

Complaint and Investigation Assessment (CIA)

COMPLAINT AND/OR BROADCAST DETAILS

Complainant Name	ACMA Complaint ID	Date Complaint received by ACMA	
	BM-015558	01 October 2025	

Broadcaster or licensee	RADIO 2GB SYDNEY PTY LTD
Station ID or name	4099 2GB 2GB
Type of service	Commercial Radio Broadcasting
Program or service title	<i>Ben Fordham Sydney Live</i>
Date of broadcast	10 July 2024
Relevant provision/s of BSA, standard or code	Commercial Radio Code of Practice 2017 (the Code) 2.2 – Decency 3.2.1 – Accuracy 3.9 - Impartiality
Complaint or matter description	Allegation that the program contained inaccurate and disparaging comments towards the Milsons Point Community Group.
Relevant breaches by the licensee/ network/broadcaster in last 12 months	Nil

Comments
<ul style="list-style-type: none"> > A copy of the complaint to the ACMA and accompanying materials can be found in CRM at BM-15558. > The complainant previously submitted an invalid complaint to the ACMA on 6 June 2025, assessed under BM-15162. The complainant was referred to the licensee in accordance with Standard Operating Procedures at the time. > A copy of the licensee's response is available here. > A copy of the original complaint to the licensee is available here. > The date of broadcast was 10 July 2024. The broadcast is no longer available on iSentia, the 2GB website, or other services. Staff have assessed the material submitted by the complainant in the absence of the broadcast. > In assessing this complaint, staff note the following: <ul style="list-style-type: none"> - The complainant did not listen to the original broadcast - The complainant did not make a code complaint to the broadcaster within 30 days of the broadcast - The complainant did not make a complaint to the ACMA until 12 months after the broadcast. > A copy of the Code is available here.

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 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
Stakeholder management , 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:

- > Clause 2.2 of the Code states 'Program content must not offend generally accepted standards of decency (for example, through the use of unjustified language), having regard to the demographic characteristics of the audience of the relevant program.' This is a subjective standard that requires a high threshold.
- > Clause 3.2.1 of the Code states 'In broadcasting Current Affairs Programs, a Licensee must use reasonable efforts to ensure that factual material is reasonably supportable as being accurate.'
- > Clause 3.9 of the Code states 'Current Affairs programs are not required to be impartial and may take a particular stance on issues. However, a licensee must provide reasonable opportunities for significant alternative viewpoints to be presented when dealing with controversial issues of public importance, while the issue has immediate relevance to the community.'
- > Nothing in section 3 of the Code obliges the licensee to allocate equal time to different points of view, nor to include every aspect of a person's point of view, nor does it preclude a critical examination of, or comment on, a controversial issue as part of a fair report on a matter of public interest.
- > The program is a talkback style radio breakfast show that is broadcast 5:30 am – 9:00 am on weekdays. The relevant broadcast contained a segment about the proposed development of a bicycle ramp at Bradfield Park in Milsons Point.

- > The complainant is part of the Milsons Point Community Group (MPCG), who have publicly opposed the development and been critical of Transport for NSW's plans for the area.
- > The complainant did not listen to the broadcast but was told by a listener that the host referred to the MPCG as 'a small noisy group of locals who hate cyclists,' 'anti bike ramp' and 'NIMBYs'. The complainant wanted to appear on the program to rebut this, as he believes that he or MPCG should have been given a right of reply.
- > Extensive correspondence between the complainant and the program's production staff over several months indicate the licensee conscientiously and thoroughly engaged with the complaint.
- > Based on the information provided, the broadcast is unlikely to breach the Code because:
 - The comments were brief in the context of the 3.5 hour program and were not material to the rest of the broadcast
 - The comments do not reach the high threshold for offending generally accepted standards of decency with regard to the demographic characteristics of the audience
 - The MPCG's opposition to the development is in the public domain
 - Extensive correspondence between the complainant and program production staff over several months indicate the licensee met its complaint handling requirements
 - the licensee was not obligated to include the complainant's viewpoint in the broadcast.
- > Having carefully reviewed the complaint, the broadcaster's response, 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 149 giving rise to the investigation); or**
- ☒ **will not be investigated.**

[REDACTED]

Date: 17 / 11 / 2025

[REDACTED]
 Senior Investigator
 Content Investigations Section

Attachment A

The ACMA's discretion to investigate matters

The ACMA has a broad discretion to commence an investigation into broadcasting and datacasting matters.¹ It can do so upon receipt of a complaint², on its own initiative³ or at the direction of the Minister⁴. 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.⁵ 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
Complaints process (where relevant): <ul style="list-style-type: none"> > Has the matter been raised with the broadcaster/licensee under the co-regulatory complaints process? > If a matter has not been raised under applicable co-regulatory processes, why not? > Is the complaint vexatious, frivolous and/or not made in good faith?
Timing: <ul style="list-style-type: none"> > How long ago did the broadcast or issue occur (e.g. was it more than a year ago)? > Are there extenuating circumstances to explain any delay in making the complaint? > Are there matters suggesting an early intervention may deliver a better outcome?
Community concern: <ul style="list-style-type: none"> > Has the matter raised genuine or widespread community concerns? > Does the matter potentially affect the community at large, and if so, how does or could it affect others?
Significance: <ul style="list-style-type: none"> > What is the nature and seriousness of the issues raised? > Does the matter concern a possible or likely breach of legislative provisions? > Does the matter raise matters of substance rather than issues of a trivial or technical nature? > Is an issue of principle or precedent raised? > Does the matter raise potential aspects of the regulatory framework (e.g. codes) that should be considered as a matter of priority?
Systemic issues: <ul style="list-style-type: none"> > Is the ACMA aware of matters that may indicate a potential systemic issue or pattern of conduct? > Is the alleged misconduct potentially ongoing? > Has a similar issue been investigated recently? Was a breach or no breach finding involved?
Compliance history: <ul style="list-style-type: none"> > Has the broadcaster/licensee been the subject of breach findings in relation to similar matters? > Is intervention by the ACMA warranted because the conduct suggests a poor compliance culture or that previous regulatory intervention was ineffective?
Other avenues for redress and/or proceedings in train: <ul style="list-style-type: none"> > Are there other avenues for redress (taking into account the complainant's capacity to pursue them)? > 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?
Efficiency and effectiveness: <ul style="list-style-type: none"> > Would the resources used in an investigation be proportionate to the public interest matters involved? > Would an investigation disproportionately divert resources from other priority matters? > Has the broadcaster/licensee responded conscientiously to the complainant (if relevant)? > Has the broadcaster/licensee done anything to address the issues raised by a complaint?

¹ 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.

² 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.

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

⁴ Section 171 of the BSA.

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

Attachment B

Using the ACMA's risk matrix⁶

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.

⁶ 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%20Guides/ACMA%20Risk%20management%20Guide.pdf.pdf)