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EQUAL OPPORTUNITY TRIBUNAL

BEFORE : MR. H. WALLWORK Q.C. (President)
MEMBER : MRS. B. BUICK
MEMBER : MRS. P. TULLOCH

B E T W E E N :

CROATIAN BROTHERHOOD UNION
OF W.A. (INC)

Complainant

and

YUGOSLAV CLUBS & COMMUNITY
ASSOCIATIONS OF W.A. (INC)

Respondent

and

COMMISSIONER FOR EQUAL OPPORTUNITY

JUDGMENT - H. WALLWORK Q.C.

In this matter, the Complainant says that the role of the Respondent "is to act as an ethnic broadcasting committee to co-ordinate amongst its member Associations for the purpose of producing an ethnic radio programme for the Yugoslav community in Western Australia".

In paragraph 5 of the Points of Claim it is said that facilities are provided by the Western Australian Institute of Technology which operates as the licence holder of the radio station 6NR for the radio station to be available to ethnic groups. It is said that such availability is co-ordinated by the Ethnic Broadcasting Committee Incorporated (hereinafter referred to as "the E.B.C.").

The Respondent admits in its defence that its role is to co-ordinate the aims and objects of its members and to administer all Yugoslav community radio programmes and liaise with Government and community representatives regarding them. It denies

paragraph 5 of the Points of Claim and pleads that it provides its own equipment to record programmes.

It is said by the Complainant that the E.B.C. has made available to the Respondent two 1-hour programmes for the purpose of allowing the production of a programme to be known as the Yugoslav Programme on terms which require that all members of the ethnic group should be entitled to access and involvement with the ethnic programme. This claim is denied by the Respondent.

The Complaint is contained in paragraphs 8 and 9 that by requests in writing dated the 12th April, 1985, the 5th July, 1985, the 10th July, 1985 and the 3rd September, 1985, the Complainant has sought and requested the Respondent to include in the ethnic programme, announcements relating to the activities of the Complainant and/or its members. The Complainant says

that the Respondent has refused and continues to refuse to allow the inclusion within the ethnic programme of such announcements on the grounds that such announcements are anti-Yugoslav or not in the interests of the Yugoslav community.

It is said by the Complainant that such refusal by the Respondent amounts to unlawful discrimination within the meaning of the Equal Opportunity Act 1984 in that the Respondent has refused to provide the Complainant access to services on the grounds of the Complainant's political conviction perceived by the Respondent as being anti-Yugoslav. The Complainant seeks an Order that the Respondent cease to discriminate against the Complainant.

The Respondent denies that it has refused to include in the ethnic programme announcements relating to the activities of the

Complainant or its members, however, if it is found that the Complainant has been refused access, the Respondent pleads that such access was refused on the grounds that:-

1. the ethnic group called the Croatians have their own radio show and hence are catered for;
2. the Complainant is not a member of the Respondent and consequently is not entitled to air time provided to the Respondent for distribution amongst the Respondent's members; and
3. the Complainant has been allowed a 5 minute period at either the beginning or conclusion of the Respondent's radio programme within which to make announcements.

The first request in writing which was made by the Complainant as pleaded in paragraph 8 of the Points of Claim was dated the 12th April 1985. In that letter the Complainant expressed its concern about a decision said to have been made by the Respondent at a meeting held on the 8th April 1985. The Complainant said in the letter that it felt that "the stated announcement should be put on air as part of the Yugoslav radio programme". It requested that the matter be reconsidered and permission given to the producers of the Yugoslav programme on 6NR to incorporate the announcement enclosed, which announcement informed all interested persons that the first public meeting of the Complainant would be held on Sunday the 28th April 1985.

This request was followed by a further letter dated 3rd May 1985 (exhibit 3) being a request for the Respondent to incorporate an announcement into the radio programmes until the 16th May 1985.

By letter dated the 14th May 1985 (exhibit 4) the Secretary of

the Respondent acknowledged the letter of the 3rd May, 1985, and advised that "on May 13th, 1985, the full meeting of this Association determined that we could not accede to your request to incorporate the announcement of your organisation on the Yugoslav radio programme which is broadcast on radio 6NR. The reason for this decision was that the announcement was not in the interest of the Yugoslav Community in Western Australia."

The next request in writing pleaded by the Complainant is a letter dated the 5th July, 1985, (exhibit 5) advising that the Complainant "intends to hold its first function in the near future and would like to know whether our announcement would be accepted or not by Yugoslav radio producers, to be incorporated into the programmes broadcast on the ethnic radio station 6NR. The announcement will be forwarded to you as soon as we receive your written approval."

The then President of the Respondent replied to that letter by letter dated July 9th, 1985, (exhibit 6) as follows:-

"The meeting of the Yugoslav Clubs and Community Associations of W.A. which was held on the 8th July, 1985, reaffirmed its previous decision not to incorporate any announcements of your organisation on the Yugoslav radio hour at this time. Our Association is of the opinion that all ethnic Yugoslav minorities are adequately catered for on the Yugoslav ethnic radio programmes and that the inclusion of announcements of your organisation would neither be of interest to the Yugoslav community nor fall within the firm principles and guidelines applied to the production and format of our programmes."

On the 10th July 1985 (exhibit 7) the Complainant again requested Mr. Metesi "Producer of the Yugoslav radio programme" to incorporate an announcement on behalf of the Complainant into the Yugoslav radio programme on 11th July 1985 or the 14th July 1985. On the bottom of that request is a P.S.:

"Since our request was not fulfilled on the abovementioned dates, please put the same on the 18th July 1985. If not, please explain your rejection."

The announcement which was requested to be broadcast read as follows:-

"Croatian Brotherhood Union of W.A. wishes an enjoyable trip and comfortable stay in Yugoslavia to Mr. and Mrs. Jurleka with a song (optional)."

On the 3rd September (exhibit 13) Mr. Radalj again requested in writing the producer of the Yugoslav radio programme to incorporate a request which was actually in two parts, the second of which was "the Committee of the Croatian Brotherhood Union of Western Australia wish a happy birthday and many successes in future to Ante Radalj with a song."

At the hearing, Counsel for the Complainant placed emphasis on the first request and the words in the reply being that "the announcement was not in the interest of the Yugoslav Committee in Western Australia".

Counsel for the Complainant pointed out that the Tribunal had been denied the opportunity of those words being explained because the Respondent had not called evidence on this aspect. He referred to the words in the later reply (exhibit 6) that the Respondent had "reaffirmed its previous decision not to incorporate any announcements of your organisation on the

Yugoslav radio hour at this time" and the fact that evidence had not been called as to what "the firm principles and guidelines" were which are referred to in that letter. Also that the Respondent had not explained why the second part of exhibit 13 referred to above had not been read out after the request in writing dated the 3rd September, 1985.

Counsel referred to exhibit 15 which contained the names of two incorporated Associations which were not members of the Respondent but which had had their announcements broadcast. These Associations had been given access to the programme which access had been refused to the Complainant.

Counsel for the Complainant suggested that Mr. Viskovic's failure to give evidence before the Tribunal had the effect that the Tribunal was not able to ascertain why it was that only associated members of the Respondent were able to have access to the programme. He suggested that there was no Constitution, Charter or document before the Tribunal justifying the Respondent's position.

Counsel for the Complainant submitted that there was evidence before the Tribunal that 6NR clearly did not agree with the refusal of the Respondent to grant time to the Complainant for its announcement to be broadcast. He submitted that the Respondent had a responsibility given to it by the Ethnic Broadcasting Committee to produce two hours of ethnic radio on the station 6NR and that this came within the area of "services" referred to in Section 62 of the Equal Opportunity Act.

Counsel for the Complainant submitted that the political

discrimination had arisen out of the perception of the Respondent of the Complainant's political identity; that the Respondent believed that the Complainant was politically motivated. He submitted that there was evidence that all members of an ethnic group should be entitled to access to their particular ethnic language programme. That evidence he said had come from Mr. Lutero, Mr. Green, the Constitution of the Ethnic Broadcasting Committee and the attitude adopted by radio station 6NR. The discrimination alleged was the refusal to grant the Complainant access to the radio programme for the purpose of having its announcements read.

With respect to the political aspect of the matter, Counsel referred to the evidence that Mr. Radalj had said that Mr. Viskovic had described his organisation as being very anti-Yugoslav. He referred to the fact that those words had been used by Mr. Viskovic at a previous hearing before the Tribunal - see the transcript of the 5th May at page 4, lines 26 and 27.

On the same occasion Mr. Viskovic said (p.3) "... ours is the Yugoslav programme and as such we represent the vast number of Yugoslavs in this State. ... We have for the last ten years catered to the community, quite well I feel. The whole problem rests with the splinter groups that are born from time to time in an organisation. Ours is the body that comprises the whole lot of Yugoslavs in the State. I think there are ten or twelve organisations. ... ours is a programme based on Yugoslav languages. We cater for the whole group ... Our equipment belongs to the

Organisation and only members of that Organisation are entitled to have material put on those tapes. ... we also have to pay a certain portion of money for the time used on air. We feel that we have not a case to answer in the way that the body that is complaining is not a body of our Organisation. It is not a party to our Organisation. They have not been accepted. They have verbally asked for permission to be members of our body. We feel at this time that it is very anti-Yugoslav in this country and as such there is really nothing much to say other than from time to time, if this happens, there will be somebody else that will come along and ask for time as they keep saying: "Yugoslav radio programme producer." There is no such thing. We have not got a Yugoslav radio producer. We have just got speakers and they all just do their own programme. There are six of them and two language groups."

Mr. Viskovic went on "... we feel that within our umbrella organisation to control the Yugoslav radio programme we cater quite sufficiently for the Yugoslavs in this State and therefore owning the whole equipment we do not accept outsiders onto our equipment. We have parted with five minutes of our programme time on 6NR for minority groups like the Croatian Brotherhood and what-have-you. As far as our tape is concerned that belongs to us. We tape it, it is our time. It is our speakers' time and therefore unless the body is a member of our Organisation we do not accept them."

Counsel for the Complainant referred again to the words "We feel at this time it is very anti-Yugoslav." He said that if Mr. Viskovic had chosen to give evidence he would have been cross-

examined in relation to matters arising out of that statement. He submitted that the evidence to support the political nature of the discrimination is to be found in the words used by Mr. Viskovic before the Tribunal even though he had not given evidence. He said he thought it was clear to the Tribunal that there was a conflict within the Yugoslav community and that conflict had led to a situation where the Respondent had a perception in its own mind that the Complainant was very anti-Yugoslav. He said if we say something is "very anti"-anything it gives a connotation of firm resolve or very real belief. The Tribunal had been told that the Complainant was very anti-Yugoslav. Because there had not been an opportunity to cross-examine Mr. Viskovic he did not know whether or not Mr. Viskovic meant that the Complainant was very anti-the Yugoslav Government, or very anti-the Yugoslav Community, or what he meant, but he said that within the words from Mr. Viskovic there existed evidence of a perception of the Respondent.

Counsel suggested that Mr. Radalj's evidence had been to the effect that the Respondent's perception was a wrong perception. "It has a perception that somehow or other the C.B.U. has developed a "very anti-Yugoslav" attitude."

Counsel submitted that there had been no evidence called by the Respondent denying discrimination. The one witness called was in relation to part of exhibit 15 concerning organisations which had had access to its programme. There had been no evidence opposing the allegation in the Particulars of Claim that it was on the grounds of political belief that the Complainant had been discriminated against. The evidence of political discrimination

was within the record of the proceedings and from the mouth of Mr. Viskovic.

Mr. Radalj said in evidence: "We ask for the access in the same manner, in the same way, as any other group or any other organisation which has the right - no different, no more nor less."

Mr. Radalj said (p.113) "But the point is if somebody else can put their announcements on why should we be different - that is the whole issue. So the time is there. If the time exists for some other people, I think the time should exist for us too."

Mr. Radalj said (p.114) "If we ask to play songs for us you say "No, because you are a member of the Croatian Brotherhood Union. No songs for Croatian Brotherhood Union - they are different."
"Why should we? That is why we came here - to see the judgment of it."

Mr. Viskovic replied (p.114) "The difference is that we are bound and guided by the membership of the interests vested in the Yugoslav Clubs and Community Associations. We are not talking about individuals here. You as an individual are always entitled to put a request on the radio. We are talking about organisations. The difference is vast and what I am saying is that announcements, as you lodged your original complaint about, were and have been, and still are, catered for adequately - is that not so?"

Mr. Radalj said (p.114) "Everybody can see in this world if somebody from outside or some other person comes there to your studio, or to your producer and without any questioning puts his song for him, some messages, some announcements - if I on behalf of the Croatian Brotherhood Union ask, you say "No that door is

closed for you" - so that is the end of it. There is no doubt about it that there is a discrimination there - what is it really about. So I cannot see any justification."

Mr. A. Lutero the President of the Ethnic Broadcasting Committee (the E.B.C.) gave evidence that access to the Yugoslav radio programme is the responsibility of the producers or the group representing their Committee within the E.B.C. "It is up to the group to try and see what type of programme, what to put in it and the production of it, as a whole It is up to the discretion of the people - thinking that they can talk and try and make their own times according to their necessities. In other words, if I may say, we do not interfere as to how much time a person must have within any programme. It is up to the group or the producers to see whatever is the requirement."

Mr. Lutero said that where there is a dispute ... "we always make up an ad hoc committee within the E.B.C. and 6NR and also people who do not belong to 6NR but are part of the Management Committee ... in this case when we were not able to conciliate within the two parties we had a meeting where there was the E.B.C., the 6NR and also the Multicultural and Ethnic people." A decision was reached ... "that everybody as usual must have an access and the Yugoslavs agreed to relinquish five minutes to give to the minority group." The policy of the E.B.C. is that "if a person has a good reason to put an announcement there, which could be of interest to the community then it can be or should be accepted by the producer ... If a group wanted to put an announcement on the radio we may follow the same pattern but we have nothing here that we have to really account for ...

because we did not have any cases earlier before this one."

Mr. Lutero said that the E.B.C. made a recommendation that the Respondent should try to allocate a little time for these announcements. The recommendation was that the Respondent should provide time within their programme for all groups.

Mr. Lutero said the E.B.C. does not enforce and does not try to tell people. The E.B.C. tries to conciliate when there is something which is not agreeable. It had only power to make a recommendation and to conciliate. The E.B.C. has never exercised an ultimate sanction. There was a combined effort between the Station (6NR) and the E.B.C.

Mr. Lutero said that on this occasion a recommendation was made that the Complainant's announcement should be included within the Yugoslav Clubs Association Programme. He said that at the moment anyone could stand for election to the E.B.C. provided he is nominated properly or belongs to a particular group.

Mr. Lutero said that on the 14th November it was decided by the Yugoslav group that there would be five minutes per half hour for the Yugoslav minority group. He said that at the moment the Yugoslav minority group is the only group that has more than two minutes.

Mr. Lutero said that the W.A. Yugoslav Club was the original participant in the programme of multicultural broadcasting and that when the Yugoslavs in W.A. formed an umbrella organisation the right to that programme was vested in that organisation.

Mr. Lutero said that the Complainant had laid a complaint saying that they wanted an announcement and that was refused by the

Respondent because that was not of importance to the Yugoslav community.

Mr. Green, the Station Manager of 6NR read from a copy letter dated 14th November, 1985 (exhibit 11) the second paragraph of which said "The 6NR Management Committee finds the response of the Yugoslav Clubs and Community Associations unacceptable as it does not conform to already stated 6NR policy. In these circumstances it would be the normal course of action to suspend any broadcaster who was not prepared to abide by 6NR policy."

Mr. Green said in evidence that "the policy of the Station is that if you have a programme, whether it be on stamp collecting or representing a particular language group by way of culture and linguistics study, expression and cultural maintenance you would give access as time became available to the widest possible spectrum of people who are interested in the nature of your programme, not just the people who were part of the production team."

Mr. Green said that "The response that they (the Respondent) provided to the Management Committee was that they believed that running such announcements was not in the interests of the Yugoslav Community. That was a response that the Station and its Committee of Management found difficult to come to terms with in the sense that the Croatian Brotherhood Union, at least on the surface, appeared to be part of that broader non-political Yugoslav community, although I would be the first to concede that the concept of Yugoslavia is essentially a political concept. That has been part of the difficulty that has been at the heart of this dispute."

Mr. Lutero said there was a meeting held at which the Complainant was not represented and that was because it was not a member of the E.B.C. The meeting was an E.B.C. meeting. At the meeting it was decided that "the last five minutes of ethnic programmes that went for an hour would be set aside for community group announcements from the language community of broadcasters." Mr. Green said that this was done with the agreement of the Respondent because this was the programme that "we were particularly looking at on this occasion, although the principle is not particular to the Yugoslav programme and would be applied to any other ethnic programme where there was difficulty on the part of member groups or non-member groups, who spoke that particular language, in having access to getting their community announcements on." He stressed that he was talking about community announcements advertising particular events.

Mr. Green said that the announcement so far as the Complainant was concerned would go at the end of the Yugoslav programme. It would be in the last five minutes of the programme and would be inside the programme. He said the listeners would not be aware that the announcement was not on the Respondent's tape because they do not see the tape recorders going round nor can they identify the origin of where the programmes are coming from. He said that from the point of view of actually listening to what is coming out from the radio there is a sense of strong continuity. "It is not a strong sense of discontinuity and I think that is the principal point I would want to make."

Mr. Green said that "From a listener point of view there would not be a distinction made that this in fact was the end of the programme. They would come to the judgment that this was part of

the same programme."

Mr. Green was referred to a letter of the 18th December (exhibit 12) the second last paragraph of which said "The Federal Government through the Public Broadcasting Foundation subsidises the Yugoslav and other ethnic programmes to serve all the community of listeners who share that language of broadcasts." Mr. Green said "I think my judgment is reflected in the correspondence from the Chair of the Committee of Management - that the C.B.U. as with any other Croatian speaking group should have access by way of their community announcements to the programme. I believe that that requirement has been fulfilled."

Mr. Green went on to say "What it does not guarantee the C.B.U. or any other community group is that they can, in fact, have their own discrete programme within the bounds of the Yugoslav programme because of the very way in which that programme is set up."

Mr. Green was asked the question was it his evidence that they (the C.B.U.) should have access to the Yugoslav programme "but then you say that is now being achieved?" Mr. Green's answer was "Yes, that is right." He said the Complainant was within the Yugoslav programme - the time allotted, the 28 minutes allotted, for the Yugoslav programme. He said he believed the arrangement existing achieved access by way of the Complainant actually having their community announcements broadcast on the Yugoslav programme. He said the question of whether the announcement was on the Respondent's tape or off the Respondent's tape was "a matter of mere technical consideration." He said it seemed to him that from the point of view of the consumer of the programme "as long as these announcements appear within the time

slot given across to your programme then I think the requirements of the Station are met". He said the Station was finally responsible for the material it published. He said it was his point that it was irrelevant whether the material that was broadcast was on the Respondent's tape or not. It was included in the Respondent's time allotted.

Mr. Green said that the Respondent had been asked by his organisation and by Mr. Lutero's organisation to accommodate the Complainant and an arrangement was then arrived at. He said the arrangement as he understood it still satisfactorily existed.

In his closing remarks Mr. Viskovic said:

"The Yugoslav Clubs and Community Associations is a vast organisation which comprises approximately 12 or 13 clubs and associations and associated bodies. It has always been the understanding amongst the Yugoslav community that it comprised all walks of life from the Yugoslav community in this State, be it Croatian, be it Serbian, be it Macedonian, be it whatever. It never saw fit to discriminate against any of those bodies until personalities were coming into question. The formation of the CBU, as it is called to this day, is the combination of activities of certain individuals which we agreed that there is nothing wrong with an organisation of that nature. I am a Croatian and so are a big number of our organisation. The thing is that we differed, or we beg to differ with them, as to the nature of the association. We do not deny them the right to exist, that is their freedom in this country, and therefore we feel that by not being forced to associate with anybody we do not discriminate against them. Being in a country of so-called freedom of speech and freedom of association we choose to associate with whom we

wish. If at any time we are aggrieved there is another Croatian radio programme, which I must stress, ^{is} managed by a group of Croatians. This has been in existence for some eight years."

Mr. Viskovic went on to say:

"The Yugoslav time on radio has been grouped by 6NR and Ethnic Broadcasting as being four and a half hours. That four and a half hours does not belong to the Yugoslav Clubs and Community Associations but we were saddled with that as Yugoslav because we have two Croatians, two Serbians, two Macedonians and one Slovenian programme and one Romany programme - which is also grouped as Yugoslav. They have their own time. It is not really Yugoslav. It is a language on its own merit and therefore I would not group it as a Yugoslav community programme. In fact, if that was included it would be five hours.

The difference and the problem with this programming has arisen because of political problems that have arisen in the Yugoslav immigrant group in Australia. We accepted that - that the local authorities have the right to decide who comes on the radio. I do not always agree with that sort of thing (and I have been called everything) but I think that the Yugoslav community has been interfered with in relation to the way it wants to run its own affairs.

We maintain that we kept within the guidelines of the broadcasting, within the guidelines of 6NR, within the guidelines of the Ethnic Broadcasting Committee. We were never questioned, up to this case in question, about discrimination."

Mr. Viskovic concluded:

"..when I read this charge it was very glaring that the charge against us is based by an organisation that does not want to be associated with the term Yugoslav. That is very, very evident and I might ask you to just read the transcript which is in this document here. I have highlighted certain parts of it but that is evidence, it has already been lodged. It is a matter of who reads it and how they get offended.

It has failed to bring to their attention that the organisation does not want to be associated with Yugoslavs. We are talking here about Yugoslavs and Croatians. We are Yugoslavs - we are Croatian second. In this country, I came here as a Yugoslav. Nobody comes here as Croatian or Serbian. Everybody's passport is stamped "Yugoslav". We are talking about nationality and the country of origin. This is my argument when I made comments as anti-Yugoslav is that I read this charge laid against an organisation of which I am a member and my club is a member, and to me it seems that an organisation requesting services and facilities of an organisation called Yugoslav failed in its normal course of events being pro-Yugoslav or being Yugoslav and quite proud of it to say, "Yes, brothers, we want to be members of your organisation.

You failed to highlight that. You failed, that an organisation you represent in every normal aspect as far as an organisation is concerned, its first request is to be a member. When I mentioned verbally, it was felt, it was a feeling to see how the organisation felt, whether it was worthy of lodging a written application for membership. Why they never did, I do not know.

Whether they got the verbal "no" or not, that is not for me to say. I must stress here that an association charging the Yugoslav Clubs and Community Associations is an organisation called the Croatian Brotherhood Union. In this I can only surmise and I can only read into certain passages of the charge that it is anti-Yugoslav. With this, I honestly cannot read it otherwise and the comments I have always made and always will, if I read letters like this - I can only say we have not a common language even though we speak one. When you put something to paper like that and you charge an organisation from whom you demand time and services, I can only make one assumption: that it is not willing or wishing to be part of the Yugoslav society in Australia, or W.A."

Having considered this matter, it is my view that this is not a case of discrimination on the ground of political conviction as envisaged by Section 62 of the Act. That Section provides:-

It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's religious or political conviction -

- (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;
 - (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person;
- or
- (c) in the manner in which the first-mentioned person provides the other person with those goods or

services or makes those facilities available to the other person.

In this case, there has been a disagreement between the Complainant and the Respondent which has been the subject of a recommendation by the Ethnic Broadcasting Committee of W.A. (Inc.) "which is responsible, in the first instance, for the operation of ethnic radio on 6NR" - see the second paragraph of the letter dated 18th December 1985 (exhibit 12) which is set out in full below.

The Respondent has complied with the recommendation and is still doing so. It is not a body responsible for providing services as envisaged by Section 62. It is taking a part in providing a radio programme which is being broadcast by 6NR in accordance with the recommendation of the Ethnic Broadcasting Committee of W.A. (Inc.) - see Exhibit 12 which reads:

6NR

18 December 1985

Mr David Viskovic
Interim President
Yugoslav Clubs and Associations of W.A.
PO Box 236
MT HAWTHORN WA 6016

Dear Mr Viskovic

BROADCASTS OF COMMUNITY ANNOUNCEMENTS ON YUGOSLAV PROGRAM

Further to my earlier letter of 14 November I write to indicate that the matter of the inclusion of community announcements in the Yugoslav program on 6NR has been again considered by the Committee of Management.

The Committee has accepted the recommendation of the Ethnic Broadcasting Company of WA (Inc), which is responsible, in the first instance, for the operation of ethnic radio on 6NR.

Community announcements in the Yugoslav program and in other ethnic programs will be broadcast in the following ways :

- (i) The last five minutes of ethnic programs will be set aside for community group announcements from

the language community of broadcast;

- (ii) No one community announcement shall exceed one minute;
- (iii) Notification of a wish to make a special language community broadcast in this allotted time must be made to 6NR one full week before the intended date of broadcast;
- (iv) Recorded community announcements should reach 6NR midday prior to the day of broadcast, or if scheduled for Sunday or Monday then by midday Friday;
- (v) An English translation must accompany community announcements.

As you are aware, 6NR makes available 30 hours a week for ethnic radio to the Ethnic Broadcasting Committee of WA (Inc). The allotment of time and resolution of disputes is a matter for the EBC who in turn recommend a course of action to 6NR's Committee of Management.

It is important that all our community programs reflect the interests of their listening community. It is for this reason that I understand the EBC has constitutional provisions for regular elections of independent radio committees to oversee the production of each of the ethnic programs.

The Committee of Management supports the EBC in this aspect of internal broadcasting regulation.

The Federal government through the Public Broadcasting Foundation subsidises the Yugoslav and other ethnic programs to serve all the community of listeners who share that language of broadcasts.

I am hopeful that this resolution of this dispute will ensure that this happens.

Yours sincerely,

(signed) M. LIVERIS

M Liveris
Chairman
COMMITTEE OF MANAGEMENT

cc The Hon Mr Ron Davies, Minister for Multicultural & Ethnic Affairs
Ms June Williams, Commissioner for Equal Opportunity
Mr Alex Lutero, President, Ethnic Broadcasting Committee of W.A. Inc.
Producer, Serbian Radio Program, 6NR
Producer, Croatian Radio Program, 6NR
Producer, Macedonian Radio Program, 6NR
Producer, Romani Radio Program, 6NR
Mr Tony Radalj, Croatian Brotherhood Union
Producer, Slovenian Radio Program, 6NR

In coming to the above conclusion, I have borne in mind that some of the statements made by Mr. Viskovic which are quoted above would not be classified as evidence in a Court of Law; also that those statements were not subject to cross-examination. However, the Respondent was not legally represented.

Section 120 of the Act provides:-

For the purposes of any inquiry, the Tribunal -

- (a) shall not be bound by the rules of evidence and may inform itself on any matter it thinks fit;
- (b) shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms; and
- (c) may give directions relating to procedure that, in its opinion, will enable costs or delay to be reduced and will help to achieve a prompt hearing of the matters at issue between the parties.

In my view, the complaint should be dismissed.