ACMAsphere

Privacy guidelines for broadcasters launched
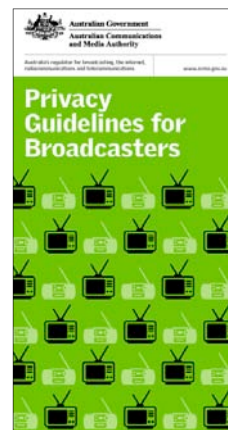
Privacy Guidelines for Broadcasters

ACMA has released a booklet, *Privacy Guidelines for Broadcasters,* to provide guidance to broadcasters and the public about issues relating to privacy that broadcasters might encounter in their everyday practice. In launching the guidelines in Sydney on 23 August, ACMA Acting Chair Lyn Maddock acknowledged the extensive and valuable input from all broadcasting sectors in developing the guidelines, particularly the contributions of Free TV Australia (representing commercial television), the Australian Subscription Television and Radio Association (ASTRA) and Commercial Radio Australia. An extract from her speech at the launch follows.

The booklet deals with an important issue—how to balance respect for an individual's privacy with the media's role of reporting matters of public interest. On many occasions there will be no easy answer to this question. However, we hope that these guidelines will help to raise the level of media and public awareness about the issues.

I'd like you to consider the following two stories.

The first is a story that was broadcast on a national commercial television current affairs program about the drug taking practice known as 'chroming'.

Amongst other things, the story included shots of young people chroming in a public park and interviews with two teenage 'chromers'. The two teenagers were identified by their first names and were clearly visually identifiable. They were described as being 14 and 15 years old.

The second story comes from commercial radio.

A caller to a talkback program said that her husband, who she named and who was known to the presenter, was having an affair with a woman. The caller then gave the full name of the woman, who was also known to the presenter, and over the next few minutes gave more personal information about her, including her marital

Racing tips company fined for breaching Spam Act

ACMA recently fined two companies a total of $13,200 for breaches of the *Spam Act 2003.* The companies sent out more than 50,000 commercial SMS messages marketing an investment scheme for software providing horse racing tips.

Global Racing Group Pty Ltd, based in Queensland, was issued with infringement notices for penalties of $11,000 for sending unsolicited commercial SMS messages in breach of the Spam Act. The company arranged for the messages to be sent in a series of campaigns targeting Australian mobile numbers between June and December 2004.

Australian SMS Pty Ltd, a specialist SMS messaging company that is also Queensland based, was contracted by Global Racing Group to send the messages. It was fined $2,200 and gave ACMA an enforceable undertaking to abide by the Spam Act and the Australian eMarketing Code of Practice.

While an overseas operator was engaged by Australian SMS to send the messages, the 'Australian link' provision of the Spam Act applies because companies centrally managed in Australia authorised the sending and the messages were received in Australia.

Global Racing Group advised ACMA that it has stopped sending SMS advertising. Australian SMS has also stopped sending messages for Global Racing Group and overhauled its practices to comply with the Spam Act. This includes requiring many of its customers to ensure they comply with the Act.

Under the Spam Act, commercial electronic messages must only be sent with consent and must include accurate identifying information about the sender and a functional unsubscribe facility. SMS spam is often perceived as more intrusive than email spam.

The ACMA action follows complaints from the public about these activities.

Since the Spam Act came into force in April 2004, ACMA has required 350 businesses to amend their practices to comply. Fines totalling more than $20,000 have been issued to five businesses, three businesses have provided enforceable undertakings; and court action is being taken against an alleged global spammer in the Federal Court in Perth.

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New ENUM concept may clear the way for VoIP peering

Currently, many providers of VoIP services rely on the public switched telephone network to connect services, or peer, with other providers. This can reduce the quality of service for users and limit the availability of enhanced features such as messaging, which are not supported by the telephone network. If service providers were able to use VoIP peering instead, this may enable all-IP networks to remove the need to pay telephone network termination charges.

In its original form, electronic numbering (ENUM) is not ideal for VoIP peering, because provisioning of the critical call-routing information was the responsibility of the customer, rather than the provider. However, proposed changes to the ENUM protocol discussed at the July meeting of the Internet Engineering Taskforce meeting in Paris may solve this problem. Called 'Carrier' or 'Infrastructure' ENUM, this new concept builds on the original purpose of the ENUM standard, but effectively splits the information stored in ENUM into two domains, one for end-users and one for providers.

Although Infrastructure ENUM is a very recent development, it has already gained a lot of momentum and has seen interest from service providers and organisations with no previous interest in ENUM.

ACMA is currently discussing with service providers and parties involved in the Australian ENUM trial the possibility of incorporating the Infrastructure ENUM concept into the trial, without affecting testing of the user ENUM concept. This would provide an open platform for providers of VoIP services to test the potential for peering.

ENUM is a protocol created by the Internet Engineering Taskforce to bridge the gap between the internet and the telephone network by enabling telephone numbers to be mapped to internet addresses represented by uniform resource identifiers (URIs). URIs represent points of contact on the internet, such as email and web addresses, and addresses for IP telephony.

Trials of ENUM are under way in several countries in Europe, North America and Asia, with the first commercial ENUM service being launched in Austria late in 2004. The Australian trial commenced in June and will run for a minimum of twelve months. More information about the Australian ENUM trial is on the ENUM trial website, www.enum.com.au.

PRIVACY GUIDELINES FOR BROADCASTERS LAUNCHED

status and the number of children she had. During this time, the presenter interjected with comments about the woman, including: 'she's a tart' and 'taking your old man off you—that's shocking'.

These two stories are summaries of broadcasts investigated by ACMA's predecessor, the ABA, following complaints made on behalf of the two teenagers, in the first case, and from the

television industry code of practice.

In the same period, there were 15 privacy investigations relating to commercial radio resulting in seven breaches of the Commercial Radio Codes of Practice. There were no privacy-related investigations in relation to community, national or subscription services.

These figures suggest that the level of risk of an invasion of privacy by the media is

> ... when an individual's privacy is invaded by the electronic media, the harm is done when the broadcast takes place. And unlike reports involving ... factual errors, this harm can't be undone by an apology or a correction.

woman alleged to have been having the affair in the second.

They illustrate the types of privacy issues we as regulators consider and illustrate the tensions between public interest and private interest. And they are examples that lead to the concern often expressed in the community about privacy and the media.

COMMUNITY CONCERNS

Research conducted by the ABA on three separate occasions since 1999 suggests that privacy is an issue of interest and concern to the community, both generally and in relation to the media. Concern was higher in relation to television than it was to radio.

These findings are in line with the level of complaints to the ABA about alleged invasions of privacy.

Between 1996 and 2004, the ABA investigated 67 privacy-related complaints relating to commercial television programs. These resulted in 21 breaches of the commercial

probably not great.

However, when a person's privacy is violated, the effects can be serious, and there may be considerable harm caused to the person concerned. This can potentially go beyond serious embarrassment to harassment and exclusion from, or detriment to, local social life and work opportunities.

And when an individual's privacy is invaded by the electronic media, the harm is done when the broadcast takes place. And unlike reports involving, say, factual errors, this harm can't be undone by an apology or a correction.

There's another factor we need to take to take into account when considering the numbers of complaints about privacy issues. I think we need to be cautious about assessing the level of community concern solely on the basis of the frequency of complaints. There are a couple of reasons for this.

Firstly, making a complaint about an invasion of privacy may be perceived by the person involved as, in effect, repeating

the invasion. Obviously this will vary from case to case, but I think it's entirely understandable that people considering making a complaint that their privacy has been invaded might decide that the benefits to be gained from proceeding with the complaint might be outweighed by the potential or perceived disadvantages.

Secondly, we might expect there to be a lower level of complaints about invasions of privacy than about other matters dealt with in the media because individuals who are not directly affected are probably less likely to complain.

This contrasts with other issues of public concern relating to media reporting, such as bias or inaccuracy, which are likely to generate complaints from a range of members of the general public, not just people directly involved with the issue.

The effect of these considerations in terms of regulation is that the regulation we put in place to deal with privacy aims to address not so much the frequency of incidents as the effects.

HOW PRIVACY ISSUES ARISE

That's one side of the coin. Now let's look at the other side. Are there any situations in which an invasion of individual privacy is justified? The answer, with some qualification, is yes. Broadly speaking, the invasion of an individual's privacy can be justified when the broader public interest is served by the disclosure of the material.

The qualification is that the broader public interest in reporting a story as a whole may not justify the use of particular material relating to an individual or individuals within the story.

Let's go back to the examples

I gave earlier to consider them from this point of view.

In relation to the 'chroming' story, the ABA took the view that there was a justifiable public interest in the story as a whole. It also took the view that because the chroming was going on in a public place, a park, there was no breach of privacy of the individuals involved.

However, the ABA also found that the two clearly identifiable young people featured in the story were unfairly identified. This was because they were minors, they were substance-affected when they were interviewed, and before the story went to air they had asked that their identities not be disclosed during the program.

Further, identifying the young people was not necessary to the story and their identities could easily have been hidden by pixillating their faces and removing references to their names and ages.

For these reasons, the ABA found that there had been a breach of the commercial television code of practice.

I should also note that since this investigation was finalised, a new clause about children's privacy has been added to the commercial television code of practice in relation to news and current affairs reporting.

Licensees are now required to exercise special care before using material relating to a child's personal or private affairs in the broadcast of a sensitive matter concerning the child, and to seek parental consent before broadcasting information about, or identifying, a child unless there are exceptional circumstances or an identifiable public interest reason not to do so.

In relation to my second example, from commercial radio, it's pretty clear that there

was no public interest factor involved. In this case, the ABA found that the material naming the complainant and alleging that she was 'the mistress' of the caller's husband and was 'playing up with him', was an invasion of the complainant's privacy. The ABA also found that the broadcast, without consent, of information about the complainant's family was an invasion of the complainant's privacy.

Both findings resulted in breaches of the Commercial Radio Codes of Practice.

PURPOSE OF THE GUIDELINES

So where do ACMA's *Privacy Guidelines for Broadcasters* come in?

The main purpose of the guidelines is to discuss, and provide guidance about, a range of issues relating to privacy that broadcasters might encounter in their everyday practice and, therefore to help them avoid potential problems in the area of privacy. They don't mandate behaviour and broadcasters can argue the case about specific situations.

However we hope that, particularly in light of the co-operation of the industry in the development of the guidelines, they will be a real contribution to helping educate broadcasters about their obligations as set out in the various codes of practice.

The core notion found in the privacy provisions of the various codes is that material relating to a person's private affairs should not be used without the person's consent, unless there is an identifiable public interest reason for the material to be broadcast.

The guidelines tease out some of the key issues in making this judgment, including: the difference between public and

private conduct, the use of publicly available personal information, the position of public figures and what constitutes the public interest.

And they have been developed in close liaison with the industry associations so that it is clear that we all have the same understanding of obligations with regard to privacy issues.

We would also expect that the guidelines will contribute to raising the level of public awareness about privacy matters and the electronic media.

Because privacy usually only becomes an issue of concern for members of the public after a problem has arisen, our hope is that a greater level of awareness about privacy issues amongst broadcasters will lead to fewer situations in which the privacy of individuals is unjustifiably intruded on.

ROLE OF ACMA

I want to now turn briefly to the role of ACMA as the Australian media regulator, with some comments that flow from the approach we have taken with privacy. I see the process of developing and implementing the privacy guidelines as a good example of the way ACMA intends to operate in the future.

In broad terms, ACMA's aim, insofar as it relates to broadcasters, will be to ensure that the regulatory framework within which broadcasters operate meets the social and cultural objectives of the Broadcasting Services Act without unnecessarily inhibiting innovation and competition in the broadcasting industry.

Two key factors in achieving this aim will be education and enforcement.

ACMA will do its best to continue talking with the industry and the public about

the framework within which broadcasting services operate. Of course, broadcasters have their obligations too, and under the Broadcasting Services Act they are required to take direct responsibility for their relationship with their viewers and listeners. The development of codes of practice and the associated complaints process is an example of this.

However, ACMA can contribute to a greater level of awareness and understanding of the obligations of broadcasters and the rights of viewers and listeners. The development of the privacy guidelines is an example of the way in which this can work.

Then there is the question of enforcement.

ACMA will manage compliance with the regulations in a way that is outcome oriented, encourages efficiency, allows innovation, and is fair and consistent.

However, if industry fails to meet its obligations ACMA will act decisively by taking enforcement action when necessary, and at a level that is

compliance with the legislation, this means that regulators have to be prepared to:
• respond quickly and in a flexible manner, and
• minimise the extent to which any regulatory intervention inhibits the development of industry and the broadcasting marketplace.

We are committed to doing that.

For industry's part, we expect broadcasters to act responsibly in relation to the expectations of the general community and to work co-operatively with ACMA to develop an environment in which broadcasters can get on with their business while at the same time fulfilling the requirements of the legislation.

In the final analysis, what the community, broadcasters and ACMA want is a diverse and stable media industry that is able to entertain, inform and educate Australian audiences.

I look forward to working with you over the next few years to ensure that this is what is provided.

The *Privacy Guidelines for*

> **... the material relating to a person's private affairs should not be used without the person's consent, unless there is an identifiable public interest reason for the material to be broadcast.**

appropriate to the problem.

ACMA is well aware that the broadcasting industry, and, I would think, the community at large, expects government and the regulator to recognise that in today's rapidly changing media and communications environment, business has to be able to move quickly and in directions that may not always be anticipated by regulators.

Insofar as this does not produce problems of

Broadcasters are on the ACMA website at www.acma.gov.au (go to Radio&TV> Content regulation > Guidelines > Privacy). For a free printed copy, contact ACMA on telephone 1800 226 667.

Community radio offers diversity of music, locally-produced programs, and community participation

ACMA has released research into the different services and operations of more than 260 community radio stations across Australia. 'This is a comprehensive report that illustrates the diversity of this important sector of the radio industry, and the way in which community radio serves distinct communities,' said Ms Maddock.

The report, *Survey of the Community Radio Broadcasting Sector 2002–03*, includes information on programming, program sources, music genres, number of staff, volunteers and subscribers, income and expenditure. These are broken down by location and categories of community interest as listed in the table below.

The data was collected using an online survey form by the Community Broadcasting Association of Australia (CBAA) in 2004 through its CBOnline Database Project. The project is an initiative of the Community Broadcasting Foundation that was funded by the Department of Communications, Information Technology and the Arts.

The Australian Broadcasting Authority (now ACMA) also provided financial assistance to the CBAA in order to increase the survey response rate and sample size.

The sample includes 154 stations out of a total of 262 community stations operating at the time of the survey. Sample weights were applied to the data to extrapolate sample estimates to the total population of community radio broadcasters across Australia.

The collaboration between

the CBAA, the Communications Research Unit (a unit of the Department of Communications, Information Technology and the Arts), and ACMA enabled the provision of aggregated CBOnline data from the CBAA, an independent analysis of the data by the CRU, and the publication of this report of statistical tables by ACMA.

USE OF THE RESEARCH BY ACMA

ACMA is using the research results when assessing community radio licence renewal applications.

As ACMA is responsible for the allocation and renewal of community radio broadcasting licences, the research data provides a basis from which to consider the operations of individual community radio licensees. 'This research is a very useful comparative tool to assist the Authority in assessing community radio licensees at licence renewal time,' said Ms Maddock.

The *Broadcasting Services Act 1992* requires that community radio licences not be operated for profit, that the community participate in the operations of the services and the selection and provision of

programs, that services meet community needs, and that licensees have the capacity to provide their services.

MAIN RESULTS

The national community radio sector broadcasts a total of 43,836 hours per week. Ninety-eight per cent (or 256 out of 262) of stations broadcast 168 hours per week, while the remaining stations broadcast between 126 and 150 hours per week.

MUSIC

Music was the mainstay of many community stations (accounting for around 70 per cent of total programming) with a wide variety of styles on offer. Music styles included classical, hip hop, electronica, jazz, and ethnic music, as well as more popular styles such as rock/pop, easy listening and country music.

The proportion of total programming time devoted to music ranged from around 75 per cent by general community, religious, Indigenous and youth services, to just over 90 per cent by services that target seniors/mature-aged and fine music communities. RPH and ethnic stations placed greater emphasis on spoken word programming (97 per cent and 60 per cent of total programming respectively).

The Community Broadcasting Codes of Practice 2002 require at least 25 per cent Australian music to be broadcast by individual community licensees as a proportion of total music. However ethnic and classical (fine music) services are required to broadcast a minimum of 10 per cent Australian music. The survey found that each sub-sector met,

Figure 1: Australian music as a proportion of total music broadcast – by sub-sector, 2002–03
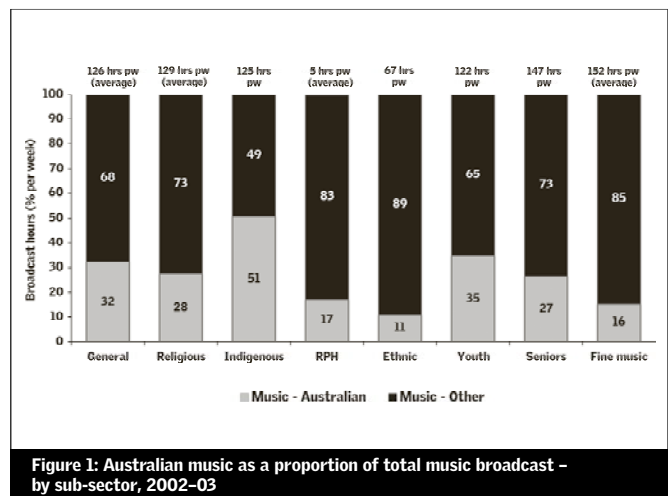
Figure 2: Gender of staff – by sub-sector, 2002–03 Note: percentages for the youth and seniors sub-sectors are not reported due to small sample sizes.

Figure 3: Volunteer numbers – by sub-sector, 2002–03

and in some cases exceeded, these code requirements (Figure 1).

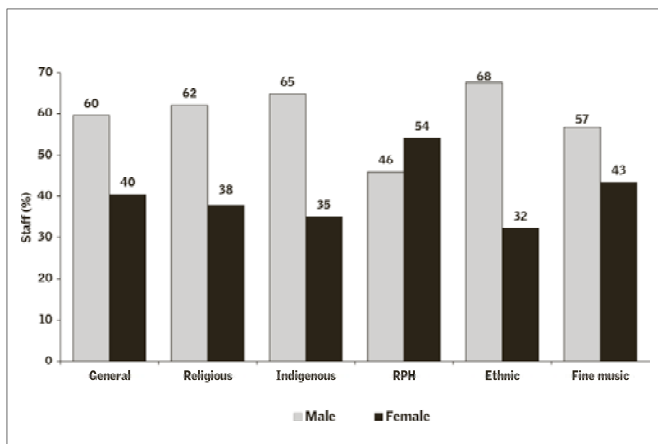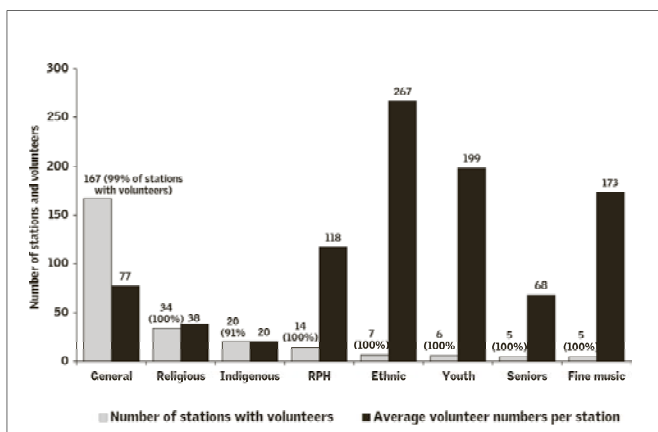## LOCALLY-PRODUCED PROGRAMS

Most programs were put together locally by individual community radio stations. On average, three-quarters of all programs across Australia were locally-produced. The remaining quarter was drawn from satellite services.

The proportion of locally-produced content was highest for youth services (95 per cent or 160 hours per station per week on average), fine music services (92 per cent or 155 hours), and stations that target seniors/mature-aged people (91 per cent or 147 hours).

Stations in metropolitan and suburban areas had the highest proportion of locally-produced content (86 per cent of total programming). This compares to 72 per cent for regional areas and 60 per cent for rural areas. Rural and regional services relied more heavily on satellite services than their metropolitan and suburban counterparts.

STAFF, VOLUNTEERS AND SUBSCRIBERS

Nationally, 144 community radio stations (55 per cent of all stations) employed a total of 880 staff, with an average of six staff employed per station. Less than half of staff were employed on a full-time basis. The remaining 118 stations (45 per cent) did not employ

staff. Generally, females accounted for less than half (39 per cent) of the number of employed staff across the community radio sector, with the exception of RPH stations where 54 per cent of staff were female (Figure 2).

The sector relied heavily on community support, with more than 20,000 volunteers in total, or an average of 80 volunteers per station across the sector.

The gender distribution of volunteers averaged 45 per cent female and 55 per cent male involved in each community station. As with staff, RPH stations were the only service type to have more female (62 per cent) than male (38 per cent) volunteers.

Two hundred and forty-one stations (92 per cent of all stations) reported having fee-paying subscribers, making a total of 113,400 people who subscribed to community radio stations across Australia. Fee-paying subscribers averaged 471 per station. Community participation in station operations was most evident in the ethnic, youth, and fine music sub-sectors with high levels of both volunteers and subscribers.

FINANCES

Community radio stations across Australia reported income of $46.6 million, with

an average income of $177,805 per station. Average income was highest for fine music, ethnic and Indigenous stations, and lowest for seniors/mature-aged stations. The sector drew from a range of income sources showing considerable diversity across the different community interest sub-sectors.

Sponsorship was the largest income item that accounted for almost one-third of total sector income. Grants from the Community Broadcasting Foundation accounted for $3.5 million or eight per cent of total income. The foundation grants were the most significant source of income for ethnic stations.

The sector reported a total expenditure of $45 million, and the average expenditure per station was $171,809. As would be expected, non-profit community radio services spend almost all of their income on operational requirements.

FURTHER INFORMATION

The CBAA will be releasing the 2003–04 survey results later this year.

The full report containing 82 tables and 20 figures is on the ACMA website at www.acma.gov.au and go to ACMA > Publications > Radio & Television > Broadcasting > Research.

COMMUNITY RADIO BROADCASTING SERVICES, 2002–03	
NATURE OF COMMUNITY INTEREST SERVED BY STATIONS	NO. STATIONS
General community	169
Religious	34
Indigenous (not including Remote Indigenous Broadcasting Services)	22
RPH (radio for print-handicapped)	14
Ethnic	7
Youth	6
Seniors/mature-aged	5
Fine music	5
Total stations	262

Note: some special interest community radio services, i.e. gay and lesbian, arts, and specialist music stations are included with general community stations for statistical purposes.

Connect outstanding code registered

ACMA has registered a new industry code that will result reduce delays for customers moving into new premises where the previous customer has failed to request disconnection of their service.

The new operational industry code was developed by the Australian Communications Industry Forum (ACIF) and registration makes it enforceable by ACMA.

It can be frustrating for a customer who moves into a new home or business and cannot immediately have a telephone service connected because the previous service is still active and the existing line is not available for reconnection. Referred to by the industry as 'connect outstanding', these situations affect a relatively small number of customers but can cause significant inconvenience.

Connect Outstanding – Industry Code ACIF C617:2005 contains clear rules and procedures for telecommunications companies to follow in such circumstances. The code reduces the timeframe allowed for service providers to contact the previous occupant, requiring the previous customer's service to be cancelled and a new service connected within eight business days. It also clarifies the obligations of the different parties involved in reconnection of a connect outstanding service.

It is the twenty-sixth telecommunications industry code to be registered on the list of registered codes. All codes previously registered by the Australian Communications Authority remain registered under ACMA.

The code is available through the ACMA website (www.acma.gov.au and go to Industry, >Codes, >Register of Codes).

LIPD licence variation allows short-range broadband communications

ACMA has varied the Low Interference Potential Devices (LIPD) Class Licence to authorise users to operate equipment in the 60 GHz spectrum band.

The variation supports the use of short-range wireless broadband equipment with very high data rates—up to 1 Gigabit per second or more. Similar equipment is already being used in the United States, Canada and Japan under the 'unlicensed' operation arrangements that apply in those countries.

The change is one of several variations ACMA has made to the LIPD class licence to reflect changes in technology and industry requirements. Medical implant communications systems (MICS) and medical implant telemetry systems (MITS) devices are now also authorised under the LIPD class licence.

A MICS device is a two-way short-range transceiver that provides for monitoring and control of a medical implant in a patient. A MITS device is a one-way transmitter for conveying information from an implanted device to an external monitoring receiver. The use, marketing and supply of these types of devices require approval by the Commonwealth's Therapeutic Goods Administration.

Other changes to the LIPD class licence include an expanded frequency range for low-power transmitters in the 2.5 GHz band and updated provisions for radio local area networks operating in the 5250–5350 MHz band.

The revocation of the Spread Spectrum Devices Class Licence removes duplication for certain spread spectrum devices with the LIPD class licence and possible confusion that may result. Operation of these devices is now authorised under the LIPD class licence, where previously operation could have been authorised under either licence.

The Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2005 (No. 1) and Radiocommunications (Spread Spectrum Devices) Class Licence (Revocation) 2005 instruments are available from the ComLaw website (www.comlaw.gov.au). For more information about the licence changes, contact ACMA on telephone 1300 850 115.

WHAT ARE RADIOCOMMUNICATION CLASS LICENCES?

Radiocommunications class licences are umbrella licences designed to provide 'public parks' or 'spectrum commons' for the use of various devices that have a low interference potential. Common examples of devices operated under class licences are garage door openers, remote car door locks and intruder alarms, wireless microphones, automatic tollway systems and tag security systems, as well as radio local area networks. Provided users are operating transmitters that comply with the conditions of the relevant class licence, individual licences are not required and no fees are payable.

Flexible and innovative regulators needed

Regulators will need to be flexible and innovative in the next few years to deal with the dynamic nature of the communications and media environment, Acting ACMA Chair Lyn Maddock told a recent industry conference.

Speaking at the 2005 Australian Mobile Telecommunications Association Conference on the new regulatory environment, Ms Maddock said the task now for regulators is to ensure that barriers to entry are minimal but that consumer protection is effective.

ACMA, as the newly merged telecommunications and broadcasting content regulator, faced a range of issues in the convergent communications and media market.

Ms Maddock said the broadcasting and communications industries, and the Australian community, expected the government and the regulator to recognise that in today's rapidly changing environment, business has to be able to move quickly and in directions that may not always be anticipated by regulators.

Regulators had to be prepared to respond quickly and in a flexible manner. They should also minimise the extent to which any regulatory intervention inhibits the development of industry and the relevant media and communications marketplace.

'ACMA is committed to achieving this type of regulatory approach,' she said.

Ms Maddock said ACMA expects telecommunications and radiocommunications providers and broadcasters to act responsibly in meeting the expectations of the general community and to work co-operatively with ACMA.

As a new organisation, ACMA faced a number of particular issues. One was creating a new corporate culture from merging two distinct organisations.

Since 1 July, the three pre-existing silos of telecommunications, broadcasting and radiocommunications had 'merged' through a series of strategic planning initiatives. Key corporate areas such as human resources, finance and IT had also been integrated and new website established at www.acma.gov.au.

By early October, ACMA intends to have a new strategic plan and to be working on the details of an organisation restructure that would recognise common areas of work and like responsibilities rather than continue the demarcation based on telecommunications, broadcasting and radiocommunications.

ACMA will be recommitting to the regulatory approach that underpinned its legislation. There will be strong emphasis on co-regulation with the preferred approach being industry development of codes of practice registered with the regulator. Standards, conditions and mandatory rules will continue to be used.

ACMA will manage compliance with the regulations in a way that is outcome oriented, encourages efficiency, allows innovation, and is fair and consistent.

'However, if industry fails to meet its obligations, ACMA will act decisively by taking enforcement action when necessary, and at a level that is appropriate to the problem,' Ms Maddock said.

'To add to the dynamism of our environment, there is a raft of new policy changes being considered by government—across all aspects of the ACMA's responsibilities from the requirements for high definition television broadcasting through to the regulatory obligations associated with the privatisation of Telstra.'

How will ACMA manage the emerging challenges posed by the telecommunications, radiocommunications and broadcasting issues?

'As a result of convergence, regulatory agencies in the current market can no longer rely on the "traditional model" of regulation—where the community standards, content-related safeguards and strict definition of categories referred to in legislation were implemented using a command and control model. In its place, regulators have to develop a flexible set of regulatory structures that focus on the achievement of core social policy objectives,' Ms Maddock said.

'The challenges facing ACMA will be significant, but they also provide exciting opportunities for both the industry and the regulator.

'For Australia to take full advantage of the social and economic opportunities presented by technology and service developments, it must have a communications and media industry that is constantly challenged to develop innovative services, increase quality and reduce prices.'

Minister releases Network Reliability Framework report

The report of the review of the Network Reliability Framework (NRF) conducted by the former ACA has been released by the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan.

The NRF was introduced as a Telstra licence condition in 2002, requiring Telstra to report regularly to ACMA on faults and fix poorly performing pockets in its fixed line network.

While the review found that Telstra's network and services are generally reliable, metropolitan areas have more reliable services than Australians living in rural, regional and remote areas. The review made recommendations aimed at improving the operation of the NRF, focusing on repairs in rural, regional and remote Australia.

The report is on the ACMA website at www.acma.gov.au (go to Consumer > Information Portals > Telecomms > Network Reliability Framework).

ACMA introduced at Hong Kong conference

CHRIS CHEAH

ACMA's Acting Deputy Chair, Chris Cheah, recently gave the first international presentation by Australia's new convergent media and telecommunications regulator. Mr Cheah was speaking at the Regulation in the Convergent Environment conference organised by the Television and Entertainment Licensing Authority and the Hong Kong Broadcasting Authority, held in Hong Kong on 29 August.

In his speech, Mr Cheah described the background to the merger, Australia's unique communications marketplace, the country's experience with communications regulation to date and some of the challenges ACMA faces, particularly in the next 12 months. He outlined key differences in the communications environment in Australia, the UK and Hong Kong environments, gave a potted history of some aspects of communications laws and markets, and talked about the convergence between different industries within the communications sector and between the communications and other industries.

Children's and preschool programs classified in August

Producers interested in submitting programs for classification should contact ACMA's Content Assessment Section on telephone (02) 9334 7700.

PROGRAM TITLE	SERIES	EPISODE NUMBERS	PROGRAM STYLE	PROGRAM TYPE	COUNTRY OF ORIGIN	NEW/ RENEWAL	CLASS	DECISION DATE	APPLICANT
The Blue Butterfly	1	1	Live action	Drama – feature film (TV)	Canada	New	C	12 Aug	Nine Network Australia Pty/Ltd
I Got a Rocket!	1	1–52	Animation	Drama – series	Australia	New	PRC	12 Aug	SLR Productions Pty Ltd
The Night Before Christmas— A Mouse Tale	1	1	Animation	Drama – telemovie (TV)	USA	New	C	10 Aug	Nine Network Australia Pty/Ltd
Roly in the Country with Blue	1	1–26	Animation	Drama – series	Australia	New	PRC	9 Aug	Dreamcloud Entertainment Pty Ltd
Scary Godmother	1	1	Animation	Drama – telemovie (TV)	Canada	New	C	22 Aug	Nine Network Australia Pty/Ltd
Scope	1	1–180	Live action	Information – magazine	Australia	New	C	10 Aug	Network Ten Pty Ltd
The Shak	1	1–65	Live action	Light entertainment – magazine	Australia	New	C	9 Aug	Nine Network Australia Pty/Ltd
The Tale of Jack Frost: The Boy with the Frozen Touch	1	1	Animation	Drama – telemovie (TV)	United Kingdom	New	C	9 Aug	Nine Network Australia Pty/Ltd

C – children's program, P – preschool program, CD – C drama, PRC – provisional C, PRP – provisional P, Class – classification

ACMA aims for trouble-free communications at the Commonwealth Games

Reliable communications are vital for the successful coordination of events like the Commonwealth Games to be held in Melbourne in March 2006. ACMA is responsible for ensuring the smooth operation of Games communications and its preparations are now well under way.

Games organisers, participants and media representatives need to communicate across several venues. Apart from managing the sporting events, communications are needed for coordinating site security, crowd control, time-keeping, catering, transport and emergency services personnel.

Trouble-free communications will be essential for more than 5,000 service providers, 15,000 volunteers and 3,000 local and international media personnel to stay in touch. As well as communicating with more than 4,500 athletes from the 71 nations and territories of the Commonwealth, Games organisers need to address the expected one million spectators, including thousands from overseas.

Under the service agreement with the Melbourne 2006 Commonwealth Games Corporation, ACMA assigns specific frequencies for radiocommunications requirements for the Games. Site inspections will also be conducted to minimise the likelihood of

radiocommunications interference or problems with telecommunications cabling. During the Games, ACMA will have up to 30 technical staff from its offices around Australia providing on-site assistance and advice throughout the event.

In addition to the apparatus licences already issued for tracking the Queen's Baton Relay as it progresses around Australia, ACMA oversees the frequencies used in the global positioning system technology that pinpoints the baton's location at any time. Transmitters in the baton communicate data via satellite such as travelling speed, motion, direction and distance travelled. Baton-Cam, two tiny cameras mounted in the baton, transmits video footage of the relay to the official Games website.

Careful management of the operation of communications equipment through radiocommunications licensing helps ensure the reliable communications service the Games demands. ACMA will adopt a flexible approach to

providing radiofrequencies for voice, data and television transmission,

To meet the anticipated demand, ACMA has embargoed vacant parts of the radiofrequency spectrum and it is anticipated that it will be able to provide additional frequencies if required during the event.

ACMA is also responsible for ensuring Games sites are free of radiocommunications interference. Although some communications equipment may be safe to operate in one particular country, it is not necessarily safe to operate in another. Differences in technical arrangements between countries, such as differences in power supply, voltage or operating frequencies, can be dangerous to the equipment operator and others in the vicinity.

ACMA planners estimate the broad demand in resources for the Melbourne 2006 Commonwealth Games will be considerably less than that required for the Sydney Olympics. However, Melbourne's flatter terrain means interference issues and ensuring reliable networks could prove more challenging.

Most radio interference problems in Sydney related to land mobile equipment and wireless microphones. Land mobile radio equipment
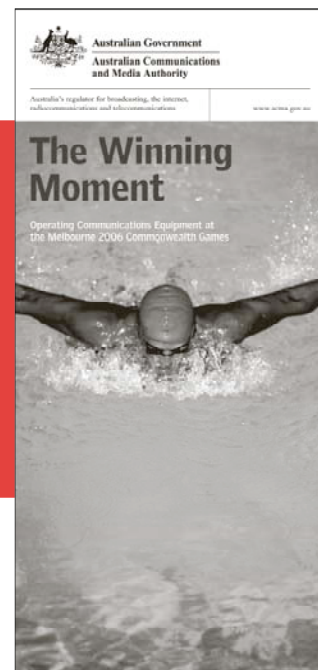
operates in all directions and can easily intrude on other communications services. The major problem with wireless microphones is that due to the large numbers operating in a confined area at such events, they have the potential to interfere with each other, especially when their signals are amplified. One broadcast can suddenly be received over another or static or breaks in the reception can occur.

Before the opening ceremony, ACMA will conduct a radiocommunications audit of the facilities at each venue. This is to ensure the electromagnetic compatibility of all devices and to check the level of radio emissions.

More information about ACMA's work for the Melbourne 2006 Commonwealth Games, including a brochure entitled *The Winning Moment – Operating Communications Equipment at the Melbourne 2006 Commonwealth Games,* is on the ACMA website at www.acma.gov.au (go to ACMA> Commonwealth Games).

Channels determined for digital repeater services in regional South Australia

ACMA has released a variation to the digital channel plans for Regional South Australia to include channels for digital television repeater services in the Riverland, Spencer Gulf and South East regions of South Australia.

The locations are Lameroo, Pinnaroo and Waikerie in the Riverland region; Burra, Clare, Coffin Bay, Cowell, Port Lincoln, Quorn and Tumby Bay in the Spencer Gulf region; and Bordertown, Keith, Kingston SE/Robe and Naracoorte in the Mt Gambier/South East region.

The plans set out the channels the existing commercial and national television broadcasters will use for their digital transmissions. ACMA has also identified as yet unassigned channels that may be used for other purposes, including datacasting.

'In finalising these plans ACMA weighed up a number of important factors. These include the aim of spectrum efficiency, the need to minimise any changes that viewers will have to make to their existing reception equipment to receive digital broadcasts and the desirability of broadcasters being able to use their existing transmission facilities to broadcast their digital television services,' said Ms Maddock.

'Fortunately, most viewers will be unaffected by the introduction of these services. For viewers in Keith and Coffin Bay only relatively minor disruption is expected as, in most cases, retuning of television sets and VCRs will be all that will be required,' she said.

'Public information and education campaigns will be established by broadcasters to deal with and provide timely advice on how to retune devices before any changes take place.'

An explanatory paper, which discusses issues raised in submissions, and the variation to the digital channels plans is available on ACMA's website, www.acma.gov.au (and go to Latest > Draft documents > Broadcasting > Draft Licence area plans (LAPs)).

Copies can also be obtained by contacting ACMA on telephone 1800 810 241.

Community radio service for Bicheno, Tasmania

ACMA has decided to make FM channel capacity available to provide community radio to the Bicheno region of Tasmania.

'The decision to make a channel available for community radio will add a local voice to broadcasting in Bicheno,' said Ms Maddock.

ACMA has made channel capacity available for the community radio service 7BOD Break O'Day at Bicheno on frequency 98.5 MHz at a maximum ERP of 200 watts.

The decision is contained in a variation to the Scottsdale radio licence area plan.

Bicheno is located on the eastern sea board of Tasmania and is a remote locality surrounded by rugged terrain located approximately 36 km to the south south-east of St Marys in the Break O'Day RA1 licence area.

The township of Bicheno has limited radio services, with only two national services, 7ABCRR and 7ABCRN, available and no localised radio broadcasting services. The national services are low powered and provide coverage to the township of Bicheno only.

In June 2004, a variation to the Scottsdale radio licence area plan included an extension of the Break O'Day community radio licence area to include the towns of Bicheno and Coles Bay.

The variation to the Scottsdale radio licence area plan is available from the ACMA or by calling Freecall 1800 810 241.

New legislation to protect submarine cables

Under new legislation, ACMA has powers to declare protection zones for telecommunications cables that lie under the sea in Australian waters.

There are nine submarine cables in Australian waters, eight of which carry about 99 per cent of Australia's voice and data traffic to other countries. These cables are vital to Australia's ability to communicate with the rest of the world, including the ability to conduct international trade. However, these cables are at risk of damage from some kinds of fishing, anchoring and dredging.

The new legislation allows ACMA to declare protection zones for submarine cables and to prohibit and restrict certain activities in those waters.

Key features of the submarine cable protection regime are that:
• ACMA can declare, vary or revoke protection zones for submarine cables
• certain activities are prohibited or restricted within a protection zone
• carriers need an ACMA permit to install submarine cables in Australian waters
• carriers and cable owners installing submarine cables in a protection zone will be exempt from certain state or territory laws and
• it will be an offence for anyone to damage a submarine cable in a protection zone, with maximum penalties of 10 years imprisonment or a $330,000 fine.

ACMA will conduct comprehensive consultation with interested stakeholders in the course of declaring submarine protection zones.

The *Telecommunications and Other Legislation Amendment (Protection of Submarine Cables and Other Measures) Act 2005)* was passed by the Australian Parliament in August 2005 and is on the website at http://scaleplus.law.gov.au/html/comact/12/7018/top.htm.

Temporary community broadcasting licences

Temporary community broadcasting licences allocated between 29 July and 31 August 2005

LICENCE AREA	LICENSEE	FREQUENCY	PERIOD	DATE ALLOCATED
New South Wales Sanctuary Point RA1	Bay and Basin Community Resources Inc.	92.7 MHz	1/09/05 to 1/12/05	19/08/05
Western Australia Kalgoorlie RA2	Tjuma Pulka (Media) Aboriginal Corporation	96.3 MHz	24/10/05 to 23/10/06	5/08/05
Northern Territory Alice Springs RA2	8CCC Community Radio Inc.	102.1 MHz (Alice Springs) and 102.1 MHz (Tennant Creek)	19/03/05 to 18/11/05*	18/08/05

*Licence period extended

New community radio service proposed for Oatlands, Tasmania
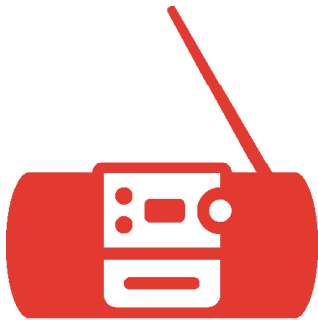
ACMA has sought public comment on a proposal to make a new community radio service available at Oatlands, Tasmania. The proposal is contained in an explanatory paper and draft licence area plan.

Before reaching a final decision, ACMA sought comment on the proposal to make channel capacity available for a local community radio service at Oatlands. The closing date for comments was 9 September 2005.

Oatlands is 60 km north of Hobart, outside the licence area of the Hobart commercial and community radio services, and reception of these services at Oatlands is considered fortuitous.

Mid FM, an aspirant community radio group at Oatlands has been operating on a temporary community broadcasting licence since May 2003 and has been providing a general format service.

A copy of the explanatory paper and draft licence area plan is available on the ACMA website, www.acma.gov.au (and go to Latest > Draft documents > Broadcasting > Draft Licence area plans (LAPs)) or contact ACMA on telephone 1800 810 241.

Changes proposed to commercial radio services in remote central and eastern Australia licence area

ACMA has sought comment on proposals to vary the technical specifications of commercial radio services in areas of remote New South Wales, Queensland, South Australia and Victoria.

The proposals are contained in an explanatory paper and draft variation to the radio licence area plan for Remote Central and Eastern Australia.

ACMA is proposing to vary the technical specifications of the 8SAT Remote Central Zone commercial radio service (Freshstream FM) at seventeen transmitter sites and to vary technical specifications of the 4RBL Remote North East Zone commercial radio service (Rebel FM) at five transmitter sites.

The areas affected by the proposed changes to the 8SAT service are Bourke, New South Wales; Jabiru, Northern Territory; Ceduna/Smoky Bay, Coober Pedy, Coonalpyn, Kapunda, Karoonda, Kingscote, Kingston SE, Maitland, Minlaton, Padthaway East, Pinnaroo, Roxby Downs, Streaky Bay and Woomera, South Australia; and Lake Mountain, Victoria.

The areas affected by the proposed changes to the 4RBL service are Chinchilla, Dirranbandi, Taroom, Wandoan and Weipa, Queensland.

The proposals include increases in maximum effective radiated power, change of transmitter sites, frequency changes, changes to antenna height and radiation patterns. These proposals follow consideration of requests from the licensees of the 8SAT and 4RBL services, W & L Phillips Pty Ltd and Rebel Radio Network.

In addition, ACMA is proposing to make FM channel capacity available for a second commercial radio service, 4BRZ (Breeze) at Bourke on 107.3 MHz, Chinchilla (97.1 MHz) and Weipa (97.7 MHz). Rebel Radio Network had expressed interest in providing the 4BRZ service to these areas.

Comments closed on 30 September 2005. A copy of the explanatory paper and draft variation to the licence area plan is available on the ACMA website, www.acma.gov.au (and go to Latest > Draft documents > Broadcasting > Draft Licence area plans (LAPs)) or contact ACMA on telephone 1800 810 241.

Significant events exemption for equipment testing and labelling

ACMA recently sought public comment on a proposal to exempt international visitors to Australia, who import radiocommunications equipment solely for use at 'significant events', from compliance with testing and labelling requirements of Australian technical standards.

Various kinds of radiocommunications devices are brought into Australia for use by international media representatives, participants and organisers for use immediately before and during short-term events such as the 2006 Commonwealth Games in Melbourne.
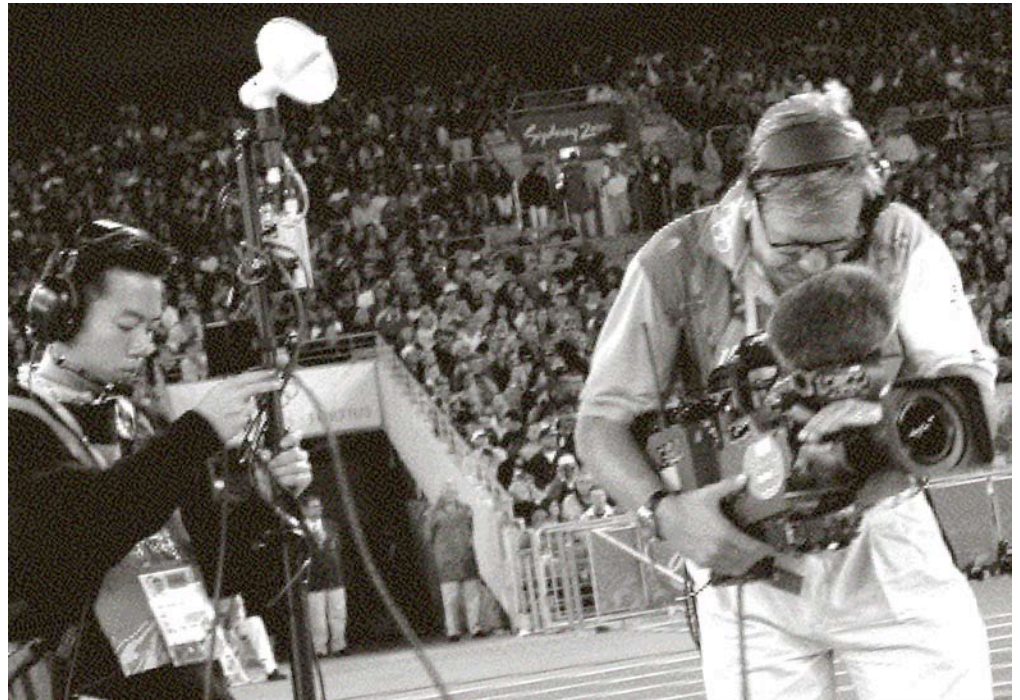
Proposed changes to the regulatory arrangements exempt importers from the obligation to label and test devices brought into Australia for the duration of a designated significant event. It also gives ACMA greater flexibility in managing the licensing aspects of such events. For the most part, equipment supplied for such events would comply with the relevant Australian Standards.

ACMA will determine whether an event is a significant event on a case-by-case basis and will identify the event as such on a specific webpage on the ACMA website. The webpage will provide details of the event, including the duration and location(s).

Where an event is determined as a significant event, licensing will still be required for all equipment used at the event and normal frequency assignment processes will apply.

The exemption will only apply to the period in which the significant event runs, at specified locations, and will cover only those devices imported solely for use at the event. The proposed arrangements will not condone the use of non-compliant equipment in Australia without ACMA having further risk-mitigation processes in place.

ACMA, in conjunction with event organisers, will examine the need for implementing mechanisms to minimise any risks or harm to radiocommunications users, for example:
- provision of on-site ACMA staff to provide regulatory support
- on-site monitoring and interference resolution resources
- assessment and clearance of all equipment before it is used
- labelling of all devices assessed to indicate whether they can be used or not and
- frequency coordination for users of class licensed devices such as radio microphones.

Event organisers, users and suppliers will be specifically informed that:

- the imported equipment is only exempted from normal compliance arrangements for the duration of the event and at specified locations indicated on the significant events page on the ACMA website and
- at the conclusion of the event equipment should be exported, otherwise the equipment becomes subject to and must comply with normal regulatory arrangements.

ACMA proposes to amend all the relevant technical standards made under section 162 of the *Radiocommunications Act 1992*, listed in Schedule 3 of the *Radiocommunications Devices (Compliance Labelling) Notice 2003*. Comments on the proposed changes closed on 31 August 2005.

The changes are expected to come into effect later this year.

Similar amendments were made recently to the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*. These amendments exempt importers of telecommunications equipment and cabling from the need to comply with applicable standards where the equipment is imported solely for use at a significant event, with connection managed by the telecommunications network operator, and is exported at the conclusion of the event.

For more information, contact ACMA by email to noel.higgins@acma.gov.au.

INVESTIGATIONS — BREACHES BY BROADCASTERS

6YCR York: no policy for internal conflict resolution

ACMA has found that York Community Radio Inc., the licensee of Western Australian community radio service 6YCR York, breached the Community Broadcasting Code of Practice 2002 by failing to have in place a written policy and procedure to facilitate internal conflict resolution.

On 4 April 2005, the ABA received a written complaint alleging that the licensee had failed to encourage members of the community to participate in the operations and programming of the service by requiring presenters to sign an agreement that includes the reimbursement of costs for damage to station property. It was also alleged that the licensee failed to establish a written conflict resolution policy.

The Australian Communications and Media Authority took over the role and responsibilities of the ABA from 1 July 2005.

ACMA determined that the licensee of 6YCR breached clause 6.2 of the Community Broadcasting Code of Practice by failing to have in place a written policy and procedure to facilitate internal conflict resolution, but did not breach paragraph 9(2)(c) of Schedule 2 to the Broadcasting Services Act in requiring presenters to sign a presenters agreement.

ACMA noted that, in response to the breach finding, the licensee is now formulating an internal conflict resolution policy, which is expected to be finalised by mid-September 2005.

ACMA considers that these actions address the compliance issues raised by the investigation and will continue to monitor the licensee's compliance with this requirement.

Today Tonight did not present factual material accurately

ACMA has found that Channel Seven Sydney Pty Ltd, the licensee of commercial television service ATN Sydney, breached the commercial television code of practice by failing to present factual material accurately in an item on the program Today Tonight.

On 29 March 2005, the ABA received a complaint from Pfizer Australia Pty Ltd regarding a segment broadcast on the Today Tonight program on 15 November 2004. The item concerned a link between a cholesterol-lowering drug Lipitor, which is manufactured by Pfizer, and memory loss. The complainant alleged that the licensee failed to present factual material accurately, presented material in a manner that created public panic and failed to provide a response to the complaint.

The Australian Communications and Media Authority took over the role and responsibilities of the ABA from 1 July 2005.

ACMA determined that the licensee of ATN breached clause 4.3.1 of the Commercial Television Industry Code of Practice 2004 in relation to the accuracy of the reporter's statement that most doctors know nothing about the link between memory loss and statins and also breached clause 7.9 of the code by failing to provide a substantive written response to the complainant.

ACMA found the licensee of ATN did not breach clause 4.3.2 of the code in that it did not present material in a manner that created public panic.

The licensee did not accept the breach finding regarding the accuracy of the reporter's statement, however, ACMA was not persuaded by an additional submission from the licensee and upheld its preliminary breach finding.

In relation to the complaint handling breach, ACMA noted that the licensee has issued all news and current affairs personnel an instruction that appropriate and diligent procedures for written correspondence must be put in place prior to taking any leave. ACMA considers this action addresses the compliance issue raised by the investigation and will continue to monitor the licensee's performance in this regard.

2UE breached complaints handling code but not vilification code

ACMA has found that comments about Carson Kressley, one of the hosts of the US television program, *Queer Eye for the Straight Guy*, broadcast during the *John Laws Morning Show* on commercial radio service 2UE Sydney did not breach the anti-vilification provisions of the commercial radio codes of practice. ACMA did find the licensee of 2UE (Radio 2UE Sydney Pty Ltd) breached the complaints-handling provisions of the codes by not providing a reply to complaints within the time limits stipulated.

The ABA received complaints on 7 January 2005 and 1 February 2005 about the *John Laws Morning Show* broadcast on 2UE Sydney on 3 November 2004. The broadcast occurred on the day after the 2004 Melbourne Cup, at which Mr Kressley had judged the Fashions on the Field competition.

The complainants alleged that the broadcast had incited homophobia and vilified homosexual identifying people as a group. The complainants were also concerned that the licensee had not provided a response to their letters of 8 November 2004 and 7 January 2005 respectively.

The Australian Communications and Media Authority took over the role and responsibilities of the ABA from 1 July 2005.

ACMA found that while the *John Laws Morning Show* broadcast on 3 November 2004 included comments that were offensive and tasteless, the licensee of 2UE did not breach clause 1.3(e) of the Commercial Radio Australia Codes of Practice 2004, as it was unlikely to have incited or perpetuated hatred against or vilified any person or homosexual identifying people as a group, on the basis of their sexual preference.

ACMA found the licensee did breach clause 5.6 of the codes, as it did not provide a reply to the complaints within the time limits stipulated in the codes.

In arriving at its decision, ACMA acknowledged the sensitivity that the gay community may have to matters such as that broadcast. However, ACMA also recognised that it was important for community views on such issues to be aired.

Under the codes, the licensee has an obligation to provide either an acknowledgement of receipt or a substantive response within 30 days of receiving a complaint. A final reply is to be provided within 45 days of receiving the complaint. ACMA found that the licensee did not comply with these provisions. Under the current co-regulatory scheme, radio and television stations have primary responsibility for handling complaints. This is seen as an intrinsic element of the co-regulatory scheme.

ACMA noted that in response to the breach finding, the licensee has apologised to the complainants for the unintentional oversight which resulted in the responses not being sent within the stipulated time limits and it has reminded relevant staff of the importance of ensuring that responses to listener complaints are dispatched promptly within the time limits stipulated by the codes.

ACMA considers that these actions address the compliance issues raised by the investigation and will continue to monitor the licensee's compliance with this requirement.

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.

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Bankstown community radio service breached limit on sponsorship announcements

ACMA has found Bankstown City Radio Cooperative Limited, the licensee of the community radio station 2BCR Bankstown, breached the Broadcasting Services Act by broadcasting more than the permitted amount of sponsorship announcements.

On 14, 16 and 18 March 2005, the ABA received a number of written complaints alleging that 2BCR had breached its licence conditions by broadcasting advertisements and sponsorship announcements that ran in total for more than five minutes in the hour, during the Radio Rim Jhim Ka Sangam program broadcast on 20 February 2005 and the Radio Jhankaar program broadcast on 13 March 2005.

The Australian Communications and Media Authority took over the role and responsibilities of the ABA from 1 July 2005.

ACMA determined that the licensee of 2BCR breached the licence condition at clause 9(1)(b) and 9(3)(b) of Part 5 of Schedule 2 to the Broadcasting Services Act on two occasions by broadcasting sponsorship announcements that ran in total for more than five minutes in the hour during both the Radio Rim Jhim Ka Sangam program broadcast on 20 February 2005 and the Radio Jhankaar program broadcast on 13 March 2005.

ACMA found the licensee did not breach clause 9(1)(b) of Part 5 of Schedule 2 to the Broadcasting Services Act, as it did not broadcast an advertisement during the Radio Rim Jhim Ka Sangam program broadcast on 20 February 2005.

ACMA notes that in response to the breach finding, the licensee has undertaken to incorporate the timing of announcements introducing upcoming programs that acknowledge sponsors within the five-minute limit in future; counselled the presenter of each program, who now understand the requirements of the sponsorship policy; and reaffirmed the sponsorship policy to all broadcasters in a written memorandum.

ACMA considers that these actions address the compliance issues raised by the investigation and will continue to monitor the licensee's compliance with the relevant licence conditions.

INTERNET COMPLAINTS, July and August 2005

Established under Schedule 5 to the Broadcasting Services Act, ACMA's internet complaints hotline enables Australian residents to complain to ACMA about prohibited or potentially prohibited internet content. Complaints can be registered 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 (ICH), directing the ICH not to host the content. Failure to comply with such a notice 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 (ISPs) 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.

COMPLAINTS	
Complaints received	128
Invalid complaints [1]	14
Investigations terminated [2]	15
Investigations completed	97
Items actioned [3]	121

ITEMS ACTIONED			
CLASSIFICATION AND DESCRIPTION OF INTERNET CONTENT	AUSTRALIAN-HOSTED ITEMS (take-down notice issued)	OVERSEAS-HOSTED ITEMS (referred to makers of filters)	TOTAL
Total X – Actual sexual activity	1	21	22
RC – Crime – promotion/instruction	0	1	1
RC – Violence – depiction	0	1	1
RC – Child – depiction	1	78	79
RC – Bestiality – depiction	2	0	2
RC – Sexual violence – depiction	0	4	4
RC – Sexual fetish – depiction	0	1	1
RC – Sexual fantasy – depiction	0	11	11
TOTALS	4	117	121

1. A complaint is not investigated by ACMA if:
   • the complaint does not meet the statutory requirements under clauses 22(3) and 25 of Schedule 5 (e.g. no internet address provided; complainant not an Australian resident) or
   • the complaint falls within the meaning of clause 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 (e.g. the complaint relates to an electronic 'virus').
2. A complaint is terminated under clause 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.

ACMA to host International Training Program this year

The International Training Program (ITP) will be hosted by ACMA for the first time this year. The program was developed by the former ACA in response to requests from international organisations for individual training and work-study programs.

The ITP provides an overview of regulation in Australia's competitive communications environment. It gives participants from countries introducing competition in communications services, or considering introducing competition, a chance to learn from Australia's experiences. The ITP also provides an opportunity for participants to network with individuals from organisations and countries in a similar position to their own, as well as those countries further along the path to open competition.

The ITP has three streams—Technical Operations, Regulation of Telecommunications, Broadcasting and Online Content and Spectrum Management and Frequency Assigning—held in Canberra and Melbourne. The Technical Operations Stream will spend three days in Hobart and at ACMA's International HF Monitoring Station at Quoin Ridge near Richmond in Tasmania. With the exception of the Frequency Assigning stream (which is a week-long program) the ITP gives attendees a general overview of topics rather than an in-depth study. Training sessions and material are conducted in English. This year's program will include emerging regulatory issues, such as spam and security, voice over internet protocol and the regulatory implications of convergence.

The next ITP will be held from 14 to 25 November 2005 with a limited number of places available. Registration details will be on the ACMA website later this year. For more information, or to be added to our mailing list, please contact ACMA on telephone +61 3 9963 6822, fax 61 3 9963 6970 or email debbie.pasalidis@acma.gov.au.

ACMA Broadcasting Conference 2005

DRAFT PROGRAM

TUESDAY	8 NOVEMBER
6.00–8.00 pm	Welcome reception and registration Hyatt Hotel Canberra
WEDNESDAY	**9 NOVEMBER - DAY 1** Following the value chain through from content creation to sales and marketing, the first day of the conference examines the key trends and issues shaping the fortunes of businesses in the industry and changing the landscape for regulators and audiences.
7.30 am	REGISTRATION/COFFEE
9.00–10.00	Welcome
10.00–10.40	MORNING COFFEE
10.40–11.50	**Content creation**—What's new and brewing for content creators? Multi-platform, cross-platform, interactivity, the long tail and event television. What are the implications of technological and industry change for the business of creation? What will it mean for the sort of content made and for how it's bought and sold.
11.50–1.00	**Aggregation**—What does Google mean to channels? Broadband and search engines bring new types of content aggregation. Peer-to-peer networks challenge existing distribution paths and define new audiences. Are there implications for the existing players and their brands?
1.00–2.00	LUNCH
2.00–3.00	**Transmission**—DVB-H; wifi; electricity cables. What's new, fatter or faster in the world of pipes and highways, and what does it mean for existing services and their competitors?
3.00–3.40	AFTERNOON TEA
3.40–4.50	**Access devices**—PCs and DVDs, Playstation and mobile phones. What are consumers using to watch and listen? Changes in devices and their use challenge everyone, from content makers to broadcasters and public interest advocates.
4.50–6.00	**Sales & marketing, consumers & advertisers**—How will advertisers spend their budgets to get their message to consumers? How are audiences dividing their attention between competing entertainment and information services? Are there tectonic shifts as well as cyclic change? What regulatory and business tensions can be expected?
7.30	**Dinner**, Hyatt Hotel
THURSDAY	**10 NOVEMBER - DAY 2** Is regulation losing touch with the real world of the industry? Following the first day's analysis of industry trends, Day 2 presents major speeches by two senior regulators from Australia and the UK, together with expert discussion of specific emerging pressure points in existing regulatory frameworks.
8.00 am	REGISTRATION/COFFEE
8.30–9.40	**The ACCC**—Graeme Samuel, Chairman, ACCC
9.40–10.40	**A retrospective**—The UK created a new, merged, converged media and communications regulator three years ago. Richard Hooper, Ofcom's Deputy Chair was there at the birth. With perfect timing for Australia's new regulator, he reports on lessons learned, what worked, and what didn't.
10.40–11.20	MORNING COFFEE
11.20–12.30	**The regulation of news and current affairs in a 'distributed' media environment**—Blogging, podcasting and searching are elements of the 'many-to-many' communication revolution. How big is the revolution and what are the effects? Will they take audiences and advertising revenues from existing media, or are they expanding the pie? Do bloggers and podcasters change the landscape so much that existing rules (content regulation, ownership limits) no longer make sense? Can the new participants be regulated? If so, should they be regulated?
12.30–1.30	LUNCH
1.30–2.40	**Non-commercial media**—What's happening to the role of non-commercial media? Public and community broadcasters are both affected by the changes to the media landscape. New opportunities emerge and established conventions are challenged. How will global competition affect public broadcasting policy and funding? How will they respond and what are the implications for the regulation of content or broadcast planning?
2.40–3.50	**Can platform-based regulation cope with blurred industry boundaries?** Existing regulation is based on platform – television, for example or the internet. It relies on industry-specific codes developed by industry organisations. What happens when the edges blur, when hand-held mobile phones or other devices, web services and broadcasters provide similar content? Is confusion and inconsistency inevitable? Does it matter?
3.50	CLOSE

ACMA BROADCASTING
CONFERENCE
2005

A two-day event to explore change and its regulatory implications **9 and 10 November** HYATT HOTEL CANBERRA

To register for the conference, go to the ACMA website: **www.acma.gov.au/events** where you can also subscribe to receive updates about the conference.

Asia-Pacific Telecommunity Standardization Program
10TH FORUM MELBOURNE 26 TO 28 OCTOBER 2005

The **forum** will be co-hosted by the Australian Communications and Media Authority and the Asia–Pacific Telecommunity.
A **workshop** on Internet Protocol Telephony and Next Generation Networks will also be held on 25 October 2005.

Registration: www.aptsec.org/meetings/ 2005/ASTAP10/ASTAP10_Attendancen- Form.doc.
Venue: Rydges Melbourne, 186 Exhibition Street, Melbourne Victoria, Australia.

More information: see the APT website at www.aptsec.org/Program/ASTAP/ pastap.html or contact ACMA's International Telecommunications section, telephone +613 9963 6800 or email itt@acma.gov.au.

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