

ATTACHMENT A: ALLOCATION REPORT

ALLOCATION OF TWO COMMUNITY RADIO BROADCASTING LICENCES FOR PERTH, SL1150746 AND SL1150828

DECEMBER 2007

INTRODUCTION

On 13 July 2007, the Australian Communications and Media Authority (ACMA) invited applications for two community radio broadcasting licences for Perth, Western Australia. The licences available for allocation are:

<i>Service licence number</i>	<i>Frequency</i>	<i>Area served</i>
SL1150746	100.9 MHz	Perth RA1
SL1150828	90.5 MHz	Perth RA2

In this report, where reference is made to a "licence area" without identifying whether it is Perth RA1 or Perth RA2, the reference is to Perth RA1, which includes all of Perth RA2. That is, Perth RA2 is a "subset" of Perth RA1.

Applications for the two licences closed on 16 August 2007. Four applications were received for SL1150746 and three applications were received for SL1150828. The applicants are:

SL1150746

Capital Community Radio Inc (CCR), proposing a seniors service;
 Peedac Pty Ltd (Peedac), proposing an Indigenous service;
 Phoenix Radio Ltd (Phoenix), proposing a country music/general service; and
 Western Sports Media Inc (WSM), proposing a sporting/country and easy listening music service.

SL1150828

CCR
 Phoenix
 WSM

After applications were received, ACMA invited public submissions. Meetings were held with each of the applicants in Perth on 19 November 2007. WSM provided additional information with respect to its application on 24 October 2007, CCR on 4 December 2007 and Peedac on 5 December 2007.

RELEVANT LEGISLATION

Section 84 of the *Broadcasting Services Act 1992* (BSA) states:

84 Allocation of community broadcasting licences

- (1) The Minister may give directions to the ACMA to give priority to a particular community interest or interests, whether generally or in a particular licence area, in allocating community licences that are broadcasting services bands licences.
- (2) In deciding whether to allocate a community broadcasting licence that is a broadcasting services bands licence to an applicant or to one of a group of applicants, the ACMA is to have regard to:
 - (a) the extent to which the proposed service or services would meet the existing and perceived future needs of the community within the licence area of the proposed licence; and
 - (b) the nature and diversity of the interests of that community; and
 - (c) the nature and diversity of other broadcasting services (including national broadcasting services) available within that licence area; and
 - (d) the capacity of the applicant to provide the proposed service or services; and
 - (e) the undesirability of one person being in a position to exercise control of more than one community broadcasting licence that is a broadcasting services bands licence in the same licence area; and
 - (f) the undesirability of the Commonwealth, a State or a Territory or a political party being in a position to exercise control of a community broadcasting licence.

The Minister has not given directions to ACMA pursuant to s.84(1).

Section 85 of the BSA states:

85 ACMA not required to allocate community broadcasting licence to any applicant

The ACMA is not required to allocate a community broadcasting licence to any applicant.

ASSESSMENT OF THE APPLICANTS

In making its allocation decisions ACMA has had regard to each matter set out in s. 84(2) of the BSA. The primary information considered by ACMA in having regard to the matters in s. 84(2) was the applications, additional information provided by the applicants in correspondence to ACMA, and information produced during meetings between ACMA and each of the applicants on 19 November 2007, including the subsequent submissions received.

ACMA is of the view that an assessment of an applicant's claims in relation to s.84(2)(a) is most appropriately made in the context of ACMA's findings in relation to the matters in s.84(2)(b), (c) and (d).

Executive summary

ACMA has assessed the claims of each applicant for the two community radio broadcasting licences available in Perth. A summary of the claims of each applicant is set out at Appendix A.

On the evidence before ACMA, Phoenix and WSM failed to demonstrate that:

- the proposed service would meet the existing and perceived future needs of the community in the licence area to an adequate extent (see s.84(2)(a)); and
- they have the management capacity to provide the proposed service (see s.84(2)(d)).

The remaining two applicants for community radio broadcasting licence SL1150746 (the 100.9 licence), CCR and Peedac, sufficiently addressed the matters listed in section 84(2) of the BSA for the allocation of a community broadcasting licence to suggest that they should be allocated the licences.

Having considered the relative merits of the two remaining applicants, and having regard to the matters set out in s.84(2) of the BSA, ACMA has decided to allocate the 100.9 licence to Peedac on the basis that its proposed service would meet the existing and perceived future needs of the community in the Perth RA1 licence area to a greater extent than the service proposed by CCR.

The service proposed by Peedac will, to a significant extent, meet two currently unmet needs in the Perth community:

- the need for the Indigenous community to have its own broadcasting service which addresses issues of particular concern to the Indigenous community, and caters to its specific cultural and language needs; and
- the need of the general community to be informed about Indigenous issues and culture from an Indigenous perspective.

While there is no dedicated broadcasting service for seniors in Perth, the needs of the community are being met to some extent by other broadcasting services.

Applying the matters to which it must have regard under s. 84(2), ACMA has formed the view that CCR is the applicant for SL1150828 (the 90.5 licence) to whom the licence should be allocated. On this basis, ACMA has decided to allocate the 90.5 licence to CCR.

Discussion of matters at s.84(2)(a) to (f)

Nature and diversity of the interests of the Perth community (s.84(2)(b))

In assessing the interests of the community, ACMA had regard to the evidence before it about the various interest groups within the Perth community. ACMA also had regard to the submissions provided by the applicants as to the nature of the community interests in the Perth area.

2001 Census Data: Perth RA1 (the 100.9 licence)

At Census 2001¹, the total population of the community radio broadcasting licence area of Perth RA1 was 1 339 994 people. Of this total, 20.46% were aged under 14 years, 14.89% between 15 and 24 years, 21.87% between 25 and 39 years, 21.74% between 40 and 54 years, 11.88% between 55 and 69 years, and 8.03% were aged over 70 years.

The licence area population included 20 108 (1.5%) persons of Aboriginal and/or Torres Strait Islander descent.

The licence area population included 418 334 (31.22%) people born overseas, including: United Kingdom (164 481), New Zealand (32 525), Italy (20 639), Malaysia (16 784) and South Africa (13 594).

A total of 843 660 persons (62.96%) identified their religious affiliation as Christian. The main Christian denominations and their percentage of the total Christian population are: Anglican (34.45%), Catholic (42.81%) and Uniting Church (6.24%). The other main religious affiliations are: Buddhism (2.06%), Islam (1.31%) and Judaism (0.36%). A total of 419 489 people (31.30%) indicated either no religious affiliation or did not respond to the question.

2001 Census Data: Perth RA2 (the 90.5 licence)

At Census 2001, the total population of the community radio broadcasting licence area of Perth RA2 was 622 270 people. Of this total, 17.37% were aged under 14 years, 15.46% between 15 and 24 years, 21.94% between 25 and 39 years, 21.21% between 40 and 54 years, 12.17% between 55 and 69 years, and 10.07% were aged over 70 years.

The licence area population included 8 213 (1.32%) persons of Aboriginal and/or Torres Strait Islander descent.

The population included 194 899 (31.32%) people born overseas, including: United Kingdom (62 588), New Zealand (14 135), Malaysia (11 817), Italy (10 957) and India (6 544). A total of 96 038 people (15.43%) aged five or more also speak a language other than English.

A total of 383 757 persons (61.67%) identified their religious affiliation as Christian. The main Christian denominations and their percentage of the total Christian population are: Anglican (33.09%), Catholic (42.04%) and Uniting Church (6.98%). The other main religious affiliations are: Buddhism (2.50%), Islam (1.54%) and Judaism (0.51%). A total of 192 734 people (30.97%) indicated either no religious affiliation or did not respond to the question.

Seniors

CCR used the demographic information from ACMA's determination of the licence area population using Census 2001 data to support its claims of the size of the community interest to be served. CCR also cited OECD figures showing that amongst OECD countries Australia's ageing population has the second highest growth rate.

ABS data from the Census 2006 shows that 173 546 (12.0%) in the Perth population is over the age of 65.

¹ At the time of preparation of this report, ACMA has not yet incorporated data from Census 2006 into the licence area demographic information for either the Perth RA1 or RA2 licence areas.

The percentage of seniors in the population is slightly higher in the Perth RA2 licence area than in RA1.

Aboriginal and Torres Strait Islanders

Using the Australian Bureau of Statistics (ABS) 2001 Census data, the Indigenous population (Aboriginal and Torres Strait Islander people) in the Perth RA1 licence area was 20 108 people (1.5%). ABS states that the Perth Indigenous Region has the fourth largest Indigenous population after Sydney, Brisbane and Coffs Harbour.

Peedac claims that the Indigenous population in Perth is dispersed throughout the outer suburban areas of Perth and for this reason it did not apply for the 90.5 licence which only serves the inner and middle suburbs of Perth. Peedac's claim is supported by the licence area demographic data for the two licence areas based on Census 2001.

Country music

Phoenix cited the Country Music Association of Australia WAVE 5 research to estimate the level of interest in country music in Perth. According to WAVE 5, 22% of Australians living in metropolitan areas enjoy listening to country music on radio. Extrapolating these figures to the Perth area and using Census 2006 data, Phoenix estimates that 317 917 people in the Perth area have an interest in country music.

Phoenix stated that there are five country music clubs in Perth, each with a membership of about 100 people.

Sporting enthusiasts

WSM claims that the community's interest in sport manifests itself in the countless small amateur sports clubs within the licence area. WSM also claims that people from interstate who settle in the Perth area continue their interest in the sports of their home state e.g. rugby league from the east coast. While WSM's application indicated that its service would also meet the needs of the community interests in country, gospel or music from the 50's, 60's and 70's, it provided no evidence establishing the existing or perceived future needs of the community.

WSM estimated that its service will be the 'focal point for an estimated 10 000 listeners and more'. WSM cited the letters of support it has received to support its claims.

Nature and diversity of other broadcasting services available in the licence area (s.84(2)(c))

A list of broadcasting services currently available in the Perth area is at Appendix B of this report.

Seniors

Currently, there is a limited amount of programming specifically addressing the needs of seniors in the Perth area. Community radio broadcasting service Curtin FM broadcasts 15 hours per week of programming targeting retirees, broadcast each weekday between 1 and 4pm, *Seeking Solutions* is supported by Retirees WA.

CCR also stated that the community radio broadcasting service 6RPH broadcasts some programming that is likely to be of interest to seniors. Some seniors may also have an interest in the programming broadcast on other radio broadcasting services in Perth, including commercial radio talk-back station 6PR and commercial radio music station 6IX which targets a mature aged audience. However, as has been argued by CCR, these services are not

specifically targeted at a seniors audience. Apart from the *Seeking Solutions* program on Curtin FM, ACMA is not aware of any other radio programs addressing the health, financial, lifestyle, employment and advocacy needs of seniors.

It is noted that many television programs are likely to be of interest to seniors but there is very limited programming specifically addressing the needs of the seniors community.

Aboriginal and Torres Strait Islanders

There is very limited programming catering to the needs of the Aboriginal and Torres Strait Islander community in Perth. Ethnic community radio station 6EBA provides a one hour and a half locally produced Indigenous program each week.

SBS radio provides two hours per week of Indigenous programming that is produced in Sydney. ABC Radio National broadcasts a one hour national program *Awaye!* each Saturday, and ABC Local Radio broadcasts a half hour national program *Speaking Out* each Sunday night.

ABC Television broadcasts the weekly half hour Indigenous affairs program *Message Stick*, and SBS Television broadcasts the weekly half hour Indigenous affairs program *Living Black*.

There is no regular Indigenous programming on commercial radio or television.

Country music

A total of 18 hours per week of specialised Country music programming is provided across six radio stations in Perth. Community radio broadcasting service Curtin FM provides *Born in Boots* for six hours each Saturday, community radio broadcasting service RTR FM broadcasts two hours of country music programming every Monday night and community radio broadcasting service Twin Cities FM (suburbs of Wanneroo Joondalup) broadcasts a two hour program each Sunday. Radio Fremantle broadcasts four hours of dedicated country music programming each week and plays significant amounts of country music in its breakfast program each Monday to Friday.

ABC Radio National broadcasts the national Saturday Night Country for four hours each Saturday night.

ACMA notes that commercial television broadcasting services limit their coverage of country music to special event and award ceremonies, scheduled on an 'if and when' basis. There is a dedicated country music channel available 24 hours a day on Foxtel Digital, a subscription television broadcasting service.

Sport

Sporting events and related programs receive extensive coverage across the range of broadcasting services in Perth, including community and commercial radio broadcasting, commercial and national television broadcasting services, and a subscription television broadcasting service with seven dedicated sports channels. However, WSM claims to represent amateur, grass roots and local sports that are not covered on other broadcasting services in the area.

The main sports broadcast by WSM are interstate cricket Pura Cup matches, NRL from the east coast, AFL games not covered on other local radio services, A-league soccer, Super-14 Rugby and English soccer. These fixtures are not covered extensively on other radio broadcasting services but are, in most cases, available live on subscription television broadcasting services.

Capacity of the applicants to provide the proposed service (s.84(2)(d))

ACMA has assessed the management, financial and technical capacity of each applicant to provide their proposed services.

Management capacity

In assessing management capacity, ACMA has considered whether the applicant organisation is likely to be managed in a manner that is appropriate for a community broadcaster. Of specific concern is whether the proposed structure provides for genuine participation by the community the applicant claims to represent in the operations and programming of the service.

CCR

Membership of CCR is open to any person, small business or corporation. Applications for membership can only be rejected if the applicant has been convicted of an indictable offence, declared bankrupt or in the opinion of the committee the applicant will not abide by the rules of the Association and Codes of Practice. Appropriate appeal rights for rejected applications are contained in the Constitution and Rules. Each member of the Association is entitled to one vote at a general meeting.

CCR is managed by a Committee of Management consisting of nine persons. Any member of the Association can nominate for and be elected to the Committee of Management. The Committee of Management elects the Chairperson, Vice Chairperson, Secretary and Treasurer. Committee members are elected for a two year term. Four members resign in one year, and the remaining five in the following year. Retiring Committee members are eligible for further two year terms.

The day to day operations of the service are carried out by nine sub-committees, including Traffic, Programs and Volunteer Training, Production, Marketing and PR, Complaints and Disputes, OH&S and Social. Each sub-committee is headed by a member of the Committee of Management who co-opts members to sit on their sub-committee.

The Objectives of CCR are set out at section 3 of its Constitution and Rules. They include:

- to operate, maintain and conduct a radio station
- provide for community access
- to encourage an interest in art, drama, music and theatre with a local flavour
- to provide for liaison with community groups and education institutions
- to provide a forum for debating topical issues
- to provide a focal point for information concerning access to community services and encouraging participation in local and community projects.

CCR has no paid staff and is run entirely by volunteers. There are currently 68 active part-time volunteers, including 35 producers, 25 presenters, 1 program coordinator and 1 production (technical). CCR has 82 members.

The current Committee of Management has extensive experience in broadcasting, radiocommunications, community organisations, administration and management. New staff and volunteers are provided with training by CCR's in-house Community Broadcasting Association of Australia (CBAA) qualified trainers. The CCR Information Kit and Operating

Standards Manual is provided to all volunteers and announcers, and covers all aspects of broadcasting and the operations of the station.

If its application is successful, CCR intends to appoint a part-time Station Manager and two part-time office staff. The Station Manager position is to become full-time when resources permit.

ACMA is satisfied that the corporate structure proposed by CCR is appropriate for the operation of a community broadcasting service, and that it provides for participation by the seniors community in the operations and programming of the proposed service.

Finding

On the evidence before it, ACMA finds that CCR has the management capacity to provide the proposed service.

Peedac

Peedac is an Indigenous-owned not-for-profit company, limited by shares. It was registered in Western Australia on 20 June 1997. Peedac operates a range of activities generally aimed at providing work skills and training for Indigenous Australians in Western Australia. The company must not pay dividends.

Under Part 4 of the Peedac Constitution, there may only be one member at any time and the shares may only be held by Bodies Corporate which are tax exempt not-for-profit organisations. The sole shareholder is Kaarta-Moorda Aboriginal Corporation (Kaarta-Moorda). Kaarta-Moorda claims to represent all Aboriginal and Torres Strait Islander people residing within the Perth Noongar Regional Council area. Membership to Kaarta-Moorda is open to all Aboriginal and Torres Strait Islander people over the age of 18 that reside in the area.

The Peedac Board consists of two nominee directors (nominated from within Kaarta-Moorda), the Managing Director of Peedac, and four other Aboriginal community members sourced from an expression of interest process. After receiving expressions of interest, the Managing Director nominates the preferred candidates. Candidates are then appointed by resolution at a general meeting of Peedac which requires a quorum of five members of the Kaarta-Moorda governing committee.

To facilitate the operations of the proposed service, Peedac is proposing to establish the Noongar Media Enterprise (NME) as a subsidiary of Peedac. The NME will be a not for profit company limited by guarantee. Peedac will be the sole shareholder.

The Objectives of the NME as set out in its draft Business Plan include:

- providing Noongar people with a media that recognises, respects and affirms Noongar peoples identity and inherent rights and responsibilities in Australian society;
- to produce and broadcast independent news and current affairs programs that address issues of importance to Noongar and Aboriginal people;
- to assist and support the revival and maintenance of the Noongar language and cultural identity through the broadcast of Noongar language programs;
- to promote and highlight Indigenous music and musicians;
- to ensure the active participation of members of the Noongar community in its affairs;
- to ensure employment and professional development of Noongar people in management, production, broadcasting and administration;
- to provide professional traineeships in broadcasting production and journalism; and

- to recognise and promote the importance of volunteers who may be members of the Noongar and wider community.

The NME has an Interim Committee of six members who are to be responsible for the establishment of the proposed service in accordance with an agreed timetable. Peedac has established links with other Indigenous broadcasters who have indicated their willingness to assist Peedac in the establishment of its service, including Goolarri Media Broome, the National Indigenous Radio Service (NIRS), Murri Radio Brisbane, Gadigal Sydney and 3KND Melbourne. The Australian Indigenous Communications Association has also offered support and training to Peedac. Peedac also has the support of 6RPH in Perth, having also offered the use of studios if the need arises.

It is proposed that the NME will have its own Board of Directors of up to seven people. Peedac will nominate two Directors to the Board, the other Aboriginal community members of the Board being sourced through an expression of interest process. Board appointments will be for a period of three years which Peedac claims will allow for stability and policy implementation.

Peedac is proposing that the NME appoint 6 full-time and three part-time staff. It is proposed that the NME establish advisory boards to assist in its operations. Proposed advisory boards include Youth, Training and Program Content.

Peedac claims that community participation will be facilitated through a variety of means including: volunteering, membership of Kaarta-Moorda, advisory boards, and Board positions at both Peedac and the NME.

ACMA notes that the corporate structure proposed by Peedac is unusual for a community broadcaster in that the organisation responsible for the day-to-day operation of the proposed service, NME, will not be the holder of the licence. Peedac will be the licensee and will be ultimately responsible for the service and compliance with the relevant legislation and codes of practice. When questioned about the structure, Peedac claimed that the proposed structure provided a corporate veil between the owner, Peedac, and the operations, the NME. Peedac explained that this is the structure it has in place for the other businesses it operates, in particular, Jobtrain WA Pty Ltd. Peedac claimed that this structure provided for a number of checks and balances that ensured good corporate governance, of which it has a good track record. The NME Board will be required to report to the Board of Peedac, which in turn reports back to Kaarta-Moorda.

Finding

On the evidence available, ACMA finds that Peedac has the management capacity to provide the proposed service.

Phoenix

Phoenix is a public company limited by guarantee. All income and property is to be applied solely toward promoting the objects of the company. The Phoenix Constitution provides for two classes of membership, A Class and Z Class members.

The Z Class members are the initial Subscribers to the Company. The Z Class members determine the admission or rejection of applications for Z Class membership and may reject any such application without giving reasons. Each Z Class member is entitled to attend any meeting of the Company's members and each Z Class member is entitled to exercise one vote. The Directors of the Company, between 3 and 10, must be Z Class members.

The A Class members are not entitled to attend or vote at any meeting of the company, nor are they eligible to be a Director of the Company. The Directors determine the criteria for admission as an A Class member and can amend the criteria at their absolute discretion.

The Directors determine the admission or rejection of applications for A Class membership. The Directors may only reject an application if:

- there are reasonable grounds to believe the applicant will not abide by the rules of the Company,
- required to do so by law,
- the applicant has been convicted of any indictable offence,
- there are reasonable grounds to believe the applicant will not abide by the CBAA Codes, or
- there are reasonable grounds to believe the applicant will pose a risk to the members, property or premises of the Company.

Rejected members do not have appeal rights under the Constitution.

The Phoenix Constitution provides for a Board of Directors of between 3 and 10 Directors. To be eligible to serve on the Board of Directors a person must be a Z Class member.

Phoenix is also proposing an Executive Management Group made up of the Station Manager, Programming Manager, Technical Consultant, Financial Manager, Marketing and Sponsorship Manager and Community Relationship Manager/Volunteer Coordinator). These are to be salaried positions advertised throughout the community and the most suitable applicants recruited.

Community participation is to be facilitated through two proposed sub-committees, Programming and Volunteer Recruitment. The Programming Sub-Committee will be chaired by the Program Manager. The Community Relationship Manager/Volunteer Coordinator, Station Manager, and Marketing and Sponsorship Manager will also attend as members of the Sub-Committee. Phoenix states that up to 5 members of the organisation will be nominated and elected annually to attend the Sub-Committee meetings. Phoenix also proposes to invite 1 representative from each county music club (each club nominates its representative for a 12 month period) and 5 members of the general public (elected annually) to the Sub-Committee meetings.

The Volunteer Recruitment Sub-Committee is to be chaired by the Community Relationship Manager/Volunteer Coordinator. The make up of the Sub-Committee is the same as proposed for the Programming Sub-Committee and outlined above.

At a meeting with ACMA on 19 November 2007, Phoenix claimed that the purpose behind the structure with A Class and Z Class shares was two-fold. Firstly, to protect the loan of \$270 000 that is to be provided as start up capital by a company associated with the current Chairman of Phoenix, and secondly, to prevent the Company being captured by any one of the five country music clubs in Perth. While ACMA understands the concerns as presented by Phoenix, ACMA is of the view that the proposed structure is not appropriate for the proper operation of a community broadcasting service.

ACMA is concerned that the corporate structure proposed by Phoenix does not provide for community participation in the operations of the service. Of particular concern are the limitations attached to the proposed A Class membership category which limits the ability of the community to participate in the decision making of Phoenix. In effect, members of the community cannot vote at general meetings of the Company or be elected to positions on the

Board of Directors. This, in turn, raises concerns about whether Phoenix is able to comply with the licence condition at Clause 9(2)(c)(i) of Schedule 2 of the BSA that it 'encourage the community to participate in the operations of the licensee in providing the service'.

Finding

On the evidence before it, ACMA finds that Phoenix does not have the management capacity to provide the proposed service.

WSM

WSM was incorporated in January 2003. The Aims and Objects of WSM as set out in its Constitution correlate with an intention to serve the sporting community. The other interests that WSM claims that it will serve, country, gospel and music from the 50's, 60's and 70's are not mentioned in its Aims and Objects or elsewhere in the WSM Constitution.

WSM is a membership-based organisation with membership open to all interested parties, person and organisations. The Constitution provides for 6 membership categories: Individual or Affiliate Membership, Volunteer Membership, Association Membership, Corporate Membership, Foundation Membership and Life Membership. The Board of Management can amend the Terms and Conditions of each category from time to time and as it sees fit.

When asked to provide further information about the Terms and Conditions attaching to each membership category, WSM advised that the Board had amended the Constitution and reduced the number of membership categories to three: Individual, Foundation and Life Memberships. WSM indicated that the Terms and Conditions were as set out in the Constitution.

Paid up individual members have the right to vote at meetings of the Association and to nominate and stand for election to any official position of the Association. WSM currently has 154 individual members.

The Constitution provides for a Board of Management of at least five members and no more than seven members. The Board of Management is to be comprised of four Foundation members, plus three elected members of WSM. The elected members are elected by way of secret postal ballot conducted within 3 months prior to the AGM and declared at the AGM. The elected Members of the Board resign every year at the AGM but are eligible for re-election. Foundation members serving on the Board do not resign annually, their appointments appear to be in perpetuity under the Constitution.

WSM proposes to set up two Committees if it is allocated a licence under this process. These are a Program Committee and a Production Committee. The proposed Program Committee is to be headed up by the Program Director with other members appointed by the Board to assist the Director's task at his discretion. The Production Committee will have the same structure. ACMA is of the view that the proposed Committees, as described by WSM, are more appropriately described as work groups under the direction of a WSM Director. They do not appear to be committees in the true sense of the word, with responsibilities for developing and implementing policies and procedures within their ambit.

WSM states that the day to day running of the station will be the responsibility of the Station Administrator in concert with the Station Manager. The Station Administrator position is currently filled and if allocated a licence under this process, WSM will seek to employ a Station Manager.

WSM claims that all Board members and up to 60 volunteers are involved in its current temporary service which focuses on sports. No details were provided as to the roles undertaken by the volunteers. WSM provided no evidence to demonstrate how it proposes to engage and involve members of the other communities it proposes to serve (country, gospel and 50's, 60's and 70's music). On the face of it, the intention of WSM appears to be to provide a service for sporting enthusiasts with the other program elements being used to fill the gaps between sporting programs. ACMA has no evidence before it to suggest that members of these other communities will be able to participate in the operations and programming of the service.

When questioned about the Foundation members being in control of four out of the maximum seven seats on the Board, WSM stated that it was unsure why the Constitution allowed for this. WSM also stated that as it only has three Foundation Members this allows for four elected members to sit on the Board. The Board of Directors currently has six members. ACMA notes, however, that WSM's claims are not consistent with the requirements of its Constitution.

When asked why the Foundation members on the Board are appointed in perpetuity, WSM claimed that the Foundation members are the 'basis of continuity, the guardians of the station progress and the guides to the incoming Board'.

At a meeting with ACMA on 19 November 2007, WSM indicated that it has not held any general meetings of its members. ACMA notes that this appears to be a breach of the WSM Constitution which requires an Annual General Meeting (AGM) of the Association to be held at least once every calendar year. It is also a requirement of section 23 of the *Associations Incorporations Act 1987* (WA) that an AGM be held each year. A further requirement of the WSM Constitution is that an Auditor be appointed each year at the AGM. WSM only has audited accounts for the 2006-07 financial year.

WSM has demonstrated that it is proficient in the technical and program production aspects of providing a broadcasting service. However, ACMA is concerned with WSM's lack of knowledge about the provisions of its Constitution and the requirements of the *Associations Incorporation Act 1987*. The fact that it has not held an AGM, not only breaches its Constitution and the *Associations Incorporation Act 1987* but also calls into question the validity of the appointments of non-Foundation members to its Board of Directors, and the appointment of an Auditor. ACMA is also concerned that the ability of the community to participate in the operations of WSM, a condition of licence, has also been severely restricted by its failure to hold an AGM. In addition, ACMA is concerned that, apart from the sporting community, WSM has provided no evidence to demonstrate that members of any of the other communities it purports to represent will have involvement in the operations of the licensee in providing the service, or the selection and provision of programs.

Finding

On the evidence before it, ACMA finds that WSM does not have the management capacity to provide the proposed service.

Financial capacity

CCR

the 100.9 licence

CCR estimates capital expenditure of \$80 000 for the acquisition of new transmitter and equipment for this licence, providing relevant quotations to support its claim.

According to CCR, acquisition and installation of a new transmitter for 100.9 MHz will require approximately 16 weeks. As a current holder of a temporary community broadcasting licence (TCBL), CCR claims to have in place all other necessary equipment to commence/continue broadcasting.

As at 30 June 2007, CCR had access to \$66 494 in funds at the bank. CCR states that these reserves plus its ability to generate further capital funding will cover the costs of new transmission equipment required for the 100.9 licence.

CCR estimates income in year 1 of \$149 173 and operating costs of \$117 900. The main sources of revenue are sponsorship and airtime sales, and the main expenses staff, commissions and electricity. CCR currently leases studio and administration facilities from the City of Gosnells for \$500 per annum. The City of Gosnells has confirmed the ongoing nature of this arrangement.

the 90.5 licence

CCR estimates capital expenditure of \$7 230 for the acquisition of a back-up power generator for this service.

CCR estimates income in year 1 of \$128 836, and operating costs of \$56 000. The main sources of revenue are sponsorship, airtime sales and donations. Main expenses are listed as wages and sales commissions.

ACMA is of the view that the estimated income and operating costs are reasonable and achievable based on the revenues achieved by CCR as a provider of temporary community broadcasting services and ACMA's knowledge of the community broadcasting sector. According to a survey conducted by the Communications Research Unit (based on data provided by the CBAA), the average income for metropolitan community radio stations was \$504 428 in 2002-03. The same survey reported an average income of \$77 000 for seniors services. However, this figure was based on five non-metropolitan seniors services.

Finding

On the evidence available, ACMA is of the view that CCR has the financial capacity to provide its proposed service.

Peedac

Peedac estimates that it will require \$226 104 to establish its service, including \$126 648 for transmission equipment (masts, transmitters, antennae and links) and \$84 050 on technical equipment (studios and production equipment).

Peedac anticipates being able to receive grants under the Commonwealth's Indigenous Broadcasting Program (IBP) to fund the capital costs to establish the service.

Peedac anticipates being able to generate \$528 000 in income in the first year of operation. The main source of funding is stated as Government grants. Sponsorship revenue will be a minor revenue stream, estimated at \$7 500 in the first year of operation. Operating costs are estimated to be \$528 000 in the first year of operation. The main expenses listed as salaries, technical and operations.

ACMA notes that while funding for Indigenous services under the IBP cannot be guaranteed, it is not uncommon for these services to be funded this way and for them to be reliant on this funding for their financial viability.

The IBP is administered by the Department of the Environment, Water, Heritage and the Arts. Until the recent election the IBP was administered by the Department of Communications, Information Technology and the Arts (DCITA)². In July 2007, DCITA indicated that it would provide start-up and ongoing funding for a licensed Indigenous community broadcaster in Perth, commensurate with the funding it provides for such services in other capital cities. IBP funding for the Indigenous service in Brisbane was \$506 458 in 2005-06, \$387 088 in Sydney and \$357 088 in Melbourne.

Finding

On the evidence available, ACMA is of the view that Peedac has the financial capacity to provide its proposed service.

Phoenix

Phoenix estimates that it will require \$217 685 to establish the service on 100.9 MHz and \$144 685 to establish the service on 90.5 MHz. This includes all the necessary studio, technical and transmission equipment to provide the proposed service.

Phoenix anticipates being in a position to access over \$300 000 in order to establish its proposed service. The main source of funding is a loan of \$270 000 to be provided by [REDACTED]

[REDACTED] The Chairman and Director of Phoenix is also a Director of [REDACTED] [REDACTED] has provided a letter of intent confirming the proposed loan.

Phoenix did not differentiate the projected operating costs and income between the two licences applied for. Phoenix estimates income in the first year of operation to be \$563 470, in year 2 \$905 946 and in year 3 \$1 248 887. Phoenix estimates operating costs of \$607 748 in year 1, \$860 598 in year 2 and \$1 224 730 in year 3.

The main sources of revenue are expected to be sponsorship announcements and website income. The main expenses are listed as wages/ salaries, and technical/operations.

ACMA is of the view that Phoenix's estimates for income in years 2 and 3 are optimistic, easily exceeding the average of \$504 428 achieved by metropolitan stations in 2002-03³. Phoenix states that expenditure will not be committed to unless funding can be determined. However, Phoenix did not explain how a shortfall in incomes may affect the viability of its proposed service. ACMA's view is that Phoenix is still likely to have the financial capacity to provide a service, but given the proposed number of paid staff any shortfall in revenue may affect its ability to meet the needs of the community.

Finding

On the evidence available, ACMA is of the view that Phoenix has the financial capacity to provide a service but any shortfall in revenue may affect the service it can provide.

WSM

WSM submitted that it owns all the necessary equipment to establish its service and provided details of equipment already owned by WSM. In order to establish a service on 100.9 MHz WSM states that it will incur additional technical costs of \$6,315 to establish the transmitter facility at Mills Road Gosnells.

² The relevant government department is now called the Department of Broadband, Communications and the Digital Economy.

³ According to a survey conducted by the Communications Research Unit (based on data provided by the CBAA), the average income for metropolitan community radio stations was \$504 428 in 2002-03.

WSM did not differentiate estimated operating costs or estimated income between the 100.9 and 90.5 licences. WSM estimates income in year 1 of \$186 130 and operating costs of \$101 994. The main sources of revenue are sponsorship announcements, government grants and sale of airtime. The main expenses are claimed to be wages and salaries and technical. WSM did not include the \$25 000 per annum that it pays to lease studio facilities in its expenses.

ACMA is of the view that the estimated income and operating costs are reasonable and achievable based on the revenues achieved by WSM as a provider of temporary community broadcasting services and ACMA's knowledge of the community broadcasting sector.

Finding

On the evidence available, ACMA is of the view that WSM has the financial capacity to provide the proposed service.

Technical capacity

CCR and WSM have demonstrated their technical capacity in providing temporary community radio broadcasting services since August 2003. Peedac and Phoenix have both engaged suitably qualified technical consultants to assist in the establishment and ongoing maintenance of their technical.

Finding

On the basis of the evidence before it, ACMA finds that each of the applicants has the necessary technical capacity to provide their proposed services.

Extent to which the proposed services would meet the existing and perceived future needs of the community within the Perth licence area (s.84(2)(a))

CCR

Based on the evidence presented, ACMA is satisfied that there are a significant number of seniors in the licence area. ACMA is also satisfied that the number of seniors in the licence area is expected to increase over time as the Australian population ages. ACMA is of the view that the particular needs of seniors are only partially met by the broadcasting services currently available in the licence area and that there is an unmet need for a dedicated seniors service.

CCR proposes a program format consisting of 12.7% talk based programming and 87.3% music based programming. Of the talk based programming, 35% is to be produced locally, 32% sourced from the CBAA and 33% from the British Broadcasting Corporation (BBC). According to a survey conducted by the Communications Research Unit (based on data provided by the CBAA) other services targeting seniors average 9% talk based programming.

CCR has carried out 2 of its own surveys on community radio in Perth and the CCR service in particular. The latest survey conducted in mid-2006 was sent to about 2 500 people on CCR's database, with 1 200 copies returned. The survey results, which were provided to ACMA, show strong support for CCR's claims about the programs it broadcasts.

CCR states that its music programs are widely selected from an era described as 'The Golden Years of Radio', with music mainly from the 1940s to 1970s middle of the road and with wide appeal. CCR calls these "the Golden Oldies of yesteryear, performed by singers, instrumentalists and orchestras who were universal favourites."

CCR surveys show that its audience is overwhelmingly in support of its current music format. However, CCR notes that its focus on music from 40s-70s is not inflexible and that in time it will progress as music from more recent eras becomes the music of choice of its audience.

In its application, CCR identified a number of elements that contribute to a senior citizen's wellbeing, including:

- health guidance,
- advocacy,
- promotion of a positive image of ageing,
- promotion of recreational and social activities,
- collection, interpretation and dissemination of information, and
- assisting interaction within the community.

CCR claims that as well as music, it is intending to provide information on health, investment, law, holiday and community information relevant to seniors from a metropolitan, state and Australia-wide perspective. CCR has provided evidence that it has broadcast some specialist programming of this type over the last 12 months.

By maintaining and strengthening its financial viability CCR intends to invest in equipment and technology that would enable it to expand its programming by providing for live telephone interviews, real time interaction with its audience and talk back programs. CCR indicated that it has no plans at this stage to introduce talk back programming of the type already provided on some commercial radio services.

CCR anticipates engaging professional research services to undertake audience research. CCR also states its intention to form a sub-committee dedicated to the purpose of monitoring reaction to its programs, liaising with community organisations with an appreciation of the needs of the seniors audience and conducting further surveys of its listening audience.

CCR has in place co-operative arrangements with groups such as the Citizens Advice Bureau, Volunteering Western Australia, Hollywood Private Hospital and the Western Australian Police Service.

CCR provided some 4 500 letters in support of its service indicating that its service has broad support from within the community.

Finding

On the evidence before it, ACMA finds that the service proposed by CCR would, to an adequate extent, meet the existing and perceived future needs of the community in the licence area.

Peedac

Based on the evidence presented, ACMA is satisfied that two significant and currently unmet community needs in the Perth area are:

- the need for the Indigenous community to have its own broadcasting service which addresses issues of particular concern to the Indigenous community, and caters to its specific cultural and language needs; and
- the need of the general community to be informed about Indigenous issues and culture from an Indigenous perspective.

In ACMA's view, these needs are likely to continue indefinitely. At a meeting with ACMA on 19 November 2007, Peedac cited findings from *Overcoming Indigenous Disadvantage* published by the Western Australian Department of Indigenous Affairs, including reduced life expectancy, over-representation in prisons, lack of employment and education opportunities.

The Indigenous community in Perth is the fourth largest in Australia and its particular needs are not currently being addressed to a significant degree by any of the broadcasting services currently available in the licence area.

Peedac is proposing a service with 30% talk based programming and 70% music based programming. It is proposed that 66% of the talk based programming be locally produced, approximately 23% will be national syndication and 10% sourced internationally. It is proposed that about 30% of the music broadcast will be by local artists, 60% other Australian artists, and 10% sourced from international artists.

Peedac states the needs of the local community to include local and Australian Aboriginal music encompassing reggae, country and western, youth, hip hop and rap. Peedac also identified talkback radio, Aboriginal news, current affairs and community notices as areas of need. Other needs identified by Peedac include Noongar language and cultural teachings, sporting and health programs, law and justice issues (including programs for prisoners); education and employment, finance, the arts, children's and family programs.

Peedac claims that Aboriginal guest speakers, including elders will be an important part of the stations operations, and that it will aim to broadcast Indigenous programs from other parts of Australia and indigenous communities worldwide. Peedac proposes to work with Aboriginal organisations to develop and produce programs for broadcast.

Peedac's application is supported by other Indigenous groups and organisations in the Perth area including the Aboriginal Legal Service of WA, Yirra Yaakin theatre group, Job Train Pty Ltd, first Nations Credit Union, Abmusic, Marr Moorditch, Clontarf Football Academy, Derbarl Yerrigan Health Service, Mooditch Gurlongga Association, Waminda Aboriginal Corporation, Aboriginal Alcohol and Drug Service, Dumbartung Aboriginal Corporation, Sister Kate's Home for Kids, Indigevent Services, South West Aboriginal Entertainment and Kulbardi Film.

Existing Indigenous broadcasters in Brisbane, Sydney, Melbourne, Broome and Kalgoorlie have provided letters to ACMA expressing their intention to assist Peedac in the commencement and ongoing operations of its service.

Finding

On the evidence available, ACMA finds that the service proposed by Peedac would, to a significant extent, meet the existing and perceived future needs of the community in the licence area.

Phoenix

Based on the evidence presented, ACMA accepts that there is likely to be a significant number of people in the Perth licence that have expressed an interest in country music based on the WAVE 5 survey results. However, ACMA is of the view that this does not necessarily reflect the number of people who may in fact listen to the service or that there is a need for the proposed service.

ACMA is of the view that Phoenix has not provided any strong evidence to support its claims of a community need for a dedicated country music service. In this regard, ACMA notes the

existence of only five country music clubs in Perth, each with a membership of about 100 people.

ACMA is of the view that the community need for country music programming is currently being met to a reasonable extent by existing broadcasting services, including community and national radio, and subscription television services.

Phoenix proposes a format consisting of 25% talk based programs and 75% music based programs, with a mixture of live, automatic and pre-recorded programs. Of the talk based programming, Phoenix estimates 60% of it will be locally produced and 40% national syndication. Of the music, Phoenix estimates that about 6% of all music will be from artists in the local area (depending on availability), 40% will be from Australian artists, and about 54% from overseas artists.

Phoenix did not provide ACMA with any evidence to demonstrate how its proposed service would meet the needs of the country music/general community that it claims to represent, other than by providing country music enthusiasts with a dedicated radio service.

ACMA is also of the view that the deficiencies identified in this report with regard to community participation in the operations of the proposed service would affect the capacity of Phoenix to meet community needs. Under the proposed share structure the ability of members of the community to participate in the decision making of Phoenix is limited.

Finding

On the evidence available, ACMA is of the view that the service proposed by Phoenix will not meet the existing and perceived future needs of the community to an adequate extent.

WSM

Based on the evidence presented, ACMA accepts that there may be some interest in a service providing coverage of sporting events and associated programs that are not covered by current broadcasting services. There may also be interest in the country, gospel and 50's, 60's and 70's music programming proposed by WSM. However, ACMA is not satisfied that WSM has demonstrated that there is a community need for its proposed service, with a significant amount of the proposed programming generally well catered for by existing broadcasting services in the Perth area. For example, most of the sports broadcast by WSM receive coverage on other radio broadcasting services, and commercial and subscription television broadcasting services. Country music receives coverage on six other radio broadcasting services in the licence area.

To support its claims about community need WSM sites the 17,838 letters of support it claims to have received in the last 12 months. ACMA understands that many of these letters have been gathered at sporting venues and are not necessarily representative of WSM's audience. Over 500 letters supporting WSM's application have been sent directly to ACMA.

In its application, WSM claims that it provides extensive coverage of local and grass root sports and sporting events deemed 'not lucrative' by the commercial media and that emphasis is given to local women's sports, activities for the elderly and handicapped as well as junior sports.

The weekend program schedule appears to be dominated by interstate cricket matches and related coverage, AFL from the east coast, NRL from the east coast, A-League soccer matches, Super 14 Rugby Union and English soccer. Other than some minor coverage of local cricket, bowls, boxing and martial arts there does not appear to be any substantial coverage of

'local amateur and grass roots sports' and a total absence of women's sports, activities for the elderly, handicapped or junior sports.

The music based programming, mainly broadcast on weekdays, covers a range of music genres from 50's, 60's and 70's, Rock and Roll, Soul and Jazz, and Gospel. Country music dominates the music programming with 9 hours per day, Monday to Friday, 2.5 hours on Saturday over summer, and 8 hours overnight on Sundays.

Apart from the sporting community, WSM has provided no evidence to ACMA to demonstrate that any of the communities it proposes to represent have any involvement in the operations of the licensee or the selection and provision of programs.

ACMA is also of the view that the deficiencies identified in this report with regard to WSM's management capacity, including compliance with the *Associations Incorporation Act 1987* (WA) would adversely impact on the capacity of WSM to meet community needs.

Finding

On the evidence available, ACMA is of the view that the service provided by WSM would not meet the existing and perceived future needs of the community to an adequate extent.

Control of the licence – S84(2)(e) and (f)

ACMA is satisfied that there is no evidence in relation to any of the applicants that any one person would be in a position to exercise control of more than one community broadcasting licence in the same licence area as a consequence of that applicant being allocated a licence.

ACMA is satisfied that there is no evidence that the Commonwealth, or a State or Territory or a political party would be in a position to exercise control of a licence as a consequence of its allocation of a licence to any of the applicants.

SUMMARY

On the evidence before ACMA, and having regard to ss. 84(2)(a) and (d) of the BSA, Phoenix and WSM have failed to demonstrate:

- they have the management capacity to provide the proposed service; and
- their proposed service would meet the existing and perceived future needs of the community in the licence area to an adequate extent.

In contrast, CCR and Peedac, have demonstrated:

- they have the management capacity to provide the proposed service; and
- their proposed service would meet the existing and perceived future needs of the community in the licence area to an adequate extent.

ALLOCATION OF LICENCES

The 100.9 licence

Both CCR and Peedac applied for the allocation of the 100.9 licence and after having regard to the matters listed in section 84(2) of the BSA, either applicant could be allocated the licence.. An assessment of the relative merits of CCR and Peedac has resulted in the decision that the 100.9 licence, SL1150746, be allocated to Peedac on the basis that its proposed

service would meet the existing and perceived future needs of the community in the Perth RA1 licence area to a greater extent than the service proposed by CCR.

The service proposed by Peedac will, to a significant extent, meet two currently unmet needs in the Perth community:

- the need for the Indigenous community to have its own broadcasting service which addresses issues of particular concern to the Indigenous community, and caters to its specific cultural and language needs; and
- the need of the general community to be informed about Indigenous issues and culture from an Indigenous perspective.

While ACMA acknowledges there is no dedicated broadcasting service for seniors in Perth, the needs of the community are being met to some extent by other broadcasting services, including 15 hours per week of programming on Curtin FM specifically targeting a seniors audience.

On this basis, ACMA has decided to allocate, under Part 6 of the BSA, community radio broadcasting licence, SL1150746, to Peedac.

The 90.5 licence

Having had regard to the matters listed at section 84(2) of the BSA, and all the evidence ACMA has decided to allocate community radio broadcasting licence SL1150828 to CCR. .

Appendix A: Summaries of the evidence provided by the applicants

CAPITAL COMMUNITY RADIO INC. (CCR) proposed community interest: seniors

Community interest claimed

CCR claims to represent “senior citizens” as its community interest.

CCR claims that there is no other radio station in Perth dedicated solely to the needs of seniors.

CCR provided demographic information to support its claims of the size of the community interest to be served. Australian Bureau of Statistics data from the 2006 Census shows that 12.0% of the Perth population is over the age of 65, and 22% are over the age of 55.

In describing the community interest CCR notes the ageing of the population and the under representation of seniors in the media. CCR identified a number of elements that contribute to a senior citizen’s wellbeing, including:

- health guidance,
- advocacy,
- promotion of a positive image of ageing,
- promotion of recreational and social activities,
- collection, interpretation and dissemination of information, and
- assisting interaction within the community.

Constitution, objects and organisational structure

CCR was incorporated in WA on 9 August 2000.

The Objectives of CCR are set out at section 3 of its Constitution and Rules. They are appropriate for a community radio service and include:

- to operate, maintain and conduct a radio station
- provide for community access
- to encourage an interest in art, drama, music and theatre with a local flavour
- to provide for liaison with community groups and education institutions
- to provide a forum for debating topical issues
- to provide a focal point for information concerning access to community services and encouraging participation in local and community projects.

CCR has an open membership policy and membership is open to any person. CCR has appropriate appeal mechanisms in place for rejected memberships. An application can only be rejected if the applicant:

- has been convicted of an indictable offence,
- has been declared bankrupt, or
- in the opinion of the committee, will not abide by the Rules of the Association and Codes of Practice.

There are two classes of membership, Individual and Small Business/ Corporate.

Each individual member present at a General Meeting is entitled to one vote. Corporate members are also entitled to one vote.

The CCR Committee of Management is to consist of 9 persons, all of whom are to be Members of the Association and who exclusively manage the affairs of the Association. The Constitution provides for a:

- Chairperson
- Vice Chairperson
- Secretary
- Treasurer
- 5 other persons

Each Committee of Management member sits for a 2 year term. Four members resign in one year, and the remaining 5 in the following year. Retiring Committee Members are eligible for further 2 year terms. The Committee elects the Chairperson, Vice Chairperson, Secretary and Treasurer.

The Committee of Management can appoint sub-committees for special purposes. The Management Committee meets monthly. Sub-Committees, generally led by a Management Committee member, submit reports, decisions and recommendations to the Committee of Management on relevant matters that require its attention. Appendix 19(i) to the application appears to have 8 sub-committees in place (Traffic, Volunteers, Programs, Sales and Public Relations, Training, Complaints and Disputes, Social, and Occupational Health and Safety). Members and volunteers can sit on Sub-Committees.

Membership

CCR has 108 annual subscribers of which 82 are full members with voting rights. The 26 subscribers that are not full members are volunteers who are not members.

Existing services claimed

CCR claims that there is no other radio station in Perth dedicated solely to the needs of seniors. CCR notes that Curtin FM 100.1 has a program each weekday between 1 and 4pm for retirees called Seeking Solutions, supported by Retirees WA. CCR also notes that the RPH service provides programming that is likely to be of interest to many seniors.

Needs claimed

CCR identified a number of elements that contribute to a senior citizen's wellbeing, including:

- health guidance,
- advocacy,
- promotion of a positive image of ageing,
- publicising of recreational and social activities,
- collection, interpretation and dissemination of information, and
- assisting interaction within the community.

CCR also referred to the 2004 McNair Ingenuity Community Radio Survey (funded by DCITA through the CBF), noting the finding that a 'diversity of programs with specialist information and music programs' were the major reasons why people listened to community radio.

CCR further claims that the perceived future needs of the Perth community, with an ageing population, supported the need for a dedicated senior's radio service. CCR claims that as well as music, it is intending to provide information on health, investment, law, holiday and community information relevant to seniors from a metropolitan, state and Australia-wide perspective. CCR has provided evidence that it has broadcast some specialist programming of this type over the last 12 months (see Programming below).

By maintaining and strengthening its financial viability CCR intends to invest in equipment and technology that would enable it to provide talk back programming and therefore expand its programming. CCR anticipates being able to engage professional research services to undertake audience research. CCR also states its intention to form a sub-committee dedicated to the purpose of monitoring reaction to its programs, liaise with community organisations with an appreciation of the needs of the seniors audience and to conduct further surveys of its listening audience.

In addition to the findings of the 2004 McNair Ingenuity community Radio Survey, CCR has carried out 2 of its own surveys on community radio in Perth and the CCR service in particular. The latest survey conducted in mid-2006 was sent to about 2 500 people on CCR's database, with 1 200 copies returned. A copy of the survey and main results were provided to ACMA. The survey results provided show strong support for CCR's claims about the programs it broadcasts.

CCR states that it has in place co-operative arrangements with groups such as the Citizens Advice Bureau, Volunteering Western Australia, Hollywood Private Hospital and the Western Australian Police Service.

CCR provided some 4 500 letters in support of its service.

Program content and policy

CCR proposes a program format consisting of 12.7% talk based programming and 87.3% music based programming. Of the talk based programming, 35% is to be produced locally, 32% sourced from the CBAA and 33% from the BBC. This is consistent with what is broadcast on other services targeting seniors.

CCR provided information about the 'specialist' programs it has broadcast including:

- Hooray for Hollywood. A program presented especially for veterans who are patients in the Hollywood Private Hospital (a major sponsor);
- The Nasho Years. A program of particular interest to ex servicemen and women;
- Segments prepared by medical advisors from Hollywood Private Hospital regarding health and fitness;
- weekly segment with WA Police Service, including security for seniors, internet and other scams, and road rules and regulations;
- a guide for seniors in basic computer operations; and
- segments with the Citizens Advice Bureau.

During the current TCBL, CCR has broadcast regular segments on:

- advice for seniors who like to garden but need guidance;
- advice from the Asthma Foundation of WA; and
- an information based segment presented by a representative from Volunteering Western Australia.

CCR states its intention to expand its programming base with the acquisition of a talk-back facility and outdoor broadcast facilities. New programs planned include:

- Afternoon Forum. A 15 minute segment to provide coverage about established seniors community groups and organisation;
- Morning Forum. Similar to the afternoon forum;
- Expansion of its current station prepared news service to include sport and sporting results;
- CBAA news service;
- CBAA's The Wire; and
- Outdoor broadcasts of senior's events, conventions and festivals.

CCR states that its music programs are widely selected from an era described as 'The Golden Years of Radio', with music mainly from the 1940s to 1970s middle of the road and with wide appeal. CCR calls these "the Golden Oldies of yesteryear, performed by singers, instrumentalists and orchestras who were universal favourites."

CCR surveys show that its audience is overwhelmingly in support of its current music format. However, CCR notes that its focus on music from 40s-70s is not inflexible and that in time it will progress as music which followed the 70s becomes the music of choice of its audience.

CCR has had preliminary discussions with the CBAA (news and current affairs), BBC (news overnight) and a serials supplier about the availability of programs. No agreements have yet been signed.

Access and participation in proposed programming

CCR states that the most effective way for members of the community to participate in programming decisions is to become a member of CCR, which provides voting rights at AGM's. Members also have the right to convene Special General Meetings. CCR states that it regularly broadcasts invitations for listeners to become volunteers and members, and that its website has a page inviting members.

CCR states its intention to establish a Programming Sub-Committee to monitor reaction to programs and explore:

- liaison with community groups and issue invites to participate in the preparation of programs for the station. CCR claims it has commenced providing such groups with access to the station's programming.
- availability of programs prepared by groups whose aims and ideals are compatible with CCR's.

CCR has no paid staff and is currently run entirely by volunteers. CCR currently has 68 active part-time volunteers, with 35 producers, 25 presenters, 1 program coordinator and 1 production (technical).

Estimated capital costs of establishing service and estimated source of funds

100.9 MHz

CCR estimates capital expenditure of \$80 000 for the acquisition of new transmitter and equipment for this frequency. Relevant quotations were provided.

Acquisition and installation of a new transmitter for 100.9 MHz will require approximately 16 weeks. As a current holder of a TCBL, CCR claims to have in place all other necessary equipment to commence/continue broadcasting.

As at 30 June 2007, CCR had access to \$66 494 in funds at the bank. CCR states that these reserves plus its ability to generate further capital funding will cover the costs of new transmission equipment required for 100.9MHz

90.5 MHz

CCR estimates capital expenditure of \$7 230 for the acquisition of a back-up power generator for this service.

Estimated operating costs and estimated income/revenue (Qs 52-59)

100.9 MHz

CCR estimates income in year 1 of \$149 173, year 2 \$194 878 and year 3 \$232 952. The main sources of income are listed as:

- the sale of airtime (year 1 \$63 000, year 2 \$94 500, year 3 \$119 070);
- sponsorships (\$47 423, \$56 900, and \$65 444); and
- donations (\$28 095, \$30 905, and \$33 995).

CCR also claims it will explore all avenues for receiving grant funding but did not include any grant funding in its revenue estimates.

CCR estimates operating costs in year 1 of \$117 900, year 2 \$158 462 and year 3 \$213 200. The main expenses are listed as:

- wages (\$60 000, \$80 000 and \$120 000);
- sales commissions (\$35 000, \$35 000 and \$45 000); and
- electricity (\$6 700, \$7 500 and \$8 000).

Transmission site costs are stated to be \$5 000 per annum under an agreement to share transmission facilities with ethnic community broadcaster, 6EBA. CCR did not provide any estimate of the transmission costs, noting that the costs would be calculated by Broadcast Australia.

90.5 MHz

CCR estimates income in year 1 of \$128 836, year 2 \$150 215, and year 3 \$181 140. The main sources of income are claimed to be:

- sale of airtime (\$50 000, \$63 000, and \$88 200);
- sponsorships (\$40 650, \$44 711 and \$49 186); and
- donations (\$28 095, \$30 905 and \$33 995).

CCR estimates operating costs in year 1 of \$56 000, year 2 \$83 462 and year 3 \$101 200. The main expenses are listed as:

- wages (\$20 000, \$40 000, and \$50 000); and
- sales commissions (\$10 000, \$12 500 and \$15 000).

CCR states that it has in place an agreement with the City of Melville which, for \$500 per annum, provides CCR with:

- studio and administration offices at Wireless Hill, Adross
- transmission site for the 90.5 MHz transmitter
- free electricity and water
- large meeting room, car parking and 'open day' facilities

- security.

CCR estimates that this amounts to a saving to it of about \$25 000 per annum. CCR provided evidence that the City of Melville proposes to continue to subsidise CCR at the present level.

Financial capacity demonstrated during TCBLs

CCR has experienced no financial problems during its TCBLs. As at 30 June 2007, CCR had access to \$66 494 in funds at the bank, which includes a \$20 000 term deposit.

The main source of funds for its TCBLs have been sponsorship \$33 874 and donations \$23 413 out of a total income of \$61 552. The main expense is listed as management services at \$7 566.

Existing technical facilities and equipment

As the holder of a TCBL, CCR has in place the relevant technical facilities and equipment to continue broadcasting on 90.5 MHz. CCR leases its studio facilities but owns all the necessary technical equipment to produce and broadcast its service.

If awarded the 100.9 MHz licence, CCR expects to spend in the order of \$80 000 on new equipment for the transmission of the service.

CCR also outlined its intention to invest in new equipment to provide for live interviews, discussion and talk-back programming. CCR also intends to acquire outdoor broadcast equipment and to replace/up date current equipment.

Proposed technical facilities and equipment

For 90.5 MHz, CCR's transmission equipment is located adjacent to its studios at Wireless Hill, Ardross.

If awarded the 100.9 MHz licence, CCR intends to co-site its transmission equipment with 6EBA at the ABW2 site in Bickley. 6EBA has provided a letter regarding the proposed agreement at a cost of approximately \$5 000 per annum to CCR.

Technical expertise

Three members of the Management Committee have extensive background in radio and telecommunications with appropriate technical qualifications. They have been responsible for the technical aspects of the service during its TCBLs. These members will continue in these roles if awarded a permanent licence and CCR also intends to appoint a part-time technician.

Board members/staff experience

CCR's Management Committee members and volunteers have extensive experience in broadcasting, radiocommunications, community organisations, production, administration and management.

Proposed staffing profile

In its first year of operation CCR proposes 6 part-time staff (3 sales, 2 office and Station Manager) and 68 part-time volunteers. In years 2 and 3, CCR proposes 2 full time (Station Manager and Office) and 6 part time (3 sales, 2 production and 1 technician) staff and 73 part time volunteers.

Measures to ensure adherence to codes of practice/licence conditions

CCR provided a copy of its Information Kit and Operating Standards Manual. CCR also has its own CBAA qualified trainers within its membership/volunteers that provide training to new staff and volunteers on all aspects of broadcasting including adherence to Codes and licence conditions.

The Information Kit includes a short history of community radio in Australia, CCR Program Policy, Codes of Practice, CCR Operating Standards Manual, CCR Constitution, and training tips for presenters.

Management capacity demonstrated during TCBLs

CCR has been conducting TCBLs since October 2002. Complaints to announcers are dealt with in accordance with section 3.6 of the Operating Standards Manual. If the person wishes to make a formal complaint, the matter is referred to the CCR Complaints Officer.

SUMMARY OF APPLICANT: PEEDAC PTY LTD (PEEDAC)

proposed community interest: indigenous

Community interest claimed

Peedac proposes to serve Perth's Aboriginal community, the Noongar Nation. The Noongar Nation incorporates a large area of South West Western Australia.

Peedac claims that there is no other broadcasting service in Perth currently meeting the needs of Perth's Aboriginal community.

According to the Australian Bureau of Statistics 2006 Census Perth's Indigenous population (Aboriginal and Torres Strait Islander people) numbered 21 325 people. ABS further states that the Perth Indigenous Region (based on former ATSI Region boundaries) has the fourth largest Indigenous population after Sydney, Brisbane and Coffs Harbour.

Peedac claims that the Aboriginal population in Perth is dispersed throughout the outer suburban areas of Perth and for this reason it did not apply for the licence on 90.5 MHz which is not able to be received across the Perth metropolitan area.

Constitution, objects and organisational structure

Peedac is an Indigenous owned not-for-profit company, limited by shares. It was registered in Western Australia on 20 June 1997. Peedac operates a range of activities generally aimed at providing work skills and training for Indigenous Australians in Western Australia. The company may not pay dividends.

Under Part 4 of the Peedac Constitution, there may only be one member at any time and the shares may only be held by Bodies Corporate which are tax exempt not-for-profit organisations. The sole shareholder is Kaarta-Moordaa Aboriginal Corporation (Kaarta-Moordaa). Kaarta-Moordaa claims to represent all Aboriginal and Torres Strait Islander people residing within the Perth Noongar Regional Council area. Membership to Kaarta-Moordaa is open to all Aboriginal and Torres Strait Islander people over the age of 18 that reside in the area.

The Peedac Board consists of two nominee directors (nominated from within Kaarta-Moordaa), the Managing Director of Peedac, and four other Aboriginal community members sourced from an expression of interest process. After receiving expressions of interest, the Managing Director nominates the preferred candidates. Candidates are then appointed by resolution at a general meeting of Peedac which requires a quorum of five members of the Kaarta-Moordaa governing committee.

To facilitate the operations of the proposed service, Peedac is proposing to establish the Noongar Media Enterprise (NME) as a subsidiary of Peedac. The NME will be a not for profit company limited by guarantee. Peedac will be the sole shareholder.

The Objectives of the NME as set out in its draft Business Plan include:

- providing Noongar people with a media that recognises, respects and affirms Noongar peoples identity and inherent rights and responsibilities in Australian society;
- to produce and broadcast independent news and current affairs programs that address issues of importance to Noongar and Aboriginal people;
- to assist and support the revival and maintenance of the Noongar language and cultural identity through the broadcast of Noongar language programs;

- to promote and highlight Indigenous music and musicians;
- to ensure the active participation of members of the Noongar community in its affairs;
- to ensure employment and professional development of Noongar people in management, production, broadcasting and administration;
- to provide professional traineeships in broadcasting production and journalism; and
- to recognise and promote the importance of volunteers who may be members of the Noongar and wider community.

The NME has an Interim Committee of six members who are to be responsible for the establishment of the proposed service in accordance with an agreed timetable. Peedac has established links with other Indigenous broadcasters who have indicated their willingness to assist Peedac in the establishment of its service, including Goolarri Media Broome, the National Indigenous Radio Service (NIRS), Murri Radio Brisbane, Gadigal Sydney and 3KND Melbourne. The Australian Indigenous Communications Association has also offered support and training to Peedac. Peedac also has the support of 6RPH in Perth have also offered the use of studios if the need arises.

It is proposed that the NME will have its own Board of Directors of up to seven people. Peedac will nominate two Directors to the Board, the other Aboriginal community members of the Board being sourced through an expression of interest process. Board appointments will be for a period of three years which Peedac claims will allow for stability and policy implementation.

Peedac is proposing that the NME appoint 6 full-time and three part-time staff. It is proposed that the NME establish advisory boards to assist in its operations. Proposed advisory boards include Youth, Training and Program Content.

Membership

Peedac claims that it is well placed to represent the community interest and that its governance structure is very representative of the Perth Aboriginal community including long established membership across the metropolitan area.

Peedac claims that community participation will be facilitated through a variety of means including: volunteering, membership of Kaarta-Moorda, advisory boards, and Board positions at both Peedac and the NME.

Existing services claimed

Peedac claims that there is no other broadcaster in the greater Perth area that is meeting the needs of the Aboriginal community.

Needs claimed

Peedac states the needs of the local community to include local and Australian Aboriginal music encompassing reggae, country and western, youth, hip hop and rap. Peedac also identified talkback radio, Aboriginal news, current affairs and community notices as areas of need. Other needs identified by Peedac include Noongar language and cultural teachings, sporting and health programs, law and justice issues (including programs for prisoners); education and employment, finance, the arts, children's and family programs.

Peedac claims that Aboriginal guest speakers, including elders will be an important part of the stations operations, and that it will aim to broadcast Indigenous programs from other parts of Australia and indigenous communities worldwide. Peedac proposes to work with Aboriginal organisations to develop and produce programs for broadcast.

Peedac's application is supported by other Indigenous groups and organisations in the Perth area including the Aboriginal Legal Service of WA, Yirra Yaakin theatre group, Job Train Pty Ltd, first Nations Credit Union, Abmusic, Marr Moorditch, Clontarf Football Academy, Derbarl Yerrigan Health Service, Mooditch Gurlongga Association, Waminda Aboriginal Corporation, Aboriginal Alcohol and Drug Service, Dumbartung Aboriginal Corporation, Sister Kate's Home for Kids, Indigevent Services, South West Aboriginal Entertainment and Kulbardi Film.

Peedac claims that the NME will ensure full representation of the local Noongar community through the board, membership, programming and daily operations of the station. Ongoing opportunities for community feedback will be provided through various means including a website, a dedicated mobile line for text messaging feedback, request and suggestions, and a regular program specifically designed to engage the community and facilitate feedback.

If successful with its application, Peedac plans to undertake specific community consultation within the licence area to further examine the requirements and needs of the local community. Peedac also plans to establish links with other Aboriginal media associations based in WA including Goolarri Aboriginal Media Association (based in Broome) and Tjuma Pulka Media Aboriginal Corporation (based in Kalgoorlie).

Existing Indigenous broadcasters in Brisbane, Sydney, Melbourne, Broome and Kalgoorlie have provided letters to ACMA expressing their intention to assist Peedac in the commencement and ongoing operations of its service.

Program content and policy

Peedac is proposing a service with 30% talk based programming and 70% music based programming. It is proposed that 66% of the talk based programming be locally produced, approximately 23% will be national syndication and 10% sourced internationally.

It is proposed that about 30% of the music broadcast will be by local artists, 60% other Australian artists, and 10% sourced from international artists.

The proposed program schedule provided does not provide a lot of detail about the proposed programs to be broadcast. However, as set out above under 'Needs' Peedac is proposing to broadcast a broad range of programs that target the perceived needs of Perth's Indigenous community, and some of which may also be of interest to the broader community. Proposed programming will cover interests and themes such as music by local Aboriginal community, health and wellbeing, news and current affairs, talkback, Noongar language programming, advocacy and support, sport, law and justice issues, education and employment, finance, the arts, children's and family programs.

Peedac proposes to work with Aboriginal organisations to develop and produce programs for broadcast. Peedac has held discussions with the Marr Moorditj Aboriginal Health College with a view to producing and broadcasting a program titled the Health and Wellbeing Show, proposed for each Thursday evening.

Peedac does not have in place a programming policy at this stage, but at the suggestion of the WA State Aboriginal Economic Development Authority, it has been in discussions with Goolarri Aboriginal Media Association with a view to modelling its programming and staffing policies on Goolarri's.

Peedac has no program supply agreements but it claims to have discussed possible program supply with the National Indigenous Radio Service and the Packham Network (representing 14 regional and remote Indigenous radio stations).

Access and participation in proposed programming

Peedac proposes to conduct quarterly consultation by way of a written survey with various representative Aboriginal organisations to formally review its programming. This will be supplemented by regular radio based surveys with its listening audience, through its talkback programs, website, and its sms feedback line.

Peedac is proposing to engage with its volunteers through a dedicated Volunteer Coordinator who will provide access, engagement and training of volunteers.

The NME will also hold annual general meetings, inform the community through newsletters and its website and through the broadcasts themselves.

Estimated capital costs of establishing service and estimated source of funds

Peedac estimates that it will require \$226 104 to establish its service, including \$126 648 for transmission equipment (masts, transmitters, antennae and links) and \$84 050 on technical equipment (studios and production equipment).

The estimates are based on quotations provided by Masrow Broadcast Solutions. A copy of the quote was provided.

Peedac anticipates being able to receive grants under the Commonwealth's Indigenous Broadcasting Program (IBP) to fund the capital costs to establish the service.

Estimated operating costs and estimated income/revenue

Peedac anticipates being able to generate \$528 000 in income in the first year of operation. The main source of funding is stated as Government grants, being funding under the IBP, of \$507 750. Sponsorship revenue will be a minor revenue stream, estimated at \$7 500 in the first year of operation.

Operating costs are estimated to be \$528 000 in the first year of operation. The main expenses listed as salaries (\$380 000) and technical and operations (\$85 000). Costs are anticipated to increase marginally, broadly in line with inflation.

Proposed technical facilities and equipment (Qs 60, 61, 63 & 64)

Peedac proposes to operate the service from Peedac's premises at 12 Burton St, Cannington. Four rooms have been allocated for this purpose, two for a studio and production rooms and two for administration. There is a reception area available and a back-up generator will also be located at the site. Peedac claims that Masrow Broadcast Solutions has inspected the site and confirmed its suitability for operation and transmission.

Peedac is proposing to locate its transmitter at the Bickley ABW2 Mast Television Road site. It has not yet entered into any negotiations for use of the site.

Technical expertise

Peedac has engaged Geoff Rowley of Masrow Broadcast Solutions as its technical advisor. Peedac claims that Mr Rowley is a highly respected local technician.

Board members/staff experience

Mr Neil O'Donnell, Managing Director of Peedac, has significant experience in financial management, and experience in managing Indigenous organisations. Peedac also claims that John Penny, who is on the Interim Committee of NME and is also a Kaarta-Moordra Committee Member, also has substantial financial experience.

Members of the NME Interim Committee have significant broadcasting experience in production, administration and broadcasting. The collective experience includes being founding members of WAAMA in 1992, involvement with 6NR Curtin FM, 6EBA, ABC, Abmusic, Yirra Yaakin theatre and the Aboriginal Legal Service of WA.

Proposed staffing profile

Peedac is proposing 6 full-time (3 in programs, 2 in administration and sponsorship and 1 technical) and 3 part time staff (2 in programs and 1 technical). It is proposing only a small volunteer staff of 15 in its first year of operation, which may not be an adequate number to keep the station manned and operational and may raise concerns about the ability of the community to participate in the operations of the licensee.

Measures to ensure adherence to codes of practice/licence conditions

Peedac claims that the Station Manager, Program Director and full time announcers will be recruited on the basis of their knowledge of broadcasting and, in particular, the community radio sector, the codes of practice and licence conditions.

Peedac also states that training will be an ongoing process with appropriate TAFE and/or University training undertaken. For example, the Koolbari Centre at Murdoch offers an annual pre-media course which will be used to train both staff and volunteers.

Peedac, as a training and employment body, will also provide in-house training and assessment for volunteers, including knowledge of the relevant broadcasting guidelines and codes of practice before going to air. The Station Manager and Program Director will oversee volunteers to ensure they are compliant with the guidelines.

Volunteer Training will include:

- initial analysis of the employees/volunteers knowledge;
- training course and self study by the employee/volunteer (training by Station Manager);
- evaluation of on-air skills and testing of competencies;
- a written agreement process incorporating understanding of the role and responsibilities of broadcasting at the station; and
- regular workshopping with management, staff and volunteers on aspects of the Codes of Practice and internal implementation.

Peedac states that complaints will be handled in accordance with the requirements of the Codes of Practice and the Act.

SUMMARY OF APPLICANT: PHOENIX RADIO LTD (PHOENIX)

proposed community interest: country music/general

Community interest claimed

Phoenix claims to represent the country music/general community.

Phoenix has provided a copy of the WAVE 5 Survey into country music (conducted in 2000) to support its claims about the level of interest in country music and the dissatisfaction with the amount of country music programming available on radio services.

Phoenix did not address how its proposed service will be relevant to the general community.

Constitution, objects and organisational structure

Phoenix was registered in WA on 7 August 2007 as a public company limited by guarantee. All income and property is to be applied solely toward promoting the objects of the company.

The Phoenix Constitution contains objectives relevant to a community broadcaster and its proposed service. These are:

- to entertain and engage the entire community,
- to encourage, develop, promote knowledge of and interest in country music,
- to provide an avenue for local and interstate musicians, performers and artists to showcase their material,
- to promote and support local events that contribute to the growth of the country music community,
- to support the local country music clubs and provide them with an avenue to provide information to the community and their members.

Phoenix's Constitution provides for 2 classes of membership, A Class and Z Class shareholders.

Clause 46 of Phoenix's Constitution requires only 2 Members to be present for a quorum at a general meeting. Clause 135 states that the Members are not entitled to discovery. The Directors will determine 'whether and to what extent, at what time and place or places, and under what conditions, the accounting records and other documents of the Company will be open to the inspection of Members other than Directors'.

Phoenix proposes a Board of Directors of between 3 and 10 directors (there are currently 4 people on the Board). To be eligible to serve on the Board of Directors a person must hold Z Class shares. The Z Class Members are the Subscribers to the Company.

Phoenix is also proposing an Executive Management Group (Station Manager - Vacant, Programming Manager – Jim Beam, Technical Consultant – Morctec, Financial Management – Robert Anderson, Marketing and Sponsorship Management – Vacant, and Community Relationship Manager/Volunteer Coordinator – Vacant). Executive Management Group positions are to be salaried positions advertised throughout the community and the most suitable applicants recruited. The Station Manager is ultimately responsible for the recruitment and retention of staff of Phoenix.

The Station Manager reports directly to the Board, and the Executive Management Group report directly to the Station Manager. At least once every six months, members of the Executive Management Group will be invited to attend and report to the Board directly.

Phoenix is proposing two Sub-Committees, Programming and Volunteer Recruitment. The Programming Sub-Committee will be chaired by the Program Manager. The Community Relationship Manager/Volunteer Coordinator, Station Manager, and Marketing and Sponsorship Manager will also attend as members of the Sub-Committee. Phoenix states that up to 5 members of the organisation will be nominated and elected annually to attend the Sub-Committee meetings. Phoenix also proposes to invite 1 representative from each County Music Club (each club nominates its representative for a 12 month period) and 5 members of the general public (elected annually) to the Sub-Committee meetings.

Phoenix also proposes a Volunteer Recruitment Sub-Committee to be chaired by the Community Relationship Manager/Volunteer Coordinator. The make up of the Sub-Committee is the same as proposed for the Programming Sub-Committee and outlined above.

Membership

The Z Class members are the Subscribers to the Company. The Z Class members determine the admission or rejection of applications for Z Class membership and may reject any such application without giving reasons. Z Class members pay an annual fee of \$100 per annum. Each Z Class member is entitled to attend any meeting of the Company's members and each Z Class member is entitled to exercise one vote. The Directors of the Company, between 3 and 10, must be Z Class members.

The A Class members are not entitled to attend or vote at any meeting of the company, nor are they eligible to be a Director of the Company. The Directors determine the criteria for admission as an A Class member and can amend the criteria at their absolute discretion. The Directors determine the admission or rejection of applications for A Class membership.

The Directors may only reject an application if:

- there are reasonable grounds to believe the applicant will not abide by the rules of the Company,
- required to do so by law,
- the applicant has been convicted of any indictable offence,
- there are reasonable grounds to believe the applicant will not abide by the CBAA Codes, or
- there are reasonable grounds to believe the applicant will pose a risk to the members, property or premises of the Company.

Rejected members do not have appeal rights under the Constitution. A Class members pay an annual subscription of \$10.

Phoenix is in the process of designing its Membership Application Form. The application fee proposed is \$10 per annum which is for A Class Membership and confers no voting, meeting attendance rights or right to sit on the Board of Directors.

The only current Members are Z Class Members, consisting of the Subscribers and other people accepted as Z Class Members by the Z Class Members. They have full voting, meeting attendance rights and can nominate for Board positions.

Under section 18 of the Constitution, the Directors may determine levies that are to be paid by the members in order to provide additional funds required for the operation of the company. Non-payment of annual fees and/or levies for a period of 2 months may result in suspension of membership privileges.

Under section 25 of the Constitution, members can be expelled for non-compliance with the Constitution or misconduct. The Constitution states that any member who is proposed to be censured, suspended or expelled must be given one week's notice of the Director's meeting at which the resolution is to be put, and is to be provided with the opportunity to present a written or oral explanation or defence.

Existing services claimed

Phoenix states that country music programming is currently sporadic, often at unrealistic times and spread across a number of stations. Phoenix claims that there is currently 22 hours of country music programming being broadcast across 6 stations with a significant amount of the programming late at night.

Phoenix states that free-to-air television services limit their coverage of country music to special event and award ceremonies, scheduled on an if and when basis. Phoenix notes that there is a Country Music Channel available 24 hours a day on Austar and Foxtel Digital.

Phoenix states that the highly fragmented nature of the country music radio programming available in Perth requires country music fans to search for stations and hunt for specific time slots which is highly exasperating and discouraging for the potential audience. Phoenix claims that this results in the needs of the country music community in Perth not being adequately catered for.

Needs claimed

Phoenix claims that there is a need for a radio station devoted to providing country music to the people in the Perth licence area, as opposed to the current fragmented programming spread across a number of stations.

Phoenix has provided results from the WAVE 5 Survey to support its claims of the interest in country music programming. The WAVE survey results show, amongst other things, that 18% of Australians prefer country music/country rock as their favourite music type. Phoenix also provided letters of support from Perth's major country music organisations, and results of ABC surveys that show that its Saturday night country music program scores ratings of about 14% of the listening audience (the highest in any capital city).

Phoenix also claims that, through its own discussions with country music groups and by telephone, there is a strong preference for its proposed service to be heard across metropolitan Perth and surrounds which the 100.9 MHz will cover, as opposed to the more limited reach of 90.5 MHz.

Phoenix provided letters of support from country music groups and organisations, and a petition of approximately 2,000 signatures. In addition, several hundred letters supporting the Phoenix application have been lodged directly with ACMA.

Program content and policy

Phoenix proposes a format consisting of 25% talk based programs and 75% music based programs, with a mixture of live, automatic and pre-recorded programs.

Of the talk based programming, Phoenix estimates 60% of it will be locally produced and 40% national syndication. Of the music, Phoenix estimates that about 6% of all music will be from artists in the local area (depending on availability), 40% will be from Australian artists, and about 54% from overseas artists.

Phoenix does not have a proposed program schedule, stating that it would not be representative of the community interest for it to invent a program schedule without prior consultation. Phoenix claims that the program schedule will be similar to that previously provided on 100.9 MHz by WAAMA.

Phoenix does not have a programming policy in place and states that the programming policy and schedule will be determined by the Programming Sub-Committee. Phoenix states that it aims to ensure the needs, interests and requirements of the community served are addressed in the most appropriate and democratic way possible.

Phoenix states that it has not entered into any program supply agreements, and it provided no evidence to demonstrate how it will provide an avenue for local artists to have their music broadcast.

Access and participation in proposed programming

Members of Phoenix, country music clubs and the general public can nominate and be elected to the Programming Sub-Committee. However, it is unclear if these people can vote on matters considered by the Sub-Committee.

Phoenix anticipates having between 65 and 75 volunteers, of whom 60-70 will be involved in program production, coordination, announcing and panel operations. Phoenix states that volunteers will be encouraged through on-air announcements, websites, Access 31, local country music clubs and events, community newspapers and local schools, universities and TAFE colleges.

It is proposed that volunteers will be trained through workshops held at the station, internal induction courses and TAFE. Training courses are to be developed and implemented by the Station Manager and the Community Relationship Manager/Volunteer Coordinator.

Estimated capital costs of establishing service and estimated source of funds

Phoenix estimates that it will require \$217 685 to establish the service on 100.9 MHz and \$144 685 to establish the service on 90.5 MHz. This includes all the necessary studio, technical and transmission equipment to provide a service. The costs have been quoted by Morctec, Phoenix's technical consultant.

Phoenix anticipates being in a position to access over \$300 000 in order to establish its proposed service. The main source of funding is a loan of \$270 000 to be provided by [REDACTED]. Mr Rob Anderson, Chairman and Director of Phoenix is also a Director of [REDACTED]. [REDACTED] has provided a letter of intent confirming, "that subject to Phoenix being granted a permanent broadcast licence on terms and conditions that are normally applicable to community radio stations and that are suitable to both the Directors of Phoenix and the Directors of [REDACTED] we are prepared to offer" financial support by way of a secured loan of \$270 000 for an initial term of 5 years and then subject to a review process.

Other major sources of funding are Lottery West grant (\$20 000) and donations (\$20 000).

Phoenix states that it does not require a fall back position as the funds are already committed. Phoenix states, however, that in the first 12 months of operation expenditure will not be committed to, unless funding can be determined ensuring that financial short falls do not place the organisation under duress.

Estimated operating costs and estimated income/revenue

100.9 MHz

Phoenix estimates income in the first year of operation to be \$563 470, in year 2 \$905 946 and in year 3 \$1 248 887. The main source of income is expected to come from:

- sponsorship announcements (year 1 \$438 000, year 2 \$766 500, and year 3 \$1 095 000);
- website income (\$39 000, \$44 200, and \$49 400);
- sponsorship – news and weather tags (\$25 550, \$30 660 and \$35 770); and
- airtime sales (\$10 920, \$11 466 and \$12 039).

Phoenix also estimates donations of \$10 000 per annum for years 1, 2 and 3.

Phoenix does not expect to be provided with any subsidised services, facilities or equipment by other institutions or organisations.

Phoenix estimates operating costs of \$607 748 in year 1, \$860 598 in year 2 and \$1 224 730 in year 3. The main expenses are listed as:

- wages and salaries (year 1 \$265 447, year 2 \$432 027 and year 3 \$737 799);
- technical and operations (\$126 087, \$138 449 and \$149 182); and
- sponsorship expenses (\$83 610, \$146 449, and \$149 182).

Phoenix does not appear to have made any provision within its expenses for the repayment of the proposed \$270 000 loan from Firebird Park Pty Ltd.

90.5 MHz

Phoenix did not provide any estimates of income or expenses for this frequency.

Existing technical facilities and equipment

Phoenix does not currently own any of the equipment necessary to provide its proposed service, nor does it have in place any agreements or arrangements for production, studio, transmission equipment and transmitter site. Phoenix has not negotiated a transmitter site but indicates that it has had preliminary discussions with television and FM transmission site owners with a view to co-siting its antenna and mast. Phoenix estimates site costs, if it owns its own equipment, will be in the order of \$25 000 per annum. This accords with the estimates of other applicants for the licences.

If allocated a licence, Phoenix will place firm orders for the necessary equipment. Phoenix estimates that it will take approximately 12 weeks for delivery and installation of the transmitter and site facilities. Phoenix states that initial planning and development of the radio station itself has commenced and that the project will be managed through to completion.

Proposed technical facilities and equipment

Phoenix proposes to own its own transmission equipment and to co-site its transmitter and equipment at one of the four existing television towers in Perth. Phoenix says that it has commenced negotiations but provided no evidence of this.

Technical expertise

Phoenix is proposing to use Morctec as its technical consultant. Morctec engineer, Mr John Morcombe has the necessary qualifications and technical experience, with over 30 years experience in the broadcasting industry. Mr Morcombe's experience includes design and installation and ongoing support for Sonshine FM, Information Radio and the previous station on 100.9 MHz.

In its staffing profile, Phoenix indicates that all technical aspects of the service will be outsourced to Morctec.

Board members/staff experience

Phoenix did not provide any evidence or other details of the experience of its Board of Directors. In relation to the experience of those associated with Phoenix, it provided details of Mr Jim Beam, the Programming Manager. Mr Beam is stated to have considerable experience working as an announcer and program manager with both commercial and community radio stations around Australia. It is also stated that Mr Beam 'was instrumental in the continued operations and activities of the former WAAMA operated 100.9 FM.'

Phoenix also states that WIND Consulting, consultant to the Board, has a number of years experience as a radio announcer, studio manager and television compare. Phoenix states that WIND has also managed a number of commercial and community radio stations, and that WIND was formerly the CEO of a Perth based community station. No evidence was provided to support Phoenix's claims about WIND, nor was the identity of WIND made clear.

Phoenix lists Pontiac Consulting as a Board Member of Phoenix. Phoenix states that Pontiac Consulting has extensive background in the financial, legal, commercial and operational aspects from a number of both privately held and publicly listed organisations in Perth. No evidence was provided to support its claims about Pontiac, nor was Pontiac's identity revealed.

Phoenix also states its intention to recruit and retain people both as employees and volunteers with relevant experience to assist in the establishment and ongoing operations of the business.

Proposed staffing profile

In its first year of operation Phoenix proposes 4 full-time (2 programs and 2 admin/sponsorship) and 2 part-time admin/sponsorship staff, and 65 part-time volunteers (60 in programs and 5 in admin/sponsorship). In the second year of operation Phoenix proposes 7 full-time staff (3 in programs and 4 in admin/sponsorship) and 2 part-time staff in admin/sponsorship. By year 3 Phoenix proposes 13 full-time staff (8 in programs and 5 in admin/sponsorship) and 2 part-time staff in admin/sponsorship.

In years 2 and 3, Phoenix proposes 75 part-time volunteers (70 in programs and 5 in admin/sponsorship).

Phoenix proposes to recruit staff and volunteers through the station itself, membership drives, websites, Access 31 community TV station, local country music and other clubs, community newspapers, schools, universities and TAFE.

Measures to ensure adherence to codes of practice/licence conditions

Phoenix states that all employees and volunteers will undertake a compulsory Induction Course to ensure that they are aware of the requirements of the BSA, the conditions of the licence and Codes of Practice. The Induction Course will be developed by the Station Manager in conjunction with the Community Relationship Manager/Volunteer Coordinator.

Phoenix states that station policies and procedures will be developed by the Executive Management Team in conjunction with the Board of Directors. Phoenix states that, in principle, the policies and procedures developed will require that staff are aware of, fully comprehend the implications of, and are prepared to comply with the Guiding principles and the codes themselves. Phoenix states that station announcers will be subjected to evaluation

and will also consistently be reviewed to ensure compliance with the Codes. A procedure for disciplinary action will also be incorporated into the documents.

Phoenix also states that it will support volunteer announcers undertaking studies toward a Certificate in Radio Broadcasting where possible.

SUMMARY OF APPLICANT: WESTERN SPORTS MEDIA INC (WSM)

proposed community interest: sport, country, gospel, 50's, 60's and 70's music

Community interest claimed

WSM states that it was created in response to the general dissatisfaction of Perth's sport enthusiasts who could not find coverage of local community sporting events by the existing media. WSM claims that it provides extensive coverage of local and grass root sports and sporting events deemed 'not lucrative' by the commercial media and that emphasis is given to local women's sports, activities for the elderly and handicapped as well as junior sports. Elsewhere in its application, WSM claims to represent country and gospel music interests, and 50's, 60's and 70's music interests.

In describing the community the service is intended to serve WSM states that Perth is a multicultural society of blue and white collar workers, artists, artisans, educators, clerical and medical workers, housewives and ethnic groups. WSM claims that their interest in sport is hereditary and manifests itself in countless small amateur sports clubs within the licence area. WSM also claims that people from interstate who settle in the Perth area continue their interest in the sports of their home state e.g. rugby league from the east coast.

WSM claims that the community has whole-heartedly accepted the effort of WSM and relies on its coverage of local community sporting events which the rest of the Perth media does not carry.

Constitution, objects and organisational structure

WSM was incorporated in WA on 6 January 2003.

WSM claims that its aims and objectives are exclusively to serve the community with broadcasts of sports not attainable from other media sources. The Aims and Objects as set down in WSM's Constitution are much broader than WSM claims, however, they correlate with an intention to serve the sporting community.

WSM is a membership based organisation and is open to all interested parties, persons and organisations. As membership applications cannot be rejected under the Constitution there is no appeal mechanism required. Paid up individual members have the right to vote at meetings of the Association and to nominate and stand for election for any official position in the Association.

The WSM Constitution provides that WSM has a Board of Management (BoM) of at least 5 members and no more than 7 members. The BoM will be comprised of four Foundation members, plus up to three elected members. WSM claims that it only has 3 Foundation members and therefore there can be up to 4 elected members.

The elected members are to be elected by way of secret postal ballot conducted within 3 months prior to the AGM and declared at the AGM. The elected Members of the Board resign every year at the AGM but are eligible for re-election. Foundation members on BoM do not resign annually.

Section 11 provides for the BoM to appoint any such committees as it deems necessary to assist in the management of the Association. WSM currently has no committees or sub-committees and the station is currently run by the BoM.

WSM proposes to set up two Committees if it is allocated a permanent licence. These are a Program Committee and a Production Committee. The proposed Program Committee is to be headed up by the Program Director with other members appointed by the Board to assist the Director's task at his discretion. The Production Committee will have the same structure.

WSM states that the day to day running of the station is the responsibility of the Station Administrator in concert with the Station Manager. WSM states that the Station Administrator position is already filled and that the Station Manager position will be advertised after allocation.

WSM claims to have 154 individual members.

Existing services claimed

WSM states that ABC Radio and Television, 6PR Radio and the Sunday Times Newspaper provide programming and content relevant to their community interest. Many of the sports covered by WSM are also broadcast on free-to-air and subscription television and covered extensively in the media generally.

WSM submitted that the other services provide limited or no coverage of any 'amateur or grass roots sport' that it represents. WSM claims ABC Radio and 6PR broadcast the same AFL games, and only 107.3 FM has a token sports program on Saturday mornings.

Needs claimed

WSM claims that the community relies on its coverage of local community sport events which the rest of the Perth media does not carry. WSM also states its plans to expand its programming to include health issues with an emphasis on accident prevention, exercise, diet and general health awareness advice.

As evidence of the community need WSM sites the 17,838 letters of support it claims to have received in the last 12 months. Over 500 letters supporting WSM's application have been sent to ACMA.

Program content and policy

WSM states that its programming policy is Sport, Country Music and 50's, 60's and 70's music. No policy was provided.

WSM proposes a format with 50% talk based programming and 50% music based programming. WSM is proposing 51% local programming (41% talk and 10% music), 6% nationally syndicated talk programming and 20% Australian music (in addition to the 10% local music). WSM claims only 1% of programming will be internationally syndicated, being sourced from the BBC – being BBC overnight and UK soccer.

The weekend program schedule appears to be dominated by interstate cricket matches and related coverage, AFL from the east coast, NRL from the east coast, A-League soccer matches, Super 14 Rugby Union and English soccer. Other than some minor coverage of local cricket, bowls, boxing and martial arts there does not appear to be any substantial coverage of 'local amateur and grass roots sports' and a total absence of women's sports, activities for the elderly, handicapped or junior sports.

The music based programming, mainly broadcast on weekdays, covers a range of music genres from 50's, 60's and 70's, Rock and Roll, Soul and Jazz, and Gospel. Country music

dominates the music programming with 9 hours per day, Monday-Friday, 2.5 hours on Saturday over summer, and 8 hours overnight on Sundays.

WSM provided no evidence to support its claim that its programming meets the community need identified. WSM refers to its letters of support as evidence that it is meeting the community need.

Access and participation in proposed programming

WSM claims that members have access to and can participate in decision making process by:

- presenting ideas, discussion papers and complaints at any monthly Board meeting or special meeting by application to station management,
- providing suggestions, comments and feedback through WSM's website, and
- becoming a member of the station, be accepted onto committees and apply for Board positions.

WSM claims members can apply for positions on committees and sub-committees when they become available. WSM states that it encourages access through on air announcements, advertising in Perth's mainstream and community newspapers but did not provide evidence of this.

WSM stated that it has a standing invitation to participate or learn (through training programs) in roles such as desk broadcasting, reporting from the field, interviewing, playing music, administration and technical roles.

WSM claims that all Board members and up to 60 volunteers are involved in current TCBL operations but no detail was provided. WSM anticipates using 51 volunteers in its first year of operation, 34 program announcers, 17 program coordinators, 4 office support and 2 in sponsorship.

Estimated capital costs of establishing service and estimated source of funds

WSM advised that it owns all the necessary equipment to establish its service and provided details of equipment already owned by WSM.

WSM proposes to acquire 2 Tieline boxes Commander G3's at a cost of \$11,484 for which it has sufficient funds in its account to cover. In order to establish a service on 100.9 MHz WSM states that it will incur additional technical costs of \$6,315 to establish the transmitter facility at Mills Road Gosnells.

Estimated operating costs and estimated income/revenue

WSM did not differentiate estimated operating costs or estimated income between the 2 services applied for.

WSM estimates income in year 1 of \$186 130, year 2 \$210 042 and year 3 \$221 890. The main sources of income are stated as:

- sponsorship announcements (year 1 \$134 620, year 2 \$148 100, and year 3 \$155 480);
- government grants (\$11 930, \$17 482, and \$19 230); and
- sale of airtime (\$11 000, \$11 500, and \$11 550).

WSM estimates operating costs in year 1 of \$101 994, year 2 of \$131 450, and year 3 of \$138 415. The main expenses are stated as:

- wages and salaries (year 1 \$76 935, year 2 \$105 240 and year 3 \$110 920);
- technical and operations (\$12 020, \$12 630, and \$13 260); and
- administration (\$6 010, \$6 320, and \$6 645).

WSM did not provide any provision for rent of studio and administration offices in its expenses. WSM currently pays \$25 000 annually in rent.

Financial capacity demonstrated during TCBLs

WSM has experienced no financial problems during its TCBLs. The main source of funds has been sponsorship money generating (\$96 157), donations (\$11 000) and sale of airtime (\$12 350). The main expense was salaries of \$65 495.

Existing technical facilities and equipment

WSM claims to own all the necessary facilities to commence full time broadcasting as soon as an allocation decision is made with respect to 90.5 MHz. WSM has provided for technical and operations expenses (\$11 440 pre-operational year), including transmitter site rental, maintenance, studio maintenance and technical and operational support.

If allocated the 100.9 MHz licence, WSM proposes to move its transmitter site equipment to Mills Road Gosnells and states that this will take one week. The one-off cost has been factored into its expenses for year 1.

WSM shares studio and production facilities with 6CCR Fremantle, Creative Community Radio Inc (Creative). WSM pays Creative \$25 000 per annum to rent of these premises.

WSM states it shares transmitter site portable building, antennae array and electricity with WA Media Group Pty Ltd at a cost of \$5,720 per annum. The cost also includes Maintenance and technical support for main transmitter, STL link equipment, standby power equipment, alarm monitoring and 24 hour standby technical staff.

Technical expertise

WSM has demonstrated the necessary technical expertise during its TCBLs. It outsources the technical functions to WA Media Group Pty Ltd, a company owned by the Chairman of Creative. It also states it will employ one part-time Broadcast Technical Officer.

Board members/staff experience

All Board members have extensive experience and involvement with other community and/or commercial broadcasters in WA. In particular, and potentially of some concern, is the relationship between the members of the BoM and Creative. Each member of the BoM has either past or current involvement with Creative.

Proposed staffing profile

In its first year of operation WSM proposes 2 full time (a Production Manager and Station Manager) and 4 part time staff (one staff in each of programs, office administration, sponsorships and technical) and 60 part time volunteers. In years 2 and 3 WSM intends to increase the number of volunteer program announcers and program coordinators as its sporting coverage and outdoor broadcasts grow. WSM does not propose to increase the number of paid staff in years 2 and 3.

Measures to ensure adherence to codes of practice/licence conditions

WSM states that adherence to codes of practice and licence conditions are covered in induction training course. Details of the induction training were not provided.

Responsibility for ensuring compliance is the responsibility of Station Manager and Program Director. WSM claims that the Program Director, in concert with the Station Manager, checks compliance with the Codes and licence conditions prior to each program being broadcast.

Management capacity demonstrated during TCBLs

WSM has been conducting TCBLs since August 2003.

WSM claims that any complaints received are handled in accordance with the requirements in the Community Radio Codes of Practice and that that the Station Manager will keep a record of all complaints received.

Appendix B: Existing broadcasting services in the Perth area

The following broadcasting services operate in the Perth area:

TV & Radio Services	Category of Service	Nature of Programming
Perth Television Services		
ABW 12 (ABC) Perth	National Broadcasting	Independent general programming including a comprehensive news and information service, education, entertainment and arts programs
SBS29 Perth	National Broadcasting	Multilingual programs for information, education and entertainment
TVW6 Perth	Commercial Broadcasting	General programming including news, information and entertainment
STW8 Perth	Commercial Broadcasting	General programming including news, information and entertainment
NEW11 Perth	Commercial Broadcasting	General programming including news, information and entertainment
CTV31 Perth	Community Broadcasting	Community programs for information, education and entertainment
Foxtel	Subscription Broadcasting	Provides a number of general and specialist channels covering news, entertainment, education, information, sport, lifestyle, foreign languages, religion and music
Perth-wide Radio Services		
6PR Perth (882 kHz)	Commercial Broadcasting	Provides specialist news, sports, current affairs and talkback programming
6IX Perth (1080 kHz)	Commercial Broadcasting	Provides general programming including news, entertainment and popular music programming targeting a mature aged audience
6PPM Perth (92.9 MHz)	Commercial Broadcasting	Provides general programming including news, entertainment and popular music
6MIX Perth (94.5 MHz)	Commercial Broadcasting	Provides general programming including news, entertainment and popular music
6NOW Perth (96.1 MHz)	Commercial Broadcasting	Provides general programming including news, entertainment and popular music
6PER Perth (93.7 MHz)	Commercial Broadcasting	Provides general programming including news, entertainment and popular music
6NR Perth (100.1 MHz)	Community Broadcasting	Provides community programming including news and current affairs, education, information and music for a mature aged audience
6RPH Perth (990 kHz)	Community Broadcasting	Provides a reading service for the sight impaired
6EBA Perth (95.3 MHz)	Community Broadcasting	Provides multilingual programs including news, information and music

6SON Perth (98.5 MHz)	Community Broadcasting	Provides Christian programming including news, information, talk and music
6RTR Perth (92.1 MHz)	Community Broadcasting	Provides non-commercial programming including news, current affairs, information and alternative contemporary music
6YMS Perth (101.7 MHz)	Community Broadcasting	Provides youth programming
6PB Perth (585 kHz)	National Broadcasting (ABC)	Provides news, sports and current affairs programming including live parliamentary broadcasts
6WF Perth (720 kHz)	National Broadcasting (ABC)	Provides general programming including news, information and entertainment with a focus on the Perth region
6RN Perth (810 kHz)	National Broadcasting (ABC)	Provides general programming through the national network including national and regional news, information, education and entertainment
6SBS Perth (96.9 MHz)	National Broadcasting (SBS)	Multilingual programs for information, education and entertainment
6ABC Perth (97.7 MHz)	National Broadcasting (ABC)	Provides classical music programs
6JJJ Perth (99.3 MHz)	National Broadcasting (ABC)	Provides non-commercial youth programming including news, current affairs, information, talk and alternative contemporary music
Rete Italia (657 kHz)	Narrowcast service	Provides Italian language programs
Racing Radio (1206 kHz)	Narrowcast service	Provides coverage of horse races and betting information
MAC FM (103.3 MHz)	Narrowcast service	Provides Macedonian language programs
CRI (104.9 MHz)	Narrowcast service	An international service targeting the Chinese community. Provides programming in a mix of English and Chinese languages

Local coverage community radio services in Perth (suburban services)		
6CCR Fremantle (107.9 MHz)	Community Broadcasting	Provides non-commercial programming including news, current affairs, information, music and multilingual programs
6PCR Fremantle (91.3 MHz)	Community Broadcasting	Provides programming for the Portuguese community
6HFM Armadale (107.3 MHz)	Community Broadcasting	Provides non-commercial programming including news, current affairs, information and alternative contemporary music
6KCR Kalamunda (102.5 MHz)	Community Broadcasting	Provides non-commercial programming including current affairs, information and easy listening/jazz music
6TCR Wanneroo (89.7 MHz)	Community Broadcasting	Provides non-commercial programming including news, current affairs, information and alternative contemporary music

