

## Investigations ...

# The ABA investigates political matter

## Forest Industries

In response to a complaint from the Wilderness Society (Tasmania), the ABA has recently completed an investigation into whether a radio advertisement for the Forest Industries Association of Tasmania Ltd, and broadcast on 6 January 1995 by commercial radio station 7HHO Hobart (also known as MIX 101 HO-FM), constituted 'political matter'.

The advertisement in question used an interview format, between an unidentified announcer and 'Tasmanian forester John Simpson'.

The subject of discussion was cable-logging, which was presented as a positive course of action leading to a better outcome than the alternative processes. Reference was made to various locations in Tasmania where cable-logging

has been carried out. The advertisement concluded with the statement:

'Tasmanian forest industries. Responding positively to community concerns and today's forest industries.'

### Assessment

Having identified that the issue under discussion in the advertisement was cable logging, the ABA's next step was to determine whether or not the issue is a 'political issue'; that is, to see if there was a substantial level of public debate on that issue at the date of broadcast. The next step was to gauge the substantiality of the link between the issue of the advertisement and an issue currently being publicly debated. The test is intended to be applied on a case by case basis, as the political context may change over the life of an advertising campaign.

To establish the context of the broadcast of this advertisement, the ABA

undertook a search of the *Mercury* (Hobart) and the *Australian* newspapers, published from 27 December 1994 to 7 January 1995.

The issues of forest protection and forest management are issues which have been, and continue to be, the subject of debate in the public arena at both the State and Federal level. The ABA also acknowledges the particular significance of this issue within Tasmania, and notes that these are issues for which debate is ongoing. The level of debate has, at times, been particularly intense and has included rallies and other street protests, as well as heated discussion in the media.

The debate has included coverage in the media of issues relating to the specific issue of logging — that is, including whether or not logging should occur at all and the by-products of logging.

In their submissions to the ABA, both 7HHO and the Federation of Australian Radio Broadcasters (FARB) referred to the escalation in debate of these issues following the Federal Government's renewal of woodchip export licences in late December 1994.

However, while there had been a high level of coverage on this and related issues in the weeks leading up to this broadcast, at the time this advertisement was broadcast the level of debate taking place on the specific issue of logging was not substantial enough to satisfy the test.

Therefore, the ABA considered that the subject of this advertisement did not have a sufficient relationship with a political issue for the advertisement to be caught by the definition of political matter.

The ABA acknowledges that, while under a strict interpretation of the test woodchipping and logging may be seen as separate issues, the average viewer/

### The codes

Commercial television, commercial 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.

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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 community broadcasting, 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.

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listener would be unlikely to make such a distinction and may assume a link by association. In complex circumstances of this nature, licensees will need to exercise carefully their judgement in deciding what is or is not political.

In this case, the ABA did not consider that the link by association was strong enough for this advertisement to have been considered political matter.

## **What is political matter?**

If the Forest Industries advertisement had been found to be political matter, and its broadcast had been requested by a person other than the licensee of 7HHO, then it would need to have been tagged with the 'required particulars'. The information provided by the required particulars assists the audience to identify the person who approved the advertisement and requested its broadcast, and also whether or not this person belongs to a political party or some other group.

Some matters broadcast will obviously be political matter, for example a broadcast designed to affect a person on a matter of current political controversy. It is not necessary for the advertisement to promote explicitly a particular political party, or advocate a particular point of view. In fact, broadcasts which simply provide information may also be considered to be political matter, if the issue is one of prominent public debate.

The ABA acknowledges the practical difficulties which may arise, both for the regulator in assessing compliance and also for the industry in ensuring that licensees comply with the requirement to tag political matter with the required particulars.

## **Broadcast environment**

While it is obvious that broadcasting stations should be responsive to the environment in which they work, the ABA acknowledges that it is not necessarily realistic to expect an individual station to undertake daily monitoring of the political context for each individual broadcast of an item (which is being done at the request of another person). After all, some

advertisements may be broadcast several hundred times over a period of some months.

The ABA acknowledges that this approach could well result in a single advertisement sometimes requiring a tag and sometimes not, depending on the ebb and flow of public discussion. This has obvious administrative implications for each licensee and the advertising clearance system provided by FARB and the Federation of Australian Commercial Television Stations (FACTS).

The ABA accepts the view that, in some circumstances, the reasonable listener/viewer is likely to make an asso-

ciation, in some cases the preferred approach may be for licensees to assess the subject of the advertisement in terms of its likelihood of becoming a political issue. Such an advertisement would be tagged from the outset, in anticipation of surges in the intensity of debate on those issues.

The industry should remain aware, however, of the environment in which material is broadcast. Some issues may become unexpectedly political, which may require any matter that is broadcast at the request of another person to carry a tag on subsequent screenings. For example, an agency may place an ad-



ciation between one issue (for example logging) and another (for example woodchipping). This may be even though, under a strict interpretation of the test, there may not be a direct and substantial relationship between the issue of the advertisement and the issue which is the subject of substantial public debate.

The ABA also considers that there are issues about which debate is virtually continuous, but which periodically flare up to a very high level of public discussion. The issues of logging and woodchipping are two such examples.

The ABA is of the view that, in deciding whether or not a particular advertisement should carry the required par-

vertisement relating to the availability of bus timetables. Ordinarily this would not be a political issue. However, if the subject of timetable availability became a subject of substantial public debate (in response, for example, to various events which occurred due to a lack of knowledge about bus times) then the advertisement would be considered to be political matter and would be required to carry the required particulars.

## **Consultation**

The ABA intends to consult with the various sectors of the broadcasting industry, to further develop the points made above, to provide guidance for the identification of political matter.