

Broadcasting investigations, January to March 2011

This summary is of ACMA broadcasting investigations completed in the three months from 1 January to 31 March 2011.

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 themselves.

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 January to 31 March 2011

Type of service	Breaches			Non-breaches		
	Code of practice	Licence condition or standard	BSA	Code of practice	Licence condition or standard	BSA
Commercial television	2	4	–	9	–	–
ABC television	–	4	–	6	–	–
SBS television	–	–	–	1	–	–
Community television	–	–	–	–	–	–
Subscription broadcasting television	–	–	–	–	–	–
Subscription narrowcast television	1	–	–	–	–	–
Open narrowcast television	1	–	–	–	–	–
Commercial radio	–	–	–	3	–	–
ABC radio	–	–	–	–	–	–
SBS radio	–	–	–	–	–	–
Community radio	1	2	–	–	–	–
Temporary community radio	–	–	–	–	–	–
Open narrowcast radio	–	–	–	–	–	–
Total	5	10	0	19	0	0

*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, January to March 2011

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

Commercial television

Breach findings: 6

Station	Investigation number	Program or issue	Substance of complaint	Outcome
NBN NBN Limited NSW	2470	<i>NBN Evening News</i> 24/06/2010	Lack of captioning.	Breach—captioning*.
TCN TCN Channel Nine Pty Ltd NSW	2474	<i>A Current Affair</i> 28/07/2010	Lack of captioning.	Breach—captioning*.
ATV Ten Network (Melbourne) Pty Ltd Vic.	2434	<i>Ten News At Five</i> 01/04/10	Fairness, accuracy, fair representation of viewpoints, gratuitous emphasis and dislike, contempt or ridicule.	Breach—fairness. Breach—accuracy. No breach—fair representation of viewpoints. No breach—gratuitous emphasis. No breach—dislike, contempt or ridicule.
GTV General Television Corporation Pty Ltd Vic.	2526	Election advertisement 25/11/2010	Political advertisement broadcast during the 'relevant' period.	Breach—broadcasting an election advertisement during the 'relevant' period*.
HSV Channel Seven Melbourne Pty Ltd Vic.	2433	<i>Channel Seven News</i> 01/04/2010	Fairness, accuracy, fair representation of viewpoints, gratuitous emphasis and dislike, contempt or ridicule.	Breach—fairness. Breach—accuracy. No breach—dislike, contempt or ridicule. No breach—gratuitous emphasis. No breach—fair representation of viewpoints and accuracy.
TVT WIN Television TAS Pty Ltd Tas.	2511	Various programs and dates	Lack of captioning.	Breach—captioning*.

*Investigation against a licence condition.

Non-breach findings: 9

Station	Investigation number	Program or issue	Substance of complaint	Outcome
NBN NBN Limited NSW	2519	<i>The Sunday Roast</i> 27/06/2010	Complaint about inappropriate language at the PG classification and licensee did not provide a substantive response to a valid complaint within 30 days of receipt of complaint.	No breach—classification of other material. No breach—complaints-handling.
TCN TCN Channel Nine Pty Ltd NSW	2486	<i>Nightline</i> 10/05/2010	Asylum seekers unfairly and inaccurately vilified; report likely to create public panic; no response to complaint.	No breach—fairness and impartiality. No breach—public panic. No breach—dislike, contempt or ridicule on grounds of national or ethnic origin. No breach—accuracy. No breach—complaints-handling.
TCN TCN Channel Nine Pty Ltd NSW	2492	<i>A Current Affair</i> 01/07/2010	Segment concerning the Church of Scientology contained inaccuracies and failed to represent viewpoints fairly.	No breach—accuracy. No breach—gratuitous emphasis. No breach—dislike, contempt, ridicule on grounds of religion.
TCN TCN Channel Nine Pty Ltd NSW	2513	<i>NRL Footy Show</i> 23/09/2010	Vilification of the disabled community by using the term 'disadvantaged' for purposes of ridicule.	No breach—dislike, contempt or ridicule on grounds of disability.
TCN TCN Channel Nine Pty Ltd NSW	2518	<i>Australia's Funniest Home Videos</i> 07/08/2010	Licensee did not provide a substantive response to a valid complaint within 30 days of receipt of complaint.	No breach—complaints-handling.
CTC Australian Capital Television Pty Ltd ACT	2533	<i>Junior Masterchef</i> 12/09/2010	Dislike, contempt or ridicule on grounds of national or ethnic origin.	No breach—dislike, contempt or ridicule on grounds of national or ethnic origin.
TVQ Network TEN (Brisbane) Pty Ltd Qld	2478	<i>7PM Project</i> 22/06/2010	Ridicule of Christianity; offensive material without warning.	No breach—dislike, contempt or ridicule on grounds of religion. No breach—material likely to distress or offend.
SAS Channel Seven Adelaide Pty Ltd SA	2471	<i>Today Tonight</i> 22/03/2010	Privacy and accuracy.	No breach—privacy. No breach—accuracy. No breach—accuracy, program promotion.

Station	Investigation number	Program or issue	Substance of complaint	Outcome
STW Swan Television & Radio Broadcasters Pty Ltd WA	2508	<i>A Current Affair</i> 11/08/2010– 19/08/2010	Dislike, contempt or ridicule on grounds of religion.	No breach—dislike, contempt or ridicule on grounds of religion.

*Investigation against a licence condition.

ABC television

Breach findings: 4

Station	Investigation number	Program or issue	Substance of complaint	Outcome
ABQ ABC Television Qld	2541	<i>Foreign Correspondent</i> 09/02/2010	Inaccuracies in story about Sri Lankan Tamil situation; late response to complaint.	Breach—complaints-handling. No breach—accuracy.
ABS ABC Television SA	2520	<i>Waking the Dead</i> 17/09/2010	Inappropriate depictions of violence at the M classification.	Breach—television program classifications.
ABS ABC Television SA	2525	<i>Spooks</i> 27/07/2009	Inappropriate depictions of violence at the M classification.	Breach—television program classification.
ABC 2 ABC Television SA	2535	<i>Criminal Justice</i> 31/08/2010, 07/09/2010, 14/09/2010, 28/09/2010	Inappropriate depictions of violence, sex, drug use and themes at the M classification; providing incorrect consumer advice; failing to provide a substantive response to a valid complaint within 60 days.	Breach—consumer advice (one episode). Breach—complaints-handling. No breach—consumer advice (one episode). No breach—television program classification (four episodes).

Non-breach findings: 6

Station	Investigation number	Program or issue	Substance of complaint	Outcome
ABV ABC Television Vic.	2499	<i>Star Stories</i> 29/09/2010	Religious prejudice and gratuitous offence in skit about celebrity Scientologists.	No breach—discrimination and stereotypes.
ABS ABC Television SA	2521	<i>Kevin McCloud's Grand Tour</i> 09/02/2010	Inappropriate sexual references at the G classification.	No breach—television program classification.
ABS ABC Television SA	2522	<i>Criminal Justice</i> 15/08/2010	Inappropriate depictions of violence at the M classification.	No breach—television program classification.
ABS ABC Television SA	2523	<i>Criminal Justice</i> 22/08/2010	Inappropriate depictions of violence at the M classification.	No breach—television program classification.
ABS ABC Television SA	2524	<i>Spooks</i> 20/07/2009	Inappropriate depictions of violence at the M classification.	No breach—television program classification.
ABC ABC Television NT	2534	<i>Last Chance to See</i> 31/10/2010	Inappropriate language at the G classification.	No breach—television program classification.

SBS television

Breach findings: 0

Non-breach findings: 1

Station	Investigation number	Program or issue	Substance of complaint	Outcome
SBS TV	2537	Promotion for SBS Film 29/10/2010	Program promotion showed disrespect to the Christian faith and was offensive to Christians.	No breach—prejudice, racism and discrimination. No breach—religious programs.

Community television

Breach findings: 0

Non-breach findings: 0

Subscription broadcasting television

Breach findings: 0

Non-breach findings: 0

Subscription narrowcast television**Breach findings: 1**

Station	Investigation number	Program or issue	Substance of complaint	Outcome
KidsCo. Foxtel	2515	<i>Turandot</i> 21/08/2010	Complaint about inappropriate violence and themes at the G classification.	Breach—classification of programming.

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

Station	Investigation number	Program or Issue	Substance of complaint	Outcome
WTV West TV Ltd WA (Community television trialist)	2542	<i>Felicity</i> 22/10/2010	Concerns about the film's sexual content and classification; failure to respond to the complaint.	Breach—complaints-handling. Breach—program classification. No finding—classification and placement of programming.

*Investigation against a licence condition.

Non-breach findings: 0**Commercial radio****Breach findings: 0****Non-breach findings: 3**

Station	Investigation number	Program or issue	Substance of complaint	Outcome
2DAY Today FM Sydney Pty Ltd NSW	2491	<i>The Kyle and Jackie O Hour of Power</i> 02/08/2010	Vulgar anatomical reference.	No breach—generally accepted standards of decency.
3FOX Austereo Group Ltd Vic.	2502	<i>The Mat and Jo Breakfast Show</i> 01/10/2010	Ridicule of same-sex-attracted behaviour in competition segment.	No breach—incite, contempt or ridicule on grounds of sexual preference.
3TTT Double T Radio Pty Ltd Vic.	2512	<i>Mix Mornings with Brig & Lehmo</i> 28/10/2010	Indecent sexual reference.	No breach—generally accepted standards of decency.

*Investigation against a licence condition or standard.

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

Community radio

Breach findings: 3

Station	Investigation number	Program or issue	Substance of complaint	Outcome
2GLF Liverpool–Fairfield Community Radio Cooperative Ltd NSW	2532	Advertising; complaints-handling	Licensee broadcast advertisements; licensee did not manage complaint in accordance with the provisions of the codes.	Breach—advertising*. Breach—complaints-handling.
4BI Brisbane Interactive Radio Group Inc. Qld	2509	Represent community interest	Licensee not representing the community interest.	Breach—represent community interest*.
4CCR Cairns Community Broadcasters Inc. Qld	2488	Availability of policy documents; complaints-handling	Non-provision of 4CCR's policies and procedures; response to request not provided within the timeframes specified in the codes.	Breach—availability of policy documents. Breach—complaints-handling. No finding—complaints-handling.

*Investigation against a licence condition.

Non-breach findings: 0

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 69 written complaints alleging breaches of the codes during the third quarter of the 2010–11 financial year.

Written complaints to commercial radio broadcasters, January to March 2011

	Talkback and discussion	News and current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	21	1	6	4	4	36
Prohibited matter in	0	0	0	1	1	2
Other complaints	19	2	3	0	7	31
Total	40	3	9	5	12	69

Source: CRA Commercial Radio Codes of Practice: Complaints summary January to March 2011.

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 993 written complaints about matters covered by the code in the third quarter of the 2010–11 financial year.

Complaints to commercial television stations by category, January to March 2011

Type of program	Bias/inaccuracy	Classification	Closed caption	Commercial general	Commercial placement	Commercial time	Complaints-handling	Disclosure	Discrimination	Multichannel	Privacy	Program-general	Upsetting material	Total
Comedy	0	3	1	1	0	1	0	0	6	0	0	0	0	12
Commercial	0	24	0	21	1	1	3	0	0	0	0	0	0	50
Current affairs	24	17	2	24	0	1	0	1	264	0	4	0	4	341
Documentary	0	3	0	2	0	0	0	0	1	0	0	0	0	6
Drama	0	12	1	0	0	1	0	0	2	4	0	0	2	22
Light entertainment	0	6	0	0	0	0	0	0	7	0	0	0	3	16
Movie	0	4	0	4	0	1	0	0	0	1	0	0	0	10
Music video	0	3	0	0	0	0	0	0	0	0	0	0	1	4
News	273	9	3	32	0	0	0	0	55	0	8	0	12	392
Program promos	0	26	0	7	0	0	0	0	4	12	0	2	1	52
Quiz	0	0	0	0	0	0	0	0	1	0	0	0	0	1
Reality	0	1	0	0	0	1	0	0	0	0	0	1	0	3
Sport	0	1	1	19	0	2	0	0	4	0	0	0	1	28
Unspecified	0	0	0	50	0	0	1	0	0	0	0	0	0	51
Variety	1	0	0	3	0	1	0	0	0	0	0	0	0	5
Total	298	109	8	163	1	9	4	1	344	17	12	3	24	993

Source: Commercial Television Industry Code of Practice Report on Code complaints to stations 1 January to 31 March 2011