



**Australian  
Broadcasting  
Authority**

## Investigation Report No. 1407

<b>File No.</b>	2004/0890
<b>Licensee</b>	Australian Broadcasting Corporation
<b>Station</b>	ABC Television
<b>Type of Service</b>	National Broadcaster
<b>Name of Program</b>	'A Decade Under the Influence' (shown during the <i>Sunday Afternoon</i> series of programs)
<b>Date/s of Broadcast</b>	14 March 2004
<b>Relevant Legislation/Code</b>	Section 8.1 (Classification)

### The Complaint

On 19 May 2004 the ABA received a complaint in regard to the broadcast by the Australian Broadcasting Corporation (the ABC) of the television program 'A Decade Under the Influence', included as part of the *Sunday Afternoon* series of programs. The program was broadcast on 14 March 2004, commencing at 3:30pm.

The complainant alleged that the program contained obscene language in contravention of the ABC's Code of Practice (the Code).

Not satisfied with the response provided by the ABC, the complainant forwarded the matter to the ABA for investigation.

### The Program

The program 'A Decade Under the Influence' is a documentary about American cinema in the 1970s. It examines the work of film-makers such as Francis Ford Coppola, Martin Scorsese and Robert Altman. It profiles the work of each director, setting it within the context of social changes of the time. Interviews with the directors as well as actors and other production personnel are interspersed with clips from the films under discussion.

The films profiled in this documentary are critically acclaimed, both for their cinematographic technique, and also for their approach to the depiction of the issues confronting society at that time.

In most cases the use of coarse language is obscured by 'beeps'. However, during an excerpt from the film 'Coming Home', which occurs at approximately 90-91 minutes into the program, the character 'Luke' played by Jon Voight, in addressing a high school audience, states:

And now I'm here to tell you that I have killed for my country, or whatever. And I don't feel good about that. Because there's not enough reason to feel a person die in your hands or to see your best buddy get blown away. I'm here to tell you it's a lousy thing, man, I don't see any reason for it. And there's a lot of shit that I did over there, that I find fucking hard to live with. And I don't want to see people like you, man, coming back and having to face the rest of your lives with that kind of shit. It's as simple as that. I don't feel sorry for myself. I'm a lot \*beep\* smarter than when I went. And I'm just telling you there's a choice to be made here.

The program was broadcast at 3:30pm on a weekend afternoon, a time when only programs classified G may be shown unless otherwise allowed under the ABC Code of Practice (the Code).

Section 8.2 of the Code provides as follows:

**Implementation Guidelines.** The time zones for each program classification are guides to the most likely placement of programs within that classification. They are not hard and fast rules and there will be occasions on which programs or segments of programs appear in other time-slot, for example, a PG program or segment of a program designed for teenage viewers could appear before 7:30pm if that is the time most suitable for the target audience, or a PG segment in an arts program could appear during a weekend daytime program.

There must be sound reasons for any departure from the time zone for a program classification.

Programs which are serious presentations of moral, social or cultural issues, may appear outside their normal classification period provided that a clear indication of the nature and content of the program is given at its commencement.

The ABC submitted that programs with cultural value such as 'A Decade Under the Influence' can be shown outside of their normal classification period, provided that a clear indication of the nature and content of the program is given at its commencement. Due to its 'insightful look at the film industry of the 1970s', the ABC considered that this documentary was 'most suited to the tastes of viewers of *Sunday Afternoon*'.

The program was classified PG, with the greater majority of coarse language being obscured by 'beeps'.

## **Assessment**

The ABA viewed a copy of the program on VHS tape and considered comments made by the ABC to the complainant as well as those supplied by the ABC at the ABA's request, in order to assess the program's compliance with the relevant provisions of the Code.

### **Issue: Was the language appropriate for inclusion in a PG classified program?**

In respect of the language used, Section 8.1 of the Code provides for application of the *Guidelines for the Classification of Films and Computer Games* (2003 version), issued by the Office of Film and Literature Classification, in the classification of programs for television. The Guidelines relevantly provide that, in programs classified PG, the impact of the classifiable elements should be no higher than mild. In regard to language, coarse language should be 'mild, infrequent, and be justified by context.'

#### ***Licensee's submissions***

The ABC maintained the program broadcast on 14 March 2004 complied with the Code, for the following reasons:

- The program was classified PG, with parental guidance recommended for persons under 15 years of age. Prior to broadcast the program was reviewed by ABC classifiers, who identified the stronger coarse language used in the program and removed it by 'beeping'. According to the ABC, the program was preceded by consumer advice, 'warning viewers of "violence, coarse language and nudity".'
- The ABC noted that the OFLC had originally classified the program as 'M', with an advisory of 'medium level coarse language; low level violence; sexual references'. The ABC considered that, by editing the stronger coarse language, the impact of the violence and the sexual references was also 'considerably reduced, making the program suitable for broadcast at the PG classification level'.
- However, the ABC acknowledged that the program included a single use of strong coarse language, which was overlooked during the editing process, and also in its initial response to the complainant. The ABC has since contacted the complainant to note that this was 'inappropriate for the PG classification'.

#### ***Finding***

The ABA considers that the inclusion of the word 'fucking' in the program 'A Decade Under the Influence' was inappropriate for a PG classification.

#### ***Reasons***

- The OFLC Guidelines make clear that the language permitted in PG classified programs should be 'mild' and 'infrequent'.

- The ABA notes that the word ‘fucking’ is actually heard only once, with all other instances of the word being obscured.
- The ABA considers that, although the language is not used gratuitously, and is justified in its context (in an excerpt from a legitimate dramatic work, forming part of a thought-provoking documentary), the word ‘fucking’ is not considered to be ‘mild’ language; rather it is at the level of ‘strong’ coarse language.
- While the ABC’s attempts to reduce the impact of the language used in the program are noted, this does not entirely mitigate the impact of this instance of strong language, given that it occurs at a moment of high emotional intensity in the source film.

## **ABA Findings**

The ABA is of the view, for the reasons listed above, that on 14 March 2004, the Australian Broadcasting Corporation (ABC Television) did not comply with Clause 8.1 of the Australian Broadcasting Corporation Code of Practice, in broadcasting strong coarse language during a PG classified program.

## **Decision**

I, Andrée Wright, Director, Industry Performance and Review Branch, being the appropriate delegated officer of the Australian Broadcasting Authority, determine for the above reasons that the Australian Broadcasting Corporation (ABC Television) in relation to the broadcast of ‘A Decade Under the Influence’ on 14 March 2004, breached Clause 8.1 of the Australian Broadcasting Corporation Code of Practice.

Signed: -----  
Andrée Wright

dated this 14 day of January 2005

## **Action Taken**

The ABA notes the ABC’s submission that this instance of strong coarse language was inappropriate, and occurred due to human error. Further, the ABC has written to the complainant and apologised for this error.

The ABA is satisfied that the breach is not part of a pattern of non-compliance and will take no further action.

