

Broadcasting investigations and complaints, July to September 2009

This summary is of ACMA broadcasting investigations completed in the three months from 1 July to 30 September 2009.

There is also, with the co-operation 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 July 2009 to 30 September 2009

Type of service	Breaches			Non-breaches		
	Code of practice	Licence condition or standard	BSA	Code of practice	Licence condition or standard	BSA
Commercial television	5	1	—	3	2	—
ABC television	1	—	—	3	—	—
SBS television	—	—	—	1	—	—
Community television	—	—	—	—	—	—
Subscription broadcasting television	1	—	—	—	—	—
Open narrowcast television	—	—	—	—	1	—
Commercial radio	—	—	—	—	—	—
ABC radio	—	—	—	2	—	—
SBS radio	2	—	—	—	—	—
Community radio	1	6	—	—	4	—
Temporary community radio	—	2	—	—	—	—
Open narrowcast radio	—	2	—	—	—	—
Total	10	11	—	9	7	—

Broadcasting investigations, July to September 2009

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
ATV Network Ten Vic.	2203	<i>Bad News Bears</i> 18/01/2009	Inappropriate coarse language in PG-classified films.	Breach—classification of films: may be modified.
ATV Network Ten Vic.	2256	<i>Bad News Bears</i> 18/01/2009	Complaints handling.	Breach—response within 30 days. No breach—referral of complaints to another license, relayed broadcasts.
ATV Network Ten Vic.	2221	<i>Bad News Bears</i> 18/01/2009	Inappropriate coarse language and blasphemy in PG-classified film.	Breach—classification of films: may be modified. No breach—intense dislike, serious contempt or severe ridicule on grounds of religion.
GTV Nine Network Vic.	2162	<i>A Current Affair</i> 06/01/2009	Factual inaccuracies in segment about a debt recovery company.	Breach—factual accuracy. No breach—correction of significant errors.
NBN Nine Network NSW	2152	<i>NBN News</i> 11/02/2009	Inadequate captioning of bushfire coverage.	Breach—captioning.*
NBN Nine Network NSW	2157	<i>Underbelly—Sneak Peek</i> 13/01/2009	Inappropriate sex and violence in program promotion; complaints handling.	Breach—provide substantive written response. No breach—violence. No breach—sex and nudity.

Non-breach findings: 5

GTV Nine Network Vic.	2217	<i>Underbelly: A Tale of Two Cities—</i> episodes 1 and 2 09/02/2009	Simulation of an event in a misleading way.	No breach—simulate events to mislead viewers.
STQ Seven Network Qld	2168	<i>Cyclone Warning</i> 08/03/2009	Lack of captioning.	No breach—captioning.*
TCN Nine Network NSW	2190	<i>Getaway</i> 12/03/2009	Footage of people smoking.	No breach—prohibition on tobacco advertisements.*
TCN Nine Network NSW	2188	<i>Today</i> 13/08/2008	Jokes about the English, including the word 'pom', were offensive and racist.	No breach—intense dislike, serious contempt or severe ridicule on grounds of national or ethnic origin.
TEN Network Ten NSW	2200	<i>Johnnie Walker Classic—Golf</i> 21/02/2009	Johnny Walker logo transmitted messages at or near the threshold of normal awareness. Excess advertising.	No breach—transmitting message below or near threshold of normal awareness. No breach—limits on broadcast of non program matter.

* Investigation against a licence condition.

ABC television**Breach findings: 1**

Station	Investigation number	Program	Substance of complaint	Outcome
ABN NSW	2126	<i>ABC News</i> 06/12/2007	Inaccuracy, lack of impartiality and balance in a news segment about brumbies in the Kosciuszko National Park.	Breach—correction of significant errors. Breach—balance. No breach—accuracy. No breach—impartiality.

Non-breach findings: 3

ABQ Qld	2186	<i>ABC News</i> 06/01/2009	Inaccuracy in report about a baby being 'fed' ecstasy.	No breach—accuracy.
ABV Vic.	2191	<i>ABC News</i> 29/05/2008	Report about release of memoir by former White House advisor failed with regard to context, impartiality, balance and public interest.	No breach—impartiality. No breach—balance. No breach—public interest.
ABQ Qld	2207	<i>Lateline</i> and <i>ABC News</i>	Bias.	No Breach—impartiality.

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

Station	Investigation number	Program	Substance of complaint	Outcome
SBS TV Vic.	2199	<i>World News Australia</i> 06/01/2009	Segment regarding Sri Lankan conflict—inaccurate, biased against Sri Lankan Government, sensationalised and using footage from an unreliable source (Tamil website).	No breach—accuracy. No breach—impartiality. No breach—non-SBS sources. No breach—violence and distressing events.

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

Station	Investigation number	Program	Substance of complaint	Outcome
FOXTEL E! Entertainment Channel SA	2142	<i>Naked Wild On</i> 02/09/2008	Program contained inappropriate sexual material and nudity.	Breach—material rated R18+ to be restricted to access by those with appropriate disabling devices.

Non-breach findings: 0**Open narrowcast television****Breach findings: 0****Non-breach findings: 1**

Station	Investigation number	Issue	Substance of complaint	Outcome
Al-Manar TV	2158	Reported links to Hezbollah	N/A (s170 investigation)**	No breach—recruitment to terrorist organisation, soliciting funds for terrorist organisation (Anti-Terrorism Standards).*

* Investigation against licence condition/standard.

** Section 170 of the BSA gives the ACMA the right to conduct investigations for purposes of the performance or exercise of any of its broadcasting, content and datacasting functions.

Commercial radio**Breach findings: 0****Non-breach findings: 0****ABC radio****Breach findings: 0****Non-breach findings: 2**

Station	Investigation number	Program	Substance of complaint	Outcome
3LO Vic.	2227	<i>Breakfast with Red Symons</i> 09/04/2009	Racist and anti-Semitic comments.	No breach—offensive content. No breach—stereotyping/discrimination.
3RN Vic.	2178	<i>AM, The World Today and PM</i> 15/08/2008 to 02/09/2008	Anti-Palestinian bias by failing to report a Gaza protest action (boat voyage). Also ABC's handling of complaint.	No breach—impartiality. No breach—provide adequate response to complaints.

SBS radio**Breach findings: 2**

Station	Investigation number	Program	Substance of complaint	Outcome
3EA Vic.	2182	<i>Tamil Language Program</i> 26/10/2008	Interview about Sri Lankan conflict was one-sided and contained untrue statements. SBS investigation was inadequate.	Breach—balance. No breach—impartiality. No breach—accuracy. No breach—investigation of complaints.
3EA Vic.	2198	<i>Tamil Language Program</i> 18/01/2009	Program spread false information about the Sri Lankan Defence Forces; was not impartial; and created opportunities to build tensions within Sri Lankan community.	Breach—accuracy. No breach—balance. No breach—impartiality. No breach—non-SBS sources. No breach—prejudice, racism and discrimination.

Non-breach findings: 0**Community radio****Breach findings: 7**

Station	Investigation number	Issue or program	Substance of complaint	Outcome
2EAR Moruya NSW	2155	Advertisements	Advertisements were broadcast on 2, 4, 6 and 9 February 2009.	Breach—prohibition on broadcast of advertisements.*
2EAR Moruya NSW	2154	Advertisements	Advertisements were broadcast on 2 and 4 February 2009.	Breach—advertising.*
2GLF Liverpool NSW	2230	<i>Radio Lehren</i>	Advertisements were broadcast on 30 May 2009.	Breach—advertising.*
3ZZZ Melbourne Vic.	2254	Macedonian program	Program was inaccurate, unfair and incited hatred. Licensee did not respond to the complaint in accordance with the code.	Breach—respond within 60 days. No breach—acknowledge complaints. No breach—conscientiously consider complaints. No breach—incite hatred. No breach—requirements for news and current affairs.
4DDB Toowoomba Qld	2234	Advertising, sponsorship	Advertisements and sponsorship announcements in excess of the five minute limit.	Breach—advertising (9 May 2009, 6–7 am).* Breach—sponsorship (9 May 2009, 6–7 am and 7–8 am).* No breach—advertising (8 May 2009, 7–8 am and 8–9 am).* No breach—sponsorship (8 May 2009, 8–9 am).*
4FCR Hervey Bay Qld	2260	Encourage participation	Licensee not encouraging community to participate in service.	Breach—encourage participation.*
6HFM Armadale WA	2211	Advertising, encourage participation	Licensee broadcast an advertisement. Licensee does not encourage participation.	Breach—advertising.* No breach—encourage participation.*

* Investigation against a licence condition.

Non-breach findings: 4

Station	Investigation number	Issue	Substance of complaint	Outcome
2EAR Moruya NSW	2229	Encourage participation	Licensee placing barriers to participation at the station.	No breach—encourage participation.*
2YOU Tamworth NSW	2255	Represent community interest; encourage participation.	Licensee not representing the community interest and not encouraging the community to participate in the service.	No breach—represent community interest.* No breach—encourage participation.*
3RUM Upper Murray Vic.	2243	Advertising	Licensee broadcast an advertisement.	No breach—advertising.*
4CCR Cairns Qld	2185	Represent community interest; encourage participation.	Licensee not representing the community interest and not encouraging the community to participate in the service.	No breach—represent community interest.* No breach—encourage participation.*

Temporary community radio**Breach findings: 2**

Station	Investigation number	Issue	Substance of complaint	Outcome
BACR Bankstown NSW	2193	Encourage participation	Licensee not encouraging the community to participate in the service.	Breach—encourage participation.*
Sport FM Fremantle WA	2236	Advertising; five minute limit on sponsorship announcements; represent community interest.	Licensee broadcasting advertisements and excessive sponsorship announcements. Licensee failing to represent the community interest.	Breach—advertising.* Breach—sponsorship.* No breach—represent community interest.*

Non-breach findings: 0**Open narrowcast radio****Breach findings: 2**

Station	Investigation number	Issue	Substance of complaint	Outcome
Narrowcast radio	2150	Category of service	Broadcasting a commercial service contrary to its licence.	Failure to comply with requirement to operate the station to only provide an open narrowcasting service.*
98.7 Territory FM NT	1999	Category of service	Broadcasting a commercial service contrary to its licence.	Failure to comply with requirement to operate the station to only provide an open narrowcasting service.*

Non-breach findings: 0

* Investigation against a licence condition.

Complaints-handling by commercial radio stations

The Commercial Radio Australia Codes of Practice 2004 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 347 written complaints alleging breaches of the codes during the first quarter of 2009/2010 financial year.

Written complaints to commercial radio broadcasters, July to September 2009

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters	251	1	8	7	1	268
Prohibited matter	1	0	0	0	0	1
Other complaints	69	3	0	2	4	78
Total	321	4	8	9	5	347

Source: CRA, Commercial Radio Codes of Practice 2004: complaints summary July to September 2009.

Complaints-handling by commercial television stations

The Commercial Television Industry Codes 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 Australia provides a consolidated report to the ACMA.

Commercial television stations reported 296 written complaints about matters covered by the code in the first quarter of 2009/2010 financial year.

Complaints to commercial television stations about programs, July to September 2009

Type of program	Bias/ Inaccuracy	Classification	Closed caption	Commercial general	Commercial placement	Commercial time	Consumer advice	Discrimination	Privacy	Program general	Upsetting material	Total
Comedy	0	24	0	0	0	0	0	4	0	1	0	29
Commercial	0	65	0	0	8	2	0	1	0	2	0	78
Current affairs	16	2	0	0	0	0	0	2	3	0	1	24
Documentary	0	1	0	0	0	0	0	0	0	0	0	1
Drama	0	32	3	0	0	1	1	1	0	0	0	38
Light entertainment	0	17	0	0	1	0	0	9	0	0	0	27
Movie	0	1	0	0	1	0	0	0	0	0	0	2
Music video	0	2	0	0	0	0	0	0	0	0	0	2
News	3	4	0	1	0	0	0	1	1	0	3	13
Program promos	1	41	0	0	0	4	0	1	0	0	0	47
Quiz	0	7	0	0	0	0	0	0	0	0	0	7
Reality	0	7	0	0	0	0	0	8	0	0	0	15
Sport	0	2	0	0	0	1	0	1	0	0	0	4
Variety	0	3	0	0	0	0	0	3	0	0	0	6
Unspecified	0	0	1	1	0	1	0	0	0	0	0	3
Total	20	208	4	2	10	9	1	31	4	3	4	296

Sources: Free TV Australia Commercial Television Industry Codes of Practice 2004; complaints summary, July to September 2009.