

Investigation report no. BI-172

Summary	
File no.	BI-172
Licensee	Queensland Television Ltd
Station	Nine
Type of service	Commercial television broadcasting service
Name of program	<i>A Current Affair</i>
Date of broadcast	24 September 2015
Relevant code	Commercial Television Industry Code of Practice January 2010
Date finalised	11 April 2016
Decision	No breach of clause 4.3 [accuracy] No breach of clause 4.5 [accuracy – current affairs promotion]

Opening

In March 2016, the Australian Communications and Media Authority (the ACMA) commenced an investigation under section 170 of the *Broadcasting Services Act 1992* (the BSA) into a complaint about:

- > a segment on *A Current Affair* (ACA) broadcast on Nine by Queensland Television Ltd on 24 September 2015
- > a program promotion for that segment broadcast on Nine by Queensland Television Ltd on 24 September 2015 at 5.45pm and 6.25pm.

The complainant alleges that the segment and program promotion, concerning Mr Prem Rawat and the Ivory's Rock Foundation (IRF), contained inaccuracies.

The complainant alleges:

[...] the Broadcast as a whole clearly (and falsely) implies to the ordinary, reasonable viewer that: (1) IRF and/or Prem Rawat "is charging followers thousands to kiss his feet"; (2) Prem Rawat receives personal gain from attending conferences held there; and (3) That IRF and/or Prem Rawat are violating Tax and/or Charity Regulations.

The ACMA has investigated compliance against clause 4.3 [accuracy] and clause 4.5 [accuracy – current affairs promotion] of the Commercial Television Industry Code of Practice January 2010 (the Code).

The broadcasts

The segment

ACA is a 30-minute current affairs program broadcast on weekdays at 7.00 pm on the Nine Network.

The segment is approximately eight minutes in length and is described as follows¹:

He's the jet-setting Indian-born guru who has been accused of deceiving his followers. Now, his disciples want to expand their operation in Australia.

The segment includes interviews with:

- > two former followers of Mr Rawat
- > two neighbours of the IRF convention centre in Queensland (the Convention Centre)
- > attendees at the IRF convention in September 2015 (the Convention) at which Mr Rawat was speaking
- > the publicity manager for the IRF conference.

The promotion

The promotion is approximately ten seconds in length and includes:

¹ <http://aca.ninensn.com.au/article/9033909/greedy-guru> accessed 1 March 2016

- > footage of a camping ground
- > footage of three people seated at a meeting table
- > footage of Prem Rawat talking and smiling
- > a still image of people kneeling at a seated person's feet with one man kissing that person's feet
- > the graphic, 'ANGRY LOCALS v GURU LEADER'.

The voice-over includes the words 'Tempers boil as locals take on the guru leader charging followers thousands to kiss his feet'.

Transcripts of the segment and the program promotion are at **Attachment A**.

Assessment and submissions

When assessing content, the ACMA considers the meaning conveyed by the material, including the natural, ordinary meaning of the language, context, tenor, tone, images and any inferences that may be drawn. This is assessed according to the understanding of an 'ordinary reasonable' listener or viewer.

Australian courts have considered an 'ordinary reasonable' listener or viewer to be:

A person of fair average intelligence, who is neither perverse, nor morbid or suspicious of mind, nor avid for scandal. That person does not live in an ivory tower, but can and does read between the lines in the light of that person's general knowledge and experience of worldly affairs.²

Once the ACMA has ascertained the meaning of the material that was broadcast, it then assesses compliance with the Code.

The investigation takes into account the complaint (at **Attachment B**) and submissions from the broadcaster (at **Attachment C**). Other sources are identified below.

Issue 1: Accuracy in the segment

Relevant Code provision

The ACMA has investigated the segment against the following provision of the Code:

News and Current Affairs Programs

4.3 In broadcasting news and current affairs programs, licensees:

4.3.1 must broadcast factual material accurately and represent viewpoints fairly having regard to the circumstances at the time of preparing and broadcasting the program;

² *Amalgamated Television Services Pty Limited v Marsden* (1998) 43 NSWLR 158 at pp 164–167.

4.3.1.1 An assessment of whether the factual material is accurate is to be determined in the context of the segment in its entirety.

Finding

The licensee did not breach clause 4.3 of the Code.

Reasons

The accuracy requirements under clause 4.3.1 of the Code apply to factual material. In assessing compliance with clause 4.3.1, the ACMA asks:

- > What does the material convey to the ordinary reasonable viewer?
- > Was the material factual in character?
- > If so, was the (factual) material accurate?³

The considerations used in assessing whether or not broadcast material is factual in character are set out at **Attachment D**.

The complainant submitted:

- > The statement by the host that Mr Rawat 'has followers lining up to kiss his feet', together with footage of his feet being kissed and the statement by a former follower that 'people line up and kiss his feet', inaccurately implies that delegates kissed Mr Rawat's feet at the Convention.
- > The statement by the reporter that 'True believers say he preaches peace and it clearly appears that he's made a lot of money while doing that' inaccurately implies that Mr Rawat received personal financial gain from speaking at the Convention.
- > The segment was inaccurate as it omitted information that IRF has not been found to have violated any tax or charities legislation and that it is not currently being investigated.

The licensee submitted:

- > There is no suggestion made during the segment that attendees at the Convention had kissed Mr Rawat's feet or that they had been charged fees in order to kiss Mr Rawat's feet.
- > The footage showing people kissing Mr Rawat's feet is black and white and is clearly archived footage.
- > An ordinary, reasonable viewer would understand the statements about foot kissing relate to the significant fees paid by attendees to attend the Convention in order to participate in his teachings and to join in the worship or veneration of Mr Rawat.
- > The words 'Now the jet-setting Indian guru who has followers lining up to kiss his feet' are emotive, subjective words which indicate they are an expression of opinion and not factual material. They merely provide introductory background to the dispute between neighbouring residents and the IRF.

³ See figure 3 in [Investigations Concepts – Accuracy](#) report

- > The segment does not present Mr Rawat's wealth and the derivation of his wealth from the Convention as fact, but as a contestable allegation. The reporter makes clear that the allegation is open to dispute, and that it is an allegation made by others and not by the licensee.
- > The segment does not present that the IRF and/or Prem Rawat are violating tax or charities legislation. To the extent that representations are made in relation to the IRF's compliance with charities and tax legislation, they are presented as contestable accounts of neighbours of the Convention Centre and former followers of Prem Rawat.
- > There is a significant public interest question in the compliance of the IRF with charities legislation in circumstances where it is generating significant profits from its activities in Australia. Nothing in the Code prevents the licensee from interrogating the veracity of the IRF's claims to operate as a legitimate charity.

Statements about foot kissing

The following material concerning foot kissing is included in the segment:

- > The host introduces the segment with the words 'Now the jet-setting Indian guru who has followers lining up to kiss his feet' during which a background graphic of Prem Rawat's face is shown in front of an indistinct image of followers kissing an unidentified man's feet.
- > Former supporters state 'The people line up and kiss his feet' and 'All the original films were confiscated which showed all the foot kissing and a lot of the associations with the past perfect masters. They do still exist. We have them online'.
- > The reporter, referring to the footage of people kissing Mr Rawat's feet, states 'It's the vision his supporters don't want you to see'.

What does the material convey to the ordinary reasonable viewer?

The word 'now' used by the host to introduce the segment would have been understood to mean that the program will turn to the segment in question.

The segment would have conveyed to the ordinary reasonable viewer that:

- > Mr Rawat is a 'guru' who speaks at events in Australia.
- > He has been revered as a spiritual leader and his feet have been kissed.
- > Mr Rawat has received personal gain from preaching peace.
- > Followers believe he is an ambassador for peace.
- > Critics say the IRF should not have charity status.
- > The IRF claims it operates as a legitimate charity.

The ordinary reasonable viewer may have inferred from the host's opening statement and images of foot kissing that it is a current practice for followers of Mr Rawat to kiss his feet or that delegates at the Convention have paid to kiss his feet.

Was the material factual in character?

There is no dispute that Mr Rawat's feet were kissed by followers in the past.

The focus of the segment is the criticisms of neighbours over the staging of the Convention, the amount of money calculated to be made from it and whether or not the IRF's operations are a business or a legitimate charity. Followers at the Convention refer to the charitable purpose and transparency of its operations. In this context, there are no factual assertions that delegates kissed Mr Rawat's feet at the Convention.

The opening remarks about 'followers lining up to kiss his feet' are accompanied by an image of foot kissing. This might be understood as evidence that it is a current practice. Without the footage, the remarks could be interpreted as figurative.

However, the interviews with former followers make it clear that it is a past practice. The footage showing foot kissing is of poor quality, which would suggest to the viewer that it is not recent. In some of the footage, Mr Rawat's face is visible and he looks considerably younger which also strongly supports that it was taken several years ago.

Information is also given by former followers that Mr Rawat had been known over the years by a number of titles and associated with different spiritual practices. One of the former followers states that the footage of Mr Rawat's feet being kissed was 'original film' associated with the past perfect masters which had been 'confiscated' but is still available 'online'.

The information provided by former followers, together with the poor quality of the images, make it clear that the footage of people kissing Mr Rawat's feet is archival, even though it is not labelled as such. There is no requirement in the Code for the licensee to identify the age of footage or to label it as archive material.

The reporter's comment that 'it's the vision his supporters don't want you to see' strengthens the impression that the foot kissing took place in the past and that it no longer occurs.

The only factual assertion concerning foot kissing is that it occurred in the past.

Was the factual material accurate?

In the context of the report in its entirety, the ACMA considers any inferences available that the kissing of Mr Rawat's feet by his followers is a current practice, that it occurred at the Convention, or that followers paid to kiss his feet at the Convention are corrected over the course of the segment.

Statements about Mr Rawat receiving personal gain from speaking at the Convention

The following material concerning Mr Rawat's wealth is included in the segment:

- > The graphic GREEDY GURU appears on screen during the concluding comments by the host.
- > The reporter states 'True believers say he preaches peace and it clearly appears that he's made a lot of money while doing that. Now some of his former followers say they feel deceived and they want authorities to investigate the charity which runs his events here in Australia'.
- > The reporter states 'Critics of Prem have said he makes money out of all this' in the context of asking a Convention attendee if he thinks 'he does'. The attendee replies

'This event? No. no. I give money to the organisation to be here and I know they use it well, I trust that'.

The licensee disputes the inclusion of the statement 'True believers say he preaches peace and it clearly appears that he's made a lot of money while doing that'. The ACMA is satisfied that this statement appears in the segment as broadcast.

What does the material convey to the ordinary reasonable viewer?

The ordinary reasonable viewer would have understood from the segment that neighbours and former followers allege Mr Rawat makes personal gains from his preaching.

Was the material factual in character?

It is not disputed that significant funds are generated from charging delegates to attend the Convention where Mr Rawat preaches.

The words 'greedy guru' are hyperbolic and subjective. They are followed by interviews with supporters and critics concerning the amount of money being made at the Convention and whether or not it operates as a charity.

In the context of the segment in its entirety, the use of the phrases 'believers say', 'followers say they feel deceived', 'critics have said' and 'I trust' indicate that claims of personal gain are allegations rather than assertions of fact.

These claims are presented as expressions of opinion or personal judgement of Mr Rawat's former followers and critics.

The claims are interspersed with interviews with current followers who deny that Mr Rawat makes personal gains from his activities or is a leader of a cult. They assert that he is a speaker who preaches peace and well-being, benefiting Australians. In this way, the claims are presented as contestable rather than as factual assertions.

Was the factual material accurate?

As the claims of neighbours and critics concerning Mr Rawat making personal gains are not presented as factual statements, the accuracy obligations at clause 4.3.1 do not attach to the material.

Statements about the IRF and/or Prem Rawat violating tax and/or charity regulations

The reporter makes the following statements:

- > 'Now some of his former followers say they feel deceived and they want authorities to investigate the charity which runs his events here in Australia.'
- > 'What angers locals is that the company staging these events operates as a charity and doesn't pay a range of taxes.'
- > '[Neighbour 2] is another neighbour who believes this place operates more like a business than a charity because when Prem Rawat isn't spreading peace the conference centre is rented out for sporting events and rock concerts like this earth light festival.'
- > 'According to figures they give the charities commission, last year they grossed 1.4 million dollars but after expenses they had a loss of half a million.'

- > 'How much they make and where it goes is clearly a sensitive subject but what really upsets the neighbours is that the charity is applying to the local council to hold more events.'
- > 'When they stage these events this becomes the most expensive camping ground in the country. According to organisers, more than 4000 people fly in from 70 countries around the world. They call them premies because they're followers of Prem Rawat and these premies spend up to three and half thousand dollars hiring a tent.'

Neighbours and past followers interviewed in the segment make the following statements:

- > 'Yeah I believe they're not a charity, they're just hiding behind the charity banner, so they're using the charity banner to run these businesses to prop up their cult, or religion, down there.'
- > 'It's listed as a charity and they promote it as a charity but you have to ask a question with so many different types of events going on up there is it really a charity. Who's charity? Prem Rawat's?'
- > 'Any group like this should not have charity status. That's my personal opinion.'

Kaye McKinnon, publicity manager for the IRF makes the following statements:

- > 'And it's very clear and very transparent what the purpose is here, and how things operate, so it's fine.'

The host's concluding statements are:

- > 'A spokesman for the charities commission said they assess any concerns people have about an organisation's charity status and Ipswich City Council said it will take a close look at the application for more events before making a decision.'

What does the material convey to the ordinary reasonable viewer?

The ordinary reasonable viewer would have understood from the segment that neighbours and former followers allege that the IRF's operations should not have charitable status.

Was the material factual in character?

The reporter's statements relating to the IRF's charity status are identified as being the views of locals and critics of the IRF. This is clear from the following words: 'some of his former followers say', 'what angers locals', '[Neighbour 2] is another neighbour who believes' and 'what really upsets the neighbours'.

The neighbours and former followers make it clear they are giving their own opinions about, or otherwise questioning, the IRF's charity status: 'I believe they're not a charity', 'you have to ask a question ...is it really a charity?' and 'That's my personal opinion'.

Again, these claims are presented as expressions of opinion or the personal judgements of Mr Rawat's former followers and critics. As they are followed by the statements of supporters who assert that Mr Rawat and the IRF's activities are charitable in nature and benefit Australians, it is also made clear in the segment that these claims are contestable. They are not presented as assertions of fact.

Was the factual material accurate?

As the claims of neighbours and critics concerning the charitable status are not presented as factual statements, the accuracy obligations at clause 4.3.1 do not attach to the material.

The remaining question for the ACMA to consider is whether the omission of information relating to the IRF's charity status meant that the licensee broadcast factual material that was not accurate.

The complainant refers to the omission of information indicating that no adverse finding has been made about the IRF's compliance with charities and tax legislation, and that the charities regulator is not currently investigating it. This is claimed to create an inaccurate and misleading impression that the IRF and/or Mr Rawat is in breach of charities or tax laws. The complainant submits that the licensee had an obligation to include this information in the segment.

Under the Code, the licensee has no obligation to include this information as it is clear from the segment that views expressed by locals about the IRF's charity status are their personal views. It is also clear that the segment is questioning whether it is appropriate for the IRF to have charity status in light of the concerns expressed and that the IRF denies any wrongdoing.

Licensees are permitted to take an editorial stance in current affairs programs. The segment included an interview with the IRF publicity manager, Ms Kaye McKinnon, in which she states 'it's very clear and very transparent what the purpose is here and how things operate'. There is no claim that her statements were misrepresented. As noted above, through this interview and interviews with critics, the question of the IRF's compliance is presented as contestable.

The concluding statement by the host that the 'charities commission said they assess any concerns people have about an organisation's charity status' does not imply that any adverse finding has been made against the IRF or that it is currently being investigated.

The complainant alleges that the IRF tried to contact the reporter prior to broadcast to provide information to verify its regulatory compliance. As noted above, under the Code, the licensee has no obligation to include all information it has available to it in a current affairs program. The licensee was not obliged to include further information provided by the IRF about its activities or financial operation.

Accordingly, the licensee did not breach clause 4.3 of the Code.

Issue 2: Accuracy in the program promotion

Relevant Code provision

The ACMA has investigated the program promotion against the following provision of the Code:

- 4.5** In broadcasting a promotion for a news or current affairs program, a licensee must present factual material accurately and represent featured viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program promotion, and its brevity. A licensee is not required by this clause to portray all aspects or themes of a program or program segment in a program promotion, or to represent all viewpoints contained in the program or program segment.

Finding

The licensee did not breach clause 4.5 of the Code.

Reasons

Similar to the approach taken for clause 4.3.1, in assessing compliance with clause 4.5, the ACMA asks:

- > What does the material convey to the ordinary reasonable viewer?
- > Was the material factual in character?
- > If so, was the (factual) material accurate having regard to the circumstances at the time of preparing the broadcasting of the program promotion, and its brevity?

The complainant submitted that the statement in the program promotion that Mr Rawat is 'charging followers thousands to kiss his feet' is inaccurate as:

- > No foot kissing took place at the Convention.
- > No charge was imposed for foot kissing at the Convention.

The licensee submitted:

- > The meaning of the phrase 'to kiss one's feet' is a commonly understood idiom to describe worship or subjection. The logical meaning of the statement 'charging followers to kiss his feet' is that Mr Rawat, or his agents, charge followers thousands for their participation in the worship or veneration of him and his beliefs.
- > The ordinary reasonable viewer would have understood the reference to 'charging' related to the significant fees paid by attendees to participate in the Convention.
- > There is no factual assertion that foot kissing took place at the Convention.

What does the material convey to the ordinary reasonable viewer?

The program promotion conveys to the ordinary reasonable viewer that there is a conflict between the locals in Ipswich and 'a guru leader'. This is clear from the graphic 'ANGRY LOCALS v GURU LEADER'. The viewer would have understood that the promoted segment is about a 'guru' or spiritual leader, located in the region who charges fees from his followers.

Was the material factual in character?

A still image of a person kissing an unidentifiable person's feet is shown while the voice-over states, 'Tempers boil as locals take on the guru leader charging followers thousands to kiss his feet'.

As the image is not live, the ordinary reasonable viewer would have understood that it was taken some time prior to the broadcast.

There is no contextual information clarifying when foot kissing occurred. Although some viewers might have understood that it is a current practice, the material is also capable of being interpreted as meaning the guru is venerated by his followers.

There is no specific statement in the promotion that foot kissing is a current practice or that fees were charged for it at the Convention. In the context of the promotion in its entirety, and taking into account the context and brevity of the promotion, on balance the ACMA accepts

the licensee's submission that the term 'kiss his feet' is a figure of speech meaning to venerate a person.

Was the factual material accurate?

As the statement 'charging followers to kiss his feet' is not factual material, the accuracy obligations at clause 4.5 do not attach to the material.

Accordingly, the licensee did not breach clause 4.5 of the Code.

Attachment A

Transcript of 'Greedy Guru' segment broadcast on Nine on 24 September 2015

Tracy Grimshaw: Now the jet-setting Indian guru who has followers lining up to kiss his feet [*background graphic of Prem Rawat's face, in front of indistinct image of followers kissing unidentified man's feet. A graphic reading SECRET GURU followed by SECRET SECT is shown*]. And disciples want to expand their operation in Australia. Chris Allen's been following the story and joins me live. Chris.

Chris Allen: Tracey, Prem Rawat has been a controversial figure for the last 40 years. True believers say he preaches peace and it clearly appears that he's made a lot of money while doing that. Now some of his former followers say they feel deceived and they want authorities to investigate the charity which runs his events here in Australia.

Interviewee A: The people line up and kiss his feet.

[Footage of indistinct video of a line of people kissing an unidentifiable person's feet]

Interviewee B: And he would do blessings from the stage and his dance and all the rest of it. Now why would he do that, you know, if he wasn't portraying this godly figure.

[Footage of Prem Rawat over the years, including video of him having his feet kissed]

Chris Allen: It's the vision his supporters don't want you to see. The craziness that makes this man look like the leader of some weird cult.

Interviewee B: I think there's two faces to Maharaji. He's had more makeovers than the Kardashians. You know, seriously.

Chris Allen: For 30 years [Interviewee B] says she was devoted to the man she knew as Maharaji.

Interviewee B: First of all he was Guru Maharaji. Then he became Maharaji. It was Divine Light Mission and then it became Elan Vital and now it's Words of Peace or something. And now he's supposed to be a motivational speaker. So there's a deception going on that's what I object to.

[Footage of a man with a camera on a rural property]

Chris Allen: We filmed this man photographing us interviewing a neighbour of the conference centre where the Maharaji or Prem Rawat as he now calls himself is speaking.

Neighbour 1: They've been following us. I've been followed home from dropping my son off at school.

Chris Allen: [Neighbour 1] also lives nearby. He claims since asking questions about the organisation staging these events for Prem Rawat, he's been photographed and followed.

Neighbour 1: And I've also been followed through the whole week with cars pulling up, stopping, looking up on my property, taking photographs. I've also been photographed while I was working on my property over the last couple of days.

Chris Allen: And you're convinced that its people coming from next door?

Neighbour 1: Oh definitely, yeah, because they all drive back in that direction, they don't drive out and they got no reason to pull up and just take photographs of people working on their own property.

Chris Allen: When they stage these events this becomes the most expensive camping ground in the country. According to organisers, more than 4000 people fly in from 70 countries around the world. They call them premies because they're followers of Prem Rawat and these premies spend up to three and a half thousand dollars hiring a tent. There are those who have derided this as a cult, or a sect. Do you see it that way?

Interviewee C: Absolutely not. No, I wouldn't be involved in anything like that.

Chris Allen: At this latest gathering disciples dismiss any suggestion of a cult.

Interviewee D: It's certainly not that.

Chris Allen: And you're convinced of that?

Interviewee D: Yeah, no it's obvious, if anyone... if anyone looks at it for 10 minutes they would... they would see that.

Chris Allen: Well known Aussie comedian, Tracey Harvey, is also a devoted follower.

Tracey Harvey: It is a cult. I am actually going back to have virgin soup for lunch and I'm the old virgin they're sacrificing today. No, no no, that's one of the jokes I'm trying to work up, but, no, no it's a good thing.

Kaye McKinnon: Prem Rawat is an international ambassador of peace and he talks about peace and fulfilment and wellbeing.

Chris Allen: Kaye McKinnon is publicity manager for this event.

Chris Allen: Would we be able to meet Mr Rawat?

Kaye McKinnon: Well, what I suggest is that next time, if we can talk well in advance, we might be able to arrange something for you.

Chris Allen: We'll take that as a no. And while they tell us they have nothing to hide, they certainly are paranoid.

Neighbour 1: We crunched the numbers and it's over five million dollars easy for just this one event alone.

Chris Allen: What angers locals is that the company staging these events operates as a charity and doesn't pay a range of taxes.

Neighbour 1: Yeah I believe they're not a charity, they're just hiding behind the charity banner, so they're using the charity banner to run these businesses to prop up their cult, or religion, down there.

Chris Allen: Critics of Prem have said he makes money out of all this. Do you think he does?

Interviewee D: This event? No, No. I give money to the organisation to be here and I know they use it well, I trust that, yeah.

Chris Allen: Now this operates as a charity but how does this benefit Australians?

Kaye McKinnon: Oh, in so many different ways. The major benefit would be for the delegates that come because I know when I leave here, I feel like I'm refocused and clear about what my priorities are.

Neighbour 2: They might have peace up there but none down here on the flats.

Chris Allen: [Neighbour 2] is another neighbour who believes this place operates more like a business than a charity because when Prem Rawat isn't spreading peace the conference centre is rented out for sporting events and rock concerts like this earth light festival.

Neighbour 2: I had to listen to music blasting from that place 24 hours a day for four solid days and three nights.

Neighbour 1: The traffic going in and out. They even urinate, they pull up and urinating on the side of the road and even on people's properties and even defecating as well. This is not human behaviour.

Chris Allen: According to figures they give the charities commission last year they grossed 1.4 million dollars but after expenses they had a loss of half a million.

Kaye McKinnon: And it's very clear and very transparent what the purpose is here and how things operate so it's fine.

Chris Allen: And as I say its just ...

Kaye McKinnon: I think I'll just have to pull away, I'm dry.

Chris Allen: Alright have a drink. How much they make and where it goes is clearly a sensitive subject but what really upsets the neighbours is that the charity is applying to the local council to hold more events.

Neighbour 2: It's listed as a charity and they promote it as a charity but you have to ask a question with so many different types of events going on up there is it really a charity? Who's charity? Prem Rawat's?

Interviewee A: We called him lots of names, Perfect Master, Lord of the Universe, he was god in a bod to us, he was the ultimate.

Chris Allen: For 30 years [Interviewee A] was convinced this Indian born guru was the real deal. Now he says he feels deceived.

Interviewee A: I sacrificed pretty much my life for 30 years. As I say I gave away not just all my money and inheritances, two inheritances, quite substantial ones. Work, my actual job, day to day work, but more important than that was just my time, my, my love even. I gave him all my love.

Interviewee B: Any group like this should not have charity status. That's my personal opinion.

Chris Allen: [Interviewee B] is [Interviewee A's] partner. She says no amount of PR spin can rewrite history when it comes to Prem Rawat.

Interviewee B: *[Footage of people kissing an unidentified person's feet]* All of the original films were confiscated which showed all the foot kissing and a lot of the associations with the past perfect masters. They do still exist. *[Footage of people lining up to kiss Prem Rawat's feet]* We have them online.

Interviewee A: People should be free to do what they like. If they want to give all their money well what are you going to do about it?

[Footage of Prem Rawat laughing]

Tracy Grimshaw: *[Graphic: GREEDY GURU, with indistinct image of a person kissing an unidentified person's feet]* A spokesman for the charities commission said they assess any concerns people have about an organisation's charity status and Ipswich City Council said it will take a close look at the application for more events before making a decision.

Transcript of program promotion for 'Greedy Guru' segment broadcast on Nine on 24 September 2015

Voice over: *[Footage of a camping ground which appears to be taken from a passing car with graphic SECRET SECT IN IPSWICH].* The secret sect that's set up camp in Ipswich. *[Footage of three people around a table with graphic reading ANGRY LOCALS v GURU LEADER].* Tempers boil as locals take on the guru leader *[footage of Prem Rawat]* charging followers thousands *[image of a man kissing an unidentifiable person's foot]* to kiss his feet. A Current Affair next.

Attachment B

Complaint to the licensee dated 28 September 2015:

[...]

[The complainant] must object in the strongest terms to the untrue and false statements, unfair and sensationalist content in this program. What could have been a fair story in the public interest was turned into a tawdry repetition of defamatory implications and innuendo.

IRF made every attempt to provide "A Current Affair" (ACA) with complete, timely accurate and current information, including details about Prem Rawat's worldwide work in support of peace; the financial report of the Ivory's Rock Foundation; the status of the current town planning application lodged with Ipswich City Council and related neighbour concerns; the nature of the September convention depicted in the broadcast; interviews with delegates attending the September convention; and the proven lack of credibility of ACA's sources, namely, a small Internet "hate-group" with a history of attempts to defame and harass Prem Rawat, which have been proven to be tortious in a Queensland court.

As pointed out to your producers before broadcast, the defamatory "sting" of this story was provided by unreliable sources, namely, members of the hate group who admitted in court that they often made unfounded allegations online, in public and to regulatory authorities. Court papers show that your unreliable sources even went as far as to steal computers from IRCE to access sensitive data including people's home addresses and credit card information for the purpose of harassing Mr. Rawat and those who enjoy listening to his message of peace. This was all ignored by your producers.

Sadly, ACA chose to use only the most salacious, untrue and false information and out of context and decades old video clips and/or segments that supported a sensationalist angle.

The piece is rife with provably knowing falsehoods. For example, the title alone, ("Greedy Guru") and the lead-in referring to Prem Rawat's "lavish" lifestyle clearly implies to the reasonable viewer in this context that Prem Rawat has made personal gains from the charitable work of IRF. This is a defamatory accusation of criminal conduct, yet ACA failed to show a single fact supporting this allegation, and your producers completely failed to verify this allegation.

[IRF] informed your producers that there has been no personal gain to Prem Rawat from IRF or the events and activities held at Ivory's Rock Conventions and Events Centre (IRCE), and [IRF] repeatedly and to no avail, emphasized to your producers that Mr. Rawat received no financial benefit for attending the September convention as guest speaker. IRF went as far as to offer its financial report to ACA for review, yet ACA refused to take advantage of this fact-checking and willfully published a defamatory falsehood. ACA also failed to investigate and inform viewers - as they were told - that IRF has never been subjected to fines or finding of liability for improper use of charity funds. ACA purposely avoided the truth, and refused to include our comments in this regard.

The use of out-of-context footage taken from the Internet was selectively edited to cast IRF and Prem Rawat in as negative a light as possible, despite ACA being shown excerpts of court documents proving that the source of this material lacks any credibility. Some members of the hate group upon which your story relies have been found guilty of contempt of court and other crimes in Queensland. ACA never mentioned this, because in the rush to make a "sexy" story, casting scepticism on their sources would deprive ACA the salacious angle. IRF offered ACA the free use of a wide library of current and accurate footage of Prem Rawat's work, but that offer was ignored.

Ivory's Rock Foundation is an Australian Company Limited by Guarantee and a registered charitable institution for educational purposes. Your broadcast essentially accuses IRF of tax

fraud, a defamatory allegation which [they] not only deny, but one to which [they] strenuously object.

IRF's work in Australia is to promote peace. The Ivory's Rock Conventions and Events Centre is used primarily for the activities of IRF and the hire of the Centre by other organisations is an ancillary use, with revenue going toward the designated purposes of IRF. [They] cannot emphasize enough that as [IRF] told your producers, at the prodding of the small "hate group", the activities of IRCE and Prem Rawat have been previously investigated by Tax Authorities and no wrong-doing has ever been found. For ACA to know this pre-broadcast, to ignore this and not include it in the broadcast is clear and convincing proof of reckless irresponsibility.

The real - and only meaningful story here - regards complaints from IRCE's neighbours. There is always going to be conflict between enterprise and local citizens. But to its shame, ACA maliciously and gratuitously added the "greedy guru" angle to sensationalize the story. This is not "fair comment" but malicious and gratuitous defamation for the sole purpose of ginning up a "sexy" angle. False allegations regarding Mr. Rawat and diversion of funds from a charity have no relationship to the conflict about land use and noise complaints.

IRCE is a respected and major facility in South East Queensland that has operated successfully for more than 20 years. Conventions such as the September convention bring significant financial and tourism benefit to the region. IRF has an application to Ipswich City Council (ICC) with regard to the type of activities that can be conducted at IRCE in the future. IRCE has been openly responding to issues raised by neighbours with regard to a previous music festival and has been working actively with local residents with regard to resolving practical impacts such as traffic and noise for future events. The application is still being reviewed by ICC and no decision has been made.

[The complainant] is not interested in litigation, but only a fair go. We implore you to consider removing the false and defamatory video from your website, or in the alternative, edit it to clarify, including the facts that:

- (1) IRF has never been found liable for improper use of charitable funds;
- (2) That some of the sources of the story had a history and agenda of harassing Mr. Rawat and those who listen to his message of peace;
- (3) That at no time has Mr. Rawat ever received compensation from IRF; and
- (4) That ACA does not mean to imply that IRF or Mr. Rawat are violating any Charities laws and that you apologize for any misunderstanding.

[...]

Extracts from complaint to the ACMA dated 22 February 2016

[...]

1. Dissembling about the false "foot-kissing" allegation.

Nine's lengthy, convoluted and legalistic argument directly contradicts the plain and simple words of their own broadcast. Nine admits in their response that they have no evidence that this took place in Australia last September, and now claims that they were *only* referring to a practice that took place more than thirty years ago. Yet this is contradicted by their own admission at Para. 14 that their Broadcast says: "*Now the jet-setting Indian guru who has followers lining up to kiss his feet.*"

We cannot imagine how Nine thinks the average and ordinary viewer believes the word "now" really means thirty years ago.

Further in this regard, Nine failed to mark the footage they refer to in Para. 23 as "File Footage" or "Archival Footage" and claims that merely because it is in black and white that this somehow erases their own words and the clear meaning of "now." This is quite a stretch. In addition, Nine claims that the interview of [Interviewee B] - who Nine must admit was not in attendance at IRCC last September, and is an avowed member of the discredited hate group - being voiced over that footage magically transforms this to a depiction of a historical event in the mind of the ordinary viewer, despite Nine's use of the word "now."

More importantly, Nine never asked IRF if this event occurred in September 2015. How difficult would that have been?

When taken as a whole, Nine lacks sufficient justification for the clear, obvious and false implication made by Nine when the promotional lead-in and broadcast are taken as a whole, that people lined up last September to kiss Mr. Rawat's feet. That is patently inaccurate.

2. Implications of wrongdoing regarding tax and charities regulations.

At Para. 35, Nine denies "that any factual assertions are made in the Segment to the effect that IRF and/or Prem Rawat are violating tax or charities legislation." This is wholly disingenuous: when taken as a whole, the Broadcast implies to the ordinary and reasonable viewer exactly that meaning. Nine interviewed a few selected people with their own agenda who believe that the IRF should be investigated. We take no issue with that. Nine went to regulators and asked about the IRF. We take no issue with that.

What we do take issue with however, is that Nine purposely and wilfully avoided telling viewers that no regulators said irregularities had ever been levied against IRF, nor that any current investigation was ongoing. It's one thing to say that an entity might be violating laws, but if a journalistic entity goes to the trouble of interviewing law enforcement, responsible journalism requires at least telling the viewer that no violation of law has been found by the same regulators they interviewed. Omitting that crucial fact changes the tone, tenor and meaning of the Broadcast.

[...]

Nine is correct in Para. 41 that media have a right to investigate matters of public concern, but that does not give them license to do so in an unfair, deceptive and misleading way. Public concern is not in itself an excuse for the journalistic sin of omission, especially omitting important and exculpatory facts that would genuinely reflect neutral reportage of a controversy.

[...]

Conclusion

Nine's attempt to explain that their broadcast makes no factual implications is obscure, convoluted and downright gymnastic.

[...]

We stand by our position that the Broadcast as a whole clearly (and falsely) implies to the ordinary, reasonable viewer that: (1) IRF and/or Prem Rawat "is charging followers thousands to kiss his feet"; (2) Prem Rawat receives personal gain from attending conferences held there; and (3) That IRF and/or Prem Rawat are violating Tax and/or Charity Regulations.

Attachment C

Licensee's response and submissions

Extracts from the Licensee's response to the complainant dated 1 February 2016

[...]

Accuracy

9. Your Complaint alleges a number of inaccuracies in the Segment which we deal with in turn below.

IRF and/or Prem Rawat "is charging followers thousands to kiss his feet"

10. You have alleged that the Segment and the Promotion make a representation to the effect that IRF and/or Prem Rawat "is charging followers thousands to kiss his feet".

11. Nine denies that any reasonable interpretation of the Segment or Promotion can be made in support of the alleged representation.

12. Nine further denies that any such statement or representation is made in the Segment.

13. During the course of the Segment, several comments are made in relation to the kissing of Mr Rawat's feet, but there is no representation made that "he is charging followers thousands" to do so.

14. The following statements and material can be identified in the Segment relating to the kissing of Mr Rawat's feet:

- during the introduction to the Segment, the host of the program states: "Now the jetsetting Indian guru who has followers lining up to kiss his feet";
- an interviewee, [Interviewee A], states: "People line up to kiss his feet...";
- video footage of Mr Rawat is shown with people kissing his feet;
- an interviewee, [Interviewee B], states: "All the original films were confiscated that showed all the foot kissing and a lot of the association with past perfect masters but they do still exist we have them online".

15. The Code expressly provides that an assessment of whether factual material is accurate is to be determined in the context of the segment in its entirety (clause 4.3.1.1). Nine maintains that an ordinary, reasonable viewer having viewed the Segment would understand any alleged representations made to relate to the significant fees paid by attendees to participate in the annual IRF convention at Peaks Crossing, QLD (**the Convention**), and the fact that those fees are paid by devotees of Mr Rawat in order to participate in his teachings and to join in the worship or veneration of Mr Rawat.

16. Contrary to the allegations in the Complaint, there is no suggestion made during the Segment that:

- attendees at the Convention had kissed Mr Rawat's feet;
- attendees at the Convention had been charged fees in order to kiss Mr Rawat's feet.

Nor can any such meaning be reasonably attributed to any person having viewed the Segment.

17. The ACMA has previously applied the understanding of an ordinary reasonable viewer in assessing accuracy. No ordinary reasonable viewer, having viewed the Segment would be under a misapprehension that attendees at the Convention, or in any other context, had

entered into an arrangement by which a fee of thousands of dollars would be paid in exchange for permission to kiss Mr Rawat's feet. No such meaning can be legitimately derived from the Segment.

18. For similar reasons, no such meaning would be taken from the Promotion. The meaning of the phrase "to kiss one's feet" is a commonly understood idiom to describe worship or subjection. As referenced in your Complaint, the act of kissing feet is also a well understood Indian tradition of "pranam". The logical meaning of the statement "charging followers thousands to kiss his feet" is that Mr Rawat or his agents, charges followers thousands for their participation in the worship or veneration of him and his beliefs.
19. Accordingly, the statement in the Promotion that *"Tempers boil as locals take on the guru leader charging followers thousands to kiss his feet"* is to be construed by reference to the understanding of an ordinary reasonable viewer, and their understanding of ordinary vernacular.
20. There is no dispute that the attendees at the Convention pay substantial fees in order to stay at the convention, the primary purpose of which is to participate in the teachings of Mr Rawat and his beliefs. Nine has copies of promotional material released on IRF's website prior to the Convention which promote Mr Rawat as the principle attraction at the Convention. Nine understands that the scheduled events at the Convention comprised a number of speaking engagements and appearances, each featuring Mr Rawat over the course of five days between 7 and 11 September 2015.
21. Nine researchers' review of the IRF website prior to broadcast of the Segment and the prices for attendance and accommodation at the Convention show that there are significant costs for participation in the Convention, including:
 - A day attendance fee of \$500 (or \$435 if early bird pricing applies) payable if an accommodation package for the duration of the Convention is not purchased;
 - Motorhonne spaces for \$1,197 per person (or \$1,042 per person if early bird pricing applies);
 - Pioneer Single (one room tent containing 1 bed) for \$2,017 per person (or \$1,755 per person if earlybird pricing applies);
 - Pioneer Twin (one room tent containing 2 single beds) for \$1,392 per person (or \$1,211 per person);
 - Deluxes packages, including:
 - Deluxe Twin charged at \$2,293 per person (or \$1,995 per person earlybird),
 - Deluxe Double at \$2,293 per person (or \$1995 per person earlybird), and
 - Deluxe Single at \$3,949 per person (or \$3,436 per person earlybird).
22. It is clear from the Segment that there was at some time a practice in which people were permitted to approach Mr Rawat in order to kiss his feet. Footage is included in the Segment showing people kissing Mr Rawat's feet. Interviewee's also confirm the existence of the practice.
23. Contrary to the allegations in the Complaint, there is no factual assertion made that the foot kissing took place at the Convention, or is only permitted in the event of payment. [The complainant] appears to rely on use of file footage in order to allege that the Segment makes factual assertions that foot kissing took place the Convention. Nine denies that any such assertion can be derived from the footage, or from the Segment. It would be clear from the Segment to any ordinary, reasonable viewer that no representation has been made that there are existing arrangements which allow attendees to kiss Mr Rawat's feet in exchange for money, including at the Convention, because:
 - The footage showing people kissing Mr Rawat's feet is black and white, and is clearly archived footage.

- No suggestion is made during the Segment that the footage is current, or that it is taken in Australia.
- It is made clear to viewers from an interviewee's description of the footage that that the footage is dated ([Interviewee B]: "All the original films were confiscated that showed all the foot kissing and a lot of the association with past perfect masters but they do still exist we have them on line").
- No suggestion is made during the Segment that the footage relates to the activities undertaken at the Convention.

24. Nine reiterates the above in relation to the Promotion and denies that the alleged representation can be made out.

25. In this regard, Nine further notes that slightly different considerations apply to program promotions for news and current affairs programs, with particular consideration accorded to the brevity of program promotion. The Code provides:

4.5 In broadcasting a promotion for a news or current affairs program, a licensee must present factual material accurately and represent viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program promotion, and its brevity. A licensee is not required to portray all aspects or themes of a program or program segment in a program promotion, or to represent all viewpoints contained in the program or program segment.

26. No reasonable viewer could believe that thousands of dollars would be paid by individuals in order to kiss a person's feet. The statement made in the Promotion would be considered by an ordinary, reasonable viewer to have its colloquial meaning, and ultimately, a particular meaning which would be elaborated upon in the context of the Segment as a whole.

Prem Rawat receives personal gain from attending conferences held there

27. Nine rejects the allegation that a factual assertion is made in the Segment to suggest that Prem Rawat receives personal gain from attending conferences held at IRF's facility at Peaks Crossing.

28. The Segment does not present Mr Rawat's wealth and the derivation of his wealth from the Convention as fact, but as a contestable allegation.

29. The ACA reporter makes clear that the allegation is open to dispute, and is an allegation made by others, as opposed to ACA itself. In interviewing an attendee at the Convention, the ACA reporter clearly asks:

ACA Reporter: "Critics of Prem Rawat say he makes money out of all this do you think he does?"

Interviewee: "This event, no. I give money to the organisation to be here and they use it well. I trust that".

30. The Segment also makes clear that there is a delineation between Mr Rawat himself, and IRF as the entity that organises the Convention. The Segment clearly conveys that IRF is the direct recipient of proceeds from the Convention. It is also made very clear in the Segment that IRF operates as a charity and that IRF is subject to charities legislation which requires eligible organisations to be not-for-profit. This is clearly demonstrated during the Segment in reporting on figures provided by IRF to the Charities Commission for the most recent financial year. There is no factual assertion made during the Segment that Mr Rawat is the recipient of those proceeds.

31. However, it would be clear to viewers that the Segment raises questions as to whether Mr Rawat benefits from those proceeds in some way. That allegation is presented by way of contestable accounts and falls far short of being a factual assertion.
32. In support of its Complaint, we understand that [the complainant] alleges that a statement is made in the broadcast that Mr Rawat "preaches peace... and it appears that he's made a lot of money doing that". Nine has not identified this statement in the Segment. There is a statement made at the beginning of the Segment by the ACA Reporter that:
- "Prem Rawat has been a controversial figure for forty years. True believers say he preaches peace and he has amassed a fortune in the process".*
33. [The complainant's] reliance on this statement is erroneous. The statement relates to Mr Rawat's wealth and his continuing wealth during his activities in promoting peace. There is no dispute that Mr Rawat is independently wealthy. There is also no dispute that he continues to be extremely wealthy throughout his career in preaching peace.
34. Independent sources corroborate Mr Rawat's wealth, including his ownership of various overseas properties and assets. In preparing the Segment for broadcast, ACA had reference to material suggesting that there are a number of related entities which operate the various appearances of Mr Rawat at events throughout the world, and raising questions as to his involvement in those entities and the benefits he may or may not enjoy as a result of his involvement. Nine is aware that a number of those related entities have been the source of investigation and controversy in connection with their charity status and involvement with Mr Rawat. Other independent sources suggest that Mr Rawat has a complex chain of title via a number of related entities, including Elan Vital and Myrine Investments (both of which are notations in the IRF's Financial Statements for the year ending 31 December 2014). On the basis of the material publicly available, comments made in the Segment relating to Mr Rawat "amassing a fortune in the process" are clearly substantiated.

IRF and/or Prem Rawat are violating Tax and/or Charity Regulations

35. Nine denies that any factual assertions are made in the Segment to the effect that IRF and/or Prem Rawat are violating tax or charities legislation.
36. To the extent that representations are made in relation to the IRF's compliance with charities and tax legislation, those representations are presented in the Segment as contestable accounts made by neighbours to the IRF facility at Peaks Crossing and former followers of Prem Rawat.
37. Nine has identified the following relevant statements in the Segment:
- ACA Reporter: "Now some of his former followers say they feel deceived and that authorities should investigate the charity which runs his Australian operation on farmland outside Ipswich";
 - ACA Reporter: "What angers locals is the company staging these events operates as a charity and doesn't pay a range of taxes";
 - [Neighbour 1], a neighbour: "I believe they are not a charity they're just hiding behind the charity banner. So they are using the charity banner to run these businesses to prop up their cult or religion down there";
 - ACA Reporter: "This operates as a charity. How does this help Australians?";
 - Kaye McKinnon, publicity for IRF: "So many different ways. The major benefit would be for the delegates that come because I know when I leave here I feel like I am refocused and clearer about my priorities";
 - ACA Reporter: "[Neighbour 2] is another neighbour who believes this place operates more like a business than a charity because when Prem Rawat isn't spreading

peace the conference centre is rented out for sporting events and rock concerts like this earth light festival...";

- ACA Reporter: "According to figures they give the Charities Commission last year they grossed \$1.4 million but after expenses they had a loss of half a million.";
- ACA Reporter: How much they make and where it goes is clearly a sensitive subject but what's really upset the neighbours is that the charity is applying to the local council to hold more events";
- Jim, a neighbour: "Its listed as a charity and they promote it as a charity but you have to ask the question with so many different events going on up there is it really a charity? Whose charity? Prem Rawat's?";
- [Interviewee B], a former follower: "Any group like this should not have charity status that's my personal opinion".
- Host of the program: "A spokesman for the Charities Commission said they assess any concerns people have about an organisation's charity status."

38. Each of the statements above are either independently verifiable, or are presented as contestable information of interviewees. At no point is there an assertion made that the IRF is in fact contravening charities legislation.
39. The *Charities Act 2013* (Cth) regulates charitable entities in Australia and provides that charities be not-for-profit, have only charitable purposes that are for the public benefit and not have a disqualifying purpose. As a general rule, charities are not permitted to benefit a particular person unless that benefit is consistent with its charitable purpose.
40. Nine is aware that charities are permitted to make a profit, but only if that profit is used for its purposes. If an organisation continues to hold onto significant profits without using them for its charitable purpose, this may suggest that the organisation is not working solely towards its charitable purpose (and is not operating as a not-for-profit).
41. Nothing in the Code prevents ACA from interrogating the veracity of IRF's claims to operate as a legitimate charity. Indeed, it is hallmark of an effective and robust media that there is freedom to investigate matters of public interest, including compliance of entities with their regulatory obligations. The *Charities Act* itself requires a degree of transparency in the operation of eligible charities. There is a clear policy objective underlying that transparency, in ensuring that entities that are permitted tax exemptions are legitimate charities.
42. There is a significant public interest question in the compliance of IRF with charities legislation in circumstances where it is generating significant profits from its activities in Australia. This is particularly relevant given its exemption from certain taxes as a result of its charity status.
43. ACA's research suggests that there are significant profits arising from the events held by IRF, including attendance fees. As noted at paragraph 20 above, substantial entry and accommodation fees are required in order to access the Convention. Nine is also aware that the IRF stages large events which are run by other commercial organisations like endurance sporting events and music festivals. Nine has copies of IRF marketing material describing the expansive facility at Peaks Crossing, and its availability for hire for "conferences and meetings, weddings and functions, retreats and bootcamps, outdoor conventions and jamborees, tradeshows and exhibitions, special events, concerts and festivals".
44. The validity of IRF's charity status is ultimately a matter that may be determined by the Australian Charities and Not-for-profits Commission after examining the charitable purposes of IRF and whether it fulfils the requirement to be not-for-profit. However, a considerable volume of anecdotal and circumstantial evidence is available to suggest that an investigation into IRF is warranted. Nothing in the Code precludes ACA from

legitimately portraying those concerns, particularly in circumstances where those concerns are expressed independently by third parties.

Licensee's submission to the ACMA dated 15 March 2016:

[...]

Preliminary observations in relation to accuracy and fairness

7. At the outset, Nine refers to a number of preliminary issues of principle which may assist the ACMA in its consideration of this matter.

8. Nine understands that the ACMA has previously held that:

Clause 4.3.1 imposes separate obligations on licensees- where factual material is presented it must be presented accurately and where viewpoints are represented, they must be represented fairly. In assessing a licensee's compliance with those obligations, the ACMA must first assess whether the statements complained of would have been understood by the ordinary reasonable viewer as a statement of fact or an expression of opinion or viewpoint. It is only then that the ACMA can assess whether the material was presented accurately (facts) and fairly (viewpoints), as the case may be.

9. The principles which the ACMA generally applies in distinguishing between a statement of fact and an expression of opinion or viewpoint include:

- whether, according to the natural and ordinary meaning of the language used and substantive nature of the message conveyed, the relevant material presents as a statement of fact or an expression of opinion; and
- in that regard, the relevant statement must be evaluated in its context, i.e. contextual indications from the rest of the broadcast (including tenor and tone) are relevant in assessing the meaning conveyed to the ordinary reasonable listener/viewer.

10. In Nine's submission, the distinction between fact and opinion is particularly relevant in the determination of this matter. Under the Code, current affairs programs are not required to be impartial, and are permitted to take an editorial stance. Inherent in this permission is the ability to deliver opinions through the editorial voice of a story. Unlike news programs, a degree of latitude is afforded to the narrator to provide a viewpoint-provided that viewpoint is presented fairly. Not all statements made by the narrator in a current affairs program are intended to be factual statements.

11. In a previous decision of the ACMA (Investigation Report 2800), the ACMA has found that language that are of their nature, emotive and hyperbolic, equate to opinion and are not subject to the accuracy requirements outlined in clause 4.3.1. In that decision, the ACMA determined the following statements to be opinion rather than factual material for the purposes of clause 4.3.1:

- Reporter - "*The gold medal Olympian turned gold medal conman*";
- Reporter - "*[The persons the subject of Report work hard] at spending other people's money. From mums and dads to multi-millionaires, Australian celebrities and International stars*";
- Reporter - "*[The persons the subject of Report] are currently holed up in a villa somewhere hatching their next plan*";
- Reporter - "*[The persons the subject of Report] are currently hiding out in the south of France*";
- Reporter - "*Behind the scenes, [the persons the subject of Report] were living it up, bleeding the company dry*".

12. Similarly, in Investigation Report 3093, the ACMA found that language such as "pure fantasy", "living in cloud cuckoo land", were found to be of their nature, emotive, hyperbolic and/or opinion.
13. In the same Investigation Report, the ACMA found that "notwithstanding the brevity of the promotions, the language, tenor and tone was subjective, indicating the assertions were not presented as unequivocal fact but rather opinions. As such, the comments are not subject to the accuracy requirements imposed by the Code".
14. In Nine's submission, the weight of precedent suggests that a particular representation is to be construed by reference to the presence of emotive language, and to the tenor and tone in which statements are conveyed. Viewers are accustomed to the use of an editorial voice in current affairs programs that may adopt emotive language in order to convey the expression of an opinion or viewpoint that will be discussed in a particular story.
15. In another decision of the ACMA (Investigation Report 2880), the ACMA determined that technically inaccurate statements made by the Seven Network in referring to Ned Kelly's "descendants" were not ultimately a breach of clause 4.3.1 because of the presence of clause

1.5.4 in the Code, which reads as follows:

1.5 Licensees must seek to comply with the code, but a failure to comply will not be a breach of the code if that failure was due to:

1.5.4 an act or failure which, in all the circumstances, was clearly peripheral or incidental, and unlikely to offend or materially mislead viewers.

16. Nine relies on the previous decisions of the ACMA as outlined and makes reference to them in its submissions below.

Clause 4.3.1: Accuracy of the Segment

17. Nine understands from the ACMA's email of 1 March 2016 that it is investigating the factual accuracy of the Segment. The Complaints allege a number of inaccuracies in the Segment which we deal with in turn below.

IRF and/or Prem Rawat "is charging followers thousands to kiss his feet"

18. [The complainant has] alleged that the Segment makes a representation to the effect that IRF and/or Prem Rawat "is charging followers thousands to kiss his feet".
19. Nine denies that any such statement is made in the Segment. During the course of the Segment, several comments are made in relation to the kissing of Mr Rawat's feet, but there is no representation made in the Segment that "he is charging followers thousands" to do so.
20. The following statements and material can be identified in the Segment relating to the kissing of Mr Rawat's feet:
 - during the introduction to the Segment, the host of the program states: "Now the jet- setting Indian guru who has followers lining up to kiss his feet";
 - an interviewee, [Interviewee A], states: "People line up to kiss his feet...";
 - video footage of Mr Rawat is shown with people kissing his feet;
 - an interviewee, [Interviewee B], states: "All the original films were confiscated that showed all the foot kissing and a lot of the association with past perfect masters but they do still exist we have them online".

21. Contrary to suggestions in the [...] Complaint to ACMA, there is no suggestion made during the Segment that:
- attendees at the IRF convention (the Convention) had kissed Mr Rawat's feet;
 - attendees at the Convention had been charged fees in order to kiss Mr Rawat's feet.
22. The Code expressly provides that an assessment of whether factual material is accurate is to be determined in the context of the segment in its entirety (clause 4.3.1.1). The ACMA has also previously applied the understanding of an ordinary reasonable viewer in assessing accuracy. In Nine's submission, no ordinary reasonable viewer, having viewed the Segment would be under a misapprehension that attendees at the Convention, or in any other context, had entered into an arrangement by which a fee of thousands of dollars would be paid in exchange for permission to kiss Mr Rawat's feet. No such meaning can be legitimately derived from the Segment.
23. Nine maintains that an ordinary, reasonable viewer having viewed the Segment would understand any alleged representations made to relate to the significant fees paid by attendees to participate in the Convention, and the fact that those fees are paid by devotees of Mr Rawat in order to participate in his teachings and to join in the worship or veneration of Mr Rawat.
24. As noted in Nine's Response to [the complainant], there is no dispute that the attendees at the Convention pay substantial fees in order to stay at the Convention, the primary purpose of which is to participate in the teachings of Mr Rawat and his beliefs. Nine has copies of promotional material released on IRF's website prior to the Convention which promote Mr Rawat as the principle attraction at the Convention. Nine understands that the scheduled events at the Convention comprised a number of speaking engagements and appearances, each featuring Mr Rawat over the course of five days between 7 and 11 September 2015. [...]
25. Nine researchers' review of the IRF website prior to broadcast of the Segment and the prices for attendance and accommodation at the Convention show that there are significant costs for participation in the Convention, including:
- A day attendance fee of \$500 (or \$435 if early bird pricing applies) payable if an accommodation package for the duration of the Convention is not purchased;
 - Motorhome spaces for \$1,197 per person (or \$1,042 per person if early bird pricing applies);
 - Pioneer Single (one room tent containing 1 bed) for \$2,017 per person (or \$1,755 per person if earlybird pricing applies);
 - Pioneer Twin (one room tent containing 2 single beds) for \$1,392 per person (or \$1,211 per person);
 - Deluxes packages, including:
 - Deluxe Twin charged at \$2,293 per person (or \$1,995 per person earlybird),
 - Deluxe Double at \$2,293 per person (or \$1995 per person earlybird), and
 - Deluxe Single at \$3,949 per person (or \$3,436 per person earlybird).
- [...]
26. It is clear from the Segment that there was at some time a practice in which people were permitted to approach Mr Rawat in order to kiss his feet. Footage is included in the Segment showing people kissing Mr Rawat's feet. Interviewee's also confirm the existence of the practice. However, representations that the kissing of Mr Rawat's feet was a practice at some point is very different to representations that:

- feet kissing was occurring now; or
- feet kissing was occurring at the Convention; or
- feet kissing was occurring at the Convention in exchange for money.

No such meaning be reasonably attributed to any person having viewed the Segment.

27. Nine refutes the [complainant's] allegation in its Response to Nine, that there is an admission to be inferred by the insertion of a quote drawn from the beginning of the Segment: "**Now** the jet-setting Indian guru who has followers lining up to kiss his feet". No such admission is made.
28. The emphasis placed by the [complainant] on the word "now" does not indicate that there is a temporal link between the statement regarding the kissing of feet and present day. The word "now" was merely used by ACA's presenter to indicate the changeover from one broadcast segment to another, and to direct viewer's attention to the story at hand. It does not have the meaning the [complainant] seeks to infer.
29. Contrary to the [complainant's] allegations, there is no factual assertion made that the foot kissing took place at the Convention, or is only permitted in the event of payment. [The complainant] appears to rely on use of file footage in order to allege that the Segment makes factual assertions that foot kissing took place at the Convention. Nine denies that any such assertion can be derived from the footage, or from the Segment. It would be clear from the Segment to any ordinary, reasonable viewer that no representation has been made that there are existing arrangements which allow attendees to kiss Mr Rawat's feet in exchange for money, including at the Convention, because:
- The footage showing people kissing Mr Rawat's feet is black and white, and is clearly archived footage.
 - No suggestion is made during the Segment that the footage is current, or that it is taken in Australia.
 - It is made clear to viewers from an interviewee's description of the footage that that the footage is dated ([Interviewee B]: "All the original films were confiscated that showed all the foot kissing and a lot of the association with past perfect masters but they do still exist we have them on line").
 - No suggestion is made during the Segment that the footage relates to the activities undertaken at the Convention.
30. Nine does not agree with the [complainant's] claim that it was necessary to mark the footage as 'File Footage' or 'Archival Footage'. No such obligation is imposed by the Code or other regulatory instrument, and it is abundantly clear taking into account the inferences available to the ordinary reasonable viewer that the footage does not relate to the activities at the Convention. Any ordinary reasonable viewer taking into account the entirety of the Segment would not be under any such misapprehension.
31. [The complainant] seeks to place some emphasis on the fact that "[m]ore importantly, Nine never asked IRF if this event occurred in September 2015" ([the complainant's] emphasis). That emphasis is entirely misplaced. ACA was under no obligation to ask IRF if feet kissing took place in September 2015, and the fact of an identified omission in some line of questioning does not imply some form of wilful ignorance in ACA. ACA did not consider it relevant to ask IRF, or its attendees, whether feet kissing took place at the Convention. Nine continues to consider this to be the case.
32. [The complainant] seeks to rely on Investigation Report 2789 to suggest that there was a failure to provide an opportunity to IRF to dispute serious allegations levelled against it. In the circumstances of this matter, Nine did permit IRF an opportunity to be interviewed, which was broadcast during the Segment, and Nine also sought an interview with Mr Rawat (which was not provided). Moreover, Nine does not consider Investigation Report 2789 to be analogous- a supposed allegation regarding feet-kissing (which Nine denies is

made out) is not the same as an allegation levelled at a Federal member of parliament about the inappropriate use of government funds. In that case, the ACMA was of the view that the proposition that the Federal Government, influenced by Rob Oakeshott, had diverted funds from the Pacific Highway to the Oxley Highway was, in effect, the principal thrust of the news item under investigation, and Mr Oakeshott should have been afforded an opportunity to respond. The principle thrust of the Segment in this case does not revolve around feet kissing.

33. The intended meaning of the words "Now the jet-setting Indian guru who has followers lining up to kiss his feet" must be read in the context of the Segment in its entirety, and merely provided some introductory background to the dispute between neighbouring residents and the IRF in illustrating Mr Rawat's popularity. In effect, the words are an abbreviated introduction to some of the issues and themes that would be interrogated in the Segment- and not a factual statement to be interpreted literally or as incontrovertible fact.
34. Nine refers to its earlier comments at paragraphs 10 and 14 above, and notes that it is a recurrent practice in current affairs programs when introducing a particular story, to introduce the claims or viewpoints that will be discussed. Claims that are discussed, interrogated, and tested within a story are not in the nature of factual material. The representations regarding feet kissing in the Segment are clearly in this category.
35. In this regard, Nine also refers to previous ACMA decisions which require an analysis of the tone and tenor of the representations delivered. The words "Now the jet-setting Indian guru who has followers lining up to kiss his feet" are in the same category as those emotive, subjective words determined by the ACMA to be expression of opinion in Investigation Report 2800, such as "The gold medal Olympian turned gold medal conman".
36. In any event, Nine believes that putting the threshold issue of factual assertion or opinion aside, representations regarding feet kissing are similar to statements made in relation to Ned Kelly's descendants reviewed in ACMA's Investigation Report 2880. In that decision, the ACMA determined that the inaccuracy of the term "descendants" in a program promotion did not affect the main focus of the program being promoted, which in that case was the efforts of a group of those connected to Ned Kelly to resist development proposals, as opposed to the exact nature of their relationship with the famous bushranger.
37. The factual accuracy of whether or not feet kissing occurred at the convention is peripheral to the true focus of the Segment, being the dispute between neighbouring residents and IRF as to the appropriateness of the IRF Convention and activities. Precisely for this reason, there was no line of questioning of IRF representatives or attendees at the Convention in relation to feet kissing.
38. The issue of feet kissing is clearly a peripheral matter and not in contemplation as one of the key themes of the Segment. Nor would viewers be materially misled or offended by its inclusion in the broadcast. Accordingly, Nine considers that the defence in clause 1.5.4 is available and should be applied.

Prem Rawat receives personal gain from attending conferences held there

39. Nine rejects the allegation made in the Complaints that a factual assertion is made in the Segment to suggest that Prem Rawat receives personal gain from attending conferences held at IRF's facility at Peaks Crossing.
40. The Segment does not present Mr Rawat's wealth and the derivation of his wealth from the Convention as fact, but as a contestable allegation.

41. The ACA reporter makes clear that the allegation is open to dispute, and is an allegation made by others, as opposed to ACA itself. In interviewing an attendee at the Convention, the ACA reporter clearly asks:

ACA Reporter: *"Critics of Prem Rawat say he makes money out of all this do you think he does?"*

Interviewee: *"This event, no. I give money to the organisation to be here and they use it well. I trust that".*

42. Other references raising questions about Mr Rawat's wealth are similarly framed as the viewpoints of others:

- Reporter- *"True believers say [Prem Rawat] preaches peace and he has amassed a fortune in the process";*
- Interviewee - *"We crunched the numbers and it's over 5 million dollars easy for just this event alone";*
- Interviewee, [Neighbour 2] - *"It's listed as a charity and they promote it as a charity but you have to ask the question with so many different events going on up there is it really charity? Whose Charity? Prem Rawat's";*
- Interviewee, [Interviewee B] - *"I sacrificed my life pretty much for thirty years. I gave away not just all my money and inheritances, two inheritances, quite substantial ones, work, job my day to work but more than that I gave him all my time and all my love".*

43. The Segment also makes clear that there is a delineation between Mr Rawat himself, and IRF as the entity that organises the Convention. The Segment clearly conveys that IRF is the direct recipient of proceeds from the Convention. It is also made very clear in the Segment that IRF operates as a charity and that IRF is subject to charities legislation which requires eligible organisations to be not-for-profit. This is clearly demonstrated during the Segment in reporting on figures provided by IRF to the Charities Commission for the most recent financial year. There is no assertion made during the Segment that Mr Rawat is the recipient of those proceeds.

44. However, it would be clear to viewers that the Segment raises questions as to whether Mr Rawat benefits from those proceeds in some way. That allegation is presented by way of contestable accounts and falls far short of being a factual assertion.

45. In support of the Complaints, we understand that [the complainant] alleges that a statement is made in the broadcast that Mr Rawat "preaches peace... and it appears that he's made a lot of money doing that". This statement cannot be identified in the Segment. There is a statement made at the beginning of the Segment by the ACA Reporter that:

"Prem Rawat has been a controversial figure for forty years. True believers say he reaches peace and he has amassed a fortune in the process".

46. [The complainant's] reliance on this statement is erroneous. The statement relates to Mr Rawat's wealth and his continuing wealth during his activities in promoting peace. There is no dispute that Mr Rawat is independently wealthy. There is also no dispute that he continues to be extremely wealthy throughout his career in preaching peace. Furthermore, the qualifying words at the beginning "True believers say..." make clear that the fortune amassed by Mr Rawat, and how it originates, is hearsay – not incontrovertible fact.

47. Multiple independent sources corroborate Mr Rawat's wealth, including his ownership of various overseas properties and assets. In preparing the Segment for broadcast, ACA had reference to material suggesting that there are a number of related entities which operate the various appearances of Mr Rawat at events throughout the world, and raising

questions as to his involvement in those entities and the benefits he may or may not enjoy as a result of his involvement. Nine is aware that a number of those related entities have been the source of investigation and controversy in connection with their charity status and involvement with Mr Rawat. Other independent sources suggest that Mr Rawat has a complex chain of title via a number of related entities, including Elan Vital and Myrine Investments (both of which are notations in the IRF's Financial Statements for the year ending 31 December 2014 [...]). On the basis of the material publicly available, comments made in the Segment relating to Mr Rawat "amassing a fortune in the process" are clearly substantiated viewpoints, and are fairly represented as such.

[...]

IRF and/or Prem Rawat are violating Tax and/or Charity Regulations

49. Nine denies that any factual assertions are made in the Segment to the effect that IRF and/or Prem Rawat are violating tax or charities legislation.
50. To the extent that representations are made in relation to the IRF's compliance with charities and tax legislation, those representations are presented in the Segment as contestable accounts of neighbours to the IRF facility at Peaks Crossing and former followers of Prem Rawat.
51. Nine has identified the following relevant statements in the Segment:
- ACA Reporter: *"Now some of his former followers say they feel deceived and that authorities should investigate the charity which runs his Australian operation on farmland outside Ipswich"*
 - ACA Reporter: *"What angers locals is the company staging these events operates as a charity and doesn't pay a range of taxes";*
 - [Neighbour 1], a neighbour: *"I believe they are not a charity they're just hiding behind the charity banner. So they are using the charity banner to run these businesses to prop up their cult or religion down there";*
 - ACA Reporter: *"This operates as a charity. How does this help Australians?";*
 - Kaye McKinnon, publicity for IRF: *"So many different ways. The major benefit would be for the delegates that come because I know when I leave here I feel like I am refocused and clearer about my priorities";*
 - ACA Reporter: *"[Neighbour 2] is another neighbour who believes this place operates more like a business than a charity because when Prem Rawat isn't spreading peace the conference centre is rented out for sporting events and rock concerts like this earth light festival...";*
 - ACA Reporter: *"According to figures they give the Charities Commission last year they grossed \$1.4 million but after expenses they had a loss of half a million.";*
 - ACA Reporter: *"How much they make and where it goes is clearly a sensitive subject but what's really upset the neighbours is that the charity is applying to the local council to hold more events";*
 - Jim, a neighbour: *"Its listed as a charity and they promote it as a charity but you have to ask the question with so many different events going on up there is it really a charity? Whose charity? Prem Rawat's?";*
 - [Interviewee B], a former follower: *"Any group like this should not have charity status that's my personal opinion".*
 - Host of the program: *"A spokesman for the Charities Commission said they assess any concerns people have about an organisation's charity status."*
52. Each of the statements above are either independently verifiable, or are presented as contestable information of interviewees. At no point is there an assertion made that the IRF is in fact contravening charities legislation.
53. In this regard, Nine categorically denies the [complainant's] claims in its Response to Nine that the material broadcast has been presented in an "unfair deceptive and misleading way" or that Nine has involved in the "journalistic sin of omission".
54. The *Charities Act 2013* (Cth) (Charities Act) regulates charitable entities in Australia and provides that charities be not-for-profit, have only charitable purposes that are for the

public benefit and not have a disqualifying purpose. As a general rule, charities are not permitted to benefit a particular person unless that benefit is consistent with its charitable purpose.

55. Nine is aware that charities are permitted to make a profit, but only if that profit is used for its charitable purposes. If an organisation continues to hold onto significant profits without using them for its charitable purpose, this may suggest that the organisation is not working solely towards its charitable purpose (and is not operating as a not-for-profit).
56. Nothing in the Code prevents ACA from interrogating the veracity of IRF's claims to operate as a legitimate charity. Indeed, it is hallmark of an effective and robust media that there is freedom to investigate matters of public interest, including compliance of entities with their regulatory obligations. The Charities Act itself requires a degree of transparency in the operation of eligible charities. There is a clear policy objective underlying that transparency, in ensuring that entities that are permitted tax exemptions are legitimate charities.
57. There is a significant public interest question in the compliance of IRF with charities legislation in circumstances where it is generating significant profits from its activities in Australia. This is particularly relevant given its exemption from certain taxes as a result of its charity status.
58. ACA's research suggests that there are significant profits arising from the events held by IRF, including attendance fees. As noted above, substantial entry and accommodation fees are required in order to access the Convention. Nine is also aware that the IRF stages large events which are run by other commercial organisations like endurance sporting events and music festivals. Nine has copies of IRF marketing material describing the expansive facility at Peaks Crossing, and its availability for hire for "conferences and meetings, weddings and functions, retreats and bootcamps, outdoor conventions and jamborees, tradeshows and exhibitions, special events, concerts and festivals" [...].
59. The validity of IRF's charity status is ultimately a matter that may be determined by the Australian Charities and Not-for-profits Commission (ACNC) after examining the charitable purposes of IRF and whether it fulfils the requirement to be not-for-profit. However, a considerable volume of anecdotal and circumstantial evidence as presented in the Segment suggests that an investigation into IRF is warranted. Nothing in the Code precludes ACA from legitimately portraying those concerns, particularly in circumstances where those concerns are expressed independently by third parties.
60. In this regard, Nine categorically denies the [complainant's] claim that "Nine purposely and wilfully avoided telling viewers that no regulators said irregularities had ever been levied against IRF, nor that any current investigation was ongoing." No such aversion or omission is evident on the material reviewed by Nine. Nine confirms that ACA's researchers contacted the ACNC, however, contrary to the presumption made by the [complainant], Nine did not conduct any interview of the ACNC. It made enquiries in writing to ACNC representatives, but no interview was sought or obtained. Statements made by the [complainant] that: "It's one thing to say that an entity might be violating laws, but if a journalistic entity goes to the trouble of interviewing law enforcement, responsible journalism requires at least telling the viewer that no violation of law has been found by the same regulators they interviewed" are entirely misplaced.
61. Nine has made enquiries of the ACA journalist involved in reporting the Segment. He has indicated that he was not advised at any point that there were no findings against the IRF. Instead, the spokesman for the ACNC advised in writing that they would investigate any claims made about an organisation's charitable status.
62. The written advice of the ACNC in response to Nine's queries was that:

"Ivory's Rock Foundation was registered as a charity by the Australian Taxation Office, prior to the establishment of the ACNC in December 2012.

Registered charities are by definition not-for-profit organisations, however they are able to undertake business activities. The funds raised through the business activity must be used to achieve the charitable purpose.

Due to the secrecy provisions in the ACNC Act, we cannot confirm, deny, or comment on investigations.

The ACNC takes all concerns raised by the public seriously. We assess all concerns to see what action, if any, is required. This can result in a range of outcomes, including revocation of charity status- removing access to Commonwealth charity tax concessions.

Members of the public are encouraged to raise concerns by visiting acnc.gov.au/charityconcern.

All finalised compliance decisions that result in the ACNC taking action against a registered charity are published on the ACNC website at acnc.gov.au/compliance decisions."

63. Nothing in the written advice of the ACNC placed a positive duty on Nine to report that there were no investigations on foot regarding the IRF. Moreover, the Code does not require licensees to present all factual material available to them. There is no justification for the statement made by the [complainant] that "Nine purposely and wilfully avoided telling viewers that no regulators said irregularities had ever been levied against IRF, nor that any current investigation was ongoing".
64. Nine is aware that omission of salient information can lead to a breach of the accuracy provisions of the Code. However, this does not apply to the circumstances of this matter on any view of the information provided to Nine by the ACNC. Nine was not advised by the ACNC that no investigation of the IRF was on foot. Indeed, the ACNC was not able to confirm, deny or comment on investigations, and a review of published decisions on the ACNC website would not reveal whether any investigation was on foot and yet to be finalised. Therefore, there was no compulsion to provide this information during the broadcast.
65. Nine further denies the [complainant's] claim that "Nine's behaviour [sic] is directly contrary to Australian case law". [The complainant] does not specify any authority for its position, and Nine is not aware of any jurisprudence of any court to support the [complainant's] submission.

Clause 4.5- accuracy and fairness of the Promotion

66. [The complainant] has alleged that the Promotion for the Segment was inaccurate. Nine understands that the ACMA is investigating the accuracy and fairness of the Promotion.
67. The Promotion was aired twice on 24 September 2015, at 5.45pm and 6.25pm. The full script of the Promotion is as follows:

"The secret sect that's set-up camp in Ipswich. Tempers boil as locals take on the guru leader charging followers thousands to kiss his feet. A Current Affair next".
68. Nine refers to its earlier submissions at paragraphs 7 to 14, in relation to the proper construction of factual material as opposed to opinion. In Nine's submission, the language and tone of the Promotion is such that no factual material is provided in the

Promotion. The relevant question is not of accuracy of facts presented, but of fairness in the representation of viewpoints.

69. In Nine's view, viewers are accustomed to watching Promotions for current affairs programs which provide a snapshot of the themes and issues to be explored and tested in the Segment. The Promotion in question is no different. It is reasonably clear to viewers that the statement "Tempers boil as locals take on the guru leader charging followers thousands to kiss his feet" are not incontrovertible facts, but are allegations made by local residents in Ipswich in relation to a dispute they are having with a guru leader.
70. The use of language such as "tempers boil" which is superlative, emotive type language is indicative of an expression of viewpoints. The further use of "thousands" as an imprecise indication of large amounts of money paid is also suggestive of superlative, subjective language in the nature of opinion.
71. Furthermore, the literal meaning of the words "charging followers thousand to kiss his feet" involves a scenario in which Mr Rawat would seek remuneration of several thousands of dollars in order to permit followers to kiss his feet. The idea that any person would enter into a transaction to pay a significant sum of money merely to kiss the feet of another defies reality, and is undeniably absurd. It follows that the concept is clearly not intended to be interpreted literally and any fair interpretation of the words "charging followers to kiss his feet" does not involve the payment of moneys in exchange for just a kiss.
72. Metaphorical and idiomatic meanings attached to common phrases are replete in Australian syntax. The phrase "kissing someone's feet" is a phrase in common parlance to indicate a show of veneration, submission or devotion. It should be abundantly clear that the meaning of the phrase properly construed is that followers pay a significant amount of money in which to participate in the worship of Mr Rawat. The inclusion of the statement "charging followers thousands to kiss his feet" was intended as a comment on the payment of large sums of money to attend congregations of followers of Mr Rawat. No other sensible meaning can proceed from the words.
73. In previous decisions, the ACMA has noted that: "in considering compliance with the Code, the ACMA considers the natural, ordinary meaning of the language, context, tenor, tone, and any inferences that may be drawn". Contextual and inferential information can be drawn from the Promotion, and the surrounding voiceover which refers to the congregation of Mr Rawat's followers in Ipswich.
74. An ordinary reasonable viewer in viewing the Promotion would have reference to the preceding words, "The secret sect that's set-up camp in Ipswich" and the accompanying vision of tents set up at the IRF campsite, and would understand that the "thousands of dollars" paid would refer to participation in the activities of at that campsite – not for a mere kiss.
75. In addition, an ordinary reasonable viewer would understand that a dispute was in place, involving disgruntled local residents, and that there would necessarily be some differences of opinion on both sides. The necessary outcome being that viewpoints represented could not equate to incontrovertible fact. The emotive language of "[t]empers boil as locals take on the guru leader..." signposts the provision of competing assertions of opinion.
76. The brief time period usually allocated for program promotions means that not all contextualising information can necessarily be presented. It is a necessary feature of a promotion that an ordinary reasonable viewer will not be able to discern all the information and issues sought to be communicated by a story. So much is recognised at clause 4.5 of the Code, which explicitly refers to the brevity of a program promotion and

does not require a licensee to portray all aspects or themes of a Program or Program segment. As such, ordinary reasonable viewers will generally view a program promotion knowing that their understanding is necessarily limited by the brevity of the promotion. Understanding these constraints, they would have a reasonable expectation that the statement that Mr Rawat was "charging followers thousands to kiss his feet" would be elaborated upon during the full Segment, and that the "charging of thousands" would be related to the participation of followers in worshipping a guru and their participation in a camp of some sort. It would be an unjustifiable, and artificial, leap for any reasonable viewer to conclude that the "thousands of dollars" would be paid in order to kiss that guru's feet.

77. Accordingly, Nine submits that no reasonable viewer could believe that thousands of dollars would be paid by individuals in order to kiss a person's feet. The statement made in the Promotion would be considered by an ordinary, reasonable viewer to have its colloquial meaning, and ultimately, a particular meaning which would be elaborated upon in the context of the Segment as a whole.

78. Nine also repeats its submissions at paragraphs 34 to 38 in relation to the Promotion, and relies on clause 1.5.4 of the Code.

79. For these reasons, Nine denies that the Promotion has the meaning alleged by the [complainant] or has otherwise been broadcast in contravention of the Code.

Communications with Nine staff prior to broadcast

80. In its Response to Nine, [the complainant] has provided copies of emails sent by Ms Kaye McKinnon, a representative of IRF, to Mr Chris Allen, the journalist who prepared and appears in the Segment.

81. Nine has made further enquiries of Mr Allen, and has verified that some attempts were made by Ms McKinnon to contact him. At the time of drafting Nine's response to [the complainant], Nine had been advised that Mr Allen had not received any further material from Ms McKinnon but had not been advised that Ms McKinnon had sought to contact him.

82. Nine regrets the misunderstanding which led to its advice to the [complainant], however, it does not agree that the records exhibited to [the complainant's] Response to Nine should be characterised in the way that the [complainant] seeks, being "urgent" and "desperate". In its Response to Nine, [the complainant] indicates that Ms McKinnon "desperately and repeatedly tried to communicate with Nine via email and voice mail as early as 14 September 2015."

83. At best, the correspondence provided demonstrates some attempts by IRF to provide further information to Mr Allen for inclusion in the Segment. Nine was not obliged to include that material in the Segment. Nine is instructed that Mr Allen considered the information provided to him to be duplicative of the material he had already discovered through other sources, and for this reason, he considered its provision to him was redundant.

84. In the Complaint to ACMA, [the complainant] indicated that [IRF] offered to show Nine [IRF's] financial statements, answer questions and to explain that any allegations of wrongdoing had been discredited. It is not clear to Nine how the emails exhibited to [the complainant's] Response to Nine can be characterised in this way. The emails provide further information in relation to the following matters:

- The existence of a "hate group" comprised of former followers of Prem Rawat, and material posted on the "Ex-Premie" internet websites;
- Excerpts from an affidavit of [...] filed in the Supreme Court of Queensland in which it alleged that the "the main author of the allegations which Nine built its story on had recanted, apologized and admitted under oath that [...]the allegations he admitted were false".

- Background information regarding the work of Prem Rawat, his international speaking commitments and a press kit.
85. In Nine's submission, none of the material referred to in the emails was relevant to, or clarified the answers sought at the IRF Convention beyond the answers already given by interviewees.
86. Nine is instructed that Mr Allen was already aware that there were certain "hate-groups" comprising disillusioned former followers of Mr Rawat, and that these groups have been active in publishing material that is critical of Mr Rawat and related entities. None of that material was used in the Segment.
87. Similarly, Nine did not consider the affidavit of Mr [...] to be relevant to the issues explored in the Segment, being an affidavit suggested by separate accounts to be obtained under duress. Nine did not refer to the affidavit, or base the Segment on the issues raised in the affidavit. As noted, ACA staff thoroughly researched the information set out in the Segment prior to broadcast and was based on a number of sources not connected with Mr [...].

Attachment D

ACMA considerations for determining factual content:

- > In practice, distinguishing between factual material and other material, such as opinion, can be a matter of fine judgement.
- > The ACMA will have regard to all contextual indications (including subject, language, tenor and tone and inferences that may be drawn) in making its assessment.
- > The ACMA will first look to the natural and ordinary meaning of the language used.
- > Factual material will usually be specific, unequivocal and capable of independent verification.
- > The use of language such as 'it seems to me' or 'we consider/think/believe' will tend to indicate that the content is contestable and presented as an expression of opinion or personal judgement. However, a common sense judgement is required and the form of words introducing the relevant content is not conclusive.
- > Statements in the nature of predictions as to future events will rarely be characterised as factual material.
- > Statements containing hyperbole will rarely be characterised as factual material.
- > The identity of the person making a statement (whether as interviewer or interviewee) will often be relevant but not determinative of whether a statement is factual material.
- > Where it is clear in the broadcast that an interviewee's account is subjective and contestable, and it is not endorsed or corroborated, their allegations will not be considered as factual assertions.
- > Where an interviewee's stance is separately asserted or reinforced by the reporter or presenter, or proof of an allegation is offered so that it becomes the foundation on which a program or a critical element of the program is built, it may be considered a factual assertion.⁴
- > Sources with expertise may be relied on more heavily than those without, in determining whether material is factual, but this will depend on:
 - > whether the statements are merely corroborative of 'lay' accounts given by other interviewees
 - > the qualifications of the expert
 - > whether their statements are described as opinion
 - > whether their statements concern past or future events⁵
 - > whether they are simply comments made on another person's account of events or a separate assertion about matters within their expertise.

⁴ See investigation 2712; Channel Seven Adelaide Pty Limited v Australian Communications and Media Authority [2014] FCA 667.

⁵ For example, ACMA *investigations* 3066 (*Four Corners* broadcast by the ABC in 2012), and 2961 (*Alan Jones Breakfast Show* broadcast by 2GB in 2012)