



As part of its inquiry into commercial radio, the ABA will conduct a public hearing commencing on 19 October.

2UE hearing in commercial radio inquiry

The ABA has announced that, as part of its inquiry into commercial radio, it will conduct a public hearing to commence on Tuesday 19 October 1999.

'This hearing will examine the arrangements entered into by Mr John Laws and Mr Alan Jones and the effect of such arrangements on the content of broadcasts on Radio 2UE,' said Professor David Flint, ABA Chairman. 'This will include whether 2UE has failed to comply with the standard of conduct required by the Commercial Radio Codes of Practice relating to "News and current affairs programs" and "Advertising".'

The hearing is part of the wider information gathering process in the ABA's inquiry into allegations that commercial radio stations broadcast comments of an editorial nature for which a fee or other valuable consideration was received.

'At the conclusion of this hearing the ABA will produce a report of the findings it makes in the hearing. After publication of the report and as part of its broader commercial radio inquiry, the ABA intends to invite written submissions in relation to issues arising from the findings,' said Pro-

fessor Flint. 'This might include whether the current Commercial Radio Codes of Practice provide adequate community safeguards in respect of the alleged matters, and if not, how these matters might be addressed.'

The timetable for the conduct of the hearing was finalised in consultation with the hearing participants at a conference on 20 September 1999 (see over page for details).

Professor Flint referred to the legislative mandate to conduct hearings efficiently and economically. He observed that counsel for the most affected participants (2UE, Mr Laws and Mr Jones) could expect to be allowed to cross-examine any witness. Other participants could expect to cross-examine only by leave.

The ABA will be constituted for the purpose of the hearing by a panel consisting of Professor David Flint, ABA Chairman, and Mr Michael Gordon-Smith, ABA Member.

There will be another hearing conference, on 12 October at 2.15 p.m.

The hearing will be held at the Australian Industrial Relations Commission, 80 William Street, Sydney.

For information about the hearing, contact the ABA on (02) 9334 7700.

Terms of reference—hearing

Terms of reference for the hearing by Australian Broadcasting Authority under Division 2 of Part 13 of the *Broadcasting Services Act 1992*, 6 August 1999.

WHEREAS the *Broadcasting Services Act 1992* ('the Act'):

- includes within its objects
 - (i) to encourage providers of commercial broadcasting to be responsive to the need for fair and accurate coverage of matters of public interest; and
 - (ii) to encourage providers of broadcasting services to respect community standards in the provision of program material;
- charges the Australian Broadcasting Authority with the responsibility for monitoring the broadcasting industry; and
- confers on the Australian Broadcasting Authority a range of functions and powers that are to be used by the Australian Broadcasting Authority in a manner that, in its opinion, will produce regulatory arrangements that are stable and predictable and deal effectively with breaches of the rules established by the Act;

AND WHEREAS:

- Radio 2UE Sydney Pty Ltd ('the licensee') holds a commercial radio broadcasting licence granted under the Act last renewed on 23 August 1996;
- John Laws and Alan Jones are presenters on Radio 2UE;
- on 20 July 1999 the Australian Broadcasting Authority commenced an Investigation under Division 2 of Part 13 of the Act into matters relating to agreements, arrangements or understandings entered into by or on behalf of the licensee, John Laws or any other presenter on Radio 2UE; and
- on 6 August 1999 the Australian Broadcasting Authority widened the terms of the investigation to include matters relating to agreements with certain presenters on Radio 6PR Perth and Radio 5AD and 5DN Adelaide;

TAKE NOTICE that for the purposes of the performance of its functions:

- to suspend and cancel licences and to take other enforcement action under the Act;



- to collect fees payable in respect of licences;
- to monitor compliance with codes of practice;
- to develop program standards relating to broadcasting in Australia; and
- to monitor, and report to the Minister on, the operation of the Act;

the Australian Broadcasting Authority will conduct a Hearing under Division 3 of Part 13 of the Act for the purpose of making findings in relation to the following matters:

John Laws

- (i) What were the circumstances in which agreements (including contracts, arrangements or understandings) were made between John Laws (and/or persons or corporations acting for him or related to him) and the following corporations or associations (and/or persons or corporations acting for them or related to them):

- Australian Bankers' Association;
- Australian Record Industry Association Ltd;
- Australian Trucking Association;
- Cable and Wireless Optus Limited;
- Foxtel Management Pty Limited;
- NRMA Ltd;
- Qantas Airways Limited;
- RAMS Home Loans Pty Ltd;
- Registered Clubs Association of New South Wales;
- Sony Music Entertainment (Australia) Limited;
- Star City Limited;

('the Laws agreements')?

- (ii) What were the full terms of the Laws agreements?
- (iii) What was the extent of the licensee's knowledge of the Laws agreements?
- (iv) What was the effect of any conduct of John Laws in giving effect to the Laws agreements on the content of programs broadcast by the licensee in the period between 5 October 1992 and 20 July 1999?
- (v) Has any conduct of John Laws in giving effect to the Laws agreements led to any failure by the licensee to comply with the standard of conduct required by Commercial Radio Code of Practice Code 2 'News and current affairs programs'?
- (vi) Has any conduct of John Laws in giving effect to the Laws agreements led to any failure by the licensee to comply with the standard of conduct required by Commercial Radio Code of Practice Code 3 'Advertising'?
- (vii) What consideration was paid to:
- John Laws (or persons or corporations associated with him pursuant to the Laws agreements);
 - the licensee pursuant to the Laws agreements?

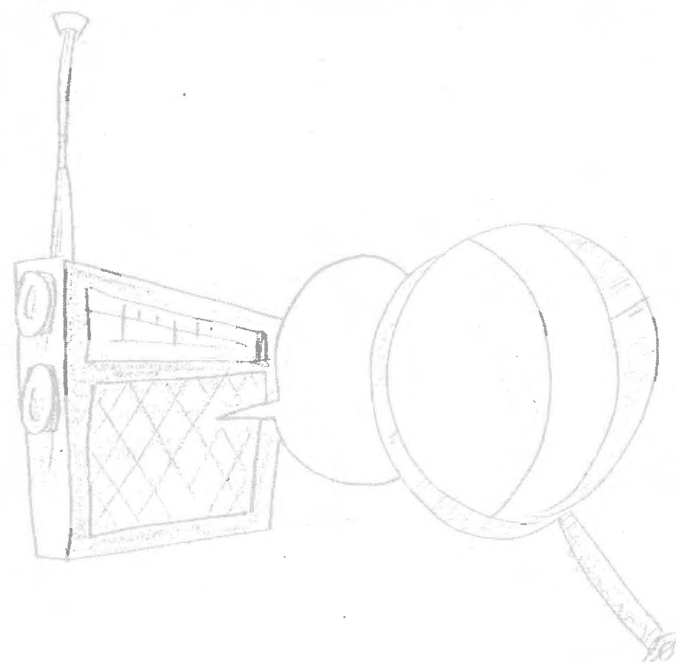
Alan Jones

- (viii) What were the circumstances in which agreements (including contracts, arrangements or understandings) were made between Alan Jones (and/or persons or corporations acting for him or related to him) and the following corporations or associations (and/or persons or corporations acting for them or related to them):

- Cable and Wireless Optus Limited;
- Colonial State Bank;
- Qantas Airways Limited;
- Sony Music Entertainment (Australia) Limited;
- Warner Music Australia Pty Ltd.

('the Jones agreements')?

- (ix) What were the full terms of the Jones agreements?
- (x) What was the extent of the licensee's knowledge of the Jones agreements?
- (xi) What was the effect of any conduct of Alan Jones in giving effect to the Jones agreements on the content of programs broadcast by the licensee in the period between 5 October 1992 and 20 July 1999?
- (xii) Has any conduct of Alan Jones in giving effect to the Jones agreements led to any failure by the licensee to comply with the standard of conduct required by Commercial Radio Code of Practice Code 2 'News and current affairs programs'?
- (xiii) Has any conduct of Alan Jones in giving effect to the Jones agreements led to any failure by the licensee to comply with the standard of conduct required by Commercial Radio Code of Practice Code 3 'Advertising'?
- (xiv) What consideration was paid to:
- Alan Jones (or persons or corporations associated with him) pursuant to the Jones agreements;
 - the licensee pursuant to the Jones agreements?





Hearing conference

The Authority held a hearing conference of hearing participants on 20 September, where the following directions and hearing timetable were set down.

Directions made on 20 September 1999

1. The following have leave to participate in the hearing:
 - (a) Qantas Airways Ltd; Richard John Sinclair Laws; Alan Belford Jones; Sony Music Entertainment (Australia) Ltd; Radio 2UE Sydney Pty Ltd; Sky Radio Pty Ltd; Cable and Wireless Optus Ltd; NRMA Ltd; Australian Bankers' Association ('the affected participants');
 - (b) Australian Consumers Association and Public Relations Institute of Australia ('the public interest participants') have leave to participate by making submissions at the conclusion of the evidence.
2. Direct that by 5 p.m. on 23 September 1999 any person who has provided documents to the Authority shall notify the Authority of any objections it has to those documents being provided to any participant, and shall state:
 - (a) Whether the document may be provided to other participants with any and which portions masked;
 - (b) Whether the documents may be provided to the legal advisors of the other participants on an undertaking by those legal advisors to keep the documents confidential until further order by the Authority; provided however that the time for Richard John Sinclair Laws to comply with this order is 4 p.m. on 27 September 1999.
3. Direct that General Counsel of the Authority provide a copy of these directions to any person who has provided documents to the Authority pursuant to section 173 or section 195 of the *Broadcasting Services Act 1992* and who is not a participant in the hearing, to enable that person to notify the Authority of any objections it has to those documents being provided to participants pursuant to these directions.
4. Direct that within 3 working days after the dates referred to in paragraph 2 above the General Counsel of the Authority resolve as far as possible any objections notified in accordance with paragraph 2 above, in consultation with the person claiming protection for documents.
5. Direct that by 5 p.m. on 27 September 1999 the General Counsel of the Authority provide to each of the affected participants:
 - (a) a document which outlines the evidence the Authority intends to adduce which is relevant to the interests of that affected participant, including the names of witnesses it intends to call;
 - (b) copies of documents (in such form as the participants may agree with General Counsel to the Authority) relevant to the matters referred to in sub-paragraph (a) above other than:
 - (i) documents provided by that participant; and
 - (ii) documents the subject of a claim for protection by the person which produced it to the Authority;
 - (iii) documents provided by Richard John Sinclair Laws in relation to which objections have not been resolved;
 - (c) a preliminary outline of contentions of fact and law relevant to that affected participant's interests.
- 5A. Direct that by 4 p.m. on 5 October 1999 the General Counsel of the Authority provide to each of the affected participants copies of documents provided by Richard John Sinclair Laws (in such form as the participants may agree with General Counsel to the Authority) relevant to the matters referred to in sub-paragraph 5(a) above other than documents the subject of a claim for protection by Richard John Sinclair Laws.
6. Direct that by 4 p.m. on 5 October 1999 General Counsel to the Authority provide to all affected participants a list of documents which the Authority proposes to tender at the hearing.
7. Direct that General Counsel to the Authority provide to any affected participant copies of documents requested by that participant (in such form as the participants may agree with General Counsel to the Authority) other than documents the subject of a claim for protection by the participant which produced it to the Authority.
8. Direct that all affected participants provide to the General Counsel to the Authority a statement setting out:
 - (a) whether it wishes to tender any documents at the hearing and, if so, identifying those documents;
 - (b) whether it wishes to call any witnesses and, if so, identifying those witnesses and giving an outline of the evidence to be given by those witnesses;
 - (c) in the case of Richard John Sinclair Laws; Alan Belford Jones; Radio 2UE Sydney Pty Ltd; and Sky Radio Pty Ltd — by 4 p.m. on 15 October 1999;
 - (d) in the case of other affected participants by — 4 p.m. on 11 October 1999.
9. Direct that any person summoned to appear at the hearing who wishes to do so may provide a statement of evidence to the General Counsel to the Authority on or before 11 October 1999, and that copies of any such statements be made available forthwith to the affected participants.
10. Direct that a further conference be fixed on 12 October 1999 at 2.15 p.m.
11. Direct that the hearing commence on 19 October 1999 at 10 a.m.

