

Investigation Report No. 2519

File No.	ACMA2010/2255
Licensee	NBN Limited
Station	NBN NSW (Nine Network Australia)
Type of service	Commercial Broadcasting Service (Television)
Name of program	<i>The Sunday Roast</i>
Date of broadcast	27 June 2010
Relevant Legislation/Code	<i>Broadcasting Services Act 1992</i> section 148 Commercial Television Industry Code of Practice 2010 <ul style="list-style-type: none">• Clause 2.4 Appendix 4: Television Classification Guidelines <ul style="list-style-type: none">- Clauses 3.3 Commercial Television Industry Code of Practice 2010 <ul style="list-style-type: none">• Clause 7.12

Finding

- *The Sunday Roast* contained infrequent low-level coarse language, which can be accommodated in the PG classification.
- No breach of clause 2.4 of the Commercial Television Industry Code of Practice 2010.
- No breach of clause 7.12 of the Commercial Television Industry Code of Practice 2010.

The complaint

On 24 September 2010 the Australian Communications and Media Authority (the ACMA) received a written complaint about an episode of *The Sunday Roast* broadcast by NBN NSW on 27 June 2010.

The complainant alleged that during the program footage was used which featured a man mouthing language that he believed unacceptable within a PG classified program.

On 15 November the ACMA received further correspondence from the complainant stating that they had not received any correspondence from the broadcaster with regards to the complaint.

The program

The series *The Sunday Roast* is described on the Channel 9 website as 'a live panel show tearing into the controversies and characters of Rugby League'¹.

The series airs each Sunday at 10.00am. The episode subject of the complaint was broadcast on the 27 June 2010 and was given a 'PG' classification by the broadcaster.

Assessment

The assessment is based on submissions from the licensee and the complainant as well as a copy of the broadcast supplied by the licensee.

Relevant code provisions

Commercial Television Industry Code of Practice 2010

SECTION 2: CLASSIFICATION

- 2.4** *All other materials for broadcast:* Subject to Clauses 2.3 and 2.41, all other material for broadcast must be classified according to the Television Classification Guidelines (set out in Appendix 4)

[...]

Appendix 4: Television Classification Guidelines

The Parental Guidance Recommended (PG) Classification

- 3.** Material classified PG may contain careful presentations of adult themes or concepts but must be mild in impact and remain suitable for children to watch with supervision.

[...]

- 3.3** *Language:* Low level coarse language may only be used infrequently, when justified by the storyline or program context.

¹ <http://channelnine.ninemsn.com.au/sundayroast> accessed on 8 December 2010

SECTION 7: HANDLING OF COMPLAINTS TO LICENSEES

[...]

- 7.12** That response must be made as soon as practicable, but in any case no longer than 30 working days after receipt of the complaint.

Complainant's submissions

In correspondence to the ACMA dated 24 September 2010, the complainant stated:

On Sunday June 27 the Sunday Roast aired a segment showing highlights of the Sharks vs Cowboys game from the night before. The part I found to breach the show was when a Shark player had a shot for goal and missed, the camera then focused on the Shark's coach who clearly mouthed the word 'fuck'. I can see how this would be hard to regulate on a live feed but this was an edited package made by Channel Nine from a Fox transmission. Obviously Nine were at fault to Fox. This being aired during the day in a PG rated show, in my opinion is wrong.

Along with this correspondence the complainant included a copy of the original complaint that was lodged, via FreeTV Australia, on 27 June 2010.

On 15 November 2010 the ACMA received further correspondence from the complainant stating that he had still not received any response from the broadcaster with regards to his complaint.

Licensee's submissions

In relation to the complaints handling issue, Channel 9 stated:

...Nine confirms it received the complaint. The writer has been advised that a response was sent to the complainant within the relevant time period.

Reasons

Clause 2.4

The segment referred to by the complainant takes place approximately 35 minutes in to the program and involves the lead pundit describing a recent match between the North Queensland Cowboys and the Cronulla Sharks. The pundit explains that despite the Cowboys firm lead at half time a series of failed tries allows the Sharks to take the lead in the second half. Whilst the events of the tense match are explained, the visuals cut from panel style footage of the pundit to actual game footage intercut further with shots of the crowd and of the coach, Ricky Stewart. A brief clip indicates the coach is not happy with his team's performance as indicated by his stance and facial expressions. The coach briefly opens his mouth and appears to shout. No audio relating to this exclamation can be heard. The pundit comments 'There's Ricky Stewart being nice and polite on the sidelines'.

Whilst the complainant considered this segment of *The Sunday Roast* to contain coarse language, no audible use of any coarse language can be heard and as such the specific language used by the coach is open to interpretation and the segment cannot definitively be considered to include the use of coarse language as the complainant asserts.

The Code allows for low level coarse language in a PG program if infrequent and used in context. The program contains one use of the word 'arse' in the context of a pundit's humorous description of a scrum in which a player's shorts are tugged and his buttocks are briefly exposed. The single use of coarse language is considered justified by context and as such it is considered that the program is not in breach of clause 2.4 of the Code with regards to use of language within a PG classified program.

Clause 7.12

On 15 November 2010 the ACMA received correspondence from the complainant stating that he had not received any response from the broadcaster with regards to his complaint.

On 14 December 2010 the ACMA received Channel Nine's confirmation that the complaint was received and that a response was sent to the complainant within the required 30 day period. However Channel 9 has not been able to provide the ACMA with a copy of the response sent to the complainant.

The delegate is of the view that in this particular case, the information provided by the licensee contains insufficient evidence to establish that the response was actually dispatched and that it was sent within the required 30 day period. However, there is also insufficient evidence to conclude that the letter was not sent. As the delegate cannot speculate on the reasons for the letter not being received the delegate is faced with competing assertions with insufficient evidence to support one version of events over another.

In these circumstances the delegate is unable to find that the licensee breached clause 7.12 of the Code.