

# Broadcasting investigations, July to September 2010

This summary is of ACMA broadcasting investigations completed in the three months from 1 July to 30 September 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 to 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 July to 30 September 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	8	–	–	12	8	–
ABC television	1	–	–	3	–	–
SBS television	–	–	–	4	–	–
Community television	–	–	–	–	–	–
Subscription broadcasting television	–	–	–	–	–	–
Subscription narrowcast television	–	–	–	–	–	–
Open narrowcast television	–	–	–	–	–	–
Commercial radio	–	–	–	2	–	–
ABC radio	–	–	–	–	–	–
SBS radio	–	–	–	–	–	–
Community radio	1	6	–	–	3	–
Temporary community radio	–	–	–	–	–	–
Open narrowcast radio	–	–	–	–	1	–
<b>Total</b>	<b>10</b>	<b>6*</b>	<b>0</b>	<b>21</b>	<b>12</b>	<b>0</b>

\*Some investigations that resulted in breach findings against compliance with licence conditions or standards may also result in breach findings of compliance with codes of practice. For the purposes of this report these investigations have only been counted once. For further details please see the following table.

## Broadcasting investigations, July to September 2010

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

### Commercial television

#### Breach findings: 8

Station	Investigation number	Program or issue	Substance of complaint	Outcome
ATN Channel Seven Sydney Pty Ltd NSW	2348	<i>Channel Seven News</i> 13/12/2009  <i>Sunrise</i> 14/12/2009	Inaccurate report that a boy had assaulted a woman.	<i>Channel Seven News:</i> Breach—accuracy. Breach—remedy failure to comply.  <i>Sunrise:</i> Breach—accuracy.
NEN Prime Television (Northern) Pty Ltd NSW	2363	<i>Channel Seven News</i> 13/12/2009	Inaccurate report that a boy had assaulted a woman.	Breach—accuracy. Breach—remedy failure to comply.
TCN TCN Channel Nine Pty Ltd NSW	2401	<i>Nine News</i> 09/03/2010	Must broadcast factual material accurately and represent viewpoints fairly.  Must present news fairly and impartially.  Must make reasonable efforts to correct significant errors of fact at the earliest opportunity.	Breach—accuracy. Breach—fairness and impartiality. Breach—correction of errors. No breach—accuracy. No breach—correction of errors.
GTV (GO!) General Television Corporation Pty Ltd Vic.	2380	<i>Dante's Cove</i> Sex and nudity	Inappropriate sex and nudity in AV15+ classified program.	Breach—classification of other material (AV15+ sex and nudity).
HSV Channel Seven Melbourne Pty Ltd Vic.	2427	<i>Personal Velocity</i> Language, complaints-handling	Inappropriate coarse language in film classified MA15+; no reply to complaint.	Breach—time limits on responses to code complaints. No breach—classification of films.
QTQ Queensland Television Ltd Qld	2371	<i>A Current Affair</i> 19/04/2005 and 04/11/2009	Incorrect statements, unlabelled re-enactments and inappropriate link to alleged child abusers in stories about child care centre.  No advice regarding code process when rang to complain.  No response to timely written complaint.	<i>Broadcast of 19/04/2005:</i> Breach—accuracy. No breach—accuracy and fair representation of viewpoints. No breach—misleading simulation. No breach—advice to telephone complaint.  <i>Broadcast of 04/11/2009:</i> Breach—misleading simulation. No breach—accuracy and fair representation of viewpoints. No breach—unfair identification. No breach—advice to telephone complaint. No breach—substantive written response.
RTQ WIN Television QLD Pty Ltd Qld	2369	<i>WIN News</i> 08/07/2002 and 24/03/2005	Untrue information and private material broadcast in reports on child care centre.  No advice on code process given to complainant.	<i>Broadcast of 24/03/2005:</i> Breach—accuracy. No breach—fairness and impartiality. No breach—privacy.  <i>Broadcast of 08/07/2002:</i> No breach—accuracy. No breach—advice to telephone complaint.
STW Swan Television & Radio Broadcasters Pty Ltd WA	2346	<i>A Current Affair</i> 04/09/2009	Advice to telephone complaints.  Accuracy.	Breach—advice to telephone complaints. No breach—accuracy.

## Non-breach findings: 20

Station	Investigation number	Program or issue	Substance of complaint	Outcome
ATN Channel Seven Sydney Pty Ltd NSW	2370	<i>Weekend Sunrise</i> 30/11/2008	False information about money available through philanthropist's credit card.	No breach—accuracy.
ATN Channel Seven Sydney Pty Ltd NSW	2373	<i>Channel Seven News</i> 31/01/2010	Vision of chimney stacks emitting steam portrayed as emitting smoke and contributing to climate change.	No breach—accuracy.
ATN Channel Seven Sydney Pty Ltd NSW	2389	McDonalds Happy Meal 'Did you know?' advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, and the advertisement was repeated, in breach of the Children's Television Standards.	No breach—did not broadcast more than twice during 30 minutes of a C period.* No breach—reference to premium was incidental.*
ATN Channel Seven Sydney Pty Ltd NSW	2399	<i>Today Tonight</i> 23/12/2009	Incorrect assertions about adult dating website. Unfair identification of website with defamatory websites. No correction of errors.	No breach—accuracy. No breach—unfair identification. No breach—correction of errors.
ATN Channel Seven Sydney Pty Ltd NSW	2402	<i>Australian Open</i> 31/01/2010	Excessive advertisements 7.00 pm – 7.38 pm.	No breach—average scheduling limit—non-program matter. No breach—hourly limits—non-program matter.
ATN Channel Seven Sydney Pty Ltd NSW	2410	<i>Sunday Night</i> 14/03/2010	Incorrect statements about status and nature of Scientology.	No breach—accuracy. No breach—dislike, contempt or ridicule against a group of persons on grounds of religion.
ATN Channel Seven Sydney Pty Ltd NSW	2419	<i>Airways</i> 14/03/2010	Ridicule of people of ethnic appearance.	No breach—dislike, contempt or ridicule against a group of persons on grounds of ethnic origin.
ATN Channel Seven Sydney Pty Ltd NSW	2425	<i>Today Tonight</i> Sex and nudity	Inappropriate sexual references and nudity in current affairs program.	No breach—exemption from classification of material broadcast for news and current affairs programming.
NEN Prime Television (Northern) Pty Ltd NSW	2420	<i>Airways</i> 14/03/2010	Ridicule of people of ethnic appearance.	No breach—dislike, contempt or ridicule against a group of persons on grounds of ethnic origin.
TCN TCN Channel Nine Pty Ltd NSW	2413	<i>XXI Winter Olympic Games</i> 17/02/2010	Ridicule of male figure skaters' sexual preference. Contempt and ridicule for an athlete's religion. Response did not address all relevant issues.	No breach—substantive written response. No breach—dislike, contempt or ridicule against a group of persons on grounds of sexual preference.
TCN TCN Channel Nine Pty Ltd NSW	2428	<i>Underbelly—The Golden Mile</i> 16/05/2010	No captions.	No breach—captioning.*
TEN Network Ten (Sydney) Pty Ltd NSW	2364	McDonalds Happy Meal 'Did you know?' advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, and the advertisement was repeated, 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	2415	<i>Totally Wild</i> Demean person or group	Complainant alleged the broadcast demeaned a person or group based on gender.	No breach—did not demean person or group.*
CTC Australian Capital Television Pty Ltd (Southern Cross Broadcasters) ACT	2445	<i>MasterChef</i> Language	Inappropriate language in PG-classified program.	No breach—classification of other material (PG language).
HSV Channel Seven Melbourne Pty Ltd Vic.	2372	McDonalds Happy Meal 'Did you know?' advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, and the advertisement was repeated, 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	2438	<i>Mackay Local News</i> 25/03/2010	Contravention of acts and laws by broadcasting the phrase 'Serving Mackay and the Whitsundays'.	No breach—not use broadcasting service in commission of offence.*

TNQ Regional Television Pty Limited Qld	2441	<i>7PM Project</i> 23/05/2010	Misrepresentation of scientific position on passive smoking.	No breach—accuracy.
TNQ Regional Television Pty Limited Qld	2476	<i>Good News Week</i> Language; proscribed material	Inappropriate language and ridicule of religion in M-classified program.	No breach - classification of other material (M language). No breach—proscribed material.
ADS Network Ten (Adelaide) Pty Ltd SA	2391	McDonalds Happy Meal 'Did you know?' advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, and the advertisement was repeated, 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	2390	McDonalds Happy Meal 'Did you know?' advertisement	Complainant alleged the premium in the advertisement was more than incidental to the product, and the advertisement was repeated, in breach of the Children's Television Standards.	No breach—did not broadcast more than twice during 30 minutes of a C period.* No breach—reference to premium was incidental.*

\*Investigation against a licence condition.

## ABC television

### Breach findings: 1

Station	Investigation number	Program or issue	Substance of complaint	Outcome
ABS ABC Television SA	2409	<i>The Proposition</i> Violence, themes, language	Inappropriate violence, themes and language in M-classified film.	Breach—classification of television programming (M violence).

### Non-breach findings: 3

Station	Investigation number	Program or issue	Substance of complaint	Outcome
ABC ABC Television NSW	2455	<i>The Gruen Transfer</i> Sex	Inappropriate sexual references in M-classified program.	No breach—classification of television programming (M sex).
ABC2 ABC Television NSW	2473	Deadwood Language	Inappropriate language in MA15+ classified program.	No breach—classification of television programming (MA language).
ABQ ABC Television Qld	2403	<i>ABC 2 News Breakfast:</i> 15/01/2010 and 19/01/2010  <i>Lateline:</i> 02/02/2010	Pro-Liberal Party bias.	<i>ABC 2 News Breakfast:</i> No breach—impartiality.  <i>Lateline:</i> No breach—impartiality.

## SBS television

### Breach findings: 0

### Non-breach findings: 4

Station	Investigation number	Program or issue	Substance of complaint	Outcome
SBS TV	2456	<i>Sweet Mud</i> Sex	Inappropriate depiction of sexual material in MA15+ classified film.	No breach—classification categories (MA15+ sex).
SBS TV	2447	<i>Man vs Wild</i> Themes	Inappropriate themes in PG-classified program.	No breach—classification categories (PG themes).
SBS TV	2448	<i>Man vs Wild</i> Themes	Inappropriate themes in PG-classified program.	No breach—classification categories (PG themes).
SBS TV	2484	<i>Man vs Wild</i> Themes	Inappropriate themes in PG-classified program.	No breach—classification categories (PG themes).

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

Station	Investigation number	Program or issue	Substance of complaint	Outcome
2SYD Nova 96.9 Pty Ltd NSW	2439	<i>Harlee McLeod</i> 17/03/2010	Joke told by announcer was insulting, offensive and condescending towards Irish people and Catholics.	No breach—incite or perpetuate hatred or vilify on grounds of nationality or religion.
2UE Radio 2UE Sydney Pty Ltd NSW	2435	<i>2UE Drive</i> 05/05/2010	Racist comments about asylum seekers.	No breach—incite or perpetuate hatred or vilify on grounds of ethnicity or nationality.

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

## Community radio

## Breach findings: 7

Station	Investigation number	Program or issue	Substance of complaint	Outcome
2CHY Community Media CHY Ltd NSW	2440	Advertising	Allegation that 2CHY broadcast two advertisements during <i>The Switch</i> program on 23 June 2010.	Breach of clause 9(1)(b) [advertising] of Schedule 2 to the BSA.*
2RRR Ryde Regional Radio Cooperative Ltd NSW	2449	Advertising	Allegation that an untagged sponsorship announcement was broadcast during the Hindi language program <i>Mahek</i> on 18 July 2010.	Breach of clause 9(1)(b) [advertising] of Schedule 2 to the BSA.*
2RSR Radio Skid Row Ltd NSW	2426	Advertising	Allegation that 2RSR broadcast three advertisements during the <i>Radio Najarama</i> program on 30 May 2010.	Breach of clause 9(1)(b) [advertising] of Schedule 2 to the BSA.*
2WKT Highland Media Co-operative Ltd NSW	2421	Advertising Using appropriate words and phrases in referring to Indigenous peoples Complaints-handling	Allegation that an advertisement was broadcast during the <i>Musical Allsorts</i> program on 30 March 2010 and that comments derogatory to Aboriginal people were broadcast during the <i>Tuesday News Magazine</i> program on 16 March 2010.	Breach of clause 5(2) [maintain copy of broadcast] of Schedule 2 to the BSA.* Breach of codes 4.2(b) [use of appropriate language in Indigenous programs] and 7.3(c) [complaints handling].*
4AAA Brisbane Indigenous Media Association Inc. Qld	2432	Complaints-handling	Allegation that 4AAA failed to respond to a complaint in accordance with the complaints-handling provisions of the Codes of Practice.	Breach of codes 7.3 (a), (b) and (c) [complaints handling].
4CCR Cairns Community Broadcasters Inc. Qld	2350	Encourage participation	Allegation that 4CCR's policies restrict membership and thus limit opportunities for members of the Cairns community to participate in the operations of the service.	Breach of clause 9(2)(c) [encourage participation] of Schedule 2 to the BSA.*
6SON Good News Broadcasters Inc. WA	2334	Encourage participation Represent community interest Remain a suitable licensee	Concerns that 6SON was not a suitable licensee as it had provided inaccurate information to the ACMA in its 2006 licence renewal application. Allegations that 6SON was not encouraging participation in the operations of the service or the selection and provision of programs, and that it was not representing the community interest.	Breach of clause 9(2)(c)(i) and (ii) [encourage participation] of Schedule 2 to the BSA.* No breach of clause 9(2)(a) [remain suitable] or 9(2)(b) [represent community interest] of Schedule 2 to the BSA.*

\*Investigation against a licence condition.

## Non-breach findings: 3

Station	Investigation number	Program or issue	Substance of complaint	Outcome
2WKT Highland Media Co-operative Ltd NSW	2485	Avoid censorship Racial vilification Encourage participation	Allegation that 2WKT was attempting to censor a presenter and that a program was broadcast that incited racial vilification and hatred. Concern that the licensee was failing to encourage members of the community to participate in the operations of the service.	No breach of codes 3.2 [censorship] and 3.3 [vilification]. No breach of clause 9(2)(c) [encourage participation] of Schedule 2 to the BSA.*
6KCR Kalamunda Community Radio Inc. NSW	2321	Encourage participation Represent community interest	Allegation that 6KCR is failing to encourage community participation in the operations of the service and is no longer representing the community interest.	No breach of clauses 9(2)(b) and 9(2)(c) of Schedule 2 to the BSA.*
3HHH Horsham and District Community FM Radio Inc Vic.	2469	Encourage participation	Allegation that 3HHH is failing to encourage community participation in the operations of the service and in the selection and provision of programming.	No breach of 9(2)(c) [encourage participation] of Schedule 2 to the BSA.*

\*Investigation against a licence condition.

**Temporary community radio****Breach findings: 0****Non-breach findings: 0****Open narrowcast radio****Breach findings: 0****Non-breach findings: 1**

Station	Investigation number	Program or issue	Substance of complaint	Outcome
Territory FM 98.7 Wiseguy Pty Ltd NT	2407	Category of service	Not providing a narrowcast service.	No breach—providing an open narrowcast service.*

\*Investigation against a licence condition.

**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 35 written complaints alleging breaches of the Codes during the first quarter of the 2010–11 financial year.

**Written complaints to commercial radio broadcasters, July to September 2010**

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	12	1	8	3	0	24
Prohibited matter in	1	0	1	0	0	2
Other complaints	2	2	0	1	4	9
<b>Total</b>	<b>15</b>	<b>3</b>	<b>9</b>	<b>4</b>	<b>4</b>	<b>35</b>

Source: CRA Commercial Radio Codes of Practice: Complaints summary July to September 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 791 written complaints about matters covered by the Code in the first quarter of the 2010–11 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	Complaint-handling	Consumer advice	Disclosure	Discrimination	Multichannel	Privacy	Program – general	Upsetting material	Total
Children	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Comedy	0	22	1	0	0	0	0	0	0	9	1	0	0	0	33
Commercial	0	139	0	14	10	0	2	0	3	0	0	0	0	0	168
Current affairs	23	16	0	3	0	0	0	0	4	97	1	5	1	1	151
Documentary	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Drama	1	21	10	0	0	4	0	0	0	3	3	0	1	0	43
Information	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Light entertainment	2	46	0	0	0	1	0	0	1	77	0	0	0	0	127
Movie	0	25	2	0	0	1	0	1	0	0	1	0	0	0	30
Music video	0	11	0	0	0	0	0	0	0	0	1	0	0	0	12
News	40	7	0	0	0	0	0	0	1	7	0	2	8	30	95
Program promos	2	58	0	0	0	0	1	0	0	3	0	0	0	1	65
Reality	0	15	0	0	0	0	0	0	0	1	0	0	1	0	17
Religion	0	0	0	0	0	0	0	0	0	2	0	0	0	0	2
Shopping guides	0	2	0	0	0	0	0	0	1	0	0	0	0	0	3
Sport	0	8	0	0	0	5	0	0	0	3	0	0	1	0	17
Unspecified	0	0	3	2	0	1	0	0	0	0	0	0	0	0	6
Variety	0	9	1	0	0	2	0	0	0	6	0	0	0	0	18
<b>Total</b>	<b>68</b>	<b>382</b>	<b>17</b>	<b>19</b>	<b>11</b>	<b>14</b>	<b>3</b>	<b>1</b>	<b>10</b>	<b>208</b>	<b>7</b>	<b>7</b>	<b>12</b>	<b>32</b>	<b>791</b>

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