

chiefly, the system involves existing AM licences lodging a sealed bid with the Department of Transport and Communication's Tender Board following a call for bids made by the Minister in the Commonwealth Gazette. The amount of the bid must be a single figure and must exceed both the value of licensee's AM transmission facilities to be handed over to the government (for Parliamentary broadcasts or Radio for the Print handicapped) and a reserve figure determined by the Minister and kept secret from the bidders. Bidders are also required to pay deposit.

Commercial radio ravaged

So how has the plan worked? In our case KZFM (formerly 3KZ) topped the bidding for Melbourne. We bid \$31.5 million, \$8.8 million more than the next highest bidder 3AK. 3AK has now withdrawn its bid, thereby relinquishing its right to conversion to 3TT which bid \$11.5 million - \$20 million less than KZFM!

We converted to FM on 1 January 1990 and in the first ratings survey of 1990 picked up 3.2 percent more of the radio audience - a total of 14.6 percent of the radio audience or 0.3 of a percentage point more than OX FM which had topped the previous 11 ratings surveys. With 41.4 percent of Melbourne's radio listening audience, FM stations now draw 63 percent of all advertising revenue.

Similar results have been achieved elsewhere with Adelaide's KZFM (formerly 5KA) increasing its ratings from 14.9 to 16.5 percent (it paid \$5.5 million), while Brisbane's BK, now B105, has jumped 2.5 percentage points (it paid \$17.4 million). And it should be noted that the conversion of 4BK to B105 occurred during the latter part of the first survey in Brisbane for 1990; therefore further gains for B105 can be anticipated.

It is significant that KZFM did not alter its format and there was relatively little variation in our competitor's formats. Our climb in ratings is a clear vindication of what I and others have maintained for some time: that the popularity of FM stations has little to do with programming and management and everything to do with technology. It needs to be understood, of course, that programming needs to be right. Good programming will have far greater appeal on FM - inferior programming will not benefit from technology alone. The commercial radio industry is being ravaged by the government for the right to use improved technology when the only alternative, in the face of the growing market dominance of FM stations, was to eventually go broke.

The government's iniquitous bidding system is forcing the commercial radio sector to assume a large financial burden at a

time of high interest rates and at a time when the economy is contracting. The results of this system of allocation has been to substantially undermine stability in the industry. Bond Radio has had to forgo its right to convert to the FM band in Perth (where it offered \$16.3 million) and in Melbourne (where it offered \$22.7 million). Austereo has also relinquished its right to convert to FM in Perth (for which it had bid \$12 million).

Conclusion

There are a number of alternative approaches the government could have adopted. A mini-hearing by the Australian Broadcasting Tribunal was one possibility. Even a ballot would have been preferable to the approach adopted.

There is some indication that the government, which has hitherto ignored the pleas of the industry to move with the times and embrace the new technology sensibly,

is beginning to realise its error and express doubt about its auctioning system. There is also some suggestion of a more liberal spectrum allocation: that is, with less space required between stations leading to increased room on both the AM and FM frequencies to accommodate an increase of 20-40 percent in the number of stations on each band.

It is interesting to note that the remaining AM stations contend future conversions should be on the basis of a reasonable, fixed fee relevant to the size of the market. KZFM supports this approach. If the government accepts this proposition it will have a strong moral obligation to refund the difference between the reasonable fee for what stations, such as KZFM, had to pay for the right to convert, and this new licence fee. Only in this way could the government maintain equity and establish the "level playing field" which all political parties claim to believe in.

Les J Heil, AM, is manager of the Melbourne FM station KZFM

Police and the media

Relations between police and the media recently came under some scrutiny at the Blackburn inquiry. Evan Whitton examines aspects of this relationship.

Chester (The Smiling Funnelweb) Porter QC, counsel assisting Justice Jack Lee at the Blackburn inquiry, offered some characteristically trenchant views about the performance of former Sun police roundsman, Steve Brien, director of the NSW Police Media Unit, in events leading up to and following the arrest of Harry (The Hat) Blackburn.

What excited Porter was that before Blackburn, a former Superintendent, was arrested on multiple rape charges, Brien took the media into a lockup for a briefing on the pending event and after the arrest, but before Blackburn appeared in Court, laid on a photo opportunity of the accused for television and press cameras.

Contempt

All involved, including the media, were thus at risk of contempt charges for possible prejudice of the case. In the event, there was no case; further police investigations indicated that Blackburn was innocent; the charges were withdrawn.

There was evidence before the inquiry that the photo opportunity was not uncommon. The unit presumably took the view that it was merely assisting the media in its re-

porting tasks; the media presumably took the view that it was assisting the police in their inquiries. Sooner or later, it may be thought, both sides were bound to come undone on a matter of possible contempt.

While not denying that such practices may tend to put the liberty of the subject at risk, we may perhaps suggest that contempt law is a little out of date.

First, the Australian Law Reform Commission pointed out in 1987:

"The origins of the common law concept of contempt lie in the medieval notion that the monarch was divinely appointed and accountable only to God and therefore any resistance or affront to the authority of the monarch should attract not only eternal damnation but immediate retaliation ...

"It was only a short step from this to say that any resistance or affront to the authority of ... a court established under royal authority, should also be considered a contempt of royal authority."

And second, as Adrian Deamer has properly noted, allegations of contempt by prejudice may amount to contempt by way of influencing jurors: but there is evidence indicating that they are perfectly capable of understanding

trial judge's exhortation to put out of their minds anything other than the evidence before them.

Another aspect of the police/media relationship was addressed by the Hon Gerald Fitzgerald QC in his 1989 report on corruption in Queensland.

Fitzgerald stated:

"The [Queensland] Police media unit historically has served two purposes, one essential and the other inappropriate."

He said that useful and legitimate functions included attending disaster areas to deal with media queries without impeding police, daily bulletins on the road toll, missing persons, and the like.

Fitzgerald also said that another "important and legitimate" activity in a reformed police force would be "to ensure the community is accurately appraised of Police Department initiatives and reforms and their impact, so that public credibility may progressively be re-established through demonstrated performance, integrity and ethical conduct of police officers and the Department."

Brien may, however, sadly reflect that this was precisely what got everyone into trouble in the Blackburn matter: the investigation and arrest of a former Superintendent and regional detectives was seen as a triumph or dismantling the CIB, and as a clear signal that, under a reform administration, police would no longer look the other way at allegations against other officers.

Fitzgerald said that an inappropriate function of the media unit was that it "also served a purpose to deflect and combat criticism of the force, irrespective of whether or not that criticism was well based". Evidence before him suggested "that on at least one occasion senior police used the media relations staff to 'leak' false information to a journalist".

Gatekeeping

That may be, but one imagines that individual police or groups of police offer a more serious problem than police media units. Fitzgerald noted that:

"The media is able to be used by ... police officers ... who wish to put out propaganda to advance their own interests and harm their enemies."

"A hunger for 'leaks' and 'scoops' ... and some journalists' relationships with the sources who provide them with information can make it difficult for the media to maintain its independence and a critical stance ..."

"Information [is] invariably 'leaked' to selected journalists who are able to delude themselves that they are not being used ... should these journalists ever bite the hand that feeds them', the flow of information would presumably dry up, or be diverted to a rival

media outlet or colleague."

This touches on the "gatekeeper" effect that has proved crucial to keeping a corrupt system in place. Historically, seriously corrupt Sydney detectives, such as the late Inspector Ray Kelly, were at pains to cultivate what we may trust were no worse than naive journalists strategically placed at the sharp end of crime reporting.

At Fitzgerald notes, "both the journalist and the source have a mutual interest: both want a headline". Kelly got plenty of those; to the world at large, he was the greatest detective since the late S. Holmes.

'A hunger for "leaks" and scoops ... can make it difficult for the media to maintain its independence and critical stance.'

However, whatever little "scoops" detectives such as Kelly might supply on the latest shocking murder or rape, they were hardly likely to provide information on corruption, or indeed much on organised crime: the Kelly cartel was part of it. Reporters thus inadvertently acted as gatekeepers barring the way to disclosure of corrupt systems.

Breaking the nexus

A Sydney Telegraph reporter, Robert Godier Bottom, first broke the nexus between journalism and corrupt detectives in NSW in the late 1960's. He cultivated, and was cultivated by, honest detectives. His sources were thus in a position to disclose information on corruption and organised crime, and from 1971 his disclosures (in his own name or via other reporters) led to a number of inquiries that slowly laid the groundwork for cleansing the police force from 1983, and the trade of authority as a whole from 1988.

To our shame, Bottom's counterpart in Melbourne was not a reporter at all, but a medical practitioner, the late Dr Bertram Wainer. He sought an inquiry into the Homicide Squad's abortion-extortion racket in 1969. The Attorney-General, Sir Arthur Rylah, who may have had particular reason to be nice to the Homicide chaps, showed no inclination to accommodate Wainer.

The Melbourne Herald's chief crime reporter, the late Geoff Clancy, is understood to have been privy to details of the extortion system, including when it was first set up,

and the name of the officer who invented it. He thus probably knew more about the corrupt system than Wainer, and was in a position materially to assist the push for an inquiry.

It is of course fundamental to journalism that democracy cannot exist when elements of the trade of authority are corrupt. Clancy may have imagined he was awkwardly placed: that if he burned sources such as the late homicide detectives Jack Matthews and Jack Ford, no one would give him any information.

The assumption was false. As Bottom was to show, there are honest police who can supply data on matters more important to society than murder and rape. In any event the ethic in Clancy's situation, if he did not want to embarrass himself, is to supply the information to a general reporter who can then make a guerilla raid on the corrupt activity.

Clancy took neither course. He sent a message to the present writer, who had a connection with Wainer, confidently asserting that no such inquiry would ever get off the ground. One cannot say that Clancy took the further step of acting as an active, rather than a passive, blocking agent to disclosures of corruption. It is true that Wainer was effectively "ratbagged" in organisations with which Clancy was associated, but it must be said that Wainer brought much of it on himself in his concern to keep the issue on boil.

The Clancy episode perhaps makes Fitzgerald's point: "... if the journalist is so indiscriminating that the perspective taken serves the purposes of the source, then true independence is lost, and with it the right to the special privileges and considerations which are usually claimed by the media because of its claimed independence and 'watchdog' role".

In the end Wainer, former Colonel in the Australian Army, outmanoeuvred Rylah, the police, and any other forces of resistance, and a Board of Inquiry was set up. In what was perhaps not their finest hour, the Board, Bill Kaye QC and his counsel assisting, John Winnecke, gave dear old Bert a birching for what they saw as a heinous offence of "grandstanding", but three police went to prison.

And a second inquiry Wainer initiated, by Barry Beach QC into police malpractice in 1975, eventually led to reform of the force under Commissioner Sinclair Imrie (Mick) Miller from 1977, six years earlier than NSW, and 12 years earlier than Queensland.

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