



Five of six Queensland Government advertisements broadcast between November 1997 and May 1998 constituted 'political matter' and should have been 'tagged', says the ABA after investigating the matter.

Queensland Government advertisements were 'political matter'

The ABA has found that five of six Queensland Government advertisements broadcast between November 1997 and May 1998 constituted 'political matter' and should have been 'tagged'.

It is a condition of a broadcasting licence that, if a broadcaster broadcasts political matter at the request of another person, the broadcaster must, immediately afterwards, cause the required particulars in relation to the matter to be announced. The 'required particulars' are commonly referred to as the 'authorisation' or 'tag'. All six advertisements were broadcast without the required particulars.

The ABA commenced its investigation as a result of complaints from the Australian Labor Party, Queensland (the then Opposition) in April and May 1998. At the time the complaint was made the ABA was in the process of developing a set of guidelines to assist in the interpretation of the requirements of the Broadcasting Services Act.

On 7 August 1998 the ABA published *Guidelines for the Broadcasting of Political Mat-*

ter. The ABA did not commence its assessment of the complaint until after the *Guidelines* were published.

'The ABA used the *Guidelines* in its investigation to assist in its assessment of whether the advertisements contained 'political matter' and therefore needed the required particulars to be announced immediately afterwards,' said Professor David Flint, ABA Chairman.

'The ABA decided that the fact that the *Guidelines* were not in existence at the time of the broadcasts would be a factor of major significance in determining what action to take in the event that a breach or breaches were found. For these reasons, the ABA has decided, in this instance, to take no further action with regard to the findings in this investigation.'

'However, now that the *Guidelines* are in existence broadcasters will be able to apply the provisions of the Act concerning the broadcasting of political matter,' he added.

The advertisements were broadcast on Queensland

commercial television stations between November 1997 and May 1998 and identified as:

- Hospital Waiting Lists,
- Education,
- Police Staffing and Funding,
- Pacific Highway Upgrade,
- Hospital and Equipment Upgrades, and
- Small Business – Smart Licences.

The ABA found that the five advertisements, Hospital Waiting Lists, Education, Police Staffing and Funding, Pacific Highway and Hospital and Equipment Upgrades, are properly characterised as participation in the political process and as an attempt to comment on the administration of government. Therefore, the advertisements constituted political matter and ought to have been followed by an announcement of the required particulars.

What is political matter?

The definition at clause 1 of Schedule 2 of the Act provides little guidance as to the sort of material which will be political matter. Political mat-

ter is simply defined to mean any political matter, including the policy launch of a political party.

What is or is not political matter is an objective test and must be determined on a case-by-case basis. It may be more or less obvious on the face of the broadcast. To be political matter, the matter broadcast must, when viewed objectively, be capable of being properly characterised as participation in the political process or an attempt to influence or comment upon that process, the administration of government or those who participate in these activities.

In determining if a matter that has been broadcast is political matter it is important to take into consideration:

Investigation report

Printed copies of the investigation report are available from the ABA, price \$10. The report is also on the ABA web site, <www.aba.gov.au>.

Copies of the *Guidelines for the Broadcasting of Political Matter* are available free from the ABA, and are also on the web site.



- the content of the broadcast;
- the overall presentation of the material including the tone, style, and emphasis;
- the nature and style of any accompanying audio or visual material; and
- the context surrounding the broadcast.

The intent of the person requesting that the matter be broadcast will not usually be a relevant consideration.

Any matter broadcast which advocates a certain point of view with regard to government and its policies, or political parties and their policies, would fall within the definition of political matter regardless of when it is broadcast. However, matter which is simply promoting a product or service would not fall within the definition of political matter merely because it refers to something which is political.

Relevant legislation

Clause 4 of Part 2 of Schedule 2 of the Act requires broadcasters to identify certain political matter:

4 Identification of certain political matter

4(1) In this clause, **broadcaster** means:

- a commercial television broadcasting licensee; or
- a commercial radio broadcasting licensee; or
- a community broadcasting licensee; or
- a subscription television broadcasting licensee; or
- a person providing broadcasting services under a class licence.

[Note: services provided under class licences include subscription and open narrowcast services.]

- If a broadcaster broadcasts political matter at the request of another person, the broadcaster must, immediately afterwards, cause the required particulars in relation to the matter to be announced in a form approved in writing by the ABA.
- A broadcaster must, in relation to political matter broadcast at the request of another person, keep a record of the name, address and occupation of the person or, if the person is a company, the name and the address of the principal office of the person for the required period and must give to the ABA any particulars of the record that the ABA, by written notice, requires.
- For the purposes of this clause, a person authorises the broadcasting of political matter only if the person is responsible for approval of the content of the political matter and the decision to present it for broadcasting.

Clause 1 of Part 1 of Schedule 2 provides a number of relevant definitions:

political matter means any political matter, including the policy launch of a political party;

required particulars, in relation to a political matter that is broadcast, means:

- if the broadcasting was authorised by a political party:
 - the name of the political party; and
 - the town, city or suburb in which the principal office of the political party is situated; and
 - the name of the natural person responsible for giving effect to the authorisation; and
- if the broadcasting of the political matter was authorised by a person other than a political party:
 - the name of the person who authorised the broadcasting of the political matter; and
 - the town, city or suburb in which the person lives or, if the person is a corporation or association, in which the principal office of the person is situated; and
- the name of every speaker who, either in person or by means of a sound recording device, delivers an address or makes a statement that forms part of that matter;

On 11 November 1992 the ABA approved the following form for the announcement of the required particulars as defined in clause 1 of Schedule 2:

- If the political matter is broadcast by radio the broadcaster shall cause the required particulars to be broadcast in the form of a spoken announcement.
- If the political matter is broadcast by television the broadcaster shall cause the required particulars (other than those contained in paragraph (c) of the definition of required particulars in clause 1 of Schedule 2) to be broadcast in the form of a spoken announcement, and cause all the required particulars to be broadcast in the form of images of words.