

ABA pulls up broadcasters' breaches

The ABA's 1997/8 annual report suggests an upward trend in non-compliance by broadcasters

The fifth anniversary year of co-regulation of the broadcasting industry saw a high in the number of complaints against broadcasters. While the figures invite the question of whether five years on, industry participants feel twitchy about the codes and legislation that confine them, analysis shows the upswing does not quite reflect some newfound anarchy among broadcasters.

In its 1997-98 annual report, the Australian Broadcasting Authority (ABA) reported 84 breaches of broadcasters' codes of practice or licence conditions, an increase of 35 breaches on the previous year. Some 59 of the breaches related to codes of practice, 24 to licence conditions and one to the Act.

Under the co-regulatory system, complaints about breaches of code of practice only get to the ABA if they are not first satisfactorily resolved by the broadcaster. Complaints about *Broadcasting Act* and licence condition breaches go straight to the ABA.

In the report, the ABA mentions extraordinary factors leading to the record result but considers the upswing partly reflects its "more vigorous compliance regime" and "a trend against compliance by licensees, in particular commercial television licensees and ABC radio".

The "trend" referred to is not always so simply defined. For code breaches, it seems that the trend lies in increased difficulties with complaints handling, rather than substantive breaches.

Another significant factor in the rise in breach findings appears to be that the ABA has stepped up the speed of its investigations. The annual report says 135 investigations were completed in the 1997-98 period compared to 115 in the previous period. Because the "breach" figures reflect findings of completed investigations in 1997-98, rather than breaches that happened during the period, the increase may partly reflect improved efficiency in clearing the backlog.

The extraordinary items are that 26 of the breaches are findings against a number of network affiliates over the same complaint. Of these, 14 findings relate to two identical breaches by Nine and its affiliates for showing unsuitable content in "Pacific Drive" when it was moved to an afternoon timeslot. Six licensees in the Seven network were found to have shown 30 minutes less children's C drama over the year than required by Australian content standards, the two breaches translating into 12 separate breach findings.

So, while unsuspecting viewers don't have to head for the hills just yet, it is still interesting to analyse the areas where breaches occurred (see also **Communications Update, issue 149, November 1998, page 7**).

TCN, Channel 9's Sydney licensee had the largest number of breaches for a commercial television licensee, relating mainly to news and current affairs: accuracy, fairness, privacy, broadcasting distressing material and complaints handling. As a result of concerns about distressing material on National Nine News and associated complaints handling, the ABA met with TCN about whether it should impose additional licence conditions. The ABA ultimately

decided against this action, provided that TCN undertook to give six monthly reports on news related complaints.

Code breaches by commercial radio were down from nine in the previous period to five in 1997-98, covering issues like privacy and accuracy of news and current affairs. Community radio stations committed three code breaches (down from five), relating to complaints handling and demeaning religion.

There were increased ABC breaches, the largest proportion relating to complaints handling procedures. The ABA says this has been addressed internally through revision of ABC editorial policies and code of practice, and implementation of nationwide staff training in complaints handling. The ABA continues to discuss this issue with the ABC.

The ABA commenced 123 new investigations in the reporting period, a 32 per cent increase on the 1996-97 reporting period, of which 29 related to possible Act or licence breaches, and 94 related to possible code breaches. Whether the findings of these investigations translates into an upward trend for non-compliance remains to be seen. But it does raise the question: after working with familiar codes for this long, why hasn't there been a gradual decline in broadcaster's breaches?

Since its annual report was released, the ABA has handed down several findings where television stations have breached advertising limits. The latest finding (3/12/98), against Network Ten for excessive advertising during "Seinfeld" and "Mad About You" came from a complaint by a disgruntled viewer. This and other cases have exposed ambiguities and differing interpretations of guidelines by broadcasters, leading to proposals to revise parts of the Federation of Australian Commercial Television Stations code. All of this at a time when viewers have been waiting 2 years for a review of a proposed new FACTS Code, which seems no closer to surfacing.

Five or six years on, co-regulation clearly still needs some fine tuning. <

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