



## POLICY

Drafted by	J. Briscoe	Approved by Board on	May 2018
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## Compliance

### Purpose

This Compliance Policy is intended to clarify the responsibilities of the Valley FM Broadcasters Association Inc's Board and members, especially those who broadcast, by making explicit the compliance obligation requirements for rules, regulations and legislation.

### Principles

**The most important component of compliance is record-keeping.** If VFM is efficient in keeping accurate and current records then reporting requirements to regulatory bodies is made easy. More importantly, as many people come and go at community radio stations accurate and continuous record keeping ensures that new people are able to meet VFM's continuing compliance obligations. Good record keeping also plays a major role in establishing transparency and maintaining good corporate governance.

Good record keeping begins with the VFM Board which plays a pivotal role in setting the standards of document control and management and ensures that all people abide by them. The Board also has responsibility to keep clear and concise records of all decisions taken in managing the radio station including documented minutes of all meetings with supporting reports/documents attached and housed in a specific folders both in hard copy and electronically. Up-to-date policies, procedures and membership registers must be documented and maintained in the same manner.

### Policy

All formal VFM documents are required to have version control e.g. each document has a footer which gives the following information:

- Name of document
- Date created
- Date last reviewed
- Date of next review (if known/applicable e.g. current best practice requires all policies and procedures to be reviewed every two to three years, at a minimum). Licensure requirements are dictated by the relevant legislation e.g. ACNC governance annually, ACMA broadcast licence three years for five year re-licensure). A VFM document control register exists that

lists all critical organisational documents and the relevant dates for historical review as well as when next due.

Financial record keeping is extremely important to the efficient operation of VFM. The Board Treasurer is responsible for the financial management of VFM and has the responsibility to create and maintain financial records including the following:

- Bank statements
- Periodic income expenditure statements/balance sheets
- Paid bills, receipts and cheque requisitions as well as outstanding bills
- A current asset register including all instructions, warranties and guarantees
- A receipt/cash book which documents all money received on behalf of VFM including petty cash if applicable
- Insurance policies and related historical documents
- Lease documents
- Funding and sponsorship agreements
- Budget
- Book Keeping records
- Annual financial statements, and
- Goods and Services Tax (GST), Business Activity Statements (BAS) and Australian Tax Office (ATO) records/statements.

The elected VFM Secretary also record-keeping responsibilities including the creation, maintenance and management of VFM's:

- Constitution and annual reports
- Proceedings/records of all Board and volunteer member meetings including Annual General and Special General Meeting (AGM/SGM) including elections, appointment of office bearers etc.
- Membership register for each financial year with historical records of previous years and previous presenters, and
- Annual membership renewals distribution and processing and entering details into a year-specific VFM Member Register plus all documents/forms relating to new memberships. This includes transferring any membership monies to the Treasurer for banking.

### ***Broadcasting Licence and Codes of Practice***

Managing and operating VFM involves having to comply with a complex network of Commonwealth and Territory legislation. The regulatory bodies and documents/legislation include, among others, the Australian Communications Media Authority (ACMA) which governs VFM's broadcasting licence and its performance against the CBAA Community Broadcasting Codes of Practice and the Australian Charities and Not-for-profit Commission (ACNC) to name a few.

As VFM is a permanently licensed community radio broadcaster, it must complete a licence renewal every five years. ACMA reminds VFM to renew its licence well before the license's

expiration. The due date for the submission of the licence renewal application is exactly 12 months prior to the expiration of the licence. For VFM this means that its licence is due to expire on the 1 July 2020, therefore VFM's licence-renewal application is due on the 1 July 2019.

Once the VFM renewal application is received by ACMA they conduct an assessment and investigation of the licence that may take up to 12 months. The *Broadcasting Services Act 1992* allows that, in deciding whether to renew VFM's licence, ACMA can take into account the same matters that it took into account when allocating the licence in the first place and for any subsequent re-licensure.

### **Complaints Handling**

The ACMA/CBAA Codes of Practice specify what VFM must establish to manage any complaint that might be received either from any listener, member of the public to the station or enforcement agency e.g. ACMA or the complaint is made via ACMA. A complaint is defined as "an expression of dissatisfaction made to a supplier in relation to its telco products and services"<sup>1</sup>.

If VFM receives a complaint about a code matter, it must, by law, provide a response within 60 days<sup>2</sup>. VFM is required to make every reasonable effort to resolve a complaint, except where it is frivolous, vexatious or not made in good faith<sup>3</sup>. Clause 7.3 of the Radio Code includes a provision for VFM to advise the complainant in writing that that person has the right to refer the complaint to ACMA if that person is dissatisfied with VFM's response.

It is therefore in VFM's interest to resolve any complaint so that it does not escalate to ACMA. If a complaint is escalated to ACMA, VFM would be required to thoroughly address the issues and provide evidence to support its claims. For VFM's policy and procedure relative to complaints readers are asked to refer to the VFM Policy Complaints Management, revised April 2018. That policy/procedure clearly states that VFM:

Should ACMA receive a complaint or Code of Conduct breach related to any aspect of VFM's broadcasting performance ACMA would conduct an in-depth investigation upon which they would base their enforcement decision, if warranted. For an established/proven code-of-practice breach this could be the imposition of an additional condition on VFM's licence or suspension of the licence.

### **Broadcast Content**

VFM has a primary responsibility for ensuring that the material that is broadcast meets community standards as well as licence conditions set out in the *Broadcasting Services Act 1992*. For example, community radio stations are subject to a licence condition that prohibits

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<sup>1</sup> Clause 7.2 of the Community Radio Code of Practice 2008

<sup>2</sup> Ibid

<sup>3</sup> Ibid

broadcasting tobacco advertisements. The main responsibility for ensuring VFM's radio programs reflect community standards rests with the station itself by complying with the community radio Codes of Practice.

VFM is required to closely monitor what is on air. Logging what goes to air is part of station record-keeping and these records must be retained for a specified period in order to be licence complaint. Similarly, a log of technical faults must be maintained within the radio station with fault reports available for volunteers to complete and submit for resolution.

### **Sponsorship on Community Radio**

Under the Broadcasting Services Act 1992 VFM is subject to a licence condition that prevents it from broadcasting advertisements. However, community broadcasting licensees may broadcast a range of announcements and other promotional material that are not classified as advertising under this Act. ACMA has published Sponsorship Guidelines (2008) that are available to advise community broadcasting licensees on relevant compliance requirements.

Understanding the difference between permitted promotional material and advertisements is important because failure to comply will breach a licence condition which carries with it the possibility of serious penalties as mentioned above.

### **Music and Copyright**

Records are required to calculate a percentage of VFM'S income that is the basis of VFM's annual copyright payment to APRA. For further information specific to copyright obligations relating to VFM please refer to the VFM Policy Media/Community Broadcast Law, May 2018.

### **Data Storage**

Access to files containing data essential to meeting compliance obligations must be stored in the Office of VFM. All documents are the property of Valley FM Broadcasters Association and must be maintained and stored in the filing systems on station premises at all times in either hard copy or electronically with appropriate back up.

### **Valley FM Compliance Obligations**

The Board is responsible for the development, implementation, operation and review of this policy. Compliance with the policy is also the responsibility of all Board Members. Refer to Appendix A: **Major VFM Broadcasting Compliance Obligations**

### **Legislation Framework**

#### **Commonwealth**

Australian Charities and Not-for-profits Commission Act 2012 and Charities Act 2013

Broadcasting Services Act 1992 (amended 2002)

## **ACT**

Associations Incorporation Act 1991

Fair Trading Act 1992

## **References**

Australian Charities and Not-for-profit Commission (ACNC). 2013. *Governance Standards* available @ [ACNC Governance Standards](#)

Australian Communications and Media Authority (ACMA). 2017. *Codes of Practice and Compliance. Australian Broadcasting Compliance and Enforcement*. Available @ [Community Radio Codes of Practice and Compliance](#)

Community Broadcasting Association of Australia (CBAA). 2008 and 2016. *Community Radio Broadcasting Codes of Practice*. Available @ [CBAA Broadcasting Codes of Practice 2008/2016](#)

Community Media Training Organisation (CMTO). 2017. *Compliance*.

Not For Profit Law. ACNC Law Charity Reporting available @ [ACNC Charity Reporting](#)

## **APPENDIX A: Major VFM Broadcasting Compliance Obligations**

The community radio sector is guided by many i.e. regulatory and advisory bodies, codes of practice, legislation and associated regulations (predominantly Federal with some Territory-specific) and broadcasting and corporate policy and standards. The following provides an outline of the many regulatory sector bodies.

### ***Regulatory Bodies, Legislation and Documents***

The *Broadcasting Services Act 1992* outlines the legal framework of Australian broadcasting, including community broadcasting and explains the role the sector plays in delivering diverse media services that reflect a sense of Australian identity, character and cultural diversity.

### **The Community Radio Broadcasting Codes of Practice**

The Community Radio Broadcasting Codes of Practice set out the operational standards, guiding principles and policies for programming on community broadcasting stations.<sup>4</sup> They were developed collaboratively between ACMA, the Community Broadcasting Association of Australia, the community radio sector and the public and were first published in 2008. The Codes do not replace the licence conditions in the Broadcasting Services Act 1992; they are complementary and VFM is legally obliged to follow both the licence conditions and the Codes. The Codes are organised around six guiding principles which unite community broadcasters to:

- Promote harmony and diversity and contribute to an inclusive, cohesive and culturally-diverse Australian community
- Pursue the principles of democracy, access and equity, especially for people and issues not adequately represented in other media
- Enhance the diversity of programming choices available to the public and present programs that expand the variety of viewpoints broadcast in Australia
- Demonstrate independence in programming as well as in editorial and management decisions
- Support and develop local arts and music, and
- Increase community involvement in broadcasting.

### **Australian Communications Media Authority (ACMA)**

The Australian Communications and Media Authority (ACMA) is responsible for monitoring and ensuring that community (and commercial) radio station licensees comply with the Broadcasting Services Act 1992 (the Act). ACMA is responsible for giving stations their broadcast licences and overseeing the licence renewal process. ACMA also oversees and manages any complaint that is made regarding an alleged breach of the Code/s and/or the Act and uses the enforcement powers available to it according to the seriousness of the breach.

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<sup>4</sup> ACMA. 2017. Community Radio Codes of Practice available at <https://www.acma.gov.au/Industry/Broadcast/Community-radio-and-TV/Codes-of-practice-and-compliance/community-broadcasting-compliance-and-enforcement>

### **Community Broadcasting Association of Australia (CBAA)**

The CBAA is the national peak body for community broadcasting in Australia. It is a member organisation that offers support, advice, resources and benefits to members, as well as lobbying and carrying out research for the wider community broadcasting sector.

### **Community Broadcasting Foundation (CBF)**

CBF is an independent non-profit funding agency that seeks, secures, distributes and administers funding to support the development, creativity and sustainability of community broadcasting in Australia. Each year it provides funding support to about 230 community broadcasting organisations and over 800 program production groups all around Australia. CBF also has a grant program that assists community broadcasting organisations in urban, regional, rural and remote Australia to produce media for, and by, communities. Their funded projects range in size and scope: from nation-wide projects that enhance community broadcasting, to grants for equipment or capacity building on a local level. Many of these projects support the production of content that is shared with audiences on air or on demand - programs, series and segments. VFM aims to submit applications for grants from the CBF Grant Program at every opportunity. Grants received must be fully acquitted against funds allocated as part of a CBF/VFM Grant contract.

### **Consumer Affairs Bodies**

Almost all community radio stations are incorporated associations and must adhere to the association legislation as set out by each state's/territory's Consumer Affairs or Fair Trading body. Incorporated associations offer simple and more affordable ways of creating separate legal entities for small, community-based groups with limited resources. Fair Trading bodies regulate these non-profits and associations and for VFM the ACT has the *Associations Incorporation Act 1991* which covers the statements of purpose and rules / articles for Valley FM Broadcasters Association Inc. VFM's Constitution as a not-for-profit community organisation governs how the station functions. It is a legal requirement that Valley FM and its volunteer members follow the rules of the organisation. As such, VFM's Constitution is the road map to understand how the station should run, and, as such, VFM's Constitution must reflect legal obligations as set out by the Codes, ACMA and ACT Fair Trading.

### **The Australian Charities and Not-for-profits Commission (ACNC)**

The ACNC is the independent national regulator of charities. They are responsible for registering charities, supporting the not-for-profit sector and helping charities understand their obligations and they are the independent regulator of charities before any such charity can receive charity status and other tax concessions from the Australian Tax Office (ATO). These include:

- Income tax exemption means the charity would not have to pay income tax.

- Goods and services tax (GST) concessions and credits apply if registered for GST (which VFM is). This means some items are not subject to GST such as gifts / donations, fundraising events, and
- Fringe benefits tax (FBT) rebates reduce the charity's FBT liability by 47-49% up to ~\$30,000.

Many community radio stations are registered charities as is VFM who was granted charity and DGR (Deductible Gift Recipient) status in 2016 in the charity purpose category of advancing culture and as a Registered Charity. As such VFM must comply with charity legislation and report annually after each VFM AGM to the ACNC on its capacity to comply with a set of governance standards. By doing so the requirement to report on VFM's corporate governance obligations to the ACT Government under the Associations Incorporation Act is not required. This prevents duplication data reporting i.e. "red tape".

**Australasian Performing Right Association Limited (APRA) and Australasian Mechanical Copyright Owners Society Limited (AMCOS)**

APRA AMCOS provides licences covering the copyright in a song (e.g. lyrics, composition etc) and represents the interests of composers and publishers. VFM must pay annually for an APRA AMCOS licence which is based on total local hours of broadcasting.

**Phonographic Performance Company of Australia Limited (PPCA)**

PPCA provides licences covering the recording or music video / recorded performance of a song and represents the interests of recording artists and record labels. Broadcasters must pay for an annual PPCA licence but as VFM does not publically perform recordings e.g. as in a public place such as a restaurant or shopping mall does not require a PPCA licence.