



Investigations

VIP Radio

Broadcast of advertisement

Complaint

The ABA received a complaint about the 4 August 1999 broadcast by VIP Radio, a temporary community radio licensee, of on-air readings from the product catalogues belonging to Tandy's, Pizza Hut and Safeway Supermarkets. The complainant alleged that this material was advertising and not in compliance with the Broadcasting Services Act.

The ABA was informed that the program was taken on relay from another Radio for the Print Handicapped Service. The purpose of the segment was to inform the print handicapped audience of what products are available for sale, information which they cannot otherwise access.

Relevant legislation

Paragraph 9(1)(b) of Schedule 2 to the Act, which deals with licence conditions applicable to services provided under community broadcasting licences, states, in part, that licensees of such services will not broadcast advertisements. This condition also applies to temporary community broadcasting licenses.

Clause 2 of Schedule 2 to the Act provides guidance as to material that does not amount to the broadcasting of advertisements and states, in part, that:

(1) For the purposes of this Schedule ... a person is not taken to broadcast an advertisement if:

- (a) the person broadcasts matter of an advertising character as an accidental or incidental accompaniment to the broadcasting of other matter; and
- (b) the person does not receive payment or other valuable consideration for broadcasting the advertising matter.

(2) For the purposes of this Schedule ... the broadcasting by a community broadcasting licensee of:

- (a) community information material or community promotional material; or
- (b) a sponsorship announcement that acknowledges financial support by a person of the licensee ...; or

(c) material that announces or promotes the service provided under the licence ...

is not to be taken to be the broadcasting of an advertisement.

Decision

The ABA determined that the material broadcast on VIP Radio constituted an advertisement that was not permitted by the provisions contained in either of clause 2(1) or clause 2(2). VIP Radio was therefore found to have breached the condition of its temporary community broadcasting licence set out at paragraph 9(1)(b) of Schedule 2 to the Act.

The ABA acknowledges that the provisions of the Act relating to what material is taken to be an advertisement may at times be rather complex, as demonstrated in this investigation. The Act in its present form however, does not have separate rules for different types of community broadcasting services. The rules applying to services targeting the vision and print impaired community are the same for all other community broadcasters. The individual circumstances of the broadcast will largely determine if the broadcast of the advertising material is permitted under any of the provisions of clause 2(1) or clause 2(2) of Schedule 2.

Action taken

The ABA notes that the subject program is no longer being transmitted by either VIP Radio or the service from which it was received on relay. The licensee advised that the ABA's preliminary report was presented to its Chairman and Directors and also alerted the ABA's findings to the peak national body representing RPH services. As this is the first occasion on which VIP Radio has failed to comply with a condition of its licence, the ABA does not propose to take any further action against the licensee in relation to the matter. The ABA also intends to liaise further with relevant bodies on the matter of catalogue readings.

