



Further directions in 2UE hearing

The ABA has conducted the first two weeks of its public hearing which is part of its commercial radio inquiry. The ABA is investigating allegations that commercial radio stations broadcast comments of an editorial nature for which a fee, or other valuable consideration, was received.

On 12 October 1999, the ABA held a second hearing conference to make directions in relation to its hearing.

The directions made by the Professor David Flint, ABA Chairman are attached.

The ABA widened the terms of reference of the hearing to include consideration of whether the conduct of the presenters, in giving effect to their agreements, has led to political matter being put to air without it being 'tagged' as required by the *Broadcasting Services Act 1992*.

'This is just another aspect of considering the effects of editorial material put to air in the context of the requirements of the Broadcasting Services Act,' said Professor Flint. 'This matter is already covered by the terms of reference of the ABA's broader inquiry, but it

is convenient that it be considered in the public hearing.'

Witnesses to the inquiry to date have been:

Tony Aveling, Australian Bankers Association
Chris Stewart, Australian Bankers Association
Mike Edmonds, Australian Trucking Association
Ann Wild, Registered Clubs Association of NSW
Tom Mockridge, FOXTEL
Gary Williams, NRMA
Colin Bold, Colonial State Bank
Neil Gamble, Star City
Bernard Shirley, Qantas
Max Suich, Cable and Wireless Optus
John Fordham, The Fordham Company
John Laws.

The hearing resumed on 8 November. On that date Professor Flint stepped down from the inquiry. The revised panel for the remainder of the hearing is Michael Gordon-Smith, Kerrie Henderson and Ian Robertson.

In the third week the following witnesses are expected to be called: John Laws, Jodie Borco, Alan Jones, Tony Moltzen 2UE, John Brennan 2UE, John Conde 2UE.

Directions

The directions made on 12 October were as follows:

Broadcasting Services Act 1992

Australian Broadcasting Authority

Hearing re 2UE, JOHN LAWS and ALAN JONES

DIRECTIONS made on 12 OCTOBER 1999

1. In addition to those granted leave by the Authority on 20 September 1999 as affected participants or public interest participants the following are granted leave to participate in the hearing:

(a) State Bank Limited and Foxtel Management Pty Ltd as affected participants;

(b) RAMS Home Loans Pty Limited and the Australian Hotels Association as affected participants but limited in their participation to making written submissions at the conclusion of the evidence.

(c) Communications Law Centre and the Media Entertainment and Arts Alliance have leave to participate as public interest participants by making submissions at the conclusion of the evidence.

2. Direct that if any person seeks that an order be made pursuant to section 189 of the Broadcasting Services Act in respect of any document or part thereof referred to in the index to the bundle of evidence to be adduced by the Authority ('the Tender Bundle'), then that person is to serve on the General Counsel of the Authority on or before 10.00 a.m. on 18 October 1999 any submissions and evidence in support of such an order dealing specifically with the following matters:

(a) documents or part thereof in relation to which an order is sought;

(b) the terms of any proposed order;

(c) an outline of the basis upon which such an order should be made; and

(d) the harm that the person considers it would sustain if the document or part thereof was made public.

3. Direct that the General Counsel to the Authority forthwith notify persons who have provided documents referred to in the Tender Bundle but are not participants in the hearing of their right to make an application under direction 2.

4. Direct that any person summonsed to appear at the hearing may provide a statement of evidence as soon as reasonably possible, and copies of any such statement be made available forthwith to relevant affected participants.

5. Direct that the hearing commence on 19 October 1999 at 10:00 a.m.

6. Direct that any participant who wishes to raise any issue concerning the conduct of the hearing should give notice in writing and an outline of propositions by 4:00 p.m. on 15 October 1999 and direct that the issues so raised be dealt with on 19 October 1999.

7. Direct that on 19 October 1999 at 10:00 a.m. the Authority will deal with questions arising under directions 2 and 6 and direct that Counsel assisting address the Authority with an opening on 20 October 1999.



TERMS OF REFERENCE FOR THE HEARING BY THE ABA UNDER DIVISION 3 OF PART 13 OF THE BROADCASTING SERVICES ACT 1992

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

- includes within its objects
 - (i) to encourage providers of commercial broadcasting services 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;

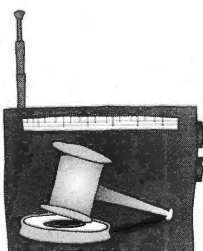
('the Laws agreements')?

- (ii) What were the full terms of the Laws agreements?

Witnesses

The ABA has provided the following persons with a notice to appear before the ABA to give evidence in relation to the subject matter of the 2UE hearing:

John Laws
 Alan Jones
 John Conde – 2UE
 Tony Moltzen – 2UE
 Ann Wild – Registered Clubs Association of NSW
 Tom Mockridge – FOXTEL
 Gary Williams – NRMA
 Colin Bold – Colonial State Bank
 Neil Gamble – Star City
 Tony Aveling – Australian Bankers Association
 Chris Stewart – Australian Bankers Association
 Mike Edmonds – Australian Trucking Association
 Bernard Shirley – Qantas
 Max Suich – Cable and Wireless
 Optus





- (iii) What was the extent of the licensee's knowledge of the Laws agreements and the implementation 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'?
- (vi)(a) Has any conduct of John Laws in giving effect to the Laws agreements led to any failure by the licensee to comply with the requirements of clause 4 of Schedule 2 to the Act through the broadcasting by the licensee of 'political matter at the request of another person' without the licensee:
- (a) broadcasting the particulars required under subclause 4(2); and
- (b) keeping the records required under subclause 4(3)?
- (ii) 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 and the implementation 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'?
- (xiii) (a) Has any conduct of Alan Jones in giving effect to the Jones agreements led to any failure by the licensee to comply with the requirements of clause 4 of Schedule 2 to the Act through the broadcasting by the licensee of 'political matter at the request of another person' without the licensee:
- (a) broadcasting the particulars required under subclause 4(2); and
- (b) keeping the records required under subclause 4(3)?
- (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?

Transcripts and public file

Transcripts of the hearings and other public documents relevant to the ABA's inquiry are on the ABA web site, www.aba.gov.au.

Public file

There is an index of the documents introduced into evidence at the hearing. Hard copies of the files are available in the ABA Library, 16th floor, 201 Sussex Street Sydney. They were also available in the Media Room during the hearing. Photocopying facilities are available.

Exhibits file

The ABA web site has an index of the exhibits introduced into evidence at the hearing <www.aba.gov.au>.

