

Investigation Report no. BI-661

Summary	
Licensee	Central Highlands Broadcasting Inc
Station	100.7 Highlands FM
Type of service	Community Broadcasting
Relevant legislation	<p><i>Broadcasting Services Act 1992 (BSA)</i></p> <ul style="list-style-type: none">> paragraph 9(2)(b) of Schedule 2 [continue to represent community interest]> subparagraph 9(2)(c)(i) of Schedule 2 [encourage participation in operations]> subparagraph 9(2)(c)(ii) of Schedule 2 [encourage participation in programming]
Decision	<p>The Licensee:</p> <ul style="list-style-type: none">> did not breach paragraph 9(2)(b) of Schedule 2 [continue to represent community interest]> did not breach subparagraph 9(2)(c)(i) of Schedule 2 [encourage participation in operations]> did not breach subparagraph 9(2)(c)(ii) of Schedule 2 [encourage participation in programming]

Background

On 28 January 2023, the Australian Communications and Media Authority (**ACMA**) received a complaint (**Complaint**) about Central Highlands Broadcasting Inc (**Licensee**).

The Complaint raised allegations that suggested the Licensee is failing to comply with its obligations to represent its community interest and encourage community participation.

On 28 February 2023, the ACMA commenced an investigation under the BSA into the Licensee's compliance with the licence conditions at:

- > paragraph 9(2)(b) of Schedule 2 to the BSA [continue to represent community interest]
- > subparagraph 9(2)(c)(i) of Schedule 2 to the BSA [encourage participation in operations]
- > subparagraph 9(2)(c)(ii) of Schedule 2 to the BSA [encourage participation in programming].

The Licensee

Since 26 April 2000, the Licensee has held a long-term community radio broadcasting licence to represent the general geographic area community interest in the Kyneton RA1 licence area.

The service operated by the Licensee is '100.7 Highlands FM' and its callsign is 3CH.

Assessment and submissions

This investigation has considered the following information and submissions:

- > the Complaint received by the ACMA on 28 January 2023
- > verbal and written submissions received by the ACMA from the Licensee between March and June 2023, including as part of its 2023 application to renew its community broadcasting licence
- > the Licensee's response to the ACMA's preliminary investigation report, received in May and June 2023.

Other sources are identified in this report where relevant.

Issue 1: Did the Licensee breach paragraph 9(2)(b) of Schedule 2 to the BSA [continue to represent community interest]?

Relevant licence condition

Schedule 2

Part 5 – Community broadcasting licences

9 Conditions applicable to services provided under community broadcasting licences

(2) Each community broadcasting licence is also subject to the following conditions:

[...]

(b) the licensee will continue to represent the community interest that it represented at the time when the licence was allocated or was last renewed [...]

Finding

The Licensee has not breached paragraph 9(2)(b) of Schedule 2 to the BSA.

Reasons

The Complaint

The Complaint alleged that the Licensee sources 98% of its programming from the Community Broadcasting Association of Australia (**CBAA**).

This raised potential concerns about whether the Licensee is continuing to represent the general geographic area community interest in Kyneton RA1.

Relevant submissions

The Licensee submitted that it has been affected by challenges related to COVID-19 which reduced the number of local presenters able to participate. Accordingly, it has sourced selected programming from the CBAA and the Southern Community Media Association to supplement its program schedule.

In May and June 2023, the Licensee provided information demonstrating how it has met the needs of the community in the previous two years, including written submissions, the Rules of Central Highlands Broadcasting Inc (**Rules**), its 29 April 2023 program guide, and photographs from events it has attended.

Relevant guidelines

The ACMA's Community Broadcasting Participation Guidelines (**Participation Guidelines**) provide that licensees that continue to represent their community interest should regularly identify and review the needs of their community and adjust their service to reflect those

evolving needs. They may also have express commitments to representing their community interest and take steps to encourage community involvement.

Analysis

Regularly identify and review the needs of the community

The information provided to the ACMA indicates that the Licensee:

- > obtains and analyses data from local councils and community organisations, which it submits shows that the local community is affected by issues such as climate change, homelessness, and living with dementia.
- > in developing its program guide, takes into consideration ‘the comments that have been made to the programming group by community members of programs that they like’ and ‘community response to surveys’.

Adjust the service to reflect the evolving needs of the community

The information provided to the ACMA indicates that the Licensee:

- > covers local events and issues, such as a storm event affecting the Macedon Ranges in June 2022, presentations by community groups, and upcoming local events.
- > has 17 programs it submits are hosted in, produced in, or related to Kyneton RA1.
- > based on the 29 April 2023 program schedule, broadcast a program produced in north Melbourne about homelessness, and another locally produced program about climate change which included local information about regional biodiversity.
- > with Dementia Australia, commenced a series of programs to ‘support the carers and the individuals diagnosed with dementia in the Macedon Ranges’ and ‘provide links to various support groups in Central Victoria’.

Express commitment to representing the community interest

The information provided to the ACMA shows that the Licensee’s Rules state:

‘The purposes for which the proposed incorporated Association is established are [...] to represent all facets of the local community in the Central Highlands [...].’

Its website also states:¹

‘Highlands FM has been a strong advocate for not only providing alternative programming in the region with a focus on local content and people; but also providing training and radio program opportunities for young people in the Macedon Ranges Community’.

¹ Based on the previous version of the Licensee’s website which was available in early 2023 (www.highlandsfm.org.au, accessed 20 April 2023). As of July 2023, this information is displayed on the Licensee’s new website at www.centralvictoriancommunityradio.com.au/about.

Encourage community involvement

The information available to the ACMA indicates that the Licensee:

- > supports community groups with delivering presentations and recording the presentations for broadcast.
- > conducts outdoor broadcasts at community events (for example, the 2022 Kyneton Daffodil & Arts Festival).
- > runs a program for local students which gives participants the opportunity to 'develop programs that are ultimately placed on [its] program schedule'.
- > broadcasts a program produced by community members with disabilities.
- > supports community members who are blind or have low vision to produce programs, including by supplying 'equipment specially built and labelled in Braille'.

Conclusion

The information available to the ACMA indicates that the Licensee is taking steps to identify and review the needs of its community and adjust its service to reflect those evolving needs. It also shows that the Licensee has express commitments to representing its community interest and takes steps to encourage community involvement in its service.

As a result, the ACMA's finding is that the Licensee has not breached the licence condition at paragraph 9(2)(b) of Schedule 2 to the BSA [continue to represent community interest].

Issue 2: Did the Licensee breach subparagraph 9(2)(c)(i) of Schedule 2 to the BSA [encourage participation in operations]?

Relevant licence condition

Schedule 2

Part 5 – Community broadcasting licences

9 Conditions applicable to services provided under community broadcasting licences

(2) Each community broadcasting licence is also subject to the following conditions:

[...]

(c) the licensee will encourage members of the community that it serves to participate in:

(i) the operations of the licensee in providing the service or services [...]

Finding

The ACMA's view is that the Licensee has not breached subparagraph 9(2)(c)(i) of Schedule 2 to the BSA.

Reasons

The Complaint

The Complaint alleged that, for several years, the Licensee:

- > has been run by two individuals
- > does not have a management committee elected by members and does not hold committee meetings
- > does not have a structured membership base and does not hold annual general meetings (**AGM**)
- > has not made its Rules freely available
- > has no, or extremely limited, opportunities for the community to be involved.

This raised concerns about whether the Licensee is encouraging the community in Kyneton RA1 to participate in its operations.

Relevant information

Between March and June 2023, the Licensee submitted information about its member and volunteer numbers, organisational structure, 2022 AGM minutes,² its Rules, and how it makes the community aware of opportunities for involvement.

Relevant guidelines

The Participation Guidelines provide that licensees encourage community participation in their operations when they:

- > have sound corporate governance practices, such as measures to prevent the concentration of control and procedures for complying with regulatory requirements
- > have an effective and transparent committee structure, so the community can have a say in the running of the service
- > value and promote membership and volunteering, including by promoting the benefits to the communities they serve.

² For noting, in March 2023, in relation to this investigation, the ACMA asked the Licensee to provide further copies of its meeting minutes from the last five years. The Licensee submitted that, due to technical problems with its 'Cloud storage system', it was not able to retrieve these records. Accordingly, the ACMA has not been able to consider these records as part of this investigation.

Analysis

Sound corporate governance practices

The information available to the ACMA indicates that the Licensee has:

- > measures to prevent the concentration of control, including a subcommittee and a working group, and several coordinator roles to encourage shared decision-making.
- > procedures for complying with regulatory requirements that apply to the service and its organisational structure. For example, 'continuing with the process of meetings as indicated under [its] constitution', making its Rules 'available to anyone who attends the studio', and in mid-2023, preparing and submitting to the ACMA a late application for renewal of its community broadcasting licence.

Effective and transparent committee structure

The information provided to the ACMA indicates that the Licensee has a management committee made up of nine members elected at the 2022 AGM, a sponsorship subcommittee, a program working group including 'any current presenter and interested members of the public', and a number of coordinator roles covering functions such as programming, grants, and youth.

Valuing and promoting membership and volunteering

The information provided to the ACMA shows the Licensee has 26 members, 21 volunteers, and is taking steps to promote the benefits of membership and volunteering to the community. This includes raising awareness about opportunities to participate at community events, broadcasting on-air announcements encouraging the community to volunteer, and distributing brochures which include a membership form and set out the benefits of being involved (such as educational benefits).

Conclusion

Based on the information provided to the ACMA, the Licensee generally has appropriate corporate governance practices, an effective and transparent committee structure, and takes steps to value and promote membership and volunteering.

As a result, the ACMA's finding is that the Licensee has not breached the licence condition at paragraph 9(2)(c)(i) of Schedule 2 to the BSA [encourage participation in operations].

Issue 3: Did the Licensee breach subparagraph 9(2)(c)(ii) of Schedule 2 to the BSA [encourage participation in programming]?

Relevant licence condition

Schedule 2

Part 5 – Community broadcasting licences

(2) Each community broadcasting licence is also subject to the following conditions:

[...]

(c) the licensee will encourage members of the community that it serves to participate in:

[...]

(ii) the selection and provision of programs under the licence

Finding

The ACMA's view is that the Licensee did not breach paragraph 9(2)(c)(ii) of Schedule 2 to the BSA.

Reasons

The Complaint

The Complaint alleged that the Licensee is sourcing 98% of its on-air content from the CBAA and has no, or extremely limited, opportunities for the community to be involved.

This raised concerns about whether the Licensee is encouraging the community in Kyneton RA1 to participate in the selection and provision of programs.

Relevant information

The Licensee submitted that in recent years it has been affected by challenges which limited opportunities for the community to participate in the provision of programs. This includes COVID-19 restrictions preventing access to the studio.

Between March and June 2023, the Licensee submitted information about how many presenters it has on air each week, its 29 April 2023 program schedule, its programs that are produced and hosted in the licence area, and steps it takes to encourage the community to participate in programming.

Relevant guidelines

The Participation Guidelines provide that licensees can encourage participation in:

- > program selection by giving the community opportunities to have a say in programming decisions
- > program provision by giving the community opportunities to produce and present programs.

Analysis

Participation in program selection

The information provided to the ACMA shows that the Licensee is:

- > encouraging collective decision-making about programming through its program working group, which includes 'any current presenter and interested members of the public'
- > 'publicis[ing] the fact that anyone in the community can request to be a member of the programming sub-committee'³
- > in developing its program guide, considering feedback provided by the community to its program working group.

Participation in program provision

The information provided to the ACMA shows that the Licensee:

- > has 16 programs it submits are produced in or hosted in Kyneton RA1
- > has 15 presenters who are all on air every week
- > distributes brochures that offer training in program production and contain express encouragement to the community to participate in program provision
- > where an application to present a program is successful, 'happily remove[s] a network program to replace it with a locally produced program'.

Conclusion

The information available shows that the Licensee has mechanisms for encouraging participation in program selection and is taking steps to encourage participation in program provision.

As a result, the ACMA's finding is that the Licensee has not breached the licence condition at paragraph 9(2)(c)(ii) of Schedule 2 to the BSA [encourage participation in programming].

³ The ACMA understands that this refers to the program working group.