

## Complaint and Investigation Assessment (CIA)

### COMPLAINT AND/OR BROADCAST DETAILS

Complainant Name	ACMA Complaint ID	Date Complaint received by ACMA	
	BM-13463	22 February 2024	

Broadcaster or licensee	Australian Broadcasting Corporation
Station ID or name	8121801    ABC TV    ABC
Type of service	National Broadcasting
Program or service title	ABC News
Date of broadcast	22 January 2024
Relevant provision/s of BSA, standard or code	ABC Code of Practice 2024 (ABC Code) Accuracy Impartiality
Complaint or matter description	Allegation that a news report about the consecration of the Shri Ram Temple lacked accuracy and impartiality
Relevant breaches by the licensee/ network/broadcaster in last 12 months	nil
Comments	<p>&gt; A link to the complaint in BM-13463 can be found <a href="#">here</a>.</p> <p>&gt; A link to the complaint to the ABC can be found <a href="#">here</a>. While the complainant provides a link to an online news story, his complaint is about the coverage of this story, including broadcast news. The complainant also included further allegations in his <a href="#">complaint to the ACMA</a>.</p> <p>&gt; The ABC Ombudsman's response to the complainant can be found <a href="#">here</a>. The ABC Ombudsman advises it received <b>274 content complaints</b> about the news reports from television, radio and online. The ACMA did not receive any other complaints about this broadcast.</p> <p>&gt; A copy of the likely broadcast of the program is available from Isentia <a href="#">here</a>.</p> <p>&gt; A copy of the ABC Code of Practice 2024 can be found <a href="#">here</a>.</p> <p>&gt; One allegation made is that an overlay stating 'Sectarian temple' was part of the story. It appears this was only in the online story and did not air in the 7pm broadcast news. We will inform the complainant that online news is not within ACMA's remit and our consideration of his complaint is confined to broadcast material.</p> <p>&gt; The complaint refers to the breaches of the ABC's editorial standards including corrections. In the ACMA's response to the complainant we will inform them that our assessment of their complaint is limited to the relevant TV broadcast's compliance with the ABC Code.</p>

## 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
<b>Compliance</b> , e.g. the matter: - is of significant public interest - may impact on the community at large - may be novel and/or have precedent value - may concern systemic non-compliance - may involve formal enforcement action - may raise concerns about the adequacy of the relevant code or involve policy considerations.	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
<b>Stakeholder management</b> , e.g. the matter has, or may: - develop, strong community, political, media or industry sensitivity - involve a wider context and/or broader environmental considerations.	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 handling manual.	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 information provided under 'comments' above (including the information contained in the links), the public interest considerations at **Attachment A** and the following factors:

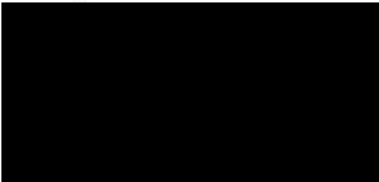
- > The ABC Code states the ABC will make reasonable efforts to ensure that material facts are accurate and presented in context.
- > When determining the accuracy of a factual statement under the ABC Code, the ACMA will consider relevant contextual factors including the type, subject, and nature of the content, the likely audience expectations of the content and the circumstances in which the content was made and presented.
- > The ABC Code states the ABC will gather and present news and information with due impartiality.
- > The ACMA notes that impartiality does not require that every perspective receives equal time, nor that every facet of every argument is presented. Assessing the impartiality due in given circumstances, requires consideration in context of all relevant factors including the type, subject and nature of the content; the likely audience expectations of the content and the degree to which the content is contentious.
- > Having reviewed a copy of the broadcast, the ACMA notes that the story was about the then recent consecration of a 'contentious' Hindu temple 'dedicated to the god Ram'. The report noted that the temple was opened by Prime Minister Modi and its relevance to his upcoming election campaign. As part of the story, an overview of the site was provided, including the 1992 demolition of a Mosque on the site which 'sparked nation wide riots

between Hindus and Muslims'. The report referred to the deaths of 2,000 people, in general terms, and without qualification as to the timeframe in which they had died. The report also noted the Supreme Court decision to grant the site to Hindus. Two supporters of the new Temple were interviewed, along with a man whose father was killed in the 1992 riots and each provided their opinions during the report.

- > Having carefully reviewed the complaint, the ABC Ombudsman's response, a copy of the broadcast and the relevant rules in the Code and considering the public interest considerations at **Attachment A** below.

decide that the matter:

- ☐ will be investigated under the *Broadcasting Services Act 1992 s 151* giving rise to the investigation; or
- ☒ will not be investigated.



Date: 06 / \_06 / \_24

\_\_\_\_\_  
Executive Manager  
Content Investigations Section

## The ACMA's discretion to investigate matters

The ACMA has a broad discretion to commence an investigation into broadcasting and datacasting matters.<sup>1</sup> It can do so upon receipt of a complaint<sup>2</sup>, on its own initiative<sup>3</sup> or at the direction of the Minister<sup>4</sup>. The scope is also a matter for the ACMA's discretion.

The ACMA's primary consideration is whether it is in the public interest having regard to the subject matter, and the purpose of the BSA.<sup>5</sup> Importantly, each matter must be considered on its merits. A consideration of the public interest in any given case may be informed by a range of factors, including one or more of the considerations noted below.

Public interest considerations
<b>Complaints process (where relevant):</b> <ul style="list-style-type: none"> <li>&gt; Has the matter been raised with the broadcaster/licensee under the co-regulatory complaints process?</li> <li>&gt; If a matter has not been raised under applicable co-regulatory processes, why not?</li> <li>&gt; Is the complaint vexatious, frivolous and/or not made in good faith?</li> </ul>
<b>Timing:</b> <ul style="list-style-type: none"> <li>&gt; How long ago did the broadcast or issue occur (e.g. was it more than a year ago)?</li> <li>&gt; Are there extenuating circumstances to explain any delay in making the complaint?</li> <li>&gt; Are there matters suggesting an early intervention may deliver a better outcome?</li> </ul>
<b>Community concern:</b> <ul style="list-style-type: none"> <li>&gt; Has the matter raised genuine or widespread community concerns?</li> <li>&gt; Does the matter potentially affect the community at large, and if so, how does or could it affect others?</li> </ul>
<b>Significance:</b> <ul style="list-style-type: none"> <li>&gt; What is the nature and seriousness of the issues raised?</li> <li>&gt; Does the matter concern a possible or likely breach of legislative provisions?</li> <li>&gt; Does the matter raise matters of substance rather than issues of a trivial or technical nature?</li> <li>&gt; Is an issue of principle or precedent raised?</li> <li>&gt; Does the matter raise potential aspects of the regulatory framework (e.g. codes) that should be considered as a matter of priority?</li> </ul>
<b>Systemic issues:</b> <ul style="list-style-type: none"> <li>&gt; Is the ACMA aware of matters that may indicate a potential systemic issue or pattern of conduct?</li> <li>&gt; Is the alleged misconduct potentially ongoing?</li> <li>&gt; Has a similar issue been investigated recently? Was a breach or no breach finding involved?</li> </ul>
<b>Compliance history:</b> <ul style="list-style-type: none"> <li>&gt; Has the broadcaster/licensee been the subject of breach findings in relation to similar matters?</li> <li>&gt; Is intervention by the ACMA warranted because the conduct suggests a poor compliance culture or that previous regulatory intervention was ineffective?</li> </ul>
<b>Other avenues for redress and/or proceedings in train:</b> <ul style="list-style-type: none"> <li>&gt; Are there other avenues for redress (taking into account the complainant's capacity to pursue them)?</li> <li>&gt; Is the matter the subject of current legal, administrative or regulatory proceedings that may be complicated or compromised by opening an investigation at this time?</li> </ul>
<b>Efficiency and effectiveness:</b> <ul style="list-style-type: none"> <li>&gt; Would the resources used in an investigation be proportionate to the public interest matters involved?</li> <li>&gt; Would an investigation disproportionately divert resources from other priority matters?</li> <li>&gt; Has the broadcaster/licensee responded conscientiously to the complainant (if relevant)?</li> <li>&gt; Has the broadcaster/licensee done anything to address the issues raised by a complaint?</li> </ul>

<sup>1</sup> The ACMA may conduct investigations for the purposes of the performance or exercise of any of its broadcasting, content and datacasting functions and related powers under s170 of the BSA.

<sup>2</sup> Where it is 'desirable to do so', the ACMA may investigate a complaint made under s147, 148, 150 & clause 36 of Schedule 6 to the BSA.

<sup>3</sup> The ACMA may investigate any kind of complaint or part of a complaint, or without a complaint, under s170 of the BSA.

<sup>4</sup> Section 171 of the BSA.

<sup>5</sup> The objects of the BSA (s3), the regulatory policy (s4) and the ACMA's role (s5) are particularly relevant.

### Using the ACMA's risk matrix<sup>6</sup>

The level of risk, or risk rating, is calculated by combining the consequence and likelihood ratings. For any risk, there may be a number of different consequence/likelihood scenarios. Within each category there may be multiple scenarios ranging from "minor but likely" to "catastrophic but very unlikely".

It is important to rate what is the realistic worst-case scenario, and which is the worst-case level of risk considering both consequences and likelihood. In these instances, it may be appropriate to rate the same consequence category more than once. Where there are multiple ratings for a risk, the highest combination of consequence/likelihood is taken as the level of risk.

Once you have evaluated the likelihood and consequence, each risk should be plotted against the ACMA's risk matrix to determine its overall risk rating.

	Insignificant	Minor	Moderate	Major	Catastrophic
Very Likely	Medium	High	High	Extreme	Extreme
Likely	Medium	Medium	High	High	Extreme
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Very Unlikely	Low	Low	Low	Medium	Medium

The ACMA uses the following definitions to evaluate risk against our acceptable level of risk tolerance:

Extreme	The risk is well above tolerable limits and must be further treated to reduce it to the lowest level practicable. Quarterly or monthly monitoring is required if the risk is accepted.
High	The risk is above tolerable limits, and further treatment is required to reduce the risk to the lowest level practicable. Quarterly monitoring is required if the risk is accepted.
Medium	The risk is tolerable, but should be reduced if practical. The risk should be monitored through routine operational and management practices.
Low	The risk is acceptable and no further treatment is required.

<sup>6</sup> See further the ACMA's *Management Instruction for Risk and the Risk Management Guide*, available at: [http://intranet.internal.govt.nz/media/Files/SP/Lists/SP2013\\_FFB\\_ACMA\\_Guides/ACMA\\_Risk\\_management\\_Guide.pdf.pdf](http://intranet.internal.govt.nz/media/Files/SP/Lists/SP2013_FFB_ACMA_Guides/ACMA_Risk_management_Guide.pdf.pdf)