



**Australian
Broadcasting
Authority**

Investigation Report No. 1470

File No.	2004/2072/1
Licensee	Channel Seven Melbourne Pty Ltd
Station	HSV 7
Type of Service	Commercial Broadcasting Service (television)
Program	<i>Home and Away</i>
Date and Time of Broadcast	13 August 2004, 7pm
Relevant Legislation/Code	Clauses 2.4, 2.20.3 and 2.1.2 and Appendix 4 of the <i>Commercial Television Industry Code of Practice</i> , July 2004.

Investigation Conclusion

The ABA finds that the licensee:

- breached clause 2.4 of the Commercial Television Industry Code of Practice 2004 (the code), by incorrectly classifying the episode of *Home and Away* broadcast on 13 August 2004 as G according to the Television Classification Guidelines
- breached clause 2.20.3 by not supplying a consumer advice warning for a PG classified program that contained material of a strength or intensity, which the licensee would have reasonably believed parents or guardians of young children may not expect and
- did not breach clause 2.1.2 of the code.

The complaint

On 27 October 2004, the ABA received a complaint concerning an episode of *Home and Away* that was broadcast on 13 August 2004 at 7 pm. The complainant alleged that:

- the closing scene of the episode depicted a seriously mentally ill young woman intending to murder at least one of the other characters
- the violence depicted in the episode was serious in impact and included the sound effects of gunshots and characters clearly terrified for their lives
- the episode concluded with the inference that at least one character had been murdered
- the content was inappropriate for the PG timeslot
- the complainant's six-year-old daughter became upset and frightened while watching the episode. She continued to be frightened for several weeks after the episode was aired.

The program

- *Home and Away* is soap/serial drama directed at young adults and teenagers. The episode in question was classified as General (G). It was broadcast at 7 pm within the Parental Guidance (PG) classification zone. Prior to July 2004, the 7 pm timeslot was a G time zone. With the introduction of the new Code on 1 July 2004, it changed to a PG time zone.
- There was no warning issued with the program.
- The episode in question was the final 'cliff-hanger' episode prior to the series breaking for a period of time.
- The episode depicted an unstable young woman called Sarah, who has the mistaken idea that one of the other Summer Bay residents had killed her boyfriend.
- Sarah forced one of the characters, Scott, to drive her to the house where the other residents are present. She threatens to use her gun if he does not follow her orders. Scott's girlfriend, Dani, is left behind, bound and gagged.
- At the house, she gave the residents an ultimatum – either they tell her who killed her boyfriend within 30 minutes or she would start shooting.
- When one of the men entered the house, she hit him on the head with the back of the gun. He fell to the floor, started convulsing and became unconscious.
- As the episode progressed, the other characters became increasingly distressed and tearful and Sarah became more hysterical. She started to 'count down' the number of minutes left before she would start shooting.
- Sarah had the gun in her hand throughout the scene. On at least three occasions, she pointed the gun directly at the other characters and it was shown briefly at this time.
- Dani was eventually freed and drove to the house. As she arrived, she heard the sound of three gunshots and started screaming. No-one was shown being killed or injured. The viewer was left not knowing who the gunshots were aimed at.

Assessment

In assessing the complaint the ABA considered comments by the complainant and the licensee and a videotape of the program provided by the licensee.

Relevant issues

In this case, the program was classified as G, but broadcast in a PG time zone. The complainant alleged that the program was unsuitable for the PG classification zone. The licensee maintains that the program was suitable for G classification.

The complaint raises three issues.

1. Was the program suitably classified as G? Did the licensee breach clause 2.4 of the code by incorrectly classifying the material according to the Television Classification Guidelines?
2. Did the licensee breach clause 2.1.2 by showing material which was not suitable for the PG classification in the PG classification zone?
3. If the program was suitable for PG classification, did the licensee breach clause 2.20.3 by not supplying an appropriate consumer advice warning?

Relevant code provisions

Clause 2.4 of the code requires that all material for broadcast (apart from films, news, current affairs and sporting events), must be classified according to the Television Classification Guidelines set out in Appendix 4 of the code.

Appendix 4 sets out ‘essential principles’ in interpreting the classification guidelines:

The suitability of material for telecast will depend on the frequency and intensity of key elements such as violence, sexual behaviour, nudity and coarse language, and on the time of day at which it is broadcast. It will also depend on such factors as the merit of the production, the purpose of a sequence, the tone, the camera work, the relevance of the material, and the treatment. These factors must be all taken into account and carefully weighed. This means that some actions, depictions, themes, subject matter, treatments or language may meet current community standards of acceptability in one program, but in another program may require a higher classification, or be unsuitable for television. Contextual factors do not permit the inclusion of material which exceeds a program’s classification, except in the limited circumstances set out in Clause 2.13 of the Code.

Clause 2.12 of the Code states that only material which is suitable for a particular classification zone is to be broadcast in that zone.

Clause 2.1.3 provides that the most stringent restrictions apply to the G classification zone, with gradually reducing restrictions applying in each successive zone. The G classification zones are 4.00 pm to 7.00 pm on weekdays (clause 2.8). The PG classification zones are 7.00 pm to 8.30 pm on school day weekdays (clause 2.9).

Clause 2.20.3 requires that the licensee must supply consumer advice with any PG classified program broadcast between 7.00 pm and 8.30 pm on weekdays that contains material of a strength or intensity, which the licensee reasonably believed parents or

guardians of young children may not expect. The purpose of the consumer advice is help people make informed choices about the programs they choose (clause 2.20). The required form of the consumer advice is set out in clauses 2.21 to 2.23.

Issue 1: Was the program suitably classified as ‘G’? Did the licensee breach clause 2.4 of the Code by incorrectly classifying the material according to the Television Classification Guidelines?

Complainant’s submissions

The complainant’s submissions are summarised under the heading ‘The complaint’.

Licensee’s submissions

The licensee’s submissions are summarised below.

- The program did not exceed the G classification requirements, although the episode ‘was certainly at the borders of what is permissible in a G classified program’.
- The episode was a ‘cliff hanger’ and was used to build audience speculation and excitement about what will happen when the series returns.
- In classifying the program as G, the licensee took into account the characteristics of the soap/serial drama genre and the expectations/understanding of viewers of this program type. *Home and Away* viewers understand that a soap/serial drama can be melodramatic and extreme, particularly in ‘cliff hanger’ episodes.
- Care was taken to build anticipation in a manner that was restrained and very mild in impact.
- The weapon was not depicted until the closing moments of the episode. It was never shown as being pointed at anyone.
- The tension of the concluding scenes was not heightened by overly stressful or dramatic music or other special effects.
- The violence was strictly limited to the story line. It was not glorified or depicted as being acceptable or desirable.

Finding

The ABA finds that the licensee breached clause 2.4 of the code, by incorrectly classifying the material as G according to the Television Classification Guidelines.

Reasons

The G Classification Guidelines in Appendix 4 of the Code state:

Material classified G is not necessarily intended for children but it must be very mild in impact and must not contain any matter likely to be unsuitable for children to watch without supervision.

The ABA has assessed the program under the classification elements of violence (paragraph 2.1), themes (paragraph 2.6) and other (paragraph 2.8).

Violence

The G classification guidelines state:

- 2.1 **Violence:** Visual depiction of physical and psychological violence must be very restrained. The use of weapons, threatening language, sounds or special effects must have a very low sense of threat or menace, must be strictly limited to the story line or program context, must be infrequent and must not show violent behaviour to be acceptable or desirable.

The ABA acknowledges that:

- the episode does not show violence to be acceptable or desirable
- the violence is largely depicted through verbal references (Sarah's threats of shooting the other characters), rather than visual references. The results of the gunshots being fired are not shown. The violence depicted is largely psychological, rather than physical.

The ABA is not satisfied, however, that the violence depicted was 'infrequent' or 'very restrained', or that the use of weapons and threatening language had a 'very low sense of threat or menace' for the following reasons.

- While there was limited physical violence, there was frequent psychological violence. Sarah used threatening and menacing language. She threatened to use her gun on the other characters on a number of occasions. The ABA disagrees with the licensee's comments that the gun was not actually shown until the closing moments of the episode. The gun was shown briefly at least three times when Sarah pointed it directly at the other characters. The violence was sustained over the 30 minute episode, adding to its impact. The episode cut way to another scene, but the tension was maintained throughout. There were no scenes with a 'lighter' tone to provide relief.
- The camera work showed several close-ups of the other characters becoming increasingly distressed as time ran out for them to 'confess' to the 'murder'. Sarah was portrayed as being 'on the edge' and dangerous – screaming and laughing hysterically.
- Some physical violence was depicted. One of the characters was knocked unconscious and was in need of medical attention. The character of Dani was bound and gagged.
- The final scene must be viewed in the context of the whole episode. The purpose of the episode was to build suspense and tension over the duration. This added to the impact of the final scene, notwithstanding that the physical impact of the gunshot action was not shown.
- More mature viewers would be able to recognise that the episode was deliberately 'melodramatic' and used the techniques of a 'cliff hanger' episode. Young children would not necessarily be able to make this distinction. For the program to fall within the G classification, it must be suitable for children to watch without supervision.

For these reasons, the ABA is not satisfied that the visual depiction of violence was ‘very restrained’ or that the use of weapons, language, sounds or special effects was ‘infrequent’ or had ‘a very low sense of threat or menace’. The ABA’s view is that the program does not meet the G classification requirements under paragraph 2.1 of Appendix 4.

Themes

The G classification guidelines state:

- 3.6 **Themes:** Themes dealing with social or domestic conflict must have a very low sense of threat or menace to children and must be justified by the story line or program context.

The themes concern social conflict between Sarah and the other characters and Sarah’s disturbed psychological and emotional condition. The sense of threat or menace is heightened by the visible distress and tears of the other characters, Sarah’s hysterical state, her constant threats to use the gun, the time limit she gives the other characters before she starts shooting, and the camera work, music and lighting.

The ABA accepts that the purpose of the story line and program context was to build anticipation and to be a dramatic ‘cliff hanger’ episode. However, given the way in which the conflict and Sarah’s threats of violence were portrayed, the ABA considers that the treatment of the themes exceeded the standard of a ‘very low sense of threat or menace to children’. The ABA’s view is that the program does not meet the G classification requirements under paragraph 2.6 of Appendix 4.

Other

The G classification guidelines state:

- 2.8 **Other:** Where music, special effects and camera work are used to create an atmosphere of tension or fear, care must be taken to minimise distress to children.

The ABA disagrees with the licensee’s submission that ‘the tension of the concluding scenes was not heightened by overly stressful or dramatic music or other special effects’. The ABA is not satisfied that care was taken to minimise distress to children in relation to the music and camera work for the following reasons.

- The scenes where Sarah held the other characters hostage contained threatening and suspenseful music that was used to build tension. The music was present throughout these scenes.
- The camera work included several close-ups of Sarah in an hysterical and menacing state, and close-ups of the other characters appearing fearful and distressed.
- Close-up scenes were used throughout the episode. They were realistic and reasonably lengthy.
- Lighting were used to darken Sarah’s face as she threatened the other characters, thus enhancing the atmosphere of tension and fear.

For these reasons, the ABA is of the view that where music and camera work was used to create an atmosphere of tension and fear, the licensee did not take care to minimise distress to children. The ABA's view is that the program does not meet the G classification requirements under paragraph 2.8 of Appendix 4.

Conclusion

As required by Appendix 4 of the code, the ABA has taken into account and weighed the frequency and intensity of the violence, themes and other elements; the merit of the production; the purpose of the sequence; the tone; the camera work and the relevance of the material and the treatment.

The ABA accepts that the purpose of the episode was to build anticipation and tension and to portray Sarah's fragile mental and emotional state. The ABA accepts that the violence, themes and other elements were directed to this purpose and the soap opera genre of the program. However, the code also makes it clear that 'contextual factors do not permit the inclusion of material which exceeds a program's classification'. In this case, the ABA considers that the material exceeded the program's G classification in terms of violence, themes and other elements.

The licensee claims that the program is not targeted to very young children, but to teenagers and young adults. However, to be classified as G, the program 'must be very mild in impact and not contain any matter likely to be unsuitable for children to watch without supervision'.

The ABA is not satisfied that the program meets these requirements and therefore it does not meet the G classification guidelines. As the program was not correctly classified according to the Television Classification Guidelines, the ABA finds that the licensee breached clause 2.4 of the code.

Issue 2: Did the licensee breach clause 2.1.2 by showing material which was not suitable for PG classification in the PG classification zone?

Licensee's and complainant's submissions

The submissions of the complainant and the licensee are summarised under 'Issue 1'. In a further response received on 29 March 2005, the ABA notes that the licensee disputes that the episode was at the 'high end' of the PG classification. The licensee considers that the episode fell well within what is permissible in the PG classification zone, and was justified by the story line and program context.

Finding

The ABA finds that the licensee did not breach clause 2.1.2 of the code.

Reasons

The Parental Guidance Recommended (PG) Classification Guidelines in Appendix 4 of the code state:

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.

The ABA has assessed the program under the classification elements of violence (paragraph 3.1) and themes (paragraph 3.6).

Violence

The PG classification guidelines state:

- 3.1 **Violence:** Visual depiction of violence must be inexplicit, restrained and justified by the story line or program context. More leeway is permitted when the depiction is stylised rather than realistic, but all violence shown must be mild in impact, taking into account also the language, sounds and special effects used.

The ABA has some concerns about the intensity of the psychological violence and its sustained impact over the 30 minute episode. The ABA considered whether the episode was unsuitable for PG classification and was more suitable for M classification. On balance, and for the reasons below, the ABA is satisfied that the visual depiction of violence fell within the PG classification for the following reasons.

- The impact of the gunshots being fired were not shown. There was the sound of gunshots and a woman screaming, but no visual images of the gun being fired or physical impact of the gunshot. No-one was shown being killed or injured. This more stylised depiction reduces the overall impact.
- In the scenes where Sarah pointed the gun at the other characters, the gun was shown only briefly.
- The violence was psychological, rather than physical and depicted largely through verbal references (Sarah's threats to shoot the other characters), rather than visual images.

Themes

The PG classification guidelines state:

- 3.6 **Themes:** The treatment of social and domestic conflict and other themes that are directed to a more adult audience should be carefully handled and mild in impact.

The ABA considers that the themes depicted in the episode – an emotionally unstable young woman determined to take revenge on others – are directed to a more mature audience. The ABA has some concerns about the emotional intensity with which these themes are depicted. On balance, however, the ABA is satisfied that the themes were carefully handled and suitably mild in impact to fall within the PG classification.

Conclusion

Whilst the licensee classified the program as G, the ABA's view is that it was more suitable for PG, although at the high end of the PG classification.

As the program fell within the PG classification guidelines and was shown during the PG classification zone of 7 pm, the ABA finds that the licensee did not breach clause 2.1.2.

Issue 3: If the program was suitable for PG classification, did the licensee breach clause 2.20.3 by not supplying an appropriate consumer advice warning?

Licensee's and complainant's submissions

The complainant submitted that she expects the classification system to ensure that the material her children watch will not have an adverse impact on them. The licensee submitted that the program was suitable for G classification and has not directly addressed the issue of a consumer advice warning.

Finding

The ABA finds that the licensee breached clause 2.20.3 of the code.

Reasons

The ABA has found that the program was appropriate for PG classification. It was shown at 7.00 pm. The ABA considers that the material in the program contained a strength or intensity, which the licensee would reasonably believe that parents or guardians of young children would not expect. The emotional impact and intensity of the psychological violence was sustained over the full episode. A man was shown being hit, falling to the floor, convulsing and becoming unconscious. Sarah threatened to use her gun on the other characters a number of times. There were frequent close-ups of the other characters becoming increasingly distressed as the countdown took place.

In these circumstances, the ABA considers that the licensee should have supplied a consumer advice, that the program contained material of a strength or intensity which parents or guardians of young children may not expect. On the date of broadcast (13 August 2004), the PG timeslot had only recently been extended to 7 pm under the new code. If such a warning had been issued, it would have allowed parents and guardians to make a more informed choice about the program. As no such consumer advice was issued with the program, the ABA finds that the licensee breached clause 2.20.3.

Action taken

The licensee has accepted the ABA's breach findings and has indicated that the findings have been brought to the attention of the network's classifiers. The licensee advises that it is strongly committed to compliance with the code and is aware of the appropriate program classification and the provision of consumer advice warnings to consumers. The licensee has advised that the inappropriate classification of this episode was an isolated error and not part of a pattern of misjudgement or systemic failure. The *Home and Away* series is generally classified G, although two recent episodes were recently given a PG classification and contained a consumer advice. Other episodes may occasionally be classified PG in the future.

This is the first occasion that the licensee has breached these particular provisions of the 2004 code. However, the ABA notes that on three occasions in 2004 and 2005 the licensee breached the classification code provisions of the 1999 code relating to

inappropriate program promotions during G and PG periods (see *Investigation Report 1378, The Matrix Revolution* commercial, August 2004, 2004/0439; *Investigation Report No. 1425, Firestorm* promotion, 15 October 2004, 2004/1782; *Investigation Report No. 1426, 24* program promotion, February 2005, 2004/1180).

The ABA is considering what further action should be taken in relation to this matter.

DECISION

I, Andrea Malone, Acting Director Industry Performance and Review, being the appropriate delegated officer of the Australian Broadcasting Authority, determine for the above reasons that the licensee, Channel Seven Melbourne Pty Ltd, in relation to the broadcast of *Home and Away* on 13 August 2004:

- breached clause 2.4 of the *Commercial Television Industry Code of Practice 2004* (the code), by incorrectly classifying the episode of *Home and Away* broadcast on 13 August 2004 as G according to the Television Classification Guidelines
- breached clause 2.20.3 by not supplying a consumer advice warning for a PG classified program that contained material of a strength or intensity, which the licensee would have reasonably believed parents or guardians of young children may not expect and
- did not breach clause 2.1.2 of the code.

Signed: -----

Andrea Malone

dated this day of March 2005