

Complaint and Investigation Assessment (CIA)

COMPLAINT AND/OR BROADCAST DETAILS

Complainant Name	ACMA Complaint ID	Date Complaint received by ACMA	Summary of issue/s raised
Stephen Barclay (QBCC)	BM-5674	11 October 2019	Accuracy, impartiality, privacy

Broadcaster or licensee	Channel Seven Brisbane Pty Limited
Station ID or name	Seven
Type of service	Commercial - Television
Program or service title	<i>Seven News (Brisbane)</i>
Date of broadcast	30 July and 31 July 2019
Relevant provision/s of BSA, standard or code to be pursued	Commercial Television Industry Code of Practice 2015 (revised 2018) 3.3.1 [accuracy] 3.4.1 [impartiality] 3.5.1 [privacy]
Relevant provision/s of BSA, standard or code not to be pursued	Nil
Complaint or matter description	Allegation of a lack of accuracy and impartiality; and invasion of privacy in two reports about the Queensland Building and Construction Commission
Relevant breaches by the licensee/ network/broadcaster in last 12 months	BI-434, <i>Seven News and Sunday Night</i> , breach [privacy], 1 March 2019
Relevant current or recent investigations on similar matter/s	BI-523 – <i>Seven News</i> – current [privacy] BI-456 – <i>Seven News</i> – No Breach (Accuracy, Impartiality) – 13 June 2019 BI-180 – <i>Prime7 Local News</i> – Breach [Privacy] – No breach [Accuracy] – 16 September 2016
Comments	

- > *Seven News* is a news program broadcast daily at 6.00 pm on Seven in Brisbane. The complaint is about a news report (over two nights) on the Queensland Building and Construction Commission (QBCC) which included an interview with the QBCC Commissioner.

The complaint

- > *Privacy* – The complaint, by the QBCC, alleges that the names of two officers of the QBCC were shown on screen during a *Seven News Brisbane* report on 30 July 2019, which was not relevant to the story and for which there was no public interest justification.
- > *Impartiality* – The complaint further alleges that the report on 31 July 2019, which included an interview with the QBCC Commissioner, lacked fairness and impartiality, because the report included an allegation of negligence by the QBCC which was not put to the Commissioner. Additionally the complainant felt that the report implied that the QBCC had ignored the allegations and had not reported how the QBCC had responded to this matter.
- > *Accuracy* – It is further alleged that the 31 July story contained an inaccuracy about the percentage of builders licences cancelled by the QBCC due to financial issues and the number of licenses cancelled due to failure to rectify inadequate building work. These figures were also allegedly not put to the Commissioner during the interview. Further, the complaint alleges that an on-screen graphic quoting a figure for licence cancellations due to unpaid fees was misleading.

Licensee response

- > *Privacy* – The licensee acknowledged that two QBCC officers names were shown on screen during the 30 July broadcast, but argued the names were shown 'for approximately one and a half seconds' and therefore personal information was disclosed 'in a fleeting way'. The licensee stated that 'information regarding the conduct and actions [of] the public servants involved in the administration of the QBCC can reasonably be considered a public interest issue'.

- > *Impartiality* – The licensee claimed the Commissioner's viewpoints in the 31 July interview were not misrepresented, and pointed out that the interviewer was told by a QBCC media officer prior to the interview that the Commissioner could only comment 'generally' and not on specific cases, due to privacy issues. Therefore, the specific allegation noted in the complaint was not put to him. The licensee response contended the broadcast of 31 July presented a fair examination of the issue of regulations applicable to housing in Queensland, that included contrasting views.
- > *Accuracy* – The licensee quoted transcripts from Senate Estimates hearings (where the QBCC had been present to answer questions) to argue that the figures about cancelled licences quoted on-screen and by the reporter were accurate.
- > The broadcast does not appear to be in the public domain.

Relevant provisions

- > Code 3.3.1 requires licensees to present factual material accurately and ensure viewpoints included in the Program are not misrepresented.
- > Code 3.4.1 requires licensees to present news fairly and impartially and clearly distinguish the reporting of factual material from commentary and analysis.
- > Code 3.5.1 requires licensees to not broadcast material relating to a person's personal or private affairs or which invades a person's privacy, unless there is a public interest reason for the material to be broadcast; or the person has provided implicit or explicit consent for the material to be broadcast (or in the case of a person under 16, a parent or guardian has given implicit or explicit consent).

RISK RATING & DECISION MAKER LEVEL FOR INVESTIGATION

The ACMA has established a system of risk oversight and management by virtue of the MI on Risk Management and the ACMA *Risk Management Guide*. The risks assessed in this CIA are operations level risks associated with the investigations undertaken by the Content Safeguards Branch. Once identified, risks and consequences will generally be reduced by the use of integrated, everyday controls.

Low to medium risk decisions will generally be made under delegation. High risk matters will generally be considered by the Authority. Extreme risk matters will always be considered by the Authority. The risk level will be determined by completing the below table with reference to the risk level matrix at **Attachment B**. The level of risk may change in the course of an investigation and the level of decision-maker changed accordingly.

Risk category and key examples	Key risk and consequence	Current Controls	Likelihood	Consequence
Compliance , e.g. the matter: - is of significant public interest - may be novel and/or have precedent value - may concern systemic non-compliance.	Decision and subsequent actions not adequately informed by Authority views / Level of compliance and safeguards not adequate and/or consistent	The ACMA will make decisions in accordance with the Codes and BSA. Authority oversight of investigation outcomes and delegated decisions enables monitoring of the effectiveness and relevance of a code. Work with industry to develop regulatory and non-regulatory responses to audience concerns and complaints.	Unlikely	Minor
Stakeholder management , e.g. the matter has, or may: - develop, strong community, political, media or industry sensitivity	Stakeholder expectations not met and/or not managed at appropriate level / Reduced confidence in ACMA and/or legislative framework	Work with industry to develop a culture of broadcasting code and act compliance and reduce costs of compliance over time. Educate citizens, proactively via published decisions, social media and website information. Quality assurance monitoring of complaints processing and CSC interaction including adherence to ACMA customer service charter and complaints	Unlikely	Minor

Given the above, the risk level is **Low** and it is anticipated that the decision maker will be:

- ☒ **A delegate**, where the power is delegated in the *Instrument of Delegation*; or
☐ **The Authority**; or
☐ **Not applicable** (for matters that will not be investigated).


DECISION WHETHER TO INVESTIGATE MATTER

I, being the appropriately delegated officer of the Australian Communications and Media Authority, noting the public interest considerations at **Attachment A** and the following factors:

- > the broadcast features representatives of the complainant
- > based on the information available to date, including the seriousness of the allegations and/or nature of the material, an investigation will enable relevant facts and material to be considered appropriately.

decide that the matter:

- ☒ **will be investigated under section 170 of the BSA**; or
☐ **will not be investigated**.


 Rochelle Zurnamer
 A/g Executive Manager
 Content Safeguards Branch

Date: 1 / 11 / 19.

