

Investigations



Radio 6EBA-FM

Complaint

In October 1996 the ABA received a complaint concerning the licensee of Perth ethnic community radio station 6EBA-FM, the Multicultural Radio and Television Association of Western Australia (MRTA). The complainant alleged that it had been refused access to air-time on 6EBA-FM.

Relevant codes and legislation

Paragraph 9(2)(c) of Schedule 2 of the *Broadcasting Services Act 1992* states that each community broadcasting licence is subject to the condition that:

the licensee will encourage members of the community that it serves to participate in:

(i) the operations of the licensee in providing the service; and

(ii) the selection and provision of programs under the licence.

Section 1.9 of the Community Broadcasting Code of Practice states that community broadcasting stations will:

Seek to widen the community's involvement in broadcasting and to encourage participation by those denied effective access to, and those not adequately served by, other media.

Decision

Following a dispute between two groups within the Bosnian community of Perth as to which one had the right to broadcast on 6EBA-FM, the MRTA placed a moratorium on granting air-time on 6EBA-FM to groups representing any of the Balkan states. As a result of its investigation, the ABA concluded that by imposing this moratorium the MRTA was not encouraging certain sections of the com-

munity to participate in the selection and provision of programs at 6EBA-FM. In addition, MRTA was not seeking to widen the community's involvement and participation in broadcasting. The ABA therefore found the MRTA to be in breach of relevant licence condition and code.

Action taken

The MRTA informed the ABA that it would lift the moratorium which was the subject of the complaint. The two Bosnian groups also reached agreement which meant they would both be provided with air-time. The ABA therefore decided not to take the matter any further, but placed the MRTA on notice that more serious steps may be taken if future similar breaches of either the MRTA's licence conditions or the Community Broadcasting Code of Practice were determined.



Imparja television

Complaint

In September 1996 the Country Liberal Party of the Northern Territory complained to the Northern Territory Electoral Office that commercial television station Imparja Television had broadcast an election advertisement for the ALP during a blackout period for a by-election for the Northern Territory House of Assembly seat of Stuart. The Electoral Office referred the matter to the ABA for investigation.

Relevant legislation

Clause 3A(2) of Schedule 2 of the *Broadcasting Services Act 1992* states that a broadcaster must not broadcast under its licence an election advertisement in relation to a Parliamentary election during the relevant period if the broadcaster's licence area is part of or contained in the area to which the election relates. The Act defines 'relevant period', in

relation to an election, as 'the period that commences at the end of the Wednesday before the polling day for the election and ends at the close of the poll on that polling day'.

Decision

In response to the ABA's request for comments Imparja did not deny that an election advertisement was broadcast. The transmission log and tape provided to the ABA by Imparja show that a 15 second advertisement for Mr Peter Toyne, ALP candidate in the by-election, was broadcast. Imparja submitted that there was a general lack of awareness in the station of the by-election. The Imparja sales representative who took the booking for this advertisement from an adviser to the Northern Territory's ALP Opposition Leader assumed that this political 'professional' would be aware of the relevant rules. Imparja also stated that the sales representative was of the

understanding that the blackout period was two rather than three days. Imparja also submitted that they relied on notification of elections from either the Federation of Australian Commercial Television Stations (FACTS) or the ABA, but in this case no notification was received.

Action taken

The ABA viewed this as a serious breach of a licence condition, as it relates to the conduct of elections in Australia. However, the ABA decided not to take the matter further on this occasion as it was apparent that the breach was not intentional and Imparja has implemented a system to ensure as far as possible a similar breach did not occur again. The ABA also confirmed with both Imparja and FACTS that the ABA does not notify commercial television stations of impending Parliamentary elections or by-elections.

