program contained inappropriate sexual material.	Breach—Television Classification Guidelines—sex.
ATV Network Ten Melbourne Pty Ltd Vic.	2366	<i>What Lies Beneath</i> 23/10/2009	Complainant alleged consumer advice for M classified film was inadequate.	Breach—consumer advice.
GTV General Television Corporation Pty Ltd Vic.	2341	<i>The AFL Footy Show</i> 17/09/2009	Likely to incite or perpetuate hatred against or vilify person or group on basis of colour or race and complaints-handling.	Breach—likely to incite or perpetuate hatred against or vilify person or group on basis of colour or race. No breach—substantive written response.
GTV General Television Corporation Pty Ltd Vic.	2354	<i>Underbelly: Tale of Two Cities: The Reckoning</i> 20/04/2009	Complainant alleged the M classified program contained inappropriate coarse language; complaints-handling.	Breach—provide substantive written response. No breach—Television Classification Guidelines—language. No breach—proscribed material.
TWW Channel Seven Perth Pty Ltd WA	2317	<i>Today Tonight</i> 26/11/2008	Omission resulting in unfair representation of viewpoint in story about rental dispute.	Breach—accuracy. No breach—accuracy. No breach—fair representation of viewpoints. No breach—unfair identification.

* Investigation against a licence condition or standard.

Non-breach findings: 19

Station	Investigation number	Program	Substance of complaint	Outcome
ATN Channel Seven Sydney Pty Ltd NSW	2323	<i>Today Tonight</i> 21/08/2009	Story on Scientology's approach to mental illness presented misleading information and was likely to incite religious hatred of Scientologists.	No breach—proscribed matter. No breach—accuracy—statement 1. No breach—accuracy—statement 2. No breach—gratuitous emphasis.
ATN Channel Seven Sydney Pty Ltd NSW	2367	<i>Today Tonight</i> 05/05/2008	Inaccurate statement made regarding AMI connection with Medicare.	No breach—accuracy.
TCN TCN Channel Nine Pty Ltd NSW	2356	<i>Classic Catches Competition</i> 22/01/2010– 31/01/2010	Tobacco advertising.	No breach—prohibition on tobacco advertisements.*
TCN TCN Channel Nine Pty Ltd NSW	2347	<i>Two and a Half Men</i>	Complainant alleged the PG classified program contained inappropriate sexual references.	No breach—Television Classification Guidelines—sex.
TCN TCN Channel Nine Pty Ltd NSW	2392	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
TEN Network Ten Sydney Pty Ltd NSW	2376	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
BTQ Channel Seven Brisbane Pty Ltd Qld	2329	<i>Today Tonight</i> 09/09/2009	Segment invaded privacy by broadcasting footage of person involved unknowingly in drink-spiking stunt and gave erroneous account of her action.	No breach—represent viewpoints fairly. No breach—privacy. No breach—unfairly identify a person when commenting on the behaviour of a group of persons.
QTV Queensland Television Holdings Pty Ltd Qld	2393	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
STQ Channel Seven Queensland Pty Ltd Qld	2417	<i>Seven Local News</i> 25/03/2010	Accuracy.	No breach—accuracy.
TVQ Network Ten Brisbane Pty Ltd Qld	2395	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
ADS Network Ten Adelaide Pty Ltd SA	2394	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
NWS Channel Nine South Australia Pty Ltd SA	2377	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
SAS Channel Seven Adelaide Pty Ltd SA	2411	<i>Weekend Sunrise</i> 13/02/2010	Complainant alleged the current affairs program contained inappropriate sexual material and nudity.	No breach—exception for news, current affairs and broadcasts of sporting events.
SAS Channel Seven Adelaide Pty Ltd SA	2412	<i>Desperate Housewives</i> promotion 13/02/2010	Complainant alleged the promotion contained inappropriate sexual material.	No breach—classification of other material. No breach—program promotions provisions.
ATV Network Ten Melbourne Pty Ltd Vic.	2396	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
GTV General Television Corporation Pty Ltd Vic.	2333	<i>Hey Hey It's Saturday— The Reunion</i> 07/10/2009	Blackface skit offensive due to racist caricatures.	No breach—offend cultural sensitivities. No breach—dislike, contempt or ridicule against a group of persons.
GTV General Television Corporation Pty Ltd Vic.	2375	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
NEW Network Ten Perth Pty Ltd WA	2397	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*
STW Swan Television & Radio Broadcasters Pty Ltd WA	2398	Hungry Jacks Kids Club Meal advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, in breach of the Children's Television Standards.	No breach—did not broadcast during scheduled C or P period.*

* Investigation against a licence condition.

ABC television**Breach findings: 0****Non-breach findings: 3**

Station	Investigation number	Program	Substance of complaint	Outcome
ABN ABC Television NSW	2351	<i>Island Life</i> 05/01/2010	Complainant alleged G classified program contained inappropriate violence.	No breach—ABC Code of Practice.
ABN ABC Television NSW	2362	<i>Review with Myles Barlow</i> 06/01/2010	Complainant alleged M classified program contained inappropriate violence.	No breach—ABC Code of Practice.
ABS ABC Television SA	2400	<i>The Tribe</i> 08/01/2010	Complainant alleged G classified program contained inappropriate sexual material.	No breach—ABC Code of Practice.

SBS television**Breach findings: 0****Non-breach findings: 1**

Station	Investigation number	Program	Substance of complaint	Outcome
SBS TV	2345	<i>800 Bullets</i> 12/11/2009	Complainant alleged that the M classified film contained inappropriate sexual material and violence.	No breach—sex and nudity. No breach—violence.

Community television**Breach findings: 0****Non-breach findings: 0****Subscription broadcasting television****Breach findings: 0****Non-breach findings: 0****Subscription narrowcast television****Breach findings: 0****Non-breach findings: 1**

Station	Investigation number	Program	Substance of complaint	Outcome
Global Tamil Vision GTV	2233	Various	Recruiting and soliciting funds for a terrorist organisation.	No breach—section 6 and section 7 of the Broadcasting Services (Anti-terrorism Requirements for Subscription Narrowcasting Television Services) Standard 2006.*

* Investigation against a standard.

Open narrowcast television**Breach findings: 0****Non-breach findings: 0**

Commercial radio**Breach findings: 2**

Station	Investigation number	Program	Substance of complaint	Outcome
4EL Prime Radio Cairns—AM Qld	2302	<i>The John MacKenzie Show</i> 17/04/2009 and 24/04/2009	Failure to disclose a commercial agreement in relation to the appearance of the Mayor of Cairns Council on the program.	Breach—advertising standard—17 and 24 April 2009.* Breach—paragraph 8(1)(b) of Schedule 2 of the BSA.* No breach—disclosure standard—17 and 24 April 2009.*
3AW Radio 3AW Melbourne Pty Ltd Vic.	2332	<i>3AW Drive</i> 03/04/2006 and 11/08/2009	Information about person's departure from the army was inaccurate. Licensee did not respond to complaint within 30 working days.	Breach—respond within 30 days—11 August 2009. No breach—accuracy—11 August 2009. No breach—respond within 30 days—3 April 2006. No finding—accuracy—3 April 2006.

* Investigation against standard or licence condition.

Non-breach findings: 2

Station	Investigation number	Program	Substance of complaint	Outcome
5AA Festival City Broadcasters Pty Ltd SA	2324	<i>The Bob Francis Show</i> 15/09/2009	Inappropriate, offensive language used; elderly disrespected; talkback program does not reflect contemporary standards of decency.	No breach—contemporary standards of decency. No breach—gratuitous use of language.
5ADL Nova 91.9 Pty Ltd SA	2353	<i>Fitzy, Claire and Jules Show</i> 29/10/2009	Homophobic language and overtones. Late response to complaint.	No breach—incite or perpetuate hatred or vilify on grounds of sexual preference. No breach—provide substantive written response within time limits.

ABC radio**Breach findings: 0****Non-breach findings: 1**

Station	Investigation number	Program	Substance of complaint	Outcome
5AN ABC Radio SA	2374	<i>Mornings with Matthew Abraham and David Bevan</i> 23/02/2010	Accuracy, context and misrepresentation of viewpoints.	No breach—accuracy, context and misrepresentation of viewpoints.

SBS radio**Breach findings: 0****Non-breach findings: 0**

Community radio

Breach findings: 4

Station	Investigation number	Program or issue	Substance of complaint	Outcome
4DDB	2358	Sponsorship time limit/ advertising	Broadcasting of advertisements and excessive sponsorship announcements.	Breach—sponsorship time limit.* No breach—advertising prohibition.*
2YYY	2361	Complying with codes	Internal conflict policies and complaints-handling.	Breach—conflict resolution. Breach—complaints-handling.
3CH Kyneton Vic.	2404	<i>Riddell District Football League</i> 10/04/2010	Advertisements broadcast during football match.	Breach—advertising.*
3CH Kyneton Vic.	2408	Encourage participation	Licensee not encouraging community to participate in the operation of the service.	Breach—encourage participation.*

* Investigation against a licence condition.

Non-breach findings: 1

Station	Investigation number	Issue	Substance of complaint	Outcome
3REG East Gippsland Vic.	2423	Encourage participation	Licensee not encouraging community to participate in the selection and provision of programs on the service.	No breach—encourage participation.*

* Investigation against a licence condition.

Temporary community radio

Breach findings: 0

Non-breach findings: 0

Open narrowcast radio

Breach findings: 0

Non-breach findings: 0

Complaints-handling by commercial radio stations

The Commercial Radio Australia Codes of Practice 2010 requires each commercial radio broadcaster to provide Commercial Radio Australia with an extract of the record of complaints received. CRA provides a consolidated report to the ACMA.

Member stations recorded 60 written complaints alleging breaches of the codes during the final quarter of 2009/2010 financial year.

Written complaints to commercial radio broadcasters, April to June 2010

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	20	2	2	5	3	32
Prohibited matter in	1	1	0	0	0	2
Other complaints	5	1	0	2	18	26
Total	26	4	2	7	21	60

Source: CRA Commercial Radio Codes of Practice: Complaints summary April to June 2010.

Complaints-handling by commercial television stations

The Commercial Television Industry Code of Practice 2010 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 Australia provides a consolidated report to the ACMA.

Commercial television stations reported 494 written complaints about matters covered by the code in the final quarter of 2009/2010 financial year.

Complaints to commercial television stations by category, April to June 2010

Type of program	Bias/inaccuracy	Classification	Closed caption	Commercial general	Commercial placement	Commercial time	Consumer advice	Disclosure	Discrimination	Emergency information	Privacy	Program—general	Upsetting material	Multichannels	Total
Comedy	0	9	1	0	0	2	0	0	11	0	0	0	0	0	23
Commercial	0	18	0	2	14	4	0	0	0	0	0	0	0	0	38
Current affairs	19	10	0	0	0	0	0	4	16	0	4	0	2	0	55
Documentary	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drama	0	11	4	0	0	13	0	1	0	0	0	0	0	2	31
Light entertainment	0	21	0	0	0	2	0	1	18	0	0	0	0	1	43
Movie	0	8	0	0	0	4	0	0	0	0	0	0	0	0	12
Music video	0	3	0	0	0	0	0	0	0	0	0	0	0	0	3
News	12	9	1	0	0	0	0	2	8	2	160	0	8	0	202
Program promos	2	29	0	0	0	0	0	0	3	0	0	0	0	1	35
Quiz	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reality	0	12	2	0	0	1	0	0	5	0	0	0	0	0	20
Sport	0	9	0	3	0	7	0	1	4	0	0	0	0	0	24
Variety	0	1	0	0	0	1	0	0	2	0	0	0	0	0	4
Unspecified	0	0	0	1	0	3	0	0	0	0	0	0	0	0	4
Total	33	140	8	6	14	37	0	9	67	2	164	0	10	4	494

Source: Commercial Television Industry Code of Practice Report on Code complaints to stations 1 April 2010 to 30 June.