



Western visitor radio - Dubbo

Complaint

On 3 April 1996 the ABA received a complaint that the open narrowcast radio service provided by Western Visitor Radio (WVR) in Dubbo did not meet the relevant criteria set down at s.18 of the *Broadcasting Services Act 1992*.

Relevant legislation

Class licences are not individually issued, however, to provide an open narrow-casting service (among others), a person does require an apparatus licence as defined under Part 3.3 of the *Radiocommunications Act 1992*. If the person is going to use the broadcasting services bands of the radio frequency spectrum, i.e. not cable or satellite. The apparatus licence is subject to the condition that it only be used to provide a low power open narrowcasting service. The ABA investigated whether this condition had been breached.

Assessment

The ABA assessed audiotapes of the

service and submissions from WVR in support of its contention that the service was an open narrowcasting service. The ABA found that the service provided by WVR at the time of the complaint failed to meet the criteria for an open narrowcasting service. Accordingly, the ABA found that WVR had breached the apparatus licence condition that the licence only be used to provide a low power open narrowcasting service.

Decision

Of significance to the ABA's finding was the format and promotion of the live-to-air program broadcast by WVR from 7 am to 12 noon Monday to Friday. The ABA formed the view that because of this program, the service failed to meet the criteria that it be targeted to special interest groups or provide programs of limited appeal.

The live-to-air program was promoted as being of appeal to all shoppers and visitors to Dubbo. The ABA is of the view that shoppers are not sufficiently

isolated as a group to meet the open narrowcasting criterion that the service be limited by being targeted to special interest groups.

If a service has programming which appeals to a group wider than the special interest, even where the format may appeal to that special interest, the service can no longer be considered to be limited on that basis. It is the view of the ABA that this was the case with the WVR service at the time of the complaint.

The live-to-air program incorporated a number of elements having a broader appeal than to tourists only. These included contemporary music (pre-announced and up to 8 tracks per hour), news items, comedy spots, community service elements and advertisements for a broad range of products and services.

The ABA was also of the view that the service was not limited by being intended for a limited location, provided during a limited period or to cover a special event, or for some other reason.

The codes

Commercial television, commercial and community radio, the ABC and SBS all operate under codes of practice, while other broadcasting sectors are well advanced in the development of their respective codes. The ABA supervises the operation of the codes and performs an independent adjudicator role where complaints are not resolved between the complainant and the broadcaster concerned.

Primary responsibility for compliance with the codes and for resolving complaints rests with the broadcasters. If a station fails to answer a complaint within 60 days, or if the response is unsatisfactory, then the complaint can be referred to the ABA for investigation.

Investigations

The ABA is required to investigate unresolved complaints and to inform complainants of the results of such investigations.

The ABA can also investigate complaints about the national broadcasters, the ABC and SBS.

The ABA also investigates complaints about matters relating to the standards for children's television or Australian content on television, the standards for subscription broadcasting, subscription narrowcasting and open narrowcasting, and complaints in relation to any type of broadcasting service where the complaint relates to a possible breach of the Act or conditions of licence.

The ABA has a range of sanctions available to it in the event of a breach of a code of practice, program standard or licence condition. Any action taken depends on the seriousness of the breach.

Action taken

As a result of the ABA's findings WVR has made substantial changes to the live-to-air program so the service is not in breach of the condition on its apparatus licence. These changes include reducing the music component to a maximum of 4 tracks per hour (tracks are not pre-announced), dropping all news bulletins, reducing the number of comedy spots, dropping advertisements which are of no interest to tourists and identifying the station on-air as a tourist radio service. □

Copies of the report, *Report of Investigation, Western Visitor Radio - Dubbo, Category of Service*, may be obtained from the ABA, \$10.