

FABC WA Information Paper for EURALVA

Calling the Media to Account

At least six different complaint structures exist in Australian media:

- ⊗ Print media (including print media websites) work through a voluntary industry structure - the Australian Press Council. It was explicitly established to defuse pressure for formal regulation. Its' ethos is therefore to avoid applying penalties.
- ⊗ Commercial electronic media, regulated by ACMA under the Commercial [Television Industry / Radio / Pay TV and Radio] Code of Practice. Those codes relate to programming matters, complaints, and sponsorship. ACMA regulates only children's TV and TV local content.
- ⊗ Some print media, websites, and non-commercial electronic media have no complaint mechanism whatever.
- ⊗ Internet - ACMA has wide-ranging and ill-defined powers over Australian internet service providers. It can require that sites be blocked, classify content, approve and enforce compliance with Industry Codes of Practice, approve Age Verification / Restricted Access Systems, etc.
- ⊗ Australian Broadcasting Corporation - PSB with its own complaint procedure (with final appeal to ACMA).
- ⊗ Special Broadcasting Service, (").

ACMA's philosophy is apparently that of its recent predecessor - the ABA - which was that light-handed regulation and active industry involvement in its own regulation is the way to go. It is a measure of the politicisation of such bodies that the deputy Chair is a senior manager with the Department of Communications. Similarly, Australia's Big Three media moguls repeatedly exercised an effective power of veto over a succession of nominees for the position of Chair. In recent cases, ACMA has made findings available only to the commercial media defendant.

None make any provision for a "right of reply" as such, although the points of view of the most obvious participants are usually sought. Note that threat of a writ for defamation may lead to an apology, and/or "reply". However, the regulated media are required to present a balanced viewpoint.

Errors of fact are normally corrected by mention within the normal format of the programme in which they occurred. To do so is more or less obligatory, and generally seems to be done.

The usual practice is for the complaints procedures to comprise a hearing and decision stage followed by a number of appeal stages - either a simple appeal (i.e. reconsideration only of issues of law), or a rehearing.

Not only is such a range of standards clearly unsatisfactory, but also the penalty for breaches is often either minimal or nonexistent. The regulator may do not more than find that a breach has occurred. They express the reality that a considerably higher standard will be expected of public broadcasters than of commercial ones, just as even lower standards are acceptable from small broadcasters. Fortunately, discriminating audiences are attracted to the public broadcasters.

A recent study showed that none of the formal mechanisms designed to hold journalists accountable has any real impact - the only thing reporters actually fear is *Media Watch* itself (an ABC TV programme that focusses on examples of unethical behaviour in the media).

However, owing to the Minister for Communication's unhappiness with *Big Brother Uncut*, there is now a (very reluctant) recognition that there is a lack of middle-range sanctions available to the media authority, so introducing civil penalties would generally avoid the need to meet the criminal standard of proof required by the present laws.

ABA: Australian Broadcasting Authority

ACMA: Australian Communications and Media Authority

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