

WYONG-GOSFORD PROGRESSIVE COMMUNITY RADIO INCORPORATED

**To the secretary of HRSCITA
Parliament of Australia**

Gosford 17 March 2006

Re: Submission to the Community Broadcasting Inquiry

INTRODUCTION

PCR-FM is a community radio organisation entirely managed by local volunteers.

It has been operating under the Temporary Community Broadcasting Licence

(TCBL) system for over 10 years .

Following the allocation of the final permanent licence 94.9 FM to Rhema FM Gosford , PCR-FM took ACMA (formerly ABA) to the Federal Court of Sydney in January 2003 under the terms of the Administration Decisions Judicial Review Act 1977 (ADJR Act.)

The Court ruled in favour of PCR-FM thereby vindicating its claim of denial of natural justice.

Once again PCR-FM is taking ACMA to the Federal Court in Sydney. The case is listed for a preliminary hearing on the 29th March 2006.

PCR-FM has gained valuable experience and insight into the Community Radio Sector during the whole saga of 94.9 FM. As secretary of the organisation I contribute this submission to the Community Broadcasting Inquiry.

I will address aspects of the terms of Reference in relation to Community Radio. Evidence substantiating concern and issues raised will emerge during and after our Court case.

- **THE SCOPE AND ROLE OF AUSTRALIAN COMMUNITY BROADCASTING ACROSS RADIO, TELEVISION, THE INTERNET AND OTHER BROADCASTING TECHNOLOGIES**

CODE OF PRACTICE (Community Radio)& FUNDAMENTAL PRINCIPLES.

(Access, Autonomy, Localism, Diversity)

The document that specifically differentiate the community radio sector from others is its Code of Practice. It is the foundation upon which the Community radio sector has thrived.

It is vital if one wants to preserve the integrity of the sector to ensure that natural evolution, whether it is through convergence or technology, does not destroy the purpose of the Code.

The Code itself gains credibility through some fundamental principles underpinning its application.

These principles epitomise the nature of Community Radio and any evolution affecting the role and scope of Australian community broadcasting sector must be build around the principles that have so well served local communities.

Failure to do so would amount to destroying the specificity of Community Radio and adversely affect the ability to provide diversity and complementing other existing services.

More than ever these principles have become vital to a sustainable sector. With the advent of new technologies and the inevitable convergence, the demarcation between various sections of the media must be clear cut in order to prevent organisations expert in subliminal techniques to invade the sector under false premises.

It is important that organisations (NEMBC,RHPH etc), representing disadvantaged minorities within the sector must retain a predominant role in the evolution of the sector and provide support to the peak organisation: the CBAA.

- **ROLE of ACMA.**

The scope and role of Australian community broadcasting in a changing environment cannot be dissociated from the role ACMA holds.

In a co-regulatory system such as the Community Radio Sector, the onus is on the Authority (ACMA) to uphold the terms of the Code of Practice complementing the terms of BSA 1992.

In a new environment where boundaries between emerging technologies may overlap the existing ones, it becomes vital that the discretionary powers of ACMA be controlled without affecting its autonomy.

My view stems from the experience gained by our station through its involvement in PCR-FM's court cases.

ACMA's lack of understanding and appreciation of the fundamental principles pertaining to the sector has emerged during PCR-FM's involvement.

PCR-FM has no right of appeal under the BSA 1992 thereby restricting any challenge to ACMA's reasons behind its decision to allocate a licence. The BSA gives wide discretionary powers to the Authority.

Documents acquired under the FOI reveal a subjective rationale having been applied to our specific case and demonstrate the dangers of allowing ACMA to remain unaccountable to anyone.

PCR-FM wrote a letter to the Minister and copy to Shadow Minister outlining its concern about the perversion of the Fundamental Principle of Community Radio and the corruption of the BSA.

Answers received by the Minister's Office not only confirmed the autonomy of the Authority but also revealed the aspect of its unaccountability.

The unaccountability of ACMA is also reflected in answers given to the Community Relations Commission of NSW by Minister Coonan and Minister Ruddock.

The letters reflect a pro format response provided by ACMA to the Ministers' Offices and once again promote a notion of little accountability. In a new environment where boundaries between emerging technologies may overlap the existing ones, it becomes vital that the discretionary powers of ACMA be controlled without affecting its autonomy

How can that be achieved?

- **Recommendation**

One suggestion is that the CBAA or an equivalent be given a greater co-regulatory role within the system applying to community radio sector.

It is a peak organisation that understands the effects of modern technologies on the Community Radio Sector, is answerable to its members, and above all is totally immersed in the values promulgated by its Code of Practice. The input of the CBAA must be formalised and more than just advisory or rhetorical.

- **CONTENT AND PROGRAMMING REQUIREMENTS THAT REFLECT THE CHARACTER OF AUSTRALIA AND ITS CULTURAL DIVERSITY**

Content and programming requirements are well covered by the Code of Practice.

The contents and programming section provide the necessary frame work to express the needs of a diverse community of interest.

The differentiation between access to the stations by various sections of our community and control of these station by specific sections of our community is not addressed at all.

The character of Australia and its cultural diversity is based on the

principles of multicultural harmony. This is enhanced by our democratic system which grants rights to freedom of expression and protection against discrimination.

There is a need to reflect this in the field of community radio as controlling bodies have an undeniable control over the content and programming.

Access to community radio is a vital aspect of providing a voice to sections of local communities and in particular to sections of the community outside mainstream Australia.

It is therefore important that the control (as opposed to access) of community radio stations should not fall into the hands of mainstream organisations having a segregatory constitution.

There is no place for proselytising organisations of any kind controlling a free public resource such as community radio and using it for propaganda purpose.

Access to community radio remains an equal right to any section of the community but control of such a free public resource such as community radio must be restricted to organisations promulgating the all inclusive aspect of our society. Ignoring the infiltration of radioangelism controlling community station cannot work towards promoting harmony.

It is not providing the access to the religious communities that is the issue but the control of the stations by specific elements within the religious communities.

Accepting that a non-denominational christian(or muslim etc) religious organisation is becoming a protected species then may be we should look at also admitting non-denominational white ethnic. Quite a disgusting thought.

It is vital to address the issue as the unavoidable convergence occurring in the radio sector will facilitate networking between organisations pretending to be all inclusive.

The Rhema FM Gosford is a typical example of an organisation that segregates on the basis of religion.

Assurance was given by Rhema FM to ACMA that anyone can join as a member despite its constitution which effectively ensures segregation on the basis of religious belief.

Many "Gospel entrepreneurs" have targeted the community radio sector as an ideal area to infiltrate under the pseudo non-commercial mantle of not for profit organisations.

The integrity of the community radio sector must continue to reflect the character of Australia and its cultural diversity.

It is important to address the issue of control as opposed to access.

Once again I will emphasise that evidence about radioangels will emerge during and after our court Case

- **TECHNOLOGICAL OPPORTUNITIES, INCLUDING DIGITAL, TO EXPAND COMMUNITY BROADCASTING NETWORKS**

It is obvious that technological advances will fast affect the community broadcasting field

I will only re emphasise that unless we continue to protect and build on the sound foundations provided to the community radio sector since its inception, we will provide the means to some pretenders to form propaganda networks and allow "white ants" to start destroying the foundations on which community radio has thrived.

- **OPPORTUNITIES AND THREATS TO ACHIEVING A DIVERSE AND ROBUST NETWORK OF COMMUNITY BROADCASTERS**

I already have covered, in the previous sections, many aspects of threats to achieving a diverse and robust network of community broadcasters. The opportunities will no doubt be well addressed by other submissions.

All participants to the Community radio sector operate according to established rules and principles.

The macro rules within which various sectors operate are set by the terms of the Broadcasting Services Act 1992 and I accept that changes must and will occur in the face of the fast moving technological changes. This can only be achieved through due parliamentary process.

A micro set of rules and principles covers the various divisions and in our particular case these are part of the co-regulatory system governed by the Code of Practice.

I make this distinction quite intentionally in order to develop the rationale behind my comments.

The first point I make is that organisations controlling stations must qualify as appropriate players within our sector.

In other words their *modus operandi* must reflect the adherence to the Code of Practice and the principles underpinning it.

The second point is derived from the 2000 report titled:

Productivity Commission 2000, Broadcasting, report no. 11, Ausinfo, Canberra.

On page 278 of the report, under section 8.3 of Community Broadcasters, Regulating community broadcasters it states among other things:

"Very little is known about the performance of community broadcasters. The ABA relies on self-regulation and a system of complaints to ensure community broadcasters comply with the conditions of their licences and the sector's code of practice.

However, there is no active process for monitoring whether community

broadcasters provide the services they promised before receiving a licence. Nor is there a process for judging whether a potential new community broadcaster may be able to provide a better service (however measured) than that provided by existing community broadcasters. "

I accept that some changes occurred, following the Commission report, in the field of renewal of licence but these changes did not remove the potential of organisations masquerading as qualified participants to the Community Radio sector.

The shortcomings of the system is that ACMA can and, in our particular case, has given Bona Fide credibility to stated intentions by organisations without having any procedure to follow up the implementation of it.

As mentioned a few times evidence will emerged during and after our Court case.

There is a belief that licensees are obligated to comply with Community Broadcasting Codes of Practice. There is no compulsion nor system to impose compliance. Non-profit organisations operating under commercial format can quite easily negate any notion of breaches.

Yours sincerely,

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Secretary PCR-FM**

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