

# Broadcasting investigations, January to March 2010

This summary is of ACMA broadcasting investigations completed in the three months from 1 January to 31 March 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](http://www.acma.gov.au) (go to About ACMA: Publications & research > Publications > Broadcasting publications > Broadcasting investigations reports).

## Broadcasting investigations completed, 1 January 2010 to 31 March 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	4	1		7	3	
ABC television				2		
SBS television				1		
Community television						
Subscription broadcasting television						
Open narrowcast television						
Commercial radio	3	4		6	3	
ABC radio				3		
SBS radio				1		
Community radio		1			1	
Temporary community radio					2	
Open narrowcast radio						
<b>Total</b>	<b>7</b>	<b>6</b>		<b>20</b>	<b>9</b>	

## Broadcasting investigations, January to March 2010

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

### Commercial television

#### Breach findings: 5

Station	Investigation number	Program	Substance of complaint	Outcome
ATN Channel Seven Sydney Pty Ltd NSW	2273	<i>Today Tonight</i>  25/05/2009	Factual accuracy; presenting viewpoints fairly; present material in a manner that creates public panic; privacy, correct significant errors of fact and provoke or perpetuate intense dislike; serious contempt or severe ridicule.	Breach—accuracy. No breach—presenting viewpoints fairly. No breach—present material in a manner that creates public panic. No breach—privacy. No breach—correct significant errors of fact. No breach—intense dislike, serious contempt or severe ridicule on grounds of religion.
TCN TCN Channel Nine Pty Ltd NSW	2257	<i>60 Minutes</i> 10/05/2009	Segment contained factual inaccuracies and presented misleading portrayal of Bowraville Central School.	Breach—unfairly identifying a business when commenting on the behaviour of a group of businesses. No breach—accuracy and representation of viewpoints. No breach—gratuitous emphasis.
TCN TCN Channel Nine Pty Ltd NSW	2316	<i>The Shak</i> —series 8	ACMA initiated investigation.	Breach—principal program personality and presenter endorsed and recommended a commercial product.* Breach—the program segment was embedded advertising and not clearly distinguishable from the program material.* Breach—paragraph 7(1)(b) of Schedule 2 to the BSA.
RTQ WIN Television QLD Pty Ltd Qld	2340	<i>Dante's Cove</i> 07/12/2009	Program contained inappropriate sexual material.	Breach—television classification guidelines.
GTV General Television Corporation Pty Ltd Vic.	2284	<i>Weekend Today</i> 14/05/2009	Racism and scanty research in discussion and information about Sharia-law compliant banking products. Late response to complaint.	Breach—provide substantive written response. No breach—intense dislike, serious contempt or severe ridicule on grounds of religion. No breach—accuracy. No breach—gratuitous emphasis. No breach—present news fairly and impartially.

\* Investigation against a licence condition or standard.

#### Non-breach findings: 10

Station	Investigation number	Program or issue	Substance of complaint	Outcome
WIN (Canberra) WIN Television NSW Pty Ltd ACT	2359	XXI Olympic Winter Games opening ceremony 13/02/2010	Lack of captioning.	No breach—captioning.*
NRN (One HD) Northern Rivers Television Pty Ltd NSW	2287	Lack of caption	Lack of captioning on multi-channel of variety of programs on different dates.	No breach—captioning.*
BTQ Channel Seven Brisbane Pty Limited Qld	2281	<i>Today Tonight</i> 27/05/2004 and 02/03/2009	Factual accuracy; use of personal material after withdrawal of consent; disclosure of commercial arrangements.	No breach—accuracy. No breach—privacy. No breach—disclosure of commercial arrangements in relation to a factual program that features or endorses a product or service.
BTQ Channel Seven Brisbane Pty Ltd Qld	2283	<i>Today Tonight</i> 04/10/2005	Filmed without knowledge (hidden camera); broadcast without consent.	No breach—privacy. No breach—provide substantive written response. No breach—use of the broadcasting service in the commission of an offence.
BTQ Channel Seven Brisbane Pty Ltd Qld	2289	<i>Today Tonight</i> 27/07/2009	Factual accuracy, privacy and unfair identification.	No breach—accuracy. No breach—privacy. No breach—unfairly identify a single person when commenting on the behaviour of a group of persons.
ATV Network Ten (Melbourne) Pty Ltd Vic.	2343	<i>Good News Week</i> 08/06/2009	Derogatory ethnic stereotyping in comments about a talent quest participant.	No breach—program—provoke or perpetuate intense dislike, serious contempt or severe ridicule on the grounds of national origin. No breach—promotions—provoke or perpetuate intense dislike, serious contempt or severe ridicule on the grounds of national origin.

ATV Network Ten (Melbourne) Pty Ltd Vic.	2349	<i>Jaws 2</i> promotion 09/01/2010	Promotion contained offensive language.	No breach—provoke or perpetuate intense dislike, serious contempt or severe ridicule against a person on grounds of religion. No breach—television classification guidelines.
GTV—Go! General Television Corporation Pty Ltd Vic.	2322	<i>Curb Your Enthusiasm</i> , <i>Weeds</i> and <i>Seinfeld</i> 18/10/2009 and 20/10/2009	Lack of captioning.	No breach—captioning.*
NEW Ten Network (Perth) Pty Ltd WA	2320	<i>Good News Week</i> 28/09/2009	Vilification of Christians in satirical take on Australian Christian Lobby's stance against relaxation of PG broadcasting times.	No breach—provoke or perpetuate intense dislike, serious contempt or severe ridicule against a person or group of persons on the grounds of religion.
NEW Ten Network (Perth) Pty Ltd WA	2344	<i>Californication</i> — season 3—episode 1	Program contained inappropriate sexual material.	No breach—television classification guidelines.

\* Investigation against a licence condition.

### ABC television

Breach findings: 0

Non-breach findings: 2

Station	Investigation number	Program	Substance of complaint	Outcome
ABV ABC Television	2318	<i>Lateline</i> 11/09/2009	Reference to 'Iranian-backed Hezbollah' was inaccurate, biased and misleading.	No breach—accuracy. No breach—impartiality.
ABC3 ABC Television	2400	<i>The Tribe</i> 08/01/2010	Program contained inappropriate sexual references.	No breach—classification of television programming.

### SBS television

Breach findings: 0

Non-breach findings: 1

Station	Investigation number	Program	Substance of complaint	Outcome
SBS TV Special Broadcasting Service Corporation	2292	<i>World News Australia</i> 19/07/2009	Footage of distressed 15-year-old whose family had just been murdered was intrusive and unwarranted.	No breach—privacy. No breach—violence and distressing events.

### Community television

Breach findings: 0

Non-breach findings: 0

### Subscription broadcasting television

Breach findings: 0

Non-breach findings: 0

### Open narrowcast television

Breach findings: 0

Non-breach findings: 0

## Commercial radio

## Breach findings: 7

Station	Investigation number	Program	Substance of complaint	Outcome
2GB Harbour Radio Pty Ltd NSW	2279	<i>Alan Jones</i> 21/05/2009	False naming of a victim in a news flash, which was corrected the following day; was careless with possible cause of distress; no reply to complaint received from station.	Breach—accuracy.
2EL Orange Super AM 1089 Pty Ltd NSW	2336	<i>Grant Goldman Breakfast Program</i>	The program is a Sydney show which has little to no relevance to listeners in the regional commercial radio licence areas concerned.	Breach—failure to broadcast the required level of material of local significance.* Breach—failure to provide details of material of local significance.*
2HC Coffs Harbour Super AM 639 Pty Ltd NSW	2335	<i>Grant Goldman Breakfast Program</i>	The program is a Sydney show which has little to no relevance to listeners in the regional commercial radio licence areas concerned.	Breach—failure to broadcast the required level of material of local significance.* Breach—failure to provide details of material of local significance.*
2LM Richmond River Broadcasters Pty Ltd NSW	2303	<i>The Neil Marks Program</i>	Disclosure of commercial agreements and distinguishing ads from other program content.	Breach—Disclosure Standard (fail to notify the ACMA).* Breach—paragraph 8(1)(b) of Schedule 2 to the BSA.* No breach—Advertising Standard.*
2PM Port Macquarie Super AM 531 Pty Ltd NSW	2337	<i>Grant Goldman Breakfast Program</i>	The program is a Sydney show which has little to no relevance to listeners in the regional commercial radio licence areas concerned.	Breach—failure to broadcast the required level of material of local significance.* Breach—failure to provide details of material of local significance.*
2UE Radio 2UE Sydney Pty Ltd NSW	2298	<i>Jim Ball</i> 12/08/2009	Presenter agreed with caller's misquote from the Qur-an and allowed airing of a fabricated claim about Muslims; misleading the audience and inciting hate against Muslims; program refused to present alternative views.	Breach—accuracy. No breach—inciting hatred on the basis of religion. No breach—present significant viewpoints.
6NOW Radio 96FM Perth WA	2293	Advertisement 05/07/2009	Explicit and offensive treatment of child sexual abuse. Response not substantive.	Breach—respond substantively in writing. No breach—contemporary standards of decency.

\* Investigation against standard or licence condition.

## Non-breach findings: 9

Station	Investigation number	Program	Substance of complaint	Outcome
2DAY Today FM Sydney Pty Ltd NSW	2304	<i>The Kyle and Jackie O Breakfast Show</i> 17/07/2009 and 20/07/2009	'Home or Away' segment exploited participants' emotions; station did not provide response to this issue.	No breach—contemporary standards of decency. No breach—respond substantively in writing.
2DAY Today FM Sydney Pty Ltd NSW	2286	<i>The Kyle and Jackie O Breakfast Show</i> 28/07/2009	Swearing at a caller.	No breach—contemporary standards of decency. No breach—gratuitous use of language.
2DAY Today FM Sydney Pty Ltd NSW	2299	<i>The Kyle and Jackie O Breakfast Show</i> 08/09/2009	Vilification of people with mental illness and/or disability through derogatory use of term 'mental patient'. Response did not address complainant's issues and questions.	No breach—likely to incite or perpetuate hatred against or vilify person or group on basis of mental disability. No breach—provide a substantive written response.
2GB Harbour Radio Pty Limited NSW	2357	<i>Jason Morrison Drive Time</i>	Distinguish ads from other program content.	No breach—Advertising Standard.*
4BBB Today FM Brisbane Pty Ltd Qld	2264	<i>Labrat, Camilla &amp; Stav</i> 09/07/2009	Segment 'Dearly Departed' crossed the line of common decency. Response to complaint advised referral to another company as well as the ACMA.	No breach—contemporary standards of decency. No breach—inform complainant they have right to complain to the ACMA.
4BNE Daily Mail (UK Radio 2) Pty Ltd Qld	2338	<i>Meshel Ash &amp; Tim</i> 26/10/2009, 03/11/2009 and 09/11/2009	Vilification of transgender community.	No breach—likely to incite or perpetuate hatred against or vilify person or group on basis of gender.

4GLD Gold Coast FM Pty Ltd Qld	2275	<i>Richard and Bridge for Breakfast</i> 12/06/2009	Stunt where a piglet was attached to balloons encouraged cruelty to animals.	No breach—incite violence or brutality. No breach—contemporary standards of decency.
3MMM Triple M Melbourne Pty Ltd Vic.	2305	<i>Hot Breakfast with Eddie McGuire</i>	Disclosure of commercial agreements.	No breach—Disclosure Standard.*
6PR Radio 6PR Perth Pty Ltd WA	2352	<i>Mornings with Simon Beaumont</i>	Disclosure of commercial agreements.	No breach—Disclosure Standard.*

\* Investigation against a licence condition.

## ABC radio

Breach findings: 0

Non-breach findings: 3

Station	Investigation number	Program	Substance of complaint	Outcome
2RN ABC Radio National	2327	<i>Health Report</i> 17/08/1998	Accuracy.	No breach—accuracy.
2RN ABC Radio National	2306	<i>Health Report</i> 17/08/1998	Privacy.	No breach—privacy.
3RN ABC Radio National	2282	<i>AM</i> 06/10/2008	Use of term 'disputed land' in report on West Bank was inaccurate. Report failed to include relevant issues regarding Israeli settlements.	No breach—accuracy. No breach—impartiality.

## SBS radio

Breach findings: 0

Non-breach findings: 1

Station	Investigation number	Program	Substance of complaint	Outcome
3SBSFM Special Broadcasting Service Corporation	2294	<i>Arabic Language Program</i> 06/03/2009	Biased and inaccurate comment about Syrian President that was discriminatory to Syrian community and not balanced by a pro-Syrian view.	No breach—prejudice, racism and discrimination. No breach—balance, impartiality and accuracy.

## Community radio

Breach findings: 1

Station	Investigation number	Program	Substance of complaint	Outcome
2SEA Eden NSW	2238	<i>The Morning Show</i>	Broadcast of advertisements and sponsorship announcements in excess of the five minute limit.	Breach—advertising.* No breach—sponsorship.*

\* Investigation against a licence condition.

Non-breach findings: 1

Station	Investigation number	Issue	Substance of complaint	Outcome
6HFM Armada WA	2169	Operating service as part of a profit making enterprise.	Licensee operating the service as part of a profit making enterprise.	No finding—insufficient evidence.*

\* Investigation against a licence condition.

## Temporary community radio

Breach findings: 0

Non-breach findings: 2

Station	Investigation number	Program or issue	Substance of complaint	Outcome
Central Victorian Community Broadcasters Inc. Bendigo Vic.	2235	Sponsorship	Broadcast sponsorship announcements in excess of the five minute limit.	No breach—sponsorship.*
Hedland Community Radio Inc. Port Hedland WA	2342	<i>Effects of Alcohol</i> community service announcement	Broadcast of paid community information material was untagged and therefore an advertisement and also had not been properly counted toward five-minute hourly limit for sponsorship.	No breach—advertising.* No breach—sponsorship.*

\* Investigation against a licence condition.

## 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 44 written complaints alleging breaches of the codes during the third quarter of the 2009–10 financial year.

### Written complaints to commercial radio broadcasters, January to March 2010

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	14	1	7	6	1	29
Prohibited matter in	2	2	1	0	0	5
Other complaints	3	0	1	1	5	10
<b>Total</b>	<b>19</b>	<b>3</b>	<b>9</b>	<b>7</b>	<b>6</b>	<b>44</b>

Source: CRA Commercial Radio Codes of Practice: Complaints summary January to March 2010

## Complaint-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 183 written complaints about matters covered by the code in the third quarter of the 2009–10 financial year. 📄

### Complaints to commercial television stations by category, January to March 2010

Type of program	Bias/inaccuracy	Classification	Closed caption	Commercial general	Commercial placement	Commercial time	Complaint-handling	Disclosure	Discrimination	Multi channel	Privacy	Program general	Upsetting material	Total
Children	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Comedy	0	11	0	0	0	0	0	0	2	0	0	1	0	14
Commercial	0	7	0	1	6	3	1	0	0	0	0	1	0	19
Current affairs	6	8	0	0	0	0	0	1	7	0	1	1	1	25
Drama	0	5	10	0	0	6	0	5	1	3	0	0	0	30
Light entertainment	0	5	0	0	0	0	0	0	8	0	0	0	0	13
Movie	0	2	0	1	0	1	0	1	1	0	0	0	0	6
Music video	0	2	0	0	0	0	0	0	1	0	0	0	0	3
News	11	10	1	0	0	0	0	5	0	0	0	0	0	27
Program promos	0	25	0	0	0	0	0	3	2	1	0	2	0	33
Quiz	0	0	0	0	0	0	0	0	1	0	0	0	0	1
Reality	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Sport	0	3	0	0	0	1	0	0	1	0	0	0	0	5
Unspecified	0	0	0	1	0	1	0	0	0	2	0	0	0	4
Variety	0	1	0	0	0	0	0	0	0	0	0	0	0	1
<b>Total</b>	<b>17</b>	<b>80</b>	<b>11</b>	<b>3</b>	<b>6</b>	<b>13</b>	<b>1</b>	<b>15</b>	<b>24</b>	<b>6</b>	<b>1</b>	<b>5</b>	<b>1</b>	<b>183</b>

Source: Commercial Television Industry Code of Practice Report on Code complaints to stations 1 January 2010 to 31 March 2010