

16 December 2009

Ms Gina Cass-Gottlieb
Gilbert + Tobin Lawyers
GPO Box 3810
Sydney NSW 2001

ACMA 2009/2629

By facsimile transmission: 02 9263 4111

Dear Ms Cass-Gottlieb,

DMG Radio Australia / Illyria - request for additional information under s61AZE(9) of the *Broadcasting Services Act 1992*

I refer to your letter of 26 November 2009 and Form ACMA B2/3 dated 30 November 2009 (the **Notifications**) notifying the ACMA that Lachlan Keith Murdoch, Illyria Radio Investments Limited and Illyria Investments Pty Limited came into a position to exercise control of ten (10) commercial radio broadcasting licences on 25 November 2009.

Following receipt of the Notifications, the ACMA has made alterations to entries on the Register of Controlled Media Groups (**the Register**) and is in the process of reviewing those alterations. This process involves verifying that changes in control have actually occurred and identifying whether any registered media groups have ceased to exist and/or any new registrable media groups have been formed in the relevant licence areas.

As you are aware, DMG Radio Australia (**DMG Radio**) operates a network of ten commercial radio broadcasting licences in the Adelaide, Brisbane, Gosford, Melbourne, Perth and Sydney licence areas.

Companies in the News Ltd group and Rupert Murdoch are controllers of newspapers associated with the Adelaide, Brisbane, Bundaberg, Geelong, Melbourne and Sydney licence areas.

The ACMA review of the alterations to the Register, under the provisions of the *Broadcasting Services Act 1992* (the **Act**), includes consideration of whether registered media groups have ceased to exist and / or new registrable media groups have been created. The operation of the associate provisions in the Act may result in Lachlan Murdoch being a controller of certain associated newspapers and/or Rupert Murdoch being a controller of certain commercial radio broadcasting licences. Any finding of this kind of relationship may mean that a media group has come into being, with consequences for the Register.

Parents and children are considered associates under the Act unless:

... the ACMA is satisfied that they do not act together in any relevant dealings relating to that company, licence or newspaper, and neither of them is in a position to exert influence over the business dealings of the other in relation to that company, licence or newspaper. (section 6 of the Act)

In order to clarify matters relating to the Notifications, the ACMA requests additional information under section 61AZE(9) of the Act.

Please note that for the purpose of this additional information request:

- **the Illyria companies** means Illyria Radio Investments Limited, Illyria Investments Pty Limited;
- **the News companies** means News Australia Holdings Pty Limited, News Corporation, News Holdings Pty Limited and News Limited;
- **Rupert Murdoch** means Keith Rupert Murdoch, father of Lachlan Murdoch.
- **The transaction** means the transaction identified at item 1 of Part B of Form ACMA B2/B3;
- **DMG Radio Australia** includes DMG Radio Pty Ltd, DMGRA Pty Ltd, DMG Radio (Brisbane) Pty Ltd, DMG Radio (Adelaide) Pty Ltd, and DMG (Coastal) Pty Ltd and the licensee companies listed at Table A of Part A of the Form ACMA B2/B3;
- **The Murdoch trust** means the Murdoch Family Trust which is administered by Cruden Financial Services LLC as trustee of the trust.

Additional information

Please provide the following additional information:

The transaction

1. What contractual rights were obtained by the Illyria Radio Investments Ltd on 25 November 2009? Please explain how the Illyria companies came into a position to exercise control from that date.
2. A copy of the subscription agreement and any other documents referred to in the Notifications detailing the contractual rights acquired by Illyria Radio Investments Ltd in relation to the business of DMG Radio Australia.
3. A company structure chart current as at 25 November 2009. (*I note the company structure chart provided with Form ACMA B2/B3 states that it is not the current company structure chart*).
4. Details of the involvement of Illyria Nominees Pty Ltd in the transaction, and the relationships of Illyria Nominees Pty Ltd and Illyria Investment Trust No 3 to the Illyria companies and Lachlan Murdoch.
5. A description of those conditions precedent to completion of the transaction which remain unfulfilled.
6. Details of all parties to the subscription agreement, and, in the case of parties that are companies, their
 - (a) directors; and

- (b) major shareholders.
7. Details of the respective shareholdings in Illyria Radio Investments Ltd of:
- (a) Lachlan Murdoch; and
 - (b) Siobhan Louise McKenna.
8. Details of Siobhan Louise McKenna's role in Illyria Radio Investments Ltd.
9. Details of any media interests – direct or indirect - in Australia of:
- (a) Lachlan Murdoch;
 - (b) Illyria Pty Limited;
 - (c) Illyria Radio Investments Ltd;
 - (d) Hobsons Publishing Limited;
 - (e) Siobhan Louise McKenna; and
 - (f) parties to the subscription agreement.
10. Structure diagrams showing:
- (a) all persons and company interests involved in the transaction; and
 - (b) all related entities and media interests of the persons and companies involved.

Relevant dealings

11. Please explain how the transaction was financed.
12. Has Rupert Murdoch or any company controlled by Rupert Murdoch assisted (or agreed to assist), in any way, in financing the transaction?
13. Has Rupert Murdoch, or has any company controlled by Rupert Murdoch, had any involvement in the dealings of Lachlan Murdoch with respect to any of the following companies;
- (a) any of the Illyria companies;
 - (b) DMG Radio Australia or any commercial radio broadcasting licence controlled by any DMG Radio Australia company?
14. Has Lachlan Murdoch, or has any company controlled by Lachlan Murdoch, had any involvement in the dealings of Rupert Murdoch with respect to any of the following companies;
- (a) Any of the News companies;
 - (b) Cruden Financial Services LLC (the trustee of the Murdoch trust);
 - (c) Any associated newspaper (within the meaning of the Act) which is controlled by Rupert Murdoch;
 - (d) any associate or related body corporate of the above.

An associate or related body corporate is any person who would be regarded as an associate or related body corporate within the meaning of the Act, the *Trade Practices Act 1974* or the *Corporations Act 2001*.

Position to exert to influence

15. Please detail any capacity that Rupert Murdoch may have (including any right, power or duty, whether formal or informal) to influence any of the business dealings of Lachlan Murdoch, or any company controlled by Lachlan Murdoch.
16. Please detail any capacity that Lachlan Murdoch may have (including any right, power or duty, whether formal or informal) to influence any of the business dealings of Rupert Murdoch, or any company or asset owned or controlled by Rupert Murdoch.
17. Details of any current links or arrangements – including those arising from executive duties, shareholdings, trusts, directorships, financial relationships, verbal or written agreements, and formal or informal understandings – between Lachlan Murdoch (including any company controlled by Lachlan Murdoch) and any of the following:
 - (a) Any of the News companies;
 - (b) Rupert Murdoch;
 - (c) Cruden Financial Services LLC (the trustee of the Murdoch trust);
 - (d) any associate or related body corporate of the above.
18. Details of any current links or arrangements – including those arising from executive duties, shareholdings, trusts, directorships, financial relationships, verbal or written agreements, and formal or informal understandings – between Rupert Murdoch (including any company controlled by Rupert Murdoch) and any of the following:
 - (a) any of the Illyria companies;
 - (b) Lachlan Murdoch;
 - (c) Hobsons Publishing Limited;
 - (d) DMG Radio Australia;
 - (e) any associate or related body corporate of the above.
19. Details of beneficiaries of the trust that Illyria Nominees Pty Limited administers (Illyria Investment Trust No. 3) and the identities of the recipients of distributions made in the last two financial years.
20. Describe Rupert Murdoch's role in the administration of the Murdoch trust, including his role or rights relating to decisions about the distribution of funds to beneficiaries.
21. Does Rupert Murdoch have the capacity to influence the quantum of distributions to Lachlan Murdoch (or any company controlled by Lachlan Murdoch) – as a beneficiary under the Murdoch trust, including any such capacity gained through a power to appoint directors to Cruden Financial Services LLC.
22. Details of the shareholders of and controllers of Cruden Financial Services LLC.
23. Provide a copy of the Murdoch trust deed and describe the assets and the value of the assets of the Murdoch trust.

I remind you that giving false or misleading information to a Commonwealth official or agency is a serious offence and ask you to bring this to the attention of your client.

Please provide the information requested in this letter by 2 February 2010.

If you have any queries about this request for additional information, please contact me on [REDACTED] until 18 December 2009 and thereafter contact Mr Glenn Collier on [REDACTED]

Yours sincerely,

[REDACTED]

Connie Godwin

Manager, Media Ownership Diversity Section

Email. [REDACTED]

Phone [REDACTED]

Mobile [REDACTED]

Fax

To Ms Gina Cass-Gottlib

Company Gilbert + Tobin Lawyers

Tel [REDACTED] Fax 02 9263 4111

From Connie Godwin

Tel [REDACTED] Fax 02 9334 7799

ACMA file reference ACMA2009/2629

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Pages 6 including this cover page

Comments

Dear Gina

Request for information under s61AZE(9) of the *Broadcasting Services Act 1992*

Please find enclosed a request for information under s61AZE(9) of the *Broadcasting Services Act 1992*.

Yours sincerely

[REDACTED]

Connie Godwin
Manager
Media Ownership Diversity

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Postal
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 F +61 2 9334 7709
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Fax

| | | | |
|----------------------|----------------------------|-----|--------------|
| To | Ms Gina Cass-Gottlieb | | |
| Company | Gilbert + Tobin Lawyers | | |
| Tel | | Fax | 02 9263 4111 |
| From | Connie Godwin | | |
| Tel | | Fax | 02 9334 7799 |
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Comments

Dear Gina

Request for information under s61AZE(8) of the Broadcasting Services Act 1992
 Please find enclosed a request for information under s61AZE(8) of the Broadcasting Services Act 1992.

Yours sincerely



Connie Godwin
 Manager
 Media Ownership Diversity

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