



The ABA has imposed a new condition on the licence of commercial radio service 2UE Sydney. The new condition took effect on 10 May 2004.

New condition on 2UE licence

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The ABA sought comments from the affected licensee on a draft condition it gazetted in January this year. The condition it has imposed on the licence takes 2UE's submissions into account.

The new licence condition is designed to foster better compliance by 2UE with the requirements of the *Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000* (Disclosure Standard). The new condition will ensure greater certainty in procuring compliance with the regulatory regime. Most importantly, the public interest will be met through the independent monitoring of 2UE's compliance, by ensuring that the public is being informed when an organisation is personally sponsoring the presenter.

The licence condition commenced operation on 10 May 2004. The condition requires 2UE to engage, at its own expense, the services of an independent monitor who will

undertake two periods of monitoring over the next 12 months. The licensee will not be advised in advance of the times when the monitoring will occur.

The licence condition

In March 2000, the ABA imposed two new licence conditions on 2UE that took effect on 3 April 2000. These conditions were intended to encourage disclosure of sponsors and to foster a 'culture of compliance' with the regulatory regime.

The first licence condition imposed on the 2UE licence provides that 2UE must maintain a regime of on-air and off-air disclosure of certain commercial agreements between presenters and their sponsors. It also requires 2UE to conduct a compliance program which requires presenters and staff of 2UE to undertake training concerning the obligations imposed on 2UE by the *Broadcasting Services Act*, the Commercial Radio Codes of Practice and this licence condition. The second licence condition requires that

advertisements be distinguished from other program matter. The ABA extended the operation of these two conditions until 2 April 2004, pending the finalisation of the recent investigation.

In November 2000, the ABA determined the *Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000* (Disclosure Standard), *Broadcasting Services (Commercial Radio Advertising) Standard 2000* (Advertising Standard) and the *Broadcasting Services (Commercial Radio Compliance Program) Standard 2002* (Compliance Standard).

These standards apply to all commercial radio broadcasting licensees and operate indefinitely.

New licence condition – appointment of independent monitor

The new licence condition requires 2UE to appoint an 'independent monitor' to provide monitoring services for the radio program presented by Mr John Laws and make a report of the relevant program content to the ABA and 2UE.



Licence condition – Monitoring relevant program content by an independent monitor

1. Definitions

In this condition:

ABA means the ABA.

Act means the *Broadcasting Services Act 1992* as in force from time to time.

Disclosure Standard means the *Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000*.

General Manager means the person occupying the position of General Manager of the ABA from time to time.

independent monitor means a person or corporation who or which:

- a) has expertise in monitoring broadcasting services;
- b) has been approved in writing by the General Manager as suitable for appointment under the terms of this condition; and
- c) has been appointed under clause 2 of this condition.

licensee means Radio 2UE Sydney Pty Ltd or the holder of commercial radio broadcasting licence no SL4102 from time to time.

monitoring contract means the contract between the licensee and the independent monitor referred to in subclause 2(2) of this condition.

monitoring services include the services specified in clause 3 of this condition which are to be performed by the independent monitor in accordance with this condition.

monitoring period means a period of fourteen days or less which has been notified in writing to the independent monitor by the General Manager not less than two days before the period commences.

presenter means Mr John Laws.

program means the radio program presented by Mr John Laws and broadcast by the licensee.

relevant program content means all words or sounds broadcast by the licensee during the period commencing at least five minutes before and concluding at least five minutes after a sponsor is directly or indirectly identified by the presenter.

sponsor has the same meaning as in the Disclosure Standard.

2. Appointment of an Independent Monitor

- 1) Within 28 days of the commencement of this condition the licensee must:
 - a. appoint an independent monitor to provide monitoring services in respect of two monitoring periods in the 12 month period from the commencement of this condition; and
 - b. notify the General Manager in writing of the appointment, including details of the independent monitor's name, address and fax number.
- 2) The appointment of the independent monitor must be under contract in writing, and the licensee must provide the General Manager with a copy of the monitoring contract within 14 days.
- 3) The terms of the monitoring contract must:
 - a. include each of the obligations and prohibitions set out in clause 3 of this condition;
 - b. be provided in writing to the General Manager not less than 72 hours before the independent monitor is appointed; and

c. be approved in writing by the General Manager before the independent monitor is appointed.

4) The licensee is liable for all costs (including fees, remuneration and expenses) of any independent monitor and itself which arise in relation to the appointment of any independent monitor, including the performance by the independent monitor of monitoring services under the monitoring contract.

5) The licensee must notify the General Manager in writing of any proposal:

- a. to amend the terms of the monitoring contract; or
- b. to replace the independent monitor with a different independent monitor,

not less than 72 hours before such a proposal is anticipated to take effect.

6) The licensee must not conclude an agreement in respect of any proposal under subclause 2(5) without the prior written consent of the General Manager.

3. Obligations and Prohibitions

1) In respect of any monitoring period, the independent monitor is to be obliged to:

- a. monitor the program during the monitoring period;
- b. make and retain a record of all relevant program content which is broadcast during the monitoring period;
- c. make a report of the relevant program content recorded during the monitoring period. The report shall include the following details in relation to each item of relevant program content recorded:
 - i. the time and date of broadcast;
 - ii. a full transcript of all parts of the relevant program content broadcast which, in the view of the independent monitor, are relevant to matters under the Disclosure Standard; and
 - iii. an audio recording of the relevant program content;
- d. provide one copy of the report described in subclause 3(1)(c) above to each of:
 - i. the General Manager; and
 - ii. the licensee,

within seven days after the monitoring period;

e. permit the ABA to disclose or publish a copy of part or the whole of any report provided to it by the independent monitor under subclause 3(1)(d) without any restriction or limitation, except such as might arise by reason of the operation of section 180 of the Act; and

f. retain all records of relevant program content unless authorised in writing by the General Manager to destroy or dispose of those records.

2) The independent monitor is to be prohibited from disclosing the details of any monitoring services, monitoring period, or the contents of any report described in subclause 3(1)(c) otherwise than in accordance with subclause 3(1)(d) without the prior written consent of the General Manager.

4. Commencement of this condition

This condition commences on 10 May 2004.

