

Groove FM directed to broadcast Australian music

ACMA has directed the licensee of Perth youth community radio station Groove FM to take steps aimed at ensuring compliance with the additional conditions of the station's community broadcasting licence, including broadcasting Australian music.

This is the first time ACMA has used its new enforcement powers to issue a remedial direction to a community broadcasting licensee. Contravening a requirement of a remedial direction issued by ACMA is an offence under the *Broadcasting Services Act 1992* and a penalty of up to \$5,500 per day may be imposed.

Groove FM operates under a permanent community radio broadcasting licence allocated on 24 October 2002. Its community of interest is the youth community of Perth. Community broadcasters have responsibilities to the communities they are licensed to serve.

On 5 July 2007, ACMA found that the licensee of Groove FM, Youth Media Society of Western Australia Inc., had failed to comply with additional conditions imposed on its licence in May 2006. The additional conditions resulted from serious concerns that the station did not meet the diverse needs and interests of Perth's youth community, as it was licensed to do.

ACMA has now directed the licensee to:

- broadcast an average of four Australian music items per hour during each eight-hour period commencing 6.00 am, 2.00 pm and 10.00 pm, in accordance with clause 3.1 of its additional licence conditions
- until 28 February 2008, provide ACMA with monthly reports on the number of Australian music items played per hour on the station
- develop and deliver training programs on the requirements of the additional licence conditions for Groove FM's employees, agents, contractors and volunteers
- broadcast announcements inviting listeners to become members of Groove FM, in accordance with clause 4.1 of the additional licence conditions
- broadcast announcements inviting listeners to participate in talk

programming at Groove FM, in accordance with clause 4.3 of the additional licence conditions and

- provide ACMA with copies of these announcements.

ACMA will meet with Youth Media Society of Western Australia to ensure a proper understanding of the licensee's obligations and effective implementation of the remedial direction.

On 5 July 2007, ACMA found that Youth Media Society of Western Australia had breached the conditions of its licence over the period 16–19 September 2006 by:

- not broadcasting an average of four Australian music items per hour in each eight-hour period commencing 6.00 am, 2.00 pm and 10.00 pm
- not broadcasting announcements inviting listeners to become members of the station at least once an hour between 7.00 am and midnight and
- not broadcasting announcements inviting listeners to participate in talk programming at the station at least once every two hours between 7.00 am and midnight.

Under the terms of additional conditions on its licence that came into effect on 1 May 2006, Groove FM was required to broadcast the Australian music items and the announcements. The purpose of the additional licence conditions is to ensure that Groove FM provides a diverse range of music and talk programming, plays a high level of local and Australian music and actively invites Perth youth to participate in its service.

The additional conditions were imposed on the licensee following a wide-ranging investigation in 2003–04, which found that the licensee had:

- breached clause 9(2)(b) of Schedule 2 to the *Broadcasting Services Act*, in that it did not continue to represent the community interest that it represented

at the time the licence was allocated and

- breached clause 9(2)(c) of Schedule 2 to the *Broadcasting Services Act*, in that it did not encourage members of the community that it served, to participate in the operations of the licensee in providing the service and the selection and provision of programs under the licence.

Remedial directions

The power to issue remedial directions is one of a number of new enforcement powers conferred on ACMA from 5 February 2007, to enable it to more effectively address contraventions of the *Broadcasting Services Act*.

Where ACMA is satisfied that a community broadcasting licensee has breached or is breaching a condition of its licence, ACMA may direct the licensee under section 141 of the *Broadcasting Services Act* to take action directed towards ensuring the licensee does not breach that condition or is unlikely to breach that condition in future. If a licensee has been given a notice under section 141, it is an offence under section 142 of the *Broadcasting Services Act* to engage in conduct that contravenes a requirement of the notice.

If a licensee does not comply with a notice under section 141, ACMA may take civil action in the Federal Court to recover a pecuniary penalty. Section 205F of the *Broadcasting Services Act* sets out the matters the Federal Court must consider in determining pecuniary penalties. The maximum pecuniary penalty for one contravention by a community broadcasting licensee is \$5,500. A separate offence is committed for each day during which the contravention continues.

ACMA may also suspend or cancel a licence for failure to comply with a notice under section 141.