

Chapter 6

Broadcasting
industry
performance
in meeting
regulatory
obligations

Chapter summary

Australian television networks met the minimum requirements concerning quotas for Australian programs (first release drama and documentary), quotas for children's programming and the required 80 per cent of Australian advertising in the 2008 calendar year. In 2008, all the commercial and national television broadcasters required to transmit the high definition television (HDTV) quota complied.

During 2008–09 the rollout of digital television services continued with completion of the rollout of all metropolitan digital services and rollouts to regional and remote areas progressing. Fifty-three per cent of Australian households have converted their main television set to digital TV at the end of June 2009.¹

In 2008–09, the number of written complaints about broadcasting matters increased from 2007–08 levels, while the number of telephone complaints decreased. The number of investigations completed, and the number of investigations with breach findings, both increased in comparison to 2007–08.

During 2008–09, the ACMA received 1,182 complaints about potentially prohibited online content compared with 1,122 recorded for 2007–08.

Australian content on television

The Broadcasting Services (Australian Content) Standard 2005 (Australian Content Standard) requires commercial television broadcasters to:

- > broadcast a minimum level of Australian programming
- > broadcast minimum amounts of first-release Australian drama programs, children's programs and documentaries
- > ensure that preschool programs are Australian.

The Australian Content Standard aims to develop and reflect a sense of Australian identity, character and cultural diversity by supporting continued community access to television programs produced under Australian creative control.

The Australian Content Standard treats New Zealand programs equally with Australian programs for compliance with the standard as a result of a High Court of Australia decision in 1998.

1 Department of Broadband, Communications and the Digital Economy, *Digital Tracker Report Quarter 2, 2009*.

Overall levels of Australian content

The Australian Content Standard requires that Australian programs produced under the creative control of Australians must comprise at least 55 per cent of all Australian programming between 6.00 am and midnight, including first-release and repeat programs.

For the 2008 calendar year, the major metropolitan commercial network licensees² exceeded the minimum 55 per cent Australian transmission quota:

- > Seven Network licensees transmitted more than 63 per cent Australian content in each of their markets in the five mainland state capital cities
- > Nine Network Ltd licensees transmitted more than 60 per cent Australian content in each of their three metropolitan markets of Brisbane, Melbourne and Sydney
- > Ten Network licensees transmitted more than 55 per cent Australian content in each of their markets in the five mainland state capital cities.

Australian drama

The Australian Content Standard provides for an annual and a three-yearly drama point score system for first-release Australian drama programs, including series, serials, mini-series, telemovies and feature films. The point score system for different program formats creates incentives to produce and broadcast the more expensive drama programs.

The minimum annual first-release Australian drama program requirement is 250 points. All national free-to-air commercial television broadcasting licensees met the quota during 2008:

- > Seven Network licensees scored at least 273 points in each of their markets in the five mainland state capital cities
- > Nine Network licensees scored at least 276 points in their markets in Brisbane, Melbourne and Sydney
- > Ten Network licensees scored at least 268 points in each of their markets in the five mainland state capital cities.

The minimum points requirement for first-release Australian drama programs over the three-year period from 2008 to 2010 is 860. All free-to-air commercial television broadcasting licensees are required to meet the minimum points requirement over this period.

Australian documentaries

Commercial television broadcasters are required to broadcast at least 20 hours of first-release Australian documentary programs per year.

All commercial television stations met the minimum first-release Australian documentary requirements in the 2008 calendar year:

- > the Seven Network recorded an average of 82.7 hours across its markets in the five mainland state capital cities, nearly double the 2007 average of 44.8 hours
- > the Nine Network recorded an average of 43.9 hours across its markets in Brisbane, Melbourne and Sydney
- > the Ten Network recorded an average of 24.5 hours across its markets in the five mainland state capital cities.

Children's programs on commercial television

The Children's Television Standards 2005 (CTS) are designed to provide children under 14 years of age with access to quality television programs made specifically for them, including drama and non-drama programs. The CTS regulate the content, timing and scheduling of children's programs and of non-programming material such as advertisements and promotions shown before, during and after these programs. In conjunction with the Australian Content Standard, the CTS also provide children with television programs that reflect their cultural experience.

Quotas for children's television programs

The CTS provide for an annual children's program quota of 390 hours comprising:

- > 260 hours of children's (C) programs
- > 130 hours of children's preschool (P) programs.

² Nine Network, Ten Network and Seven Network.

The Australian Content Standard sets out additional annual Australian and first-release requirements within these quotas. In the 2008 calendar year, all commercial television broadcasting licensees met the annual quotas for children's programs. Table 6.1 contains details of broadcast data for children's programs by commercial television licensees in 2008.

The Australian Content Standard also requires that at least 96 hours of C programs over three years must be first-release Australian C drama programs. During the three-year period from 2006 to 2008, all commercial television broadcasting licensees met the 96-hour triennial quota requirement for first release Australian C drama. Table 6.2 contains details of the average annual hours of first-release Australian C drama programs broadcast by each network from 2006 to 2008.

Table 6.1: Children's and preschool children's programs, 2008

Quota	Australian children's C drama		Australian children's C programs	Children's C programs	Australian preschool P programs
	First release	Repeat	First release	All	All
Measure	Total annual hours	Total annual hours	Total annual hours—includes C drama	Total annual hours—all C programs	Total annual hours
Minimum annual requirement	25	8	130	260	130
Seven licensees					
SAS Adelaide	35.50	66.67	131.00	260.67	131.00
BTQ Brisbane	35.50	66.67	131.00	260.67	131.00
HSV Melbourne	35.50	66.67	131.00	260.67	131.00
TWW Perth	35.50	66.67	131.00	260.67	131.00
ATN Sydney	35.50	66.67	131.00	260.67	131.00
Nine licensees					
QTQ Brisbane	32.00	86.50	131.00	269.00	131.00
GTV Melbourne	32.00	86.50	131.00	268.50	131.50
TCN Sydney	32.00	86.50	131.00	268.50	131.50
Ten licensees					
ADS Adelaide	35.00	46.50	130.00	261.00	131.00
TVQ Brisbane	35.00	46.50	130.00	261.00	131.00
ATV Melbourne	35.00	46.50	130.00	261.00	131.00
NEW Perth	35.00	46.50	130.00	261.00	131.00
TEN Sydney	35.00	46.50	130.00	261.00	131.00

Source: The ACMA.

Table 6.2: First-release Australian children's drama triennial quota, 2006 to 2008

First-release Australian children's drama triennial quota 2006 to 2008				
Year	2006	2007	2008	2006–08
Minimum requirement	25 annual hours	25 annual hours	25 annual hours	96-hour triennial quota
Seven Network average	31	31.50	35.50	98
Nine Network average	34	30	32	96
Ten Network average	25	36	35	96

Note: Any discrepancies in the totals are due to rounding. All years are calendar years.

Source: The ACMA

Children's Television Standards

The ACMA undertook a review of the Children's Television Standards 2005 (CTS). The review assessed the effectiveness of the CTS within the current television environment. The review considered whether the CTS met the objectives of providing quality children's programs on commercial free-to-air television and the protection of children from material on television that may be harmful to them.

The ACMA began its review of the CTS in June 2007 with the release of an issues paper. There was a high level of interest in the review with 76 submissions received in response to the issues paper and 53 submissions received on the draft CTS 2008, which was released on 28 August 2008.

The issue of food and beverage advertising to children on television has been a core component of the review. Sixty-seven of the 76 submissions addressed this issue in response to the issues paper and 44 of the 53 submissions received in response to the draft CTS 2008 also addressed this issue. In both cases, a majority of submissions argued for a tightening of the regulation of food advertising to children on television.

Other issues of interest raised during the review included:

- > the use of premium offers in advertising to children
- > the use of popular personalities and characters to promote and endorse commercial products and services during C (Children's) periods and P (Preschool) periods
- > the scheduling of children's programs, including displacements and variations of C and P periods.

The ACMA reached a preliminary decision to not impose general restrictions on food and beverage advertising to children on commercial free-to-air television. The ACMA also called on industry to have regard to the strong concerns expressed by interested parties in this area and consider its role in protecting the interests of children through responsible advertising.

On 1 January 2009, the Australian Food and Grocery Council (AFGC) introduced its own regulatory initiative, The Responsible Children's Marketing Initiative, which has been developed in collaboration with the Australian Association of National Advertisers (AANA). On 25 June 2009, the AANA announced the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children, which is scheduled to commence on 1 August 2009 and has been developed by the Australian Quick Service Restaurant Industry in collaboration with the AANA.

The Australian Communications and Media Authority released the new Children's Television Standards for commercial television on 1 September 2009.

Australian advertising

The Television Program Standard 23 – Australian Content in Advertising requires at least 80 per cent of the total advertising time broadcast by commercial television licensees each year between 6.00 am and midnight to be used for Australian-produced advertisements. Exemptions apply to advertisements for imported cinema films, videos, recordings, live appearances by overseas entertainers, and paid community service announcements for organisations that have a charitable, public health or educational purpose.

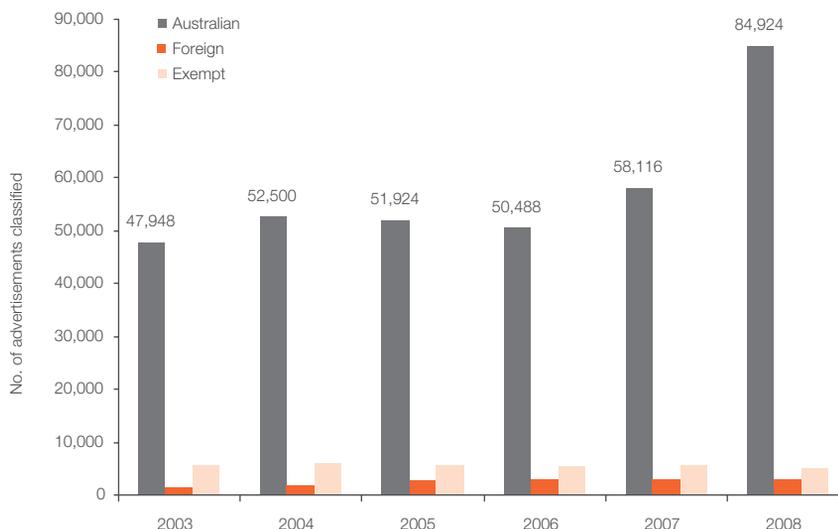
Advertisements are classified as Australian or foreign by Commercials Advice Pty Ltd (CAD), which is wholly owned by Free TV Australia. CAD classification data, together with reports from the commercial television licensees is used to monitor trends in Australian and foreign content in advertising. The ACMA publishes annual reports on compliance with the standard on its website. The retail, entertainment (including restaurants, live shows and music) and motor vehicle industries comprised the top three product categories for Australian advertisements classified in 2008. This is consistent with the top three categories from the previous year. The top three product categories for foreign advertisements classified in 2008 were for:

- > communications and business (including mobile phone content providers and computer companies)
- > motor vehicles
- > leisure and outdoor.

These product categories are unchanged from the previous year.

A total of 84,924 Australian, 3,052 foreign and 5,036 exempt advertisements were classified in the 2008 calendar year, compared with 58,116 Australian, 3,016 foreign and 5,661 exempt advertisements the previous year (see Figure 6.1).

Figure 6.1: Australian and foreign advertisements classified by CAD, 2003–08



Source: The ACMA.

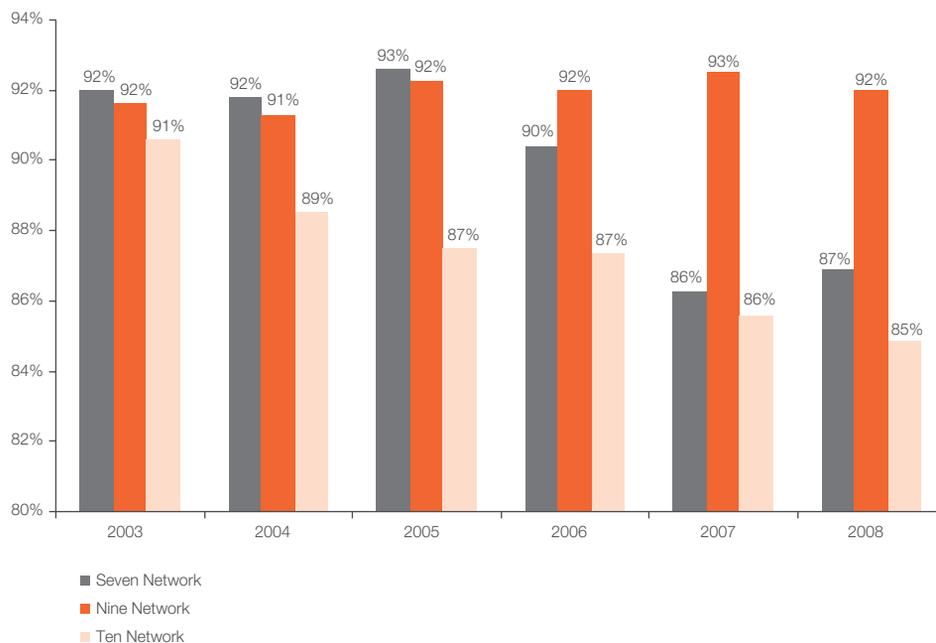
Figure 6.2 shows that all free-to-air television stations broadcast more than the required 80 per cent of Australian advertising in the 2008 calendar year, with average national percentages per network of:

- > 86.86 per cent for the Seven Network for its markets in the five mainland state capital cities
- > 92 per cent for the Nine Network for its markets in Brisbane, Melbourne and Sydney

- > 84.87 per cent for Ten Network for its markets in the five mainland state capital cities.

Between 2003 and 2008, foreign advertising has averaged well under the allowable 20 per cent for each year.

Figure 6.2: Percentage of Australian advertising broadcast, 2003–08



Source: The ACMA.

Access to broadcasting services for people with disabilities

Equitable access to basic communication services for all Australians includes a requirement for the provision of tailored communications services for people with disabilities. Government regulation requires free-to-air television broadcasters to transmit captions to help people with hearing impairments access television programming.

Captioning

Free-to-air television

The *Broadcasting Services Act 1992* (BSA) requires commercial and national television broadcasters to provide captions for:

- > all programming broadcast between 6.00 pm and 10.30 pm
- > all news and current affairs.

Some television programs are exempt from this requirement. They include those that are not in English, those that consist only of non-vocal, incidental or background music, and those broadcast on a standard definition television (SDTV) or high definition television (HDTV) multi-channel during the simulcast period (unless previously broadcast with captions on the broadcaster's core channel). From 1 January 2007, commercial television broadcasters may provide a HDTV multi-channel. From 1 January 2009, they can also provide one SDTV multi-channel.

Media Access Review

The Department of Broadband, Communications and the Digital Economy (DBCDE) is undertaking an investigation into access to electronic media for the hearing and vision impaired.

The investigation is considering access across the different platforms that provide electronic media, including television and films in cinema and on DVDs and the internet. A discussion paper was released in April 2008 for public consultation. The submission process closed on 13 June 2008. The DBCDE's investigation is ongoing and submissions made in relation to the *Media Access Discussion Paper* can be viewed via the department's website.

Temporary exemption from the Disability Discrimination Act

Free-to-air television: ABC, SBS and networks Nine, Seven and Ten

In May 2003, the Australian Human Rights Commission³ granted ABC Television, SBS Television, Ten Network, the Nine Network and the Seven Network a five-year exemption from complaints under the *Disability Discrimination Act 1992* (DDA) about levels of captioning. The exemption, which expired on 28 May 2008, was granted to the broadcasters on a number of conditions, including a requirement to increase the level of captioned programming between 6.00 am and midnight to 70 per cent by the end of 2007.

On 27 August 2008, the Commission granted a further temporary exemption to the abovementioned broadcasters for a period of 12 months on a number of conditions, including a requirement to achieve 75 per cent captioning levels measured over the last month of the exemption period. The broadcasters elected to apply for an exemption on varied terms rather than accepting the terms of the exemption.

On 13 October 2008, the Commission extended the third temporary exemption for the broadcasters to 31 December 2011, on the condition that each broadcaster concerned will increase the level of captioning to:

- > 75 per cent of programming over the broadcast day (6.00 am to midnight) for the period ending 31 December 2009
- > 80 per cent of programming over the broadcast day for the period ending 31 December 2010
- > 85 per cent of programming over the broadcast day for the period ending 31 December 2011.

The broadcasters are also required to report to the Commission, by the following dates, on consultation with deafness organisations:

- > by 30 June 2009—on proposals to address issues regarding accuracy of captioning
- > by 30 June 2010—on total captioning hours being achieved
- > by 31 December 2010—on captioning levels being achieved on secondary channels.

The broadcasters are also required to commence consultation with Deafness organisations in order to review possibilities for further increases in captioning at the expiry of the exemption period. The results of the review are to be reported to the Commission by 30 June 2011.

Regional television

On 12 May 2009, the Commission granted a like temporary exemption to broadcasters that are members of the Prime Media Group, WIN Corporation and the Macquarie Southern Cross Media Group. The exemption, for the period to 31 December 2011, is on the same terms as the exemption granted by the Commission on 13 October 2008 to the other free-to-air television networks.

Subscription television

In June 2004, the Commission granted subscription television (pay TV) broadcasters a temporary exemption from complaints under the DDA about captioning levels for pay TV programming. The temporary exemption, which was to expire on 4 June 2009, was granted on the condition that pay TV broadcasters implement their captioning rollout proposal which included performance targets.

Reports by pay TV broadcasters to the Commission show that they have met these targets.

The temporary exemption also required the pay TV broadcasters to commence a review of the implementation of the captioning rollout proposal within three years of the granting of the exemption and to present a further captioning plan to the Commission by June 2008.

3 Formerly the Human Rights and Equal Opportunity Commission.

On 10 June 2008, the Commission granted to members of the Australian Subscription Television and Radio Association (ASTRA) a variation, until 4 June 2009, on the original exemption from complaints under the DDA regarding the provision of captioning. The variation was granted on a number of conditions, including that:

- > the broadcasters concerned continue to implement the captioning rollout as scheduled in the ASTRA proposal provided to the Commission in 2004
- > a proposal for a further plan for captioning by the broadcasters concerned, to commence by the time of expiry of this exemption, be presented to the Commission by 30 June 2008.

ASTRA is continuing to develop proposals in discussion with the disability sector and the Commission on a further plan for the expansion of captioning. The Commission received a new exemption application from ASTRA in June 2009. In accordance with its policy on exemption applications, the Commission gave interested parties a five-week period, until 17 July 2009, to comment on the exemption application from ASTRA.

Notification of changes in control

Commercial television and radio licensees and publishers of associated newspapers are required to notify the ACMA of any changes in control within five days of becoming aware of those changes. People who come into a position to exercise control of such licences and associated newspapers are also required to notify the ACMA within five days of becoming aware of the change in control.

The ACMA updates the Register of Controlled Media Groups when it is notified of relevant changes in control. An unacceptable media diversity situation will arise if there are fewer than five points in any metropolitan commercial radio licence area or fewer than four points in any regional commercial radio licence area. In general, each registrable media group constitutes one point, as does each separate media operation that is not part of a registrable media group.

An unacceptable three-way control situation exists if a person is in a position to exercise control of a commercial television licence, a commercial radio licence and an associated newspaper in the one commercial radio licence area.

Compliance with legislative requirements

In the reporting period, 36 formal warnings and 42 infringement notices were given. Many of these related to the late notifications received in the previous reporting period.

Local information on regional television

Media ownership amendments to the BSA included provisions affecting the obligation to provide local information on regional television, as outlined below.

As part of the media ownership amendments, the *Broadcasting Services Amendment (Media Ownership) Act 2006* required the ACMA to impose a licence condition from 1 January 2008. This specified a minimum level of material of local significance for Tasmanian commercial television broadcasting licensees, as well as for those mainland licensees in regional Queensland, New South Wales and Victoria previously subject to such requirements.

Implementation of this legislative requirement involved repealing the Broadcasting Services (Additional Television Licence Condition) Notice 7 April 2003 and implementation of two new licence conditions.

The Broadcasting Services (Additional Television Licence Condition) Notice 8 November 2007 provides a seamless transition for affected licensees in regional Queensland, New South Wales and Victoria, whose obligations to broadcast material of local significance are essentially unchanged. It extended these obligations to the two main Tasmanian commercial television broadcasting licensees, Southern Cross and WIN. These obligations require licensees in these licence areas to broadcast a weekly and six-weekly quota of material of local significance within the local area each of them serve. This content must be broadcast during *eligible periods* (6.30 am to midnight on weekdays, and 8.00 am to midnight on weekends) to meet minimum quotas. These minimum quotas include at least 90 points per week within each local area and a minimum of 720 points (in each defined local area) in each six-week timing period.

The Broadcasting Services (Additional Television Licence Condition—Digital Mode Transmission) Notice 8 November 2007 provides an alternative treatment for digital-only service Tasmanian Digital Television (TDT), for a limited period prior to TDT becoming subject to the same requirements as other affected licensees.

For all three commercial television broadcasting licensees in Tasmania, the 'local area' is defined by these new licence conditions to be the Tasmania licence area.

TDT is required to accumulate a lower minimum level of points for material of local significance—120 points in a calendar year—than are other affected licensees. This alternative treatment will apply for up to five years as an interim measure pending the switch-off of analog television services in Tasmania.

For the period 20 July 2008 to 31 January 2009, all licensees in Queensland, New South Wales, Victoria and Tasmania (with the exception of TDT) reported that they met the weekly and six-weekly minimum quota requirements of 90 points and 720 points respectively.

For the period 1 January to 31 December 2008, TDT reported that it met the 120-point quota requirement.

Local information on regional radio

The Broadcasting Services Amendment (Media Ownership) Act also introduced local presence and local content requirements for regional commercial radio broadcasters.

The amendments required the ACMA to impose a licence condition (effective from April 2007) that requires regional radio licensees to maintain existing levels of local presence following a 'trigger event'. A trigger event is a transfer of a regional commercial radio broadcasting licence, the formation of a new registrable media group that includes such a licence, or a change of controller of a registrable group that includes such a licence. Affected licensees must also meet minimum standards for broadcasting local news and information.

The ACMA made the Broadcasting Services (Additional Regional Commercial Radio Licence Condition—Local Presence) Notice 22 March 2007, effective from April 2007, requiring affected licensees to maintain existing levels of local presence following a trigger event.

A separate licence condition, Broadcasting Services (Additional Regional Commercial Radio Licence Condition—Material of Local Significance) Notice 19 December 2007, also requires all regional commercial radio licensees to broadcast material of local significance from 1 January 2008. The ACMA conducted an investigation into the appropriate applicable number of hours of material of local significance and reported to the former Minister on 29 June 2007. The *Local Content Levels Investigation Report* was tabled in Parliament on 13 September 2007.

The then Minister declared in September 2007 that the number of applicable hours of material of local significance for licensees is:

- > five minutes for racing and remote area service licences
- > 30 minutes for small and affected section 40 licences⁴
- > three hours for all other licences.

In the period 1 July 2008 to 30 June 2009, 14 regional commercial radio broadcasting licences were affected by trigger events. There were 89 licences affected by trigger events to 30 June 2009. Forty local content plans were approved and registered in the period 1 July 2008 to 30 June 2009. Where a further trigger event occurred before a draft local content plan had been approved, the draft was refused.

4 Section 40 licences, which include the capital cities of Sydney, Melbourne, Brisbane, Perth and Adelaide, or the Sydney western suburbs licence area, are exempted.

Anti-terrorism standards

In December 2008 the ACMA determined the Broadcasting Services (Anti-terrorism Requirements for Open Narrowcasting Television Services) Standard 2008 and the Broadcasting Services (Anti-terrorism Requirements for Subscription Narrowcasting Television Services) Standard 2008 (the Anti-terrorism Standards). The 2008 standard amended the earlier 2006 standards, by revoking and replacing them with new standards. The standards have addressed a significant community concern by aiming to prevent the broadcast of programs that directly attempt to recruit people, or solicit funds, for terrorist organisations. The 2008 amendments provide open and subscription satellite television narrowcasters with greater certainty in terms of being able to recognise proscribed terrorist entities when vetting program material to ensure compliance with the standards.

In 2008–09, the ACMA conducted an investigation into content broadcast into Australia by the open narrowcasting television satellite service Al-Manar TV. The ACMA found no content broadcast into Australia from 28 August to 5 September 2008 by Al-Manar TV that breached the Broadcasting Services (Anti-terrorism Requirements for Open Narrowcasting Television Services) Standard 2006 (the Anti-terrorism Standard 2006).

While the ACMA found references in some program content to a designated terrorist organisation (Hezbollah), there was no content that attempted to *directly recruit* people to join or participate in the activities of Hezbollah, or *solicit funds* for (or assist in the collection or provision of funds for) Hezbollah. As a consequence, no breach of the Anti-terrorism Standard 2006 was found.

Commercial radio standards

Three program standards determined under subsection 125(1) of the Broadcasting Services Act apply to commercial radio licensees:

- > the Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000 (the Disclosure Standard)
- > the Broadcasting Services (Commercial Radio Advertising) Standard 2000 (the Advertising Standard)
- > the Broadcasting Services (Commercial Radio Compliance Program) Standard 2000 (the Compliance Program Standard).

Investigation into compliance

Two investigation reports were published within the reporting period, one of which has resulted in the first civil penalty to be imposed under the BSA. In October 2008, the ACMA published *Investigation Report 2100 Compliance Assessment Report – Radio 2UE Sydney Pty Ltd* outlining breach findings under the Disclosure Standard in respect of incidents in October and November 2007.

The ACMA identified 13 incidents involving breaches of the Disclosure Standard where a complying disclosure announcement was not made. The ACMA also found that 2UE had breached its enforceable undertaking accepted by the ACMA in September 2007, under which the *John Laws Morning Show* would be monitored and 2UE would take action if disclosure statements were not made when sponsors were mentioned. These incidents also involved 13 breaches of the statutory licence condition for commercial radio licensees, set out at clause 8(1)(b) of Schedule 2 of the BSA. The ACMA applied to the Federal Court in November 2008 for a civil penalty order in respect of the breaches of the licence condition. This matter was concluded in July 2009 when the Federal Court imposed penalties totalling \$360,000 on 2UE.

The other investigation report published during this period was *Investigation Report 2121* into compliance by 4EL Cairns with the Disclosure Standard and the Advertising Standard. The ACMA found no breach of either standard.

Review of commercial radio standards

On 18 December 2008, the ACMA announced its decision to undertake a comprehensive review of the three commercial radio standards. The review is expected to conclude in mid-2010.

Digital broadcasting

Digitalisation of Australian broadcasting services includes the transition from analog television services to digital terrestrial television broadcasting (DTTB) services and the introduction of digital radio services.

High definition broadcasting

Schedule 4 of the BSA provides for the conversion over time of the transmission of television broadcasting services from analog to digital mode. At the end of the 'simulcast period', analog transmissions are to cease.

Under Part 4 of Schedule 4 of the BSA, broadcasters must meet high definition television (HDTV) quota standards. Each commercial or national television broadcasting service in a mainland metropolitan area is required to transmit a quota of 1,040 hours of HDTV programming per calendar year. The HDTV obligations also apply to a number of broadcasters in non-remote areas. The ABC and SBS are permitted to 'up-convert' their analog or standard definition television (SDTV) programs to HDTV.

The *Broadcasting Legislation Amendment (Digital Television) Act 2006* amended the BSA to remove a requirement that the HDTV programming of a commercial or national television broadcaster must be a simulcast of the SDTV service, effective from 1 January 2007. The amendments will also remove the existing HDTV quota from the end of the 'simulcast period'. In effect, the changes allow television broadcasters in non-remote areas to provide one HDTV multi-channel. The programming provided on the HDTV multi-channel may also differ from that provided on the core service.

Broadcasters required to meet the HDTV quota must report compliance information to the ACMA twice a year. Interim reports must be provided for the first six months of the calendar year, followed by consolidated reports for the full 12 months. Records must be kept for 18 months after the transmission was first reported to the ACMA.

In the 2008 calendar year, all the commercial and national television broadcasters required to transmit the HDTV quota complied. The compliance results of national and commercial television broadcasters in the mainland metropolitan areas are in Table 6.3.

Digital television

In October 2008, the Minister released the timetable for the switchover to digital television.⁵ Under this timetable, the first area where analog broadcasting will cease will be in the Mildura-Sunraysia licence area in regional Victorian in a window between 1 January and 30 June 2010. The remainder of Australia will follow a rolling timetable with the last areas to be switched off by 31 December 2013.

Under the *National Television Conversion Scheme 1999* and the *Commercial Television Conversion Scheme 1999*, national and commercial broadcasters are required to simulcast their analog services in digital. All metropolitan digital services have been rolled out, and the rollout of digital services in regional and remote areas is progressing, as set out in Table 6.4.

Table 6.3: High definition television quota, 2008

Broadcaster	HDTV hours (range)
ABC	8,325
SBS	7,887:51
Nine Network	2859:40–2917:28
Seven Network	2696:44–2765:54
Ten Network	2834:34–2887:59

Source: The ACMA.

5 www.minister.dbcde.gov.au/media/media_releases/2008/077

Table 6.4: Percentage of required digital television services rolled out (as at 1 July 2009)⁶

	National (%)	Commercial (%)
Metropolitan	100	100
Regional	92	62
Remote	42	1

Source: *The ACMA*.

The completion of the digital television switchover will mean the cessation of all analog television broadcasting. The transition to digital means all consumers will need to ensure they have digital receiving equipment to receive free-to-air broadcast television.

As broadcasters take advantage of the benefits offered by the transition to digital, new broadcasting services are appearing and more are proposed. The ABC and SBS have already implemented additional digital services, with SBS Two commencing in June 2009. Ten Network also recently commenced broadcasting an additional channel, known as ONE, in both HDTV and SDTV mode in Melbourne, Sydney, Adelaide, Brisbane and Perth. Ten Network affiliates are progressing the rollout of ONE in regional areas. Nine Network announced the launch of its free-to-air digital TV channel called GO! on 16 July 2009. Further commercial services are expected in the near future.

As each of the broadcasting services makes the transition to digital, and as new services are introduced, the move to digital becomes more attractive for consumers.

To encourage the provision of useful program information to consumers, the ACMA has developed a set of principles and key performance characteristics in relation to electronic program guides (EPGs) provided by free-to-air broadcasters as part of their digital television services. The ACMA developed the EPG Principles in response to its own concerns and also concerns raised by both industry and the community about the quality of the offerings for EPGs.

The EPG Principles set out publicly the characteristics of an industry provided EPG that will provide an acceptable quality of service from the consumer perspective. In addition to the EPG data being freely available, features such as accurate timing information, a minimum of seven days of schedule information and inclusion of parental guidance ratings to inform families, are among the key performance characteristics of the EPG Principles. Industry has responded strongly to the EPG Principles, with significant changes implemented since discussions between the ACMA and industry commenced in the second half of 2008. The ACMA's EPG Principles are available at www.acma.gov.au/WEB/STANDARD/pc=PC_311739.

Digital television consumer research

Research by the Department of Broadband, Communications and the Digital Economy indicates that 53 per cent of Australian households had converted their main television set to digital TV at 30 June 2009.⁷

Latest figures for digital TV adoption show that at the end of the September quarter of 2009, 56 per cent of households in Australia had converted their main set to digital TV. The conversion to digital TV varies considerably by geographic area, ranging from 28 per cent of households for Remote Central and Eastern Australia to 79 per cent of households in Mildura/Sunraysia.⁸

⁶ Does not include retransmission services operated by local communities and other non-broadcasters.

⁷ The Department of Broadband, Communications and the Digital Economy, *Digital Tracker Report*, Quarter 2, 2009.

⁸ The Department of Broadband, Communications and the Digital Economy, *Digital Tracker Report*, Quarter 3, 2009.

The Mildura and Sunraysia region will be the first to switch to digital-only television on 30 June 2010.⁹ The ACMA is presently conducting research into technical issues encountered by Mildura-Sunraysia householders when switching to digital television to help inform advice provided by the ACMA and other agencies to consumers who are encountering problems with switching to digital television. The research will provide more in depth information about issues encountered by households when making the switch, and how these issues were resolved.

Digital radio

Introduction of DAB+ digital radio

On 1 July 2009, digital radio services using the DAB+ standard commenced operation in Adelaide, Brisbane, Melbourne, Perth and Sydney. This is the result of the ACMA's planning of the spectrum, and licensing of the multiplex transmitters.

The ACMA declared 1 July 2009 as the digital radio start up day, the latest possible date allowed for by the legislation, to allow the commercial multiplex operators the maximum time to get transmission facilities constructed. The declaration has no effect on national and community radio broadcasts which may commence at any time in the above mentioned areas.

In December 2008, the ACMA completed the variation of the digital radio channel plans to allow the multiplex transmitters to operate at higher power levels than initially allowed in plans completed a year earlier. This work was undertaken in response to industry concerns that the coverage that could be achieved under the initial plans may not be sufficient. The work on the variation was complex and sought to maximise the opportunity for the multiplex licensees to increase power while limiting the risk of interference to other services.

The ACMA has undertaken work on spectrum availability for regional trials which commercial radio broadcasters are considering undertaking in 2009–10.

Additionally, the ACMA amended the Broadcasting Services (Technical Planning) Guidelines 2007 to incorporate guidelines relating for digital radio. Licensees must comply with these guidelines in their planning and implementation of each transmitter while meeting the planning envelope conditions set by the digital radio channel plan.

Broadcasting complaints

Broadcasting industry codes

The BSA requires industry groups responsible for representing the various broadcasting industries to develop, in consultation with the ACMA, codes of practice applicable to that section of the industry.

The various sectors of the broadcasting industry, including the national broadcasters (the ABC and SBS), have codes of practice that cover most aspects of program content including:

- > classification (the portrayal of violence, sex and nudity, language, drugs and suicide)
- > discriminatory material
- > accuracy and fairness in news and current affairs
- > handling of complaints.

The ACMA may register broadcasting industry codes under section 123 of the BSA. While the ACMA investigates complaints about non-compliance with the codes of the national broadcasters, it does not register their codes.

9 http://www.minister.dbcde.gov.au/media/media_releases/2009/104

Broadcasting complaints and investigations

The ACMA provides an escalated complaints-handling mechanism for matters relating to broadcasting codes.

The ACMA is required to investigate complaints about broadcasters (made under s.148 of the BSA) that relate to possible non-compliance with a registered code, if the complainant:

- > has first directed their complaints directly to the relevant broadcaster in accordance with the relevant code
- > considers the broadcaster's response to be inadequate or has not received a response within 60 days.

Complaints about alleged breaches of the BSA, licence conditions or standards may be made directly to the ACMA. The ACMA must investigate complaints validly made under s.147 or s.148 of the BSA, unless one of the exceptions provided for in subsection 149(2) applies.

Broadcasting complaints and investigations, 2003–04 to 2008–09

The ACMA tracks the number and details of complaints it receives by phone and in writing, including those made using a complaint form available on the ACMA website or via email. The total number of written complaints received in 2008–09 showed a considerable increase (85.5 per cent) over the number of written complaints received in 2007–08. However, the number of telephone complaints received in 2008–09 in comparison to 2007–08 declined by approximately 28 per cent. The complaints received do not necessarily progress into investigations, either because the complainant chooses not to pursue the matter further or because the complaints are outside the ACMA's jurisdiction.

The ACMA also reports annually on the number and details of investigations completed. The number of investigations completed in 2008–09 was 42.6 per cent higher than in 2007–08. The number with breach findings was 70.2 per cent higher.

Table 6.5: ACMA broadcasting complaints and investigations, 2003–04 to 2008–09

	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09
No. of telephone enquiries and complaints	1,999	2,219	578	444	429	308
No. of written enquiries and complaints	699	684	737	886	789	1,464
No. of investigations completed	106	153	142	136	136	194
No. of investigations resulting in breach finding*	27	59	34	45	47	80
No. of investigations resulting in non-breach finding*	79	94	108	91	89	109

* Investigations against a code of practice, licence condition, standard and/or provision of the Broadcasting Services Act 1992.

Note: Sum of categories does not equal total number of investigations completed due to exclusion of completed investigations with no finding, for example where the complaint is withdrawn.

Source: The ACMA.

Investigation of complaints about potentially prohibited content

Under Schedules 5 and 7 of the BSA, the ACMA investigates all valid complaints about online content found on websites, in newsgroup postings and in files made available on file-sharing networks, where the complainant considers that the content may be prohibited. Online content is assessed in accordance with the National Classification Scheme. Prohibited content is content that is classified RC (Refused Classification) or X 18+. Content classified R18+, and, in some circumstances, content classified MA 15+ may also be prohibited content unless it is subject to a restricted access system preventing access by minors. Content which has not been classified but which would be prohibited content if it were classified is known as potential prohibited content.

During 2008–09, the ACMA received 1,182 complaints about potentially prohibited online content, of which 1,003 resulted in completed investigations. Of these, 618 resulted in the location of 1,363 individual items of prohibited/potentially prohibited online content.

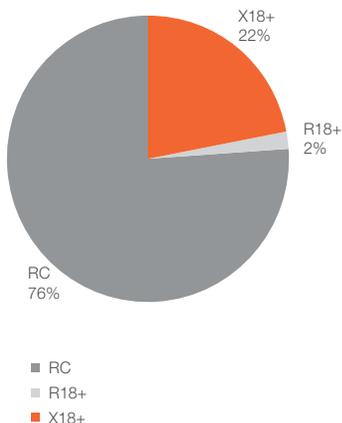
Since 2000, when Schedule 5 of the BSA took effect, the ACMA has taken action in relation to 6,600 individual items of prohibited and potential prohibited content. Figure 6.3 shows the breakdown of items actioned by their actual or likely classification.

If prohibited or potential prohibited content is hosted in or provided from Australia, the ACMA must direct the content service provider to remove or prevent access to the content. If such content is hosted overseas, the ACMA must notify the suppliers of industry-accredited filters, in accordance with the procedure set out in the registered industry code of practice, to block access to the content for users of those filters.

During 2008–09, notices to remove or prevent access to content were issued for seven items of Australian-hosted prohibited content and Australian-hosted links to such content. A total of 1,356 overseas-hosted prohibited or potential prohibited items were referred to suppliers of industry-accredited filters.

Approximately 94 per cent of potentially prohibited content investigated by ACMA is hosted outside Australia. The predominance of prohibited content and potential prohibited content originating from outside Australia has been a consistent trend over the life of the scheme. Since January 2000, the ACMA has taken action on 6,267 items of overseas-hosted online content, compared with 372 items of Australian-hosted content. Table 6.6 provides data on online content investigations between 2003–04 and 2008–09.

Figure 6.3: Prohibited/potentially prohibited content items actioned by actual/likely classification, January 2000 to June 2009



Source: The ACMA.

Figure 6.4: Online content items actioned, June 2003 to June 2009 (financial year)



Source: The ACMA.

Table 6.6: Internet content investigations, 2003–04 to 2008–09

	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	Total
Complaints received ¹⁰	1,107	1,145	826	602	1,122	1,182	5,984
Investigations completed	810	814	638	477	775	1,003	4,517
Investigations terminated ¹¹	175	202	117	55	119	142	810
Complaints not investigated ¹²	95	149	83	78	132	99	636
Investigations leading to finding of prohibited content	548	575	422	262	475	618	2,900
Items actioned (hosted in, or provided from, Australia)	7	48	18	5	15	7	100
Items actioned (overseas-hosted)	701	857	706	494	786	1,356	4,900
Items referred to state or territory police force	2	25	10	1	11	2	51
Items referred to overseas police force or INHOPE hotline	412	582	446	368	415	928	3,151

Source: The ACMA.

10 The ACMA investigates all valid complaints about online content. Some complaints result in investigation of multiple items of content. For example, where a complaint is made about multiple postings within a single newsgroup, the ACMA will investigate each of the postings. Each posting is regarded as one 'item' of content.

11 An investigation is terminated when there is insufficient information to conclude it, such as when the ACMA is unable to locate the content based on information provided by the complainant.

12 A complaint is not investigated by the ACMA if it:

- (a) does not meet the statutory requirements, for example, no internet address is provided or the complainant is not an Australian resident
- (b) is deemed to be frivolous, vexatious, not made in good faith or designed to undermine the operation of the scheme
- (c) concerns matters—for example, electronic virus—not within the scope of Schedules 5 or 7.

Further investigation of sufficiently serious content

If potentially prohibited online content is 'sufficiently serious'—for example, illegal material such as child pornography—the ACMA refers the material to the appropriate law enforcement agency or affiliated overseas internet hotline.

For illegal content hosted in or provided from outside Australia, the ACMA refers details of the content concerned to the Australian Federal Police (AFP) and/or member of the International Association of Internet Hotlines (INHOPE) for further investigation.

Almost 61 per cent of items actioned since January 2000 have been found to relate to child sexual abuse or paedophilia. The ACMA referred more than 900 items of internet content to law enforcement agencies and/or INHOPE member hotlines in 2008–09. Of these, two items were also referred to police services in Australia. The predominance of referrals of such content to overseas authorities has been a consistent trend over the life of the scheme. Since January 2000, the ACMA has referred some 4,030 individual items of content for law enforcement investigation. Approximately 96 per cent of these items have been referred to overseas authorities. At 30 June 2009, the ACMA had referred some 2,500 items of 'sufficiently serious' overseas-hosted online child pornography to INHOPE member hotlines.

Further information

Documents

- > The ACMA, *Broadcasting Financial Results 2006–07*.
- > The Department of Broadband, Communications and the Digital Economy, *Digital Tracker Report*, Quarter 2, 2009.
- > The ACMA, *Media Diversity Report*.
- > The ACMA, Register of Controlled Media Groups.
- > The ACMA, *Current Controllers Report*.
- > The ACMA, *Associated Newspaper Register*.
- > The ACMA, *Local Content Levels Investigation Report*.

Organisation

- > International Association of Internet Hotlines www.inhope.org