

Contact: Kate Raymond
Office: Brisbane

28 August 2019

Complaints Officer
Seven Network Pty Limited
PO Box 777
Pyrmont NSW 2009

Dear Complaints Officer

RE: COMPLAINT – SEVEN NEWS BROADCASTS QUEENSLAND 30 & 31 JULY 2019

The content of this letter has been submitted electronically on 28 August 2019 to the Free TV Australia website: <https://complaints.freetv.com.au/Submission>. This letter is being provided as a copy of the electronic submission.

The Queensland Building and Construction Commission (QBCC) wishes to raise complaints in relation to two Seven Network news stories by reporter Georgie Chumbley, broadcast during the 6pm Queensland bulletin on Tuesday 30 July 2019 (30 July news story) and Wednesday 31 July 2019 (31 July news story). The QBCC is of the view that the aired news stories are in breach of the Commercial Television Industry Code of Practice (Code).

30 July news story

In the broadcast of the 30 July news story, two QBCC letters are shown on camera. The name of the relevant QBCC officer is clearly visible on each letter. The officers' names were not relevant to the 30 July news story and airing the names of those officers in connection with a consumer complaint is considered unnecessary and not in the public interest.

Section 3.5 'Privacy' of the Code states, relevantly:

"3.5 Privacy

- 3.5.1** *In broadcasting a news Program..., a Licensee must not broadcast material...which invades a person's privacy, unless:*
- a) there is a public interest reason for the material to be broadcast; or*
 - b) the person has provided implicit or explicit consent for the material to be broadcast"*

It is considered that the publication of officers' names in the 30 July news story was in breach of section 3.5.1 of the Code. This complaint is made on behalf of and as the representative of [REDACTED] and [REDACTED].

31 July news story

On the afternoon of Wednesday 31 July 2019, the Commissioner of the QBCC, Mr Brett Bassett, was interviewed by Ms Chumbley for approximately 30 minutes at the QBCC's offices. At no point during the interview did Ms Chumbley mention a defective works matter pertaining to Mr Mark Agius, nor did Ms Chumbley ask any questions relating to that case. Yet, the 31 July news story contained a detailed pre-recorded interview with Mr Agius at his residence in Townsville concerning complaints as to defective work and the response of the QBCC.

The 31 July news story opened with an on-site interview with Mr Agius identifying defective building work allegedly ignored by the QBCC.

Had the allegation been put to the QBCC or the Commissioner prior to the airing of the 31 July news story, the Seven Network could have been informed that a QBCC inspector attended Mr Agius' residence with Mr Agius' engineer and inspected the items referred to by the engineer at that inspection. A direction to rectify was issued as a result of the inspection in relation to the items that Mr Agius' engineer had identified during the inspection. Those particular items were then considered rectified. Mr Agius lodged an internal review application with the QBCC which did not contain reference to any of the items shown in the 31 July news story. The 31 July news story appears to identify complaint items additional to those identified by Mr Agius' engineer on site.

Additionally, QBCC officers had been in recent contact with Mr Agius, on 16 and 25 July 2019, in relation to complaint avenues he could pursue, contrary to the implications in the 31 July news story that the QBCC had ignored Mr Agius' concerns.

There was a clear opportunity for your reporter to put questions or comment to the Commissioner for his response during the interview on 31 July 2019, to allow the opportunity for the QBCC to respond to the allegations by Mr Agius. In addition, the QBCC's Principal Manager, Media and Government Relations specifically asked Ms Chumbley on 31 July 2019, and prior, whether there were any other matters she wished to raise during the interview with the Commissioner other than the [REDACTED] case, and Ms Chumbley did not respond.

By failing to allow the Commissioner or the QBCC the opportunity to respond to the Agius case prior to the 31 July news story being broadcast, the QBCC alleges the 31 July news story was not presented fairly and impartially as required by the Code.

In addition, the 31 July news story included the following statement: *"Seven News can tonight reveal 99.5 per cent of cancelled builders licences were over financial issues, Queensland's construction watchdog only cancelled three licences for dodgy work last year..."*

This claim is factually inaccurate and was never put by your reporter to the QBCC or Commissioner for clarification. During the 2018/2019 financial year, the QBCC cancelled 6,490 licences. Of those, 4,199 were related to financial issues. This represents 64.69 percent, well short of the 99.5 percent claimed by Seven News. Of the cancellations, four licenses were cancelled due to disqualification relating to demerit points and failure to rectify building work.

Further, the 31 July news story shows the interview with Mr Agius, then an interview with Mr Mander, followed by an interview with Mr Bassett, QBCC Commissioner. The comments by Mr Bassett are in relation to questioning by Ms Chumbley on the [REDACTED] case. However, it is not clear in the 31 July news story that Mr Bassett is commenting on a matter that is different to the Agius case, or Mr Mander's comments.

There is also a representation on-screen during the 31 July news story that 14,623 licences were cancelled for unpaid fees over two years. While the commentary states 'most' cancellations were for unpaid fees, the visual on-screen is '14,623 unpaid fees'. This is

considered misleading. In fact, 12,065 licences were cancelled by the QBCC in the past 2 financial years and 7,506 were cancelled in that 2 year period for unpaid fees.

It is alleged the 31 July news story breaches the below sections of the Code:

“3.3 Accuracy and fairness

3.3.1 *In broadcasting a news or Current Affairs Program, a Licensee must present factual material accurately and ensure viewpoints included in the Program are not misrepresented.*

3.4 Impartiality

3.4.1 *In broadcasting a news Program, a Licensee must:*

- a) present news fairly and impartially;*
- b) clearly distinguish the reporting of factual material from commentary and analysis.”*

It is alleged that the Seven Network has breach the Code in respect of the 30 July news story and the 31 July news story as follows:

- (a) by failing to give the QBCC or the Commissioner the opportunity to respond to the allegations aired in the 31 July news story concerning Mr Agius, the Seven Network has failed to present the news fairly and impartially;
- (b) by making incorrect representations in the 31 July news story, the Seven Network has failed to present factual material accurately and ensure viewpoints are not misrepresented;
- (c) by broadcasting the names of individual officers in the 30 July news story, the Seven Network invaded a person’s privacy without consent and in a manner that is not in the public interest.

In accordance with the Code, you are requested to respond to this complaint within 30 days at the following contact details:

Kate Raymond
Chief Legal Officer
GPO Box 5099
Brisbane Qld 4001
Email: legal@qbcc.qld.gov.au

If you fail to adequately respond to this complaint within the required time period, the QBCC will utilise the complaint process provided for by the Australian Communications and Media Authority.

Yours faithfully

Kate Raymond
Chief Legal Officer
Queensland Building and Construction Commission

cc: Code Complaints
Free TV Australia
44 Avenue Road
Mosman NSW 2088

cc: Mr Neil Warren
News Director
Seven News Brisbane
By email [REDACTED]



30 September 2019

Kate Raymond
Chief Legal Officer
Queensland Building and Construction Commission
GPO Box 5099
Brisbane QLD 4001

QUEENSLAND BUILDING AND
CONSTRUCTION COMMISSION

3 OCT 2019

brisbane

Dear Ms Raymond

Re: 7NEWS

Thank you for taking the time to contact the Seven Network to express the views of the Queensland Building and Construction Commission on two *7NEWS Brisbane* reports, broadcast on 30 July 2019 (**Broadcast 1**) and 31 July 2019 (**Broadcast 2**).

You have raised concerns that in your view private information was disclosed during Broadcast 1, and that Broadcast 2 was inaccurate, unfair and biased.

By way of background, the material broadcast on Australian free-to-air television is regulated in accordance with the Commercial Television Industry Code of Practice (the Code). The Code is registered by the Australian Communications and Media Authority and provides that you may refer to them if you are dissatisfied with our response, insofar as your comments constitute a complaint under the Code. You can access a copy of the Code and what it covers at www.freetv.com.au

Both Broadcast 1 and Broadcast 2 were *7NEWS Brisbane* reports on the Queensland Building and Construction Commission (the QBCC). Broadcast 1 predominantly reported on the experiences of a [REDACTED] in her dealings with the QBCC in relation to her residence. Broadcast 2 predominantly reported on the experiences of Mr Mark Agius in his dealings with the QBCC, along with a brief interview with the Commissioner of the QBCC, Mr Brett Bassett. Each broadcast will be dealt with in turn.

Broadcast 1 - Privacy

The Code provides at clause 3.5.1:

In broadcasting a news Program..., a Licensee must not broadcast material...which invades a person's privacy, unless:

- a) there is a public interest reason for the material to be broadcast; or*
- b) the person has provided implicit or explicit consent for the material to be broadcast*

Broadcast 1 contained a fleeting appearance of two names. The first name, [REDACTED] is shown towards the top of a document from the QBCC. Alongside the name is the word 'Contact:'. The name is visible for approximately one and a half seconds, with the name out of focus and not discernible for some of that time.

Seven Network (Operations) Limited, ABN 65 052 845 262

Media City, 8 Central Avenue, Eveleigh NSW 2015 Australia, Postal Address: PO Box 7077, Alexandria NSW 2015 Australia

Approximately 13 seconds later, the name [REDACTED] is briefly visible for approximately one and a half seconds, along with the job title [REDACTED] – [REDACTED]. The name and job title are visible at the bottom of a letter from the QBCC. The name and job title were both in small type and were not static on the screen, as the shot of the letter panned upwards.

In the ACMA's *Privacy Guidelines for Broadcasters*, the following is provided:

When investigating the alleged breach of a code privacy provision, the ACMA will consider the elements of a breach:

- > *Was a person identifiable from the broadcast material?*
- > *Did the broadcast material disclose personal information, or intrude upon the person's seclusion in more than a fleeting way?*

Seven is of the view that while [REDACTED] and [REDACTED] were identifiable as public servants employed by the QBCC, the broadcast of this information was no more than fleeting, that is their names were visible for only a short and brief time, and as such was not an invasion of their privacy.

Additionally, Seven is of the view that the broadcast was in the public interest. In the ACMA's *Privacy Guidelines for Broadcasters*, the following is provided:

Public interest issues include:

- ...
- > *government and public administration*
- ...

The QBCC, as Queensland's building and construction regulator, is a function of the Queensland government and administers the regulatory framework of building and construction in Queensland. As such, information regarding the conduct and actions the public servants involved in the administration of the QBCC can reasonably be considered a public interest issue, particularly when the matters broadcast directly relate to actions by public servants in the course of them performing their roles in the administration of the QBCC.

For these reasons, Seven is confident that the *7NEWS Brisbane* broadcast of 30 July 2019 only broadcast personally identifiable material in a fleeting way, and that fleeting broadcast of material was in the public interest. Therefore, Broadcast 1 was in accordance with clause 3.5.1 of the Code. Seven also notes that as a courtesy, Broadcast 1 and Broadcast 2, in which some of the material from Broadcast 1 was re-broadcast, have been removed from online platforms.

Broadcast 2 – Accuracy and fairness

The Code provides at clause 3.3.1:

In broadcasting a news or Current Affairs Program, a Licensee must present factual material accurately and ensure viewpoints included in the Program are not misrepresented.

The QBCC, in its letter to Seven of 30 August 2019, identifies several aspects of the broadcast of Broadcast 2 that it is concerned with. Each of these aspects shall be addressed in turn.

Context of the interview with the QBCC Commissioner and questions asked

It is claimed that the interview with the QBCC Commissioner is not contextualised properly, misrepresenting his viewpoints. It is also claimed that more information could have been readily ascertained through the interview, in time for Broadcast 2 to go to air.

In preparing the report in question, the reporter responsible made considerable efforts to investigate the story and interview the QBCC matter. On 30 July 2019 at 12.01 pm, a written request for an interview with the Commissioner was filed with a QBCC media officer, who advised shortly thereafter that the interview would not be able to take place until the following day.

Following further back-and-forth between the media officer and the reporter, the interview was scheduled for 3.45 pm on 31 July, with this timing confirmed only 29 minutes prior to the interview taking place. The reporter had advised the media officer that 3.45 pm was the latest possible time an interview could take place, as the story it would feature in was scheduled to run that evening in the 6.00 pm bulletin. The interview ultimately commenced at approximately 4.00 pm and lasted half an hour, resulting in a very compressed window of time for the completion of the report for broadcast.

Concurrent to negotiating with the QBCC media officer for the interview with the Commissioner, the reporter was investigating the details of Mr Agius' case amongst others. In the process of doing so, the reporter was informed by the same QBCC media officer that the Commissioner could not go on the record in relation to specific matters due to privacy concerns. The reporter was told prior to the interview that the Commissioner could only comment generally. As such, questions about Mr Agius' matter were not put to the Commissioner.

In the broadcast of the interview with the Commissioner, the only question shown that was related to a specific matter was when the Commissioner was asked if a matter continuing for seven years was a sign that the QBCC was not doing its job properly, which he denied. There was no manipulation of the interview with the Commissioner which may have caused his viewpoints to be misrepresented.

There is a clear distinction between Mr Agius' case and the Commissioner's comments, with his answer being tied directly into footage of [REDACTED], which is supported by the Commissioner identifying the [REDACTED] in his comments. Therefore, Seven is of the view that the Commissioner's comments were not misrepresented, and that they were presented accurately and fairly during Broadcast 2.

Licence cancellation figures

It is claimed that the figures on licence cancellations featured during Broadcast 2 were inaccurate and misleading. The figures displayed on screen were:

- 14,623 licences cancelled for unpaid fees
- 3 licences cancelled for defective work

This was further explained by the reporter, saying "*In two years the QBCC has cancelled more than 14,000 builder's licences, most for unpaid fees. Just three were cancelled last year for defective work.*"

The figures in question were sourced from the Hansard of the Transport and Public Works Committee Estimates Hearing on 30 July 2019. The relevant extracts are reproduced below:

Mr de BRENNI: *I think we will be able to get it. There are 107,000 current licensees in Queensland and at any given time there can be a variety of reasons. For the member for Burleigh and the committee's information, as at 24 July 2019 there were 1,647*

licensees who were suspended and **the total number of cancelled licences since reporting commenced on 24 February 2017 to me is 14,623.** In certain circumstances where a direction to rectify incurs a demerit, the accumulation of demerit points can lead to a suspension and cancellation of licence. I am advised that there are 466 licence holders who have active demerit points in Queensland. My point is that we can come back on the specifics of how many licensees have had their licence cancelled as a result of demerit points that are incurred because of—and I think this is what you are interested in, member for Burleigh—defective work. However, what I have explained is that there is a significant volume and there is a plethora of reasons why a licensee will be suspended. It can be for non-payment, it can be for failure to follow directions around rectifications, defective works, a range of things. With regard to getting that information, I think the commissioner can take a few minutes to acquire that and come back to you.

...

Mr Bassett: I have some information here in response to the member for Burleigh's question about the number of cancellations of licensees for defective works. Builders licensed by the QBCC lose their licence, as the minister said before, if they accrue 30 demerit points within three years. They can be banned for life if they do continue to attend. Like a driver's licence, the purpose of this scheme is to provide a graduated enforcement response which causes builders doing the wrong thing—those building defective work—to modify their behaviour. As we all know, the majority of those who work in the building and construction sector do the right thing. As a builder begins to accumulate points, they will become increasingly aware through interactions with the QBCC that they need to change their business practices or their building methods. Licences are cancelled for a period of three years. For the 2018-19 financial year, total demerits issued for defective works totalled 1,696 points. There were four licensees cancelled for all types of excess demerit points. **There was one licensee who was cancelled solely due to defect related demerit points. There were two licensees cancelled partly due to defect related demerits.**

Therefore, Seven's presentation of the cancellation figures during Broadcast 2 was a fair and accurate reflection of material facts.

As a result of this, the 7NEWS Brisbane broadcast of 31 July 2019 was accurate and fair, in compliance with clause 3.3.1 of the Code.

Broadcast 2 - Impartiality

The Code provides at clause 3.4.1:

3.4.1 In broadcasting a news Program, a Licensee must:

- a) present news fairly and impartially;*
- b) clearly distinguish the reporting of factual material from commentary and analysis.*

As has been determined above, the news was presented fairly during Broadcast 2. In relation to impartiality, there are several factors to consider.

A news broadcast is not precluded from critical examination of a particular issue or controversy, as per clause 3.4.2 of the Code. Seven is of the view that Broadcast 2 was a fair examination of an issue, in this case the issue of regulations applicable to housing in Queensland and the enforcement of those regulations.

The reportage during the broadcast was supported by footage of houses affected by the regulatory issues, interviews with residents of affected house who spoke to the issues being examined, and figures on the volume of licence cancellations, which as demonstrated above, were accurate. As such, the critical examination featured during Broadcast 2 was fair and impartial, being comprehensively supported by factual material.

Clause 3.4.2 of the Code also provides that there is no requirement for a news broadcast to include every aspect of a person's viewpoint. The extracts of the interview that were featured in Broadcast 2 were a fair and accurate reflection of the views of the QBCC Commissioner, clearly and accurately demonstrating the views of the Commissioner and that they differed from those put throughout the rest of the report.

Therefore, Seven is of the view that the broadcast of 7NEWS Brisbane from 31 July 2019 presented the news fairly and accurately, and in an unbiased way, in compliance with the Code.

Conclusion

For these reasons, Seven is confident that the broadcast of *7NEWS Brisbane* of 30 July 2019 was broadcast in compliance with clause 3.5.1 of the Code, and that the broadcast of *7NEWS Brisbane* of 31 July 2019 was accurate, fair and impartial, in accordance with sections 3.3 and 3.4 of the Code.

Thank you again for contacting the Seven Network. We appreciate you taking the time to send us your feedback in writing as it provides us with valuable information regarding community attitudes, concerns and expectations.

Yours sincerely

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

Regulatory Affairs
Seven Network