



BROADCASTING COMPLAINTS

Under the Broadcasting Services Act, each broadcasting industry sector is required to develop codes of practice applicable to the broadcasting operations of its sector of the industry. ACMA monitors the operation of these codes and performs an independent adjudicator role when complaints are not resolved between the complainant and the licensee concerned.

This summary is of ACMA investigations into unresolved complaints, as well as complaints about possible breaches of the Broadcasting Services Act or licence conditions. The summary covers investigations completed in the three months to 30 September 2005.

There is also, with the cooperation of FreeTV Australia and Commercial Radio Australia, a three-month report of the number and substance of complaints made directly to the commercial broadcasters.

SUMMARY OF ACMA INVESTIGATIONS INTO UNRESOLVED COMPLAINTS

SEPTEMBER QUARTER 2005

INVESTIGATIONS

Number of investigations finalised in the three months: **49**

Investigations resulting in a breach: **13**
(The 13 investigations resulted in 12 breaches of a code of practice and two breaches of a licence condition and one breach of the Broadcasting Services Act.)

Investigations resulting in no breach: **31**
Investigations terminated: **5**

Of the 13 investigations finding a breach, eight related to commercial television, three to community radio and two to commercial radio.

The breaches covered seven broad issues:

- complaints handling (six breaches)
- broadcast of material exceeding the classification level of a rated program or a pre-classified viewing time (three breaches)
- failure to present news or current affairs accurately (one breach)
- breach of a licence condition by broadcasting advertisements (two breaches)
- lack of captioning, breaching the Broadcasting Services Act (one breach)
- breach of a licence condition by broadcasting more than the permissible five minutes of sponsorship announcements per hour (one breach), and
- failure to have a written internal conflict resolution policy in place (one breach).

THE COMPLAINTS PROCESS

Primary responsibility for the resolution of code-related complaints rests with the licensees themselves. The Broadcasting Services Act lays down a general procedure for complaint handling whereby a complainant is required to approach a licensee 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 may then be referred to ACMA for investigation. ACMA refers to these as unresolved complaints and must investigate such complaints unless satisfied that a complaint is frivolous, vexatious or not made in good faith.

Complaints about possible breaches of program standards (children's television, Australian content and commercial radio), about the Broadcasting Services Act itself and about licence conditions may be made directly to ACMA – complainants are not obliged to contact a licensee first.

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