

## Investigation Report no. BI-693

Summary	
<b>Licensee</b>	Community Radio Albury Wodonga Cooperative Society Ltd
<b>Station</b>	2REM
<b>Type of service</b>	Community Broadcasting – Radio
<b>Relevant legislation</b>	<p><i>Broadcasting Services Act 1992 (BSA)</i></p> <ul style="list-style-type: none"> <li>&gt; paragraph 9(2)(b) of Schedule 2 [continue to represent community interest]</li> <li>&gt; subparagraph 9(2)(c)(i) of Schedule 2 [encourage participation in operations]</li> <li>&gt; subparagraph 9(2)(c)(ii) of Schedule 2 [encourage participation in programming].</li> </ul> <p><i>Community Radio Broadcasting Codes of Practice (Codes)</i></p> <ul style="list-style-type: none"> <li>&gt; Code 6.4 [editorial decisions affecting the content and style of overall station programming are not influenced by program or station sponsors].</li> </ul>
<b>Decision</b>	<p>The Licensee:</p> <ul style="list-style-type: none"> <li>&gt; did not breach paragraph 9(2)(b) of Schedule 2 to the BSA</li> <li>&gt; did not breach paragraph 9(2)(c)(i) of Schedule 2 to the BSA</li> <li>&gt; did not breach paragraph 9(2)(c)(ii) of Schedule 2 to the BSA</li> <li>&gt; did not breach Code 6.4 of the Codes.</li> </ul>

## Background

On 23 January 2024, the Australian Communications and Media Authority (the **ACMA**) received a complaint (the **Complaint**) about Community Radio Albury Wodonga Cooperative Society Ltd (the **Licensee**).

The Complaint raised allegations which suggest that the Licensee is failing to comply with licence conditions in the *Broadcasting Services Act 1992* (the **BSA**) and a provision of the Community Radio Broadcasting Codes of Practice (the **Codes**).

On 12 April 2024, the ACMA commenced an investigation into the Licensee's compliance with:

- > 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 of programming]
- > code 6.4 of the Codes [editorial decisions affecting the content and style of overall station programming are not influenced by program or station sponsors].

### Previous renewal application

In its assessment of the Licensee's 2011 application for renewal, the ACMA noted a substantial amount of racing programming, to which the Licensee submitted that the ratio of racing programming was consistent with previous licence renewal applications.

The ACMA advised the Licensee that it was not required to continue to have the same programming year to year, and that its programming should be reviewed regularly and changed to meet community needs. The Licensee was advised that it was expected to conduct more expansive and robust surveys to confirm its programming was meeting the existing and future needs of the community, and to provide evidence that the community is interested in the large amount of racing programming.

## The Licensee

The Licensee represents the General Geographic Area community interest in the Albury RA2 licence area and has been broadcasting since April 1980.

The service operated by the Licensee is '2REM-FM' (**2REM**).

The expiry date of the Licensee's current licence is 9 January 2027.

## Assessment and submissions

This investigation has considered the following information and submissions:

- > the complaint received by the ACMA on 23 January 2024
- > submissions received from the Licensee on 20 May, 27 June and 2 July 2024, including:
  - o written submission in response to enquiries from the ACMA regarding this investigation (including screenshots of the Licensee's Facebook posts and photos)

- sponsorship agreement – Albury Race Club (March 2024)
  - sponsorship agreement – Albury Race Club (March 2023)
  - sponsorship agreement – Wodonga Turf Club (October 2022)
  - 2REM listener survey (February to March 2024) - collated results
  - quick survey handout form
  - details of 2REM's community participation activities
  - details of 2REM presenters theory training
  - 2REM inductee training modules
  - presenters training classroom modules
  - presenters training assessment
  - handout brochure (including program schedule)
  - membership application form
  - community engagement consultation policy
  - sponsorship policy
  - programming policy
  - Licensee's Rule book
  - presenters agreement
  - presenters conditions of engagement
  - details of current board directors and tenures
- > Licensee's renewal submission received by the ACMA on 30 June 2021
  - > Licensee's email received by the ACMA on 7 December 2022 regarding its renewal actions.

Other sources are identified in this report where relevant.

## **Issue 1: Is the Licensee continuing to represent the community interest it represented at the time when the licence was renewed?**

### **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 ACMA is of the view that the Licensee is representing the community interest that it represented at the time of when its licence was last renewed, and accordingly did not breach paragraph 9(2)(b) of Schedule 2 to the BSA.

## Reasons

It is a condition of all community broadcasting licenses that the Licensee continue to represent the community interest that it represented at the time when its licence was allocated or last renewed.<sup>1</sup>

The ACMA's Community Broadcasting Participation Guidelines (the **Participation Guidelines**) state that licensees should use a range of initiatives and measures to ensure they represent their community interest. No single activity or initiative alone is likely to result in compliance with this requirement.<sup>2</sup>

The BSA does not define community interest. The Participation Guidelines state that services should 'meet the needs of a local community.'<sup>3</sup>

The Participation Guidelines (section 7.4, page 28) offer licensees examples of ways to represent the community interest and comply with their obligation under paragraph 9(2)(b) of Schedule 2 to the BSA. This includes, but is not limited to:

- > having an express commitment to representing the community interest
- > providing a diversity of responsive programming
- > encouraging community involvement.

## The Complaint

The Complaint alleged that a large portion of the Licensee's programming is racing content which raised concerns about whether the Licensee is representing its community interest with a varied and representative program schedule.

## Relevant submissions

In May and June 2023, the Licensee submitted evidence demonstrating how it represents its community interest, including written submissions (including screenshots and photos from its Facebook page), 2024 Listener Survey results, survey form, handout brochure (including program schedule) and the Licensee's Rule book.

## Analysis

### ***Have an express commitment to representing the community interest***

The Licensee's Rule book states:

***'OBJECTS***

***6. The objects of the co-operative shall be:***

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<sup>1</sup> The BSA, subparagraph 9(2)(b) of Schedule 2

<sup>2</sup> [Community Broadcasting Participation Guidelines](#), ACMA, 2010, page 3

<sup>3</sup> [Explanatory Memorandum](#) to the *Broadcasting Services Bill 1992* (clause 15 – Community broadcasting services, page 24)

(a) *To conduct and to provide as a service to the community, broadcasting and media services whether audio, visual or by any other means and in particular to conduct one or more radio stations at such places in the vicinity of Albury and of Wodonga as the co-operative shall determine.*

[...]

(b) *Through the conduct of these broadcasting services to encourage and promote music, art, science, literature and education for the benefit of the community.*

### **Provide a diversity of responsive programming**

The information provided to the ACMA indicates that the Licensee:

- > has a program schedule that includes the following programming:
  - a range of music programs (50s, 60s, 70s, 80s-90s, country, jazz, nostalgic, Celtic etc.)
  - racing
  - sport
  - finance
  - ethnic (Spanish and Ukrainian program)
- > conducted a listener survey over a 4-week period between February and 9 March 2024. The Licensee surveyed current listeners and received 49 responses electronically and via post. Based on the listener survey results, the Licensee generally provides what most listeners want. Since the survey was conducted, it has included a “Community Connections” program that identifies and promotes upcoming activities of non-profit groups in the local area. The Licensee submitted that the survey identified:
  - that the preferred music programming is 70s, 60s, 50s and Country
  - that the preferred programs are community interest, racing, sports and financial
- > has a programming policy that sets out procedures to support its program diversity. The programming policy states:

*‘The Programme committee will meet regularly (at least quarterly) to review the programme schedule and report to the Board of Directors. The content that is put to air will always require review to reflect what is occurring in the ever changing target market...’*

### **Encouraging community involvement**

The information provided to the ACMA indicates that the Licensee:

- > encourages involvement from the local ethnic communities by broadcasting two programs (Spanish and Ukrainian) that are hosted and produced by members of the local ethnic communities
- > supports community groups by providing speakers to the Albury Lions Club, Wodonga Men’s Shed, and National Seniors Association
- > attends local shows such as the Albury Show and the Wodonga Show

- > promotes free raffles, giveaways and bus trips
- > has a free Mother's Day and Father's Day draw.

## Conclusion

Based on the above reasons, the ACMA is of the view that the Licensee has identified the needs of its community and demonstrated how that information is being used to inform its programming decisions. The Licensee has also demonstrated that it has an express commitment to represent its community interest and takes steps to encourage community involvement in its service.

Accordingly, the ACMA's finding is that the Licensee did not breach the licence condition at paragraph 9(2)(b) of Schedule 2 to the BSA [continue to represent community interest]

## **Issue 2: Is the Licensee encouraging community participation in its 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 is of the view that the Licensee is encouraging community participation in its operations, and accordingly did not breach paragraph 9(2)(c)(i) of Schedule 2 to the BSA.

## Reasons

The Participation Guidelines note that licensees encourage community participation in the operations of its service by:

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

## The Complaint

The Complaint alleged that the Licensee was not encouraging participation in its operations.

### Relevant submissions

In May and June 2023, the Licensee submitted evidence in relation to how it encourages participation in its operations, including written submissions (including screenshots and photos from its Facebook page), survey form, handout brochure, the Licensee's Rule book, community participation policy and details of its committee structure.

## Analysis

### **Effective and transparent committee structure**

The information provided by the Licensee indicates:

- the board consists of the following members:

Name	Office	Date of first election	Year term expires
Gavin Dainton	Director	2013 AGM (Nov)	2024 AGM
John Elias	Chairperson	2006 AGM (Nov)	2024 AGM
Bartholomew Green *	Director	2019 AGM (Nov)	2025 AGM
Gregory Ingham	Director	2016 AGM	2025 AGM
Eileen Middleton	Deputy Director	2003 AGM	2025 AGM
Ian Page	Vice-Chairperson	2012 (Co-opted)	2024 AGM
Joy Metcalf	Director	2023 AGM	2025 AGM
Belinda Ritchie	Director	2023 AGM	2024 AGM

*\* currently on leave from the board, Eileen Middleton has been appointed deputy director in Mr Green's place on the board on 24/04/2024 until such time Mr Green returns from leave.*

- > the Licensee's Rules:
  - specify that there are to be seven members on the board
  - members of the board are to retire in rotations of 3 and 4 at each alternate AGM election.

The composition of the board is compliant with the requirements under the Licensee's Rules.

### **Sound corporate governance practice**

At the Licensee's last renewal, it indicated that it had measures in place to prevent concentration of control, including the following sub-committees, as well as a range of management and support roles that encourage shared decision-making:

- > community liaison sub-committee
- > programming sub-committee

The Licensee has subsequently advised the ACMA that the programming sub-committee includes non-board members.

The information provided to the ACMA indicates that the Licensee has policies for complying with its regulatory requirements that apply to the service and its organisational structure, such

as a Governance Policy<sup>4</sup> which includes compliance and regulatory monitoring and a Conflict of Interest Policy.

### ***Valuing and promoting membership and volunteering***

The information available and provided to the ACMA indicates the Licensee:

- > had 40 members and 26 volunteers in 2022
- > had 31 members and 27 volunteers in 2023
- > has provisions in its Rules that support open membership, such as a transparent and reasonable criterion for rejecting a membership application (Rule 18(e))
- > has a community engagement and consultation policy that 'provide the basis for the community to have an active voice in influencing the organisation's decisions' and to 'increase transparency of the decisions that impact the community interest'
- > broadcasts on-air promotions encouraging the community to become a member or volunteer
- > has a handout brochure promoting volunteering and membership (with an enclosed membership application form) that it distributes at local clubs and community events
- > promotes the station each week at the local Rotary Markets (with around 900 attendees)
- > promotes volunteering on its website<sup>5</sup>.

## **Conclusion**

Based on the above reasons, the ACMA is of the view that the Licensee generally has appropriate corporate governance practices, an effective and transparent committee structure and takes steps to value and promote membership and volunteering.

Accordingly, the ACMA's finding is that the Licensee did not breach the licence condition at paragraph 9(2)(c)(i) of Schedule 2 to the BSA [encourage participation in operations].

## **Issue 3: Is the Licensee encouraging community participation in the selection and provision of its programs?**

### **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:

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<sup>4</sup> <https://2rem1073fm.com.au/wp-content/uploads/2022/08/PN-04-Governance-Policy-version-2-Feb-2022.pdf> - accessed 12 September 2024

<sup>5</sup> <https://2rem1073fm.com.au/> - accessed 12 September 2024



[...]

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

## Finding

The ACMA is of the view that the Licensee is encouraging community participation the selection and provision of its programs, and accordingly did not breach paragraph 9(2)(c)(ii) of Schedule 2 to the BSA.

## Reasons

The Participation Guidelines provide that licensees can encourage participation in:

- > program selection by providing opportunities for their communities to have a say in programming decisions
- > program provision by providing opportunities for their communities to produce and present programs.

## The Complaint

The Complaint alleged that the Licensee's volunteer training was scheduled at an inconvenient time.

## Relevant submissions

In May and June 2023, the Licensee submitted evidence in relation to how it encourages participation in its programming, including written submissions, listener's survey results, survey form, handout brochure (including program schedule), programming policy and documents relating to training for presenters.

## Analysis

### ***Participation in program selection***

The information available and provided to the ACMA indicates that the Licensee:

- > encourages collective decision-making about its programming through its programming committee. The committee is represented by volunteers, presenters and others that are interested in attending. The committee meets at least every quarter to discuss and review the overall program schedule
- > conducted a listener's survey in 2024 to obtain feedback and the programming preferences of its listeners
- > has a listener's survey and program proposal form available on its website<sup>6</sup>.

### ***Participation in program provision***

The information provided to the ACMA indicates that:

- > the majority of the Licensee's daytime programming is hosted and/or locally produced

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<sup>6</sup> <https://2rem1073fm.com.au/contact/quick-survey/> - accessed on 12 September 2024

<https://2rem1073fm.com.au/wp-content/uploads/2022/07/Program-Application-Form-2022-V.2.pdf> - accessed on 12 September 2024

- > the Licensee distributes handout brochures at local clubs and events that promote volunteer presenting roles
- > the Licensee has a programming policy that supports aspiring broadcasters from the local community. The policy states that the Licensee will '*actively encourage community members to become announcers and must be able to accommodate these new volunteers into the programming schedule... it may become necessary to ask from time to time for current announcers to give up their slot, or a portion of it, or for the prospective announcer to "sit in" with the program for a period of time*'
- > the Licensee acknowledges through its presenters conditions of engagement that it '*encourages live broadcasting at all times if possible*'
- > the Licensee conducts the following training for its new presenters:
  - theory training – training is offsite by an accredited trainer and consists of 3 modules and assessments (legal and station policies, developing a radio program and program delivery)
  - practical training – training is conducted in the studio subject to the availability of the prospective presenter and trainer, and rescheduled if required by either the trainer or trainee
- > the Licensee has conducted training for 6 presenters from July 2023 to present
- > the Licensee has not refused a program proposal '*other than one programme because of historical mental health and attitude issues with the presenter*'.

## Conclusion

Based on the above reasons, the ACMA is of the view that the Licensee has mechanisms for encouraging participation in the selection and provision of its programming.

Accordingly, the ACMA's finding is that the Licensee did not breach the licence condition at paragraph 9(2)(c)(ii) of Schedule 2 to the BSA [encourage participation in programming].

## **Issue 4: Has the Licensee complied with code 6.4 of the Codes**

### Relevant code provision

#### The Codes

- 6.4 We will ensure editorial decisions affecting the content and style of overall station programming are not influenced by program or station sponsors

### Finding

The ACMA is of the view that the Licensee did not breach Code 6.4 of the Codes.

## Reasons

### The Complaint

The Complaint raised concerns about sponsors affecting editorial decisions in relation to the content and style of overall station programming.

### Analysis

The Licensee submitted sponsorship agreements for two of its sponsors, the Albury Racing Club, and the Wodonga Turf Club. The sponsorship agreement shows details of the sponsor, the rate, start and finish dates, and details of the sponsorship announcement/s (frequency and type of announcement).

The Licensee's Sponsorship Policy states that:

*"2.2 In line with the Community Radio Codes of Practice Code 6, 2REM will ensure that*

*[...]*

*c) Overall programming of community radio broadcasting stations is not influenced by sponsors.'*

## Conclusion

Based on the evidence provided by the Licensee, the ACMA found no evidence to suggest the Licensee's sponsors were influencing editorial decisions affecting the content and style of overall station programming.

Accordingly, the ACMA is of the view that the Licensee did not breach Code 6.4 of the Codes.