

Under the *Broadcasting Services Act 1992*, each broadcasting industry sector is required to develop codes of practice applicable to the broadcasting operations of its section of the industry. The ABA monitors the operation of these codes and performs the role of an independent adjudicator if complaints are not resolved between the complainant and the broadcaster concerned.

This series is compiled by David Smith, ABA Codes and Conditions section.

ABA investigations into programming matters

In the period 1 April 2000 to 30 September 2000, the ABA completed 27 investigations which resulted in breach findings of either a code of practice or the Act.

Of these 27 investigations, 18 related to commercial television, three to commercial radio, two to open narrowcast radio, one to community radio, two to ABC TV and one to ABC radio. The breaches covered 11 broad issues: complaints handling, classification issues, accuracy and fairness in news and current affairs, privacy issues, taking care in the broadcast of material during news bulletins, time occupied by non-program matter, inadequate warning before distressing material in news bulletins, timeliness in the identification of murder/accident victims, using a broadcast to commit an offence against another Act, retaining a record of matter broadcast, and providing a commercial broadcasting service without the appropriate licence.

Investigations by the ABA into unresolved complaints completed in the six months ended 30 September 2000

Number of ABA investigations finalised in the six months:	55
— investigations resulting in breach	27
— investigations resulting in no breach	28

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.

Your Say

Breach finding:

Investigations completed by the ABA April—September 2000

<i>Callsign</i>	<i>program/advertisement /issue</i>	<i>substance of complaint</i>	<i>code/section of the Act applicable to breach finding</i>
Commercial television			
ATN7 Sydney	News	Report re complainant's daughter was inaccurate; complaints handling.	Complaints handling.
TCN9 Sydney	60 Minutes program promotion	False information about first paraplegic ever to walk; complaints handling.	Accuracy and fairness in current affairs program promotions; complaints handling.
TCN9 Sydney	News	Graphic depiction of preparation/injection of heroin; complaint not responded to.	Care in material shown during news; complaints handling.
TEN10 Sydney	Just Shoot Me program promotion	Unsuitable program promo broadcast during G classification period.	Unsuitable sexual references in a program promo broadcast during G classification period.
NBN9 Newcastle	Colour of War	Too violent for its classification.	Level of violence during a PG classified program.
NEN7 Northern NSW	JAG	Violence and adult themes unsuitable for a PG classified program; complaints handling.	Violence and adult themes during a PG classified program; complaints handling.
GTV9 Melbourne	News	Inaccurate use of 'Macedonia'; complaints handling.	Complaints handling.
GTV9 Melbourne	Middy Show	Advertorial for 'Enzogenol' breached <i>Therapeutic Goods Act 1989</i> .	Using the service in the commission of an offence against another Act.*
GTV9 Melbourne	60 Minutes program promotion	Inaccurate information about HDTV in both a program promotion and the program itself; complaints handling.	Accuracy in a current affairs program promotion; providing a substantive response.
VTV9 Ballarat	Rove	Unsuitable language during an M classified program; complaints handling.	Complaints handling.
QTQ9 Brisbane	60 Minutes	Segment on the Colston family was not presented accurately or fairly.	Accurate presentation of material and fair representation of viewpoints in current affairs.
QTQ9 Brisbane	Friday Night Football	Too many advertisements.	Time occupied by non-program matter.
QTQ9 Brisbane	News	Segment on the Colston family was not presented accurately, fairly or impartially.	Accuracy, fairness and impartiality in news programs; invasion of privacy.
BTQ7 Brisbane	News	Invasion of privacy; inaccurate, unfair and biased reporting.	Accuracy and fairness; privacy; timeliness of identification of murder/accident victims.
RTQ9 Rockhampton	King of Queens	Sexual references in promo broadcast during G time; complaints handling.	References to sexual behaviour during G viewing period; complaints handling.
RTQ9 Rockhampton	The Great Debate program promotion	Reference made to the Queen needing 'a good rogering'.	Language during G viewing period; complaints handling.
SAS7 Adelaide	News	Gratuitous female nudity; complaints handling.	Exercising care in the broadcasting of images during the news; complaints handling.
STW9 Perth	Today on Saturday	Offensive language; complaints handling.	Inappropriate language during a G viewing period; complaints handling.
Commercial radio			
3AW Melbourne	Steve Price	Misrepresentation of viewpoints; complaints handling.	Complaints handling.
3KKZ Melbourne	Grubby and Dee Dee Breakfast Show	Use of phrase 'deaf and dumb'; complaints handling.	Complaints handling.
5AA Adelaide	News	Inaccuracy; complaints handling.	Accuracy in news and current affairs.
Community radio			
4ZZZ Brisbane	not specified	Offended by language used in two songs.	Protection of children from harmful material; degree of explicitness too high; complaints handling.

Callsign	program/advertisement /issue	substance of complaint	code/section of the Act applicable to breach finding
Open narrowcast radio			
3AB Melbourne	Peter Kalliakoudis	Failure to retain record of matter broadcast.	Not causing a record of matter broadcast to be made.*
CQFM Bundaberg	not specified	Operating as a commercial service.	Providing a commercial service without a licence.*
ABC TV			
ABC TV	Gilbert and George	Program contained animal cruelty.	Incorrect classification; not providing either an adequate warning or consumer advice.
ABC TV	Tasting Australia	Use of the phrase 'loony bin'; complaints handling.	Complaints handling.
ABC Radio			
Radio National	Religion Report	Inaccurate and discriminatory remarks about creationists; complaints handling.	Complaints handling.

All breaches were of a code of practice unless marked * breach of the *Broadcasting Services Act 1992*

Action taken by licensees

ATN7—The station has apologised to the complainant and reminded relevant staff of their code obligations with respect to telephone complaints.

TCN9 (60 Minutes program promotion)—Nine did not consider that it had breached the code relating to accuracy and fairness—follow-up action is continuing. Procedures regarding the identification of genuine code-related complaints have been introduced.

TCN9 (News)—All future Nine program guides will be modified so that news and current affairs programs are no longer listed as being classified.

TEN10—Representatives from the station to meet with ABA to discuss the issue of program promotions. Action also taken to prevent similar breaches occurring in the future.

NBN9—The licensee did not agree with the ABA's findings and did not advise the ABA of any action it intended to take with regard to the matter.

NEN7—Both the Seven Network and Prime stated that they agreed with the ABA's decision and would never schedule the offending episode in PG time again. Prime also advised that its procedures regarding registration of complaints had been reviewed and amended.

GTV9 (News)—Breach due to letter of complaint being incorrectly interpreted

as a 'campaign letter'. Staff responsible for complaints handling in the GTV News Department were provided with a copy of the ABA's report.

GTV9 (Midday Show)—The ABA accepts that this breach was primarily due to differing interpretations of the word 'advertisement'. The ABA will work with the relevant organisations and licensees in an effort to prevent future similar breaches.

GTV9 (60 Minutes program promotion)—The ABA is following the matter up with the licensee to determine what action it has taken as a result of the breach finding.

VTV9—Breach of complaints handling code was due to a misunderstanding. The station assured the ABA that this would not happen in the future.

BTQ7—The station acknowledged that its efforts to obtain a news story were overzealous. Relevant staff were made aware of ABA's findings.

QTQ9 (60 Minutes)—Relevant staff were advised that failure to respond to phone calls and faxes should not be referred to on-air as a 'refusal' to appear on a program.

QTQ9 (Friday Night Football)—The breach was the result of an interpretation of the code. The matter has now been clarified to prevent future misunderstandings.

QTQ9 (News)—The ABA's findings were provided to, and discussed with, the

station's Director of News and other relevant staff.

RTQ9 (King of Queens)—The station reviewed its internal procedures relating to the broadcast of program promotions.

RTQ9 (The Great Debate program promotion)—The licensee has assured the ABA that it has acted decisively to ensure that similar breaches do not recur.

SAS7—Revised complaints handling procedures are in the process of being developed. These procedures include training, contingency planning in the event of absences and the development of a pro-forma response letter.

STW9—The ABA is following the matter up with the licensee to determine what action it has taken as a result of the breach finding. The ABA noted that STW 9 did not produce the offending program.

5AA—Procedures introduced to ensure that all incoming news bulletins are proof-read and checked before going to air.

3KKZ—Procedures were put in place to ensure that complaints would be responded to in future even if the relevant personnel were absent.

3AW—The station has amended its 'response to complaints pro forma' to include a reference to the complainant's right to refer their complaint to the ABA.

CQFM—The ABA issued the licensee with a notice directing it to cease providing the service. The licensee has since advised the ABA that it has substantially altered

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the nature of its programming so as to overcome the ABA's objections.

3AB—The station undertook to take action to ensure that a similar breach did not recur, including regular maintenance checks of equipment and regular discussions with the incumbent sublicensee.

4ZZZ—The announcer responsible for the breach has been moved to another

timeslot. New station policy introduced whereby material that may be harmful to children is not broadcast between 6.00 a.m. and 6.00 p.m.

ABC TV (Gilbert and George)—The ABC had initiated improvements to the application of consumer advice and warnings to provide information tailored to suit each program.

ABC TV (Tasting Australia)—ABC TV has

taken steps to ensure that staff handling complaints in the future would respond specifically to the issues raised in the complaint.

ABC Radio National—The ABC subsequently responded to the complainant, as is required by the code of practice, and has taken steps to correct and strengthen internal procedures regarding complaints handling.

Investigations completed by the ABA April – September 2000: no breach finding

Callsign	program/advertisement/issue	substance of complaint	relevant code/licence condition
Commercial television			
TCN9 Sydney	A Current Affair	Use of hidden cameras resulted in a breach of the <i>Listening Devices Act 1984</i> .	Using the broadcasting service in the commission of an offence against another Act.*
TCN9 Sydney	A Current Affair	Segment was unfair, inaccurate and an invasion of privacy.	Accuracy and fairness in news and current affairs; privacy.
NRN10 Coffs Harbour	Jerry Springer	Language and lesbian images inappropriate for M classification.	Sex and nudity, language and adult themes criteria for M classified programs.
GTV9 Melbourne	Today	Program failed to represent viewpoints fairly.	Accuracy and fairness in news and current affairs.
GTV9 Melbourne	Libra Slim Tampons advertisement	Advertisement was screened at an inappropriate time.	Screening of commercials for products of an intimate nature.
GTV9 Melbourne	A Current Affair	Item contained inaccuracies regarding the canine beneficiary of a will.	Accuracy and fairness in news and current affairs.
HSV7 Melbourne	JAG	Too many advertisements.	Time occupied by non-program matter.
QTQ9 Brisbane	A Current Affair	Segment was unfair and inaccurate.	Accuracy and fairness in news and current affairs.
QTQ9 Brisbane	Final Destination program promotion	Inappropriate content for PG timeslot.	Program promotions broadcast between 7.30pm and 8.30pm.
QTQ9 Brisbane	60 Minutes	Item featuring complainant's son was unfair and inaccurate.	Accuracy and fairness in news and current affairs.
TVQ10 Brisbane	Beauty and the Beast	Repeated use of the word 'shit' was offensive.	Language criteria for PG classified programs.
STQ7 Maroochydore	The Book Place	The story 'Emma and the Vacuum Cleaner' encouraged dangerous activities.	Children's Television Standards.
ADS10 Adelaide	News	Item re solariums was unfair, unbalanced and biased.	Accuracy, fairness and impartiality in current affairs.
TVT9 Hobart	Sex and the City	Language and sexual content inappropriate for timeslot	Sex and nudity, language criteria for MA classified programs.
WIN TV Canberra	GST Chains advertisement	Political matter was not 'tagged' with the required particulars.	Political matter must be accompanied by the required particulars.*
Commercial radio			
2GB Sydney	Jim Ball	Comments about Muslim and Lebanese youth gangs were racist; inappropriate language.	Inciting violence; vilification; offensive language.
2MO Gunnedah/ 2TM Tamworth	Country Music Radio	Networking of programs; less local content; axing of Country Music Radio program.	Contributing to an adequate and comprehensive service.*
2PQQ Port Macquarie	not specified	Networking of programs; less local content.	Contributing to an adequate and comprehensive service.*
3AK Melbourne	Melbourne Skyline	Inaccurate presentation of factual material; complaints handling.	Accuracy and fairness in news/current affairs; distinguishing factual material from commentary; complaints handling.

Investigations completed by the ABA April – September 2000: no breach finding (ctd)

callsign	program/advertisement/issue	substance of complaint	relevant code/licence condition
3KKZ Melbourne 3BDG Bendigo	Breakfast Show News	Comments about women with 'big hair' were racist. Interview was commentary rather than news.	Vilification on the basis of race. Distinguishing factual material from commentary.
4MMM Brisbane	News	News item re murder of a patient by a doctor breached <i>Sexual Offences Act</i> .	Using the service in the commission of an offence against another Act.*
4ZR Roma	not specified	Networking of programs; less local content.	Contributing to an adequate and comprehensive service.*
4WK Warwick	Talkback with Howard Sattler	Networking of programs; less local content.	Contributing to an adequate and comprehensive service.*
ABC TV			
ABC TV ABC TV	Lateline Flight for Life	Inappropriate use of file footage. Homosexuality a prominent feature during PG classified program; complaints handling.	General Program Code — discrimination. General Program Code — sex/sexuality; classification; complaints handling.
ABC Radio			
Radio National	Encounter	Offensive language during program on Joyce's Ulysses; complaints handling.	General Program codes – language and sex sexuality; complaints handling.
Subscription TV			
AUSTAR	By Demand	Offensive language during a song; complaints handling.	Program classification; complaints handling.

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

Complaint handling by commercial radio stations

The Commercial Radio Codes of Practice & Guidelines requires each commercial radio broadcaster to provide the Federation of Australian Radio Broadcasters (FARB) with an extract of the record of complaints received. FARB provides a consolidated report to the ABA.

April—September 2000

Member stations recorded 548 written complaints alleging breaches of the Commercial Radio Codes of Practice during the second and third quarters of 2000. Discussion/talkback programs once again dominated the number of complaints received under the codes.

Complaints made to commercial radio stations about programs:

April—September 2000

	Talkback & Discussion	News & Current Affairs	Music Programs	Advertising	Miscellaneous	Total
Offensive matters in	118	9	19	20	12	178
Prohibited matter in	3	—	2	—	—	5
Other complaints	116	23	84	25	117	365
Total	237	32	105	45	129	548

Source: FARB Commercial Radio Codes of Practice: Complaints Summaries June and September quarters 2000

Your Say

Complaint handling by commercial television stations

The Commercial Television Industry Code of Practice requires each commercial television broadcaster to report to 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.

April—September 2000

Commercial television stations reported 591 written complaints relating to matters covered by the Commercial Television Industry Code of Practice in the second and third quarters of 2000.

Complaints about classification issues comprised the bulk of complaints. Complaints about discrimination increased sharply, largely due to a station promo-

tion and the program 'Beauty and the Beast', both broadcast by Network Ten.

In 24 instances a station agreed that a complaint identified a breach of a code provision. These instances involved:

- unfairness during an interview on the Nine Network's 'A Current Affair' (six complaints);
- closed captions not being present as advertised (five complaints);
- a potentially dangerous game on the Seven Network's 'Saturday Disney' program (three complaints);
- inaccurate reporting during QTQ Brisbane's 'News'(two complaints);
- inappropriate behaviour during the Network Ten PG classified program 'Love Rules';
- program promotion for 'Love Rules' inappropriately placed by TNQ

Queensland;

- insulting and insensitive remarks made about the Pope during the Nine Network's 'The Today Show';
- program promotion for 'Futurama' inappropriately placed by STQ Queensland;
- a dangerous and imitable sequence shown on QTQ Brisbane's 'Extra' program;
- program promotion for 'Worlds Greatest Commercials—Adults Only' inappropriately placed by STQ Queensland;
- unfair interview with a British squatter during the Nine Network's 'The Today Show'; and
- program promotion for an item on sex crimes to be shown during 'Today Tonight' was inappropriately placed.

Complaints made to commercial television stations about programs: April–September 2000

	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		3			6				1					11	1.9
Comedy	15	7	17		1	2			1	1					45	7.6
Current Affairs	3					7	52	4	11	1		2			80	13.5
Documentary	1		1												2	0.3
Drama Series	13		6			2			3	1		2			27	4.6
Game	3									3					6	1.0
Information	25	21	3	1	1	9			97	1		1			159	26.9
Movies	4	6	2						1	5	3				21	3.6
Music Video	1	1							1						3	0.5
News	1					2	4		1		6				14	2.4
Sport	4								3	9	5				21	3.5
Variety	20	3		1	1	2			5						32	5.4
Unspecified		2				1			1	1	66	1	1		73	12.4
Promos	24	3	12			5	1		52						97	16.4
Total	115	43	44	2	3	36	57	4	173	20	87	1	6	0	591	100.0
%																
All Complaints	19.4	7.3	7.5	0.3	0.5	6.1	9.6	0.7	29.3	3.4	14.7	0.2	1.0	0.0	100.0	

Drama Series includes Serials

Source: FACTS Commercial Television Industry Code of Practice: Complaints Summary June and September Quarters 2000

