



**Australian
Broadcasting
Authority**

Investigation Report No. 1508/1510

File No.	2005/0485 and 2005/0529
Licensee	Channel Seven (Sydney) Pty Ltd and Channel Seven (Adelaide) Pty Ltd
Station	ATN and SAS
Type of Service	Commercial Broadcasting Service
Name of Program	<i>Promotion for Desperate Housewives</i>
Date/s of Broadcast	30 January 2005
Relevant Legislation/Code	Section 3, clauses 3.11 and 3.12

Investigation conclusion

The Australian Broadcasting Authority determines that the licensees, Channel Seven (Sydney) Pty Ltd and Channel Seven (Adelaide) Pty Ltd, in relation to the broadcast of a promotion for the program *Desperate Housewives* on 30 January 2005, breached clause 3.11 of the Commercial Television Industry Code of Practice in broadcasting material classified M during a PG time zone.

The complaints

- On 8 February 2005 and 21 February 2005 the Australian Broadcasting Authority (ABA) received written complaints concerning a promotion for the program *Desperate Housewives* broadcast by Channel Seven (Sydney) Pty Ltd (ATN) and Channel Seven (Adelaide) Pty Ltd (SAS) after 8.30 pm on Sunday, 30 January 2005.
- A further letter of complaint was received on 7 March 2005, and on 30 March 2005 the ABA also received a written complaint from Young Media Australia in regards to the promotion.
- The complainants expressed concern regarding the suitability of the promotion material, namely the treatment of suicide themes, for broadcast during a program in which children might be viewing. The complainants also believed that the licensee's response to their complaint was inadequate.

The promotion

- The promotion was one minute in duration and contained a five second visual and verbal warning prior to commencement. The voice over stated, 'The following scene is classified M and is not suitable for children' while a full screen notice containing the M symbol and the words 'The following scene' and 'Not suitable for children' were displayed.
- The promotion depicted an adult woman narrating her own story and describing how she went about her usual daily routine. The woman was depicted gardening, serving breakfast to her son and husband, doing laundry, picking up dry cleaning and retrieving her mail.
- The narration by the character who is the subject of the images follows:

My name is Mary Alice Young. Normally, there is never anything newsworthy about my life ... but that all changed last Thursday. Of course, everything seemed quite normal at first. I made breakfast for my family, I performed my chores, I ran my errands, and in truth, I spent the day as I spent every other day ... quietly polishing the routine of my life, until it gleamed with perfection. That's why it was so astonishing when I decided to go to my hallway closet and retrieve a revolver that had never been used.

- The last sentence of the narrative was spoken over a visual depicting the woman raising a gun to her head, with a look of despair on her face. This visual was immediately followed by two close-up visuals depicting a finger pulling the trigger on a gun, and the flash of a gun, from the point of view of looking down the muzzle, as it is fired.
- The promotion then contained 11 separate visuals depicting, for example, two adults sharing an intimate moment with their faces close together; a woman inside a house throwing something that is on fire while another fire burns behind her, a house engulfed by flame and four women standing on a foot path apparently reading a letter together.

Assessment

- The ABA viewed a copy of the promotion supplied via email in digital format.

Issues

- The broadcast of a promotion, classified M by the network, during a live sporting event broadcast between 8.30 pm and 10.30 pm is in breach of the Commercial Television Industry Code of Practice (the code) under clause 3.11.

Restrictions in G or PG Programs at 8.30pm

3.11 In G or PG programs scheduled to start at 8.30 pm, or in a station break preceding such programs, program promotions must comply with the requirements of the PG viewing period set out in paragraph 3 in Appendix 4.

3.11.1 This clause also applies to any part of a G or PG program that continues past 8.30pm, having started before that time.

...

3.12 For the purposes of Clause 3.11, all sporting coverage broadcast between 8.30pm and 10.30pm is deemed to be PG.

Licensee's submissions

- In an email of 17 February 2005, Legal Counsel, Regulatory and Business Affairs, Seven Network Ltd (the Network), indicated that the scheduling of the promotion during the Australian Open Tennis final after 8.30 pm on Sunday, 30 January 2005 was a mistake and that the network conceded a breach of the code.
- The Network accepted the ABA's preliminary breach findings and did not submit any additional comment.

Finding

- The ABA remains of the view, for the reasons listed below, that the licensees breached clause 3.11 of the code.

Reasons

- The promotion was classified M and carried a warning that it contained M content and was not suitable for children.
- The promotion was broadcast during the live broadcast of the Australian Open Tennis final after 8.30 pm.
- According to clause 3.11.1, any part of a PG program that 'continues past 8.30 pm, having started before that time' will be subject to the requirements of clause 3.11 and therefore must comply with the requirements of the PG viewing period set out in paragraph 3 of Appendix 4 (The Parental Guidance Recommended (PG) Classification).
- Clause 3.12 provides that 'for the purposes of clause 3.11, all sporting coverage broadcast between 8.30 pm and 10.30 pm is deemed to be PG.
- As the promotion contained material classified M and not suitable for viewing by children, the material does not comply with the PG classification requirements under paragraph 3 in Appendix 4.
- The broadcast of M classified material during 'sporting coverage' between 8.30 pm and 10.30 pm is therefore in breach of the code under clause 3.11.

Action taken

The ABA notes that in response to the preliminary breach findings, the Network indicated that it intends to provide a copy of the investigation report to all promotion producers and schedulers along with a reminder of the code requirements in relation to the broadcast of promotions within sporting events broadcast after 8.30 pm.

Neither licensee, nor others in the network, have previously breached these provisions of the code.

At its meeting of 28 April 2005, the ABA considered the fact that suicide is a matter of considerable community concern and particular care is necessary when depicting suicide. The ABA considered the breach was such that further action should be taken to ensure no similar breach occurs. The ABA has decided to seek from the Network a written undertaking to the ABA that it will:

- provide a copy of the final investigation report, together with an explanation of the decision, to relevant staff
- implement an information session, within six months from the date that the written undertaking is accepted by the ABA, for relevant staff across the Network to discuss provisions of the code relating to the placement of promotions, particularly restrictions in G or PG programs at 8.30 pm, and also those provisions dealing with suicide in paragraphs 2 and 3 of Appendix 4 of the code
- include in the written undertaking any other steps the Network deems necessary to ensure that clause 3.11 of the code is not breached by a licensee
- implement the above steps over a period of six months from the date that the written undertaking is accepted by the ABA and
- report to the ABA, at the end of the six month period from the date that the written undertaking is accepted by the ABA, on the Network's compliance with the above.

Decision

The Australian Broadcasting Authority determines for the above reasons that the licensees, Channel Seven (Sydney) Pty Ltd and Channel Seven (Adelaide) Pty Ltd, in relation to the broadcast of a promotion for the program *Desperate Housewives* on 30 January 2005, breached clause 3.11 of the Commercial Television Industry Code of Practice in broadcasting material classified M during a PG time zone.

The Common Seal of the
Australian Broadcasting Authority
was affixed to this document in
the presence of:

Signature of Member

Signature of Member/General Manager

Name (please print)

Name (please print)

Dated this _____ day of May 2005.