

The full reports on these investigations into potential breaches by licensees are on the ACMA website, www.acma.gov.au. Go to ACMA > Publications > Broadcasting > Investigations and then Radio operations and Television operations. The reports are arranged in order of licensee.

Channel 7's slow response breached code

ACMA has found that Channel Seven Melbourne Pty Ltd, licensee of commercial television station HSV Melbourne, breached the commercial television code of practice by not providing a substantive response to a complaint within 30 days.

ACMA received a complaint about the loudness of advertisements for the Melbourne Exhibition Centre sale broadcast on HSV between 24 December 2005 and 13 January 2006. Clause 1.11 of the code requires that commercials must not be excessively noisy or strident. ACMA found that the licensee of HSV did not breach clause 1.11 of the code.

Under clause 7.10 of the

Commercial Television Industry Code of Practice, licensees are required to respond to complaints about code matters within 30 working days after receipt of the complaint.

HSV later provided the complainant with a substantive response to the complaint, notified its staff of ACMA's finding and advised ACMA that it will use the finding as an example in its regular code of practice training sessions. As this was the first time HSV had breached this provision of the code, ACMA considered that the steps taken by HSV were sufficient. ACMA will continue to monitor HSV's compliance with this code.

Investigations under Part 11 of the Broadcasting Services

Act are conducted in response to complaints received by ACMA relating to a possible breach by a licensed broadcaster of the Broadcasting Services Act, the regulations, a licence condition, a class licence or a code of practice; or the ABC or SBS of a code of practice. There is a different code of practice for each broadcasting sector, and each contains a section that explains the complaints process that applies to that sector.

When making a complaint to ACMA, persons must provide a copy of their complaint to the station, a copy of the station's reply if this has been received, and any other relevant correspondence with the station. For valid complaints, ACMA

considers the information provided and offers the relevant station an opportunity to give its side of the story. When all relevant information is available, ACMA assesses the complaint against the relevant licence condition or code of practice. When an investigation is completed, ACMA is required to notify a complainant of the results of an investigation.

ACMA has discretion whether or not to publish the report of an investigation under Part 11.

The investigation report is on the ACMA website at www.acma.gov.au (go to ACMA > Publications > Broadcasting > Investigations > Television operations).

Internet complaints in August 2006

ACMA's internet complaints hotline enables Australian residents to complain to ACMA about prohibited or potentially prohibited internet content. Complaints can be registered on the ACMA website at www.acma.gov.au/hotline. Internet content is assessed in accordance with the National Classification Code and Guidelines. The prohibited categories for Australian-hosted content are RC (Refused Classification), X 18+ (consensual sexually explicit material), and material rated R 18+ (Restricted) that is not protected by adult verification procedures. For overseas-hosted content, the prohibited categories are RC and X 18+. For Australian-hosted prohibited items, ACMA issues a take-down notice to the relevant internet content host, directing it not to host the content. Failure to comply may result in a maximum penalty per day of \$5,500 for an individual and \$27,500 for a corporation. For overseas-hosted prohibited or potentially prohibited items, ACMA notifies the content to the suppliers of approved filter software in accordance with procedures outlined in the internet industry codes of practice. Under the codes, internet service providers are required to provide one or more approved filters for the use of their subscribers. In addition, if ACMA finds internet content is of a 'sufficiently serious' nature (such as child pornography), it will notify the relevant police force and/or the relevant accredited hotline overseas.

Items actioned, August 2006

Classification and description of internet content ⁴	Australian-hosted items (take-down notice issued)	Overseas-hosted items (referred to makers of filters)	Total
X – Actual sexual activity	0	7	7
R – Themes	1	0	1
RC – Child – depiction	0	28	28
RC – Bestiality – depiction	0	2	2
Totals	0	37	38

4. Descriptions of internet content in this table are based on the National Classification Board's Guidelines for the Classification of Films and Computer Games 2005, available at <http://www.oflc.gov.au/resource.html?resource=62&filename=62.pdf>

Internet complaints, August 2006

Complaints received	56
Invalid complaints ¹	4
Investigations terminated ²	1
Investigations completed	46
Items actioned ³	38

1. A complaint is not investigated by ACMA if:
 • the complaint does not meet the statutory requirements under subclause 22(3) and clause 25 of Schedule 5 (eg no internet address provided; complainant not an Australian resident); or
 • the complaint falls within the meaning of subclause 26(2) of Schedule 5 (frivolous, vexatious, not made in good faith, or made for the purpose of frustrating or undermining the effective administration of the scheme); or
 • the complaint concerns matters not within the scope of Schedule 5 (eg the complaint relates to an electronic 'virus').

2. A complaint is terminated under subclause 26(4) of Schedule 5 if ACMA has insufficient information to conclude the investigation.

3. ACMA assesses each piece of internet content, such as a single web page or newsgroup posting, separately (these are referred to as 'items' of internet content). Action is taken in relation to items of internet content found to be prohibited or potentially prohibited.