



## COOL FM temporary community radio broadcaster, NSW

### Complaint

In December 1998 the ABA received a written complaint regarding a temporary community radio station broadcasting under the name Cool FM and operating in the northern rivers area of north-eastern NSW. The complainant raised several issues regarding the operations of Cool FM but specifically referred to repeated breaches of the licence conditions relating to sponsorship announcements and advertisements.

### Relevant legislation

Paragraph 9(1)(b) of Schedule 2 to the Broadcasting Services 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 ...

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

### Decision

The ABA determined that on 24 November 1998 between 11.00 a.m. and midday the licensee of Cool FM, Cool FM Community Radio Association Inc., breached the condition of its temporary community broadcasting licence set out at paragraph 9(1)(b) of Schedule 2 to the Act in that it broadcast advertisements.

### Action taken

After the ABA finalised its investigation Cool FM advised the ABA that it had taken the following steps to ensure that similar breaches did not occur in the future:

- introducing a training scheme for announcers;
- ensuring that announcers sign an agreement stating that any deliberate breach of the Act will result in their being taken off air permanently;
- changing the management structure so that managers are more accountable for their actions and report to the management committee on a weekly basis;
- making available for inspection by the management committee all station documentation and sponsorship agreements; and
- cancelling a program which had resulted in the ABA finding a breach of Cool FM's licence conditions.

In deciding what action to take as a result of its findings the ABA was mindful of the fact that some of the sponsorship agreements that resulted in breach findings had been made by personnel no longer associated with Cool FM. Due to the circumstances surrounding the breach and the above-mentioned steps taken by Cool FM the ABA has decided not to take any further action at this stage.

