



The Liars Club, 3RRR - Melbourne

The ABA received a complaint in relation to a program broadcast by community radio service 3RRR Melbourne.

The complainant claimed the Church of Scientology had been vilified in the program, 'The Liars Club', in broadcasts on 3, 17 and 24 September 1995. At the time of the broadcasts, the community radio broadcasting sector had not yet registered its code of practice with the ABA and accordingly, community radio broadcasters were obliged to comply with the Radio Program Standards as a condition of the licence.

Radio Program Standard 3(RPS 3) provides:

A licensee may not transmit a program which:

- is likely to incite or perpetuate hatred against; or
- gratuitously vilifies; any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, religion or physical or mental disability.

The standard is intended to strike a balance between the principles of free speech and the rights of individuals and groups to be protected from the broadcast of unacceptable material.

The ABA gave consideration to whether the Church of Scientology falls within the term 'religion' as it appears in RPS 3.

The codes

Commercial television, commercial and community radio, the ABC and SBS all operate under codes of practice, while other broadcasting sectors are well advanced in the development of their respective codes. The ABA supervises the operation of the codes and performs an independent adjudicator role where complaints are not resolved between the complainant and the broadcaster concerned.

Primary responsibility for compliance with the codes and for resolving complaints rests with the broadcasters. If a station fails to answer a complaint within 60 days, or if the response is unsatisfactory, then the complaint can be referred to the ABA for investigation.

Investigations

The ABA is required to investigate unresolved complaints and to inform complainants of the results of such investigations.

The ABA can also investigate complaints about the national broadcasters, the ABC and SBS.

The ABA also investigates complaints about matters relating to the standards for children's television or Australian content on television, the standards for subscription broadcasting, subscription narrowcasting and open narrowcasting, and complaints in relation to any type of broadcasting service where the complaint relates to a possible breach of the Act or conditions of licence.

The ABA has a range of sanctions available to it in the event of a breach of a code of practice, program standard or licence condition. Any action taken depends on the seriousness of the breach.

In *Church of the New Faith v. Commissioner of Payroll Tax (Victoria)* (1983) 154 CLR 120, the High Court provided a wide view of the meaning of the word 'religion' for the purposes of the doctrine of charities under the law of trusts. Given the fact that the High Court has expressly declared the Church of Scientology to be a religion for those purposes, the ABA has taken the view that the Church of Scientology falls within the term 'religion' as it appears in RPS 3.

As part of its investigation procedures, the ABA sought written submissions and audio tapes from the licensee in relation to the program's compliance with RPS 3. Triple R Broadcasters Ltd provided brief written submissions and audio tapes of the programs for 3 and 17 September 1995 but was unable to provide a tape of the program broadcast on 24 September 1995.

Clause 5 of Part 2 of Schedule 2 of the *Broadcasting Services Act 1992* requires that records of broadcasts relating to a political subject or current affairs must be retained for a period of six weeks from the date on which the matter was broadcast or, where a complaint has been made about the matter, for 60 days from the date on which the matter was broadcast (or for longer periods as required by a written direction from the ABA).

'The Liar's Club' was a weekly program which went to air each Sunday from 10 a.m to 11 a.m that, in the words of the licensee, 'regularly covers contentious issues and sets out to activate debate.' This brought it within the definition of 'current affairs program' in Radio Program Standard 8(3) because the program clearly focussed on social issues of immediate relevancy to the community.

The 3 September 1995 edition of 'The Liar's Club' began with an announcement by the program compere of the details of a demonstration to take place outside the Church of Scientology headquarters in Russell St, Melbourne.

As part of the publicity for the demonstration, the compere interviewed a long-time campaigner against Scientology in Australia and overseas who stated, amongst other things, that there was a lot

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in common between Scientologists and Nazism.

In the course of that interview, the compere indicated his agreement with a number of the statements of and views of the interviewee and the general tenor of the whole program appeared to endorse the message conveyed by the interviewee. No opportunity was given for the Church of Scientology to represent its views on that program on that occasion or otherwise prior to the public demonstration against it outside its own premises.

In the 17 September 1995 edition of 'The Liar's Club', the compere followed up the announcement of the demonstration and the interview with the interviewee with a statement that indicated clearly he did not believe the Church of Scientology was entitled to airtime on the program to represent its viewpoint about the demonstration and the interviewee's remarks on 3 September 1995.

Apparently as a result of complaints to the licensee by the Church of Scientology after the 3 September and 17 September programs, the compere interviewed both the interviewee and a spokesperson from the Church of Scientology. In doing so he allowed the Church of Scientology the opportunity to represent a significant viewpoint about the interviewee's criticism within reasonable proximity to the program on which that criticism was voiced (3 September).

Decision and action

The ABA found that 'The Liar's Club' program on 3 September 1995 breached Radio Program Standard 3(b) in respect of its coverage of a discussion about the Church of Scientology and its members.

The ABA did not find that the comments of the interviewee on the 3 September program breached RPS 3(b). However, the ABA considered that, rather than permitting any representation of the Church's view, the compere converted the interviewee's views from being ones which stood alone to ones which had the licensee's apparent support and confirmation through the words of the program compere. This presentation gave the comments a strength which assumed the character of gratuitous vilification on the basis of religion.

The ABA is of the view that a program can gratuitously vilify a group through the mere conduct of a presenter which by implication reinforces vilifying statements made by the interviewee. The ABA is of the view that broadcasters and presenters should generally exercise great care in the treatment of material to be broadcast which is critical of any religion. This does not mean that the ABA considers that broadcasters cannot deal with controversial subjects or ones that may be sensitive to certain groups in the community. It does not mean broadcasters cannot interview persons who hold strong, if not extreme, views about matters of public interest or about certain groups in the community.

It does mean, however, that broadcasters need to ensure that in giving effect to freedom of speech they also exercise the care and integrity this freedom implies.

The ABA also found that Triple R Broadcasters Limited, the licensee of 3RRR Melbourne, had breached the conditions of the licence set out in Clause 5(2) and (3) of Part 2 of Schedule 2 of the *Broadcasting Services Act 1992* by not retaining a copy of 'The Liar's Club' program on 24 September 1995.

The Station Manager of 3RRR advised the ABA that 'the station's logging system malfunctioned at that time (being rather ancient equipment) resulting in the tape twisting and therefore not recording.'

The station was asked to comment on the ABA's draft report before finalising the decision. The Station Manager advised that arrangements had been made to ensure that a back up logging system had been implemented until such time as 3RRR's equipment could be upgraded. The Station Manager also obtained and provided comments from the program's compere.

In providing the report on the final decision to 3RRR, the ABA asked the station management to comment on proposed actions as a result of the breaches. In addition to the action taken to establish a back up logging system, the Station Manager advised that the broadcasters had been suspended for four weeks.

The ABA was also advised that the Program Committee had decided not to continue the program, which had been

under an internal review as part of 3RRR's regular review of its program format, in the new program format.

In view of these steps and the fact that:

- this was the first occasion in which the licensee had been found in breach of these provisions;
- this is the first time the ABA had found a breach of RPS 3(b) in the context of religious vilification so that the licensee did not have the benefit of the ABA's reasoning; and
- the licensee appears to have understood the seriousness of the breach; the ABA decided not to take any further action in relation to the breach.

Eyewitness news segment

The ABA received a complaint regarding a segment of 'Eyewitness News' broadcast by ADS 10 Adelaide.

The complainant alleged that the segment, regarding the removal of aluminium sulphate from drinking water using a carbon filtration appliance, contained incorrect and inaccurate information.

The complainant also alleged that the station had not followed correct complaints handling procedures in dealing with his complaint.

Section 4.3.1 of the Commercial Television Industry Code of Practice states that when broadcasting news and current affairs programs licensees:

4.3.1 must present factual material accurately and represent viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program;

Sections 7.8 and 7.9 of the code are intended to ensure prompt written responses to written complaints. Section 7.8 of the code states: