



6NR Perth

Broadcast of an advertisement

Complaint

On 7 March 2000, ABA received a complaint regarding certain program material broadcast by community radio station 6NR Perth. The licensee is Curtin University of Technology. Of concern to the complainant was the alleged broadcast of advertisements by 6NR, particularly during a regular 'Harvey World Travel' program segment (broadcast every Wednesday).

Legislative framework

The licence condition relevant to the complaint is that referred to in clause 9 of part 5 of Schedule 2 to the Act and, states, in part, that:

(9)(1) Each community broadcasting licence is subject to the following conditions:

....

(b) the licensee will not broadcast advertisements, and the licensee will not broadcast sponsorship announcements otherwise than as mentioned in subclause (3);

....

(3) A community broadcasting licensee may broadcast sponsorship announcements that run in total for not more than 5 minutes in any hour of broadcasting.

....

(5) In working out the length of time devoted to the broadcasting of sponsorship announcements, account is not to be taken of the broadcasting by a community broadcasting licensee of any of the following:

(a) material that publicises programs to be broadcast by the licensee;

(b) material that promotes the licensee's products, services or activities for the broadcast of which the licensee does not receive any consideration in cash or in kind;

(c) community information or community promotional material for the broadcast of which the licensee does not receive any consideration in cash or in kind;

In summary, the licence condition at paragraph 9(1)(b) of the Act prohibits a community broadcaster from broadcasting advertisements, and places limits on the amount of sponsorship announcements that can be broadcast.

Paragraph 9(1)(b) uses the words 'advertisement' and 'sponsorship', but nowhere in the Act are these terms defined. The matters mentioned in paragraph 9(1)(b) are referred to in clause 2, which identifies some material that is **not** to be treated as an advertisement for the purposes of Schedule 2 to the Act. If matter broadcast can be brought within any of the terms of clause 2, then it is not taken to be the broadcast of an advertisement and therefore permissible to transmit. Clause 2 reads as follows:

2.(1) For the purposes of this Schedule (other than paragraphs 7(1)(a), 8(1)(a), 9(1)(a), 10(1)(a) and 11(1)(a)), 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 (other than paragraph 9(D)(a)), 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, whether or not the announcement:
 - (i) specifies the name and address of, and a description of the general nature of any business or undertaking carried on by the person; or
 - (ii) promotes activities, events, products, services or programs of the person; or

(c) material that announces or promotes the service provided under the licence, including material (whether by way of the announcement or promotion of activities, events, products, services or otherwise) that is likely to induce public support, whether financially or otherwise, or to make use of, the services provided under the licence; is not to be taken to be the broadcasting of an advertisement.

Therefore, in order to determine whether the 6NR broadcast of 1 March 2000 is exempt from the prohibition on advertising, it is necessary to determine whether it falls within any of the provisions contained in clause 2 of Schedule 2 (i.e. advertisements broadcast as an accidental or incidental accompaniment to other matter for which no payment was received; community information material and community promotional material; sponsorship announcements; and service (station) promotions).

The Community Broadcasting Code of Practice No. 4 with regard to sponsorship states that:

Commensurate with the need to ensure active participation by the community in the station's management, development and operations, community broadcasters will develop and adopt and implement in conjunction with their communities—a sponsorship policy which:

4.1 Ensures that sponsorship will not be a factor in determining access to broadcasting time.

4.2 Ensures that the content and style of individual programs is not influenced by the sponsors of programs.

4.3 Ensures that overall programming of community broadcasting stations is not influenced by sponsors.

Decision

The ABA determined that on 1 March 2000, the licensee of 6NR breached paragraph 9(D)(b) of Schedule 2 to the Broadcasting Services Act by broadcasting advertisements, and breached Code 4 of the Community Broadcasting Code of Practice by not having in place and implementing a station policy with regard to sponsorship.

Action taken

The licensee accepted the ABA's preliminary finding that the licensee breached its licence conditions and the code. The presenter has undergone additional training and no presenter will be permitted to conduct such interviews.

The licensee has since provided assurances to the ABA that strict procedures are in place regarding sponsorship announcements and a new sponsorship policy is being prepared. The ABA requests that 6NR provide it with a copy of that policy.

This investigation has raised concerns within the ABA that community broadcasters may not be aware of their obligations under the Act and the code. The ABA intends to raise this matter with the Community Broadcasting Association of Australia.

