



WOW FM Mackay

Providing a commercial broadcasting service without a licence

Complaint

On 24 March 2003, the ABA received a complaint that the service being broadcast on 93.9 MHz in Mackay, Queensland, did not qualify as a narrowcaster and replicated broadcasting services being provided by commercial broadcasters in the same licence area.

The ABA obtained six hours of broadcast from an independent source. The date of this broadcast was 24 July 2003. The 93.9 WOW FM Mackay licence has changed ownership since this date.

Decision

The ABA determined that on 24 July 2003 the broadcasting service WOW FM Mackay, provided by (then) licensee Mr Bevan Anderson, was:

- providing programs that, when considered in the context of the service being provided, appeared to be intended to appeal to the general public
- a commercial broadcasting service as defined at section 14 of the Broadcasting Services Act and

- being provided without an appropriate licence and therefore in breach of section 133 of the Broadcasting Services Act which states that:

A person must not provide a commercial radio broadcasting service unless the person has a licence to provide that service.

Action taken

As Mr Anderson is no longer licensee of 93.9 WOW FM Mackay, the ABA has decided to:

- inform Mr Anderson, the complainant and the current licensee of the outcome of the investigation, by providing each with a copy of the investigation report and
- request that the current licensee provide to the ABA, by 2 February 2004:
 - o details of the way in which it plans to amend the service so that it complies with its statutory obligations and
 - o after it has been amended, audiotaped copies of the broadcast of the amended service.



Investigation reports : breach findings

To view the full report on these investigations, go to the ABA web site:

www.aba.gov.au/tv/investigations/breach_findings/ or

www.aba.gov.au/radio/investigations/breach_findings/

where the reports are arranged according to month of completion.