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Mr Paul Neville,  
Chairman  
Radio Industry Inquiry  
House of Representatives Standing Committee  
R1 Suite 119  
Parliament House  
CANBERRA A.C.T. 2600

House of Representatives Standing Committee on Communications, Transport and the Arts	
Submission No:	105.01
Date Received:	13/11/00
Secretary:	Janet Holmes

Dear Mr Neville,

**Supplementary Submission to the Radio Industry Inquiry**

It is Friday the 10th September, 2000 at 10.00 p.m. and I have just finished reading the submission made to this Radio Industry Inquiry by Professor David Flint in his role as Chairman of the Australian Broadcasting Authority.

In his submission in Attachment 1 titled "Broadcasting regulatory framework and safeguards for the public interest" - Section A1.3 "Codes of practice" Professor Flint writes the following:

*Complaints about the content of programs on radio must first be made to the broadcaster concerned. If a commercial or community station fails to answer a written complaint within 60 days, or the response is considered inadequate, the complainant may make a complaint to the ABA about the matter. The ABA must investigate the matter unless it is satisfied that the complaint is frivolous, vexatious or not made in good faith. The ABA also investigates complaints about potential breaches of licence conditions or of the Act. Such complaints can be made directly to the ABA in the first instance.*

I would like to point out to this Inquiry that Professor Flint is incorrect in the following statement :

*“If a commercial or community station fails to answer a written complaint within 60 days”*

In 1999 the Federation of Australian Radio Broadcasters presented for registration with the Australian Broadcasting Authority a revised Commercial Radio Codes of Practice and Guidelines. These new Commercial Radio Codes of Practice and Guidelines were registered in October 1999.

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The F.A.R.B. - Commercial Radio Codes of Practice and Guidelines dated October 1999 state the following :

*Advice in Writing*

*5.6 Written complaints must be conscientiously considered by the licensee and the licensee must use its best endeavours to respond substantively in writing within 30 days of the receipt of the complaint. If the licensee needs to investigate the complaint or obtain professional advice and a substantive response is not possible within 30 days, the licensee must, in any event, acknowledge receipt of the complaint within 30 days and provide a final reply within 45 days of receiving the complaint.*

Professor Flint has provided an example of the effectiveness of the regulatory practices in force at the present time. The example he cites is the action that the Australian Broadcasting Authority took over the “cash for comments” affair involving John Laws, Alan Jones and other radio broadcasters.

I contend that the regulatory practices in force at the present time did not discover the actions of the broadcasters involved in the “cash for comment”. In fact the broadcasters were only taking advantage of the loopholes in the legislation. It was only because of the television programme Media Watch that there was a “cash for comment” Inquiry and not because of any vigilance.

As Professor Flint has raised the issue of the “Codes of Practice” I would like to take this opportunity to respond in relation as to whether or not the public interest has any safeguards in the Commercial Radio Codes of Practice and Guidelines.

I feel I am in qualified to answer this question as I have followed the Complaint process outlined in the F.A.R.B. - Commercial Radio Codes of Practice and Guidelines and then lodged my complaint with the Australian Broadcasting Authority. The Australian Broadcasting Authority carried out an Investigation (ABA File Ref : 98/0300 ) into my complaint. I would like this Inquiry to subpoena from the Australian Broadcasting Authority the following files :

ABA File Ref : 98/0300  
and  
ABA File No. : 1999/0360

to examine the details regarding the providing of copies of broadcast tapes and additional evidence.

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The areas that concern me regarding the handling of Complaints by the Australian Broadcasting Authority are :

#### Keeping of Broadcast Tapes by Radio Stations

When a complaint is received by the Australian Broadcasting Authority the A.B.A. makes a request to the the Licensee of the radio station that they provide a broadcast copy of the programme that is in dispute. If the person making the complaint is not aware that the Licensee of the radio station is only required by legislation to keep their copy of the broadcast tape for 42 days. As the Licensee of the radio station can take up to a maximum of 37 days to reply it is quite easy for the Licensee to dispose of the broadcast tape and say that they thought they had satisfactorily dealt with the complaint and therefore disposed of the broadcast tape.

The complaints that are received by the Australian Broadcasting Authority are made against a particular presenter. The presenters of shows are experienced at using editing machines and therefore could “doctor” the broadcast tapes before being presented to the A.B.A. as evidence.

#### Additional Evidence

When you make a complaint there are no set rules as to what the Australian Broadcasting Authority will accept as evidence when a person makes a complaint. There are not set rules as can be seen when you compare the Australian Broadcasting Authority files for ABA File Ref : 98/0300 and ABA File No. : 1999/0360.

Judge and Jury - The Australian Broadcasting Authority

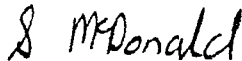
The Australian Broadcasting Authority registers the Commercial Radio Codes of Practice and Guidelines. That is they help to determine the Regulations that the Commercial Radio Broadcasters are going to follow. And then the Australian Broadcasting Authority conducts the Investigations into the complaints against the Commercial Radio Broadcasters. In other words the Australian Broadcasting Authority are the "*Judge and Jury*".

I will be happy to provide all documentation I have in relation to ABA File Ref : 98/0300.

I would recommend that this Radio Industry Inquiry Committee examine :

- \* The effectiveness of the F.A.R.B. Commercial Radio Codes of Practice and Guidelines by comparing the number of complaints investigated by the A.B.A. and what grounds that the complaint was upheld or failed.
- \* An environment were the A.B.A. collects the broadcast tapes of all radio programmes.

Yours faithfully



S. McDonald