

Under the Broadcasting Services Act, each broadcasting industry sector is required to develop codes of practice applicable to the broadcasting operations of its sector. The ABA monitors the operation of these codes and adopts an independent adjudicator role where complaints are not resolved. This quarterly series is compiled by David Smith, ABA Codes and Conditions section.

ABA investigations into programming matters

The complaints process

Under codes of practice, primary responsibility for the resolution of complaints rests with the broadcasters themselves. The Act lays down a general procedure for complaint handling whereby complainants are required to approach the broadcaster 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 can be referred to the ABA for investigation. The ABA refers to these as unresolved complaints and must investigate complaints so made.

Complaints in relation to possible breaches of the formal program standards (children's television and Australian content), of the Act itself and of licence conditions may be made directly to the ABA. That is, complainants are not obliged to contact the broadcaster first.

The ABA may make a finding that a broadcaster has breached a code of practice or a broadcaster may admit a breach of a code. Breaches of the codes are not breaches of the Act, although the ABA may make compliance with a code a condition of licence. Generally the ABA seeks to ensure that broadcasters take action to remedy breaches or to put in place procedures to ensure they do not recur.

Quarterly summary

The ABA publishes in *ABA Update* quarterly summary tables of investigations by the ABA into unresolved complaints and complaints about possible breaches of the Act or licence conditions. Summaries of the findings relating to major investigations will continue to appear monthly in *ABA Update*.

This edition also contains, with the cooperation of the Federation of Australian Commercial Television Stations (FACTS) and the Federation of Australian Radio Broadcasters (FARB), quarterly reports of the number and substance of complaints made directly to the commercial broadcasters themselves.

Investigations by the ABA into unresolved complaints completed in the quarter ended 30 June 2001

Number of ABA investigations finalised in the quarter:	41
investigations where a breach was found	21
investigations where no breach was found	20

In the period 1 April 2001 to 30 June 2001, 21 investigations completed by the ABA resulted in 27 breaches being found of a code of practice, a licence condition or the Act.

Of the 21 investigations where the ABA found that a breach had occurred, seven related to commercial television, seven to community radio, two to commercial radio, two to ABC TV and one each to ABC radio, SBS television and temporary community radio. The 27 breaches covered eleven broad issues. These were complaints handling (12), conflict resolution (three), election advertisements (two), depiction of suicide (two), classification (two), advertising on community radio, privacy, alcohol advertisements, tape retention, vilification, and accuracy in news/current affairs.

Breach finding

Investigations completed by the ABA April - June 2001

Callsign	Program/advertisement/issue	Substance of complaint	Code/section of the Act applicable to breach finding
Commercial television			
BTQ 7 Brisbane	Program promotion - Turbulence	Depiction of a man having his head blown off was shown at an unsuitable time.	Level of violence in a program promotion broadcast during a 'G' classification period.
QTQ 9 Brisbane	National Nine News	Reference to 'Irish demolition crew' amounted to vilification; complaints handling.	Complaints handling.
STQ 7 Regional Queensland	News	Identity of person who had attempted suicide was revealed; privacy; inaccurate reporting; complaints handling.	Privacy; reporting of attempted suicide with no public interest reason; complaints handling.
STW 9 Perth	The Footy Show	Sam Newman bared his backside and allowed it to be drawn on; complaints handling.	Complaints handling.
TVW 7 Perth	News	'Rave party' item was inaccurate, unfair and misleading; complaints handling.	Complaints handling.
IMP Northern Territory	Tony Grady – election advertisement	Election advertisement was broadcast without the required particulars and during the 'blackout' period.	Broadcasting an election advertisement during the 'blackout' period.*
ADS 10 Adelaide	Melbourne Cup	Alcohol advertisements were broadcast.	Broadcasting an alcohol advertisement during 'PG' time.
Permanent community radio			
2WEB Bourke	John Laws^	Broadcasting of advertisements.	Broadcasting advertisements; broadcasting political matter without required particulars.*
2CBD Glen Innes	Management	Station is refusing access to members of the community.	Conflict resolution.
1CMS Canberra	Sinhala radio program	Racial vilification; retention of logging tapes; privacy; complaints handling.	Retention of records of matter broadcast.* Complaints handling.
2LVR Forbes	Management	Memberships cancelled without reason; conflict resolution procedures not followed.	Conflict resolution.
2NVR Nambucca	The Way I See It	Broadcast of anti-Semitic material; complaints handling.	Vilification on the basis of religion; complaints handling.
4EEE Emerald	Not specified	Broadcast of inaccurate material; complaints handling.	Accurate presentation of factual material; complaints handling.
6CCR Fremantle	Management	Complaints handling.	Complaints handling.
Commercial radio			
6PR Perth	The Paul Murray Program	Coverage of a proposed development was biased; complaints handling.	Complaints handling.
4SEE Sunshine Coast	The Big Kahuna	Offensive comments about Christine Anu; complaints handling.	Complaints handling.
ABC television			
ABC TV	News	Inaccuracy in a news item; complaints handling.	Complaints handling.
ABC TV	Police Rescue	Unnecessary depiction of suicide.	Depiction of suicide with no public interest reason.
ABC radio			
ABC Regional	On This Day	Inaccurate statement in an information program; complaints handling.	Complaints handling.
SBS television			
SBS TV	The Movie Show	Movie excerpts unsuitable for early Sunday evening.	Inappropriate level of sex/nudity for timeslot.
Temporary community radio			
TRAX FM Port Pirie	Management	Removal of announcer from German music show; failure to resolve dispute.	Conflict resolution.

All breaches were of a code of practice, except* breach of the Broadcasting Services Act 1992.

^ This was a relayed program. There is no finding of a breach either against the originating station or Mr Laws.

The licensees concerned have taken the following action:

BTQ 7 – Discussions with relevant staff were held, and will continue to be held, to ensure that they are fully aware of the requirements of the code with regard to the scheduling of program promotions. A letter of apology was also sent to the complainant.

QTQ 9 – The ABA has written to the station emphasising the need to address the specific provisions of the code when responding to written complaints.

STQ 7 – The journalist concerned was counselled regarding the story and a memorandum was sent to all station managers outlining their obligations under the code with respect to news/current affairs reporting and complaints handling. A letter of apology was also sent to the complainant.

STW 9 – The station has introduced a formal document outlining complaints handling procedures that it hopes will prevent future similar breaches.

TVW 7 – The station has reviewed its complaints handling procedures, resulting in the introduction of certain measures designed to improve and tighten the system for dealing with written complaints.

IMPARJA – Internal procedures with respect to the scheduling of political advertisements have been introduced, including the clarification of roles within station management and the tightening of scheduling procedures.

ADS 10 – Management has written to all station ‘Traffic Managers’ explaining the correct interpretation of the alcohol advertising provisions of the code.

2WEB – This and other investigations of a similar nature have raised concerns regarding community stations broadcasting commercial radio programs and wider issues associated with syndication of programs, advertising and sponsorship. The ABA is currently working with relevant stations and with the CBAA to resolve the problem on a sector-wide basis.

2CBD – The licensee has organised a meeting with the complainants, using the Community Justice Centre as a mediator.

1CMS – The station, since acquiring a permanent licence, has introduced a logging computer to record broadcasts as per the requirements of the Act. Complaints handling procedures have also been amended to ensure compliance with the Codes.

2LVR – The licensee has amended the dispute resolution procedures that form part of its constitution and has distributed it to its members.

2NVR – The licensee has advised the ABA of the systems, practices and procedures that it has put in place to ensure that similarly offensive material would not be broadcast in the future and that adequate systems are now in place to deal with complaints.

4EEE – The station’s complaints handling procedures have been revised to reflect the concerns expressed in the ABA’s report.

6CCR – The station has revised its complaints handling procedures to ensure future compliance with the requirements of the code.

6PR – Programming staff have been trained to strictly adhere to the code

requirements and a template has been formatted for use in all written replies to complaints.

4SEE – The station has subsequently provided the complainant with a substantive response and management has issued memoranda to all staff emphasising the importance of compliance with the Codes and setting out the required complaints handling procedures in detail.

ABC TV (News) – The ABC has advised the ABA that it is currently working towards introducing new software to assist with the recording and management of complaints.

ABC TV (Police Rescue) – The offending content has now been removed from the tape of the program and the complainant has now been provided with a substantive response and an apology.

ABC Regional Radio – The ABC has advised the ABA that it has reinforced the requirements of the code among its broadcasters and also that it is currently working towards introducing new software to assist with the recording and management of complaints.

SBS TV – The ABA and SBS disagreed with the ABA’s finding and are continuing discussions regarding the issue.

TRAX FM – The licensee has developed a conflict resolution policy allowing for the employment of alternative dispute resolution mechanisms. Independent mediators have been approached to assist in this process.



No breach finding

Investigations completed by the ABA April – June 2001:

Callsign	Program/advertisement/issue	Substance of complaint	Relevant code/licence condition
Commercial television			
TEN 10 Sydney	What Lies Beneath – movie advertisement	Images were too frightening and disturbing for the timeslot.	Classification of advertisements in 'PG' time.
TEN 10 Sydney	Millennium Concert – advertisement	Using the word 'millennium' was misleading.	Complaints about advertising content.
ATN 7 Sydney	Today Tonight	Use of the term 'premiere' was inaccurate.	Accuracy in a current affairs program.
ATN 7 Sydney	Millennium Concert – advertisement	Using the word 'millennium' was misleading.	Complaints about advertising content.
TCN 9 Sydney	News	Programs, including news, are not being captioned.	Closed captioning requirements.
TCN 9 Sydney	Millennium Concert – advertisement	Using the word 'millennium' was misleading.	Complaints about advertising content.
NBN 9 Newcastle	News	Reports of flooding inaccurately mentioned Narrabri.	Accuracy in a news program.
NWS 9 Adelaide	Survivor II	Footage of a pig being killed unsuitable for 'PG' timeslot.	Level of violence in a 'PG' program; consumer advice.
ADS 10 Adelaide	Melbourne International Comedy Festival	Comedian expressing a preference for dog s*** over living in England was offensive and racist.	Severe ridicule on the basis of nationality.
ATV 10 Melbourne	Beauty and the Beast	Remarks about shooting boat people were unacceptable.	Racial vilification; adult themes in a 'PG' classified program.
BTQ 7 Brisbane	Great South East	Political matter should have been tagged.	Identification of political matter.*
STQ 7 Regional Queensland	Life's Good Air Conditioning – advertisement	Inappropriately placed during a 'G' classified program; complaints handling.	Classification and placement of advertisements; complaints handling.
Permanent community radio			
2000 FM Sydney	Telstra – advertisement	An advertisement was not 'tagged'.	Broadcasting of advertisements.*
3CR Melbourne	Undercurrents	Item on laying hens was misleading and unbalanced.	Accuracy in a current affairs program.
2VOX Wollongong	Management	No sponsorship policy or guidelines relating to volunteers.	Sponsorship requirements.* Rights of volunteers.
Commercial radio			
3AW Melbourne	Neil Mitchell	Comments about Palestinian deaths were anti-Semitic and anti-Israel.	Incitement to violence; racial vilification; misleading presentation of material.
2MC Kempsey	Breakfast Show	Disparaging comments and 'rude' audio accompaniment.	Programs unsuitable for broadcast.
Narrowcast radio			
RED FM Outback Australia	Extent of area covered	Station is broadcasting outside the terms of its s.21 opinion.	Compliance with the specifications of a s.21 opinion.*
Subscription television			
Foxtel	Skynews Australia	A news item was paid propaganda; complaints handling.	Distinguishing news from commentary; complaints handling.
SBS television			
SBS TV	South Park	Irresponsible treatment of paedophilia and parental abuse; complaints handling.	Classification criteria; complaints handling.

All potential breaches were of a code of practice, except * potential breach of licence condition

Complaint handling by commercial television stations

The Commercial Television Industry Code of Practice requires each commercial television broadcaster to report to the Federation of Australian Commercial Television Stations (FACTS), within 15 working days of the end of each quarter, the number and substance of written complaints alleging specific breaches of the code. FACTS provides a consolidated report to the ABA.

The figures and summaries below and right were provided to the ABA by FACTS. They cover the second quarter of 2001.

April - June 2001

Commercial television stations reported 294 written complaints relating to matters covered by the Commercial Television Industry Code of Practice in the second quarter of 2001. This was 29% more than the number of complaints reported in the previous quarter.

The number of complaints about sex and nudity, offensive language, discriminatory references and commercial content levels increased significantly.

In 59 instances, a station agreed that a complaint identified a breach of a code provision. These instances involved:

- 36 complaints about sexual references on the Network Ten variety program *Rove Live*;
- 11 complaints about cruelty to animals in a segment on the fur

trade on the Nine Network's *Today*;

- three complaints about nudity, sexual innuendo and offensive language on the Network Ten program *Big Brother*;
- two complaints about the absence of a classification symbol in press advertising for the Network Ten program *Big Brother Uncut*;
- a complaint about nudity on Network Ten's *The Panel*;
- a complaint about the placement of a promotion for the Nine Network's *60 Minutes* featuring footballer John Hopoate;
- a complaint about gender stereotyping in a segment of Nine Network's *A Current Affair* dealing with stain removers;
- a complaint about inaccurate reporting of the death of a woman on TCN 9 Sydney's evening news;
- a complaint about the placement of a promotion for TCN 9's evening news that featured footage of a floor collapsing at a wedding in Israel;
- a complaint about a person being ridiculed because of his age on the Nine Network's *The Footy Show*; and
- a complaint about the placement of an army recruiting advertisement on TVT 6 Tasmania.

In the previous quarter, there were 27 complaints upheld by the stations concerned.

Several programs or items attracted significant levels of complaint during the quarter. There were multiple complaints about:

- an act on Network Ten's *Rove Live*;
- episodes of Network Ten's *Big Brother* and *Big Brother Uncut*; and
- various segments of the Nine Network's *60 Minutes*; *Australia's Funniest Home Videos*; *Today* and *A Current Affair*.





Complaints made to commercial television stations about programs: April - June 2001

	Sex/ nudity	Language	Violence	Suicide	Drug use	Classification	Bias/inaccuracy	Privacy	Discrimination	Comm. content	Comm. placement	Comm. general	Closed caption	Complaint handling	Total	% All complaints
Children's	1		2			2				10					15	5.1
Comedy	7	2	8			4			3		2				26	8.8
Current affairs		1				17	28	4	4		1				55	18.8
Documentary	1														1	0.3
Drama series	3	1	2	1					2		3				12	4.1
Game	3					1			1						5	1.7
Information	34	24				8			2						68	23.2
Movies	4	2	1							2	1				10	3.4
Music video															0	0.0
News	1					6	9								16	5.4
Sport		2							4						6	2.0
Variety	23	14	1			6			2						46	15.7
Unspecified	1				1	1					8				11	3.7
Promos	8	2	1			9			3						23	7.8
Total	86	48	15	1	1	54	37	4	21	12	15	0	0	0	294	100.0
%																
All Complaints	29.3	16.3	5.1	0.3	0.3	16.4	12.6	1.4	7.1	4.1	5.1	0.0	0.0	0.0	100.0	

Drama series includes serials

Source: FACTS Commercial Television Industry Code of Practice: Complaints Summary June Quarter 2001

Complaint handling by commercial radio

The Commercial Radio Codes of Practice require each commercial radio broadcaster to provide FARB with an extract of the record of complaints received. FARB provides a consolidated report to the ABA.

The figures and summaries below were provided to the ABA by FARB. They cover the second quarter of 2001.

	Talkback & Discussion	News & Current affairs	Music programs	Advertising	Miscellaneous	Total
Offensive matters in	24	6	5	1	7	43
Prohibited matter in	0	1	1	1	0	3
Other complaints	6	7	4	1	15	33
Total	30	14	10	3	22	79

Source: FARB Commercial Radio Codes of Practice: Complaints Summary June Quarter 2001

April - June 2001

Member stations recorded 79 written complaints alleging breaches of the Commercial Radio Codes of Practice during the second quarter of 2001.