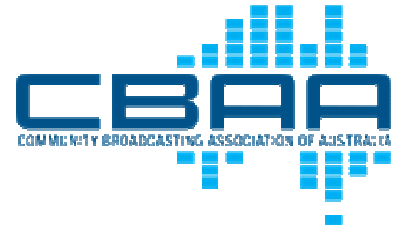


Community Allocations & Information Section
Australian Communications & Media Authority
communitybroadcasting@acma.gov.au



BY EMAIL

30 November 2010

Dear Sir/Madam,

RE: REVISED B66 FORM (APPLICATION FOR RENEWAL OF A COMMUNITY RADIO BROADCASTING LICENCE)

Thank you for the opportunity to comment on the ACMA's Draft B66 Form (the B66).

In our attached submission, we make a number of overarching comments on proposed changes to the B66 as they impact on community broadcasting licensees, before turning to the specific submissions re the language and content of the B66.

CBAA membership constitutes 80 per cent of the community radio sector in Australia. In formulating this submission we have consulted CBAA members and stakeholders and drawn on the CBAA's in depth understanding of the perspectives and common practices within the community broadcasting sector.

We look forward to the ACMA's response to our submission and to further dialogue.

Please do not hesitate to contact me on **(02) 9310 2999** should you have any comments or questions arising from our submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Letch'.

Kath Letch
General Manager
E: kletch@cbaa.org.au
M: 0409 142 301

INTRODUCTION

The Community Broadcasting Association of Australia (CBAA) is pleased to contribute to the process of streamlining the B66 so that it more closely aligns with legislative requirements and the B32 Form.

The CBAA endorses the requirements set out in:

- Section 84(2)(d) of the *Broadcasting Services Act (1992)* (the Act), which lists factors the ACMA must have regard to when allocating a broadcasting licence; and
- The Community Radio Broadcasting Codes of Practice (the Codes), which set out the guiding principles and policies for programming on community broadcasting stations and outline the operating standards for licensees.

Since its inception, the CBAA has represented its growing membership base in working constructively with the ACMA in accordance with changing legislative and regulatory developments. It is notable that over recent years there has been a strengthening of the regulatory oversight on the community broadcasting sector.

The CBAA understands that recent regulatory changes have been introduced to provide clear guidance to licensees about their legal obligations, to align regulatory processes better with the Act, and generally to pre-empt those compliance issues which are common to our sector.

Both the CBAA, as peak sector body and the ACMA, as regulator, play a role in supporting and facilitating our sector to carry out its legislative role in a sustainable manner.

While the CBAA assures the ACMA of its interest in, and commitment to, sector development and capacity building, we stress that the speed and method of change must be calibrated to take into account the wider context in which our sector operates.

The contribution the sector makes to Australia's media landscape, its NFP status and its heavy reliance on volunteer contributions all have implications which must inform the regulatory approach to our sector.

The benefits that a vibrant community media sector is designed to deliver are stated in the Act and are well known to the ACMA. In the interests of brevity, we refer the ACMA to the sector's *Voices & Vision – An Introduction to Community Broadcasting* (www.cbaa.org.au/News_And_Publications/Voices-Vision) for further detailing of the contribution our sector makes.

To take just one example, 30 per cent of community radio stations report that they are the only source of local content in their areas (Community Broadcasting Database (2008)). With levels of media concentration in Australia among the highest in the world, there is little doubt about the contribution that community broadcasters make to the media landscape in this country.

While the CBAA fully appreciates the requirement for the ACMA to have a standard approach to guidelines and requirements applicable to all community broadcasting services, there is continual feedback from members that recently revised guidelines and the revised B66 seem to take a 'one size fits all' approach.

There is a perception that the diversity of operations and multiple approaches to service and organisational outcomes are not fully acknowledged in the same way that diversity of services is represented - and that this is required for a sector nearly 40 years in the making.

The history and development of the sector reveals that there are very different scales of community broadcasting operations, from small rural and regional services operated solely by volunteers to larger metropolitan services with a staffing structure essential to the scale of operation and to effectively servicing its community of interest and supporting volunteers.

Each station has a context and history to the development of its operation, organisational framework, policies, programming and structures that need to be considered in the renewal process.

The CBAA understands these considerations are made in the individual renewal application process and believes this diversity should be reflected as much as possible within the renewal application questions and information requirements. The current draft revised B66 does this effectively in some areas, but in other sections it would benefit from further review.

It is also important to emphasise that unlike the ABC, SBS or commercial broadcasters, our members are part of a wider, not-for-profit community sector:

- Over 60 per cent of our members have a gross annual turnover of less than \$100,000;
- A large percentage of community radio stations are run entirely by volunteers;
- Eighty per cent of community radio stations are located in rural and regional areas of Australia, where access to staff and/or volunteers (especially those with appropriate training and experience) is limited.

Our comments in this submission, therefore, relate to the proposed changes to the B66, but also to a need to ensure a fit between the wider regulatory framework and requirements, the current capacity of the sector and the context within which the community broadcasting sector operates.

The scope and pace of recent regulatory approaches, including the proposed changes to the B66, are proving difficult for our members and the wider sector to digest and integrate into management, training and daily operations.

We believe that an opportunity for the CBAA and ACMA to discuss these issues in greater context and detail is critically important. Once sector needs relating to capacity, development and compliance have been discussed fully, the methods and timelines by which these needs can be met can be decided and strategy implemented accordingly.

Given that the proposed revision of the B66 would not impact on all stations from January 2011, but at different times according to when licences fall due for renewal, the CBAA requests that the ACMA delay the introduction of the revised B66, pending the development of further strategies to address the issues outlined in this submission.

In our view, change processes and sector development cannot be facilitated in a sustainable way without a wider dialogue between the ACMA and the CBAA, and the development of a clearer framework for the renewal process that can be more broadly supported within the sector.

Please find below submissions based on feedback from CBAA members which specifically address the proposed changes to the B66.

SUBMISSIONS

Consultation with CBAA members regarding the B66 elicited strong views that:

- **Information Overload:** The proposed changes appear to require so much information that completing it would be unduly arduous for many community radio stations;
- **Beyond Legislative Requirements:** The proposed changes to the B66 reach beyond the requirements of the Act and require unnecessary detail in the renewal application process;
- **Breaches Privacy/Confidentiality:** Some of the information required by the revised B66 may be commercial in confidence, such as sponsorship agreements. Other information, such as details of staff salaries, is of a private nature. Stations are concerned that completing the new B66 will breach privacy and confidentiality;
- **Renewal Applications On Public Record:** If the ACMA is proposing that completed B66 applications will no longer be available on the public record, then this must be clearly stated;
- **Essential or Desirable?** Parts of the draft B66 require the provision of specific information, while other parts make it optional. We request that the ACMA distinguish very carefully between what is required and what is desirable and be consistent in its approach when finalising the revised B66;
- **Audit Reports:** Many CBAA members commented that their auditors have regard to the financial capacity of the station and consider this as part of the audit process. We submit that where a station provides the ACMA with an unqualified audit report, then this is a reliable indication of financial capacity, as required by the Act.

SPECIFIC COMMENTS

Section 1: Licensee details

- Not all community stations are not-for-profit company structures. We suggest use of the word 'legal entity' in Q1, 2 and 4.
- Please note that the term 'public officer' (used in Q2) will disappear from Victorian legislation (and possibly NSW) as of December 2011.
- In Q4, please allocate more space for up to ten (10) office holders.

Section 3: Section 84(2) requirements

Question 8:

- **Points 6 & 10:** There is concern among member stations that the ACMA will only accept a programming committee as evidence of "ensuring program diversity..." and "community involvement". This requirement could usefully be clarified by referring applicants back to the ACMA's *Community Participation Guidelines* for assistance.

Comments from CBAA members included:

"The proposed B66 does not factor in that most community stations are operated largely by volunteers. There is a real lack of availability of volunteers in regional areas. The ACMA needs to strike a balance and explore other avenues for community participation."

"In rural and regional areas programming...is driven by the availability of volunteers and the nature of the stations' resources."

- **Point 8:** Please specify what 'filler' programs are.
- **Point 9:** Some stations' licence areas cross state and territory borders, which could make it difficult to answer the questions of exactly how many members live within and outside the licence area without sophisticated software.

Question 9:

- **Point 2:** While Q8 makes provision of market research optional, Q9 appears to require it. As per Q8, market research should be optional – but encouraged - for community stations, given their lack of resources and not-for-profit status. Questions throughout the B66 should be consistent with each other.

Question 11(a):

- **Point 1:** Organisational structures change often within community stations due to volunteer movements. As such, organisational charts submitted as part of the renewal process may change quickly.
- **Point 3:** The request to provide details of salaries of paid station staff is not strictly relevant to the provisions of the Act and is likely to be in breach of privacy laws. General details of salaries paid as a whole are outlined as part of station accounts and we submit that this level of information properly matches the legislative requirements.

Question 11(b):

- **Point 2:** We submit that this question is more appropriate in the B32 Form, is covered at the time of initial application for the licence and should be removed from the B66.
- **Point 4:** We submit that the requirement for a five year business plan and budget is not currently feasible for the full community broadcasting sector.
While such a requirement is understandable in an initial licence application, this has not previously been a requirement of renewal. It is unrealistic to expect stations who have not previously been required to have long-term business plans in place to immediately harness the skills and experience required to create a five year plan and budget.
While the CBAA acknowledges that licences are granted for a period of five years, we submit that requiring stations to provide a one year operational plan and budget and a two-year business plan would be more realistic and achievable for the sector, while providing the ACMA with relevant, meaningful information on which to base its renewal.
To be effective, the renewal process must more closely take into account the not-for-profit nature of the community broadcasting sector and its current capacity, with a view to building that capacity over time.
- **Point 5:** Is the ACMA requiring copies of all sponsorship arrangements? If so, this is problematic because:
 - Financial accounts for each station already provide information about funds flowing from sponsorship arrangements. We submit that providing the agreements themselves is beyond the requirements of the Act and redundant.
 - Some sponsorship arrangements will be commercial in confidence. The requirement to lodge copies with the ACMA will be in breach of these contractual terms;
 - Some stations have hundreds of sponsorship contracts for short campaigns in place each year. We submit it would be unduly onerous for both stations and the ACMA to copy all individual contracts as part of the renewal process and no term is stipulated for copies to apply to ;
 - Requiring letters from potential sponsors is unworkable and may compromise relationships between stations and potential sponsors. We submit that this requirement does not make sense given the day to day operations of community stations and the nature of negotiations re potential sponsorship arrangements. If this request is geared towards specific types of sponsorship arrangements then this needs to be clearly stipulated.

- **Point 6:** For the reasons noted directly above, requiring letters from potential donors is unworkable and may compromise relationships between stations and potential donors. We submit that this requirement does not make sense given the day to day operations of community stations.
- Generally, we submit that rather than providing details of all sponsor and donor agreements, a 'sample' month of regular sponsorships and donations could be provided, or copies of all substantial types of sponsorship agreements or donor commitments over an annual period could be provided.

Question 11(c):

- **Point 3:** Please clarify outage reporting requirements. We submit that this requirement should specifically exclude short outage periods which occur due to technical adjustments, as well as planned outages by the power supplier.
- **Other points:** While we acknowledge the aim of the questions, we submit that they do not take into account the day to day operations of community stations, nor that technical work is often undertaken by volunteers (or a series of volunteers).
We propose further discussions with ACMA about building reliable sources of information from stations about technical capacity.
Further, the nature of the technical information required in the B66 needs to be more specific. Currently, stations are asking whether photocopying contracts would fall within this requirement.

Question 13:

- **Point 2:** We ask the ACMA to clarify how state and federal government grants received for program production would be considered by the ACMA in the renewal process. If, as we submit, these arrangements fall outside the scope of Section 84(2)(f), then this should be specifically noted in the B66.
- Currently, "d) copies of contracts and agreements" is too broad and should be clarified.

SUMMARY

The CBAA submits that at this point some of the requirements of the draft revised B66 seem to fall outside of the scope of the Act. Where information requirements are geared to establishing that a community broadcasting service is pursuing a stable and viable operation in accordance with the regulatory framework, it fails to take into account the current capacity of the sector in the context of previous renewal processes, especially for small and entirely volunteer operated stations. It also fails to accommodate the full diversity of types of stations and scale of operations in some of the requirements at a pragmatic level (eg. copies of all contracts for an unspecified period).

The CBAA would welcome the opportunity to contribute further to a constructive dialogue with the ACMA, which we believe would produce a more effective revised B66 for renewal purposes; achieve broader support and understanding in the sector; and facilitate the development of station capacity and resources over time to meet such requirements.