



is a strong likelihood that children are part of the viewing audience.

Although the substances shown in the footage were not identified as illegal substances, given the nature of the story, the footage is clearly presumed to depict illegal drugs. It is possible that those scenes may have influenced children, particularly those watching the program without parental guidance.

The licensee claimed that the footage was justified on the basis that television is a visual medium, but it is the ABA's opinion that the news story could have been told showing the press conference only.

The ABA has formed the view that due care was not taken in this broadcast by the Ten network.

The code does not specify how to assess whether material which is broadcast is likely to cause serious distress or offend a substantial number of viewers. The ABA applies a 'hypothetical viewer' test, whereby the impact of the relevant broadcasts is assessed from the perspective of the 'hypothetical viewer' who is susceptible.

The ABA is of the view that Ten's news broadcast on 27 June 1995 did not contain material 'likely to seriously distress or offend a substantial number of viewers'.

### Response to complainant by broadcaster

The complainant also stated that the licensee did not reply to his written complaint, which was redirected from Ten to the news department at

ATV 10 in Melbourne. Clause 7.11 of the code states:

Where a licensee refers a complaint to another licensee for reply, that other licensee will have 30 working days to provide a substantive response to the original complaint.

In response to the ABA's preliminary view that the network may have breached clause 7.11 of the code by failing to respond to the complaint within 30 days, Ten explained its complaints handling system. This includes a centralised database which records complaints correspondence and responses to complaints. Ten network submitted that there were no grounds for finding a breach because it had no record of receiving the complainant's letter.

The ABA does not accept this argument as there was an acknowledgement to the complainant indicating the complaint had been redirected. The ABA believes appropriate procedures should have been in place to ensure that the complaint was received and responded to within the required time frame.

### Decision

The ABA found that the Ten network breached clause 4.1.2 of the code because it did not take sufficient care with regard to the composition of the viewing audience at the time of broadcast. The ABA also found that the Ten network breached clause 7.11 because it failed to respond to a complaint within the required timeframe.

### Action taken

As a result of the ABA's investigation of this complaint, Ten withdrew the offending drug usage footage from its news libraries. In addition, Ten instituted a number of measures in relation to the structure and operation of the newsrooms at each of its stations. These measures included:

- that news directors at each network station report directly to the General Manager, Network News and Current Affairs and hold regular meetings with these parties to ensure the requirements of the code are observed;
- the development and circulation of management guidelines to all Ten news and current affairs staff which cover the requirements of the code; and
- the initiation of an ongoing program of staff training to ensure that news directors and editing staff are made fully aware of the requirements of the code.

On the basis of the remedial action and measures implemented by Ten to ensure that a breach of this nature will not occur again, the ABA proposed to take no further action other than publication of its decision in this newsletter.

In respect of the breach of clause 7.11 of the code in that Ten failed to respond to a complaint which had been redirected from an associated licensee within the required time frame, the ABA intends to raise the issue of complaints handling in the forthcoming review of the code.

## Programs granted C or P classification

Programs granted C or P classification between 27 June 1996 and 15 July 1996. Producers interested in submitting programs for classification should contact Liz Gilchrist on (02) 9334 7840.

Title	Origin	Class. Renewal	New/ date	Decision	Applicant
ADVENTURES OF THE BUSH PATROL (series 3)	Australia	PRC	new	4 July 1996	Rosenbaum Whitbread Productions
BOBBY'S WORLD (series 6)	USA	C	new	2 July 1996	Network Ten Brisbane
FUDGE (series 2)	USA	C	new	3 July 1996	Network Ten Brisbane

C - children's program PRC - Provisional C CAD - C Australian Drama