



2GB Sydney

Invasion of privacy, complaint handling

Complaint

The ABA received a written complaint concerning a segment of the 'Graham Richardson Show', broadcast by commercial radio licensee Harbour Radio Pty Ltd (2GB) on 28 July 1998 at approximately 6.35 a.m.

In July 1998, the complainant wrote to Mr John Singleton, owner of 2GB, to complain about perceived bias in this program, as well as querying a number of issues relevant to Mr Richardson, the presenter. On 28 July 1998, Mr Richardson read out parts of this letter on-air and made comments about some aspects of it. Mr Richardson gave the full name of the complainant, and named the suburb in which the complainant resides.

On 5 August 1998, the complainant wrote again to Mr Singleton expressing his concerns at the way the station had handled his July 1998 letter of complaint. The complainant received no further response from the station.

Relevant code

The ABA considers the following provisions of Commercial Radio Codes of Practice (the Codes) are relevant in this investigation:

2.2 In the preparation and presentation of current affairs programs, a licensee must ensure that:

...

(e) Respect is given to each person's legitimate right to protection from unjustified use of material which is obtained without an individual's consent or other unwarranted and intrusive invasions of privacy.

...

5.2 A licensee shall make appropriate arrangements to ensure that:

...

(b) Complaints will be conscientiously considered, investigated if necessary, and responded to as soon as practicable.

Decision

Clause 2.2(e) of the code has two limbs. The first relates to the 'unjustified use of material which is obtained without an individual's consent'.

The ABA notes that the complainant provided information about himself to 2GB through his letters of complaint and that the complainant's consent was not sought to refer the letter on to Mr Richardson. However, the ABA considers that it is not unreasonable for the owner of broadcasting station to pass on a letter of complaint about a program to the on-air presenter concerned, even if the letter is not addressed to the on-air presenter. It is implicit in the fact of a complaint that the complainant wants the subject matter of the complaint to be addressed. When the complaint relates to a radio presenter, the complaint ought to be conveyed to that presenter. Therefore the first limb of clause 2.2(e) does not apply.

The second limb of clause 2.2(e) relates to 'other unwarranted and intrusive invasions of privacy'.

The ABA noted that the provision of personal information to a licensee in a letter of complaint does not mean that a licensee is entitled to use that personal information in whichever way it chooses. The broadcast of such information about a member of the public, not ordinarily in the public eye, needs to be supported by strong public interest considerations or it would be contrary to the prohibition in clause 2.2(e).

The ABA considers that the broadcast of the complainant's personal information, sufficient to identify him, was an invasion of privacy. The broadcast of this information was unwarranted because identification of the complainant was not relevant to the issues discussed in the program that morning, and did not contribute to the listener's understanding of the issues being discussed. The broadcast of this information was intrusive, because it was done without the knowledge or consent of the complainant.



Investigations

The ABA considers that the complainant's July 1998 letter of complaint to Mr John Singleton warranted a response as stipulated under Clause 5.2(b) of the Codes. The Commercial Radio Codes of Practice require that a complaint be conscientiously considered, investigated if necessary and responded to as soon as practicable.

The ABA considers that 2GB breached Clause 5.2(b) of the Codes in this instance. While the Codes do not prescribe the form of the response, or how substantial or reasonable the response to a complaint should be, the ABA considers that, at the very least, a complainant is entitled to a personal response in a form similar to that of the complaint itself. In other words, a written complaint should be responded to in writing. An on-air reference to a complaint cannot be taken as satisfying the requirements of Clause 5.2(b).

Action taken

The licensee has informed the ABA that it has advised Mr Richardson and other 2GB on-air presenters of the ABA's findings. Further, the licensee has issued a memorandum to all staff at 2GB. This document refers to the requirements of the Codes, and advises that all complaints are to be referred to a particular staff member of 2GB. This staff member is responsible for coordinating the complaints handling process.

The ABA has decided to take no further action in relation to this investigation. However, the ABA will monitor 2GB's performance and would view any further breaches, particularly those concerning privacy, very seriously.

6CRA Albany community radio

Complaint handling

Complaint

The ABA received an unresolved complaint about offensive language in songs broadcast by Albany Community Radio Inc. (6CRA) during their 'Aussie Country Music Program' on 20 September 1998. The complainant claimed that the songs contained unacceptable language, and that 6CRA had not responded to the complaint.

Relevant code

The relevant requirements of the Community Broadcasting Code of Practice are in sections 2 and 7. Section 2 outlines to community broadcasters that the broadcast of material must respect community standards. Section 7 guides community broadcasters in the handling of complaints.

Decision

The ABA found that Albany Community Radio Inc. (6CRA) had not breached the code in regard

to clause 2.2, in that the use of the word 'bloody' was not offensive. The ABA considered that the use of the word 'bloody' was in context within the program and noted it is a common part of the Australian vernacular.

The ABA found that Albany Community Radio had breached clauses 7.3 and 7.4 of the code in that it had not responded to a complaint.

Albany Community Radio disagreed with the ABA's interpretation of clause 7.3, considering it to be ambiguous. The ABA, however, is of the view that each complaint made to a station should be considered on its merits. Clause 7.3 does not entitle stations to simply ignore letters from particular individuals.

Action taken

Albany Community Radio advised the ABA that it would abide by the ABA's decision. The ABA noted that as this is the only breach regarding complaint handling that Albany Community Radio had recorded, to date, the ABA decided to take no further action in this instance.

