



Investigation Report no. BI-637

Summary	
Licensee	Ethnic Community Broadcasting Association of Victoria Ltd
Station	3ZZZ
Type of service	Community Broadcasting
Relevant code provisions	<p>Community Radio Broadcasting Codes of Practice 2008</p> <ul style="list-style-type: none"> > Code 3.3 [Will not broadcast material that is likely to stereotype, incite, vilify, or perpetuate hatred against, or attempt to demean any person or group, on the basis of ethnicity, nationality, race, language, gender, sexuality, religion, age, physical or mental ability, occupation, cultural belief or political affiliation.] > Code 3.6 (b) [News, current affairs (including news updates and promotions), documentaries, feature programs and interviews shall present factual material accurately and ensure that reasonable efforts are made to correct substantial errors of fact as quickly as possible.] > Code 3.6 (e) [Will represent viewpoints fairly without having a misleading emphasis, editing out of context or withholding relevant and available material.]
Findings	<p>The Licensee:</p> <ul style="list-style-type: none"> > Breached Code 3.3 > Breached Code 3.6 (b) > Did not breach Code 3.6 (e)
Program	<i>The Russian Program</i>
Date of broadcast	25 February 2022
Type of service	Community radio

Background

In March 2022 the Australian Communications and Media Authority (**ACMA**) received five complaints about content broadcast on the 3ZZZ community radio service provided by Ethnic Community Broadcasting Association of Victoria Ltd (the **Licensee**).

The complaints raise allegations that the Licensee was broadcasting programs containing propaganda and misinformation about the current conflict in Ukraine. The complaints related to a number of the Russian language programs broadcast on the Licensee's 3ZZZ service, including the program broadcast on 25 February 2022 (the **program**). The ACMA arranged for the transcription and translation of the program.

Given the sensitivity of the subject matter, the ACMA decided to commence an own motion investigation under the *Broadcasting Services Act 1992*. The ACMA investigation examines the Licensee's compliance with Community Broadcasting Association of Australia Radio Codes of Practice (the **Codes**) Codes 3.3, 3.6 (b) and 3.6 (e), with respect to the program.

The ACMA's approach to assessing content is set out at **Appendix A**.

Assessment and submissions

This investigation has considered:

- the complaints received by the ACMA in March 2022
- the English translations of the program transcripts
- the written submission from the licensee received by the ACMA on 3 June 2022 (the **Licensee's submission**)
- Press release by the then Minister for Foreign Affairs on 8 March 2022
- ABC News article "Russian President Vladimir Putin launches invasion of Ukraine, NATO agrees to increase troops in Eastern flank" 24 February 2022
- CNN report "Here's what we know about how Russia's invasion of Ukraine unfolded" 24 February 2022.

Other sources are identified in this report where relevant.

The program

The program is the Russian language program. A Russian language transcript of the program and an English translation of that transcript was prepared by a NAATI-Certified Translator (Russian into English) for the purposes of the ACMA's assessment.

The Licensee has held a long-term community radio broadcasting licence to represent the ethnic – general community interest in the Melbourne RA1 licence area since 3 August 1989. The Licensee broadcasts in a large range of non-English languages to serve over 50 ethnic communities.

Issue 1 – Did the program present factual material accurately?

Relevant Code

Code 3.6 (b)

News, current affairs (including news updates and promotions), documentaries, feature programs and interviews shall present factual material accurately and ensure that reasonable efforts are made to correct substantial errors of fact as quickly as possible.

Finding

The ACMA finds that the Russian language program broadcast by the Licensee on 25 February 2022 did not present factual material accurately and, accordingly, finds that the Licensee has breached Code 3.6 (b) of the Codes.

Reasons

To assess compliance, the ACMA has addressed the following questions:

- Was the program news, current affairs, a documentary, a feature program or an interview?
- Was the information in the program factual?
- If so, was the factual material accurate?

Was the program news, current affairs, a documentary, a feature program or an interview?

The program was current affairs, dealing extensively with the conflict between Russia and Ukraine.

Was the information in the program factual?

The program included factual discussion about the current conflict in Ukraine. The program also contained some opinion and analysis.

The statements by the host throughout the program were presented as factual, on the basis that they were specific, capable of independent verification, the language used was not argumentative or exaggerated, and there were references to evidence which supposedly supported the statements being made. Examples from the program of statements by the host include:

“First on Monday 21 February at the request of Luhansk and Donetsk, the Luhansk and Donetsk People's Republics, the Russian Federation recognised their sovereignty, which is to say that two independent – two new independent states appeared on the world map...”

“The Armed Forces of the Russian Federation do not carry out any missile, air or artillery strikes on the cities of Ukraine.”

“I would like to emphasise that the Russian armed forces do not strike at Ukrainian cities.”

The program also contained excerpts from speeches about the conflict by people presented as credible sources – Russia’s UN representative Vasily Nebenzya and Russian President Vladimir Putin. Both speeches referred to a number of matters purporting to be facts including

the independence of Donetsk and Luhansk from Ukraine, and that the Russian military did not target Ukrainian cities.

Was the information accurate?

To assess whether the information broadcast by 3ZZZ about the current conflict in Ukraine was accurate, the ACMA has relied on credible external sources.

An 8 March 2022 statement from the then Minister for Foreign Affairs relating to the sanctioning of people for ‘encouraging hostility towards Ukraine and promoting pro-Kremlin propaganda to legitimise Russia’s invasion’, characterises promoting the recognition of the so-called Donetsk People’s Republic and Luhansk People’s Republic as independent as a false narrative.

The Licensee submitted that the program host was not asserting the sovereignty of Donetsk and Luhansk, rather was presenting the Russian government’s perspective on the issue. The Licensee asserted that when considering the application of Code 3.6(b) it is important to remember the preceding code provision (Code 3.6(a)), which provides that news and current affairs programs will provide access to views not adequately represented by other broadcasting sectors – noting that at the time of broadcast there was limited access to news in Russian, with Foxtel and SBS suspending Russian programming.

The Licensee also asserted that the program echoed other media reports about Russian recognition of the sovereignty and independence of Donetsk and Luhansk.

The ACMA notes Code 3.6(a) but is of the view that this provision does not override the substantive requirements for accuracy. The ACMA also notes that the program transcript shows that the host made statements presenting as factual the sovereignty of Donetsk and Luhansk. The ACMA is of the view that the statements in the program referring to the sovereignty and independence of Donetsk and Luhansk are inaccurate.

With regard to the statements that Russian armed forces were not striking cities, the Licensee submitted that the program was accurate at the time of broadcast. However, there was evidence available at the time of the broadcast that this was not the case, including major media sources around the world citing 24 February 2022 as the start of Russia’s invasion of Ukraine and strikes against Ukrainian cities. Given the time difference between Ukraine and the eastern states of Australia, the program was broadcast at 3pm on 25 February 2022, Ukraine time. This was after the date that major media sources stated that strikes were occurring against Ukrainian cities.

For example, a CNN report from 24 February 2022, states that Russian forces had launched a series of missile attacks against locations near Kyiv, had used long-range artillery against the north-eastern city of Kharkiv, that people in the cities of Odessa, Dnipro, Mariupol and Kramatorsk reported huge blasts, and that there was substantial damage in and around several cities.¹

An ABC report from 24 February 2022 also notes that Russian forces had fired missiles at several Ukrainian cities, and that explosions could be heard in Kyiv.²The ACMA is of the view that the statements in the program about the Russian forces not targeting Ukrainian cities are inaccurate and considers that there was clear evidence at the time of the broadcast that they were inaccurate.

¹ [Timeline of the Russian invasion of Ukraine: What we know so far - CNN](#) accessed 9 May 2022

² [Russian President Vladimir Putin launches invasion of Ukraine, NATO agrees to increase troops in eastern flank - ABC News](#) accessed 9 May 2022

Issue 2 – Did the program broadcast material that is likely to stereotype, vilify, or attempt to demean any person or group on the basis of ethnicity, nationality, race, language, or political affiliation?

Relevant Code

Code 3.3

A community radio broadcaster will not broadcast material that is likely to stereotype, incite, vilify, or perpetuate hatred against, or attempt to demean any person or group, on the basis of ethnicity, nationality, race, language, gender, sexuality, religion, age, physical or mental ability, occupation, cultural belief or political affiliation. The requirement is not intended to prevent the broadcast of material which is factual, or the expression of genuinely held opinion in a news or current affairs program or in the legitimate context of a humorous, satirical or dramatic work.

Finding

The ACMA finds that the Russian language program broadcast by the Licensee on 25 February 2022 breached Code 3.3 of the Codes.

Reasons

To assess compliance, the ACMA has addressed the following questions:

- Was the material likely to stereotype, vilify, or attempt to demean any person or group?
- Was the stereotyping, vilification, or attempt to demean, on the basis of ethnicity, nationality, race, language or political affiliation?
- Whether the material was the expression of a genuinely held opinion
- Whether the material was in the legitimate context of a humorous or satirical work.

'Likely'

In considering whether material is 'likely to' have these effects, the ACMA considered whether the material would probably, or was apparently going to, cause any of those effects.

'Likely' implies a real and not remote possibility.

'On the basis of'

The stereotyping, vilification, or attempt to demean must occur on a basis specified in Code 3.3. The phrase 'on the basis of' requires that there be an identifiable causal link between the prohibited ground (e.g. race) and the action complained of (e.g. stereotyping).

'Stereotype' and 'demean'

The Macquarie Dictionary defines the verb 'stereotype' (sense 6) as "to characterise according to a conventional idea or concept."³

³ [Macquarie Dictionary](#)

The Macquarie Dictionary defines 'demean' (sense 1) as "to lower in dignity or standing; debase"⁴.

The content in the program focussed on the political situation, political strategy and the actions of the Ukrainian armed forces, from the perspective of the Russian government, including a speech from Russian President Putin which justified the attack on Ukraine.

The majority of the program was focused on the actions of the Ukrainian armed forces, and was highly critical of the Ukrainian armed forces in relation to their alleged actions. The Licensee's submission stated that the intention of the program was not to undermine Ukrainian sovereignty or to demean Ukrainians, but to present the Russian government perspective.

However, the transcript shows that in addition to the speeches which present the Russian government perspective, there is also commentary from the host. For example, the host made a number of comments referring to the alleged militarisation and so called 'Nazification' of Ukraine, terrorist acts of Ukraine and threats of Ukrainian invasion.

The program contained a song at the end ('Maidan Morons') that mocks the Ukrainian government, the Ukrainian people and people affiliated with the 2014 Maidan protests. For example:

- "For a ration of fatback [the Ukrainian people] gallop with their pants off"
- "And the [Ukrainian] people? ... What else would [they] do since [they have] no brains"
- "And once again, and once again, Russia is to blame – it won't give out gas for free, that jerk."
- The song also contained several lines mocking Ukrainian pronunciation.

These examples show that the song presented characterised Ukrainians according to a stereotype, that attempted to undermine their dignity.

As a result, the program, and in particular the song, stereotyped Ukrainians on the basis of their nationality, and on the basis of their language. The program also attempted to demean Ukrainians on the basis of their nationality, and on the basis of their language. The program also attempted to demean certain Ukrainians on the basis of their political affiliation (in relation to the 2014 political protests in Maidan).

'Vilify'

The Macquarie Dictionary defines the verb 'vilify' (sense 1) as "to speak evil of; defame; traduce"⁵.

The criticism of the Ukrainian government, armed forces, and people in the program was significant, but did not meet the level to be described as speaking evil of, defaming, or traducing.

'Humorous or satirical work'

The song was originally released in 2014 and in some contexts could be considered to be a humorous or satirical work. The Licensee's submission asserted that the song is a satirical, critical analysis of the greediness of Ukrainian politicians in 2014.

However, the ACMA maintains that choosing to play it in February 2022, during a current affairs program which was highly critical of the Ukrainian government and at a time of intense geo-political conflict, this was not a legitimate context in which to broadcast this content

'Genuinely held opinion'

As discussed in Issue 1, above, the material under consideration in this investigation was presented as factual, and so was not presented as opinion.

⁴ [Macquarie Dictionary](#)

⁵ [Macquarie Dictionary](#)

The material in the program, and particularly the song 'Maidan Morons', stereotyped and attempted to demean Ukrainian people on the basis of their nationality and language, and attempted to demean certain Ukrainians on the basis of their political beliefs. The relevant material in the program was not presented in the legitimate context of a humorous or satirical work.

Issue 3 – Did the program represent viewpoints fairly?

Relevant Code

Code 3.6 (e)

News, current affairs (including news updates and promotions), documentaries, feature programs and interviews will represent viewpoints fairly without having a misleading emphasis, editing out of context or withholding relevant and available material.

Finding

The ACMA finds that the Russian language program broadcast by the Licensee on 25 February 2022 did not breach Code 3.6 (e) of the Codes.

Reasons

To determine the Licensee's compliance with Code 3.6 (e), the ACMA has addressed the following questions:

- Was a viewpoint included in the material?
- If so, was the viewpoint misrepresented?

In determining whether or not a licensee has fairly represented a viewpoint, the ACMA takes into account that the Codes do not require a licensee to obtain all salient viewpoints, nor is the licensee required to present all material it obtains (having regard to the circumstances at the time of preparing and broadcasting the program).

The overriding requirement of Code 3.6 (e) is that, where a viewpoint is included, it must not be misrepresented.

As discussed above the overall tone of both the program is that of a factual discussion about the current conflict in Ukraine. The program includes discussion about the current conflict, including an interview and speeches from Russian representatives.

There was a viewpoint included in the program. The conflict is discussed from the point of view of the Russian government. The complaints did not suggest that the Russian point of view was not presented fairly.

While alternative views, including those of the Ukrainian government, other governments, or others were not presented, this absence does not amount to a breach of Code 3.6 (e).