



Australian Government
**Australian Communications
and Media Authority**

Investigation Report No. 1550

File no.	2005/1089
Licensee	Network Ten Perth Pty Ltd
Station	NEW 10
Type of service	Commercial Broadcasting Service (television)
Name of program	<i>The OC</i> promotion
Date/s of Broadcast	15 March 2005
Relevant legislation/code	Clauses 2.4, 3.8.10 of the Commercial Television Industry Code of Practice 2004, and clause 2.3 of Appendix 4 of the code.

Investigation conclusion

On 15 March 2005, a promotion broadcast by Network Ten Perth Pty Ltd during a G classified program breached clause 2.4 of the Commercial Television Industry Code of Practice.

The complaint

On 1 June 2005, the Australian Broadcasting Authority¹ received a written complaint concerning the content of a promotion for the M classified program *The OC*. The promotion was broadcast by Network Ten Perth Pty Ltd (Network Ten), at approximately 6.55 pm on 15 March 2005, during the G classified program, *Neighbours*.

The complainant alleges that the promotion exceeded the G classification by using strong language, specifically the use of the word ‘slut’. Not satisfied with the response provided on behalf of the licensee, the complainant forwarded the matter to the ABA for investigation.

On 1 July 2005, the Australian Communications and Media Authority (the Authority) commenced to perform the functions previously performed by the ABA under the *Broadcasting Services Act 1992*, including the investigation of complaints of breaches of industry codes of practice by broadcasters.

The program

The OC is an M classified program broadcast at 8.30 pm. The licensee describes the program as a soap opera/drama that follows the relationships of a rich set of Californian families. The promotion which is the subject of the complaint is 30 seconds in duration and features visuals from the program along with narration and dialogue. The following commentary and program dialogue accompanied the visuals from the promotion.

1 st female character:	Get off of me! I’m the daughter of a thief and a slut.
Narrator:	What is making everyone in the OC act psycho?
2 nd female character:	You stole a car?
1 st male character:	Yep.
Narrator:	What could be so big, it’s tearing the OC apart? If you don’t already watch the OC on Tuesdays, you’d better start because it’s about to get real hot!
1 st female character:	Do you think I’m really going to leave my girlfriend alone with you overnight?
2 nd female character:	I thought she wasn’t your girlfriend?
1 st female character:	Well think again.
Narrator:	All new OC, 8.30 Tuesday.

¹ The Authority continued the investigation in accordance with clause 11 of Schedule 4 to the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005*.

Assessment

A copy of the promotion on VHS videotape was viewed, and comments supplied by Network Ten at the ABA's request were considered.

The complainant's concerns raise questions as to whether the promotion contains language unsuitable for a G classification. The complaint was therefore assessed against clauses 2.4 and 3.8.10 of the Commercial Television Industry Code of Practice and clause 2.3 of Appendix 4 of the code.

Classification of Other Material

- 2.4 *All other material for broadcast:* Subject to Clauses 2.3 and 2.4.1, all other material for broadcast must be classified according to the Television Classification Guidelines (set out in Appendix 4) or, where applicable, the stricter requirements of Section 3: Program Promotions and Section 6: Classification and Placement of Commercials.

Restrictions in G Viewing Periods and in Certain Other G Programs

- 3.8 Special restrictions apply to the content of program promotions in G viewing periods, or in G programs which start at 3.30 pm on a weekday, or which are broadcast between 7.00 pm and 8.30 pm on any day. All such program promotions must comply with the G classification requirements set out in paragraph 2 of Appendix 4, and in addition must include no material which involves any of the following:

3.8.10 socially offensive or discriminatory language.

APPENDIX 4: TELEVISION CLASSIFICATION GUIDELINES

The General (G) Classification

2. 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.

2.3 Language: Very mild coarse language generally considered socially offensive or discriminatory may only be used infrequently when absolutely justified by the story line or program context.

Complainant's submissions

The complainant alleges that use of the word 'slut' is inappropriate for a G viewing period.

Licensee's submissions

In regard to clause 3.8.10 of the code and clause 2.3 of Appendix 4, the licensee submitted:

- clause 3.8.10 prohibits language that is socially offensive but does not prohibit language that is merely derogatory. While the word 'slut' is an unpleasant slang term, it is not an expletive or *prima facie* offensive. This is reinforced by the

Macquarie Dictionary of Slang, which deems the word to be derogatory but not offensive

- the language in the promotion was at the upper end of what is permissible under this clause and the word ‘slut’ would not usually be included in a G classified promotion unless the context was such that the word could be used inoffensively and its impact would be very mild
- use of the word ‘slut’ in this promotion was not spoken in an aggressive or abusive manner. The exchange between the characters was brief and the word was not emphasised in any way
- the comment had a factual basis (as the character to whom the word was directed had been unfaithful) and was not a careless remark or general insult and was justified by the story line and program context. In this context, the character’s comment that her parents are a ‘thief and a slut’ shows her disillusionment with them, and sets the scene for her rebellious behaviour depicted later in the program, and
- the word ‘slut’ was used only once and was therefore infrequent.

Conclusion

For the reasons stated below, the licensee did not comply with clause 3.8.10 of the code and clause 2.3 of Appendix 4 of the code. The licensee has therefore breached clause 2.4 of the Commercial Television Industry Code of Practice 2004.

Reasons

- The promotion was screened in a G viewing period as set out in clause 2.8 of the code, and during a program which was G classified.
- The *Macquarie Dictionary* defines ‘slut’ as:
 1. a dirty, slovenly woman
 2. a promiscuous woman
 3. *Colloquial* a promiscuous man
- The word ‘slut’ is considered to be socially offensive. The term is not a neutral descriptor, but it has derogatory connotations that mean it is likely to cause social offence or displeasure.
- The word is used at the beginning of the promotion by the program’s main female character, Marissa Cooper, who is at a party with her parents. Marissa is depicted trying to break free from her mother, who is grasping her arm. As she struggles, she aggressively says to her mother, ‘Get off of me!’ She then says angrily and accusatorially to both her parents, ‘I’m the daughter of a thief and a slut.’ The delegate does not accept the submission of the licensee that the word is used without emphasis in any way.
- Clause 2.3 of Appendix 4 of the code allows the use of very mild coarse language generally considered socially offensive or discriminatory only infrequently when absolutely justified by the story line or program context. The fact that coarse language used within the G classification must be *very* mild as opposed to mild, and *absolutely* justified as opposed to merely justified, sets very tight restrictions on what coarse language is permissible within the G classification category.
- The licensee’s assertion that the comment has a factual basis in the promotion (that is, the mother had actually been unfaithful), and is therefore justified does

not mitigate the impact of the word, nor does it satisfy the requirement that very mild coarse language must be *absolutely* justified by the program context. In order to be absolutely justified, the use of the language would have to be essential to advance the story line. There is no evidence that this was the case in this incidence. In addition, any viewer of the promotion who is not also a viewer of the program would be unaware of the context for the use of the language, and would not be in a position to form the view that the use was, in fact, absolutely justified.

- Even if the language were absolutely justified by the story line or program context, it is the opinion of the delegate that the word exceeds the definition of ‘very mild’ as it is used in clause 2.3 of Appendix 4 of the code.
- Clause 3.8.10 of the code prohibits the use of socially offensive language in program promotions shown in G viewing periods under all circumstances. As the word ‘slut’ is socially offensive and therefore in breach of the requirements of clause 3.8.10 of the code, the licensee’s argument that the word is used only once in the promotion, and is therefore infrequent, is not relevant in relation to compliance with this clause.

No socially offensive or discriminatory language is permitted in a program promotion in a G viewing period under clause 3.8.10 of the code. The G classification criteria for language at clauses 3.8.10 of the code and 2.3 of Appendix 4 set tight parameters on what is acceptable during G viewing periods. The word’s negative connotations and the context in which it is used means this language is considered to be ‘socially offensive’, and is not ‘very mild coarse language’ the use of which is absolutely justified by story line or program context.

Licensee’s response

The licensee:

1. accepted ACMA’s finding that the word may be socially offensive, and therefore did not comply with clause 3.8 of Appendix 4 of the code, and
2. disagreed that the term is not ‘very mild coarse language’ and that it did not comply with the G classification criteria for language. The delegate remains of the view that this term, used in the current context, is not very mild coarse language the use of which is absolutely justified by story line or program context; and therefore does not comply with the G classification criteria for language.

Action taken

The licensee submitted that in the event that the breach finding was upheld by the delegate, it would take the following step:

Network Ten will distribute the finding to our classifiers and promotion producers. The classifiers will discuss the finding with promotions staff during a regular meeting, and will specifically emphasise to staff that the term ‘slut’ cannot be used in any promotions subject to clause 3.8. We will also use the finding as an example in regular code training sessions with staff.

The delegate considers this action addresses the compliance issue raised by the investigation and will continue to monitor the licensee’s performance in this regard.

Decision

I, Andree Wright, Executive Manager Industry Performance and Review Branch, being the appropriate delegated officer of the Australian Communications and Media Authority, determine for the above reasons that the licensee of NEW, Network Ten Perth Pty Ltd, in relation to the broadcast of a program promotion for *The OC* on 15 March 2005, breached clause 2.4 of the code by broadcasting socially offensive language during a G classification period.

Signed: -----
Andree Wright

Dated this day of November 2005