



**Australian  
Broadcasting  
Authority**

## **Investigation Report No. 1523**

<b>File No.</b>	2005/0735
<b>Licensee</b>	Channel Seven Brisbane Pty Ltd
<b>Station</b>	BTQ 7
<b>Type of Service</b>	Commercial Television
<b>Name of Program</b>	Non-program matter
<b>Date of Broadcast</b>	27 February 2005
<b>Relevant Legislation/Codes</b>	Clauses 5.6 and 5.7 (hourly limits for non-program matter) of the Commercial Television Industry Code of Practice 2004

### **Investigation conclusion**

The ABA has determined that on 27 February 2005 the licensee of BTQ 7, Channel Seven Brisbane Pty Ltd:

- breached clause 5.6.1 of the Commercial Television Industry Code of Practice 2004 by scheduling more than the permissible 13 minutes per hour of non-program matter.

## The complaint

In a letter dated 21 March 2005, the complainant made a complaint to the Australian Broadcasting Authority (the ABA) regarding the number of advertisements broadcast by commercial television station BTQ 7 between 12.30 pm and 3.30 pm on 27 February 2005, during the movie *The Battle of Britain*.

## Matters not considered by the ABA

The complainant referred to the number of advertisements broadcast, the number of program breaks during the program and the short length of the breaks between program and non-program matter. The complainant also alleged that scenes had been removed from the movie to allow more time for advertisements to be broadcast.

The Commercial Television Industry Code of Practice 2004 (the code) only sets time limits on the amount of non-program matter that can be scheduled per hour on any given day. It does not place restriction on the number of advertisements that can be broadcast, the number of program breaks or the duration of breaks between program and non-program matter. The code also does not stipulate that a movie must be broadcast in its entirety, as licensees may remove scenes to ensure compliance with classification requirements.

The ABA did not investigate these aspects of the complaint.

## Assessment

As BTQ 7 is part of the Seven Network, the ABA sought comments from the Seven Network and a copy of the program schedule for Sunday 27 February 2005.

## Relevant code provisions

### Hourly Limits

- 5.6 On any day each licensee may in each hour schedule on average no more than the following amounts of non-program matter:
  - 5.6.1 between 6.00pm and midnight, 13 minutes;
  - 5.6.2 at all other times – other than in P or C periods – 15 minutes;
  
- 5.7 In any hour, each licensee may (provided that the averages in 5.6 are satisfied) schedule the following amounts of non-program matter:
  - 5.7.1 between 6.00pm and midnight outside election periods – up to 15 minutes per hour, but with no more than 14 minutes scheduled in any four of those hours;
  - 5.7.2 between 6.00pm and midnight in election periods – up to 15 minutes per hour, plus one minute per hour of non-program matter which is political matter, provided that the licensee supplies to FACTS for public release an hourly summary of political advertising and other non-program matter in respect of each day in which this additional minute has been utilised;
  - 5.7.3 at all other times – up to 16 minutes.

## Relevant standard provisions

In relation to non-program matter in C periods, the Children's Television Standards state that:

### CTS 1 Definitions

- (1) The following definitions apply in these children's television standards unless the contrary intention appears:

...

**C period** means a period nominated by a licensee pursuant to CTS 3 (1) (e) during which a licensee shall broadcast C programs.

...

### CTS 4 Promotions

- (1) A licensee may broadcast up to one minute of G classified program promotions or station identifications for each 30 minutes of C programs.

...

### CTS 14 Maximum Advertising Time

- (1) Each 30 minutes of a C period may contain no more than 5 minutes of advertisements.
- (2) CTS 14 (1) does not apply during Australian C drama programs.
- (3) During Australian children's drama programs, the maximum amount of advertisements and program promotions is 13 minutes per hour.

### **Issue 1: Whether the licensee complied with hourly limits at clause 5.6**

The wording of section 5 of the code means that an assessment of whether a licensee has exceeded the time limits on the amount of non-program matter is based on what was scheduled to be broadcast rather than on what was actually broadcast. As stated at clause 5.2:

This is because an 'as broadcast' clock hour requirement would need complex exemption provisions so that licensees were not obliged to force breaks as a result of unpredictable segment lengths in live programs (and programs broadcast 'as live' on short delay), or technical or operational problems.

Clause 5.6 requires that on any given day, a licensee may in each hour schedule on average no more than 13 minutes of non-program matter between 6.00 pm and midnight, and 15 minutes at all other times, other than in P or C periods.

From the program schedule for 27 February 2005 (see attachment), provided by the licensee, it is evident that the average of non-program matter scheduled between 6.00 pm and midnight was 13 minutes 18 seconds per hour, and at all other times on that day, except during the C period, the average of non-program matter scheduled was about 12 minutes per hour.

As 27 February 2005 was a Sunday, the C timezone for Sundays is 7.00 am to 8.30 pm. The licensee had nominated 7.00 am to 8.00 am as the C period for 27 February 2005 when C programs would be broadcast. On that day, the licensee broadcast a C drama program, *Li'l Horrors: Webster the Brave/Double Trouble* at

7.00 am, and a C program, *Jack Hanna's Animal Adventures: Picture Perfect* at 7.30 am. During the C period, the licensee scheduled 11 minutes of non-program matter, 5 minutes 30 seconds in the half hour from 7.00 am to 7.30 am, and 5 minutes 30 seconds in the half hour from 7.30 am to 8.00 am.

From the foregoing, it is evident that the licensee has:

- not complied with clause 5.6.1 of the code, as the average of non-program matter scheduled between 6.00 pm and midnight was 18 seconds more than the permissible 13 minutes per hour
- complied with clause 5.6.2, as the average of non-program matter scheduled at all other times – other than in P or C periods – was 3 minutes less than the permissible 15 minutes per hour
- complied with CTS 4 and CTS 14, as the amount of non-program matter broadcast during the C period from 7.00 am to 8.00 am was 11 minutes.

It is not necessary to assess compliance with clause 5.7, which is applicable only if the averages at clause 5.6 are satisfied.

### **Finding**

The ABA has determined that on the day when *The Battle of Britain* was broadcast, that is, 27 February 2005, the licensee of BTQ 7, Channel Seven Brisbane Pty Ltd, scheduled more than the permissible 13 minutes per hour of non-program matter. Accordingly, the licensee breached clause 5.6.1 of the code.

### **Action taken by the licensee**

The ABA notes from the licensee's additional submission of 12 May 2005 in relation to the breach finding that it has taken the following steps:

- the non-program matter for the station break has been allocated to the half hour from 6.00 pm to 6.30 pm rather than 5.30 pm to 6.00 pm
- the scheduler responsible for this has been spoken to
- the schedules are continuously checked and double checked and
- the appropriate verification and checking procedures have been reiterated to all schedulers.

The ABA considers these actions address the compliance issues raised by the investigation and will continue to monitor the licensee's performance in this regard.

## Decision

I, Andree Wright, Director, Industry Performance and Review Branch, being the appropriate delegated officer of the Australian Broadcasting Authority, determine for the above reasons that on 27 February 2005 the licensee of BTQ 7, Channel Seven Brisbane Pty Ltd:

- breached clause 5.6.1 of the Commercial Television Industry Code of Practice, 2004 by scheduling more than the permissible 13 minutes per hour of non-program matter.

Signed: -----  
Andree Wright

dated this 26<sup>th</sup> day of May 2005.

## ATTACHMENT

### FINAL PROGRAM SCHEDULE 27 FEBRUARY 2005 (BTQ 7)

<b>HOUR</b>	<b>TOTAL SCHEDULED NON-PROGRAM MATTER (minutes/seconds)</b>
Midnight – 1.00 am	–
1.00 am – 2.00 am	7.00
2.00 am – 3.00 am	11.40
3.00 am – 4.00 am	1.25
4.00 am – 5.00 am	7.40
5.00 am – 6.00 am	9.35
6.00 am – 7.00 am	16.00
7.00 am – 8.00 am	11.00
8.00 am – 9.00 am	16.00
9.00 am – 10.00 am	16.00
10.00 am – 11.00 am	16.00
11.00 am – Noon	14.30
Noon – 1.00 pm	14.50
1.00 pm – 2.00 pm	15.30
2.00 pm – 3.00 pm	15.30
3.00 pm – 4.00 pm	15.45
4.00 pm – 5.00 pm	16.00
5.00 pm – 6.00 pm	14.40
6.00 pm – 7.00 pm	15.50
7.00 pm – 8.00 pm	15.00
8.00 pm – 9.00 pm	15.00
9.00 pm – 10.00 pm	14.00
10.00 pm – 11.00 pm	14.00
11.00 pm – Midnight	6.00
<b>TOTAL</b>	<b>298.55</b>