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MINISTER FOR BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY
DEPUTY LEADER OF THE GOVERNMENT IN THE SENATE

Ms Sharon Grierson MP
Chair
Joint Committee of Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

- 5 NOV 2009

Dear Ms Grierson *Sharon*

JCPAA Report 414: Review of Auditor-General's Reports

Thank you for your letter dated 23 June 2009 enclosing a copy of the Joint Committee of Public Accounts and Audit's *Report 414: Review of the Auditor-General's Reports tabled between August 2007 and August 2008* ('the Committee's report').

I welcome the review undertaken by the Committee and recognise its role in holding Commonwealth agencies to account for the lawfulness, efficiency and effectiveness with which they use public monies. I understand that one of the Committee's specific duties is to examine all reports of the Auditor-General that are tabled in each House of Parliament.

The Committee reviewed Audit Report *Regulation of Commercial Broadcasting* (No. 46, 2007-08) and the Committee's report contains recommendations concerning the Australian Communications and Media Authority (ACMA). ACMA is a statutory authority within the Broadband, Communications and the Digital Economy portfolio with responsibility for the regulation of broadcasting, telecommunications, radio communications and online content.

These responsibilities include oversight of the co-regulatory framework for broadcasting established under the *Broadcasting Services Act 1992* ('the Act'). This requires licensed broadcasters to respond, in the first instance, to complaints relating to their adherence to relevant codes of practice ('code complaints'). Where complainants are not satisfied with the broadcaster's response or do not receive a response within 60 days, the Act provides for complaints to be escalated to ACMA. 'Non-code complaints' may also be made directly to ACMA in relation to potential breaches of the Act or potential breaches of relevant licence conditions.

The Committee's report makes four recommendations in relation to ACMA's complaints handling and investigations processes. Recommendations 13 and 16 are of an administrative nature and ACMA will provide the Committee with a response to these matters. Recommendation 14 calls for the introduction of mandatory maximum response times for broadcasters and complainants to respond to complaints handled through ACMA, while recommendation 15 suggests that ACMA should report on broadcaster compliance with these mandatory maximum response times.

I am advised that the introduction of mandatory maximum response times would require amendments to the Act. I therefore provide you with a response to these aspects of recommendation 14 and 15 of the Committee's report.

The Government appreciates the Committee's concerns regarding the timeframe for the completion of ACMA investigations and the desire to see timeframes reduced where possible. As a publicly funded body, it is important that ACMA discharge its statutory duties in an efficient and expeditious manner.

The time taken by ACMA to assess complaints and complete investigations will be influenced by a number of factors, including the complexity of the legal and other issues to be considered, and the overall workload of ACMA at the time. The time taken by broadcasters to provide relevant information and comments to the regulator will also have a bearing on the overall timeframes for completing an investigation.

ACMA typically seeks information from broadcasters at two points in its investigations process. In the initial stages of an investigation, ACMA writes to the broadcaster concerned outlining the nature of the complaint and investigation and requests a response within 15 working days. Once a preliminary report of its investigation is prepared, ACMA then provides this report to the broadcaster and comments are again sought within 15 working days.

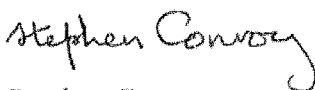
I am advised that during 2009, ACMA has detected a noticeable improvement in the responsiveness of broadcasters to ACMA requests. In the eight months to August 2009, the broadcasters' average response time to requests for information in the initial stages of an investigation was 11 days. Similarly, the response times to provide comments on preliminary investigations reports also averaged 11 days. Over 70 per cent of responses were received within the 15 day timeframe stipulated by ACMA. The small number of responses falling outside this timeframe generally resulted from the age of the broadcast material concerned, problematic complaints or complex legal issues.

These response times are generally consistent with, or improve upon, the Committee's recommended mandatory maximum response time of four weeks for responses to the request for information at the commencement of an investigation, and the two weeks maximum response time recommended for responses to ACMA's preliminary findings.

The Government recognises the importance of ensuring the efficient administration of Commonwealth agencies and agrees that where a demonstrated failure persists, legislative intervention should be considered. However, the most recent data on broadcasting industry compliance does not support the introduction of mandatory maximum response timeframes for broadcasters at this time. The Government will continue to monitor this aspect of the regulatory framework for broadcasting to ensure that the compliance with these timeframes recently demonstrated by broadcasters is sustained.

I thank the Committee for its recommendations concerning the portfolio.

Yours sincerely



Stephen Conroy
Minister for Broadband,
Communications and the Digital Economy