

March 23 2004

RE: REVIEW OF COMMERCIAL RADIO CODES OF PRACTICE

The Music Council of Australia is pleased to make the following submission to the (review of Australian music content standards on commercial radio. It thanks Commercial Radio Australia for this opportunity and for the extension of the deadline for submission.

The Music Council addresses only that part of the code of most direct relevance to its constituency, the Code of Practice 4: Australian Music,

1. BACKGROUND: THE MUSIC COUNCIL OF AUSTRALIA

1.1 The Music Council is comprised of a Council of 50 persons and a Network with a membership of approximately 500. The Council includes nominees of 15 national music organisations, and distinguished individuals elected to 35 positions, each one assigned to a different aspect of music or musical activity. Through this structure, the Council is broadly representative of the music sector in Australia.

1.2 The role of the Music Council of Australia is to provide information, conduct research, serve as an advocate for music's interests to governments and the community at large, and a project manager. It represents music on a number of national and international bodies and is Australia's representative to the UNESCO International Music Council.

1.3 The Music Council supports the objective set forth in the Broadcasting Services Act 1992, of promoting the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity, by prescribing minimum content levels of Australian music. It has been active in support of such objectives in other contexts nationally and internationally, including the International Music Council and the International Network for Cultural Diversity.

1.4 The Music Council is pleased to note the statement in the Code of Practice 4: Australian Music, that "The commercial radio industry is committed to supporting the music of Australian artists and composers."

1.5 The Music Council recognises that this support can only be given within the financial constraints of the commercial radio sector.

1. The interest of the Music Council in making this submission is to maximise the benefit to the development of a diverse and high quality Australian music arising from the activities of the broadcasting and recording sectors, with particular attention to the objects of the Broadcasting Services Act 1992.

2. BENEFITS OF THE CODE: RECORDING

2.1 An obvious immediate benefit flows from the Code: Australian audiences hear broadcasts of Australian musical performances and Australian musical works. The broadcasting sector's commitment to support is already realised to a greater or lesser extent through broadcast.

2.2 However, as is well known informally within the industry, there is a direct link between airplay and record sales. And record sales are a quantifiable indication of listening habits. The Music Council in 2003 conducted more formal research that shows the correlation in the Australian market. The research report (*Assessing the impact of Australian music requirements for radio*. Music Council of Australia, October 2003) can be viewed on the Music Council website at <http://www.mca.org.au/masonmusicimpact.htm>

2.3 With the inception of the quota in 1942, record companies significantly increased their output of recordings of Australian artists. The report notes: "From the production point of view an increase in airplay would appear to stimulate musical activity and presumably also an increased confidence in investment in local artists, based on the presumption of an increased opportunity for sales. Conversely an increase in the amount of music available clearly improves the broadcasters' capacity to meet and indeed exceed the minimum requirement."

2.4 The report cites research by Ed Jonker showing that in 1989 and 1990

37% of Australian releases had received commercial radio airplay

26% of Australian releases had "charted"

all of the releases which had charted had received either radio or tv airplay,

Says the report: "This would suggest that although a higher proportion of Australian releases had received airplay than had charted, airplay and sales were still fundamentally linked, given that no releases had charted without airplay support."

2.5 In 2000, the commercial code was amended to incorporate a requirement to broadcast a quota of Australian recordings released in the previous 12 months. The report observes that analysis of the figures for the production and consumption of Australian music throughout the 1990s suggests that this amendment to the code had the effect of stimulating both the production and consumption of local product.

2.6 Based on figures detailed in the AMPCOM reports, between 1994 and 1999 the production of Australian music averaged 10.73% of the total of recorded music released in Australia including international product. But between 1999 and 2000, this production leapt from 9.85% to 15.5%, the greatest 12-month change over the whole period. (The low of 9.85% would appear to follow the introduction of Parallel Importing legislation, which was presumed to compromise the viability and integrity of investment in local music product.) This would suggest that the increased radio airplay opportunities for new music created by the amendment were a stimulus to the production of local music.

2.7 It is recognised that a change over only one year is not conclusive. Unfortunately, AMPCOM has not produced reports for subsequent years. However, the change for the year cited is dramatic and well beyond the normal vicissitudes of the preceding years.

2.8 Importantly, figures for the sale of locally produced recorded music in Australia show a parallel increase in this period. The International Federation of the Phonographic Industry (IFPI) reports show that the sale of "national products" - local artists' recordings compared to those of non-Australian artists, and expressed as a percentage of the total CD sales in Australia over the period - rose from 12% in 1995 to 28% in 2000. This is despite the fact that the Category A quota is only 25% and the required percentage of broadcast time occupied by Category A new music is only 6.25%. The effect therefore was disproportionately large.

2.9 Interestingly, the MCA report shows that there is only a random relationship between number of titles released and volume of sales. By comparison, there is a clear correlation between airplay and sales. Airplay is crucial.

3. BENEFITS OF THE CODE: EXPORTS

3.1 Royalties from music exports have increased over recent years. There was an increase of \$17m over the four years 1995-1999. Then, coincident with the introduction of the new music requirement in 2000, there was an increase of \$11m followed by a further increase of \$14m to 2001 -- \$25m in two years.

	Value of exports	Value of imports	Exports/imports
1995	\$29m	\$166m	17.5%
1996	35	165	21.2
1997	40	203	19.7
1998	42	167	25.1
1999	46	171	26.9
2000	57	209	27.3
2001	71	229	31.0

(ABS Balance of Payments and International Investment Position)

3.2 Common sense would argue that an export trade would not be possible without a successful home-based industry. The correlation between the rapid increase in export revenues and the introduction of the new music quotas suggests at the least that the increased Australian sales of Australian discs encouraged more export activity on the part of the record companies.

3.3 Such exports are aided by the fact that the performances broadcast by commercial radio are in musical genres that have international currency – mainstream rock etc.

3.4 International success of Australian acts serves the interests of broadcasters also, since they are able to include performances of international audience favourites with substantial promotional backing from the record companies, in meeting local content quotas.

4. THE QUOTAS AND AUSTRALIAN IDENTITY

4.1 The Code states its purpose (4.1) as implementation of the object of the Act to develop and reflect a sense of Australian identity, character and cultural diversity.

4.2 Other government interventions in cultural life are based at least in part on such a premise. One of the objectives of the subsidies given through the Australia Council is to support the development of Australian identity. Such an objective is cited also in the charter of the ABC. They strongly influenced government policy in negotiating the new free trade agreement with the USA. These objectives have continued over many years under both parties of government and can be assumed to have bipartisan support. They also indicate a belief that cultural activity can be an agent in the formation of national identity. For some, it *is* national identity.

4.3 AMPCOM figures show that 79% of CD sales in the year 2000 were in the rock/pop genres. It could be said, then, that this large percentage of the population identifies with this music and in that sense, both airplay and CD production are *reflecting* national identity. It can be further conjectured that the promotional activity involved in delivering these broadcasts and sales contributes to the *development* of national identity in music. Listeners respond to this promotion and their preferences to a degree fall into line with the message.

4.4 It is, after all, the premise of the local content requirements that market intervention by the industry to present and promote more Australian musical performances will change the preferences of the audience.

4.5 But the reasons that both the recording and broadcasting industries concentrate their promotional activity on these styles of music has much to do with the availability of marketing resources from the producers of the international top sellers, rather than a cultural motivation. Australian musical preferences therefore are influenced by a process intended to benefit the bottom lines of foreign based record companies.

4.6 Reports to MCA from people from Australian independent labels claim that because they cannot offer the marketing support forthcoming from the major companies, their recordings were less likely to receive airplay on commercial radio. And yet, it was claimed, the music released on independent labels within the genres favoured by the commercial stations is more varied and more likely escape the constraints of the international style and to have a distinctive Australian character.

4.7 There is a wide range of musical genres heard in Australia but not heard on commercial radio: e.g. the E category styles of the Code, the great array of styles of “world music”, classical, folk, jazz, various types of electronica and experimentation. When the music heard on commercial radio is set in this context, it can be seen that it occupies a rather narrow band of the artistic spectrum and while it can be shown to reflect the current mainstream of the national

music identity, it does little to contribute to the development of “cultural diversity” as proposed in the Act. Indeed, the activities of the sector would more likely decrease diversity since such a concentration of promotional resources is invested in growing the audience for the high-selling genres.

4.8 In the context of a review of the operation of quotas in the existing commercial radio broadcasting industry, it does not seem fruitful to propose remedies to these deficiencies. They might be addressed by other means. Possibly, in a new world of multichanneling, we might look for an active attempt to cater for niche markets. There are other possibilities, but that is another discussion.

5. MONITORING OF QUOTAS

5.1 The imposition of quotas is an empty gesture if there is no monitoring of compliance.

5.2 The Code established an entity, AMPCOM, with responsibilities to meet and report on compliance.

5.3 So far as MCA is able to discover, AMPCOM has not met since the year 2000 and no reports have been made public over the intervening four years. It can be implied that compliance is unknown and that no sanctions have been imposed for non-compliance.

5.4 This is not acceptable.

6. THE INTERNATIONAL CONTEXT

6.1 IFPI figures show that by the turn of the century, the average share of local markets held by local recorded product in the countries for which it collects statistics was around 70%. If Japan and the USA, which have local shares of around 80% and 90% respectively, are removed, the average for the remaining countries is around 40%.

6.2 Australia’s figures are low by comparison.

7. EFFECTS OF THE FREE TRADE AGREEMENT WITH THE USA

7.1 The terms of the agreement have been set by the two countries but it has not, and may not, come into force. Whether it will do so will not be known until, at the earliest, July of 2004.

7.2 In Annex II of the agreement, these words appear:

(e) Free-to-air commercial radio broadcasting services

Transmission quotas for local content not exceeding 25% of the programming on individual stations of a service provider.

There is no other reference to local content requirements for radio.

7.3 Under the agreement, then, the requirement cannot exceed 25% but there is freedom to set terms within that limit. For instance, any of the levels for particular genres or for new music can be raised or lowered.

7.4 If the agreement does not come into force, CRA or the government would be free to establish quotas of up to and beyond 25% as at present.

8. PROPOSALS

8.1 **New music releases.** Given the evident success of this modest initiative in increasing the market share of Australian music and possibly bolstering exports, it is proposed that the first priority for discussion in this review of possible changes to the Code should be the quota for new music. MCA suggests that the requirement should be increased by, say, 50%. For example, for category A, it would be $1.5 \times 25\%$ new music quota = 37.5% of the 25% category A quota. While a 50% increase may seem adventurous, it results in devotion of only 9.4% of air time to new music, which seems not unreasonable and may have disproportionately large benefits.

8.2 **Genres.** The Music Council accepts that the setting of quotas for different genres is influenced by issues of supply of product, audiences and other matters at present better known to the broadcasters and record companies and makes no proposals in this regard. However, broadcast exposure for a diversity of genres wider than that now accommodated on commercial radio remains a matter of high concern.

8.3 **Upper limit.** If a cap is not imposed by the Australia/US Free Trade Agreement, the Music Council proposes an increase in the Code for category A to 30% and appropriate corresponding increases for Categories B to E. Such an increase can be justified by the success of the quota

system in its affects on market share of Australian product as an indicator of listening preferences, and by Australia's very modest performance in the world context as mentioned in Section 5.

8.4 Local content aspiration. If the Australia/US Free Trade Agreement is endorsed, then, as noted, the maximum quota that can be set in the Code is 25%. In this case, and given the broadcasting sector's stated interest in supporting and promoting Australian musical performances, it is suggested that the sector might adopt the percentages proposed in 8.3 as an informal aspiration.

8.5 Partnership. The MCA applauds the consultations set up between the recording and broadcasting sectors to find ways of giving support to the development of Australian artists. It encourages the continuation of these consultations, and their extension to include representation from the independent recording sector.

8.6 Diversity. In the interests of musical diversity and a more complete reflection and development of Australian identity and character, it is proposed that broadcasters take steps of their own devising to make opportunity for airplay more accessible to the product of Australian independent labels.

8.7 Monitoring.

- a) The MCA strongly recommends immediate resumption of monitoring as required by the Code.
- b) As a significant party embracing many and various interests in the music sector, MCA seeks through CRA (representing one of the two sectors now responsible for organising the monitoring process) representation on the AMPCOM board and participation in the prescribed regular meetings.
- c) If AMPCOM is not reconvened by June, then the MCA proposes that a new monitoring body should be formed, and seeks CRA's agreement to participating, along with other key interests, in establishing this body.

Yours sincerely

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