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Mr Richard Home  
General Manager  
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Australian Competition and Consumer Commission  
GPO Box 520  
MELBOURNE VIC 3001

**Via Email:** [richard.home@accc.gov.au](mailto:richard.home@accc.gov.au), [digitalradio@accc.gov.au](mailto:digitalradio@accc.gov.au)

Good Morning Mr Home

**Re: Digital Radio – Access Undertakings: DRAFT DECISION**

This metropolitan wide community radio station - 6RPH Information Radio - is eligible, under digital radio legislation, to gain access capacity on the digital radio multiplex facilities currently being established here in Perth, Western Australia.

Subject to determining appropriate access arrangements, 6RPH Information Radio is keen to take up its allocated digital radio capacity allocation and contribute its unique content to the diversity of future media services available in Perth in accordance with the objects of the Broadcast Act.

The station notes the ACCC has published its draft decision relating to access undertakings lodged by the digital radio multiplex licensees and is seeking further comment. We are pleased to be able to contribute.

After reviewing the ACCC draft decision, the Board of 6RPH Information Radio is distressed that the ACCC appears to have disregarded the legitimate role and situation of community broadcasters in its draft decision. The submission lodged by the Community Broadcasting Association of Australia (CBAA) in late 2008 coherently outlined the concerns raised by this station and was submitted for your consideration with our full support.

We are very apprehensive that key points raised in that submission appear to have been set aside by the ACCC.

As a community broadcaster 6RPH Information Radio, like other RPH stations, is licensed to broadcast for a specific purpose – provision of a radio reading service to serve the 17½% of Western Australians that cannot access standard print material. Furthermore the station is required by legislation to operate as a not-for-profit entity. This is directly converse to that of a commercial broadcaster. The unique status of community broadcasting (as opposed to commercial broadcasting) has been recognised in terms of capacity specifically reserved for it on the digital radio multiplex.

We stress that, like all community broadcasters, we are extremely sensitive to open ended expenditure arrangements. Not all broadcasters seeking access are equal and some may lack financial resources. In the case of community broadcasting special consideration needs to be given - by law community broadcasters must operate on good governance principles on a not-for-profit basis.

6RPH Information Radio has a legislated entitlement to digital radio capacity in Perth and its situation cannot be considered as equal or even comparable to that of a Perth commercial broadcaster who may (or may not) be lacking in financial resources.

We therefore want to make certain that the ACCC is in no doubt as to which points must be re-addressed prior to us accessing digital radio capacity while maintaining our governance obligations. These are:

1. There must be clarity about costs and a high degree of certainty as to their extent.
2. Any potential for radical alteration to these costs beyond a known or agreed margin must be eliminated.
3. Changes to the costs above the standard access charge caused by material change to the equipment and/or facilities must be eliminated. We note with concern the potential for costs to (possibly) double by the introduction of site redundancy.
4. Access costs must be limited to a pro-rata proportion of the 2/9<sup>ths</sup> of overall multiplex costs. Without a direct mechanism to achieve this cost certainty, 6RPH Information Radio will be faced with an open ended cost scenario. This is not acceptable.
5. Not-for-profit, non-shareholding access seekers should not be exposed to any risk associated with any unused capacity. The potential beneficiaries of any such risk must bear all of that risk.

6RPH Information Radio is of the view that all broadcasters should participate in an ensemble wide Electronic Program Guide (EPG) on a multi-lateral basis as the optimal method to ensure consumers – particularly those with a print disability - can navigate services on their digital radio. We strongly encourage the ACCC to take a pro-active approach in this matter.

We believe the current view held by the ACCC in relation to EPG's to be somewhat narrow in focus, and focussed on provision of commercial opportunities for potential EPG service providers. We expect the ACCC to ensure that all broadcasters are treated equally in the matter of EPG provision and implementation.

In concluding, the ACCC should be aware that, if only the minor amendments in its Access Undertaking Draft decision stand, 6RPH Information Radio will be precluded from seeking digital access capacity while meeting its governance principles and obligations. This will, obviously, hinder access. We therefore strongly urge you to take the views expressed in this letter – and those of the CBAA - into account.

Sincerely



**Station Manager**