



Policy

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Media/Community Radio Broadcast Law

Purpose

To establish the legal compliance requirements of Valley FM (VFM) and VFM presenters to meet all relevant Australian media and community broadcasting law obligations. VFM aims to ensure that all VFM presenters are aware of the legal obligations that apply to broadcasting, licensing and general compliance. This document provides a guide to safe communication and explains in greater detail the laws particularly relevant to broadcasting.

Principles of Media / Broadcasting Law

That presenters have a basic understanding of media broadcasting law is prudent as breaches could prove costly to VFM, its Board and individual presenters therefore all must be cognisant of their obligations under common law and the applicable Commonwealth and ACT legislation.

Media broadcasting law primarily deals with broadcast material under:

- Copyright
- Defamation
- Contempt of Court, and
- Privacy.

N.B. This policy relates solely to the legal obligations relating to community broadcasting. For policy and procedures on the legal obligations relating to broadcasting licensure and station management and anti-discrimination please refer to the VFM Compliance and Discrimination Law Policies.

For in depth information on the laws that apply to broadcasting and media refer to Appendices A to C at the end of this policy.

Community radio presenters, are subject to both statutory law i.e. legislation (Acts and any related Regulations) produced by Parliament as well as common law. These laws govern how the station provides broadcasting services and they also limit what presenters and their guests can do and say.

VFM does not expect its presenters to have extensive knowledge of these laws, however, as with all legal matters, 'ignorance is no excuse.' Not knowing legal obligations will not excuse a presenter from the consequences of breaking it - nor will being a volunteer.

Consequences can be far-reaching and severe, for example:

- If a presenter's conduct contravenes the law, the presenter, the station and the Board of Directors might all be liable
- If a program guest's conduct contravenes the law, again the presenter, the station and the Board of Directors might all be liable, and
- If the presenter's conduct causes damage to VFM, the Board of Directors could, under its obligation to act in the best interests of the Valley FM Broadcasters Association Inc., counter-sue the presenter.

It is therefore essential that each presenter understands these legal obligations and controls what information is published by her/him during broadcasts and on line.

Policy

A. *General Legal Obligations for Presenters and VFM Station*

- Presenters **MUST** let a caller or guest know when they are on air. **It is illegal to record or broadcast anyone without their consent to do so.** Their consent must be sought **PRIOR** to recording or broadcast.
- Playing an entire audio book or reading out an entire article or news report is illegal and breaches copyright.
- Claiming unfounded truths breaches the *CBA Code of Practice* and media/broadcasting law. Presenters must make it clear to the listener when being satirical or simply providing comment.
- Presenters must provide references and sources for all information and news updates.
- Valley FM social media platforms i.e. Facebook are also subject to the same Australian media laws as broadcasting.
- All presenters completing presenter training, are required to declare and sign an indication that all information has been read and understood. **If a presenter considers that ANY information could breach legal obligations that person MUST NOT USE IT.**
- YOU (and VFM) as the broadcaster are responsible for what is broadcast. In the case of court action both the presenter and the station could be liable and be sued or fined.
- **If a presenter feels that there is even a remote possibility that any material intended for broadcast may breach broadcasting legislation and standards the material must not be aired.**

B. *Copyright Legal Obligations for Presenters and VFM Station*

Refer to Appendix A for an overview of Copyright Law as it applies to broadcasting.

In general, it is illegal to copy a recording without permission, even if the copy is for personal use only.

VFM's annual APRA/AMCOS broadcast licence permits the station to:

- Broadcast music from VFM (via APRA)
- Copy music onto storage devices for use in programs and for production music in sponsorship and station identification announcements (via AMCOS)
- Communicate music through website Simulcast, on demand streaming and pod casts, and
- Broadcast presenter's programs that have been prepared by copying **legitimately-sourced music** onto a personal storage device such as an iPad or iPhone.

Music that has been legitimately sourced (i.e. paid for either as a physical product or a download) and stored on a device that is used for broadcasting purposes at VFM is acceptable providing that VFM pays its annual AMCOS fee (this allows for said music to be stored/used on such a device).

If a presenter prepares their program on a personal device i.e. iPad, iPhone, it can be used to broadcast that program to air **only if the presenter can attest that that music has been legitimately sourced** as stated above.

Music that has been provided to a presenter by an artist who has given permission to use their material may also be used/broadcast.

Streaming "live" from a personal device (i.e. Spotify, YouTube) or any specific broadcasting device belonging to VFM e.g. public address system is a breach of copyright. This does not include performances that are performed live within the VFM studios as the artist's permission is considered to have been granted by virtue of their presence in the studio to perform.

C. Defamation Legal Obligations for Presenters and VFM Station

Refer to Appendix B for an overview of the Law as it applies to defamation in broadcasting.

The guide to "Safe" Communication

DO:

- Be precise. Choose words carefully
- Be sure of the facts
- Educate and inform listeners
- Offer honest opinions
- Inform guests of presenter and guest legal obligations
- Always consider pre-recording interviews as it provides an opportunity to assess/edit prior to broadcast
- Avoid gratuitous swearing or bad language
- Provide a content warning immediately prior to broadcasting any potentially offensive material
- If hosting a live-to-air performance, get signed permission to broadcast the performance from the performers and/or composer, and

- Ask for advice from the President/Station Manager or Board Director before broadcasting if uncertain about any aspect of broadcasting obligations.

Never:

- Engage in political discussion on air
- Use language likely to offend, insult, humiliate or intimidate another person's race or ethnic origin
- Identify anyone who has been the victim of a non-consensual sexual offence
- Identify an alleged or convicted child offender
- Criticise or degrade any political, cultural or religious groups or objects of worship
- Make adverse personal comments about another person (unless as an honest analysis of an artist and their work, made without malice), and
- Forget to ask for advice from the Station Manager or Board Director before broadcasting if uncertain about broadcasting obligations. Failure to refer queries to the Station Manager or Board Director may lead to suspension or cancellation of the presenter's program.

Process in the Event of a Defamation Threat

In the event of defamation threat - meaning a statement that might be considered defamatory - the presenter must immediately notify the President or Station Manager or if not available, another Board Director.

D. Avoiding Contempt of Court Legal Proceedings for Presenters and VFM Station

Refer to Appendix C for an overview of the Contempt of Court Law

- DO NOT broadcast material which may influence or prejudice an impending or current trial. Approved news reports are permissible but not discussion.
- DO NOT broadcast material that may dismay the court i.e. reckless commentary of decisions or Judges etc. Any criticism must be researched and objective, and
- All sources of information must be revealed on request of the President, Station Manager, Board and/or the Court.

E. Privacy Legal Obligations for Presenters and VFM Station

As a small business entity VFM falls outside the requirements of the *Commonwealth Privacy Act of 1988* therefore it is not obligated to comply with this legislation per se. However, VFM is committed to the principles of the Privacy Act and in protecting the privacy of all interested parties.

VFM promotes ethical behaviour that opposes and attempts to break down all forms of prejudice i.e. ethnicity, race, language, gender, sexual preference, religion/faith, age, physical or mental ability, occupation, cultural belief or political affiliation. . This goal informs all VFM activities including programming as guided by the *Community Radio Broadcasting Codes of Practice and Commonwealth / ACT Discrimination Law*.

VFM is committed to protecting, and securely housing, all personal information it holds. Personal information includes the names, addresses, contact numbers, email addresses and service details of current and past members/presenters/volunteers, sponsors/customers and Government/business affiliates. The purpose of collecting this information is to provide service/s that may:

- Enable people to subscribe as members of VFM and to receive any benefits that the membership may offer
- Verify members' identities and contact details
- Fulfill ACT Associations Legislation requirements relating to creating and archiving member registers over time
- Give notice of planned local events, fundraising activities and promotions within the broadcast region, and
- Keep members informed of, and involved in, station operational issues, decisions and activities.

Access to personal data may only be undertaken by designated/authorised volunteers or Board Directors e.g. President, Secretary, Treasurer, Office Administrator.

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 and Presenters who are all, by virtue of their membership, volunteers.

Legislation Framework

Commonwealth

Broadcasting Services Act 1992

Copyright Act 1968

Privacy Act 1988

References

APRA (Australasian Performing Right Association), AMCOS (Australasian Mechanical Copyright Owners Society Limited) Community Radio.

Australian Communications Media Authority (ACMA). 2013. Radio Investigations.

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

Community Broadcasting Association of Australia (CBAA). An Introduction to Copyright. Undated.

PBS 106.7. (2017). Policies and Procedures. Available @ [PBSFM Policies Procedures Manual](#)

PPCA (Phonographic Preforming Right Association). See <http://www.pcca.com.au/>