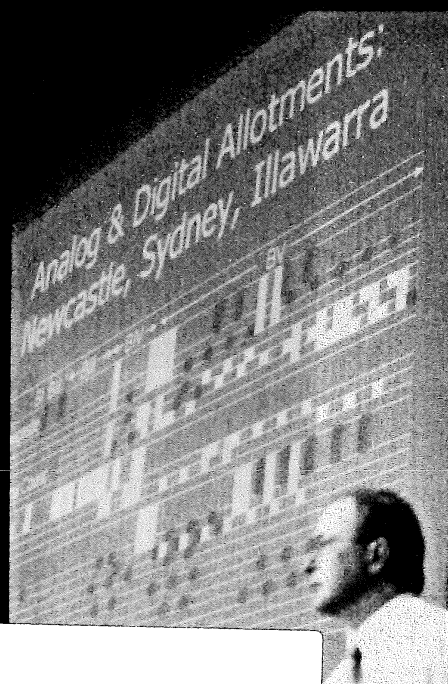




australian broadcasting authority



annual ²⁰⁰⁰⁻²⁰⁰¹ report

Australian Broadcasting Authority

annual report

Sydney
2001

our vision

Broadcasting and online services appropriate to the needs and circumstances of the Australian community.

To promote the provision of broadcasting and online services and the development of these industries in the best interests of Australians by:

- Ensuring that the public interest is addressed in accordance with the objectives of the Broadcasting Services Act;
- Fostering industry responsibility while ensuring broadcasting and online services comply with relevant laws and provide appropriate community safeguards
- Facilitating the use of broadcasting

services bands of the radio-frequency spectrum and other means of delivering broadcasting services to promote the efficiency,

accessibility and diversity of broadcasting services; and

- Providing advice to Government, industry and the community.

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ISSN 1320-2863

Design by Media and Public Relations,
Australian Broadcasting Authority

Cover design by Pro Bono Publico Communications

Front cover photograph: Assistant Director Engineering, Alastair Gellatly, outlines the digital television channel assignments for NSW at the ABA's first annual conference, May 2001.

Photo: Andrew Campbell.

Printed in Australia by Printing Headquarters, NSW

For inquiries about this report, contact:

Publisher

Australian Broadcasting Authority at address below

For inquiries relating to freedom of information, contact:

FOI Coordinator

Australian Broadcasting Authority
Level 15, 201 Sussex Street
Sydney NSW 2000

Tel: (02) 9334 7700

Fax: (02) 9334 7799

Postal address:

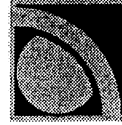
PO Box Q500

Queen Victoria Building NSW 1230

Email: info@aba.gov.au

Web site: www.aba.gov.au

PER
354 940087454
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Office of
Professor David Flint
Chairman

**Australian
Broadcasting
Authority**

Level 15 Darling Park
201 Sussex St
Sydney
PO Box Q500
Queen Victoria Building
NSW 1230
Phone (02) 9334 7700
Fax (02) 9334 7799
Email info@aba.gov.au
DX13012 Market St Sydney
www.aba.gov.au
ABN 16 097 897 479

28 September 2001

Senator the Hon. Richard Alston
Minister for Communications, Information Technology and the Arts
Parliament House
Canberra ACT 2600

A handwritten signature in cursive script, likely belonging to Senator the Hon. Richard Alston.

In accordance with the requirements of section 9 and Schedule 1 of *the Commonwealth Authorities and Companies Act 1997*, I am pleased to present, on behalf of the Members of the Australian Broadcasting Authority, this annual report on the operations of the Authority for the year 2000-2001.

A handwritten signature in cursive script, likely belonging to David Flint.

David Flint

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The year in review 2000-01

The first of January 2001 marked the start of the transition from analog to digital television. Twenty-five new digital transmitters (five each in Sydney, Melbourne, Brisbane, Adelaide and Perth) switched on, signalling the beginning of the biggest revolution in television since the change from black and white to colour TV in the 1970s.

The ABA had laid the groundwork for this new technology over the previous two years by planning the channels for the digital services to use. Broadcasters had invested in the infrastructure for its delivery whilst industry, through Standards Australia, had been developing the standards and specifications for digital television transmission and reception. The receiver standard is currently being revised to incorporate recent developments for multimedia and interactive applications.

Analog television has reached the ceiling of its potential while digital represents the floor of new possibilities. Digital TV holds out the promise of better quality pictures and sound, multi-channelling, program enhancements and interactivity. It is envisaged that there will be a gradual take-up of digital, so for most viewers the switch-on had no immediate appreciable impact. The existing analog television transmission network will continue to operate for at least the next eight years.

Both the analog and digital transmission networks use channels in the VHF and UHF parts of the broadcasting services bands. Having two transmission networks operating simultaneously means the ABA has had to find more than twice as many channels for television broadcasting. Fortunately, the digital technology enables channels that could not be used for additional analog television services to be used for digital, allowing the ABA's planners to meet this increased demand for channels. Each area has been planned with a least seven channels to enable conversion of the five existing networks plus capacity for two future services.

Preservation of viewers' access to their existing free-to-air services in the simulcast area is of paramount concern for the ABA. If the switch-on of new digital transmissions results in any interference to the reception of existing analog services by viewers, the ABA expects the television industry to deal with the problem, in part through the mechanisms of the ABA's Interference Management Scheme. In general, the ABA has been pleased with the industry's response to managing the impact on viewers of digital transmissions to date.

The ABA's analog planning and licensing processes have continued throughout the 2000-01 year, with the highlights being the auction of new commercial radio licences in Melbourne and Brisbane. In Melbourne,

Right: (L to R) Successful joint venture partners Paul Thompson (DMG) and Vincent Crowley (ARN) after the auction of the new Brisbane commercial radio licence.



Photo: Andrew Campbell



Left: The ABA's first annual conference combined technical and policy streams.

DMG Radio bid \$70m for a new licence while in Brisbane, a joint venture between DMG Radio and ARN bid \$67m for a licence.

Following on from the many new community radio licences it has made available in regional areas, the ABA allocated its first metropolitan licences during the year. The three licences for Sydney were allocated to Free Broadcast Incorporated (FBI), Gadigal Information Service (Gadigal) and Muslim Community Radio (MCR).

FBI will serve the youth and non-mainstream arts communities, while Gadigal will serve the Aboriginal and Torres Strait Islander community and those interested in indigenous culture and issues. MCR will provide the first permanent Muslim radio service in Sydney.

The new FM services will add to the diversity of voices that can be heard on the public airwaves. Sydney has Australia's largest population of young people and the country's largest indigenous and Muslim populations. The ABA anticipates the new services will have an invigorating effect on the communities the successful applicants propose to serve.

The ABA released final licence area plans for radio in Brisbane, Gold Coast, Gympie, Ipswich, Lismore, Murwillumbah, Nambour and Gosford

and draft licence area plans for radio in the Adelaide and Perth metropolitan markets.

The ABA's decision to make a new commercial radio licence available in the Gosford area was appealed in the Federal Court. The appeal was unsuccessful, but the applicant, RG Capital, which holds both commercial licences in the market, has sought leave to appeal to the High Court. The ABA sought, and was granted, an expedited hearing of the matter, after the date of this report.

Research

The first annual ABA Conference was held at the Hyatt Hotel Canberra on 3 and 4 May 2001.

Combining the technical streams of the ABA's Planning Conference, last held in 1999, with policy streams on Australian content, new media and pay TV, the conference attracted 248 attendees. These included a broad cross section of speakers and delegates from free-to-air and pay TV, commercial and community radio, the academic sector, hardware and software manufacturers, government and the media.

A number of research reports and findings were released at the conference. *Sources of News and Current Affairs* was a ground-breaking research

project that looked at how news is constructed in Australia. The study was carried out for the ABA by researchers at Bond University. *The Future For Local Content - Options for Emerging Technologies* was a report that considered the cultural and social objectives of media policy in the context of technological change - including the transition to digital transmission, multichanneling and datacasting. The project analysed Australian and international responses to the achievement of cultural and social objectives through content regulation, such as local content quotas and subsidy mechanisms, exploring their application in digital environments. The study was a collaborative project between the ABA and the Australian Key Centre for Cultural and Media Policy.

A third study, *The Commercial Television Industry 1978-79 to 1998-99*, found that despite the introduction of Government policies that have increased competition and extended the availability of services to more viewers in regional areas, commercial television advertising revenues have consistently grown faster than the Australian economy.

This study was a companion publication to an analysis of the commercial radio industry, *The Commercial Radio Industry 1978-79 to 1997-98*, released in November 2000. The radio study found that over eighty per cent of metropolitan commercial radio stations and nearly sixty per cent of regional stations changed hands in the 1990s – and the changes seem to have led to increased profits for those stations, despite commercial radio's share of the TV and radio advertising pie dropping five per cent in the decade to 1997-98.

Using the Internet is not the isolating experience sometimes suggested and adults are more skilled at it than children, were among the preliminary findings of a major research project into Internet usage in Australian homes, commissioned by the ABA and released in May 2001.

While the research showed very diverse patterns of Internet usage, families commonly connected to the Internet to assist adult family members

with work and study or for children's education. Children used the Internet mainly for entertainment and staying in touch with their friends.

Children's Views about Media Harm, a study that explores how children define and understand harmful media materials and their awareness of media regulation, was presented at the International Research Forum on Young People and the Media, in November 2000. It was designed and conducted jointly by the ABA and the University of Western Sydney Nepean.

There is already a large body of research that explores media influence from an adult and parental perspective, but this study in effect gives children a voice in the policy debate. The study gives young people the opportunity to discuss their parents' concerns in relation to media harm, and their own engagement with the media.

Below: Professor David Flint at the ABA's annual conference.

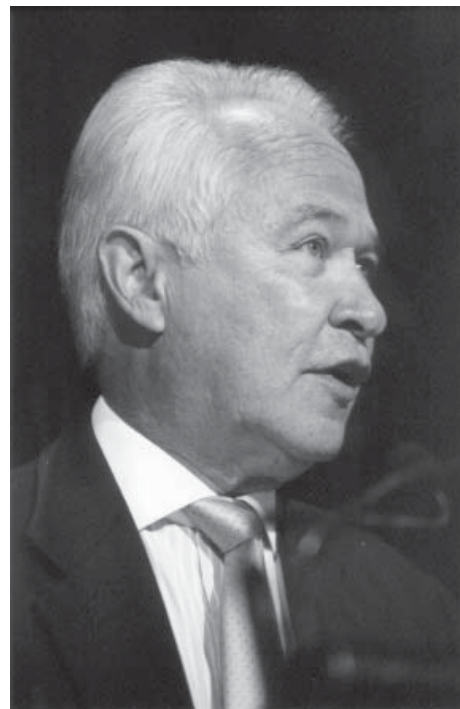


Photo: Andrew Campbell



Left: (L to R) Brad Gier of KL-FM and Professor David Flint at the ABA's broadcasting industry reception in Bendigo in October 2000.

Regulation

There were a number of instances throughout the year when the ABA decided that it needed to exercise its powers to increase the degree of regulation on broadcasters. The most notable of these was its decision, in November 2000, to impose three new program standards on commercial radio licensees.

In its commercial radio inquiry, the ABA found a systemic failure to ensure the effective operation of self-regulation. There was, if not an ignorance of the commercial radio codes of practice, little commitment to them as the guiding force in the presentation of current affairs on commercial radio. The ABA concluded that the codes were not operating there to provide appropriate community safeguards.

The ABA decided to put in place a period of more direct regulation. Unlike the codes, the three standards will operate as conditions on a broadcaster's licence. A breach can lead to enforcement action.

The three standards relate to disclosure of commercial agreements by presenters of current affairs programs, the need to distinguish advertisements from other programs and the

establishment of compliance programs by commercial radio licensees.

The standards commenced operation on 15 January 2001 and are due to end on 2 April 2003, the same expiry date as the conditions the ABA placed on the licence of 2UE Sydney following its investigation into that station.

The ABA expects the commercial radio industry to develop and submit to the ABA for registration, codes of practice to operate from 3 April 2003 that will provide at least the same level of community safeguards as are contained in the standards.

Radio is an influential medium. In particular, the treatment of current affairs on radio can influence the course of political and social debate in Australia. Talkback announcers carry considerable weight with many listeners and open-line current affairs programming is a significant source of information and opinions for the entire community. Commercial agreements with sponsors should be disclosed to the listening public.

In July 2000, the ABA imposed an additional licence condition on the licences of Queensland commercial television stations QTQ-9 Brisbane, BTQ-7 Brisbane, TVQ-10 Brisbane,

RTQ Regional Queensland, TNQ Regional Queensland and STQ Regional Queensland.

The ABA had found the six licensees in repeated breach of the licence condition relating to broadcasting political matter at the request of another person. The additional licence condition requires each of the six licensees to ensure that all those engaged on behalf of the licensees in the clearance of material for broadcast undertake a training program in the six months following the commencement of the condition. All licensees provided training programs to relevant staff.

Following the failure of the 1995 voluntary compliance scheme for the pay TV expenditure rules, Parliament introduced new enforceable legislation covering pay TV licensees and drama channel providers at the end of 1999. The rules require pay TV drama services to spend a minimum of 10 per cent of total program expenditure on new eligible Australian drama programs for each financial year.

The enforceable scheme will result in \$12.7 million of investment in new Australian drama, the ABA announced in June 2001. Actual expenditure was \$7.6 million in 1999-2000, with an additional \$5.5 million to be made up in 2000-01.

In October 2000, the ABA held a regional meeting with representatives of the broadcasting industry and others in Bendigo, Victoria. This was the first time the ABA had met in a regional centre.

Having meetings in regional centres helps the ABA to be more aware of local issues. Meeting face-to-face with broadcasters on a regular basis also enables the ABA to explain its work program and priorities and allows broadcasters to raise any matters of concern to them. The ABA has scheduled further industry meetings across Australia for the coming year.

Chapter 1

The Australian Broadcasting Authority

Establishment

The ABA was established by subsection 154(1) of the *Broadcasting Services Act 1992*, and began operations on 5 October 1992.

The ABA is an independent statutory authority responsible through the Minister for Communications, Information Technology and the Arts to the Parliament. It is required to prepare and furnish annually to the Minister a report on its operations during the preceding year for tabling in the Parliament. The Act provides for the appointment of a Chairperson, a Deputy Chairperson and at least one, but not more than five, other Members who may be full-time or part-time. The Members of the ABA are appointed by the Governor-General for periods of up to five years and are eligible for reappointment on one occasion only. The Minister may appoint persons to be Associate Members of the ABA, either generally or for particular investigations or hearings.

Functions

The primary functions of the ABA may be summarised as follows:

- (a) to provide advice to the Australian Communications Authority in relation to:
 - i. the spectrum plan and frequency band plans under the *Radiocommunications Act 1992* and the designation of bands for broadcasting purposes and
 - ii. the designation under section 131 of that Act of parts of the radiofrequency spectrum as being primarily for broadcasting purposes;
- (b) to plan the availability of segments of the broadcasting services bands on an area basis

- (c) to allocate, renew, suspend and cancel licences and to take other enforcement action under the Act;
- (d) to conduct investigations or hearings relating to the allocating of licences for community radio and community television services
- (da) to conduct investigations as directed by the Minister under section 171 of the Act;
- (e) to design and administer price-based systems for the allocation of commercial television broadcasting licences and commercial radio broadcasting licences;
- (f) to collect any fees payable in respect of licences;
- (g) to conduct or commission research into community attitudes on issues relating to programs;
- (h) to assist broadcasting service providers to develop codes of practice that, as far as possible, are in accordance with community standards;
- (i) to monitor compliance with those codes of practice;
- (j) to develop program standards relating to broadcasting in Australia;
- (k) to monitor compliance with those standards;
- (l) to monitor and investigate complaints concerning broadcasting services (including national broadcasting services) and datacasting services;
- (m) to inform itself, and advise the Minister, on technological advances and service trends in the broadcasting industry; and
- (n) to monitor, and to report to the Minister on, the operation of the Act.

In addition, the ABA has other functions under the Act and other legislation. These include giving opinions concerning the category to which broadcasting services belong, and determining additional, or clarifying existing, criteria for those categories; giving opinions on whether a person is in a position to exercise control of a licence, company or newspaper; and

administering aspects of the ownership and control rules applying to certain categories of licences. The ABA also issues evidentiary certificates stating that a specified service is, or was, a telephone sex service, pursuant to section 158F of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

The ABA also has a number of functions in relation to the regulation of Internet content:

- to investigate complaints;
- to register industry codes of practice and monitor compliance with those codes;
- to advise and assist parents and responsible adults in relation to the supervision and control of children's access to Internet content;
- to conduct and /or coordinate community education programs about Internet content and Internet carriage services;
- to conduct and /or commission research into issues relating to Internet content and Internet carriage services; and
- to liaise with regulatory and other relevant bodies overseas about cooperative arrangements for the regulation of the Internet industry.

For the purpose of exercising its powers and functions under the Act, the ABA is obliged to take account of:

- the objects of the Act and the regulatory policy set out in the Act;
- any general policies of the Government notified to the ABA by the Minister;
- any directions given to the ABA by the Minister; and
- Australia's obligations under the Protocol on Trade in Services to the Australia New Zealand Closer Economic Relations - Trade Agreement.

See appendix 1, Freedom of information, for more information about the ABA's role and functions.

Minister

The responsible Minister is Senator the Hon. Richard Alston, Minister for Communications, Information Technology and the Arts.

Members of the ABA

The Members of the Australian Broadcasting Authority are:



Chairman:
Professor David Flint AM

LLM, BSc(Ecs), DSU

Appointed 5 October 1997 for three years, reappointed to 4 October 2004.

Professor Flint, Professor of Law, was Chairman of the Australian Press Council from 1987 to 1997 and has been Chairman, Executive Council of World Association of Press Councils since 1992. Professor Flint was also Dean of Law at the University of Technology, Sydney.



Deputy Chair:
Ms Lyn Maddock

BEC

Appointed 13 December 2000 for three years.

Ms Maddock has extensive management and public policy experience across a range of areas, having held senior positions with the Productivity Commission, the National Occupational Health and Safety Commission, the Department of Prime Minister and Cabinet and Westpac Banking Corporation. Her policy experience has been concentrated in the areas of transport, communications and resources, regulatory affairs and public sector management.



Member:
Mr Michael Gordon-Smith

BA(Hons)

Appointed 15 September 1997 for three years, reappointed to 14 September 2004.

Mr Gordon-Smith was formerly the Executive Director of the Screen Producers Association of Australia, a trustee of the industry superannuation fund, JUST Super and a director of the Audio Visual Copyright Society.

He began his career by abandoning an engineering scholarship to pursue an honours degree in philosophy. Mr Gordon-Smith is an associate member of the Australian Communications Authority.

As at 30 June 2001



Member:
Mr Robert Le Tet

BE, BSB, AASA

Appointed 10 August 2000 for three years.

Mr Le Tet has been Chairman and Chief Executive Officer of the Filmhouse/Entertainment Media Group since the late 1970s. He was Chairman or Deputy Chairman of a number of commercial radio stations in Melbourne in the 1980s and 1990s, and co-founded EONFM, now known as FoxFM



Member:
Mr Malcolm Long

LLB

Appointed 10 August 2000 for three years.

Mr Long has extensive experience in the national and international broadcasting scene. He is Managing Director of the broadcasting, communications and new media strategic consultancy, Malcolm Long Associates. As Managing Director of SBS from 1993 to 1997, Mr Long was responsible for the services provided by SBS radio and television throughout Australia. Prior to joining SBS, Mr Long held various production and management positions with the ABC rising to the position of Deputy Managing Director.

He is a Director of Pan TV Ltd which operates the World Movies pay TV channel. Mr Long was President of the Australian Museum (1995-2000) and is a former Chairman of the London-based international Institute of Communications.



Member:
Mr Ian Robertson

LLB, BCom

Appointed 23 July 1997 for three years, reappointed on 10 August 2000 for a further four years.

Mr Robertson is the Managing Partner of the Sydney office of law firm Holding Redlich.

He practices commercial and intellectual property law with emphasis on the film, television, advertising and publishing industries.

Mr Robertson is a board member of Ausfilm, an advisory board member of the Media and Telecommunications Policy Group at RMIT, a former director and deputy chair of Film Australia Limited and a former director of Cinemedia.



Member:
Ms Jane Marquard

BA, LLB

Appointed 8 March 2001 for three years.

Ms Marquard was formerly the Manager, Policy Development for Publishing and Broadcasting Limited, and a council member of the Federation of Commercial Television Stations. She has also worked as Corporate Counsel for the Nine Network and served on a number of industry committees. Ms Marquard has experience in the private and public sectors, as a solicitor for Blake Dawson Waldron Solicitors, practising primarily in media and intellectual property law, and for the Director of Public Prosecutions, NSW. She has served on the board of the Sydney Festival and as a fellow of the University of Sydney Senate.

Associate members

Dr Robert Horton

Appointed 1 March 1998 for the general purposes of the ABA until 30 June 2000, and reappointed to 30 June 2005. Dr Horton is Deputy Chairman of the Australian Communications Authority.

Mr Ross Jones

Commissioner, Australian Competition and Consumer Commission, was appointed for general purposes of the ABA from 2 November 1999 to 13 June 2004.

Changes in membership

Deputy Chairman:
Mr Gareth Grainger

BA, LLM(Hons)

Mr Grainger's term expired on 22 July 2000. He had been appointed 23 July 1997 for three years.

Members:

Ms Kerrie Henderson

BA, LLB

Ms Henderson's term expired on 2 August 2000. She was appointed 17 February 1995 for five years and extended on 15 February 2000 until the completion of the commercial radio inquiry.

Mr John Rimmer

MA, DipSocStud, AMusA

Mr Rimmer left the ABA in January 2001. He was appointed 5 October 1997 for three years and reappointed on 10 August 2000 to 4 October 2004.

Senior staff (by branch and section)



General Manager Giles Tanner

Corporate Services



Director
Louise Harkness

- Human Resources
Julie Newman
- Information Management
Jenny Brigg
- Secretariat
Marilyn Woolford
- Resource Management and Planning
Tom Weir
- Information Technology and Facilities Management
Neil Shannon

Legal and Control



General Counsel
Jacqueline Gleeson

- Legal
Andrea Malone
- Control
Margaret Harradine

Planning and Licensing



Director
Jonquil Ritter

- Director Engineering
Fred Gengaroli
- Engineering and Information Services
Ennio Ravanello
- Radio Planning
Richard Longman
- Television Planning
Greg Cupitt
- Licensing
Helen Ward
- Branch Policy and Information
Nigel Ryan
- Branch Support
Barbara Quall

Policy and Content Regulation



Director
Andree Wright

- Codes and Conditions
Leon Atkinson-MacEwen
- Online Content Regulation
Richard Fraser
- Policy and Research
Phyllis Fong
- Standards
Lesley Osborne

As at 30 June 2001

Committees

The ABA works through a number of committees, which are designed to allow its deliberative work to be considered in more detail and to identify relevant and principal issues that need to be brought to the attention of the full ABA. At least three members sit on each committee, one usually acts as chair.

ABA staff act as advisers to the committees. In accordance with the requirements of the *Commonwealth Authorities and Companies Act 1997*, the committee members and their participation records are as follows:

Committee	ABA	Audit	Policy and Content Regulation	Legal and Enforcement	Corporate, Finance and Administration	Planning and Licensing
Professor Flint	20	–	8	7	9	17
Ms Maddock	14	2	5	4	7	14
Mr Gordon-Smith	22	4	9	8	13	21
Mr Le Tet	18	4	7	4	1	15
Mr Long	19	3	8	3	1	13
Ms Marquard	6	–	3	3	–	1
Mr Robertson	21	1	7	7	5	16
Mr Grainger	2	–	1	1	2	1
Ms Henderson	3	–	–	–	–	2
Mr Rimmer	13	1	3	–	–	10
Dr Horton	5	–	–	–	–	5
Mr Jones	0	–	–	–	–	–

PCR: Policy and Content Regulation (Codes and Standards, Online and Policy & Strategy merged October 2001)

L&E: Legal and Enforcement

CFAC: Corporate, Finance and Administration

PLC: Planning and Licensing

Internal and external scrutiny

There was one application to the Administrative Appeals Tribunal for a review of an ABA decision. This is discussed in appendix 10 - litigation summary.

Achievements against the Corporate Plan 1999-2003

The *Corporate Plan 1999-03* includes Our Vision and Our Mission (see inside front cover), Outcomes, Outputs, Goals and Strategies as well as Success Indicators by which our performance can be measured. The Goals and Success Indicators follow with a report of achievements against each. The performance report which follows on page 18 reports against the Goals and Strategies.

Outputs

- 1.1 Managed regulation of broadcasting**
- 1.2 Licensing of broadcasting services**

Goals

- 1 In partnership with industry and the community, safeguard the public interest through co-regulation of broadcasting services**
- 2 In partnership with industry and the community, implement a co-regulatory scheme for Internet content that addresses community concerns and encourages use of the Internet**
- 3 Allocation of spectrum for analog radio and television broadcasting services in all parts of Australia**
- 4 National and commercial television broadcasters, to have commenced digital services in metropolitan areas, and where achievable in regional areas**

Output 1.1 Managed regulation of broadcasting

Goal 1 In partnership with industry and the community, safeguard the public interest through co-regulation of broadcasting services

1.1.1 Codes are developed, implemented and evaluated

- The ABA has recommended, and the Community Broadcasting Association of Australia has agreed, to review the Community Broadcasting Codes of Practice with a view to improving and extending the responsiveness of the codes.
- The ABA has recommended, and the Federation of Australian Radio Broadcasters has agreed, to develop a code of practice for commercial radio to improve communications for emergency services and individuals when there is an emergency.

1.2.1 Standards are developed, implemented and evaluated

- As a result of the commercial radio inquiry in January 2001, the ABA developed and imposed three standards on the commercial radio industry.
- The ABA has streamlined the administration of displacement provisions by amending the Children's Television Standards. All commercial television networks met the minimum quota requirements for children's programs.
- The ABA assessed 59 programs (or series of programs) for C or P classification and granted classification to 51.

1.3.1 ABA contributes, as expert body, to Government inquiries into regulatory issues of public interest

- At the direction of the Minister for Communications, Information Technology and the Arts, the ABA investigated and provided reports on:
 - the treatment of development costs under pay TV drama expenditure rules;
 - the expenditure requirement for new eligible documentary programs on pay TV;
 - which events should be removed from, or added to, the anti-siphoning list;
 - the implementation of the anti-hoarding, or ‘must offer’, provisions of the Act;
 - the community television trial;
 - the advertising of ‘designated telephone sex services’.

1.4.1 Enforcement action taken where appropriate

- The ABA developed and implemented an investigative and enforcement strategy in relation to the provision of a commercial broadcasting service without a licence.
- The ABA is taking enforcement action against one licensee for non-payment of its licence fees.

1.5.1 Timely resolution of complaints

- The average time for the ABA to complete an investigation (into a programming related matter) during the reporting period was approximately 11 weeks, two weeks shorter than the average time taken in the previous reporting period.
- The ABA completed 67 per cent of investigations commenced within the reporting period within 12 weeks, 93 per cent within 26 weeks and 98 per cent within 32 weeks.

1.5.2 The ABA is satisfied with industry compliance

- The ABA welcomes the continued compliance by commercial television broadcasters with the standard for Australian content as evidenced by all commercial television networks:
 - exceeding the minimum 55 per cent Australian transmission quota for Australian content;
 - exceeding the required levels of documentary and drama programs;
 - meeting their obligations for new Australian documentary programs; and
 - complying with the Australian Content in Advertising Standard in 2000.
- The ABA welcomes the compliance by pay TV broadcasters, with the enforceable scheme for new expenditure on drama, on pay TV in its first year.
- In November 2000, the ABA determined three standards applicable to commercial radio broadcasting licensees because it had found that:
 - the commercial agreements examined during the commercial radio inquiry had contributed to a substantial failure by licensees to comply with the standards of conduct required by the commercial radio codes of practice and, in the case of 2UE, with the political matter licence condition;
 - there had been a systemic failure to ensure the effective operation of self-regulation particularly in relation to current affairs programs, including a lack of staff awareness of the codes and of their implications; and
 - within a significant proportion of current affairs programs, the codes were not providing appropriate community safeguards.
- The ABA is concerned about the operation and adequacy of the community radio code provisions concerning dispute resolution.

- The ABA is generally satisfied with action taken by licensees in response to findings of a breach.
- The ABA continues to be concerned by the commercial broadcasting industry's compliance with the Act's notification requirements as it has had to remind 50 licensees of these requirements.

Goal 2 In partnership with industry and the community, implement a co-regulatory scheme for Internet content that addresses community concerns and encourages use of the Internet

2.1.1 Codes of practice registered by 1 January 2000 or industry standards to be developed

- Codes of practice registered in 1999-00.

2.1.2 Codes of practice or industry standards operating effectively to create awareness of filtering software, the complaints mechanism and content control options

- The Internet Industry Association advised the ABA that all major Internet service providers continue to be fully compliant with the codes, and that there had been a significant increase in the level of compliance for smaller providers, with 78 per cent of those surveyed reporting full compliance.
- The ABA registered amendments to the codes that clarified their operation and updated the list of filter software products included in the designated notification scheme for prohibited and potential prohibited content hosted outside Australia.

2.2.1 Timely resolution of complaints

- Complaints about content hosted outside Australia were generally resolved within two days of receipt.
- Complaints about content hosted in Australia were generally resolved within two weeks of

receipt. These take longer due to the need to obtain classifications from the Office of Film and Literature Classification and the need to issue interim and final take-down notices.

- At the end of the reporting period, only 16 of the total number of formal complaints received were still outstanding.

2.2.2 Enforcement action pursued when appropriate

- The ABA issued 14 take-down notices to Australian Internet content hosts, but has not needed to use enforcement powers to obtain compliance.
- The ABA referred 176 items of Internet content hosted outside Australia to the Australian Federal Police, and 59 items to the relevant State or Territory police service.

2.3.1 Increased understanding of community information needs

- The ABA commissioned the Internet@home research project:
 - to examine Australian families' use of the Internet to assist in formulating and implementing its community education strategy; and
 - to increase understanding of the effectiveness of different filter software products.
- The ABA commissioned research on audiovisual streaming services that are delivered over the Internet for the ABA's research function, and to inform itself and the Minister of technological developments relevant to Internet content regulation.
- The ABA actively participated in Australian conferences, redressing some misconceptions about the scheme and communicating directly with individuals and organisations affected by the scheme.

2.3.2 Education material that meets identified information needs

- The ABA initiated a program to ensure that activities are targeted and appropriate.
- The ABA's Australian Families Guide to the Internet web site is being redesigned to provide up-to-date information in a contemporary format.
- The ABA is preparing new information materials for distribution to parents, teachers and children, primarily through schools and libraries.
- The ABA has planned a series of information/promotion events, commencing with the launch of the Internet@home research findings.

2.4.1 ABA an active participant in the major international fora on Internet content regulation.

- The ABA actively participated in the major international meetings on Internet content regulation.

Output 1.2 Licensing of broadcasting services

Goal 3 Allocation of spectrum for analog radio and television broadcasting services in all parts of Australia

3.1.1 Completion of licence area plans (LAPs) no later than 2002

- Final radio licence area plans were completed for Brisbane, Gold Coast, Gympie, Ipswich, Lismore, Murwillumbah, Nambour and Gosford.
- Draft licence area plans for the Adelaide and Perth metropolitan markets were released for public comment.

3.1.2 Completion of essential LAP variations on a priority basis

- Radio licence area plans for Shepparton and Bridgetown were varied.
- Television licence area plans for remote Central and Eastern Australia and remote Central and Eastern Television were varied.
- Draft variation for the Sydney radio licence area plan was released.

3.2.1 Allocation of commercial and narrowcasting licences within one year of being made available in the LAP

- All commercial licences have been allocated within 12 months of determination of the relevant licence area plan.
- Narrowcasting licences were allocated in Nowra and Wollongong within 12 months of being made available in the licence area plan. No other new narrowcasting licences were issued during the reporting period due to the ABA's suspension of process pending the outcome of its inquiry into the narrowcasting category of service under s.19 of the Broadcasting Services Act.

3.2.2 All community licences allocated within two years of being made available in the LAP

- Nine of the 10 licences allocated were within two years of being planned. The remaining licence was allocated in its second allocation process (the first decision had been not to allocate a licence).

3.2.3 The community and the industry have been consulted, and have had the opportunity to participate in, the process leading to the decision

- Draft licence area plans for the Adelaide and Perth metropolitan markets were released for public comment.
- The Federal Court found that, in determining the Melbourne licence area plan in June 2000, the ABA had not consulted widely enough on the proposal to transfer

commercial broadcaster 3AK to radio frequency 1116 kHz and to subsequently make 3AK's existing frequency of 1503 kHz available for a community radio service. The ABA therefore proposed to vary the Melbourne licence area plan and released a draft variation for public comment on 28 May 2001.

- A draft variation to the licence area plan for Sydney was released for public comment.
- The ABA released technical options and implementation guidelines for day/night switching and full-time power increases.

3.2.4 All licence allocation processes are completed efficiently and effectively

- Licence allocation processes were completed efficiently and, generally, well within the timeframes specified in goal 3.

3.2.5 Allocation of international broadcasting licences

- In April 2001, the ABA allocated the first 10 international broadcasting licences, in consultation with the Minister for Foreign Affairs.

Goal 4 National and commercial television broadcasters to have commenced digital services in metropolitan areas, and where achievable, in regional areas

4.1.1 Conversion schemes are completed by the end of 2000

- Conversion schemes were completed by the end of 2000.
- The ABA determined amendments to both the National Television Conversion Scheme and the Commercial Television Conversion Scheme.

4.2.1 Metropolitan broadcasters commence by 1 January 2001 and

regional broadcasters commence by 1 January 2004

- Metropolitan broadcasters in Sydney, Melbourne, Brisbane, Adelaide and Perth commenced on 1 January 2001.
- Broadcasters in two regional areas, Sunshine Coast, Queensland and Stanwell Park, NSW, commenced digital transmissions in the first half of 2001; a number of other regional broadcasters are expected to commence digital services in regional Australia in late 2001.

4.2.1. Digital channels allotted as needed and the spectrum is efficiently structured

- Variations to the digital channel plans that had been completed in 1999-00 were prepared as required.

4.3.1 Implementation plans are assessed in a timely way

- All implementation plans were approved in timeframes that enabled broadcasters to meet the legislated start-up date of 1 January 2001.

4.4.1 The Minister and the Department seek advice from the ABA on digital technology

- The ABA provided frequent reports to the Minister and the Department on digital technology issues.

4.5.1 Reasonable level of community awareness of the implications of digital conversion

- The ABA has assisted and encouraged broadcasters and retailers to provide the community with up-to-date and timely information about the likely impact of conversion to digital, particularly through the development of the Interference Management Scheme by posting information on its website, and through the Consumer and Retailer Education Committee of Digital Broadcasting Australia.

Outcome

The planned outcome which is critical to our success over the period of the corporate plan is:

An accessible, diverse and responsible
broadcasting industry

Output 1.1

Managed regulation of broadcasting

Chapter 2

Regulation of broadcasting services

Goal 1: In partnership with industry and the community, safeguard the public interest through co-regulation of broadcasting services

Strategy 1.1 Encourage service providers and industry groups to take responsibility for addressing community concerns about broadcasting by:

- **facilitating development of codes (unless standards are mandatory); and**
- **evaluating, registering and monitoring effectiveness of codes.**

Codes of practice

Under section 123 of the Broadcasting Services Act, representative industry groups are to develop codes of practice in consultation with the ABA, taking account of any relevant research conducted by the ABA. Monitoring these codes once they are implemented, and dealing with

unresolved complaints made under these codes, are also among the primary functions of the ABA.

The ABA includes a code in the register of codes of practice only if it is satisfied that the code provides appropriate community safeguards for the matters covered by it, the code is endorsed by a majority of providers of broadcasting services in that section of the industry, and members of the public have been given an adequate opportunity to comment on the code.

Codes developed by the national broadcasters, ABC and SBS, are notified to the ABA but are not registered.

The following codes were registered with the ABA as at 30 June 2001:

Commercial Television Industry Code of Practice

Commercial Radio Codes of Practice

Community Broadcasting Code of Practice

Subscription Television Broadcasting Codes of Practice

Subscription Television Narrowcasting Codes of Practice

Open Narrowcasting Television Codes of Practice

Subscription Radio Narrowcasting Codes of Practice

Open Narrowcasting Radio Codes of Practice

The ABC Code of Practice and SBS Codes of Practice have been notified to the ABA.

Commercial Radio Codes of Practice

As a result of the commercial radio inquiry (see pages 41-43) in November 2000, the ABA determined three standards for the commercial radio industry. The standards came into effect on 15 January 2001 and are in force until April 2003 (see pages 30-31). The ABA will then consider

codes of practice to replace the standards and it is expected that these new codes will cover accuracy and fairness in news and current affairs, distinguishing advertising from other program material (among other matters) and the disclosure of commercial agreements that influence the content of broadcasts other than news and current affairs. It is expected that the codes will be registered by the end of the next reporting period.

The ABA has been concerned about the provision of access to emergency services organisations by commercial radio stations during periods of natural disaster or other emergencies. It has requested the Federation of Australian Radio Broadcasters to ensure that a code covering emergency access is registered by the end of the next reporting period. The ABA anticipates there will be extensive consultation between the Federation and emergency services representative organisations.

ASTRA Codes

The Australian Subscription Television and Radio Association (ASTRA) is currently engaged in a review of its codes of practice. This review has involved a period of public consultation as well as an extensive period of consultation between the ABA and ASTRA.

Community Radio Codes of Practice

The ABA is concerned about the number of investigations and breaches of the community radio licence conditions proscribing the broadcast of advertisements and regulating sponsorship announcements, and the code provisions relating to dispute resolution (see also Strategy 1.5 – Investigations completed).

The Community Broadcasting Association of Australia (CBAA) will review the Community Radio Code of Practice during the next reporting period. The ABA will raise its concerns with the CBAA in that review. When it registers a code, the ABA is required to consider the codes against the criteria in section 123(4) of the Act. It must be satisfied that any revised codes provide

appropriate community safeguards for the matters covered; that they are endorsed by a majority of providers of services in this sector; and that members of the public have been given adequate opportunity to comment.

Strategy 1.2: Develop, implement and evaluate standards where appropriate.

Australian content

Australian content on commercial television

Under section 122 of the Broadcasting Services Act, the ABA is required to develop standards relating to the Australian content of programs on commercial television. Compliance with the standard for Australian content is a condition of licence for commercial television broadcasting services. A new Australian content standard was introduced in 1999 to allow New Zealand programs to count towards Australian content quotas in accordance with Australia's obligations under the Closer Economic Relations Trade Agreement.

As foreshadowed in the current standard in 1999, the ABA will review the standard in the coming year, and plans to release an issues paper for public consultation in the second half of 2001.

The Australian Content Standard has two main mechanisms: an overall transmission quota and minimum quotas for specific types of programs. The transmission quota for 2000 set the overall annual minimum level of Australian programming at 55 per cent between 6.00 a.m. and midnight. (First release sports coverage commencing before midnight and finishing before 2.00 a.m. can also count towards the quota).

There are specific quotas for annual minimum amounts of first release Australian programs in the following categories:

- drama – minimum 225 points (with 775 points required in successive three year period from 1999);
- documentary – 20 hours; and
- children's C programs – 130 hours, including 32 hours of children's C drama.

There is also a requirement for a minimum amount of 130 hours of Australian preschool programs.

Compliance

The ABA uses its commercial television compliance database to monitor network compliance with the Australian content standard. The database contains detailed information provided by network stations concerning all programs broadcast.

Very little New Zealand programming was broadcast by the networks in 2000, making up only 8.9 hours of programming. There were 5.9 hours on the Seven network, including one hour of documentary programming, and three hours on the Nine network, including two hours of drama and one hour of documentary programming. Overall levels of Australian programming were similar to those in 1999. All networks exceeded the minimum 55 per cent Australian transmission quota, with SAS Seven in Adelaide achieving the highest level of 62.4 per cent. Required levels of documentary and drama programs were also exceeded. The requirement for first run Australian documentaries increased from 15 to 20 hours in 2000. All networks met their obligations for new Australian documentary programs. The Seven network broadcast more than double the requirement with 43.4 hours on average across the network, Nine network stations broadcast 29.9 hours on average and Ten network stations broadcast 21.5 hours each (see appendix 2).

Compliance with the Australian Content in Advertising Standard

The Australian Content in Advertising standard requires at least 80 per cent of advertising time broadcast each year by commercial television licensees, between 6 a.m. and midnight, to be used for Australian-produced advertisements.

Up to 20 per cent of this time is therefore available for the broadcast of foreign-produced advertisements.

The networks provide the ABA with annual reports on compliance with the standard, and commercials clearance information is provided by Commercials Advice Pty Ltd.

All networks complied with the standard in 2000 with the amount of foreign advertising being well below the 20 per cent maximum allowed. Foreign advertising averaged 7.4 per cent of all advertising on the Nine network (compared with 7.7 per cent in 1999), 10.6 per cent on Seven (8.8 per cent in 1999) and 10.5 per cent on Ten (9.4 per cent in 1999).

Pay TV

Requirement for new eligible Australian drama expenditure on pay TV

The enforceable scheme for expenditure on new eligible Australian drama programs by pay TV drama services came into effect on 1 July 1999. The scheme, which is set out in Part 7, Division 2A of the Broadcasting Services Act, is enforced by a licence condition. It requires licensees and channel providers who provide a pay TV drama service to spend at least 10 per cent of their total program expenditure on new eligible drama programs each financial year. Any shortfall in the channel provider's expenditure must be made up in the following financial year by the channel provider and/or the licensee.

The Act defines a pay TV drama service as a service devoted predominantly to drama programs. An eligible drama program is new if, and only if, the whole or a substantial part of the

program has not been televised in Australia or New Zealand on a broadcasting service at any time before the expenditure on the program by the licensee or channel provider is incurred.

Compliance

All licensees and channel providers complied with the requirement to lodge annual returns on their program expenditure with the ABA by lodging annual reports in the second half of 2000. A number of complex issues arose concerning the implementation of the scheme that delayed the ABA's reporting of compliance until June 2001. Due to the confidential nature of the information, compliance is reported in aggregate form only.

In 1999-00, total program expenditure by the 18 pay TV drama services was \$127 million, creating a requirement to spend \$12.7 million on new eligible Australian drama programs. Actual expenditure was \$7.6 million. An additional \$5.5 million must be made up in 2000-01.

The shortfall to be made up does not equate to the difference between the 10 per cent requirement and the amount already spent, as some services spent more than 10 per cent. Any expenditure above 10 per cent for one service cannot be used to offset a shortfall by another service.

Children's television

Under section 122 of the Act, the ABA is required to develop standards for children's programming. The Children's Television Standards (CTS) came into effect on 1 January 1990, and the most recent amendments took effect on 26 April 2001. Compliance with the CTS is a condition of licence for commercial television licensees.

The objective of the CTS is to ensure children have access to a variety of quality television programs made specifically for them, including Australian drama and non-drama programs. Each commercial television station must broadcast a minimum of 390 hours of quality children's

programs that have been pre-classified by the ABA. This includes:

- C programs for primary school children – 260 hours; and
- P programs for preschool children – 130 hours.

The ABA uses its commercial television compliance database to monitor network compliance with the Children's Television Standards.

Compliance

All commercial television networks met the minimum quota requirements for children's programs in 2000, including the requirement for 130 hours of first-release Australian C programs and 32 hours of first-release Australian children's C Drama. The requirement for eight hours of repeat Australian children's C Drama was exceeded many times over - the Nine network stations broadcast an average of 64 hours (see appendix 3a).

All network stations exceeded the quota of 260 hours of C classified programs - each service in the Nine network exceeded the quota by a little more than 25 hours. Although half these programs must be new programs produced locally, few foreign programs were broadcast, for example, only 7.3 hours by the Nine network and 16 hours by the Seven network.

Variation to the Children's Television Standards

On 26 April 2001, the ABA varied the notification and displacement provisions of CTS (3).

In accordance with section 126 of the Broadcasting Services Act, the ABA sought public comment on the proposed variations to the CTS and received four submissions, all of which supported the changes. The changes, which are administrative in nature, continue to reflect the ABA's policy objective that the child audience should know when C and P programs are scheduled and receive adequate notice of any changes to a program schedule.

The ABA considers the variations better reflect realities in scheduling C and P programs by acknowledging that many programming decisions are not made until two weeks before broadcast. They provide for more flexible reporting of changes made to Saturday mornings, for example, and address the full range of possibilities that may occur when there are live broadcasts of events of national importance or major sporting events.

The standard now includes:

- fourteen days, rather than one month, for notification to vary a program schedule;
- seventy-two hours, rather than 48 hours, to notify the ABA of failure to broadcast in accordance with a program schedule; and
- 'unforeseen occurrence, cancellation or early completion' of an event of national importance or major sporting event as reasons for licensees failing to broadcast in accordance with their program schedules.

C and P program assessment

The system for pre-classification of children's programs by the ABA is based on initial assessment of programs by ABA staff and additional assessment by specialist consultants, as required.

Children's programs are classified against the criteria set out in the CTS which require a children's program to be made specifically for them; be entertaining; well-produced and of a high standard; enhance a child's understanding and experience and be appropriate for Australian children.

The ABA grants the following classifications:

- C (made specifically for children within the primary school age range);
- C Drama (meets the requirements for Australian or New Zealand produced children's television drama); and
- P (made specifically for children within the preschool age range).

Provisional classification is awarded to programs which, in early development, appear likely to

Table 1 C and P program classifications

	Applications granted classification	Applications refused classification*
2000 – 01		
C	12	1
C drama	21	4
Provisional C	10	2
Provisional P	1	0
P	7	1
Total	51	8
1999 – 00		
C	11	1
C drama	12	0
Provisional C	6	4
Provisional P	–	–
P	5	1
Total	34	6

* These programs failed to satisfy the criteria in the CTS.

See appendix 3b for a full list of C and P classified programs.

meet the criteria when completed. Most drama is classified at provisional stage.

If an application for program classification is refused, the ABA provides a statement of reasons detailing the criteria the program failed to meet and why. If requested, ABA staff meet with applicants to discuss their programs and ABA decisions.

C and P programs classified

The ABA assessed 59 programs (or series of programs) and granted classification to 51 of these in the reporting period, compared with 40 programs assessed and 34 programs granted classification in the previous year (see table 1).

Commercial radio

Commercial radio standards

From August to November 2000, the ABA consulted with the radio industry and the public on three proposed standards in relation to commercial radio. On 21 November 2000, the ABA determined three program standards for commercial radio licensees. The determination of the standards followed an inquiry (the commercial radio or 'cash for comment' inquiry) that found systemic failure to ensure the effective operation of the industry's self-regulatory codes of practice.

Unlike codes of practice, compliance with standards is a condition of a broadcaster's licence. The standards commenced operation on 15 January 2001 and will end on 2 April 2003, the same expiry date as the conditions the ABA placed on the licence of 2UE Sydney following its investigation into that station.

The first standard, *Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000* requires:

- on-air disclosure during current affairs programs of commercial agreements between sponsors and presenters that have the potential to affect the content of those programs;

- on-air disclosure during current affairs programs of the payment of production costs by advertisers or sponsors;
- licensees to keep a register of commercial agreements between sponsors and presenters of current affairs programs and make it available to the ABA and the public; and
- licensees to ensure that a condition of employment of presenters of current affairs programs is that they comply with relevant obligations imposed by the Broadcasting Services Act, the commercial radio codes of practice and this standard.

Two different levels of information are required on the register. These are:

- in the case of current affairs programs produced or commissioned by the licensee or purchased from a person other than a second commercial radio licensee - full details of presenters' commercial agreements must be included on the register; and
- in the case of syndicated current affairs programs produced or commissioned by a second licensee - the register must list the program and indicate which licensee's register has full details and where that register is available to the public.

The second standard, *Broadcasting Services (Commercial Radio Advertising) Standard 2000* requires licensees to ensure that advertisements are distinguishable from other programs.

The third standard, *Broadcasting Services (Commercial Radio Compliance Program) Standard 2000* requires licensees to formulate, implement and maintain a compliance program to ensure compliance with the requirements of the Broadcasting Services Act, commercial radio standards and the commercial radio codes of practice.

Register of presenters' commercial agreements

Following the introduction of this standard, licensees were required to provide to the ABA, within 28 days on the approved form, particulars

of each commercial agreement between sponsors and presenters of current affairs programs or their associates.

Licensees must also:

- notify the ABA of any changes to agreements within 14 days of the licensee being informed of any changes;
- require presenters to disclose commercial agreements to licensees;
- 'publish the register on any web site operated by, or on behalf of, the licensee and must link the register directly to the home page of that web site'; and
- when a licensee broadcasts a current affairs program, produced or commissioned by a second licensee, record in their registers (including on their web site registers) the address of where the second licensee's register of current commercial agreements is available for inspection.

Compliance with the Disclosure Standard in 2000

Licensees complied with the notification requirements of the new standard. Sixteen licensees notified the ABA, on the approved form, of the existence of relevant commercial agreements. The notifications relate to 23 commercial radio services.

Registers of commercial agreements on stations' web sites

The ABA found variations in how licensees interpreted their obligations with regard to the register. Some displayed the link in a clear and prominent manner, while others did not, and there was variation in how licensees named and presented their registers.

To encourage best practice in web site presentation, the ABA wrote to licensees whose links it thought were unsatisfactory requesting they make the links clearer, more prominent and more 'user-friendly'.

Variation to the 2UE licence condition

In June 2001, the ABA varied the two conditions on the licence of 2UE, imposed following the commercial radio inquiry. The variations removed some inconsistencies between the conditions imposed uniquely on 2UE and the generally applicable industry standards. The variations to the licence conditions removed ambiguities in the definitions of important terms, and also rectified discrepancies between the conditions and the standards relating to on-air disclosure announcements, the requirements for registers and compliance programs.

The variations ensured that 2UE's licence conditions matched the obligations imposed on all commercial radio licensees, while retaining the particular conditions the ABA imposed to deal with matters relevant to 2UE alone. The licence conditions were originally gazetted in February 2000; the variations to both licence conditions commenced operation in June 2001 and cease operation on 2 April 2003.

Strategy 1.3: Undertake, as necessary, research into whether the regulatory scheme safeguards the public interests

Research

The ABA's research program is mandated by the Broadcasting Services Act which states that one of the ABA's primary functions is to research community attitudes on issues relating to programs. The ABA must also monitor the broadcasting industry and inform itself about broadcasting service trends. The research results complement other community views which are apparent in submissions, public processes and the ABA's complaints processes.

Industry groups representing service providers are required to take the ABA's research into account when developing or reviewing codes of practice.

Completed research projects

Sources of news and current affairs

The ABA commissioned the Centre for New Media Research and Education at Bond University to conduct research into sources of news and current affairs and their relative level of influence on shaping community attitudes. The research explored the intention of section 4(1) of the Act that different levels of regulatory control be applied across the range of broadcasting services, according to the degree of influence that they are able to exert in shaping community views in Australia.

The research was conducted in two stages:

Stage one focused on the industry perspective of news and current affairs production and developed a 'map' of its organisation and structure. It covered definitions of news and current affairs; the distinction between news and comment; the notion of 'influence'; the attitudes, characteristics and influences of news producers; processes, production, distribution and gatekeeping; agenda-setting; syndication and links; ethics, accuracy and credibility; and diversity and local, regional and international coverage.

Stage two focused on community attitudes and the extent to which they are aligned to the industry perspective. It focused on the factors that inform the public's definition of news and current affairs including use of and preferences for news and current affairs media and sources, perceptions about and concerns in relation to their credibility, perceptions about their relative influences, and beliefs about their coverage.

The key findings were presented at the ABA conference, Radio Television and the New Media on 3 May 2001 and were published by the ABA.

Children and media harm

The ABA, in collaboration with the University of Western Sydney Nepean, conducted research exploring how children define and understand harmful media materials and their awareness of media regulation.

The research examined how young people perceive parental concerns about the impact of the media, and compared these with their own concerns and engagement with television and the Internet. Fifty children and young teenagers aged 10 to 15 years from the western Sydney area participated in the focus group discussions.

The research showed that the older children considered themselves capable of controlling their own viewing, especially where they had exclusive access to a television. In managing their own media use, the children were very aware of film classifications and television program advice.

The children acknowledged that their parents were concerned about portrayals of sex, violence and coarse language in the media and it was reported as widespread practice for parents to establish household rules about screen media use in an effort to protect children from potential harm. While they understood such concerns were for their welfare, they also generally imagined themselves to be 'emancipated' users of media and considered parental fears to be vastly exaggerated in relation to the potential threat of media harm.

The children believed that the high impact of drama was offset by the knowledge that it was 'not real', whereas the impact of documentary, news and current affairs programs was intensified by the fact that the events 'really happened'. The children presented the forms of harm most relevant to them were risks and dangers in the real world, including the hazards of using alcohol, drugs, of unwanted pregnancy, sexual harassment, and school bullying. Screen depictions of these themes had a particular potency for the children.

Feeling scared after watching horror or supernatural themes was the most concrete evidence cited by the children to suggest the existence of harm caused by the media. However, they were reluctant to describe this as 'harm' because often it was also 'fun'. Many decided that horror movies were thrilling for

most children but difficult for some to handle, particularly younger children.

The children did not assume, as many adults do, that technological change means more risks for children. Nor did they assume that increased regulation of their media activities would provide the protection many adults look for - the ways and means of circumventing adult control are many and varied.

In general, the children appeared to be protected from *continual* exposure to harmful media materials through the combination of their own inclinations, the nature and range of programs broadcast by the mainstream media, and the competing demands on their time from other sources – school, friends and domestic responsibilities.

The research contributes to an understanding of harmful media material with regard to the Act, 'to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them'. The findings were released in a report in November 2000.

The Future for Local Content? Options for Emerging Technologies: Joint research project with the Australian Key Centre for Cultural and Media Policy

The ABA and the Australian Key Centre for Cultural and Media Policy undertook a collaborative project looking at the cultural and industry impact of local content regulation. The Key Centre prepared the report, 'The Cultural and Industry Impact of Local Content Regulation: The Broadcasting Services (Australian Content) Standard 1999' which the ABA published as, *The Future for Local Content? Options for Emerging Technologies*.

The report explored strategies for the achievement of social and cultural objectives for broadcasting in converged television environments. It examined regulatory frameworks in other countries, making useful comparisons to assess differences and similarities

in markets and technological developments. The report will assist in informing the ABA of, and in identifying appropriate responses to, these changes in Australia.

The project began in early 2000 and was completed in early 2001. The main findings were presented at the ABA conference, Radio, Television and the New Media on 3 May 2001. The project was supported by the Australian Research Council under the strategic partnerships with industry scheme which is designed to encourage strategic alliances between higher education institutions and industry to research specific problems facing the Australian community.

Commercial radio and TV: analysis of trends

The ABA conducted a study of the commercial radio industry over the 20 years from 1978-79 to 1997-98, examining issues such as competition, the impact of technological trends, the structure of the industry and its interaction with the regulatory environment. The report found that more than 80 per cent of metropolitan stations and nearly 60 per cent of regional stations changed hands in the 1990s. The changes seem to have led to increased profits for those stations, despite commercial radio's share of the broadcasting media advertising pie dropping five per cent in the decade to 1997-98.

The ABA released the study as *The Commercial Radio Industry 1978-79 to 1997-98* in November 2000.

The ABA also conducted a study of the commercial television industry over the 20 years from 1978-79 to 1998-99. Analysis of the data showed, despite the introduction of Government policies that have increased competition and extended the availability of services to more viewers in regional areas, commercial television advertising revenues have consistently grown faster than the Australian economy. The research contributed to a better understanding of competition, ownership rules and external

economic influences on the industry. The ABA released the study as *The Commercial Television Industry 1978-79 to 1998-99* in May 2001.

Ongoing research

Radio program format survey

The radio program format survey will be conducted annually for five years, from 1999-00 to 2003-04. In February 2001, the ABA conducted a survey for 1999-00 which built on data collected in early 2000.

The survey has provided information on:

- local program content in regional areas;
- developing a benchmark to define the term 'a comprehensive range of services'; and
- a depiction of the radio industry as it moves into a digitised environment.

The ABA has used the information to assist it in its regulatory functions, including dealing with codes matters and identifying industry trends, as well as in its submission to the House of Representatives Standing Committee on Communications, Transport and the Arts Inquiry into the adequacy of radio services in regional and rural Australia.

The ABA proposes to conduct the second survey in the second half of 2001 and release results for the first two years by the end of 2001.

Broadcasting financial results

In March 2001, the ABA released the 1999-00 broadcasting financial results for 240 commercial radio and 48 commercial television licensees.

In line with the role of informing itself and the Government on industry trends, the ABA requests that commercial television and commercial radio licensees submit details of their financial performance each year. Licensees provide information on revenue, expenses and profits for each of their broadcasting services. The ABA aggregates the information, which is published as Broadcasting Financial Results. Aggregated financial results are a valuable source

of information for the industry, including existing and aspirant broadcasters, the Government, financial advisers and market researchers.

Anti-siphoning

The aim of the anti-siphoning provisions is to prevent pay TV services obtaining exclusive rights to broadcast major television sports events, that viewers have been used to seeing on free-to-air television. Section 115 of the Act empowers the Minister for Communications, Information Technology and the Arts, to list in a formal notice (known as the anti-siphoning list) events which should be available to viewers of free-to-air national or commercial television broadcasting services.

The anti-siphoning list contains sporting events within 11 sports categories and covers the period up until 31 December 2004 (2006 in the case of the FIFA World Cup Soccer tournament).

The ABA is required to report to the Minister if rights to events on the anti-siphoning list are not made available to free-to-air broadcasters; if the ABA considers that, over time, there has been a sustained reduction in the extent to which free-to-air broadcasters televise listed events; or if the ABA considers there are grounds for the Minister to add to or remove an event from the anti-siphoning list.

Following reports from the ABA, the Minister removed the Australia versus India (One Day International and Test matches), played in India in 2001, from the anti-siphoning list in the reporting period.

Anti-hoarding

The intention of the anti-hoarding rules, under Part 10A of the Broadcasting Services Act, is to maximise opportunities for full and live free-to-air coverage of major events, particularly sporting events.

The regime applies to live free-to-air broadcast rights to events that are acquired by licensees (or their program suppliers), or the national broadcasters after the Minister has declared those

events and series and their offer times. There is one event listed by the Minister as a 'designated event' under these rules - the FIFA World Cup competition for 2002 and 2006. The ABA monitors compliance with the anti-hoarding provisions.

Ministerial directions

Treatment of development costs under pay TV drama expenditure rules

On 18 December 2000, the ABA provided its report to the Minister on the extent to which pre-production expenditure should be able to be taken into account for the purposes of the eligible drama expenditure requirement for pay TV drama services. The Minister directed the ABA to investigate this matter in December 1999.

The legislation permits development expenses incurred on an eligible drama program to count towards the expenditure requirement when a project proceeds to production, but not otherwise. The Minister asked the ABA to investigate whether the rule could be more flexible, allowing development costs on projects that do not proceed to production to count towards the expenditure requirement, and the test that might apply to such expenditure.

In June 2000, the ABA released a discussion paper for consideration by interested parties. The paper proposed that, subject to certain conditions, script development expenditure made to third parties count towards the expenditure requirement.

The ABA received eight submissions from the pay TV industry and seven from the film and television industry and film funding agencies.

Requirement for new eligible documentary programs on pay TV

On 16 February 2001, the ABA provided a report to the Minister on whether subscription television licensees that provide a documentary service should be required to maintain minimum levels of expenditure on new eligible documentary

programs. The Minister directed the ABA to investigate this matter in December 1999.

The ABA's public process included consultation with the pay TV and production industries and film funding agencies. Fifteen submissions were received in response to the ABA's discussion paper released in September 2000.

The four documentary channels - Discovery Channel, National Geographic Channel, Odyssey and The History Channel - provided detailed information on the production, acquisition and broadcast of Australian and New Zealand documentaries, and channel revenue and expenditure. Production companies provided information about the production of documentary programs involving the international Discovery and National Geographic networks, including current support for new eligible documentaries. Much of this information was highly sensitive and provided on a commercial-in-confidence basis. Financial information was included in aggregate form in the ABA's report to the Minister.

Events on the anti-siphoning list

On 22 December 2000, the Minister directed the ABA, in *Australian Broadcasting ABA (Investigation) Direction (No. 2 of 2000)*, to investigate which events should be removed from, or added to, the anti-siphoning list. The ABA was also to report on the date or dates on which protection should expire for listed events. The Minister directed the ABA, in conducting its investigation, to have regard to the policy that an event should only be included in the anti-siphoning list if it has been consistently broadcast by free-to-air television broadcasters during the past five years.

The current anti-siphoning list contains sports events within 11 categories and has effect until 31 December 2004 (2006 in the case of the FIFA World Cup Soccer tournament).

The ABA invited public submissions on an issues paper released in February 2001. The ABA also consulted with broadcasters, sports rights

holders, major sporting organisations and interested members of the public.

The ABA received 14 submissions. Two submissions were from individuals, and the remainder were from industry stakeholders: the ABC, the Australian Grand Prix, the Australian Football League (AFL), CAMS (Confederation of Motor Sports), FACTS (Federation of Australian Commercial Television Stations), Fox Sports, SBS (Special Broadcasting Service), Sports Industry Australia, Tennis Australia, Transworld International (TWI) and the Women's National Basketball League (WNBL).

The ABA provided its report to the Minister on 30 June 2001.

Implementation of anti-hoarding provisions

The ABA provided a report to the Minister on 1 September 2000, following its investigation into the implementation of the anti-hoarding, or 'must offer', provisions of the Act. The Minister directed the ABA to conduct this investigation on 29 February 2000 (see *Annual Report 1999-00*).

The Minister directed the ABA to have regard to the policy that: events should not be covered by the new rules unless there is a widespread public expectation, based on past practice, that the event or series will be televised live and in full on free-to-air television; or, the event or series has so grown in importance in the public's perception over time that it warrants full live free-to-air coverage.

The ABA sought views on the operation of the anti-hoarding scheme and its potential impact on sports coverage.

There were 57 responses to the ABA's issues paper of 8 June 2000. Forty-nine were from the general public and 10 were from industry stakeholders: the Federation of Australian Commercial Television Stations (FACTS), Fox Sports, the Australian Subscription Radio and Television Association (ASTRA), the Special Broadcasting Service (SBS), Tennis Australia, the

Australian Football League (AFL), the National Rugby League (NRL), Active Sports Marketing, Transworld International and Telstra.

Investigation of the community TV evaluation

On 15 January 2001, the Minister directed the ABA to conduct an investigation into the community television trial. The ABA evaluated the trial and the evaluation forms part of the Department of Communications, Information Technology and the Arts' review into the regulatory arrangements for digital transmission of community television using broadcasting services band spectrum and how access should be provided free-of-charge.

The ABA sought information from existing and former trial licensees, and commissioned research into community support for those services and the nature and quality of their programming. The ABA also met with a broad range of interested parties in areas where trial community television services are operational. The ABA is to provide a report to the Minister by 1 August 2001, after the date of this report.

Broadcasting without a licence

During the reporting period, the ABA developed and implemented an investigative and enforcement strategy in relation to the provision of a commercial broadcasting service without a licence (a breach of the Act). The strategy includes the issuing of notices to remedy the breach to any broadcaster found to be providing a commercial service without a licence, concurrent investigation to ensure compliance with the notice, and suspension or cancellation of a licence in those cases where there is non-compliance with a notice.

During the reporting period, the ABA issued notices to two broadcasters to cease providing a commercial service without a licence. Bundaberg Broadcasters Pty Ltd (CQFM) was given a notice in September 2000 and NSW Race Narrowcasts Pty Ltd (2KY Racing Radio) was given a notice in

February 2001 and was allowed until 30 June 2001 to comply.

Each licensee complied with its notice.

Investigation into the advertising of international telephone sex services

On 30 November 1999, the Minister directed the ABA to conduct an investigation into the advertising of 'designated telephone sex services' from 1 December 1999 to 30 November 2000.

'Designated telephone sex services' are those services that, on the basis of the advertisements for the services, appear to be telephone sex services, and are supplied or offered to be supplied to end-users in Australia using an access code for international telephone calls.

The ABA was directed to investigate:

- the levels of advertising in Australian media (print and electronic) for designated telephone sex services;
- whether these levels change over the period of the investigation;
- the distribution of advertisements for designated telephone sex services between restricted and unrestricted publications; and
- the content and placement of advertisements for these services in unrestricted publications, including whether or not the advertisements are placed near to matters of interest to children.

The ABA concluded that there are few telephone sex service providers offering services in the number range 1901 – the rate of compliance with Part 9A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* would appear to be low.

The reduction in the number of 190* services being offered, coupled with the general toning down of the content of the advertising, will have contributed to realising the policy intent of Part 9A of the Telecommunications (Consumer Protection and Service Standards) Act. However, there has been an increase in the number of international services, and these services

continue to be advertised in a direct and provocative manner.

The ABA provided its final report for this investigation to the Minister on 15 December 2000. Copies of the report are available on the ABA's web site.

Submissions to parliamentary committees, public inquiries and reviews

The ABA met with members of the House of Representatives Standing Committee on Communications, Transport and the Arts to provide information relevant to the committee's inquiry into the adequacy of radio services in regional and rural Australia. The ABA made a submission to the inquiry in May 2001 and provided further information to assist the committee as requested. The ABA appeared before the committee at a public hearing in Brisbane on 29 May 2001.

The ABA provided material for the Senate Select Committee on Information Technologies.

Strategy 1.4 Develop and implement investigative and enforcement strategies as required

Monitoring

The ABA actively gathers information to assess whether control of commercial television broadcasting services rests with Australians and to ensure that diversity of control of the more influential broadcasting services is being maintained.

Under the Act's regulatory outlook, the more influential a type of service is considered to be, the greater the level of regulation that applies to it. For example, commercial television licensees are subject to greater restrictions than pay TV licensees in virtually all key areas, including

ownership and control, programming and licensing.

The ABA obtains and assesses information from a number of sources including participants in transactions, major industry players, media reports, other government agencies or advisory bodies (including the Australian Securities Commission, the Foreign Investment Review Board and the Australian Competition and Consumer Commission), the Australian Stock Exchange, company reports and overseas regulators.

The ABA has wide ranging powers to obtain information if it begins an investigation as a result of its monitoring or in response to a complaint. These include the powers to issue notices requiring the production of documents, to examine witnesses under oath and to hold public hearings.

Regulation of telephone sex services

Part 9A of the Telecommunications (Consumer Protection and Service Standards) Act came into force on 3 February 2000. Its intention is to address concerns that telephone sex services are too easily accessed by children.

The Australian Communications Authority is responsible for enforcing compliance with the legislation. The ABA's role is to issue certificates, under section 158F, stating that a specified service is, or was, a telephone sex service.

Guidelines

In October 2000, the ABA approved guidelines for telephone sex services, which summarise the ABA's role under Part 9A of the Telecommunications (Consumer Protection and Service Standards) Act. The guidelines provide information about the definition of 'telephone sex service', and are intended to assist telephone sex service providers and carriage service providers comply with the law. They are available on the ABA's web site at www.aba.gov.au/what/telephone/index.htm.

Evidentiary certificates

During the reporting period, the ABA finalised two requests made to it by the ACA in May 2000 for its view on a number of services. The requests featured 69 telephone numbers and the ABA considered 21 of these. To assist the ABA in this start-up phase of the legislation, and as a means of testing the proposed investigation processes, the ABA decided to provide an informal view only to the ACA.

Subsequently, the ACA formally referred eight services to the ABA for its consideration of whether or not each of the services is, or was, a telephone sex service. The ABA concluded that none of these services was a telephone sex service within the meaning of section 158J of the Telecommunications (Consumer Protection and Service Standards) Act. Thus there were no evidentiary certificates issued.

Strategy 1.5 Investigate complaints and suspected breaches as required, and take appropriate steps to ensure compliance

Investigations into programming matters

If the ABA receives a complaint about a possible breach of the Act or of a licence condition, it must investigate the complaint.

If a complaint relates to a matter covered by a code of practice, it must first be made to the broadcaster concerned. It is the broadcaster's responsibility to deal with the complaint and attempt to resolve the matter to the satisfaction of the complainant. If the complainant believes the broadcaster's response to be inadequate, or if they do not receive a response within 60 days, they may make a complaint to the ABA about the matter.

The ABA must investigate complaints made to it in these ways unless it is satisfied that the complaint is frivolous, vexatious, or was not made in good faith.

In addition, the ABA may itself initiate investigations into breaches of the Act, or of licence conditions or codes under section 170 of the Act (the commercial radio inquiry is an example of this form of investigation).

The ABA has a range of sanctions available to it in the event of a breach by a commercial broadcaster, community broadcaster, subscription broadcaster or a provider of a service under a class licence. With regard to breaches of the Act or a licence condition, the ABA may issue a notice requiring the broadcaster to take action to remedy the breach, or, in most cases, refer the matter to the Director of Public Prosecutions for possible prosecution, or suspend or cancel the licence. The ABA took no such action during the reporting period.

With regard to a breach of a code of practice, the ABA may make compliance with a code a condition of a broadcaster's licence. In its investigations, the ABA has focused on ensuring that broadcasters took action so that problems with their performance against the code were rectified and not repeated.

With regard to a breach of a code of practice by a national broadcasting service (ABC or SBS), the ABA may, if it is satisfied that the complaint was justified, by notice in writing recommend that it take action to comply with the relevant code of practice. This may include the broadcast or other publication of an apology or retraction. If the national broadcaster does not, within 30 days after the recommendation was given, take appropriate action, the ABA may give the Minister a written report on the matter. The Minister must cause a copy of the report to be laid before each House of Parliament within seven days of receiving the report. The ABA took no such action during the reporting period.

Investigations started

The ABA commenced 148 investigations in the reporting period, five per cent fewer than the 154 started in 1999-00.

Investigations completed

The ABA completed 156 investigations in the reporting period, 17 per cent more than the 133 completed in the 1999-00 reporting period.

Seventy-one investigations resulted in the ABA finding a breach, 45 per cent fewer than in 1999-00. There were 142 breaches in total (some investigations resulted in findings of more than one breach and/or findings against more than one licensee). These breaches relate to investigations completed during the reporting period and not to when the broadcast occurred. Of the 123 code breaches, 56 related to commercial television stations, the same as in the previous reporting period. Seventeen (30 per cent) of these breaches related to the manner in which commercial television licensees handled complaints from viewers. Thirty-six related to commercial radio services, compared with 103 in the previous reporting period (90 of these were found during the commercial radio inquiry).

Sixteen code breaches related to community radio, the same number as in the previous reporting period. The ABA is concerned about the operation and adequacy of the community radio code provisions concerning dispute resolution. The three investigations conducted during the reporting period into dispute resolution have highlighted deficiencies in the code that the ABA will seek to redress in the CBAA's review of the code in the next reporting period.

There were 10 breaches in relation to ABC television and four in relation to ABC radio, compared to none in the previous reporting period. Five of the breaches found against ABC television and three of the four found against ABC radio related to the manner in which the ABC handled complaints.

Table 2 Investigations resulting in breach findings

Investigations summary	2000 – 01	1999 – 00
Investigations started	148	154
Investigations completed	153	133
Breaches		
Code of practice	123	177
Licence condition	15	22
Broadcasting Services Act	4	–
Total	142	199

Note: two investigations did not proceed to a finding as they were stopped when the services changed hands.

Table 3 Code breaches (by type of service)

Service	2000 – 01	1999 – 00
Commercial television	56	56
Commercial radio	36	103
Community radio	16	16
SBS TV	1	2
ABC TV	10	–
ABC radio	4	–
Total	94	177

Table 4 Licence condition breaches (by type of service)

Service	2000 – 01	1999 – 00
Commercial television	4	7
Commercial radio	1	9
Community radio	7	6
Open narrowcast radio	1	–
Subscription broadcast TV	2	–
Total	15	22

Table 5 Broadcasting Services Act breaches (by type of service)

Service	2000 – 01	1999 – 00
Subscription broadcast TV	1	–
Open narrowcast radio	3	–
Total	15	22

There was one code breach in relation to SBS television, compared to two in the previous reporting period.

The ABA found no breaches of codes of practice in relation to subscription or open narrowcasting television or radio services, the same as in the previous reporting period.

Of the 15 breaches of licence conditions, four related to commercial television, one to commercial radio, one to open narrowcast radio, two to subscription television broadcasting and seven to community radio (six of these related to the licence condition proscribing the broadcast of advertisements).

See appendix 4 for details of these investigations.

Time taken to complete investigations

At the start of the reporting period, the ABA had 55 outstanding investigations. Of these, 16 were more than six months old, 16 were between three and six months old, and 23 were less than three months old.

At the end of the reporting period, the ABA had 46 outstanding investigations - nine were more than six months old, 13 were between three and six months old, and 24 were less than three months old.

The average time for the ABA to complete an investigation during the reporting period was approximately 11 weeks, two weeks less than in the previous reporting period.

Of the investigations commenced within the reporting period, the ABA completed:

- Sixty-seven per cent within 12 weeks (compared to a target of 50 per cent);
- Ninety-three per cent of investigations completed within 26 weeks (compared to a target of 75 per cent); and
- Ninety-eight per cent of investigations completed within 32 weeks (compared to a target of 100 per cent).

Breaches of the Broadcasting Services Act

Other than the breaches of licence conditions, there were four breaches of the Broadcasting Services Act. Three of these related to licensees found providing a commercial radio service without a licence. The ABA issued notices to two of the licensees to cease providing the commercial service, and in each case the licensees complied with the notices. In the third case, the licensee changed the format of the service after the ABA's breach finding.

There was one breach of the Children's Television Standards in the current reporting period relating to the obligation of a licensee to broadcast C and P programs under CTS 3 (see appendix 4 for more details regarding this breach).

Commercial radio inquiry

Investigations in relation to commercial radio licences 5DN Adelaide, 6PR Perth, and 3AW Melbourne

On 30 July 1999, the ABA decided to expand the terms of reference of its commercial radio inquiry to include allegations raised involving 5AD and 5DN Adelaide and Mr Jeremy Cordeaux, and involving 6PR Perth and Mr Howard Sattler. On 23 November 1999, the ABA further extended the terms of reference for its commercial radio inquiry to include 3AW Melbourne.

Radio station 3AW Melbourne

The ABA sought documents from relevant persons and companies for the period between 5 October 1992 (the date of commencement of the Act) and March 2000, and the ABA examined the effects of agreements, arrangements and understandings:

- entered into by Mr Bruce Mansfield;
- between 3AW, Mr Steve Price and Bilia Hawthorn;
- between 3AW and Crown Casino; and
- between 3AW and Transurban.

The ABA's investigations indicated that 3AW did not have adequate systems in place to communicate information to staff concerning the Commercial Radio Codes of Practice. There were no regular meetings or forums, nor was there a written policy to provide guidance to staff. The only company policy document available to Southern Cross Broadcasting employees did not include the codes.

The primary focus of induction programs conducted by 3AW was apparently to prevent the broadcast of defamatory material and the training on defamation law was provided by external experts. The ABA is of the view that codes training was of minimal concern to 3AW management and, as a result, was conducted internally and informally.

The ABA was of the view that 3AW management's reliance on informal procedures was not adequate in ensuring staff were familiar with the codes. Moreover, there was no evidence of a standard approach taken by Southern Cross Broadcasting to the issue of compliance with the codes and the endorsement of products and services by presenters in 3AW employment contracts with on-air presenters.

Radio station 5DN Adelaide

The ABA sought documents from relevant persons and companies for the period from 5 October 1992 (the date of commencement of the Act) and February 2000, and the ABA examined the effects of agreements, arrangements and understandings entered into by Mr Jeremy Cordeaux.

The ABA's investigations indicated that procedures within radio station 5DN regarding the monitoring and management of advertising between 1993 and 1999 were inadequate. During the period 1993 to 1996, senior staff at 5DN were aware that Mr Cordeaux had live read endorsement agreements with advertisers and that he had off-air promotional agreements with advertisers. They were not aware, however, of Mr Cordeaux's personal endorsement agreements involving on-air obligations.

Australian Radio Network Pty Ltd acquired 5DN in 1996 and, from 1996 to 1999, the policy on personal endorsement agreements remained as it had been under the previous licensee. Until late 1999 there does not appear to have been any written policy by Australian Radio Network on personal endorsements; rather, Australian Radio Network policy on endorsements appears to have been communicated orally to senior network staff at meetings held three to four times a year. There does not appear to have been any program(s) in place within the ARN network to ensure that station managers communicated Australian Radio Network's unwritten policy on endorsements to their respective workplaces.

The ABA found that the agreements entered into by Mr Cordeaux with corporations and associations, which obliged him to provide services on-air contributed to a substantial failure by the licensee to comply with the standards of conduct required by Commercial Radio Codes 2 and 3.

The ABA also found that:

- 5DN breached Commercial Radio Code 2 on eight occasions; and
- 5DN breached Commercial Radio Code 3 on four occasions.

Radio station 6PR Perth

The ABA sought documents from relevant persons and companies for the period from 5 October 1992 (the date of commencement of the Act) and September 1999, and the ABA examined the effects of agreements, arrangements and understandings entered into by Mr Howard Sattler.

The ABA's investigation showed that before August 1999, Southern Cross Broadcasting, licensee of 6PR, did not have a written company policy about employees receiving benefits from third parties with whom the employee had a commercial agreement. In addition, there were no procedures for providing guidance and advice to 6PR managers or educating staff about the policy.

When the policy was recorded in writing in August 1999, Southern Cross Broadcasting did not provide guidance or direction to 6PR managers about it to staff, nor was there a clear direction given about the meaning or application of the policy when it was distributed to 6PR managers.

The ABA found that:

- 6PR breached Code 2 on six occasions; and
- 6PR breached Code 3 on 11 occasions.

Conclusions of the commercial radio inquiry

As a result of its investigations, the ABA was of the view that:

- the commercial agreements examined during the inquiry had contributed to a substantial failure by licensees to comply with the standards of conduct required by the codes and, in the case of 2UE, with the political matter licence condition;
- there had been a systemic failure to ensure the effective operation of self-regulation, particularly in relation to current affairs programs, including a lack of staff awareness of the codes and of their implications; and

- within a significant proportion of current affairs programs, the codes were not providing appropriate community safeguards.

The ABA's view was that remedial action was necessary to ensure the commercial radio industry's compliance with the Act and, in particular, the effective disclosure of the commercial agreements between presenters and sponsors.

In August 2000, the ABA proposed to determine three standards applicable to commercial radio broadcasting licensees. Compliance with standards would be a condition of a broadcaster's licence. These standards took effect in January 2001.

Control of broadcasting services

The ABA did not conduct any major investigations into possible breaches of the control provisions under the Act during the period under review.

Applications for prior approval

The prior approval of temporary breaches under section 67 of the Act and extensions of the approval periods for such breaches under section 68 continue to facilitate changes to the

Table 6 Licence fees collected

	Number of licensees	Total licence fees collected \$ million
2000 – 2001		
Commercial radio	240	14.5
Commercial television	48	196.9
Total	288	211.4
1999 – 2000		
Commercial radio	226	12.7
Commercial television	48	198.4
Total	274	211.1

structure of the industry, particularly commercial radio.

During the reporting period, the ABA approved nine applications for prior approval of temporary breaches under section 67. Three of these applications were lodged by existing licensees wishing to apply for new commercial radio broadcasting licences. In addition, one temporary breach was remedied.

The ABA must process applications under sections 67 and 68 within 45 days from receipt. Five of the nine applications received in the reporting period were processed within 30 days (three within seven days).

In cases when the relevant transaction for which prior approval has been given has actually taken place, details of approvals under section 67 and extensions under section 68 are made available to the public through the ABA's Notifications Register.

Applications for opinions on control

Under section 74 of the Act, an applicant can request that the ABA give an opinion on whether a person is in a position to control a licence, a newspaper or a company. The ABA must provide an opinion within 45 days, otherwise it is to be taken that the ABA has given an opinion that accords with the applicant's opinion. The process may take longer if the ABA requires further information from the applicant. Opinions on control are available on the payment of a fee.

No opinions were given during the reporting period. One application for an opinion on control was received late in the reporting period.

Notices

Under section 70 of the Act, if the ABA is satisfied that a person is in breach of the ownership and control rules the ABA may, by notice in writing, direct the person or the licensee to take action so that the person is no longer in breach of that provision.

Details of notices issued under section 70 are made available to the public through the ABA's Notifications Register.

The ABA did not issue any notices under section 70 during the reporting period.

Notification requirements

Within three months of the end of the financial year, each commercial television and commercial radio licensee must provide the ABA with details of persons who were in a position to exercise control of the licence, the name of each director of the licensee and the name of each foreign director of the licensee at the end of the financial year. Within the same period, each person in a position to exercise control of a commercial television licence or a commercial radio licence must provide the ABA with details of any company interests held at the end of the financial year in a newspaper that is associated with the licence area of the licence.

Each commercial licensee must notify the ABA that a person has come to be, or ceased to be, in a position to exercise control of the licence within seven days of the licensee becoming aware of the event. Similarly, a person who has come to be in a position to exercise control of a commercial licence must notify the ABA within seven days of becoming aware of that situation.

The ABA received 144 notifications in relation to changes in control for 62 commercial radio broadcasting licences and 10 notifications for five commercial television broadcasting licences.

Compared with the previous reporting period, this was a 63.6 per cent increase in commercial radio notifications, and a 100 per cent increase for commercial television.

The ABA continues to be concerned by the commercial broadcasting industry's compliance with the Act's notification requirements as it has had to remind 50 licensees of these requirements.

The public is kept informed of changes in ownership and control through the Notifications

Register, extracts from which are available to the public on request.

Licence fees

The ABA collected commercial broadcasting licence fees of \$211.4 million for the 2000-01 financial period. This was slightly more than the previous year's \$211.1 million. In part, this reflected the introduction of the regional equalisation plan. Eligible regional television licensees were able to claim rebates if the ABA approved their plans to provide digital television ahead of 1 January 2004.

Annual licence fees are calculated on a percentage of a licensee's gross earnings for the previous financial period. Licence fees paid by individual operators are not published in order to preserve confidentiality. Licence fees collected go to the Commonwealth's consolidated revenue.

Due to several unforeseen factors, the audit of commercial radio and commercial television licensees did not commence in 2000-01, as reported last year. The position of auditor was re-advertised in August 2001 and it is expected the project will start on commencement of the successful applicant. The audit framework and methodology was developed in 1999-00 and the audit will enable the ABA to determine licensee compliance with financial documentation and licence fee requirements.

Collection of digital levy

Under the *Television Licence Fees Amendment Act 1999*, commercial television licensees are required to pay an additional licence fee on 31 December 1999, 2000 and 2001. The revenue collected is to cover the ABA's costs in implementing the legislative framework for the conversion of commercial television broadcasting services from analog to digital mode.

Regional Equalisation Plan

The Authority administers the Regional Equalisation Plan which was introduced as a disallowable instrument under Clause 64(b) Part 11 of Schedule 4 of the Act. The plan enables regional television licensees to claim rebates totalling \$15.1M, in recognition that regional television licensees face higher per capita costs in converting to digital broadcasting, compared with their metropolitan counterparts. While metropolitan television licensees were required to begin digital transmission from 1 January 2001, regional licensees can do so between that date and 1 January 2004.

Chapter 3

Internet content regulation

Goal 2: In partnership with industry and the community, implement a co-regulatory scheme for Internet content that addresses community concerns and encourages use of the Internet

Strategy 2.1: Ensure the development and active adherence to a comprehensive set of guidelines governing industry's responsibilities to the community, through:

- fostering industry associations;
- evaluating, registering and monitoring the effectiveness of codes of practice; and
- developing industry standards where codes are not developed or where they fail.

The ABA administers Australia's co-regulatory scheme for Internet content, which aims to address public concerns about online material that would be illegal or restricted in distribution if published in another format (for more detail on the scheme, see *Annual Report 1999-00* pp. 9 or go to the ABA's web site).

The ABA has adopted four strategies to carry out its functions under the co-regulatory scheme.

Codes of practice

Three codes of practice took effect on 1 January 2001. Content Codes 1 and 2 cover the activities of all Internet service providers. Content Code 3 applies to all Internet content hosts.

Compliance with codes

The ABA did not receive any complaints about compliance with the codes during the reporting period and continued to work with industry to implement the co-regulatory scheme.

Specific issues addressed during the reporting period included:

- Internet Industry Association (IIA) activities aimed at further informing its members, particularly smaller service providers, about their code of practice responsibilities;
- the review of the codes of practice; and
- the operation of the designated notification scheme for content hosted outside Australia.

The IIA provides the ABA with regular reports on its members' compliance with the codes. The IIA has advised the ABA that all major Internet service providers who are IIA members continue to be fully compliant with the codes and that the level of compliance for smaller providers continued to increase during the reporting period, with 85 per cent of those surveyed reporting full compliance.

The ABA liaises with Internet service providers about code compliance issues as they come to the ABA's attention (for example, when there is a

complaint about Internet content), and provides advice and assistance to Internet service providers and Internet content hosts in relation to the obligations under the codes.

During the period March to June 2001, the ABA assisted NetAlert, the Government's community advisory body on Internet content, to inform service providers and content hosts, particularly smaller operators who are not IIA members, about their obligations under the codes. The ABA contributed to the training materials distributed at seminars held in 30 regional and metropolitan locations. The seminars were conducted by the Communications Law Centre, on NetAlert's behalf. The ABA also provided ongoing advice to the Communications Law Centre about the ABA's role and functions under the co-regulatory scheme.

Replacement of codes

In December 2000, the IIA advised the ABA that it would seek a minor amendment to the Schedule to the codes, to update the list of filter software products included in the designated notification scheme for prohibited and potential prohibited content hosted outside Australia. Replacement codes containing the amended schedule, and other minor amendments that clarified the operation of the code, were submitted to the ABA in February 2001 and these were registered by the ABA on 8 March 2001.

Each of the codes contains a provision requiring that the code be reviewed by 30 June 2001. The IIA commenced a review of the codes in April 2001 and has advised the ABA that, overall, the codes are operating effectively in addressing the matters required by the Act. However, the IIA has proposed changes to Content Code 2 to further enhance its effectiveness, and the ABA expects the IIA to submit a replacement code for registration during the second half of 2001.

Strategy 2.2: Investigate complaints about prohibited content and follow the specified procedures aimed at limiting the availability of such content

Complaints investigated – 1 July 2000 to 30 June 2001

The ABA received 505 complaints about Internet content in the period 1 July 2000 to 30 June 2001. Eighty-nine per cent concerned content on the World Wide Web and 11 per cent related to Usenet newsgroup content.

The ABA completed investigations into 406 complaints, including two carried forward from 1999-00. Eighty-five investigations were

Table 7 Internet content complaints investigated (number of items)

Location of Internet content host	Prohibited/potentially prohibited	Not prohibited
Australia	14	28
Outside Australia	223	141
Total	237	169

terminated prior to completion because of the lack of necessary information – usually because the ABA was unable to locate the Internet content based on the details provided by the complainant. No complaints were dismissed on the basis of being frivolous, vexatious, not made in good faith or designed to undermine the operation of the scheme. Sixteen investigations were current at 30 June 2001.

Of the 406 completed investigations, 237 resulted in the location of prohibited or potentially prohibited content and 169 investigations located content that was not prohibited or potentially prohibited (see table 7).

The 237 investigations that located prohibited or potentially prohibited content resulted in the location of 393 items (see table 8). Some investigations involved consideration of more than one item of content. For example, where a complaint relates to an entire newsgroup, rather than a single posting on it, the ABA investigates a sample of the postings contained in the newsgroup, asks the Classification Board to classify the content concerned and takes

appropriate action according to the classification. Similarly, the ABA may investigate a sample of the content on an Internet site about which a person has complained. However, investigations relating to complaints about Internet content are less likely to involve more than one item of content, as complaints relating to such content generally pertain to a specific page of content. The type of content located, and action taken by the ABA in relation to these items, is detailed in table 8.

Table 8 shows that 83 per cent of items that were prohibited or potential prohibited content were, or were likely to be, Refused Classification.

Around three-quarters constituted an exploitative or offensive depiction of a child (commonly referred to as child pornography), offensive depictions of minors, or were otherwise concerned with paedophile activity.

When the ABA investigates a complaint about Internet content that is hosted in Australia, and is satisfied that the content concerned is prohibited content, one final take-down notice is issued to

Table 8 Action taken in relation to prohibited and potentially prohibited content (number of items)

Classification of content*	Final take-down notice issued**	Referred to makers of approved filters
R — Adult themes	1	N/A
R — Implied/simulated sexual activity	10	N/A
X — Real depiction of actual sexual activity	15	42
RC — Depiction of bestiality	6	9
RC — Detailed instruction in crime	0	2
RC — Exploitative/offensive depiction of child	59	176
RC — Frequent/prolonged/detailed violence/cruelty	0	5
RC — Offensive/abhorrent fantasies	2	34
RC — Offensive/abhorrent sexual activity	2	5
RC — Paedophile activity	9	15
RC — Sexual violence	0	1
Total	104	289

Notes

* The actual or likely classification of Internet content is determined according to the Classification Board's Guidelines for Classification of Films and Videotapes. The ABA asks the Classification Board to classify potential prohibited Internet content hosted in Australia. In the case of content hosted outside Australia, the ABA generally determines the likely classification itself.

** The ABA issues take-down notices for Internet content hosted in Australia. When the content is hosted outside Australia the ABA notifies to the makers of approved filters in accordance with the code of practice for Internet service providers.

the relevant Internet content host, covering the items located in the investigation.

The ABA issued 14 take-down notices to Australian Internet content hosts, covering a total of 104 items. In all cases, Internet content hosts have complied with notices within the time allowed.

Many have found it helpful to be alerted to the presence of prohibited content, which has been uploaded by a user, contrary to the usage policies of the host. The ABA has not needed to use enforcement powers to obtain compliance.

The majority of prohibited or potentially prohibited content that was investigated and found to be hosted outside Australia was hosted in the United States (71 per cent) and the Russian Federation (11 per cent). The content was also hosted in Canada, Denmark, Japan and the Netherlands.

Referral to law enforcement agencies

If the ABA considers that prohibited and potentially prohibited content hosted outside Australia is of a 'sufficiently serious' nature, it must notify the content to an Australian police force. The ABA has the discretion to defer action about prohibited content or potential prohibited content, whether hosted in Australia or outside Australia, if a member of an Australian police force satisfies it that action should be deferred for a specified period in order to avoid prejudicing a criminal investigation.

The arrangements for referral of information about Internet content to law enforcement agencies are set out in memoranda of understanding (MOUs) between the ABA and individual Australian services. Memoranda of understanding were agreed with police services in Queensland, Tasmania and Western Australia between January and June 2000. Between 1 July 2000 and 30 June 2001, MOUs were agreed with:

- Australian Federal Police (content hosted outside Australia) (27 July 2000);

- Australian Federal Police (content hosted in the Australian Capital Territory) (8 September 2000);
- NSW Police Service (18 December 2000); and
- Victoria Police (17 January 2001).

Informal arrangements for the exchange of information about Internet content operate in relation to content that is hosted in South Australia and the Northern Territory.

From 1 July to 30 June 2001, the ABA referred 176 items of Internet content hosted outside Australia to the Australian Federal Police, and 59 items to the relevant State or Territory police service.

Each memorandum of understanding provides for periodic review of its operation. In March 2001, the ABA commenced discussions with the Australian Federal Police about reviewing the MOU relating to Internet content hosted outside Australia, to streamline the exchange of information and better meet the needs of both agencies.

Strategy 3: Research the community's use of the Internet and implement education initiatives aimed at increasing awareness of the options for addressing concerns about content

Research

The ABA uses research to support its role in regulating Internet content. The research assists the ABA, the industry and the community to understand the online medium and the impact that the Internet is having on the lives of Australians. It also provides information to support the community education and codes monitoring activities.

Internet@home

To assist in formulating and implementing its community education strategy, the ABA commissioned the Internet@home research project to examine Australian families' use of the Internet.

The findings of this research will provide, for the first time, a detailed picture of Internet usage in the homes of families with children.

The research was conducted over the period July to November 2000 and comprised:

- qualitative focus groups with adults, teenagers and children;
- a national quantitative survey of 1203 adults (stratified by state, gender and home-connection status); and
- a panel of 310 Internet-using households at 284 locations across Australia, with children under 18 years of age.

The research findings included:

- the majority (61 per cent) of adult Australians had some access to the Internet (national survey), however, the largest single group of users is teenage children. Home and work are the most common places of access;
- reasons for connecting to the Internet included: work or study (adults); study/education (children); to pursue an interest or hobby; and to keep in touch with family and friends;
- the study or office was the most common room for the Internet-connected computer, followed by the family room/lounge room, spare room and then adult bedroom;
- there is considerable family interaction around the Internet, including sharing hints on how to do things, on good/entertaining sites and solving problems;
- parents use the Internet as an information resource and communication tool, whereas young people use it more as an entertainment medium;
- a number of services appeared to have greater appeal with certain segments of the

population than with others: chat rooms or instant messaging, and downloading music or games, were more commonly used by younger respondents; and

- email was the most commonly used Internet service by both children and adults.

A full report of the research findings will be released in the second half of 2001.

Filter effectiveness

The Internet@home research findings show that parents perceived Internet content filter software to be a useful tool for managing children's access to the Internet, and they would find it helpful to have more information about the types of products available and how they work. In mid-December 2000, NetAlert and the ABA called for proposals to research the effectiveness of existing filtering software products from a user's perspective. The research is being conducted with a view to increasing understanding of the effectiveness of different products.

The research examines the filters included on the schedule to the codes of practice (at 30 March 2001), as well as others in common use. Each filter will be assessed against a number of criteria including:

- whether and how it performs in terms of community expectations about the types of material that should and should not be blocked;
- whether and how it can be customised to individual needs (according to age, cultural expectations and so on);
- whether it is easy to use and update, and whether sufficient information is provided to assist in its installation and ongoing use; and
- whether the filter has the option of tracking access as well as, or instead of, blocking it, thus facilitating monitoring.

The research findings will further support the community education initiatives of NetAlert and the ABA.

Audiovisual streaming

As part of the ABA's research function, and also to inform itself and the Minister of technological developments relevant to Internet content regulation, the ABA has commissioned a background paper on audiovisual streaming services that are delivered over the Internet. The paper will look at the current 'state of play' for audiovisual streaming from the point of view of the technologies in use and the services being offered, both in Australia and overseas. It will also explore the likely future trends in service delivery, and the possible regulatory implications. Further work in this area will be undertaken in 2001-02 in the context of the review of the operation of Schedule 5 to the Act, to be completed before 1 January 2003.

Hotline promotion

The ABA continued to promote its online-hotline at the 'grass-roots' level, particularly to users who are parents or carers of children. This was done in conjunction with the promotion of the ABA's Australian Families Guide to the Internet web site, so that the twin messages of the risks and the action that can be taken to address those risks, were presented together.

Material advertising of the hotline and the Australian Families Guide to the Internet was placed in magazines and periodicals that have as their target audience the ordinary Internet user, including recently-connected families, and parents and carers of children. Further promotion of the hotline is to be undertaken during 2001-02, as part of the ABA's community education strategy.

Community education

A key aspect of the ABA's role in the co-regulatory scheme is the provision of advice and assistance to Internet users that helps them to manage access to the Internet.

Between 1 July to 31 December 2000, the ABA developed a program of community education activities to take place during 2001.

The program aims to ensure that activities are targeted and appropriate to the information needs identified in the ABA's research, and that they complement, rather than duplicate, the activities of other key players in the management and regulation of Internet content, particularly NetAlert and the IIA.

Implementation commenced in April 2001, with three components:

- redesign of the ABA's Australian Families Guide to the Internet web site, originally launched in 1998, to provide up-to-date information in a contemporary format;
- design of new information materials for distribution to parents, teachers and children, primarily through schools and libraries; and
- a program of information/promotion events, commencing with the launch of the Internet@home research findings.

The ABA selected consultants in June 2001 to undertake each of the three components of the strategy. The ABA expects to complete the new web site and start distribution of new information materials in conjunction with the launch of the findings of the Internet@home research in the second half of 2001.

Conferences

The ABA accepted numerous invitations to speak at domestic conferences related to the subject of Internet content regulation. These offered the opportunity to address some of the misconceptions about the scheme and to communicate directly with individuals and organisations affected by the scheme, in particular Internet service providers and Internet content hosts (for details of the conferences, see appendix 5).

Strategy 4: Monitor and contribute to inter-governmental and other international initiatives that address community concerns about Internet content

Domestic and international initiatives

Because of the global nature of the Internet, international cooperation is a key requirement for effective regulation. The Act charges the ABA to liaise with regulatory and other relevant bodies overseas about cooperative arrangements for the regulation of the Internet industry, including (but not limited to) collaborative arrangements to develop:

- multilateral codes of practice; and
- Internet labelling technologies.

The ABA liaises with a wide range of international bodies on Internet content regulation matters.

Hotline workshop

Since the ABA's online-hotline for complaints about Internet content commenced operation on 1 January 2000, the ABA has worked to ensure that the hotline operates in line with international 'best practice'. To assist the ABA refine its policies and procedures for responding to complaints, it hosted a one day workshop in December 2000 for specialist representatives of international hotlines, Australian law enforcement agencies and the Australian Internet industry. Participants in the workshop included:

- Ms Ruth Dixon, then Chair of the Internet Hotline Providers in Europe Association (INHOPE);
- Mr Nigel Williams, Director of Childnet International;
- representatives of the New Zealand Department of Internal Affairs;

- representatives of the Queensland Police Service, NSW Police Service and the Australian Federal Police; and
- representatives of the Internet Industry Association.

Specific issues addressed at the workshop included methods for dealing with complaints about Usenet newsgroup content and chat services, hotline staff welfare and recruitment issues, and processes the ABA uses to notify Internet content hosts about prohibited and potentially prohibited content. Workshop participants also considered options for notifying overseas law enforcement agencies about prohibited and potentially prohibited content hosted in their jurisdictions, including using overseas hotlines to relay this information when appropriate.

As a result of the workshop, the ABA has gained an increased understanding of the operational procedures of Australian police agencies, and a broader knowledge of how hotlines in other countries investigate complaints about Internet content.

International Network of Experts on Content Self-Regulation

The ABA continued its membership of the International Network of Experts on Content Self-Regulation, an initiative of the German-based Bertelsmann Foundation. The findings of the experts group were published during the year as, *Protecting Our Children on the Internet: Towards a New Culture of Responsibility*. (For more information about the network, see the *1999-00 Annual Report*, pp. 69-70)

The network has paid particular attention to initiatives to develop codes of practice, particularly within Europe, and to the feasibility of an international code or approach. The Bertelsmann Foundation continued to foster the work being done by the Internet Content Rating Association (ICRA) on the rating and filtering of content (see separate entry on pp. 153).

The network believes that the Australian approach is increasingly recognised as a model for world's best practice in addressing issues arising from online content and invited the ABA to present an account of its hotline as an example of international best practice. ABA Director of Policy and Content Regulation, Ms Andree Wright, gave the presentation to the meeting in Singapore in February 2001.

Safe Surfing 2001

Ms Wright represented the ABA at the Safe Surfing 2001 conference in Singapore on 22-24 February 2001. The event provided up-to-date information, tools and technologies, and brought together industry representatives, educationalists, community groups and regulators for the first time at an international level.

Internet Hotline Providers in Europe Association (INHOPE)

INHOPE is a forum for Internet hotlines to exchange information and experience on complaint investigation processes, occupational health and safety for hotline staff, and standardised reporting of hotline statistics. The network is also an effective mechanism for dealing with specific complaints, enhancing and complementing existing arrangements with law enforcement agencies. The ABA became an associate member of INHOPE in late 2000 and in December 2000, INHOPE's Chair, Ms Ruth Dixon, visited the ABA hotline and attended the ABA's hotline workshop.

INHOPE invited the ABA Manager Online Content Regulation, Mr Richard Fraser, to brief its members' meeting in Stockholm in March 2001 on the law, policy and implementation of the ABA hotline. Participants also discussed other hotline-related matters, including new techniques in image 'fingerprinting' which are assisting the investigation of cases relating to child pornography on the Internet, management of hotline staff welfare, and development of a standardised statistical reporting format.

The ABA's Director, Policy and Content Regulation attended the INHOPE meeting of 16-18 May 2001 in Washington, DC, hosted by the US CyberTipline run by the National Centre for Missing Children. The Cybertipline has received more than 40 000 referrals relating to online depictions of child pornography.

The CyberTipline ran workshops on hotline relations with industry and the community, law enforcement, and on new trends in Internet technology and use. There was further work on a standardised approach to statistical reporting for INHOPE's reports on the work by member hotlines. At the end of the reporting period, the ABA's hotline was trialing this approach.

INHOPE launched a new web site (www.inhope.org) on 30 May 2001 containing advice on illegal content, to describe its work in bringing hotlines together to share information and expertise and to highlight the role of hotlines as channels for reporting and identifying criminal material.

Internet Content Rating Association

The ABA has been involved with the Internet Content Rating Association (ICRA) for some time (see previous annual reports). The ICRA is an international, non-profit organisation, which is developing a ratings system to make the Internet safer for children. Its approach has been endorsed by the European Commission and is a key part of its Internet Action Plan.

The ABA's Director of Policy and Content Regulation met with the ICRA director in July 2000 and participated in the pilot of the latest version of the ICRA content rating system, launched in December 2000. It provides a rating system that can be adapted to different national, cultural and individual needs. ICRA expects to launch the second part of the system, a filter that allows parents to set their own controls, in mid 2001.

The ABA's Assistant Manager of Online Services Content Regulation met with a member of the ICRA Advisory Board, Mr Bruce Rigby, in October 2000 to discuss the operation of the new

labelling scheme and opportunities for promoting its take-up in Australia. Mr Rigby also presented information about the ICRA scheme at the ABA Conference in May 2001.

International requests for presentations on the Australian scheme

The ABA met with representatives of the Internet Watch Foundation and Childnet International and briefed representatives from Germany, China, Korea and Singapore on the Australian scheme.

The Korean Broadcasting Corporation interviewed ABA staff to obtain information about the Australian scheme for use in a documentary about the issues posed by online content regulation in Korea.

The ABA also presented the Australian co-regulatory approach to the Internet Governance - Who Controls the Internet? conference in Berlin in April 2001. Hosted by the Bertelsmann Foundation and Fredrick Ebert Foundation, the forum considered media policy issues relating to the challenges and opportunities for co-regulation of the Internet. The ABA's Director of Policy and Content Regulation presented Australia's online content complaints hotline as a co-regulatory case study.

CyberTipline

Through a study tour sponsored by the US State Department, the ABA's Online Content Regulation Manager, Mr Stephen Nugent, met representatives of the National Centre for Missing and Exploited Children (NCMEC) which operates CyberTipline, the US Internet complaint hotline. Mr Nugent also met representatives of the Internet Education Foundation, the US Internet Industry Association and the Pew Internet and American Life Project.

Mr Nugent's visit to the NCMEC laid the groundwork for close cooperation between the two agencies. The NCMEC serves as a focal point for assistance in recovering missing children and raising public awareness about ways to help prevent child abduction, molestation and sexual exploitation. The CyberTipline

(www.cybertipline.com) is an online resource for reporting sexual exploitation of children and the online enticement of children for sexual acts.

The ABA is a frequent contributor of information and continues to build an effective working relationship with the NCMEC.

Commission on Protection of Children Online

In recognition of the important initiatives taken by Australia in its co-regulatory scheme, the ABA was invited to testify to the United States Child Online Protection Act (COPA) Commission in August 2000. The Commission's primary purpose was to, 'identify technological or other methods that will help reduce access by minors to material that is harmful to minors on the Internet'. Its final report was presented to Congress on 20 October 2000.

The ABA presentation was part of the Commission's Globalisation Panel hearing in San Jose, USA on 3 August 2000. The panel considered the legal, marketing and access issues that result from the global nature of the Internet, and to advise the Commissioners on how other countries deal with the issue of harm to minors.

International Institute of Communications Regulators' Forum

The ABA was invited to present its experience in implementing Australia's co-regulatory scheme for Internet content at the International Institute of Communications Regulators' Forum held on 23 and 24 September 2000 in Florida, USA.

Council of Europe hearing on possible regulatory approaches for new media content

On 17 October 2000, the Council of Europe's Steering Committee on Mass Media held a hearing on regulatory, co-regulatory and self-regulatory approaches to harmful content on the Internet as part of its commitment to formulating 'a media policy for tomorrow' for its 41 member states. The hearing analysed different national approaches to these issues in order to assist the

Council define common pan-European approaches in this area.

The Committee invited the ABA to brief it on the Australian co-regulatory scheme and in particular, the implementation of the complaints hotline, industry codes of practice and community education initiatives.

National Broadcasting Council of Poland Conference

On 5 and 6 November 2000, the National Broadcasting Council of Poland's conference 'Internet as a Medium of the XXI Century' considered the implications of convergence on policy-making and regulation. The conference explored regulating the Internet and creating a legal framework for its operation, and ways to promote its development. The ABA was invited to present on the Australian experience and was represented by ABA Manager Codes and Conditions, Ms Margaret Harradine.

Further information

A detailed description of the scope of the Internet content co-regulatory scheme and the ABA's role can be found on the Internet at www.aba.gov.au/what/online/index.htm. The operation of the scheme is described in detail in the six-monthly reports tabled in Parliament by the Minister for Communications, Information Technology and the Arts. These reports are available at www.dcita.gov.au.

Output 1.2

Licensing of broadcasting services

Chapter 4

Licence area planning and licence allocation

Goal 3: Allocation of spectrum for analog radio and TV broadcasting services in all parts of Australia

Strategy 3.1 Develop licence area plans for long term use of spectrum

Planning the radiofrequency spectrum

Final licence area plans – radio

Brisbane, Gold Coast, Gympie, Ipswich, Lismore, Murwillumbah and Nambour (December 2000)

Brisbane

In the licence area plan for Brisbane, Queensland, the ABA decided to make channel capacity available for two new commercial radio services (one for immediate allocation and one in December 2003), two new wide-coverage community radio services, one new local community radio service to serve Beaudesert and one open narrowcasting service.

Gold Coast

In the licence area plan for the Gold Coast, Queensland, the ABA decided to make channel capacity available for one new commercial radio service and three new wide-coverage community radio services.

Gympie

In the licence area plan for Gympie, Queensland, the ABA decided to make channel capacity available for two new local community radio services, one each to serve Gympie and Noosa.

Ipswich

In the licence area plan for Ipswich, Queensland, the ABA decided to make channel capacity available for two new local community radio services, one each to serve Boonah and Esk.

Lismore

In the licence area plan for Lismore, NSW, the ABA decided to make channel capacity available for five new local community radio services, one each to serve Ballina, Byron Bay, Nimbin, Casino and Coraki and one open narrowcasting service.

Murwillumbah

In the licence area plan for Murwillumbah, NSW, the ABA decided to make channel capacity available for one new wide-coverage community radio service and one open narrowcasting service.

Nambour

In the licence area plan for Nambour, Queensland, the ABA decided to make channel capacity available for one new commercial radio service and two new wide-coverage community radio services.

Gosford (August 2000)

In the licence area plan for Gosford, NSW, the ABA decided to make channel capacity available for one new commercial radio service, three new wide-coverage community radio services, one open narrowcasting radio service and two new national radio services.

Variations to licence area plans (radio and television)

Bridgetown (May 2001)

The ABA varied the radio licence area plan for Bridgetown, Western Australia, by making an FM channel available for the commercial radio service 6BET at Bridgetown. The licence area plan for Bridgetown was originally determined on 5 November 1996.

Remote Central and Eastern Australia television (March 2001)

The ABA varied the television licence area plans for Remote Central and Eastern Australia following an amendment to the Broadcasting Services Act (section 38B) which enables a third commercial television service to be introduced in areas that have two services.

In March 2001 the ABA varied the licence area of the two Remote Central and Eastern Television licensees to remove overlaps with the Tasmanian commercial television terrestrial licence area. This was done to permit the commercial television licensees in the two-station Tasmanian market to seek an additional licence immediately under the new section 38B of the Broadcasting Services Act, rather than be bound to the timing of the remote markets.

Remote North East Zone (December 2000)

The ABA varied the radio licence area plan for Remote North East Queensland by extending the licence area of the commercial radio service 4SUN to include the towns of Beaudesert and Jimboomba and making two FM channels available for transmitters to serve these towns

and Kooralbyn. The ABA also made two additional FM channels available to the commercial radio service 4RBL to serve Beaudesert and Kooralbyn. The licence area plan for Remote North East Queensland was originally determined on 17 October 1996.

Shepparton (April 2001)

The ABA varied the radio licence area plan for Shepparton, Victoria, by extending the licence area of the community radio service 3UGE to include the towns of Yea and Marysville and making two FM channels available for transmitters to service these towns. The licence area plan for Shepparton was originally determined on 21 September 1997.

Draft licence area plans

Draft licence area plans for the Adelaide and Perth metropolitan markets were released for public comment in October and November 2000 respectively.

Draft variations to licence area plans

A draft variation to the licence area plan for Sydney was released for public comment on 24 May 2001, which proposed to make an additional wide coverage community radio service available in Sydney, rather than an open narrowcasting radio service.

Following action taken in the Federal Court, Justice Sundberg found that in determining the Melbourne licence area plan in June 2000, the ABA had not satisfied section 27 of the Broadcasting Services Act, which requires wide public consultation in the planning process. In particular, the Court found that the ABA had not consulted widely enough on the proposal to transfer commercial broadcaster 3AK to radiofrequency 1116 kHz and to subsequently make 3AK's existing frequency of 1503 kHz available for a community radio service. This proposal had reduced the number of open narrowcasting radio services available in the Melbourne licence area.

The ABA considered that the decision by the Court had the effect of making the AM channel capacity at 1116 kHz unplanned and available in the Melbourne commercial radio licence area. Accordingly, the ABA proposes to vary the Melbourne licence area plan to plan for the use of 1116 kHz for 3AK Melbourne and to make 1503 kHz available for a community radio service. A draft variation to the licence area plan for Melbourne was released for public consultation on 28 May 2001.

Day/night switching policy

In December 2000, the ABA released technical options and implementation guidelines for day/night switching and full-time power increases, to improve the reception of AM broadcasting services. The policy addresses the deteriorating reception of AM services, particularly in metropolitan markets, caused by increasing man-made noise.

The ABA will address applications for power increases on a case-by-case basis. Any long term changes to AM operating conditions will be made only following public consultation as part of the process to vary the relevant licence area plan.

Analog television

During 2000-01, the ABA has continued to allocate spectrum for analog television services. The ABA assists the Department of Communications, Information Technology and the Arts administer the Television Fund, which provides funding for a number of programs to improve television reception.

National services

The Government's Television Fund has provided funding to SBS to extend television services to communities with a population of more than 10 000. The ABA has licensed 80 SBS television transmitters as part of this process.

Black spots/ re-transmissions

The aim of the Television Black Spots Program is to assist communities around Australia with television reception difficulties. For the purpose of this program, a black spot is an area of poor or non-existent television reception of one or more of the potentially locally available commercial and national television services. There are two components to the program: providing new services; and replacing obsolete equipment at existing self-help re-transmissions sites.

The program has been divided into two rounds: round one is for blackspot areas with 100 households or more; and round two is for blackspot areas with 50 or more households.

Under round one, 175 expressions of interest for new services have been lodged from various coordinating bodies seeking assistance. To date, the ABA has approved 66 of these, and issued 177 apparatus licences to replace obsolete equipment. There were 232 expressions of interest lodged from various coordinating bodies under round two.

The ABA issued 185 apparatus licences to provide for the re-transmission of broadcasting services.

Out-of-area reception

An amendment to the Broadcasting Services Act has given the ABA the power to approve transmission of commercial and community broadcasting services into another licence area where a local service signal is not adequate. For the 2000-01 year, the ABA has approved more than 1150 applications for individual reception of satellite television services outside the designated 'remote' Australia licence areas.

Analog changes

As part of the planning for digital television, some changes to existing analog services are required before the new digital service can start. Sometimes these changes also require a variation to the relevant licence area plan. (See table 9)

Table 9 Analog television services that have changed technical operating conditions

Call sign/ broadcaster	Channel changes	Geographic area	Start date	Reason for change
ABHN/ABC	From channel 35 to channel 50	Merewether, NSW	30/7/01	Channel 35 has been allocated for datacasting services in Newcastle.
ABL/ ABC	From channel 11 to channel 57	Foster, VIC	22/1/01	Co-channel interference from channel 11 Melbourne digital service.
ABRV/ ABC	From channel 11 to channel 42	Ballarat, VIC	22/1/01	Co-channel interference from channel 11 Melbourne digital service.
ABWN/ ABC	From channel 35 to channel 30	Brokers Nose, NSW	18/5/01	Channel 35 has been allocated for datacasting services in Sydney.
BCV/ Southern Cross	Additional service to channel 8 (channel 38)	Bendigo, VIC	30/11/00	Co channel interference from channel 8 Melbourne digital service.
GLV/ Southern Cross	From channel 6 to channel 54	Foster, VIC	4/9/00	Co-channel interference from channel 6 Melbourne digital service.
GLV/ Southern Cross	From channel 8 to channel 37	La Trobe, VIC	4/9/00	Co-channel interference from channel 8 Melbourne digital service.
GTS/ Spencer Gulf Telecasters	Channel 6 increased by 10 dB	Cowell, SA	1/5/01	Interference from digital television services in Adelaide.
SBS	From channel 30 to channel 48	Stanwell Park, NSW	17/5/01	Channel 30 has been allocated for ABC analog services at Brokers Nose, Wollongong.
SSW/ Prime GWN	From channel 11 to channel 50	Central Agricultural- Mawson, WA	25/8/00	Co-channel interference from channel 11 Perth digital service.
VTV/WIN	Additional service to channel 6 (channel 36)	Ballarat, VIC	22/1/01	Co-channel interference from channel 6 digital service in Melbourne.

Strategy 3.2 Allocate licences in a timely, fair and transparent manner through price-based auctions for commercial licences, merit-based selection for community licences and other allocation processes as necessary

Licence allocation

The ABA allocates a number of different types of broadcasting licences under the Broadcasting Services Act including:

- commercial television and radio broadcasting licences in the broadcasting services bands (under section 36 of the Act);
- commercial television and radio broadcasting licences which are transmitted by means other than the broadcasting services bands (section 40);
- community radio broadcasting licences (section 84);
- community broadcasting licences which are transmitted by means other than the broadcasting services bands (section 82);
- temporary community radio licences (section 92B);
- subscription television broadcasting licences (section 96);
- open and subscription narrowcasting licences (section 117) ;and
- international broadcasting licences (section 121FD(2)).

Commercial radio broadcasting licences

New commercial radio and television broadcasting licences to broadcast within the broadcasting services bands are allocated under section 36 of the Act. They must be allocated under a price-based system determined by the

ABA. Applicants for commercial licences must pay an application fee.

New commercial radio broadcasting licences for Sydney and Campbelltown were allocated in July 2000, following a licence allocation exercise on 24 May 2000 (see table 11).

On 14 December 2001, the ABA conducted a licence allocation exercise for one commercial radio licence to serve Melbourne, and allocated the licence on 22 February 2001 (see table 12).

On 30 May 2001, the ABA conducted a licence allocation exercise for one commercial radio licence for Brisbane, but had not allocated the licence at the date of this report (see table 13).

A section 40 licence authorises the licensee to provide a commercial broadcasting service that does not use the broadcasting services bands, but does not entitle the licensee to any particular mode of transmission or delivery. Section 40 licences are available on application for a pre-determined price, currently \$2400 (see table 14).

Open narrowcasting licences issued under the Radiocommunications Act

The ABA issues, under delegation from the Australian Communications Authority, apparatus licences for open narrowcasting radio services using high-powered frequencies within the broadcasting services bands. The ABA issues licences for services it identifies during licence area planning, under a price-based allocation system determined under the *Radiocommunications Act 1992*.

On 27 April 2000, the ABA decided to suspend allocation of apparatus licences for open narrowcasting radio services in the broadcasting services bands pending clarification of the service category. Under section 19 of the Act, the ABA has the power to determine additional criteria or to clarify existing criteria used to define the limits of a category of broadcasting service.

Table 10 Total number of licences on issue*

	30 June 2001	30 June 2000
Commercial television licences using the broadcasting services bands	48	48
Commercial radio licences using the broadcasting services bands	255	244
Commercial radio licences not using the broadcasting services bands	11	8
Community radio licences**	286	278
Remote Aboriginal community television licences	80	
Open narrowcasting licences^	182	
Subscription television licences	1824	1689
International broadcasting licences	10	-

Notes

* Does not necessarily reflect number of services operating, as some licences have been issued but a service is yet to commence.

** Includes all ex-BRACS (broadcasting in remote Aboriginal communities) radio licences.

^ Only includes licences allocated by the ABA under the Radiocommunications Act after being planned in licence area plans.

Table 11 Section 36 commercial radio licences allocated in July 2000

Location	Frequency	Licensee	Price paid
NSW, Campbelltown	91.3 MHz	Campbelltown Radio Pty Ltd	\$10m
NSW, Sydney	96.9 MHz	Sydney FM Radio Pty Ltd	\$155m

Table 12 Section 36 commercial radio licences auctioned in Dec 2000 and allocated Feb 2001

Location	Frequency	Licensee	Price paid
VIC, Melbourne	91.5 MHz	Melbourne Radio Pty Ltd	\$70m

Table 13 Section 36 commercial radio licences auctioned in May 2001

Location	Frequency	Highest bidder	Price bid
QLD, Brisbane	97.3 MHz	Brisbane FM Radio Pty Ltd	\$67m

Table 14 Section 40 commercial broadcasting licences allocated

State	Area served	Frequency	Licensee	Date allocated
NSW	Sydney	Non-BSB	2KY Broadcasters Pty Ltd	20 Jul 2000
N/A	Australia	Non-BSB	Worldaudio Communications Pty Ltd	25 Jan 2001

Table 15 Open narrowcast licences allocated in reporting period

Location	Frequency	Successful bidder	Auction date	Licence issued	Price paid
NSW, Nowra	101.1 MHz	Bluwin Pty Ltd	November 1999	July 2000	\$12,000
NSW, Wollongong	105.3 MHz	Bluwin Pty Ltd	November 1999	July 2000	\$210,000

Table 16 Community radio licences allocated in reporting period

State	Area served	Release date	Decision date	Frequency	Licensee
NSW	Campbelltown	16 Dec 1999	22 Dec 2000	100.3 MHz	Macarthur Community Radio Association
NSW	Narrabri	6 July 1998	12 Oct 2000	91.3 MHz	Narrabri Shire Community Radio Inc
NSW	Penrith	16 Dec 1999	24 May 2001	100.7 MHz	Way Out West Fine Music Inc
NSW	Sydney	16 Dec 1999	24 May 2001	92.1 MHz	Muslim Community Radio Inc
NSW	Sydney	16 Dec 1999	24 May 2001	93.7 MHz	Gadigal Information Service Aboriginal Corporation
NSW	Sydney	16 Dec 1999	24 May 2001	94.5 MHz	Free Broadcast Inc
VIC	Bacchus Marsh	22 June 2000	14 May 2001	98.5 MHz	Bacchus Marsh Community Radio
VIC	Geelong	22 June 2000	29 Mar 2001	96.3 MHz	Geelong Gospel Radio
VIC	Sunbury	22 June 2000	20 April 2001	99.3 MHz	3NRG Inc
VIC	Werribee	22 June 2000	28 Mar 2001	88.9 MHz	Wynn FM Community Radio

Table 17 Subscription television licences allocated

Applicant	Number of licences	Date allocated
TPG TV Pty Ltd	22	14 Sep 2000
Access1 Pay Television Pty Ltd	30	14 Sep 2000
C7 Pty Ltd	6	9 Nov 2000
Primestar Communications Australia Pty Ltd	70	8 Feb 2001

The category of open narrowcasting is defined in section 18 of the Act. However, the ABA is of the view that the definition as it currently stands does not provide sufficient guidance for radio broadcasters. The ABA has decided to review the above criteria and intends to make a determination to better distinguish between the category of narrowcasting radio services and other categories of radio service.

Long-term community radio broadcasting licences

The ABA has made 154 new community radio licences available under the planning process and has allocated 80 of these. Of the remaining 74, the ABA is processing the allocation of 19, two have been deferred, 13 are due to commence in the next 12 months, and 40 have either no aspirants or only recently established aspirants.

At the end of the reporting period, there were 287 long-term community radio broadcasting licensees. In the reporting period, the ABA allocated 10 licences (see table 16).

Temporary community radio broadcasting licences

The temporary community broadcasting licence (TCBL) scheme has been in place since August 1997. The scheme provides for the ABA to allocate non-renewable community radio licences to eligible aspirant broadcasters for periods of up to 12 months. The licences are only allocated if channels in the broadcasting services bands are available for transmission.

This scheme gives the ABA considerable flexibility in promoting the efficient and effective use of the spectrum before the completion of licence area planning. It also gives aspirant broadcasters the opportunity to establish and develop a service to their community of interest before the merit-based allocation of permanent licences.

Demand for access to available channels, particularly in the major metropolitan areas, is particularly strong. Following the introduction of

the scheme, a number of new aspirants emerged and others split off from established groups exacerbating competition for the limited channels available.

As a response to these changing circumstances, and to manage effectively the demand for the diminishing number of available channels as licence area planning concludes in the major metropolitan areas, the ABA released revised guidelines for time-sharing in April 2000.

In 2000-01 the ABA allocated 175 temporary community broadcasting licences (see appendix 6 for the list of aspirant broadcasters). The ABA did not require any aspirant broadcasters to terminate a broadcast during the reporting period.

Subscription television (pay TV) broadcasting licences

Subscription television broadcasting licences are available on application under section 96 of the Broadcasting Services Act for a pre-determined price, currently \$1600. Subscription radio broadcasting and subscription radio and television narrowcasting services are licensed under the class licence determination made in 1992 under section 117 of the Act.

Since 1992, the ABA has issued 1689 subscription television licences and two satellite licences. A third satellite licence was issued by the then Minister for Communications and the Arts in 1994.

Since 1996, the ABA has issued licences under section 96 that allow services to be delivered by any means, including satellite. The ABA allocated 128 subscription television licences during the reporting period (see table 17).

International broadcasting licences

In December 2000, the Broadcasting Services Act was amended to include a new category of service for international broadcasting. At the same time, the ABA issued the *Broadcasting Services (International Broadcasting) Guidelines 2000*.

In April 2001, following consultation with the Minister for Foreign Affairs, the ABA allocated the first 10 international broadcasting licences. The licensees, which must commence a service within two years, propose to provide short wave radio services targeted at audiences in South Asia, East Asia, South East Asia, and the South Pacific regions. The services are to be delivered from the Cox Peninsula, near Darwin and from Kununurra, Western Australia. A list of the licensees is included in appendix 6.

National broadcasters

The ABA issued 108 apparatus licences to national broadcasting service providers (ABC and SBS) to provide analog radio and television and digital television services.

Broadcasting licence renewals

The ABA renewed 107 licences in 2000-2001: 77 commercial radio, 17 community radio and 13 commercial television.

Community television trial

Trial community licences have been renewed until 31 December 2001 for the community television services in Sydney, Melbourne, Adelaide, Brisbane, Perth and Lismore. Community television trial licensees are licensed as open narrowcasting services.

Special events

The ABA issued 72 licences for special event broadcasting services.

Chapter 5

Digital broadcasting

Goal 4: National and commercial TV broadcasters to have commenced digital services in metropolitan areas, and where achievable, in regional areas

Digital television commenced in major metropolitan markets (Adelaide, Brisbane, Melbourne, Perth and Sydney) on 1 January 2001. In addition, a number of broadcasters in regional areas indicated to the ABA that they wished to commence digital transmissions in the first half of 2001, and broadcasters in the Sunshine Coast, Queensland, and Stanwell Park, NSW, commenced digital transmissions in the first half of 2001. A number of other regional broadcasters are expected to commence digital services in regional Australia in late 2001.

Strategy 4.1 Prepare conversion schemes that will enable the ABA to achieve the objectives of the digital conversion legislation

Conversion schemes

Changes to the *Broadcasting Services (Digital Television and Datacasting) Act 2000* relating to digital television included the requirement that broadcasters simulcast in standard definition mode, gave them permission to submit one or a series of implementation plans, and made changes to the ABA's planning powers once the analog/digital simulcast period ends.

The ABA, therefore, determined amendments to both the National Television Conversion Scheme and the Commercial Television Conversion Scheme, on 21 December 2000.

Strategy 4.2 Develop digital channel plans that identify channels available for conversion and maximise the opportunity for other services to use the spectrum during the analog/digital simulcast period

Digital channel plans

The ABA is required to prepare digital channel plans which allocate channels for digital television conversion. These enable broadcasters to plan digital transmission coverage to match analog coverage.

In 1999-00, the ABA finalised the first stage of digital channel planning for the main station channels for the metropolitan licence /coverage areas of Sydney, Melbourne, Brisbane, Adelaide and Perth, and those regional areas where broadcasters had indicated to the ABA that they wished to commence digital transmissions in the first half of 2001.

The second stage, planning for additional digital services and digital repeater sites by variations to existing digital channel plans, commenced in July 2000. These reservations provide for the allotment and assignment of channels for digital television translator services to commercial and national television broadcasters. During 2000-01, additional digital translators were planned for the areas of Adelaide, Brisbane, Gold Coast, Melbourne, Newcastle, Perth, Sunshine Coast, Sydney and Wollongong.

Over the next few years, the ABA will develop digital channel plans for regional areas of Australia (stage three) and digital channel plans for remote areas (stage four). The ABA expects

to release draft digital channel plans for some regional areas in the second half of 2001.

The ABA allocated 40 test licences for digital terrestrial television broadcasting and datacasting services.

Interference Management Scheme

The Digital Television Interference Management Scheme outlines digital licensees' responsibilities regarding interference to analog television transmissions caused by digital transmissions. It is designed to ensure that a viewer's analog television service is protected, and resolution to interference, when it does occur, is timely. After extensive consultation with industry and consumer representative groups, the ABA determined the scheme on 21 December 2000.

The scheme is included in the ABA's technical planning guidelines and applies to commercial television digital broadcasting or datacasting transmitter licensees and is enforceable as a licence condition under the Radiocommunications Act.

Before digital broadcasting began, the ABA and the broadcasting industry worked together to ensure that reception of analog television services was maintained, and that reports of interference were handled in an efficient and timely manner.

An interference hotline was established as part of the scheme and provided viewers with advice and assistance for channel or co-channel interference, particularly with interference to VCRs and poor reception of analog services.

The ABA will review the scheme in consultation with the broadcasters and industry bodies as required.

Determination of remote licence areas for digital television conversion

The Broadcasting Services Act (Schedule 4) requires the ABA to consider the special circumstances that apply to television broadcasting services in the remote areas of Australia when making the arrangements for

digital conversion. Digital television conversion is governed by the Commercial and National Television Conversion Schemes. The Act provides that the schemes must have a Part B to cater for the special circumstances of remote areas. Remote coverage areas in relation to national services are deemed to be the same as remote licence areas.

In December 2000, the ABA formally determined which commercial television licence areas would be considered 'remote licence areas' for the purposes of digital conversion. These are the licence areas of ITQ Mt Isa, IMP and QQQ Remote Central and Eastern Australia, WOW Regional and Remote Western Australia, WAW Remote Western Australia, VEW Kalgoorlie, GTW Geraldton and SSW South West and Great Southern Western Australia.

Permanent datacasting scheme

The *Broadcasting Services Amendment (Digital Television and Datacasting) Act 2000* and the *Datacasting Charge (Imposition) Amendment Act 2000* established the regulatory regime for the provision of datacasting services.

The ABA assisted the Australian Communications Authority to develop the datacasting charge and processes for auctioning datacasting transmitter licenses. The ABA also developed its internal processes to implement the permanent datacasting scheme.

The ABA also developed procedures for the implementation of the datacasting scheme, including a process for dealing with applications for datacasting licences. In this regard, the ABA has approved application forms for datacasting licences and nominated datacaster declarations.

Datacasting test transmissions

As reported last year, in February 1999, the Minister directed the ABA to facilitate a datacasting trial. Following consultation with interested parties, the ABA released the regulatory policy for datacasting test transmissions in October 1999.

The regulatory policy provided for datacasting test transmissions to be conducted in the Brisbane, Canberra, Newcastle and Sydney markets. However, most registered parties withdrew their interest in participating in the datacasting trial. As a result, the ABA authorised only ntl to conduct datacasting test transmissions on channel 29 in Canberra over a period of four months to 30 November 2000.

After the completion of the datacasting trial on 30 November 2000, ntl was interested in conducting further datacasting test transmissions in Canberra. As a result, ntl was authorised to conduct datacasting test transmissions on channel 12 in Canberra over a two-month period from 4 April 2001.

Tower access regime

Under the transmitter access regime, the owner or operator of a broadcasting transmission tower or designated associated facility must provide the holder of a commercial television broadcasting licence, a national broadcaster or a datacaster with access to the broadcasting transmission tower, the site of the broadcasting transmission tower or a designated associated facility. Access may only be denied if there is in force a written certificate issued by the ABA stating that, in the ABA's opinion, compliance is not technically feasible.

In the reporting period, the ABA made one decision on a request for certificate regarding the technical feasibility of providing access to a tower.

Amendments to the Technical Planning Guidelines

The ABA's technical planning guidelines contain mandatory technical requirements to be met by all commercial and community broadcasting licensees and datacasting transmitter licence holders using the broadcasting services bands when planning new transmission facilities or changes to existing facilities. Compliance with the guidelines is a condition of the transmitter licences issued to commercial, community and

datacasting services under the Radiocommunications Act.

The ABA amended the technical planning guidelines on 21 December 2000 to include, among other things, digital television and a digital television interference management scheme.

Strategy 4.3 Assess commercial licensees' implementation plans for digital television services to ensure that they are achieving the objectives of the legislation

Implementation plans

Implementation plans are a key step in the digital conversion process. Each plan represents a binding commitment by broadcasters to provide a digital television service, and requires licensees to provide information on important technical and administrative aspects of the conversion to digital transmission in an area. Most importantly, implementation plans require broadcasters to specify commencement dates, transmission sites and coverage areas.

In 2000–01, the ABA approved 18 implementation plans and 15 early-start plans for commercial digital television services in both metropolitan and regional areas. The Minister approved new implementation plans for the national broadcasters in Hobart, Canberra and Darwin and variations for Sydney, Melbourne, Brisbane, Adelaide and Perth.

Strategy 4.4 Assist the Minister and Department where necessary with advice on digital technology

Expert advice

The ABA regularly briefs the Minister for Communications, Information Technology and the Arts and his department on developments in digital technology. The ABA has also actively participated at international forums such as the International Telecommunications Union meetings in Geneva and the Asia-Pacific Broadcasting Union Engineering Conference in Manila, as well as domestic and international meetings and subsequent working parties to further explore developments in digital technology for television and radio services.

Work currently in progress includes the identification of requirements for digital television receivers to improve spectrum efficiency and productivity and possible requirements for spectrum which will become available following the switching off of analog television services. The ABA is also keeping a close watch on worldwide developments of digital radio technology.

regularly consults the Digital Television Channel Planning Consultative Group.

When determining the digital channel plans, making amendments to the conversion schemes and finalising the Digital Television Interference Management Scheme, the ABA has consulted widely in the community including:

- broadcasting licensees (commercial, national and community), industry representative bodies and individuals from broadcasting-related industries;
- Government bodies including the Australian Communications Authority and the Department of Communications, Information Technology and the Arts;
- aspirant datacasters; and
- members of the public.

The ABA has also been an observer to the Consumer and Retailer Education Committee of Digital Broadcasting Australia. Digital Broadcasting Australia consists of representatives from retailers of consumer equipment, major manufacturers, suppliers of industry electronics equipment and commercial and national broadcasters. It was formed to promote and provide information about digital free-to-air television in Australia.

Strategy 4.5 Work with Government and industry to build community awareness

Public consultation

The ABA's consultative inquiry processes provide an opportunity for it to gain information from the broadcasting industry about policy and planning issues relating to the introduction of digital television.

When drafting digital channel plans for metropolitan and regional markets, the ABA

Appendix 1

Freedom of information

Section 8 statement

The *Freedom of Information Act 1982* requires Commonwealth Government agencies to make available information about their organisation, functions and operations, and about rules and practices which are used in making decisions which affect people.

Section 8 of the FOI Act requires each agency to publish detailed information about the way it is organised, its powers, the kinds of decisions made, arrangements for public involvement in the work of the agency, documents held by the agency and how these can be accessed by the public.

The body of this Annual Report explains the role and functions of the ABA. This appendix supplements that information for the purposes of section 8 of the Freedom of Information Act and is correct as at 30 June 2001.

Branch functions and powers

Staffing of the ABA is organised into four branches: Legal, Policy and Content Regulation, Corporate Services, and Planning and Licensing. Within these branches, the functions and powers are divided as follows:

Corporate Services branch

This branch comprises the Resource Management and Planning, Human Resources, Secretariat, Information Technology and Facilities Management and Information Management sections.

The functions carried out within this branch include:

- attending to all matters related to human resources functions and financial, accommodation and office services;
- liaising with Commonwealth Agencies, including the Public Service and Merit Protection Commission, Department of Employment, Workplace Relations and Small Business, the Australian National Audit Office, and the Department of Finance and Administration on financial and human resources matters including Workplace Relations, Workplace Diversity and Occupational Health and Safety;
- preparing the Portfolio Budget Statements, coordinating the ABA's budget, and preparing financial statements, estimates and related material;
- co-ordinating the ABA's corporate and business planning processes;
- maintaining the ABA's records management system;
- maintaining the ABA's accounting system, purchasing and asset control, and internal audit and review;
- promoting the use of information technology to enhance the efficiency and effectiveness of the ABA's operations;
- managing corporate contracts including the information technology, travel, cabcharge and credit card contracts;
- coordinating the implementation of APS wide and other corporate initiatives throughout the ABA;
- providing secretariat support to the ABA including organising its regular meetings, preparing formal minutes and maintaining the records of decisions of the ABA;
- producing and marketing publications and informing the public of the functions, activities and decisions of the ABA;
- developing and maintaining the ABA's web site;

- maintaining a full library service for members and staff of the ABA; and
- coordinating briefs and responses to questions arising from Parliamentary processes.

Legal and Control branch

The Legal and Control branch comprises the Legal section and Control section and is responsible for:

- assessing applications for prior approval of temporary breaches of the control provisions of the Act;
- maintaining registers of notifications of directorship and changes in control, associated newspapers, large circulation newspapers, temporary (approved) breaches, extensions of time granted and notices to persons in breach;
- monitoring compliance with the control limits;
- conducting investigations/hearings into licensees' compliance with the control provisions of the Act and notifying persons to remedy breaches;
- issuing notices relating to breaches of the control provisions of the Act;
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of the ABA's functions or powers;
- managing court litigation and hearings before the Administrative Appeals Tribunal;
- coordinating all tasks carried out under the Freedom of Information Act 1982;
- providing internal legal advice on issues arising from the ABA's powers and functions;
- conducting or supervising investigations and hearings for the purposes of the performance or exercise of any of the ABA's functions or powers; and
- briefing the Director of Public Prosecutions.

Planning and Licensing branch

The Planning and Licensing branch comprises the Radio Planning Section, the Television Planning Section, the Licensing Section, the Engineering and Information Services Section and the branch Support Section.

The branch is responsible for:

- designing and administering price-based systems for the allocation of commercial radio and television broadcasting licences;
- allocating subscription television broadcasting licences, commercial broadcasting licences and community broadcasting licences;
- assessing the eligibility of aspirant community broadcasters to be given temporary community broadcasting licences;
- renewing commercial and community broadcasting licences;
- approving the transmission of commercial and community broadcasting services outside of their licence areas; and
- suspending and cancelling licences as appropriate, or taking other enforcement action.

The branch plans all broadcasting services using radiofrequency spectrum for AM and FM radio and VHF and UHF television by:

- developing planning priorities for determination by the ABA and preparing variations to those priorities for the ABA's approval;
- preparing frequency allotment plans, and variations to those plans, for the ABA's consideration;
- preparing licence area plans, and variations to those plans, for the ABA's consideration;
- specifying licence areas, frequencies, siting and power levels for transmitters used for broadcasting;
- designating and varying licence areas;

- developing technical planning guidelines for broadcasting services using frequencies within the broadcasting services bands;
- monitoring new technology and service trends; and
- formulating schemes for conversion of commercial and national television broadcasting services from analog mode to digital mode. These schemes require the ABA to:
 - prepare a document explaining technical assumptions relating to consideration of ‘same level of coverage and potential reception quality’ in digital mode, as is achieved in analog mode;
 - prepare digital channel plans, which allot and assign channels to television broadcasters, allowing them to transmit programs in analog and digital modes during a simulcast period;
 - identify in the digital channel plans channels that may be available for uses other than the conversion of existing broadcast services;
 - assess and approve implementation plans submitted by commercial television broadcasters. These plans are the basis on which the broadcaster will convert to digital transmission;
 - approve test transmissions of digital signals, at any time before or during a simulcast period; and
 - administer a process for issuing exemption certificates for access by commercial and/or national television broadcasters and/or datacasters to broadcasting transmission towers and/or sites.
- issuing apparatus licences (by delegation from the Australian Communications Authority) to authorise the operation of transmitters for commercial, community and national services; for services provided under class licences; and for the retransmission of programs;
- making broadcasting services bands spectrum available for alternative uses for a specified period;
- determining licence area populations
- allocating call signs for broadcasting services; and
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of the ABA’s functions or powers.

Policy and Content Regulation branch

The Policy and Content Regulation branch comprises the Research and Policy Section, the Codes and Conditions Section, the Standards Section and the Online Services Content Regulation Section.

The branch is responsible for:

- assisting in the identification and exploration of regulatory policy issues to be addressed by the ABA;
- providing policy advice on issues arising from the ABA’s powers and functions;
- conducting and commissioning attitudinal research and monitoring service trends;
- conducting and commissioning research into issues relating to Internet content and Internet carriage services;
- developing standards for commercial and community television broadcasting licensees relating to programs for children, for determination by the ABA;
- making decisions about the classification of programs for children;
- developing standards for commercial television broadcasting licensees relating to the Australian content of programs, for determination by the ABA;
- monitoring compliance with program standards;
- monitoring compliance with anti-siphoning and anti-hoarding provisions and reporting to the Minister on an as needs basis;

- monitoring compliance with Australian content requirements for pay TV on subscription broadcasting television;
- consulting with the industry and the community on the development of codes of practice for each broadcasting sector;
- maintaining registers of codes of practice, and monitoring compliance with those codes;
- investigating unresolved complaints about breaches of the codes of practice for each broadcasting sector including the ABC and SBS;
- investigating complaints alleging offences against the Act or breaches of licence conditions;
- issuing notices concerning the provision of broadcasting services without a licence to provide a service;
- imposing, varying or revoking conditions on commercial, community and subscription broadcasting licences and class licences;
- developing additional criteria and clarifying existing criteria for the purpose of distinguishing between categories of broadcasting services, for determination by the ABA;
- preparing opinions on whether a person is in a position to control a licence, a newspaper or a company;
- collecting commercial radio and commercial television licence fees;
- preparing annual broadcasting financial results;
- registering codes of practice and/or determining standards for the Internet industry;
- monitoring compliance with those codes/standards;
- investigating complaints about Internet content;
- advising and assisting families about the supervision and control of children's access to Internet content;
- conducting and/or co-ordinating community education programs about Internet content and usage;
- conducting and/or commissioning research into issues relating to Internet content and usage;
- liaising with relevant overseas regulators and other bodies in relation to co-operative arrangements for regulation of the Internet; and
- informing itself and advising the Minister and developments and trends in the Internet industry.

Public participation

In determining standards for commercial and community broadcasters, the ABA is required to undertake public consultation before exercising its powers. However, as a matter of course, the ABA consults publicly on a wide range of issues relating to the content of programs and advice to the Minister on programming issues.

In performing its functions in relation to the planning of the broadcasting services bands, particularly the determination of planning priorities, the preparation of frequency allotment plans, the preparation of licence area plans, the preparation of digital channel plans and variations to the commercial television conversion scheme and the national television conversions scheme, the ABA is required to consult widely with the public. The ABA places advertisements in newspapers announcing the commencement of its consideration of issues relating to particular planning matters; conducts seminars explaining various aspects of the planning process; and maintains files containing documents relevant to this process, for public inspection.

The ABA also seeks the views of the wider community through surveys of public opinion on program and Internet content issues conducted or commissioned by the ABA.

Categories of documents

Records are maintained by the ABA in various physical forms including paper files, card indexes, microfiche and computer media. Certain documents, such as the advice received and assumptions made by the ABA in performing its planning functions, are required to be publicly available. Certain other information dealing with ownership and control matters and the codes of practice, are required to be maintained in public registers.

Registers

The ABA is required to maintain Registers of Codes of Practice; Notifications of Controllers, Directors, and Changes in Control; Associated Newspapers; Prior Approvals of Temporary Breaches; Extensions of Time for Temporary Breaches; Notices to Persons in Breach of the Act; Extensions of Time for Compliance with Notices; Additional Commercial Television Licences granted in Small Markets; and Approved Implementation Plans.

Persons wishing to inspect any of these registers should contact the Sydney office of the ABA.

The ABA is also required to publish, in the *Gazette*, a copy of any opinion given in relation to a category of broadcasting service or whether a person is in a position to exercise control of a licence. Copies of these opinions can be obtained from the Library, located in the Sydney office of the ABA.

The ABA also prepares a count of population for each commercial licence under section 30 of the Act, which is available for public inspection.

Classes of records

The ABA maintains records on the following topics:

Corporate Services branch

Personnel and staffing; finance; purchasing; furniture and fittings; equipment and accommodation; appointment of members;

reports of inquiries conducted by the former Australian Broadcasting Tribunal; records, reports and information papers on Australian and overseas broadcasting; agenda papers and minutes of ABA meetings; ABA publications, including research monographs, news releases and pamphlets; reports on grant of licences under the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Legal and Control branch

Legal advice on broadcasting issues and related legislation, Licence Area Plans, Agreements, litigation, hearings and investigations, Subpoenas, requests under the Freedom of Information Act and Privacy Act, Minister's Directions, seminars and information sessions given by legal staff, Leases and Contracts, Papers from ABA committees, legal input in corporate activities and enquiries from the public.

Planning and Licensing branch

Technical specifications of national, commercial and community broadcasting services; frequency planning; narrowcasting services; reception of broadcasting services; satellite broadcasting; planning priorities; frequency allotment plans; licence area plans; digital channel plans; ; digital broadcasting implementation plans; Minister's notifications for reservation of spectrum capacity; Minister's directions; technical planning guidelines; monitoring of new broadcasting technology; population figures; licence areas; price based commercial licence allocation system; community merit based allocation system; temporary community broadcasting allocation system; subscription television broadcasting service licences; and applications and approvals for the transmission of broadcasting services into another licence area.

Policy and Content Regulation branch

Industry self-regulatory codes of practice; Australian content of programs and children's programs on commercial television, complaints

and comments from the public about broadcasting programs, advertising and Internet content; registers of notifications of controllers, directors and changes in control, associated newspapers, temporary (approved) breaches, notices to persons in breach and extensions of time for temporary approvals and compliance with notices; rights acquired for events specified in the Minister's notice under section 115 of the Act; expenditure on new Australian drama by subscription television; details, including reports, of research undertaken or commissioned, service licences for all commercial and community stations; financial results of commercial radio and television services; and a register of ABA forms and records of notifications to licensees in relation to licence fees and payments of those fees.

FOI procedures and initial contact point

Requests for access under the FOI Act must be in writing and addressed to 'The FOI Co-ordinator' and be accompanied by an application fee (currently \$30). The FOI Act provides for a reduction of the charges or non-imposition of the charges in certain circumstances. In many cases however, it may not be necessary to use FOI as the information sought may be readily available. The Manager, Media and Public Relations, in the Sydney office should be contacted in the first instance.

Facilities for access

The ABA maintains library facilities in the Sydney office where documents available under the Act, or documents for which access is granted under the FOI Act, can be examined. Documents may also be examined in the Canberra office by prior arrangement.

The ABA's offices are located at:

Level 15, Darling Park
201 Sussex Street Sydney NSW 2000
PO Box Q500
Queen Victoria Building NSW 1230
Tel: (02) 9334 7700
Freecall: 1800 226667
Fax: (02) 9334 7799
TTY: (02) 9334 7777
DX 13012 Market Street, Sydney

Blue Building
Benjamin Offices
Chan Street
Belconnen ACT 2617
PO Box 34
Belconnen ACT 2616
Tel: (02) 6256 2800
Fax: (02) 6253 3277
Email: info@aba.gov.au
Web site: www.aba.gov.au

Correspondence on FOI matters should be addressed to the FOI Co-ordinator at the ABA's Sydney office.

Under the procedures operating in the ABA for the handling of FOI requests, in some instances the FOI Co-ordinator may need to consult applicants for access to documents under the FOI Act. Specific instances are as follows:

- (a) to assist the applicant to more specifically identify documents that have been requested;
- (b) to give the applicant a reasonable opportunity for consultation before refusing a request on grounds of insufficient information (subsection 15(2) of the FOI Act) or if the request requires a substantial and unreasonable diversion of resources (subsection 24(1) of the FOI Act); or

- (c) to notify the applicant of the charges and the deposit that is payable, or to discuss a request that the charges be reduced or not imposed.

As at 30 June 1999, as well as the Members, the General Manager, the branch Directors and most of the Section Heads were authorised, under section 23 of the FOI Act, to make primary decisions on applications for access to documents held by their area. Generally, access is provided in the form of copies of documents.

In addition to the Members, the General Manager and the branch Directors are also authorised to make decisions on applications for internal review of primary FOI decisions made by the ABA.

The following information is provided on the operation of the FOI Act.

Requests made

During 2000 - 01, the ABA received three requests for access to documents. One of the three requests was completed during the period, one was transferred to the Department of Treasury, and the third one is currently being processed. For the one completed during the period access was granted in part.

Applications for review

The ABA received two requests for internal review in the one FOI application. One was by the applicant pursuant to section 54(1) of FOI Act and the other was by a third party pursuant to section 54(1D) which had been consulted pursuant to section 27(1). The ABA granted access in part to documents in the request.

Time taken

Of the one request finalised during 2000-01, the average time taken from receipt of the request to notification of the decision, was 90 days. This was because the request required two levels of internal review to be made by the ABA.

Costs of freedom of information

The total cost to the ABA for FOI activities in the 2000-01 period was approximately \$5960.

Staff costs for FOI activities (including overheads) were approximately \$4290. Staff costs included preparing an FOI matter for hearing before the Administrative Appeals Tribunal. Non staff costs were approx \$1670.

During the period, FOI charges totalling \$417.50 for the processing of the request have been paid, and the ABA received \$60 in fees for the lodgements of FOI requests.

Appendix 2

Staffing

Financial and staffing resources summary

	1999-00 Actual \$'000	2000-01* Budget \$'000	2000-01* Actual \$'000
Salaries	8 784	9 121	9 033
Superannuation	988	981	949
Administrative Expenses	6 382	9 117	8 375
Total Cash Expenditure	16 154	19 219	18 357
Less Cash Receipts	(496)	(3 267)	(3 272)
Sub total	15 658	15 952	15 085
Less Cash on Hand at beginning of financial year	(1 853)	(2 065)	(2 065)
Plus Cash on Hand at end of financial year	2 065	1 865	2 732
TOTAL APPROPRIATIONS	15 870	15 752	15 752
TOTAL OUTLAYS	15 870	15 752	15 752
STAFFING			
Staff years (ASL)	147.7	150.0	139.9

* The 2000-01 amounts are inclusive of GST, which came into effect on 1 July 2000.

SYDNEY

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Classification	Permanent						Temporary					
	Full-time			Part-time			Full-time			Part-time		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Members	2	1	3	4	1	5						8
SES Band 2	1		1			1						1
SES Band 1		3	3			3						3
EL2	7	4	11			11	1	2	3			14
EL2 Legal		1	1			1						1
EL2 Public Affairs	1		1			1						1
EL1	6	9	15	1		1		1	1			17
EL1 Legal	2	2	4			4						4
EL1 Public Affairs		1	1			1		1	1			2
EL1 Library		1	1			1						1
APS6	8	12	20		2	2		1	1			23
APS5	2	2	4		1	1						5
APS5 Library	1		1			1						1
APS4	2	6	8			8	1		1			9
APS4 Legal							1		1			1
APS3	1	6	7			7	1	2	3	1		11
APS2					1	1						1
TOTAL	33	48	81	5	5	10	4	7	11	1		103

CANBERRA

Classification	Permanent				Temporary				Total
	Full-time		Part-time		Full-time		Part-time		
	Male	Female	Male	Female	Male	Female	Male	Female	
SES Band 1		1							1
EL2	2								2
EL2 Engineering	4								4
EL1		4							4
EL1 Engineering	2								2
EL1 Technical	3								3
EL1 IT	2								2
APS6	3	4							7
APS6 Engineering	5	1							6
APS6 Technical	1								1
APS5		1							1
APS5 Technical	2								2
APS4		5							5
APS3		4							4
APS2	1								1
TOTAL	25	20							45
TOTAL									
SYDNEY and CANBERRA	58	68	5	5	4	7	1		148
TOTAL MALE									
68									
TOTAL FEMALE									
80									

Appendix 3a

Australian Content and Children's Television Standards Compliance 2000

Quota										
run	all	Australian programs	Australian drama	first release	first	Australian documentary	Australian children's C drama	repeat	first release	all
measure	(percent: 6am —12mn)	(total annual score)	225	hours	score	(total hours)	(total hours)	8 hrs	(total hours — incl. C drama)	(total hours all C programs)
minimum annual requirement	55%					20 hrs	32 hrs	32 hrs	130 hrs	130 hrs
Seven network										
ATN Sydney	58.3	192.3	287.5	42.4			32.0	35.5	133.0	262.0
HSV Melbourne	61.4	191.4	287.5	42.3			32.0	35.5	133.0	261.0
BTQ Brisbane	60.8	192.3	287.5	45.8			32.0	35.5	133.0	268.0
SAS Adelaide	62.4	191.4	287.2	44.7			32.0	35.0	133.5	267.0
TVM Perth	62.2	192.3	287.5	41.7			32.0	35.5	133.0	263.0
Nine network										
TCN Sydney	56.8	131.4	281.3	26.5			32.5	62.5	139.5	285.8
GTV Melbourne	55.7	133.9	285.0	28.5			32.5	68.0	139.5	289.8
QTQ Brisbane	58.7	131.1	279.1	35.0			32.5	63.5	140.0	287.8
Ten network										
TEN Sydney	57.2	174.6	236.7	21.5			33.0	42.5	131.0	262.5
ATV Melbourne	57.2	174.6	236.7	21.5			33.0	42.5	131.0	262.5
TVQ Brisbane	57.2	174.6	236.7	21.5			33.0	42.5	131.0	262.5
ADS Adelaide	57.2	174.6	236.7	21.5			33.0	42.5	131.0	262.5
NEW Perth	57.1	174.6	236.7	21.5			33.0	42.5	131.0	262.5

The formula for scoring drama programs forms part of the standard, and can be expressed as: drama score = format factor x duration of program.

The format factors for drama are:

3.2 for one-offs (including feature films, telemovies, mini-series); 2 for series/serial produced at the rate of one hour or less per week; and 1 for series/serial produced at the rate of more than one hour per week.

Appendix 3b

C & P classified programs

Programs granted C or P classification in 2000-2001

Program title	Style	Type	Origin	Class	Applicant
Children's – C					
BIG ARVO, THE	live action	magazine	Australia	C	Seven Network Ltd
BIG ARVO, THE (SERIES 2)	live action	magazine	Australia	C	Seven Network Ltd
BIG ARVO, THE (SERIES 3)	live action	magazine	Australia	C	Seven Network Ltd
BIG ARVO, THE (SERIES 4)	live action	magazine	Australia	C	Seven Network Ltd
BUSH BEAT (SERIES 2)	live action	magazine	Australia	C	Queensland Television Ltd
KIDS' CLUB (SERIES 1)	live action	information	Australia	C	McGuire Media Pty Ltd
TOTALLY WILD (SERIES 10)	live action	information	Australia	C	Network Ten Pty Ltd
TOTALLY WILD (SERIES 9)	live action	information	Australia	C	Network Ten Pty Ltd
WORTH SEEING	live action	magazine	Australia	C	Dina Browne
Y? (SERIES 4)	live action	magazine	Australia	C	Southern Star Endemol Pty Ltd
Y? (SERIES 5)	live action	magazine	Australia	C	Southern Star Endemol Pty Ltd
YOUR BIG BREAK	live action	entertainment	Australia	C	Southern Star Concept
Children's drama – CD					
CHUCK FINN (SERIES 3)	live action	drama	Australia	CD	Barron Television Limited
CHUCK FINN (SERIES 4)	live action	drama	Australia	CD	Barron Television Limited
CRASH ZONE (SERIES 2)	live action	drama	Australia	CD	Australian Children's Television Foundation
CUSHION KIDS	live action characters	drama	Australia	CD	Kids Like Us Pty Ltd
CYBERGIRL	live action	drama	Australia	CD	Jonathan M Shiff Productions Pty Ltd
EASTER IN BUNNYLAND	animated	drama	Australia	CD	Burbank Animation Studios Pty Ltd
ESCAPE OF THE ARTFUL DODGER	live action	drama	Australia	CD	The Producers Group
FLIPPER AND LOPAKA (SERIES 2)	animated	drama	Australia	CD	Yoram Gross EM.TV
GLORIA'S HOUSE (SERIES 1)	animated	drama	Australia	CD	Energee Entertainment
JOSEPH & THE COAT OF MANY COLOURS	live action	drama	Australia	CD	Burbank Animation Studios Pty Ltd
LI'L HORRORS	puppetry	drama	Australia	CD	December Films Australia Pty Ltd
LI'L HORRORS (SERIES 2)	puppetry	drama	Australia	CD	December Films Australia Pty Ltd
LI'L HORRORS (SERIES 3)	puppetry	drama	Australia	CD	December Films Australia Pty Ltd
LI'L HORRORS (SERIES 4)	puppetry	drama	Australia	CD	December Films Australia Pty Ltd
LI'L HORRORS (SERIES 5)	puppetry	drama	Australia	CD	December Films Australia Pty Ltd
OUTRIDERS	live action	drama	Australia	CD	Southern Star Entertainment Pty Ltd
TABALUGA (SERIES 2)	animated	drama	Australia	CD	Yoram Gross EM.TV
THE CANTERVILLE GHOST	animated	drama	Australia	CD	Burbank Animation Studios Pty Ltd

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Children's drama – CD

THE LITTLE DRUMMER BOY	animated	drama	Australia	CD	Burbank Animation Studios Pty Ltd
THE REAL MACAW	live action	drama	Australia	CD	TCN Channel Nine
WILD KAT	live action	drama	Australia	CD	Barron Entertainment Ltd

Provisional – PRC and PRP

@KIDS' CLUB	live action	variety	Australia	PRC	McGuire Media
ESCAPE OF THE ARTFUL DODGER	live action	drama	Australia	PRC	Grundy Television Pty Ltd
FAIRY TALE POLICE DEPARTMENT	animated	drama	Australia	PRC	Yoram Gross EM.TV
GAME PLANETS	live action	game show	Australia	PRC	Imagination Entertainment Pty Ltd
KANGAROO CREEK GANG	animated	drama	Australia	PRC	Southern Star Entertainment Pty Ltd
KICKSTART	live action	information	Australia	PRC	Mr Dean Pomfret
OUTRIDERS	live action	drama	Australia	PRC	Southern Star Group
RICKY ROCKET	animated	drama	Australia	PRC	Knight Animations
THE ADVENTURES OF CHUCK FINN (SERIES 3)	live action	drama	Australia	PRC	Barron Television Ltd
WILD KAT (SERIES 2)	live action	drama	Australia	PRC	Barron Entertainment Ltd
THE JELLYBEAN TEAM	live action	variety	Australia	PRP	Jacobsen Entertainment

Preschool – P

BOOK PLACE, THE (SERIES 7)	live action/ animated/puppetry	entertainment	Australia	P	Seven Network Ltd
HENRY	animated	drama	Australia	P	Ambience Entertainment Pty Ltd
HI-5 (SERIES 3)	live action	entertainment	Australia	P	Kids Like Us
IN THE BOX (SERIES 3)	live action/ animated/puppetry	variety	Australia	P	Network Ten Pty Ltd
IN THE BOX (SERIES 4)	live action	variety	Australia	P	Network Ten Pty Ltd
ZIRKOS KIDS (SERIES 2)	live action	drama	Australia	P	Wave Entertainment Pty Ltd
ZIRKOS KIDS (SERIES 3)	live action	drama	Australia	P	Wave Entertainment Pty Ltd

Appendix 3c**Children's television consultants 2000-01**

Name	Expertise
Dina Browne	Production
Robert Bruning	Production
Ewan Burnett	Production
Donato Caretti	Production/puppetry
Penny Chapman	Production
Kim Elliott	Early childhood
Robert Greenberg	Script writing/editing /assessment
Alan Hardy	Production
Simon Hopkinson	Script writing/editing
Susan Howard	Curriculum/child development/human learning
Angela McLean	Early childhood/child development
Stephen Measday	Script writing/editing
Nadia Mencinsky	Responsible for C and P assessments at ABA
Fiona Mitchell	Curriculum/child development/early childhood
John Reeves	Script writing/editing
Susan Roberts	Curriculum/child development/early childhood
Wendy Schiller	Early childhood/ ex-CPC
Susan Scowcroft	Curriculum/child development
Carole Wilkinson	Script writing/editing

Appendix 4a

Investigations completed in 2000-01: breach finding

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition breached
COMMERCIAL TELEVISION			
ATN7 Sydney, HSV7 Melbourne, BTQ7 Brisbane, SAS7 Adelaide, TVW7 Perth, NTD Darwin, STQ Regional Qld, AMV Regional Vic, QQQ Remote Central and Eastern Australia, CBN Southern NSW, NEN Northern NSW, TNT Tasmania, PTV Mildura, GTW Geraldton, VEW Kalgoorlie, WAW Remote WA, SSW Great Southern & SW WA, GTS Spencer Gulf, BKN Broken Hill, AMN Griffith.	Li'l Horrors	Seven network licensees and affiliates broadcast a non-C program during a scheduled C period.	C programming requirement.**
NSW			
ATN7 Sydney	News	Accuracy in news item, complaints handling.	Complaints handling.
NBN Newcastle	Colour of War	Level of violence in PG.	PG – violence and adult themes.
NEN Northern NSW	JAG	Program wrongly classified, complaints handling.	PG – violence, complaints handling.
NEN Northern NSW	Quick	Sex scene too strong for M classification.	M – sex and nudity, adult themes.
NRN/RTN Northern NSW, TVQ Brisbane	Program Promotion	Program promotion featuring the Pope was offensive, complaints handling.	Complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/condition breached program standard/licence
TCN9 Sydney	Berri Plus advertisement	Content and placement of advertisement, complaints handling.	Complaints handling.
TEN10 Sydney	Australian Women's Masters Golf Tournament	Coverage featured tobacco advertising.	Broadcasting a tobacco advertisement*.
TEN10 Sydney	What Went Wrong	Inadequate warning, complaints handling.	PG – violence and adult themes.
TEN10 Sydney / ADS10 Adelaide	Melbourne Cup	Alcohol advertisements broadcast during Melbourne Cup coverage.	Advertisements for alcohol broadcast during a non-school holiday sporting event.
Victoria			
ATV10 Melbourne, TEN Sydney	Good News Week	Believes comments vilified and denigrated Christians, complaints handling.	Complaints handling.
ATV10 Melbourne	Livostin Nasal Spray advertisement	Complaints handling.	Complaints handling.
GTV9 Melbourne	60 Minutes / program promotion for 60 Minutes	Program segment about HDTV was inaccurate, complaints handling.	Accuracy in a program promotion, complaints handling.
GTV9 Melbourne	Christopher Columbus - The Discovery	Too much nudity for G classification, complaints handling.	Complaints handling.
GTV9 Melbourne/WIN Canberra	Midday	Interview about 'Enzogenol' constituted an advertisement for a medicine, which did not have the approval of the delegated authority (the PMAA).	Broadcasting an advertisement for a medicine without prior approval.*
Queensland			
BTQ7 Brisbane	Today Tonight promotion	Inaccurate comments, complaints handling.	Complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/condition breached program standard/licence
BTQ7 Brisbane	Turbulence promotion	Promotion for an M classified movie in G time; violence, impact levels too high; and complaints handling.	Program promotions in G viewing periods.
QTQ9 Brisbane	A Current Affair	Item was inaccurate and did not represent viewpoints fairly, complaints handling.	Complaints handling.
QTQ9 Brisbane	National Nine News	Vilification of the Irish, complaints handling.	Complaints handling.
QTQ9 Brisbane	News	Item was inaccurate, not impartial, an invasion of privacy and did not distinguish fact from commentary and analysis.	Accuracy and fairness, privacy, identification of murder/accident victims, impartiality.
RTQ Regional Queensland	Great Debate promotion	Sexual references in program promotion in G viewing time, complaints handling.	Program promotion in G viewing time, complaints handling.
STQ7 Regional Queensland	News	Invasion of privacy, detailed depiction of suicide, inaccurate news reporting, complaints handling.	Privacy, reporting of an attempted suicide, complaints handling.
STQ Regional Queensland	Bad Girls, Blue Heelers	Unsuitable program promotions at G viewing time during Olympic Games.	G – violence, program promotions during G viewing periods.
TVQ10 Brisbane	Beauty and the Beast	Unsuitable language, complaints handling.	Complaints handling.
TVQ10 Brisbane	Caught On Tape / Ibiza Uncovered	Inappropriate program promotion in a PG time, complaints handling.	Complaints handling.
TVQ10 Brisbane	News	Item was an invasion of privacy and inaccurate.	Privacy, fairness and impartiality, distinguishing news from commentary and analysis.
Western Australia			
STW9 Perth	El Condor	Level of sex and nudity in M film, lack of warnings.	No consumer advice provided.
STW9 Perth	Footy Show	Too much nudity for PG during 'Sam Newman's Street Talk' segment.	PG – sex and nudity.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/condition breached program standard/licence
STW9 Perth	Footy Show	Too much nudity in PG program, complaints handling.	Complaints handling.
STW9 Perth	Today On Saturday	Offensive language, complaints handling.	Care in selection of material broadcast during G time, complaints handling.
TVW7 Perth	News	Item on 'rave' party was unfair, misleading and inaccurate, complaints handling.	Complaints handling.
South Australia			
NWS9 Adelaide	National Nine News	Inaccuracy in news report implied complainant's involvement in his ex-wife's murder, complaints handling.	Inaccuracy in news, complaints handling.
IMPARIA Remote Central and Eastern Australia	Tony Grady election advertisement	Election advertisement broadcast during the 'blackout' period.	Broadcasting an election advertisement during a 'blackout' period.*
COMMERCIAL RADIO			
Victoria			
3AW Melbourne	Steve Price	Racist comments about aborigines, unfair representation of viewpoints and complaints handling.	Complaints handling
Queensland			
4RO Rockhampton	Olivia Scott	Mock apology made to aborigines was blatantly racist.	Vilification on the basis of race.
4SEA Gold Coast	Talkback	Offensive comments about a local motor cycle business.	Failure to retain tapes of current affairs broadcast.*
4SEE Nambour	Big Kahuna	Offended by discriminatory comments made regarding Aboriginal entertainer.	Complaints handling.
South Australia			
5DN Adelaide	Jeremy Cordeaux	Disclosure of commercial agreements with third parties.	Current affairs – withholding relevant facts. Advertisements – not to be presented as news or current affairs.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/condition breached program standard/licence
Western Australia			
6NOW/6MMM Perth	Breakfast Show	Offended by sexual comments made by caller.	Language unsuitable for likely audience, complaints handling.
6PR Perth	Morning Program	Program was biased in its coverage of a proposed street development.	Complaints handling – failure to refer complainant to the ABA.
6PR Perth	Howard Sattler	Disclosure of commercial agreements with third parties.	Current affairs – withholding relevant facts. Advertisements – not to be presented as news or current affairs.
COMMUNITY RADIO (includes services licensed as temporary community radio services)			
1CMS Canberra	Sinhala Radio Program	Vilification of an individual on the grounds of political affiliation, inciting violence, privacy issues, complaints handling and records of matters broadcast.	Records of matter broadcast,* complaints handling.
2CBD Deepwater	Management	Complainant alleges that station is refusing access to members of the community.	Conflict resolution.
2LVR Forbes	Management	Cancellation of membership without giving a reason.	Conflict resolution.
2NVR Nambucca Valley	'Not Specified'	Offended by presenter referring to anti-Semitic material.	Vilification and perpetuation of hatred against a group on the basis of religion, complaints handling.
2000 FM Sydney	Arabic Access	Claim that a 17 minute interview in the morning program included an advertorial for the Arab Bank.	Prohibition on broadcasting advertisements.*
2WEB Bourke	John Laws Morning Show	Station was broadcasting advertising during the rebroadcast of The John Laws Morning Show.	Broadcast of advertisements, and broadcast of political matter without the required particulars.*
3WRB Melbourne	Vietnamese Language Program	Station is broadcasting advertisements and exceeding the amount of allowable time with respect to the broadcasting of sponsorship announcements.	Prohibition on broadcasting advertisements.*

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/condition breached program standard/licence
4EEE Emerald	'Not Specified'	The broadcast contained inaccurate material and failure to correct the error, complaints handling.	Inaccurate material, complaints handling.
6CCR Perth	Management	Received no response to his letter of complaint about defamatory comments.	Complaints handling.
6NR Perth	Handyman Show	A two-hour program was an advertisement.	Prohibition on broadcasting advertisements.*
6NR Perth	Harvey World Travel	Weekly broadcast of a 25 minute travel program sponsored by Harvey World Travel.	Prohibition on broadcasting advertisements, sponsorship time limit.
RADIO VIP NEWCASTLE (TCBL)	Advertising	RPH station reading advertisements from a product catalogue.	Prohibition on broadcasting advertisements.*
TRAX FM Port Pirie (TCBL)	Dispute resolution	Removal of volunteer from the German Music Show.	Conflict resolution.
Open narrowcast radio			
2KY Racing Radio Bathurst	General program content	Providing a service of broad appeal.	Providing a commercial broadcasting service without a licence.^
3AB Melbourne	Peter Kalliakoudis	Copy of tape not available for defamation proceedings.	Failure to retain a record of matter broadcast.*\
CQFM Bundaberg	General program content	Providing a service of broad appeal.	Providing a commercial broadcasting service without a licence.^
The Breeze Cairns	General program content	Providing a service of broad appeal.	Providing a commercial broadcasting service without a licence.^
PAY TV			
Foxtel	Tobacco advertisement	Channel TV1 (Foxtel) broadcast a tobacco advertisement during closing credits of comedy program.	Broadcast of a tobacco advertisement.*
Neighbourhood Cable	Technical	Retransmission of a metropolitan commercial television service by a cable subscription broadcaster in Mildura.	Retransmission contravenes section 121(e) of Act^, retention of matter broadcast.*

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/condition breached program standard/licence
ABC TV			
ABC TV	ABC News	Inaccurate references to German development of atomic bomb during WWII in news report.	Complaints handling.
ABC TV	Four Corners	Sexual references in documentary.	Complaints handling.
ABC TV	Gilbert and George	Cruelty to an animal depicted on the program.	M classification – adult themes, consumer advice, warnings.
ABC TV	News Update	News break containing footage of riots and demonstrations shown during children's programming.	Inappropriate news update during children's programming.
ABC TV	Police Rescue	Detailed depiction of suicide not in the public interest and complaints handling.	PG – depiction of suicide.
ABC TV	Rough Treatment	Promotion contained too much violence for the time slot, complaints handling.	Program promotion not consistent with surrounding programs, complaints handling.
ABC TV	Tasting Australia	The phrase 'loony bin' used on program, complaints handling.	Complaints handling.
SBS TV			
SBS TV	The Movie Show	Sexual references in G classified program.	G classification – sex.
ABC Radio			
ABC 3LO	Jon Faine	Jokes by Terry Lane were offensive and discriminatory against women, complaints handling.	Complaints handling.
ABC Radio National	Religion Report	Inaccurate and discriminatory remarks made about creationists, complaints handling.	Complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/condition breached program standard/licence
ABC Regional	On This Day	Inaccurate statement in information item, complaints handling.	Inaccuracy in information program, complaints handling.

Investigations completed in 2000-01: no breach finding

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
Commercial television			
NSW			
ATN7 Sydney	Advertisement for a concert	Description of event as Millennium Concert was inaccurate, complaints handling	Refer complaints about content of advertisements to Advertising Standards Board.
ATN7 Sydney	Ellen	Depictions of sex/sexuality in PG classified program.	Sex and nudity in a PG viewing period.
ATN7 Sydney	Today Tonight	Use of the term 'Premier' in relation to the office held by Sir Henry Parkes was inaccurate	Accuracy in news and current affairs.
NBN Northern NSW	News	Real estate agent believes that news report of floods inaccurately referred to the township of Narrabri.	Accuracy in news and current affairs.
NRN Northern NSW	Infomercial	Infomercial had no disclosure before or after.	Placement of commercials and time occupied by commercials.
NRN Northern NSW	Jerry Springer	Lesbian images and swearing exceeded the M classification.	Language, sex and consumer advice in an M viewing period.
NRN Northern NSW	The Simpsons	Episode was too violent and didn't carry the appropriate warnings.	Violence in a PG viewing period, consumer advice.
TCN9 Sydney	Advertisements for a concert	Description of event as Millennium Concert was inaccurate.	Refer complaints about content of advertisements to Advertising Standards Board.
TCN9 Sydney	News	Closed Captions for the deaf not being received on various programs.	Closed Captions for the deaf on prime time programs and all news and current affairs. **

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
TEN9 Sydney	A Current Affair	Recording a private conversation through use of a hidden camera.	Use the broadcasting service in the commission of an offence against another Act (the Listening Devices Act). *
TEN9 Sydney	A Current Affair – Neighbour From Hell	Item was inaccurate and unfair and an invasion of privacy.	Accuracy, fairness and invasion of privacy in news and current affairs.
TEN10 Sydney	Advertisement	Description of event as Millennium Concert was inaccurate, complaint handlings.	Refer complaints about content of advertisements to Advertising Standards Board.
TEN10 Sydney	Love Rules	Objected to two females kissing in program and in promotions.	Sex, nudity and adult themes in PG viewing period.
TEN10 Sydney	Shipwrecked	Graphic animal slaughter unsuitable in PG classified program, no warnings.	Violence in a PG classified time zone, consumer advice.
TEN10 Sydney	Unreal TV Adults Only	Inappropriate promotion for a PG classified program.	Sex and nudity and restriction on program promotions in a PG viewing period.
TEN10 Sydney	What Lies Beneath – Movie Advertisement	Movie advertisement was too frightening and disturbing for PG classified program.	Violence and restriction on program promotions in a PG viewing period.
WIN Southern NSW	Good Medicine	Program misled and alarmed viewers	Simulate news or events to mislead or alarm viewers.
Victoria			
ATV10 Melbourne	Beauty and the Beast	Jeannie Little's remark about shooting boat people was unacceptable and the program was unsuitable for a PG classified timeslot.	Intense dislike, serious contempt or severe ridicule against a group on the basis of national origin. Adult themes in a PG viewing period.
ATV10 Melbourne	British Sex	Unacceptable sex and nudity and immoral behaviour for MA.	Sex and nudity in an MA viewing period.
ATV10 Melbourne	Now and Again	Violence in an M classified program.	Violence in an M classification time zone.
ATV10 Melbourne	Unreal TV - Adults Only	A woman breast-feeding a monkey was inappropriate for an M classified program.	Sex, nudity, adult themes and consumer advice in an M viewing period.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
ATV10 Melbourne	Unreal TV - Adults Only	MA classification and not M would be more appropriate for this material.	Violence in an M viewing period.
ATV10 Melbourne	Unreal Ads	Inaccurate and racist comment that New Zealanders should be filling out dole forms, complaints handling.	Intense dislike, serious contempt or severe ridicule against a group on the basis of national origin, complaints handling.
GTV9 Melbourne	A Current Affair	Inaccurate and unfair representation and invasion of privacy in report of schoolboy's removal from school.	Accuracy, fairness and privacy in news and current affairs programs.
GTV9 Melbourne	Libra Slim Tampons	Tampon commercial inappropriate for screening during the movie 'Jesus', complaints handling.	Commercials relating to products of a particularly intimate nature, complaints handling.
GTV9 Melbourne	Today Show	Interview with a widowed mother and daughter which dealt with the sensitive subject of child sexual abuse in a G classified timeslot.	Classification of sensitive material for broadcast during news and current affairs programs.
HSV7 Melbourne	Family Guy - Chitty Chitty Death Bang	Depiction of suicide in a PG classified program and language.	Language and suicide in a PG viewing period.
HSV7 Melbourne	Advertising	Excessive advertising scheduled during 'Blue Heelers' and 'Providence'.	Hourly limits on advertising.
Queensland			
BTQ7 Brisbane	Great South East	The program contained political matter which did not have the required authorisation.	Acknowledgment of political matter broadcast at request of another.*
BTQ7 Brisbane	Today Tonight	Vilified the sight impaired by use of the term 'blind Freddy'.	Intense dislike or severe ridicule against disabled.
QTQ9 Brisbane	60 Minutes	Derogatory portrayal of complainant's son and the hostel he lives in.	Accuracy, fairness and privacy in news and current affairs.
STQ Regional Queensland	Cold Feet promotion	Promotion for an M rated program contained unsuitable material for viewing during G and PG classification time zones.	Classification and placement of commercials.
STQ Regional Queensland	Life's Good Airconditioning	Inappropriate advertisement during G classified program, complaints handling.	Classification and placement of commercials, complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
TNQ Far North Queensland	Unreal TV	Woman in street shown grabbing people by the crotch unsuitable for G classified program.	Sex and nudity and imitable and dangerous behaviour in a G classification time zone.
TVQ10 Brisbane	Beauty And The Beast	Frequent coarse language used by the host Stan Zemanek.	Language in a PG viewing period.
WIN Regional Queensland	News	Privacy issues in the publication of material in a news item about the theft of a car by a group of young people.	Privacy and unfairly identifying a person or business when commenting on the behaviour of a group of persons or businesses.
South Australia			
ADS10 Adelaide ADS10 Adelaide	Love Rules promotion Melbourne International Comedy Festival	Inappropriate promotion for a G classified program. Offensive and racist language used by a comedian.	Promotions in G viewing period. Contempt and ridicule on the basis of national origin.
ADS10 Adelaide	Advertising	Excessive advertising scheduled during golf telecasts, complaints handling.	Hourly limits on advertising, complaints handling.
NWS9 Adelaide	Survivor	Animal cruelty unsuitable for PG classification.	Violence in a PG program, provision of consumer advice.
SAS7 Adelaide	Promotion for World's Greatest Commercials – Adults only	Claim that program promotion broadcast during sports coverage was unsuitable for children.	Restrictions on promotions broadcast in G viewing period.
ACT			
WIN	GST 'Chains' advertisement	The GST 'chains' advertisements were without the required authorisation.	Acknowledgment of political matter broadcast at request of another.*
Prime	Landscape	Political report/address featuring the Prime Minister lacked the required authorisation.	Acknowledgment of political matter broadcast at request of another.*

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
Western Australia			
NEW, STW & TVW Perth	WA Water Corporation advertisement	Advertisement which contained political matter lacked the required authorisation	Acknowledgment of political matter broadcast at request of another.*.
Commercial radio			
NSW			
2GB Sydney	Jim Ball	Presenter's inappropriate language and comments about Muslim and Lebanese youths were racist and an incitement to violence.	Incitement to violence, vilification on the basis of race, offensive language having regard to the likely audience.
2MC Kempsey/ 2PQQ Port Macquarie	All programs	Downgrading of services, and lack of localism and local programming.	Contribute to the provision of a comprehensive range of services to the area.*
2MC Kempsey	Breakfast Show	Disparaging comments made by the breakfast announcer and 'rude' audio accompaniment.	Contemporary standards of decency having regard to the likely audience.
2UE Sydney	Alan Jones	Accuracy and vilification in comments regarding Hong Kong residents and the NSW election.	Hatred and vilification on the basis of race. Accuracy and fairness in news and current affairs.
Victoria			
3AW Melbourne	General	Disclosure of commercial agreements with third parties.	Current affairs – withholding relevant facts. Advertisements – not to be presented as news or current affairs.
3AW Melbourne	Neil Mitchell	Comments made by announcer when referring to killing of Palestinians were anti-Semitic and anti the Israeli Government.	Incite violence, simulate news or events, vilification on the basis of race, complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
3AW Melbourne	Rex Hunt	Offended by verbal altercation between Rex Hunt and Steve Price, complaints handling.	Complaints handling.
3AW Melbourne	Rex Hunt	Inappropriate use of the terms 'Christ' and 'Jesus Christ', complaints handling	Vilification on the basis of religion, complaints handling.
3KKZ Melbourne	advertisement	Advertisement contained the phrase 'whitest and brightest kids' – racist and offensive to Australian Aborigines.	Hatred and vilification on the basis of race.
3BDG Bendigo	News	Interview in news bulletin amounted to commentary and not news.	Distinguishing fact from comment and analysis in news.
3BBO Bendigo	One Hot Minute	Racist comments regarding the Chinese and food.	Vilification on the basis of race.
3CV Maryborough	National Top 40	Interview with pop group Powderfinger promoted the use of drugs.	Not present the use of illegal drugs as desirable.
3KKZ Melbourne	Breakfast Show	Disparaging comments about brunettes and women with big hair were racist.	Vilification on the basis of race.
South Australia			
5AA Adelaide	Sports Show	Comment that Victorian footballers are poofters offensive to homosexuals and Victorians.	Vilification of a person or group on the basis of sexual preference.
5SSA Adelaide	General	Two women were mocked for being elderly in a talkback program.	Vilification on the basis of age.
Tasmania			
7TTT Hobart	Laugh At Lunchtime	Offensive joke about Michael Jackson and young boys unsuitable for broadcast, complaints handling.	Offensive language, complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
Community radio (includes services licensed as temporary community radio services)			
2VOX Wollongong	Management/general	Lack of a written sponsorship policy and guidelines on the rights, responsibilities and principles of volunteers.	Policy and guidelines for sponsorship and volunteers' rights.
2000 FM Sydney	Telstra sponsorship announcement	Allegation that station failed to tag a Telstra 'sponsorship announcement'.	Prohibition on broadcasting advertisements.*
3RRR Melbourne	Off the Record	Program encouraged drug use	Not present as desirable the misuse of drugs, and programming practices which protect children from harmful program material.
3CR Melbourne	Undercurrents	False and misleading claims and lack of balance in a report related to the housing of laying hens.	Accuracy in news and current affairs.
4EB Brisbane	Management/general	Conflict resolution.	Conflict resolution.
COW FM Casino (TCBL)	Management / conflict resolution	Program encouraged the misuse of alcohol. Also conflict resolution and retention of records of matter broadcast.	Present as desirable the misuse of alcohol, conflict resolution, retention of matter broadcast.
Fresh FM Adelaide (TCBL)	Management/ conflict resolution	Complainant unhappy with the way his membership was terminated.	Conflict resolution, complaints handling.
PAY TV			
FOXTEL	Sky News Australia	A news item was paid propaganda, complaints handling.	Accuracy and distinguishing factual material from commentary in news, complaints handling.
Open narrowcast television (community television)			
Ch31 Sydney	Actively Radical Television	Image of a person pretending to defecate on a Christian Democratic party election pamphlet.	General guidelines for programming, placement of programs, complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
ABC TV			
ABC TV	Lateline	Inappropriate use of file footage.	Discrimination.
ABC TV	Flight for Life	Homosexuality in a PG rated program, complaints handling.	Sex and sexuality in PG viewing period, complaints handling.
ABC TV	7.30 Report	Biased interviewing of Coalition politicians.	Impartiality and balance in news and current affairs programs.
ABC TV	After The Corroboree	The estimate of the number of people marching was inaccurate.	Accuracy in current affairs.
SBS TV			
SBS TV	The Cutting Edge	Complaint alleges program breached a number of SBS codes of practice.	Prejudice, racism, discrimination, accuracy, complaints handling.
SBS TV	6.30 News	Inaccurate and racist report relating to Holocaust..	Prejudice, racism, discrimination, accuracy, complaints handling.
SBS TV	South Park	The light-hearted treatment of paedophilia and parental abuse of children and complaints handling.	M classification, complaints handling.
ABC radio			
ABC 4QR Brisbane	Spencer Howson	Discussion about swingers' parties unsuitable for 6.00 am (breakfast show) timeslot.	Depiction of sex and sexuality.
ABC Radio National	Encounter	Pornographic and bad language in early evening program and complaints handling.	Language, depiction of sex and sexuality, complaints handling.
ABC Regional	General programs	Interview conducted in a brothel was inappropriate and offensive.	Depiction of sex and sexuality.
ABC Regional	Sport - AFL	Inappropriate language, complaints handling.	Language, complaints handling.

Call Sign	Program/ advertisement/issue	Substance of complaint	Code/program standard/licence condition considered
SBS radio			
SBS Radio NSW	Persian language program	Broadcast of politically biased programs.	Fair and balanced presentation of issues over time.
SBS Radio NSW	Romanian program	Questioned the program's ability to meet the needs of the Romanian community, complaints handling.	Broadcast of community information, complaints handling.
SBS Radio VIC	Polish language program	Promoted a biased view of economic and political climate in Poland, promoted and encouraged racism, biased towards Roman Catholicism.	Prejudice, racism and discrimination, self-identification when referring to groups and individuals.
<i>All potential breaches were of a code of practice except:* potential breach of a licence condition; ** potential breach of a standard; ^ potential breach of the Act.</i>			

Appendix 4b

Summaries of breaches found in investigations

Commercial television Code: Commercial television industry code of practice

Standards

Seven Network licensees and affiliates:

ATN 7 Sydney, HSV 7 Melbourne, BTQ 7 Brisbane, SAS 7 Adelaide, TVW 7 Perth, Seven Queensland (STQ), Seven Darwin (TAL), Seven Central (TAL/QQQ), Prime Northern NSW (Prime), Prime Southern NSW (Prime), Prime Victoria (Prime), Prime Griffith (WIN), Golden West (Prime), Southern Cross Tasmania, Central Television (GTS/BKN)

Issue: Failure to broadcast a C program

The ABA found that Seven Network licensees and affiliate stations broadcast a non-C program 'Li'l Monsters' during their scheduled 4 p.m. C program period on 20 November 2000.

Seven accepted all network licensees and affiliates had technically breached CTS 3, explaining the episode of 'Li'l Monsters' in question was a pilot of 'Li'l Horrors' (C drama) and episodes were inadvertently mixed up.

The Seven network demonstrated good faith in relation to the breach and to the broadcast of children's C programming. On 23 December 2000, the network broadcast a 30-minute C drama program to make up the C drama quota requirement, plus an additional 30-minute C program. No further action was taken in relation to this breach.

ATN 7 Sydney

Program: News

Complaint: Accuracy, privacy and complaints handling

On 27 December 1999, the ABA received a letter in which the complainant alleged that a statement made by her daughter on the Seven Nightly News broadcast by commercial television station ATN 7 on 24 December 1999 was inaccurate. The complainant also alleged that her oral complaint to the station was not handled properly.

The ABA was of the view that this item focused on charity at Christmas time, and was not about a dispute within a family. The ABA does not believe that licensees can be held accountable for the accuracy of every statement made by interviewees. Where there is no independent evidence to corroborate the accounts of any of the parties in dispute, it becomes one person's word against another - this does not amount to a significant error of fact requiring any correction.

The complainant was not informed during the first telephone call that a written complaint may be made within 30 days of the broadcast and that the complaint would be responded to in writing. Neither was the complainant provided this information during the second telephone call.

The complainant then put her complaint in writing to the Seven Network, following advice provided by the ABA. Clause 7.9 states that the licensee must provide a substantive written response, which Channel Seven did. However, clause 7.10 states that that response must be made within 30 working days and the Seven Network did not respond until 3 March 2000, more than 30 working days later.

The licensee breached clause 7.7 of the code by not providing a telephone complainant with the required information and clause 7.10 by not providing a written response within 30 working days of a written complaint.

TEN 10 Sydney

Program: What Went Wrong

Complaint: Violence and adult themes in PG rated program, privacy

The complaint was in relation to a segment on the television show 'What Went Wrong' that showed footage from the Maccabiah Games tragedy. The complainant's son's death was depicted in the footage, and the complainant alleged the footage was offensive and violated his son's privacy. In investigating this complaint, the ABA also examined the rest of this program, including a segment showing images of a man being hit by a car at a speedway.

The ABA noted that the privacy provisions of the code only applied to news and current affairs. 'What Went Wrong' was not considered to fit into this category of programming. The ABA found, however, that the Maccabiah Games and the speedway segments of the program breached the classification requirements for violence and adult themes in PG classified programs. The adult themes presented in the Maccabiah Games segments were not carefully handled nor mild in impact. The footage included shots of the bridge collapse and attempts to resuscitate a fatally injured man. Parts of the footage were repeated, and the tone throughout was sensationalised. Nor was the violence shown in the speedway segment inexplicit or restrained. The shot of a man being hit by a car was repeated a total of six times, while the voiceover graphically described the man's situation.

The licensee of TEN did not advise the ABA of what action it intended to take in relation to this matter. The matter was subsequently discussed at meetings between the ABA and FACTS.

TEN 10 Sydney

Program: Australian Ladies Masters Golf Tournament

Complaint: Broadcast of a tobacco advertisement

The complainant alleged that during the broadcast of the 'Australian Ladies Masters Golf Tournament' on TEN over the weekend of 26 and 27 February 2000, TEN continually showed 'Alpine' signage and interviewed the sales manager of the tobacco manufacturing company, making particular reference to the company's name.

Clause 7(1)(a) of Schedule 2 to the Act prohibits the broadcast of tobacco advertisements. The Act makes it clear that for the purposes of determining whether a tobacco advertisement has been broadcast, the ABA is to be guided by the *Tobacco Advertising Prohibition Act 1992*.

The ABA found that the live interview with the Sales Director of the tobacco manufacturer Philip Morris promoted the corporate image of, drew attention to and publicised Philip Morris and their brand Alpine and was therefore a tobacco advertisement under the TAP Act. The ABA found that the tobacco advertisement was broadcast knowingly and recklessly and was not accidental or incidental to the broadcast of the golf tournament itself.

As a result of the breach finding TEN outlined the further training intended for TEN staff to prevent similar breaches. The ABA took no further action.

TEN 10 Sydney/ADS 10 Adelaide

Program: The Melbourne Cup

Investigation: Inappropriate broadcast of alcohol advertisements

The ABA became aware that, in their coverage of the Melbourne Cup, TEN Sydney broadcast three alcohol-related advertisements, and ADS

Adelaide broadcast one alcohol advertisement during a 'PG' classification period.

The ABA found that the licensee of TEN Sydney breached clause 6.7 of the code by the broadcast of three advertisements that directly promoted the purchase and/or consumption of alcoholic drinks in a 'PG' classification period. Similarly, the ABA found that the licensee of ADS Adelaide breached clause 6.7 of the code by the broadcast of one advertisement that directly promoted the purchase and/or consumption of alcoholic drinks in a 'PG' classification period.

The licensees of TEN Sydney and ADS Adelaide advised that all TEN Network Traffic Managers were advised of the correct interpretation of the alcohol advertising provisions in the code, to ensure that the mistake is not repeated.

TCN 9 Sydney

Program: Advertisement for Berri Plus

Complaint: Language, complaints handling

On 10 January 2001 the ABA received a complaint that the advertisement for Berri Plus was offensive in that the content contained crude language and encouraged its use amongst youth. The complainants also complained that the responses to their complaint by TCN 9 and the Advertising Standards Board were 'very weak' and inadequate.

In relation to complaints handling procedures the ABA found that TCN Channel Nine Pty Ltd did not deal with the complaint in accordance with the requirements of Section 7 of the code and therefore had breached clause 7.8.1. The ABA also found that TCN, by forwarding the complaint to the ASB and advising the complainants of this action, did not breach clause 7.8.2 of the code in relation to the content of the advertisement.

In relation to the placement and classification of the advertisement, the ABA found that the broadcast at 6.26 p.m. and 6.56 p.m. of the advertisement for 'Berri Plus' that briefly depicts

the letters 'SHI' and an incomplete letter, which is apparently intended to complete the word 'shit' in the context of the advertisement, did not breach section 6 of the code.

NBN Northern NSW

Program: The Colour of War

Complaint: Violence and adult themes in PG program

On 2 February 2000, the ABA received a complaint in relation to an episode entitled 'Total War' in the documentary series 'The Colour of War' broadcast by commercial television station NBN Northern NSW on 12 December 1999 at 7.30 p.m. The complainant was concerned about the graphic violence in the program and questioned the PG classification given to the program.

The ABA assessed the images of executions in the Nazi occupied town of Pancevo. The images depicted execution by firing squad and hanging showing the expressions on the faces of those about to die, the act of killing and footage of corpses bleeding or swinging from gallows. The ABA was of the view that these images dealt with adult themes of death and violence in war in a manner that was not carefully handled or mild in impact. No specific warning was provided to alert viewers that they would see material not usually shown in the PG time slot.

The ABA was of the view that the 'Total War' episode in the series 'The Colour of War' breached clauses 2.13.1 (Violence) and 2.13.6 (Adult themes) of the code.

The licensee did not agree with the ABA's preliminary findings and the licensee did not advise the ABA of any action it intended to take with regard to the matter. The ABA noted that this was the first breach of this nature by the licensee. The ABA does not intend to take any further action in this matter but will closely monitor the licensee's future performance against the code.

NEN Northern NSW

Program: JAG

Complaint: Adult themes in a PG classified program, complaints handling

On 28 February 2000, the ABA received a complaint concerning an episode of 'JAG' entitled 'Nobody's Child' broadcast by commercial television station NEN Northern NSW on 21 July 1999. The complaint was that the adult themes of child abuse, child sexual abuse and murder were inappropriate for a PG (Parental Guidance) time slot.

The episode concerned the investigation of a murder of a five-year-old child and contained detailed verbal descriptions of the child's injuries and suffering leading to her death. A pathologist gave 'sadism and ritual murder' as possible reasons for the girl's death. Background music was used to heighten tension and reinforce the disturbing nature of the events. The ABA was of the view that the adult themes of murder and child abuse could not be said to be mild in impact as required by the code. The ABA found that this episode of 'JAG' breached subclause 2.13.6 (Adult Themes) of the code which sets the limits for PG.

The licensee admitted to the ABA that it did not respond to the complaint. Consequently, the ABA also found that NEN breached clauses 7.9 and 7.10 of the code in relation to complaints handling.

Northern Rivers Television, NSW

Program: Channel 10 promotion for upcoming feature programs

Complaint: Religious vilification, complaints handling

The ABA received a complaint concerning a program promotion titled 'Pope Big Week' featuring visual footage of Pope John Paul II and accompanied by a voice over encouraging viewers to watch Channel 10 and its up-coming feature programs. The complainant objected to

the use of footage of the Pope on the grounds that it was used in a manner that belittled the head of the Catholic Church.

The ABA did not uphold the complaint, as it was found that the broadcast was not likely to have provoked or perpetuated intense dislike, serious contempt or severe ridicule against a person or group of persons on the grounds of religion (clause 1.8.6 of the code). However, the ABA stated that it expected broadcasters to be sensitive to the impact of material on viewers.

The ABA also determined that NRN failed to comply with clause 7.9 of the code, by failing to provide a substantive response to a code complaint.

The ABA undertook to pursue the issue of what constitutes a substantive response for the purposes of the code with NRN.

NEN Northern NSW

Program: Quick

Complaint: Sex, violence and adult themes in an M program

The complainant alleged that a sex scene near the beginning of the movie broadcast at midday on 1 November 1999 was too strong for the M classification of the program.

The ABA found 'Quick' breached clauses 2.15.6 and 2.15.2 of the code as it included a visual depiction of sex that was not implied in a restrained way as well as intense adult themes of high impact which were not handled with care as required for M classification.

The licensee informed the ABA that it did not agree with the ABA's findings. The ABA met with representatives of Seven to discuss this matter. The ABA noted that this was the first time that the licensee has breached the M classification requirements of the code and no further action was taken.

GTV 9 Melbourne

Program: 60 Minutes and promotions for the program

Complaint: Accuracy, privacy, complaints handling

On 20 December 1999 the ABA received a complaint that a segment in the 60 Minutes program 'Welcome to Television' concerning the introduction of digital television in Australia, and promotions for the program, were inaccurate.

'Welcome to Television' provided viewers with information on the current proposals for digital television in Australia. For example, the segment notified viewers of the proposed 2008 shut-off date for the analogue service. The segment explained that the digital and analogue signal would be simulcast until the year 2008. The ABA is of the view that there were no significant errors of fact within the program, therefore there is no requirement for GTV to make a correction as provided for by sub-clause 4.3.11.

In relation to the program promotion the ABA found that the statements, 'it's out with the old TV' and 'the billion dollar decisions about to consign your TV set to the scrap heap' were inaccurate. The statements were reinforced by the image of the wooden cabinet television set being dynamited. The ABA found that the promotion did not comply with clause 4.5 of the code as it did not present factual material accurately.

The ABA also found that GTV 9 did not comply with clause 7.9 of the code as it failed to respond substantively to the complaint in accordance with the requirements of the code.

GTV-9 did not agree with the ABA's findings under clause 4.5 of the code, but made no further submissions. The ABA noted that in regard to clause 4.5 of the code, this is the first breach of this nature by GTV.

The ABA also noted that GTV 9 had recorded two other complaint-handling breaches since November 1999. It also sought from GTV-9 information concerning which systems were in

place to handle complaints and what changes had been made as a response to the complaints handling breach findings (in particular, staff training, the introduction of new complaints-handling procedures etc.) since January 1998.

GTV 9 Melbourne

Program: Christopher Columbus – The Discovery

Complaint: Nudity in a G classified program, complaints handling

The ABA received a complaint alleging that the depiction of nudity in the program was not suitable for the general (G) classification.

The ABA did not uphold the complaint in relation to the portrayal of nudity. However, the ABA determined that the licensee breached clause 7.12 by failing to advise the complainant that he may refer the matter to the ABA if dissatisfied with the licensee's written response.

The ABA had regard to GTV's history of compliance with complaint handling procedures and noted the present breach occurred before planned staff training in complaints handling. The ABA undertook to continue to monitor GTV's complaint handling processes.

GTV 9 Melbourne & WIN Canberra

Program: Midday With Kerri-Anne

Complaint: Advertisement for a medicine without clearance of the delegated authority

On 13 November 1998 the ABA received a complaint about a segment of 'Midday With Kerri-Anne' which the complainants viewed on GTV 9 Melbourne and WIN Canberra on 19 October 1998. It was alleged that the segment included an advertorial making therapeutic claims about the product Enzogenol and that the text had not been submitted for approval by the delegated authority, the Proprietary Medicines Association of Australia (PMAA), as required by clause 6 of Schedule 2 to the Act. The segment

included discussion about free radicals, a booklet on Enzogenol, as well as a patient's testimonial for the product.

The ABA determined that the product Enzogenol is a medicine for the purposes of clause 6 of Schedule 2 and that payment was not a factor in deciding whether the broadcast amounted to an advertisement. The ABA found that GTV and WIN had breached a condition of their licences by broadcasting an advertisement for a medicine for which the licensees had not obtained the PMAA's prior approval for the text.

In considering what action should be taken in relation to the licence condition breaches by GTV and WIN, the ABA has taken account of the fact that this was the first time it had considered the question of what constitutes an advertisement for the purposes of clause 6 of Schedule 2. Given the difficulty the ABA encountered in determining what constitutes an 'advertisement', the ABA accepted that it may have been difficult for a licensee to decide what might constitute an advertisement that would require the PMAA's prior approval.

Given the potential confusion faced by licensees, the ABA did not take any action against the licensees of GTV and WIN in relation to these breaches. Because it was the first time the ABA had made a finding against clause 6, as well as publishing its findings the ABA decided to circulate its report to industry bodies whose members are subject to the requirements of clause 6.

ATV 10 Melbourne

Program: Livostin Nasal Spray advertisement

Complaint: Complaints handling

The ABA received a complaint regarding the broadcast by ATV of an advertisement for Livostin Nasal Spray. The complainant also alleged that ATV had not responded within the 30 working days timeframe required by the code.

The substantive complaint concerned the content of the advertisement and was outside the ABA's jurisdiction. The ABA was of the view that the initial letter of complaint to the station clearly indicated that the complainant's concerns related to the content of the advertisement and as such, the complaint should have been referred to the Advertising Standards Board as required by clause 7.8.2 of the code.

ATV informed the ABA of the steps taken to prevent similar breaches. As ATV has taken steps to correct and strengthen the internal procedures regarding complaints handling and to implement training, in addition to issuing a response to the complainant, no further action will be taken by the ABA at this stage.

ATV 10 Melbourne, TEN 10 Sydney

Program: Good News Week

Complaint: Religious vilification, complaints handling

The ABA received three complaints alleging that comments by the presenter of the program vilified Cardinal Clancy and Catholics on the grounds of their religion.

The ABA did not uphold the complaints with regard to vilification, as it was found that the broadcast did not provoke or perpetuate intense dislike, serious contempt or severe ridicule against a person or group of persons on the grounds of religion (clause 1.8.6 of the code).

However the ABA determined that the licensees breached clause 7.9 of the code in that they failed to provide a substantive written response to a complaint about a code matter.

Network Ten advised that it would review its approach to the handling of complaints of matters involving clause 1.8.6 on the basis of concerns raised by the ABA. The ABA undertook to pursue this matter with Network Ten separately.

BTQ 7 Brisbane**Program: Today Tonight****Complaint: Accuracy and fairness in current affair programs and promotions, complaints handling**

The complainant alleged that the program promotions and the episode of 'Today Tonight' featuring clairvoyant, psychic healer and medium Ms Margaret Dent, broadcast by BTQ on 5 August 1999 did not present factual material accurately. The complainant also alleged that BTQ 7 had not provided a substantive response to the complainant as required by the code.

The ABA found that neither the program promotion nor the episode of 'Today Tonight' had breached the code in regard to accuracy and the fair representation of featured viewpoints.

The ABA found the licensee in breach of clause 7.10 and 7.12 of the code by not providing a substantive written response within 30 days and not advising the complainant that the matter could be referred to the ABA if the complainant was not satisfied with the licensee's response.

BTQ 7 Brisbane**Program: Program promotion for Turbulence in G classification time zone****Complaint: Promotion exceeds requirements for G time zone**

The complainant was concerned about the levels of violence depicted in the promotion for the movie 'Turbulence' broadcast by BTQ on Sunday 27 February 2000 during the midday movie, *The Magnificent Men in their Flying Machines*. The complainant also alleged that BTQ had not responded to her written complaint.

The ABA found that the depiction of the use of guns and weapons in a manner clearly intended to inflict harm, visual and audio depictions of physical violence which were not very restrained, threatening language, sounds and special effects which did not have a very low

sense of threat or menace and were not infrequent, and the use of music, special effects and camera work to create an atmosphere of tension and fear resulted in breaches of clause 3.8 of the code (which sets limits on material included in program promotions in G time).

The ABA also found that the promotion breached clause 3.6.2 of the code as a promotion for an M classified program was broadcast during a G program which was likely to attract substantial numbers of children in a weekend G viewing period.

BTQ informed the ABA that they have no record of having received the complaint. The ABA therefore did not find a breach in regard to the complaints handling aspect of this matter but did take the matter of complaints handling procedures up with the licensee.

QTQ 9 Brisbane**Program: Nine News****Complaint: Inaccuracy, news not presented fairly or impartially, invasion of privacy, distinguishing fact from commentary, correction of errors**

The ABA received a complaint on 7 April 1999 in relation to a number of news reports broadcast by QTQ that related to Senator Mal Colston and his family between 3 April and 6 May 1997. The complainant alleged that the reports concerning the Colston family contained inaccuracies, were not fair or impartial, did not distinguish fact from commentary and in some instances constituted an invasion of privacy.

The ABA did not uphold the complaint in regards to distinguishing fact from commentary. However, the ABA found that the licensee had breached clauses 4.3.1, 4.3.5, 4.3.8 and 4.4.1 of the code in that it had not presented factual material accurately or represented viewpoints fairly, had used material that had invaded an individual's privacy without there having been any identifiable public interest reasons for doing so, had not corrected significant errors of fact at

the earliest opportunity and had not presented news fairly and impartially.

The Nine network disagreed with the ABA's findings but advised that all relevant news and current affairs staff would be made aware of the findings. QTQ also advised a date on which it would be conducting a code training seminar for staff.

QTQ 9 Brisbane

Program: National Nine News

Complaint: Severe ridicule against a group of people on the grounds of national origin

The ABA received a complaint alleging that a segment of the 'National Nine News' was racist, offensive and bigoted.

The ABA found that, while the licensee of QTQ did not breach clause 1.8.6 of the code, it did breach clause 7.9 of the code in that it failed to provide a substantive response to the complainant.

The licensee of QTQ disagreed with the ABA's finding but advised that all relevant QTQ staff would be made aware of these findings and would be requested to take them into consideration in preparing future responses to complaints.

QTQ 9 Brisbane

Program: A Current Affair

Complaint: Item on FAI home security was inaccurate and unfair, complaints handling

On 7 April 2000, the ABA received a letter in which the complainant alleged that an item on the program 'A Current Affair', broadcast by commercial television station QTQ on 7 February 2000, was inaccurate. The complainant wrote to the executive producer of 'A Current Affair' on 3 March 2000 and was dissatisfied with the response she received.

The item concerned the fallibility of the FAI home security system. The ABA was of the view that a current affairs investigation, which draws public attention to the reliability of home security installed in many homes and the methods used by the company selling that system, is a matter of public interest. The program allowed experts, past employees of FAI Home Security as well as consumers with valid complaints to speak for themselves. The information was presented in a serious and considered manner and was not sensationalised in any way.

The ABA was satisfied that the licensee of QTQ did not breach subclause 4.3.2 of the code. The licensee, however, breached subclause 7.12 of the code by not informing the complainant that the matter could be referred to the ABA if dissatisfied with the licensee's response.

TVQ 10 Brisbane

Program: Ten News

Complaint: Inaccuracy, news not presented fairly or impartially, invasion of privacy, distinguishing fact from commentary

The ABA received a complaint on 5 August 1999 in relation to a number of news reports broadcast by TVQ 10 that related to Senator Mal Colston and his family between 3 April and 6 May 1997. The complainant alleged that the reports concerning the Colston family contained inaccuracies, were not fair or impartial, did not distinguish fact from commentary and in some instances constituted an invasion of privacy.

The ABA did not uphold the complaint in regard to inaccuracy or representing viewpoints fairly. However, the ABA found that the licensee had breached clauses 4.3.5, 4.4.1 and 4.4.2 of the code in that it had used material that had invaded an individual's privacy without there having been any identifiable public interest reasons for doing so, and in one instance had not presented news fairly and impartially and had not distinguished fact from commentary.

The Ten network disagreed with the ABA's findings but notified that all relevant news and current affairs staff had been advised of the findings to be taken into consideration in preparing future news reports.

TVQ 10 Brisbane

Program: Beauty and the Beast

Complaint: Inappropriate language for PG classification program, complaints handling

On 14 September 2000, the ABA received a complaint in relation to an episode of 'Beauty and the Beast' broadcast by TVQ that Stan Zemanek made an offensive comment which was inappropriate for a PG classified program. The complainant stated that she was dissatisfied with the response she had received from TVQ.

The program followed the format of the series, which relied on humour for its impact, and low level coarse language was used throughout the program to humorous effect.

The ABA was of the view that the language in the program was used in a humorous, if rude, non-aggressive manner. The ABA noted that the program was aimed at an adult audience and broadcast in an M (Mature) classification timeslot when most children are at school. As the program was classified PG, however, it was assessed against the PG classification criterion. This allows for the presentation of adult themes or concepts which must be mild in impact and remain suitable for children to watch with supervision of a parent. The ABA was of the view that the program was acceptable within its PG classification and was not a breach of clause 2.13.3 of the code.

Network Ten has had a lengthy discussion with TVQ, which admitted to an error of judgement in responding to this complainant. The ABA was satisfied this was a one-off mistake and not due to a systemic fault in TVQ's complaint handling process.

The ABA found that TVQ breached clause 7.9 of the code and noted the action taken to prevent similar breaches in the future.

STQ Regional Queensland

Program: Local News

Complaint: Accurate presentation of factual material, invasion of privacy, broadcast of an attempted suicide, complaints handling

The complaint alleged that a news report concerning an attempted suicide and attempted murders broadcast on 10 and 31 July 2000 on STQ's Local News invaded the privacy of the individual and the family concerned and that the report broadcast on 31 July 2000 included inaccuracies. The complainant also alleged that STQ had not issued a substantive written response.

The News report broadcast on 31 July 2000 named the accused and referred to the attempted suicide as well as reporting that the accused also attempted to asphyxiate his children. The report also referred to the accused's estranged wife. The ABA considered that the News report invaded the privacy of the family involved and that STQ should have exercised particular care for the welfare of the children involved.

The ABA also found that STQ breached clause 4.3.9 of the code as the News report of the attempted suicide was not a straightforward report, included a detailed description of the method used and was not broadcast in the public interest.

In regard to whether the reports were accurate, the ABA did not make a breach finding as transcripts of the court proceedings were not available.

The ABA also found STQ to be in breach of clause 7.9 of the code by not providing the complainant a substantive written response to a written complaint within 30 days.

STQ has advised the ABA that, to ensure that similar breaches do not occur in the future, a

review of internal procedures was to be undertaken, and all Channel Seven Queensland Station Managers were to be reminded of the obligations under the code. The journalist concerned was also to undergo training. In view of the action taken by STQ, the ABA will take no further action in relation to this matter.

STQ Regional Queensland

Program: Promotions for 'Blue Heelers' and 'Bad Girls'

Complaint: Program promotions in G time zone

The ABA received a complaint that program promotions for Blue Heelers and Bad Girls exceeded the requirements for promotions in G viewing time, because of the level of violence and use of guns in the promotions. The promotions were screened throughout Olympic Games coverage, in September 2000.

The ABA found that the promotions for Blue Heelers breached clauses 2.11.1 and 3.8.7 of the code when screened in G viewing time. The promotions contained repeated close-ups of guns, characters carrying guns, and voice-over emphasising the fact that one of the core cast members would be shot. These elements created a sense of threat that was not 'very low' in impact, as required by clause 3.8.7 of the code. Nor was the depiction of guns 'infrequent', as required by clause 2.11.1.

The promotions for 'Bad Girls' were found to have breached clauses 3.8.2 and 3.8.7 of the code when screened in G time. The promotions contained depictions of physical or psychological violence against people, in breach of 3.8.2, and more than a 'very low' sense of threat or menace, in violation of 3.8.7.

The licensee acknowledged that the promotions were not suitable for screening in G viewing times, and undertook to circulate a memo to all relevant staff reminding them of the requirement that program promotions must comply with the

requirements of the classification zone during which they are broadcast.

RTQ Regional Queensland

Program: The Super Debate – Does the Queen Need a Facelift?

Complaint: Program promotion in G viewing period, complaints handling.

The ABA received a complaint about a program promotion for 'The Super Debate – Does the Queen Need a Facelift?', screened in a G viewing period. The complainant was concerned about the sexual references in the promotion, which contained a clip of one of the contestants in a televised debate asserting that the Queen 'needs a good rogering'.

The ABA found that this comment did not result in a breach of clause 2.11.2 of the code in relation to the treatment of sexual themes at the G classification. The ABA did, however, find a breach of 3.8.9, which sets stricter criteria for program promotions screened in G viewing time. Under 3.8.9, sexual references must be 'of the most innocuous kind'. The ABA found that the term was a crude euphemism for sexual behaviour and was not 'of the most innocuous kind'. The ABA also found a breach of 7.12, as the licensee did not advise the complainant of his right to refer his complaint to the ABA.

The licensee did not accept that a breach of 3.8.9 had occurred. It acknowledged the breach of 7.12, however, and stated it had put procedures in place to address this issue. The ABA noted that this was the second time a breach finding was made against RTQ for both of these clauses, and will monitor this situation carefully in the future.

TVQ 10 Brisbane

Program: Program promotions for 'Caught on Tape' and 'Ibiza Uncovered'

Complaint: Program promotions broadcast during a PG time zone, complaints handling

The complaint alleged that the promotions for the M classified programs 'Caught on Tape' and 'Ibiza Uncovered' were inappropriate for broadcast during the PG time zone.

The ABA found that the sexual behaviour and nudity depicted in the promotions was very restrained and very brief, satisfying the PG provisions of the code.

Although Network Ten's response was received within the time limit set by the code the ABA is of the view that the response was not 'substantive' as required by the code. The ABA met with Ten to discuss the issue of substantive responses to letters of complaint.

NWS 9 Adelaide

Program: National Nine News

Complaint: Inaccuracy, fair and impartial presentation, complaints handling

The complainant alleged that the news item broadcast on NWS 9 on 13 July 1999 inaccurately stated that he was a member of a motorcycle gang and unfairly linked him to a murder investigation concerning his ex-wife at a time when he was appealing a conviction concerning another murder. The news item reported on a police murder investigation, which included information about a police raid on the motorcycle gang's headquarters.

The ABA determined that the licensee had not breached the provisions of the code relating to fair and impartial presentation of news. However, the ABA concluded that in broadcasting the item, the licensee breached clause 4.3.1 of the code by failing to present factual material accurately. The

ABA also found that the licensee had breached code clauses 7.9 and 7.10 by failing to provide a substantive written response within 30 days of receiving the complaint.

The licensee claimed its decision not to respond to the complaint was based on legal advice it received about sub judice implications, which related to the complainant's court appeal. As proof of its commitment to the complaint handling requirements of the code, NWS-9 attached a copy of a predated memo to all staff reinforcing its procedures for viewer complaints. In relation to complaint handling, the ABA considered that it was reasonable for NWS 9 not to respond to the complainant in light of the legal advice it received.

The ABA took no further action other than to publish its findings.

TVW 7 Perth

Program: News

Complaint: Inaccuracy, news not presented fairly or impartially, invasion of privacy, complaints handling

The ABA received an unresolved complaint alleging that an item broadcast by TVW 7 during the 6.00pm News, which concerned 'the closure of a planned party on the Guangara pine plantation the previous night', contained errors of fact as well as being unfair and misleading. The complainant also stated that TVW 7 had not responded to his letter of complaint.

The ABA determined that although the broadcast itself did not breach the code, the licensee of commercial television station TVW 7 had breached clause 7.10 of the code by not responding substantively to a written complaint within thirty working days from receipt of that complaint.

As a result of the ABA's preliminary findings TVW 7 took several steps to improve complaints handling procedures. Stricter processing procedures and a more centralised complaints handling system have been introduced. A staff

awareness program has been introduced to ensure that existing and new staff are aware of the code requirements in relation to complaints handling. Also, there is now a quarterly distribution to all staff of written complaints handling procedures and a weekly follow-up to all Department Managers at the weekly Executive Meeting.

STW 9 Perth

Program: Film El Condor

Complaint: M classification, consumer advice warnings

On 10 January 2000 the ABA received a complaint that the movie *El Condor*, classified mature (M), contained sex scenes and nudity but did not feature consumer advice warnings as required under the code. The complainant raised with the ABA the appropriateness of the M classification given to *El Condor* based on the levels of sex and nudity in the program.

The complainant also alleged that STW did not respond to the original letter of complaint faxed to the Program Manager of the Perth studio on 5 November 1999.

The ABA found that the movie *El Condor* broadcast at 1 a.m. on 3 November 1999 complied with the mature (M) classification at clause 2.15 of the code. In relation to the requirements for consumer advice however, the ABA found that the licensee did not comply with the code as it failed to include consumer advice for nudity and sex scenes.

STW commented that it received the movie directly from the Nine Network and relied on the Network to classify and provide consumer advice for the movie. STW stated that it acted reasonably in relying on the Network's classification. STW also stated that it would bring the decision to the attention of the appropriate classification officer at the Nine Network. The ABA noted this is the first breach of clause 2.26 of the code by STW.

In relation to complaints handling STW advised that it could not confirm a receipt of the complainant's facsimile even after a thorough search of its records. In considering similar complaints, the ABA has taken the view that proving receipt of a facsimile is extremely difficult. The ABA was satisfied that the complainant did send the facsimile, but was not satisfied that STW received the facsimile.

In the absence of any evidence that STW received the facsimile the ABA found that the licensee did not breach clause 7.9 of the code.

STW 9 Perth

Program: The Footy Show

Complaint: Offensive behaviour, complaints handling

The complaint concerned offensive behaviour by one of the regular contributors on *The Footy Show* program broadcast by STW on 3 August 2000. The complainant also stated that he had written to the manager of the station on 25 August 2000 but had received no reply to his letter.

The Footy Show is classified PG and is a humorous discussion program devoted to Australian Rules Football shown before a live audience. The section of the program in question involved discussion of a recently injured footballer and introduced a sports doctor who described how he injected the spine of the footballer to relieve his symptoms. A presenter leapt to his feet and offered to display his spine for the doctor to demonstrate. The presenter dropped his trousers and displayed his buttocks. The doctor then drew a diagram of a face on the presenter's lower spine and buttocks with a felt pen.

The code allows for restrained visual depiction of nudity where justified by the story line or program context. In this case, only the presenter's buttocks were displayed, and the nudity was considered 'restrained', despite the extended duration of the scene. The depiction

was justified because of the comic nature of the scene and the comic intent of the program as a whole. The ABA is, consequently, of the view that this was not a breach of the code.

The code requires that, when a licensee receives a written complaint about a code matter, the licensee must provide a written response within 30 working days after receipt of the complaint. The licensee did not provide a written response and, consequently, the ABA found a breach of clause 7.9 the code.

The licensee advised the ABA that STW 9 has introduced a formal document which outlines complaints handling procedures at the station which should prevent further similar breaches in the future. The ABA was satisfied that the station now has a mechanism for responding to written complaints as required by the code.

STW 9 Perth

Program: Today on Saturday

Complaint: Language unsuitable for G viewing time

The complainant alleged that the language used during the introduction to the program Today on Saturday was unsuitable for broadcast at 8 a.m. on a Saturday morning, a G viewing time.

The Today on Saturday story concerned a report on a dispute between retrenched textile workers from the National Textile factory and the company's management.

News and current affairs programs do not have to be classified but certain criteria have to be met. The ABA was informed that the program had not been classified by STW-9 but a classification advice was printed in program guides due to a fail-safe procedure to ensure that programs that do require a classification are given one. The ABA was of the view that as the program had not been the subject of a formal classification process by Nine, it was inappropriate to indicate the program had been assessed against the requirements of the G classification.

The ABA found that STW-9 did not exercise care in the selection of the footage as at 8 a.m. on a Saturday, it would be likely that a substantial number of children would have been viewing. This resulted in a breach of 2.3.1 of the code.

The ABA also found that STW 9 breached clause 7.9 and 7.12 of the code as it did not issue a substantive written response. The response that was issued contained significant misinterpretation of the code provisions and did not address any of the complainant's concerns or any of the points raised in the complaint. Nor did the response advise the complainant that her complaint could be referred to the ABA if she was not satisfied with the licensee's comments. .

STW 9 Perth

Program: The Footy Show

Complaint: Nudity in a PG classified program

The ABA received an unresolved complaint regarding a segment of 'The Footy Show' broadcast by STW 9 Perth. The complainant alleged that the segment, 'Sam Newman's Street Talk', contained footage of Mr Newman interviewing 'a male person who was exposing his private parts to the public which were clearly shown in the film footage'.

The ABA determined STW had breached clause 2.13.2 of the code in that it included a visual depiction of nudity that was neither restrained nor justified by the story line or program context at the PG classification level.

The Nine Network informed the ABA that all relevant personnel at the station had been made aware of the findings of the investigation and that the matter would also be discussed at future code of practice compliance training sessions.

IMP Remote Central and Eastern Australia

Program: Election advertisements for candidate in state election

Complaint: Broadcasting of election advertisement during 'blackout' period.

The ABA received a complaint that the licensee broadcast an election advertisement for a Labor candidate in the February 2001 Queensland state election during the 'blackout' period (the period commencing at the end of the Wednesday before polling day to the close of the poll).

The ABA was satisfied that the advertisements complained about contained election matter relevant to the forthcoming election, and that the licensee had received money or other consideration for the broadcasting of the advertisement. The advertisement therefore fulfilled the definition for an election advertisement. The licensee advised the ABA the advertisements had screened seven times during the blackout period. The ABA found the licensee to be in breach of the standard licence condition at clause 3A of Schedule 2 to the Act.

The licensee admitted to the breach finding and advised the ABA of steps taken to improve internal processes, clarifying roles and tightening scheduling procedures in relation to election advertisements. The ABA stated that it would take no further action at this stage, but, noting that this was the licensee's second breach of this licence condition, would view subsequent breaches very seriously.

Commercial radio

Code: Commercial radio codes of practice

3AW Melbourne

Program: Drive with Steve Price

Complaint: Racial vilification, misrepresentation of viewpoints, complaints handling

The ABA received an unresolved complaint alleging that comments made by announcer Steve Price during his Drive program were racist and breached the codes. The complainant also alleged that his letter of complaint to 3AW had not been dealt with according to the requirements of the codes.

The ABA determined that the licensee of 3AW breached clause 5.7 of the codes in that the licensee's response to the written complaint did not inform the complainant that he had the right to refer the complaint to the ABA if he was not satisfied with the licensee's response.

The licensee of 3AW informed the ABA that it had now adjusted its complaints procedure to ensure that all complainants were advised of their rights under clause 5.7 of the codes.

4RO Rockhampton

Program: Olivia Scott

Complaint: Racial vilification

The ABA received an unresolved complaint alleging that comments made by 4RO Rockhampton breakfast program announcer Olivia Scott, which took the form of an 'Australian Apology to the Aborigines', were racist and emphasised negative stereotypes of indigenous Australians.

The ABA determined that the broadcast had breached sub-clause 1.3(e) of the codes in that it had broadcast material likely to vilify a group on the basis of race.

Following the broadcast in question 4RO took several steps to rectify the breach and prevent future similar breaches. Ms Scott was immediately suspended from all on-air activity. The Managing Director of RG Capital Radio Pty Ltd, the parent company of 4RO, broadcast several apologies. An ongoing training program was implemented for all on-air staff (including Ms Scott). This program includes the circulation of on-air guidelines and formal 'test questions'. At the instigation of 4RO, a meeting was held between representatives from 4RO and representatives of the central Queensland indigenous community. The meeting agreed that Ms Scott should be reinstated to on-air activity subject to her broadcasting an apology, that all 4RO on-air staff had satisfied 4RO's requirements for compliance training, and that follow-up work would be carried out in relation to 4RO's promotion of indigenous community events, training, employment and education. RG Capital Radio issued a press release outlining the issues surrounding the meeting and the initiatives/outcomes agreed upon at that meeting.

4SEA FM Gold Coast

Program: Talkback

Complaint: Inaccurate presentation of factual material

The ABA received a complaint alleging that inaccurate material was broadcast about the complainant on a talkback program, and that the licensee of SEA FM had failed to retain a copy of the program broadcast for the required six weeks after the broadcast.

The ABA found that the licensee of SEA FM breached clause 5(3)(a) of Schedule 2 to the Act, by failing to retain a record of the broadcast of current affairs matters. As there was no record of the broadcast, the ABA was unable to determine whether there had been a breach of clause 2.2(a) of the code in relation to the accurate presentation of factual material.

The licensee of SEA FM acknowledged the breach and advised that it resulted from a technical fault that was rectified as soon as it was discovered. The licensee also advised that an additional back-up system had been installed to prevent a recurrence of the breach.

4SEE Sunshine Coast

Program: The Big Kahuna

Complaint: Racial vilification, offensive language, complaints handling

The ABA received an unresolved complaint concerning comments made about indigenous Australian entertainer Christine Anu during 'The Big Kahuna'. The announcer had said something about putting an 's' after the surname of Ms Anu, thereby turning it into the word 'anus'.

The ABA found that the broadcast had not breached the code as it would not have been likely to vilify on the basis of race or offend the program's anticipated (youth) audience. However, the ABA found that the licensee of 4SEE had breached clauses 5.6 and 5.7 of the code by not providing a timely and substantive response to a written complaint and by not informing the complainant of his right to refer the matter to the ABA.

The licensee informed the ABA that the breach was a result of key personnel changes at the station. The General Manager of the licensee of 4SEE has now issued memoranda to all staff emphasising the complaints handling provisions of the code and advising of new complaints handling procedures, particularly in situations where there are changes to, or absences of, personnel involved in complaints handling.

5DN Adelaide

Program: Jeremy Cordeaux

Complaint: On-air disclosure of commercial agreements with third parties

This investigation formed part of the Commercial Radio Inquiry and resulted in the ABA finding eight breaches of code 2.2(d) and four breaches of code 3.1(a). See page 32 for more information on the Commercial Radio Inquiry and the Commercial Radio Standards.

6PR Perth

Program: Paul Murray

Complaint: One-sided representation of issues, complaints handling

The complainant alleged that the presenter's coverage of a proposed property development in Cottesloe was a one-sided representation of the issue that breached several clauses of the codes.

The ABA did not uphold the complaint with regard to the following provisions of the codes: 1.3(e) (inciting or perpetuating hatred or vilification against a person); 2.2(b) (distinguishing factual material from commentary and analysis); 2.2(c) (reasonable opportunities given to present significant viewpoints); 2.2(d) (withholding relevant available facts); and 5.6 (provision of a substantive written reply).

However, the ABA determined the licensee breached clause 5.7 of the codes as it failed to inform the complainant of his right to refer the complaint to the ABA if not satisfied with the licensee's written response.

The licensee took steps to prevent similar breaches by developing a template incorporating the referral advice that is to be used for all written responses to complainants. The ABA was satisfied with the action undertaken by the licensee. Noting that this was the first breach of this provision of the codes, the ABA did not take any further action against the licensee.

6PR Perth

Program: Howard Sattler

Complaint: On-air disclosure of commercial agreements with third parties

This investigation formed part of the Commercial Radio Inquiry and resulted in the ABA finding six breaches of code 2.2(d) and 11 breaches of code 3.1(a). See page 32 for more information on the Commercial Radio Inquiry and the Commercial Radio Standards.

6NOW Perth

Program: Breakfast Show

Complaint: Language inappropriate for a breakfast time program, complaints handling

On 26 April 2000, the ABA received a letter from a complainant in which she alleged that the language on a segment of the Breakfast Show (and the repeat of that segment at 5.40 p.m.) broadcast by 6NOW Perth (96fm) on 1 March 2000 was irresponsible. The complainant also alleged that the station did not respond in writing to her complaint.

The complaint centres on the phrase 'the best head job he has ever had'. While the expression, which refers to the act of fellatio, was used by a caller to the station in the Breakfast Show, the response of the hosts was one of condoning and subsequently, given their response, encouraging what the caller had said. In assessing this complaint, the ABA considered the program context, the time of day of the broadcast and the make-up of the likely audience for the program. The ABA found that the licensee had breached clause 1.5(a) of the Code.

By not responding to the initial letter of complaint, the licensee also breached clause 5.6 of the Code.

The licensee advised that the program director had been spoken to about what the licensee

considered to be an unacceptable oversight in failing to respond to the complaint.

Community Radio

Code: Community radio codes of practice

2000-FM Sydney

Program: Arabic Access

Complaint: Broadcasting an advertisement

The ABA received a complaint alleging that a broadcast on 2 May 2000 on ethnic community radio station 2000-FM included an advertisement. The program consisted of an interview in the Arabic language which discussed Australian financial issues and merits of the Arab Bank.

The ABA determined that in promoting the services of the Arab Bank the licensee breached a condition of its licence by broadcasting an advertisement.

The station manager informed the ABA that the licensee had made attendance at a training course on media law, sponsorship and advertisements a priority for all 2000-FM broadcasters.

The ABA noted this action in consideration of the fact that this is the first breach of this nature incurred by the licensee. Previous breaches of this licence condition were in relation to broadcasting untagged sponsorship announcements. The ABA took no further action in this instance, but has reserved its decision on what action it will take if similar breaches occur.

2LVR Forbes

Program: n/a

Complaint: Conflict resolution

The complainants alleged that a number of station members had had their memberships cancelled without recourse to the conflict resolution procedures set out in the code.

The ABA found breaches of clauses 6.1, 6.2, 6.3 and 6.4 of the codes in relation to conflict

resolution. The licensee was found not to have mechanisms in place to facilitate conflict resolution. The constitution contained a procedure for disciplining members, including a provision allowing members a limited right to appeal decisions made in relation to membership. However, these procedures were not strong nor transparent enough to prove useful in facilitating conflict resolution. The licensee did not make every reasonable effort to resolve the dispute, and did not manage a discussion process which was aimed to bring about settlement of opposing attitudes. Nor did the licensee seek appropriate alternative dispute resolution mechanisms when internal processes to manage conflict were found to be inadequate. The ABA has recommended the licensee amend its internal procedures to incorporate a robust, transparent conflict resolution procedure, and a process to ensure unresolved conflict is referred to an alternative dispute resolution body. The ABA has asked to be kept informed of progress on this issue.

2CBD Deepwater

Program: n/a

Complaint: Conflict Resolution

The ABA received a complaint alleging that there were a number of unresolved disputes between the complainants (former members of community radio station) and the Management Committee of the station.

The ABA found that the licensee of 2CBD had breached clauses 6.2, 6.3 and 6.4 of the code of practice by not taking every reasonable effort to resolve disputes within the organisation conscientiously and as soon as practicable; by not negotiating conflict resolution by managing discussion between disputants to bring about agreement or a settlement of opposing demands or attitudes; and by not seeking appropriate alternative dispute resolution mechanisms (for example, mediation, conciliation or arbitration) in the event of an unresolved dispute.

The licensee of 2CBD acknowledged the breaches and advised that they had organised a meeting with the complainants and a mediator to assist in resolving the disputes. The licensee also gave the ABA assurances that future internal disputes will be handled in accordance with the code and that, should the need arise, mediation will be sought at an appropriate time in the dispute-handling process.

2NVR Nambucca Valley

Program: As I See It

Complaint: Vilification and perpetuation of hatred, complaints handling

The ABA received a complaint alleging that the program 'As I See It', broadcast anti-Jewish material that stereotyped, incited, vilified and perpetuated hatred against Zionists, Israel and Jews. The complaint also alleged that the licensee of 2NVR failed to respond to the complaint in accordance with the code and failed to take adequate steps to resolve the complaint.

The ABA found that the licensee of 2NVR breached clause 2.3 of the code by broadcasting material that vilified and perpetuated hatred against a group on the basis of religion, and breached clause 7.3 of the code by failing to make every reasonable effort to resolve a complaint made about the broadcast.

The licensee provided the ABA with a clear statement that it strongly disassociated itself from the material broadcast, and with reassurances detailing the systems that the licensee had put in place to ensure that similarly offensive material would not be broadcast in the future. The licensee also advised the ABA of the procedures that it had put in place to ensure that complaints would be dealt with in accordance with the code in future, and of the steps the licensee has taken to approach and resolve this matter with the complainant.

2WEB Bourke

Program: The John Laws Morning Show

Complaint: Broadcasting of advertisements

The ABA decided to investigate whether the broadcast of the 'The John Laws Morning Show' on community radio breached the provisions of the Act which prohibit the broadcast of advertisements on community radio.

'The John Laws Morning Show' on 18 July 2000 included an advertisement for Toyota read by Mr Laws. The ABA found that this advertisement was broadcast in breach of clause 9(1)(b) of Schedule 2 to the Act.

The ABA also found that prerecorded announcements for 'Our Century' video collection (two occasions), 5 Star Fresh Supermarket, Tickets for the Olympic Games, My Life Story, Roseville Park Merino Stud Information Day, and St George races were advertisements broadcast in breach of clause 9(1)(b) of Schedule 2 to the Act. The ABA also found that clause 4 of Schedule 2 to the Act was breached due to the broadcast of a political advertisement without the required particulars.

'The John Laws Morning Show' broadcast on 21 July 2000 included a discussion with a caller regarding her purchase of a new Toyota Avalon. The ABA found that this discussion was an advertisement broadcast in breach of clause 9(1)(b) of Schedule 2 of the Act. The ABA also found that prerecorded announcements for St George races, tickets for the Olympic Games, Gulargambone Jockey Club's Gold Cup Meeting, and the Brewarrina Jockey Club Showtastic Race Meeting were advertisements broadcast in breach of clause 9(1)(b) of Schedule 2 to the Act.

The ABA is considering what action it will take in relation to this matter.

3WRB Melbourne

Program: Vietnamese language program

Complaint: Broadcasting advertisements, too many sponsorship announcements

The ABA received a written complaint alleging that the Vietnamese language program on Melbourne community radio station 3WRB was breaching that station's licence conditions by broadcasting advertisements and by broadcasting more than five minutes of sponsorship announcements per hour. The complainant also alleged that 3WRB was in breach of the code by allowing sponsorship to influence programming.

The ABA determined that on 20 April 2000 and 23 May 2000 the licensee of 3WRB breached the condition of its community broadcasting licence at clause 9(1)(b) of Schedule 2 to the Act by broadcasting advertisements during 3WRB's Vietnamese language program.

3WRB advised the ABA that following the ABA's findings meetings between the Station Manager and the station's Vietnamese on-air presenters were held to emphasise the importance of distinguishing between community service announcements, station promotions and paid sponsorships. These same presenters underwent a period of retraining and were informed that their programs would be closely monitored in the future. The station's computer network, software and scheduling was completely upgraded to minimise the possibility that computer errors, such as the doubling up of sponsorship announcements, could occur in the future. The ABA's report was distributed to all presenters at 3WRB and the report's findings will also be incorporated into 3WRB's Training Agenda.

4EEE Emerald

Program: News commentary

Complaint: Factual material not presented accurately, errors of fact not corrected, complaints handling

The ABA received a complaint alleging that news commentary broadcast by 4EEE made adverse and inaccurate comment about the complainant, that the complaint had not been properly investigated, and that a correction had not been broadcast.

The ABA found that the licensee of 4EEE breached clause 2.4(b) of the code by not broadcasting factual material accurately and by not making reasonable efforts to correct substantial errors of fact at the earliest possible opportunity, clause 7.3 of the code by not making every reasonable effort to resolve a complaint, and subclause 7.4(b) of the code by failing to conscientiously consider or investigate a complaint.

The licensee of 4EEE provided assurances to the ABA that indicated that its complaints handling procedures had been revised to prevent a recurrence of these breaches.

6NR Perth

Program: Travel Matters

Complaint: The program was an advertisement

On 7 March 2000, the ABA received a complaint regarding a broadcast by community radio station 6NR, Perth. The complainant alleged that the program 'Travel Matters' contained advertisements for Harvey World Travel.

The 'Travel Matters' program took the form of a discussion between the 6NR anchorman and representatives from Harvey World Travel and Trafalgar Tours. It is commonly known that Trafalgar Tours and Harvey World Travel are established commercial businesses specialising in travel services.

The program made repeated references to these businesses. No mention was made of the products or services offered by any other tour operator. It is clear from the audiotape that the program contained material that promoted Trafalgar Tours and Harvey World Travel and was of an advertising character. Neither was the material found to be of an accidental or incidental nature.

During the course of this investigation, the ABA found that the licensee did not have a station sponsorship policy in place as required by the code.

The ABA found that the licensee of 6NR breached clause 9(1)(b) of Schedule 2 to the Act by broadcasting advertisements, and breached code 4 of the Community Broadcasting Code of Practice by not having in place and implementing a station policy with regard to sponsorship.

6NR Perth

Program: Tool Time

Complaint: The program was an advertisement

On 6 October 2000, the ABA received a second complaint regarding a broadcast by community radio station 6NR, Perth. The complainant alleged that the program 'Tool Time' contained advertisements for Coates Hire.

At the time of this complaint, the ABA was in the process of finalising an investigation following an earlier complaint regarding advertisements for Harvey World Travel during a program called 'Travel Matters'. The ABA's preliminary findings were forwarded to 6NR on 9 October 2000 and on 26 October 2000 the licensee was found to have breached its licence conditions and the Community Broadcasting Code of Practice.

The issues in this investigation were the same as the first investigation and the matter of sponsorship policy was still outstanding.

Coates Hire is a nationally recognised company which, as part of its operation, hires out

equipment for the home handyman. The Coates Hire segment was in the form of an interview with the Sales Manager of the company who was provided the opportunity to promote his company and alert the audience to some of the products or services available from Coates Hire. No mention was made of the products or services offered by any other company. In light of common law rulings, the ABA was of the view that the Coates Hire segment of the program drew the public's attention to and promoted the products and services available from Coates Hire and consequently was an advertisement.

Regarding the station's sponsorship policy, the 6NR stated that the failure of the station's sponsorship policy to protect against such interview segments was reviewed when the ABA's view on the initial 'Travel Matters' complaint was received at the station on 9 October 2000. The new policy was implemented on 25 October 2000.

The ABA found that the licensee of 6NR breached clause 9(1)(b) of Schedule 2 to the Act by broadcasting advertisements, and breached code 4 of the Community Broadcasting Code of Practice by not having in place and implementing a station policy with regard to sponsorship.

6CCR Perth

Program: n/a

Complaint: Complaints handling

On 11 April 2001, the ABA received a written complaint from the Serbo-Australian Information and Welfare Centre Inc., regarding the Serbian Program broadcast by community radio station 6CCR (Radio Fremantle) on 7 December 2000. The complainant also stated that he had received no written response to his letters to the station dated 22 January, 20 February and 15 March 2001.

The substance of the original complaint to the licensee was that comments made to the Serbian people in the broadcast of 7 December 2000

were defamatory. As defamation is outside the jurisdiction of the ABA and is not a code matter it was not considered in this investigation.

The ABA noted the procedures for handling complaints at the station and the fact that the licensee attempted to resolve the dispute with the complainant verbally. The code, however, states that responses to written complaints will be in writing and will include a copy of the code of practice. This was clearly not observed and consequently the licensee of 6CCR breached clause 7.5 of the code.

1CMS Canberra

Program: Voice of Sri Lanka

Complaint: Accuracy and fairness, complaints handling, retention of matter broadcast

The complainant alleged breaches of the current affairs and complainants handling codes had occurred in 24 June and 8 July 2000 broadcasts of the 'Voice of Sri Lanka' programs on 1CMS.

The ABA found there were breaches of the complaints handling clauses at 7.2, 7.3, 7.5 and 7.6 of the code. The licensee did not ensure regular on-air information about the code was broadcast, nor make every reasonable effort to resolve this particular complaint. The complainant was not supplied with a copy of the code, nor advised of his right to take unresolved matters to the ABA.

The ABA found no breach of the accuracy and fairness clauses. The complainant had alleged he was wrongly identified as being a member of a particular political group, and that this error of fact was not corrected at the earliest possible opportunity. The ABA considered, however, that the statement allegedly identifying the complainant had in fact been in the form of an opinion expressed by an interviewee on the program, and not endorsed by the broadcaster.

The ABA also found the licensee breached the licence condition at clause 5(2) of Schedule 2 to the Act, by not keeping appropriate records of

matter broadcast. The licensee claimed that it had now put procedures in place to ensure appropriate records were kept.

The licensee further advised that it had taken steps to improve its complaint handling procedures. The ABA was satisfied with the steps taken by the licensee and took no further action in relation to this complaint.

Temporary Community Radio

Visually Impaired Persons Radio Incorporated

Program: n/a

Complaint: Broadcast of Advertisement

The ABA received a complaint that VIP Radio's broadcast of on-air readings from product catalogues belonging to Tandy's, Pizza Hut and Safeway Supermarkets was advertising and not in compliance with Schedule 2 to the Act.

VIP Radio explained the program was taken on relay from another Radio for the Print Handicapped Service. The purpose of the segment was to inform the print handicapped audience of what products are available for sale, information which they cannot otherwise access.

The licence condition at clause 9(1)(b) of Schedule 2 to the Act prohibits the broadcast of advertisements. Clause 2 of Schedule 2 to the Act provides guidance as to material that does not amount to the broadcasting of advertisements and includes:

- fi advertising matter as an accidental or incidental accompaniment to the broadcasting of other matter and the person (in this case the licensee) does not receive any payment or valuable consideration for broadcasting the advertising matter.

- fi community information material or community promotional material

- fi a sponsorship announcement that acknowledges financial support by a person of the licensee

- fi material that announces or promotes the service provided under the licence

The ABA determined that the material broadcast on VIP Radio constituted an advertisement that was not permitted by the provisions of the Act and therefore breached the condition of its temporary community broadcasting licence set out at clause 9(1)(b) of Schedule 2 to the Act.

The ABA acknowledged that the provisions of the Act relating to what material is taken to be an advertisement may at times be rather complex and noted the Act in its present form does not have separate rules for different types of community broadcasting services. The rules applying to services targeting the vision and print impaired community are the same for all other community broadcasters.

VIP Radio advised that the ABA's preliminary report was presented to its chairman and directors and also alerted the ABA's findings to the peak national body representing RPH services. The program is no longer being transmitted by either VIP Radio or the service from which it was received on relay. As this was the first occasion on which VIP Radio had failed to comply with a condition of its licence, the ABA did not take any further action against the licensee in relation to the matter.

licensee had not breached clauses 1, 2, 4, 5 and 7 of the code as contended by the complainant.

In response the licensee advised that it had developed a conflict resolution policy that includes provision for the employment of alternate dispute resolution mechanisms when appropriate. The policy is displayed in the studios and a copy is supplied to all new members. The licensee also advised that it is approaching three independent mediators to see if they can help the licensee should the occasion arise in the future.

TRAX FM Port Pirie

Program: n/a

Complaint: Conflict resolution

On 29 May 2000, the ABA received a complaint concerning a number of issues in relation to TRAX FM operating under a temporary community broadcasting licence. The issues in the complaint included allegations that a presenter had lost her program without adequate reasons being given and that the replacement presenter used pirated music. The complaint further alleged that the presenter was not permitted to use the preferred name for a new program, that she was required to cancel another program during a community festival and that again management gave no adequate reasons.

The authority found that the licensee of TRAX FM had breached clauses 6.3 and 6.4 of the code as it had not effectively managed discussions with the complainant and had not sought appropriate alternative dispute resolution mechanisms. The authority further found that the

Open Narrowcasters

CQFM Radio Bundaberg

Program: n/a

Complaint: Service not operating as a narrowcaster

On 7 June 1999, the ABA received a complaint that the licensee of CQFM, Bundaberg Broadcasters Pty Ltd, broadcasting on 97.1 MHz was not an open narrowcasting service, as required by its licence. For a service to qualify as a narrowcasting service under section 18 of the Act, it must conform to just one of the criteria under the Act. The licensee stated that its service was targeted to people who were interested in country music.

The ABA was of the view that the service provided by CQFM was not aimed at any particular niche audience of country music enthusiasts, and appeared to be intended to appeal to a general audience. The ABA considered that the other program elements, which included sports programs and weather reports, were also indicative of a service designed to appeal to the general public and therefore not a narrowcasting service.

The ABA was satisfied that CQFM was providing, without a licence, a commercial broadcasting service pursuant to section 14 of the Act. The ABA found the licensee in breach of section 133 of the Act.

At its meeting of 31 August 2000, the ABA decided to issue a notice, pursuant to section 137 of the Act, directing Bundaberg Broadcasters Pty Ltd to cease providing the service.

3AB Radio Ethnos

Program: n/a

Complaint: Records of matter broadcast

The ABA received a complaint that the licensee of 3AB had broadcast a program allegedly defaming a person. When attempting to obtain a copy of the relevant broadcast, the complainant

was advised that the station's logging equipment was not in operation due to technical problems, and that no records of matter broadcast had been kept during the relevant period.

The ABA found that the licensee of 3AB breached the condition of its licence at clause 11(1)(d) of Schedule 2 to the Act by not keeping a record of matter broadcast as required by clause 5(2) of Schedule 2.

The licensee advised that it had put in place steps to ensure the same technical malfunction would not recur. The ABA accepted the licensee's undertakings and noted its past record of compliance with the Act and the code. The ABA decided to take no further action on this occasion, but noted that this matter would be considered should subsequent similar breaches of licence conditions be found.

2KY Bathurst

Program: n/a

Complaint: Not operating as a narrowcast service

The ABA received several complaints regarding the open narrowcast radio service 2KY Racing Radio 100.9FM, operating in the Bathurst area of NSW. The complainant alleged that 2KY Bathurst was providing a service that was not distinguishable from the content of a commercial radio broadcasting service and did not fall within any of the open narrowcasting criteria as listed under section 18 of the Act.

The ABA determined that 2KY Bathurst was not an open narrowcasting service as defined at section 18 of the Act but a commercial broadcasting service as defined at section 14 of the Act. The service was therefore being provided without an appropriate licence.

As a result of its findings the ABA issued 2KY Bathurst with a notice directing it to cease providing the service without an appropriate licence. 2KY Bathurst recently advised the ABA that it had altered its programming and that in its opinion the service now complied with the

narrowcast criteria. The ABA is continuing to monitor the situation.

The Breeze 104.3 FM

Program: n/a

Complaint: Providing a service that is not a narrowcast service

The complaint alleged an open narrowcasting service known as The Breeze was not an open narrowcast service, as required by its licence. The licensee company of The Breeze is FNQ Broadcasters Cairns Pty Ltd (the licensee) which is in turn a part of the RG Capital Radio Network.

The ABA assessed three separate days of The Breeze's programming from March and April 2000. The ABA found that the service was not intended for a limited location, nor was it a subscription based service but could be received by commonly available radio receivers and that the service was intended to be continuous and permanent, operating 24 hours a day, seven days a week. While The Breeze stated that its service is based on a smooth jazz and blues format targeted at those interested in 'smooth jazz and blues and those who prefer an easier lifestyle' and who would find the 'smooth jazz and blues format palatable', these are not the only music styles represented in the broadcasts supplied by The Breeze. A considerable proportion of the music content of the service contained a number of other styles of music, including the popular easy listening, pop and contemporary styles. The news and sports coverage, while a minor aspect of the programming, would also be of appeal to the general public. The ABA concluded that the programming of The Breeze was not limited by being targeted at special interest groups and could not be said to be providing programming of limited appeal.

The ABA concluded that The Breeze did not fulfil any of the criteria set down under section 18 of the Act and was therefore not a narrowcasting service. The ABA found that the

service was a commercial broadcasting service and was provided without a licence.

The Breeze altered its programming to concentrate on the smooth jazz and blues format as a result of the ABA finding, and no further action was taken.

Subscription television broadcasting service

TV1, FOXTEL

Program: Hogan's Heroes

Complaint: Broadcast of a Tobacco Advertisement

The ABA received a complaint that the closing credits of a Hogan's Heroes episode broadcast on Channel TV1 contained a tobacco advertisement.

Clause 10(1)(a) of Schedule 2 to the Act states that a subscription television broadcasting licensee will not, in contravention of the *Tobacco Advertising Prohibition Act 1992*, broadcast a tobacco advertisement within the meaning of that Act.

The Tobacco Advertising Prohibition Act prohibits the broadcast of tobacco advertisements. Exception is made when broadcast of the tobacco advertisement is an accidental or incidental accompaniment to the broadcasting of other matter and the person (in this case the licensee) does not receive any benefit or payment for the broadcast of the tobacco advertisement.

FOXTEL argued that the material broadcast did not constitute a breach of the Act due to the circumstances of the particular broadcast. FOXTEL asked the ABA to take into account: the vintage of the program; FOXTEL's lack of intention to promote the tobacco product; the accidental broadcast of the advertisement in 1999 as opposed to the deliberate broadcast of the advertisement in 1967; and FOXTEL's attempt to contractually ensure compliance by third party channel providers.

The ABA determined that the transmission of the tobacco advertisement in the Hogan's Heroes episode amounted to a breach of the licence condition set out at clause 10(1) of Schedule 2 to the Act as:

- i) the *Hogan's Heroes* program (featuring a superimposed image of cigarette packets during the closing credits) included matter prohibited by the Tobacco Advertising Prohibition Act, being a tobacco advertisement;
- ii) the tobacco advertisement was broadcast recklessly;
- iii) the tobacco advertisement was not permitted by section 14 of the Tobacco Advertising Prohibition Act as the broadcast was not an accidental or incidental accompaniment to the other matter.

While not admitting to the breach, the licensee outlined to the ABA the future action it intended to take to prevent future similar breaches. This included reinforcing to all its channel suppliers the requirement for all content to be previewed and checked, including credits; and arranging with its channel suppliers regular seminars on the codes of Practice and licence conditions.

The ABA noted the licensee's advice and decided not to take any further action. The ABA reminded FOXTEL that under the Act, ultimate responsibility for all material broadcast (including material broadcast by channel providers) rests with the licensee itself.

Neighborhood Cable

Program: n/a

Complaint: Rebroadcast of metropolitan commercial television prime time programming by a subscription television broadcasting service in a rural area

The complaint alleged that Neighborhood Cable Pty Limited was retransmitting in its entirety Melbourne's Network Ten commercial television service to Mildura Victoria.

The ABA found that the Ten Victoria service provided by Neighborhood Cable during prime viewing hours was identical to that broadcast in the metropolitan market of Melbourne and was in breach of section 121E of the Act by retransmitting three or more consecutive

program items in a prime time period which were identical to any three or more consecutive program items transmitted by a metropolitan commercial television broadcasting licensee during those prime viewing hours. Neighborhood Cable did not challenge the ABA finding.

To ensure that the 'Channel Ten' subscription broadcasting service provided by Neighborhood Cable complied with the Act, Neighborhood Cable began substituting program items so that the content is what was shown on Ten Victoria at the same time, one week earlier. Essentially, Neighborhood Cable broadcasts different episodes from the same series of programs satisfying the Act's proscription on the broadcast of consecutive program items.

During the investigation it came to the attention of the ABA that Neighborhood Cable was not complying with the record keeping provisions at clause 5(3) of Schedule 2 to the Act by not keeping a record of matters broadcast which relate to a political subject or current affairs (in the form of news, an address, a statement, a commentary or a discussion) for six weeks. Neighborhood Cable implemented mechanisms which enabled them to make a record of matters broadcast.

Given the admission of the breach of section 121E by Neighborhood Cable, and the timely action taken by Neighborhood Cable once the ABA notified them of the requirements of the Act, the ABA decided not to take further action in this matter.

ABC Television

Code: ABC code of practice

ABC TV

Program: News update

Complaint: Inappropriate news update during children's programming

The complaint concerned the broadcast of a news update broadcast during the Mixy morning children's programming on 6 October 2000. The news bulletin included footage of the political unrest, demonstrations and riots in Yugoslavia.

The ABA was of the view that the news update was inappropriately broadcast as it occurred during a program directed at children, and therefore breached section 4.4 of the ABC's Code of Practice. The ABC admitted that the news update was inappropriately broadcast and breached the code.

The ABC submitted to the ABA that the broadcast of this news update was the result of a breakdown in internal procedures. The ABC strengthened internal procedures and issued a directive that a 'crawl' (continuous moving text superimposed at the bottom of the screen) will be the main option for early morning news breaks. No further action was taken by the ABA.

ABC TV

Program: Gilbert and George

Complaint: Scenes of animal cruelty without adequate consumer advice

The ABA received a complaint that the program 'Gilbert and George', broadcast by ABC Television on 22 December 1999, depicted scenes of animal cruelty which were inappropriate for broadcast.

The subjects of the program were Gilbert and George, two artists based in England, who discussed their recent exhibition in Shanghai. Segments from a home movie were shown which depicted scenes from a market in China. In one

scene, a man displays and then prepares a small chicken for a customer by removing its feathers while it is still alive. The viewer clearly sees the animals moving at the end of each segment and is left in no doubt that the animals are still alive and in considerable pain. The ABA considered that the scenes of animal cruelty were not discreet and carried a high impact, exceeding the requirements for the treatment of adult themes at the M classification.

The ABA was of the view that ABC breached code 7 by broadcasting scenes of animal cruelty that were in excess of the Office of Film and Literature Classification's M classification for adult themes.. The ABA was further of the view that ABC breached code 7.4 and code 6 by not providing the correct audio and visual consumer advice on the reasons for the program's M classification.

The ABA was satisfied with the action taken by ABC to improve procedures regarding warnings and consumer advice and no further action is required at this time.

ABC TV

Program: Police Rescue

Complaint: Detailed depiction of a suicide, complaints handling

The ABA received a written complaint regarding an episode of Police Rescue entitled 'Getting of Wisdom' broadcast by ABC television on 9 January 2001 at 2 pm, a PG classification time zone.

The complaint was that the episode contained a detailed depiction of a suicide. The complainant also stated that he had received no response to his complaint from the ABC.

The episode was a drama in which the police rescue team attempted to talk down, via a mobile telephone, a disturbed woman in a car intent on killing herself. The method she used was clearly depicted through one panning shot of a garden hose and a rag attached to the car exhaust. The other end of the hose and another

rag was shown placed through the car window so the car exhaust fumes entered the car.

The ABC acknowledged that the broadcast constituted a breach of the code and advised that the program should have had all depiction of detailed information regarding the portrayal of the suicide cut prior to its initial broadcast.

The ABA was of the view that the ABC breached clause 7.1 of the code in classifying this episode of Police Rescue PG, without editing the scene which showed details of a suicide. The ABA was satisfied with the action subsequently taken by the ABC to prevent any further broadcast of this material.

ABC TV

Program: Tasting Australia

Complaint: Discrimination, complaints handling

The ABA received an unresolved complaint about the ABC Television program 'Tasting Australia'. The complainant alleged the program discriminated against people who had suffered from mental illness when the presenter of the program, Ian Parmenter, used the phrase 'looney bin'.

The ABA determined that ABC did not breach clause 2.4 of the code, which relates to the presentation or portrayal of people in a way that is likely to encourage denigration of or discrimination against any person or section of the community. However, the ABA determined that ABC breached clause 8.1 of the code by not making a reasonable effort to resolve a complaint.

The ABC acknowledged that by not addressing the issues raised by the complainant it had not made a reasonable effort to resolve the complaint. ABC stated that it had taken steps to ensure that in future, staff handling complaints would specifically respond to the issues raised in the correspondence.

ABC TV**Program: Four Corners****Complaint: program unsuitable for viewing in broadcast timeslot, complaints handling**

On 6 November 2000 the ABA received a complaint that the 'Four Corners' program 'Deliver Us From Evil' was a depraved program shown at a time when it would be seen by young people and colour their attitude to sex and themselves. The complainant identified the depiction of fellatio and two naked women with a horse as areas of particular concern. The complainant also complained that the response by the ABC was less than adequate.

The ABA found that the ABC breached clause 8.1 of the code by not making a reasonable effort to resolve a complaint made about the program. The ABA further found that the ABC did not breach clauses 2.3, 6 and 7.2 of the code as the program is an examination of how the censorship debate is becoming increasingly polarised. In doing so it examines both sides of the debate and included consideration of issues regarding sex, violence and nudity on film, television, videos and the Internet. The portrayal of sex and sexuality in this context was necessary and appropriate and did not contravene the ABC code.

In its response the ABC acknowledged that the complainant did not receive a substantive response to his complaint because his letter of complaint was lost in the ABC's internal mail system. The ABC advised that it follows a policy of continuous improvement in its approach to complaints and that it was taking steps to prevent or lessen incidents of this nature occurring in the future. These steps include working towards introducing new software to assist with recording and management of complaints, as well as other types of audience contact. As well, areas within the ABC had recently started to use new document management software, as part of a pilot program.

This software has been introduced to provide a coherent environment for capturing, registering and managing documents and records of the ABC.

ABC TV**Program: ABC News****Complaint: News item inaccurate, complaints handling.**

On 13 November 2000 the ABA received a complaint that a 17 July 2000 news item comprising an obituary of Sir Mark Oliphant stated that Germany had been developing the atom bomb during World War 2. The complainant contends that this is an inaccurate statement as the facts now show that Germany was not developing an atomic bomb. It was further complained that the response by the ABC was inadequate.

The ABA is of the view that the ABC did not breach s.4.1(a) of the code in relation to accuracy in this broadcast, but did breach clause 8.1 by not making a reasonable effort to resolve a complaint made about the program.

ABC TV**Program: Promotion for Rough Treatment****Complaint: Promotion of an M classified movie unsuitable for broadcast in a G time zone, complaints handling**

The complainant alleged that a promotion contained explicit strong language, violence and adult themes which were inappropriate for broadcast following a G classified program and before the ABC's 7 p.m. news.

The ABC provided the ABA with its response to a second email from the complainant in which the ABC admitted that the promotion had been broadcast at an inappropriate time and also apologised for the delay in responding to the complaint. In commenting on the time taken to

respond to the complainant's first email, the ABC noted that this happened at a time when changes were being made to its email system.

The ABC also provided the ABA with evidence that relevant staff had been briefed on changes to presentation procedures for program promotions. The ABC advised that all future ABC TV promotions must be at a level suitable for a G classification. .

This was the first breach of clause 5 of the ABC code by ABC TV. The ABA was satisfied with the procedural changes put in place and the subsequent response and attention given to the complainant's concerns by the ABC.

ABC Radio

Code: ABC code of practice

ABC Coast FM

Program: On This day

Complaint: Inaccurate statement in an information item, complaints handling

On 9 January 2001 the ABA received a complaint that the presenter on the program 'On This Day' said that William Wentworth made the first crossing of the Blue Mountains and that this statement was inaccurate as Australia was inhabited 'before Europeans took over in 1788'. The complainant also complained that, other than a telephone acknowledgment of the receipt of his complaint, he had not received a response from the ABC.

In its response to the ABA the ABC acknowledged that the statement about William Wentworth was incorrect and noted that the presenter had expressed his regrets in this regard. In the opinion of the ABA the ABC breached clause 4.1(a) of the code. The ABC also acknowledged that it did not respond substantively to the complaint and the ABA is of the view that this failure to respond was contrary to the requirements of clause 8.1 of the code.

The ABC advised the ABA that as a result of this lapse in proper practice, ABC Local Radio would reinforce the requirements of the ABC's Code of Practice and Editorial Policies among its broadcasters. The ABA also noted that the ABC had recently advised that it follows a policy of continuous improvement in its approach to complaints and that it is currently working towards introducing new software to assist with recording and management of complaints, as well as other types of audience contact.

3LO Melbourne

Program: Jon Faine

Complaint: Discrimination and failure to avoid stereotypes in the portrayal of women, complaints handling.

The complainant alleged that a segment of the program 'Jon Faine's Conversation Hour', broadcast on 3LO on 2 March 2000, included jokes told by Terry Lane that were discriminatory and that stereotyped and denigrated women.

The ABA determined that although the broadcast of the jokes may have been unacceptable to a number of listeners, the broadcast did not breach clause 3.4 of the code in that the program did not actively promote or endorse inaccurate, demeaning or discriminatory stereotypes of women. However the ABA did find that 3LO had breached clause 8.1 of the code in failing to provide a response to the complaint.

3LO later apologised to the complainant for the inordinate delay in responding to the complaint. Management for ABC local radio notified the ABA that 3LO's failure to provide a response was due to an oversight at a time when the station had received a large number of letters. It also advised the ABA that local radio management will review and tighten its complaints handling procedures to ensure that delays in responding, caused by handling a significant volume of correspondence, do not recur.

The ABA was satisfied with the action taken by ABC management.

The remarks were also alleged to be inaccurate and misleading.

The complainant also alleged that a response had not been received within the specified timeframe.

The ABA found that the comments broadcast during the 'Religion Report' did not breach clause 2.4 of the ABC code as they did not denigrate nor discriminate against the Creation Movement nor encourage the denigration or discrimination against the Creation Movement.

The ABA found that the ABC did breach clause 8.1 of the ABC code as the complainant did not receive a response within the specified timeframe.

As the ABC has taken steps to correct and strengthen the internal procedures regarding complaints handling in addition to the undertaking to respond to the complainant, no further action was taken by the ABA.

ABC Radio National

Program: Religion Report

Complaint: Inaccurate presentation of factual material, discrimination, complaints handling

The complainant alleged that in a 10 May 2000 broadcast of the 'Religion Report', the ABC discriminated against the Creation Movement by making denigrating remarks about them on air.

SBS Television

Code: SBS code of practice

SBS TV

Program: The Movie Show

Complaint: Content of G classified version of program

On 13 December 2000, the ABA received a written complaint regarding the repeat broadcast of 'The Movie Show' by SBS Television on Sunday 29 October 2000. 'The Movie Show' is screened in two timeslots - Wednesday at 8 p.m. PG (Parental Guidance) timeslot and repeated on Sunday at 6 p.m. G (General) timeslot.

The complaint was that excerpts from the movie *Sex – The Annabel Chong Story* were broadcast and unsuitable for a G classification timeslot. The complainant also stated that it seems that, on this occasion at least, the fact that the program is repeated in G time was overlooked.

The review of this movie takes the form of studio discussion between the two presenters and includes clips from the film documentary which was classified R 18+ for its cinema release. The film concerned a porn star from Singapore who is determined to make a name for herself in the industry and her attempts to justify her acts in terms of feminism. The opening clip is from the M rated American television program 'The Jerry Springer Show' as Annabel Chong is announced to raucous applause from the studio audience by Jerry Springer as someone who 'had sex with 251 men in 10 hours', with other sexual references following. The ABA was of the view that the treatment of sexual activity was not "very discreet" as required by the G provisions of the code.

The code states that G programs must be suitable for children to watch on their own. The ABA was of the view that this material was unsuitable for a G timeslot and consequently a breach of clause 3.6 of the code.

Appendix 5

Arrangements for outside participation

Section 168 of the Broadcasting Services Act empowers the ABA to inform itself on any matter relevant to its functions. This may be done by consulting with such persons, bodies and groups as the ABA thinks fit, and forming consultative committees for that purpose; by conducting investigations and holding hearings and considering written submissions from the public; and in any other manner it thinks fit. To this end, ABA officers participate in a range of organisations reflecting the broad range of the Authority's functions.

The ABA has entered into the following formal arrangements:

Memorandum of understanding (MOU) – international

- Singapore Broadcasting ABA (SBA) (effective for five years from 1 October 2000); and
- between the Australian Commerce and Industry Office (ACIO) and the Taipei Economic and Cultural Office (TECO) on behalf of the ABA and the Government Information Office (GIO) in Taipei (effective for five years from 12 May 1997).

Memorandum of understanding (MOU) – domestic

The ABA is entering into memorandums of understanding with Australian police agencies regarding the investigation of complaints about Internet content (see chapter 3 for details of the agreements).

Radiocommunications Act Agreement

The ABA entered an agreement under section 31(2) of the Radiocommunications Act with the Australian Communications Authority (ACA). The ABA and the ACA agreed that where the text of

the *Radiocommunications (Datacasting Transmitter Licence Allocation) Determination 2000* permitted or required the issue of a datacasting transmitter licence to an applicant the ACA could issue the datacasting transmitter licence to the applicant.

Cooperation agreements

- Broadcasting Standards Council, UK (signed 30 August 1995);
- Canadian Radio-Television and Telecommunications Commission (signed 21 April 1997);
- Conseil Supérieur de l'Audiotvisuel, France (signed 22 April 1997); and
- Broadcasting Standards Authority, NZ (signed 15 September 1998).

Australian Preparatory Groups

Australian Preparatory Groups consist of representatives from Commonwealth departments and authorities, industry organisations and special interest groups. They work to prepare Australian proposals for the World Administrative Radio Conferences and other major conferences of the International Telecommunication Union. The principal function of these conferences is to seek agreement between member nations on radiocommunications regulations and spectrum allocations. Individual conferences cover specialised aspects of broadcasting, mobile communications, satellite broadcasting, the use of particular frequency bands and the guaranteeing of equitable access to the geostationary satellite orbit for all countries.

Australian Radiocommunications Study Groups (ARSGs) prepare Australian inputs to considerations of the Radiocommunications and Telecommunications Bureaux of the International Telecommunication Union.

The ABA participates in the joint ARSG 10-11, which is concerned with studying principles relating to spectrum management and the preparation of recommendations for technical

standards relating to radiocommunications and broadcasting services, in the following ITU forums:

- ITU-R Group 6: Radiocommunication broadcasting (terrestrial and satellite), including vision, sound, multimedia and data services principally intended for delivery to the general public;
- ITU-T Study Group 9: Integrated broadband cable networks and television and sound transmission;
- ITU-R Group 10: Broadcasting Service (sound);
- ITU-R Group 11: Broadcasting Service (television); and
- ITU-R Group 12: Inter-service Sharing and Compatibility.

Standards Australia Boards and Specialist Committees

The ABA is represented on the following:

- TE/3 Electromagnetic Interference;
- CT/2 Broadcasting and Related Services.; and
- Department of Communications, Information Technology and the Arts Digital Radio Broadcasting (DRB) Committee as well as the associated Policy and Technical Sub-committees.

The committees are investigating options for the introduction of digital radio broadcasting in Australia.

Other external participants

In addition, the ABA consults and meets with various interested parties, including the Federation of Australian Radio Broadcasters, the Federation of Australian Commercial Television Stations, the Australian Subscription Television and Radio Association Inc., NTL Australia, TX Australia, TVNZ Australia, Australian Broadcasting Corporation, Special Broadcasting Service, Community Broadcasting Association of Australia, Community Broadcasting Foundation, Internet Industry Association, Progressive Radio

Association, Australian Association of National Advertisers, Advertising Federation of Australia, Radiocommunications Consultative Committee, Screen Producers Association of Australia, Australian Screen Directors Association, Australian Writers Guild, Communications Law Centre, Office of Film and Literature Classification, Australian Music Performance Committee and Digital Convergence Australia.

The ABA also consults with other regulators such as the Australian Competition and Consumer Commission, the Australian Communications Authority and the Foreign Investment Review Board.

The ABA is an associate member of the Internet Hotline Providers in Europe Association. Memoranda of Understanding

The ABA has memoranda of understanding (MOUs) and cooperation agreements with a number of overseas broadcast regulators including the Broadcasting Standards Authority (BSA, New Zealand), Broadcasting Standards Council (BSC, UK), Canadian Radio-television and Telecommunications Commission (CRTC), the Conseil Supérieur de l'Audiovisuel (CSA, France) and the Government Information Office (GIO) in Taipei.

The MOUs with the Federal Communications Commission (FCC, USA), the Independent Broadcasting ABA (IBA, South Africa) and the Singapore Broadcasting ABA (SBA) expired in 2000. The MOU between the Singapore Broadcasting ABA (SBA) and the ABA was re-signed for a further 5 years from 1 October 2000 by the respective Chairs during the Roundtable meeting in New Zealand.

- Speaking notes were prepared for the Chairman's presentation at the Broadcast World Conference;
- the ABA continued its membership with overseas agencies including the ABU and CBA;
- the ABA has responded promptly to overseas requests for relevant information; and
- one overseas intern was hosted for 3 months.

Two students from the Centre for Media Policy and Research, at the Queensland University of Technology, participated in a Professional Placement Scheme within the ABA where they have helped with general research and policy tasks of the ABA.

television industry an opportunity to gather and discuss developments in children's television. The differences in program content and treatment of subject matter in Australian and European children's television programs were key points of discussion.

Conferences

Prix Jeunesse Suitcase

In cooperation with the Sydney branch of Goethe-Institut Internationals, the ABA presented the Prix Jeunesse Suitcase on 14 March 2001. The Suitcase is a selection of award-winning international children's television programs that have been presented at the Prix Jeunesse Children's TV Festival in Munich.

More than fifty representatives from the Australian Children's Television Foundation, ABC, the commercial networks and pay TV, children's television producers, academics and ABA consultants attended the presentation.

The ABA's presentation of the Suitcase provided a broad range of representatives of the children's

Prix Jeunesse and MiniINPUT, Bogota, Colombia

The ABA was invited to talk about Australia's experience in improving the quality of children's television at the Prix Jeunesse and MiniINPUT conference held in Bogota, Colombia from 12 to 19 September 2000. The event was motivated by concerns about the lack of quality television for children and young people in Colombia.

The event comprised Prix Jeunesse and Input screenings of internationally acclaimed children's programs and documentaries, conference presentations and pitching sessions for local producers. Attendees included broadcasters, producers and academics with a brief for children, education and cultural issues.

ABA Manager Standards, Lesley Osborne, spoke about children's television and broadcasting regulation in Australia particularly the quality

Presentations at Australian conferences and seminars on Internet content regulation — 1 July to 30 June 2001

Conference/Seminar	Location	Month
Communications Research Forum	Canberra	October 2000
Cyberhate: Bigotry and Prejudice on the Internet	Sydney	November 2000
Mental Health and the Media Reference Group	Sydney	November 2000
NSW Society for Computers and the Law Seminar	Sydney	November 2000
Young People and the Media: International Forum of Researchers	Sydney	November 2000
Forensic Computing and Computer Investigations Workshop	Brisbane	March 2001
Integrating Online Service Delivery and Securing Communications	Sydney	March 2001

criteria in the Children's Television Standards. The CTS criteria and other ABA policy documents and research reports were part of the wealth of material and ideas contributed by conference participants from around the world.

Third World Summit on Media for Children

The ABA participated in the Third World Summit on Media for Children held in Thessaloniki, Greece, from 22 to 26 March 2001. The summit, a gathering of over 1000 producers, researchers, broadcasters, academics, government and non-government organisations, and children, focused on broad policy issues underpinning the rights of children to a range of culturally appropriate quality media.

ABA Manager Standards Section, Lesley Osborne spoke about the environment for children's television in Australia, including the ABA's Children's Television Standards which ensure commercial broadcasters provide a range of children's programs, the quality criteria in the standards, and funding support for production of high budget children's television drama.

Television was acknowledged to be the most important medium for children, but the Internet, mobile telephony, radio and interactive television also figured strongly in the conference program.

International Research Forum on Young People and the Media

The ABA provided organisational support for the second International Research Forum on Young People and the Media held in Sydney from 27-29 November 2000. This event was hosted by the Australian National Commission for UNESCO.

The Forum included sessions which examined young people's use of the Internet, media in the home environment, video games, television content regulation, and regulations policy in the global environment. The Forum also provided an occasion for dialogue and interaction between members of the research community and

representatives of research user groups such as regulators, producers and educators. This event attracted around 150 participants from 26 countries. There were 76 formal presentations and 8 delegates presenting their studies in the poster sessions. The majority of delegates were international researchers, but there were also representatives of regulatory agencies, the education sector, industry personnel and policy workers. The Forum's website is at www.sydneyforum.com.

Fifth Regulatory Roundtable meeting

The Fifth Regulatory Roundtable for Asia and the Pacific was held in Wellington, New Zealand from 2-4 October, 2000. The meeting was hosted by the New Zealand Broadcasting Standards Authority with representatives present from Australia, Hong Kong SAR China, Indonesia, Korea, Malaysia, New Zealand, Philippines, Singapore, Sri Lanka and Taiwan.

The Roundtable discussed different regulatory responses to topics such as:

- the convergence of broadcasting and telecommunications;
- freedom of expression and the dissemination of information;
- Internet content;
- the introduction of digital television; and
- public service broadcasting versus public broadcasting service.

Professor David Flint, Chairman and Ms Phyllis Fong, Manager Policy and Research, represented the ABA. The next Regulatory Roundtable Meeting will be hosted by the Malaysian Communications and Multimedia Commission in August 2001.

International research forum on children and the media

The ABA completed its 5 year term for coordinating the International Research Forum on Children and the Media (IRFCAM). The intention of IRFCAM was to facilitate sharing information on research methodologies and findings, and promote collaboration on projects through a newsletter which was distributed to over 430 members from 50 countries. The final issue No 9, was printed and distributed in October, 2000.

First annual ABA Conference

Combining the technical streams of the ABA's Planning Conference last held in 1999 with policy streams on Australian content, new media and pay TV, the first annual ABA Conference in May 2001, attracted 248 attendees. These included a broad cross section of speakers and delegates from free-to-air and pay TV, commercial and community radio, the academic sector, hardware and software manufacturers, government and the media.

Prices were structured on the basis of recovery of administrative and any dedicated salary costs. The pricing of the conference also took into consideration its target audience and aimed to be as cheap as possible overall. This included offering concession rates for non-profit sectors (encouraging community broadcaster and student involvement) and for second or further attendees from individual organisations (encouraging multi-disciplinary representation).

Appendix 6

Licence area planning and licensing

Table 1 Number of new transmitters planned in final licence area plans 2000-2001

Licence area plan	Dated published	National	Comm	Cty	ONC
Gosford	31 August 2000	2	1	3	1
Brisbane	21 December 2000	-	2	3	1
Ipswich	21 December 2000	-	-	2	-
Gold Coast	21 December 2000	-	1	3	-
Murwillumbah	21 December 2000	-	1	1	1
Lismore	21 December 2000	-	-	5	1
Nambour	21 December 2000	-	1	2	-
Gympie	21 December 2000	-	-	2	-

Table 2 Licence area plans 2000-2001

Final licence area plan	Date released
Gosford	31 August 2000
Brisbane	21 December 2000
Ipswich	21 December 2000
Gold Coast	21 December 2000
Murwillumbah	21 December 2000
Lismore	21 December 2000
Nambour	21 December 2000
Gympie	21 December 2000
Draft licence area plan	Date released
Adelaide	26 October 2000
Perth	23 November 2000
Murrumbidgee/Riverina	25 June 2001

Table 3 Digital channel plan variations

Final digital channel plans	Geographic area	Date determined
South Australia Part 1 Variation	Adelaide	September 2000 and December 2000
Queensland Part 1 Variation	Brisbane, Gold Coast, Sunshine Coast and Toowoomba	September 2000
Victoria Part 1 Variation	Melbourne	December 2000
Western Australia Part 1 Variation	Perth	December 2000
New South Wales Part 1 Variation	Sydney, Newcastle, Wollongong and the Central Coast	August 2000

Table 4 International broadcasting licences allocated

Licensee	Region served	Licence allocated
Christian Voice (Australia) Pty Ltd	South Asia, East Asia and South East Asia (2 licences for each area)	19 April 2001
HCJB Australia	South Asia, East Asia, South East Asia and South Pacific (2 licences for each area)	19 April 2001

Table 5 Community licences advertised – not yet allocated

State	General area served	Licensed area plan	Final licence area plan release date	Date licences advertised	Frequency/Power	Service licence number	Number of applicants
NSW	Blacktown	Sydney	16 Dec 1999	17 Feb 2000	99.9 MHz / 200 W	SL1150152	3
	Hornsby	Sydney	16 Dec 1999	17 Feb 2000	100.3 MHz / 200 W	SL1150154	4
	Byron Bay	Lismore	21 Dec 2000	2 May 2000	99.9 MHz / 3 kW		
VIC	Camberwell	Melbourne	27 June 2000	27 Oct 2000	94.1 MHz / 100 W	SL1150688	2
	Colac	Colac	27 June 2000	27 Oct 2000	104.7 MHz / various	SL1150491	1
	Geelong	Geelong	27 June 2000	27 Oct 2000	99.5 MHz / various	SL1150691	2
	Melbourne City	Melbourne	27 June 2000	27 Oct 2000	94.9 MHz / various	SL1150683	4
	Melbourne	Melbourne	27 June 2000	27 Oct 2000	89.9 MHz / various	SL1150695	12
	Melbourne	Melbourne	27 June 2000	27 Oct 2000	90.7 MHz / various	SL1150694	12
	Waverley	Melbourne	27 June 2000	27 Oct 2000	95.7 MHz / 100 W	SL1150687	3
QLD	Cunnamulla	Charleville	29 Aug 1998	22 April 1998	99.7 MHz / 100 W	SL010375	1

Table 6 Aspirant community broadcasters 2000-2001

Aspirant community broadcasters issued with a temporary community broadcasting licence in 2000-01, in order of area served.

New South Wales

Ballina	Paradise F M Community Radio Association Inc.
Blacktown	Blacktown City Community Radio SWR-FM Association Inc.
Blacktown	Western Community-Radio Association Inc.
Byron Bay	Bay FM Community Radio Inc.
Campbelltown	Macarthur Community Radio Association Inc.
Casino	Casinos Own Wireless Association Inc.
Coonabarabran	Warrumbungles Community Broadcasting Association Inc. (Coonabarabran)
Coonamble	Warrumbungles Community Broadcasting Association Inc. (Coonamble)
Cowra	Cowra Community Information and Neighbourhood Centre Inc.
Eden	Eden Community Radio Inc.
Gilgandra	Warrumbungles Community Broadcasting Association Inc. (Gilgandra)
Gosford	Radio Yesteryear Inc.
Gosford	Central Coast Broadcasters Ltd
Gosford	Wyong-Gosford Progressive Community Radio Inc.
Gosford	Five-O-Plus Public Radio Association Inc.
Hornsby	Hellenic Australian Radio Inc. (Hornsby)
Hornsby	North F.M. — Hornsby/Ku-ring-gai Community Radio Inc.
Hornsby	2 HHH FM Ltd
Monaro	Nimmitabel Advancement Group Inc.
Monaro	Monaro Community Radio Inc.
Monaro	High Country Community Media Association Inc.
Murwillumbah — Tweed Heads	Cool FM Community Radio Association Inc.
Penrith	Way Out West Fine Music Inc.
Penrith	Nepean Riverlands Community Radio Association Inc.
Sydney	New Wave Broadcasters Ltd
Sydney	Gadigal Information Service Aboriginal Corporation
Sydney	Chinese Community Service Broadcasting Inc.
Sydney	Chinese Community Radio Inc.
Sydney	Islamic Council of New South Wales Inc.
Sydney	2 Groove Inc.
Sydney	Out FM Sydney Ltd
Wagga Wagga	Riverina Christian Radio Inc.
Wollongong	Hellenic Australian Radio Inc. (Wollongong)
Yass	Yass Community Radio Association Inc.

Queensland

Beaudesert	Beaudesert Community Radio Group Inc.
Blackwater	Blackwater Community Broadcasters Association Inc.
Boonah	Scenic Rim Broadcasting Association Inc.
Brisbane	One FM Broadcasters Inc.
Brisbane	Family Radio Ltd
Brisbane	2 Groove (QLD) Assoc. Inc.

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Brisbane
Cairns
Charleville
Cunnamulla
Gayndah
Gold Coast
Gold Coast
Gold Coast
Gold Coast
Gympie
Moranbah
Nambour
Nambour
Nambour
Noosa
Whitsunday

South Australia

Adelaide
Adelaide
Adelaide
Adelaide
Adelaide
Adelaide Foothills
Barossa Valley
Coober Pedy
Mount Gambier
Port Adelaide
Port Pirie
Victor Harbour
Victor Harbour
Yorke Peninsula

Tasmania

Hobart
Tasman Peninsula

Victoria

Bacchus Marsh
Camberwell
Camberwell
Corryong
Geelong
Gippsland — Warragul
Horsham
Melbourne
Melbourne
Melbourne
Melbourne

Greater Brisbane Radio Broadcasters Inc.
Brisbane Interactive Radio Group Inc.
Smithfield Community Radio Association Inc.
Bidjara Media & Broadcasting Company Ltd
Cunnamulla Aboriginal Media Association Inc.
Central Burnett Community Radio Association Inc.
Radio Hope Island Ltd
Gold Coast Community Broadcasters Ltd
Hott FM Ltd
Christian Air Broadcasters Ltd
Cooloola Christian Radio Association Inc.
Rock FM Association Inc.
Suncoast Community Radio Inc.
SDA Radio Association Inc.
Sunshine Coast Christian Broadcasters Association Inc.
Noosa District Community FM Radio Association Inc.
Radio Whitsunday Association Inc.

Progressive Dance Network Inc.
R.P.H. — Adelaide Inc.
Music Broadcasting Society of South Australia Inc.
Fresh Broadcasters Inc.
Radio Televisione Italiana (SA) Inc.
Adelaide Independent Radio Inc.
Barossa Broadcasting Board Inc.
Dusty Radio Inc.
South East Christian Broadcasters Inc.
Way Out West Broadcasters Inc.
Pirie Community Radio Broadcasters Inc.
Great Southern FM Community Broadcaster's Association Inc.
Encounter FM Community Broadcasters Association Inc.
Peninsula Community Broadcasters Inc.

Cadence FM Inc.
Tasman Community Broadcasters Association Inc.

Bacchus Marsh Community Radio Group Inc.
Whitehorse — Boroondara FM Community Radio Inc.
Swinburne Student Radio Inc.
High Country Christian Broadcasters Association Inc.
Southern Victoria Community Radio Inc.
West Gippsland Community Radio Inc.
Horsham & District Community FM Radio Inc.
Hot FM Current Chart Radio Inc.
Triple Seven Communications Inc.
Hitz FM Broadcasters Inc.
Central Melbourne F.M. Inc.

Melbourne	Kiss FM Inc.
Melbourne	New-Gen Radio Inc.
Melbourne	Melbourne Gospel Radio Inc.
Melbourne	Laughtertainment Community Radio Inc.
Melbourne	Joy Melbourne Independent Community Broadcasters Inc.
Melbourne	The Victorian Muslim Community Information Service Inc.
Melbourne City	Employment Access Radio Inc.
Melbourne City	Nu Country Music Radio Inc.
Melbourne City	Student Youth Network Inc.
Melbourne City	Melbourne Pulse Radio Inc.
Sunbury	3NRG Inc.
Walwa/Jingellic/Tumbarumba	Upper Murray Community Radio Inc.
Waverley	Golden Days Radio for Senior Citizens Inc.
Waverley	Monash University Union Radio Inc.
Western Australia	
Armadale	Heritage FM Inc.
Geraldton	Soncity FM Inc.
Kalamunda	Kalamunda Community Radio (Inc.)

It should be noted that, because of the nature of the scheme, licence periods vary and some aspirants held more than one licence during the reporting period.

Appendix 7

Commonwealth Disability Strategy

The ABA supports the Commonwealth Government's vision of widening opportunities for people with disabilities by assisting to develop and deliver policies, programs and services which are accessible and promote independence and participation.

As a regulator of broadcasting services, the ABA ensures that:

Ninety per cent of publicly available information on regulations and quasi-regulations is made available in accessible electronic formats (either RTF or HTML). All publicly available information is made available in accessible non-electronic formats, on request. However, no requests were received for information on regulations and quasi-regulations to be provided in accessible electronic or non electronic formats in 2000/01.

All publicly available information on regulatory compliance reporting is available in accessible electronic formats (either RTF or HTML) and is made available in accessible non electronic format, upon request. The agency received no requests for information on regulatory compliance reporting to be provided in accessible electronic or non electronic formats during the reporting period.

One hundred per cent of Industry Codes of Practice address the issue of the portrayal of people with disabilities in their programming. One industry code of practice (of a total of 11 industry codes of practice) specifically sets out how people with disabilities may make a complaint about a broadcaster. The ABA brochure 'Complaints about programs' does not advise people with disabilities on how to make a complaint.

As a provider of services the ABA has established:

Quality improvement and assurance systems which focus on people and resource management and communication and information technology strategies which meet the needs of internal and external stakeholders.

A current service charter which complies with the ABA's Access and Equity Plan and Disability Action Plan, with a commitment to provide facilities for people with disabilities.

As a policy advisor:

No new or revised policy/program proposals were developed by Planning and Licensing so impact assessments on the lives of people with disabilities prior to decision, were not required. Consultations with people with disabilities were not warranted during 2000-01.

One hundred per cent of announcements about licence area plans and digital channel plans are available in accessible electronic formats on the ABA website.

As a purchaser of goods and services:

The ABA did not engage in any purchasing processes during 2000-01 that had a direct impact on the lives of people with disabilities. Information for the public on purchasing specifications is not available in accessible electronic or non-electronic formats. ABA purchasing specifications are based on a standard contract which does not refer to the Disability Discrimination Act 1992.

As an employer:

ABA employment policies, procedures and practices meet the requirements of the *Disability Discrimination Act 1992* through programs such as the Workforce Diversity Program, the Performance and Development Framework and the draft Human Resources Development Plan.

One hundred per cent of recruitment information is available in accessible electronic formats at the time of advertisement. It is not available in other formats and there were no requests received in

2000-01. Information on reasonable adjustment is currently not supplied to managers or convenors of selection committees.

Training and development is devolved to branches and attendance at courses is predominantly through public programs where consideration of the needs of staff with disabilities can be negotiated with the training provider.

Reviews of decisions affecting employment and Dispute Resolution Procedures are available internally under the provisions of the certified agreement. The Workplace Harassment Prevention Policy guides the management of complaints relating to harassment and discrimination. External mechanisms for review of decisions by the Public Service and Merit Protection Commission also operate.

Goals for 2001-02

- One hundred per cent of requests for electronic information on regulations and quasi-regulations to be fulfilled within two weeks;
- one hundred per cent of customers requesting information on regulations and quasi-regulations in accessible formats (other than electronic) will be advised of the expected delivery date of their preferred format within five days of the request;
- electronic complaints forms in relation to regulations will be made available to people with disabilities;
- one hundred per cent of requests for electronic information on regulatory compliance reporting to be fulfilled within two weeks;
- one hundred per cent of customers requesting information on regulatory compliance reporting in accessible formats (other than electronic) will be advised of the expected delivery date of their preferred format within five days of request;
- increase in the number of industry codes of practice that specifically advise people with disabilities how to make a complaint against a broadcaster;
- relevant ABA published material to advise people with disabilities of the procedures for making a complaint to a broadcaster;
- ABA brochure *Complaints about programs* and ABA website advise people with disabilities how to make a complaint;
- the ABA service charter is being reviewed and work is still in progress;
- new staff policies such as the draft Selections Guidelines will include information on interviewing people with disabilities and reasonable adjustment principles;
- advice will be sought from disability groups on appropriate non electronic formats for recruitment and management of recruitment information;
- develop information on reasonable adjustment for inclusion in selection kits and training workshops on recruitment and selection of staff;
- advertisements for in-house training programs will include information about the needs of people with disabilities; and
- review of the Workplace Harassment Prevention Policy and links to the draft policy on email Internet usage.

Appendix 8

Publications 2000-01

The ABA makes all discussion and working papers about issues on which it is publicly consulting freely available to the public, in printed form and on its web site.

Pamphlets and information products

Annual Report 1999-2000, October 2000
An Introduction to the ABA, reprinted November 2000, June 2001
Complaints about Programs, reprinted November 2000, March 2001
Complaints about Programs, revised June 2001
Dot Com Complaint, reprinted May 2001
Forum Chronicle, 9 July 2000
Forum Chronicle 10, October 2000
ABA Service Charter, reprinted November 2000
ABA Agreement, March 2001

Fact sheets

Allocation of Community Broadcasting Licences, revised October 2000
Day/Night Switching, April 2001

Licence applications, guides and forms

Form ABA 30, September 2000
Form ABA 31, September 2000
Form ABA 27, September 2000
Form ABA 28, September 2000
Form ABA 29, September 2000
Form ABA 46, January 2001
Price-based allocation of commercial radio licences, Parts 1, 2 and 3, September 2000
Price-based allocation of commercial radio licences, Part 4, Round 10, September 2000
Price-based allocation of commercial radio licences, Part 4, Round 11, September 2000
Price-based allocation of commercial radio licences, Part 4, Round 12, March 2001

Licensing reports

Allocation of Three Community Radio Licences for Sydney, May 2001
Allocation of Two International Radio Broadcasting Licences, May 2001

Digital channel plans

DTTB – Draft Variations to Digital Channel Plans – Victoria: Part 1 – Melbourne, October 2000
DTTB – Variations to Digital Channel Plans – South Australia: Part 1 – Adelaide and explanatory paper, September 2000

DTTB – Draft Variations to Digital Channel Plans – South Australia: Part 1 – Adelaide, October 2000
DTTB – Draft Variations to Digital Channel Plans – Western Australia: Part 1 – Perth, October 2000
DTTB – Variations to Digital Channel Plans and explanatory paper – Queensland: Part 1 – Brisbane, Gold Coast, Sunshine Coast and Toowoomba, September 2000
DTTB – Variations to Digital Channel Plans and explanatory paper – New South Wales: Part 1 – Sydney, Newcastle, Wollongong and Central Coast, August 2000

Licence area plans

Final radio licence area plans

Brisbane, Gold Coast, Gympie, Ipswich, Lismore, Murwillumbah and Nambour (December 2000)
 Gosford (August 2000)

Variations to licence area plans (radio and television)

Bridgetown (May 2001)
 Remote Central and Eastern Australia television (March 2001)
 Remote North East Zone (December 2000)
 Shepparton (April 2001)

Draft radio licence area plans

Adelaide (October 2000)
 Perth (November 2000)

Draft variations to radio licence area plans

Sydney (May 2001)
 Melbourne (May 2001)

Research

Broadcasting Financial Results 1999-2000, March 2001
International Research Forum Newsletter (No. 9), October 2000
Children's Views about Media Harm, November 2000
The Future for Local Content? Options for Emerging Technologies, June 2001
The Commercial Radio Industry 1978-79 to 1997-98, November 2000
The Commercial Television Industry 1978-79 to 1998-99, March 2001
Sources of News and Current Affairs, May 2000, reprinted June 2001

Newsletters

ABA Update: issue 89 July, issue 90 August, issue 91 September, issue 92 October, issue 93 November, issue 94 December/January, issue 95 February, issue 96 March, issue 97 April, issue 98 May, issue 99 June

Investigation reports

Commercial Radio Inquiry – Report on Investigations into 3AW Melbourne, 5DN Adelaide and 6PR Perth, August 2000

Commercial Radio Inquiry – final report of the ABA, August 2000

Report of the Investigation by the Australian Broadcasting Authority into Sydney Youth Radio and Sydney Gay and Lesbian Broadcasters, May 2001

Pay TV drama expenditure requirement, Treatment of pre-production expenditure, Final Report to the Minister for Communications, Information Technology and the Arts, December 2000

Investigation into Expenditure Requirement for Pay TV Documentary Channels, Report to the Minister for Communications, Information Technology and the Arts, February 2000

Investigation into events on the anti-siphoning list, Report to the Minister for Communications, Information Technology and the Arts, June 2001

Investigation into the implementation of the anti-hoarding rules, Report to the Minister for Communications, Information Technology and the Arts, September 2000

Other

Radio and Television Broadcasting Stations 2000, August 2000

Day/Night Switching Guidelines, February 2001

Appendix 9

Legislation

The Australian Broadcasting Authority is responsible for the following legislation, including amendments in 2000-01.

Acts and amending Acts, 2000-01	Act Number	Date of Assent
<i>Broadcasting Services Amendment (Digital Television and Datacasting) Act 2000</i>	108, 2000	3 Aug 2000
<i>Broadcasting Services Amendment Act 2000</i>	172, 2000	21 Dec 2000
<i>Broadcasting Legislation Amendment Act 2001</i>	23, 2001	6 Apr 2001
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences 2000)</i>	137, 2000	24 Nov 2000
<i>Communications and the Arts Legislation Amendment (Application of Criminal Code) Act 2001</i>	5, 2001	20 Mar 2001
<i>Telecommunications (Consumer Protection and Service Standards) Amendment Act (No 2) 2000</i>	142, 2000	29 Nov 2000
<i>Telecommunications Legislation Amendment Act 2000</i>	152, 2000	21 Dec 2000
<i>Communications and the Arts Legislation Amendment Act 2001</i>	46, 2001	5 Jun 2001

Appendix 10

Litigation summary

Federal Court Matters

Nezville Pty Limited & Stamoulis v Australian Broadcasting Authority

In July 2000, two open narrowcasters in Melbourne, Neville Pty Limited and Harry Stamoulis applied to the Federal Court under section 39B of the *Judiciary Act 1903* for review of the radio licence area plan for Melbourne. In the licence area plan, which was determined in June 2000, the ABA had decided that commercial radio broadcaster 3AK would transfer to a new frequency at 1116 kHz and that its old frequency, 1503 kHz would become available for allocation for community radio broadcasting services. The result was to reduce the number of open narrowcasting services that would be available in Melbourne.

Sunberg J found that the ABA had not consulted sufficiently with the public on these decisions, as required under section 27 of the Broadcasting Services Act. On 2 April 2001, the Federal Court declared that the Melbourne licence area plan was invalid in so far as it provided that a commercial radio broadcasting service was to be available on 1116 kHz and a community radio service was to be available on 1503 kHz. The remainder of the licence area plan remains intact and valid. As only a small amount of the preparation and hearing time was devoted to the one unpleaded point on which the applicants succeeded, the Court ordered that the applicants pay four fifths of the ABA's costs in the matter.

RG Capital Radio Pty Limited v Australian Broadcasting Authority**Gosford Proceedings**

RG Capital Radio Pty Limited applied to the Federal Court for judicial review of a licence area plan made by the ABA under section 26 of the Broadcasting Services Act. RG Capital Radio Pty Limited sought review of the decision to make available an additional commercial radio broadcasting licence in Gosford (the Gosford proceedings). A question of law was referred to the Full Federal Court for determination. Resolution of the legal question would determine whether judicial review of the licence area plan would proceed. The question of law before the Full Federal Court (Wilcox, Branson and Lindgren JJ) was:

Is the decision of the respondent to determine the licence area plan made 31 August 2000 for the Gosford licence area a decision of an administrative character within the meaning of the Administrative Decisions (Judicial Review) Act 1977 (Cth)?

Decisions which are of an administrative character are reviewable under the *Administrative Decisions (Judicial Review) Act 1977* (Cth). Decisions of a legislative character are reviewable under the *Judiciary Act 1903* (Cth). The grounds for review are considered broader under the Administrative Decisions (Judicial Review) Act 1977 (Cth) than the Judiciary Act.

On 6 July 2001, the Full Federal Court handed down its decision which said that a licence area plan was not a decision of an administrative character. The Full Federal Court stated in its reasoning that there is no simple rule for determining whether a decision is of an administrative or a legislative character. It stated that not one consideration discussed in the decided cases or raised by counsel is decisive of the issue but rather all considerations must be taken into account.

In deciding that a licence area plan is a decision of a legislative, not an administrative character, the Full Federal Court found that the considerations most persuasive were:

1. The licence area plan is of a general application as distinct from being a determination which affects only particular individuals or is made with particular individuals in contemplation.
2. Notwithstanding the power of variation given by ss26(2) a licence area plan is expected to have a moderately long term application and to lay down parameters within which decisions affecting individuals will be taken.
3. There is a clear distinction between the planning concerns of Part 3 of the Act and the Part 4 provisions regarding allocation of licences which more directly affect the interest of individuals; and
4. Section 204 of the BSA provides for review by the AAT of a wide range of decisions which the ABA makes under the Act, including decisions under Part 4 and subsequent Parts of the BSA but omits review of the preparation of a licence area plan under ss26(1).

RG Capital Radio Pty Ltd has lodged a special leave application in the High Court seeking review of the decision by the Full Federal Court.

Queensland Proceedings

RG Capital Radio Pty Limited also applied to the Federal Court for judicial review of the Murwillumbah, Gold Coast and Nambour licence area plans made by the ABA under section 26 of the Act (the Queensland proceedings).

RG Capital sought review of the decision:

- to make available an additional commercial radio broadcasting licence in Nambour;
- not to combine the licence areas of the Gold Coast and Murwillumbah; and
- to make available additional radiofrequency spectrum for the retransmission of the existing commercial radio broadcasting licensee's service in Murwillumbah.

The Queensland proceedings have been stood over until the special leave application is heard in the High Court.

Administrative Appeals Tribunal Proceedings

Electronic Frontiers Australia Incorporated Application to the Administrative Appeals Tribunal

Application for review was lodged by Electronic Frontiers Australia Inc in the Administrative Appeals Tribunal on 18 October 2000 to review the ABA's internal review decision of 6 September 2000 regarding access to documents sought under the *Freedom of Information Act 1982*. The applicant is seeking access to information relating to investigations carried out by the ABA's Regulation of Online Content Section regarding complaints lodged with the ABA under Schedule 5 to the Broadcasting Services Act which relates to online services. The matter was heard by the Administrative Appeals Tribunal on 18 and 19 July 2001. The Tribunal has reserved its decision.

NBN Limited Application to the Administrative Appeals Tribunal

NBN has applied to the Administrative Appeals Tribunal for a review of the ABA's decision in which the ABA decided to refuse a certificate to NBN under clause 46(5) of Schedule 4 to the Broadcasting Services Act. Under this clause, the ABA may issue a certificate to an owner or operator of a transmission tower site, exempting it from providing access to an access seeker, if the ABA is of the opinion that it is not technically feasible to comply with the access requirement. NBN sought a certificate to exempt it from providing access to Telecasters Australia Limited, who has applied to the Administrative Appeals Tribunal to be joined as a party to the application for review. The application has not yet been heard.

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australian broadcasting authority

Level 15, 201 Sussex Street, Sydney

PO Box Q500, Queen Victoria Building, NSW 1230

Phone 02 9334 7700 Fax 02 9334 7799

www.aba.gov.au