

Local radio and commercial viability

Object 3(g): to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance (BSA 1992)

What makes a radio service local?

- 3.1 Although the *Broadcasting Services Act 1992* gives little specific attention to nature of local radio services beyond the inclusion of the phrase 'matters of local significance' in Object 3(g), it became apparent early in the inquiry that one of the issues of most concern was the impact of changes in the broadcasting environment on the nature of local radio. Much of the discussion concerning this centred on the degree to which radio services in regional areas are providing a genuinely local radio service. A challenge for the Committee has been to define what it is that makes regional radio services local.
- 3.2 Traditionally, local radio has been defined by its locality. Being in and of the locale was intrinsic to being a local radio station. More recently, developments in transport and communications technology have allowed the concept of what it means to be local to be understood in broader terms such as those described in the following extract from a submission to this inquiry.

My definition of 'local' is **common interest**, be it in my town and region or areas of shared interests. It is radio which meets identifiable information and needs and caters for a spread of urban and rural residents who are perhaps disparate in background and age yet united by a common social environment. "Local" radio

provides a forum for the articulation of common issues and opinions, the dissemination of a broad range of information and expresses cultural mores in context with the listeners.¹

3.3 According to the ABA, the *Broadcasting Services Act 1992* is 'premised very much on the idea about what comes out of the radio—what it sounds like—rather than where it is made'.²

3.4 The Federation of Australian Radio Broadcasters favours a sound based approach to considering the question of what makes a radio service local.

Localism is an overall product and culture, and should not be measured according to how much content is produced by a local announcer or how much is produced in a local radio station. Localism is to be found in a radio program or format which could be a combination of locally-produced material, and also networked programs from metropolitan stations such as the *John Laws Show*. Localism doesn't have to be someone in the studio in the town to which the program is being broadcast. It is about what comes out of the speakers from the consumer's perspective – it is material of relevance and appeal to the local audience.³

3.5 Not surprisingly, DMG Group, a major player in FARB, also argued that localism is about relevance.

Localism does not mean the live broadcast of programs around the clock from a local studio. Localism is not the same as physical presence. Moreover, local physical presence does not guarantee localism. It never has and never will. Localism is about relevance and not about physical presence. Localism is about sourcing news, weather, current affairs, sport and other items of significance, from or in respect of the local community. It is about research into what the community wants to hear and then broadcasting it.⁴

3.6 Not everyone agreed that it is possible to be truly local without the station having a physical presence nor without having announcers who are familiar with the local area and community. According to the Shire of Campaspe, in Victoria 'the radio service needs to have local people with a knowledge of the local area involved in the delivery of the service to

1 Submission No 198, Vol 6, p 1336 (Private citizen)

2 Transcript of evidence, 29 May 2001, Brisbane, p 904 (Mr Tanner)

3 Submission No 133, Vol 4, p 695 (FARB)

4 Submission No 106, Vol 2, p 294 (DMG GROUP)

ensure its accuracy and for the community to get a sense of ownership of what they are hearing.'⁵

3.7 Along similar lines, the Member for Calare, Mr Peter Andren MP, claimed that 'listeners find it almost impossible to associate with a local station if "local" commercials and community service announcements are prepared in another city, broadcast across a local listening area, making mistakes with street name and locality pronunciations, and having none of the familiarity with events, locations and people so vital to the true local "feel".'⁶

3.8 Another witness, in describing the move to inserting local material electronically, conceded that on most days 'the average listener won't notice the difference' but then pointed out the things that a computer could not do.

It can't answer the phone from the local sporting group informing us of a cancellation or a bus running late from a sporting function out of town. It can't read the fax from the Weather Bureau informing of an approaching storm, or from the City Council informing of a closed road or the local police searching for a motorist.⁷

3.9 Others submitters stressed the importance of local announcers being able to demonstrate an affinity with the community. Discussing local radio as an advertising avenue for small local businesses, one submitter argued that in order to gain the audience, 'the operator must offer attractions, such as interesting segments, local news and sport and a local presence by the older style of professional announcer who was in tune with the community and identified with that community by developing a detailed knowledge of the area, its characteristics and personalities.'⁸

3.10 Still others pointed out that a key feature of local radio was the relationship with the community. Once again, however, there was little consensus about whether this relationship could be achieved without the physical presence of the station in the locality.

3.11 DMG Group, for instance, acknowledged the importance of providing 'something more than local news, weather, current affairs, sport and other items of significance, and music and other programs which satisfy audience demands' and argued that:

5 Submission No 73, Vol 1, p 125 (Shire of Campaspe)

6 Submission No 78, Vol 1, p 144 (Mr Peter Andren MP)

7 Submission No 83, Vol 1, p 198 (Private citizen)

8 Submission No 132, Vol 4, p 658 (Private citizen)

Localism also means involvement in local activities. It extends to promotion and sponsorship of charities, sponsorship of fundraising for community purposes, sponsorship of emergency services, presence and input into community events, support for new local businesses, etc.

- 3.12 DMG Group claimed to have a 'demonstrable history of significant positive contributions in all of our local communities in each of these areas.'⁹
- 3.13 Other submissions, however, hinted that commitment to a community should not be assessed by simple quantitative measures. Calling for station owners to be asked to demonstrate their service to the local community, 4KZ from Far North Queensland added 'By this we don't mean how many 30 second community service spots were broadcast each year.'¹⁰
- 3.14 The ABC also highlighted the importance of a radio station's relationship with the community claiming that the relationship between staff and community was a crucial aspect of local radio services and that 'it is important that we have local voices in communities who know their community and know the issues in that community and can give voice to them'.¹¹
- 3.15 Having listened during this inquiry to the various views on what makes a radio service local, we have identified a number of features which are characteristic of real local radio and which distinguish it from non-local radio services.
- 3.16 We suggest that local radio is radio that:
- provides news and information that is of interest to and specifically about that local community;
 - provides an outlet for the community to broadcast announcements (and for businesses to advertise their wares or services in the case of commercial radio and or through sponsorship in the case of community radio) ; and
 - provides a forum for the community to hear the voices of its own region, and reflects back to the community its own identity and in doing so helps shape that identity.

9 Submission No 106, Vol 2, p 297 (DMG Group)

10 Submission No 160, Vol 5, p 878 (4KZ)

11 Transcript of evidence, 28 May 2001, Brisbane, p 739 (Ms Howard)

- 3.17 Such a list leaves unanswered the key questions posed by many people in regional areas of whether a station needs to be physically located in the area and, if so, to what extent to demonstrate these features.
- 3.18 Many industry submissions argued that radio stations do not need to produce all their material locally or always to be live or indeed even always to broadcast from the local studio to satisfy the criteria identified above as characterising local radio. Furthermore, some of the programs cited in evidence during this inquiry as being particularly valued by regional listeners were networked or syndicated programs. Such programs include *Australia All Over* presented by Ian McNamara , John Laws, *Australia Tonight* (as presented by Paul Tolley in the late 1990s) and the Country Music Radio (broadcast initially as *Hoedown*).
- 3.19 Although not local programs per se these programs have, or in some cases had, a regional flavour that was created in the main by announcers able to demonstrate sensitivity to and affinity with the concerns and interests of regional listeners. Such programs are regionally relevant and serve communities well. They should, and do, add to the mix of programming provided by local radio.
- 3.20 Such programming satisfies some of the listening preferences and needs of certain 'communities of interest'.
- 3.21 In our view, however, local radio stations have traditionally been more than a conduit of programs, regardless of how high the quality. Real local radio has at its heart a relationship with the community that can only be created by being part of that community, a physical part of it. As described in the submission from the Port Macquarie Country Labor Branch, 'A local radio station becomes recognised as an accepted part of the region and community, and this is primarily as a result of its locality within the community and local content. It becomes extremely difficult for a radio station to become an integral part of the community when services are predominantly provided by relay from centralised locations around Australia.'¹³
- 3.22 This is not a comment on the quality of the services provided by any radio operators, nor a comment on the degree to which regional radio stations should be local. We are simply suggesting that there is a difference between operating a real local radio service and providing a radio service to a specific locality as described by a licence area.

13 Submission No 148, Vol 5, p 813 (Port Macquarie County Labor Branch)

- 3.23 To our initial list then, we would add one more essential feature of local radio - namely, that of residing within and being predominantly derived, produced and presented by that community.
- 3.24 Therefore, based on the views of the community and the realities within the industry, we consider that local radio is radio that:
- provides news and information that is of interest to and specifically about that local community;
 - provides an outlet for the community to broadcast announcements (and for businesses to advertise their wares or services in the case of commercial radio and or through sponsorship in the case of community radio);
 - provides a forum for the community to hear the voices of its own region, and reflects back to the community its own identity and in doing so helps shape that identity; and
 - resides within and is predominantly derived, produced and presented by the local community.
- 3.25 In its submission to the inquiry, 2UNE suggested that 'networking has progressed to the level that presently exists in the radio industry because many people did not or do not necessarily realise that the [programs] that they are listening to are not coming from their local studios'.¹⁴ Although the Committee has no hard evidence that supports or refutes this suggestion, we do consider that audiences deserve to at least know whether the program they are listening to is 'live and local'; live but broadcast from another centre; or pre-recorded, networked or syndicated. According to 2UNE, the national and community stations already inform listeners of the source of programs to some extent.
- The national networks, such as JJJ identify occasionally where their programming is coming from (for example "the Net 50 tonight is coming to you from JJJ's Melbourne studios'.) Programs distributed via the Community Radio Satellite also identifies the origination station (for example "radio Babylon is produced in the studios of 2MCE in Bathurst NSW, and is broadcast around Australia by the Community Radio Satellite.")¹⁵
- 3.26 The Committee support 2UNE's call for radio stations to be required to identify the originating source of programming that is broadcast by a

14 Submission No 149, Vol 5, p 822 (Radio 2UNE)

15 Submission No 149, Vol 5, p 822-823 (Radio 2UNE)

licence. This should apply to the national, commercial and community sectors.

Recommendation 7

3.27 The Minister for Communications, Information Technology and the Arts should prepare amendments to the Broadcasting Services Act 1992 to require all non-metropolitan commercial, community and narrowcast radio services to identify the originating source of programming when giving their call signs.

The ABC Board should determine that ABC regional radio services identify the originating source of programming when giving their call signs.

The extent of networking

3.28 Most of the concerns surrounding networking that have been raised during this inquiry have related to the commercial sector and for that reason we have focussed on that sector. Our comments in relation to networking and localism in the national and community sectors are found in Chapter 3.

3.29 According to the ABA, 'it is undeniable that the last decade has seen a move towards greater networking'. In fact networking has been encouraged by many of the BSA reforms as explained by the ABA as follows:

- Liberalised ownership rules have permitted smaller numbers of proprietors, including major foreign entrants, to control greater numbers of stations: the number of allocated regional networked stations increased by more than 80% between 1993 and 2000.
- The spectrum planning rules have increased competition in markets by encouraging the ABA to plan the whole spectrum in areas. Once reservation for national and community broadcasting services are taken out, all remaining channels have frequently been made available for open narrowcasting or commercial broadcasting.
- Increased competition has encouraged rationalisation and 'hubbing' or centralisation of content production by squeezing profit margins, as

networks gain financial efficiencies by sharing programming and administration costs.¹⁶

- 3.30 Enabled by technological developments, the trend toward greater networking has also been driven, according to the some parts of the industry, by the desire of stations to offer a higher quality and greater variety of programming.
- 3.31 All commercial radio stations in recent decades have taken the opportunity to extend hours of broadcasting, increase the variety of programming, and /or reduce operating costs through the use of automation and prerecorded, syndicated /or networked programming. However, there is a considerable difference in the extent to which stations have embraced networking.
- 3.32 Stations in the Grant Broadcasters network, for instance, do not network any programs from one group station to another.¹⁷ Stations do, however, take some syndicated programs, generally in the form of short segments such as music count downs. Most stations take a national news service and the John Laws program. The network is able to automate its own programs and the mid-night to dawn programs are automated.¹⁸
- 3.33 The ACE Radio Network stated that it had tried networking but no longer used is as they 'did not like the product'.¹⁹ Its stations did, however, make use of syndicated programming.
- We do not network.We take syndicated programming not as a matter of cost saving—in fact, it is more expensive: if we are running John Laws we still have to have to have an announcer sitting in a studio but that announcer can be playing music. ..We take syndicated programming in the form of national news that emanates from Southern Cross in Victoria and there are other small pockets that we take. But we take syndicated programming to improve our product.²⁰
- 3.34 The ACE Radio Network also described making considerable use of prerecorded programming and automation. Approximately fifty percent of airtime on the FM stations uses prerecorded programs generated within the local station. Approximately 25 percent of programming on the AM stations is actual live to air with the rest comprising prerecorded and

16 Submission No 79, Vol 1, p 150/151 (ABA)

17 Submission No 187, Vol 5, p 1082 (Grant Broadcasters)

18 Submission No 187, Vol 5, p 1083 (Grant Broadcasters)

19 Transcript of evidence, 28 May 2001, Brisbane, p 772 (Mr Everett)

20 Transcript of evidence, 28 May 2001, Brisbane, p 771 (Mr Everett)

syndicated programming. Programs from midnight to dawn on both AM and FM are also prerecorded and automated but contain 'live' inserts of national and local news.²¹

- 3.35 RG Capital Radio Limited (RGCR) described its stations as being 'live and local' throughout the day in virtually all of its markets throughout regional Australia. Networked programming is used after 6.00 pm when stations broadcast one of two programs which are produced at RGCR's Gold Coast production facilities and relayed by satellite to its stations around the country.
- 3.36 Broadcast Operations Group uses networking but explained that the only change that had occurred in the last ten years was 'the provider of the networked programs'.²² Broadcasts on AM stations are local and live to air from 6.00am-6.00pm. 70 per cent of FM stations are local and live to air from 6.00am to 6.00pm with the remainder doing 'a little bit less.'²³
- 3.37 DMG Group, the largest of the networks, provided the Committee with considerable detail on the changes made to their stations since 1996.²⁴ The data, provided in an aggregate form for each market rather than on a station by station basis, indicated a substantial increase in the number of hours broadcast from hubs or other stations in all markets. Although the total number of hours of broadcasting has either been maintained or increased, the total number of hours of live broadcasting from the local studio has been reduced in small, medium (with the exception of the station based at Bunbury, WA) and large markets. In approximately half the smaller markets, DMG Group has reduced the number of hours of live broadcasting from the local studio per week by approximately half. In the other half of smaller markets, it has stopped all live broadcasting from the local studio (with the exception of Narrogin, WA, which still receives 4.5 hours).
- 3.38 In medium markets the reduction ranged between 20 per cent and 50 per cent and in larger markets between 50 per cent and 73 per cent. In fairness to DMG Group, these figures should be considered in the context of the other data which it provided. These include figures on the number of hours devoted to local news, weather and current affairs, etc, and the total number of hours of broadcasting. Overall, the data reveals both 'gains' and 'losses' for the community. The figures that we have mentioned are included in the discussion at this point merely to provide an indication of

21 Transcript of evidence, 28 May 2001, Brisbane, p 772-773 (Mr Everett)

22 Transcript of evidence, 28 May 2001, Brisbane, p 834 (Mr Lodge)

23 Transcript of evidence, 28 May 2001, Brisbane, p 830 (Mr Lodge)

24 Submission No 106, Vol 2, p 358-388 (DMG Group)

the variation in the degree to which stations have embraced networking and the impact of new broadcasting technologies.

Impact of networking on local radio

- 3.39 A central question in this inquiry is whether the significant growth in networking is having an impact on the local character of regional radio services. Many of the concerns expressed in submissions related to the role of radio in providing information and other announcements during emergency situations. The issue is explored in detail in the next chapter.
- 3.40 A number of submissions made clear that networked, syndicated and pre-recorded programming has been a 'fact of life'²⁵ for country radio for a many years' and has contributed much of value to regional radio services. These benefits were described in one submission as follows:
- It allows capital city programs of high ratings to be relayed to country stations, namely talkback and news.
 - It enables small stations to remain on air 24 hours a day with network based evening and early morning shows.
 - It offers a larger variety of presenters to country stations. It enables stations to take syndicated Top 40, country and special music shows.
 - It allows stations to relay special events and sporting programs for example, cricket, football, even the Olympics in some cases.²⁶
- 3.41 FARB argued that 'networking has been a 'bonus for regional radio audiences as it has provided them with a wider range and higher quality of programming, whilst maintaining the necessary degree of localism required to satisfy regional audiences'.²⁷
- 3.42 As already mentioned, programs such as the Country Music Program, Paul Tolley's *Australia Tonight* and *John Laws* demonstrate the effectiveness of networking in delivering quality programming to regional audiences.
- 3.43 Networking is clearly not in itself a problem and has the potential, moreover, to be particularly useful for providing programming that has been produced specifically for particular regions or for 'communities of interest'. The very volume of material that we received lamenting the loss
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25 Submission No 160, Vol 5, p 877 (4KZ)

26 Submission No 66, Vol 1, p 110 (Private citizen)

27 Submission No 133, Vol 4, p 703 (FARB)

of network programs such as those mentioned above attests to this potential.

- 3.44 Networking allows communities access to material which is unable to be generated locally such as racing radio services.²⁸
- 3.45 Networking may also be playing some role in preserving commercial radio services in some areas. As pointed out by FARB, the ABA stated in its first planing process determination under the BSA (Licence Area Plan for Mildura/Sunraysia), that:

The condition that a service should merely 'contribute' to the provision of an adequate and comprehensive range of broadcasting services in a market would enable bolder experimentation with formats, continue industry trends towards networking, and also permit the commercial survival of services with a smaller share of the market than may previously have been possible.²⁹

- 3.46 While no broadcaster directly stated to the Committee that any particular stations had only survived because of networking, we are aware that some stations in small markets operate on the margins of commercial viability. Communities in such areas may prefer a networked service to no service at all.

Survey data on the impact of networking on local radio services

- 3.47 In assessing the full impact of networking on local radio services, the Committee was hampered by the lack of sufficient hard evidence.
- 3.48 FARB argued that commercial radio had by far the biggest listening share of the audience and had maintained its share despite increased automation and networking.³⁰ In support of its claims, it cited ACNielsen data from surveys conducted around the country between 1998 and 2000 which indicated that commercial radio captures 76 per cent of the potential listening audience,
- 3.49 Many individual broadcasters also referred to the results of audience surveys to support their claims that they were providing communities with what they wanted. The ACE Radio Network described investing in ACNielsen surveys in order to 'determine the appeal of our entire

28 Submission No 124, Vol 4, p 629 (Radio Sport 927)

29 Submission No 133, Vol 4, p 702 (FARB)

30 Submission No 133.03, Vol 8, p 2000 (FARB)

31 Submission No 133.03, Vol 8, p 2000 (FARB)

product, its strengths and weaknesses, with the primary intention of improving it and to demonstrate to our advertisers the popularity and effectiveness of our product.' It suggested that its success in attracting both direct advertising from the local markets and national advertising demonstrated that it was 'providing a relevant and local service in the overall makeup of our broadcast services.'³²

- 3.50 DMG Group also cited ACNielsen results as evidence that it was delivering to audiences the services that they wanted. In addition to this data, DMG Group also claimed its own surveys and research confirmed that it satisfied audience demands.

[There] is only one way to determine if its commercial stations achieve their object of localism. That is to ask if the local communities served by those stations believe that their demands are being satisfied. We ask that through our surveys and research. They are clear in their conclusions. We do satisfy those demands.'³³

- 3.51 While the Committee acknowledges the utility of such data to both stations and advertisers and in no way queries its findings, we are not persuaded that such data necessarily indicates that stations are providing what we consider to be a real local radio service for that community. Not all material that is relevant to communities, in the sense of being of interest to them, necessarily qualifies as providing for a real local radio service.
- 3.52 We suggest that much of the survey and ratings data referred to above simply reveals that a certain segment of the audience prefers a certain service out of the choices available to it. In some markets, the choices are extremely limited. For listeners with a strong preference for the commercial format, the choice may be simply between staying tuned or turning the radio off.
- 3.53 The data mentioned above is not collected to provide a measure of localism. While we understand that it may be possible to infer a measure of the degree to which radio is adequately local from such data in some circumstances, it is not always so. This is not to question the integrity of the data when used for the purposes for which it was collected but rather to suggest that if there is an interest in monitoring the impact of networking on local radio services, then data should be collected specifically for that purpose.

32 Submission No 175, Vol 5, p 931 (ACE Radio Network)

33 Submission No 106, Vol 2, p 307 (DMG Group)

- 3.54 We consider, moreover, that the responsibility for collecting such data resides not with individual broadcasters but with the Australian Broadcasting Authority.

The ABA and local radio

- 3.55 In its submission to this inquiry, the ABA identified that the main issue for it as the regulator in relation to networking was whether, 'on a case-by case basis, centralisation of production has resulted in a failure to provide appropriate coverage of matters of local significance'³⁴ and later posed the following question:

Have the gains of greater networking (including the viability of increased numbers of services overall) outweighed the costs to listeners, especially in regional areas where syndicated programming has replace locally produced material?³⁵

- 3.56 In our view this is the key question. Of issue to us is the lack of data available to provide the answer.
- 3.57 In its submissions to the inquiry, the ABA described various pieces of research it has conducted or commissioned. The research included some attitudinal research carried out in 1994, a survey of program formats commenced in 1999 and some recent research into sources of news and current affairs.
- 3.58 The 1994 attitudinal research was conducted 'in order to understand the social benefits and influence on the general public of radio broadcasting'.
- 3.59 The research into sources of news and current affairs was conducted by Bond University's Centre for New Media Research and Education. Its findings were released earlier this year. The study looked at all forms of media and provides the ABA with a valuable set of data about industry and community perspectives on one aspect of programming, namely news and current affairs.
- 3.60 In 1999 the ABA conducted a survey of program formats broadcast by commercial radio stations. The 1999 study provided a broad picture of the differences between metropolitan and regional, and networked and independent radio station programming. While the broad picture details are useful for some purposes, in our view they do not provide enough detail to evaluate localism. For instance, as the ABA itself points out, the study 'does not reveal the extent of news specific to the local area from

34 Submission No 79, Vol 1, p 151 (ABA)

35 Submission No 79, Vol 1, p 151 (ABA)

either networked or independent regional stations.³⁶ Nor is it possible to determine from the survey data whether sport programming includes local content.³⁷ Nor is any differentiation made in the study between capital city base networks or purely regional networks.³⁸

- 3.61 In the course of the inquiry, the ABA advised that the Committee that it had decided to continue to conduct a program format survey on an annual basis for the next five years.³⁹ We welcome this move by the ABA but are somewhat puzzled by the decision to limit it to a five year survey. Given the ongoing nature of the ABA's monitoring role, we suggest that the survey should be conducted on an ongoing basis.
- 3.62 We are also pleased that the survey instrument has been amended to allow for identification of the amount of local news, current affairs and sport.⁴⁰ The survey lists a number of categories of programs and seeks estimates of the number of hours broadcast in each of these categories and also information as to whether the programs are 'produced in house, syndicated/retransmitted/recycled and the source of syndicated programming'. The ABA has defined the term 'produced in house' as 'broadcast material created, usually locally, by your station.'⁴¹ We suggest that the definition should be tightened to avoid the possibility of any confusion between programs produced in the local studio and programs produced by the other stations in the same network.
- 3.63 The survey instructions allow for stations which do not keep programs in an easily accessible format to provide a rough estimate of the number of broadcast hours for each program category. Although the BSA reforms removed sole responsibility for the provision of adequate and comprehensive programming (which by implication includes local content) from any individual broadcasters, the ABA has been entrusted with the task of planning to ensure licence areas have adequate and comprehensive coverage. We cannot see how it can assess whether it has planned appropriately for a community without access to full and reliable details about program content to which the community has access.
- 3.64 We suggest that stations should in future be required to keep accurate and accessible records of their program formats and be required to submit this material to the ABA. As services are currently planned on the basis of

36 Submission No 79, Vol 1, p 152 (ABA)

37 Submission No 79, Vol 1, p 177 (ABA)

38 Submission No 79, Vol 1, p 152 (ABA)

39 Submission No 79.01, Vol 7, p 1502 (ABA)

40 Submission No 79.02, Attachment 1, Vol 8, p 1929 (ABA)

41 Submission No 79.01, Vol 7, p 1507 (ABA)

licence areas, the survey results should be able to reported for each licence area. The surveys should include all categories of radio.

- 3.65 In advising commercial broadcasters of its intent to continue the survey over the next five years, the ABA stated that its policy for the use of confidential data will apply to the use of the survey data and that while material will be used for statistical analysis, it will not be released in any form that allows for individual licensees to be identified. Results on an aggregated basis, however, will be published.
- 3.66 We are, once again, puzzled by the ABA's approach in this matter. We suggest that the survey provides a discrete set of data about program content and does not include material that warrants confidential status. *The degree of live and local programming, amongst other details, should be transparent and available for scrutiny.*
- 3.67 Aggregated material is useful in indicating broad trends but is of limited value to other interested bodies such as parliamentary committees and Shire Councils or to individuals interested in service provision in their area. For instance, in response to a request by the Committee for information on the percentage of programs produced locally, the ABA provided the following aggregated data.

Table 3.1 Proportions of programming produced in house compared with total programming, small regions.

	In-house programming (%)	Sample size
NSW/ACT	82.5	5
Queensland	47.2	13
South Australia	76.0	19
Tasmania/Northern Territory	-*	-*
Victoria	-	-
Western Australia	46.2	4

Note: *sample size too small and release would breach confidentiality

Source ABA

Table 3.2 Proportion of programming produced in house compared with total programming, medium regions.

	In-house programming (%)	Sample size
NSW/ACT	53.0	15
Queensland	56.4	12
South Australia	45.1	4
Tasmania/Northern Territory	-	-
Victoria	81.3	8
Western Australia	-*	-*

Note: sample size too small and release would breach confidentiality.

Source ABA

Table 3.3 Proportion of programming produced in house compared with total programming, large regions.

	In-house programming (%)	Sample size
NSW/ACT	76.6	15
Queensland	50.6	18
South Australia	58.9	3
Tasmania/Northern Territory	76.6	4
Victoria	59.7	3
Western Australia	-	-

Source ABA

3.68 While the material provides a broad sketch of trends, the size of the sample and the aggregated nature of the data severely limits the utility of the data. The broad nature of this sort of data has the potential to disguise as many significant developments in individual licence areas as it reveals and can lead to flawed conclusions.

3.69 In the interests of the community, we consider that the full results of future surveys be made publicly available for each licence area.

3.70 Given that all the commercial broadcasters who made submissions to this inquiry claimed to be meeting the needs of their communities, we do not anticipate that such a move will be of any concern to the industry.

3.71 We suggest that a parallel set of data needs to be collected about audience perceptions about whether they have adequate and comprehensive coverage. This point is elaborated on later in this chapter.

Recommendation 8

- 3.72 **The Australian Broadcasting Authority should continue its survey of program formats on an ongoing basis ensuring that it identifies the source and degree of local news and community content.**

The Minister for Communications, Information Technology and the Arts should prepare amendments to the *Broadcasting Services Act 1992* to require commercial radio licensees to report their program delivery operations and details of program formats to the ABA on an annual basis.

The Australian Broadcasting Authority should publish this material in full disaggregated according to licence areas.

Evidence from the submissions

- 3.73 Most commercial broadcasters who made submissions to this inquiry stressed that they catered for the community's needs for local radio and that they served their markets well. Some of these claims were supported by testimonials either made as submissions or attached to or contained in submissions from the broadcasters themselves.⁴²

Loss of localism

- 3.74 Submissions from listeners, on the other hand, raised a number of concerns about the impact of networking on localism. While some comments are quite general in nature, others single out particular broadcasters. We note that most commercial broadcasters are not mentioned adversely. In considering the issues raised, we have endeavoured to weigh the comments made about broadcasters against the evidence provided by the broadcasters themselves. Our interest has not been in shining the spotlight on any particular broadcasters but rather in identifying any major areas of concern and to gauge some sense of the extent of the problems raised.
- 3.75 Many of the comments about networking were general in nature and indicated a general concern about the consolidation of ownership. Most conveyed a sense of loss of localism.

42 . Submission No. 187, Vol 5, p 1080 (Grant Broadcasters) and Submission 180, Vol 5, p 978 (Bathurst Broadcasters)

3.76 The Western Australian Department of Commerce and Trade cited findings of a 1996 Communication Audit which showed that:

many residents were unhappy with the growing trend towards networking of regional commercial radio services. This means that all stations throughout the network receive the same program for much of the day with only small windows for local news and advertising. Regional listeners questioned the relevance of having Sydney and even Perth radio programs and radio personalities broadcasting to regional Western Australia. They felt that local commercial radio services no longer provided sufficient local news and information. There was some expectation that community stations may be able to fill this role.⁴³

3.77 Shire Councils from centres as wide apart as the Kimberleys and Western Australia and Tumut in NSW lamented the loss of local content.

3.78 Not surprisingly, given that many of the commercial stations are predominantly local during the day, concerns about the increase in networked programming focused on the loss of local programming during the evenings and weekends.

3.79 The Country Women's Association of New South Wales described services that contained no local content after 6pm on weekdays or after noon on Saturdays and none at all on Sundays and added that 'local communities feel as though they have lost "their" radio station. ... The majority of country people are not interested in city based radio programmes.'⁴⁴ The following extract from another submission confirms such sentiments.

They even call our station with a Sydney name now, so we don't even have our station any more. They even have Sydney weather reports and traffic reports, which is stupid and no use to people in the country.⁴⁵

3.80 Objecting to the level of the consolidation of ownership that has occurred in Tasmania, one submitter described the evening programming as follows:

From 6pm until 7pm the "Retro" show and from 7pm until midnight the "Fat 30" show are both broadcast from the Gold Coast. Recently the TTT breakfast "team" consisting of one male and one female announcer were on leave and the spot was not filled by local people but by a broadcast from the Gold Coast. As

43 Submission No 178, Vol 5, p 948 (Department of Commerce and Trade, Western Australia)

44 Submission No 249, Vol 7, p 1783 (Country Women's Association of New South Wales)

45 Submission No 251, Vol 7, p 1787 (Private citizen)

with the evening shows there was no mention of local events and I may state here, that the main topic of sport, particularly during the "Fat 30" show is of rugby league, a very minor sport in Tasmania. In Northern Tasmania, all shows on stations, 7AD Devonport, 7SD Scottsdale, 7BU Burnie, 7LA Launceston and SEA FM Devonport are broadcast from either Launceston or the Gold Coast. IE With the exception of some shows for Launceston, nothing is local.⁴⁶

- 3.81 A number of submissions drew attention to a range of irritations including announcers mispronouncing the name of the town or the time calls during daylight hours being 'either non-existent or generic'. Others gave accounts of incorrect weather broadcasts. One of these described such errors as being hurtful to the communities involved and suggested that 'widespread networking up to 21 hours a day puts local stations out of touch with the people they were originally licensed to serve'.⁴⁷

One of the greatest complaints from people in Roma, for example, has been that the announcer in Townsville simultaneously serving all these markets may be heard to comment 'Not another rainy day' as the tropical storms fall in Townsville.

Unfortunately, Roma is in the midst of the worst drought in 40 years and the local people are suffering badly. These types of comments can be quite hurtful.⁴⁸

- 3.82 A number of submissions commented on the size of some of the networks and the loss of diversity that resulted.

The Caralis network and the DMG networks which dominate a great deal of NSW, VIC and QLD have stations that are so close together, the same program can be heard all over.⁴⁹

The opportunity to switch to nearby Radio Station 2MO based in Gunnedah, 80 kilometres west of Tamworth, as an alternative has been denied because this station is also part of the 2SM network.⁵⁰

- 3.83 Other objections referred to the failure of stations to replace announcers during holidays or using automation over extended periods.

With the advent of more sophisticated computer programs over the past five years, radio stations can be run remotely by satellite for days on end with no live presenters. This is the case with 2PK

46 Submission No 82, Vol 1, p 196 (Private citizen)

47 Submission No 85, Vol 1, p 205 (4VL)

48 Submission No 85, Vol 1, p 204/205 (4VL)

49 Submission No 66, Vol 1, p 110 (Private citizen)

50 Submission No 229, Vol 7, p 1735 (Private citizen)

Parkes and 2MG Mudgee, where over the Christmas break they ran from 6pm 24/12/99 to 6am 28/12/99.

On long weekends it is not uncommon for small stations to run from midday Saturday to early Tuesday mornings. No local content and no up to date information regarding roads, the weather, sporting cancellations, “what’s on” or the like.⁵¹

- 3.84 Various submissions referred to the loss of local news ranging from claims that the news service 'provided little more than media releases and news handouts'⁵² to claims of there being no local news content at all⁵³ to claims that there was no local news during some parts of the day.

In southern Tasmania, station TTT has no local news after midday, it is broadcast from the Gold Coast.⁵⁴

Until recently Radio West had a local news segment as part of their morning sessions. This is no longer available.⁵⁵

- 3.85 Another submission, whilst citing 2DU in Dubbo as one of the two commercial stations that should indeed be used as a model for AM and FM stations around the country⁵⁶ claimed programming to have declined in terms of community services and in the number of outside broadcasts.

Loss of country feel

- 3.86 Some submissions specifically objected to city based programming. Calling for more local content, a submitter in Taree objected to the 9.00am-12.00nn program originating in Sydney and added that 'a local radio station should reflect on our area'.⁵⁷ Another objected to 'being fed information and content that is city based that is neither representative of our rural and cultural environment or is our choice'.⁵⁸
- 3.87 That the sense of loss often was not always related to the loss of specifically local content was borne home to us by the sheer number of submissions which referred to the loss of programs which are essentially networked programs.

51 Submission No 66, Vol 1, p 110 (Private citizen)

52 Submission No 148, Vol, p 808 (Port Macquarie County Labor)

53 Submission No 132, Vol 4, p 657 (Private citizen)

54 Submission No 82, Vol 1, p 196 (Private citizen)

55 Submission No 48, Vol 1, p 59 (Shire of Coolgardie)

56 Submission No 66, Vol 1, p 106 (Private citizen)

57 Submission No 25, Vol 1, p 33 (Private citizen)

58 Submission No 254, Vol 7, p 1795 (Private citizen)

3.88 Many, for instance, decried the decision of the Broadcast Operations Group to discontinue the popular Country Music Program. The program had been broadcast seven days a week between 6.00pm and 6.00 am for a period of 35 years first as Hoedown and then as Country Music Radio.⁵⁹ Following its purchase of the Sydney Radio Station 2SM and its decision to restructure the network with this as the sole program source, the Broadcast Operations Group discontinued the Country Music Program. The decision was clearly felt as a blow to the community, not only because of the loss of the actual music content which while country in style was not specifically local, but because of what the program had come to represent to the community. As explained by the General Manager of the Tamworth City Council, Mr Lyon, 'the loss of the radio program I believe was a diminishing of that recognition of what the city stands for in relation to country music'.⁶⁰

3.89 Similarly, the network's decision to discontinue another 'county style' though not specifically local program, Paul Tolley's *Australia Tonight*, was galling to many listeners as evident in the extract below.

It has been replaced by a program emanating from 2SM in Sydney. Their presenter struggles with an understanding of general rural issues and indeed it is another case of the city telling the bush they know what is best for us.⁶¹

3.90 In both cases, the decision was made more hurtful by the manner in which it was done.

Then on a Monday at the end of January I turned the radio on, and Paul was not on any more. They didn't tell us anything. They just sacked him and a lot of people on the radio. It was so rude and insulting to the people. They had put a man coming out of their radio in Sydney. I'll speak my mind. The people they have on now drive me mad. They don't know anything about the country, and they don't seem to let people talk about the country things which interest us.⁶²

There was no consultation at all. That was another point that a lot of people found quite offensive in Tamworth when the station was taken over by 2SM. We received very short notice. It just happened. People were crying out, ringing up and doing everything. But it was just done. It was just, 'Go away, it is

59 Submission No 229, Vol 7, p 1734 (Tamworth City Council)

60 Transcript of evidence, 31 January 2001, Tamworth, p 167 (Mr Lyon)

61 Submission No 107, Vol 3, p 445 (Private citizen)

62 Submission No 251, Vol 7, p 1787 (Private citizen)

finished.’ It appeared to me that the Tamworth people would have liked an opportunity to sit down and talk about it. The station, for obvious reasons, did not give them that opportunity. One would have hoped that out of that would have come some sorts of discussions whereby we might have been able to ask them, ‘Could you do a small segment or something else to take its place?’ We did not have that opportunity at all. It was done and we had to get on with life.⁶³

- 3.91 Such instances cannot but suggest that there is a lack of attunement with country listeners in at least some levels of the organisation.
- 3.92 Some of the evidence focussed on changes in services which were not specifically local, at least in the geographic sense. For instance, in a submission describing services in the Dubbo region, one witness claimed the programming on 2DU to have declined overall including in the area of news. However, the news in question was not local news which, according to the submitter, had remained the same. The concerns, in fact, related to the station's decision to take the national news from its only Sydney station rather than the service from 2UE.⁶⁴ The loss of news readers from 2UE was also noted in a submission from a Tamworth listener.⁶⁵
- 3.93 The evidence presents a broad variety of concerns ranging from a general discomfort with the degree of consolidation of ownership and sense of loss of country style programs to specific concerns about incorrect weather reports, generic time calls, failure to replace announcers during the holidays and a reduction in the number of outside broadcasts. However, the largely anecdotal nature of the evidence provided in the submissions and the limited number of submissions which express concerns about networking makes it difficult to be conclusive about the degree to which networking has led to a deterioration in the services provided to regional communities. The generality of comments, occasional instances of contradictions, lack of correspondence in some cases between claims made in submissions and the evidence provided by broadcasters, and the lack of hard data available to substantiate claims make it impossible to assess the impact in quantifiable terms.
- 3.94 We are, however, persuaded that warning bells are ringing for localism in regional radio services and that the current arrangements leave communities vulnerable to changing economic pressures and other forces that impact on the commercial broadcasting industry. Economic,

63 Transcript of evidence, 31 January 2001, Tamworth, p 169 (Mayor Woodley)

64 Submission No 66, Vol 1, p106-107 (Private citizen)

65 Submission No 15, Vol 1, p 21 (Private citizen)

regulatory and technological developments are also dramatically transforming the delivery of other services to regional Australia such as banking services. In an era when many regional communities are experiencing economic difficulties and there is a pervasive sense of loss, it is more important than ever to preserve services, such as local radio services, which can play a role in maintaining and building community identity.

An over-reliance on market forces

3.95 In our view, this vulnerability has been created to a large extent by the removal of the obligation on individual broadcasters to provide 'a comprehensive and adequate coverage'. The removal of the obligation, may have had some logic when considered in context of the other changes to the regime. The increases in the number of licences being issued, the encouragement of the community sector and the creation of other categories such as narrowcasting were expected to provide for diversity and to add to the comprehensiveness of services.

3.96 The view that such measures in combination with market forces will guarantee localism is premised on the assumption that there is genuine competition in all markets. We received some evidence that the current arrangements do deliver localism in markets where there is genuine competition.

Dubbo, in NSW is an interesting example of larger-scale networks' attitudes to 3rd license competition and viability in Australia. 3 licences are operating in the market, two are owned by Bill Caralis, and one, the newest, Star FM is owned and endorsed by DMG Regional Radio. This station, unlike the majority of its 58 related regional network stations who broadcast for 6am until 9am of 10am, is live and local from 6am until 6pm; increased localism, the direct result of real competition.⁶⁶

3.97 We are not convinced, however, that the level of competition required for market forces to work exists in all markets. In 82 of the 102 commercial radio service licence areas⁶⁷, there is only one owner of commercial licences. In such markets, listeners who prefer the commercial radio format over other radio formats, essentially have very little choice. As

66 Submission No 80.02, Vol 8, p 1947 (Riverina Radio Group)

67 Submission No 79.06, Vol 9, p 2161 (ABA)

expressed by one submitter, 'We have no professional commercial alternative'.⁶⁸

- 3.98 Communities, it was suggested by one witness, Mr Higginbotham, can only have the radio services they can afford. Some communities are too small to attract any commercial broadcasters and many are of a size that can only support one commercial licence holder.
- 3.99 There may be sound reasons for limiting the number of licence holders in a region, an issue discussed in more detail later in the chapter. However, the fact that commercial broadcasters in some areas are not competing against other commercial broadcasters seriously limits the power of market forces to ensure that the communities have real local radio services, as explained in some detail by Mr Higginbotham.

The free market has failed because the pre-conditions for its success have not been met. The nature of the RF spectrum is such that individual transmissions are geographically restricted. Hence, audiences in small markets have no choice regarding service providers and are thus captive and unable to punish a broadcaster by moving on to a more attractive alternative. For these consumers the free market option is not available.⁶⁹

- 3.100 Mr Higginbotham's analysis confirms our view that the BSA's emphasis on competition was not appropriate in all sized markets.
- 3.101 In addition to removing a requirement that afforded some safeguards to localism in radio, the BSA also removed any limits on the number of commercial licences that could be held in total by one operator. According to the Mr Higginbotham, the impact of this move in effect created circumstances which favoured networking.

Whereas in the very large markets competition for audience is ever-present and there are effectively no limits to the revenues available to any one station, in smaller markets audiences and revenues are finite.

This is an important change. Success is no longer directly tied to meeting the public need; success now flows from optimising the balance between costs and revenue to optimise profits.

68 We acknowledge that a high degree of competition exists between different media in markets for the advertising dollar. But is it competition within a particular form of media that in theory at least delivers improved services and that requires the presence of alternative versions of the same media. We also acknowledge in some areas, listeners are able to tune to other stations because of overspill of the signal from other licence areas.

69 Submission No 273.01, Vol 8, p 2052 (Private Citizen)

Small markets today operate without regulation. There is not even a limit on the number that can be served by one operator. Given this, it is no surprise that network operators have found the revenue penalty incurred by reducing programme standards is not proportional to the profit gained by minimising costs. Networking the greatest number of markets yields the highest profit.

This outcome is quite the reverse of what was intended, yet there is no commercial penalty – contrarily, the network broadcaster is rewarded for downgrading the service provided.⁷⁰

- 3.102 The markets that particularly illustrate our concerns are small markets. Already, for instance, in areas such as Bridgetown, Katanning, Merredin and Northam, there are no live broadcasts from the local commercial radio studio. In others areas including Esperance, Mt Isa and Kalgoorlie, hours of live broadcasting from the local studio, have been cut by approximately half since 1996.⁷¹
- 3.103 As noted earlier, most commercial broadcasters use networking or syndicated programming to some degree and it is difficult to draw a line where their use becomes significantly detrimental to local radio services. While the line may be difficult to draw, we suggest that stations which have ceased all live broadcasting from the local studio have clearly crossed the line between being a truly local radio service and being an alternative form of radio broadcasting.
- 3.104 While we accept that networking is only happening to this extent in a handful of small licence areas, the fact that it is occurring at all confirms that the current arrangements leave communities at risk of losing real local radio services.
- 3.105 In its submission to the inquiry, the ABA itself drew attention to shortcomings in the licensing conditions.

There is no obligation on any single commercial licensee to provide an adequate and comprehensive range of services. Moreover, commercial radio stations are considered to be one of a number of broadcasting media providing information to a community: community and national radio services, and also television, must be taken into account in determining whether a commercial radio station is meeting its licence conditions. A shortcoming of the current 'adequate and comprehensive' condition is that it does not impose a clear obligation on any single

70 Submission No 273.01, Vol 8, p 2051/2052 (Private Citizen)

71 Submission No 106, Vol 2, p 360/388 (DMG Group)

licensee to do anything in particular. Thus if all services in a market ceased to carry local news, it is unclear which, if any, has breached the obligation to 'contribute ...to the provision of an adequate and comprehensive range of services'.⁷²

The case for prescribing for local content

3.106 Some submissions called for a tightening of the regulations and the imposition of a local content requirement. In relation to the New England area, for instance, one submission suggested that:

Local and regional content should apply to a licence. Television was correctly forced to have 55% Australian content. Local radio stations should have to air 55% local and regional content. Regional being New England North West-geographical area. If this isn't in a licence it won't happen. Cheap Sydney/Newcastle talk-back will prevail.⁷³

3.107 Along similar lines, another submitter suggested that 'programming content should include minimum standards related to local news and sport and live local content'.⁷⁴ Another witness worried about where the trend towards more networking would lead and suggested that without some form of requirement for localism, 'technically it should be possible to have a mother station servicing a global network'.⁷⁵

3.108 From the industry's perspective, however, there was considerable resistance to the any form of additional content requirements.

3.109 FARB and individual broadcasters claimed that given the high costs and investment risk involved in purchasing and operating a commercial radio licence, it was logical that operators be given wide discretion with regard to program formats.⁷⁶

3.110 FARB also argued that the question of local content in regional radio should not be considered in isolation from other broadcast sectors. As pointed out by the ABA, 'commercial radio stations are considered to be one of a number of broadcasting media providing information to a community: community and national radio services, and also television, must be taken into account in determining whether a commercial radio

72 Submission No 79, Vol 1, p 152 (ABA)

73 Submission No 254, Vol 7, p 1799 (Private citizen)

74 Submission No 132, Vol 4, p 658 (Private citizen)

75 Submission No 198, Vol 6, p 1335 (Private citizen)

76 Submission No 133, Vol 4, p 676 (FARB)

station is meeting its licence conditions'.⁷⁷ According to FARB, provided broadcasters meet these and other requirements under the BSA, they should 'be able to choose the kind of local programming and associated services they broadcast'.⁷⁸

- 3.111 Complementing FARB's view and taking its point that 'the sole responsibility of regional radio broadcasting is not intended to rest with commercial radio'⁷⁹ a step further, DMG Group argued that 'commercial stations must focus on mainstream or majority audience demands' and that 'community and national stations exist for the purpose of satisfying the demands of small sections of their local communities'.⁸⁰
- 3.112 Although the apparent disregard for small sections of the community is disappointing, commercial radio is after all a commercial enterprise and to some extent the view is understandable. However, that commercial radio is free to turn its back on sectors of the community raises serious questions about the wisdom of the removal by the BSA of the obligation from individual broadcasters to provide an 'adequate and comprehensive coverage'. It also highlights the degree to which the community is reliant on the quality of the ABA's initial planning and on its subsequent monitoring of the results of that planning on service provision.
- 3.113 DMG Group also argued against the imposition of any form of content quotas on radio on the basis of it being:
- contrary to the position taken by the Productivity Commission;⁸¹
 - unfair and discriminating against radio relative to television;
 - contrary to audience demands as measured by our surveys and research; and
 - anti competitive (because it would limit the ability of radio to compete with other means of delivery).
- 3.114 Grant Broadcasters argued that having made the changes in 1992, it would be inappropriate to impose any form of program regulation.

I say this because the new Act is predicated on the removal of regulation and the introduction of additional services. The theory at the time was more is better. FARB and individuals argued that

77 Submission No 79, Vol 1, p 152 (ABA)

78 Submission No 133.03, Vol 8, p 2000 (FARB)

79 Submission No 133, Vol 4, p 673 (FARB)

80 Submission No 106, Vol 2, p 293 (DMG Group)

81 Submission No 106, Vol 2, p 313/314 (DMG Group)

this was not necessarily the case as without commercial viability the service commercial broadcasters can deliver is restricted. These arguments were rejected and we have subsequently seen an enormous growth in the number of services. ABC, community, narrowcast and commercial, in the latter case whether through new licence grants or the commencement of s39 licences. Pay TV is a growing alternative and aggregated TV has made it possible to sell television locally at very low cost. All of these services compete for audience and some for advertising revenue. Having chosen this path in 1992 it is simply not reasonable to expect that the commercial radio industry can return to a regulated industry.⁸²

- 3.115 Various submissions suggested that regulations do not always achieve their objects. Grant Broadcasters, for instance, expressed some concern about the unintended consequences of regulation.⁸³ On a similar note, Mr Higginbotham suggested that 'when you impose heavy requirements on people you do not necessarily get the satisfactory answer that you would like.'⁸⁴
- 3.116 We are aware that an unintended consequence of imposing specific local content requirements may indeed be that the commercial viability of some stations is further threatened.
- 3.117 Describing the economic capacity of some markets to support a local radio stations to have changed over the years, DMG argued that without networking, some markets would have lost commercial radio services altogether.

It also enables, particularly in the smaller markets, a service to be provided that, given the changed economic circumstances, simply would not be possible at all if the operations were not conducted in either the way that we do or with some form of networking. I would go so far as to say that in the smaller markets—there is now a reasonably large number of small markets in Australia—if services were not being provided in the way that they are being provided there would no longer be a possibility for a service at all. The services would need to shut down and a significant number of markets would no longer have any commercial service at all and there would be nobody wishing to take those licences to continue the service.⁸⁵

82 Submission No 187, Vol 5, p 1082 (Grant Broadcasters)

83 Submission No 187, Vol 5, p 1082 (Grant Broadcasters)

84 Transcript of evidence, 28 May 2001, Brisbane, p 758 (Mr Higginbotham)

85 Transcript of evidence, 28 May 2001, Brisbane, p 790/791 (Mr Thompson)

- 3.118 Such evidence underscores the difficulty of finding solutions that will at the very least protect communities from further loss of their local radio services.
- 3.119 While there was considerable resistance within the industry to any suggestion of the imposition of a local content requirement, some broadcasters were more disposed to accepting such a requirement in return for other concessions. The Australian Association of Independent Regional Radio Broadcasters, indicated early in the inquiry that:
- At the end of the day, if we had the provision, like we had in the previous act, of an obligation to be adequate and comprehensive, we would cop that, providing the other side of the equation was recognised—that is, that it was essential that the viability of the stations be preserved.⁸⁶
- 3.120 RGCR also supported an imposition of a local content requirement provided that ownership and control rules were also revisited.

Encouraging real local radio

- 3.121 Despite being far from convinced that the current approach of placing a collective responsibility on licence holders in a licence area to deliver adequate and comprehensive coverage actually works as currently administered, we recognise that a requirement to provide more local content demands a deliberately cautious approach.
- 3.122 Communities clearly value having access to a real local radio service. However, it does not necessarily follow that communities, or at least those communities which have more than one commercial radio service, want local content from every provider or indeed from every service. The success of national programs which target a particular demographic and contain no local material, such as Triple J, bear testimony to this.
- 3.123 We are concerned, however, that community needs do not seem to be a priority in the BSA or for the ABA in its administration of the BSA. While the Committee is cautious at this point in time about regulations requiring local content, we consider that the industry as a whole needs to demonstrate more responsiveness to the community's need for adequate and comprehensive coverage.
- 3.124 As mentioned above, our concern at this point of time is particularly for small markets where market forces have limited power. Small markets cannot sustain the competition provided by more licence owners. Yet

⁸⁶ Transcript of evidence, 8 December 2000, Canberra, p 80 (Mr Foster)

without competition, market forces cannot work to achieve real local radio in the manner envisioned by the formulators of the BSA.

- 3.125 The challenge presented by this conundrum is to find ways of preserving local program content and local presence in radio in these areas and of encouraging an increase in local program content and local presence where it is not; that will preserve diversity where it has been created but also maximise the possibility of at least one station providing for real local radio. We believe that this challenge can be best met by a combination of measures which address on the one hand, the community's needs for real local radio, and on the other, broadcasters' needs for commercial viability. Measures which deal specifically with commercial viability are discussed later in this chapter.

The case for a regional commercial radio licence

- 3.126 The Committee received various calls during the inquiry for regional radio to be treated differently than metropolitan radio. A submission from the Riverina Radio Group, a group endeavouring to obtain a commercial radio licence for Wagga Wagga, NSW, proposed that two new categories of commercial licence be created for regional radio, the Regional Commercial Radio Broadcast Licence and the Commercial Network Broadcasting Licence. Under this scheme, holders of the Regional Commercial Radio Licence would be required to be fully "live and local" for a minimum of eighteen hours per twenty-four. Holders of the Commercial Network Broadcasting Licence would be required to provide a minimum of eight hours live local programming for eight out of twenty four hours.⁸⁷
- 3.127 The Regional Licence category would be allocated on a merit based rather than a price based system. Holders of a commercial network licence would not be permitted to own a Regional Commercial Licence nor could they supply programming to a Regional Commercial Licence except in emergency situations.
- 3.128 There would only be one regional Commercial Broadcasting Licence allocated in each major regional areas and the category would only be utilised 'when sufficient interest is shown from a suitable locally based applicant, and a need for increased localism and community service due to network operators deficiencies are recognised'.⁸⁸

87 Submission No 80.02, Vol 8, p 1945-1946 (Riverina Radio Group)

88 Submission No 80.02, Vol 8, p 1946 (Riverina Radio Group)

- 3.129 The scheme would undoubtedly deliver a high degree of localism in areas in which there is a broadcaster willing to commit to 18 hours live and local. It would also provide some entry point for operators wanting to establish a truly local service who may have been previously excluded from the market by not having the resources to compete with the large networks at licence auctions.
- 3.130 We have some reservations about the scheme. For instance, the scheme would compel all broadcasters in an area to a certain level of local content. While listeners want access to a local radio station, they do not necessarily want local content on every service in the area.
- 3.131 Notwithstanding these reservations, we are generally sympathetic with the intention of the scheme. Ultimately, the allocation of one specifically local licence for each licence area in regional Australia may be the best way to protect local radio. In our vision, all incumbent licence holders would be able to bid for the licence but would bid on the basis of merit rather than price. The licence would be for a real local radio service as described at paragraph 3.24 and accordingly would have certain obligations placed on it. In return for these, the licence fees would be calculated on a different basis than for other commercial services.
- 3.132 It is an option that should be considered and developed by the ABA should its monitoring of the adequacy and comprehensiveness of radio services indicate that regional communities are losing access to a real local radio service.

Tradeable credits

- 3.133 In evidence before the Committee, representatives from the ABA suggested that a scheme of tradeable credits may serve to encourage localism. Again the proposal was only lightly sketched but there was sufficient broad detail for us to consider in principle. The scheme is based on an obligation being placed on all commercial broadcasters to deliver certain levels of localism. Broadcasters would, however, be allowed to trade their credits, or contract with another station to deliver on their behalf.
- 3.134 The scheme has some appeal in that it is a way of sharing the responsibility between broadcasters to provide for localism but in a manner that allows for that to be delivered in the most efficient way as described by ABA Board Member, Ms Maddock, as follows:

Where governments have imposed content rules they have imposed it in a one size fits all across the board. If one station is

more efficient, because it has got better community links, at producing that news, they still only produce their five minutes, two hours or whatever you mandate and other stations produce their same level. You do not get any economies of scale in producing it. If you had a system whereby you mandated that every station is responsible for there being on air in the area X minutes or X hours per day of community news, but could contract with another station to deliver on their behalf, then the station that is most efficient at producing and organising it will do so. That may be a good thing.

Say you mandate 30 minutes a day, it may mean that you get one hour a day on a station rather than two 30-minute segments running in opposition to each other on two different stations. It may mean that they ask the community radio station or contract with the community radio station to produce and distribute it on their behalf. It lets the market forces as to who is the most efficient at producing that local content do so in a way that may further enhance the actual spread of time that is devoted to community news in an area.⁸⁹

- 3.135 As pointed out by Mr Gordon-Smith, another member of the ABA Board, the scheme also recognises that localism does not necessarily fit naturally within all station formats.⁹⁰ Stations able to contract another stations to deliver on their behalf, would still be sharing the cost of providing for localism but would be able to retain their own format. Diversity in services overall would be retained.
- 3.136 Under the proposed scheme, commercial broadcasters would be able to contract a community broadcaster to deliver localism on their behalf. Such a measure is consistent with a view that the community sector has a role to play in providing for local radio.
- 3.137 We have reservations about including the community sector in a tradeable credit scheme. Such a move would further blur the boundaries between community, commercial and narrowcasting sectors, a move that would not be constructive at this point in time. Community radio is of varying quality across the country and some areas still do not have a well established community sector. While such a move may boost the capacity of some community stations to attract a greater share of the listening audience, it is a move that has the potential to create more problems that it solves.

89 Transcript of evidence, 29 May 2001, Brisbane, p 909 (Ms Maddock)

90 Transcript of evidence, 29 May 2001, Brisbane, p 909 (Mr Gordon-Smith)

- 3.138 The proposed tradeable credits scheme assumes the existence of other radio broadcasters in the area. As mentioned above, of the 108 commercial radio service areas, 82 have only one commercial operator.⁹¹ A tradeable credits scheme would only have value in markets large enough to have more than one owner of commercial licences unless it relied heavily on the community sector.
- 3.139 While we do not believe that there is enough evidence, at this stage, to justify the establishment of a fully separate new licence category, or institute a system of tradeable credits, we consider that both proposals are worth considering should the surveys and audits recommended in this report reveal the need for regulatory change.

One size does not fit all

- 3.140 The ultimate judge of whether a community is receiving adequate and comprehensive services should be the community. While in theory communities have had the opportunity to provide input at the planning stage, we are persuaded that the ABA has interpreted demand in terms of entrepreneurial demand for licences rather than community demand for services. We also note that that the ABA itself described having streamlined at least some aspects of the public consultation process out of existence.

Early on in the planning process, before we became aware of just how large the process was and the danger of delays, the ABA also conducted wide public consultation through public meetings. We actually streamlined that process out of existence.⁹²

- 3.141 *We welcome this admission but are concerned that the ABA appears not to have forcefully enough drawn this development to the notice of policy makers consistent with the requirement in s.158(n) to monitor, and to report to the Minister on, the operation of this Act.*
- 3.142 While we consider it important that communities have an opportunity to have input at the planning stage, we consider that it is also crucial that they have the opportunity to have input after the implementation of the Licence Plan.
- 3.143 The removal of the public inquiry that was a part of the licence renewal process prior to the BSA removed the opportunity for communities to

91 Submission No 108, Vol 9, p.2161 (ABA)

92 Transcript of evidence, 29 May 2001, Brisbane, p 894 (Mr Tanner)

provide feedback on whether radio services in their area were adequate and comprehensive. We consider that without this information, the ABA cannot perform its monitoring function to any degree of satisfaction.

- 3.144 Releasing individual broadcasters from the responsibility of providing for local content or any particular form of content essentially places the responsibility for communities receiving adequate and comprehensive services on the ABA itself. What is required, and what is fundamentally lacking from the current approach, is a rigorous method of testing whether in fact the planning process has provided for adequate and comprehensive services.
- 3.145 We therefore recommend that following the completion of the LAP process, the ABA should undertake a rigorous, comprehensive and systematic licence area by licence area audit of how well communities are being served in terms of both adequacy and comprehensiveness of radio services.
- 3.146 We have some concern that some of the community consultation processes involving public meetings or submissions tend to engage particular segments of a community. While community consultation should take place, the results do not always reflect the cross section of views. We therefore suggest that the audits are based on a scientifically constructed random sample of members of the community where the contact is instigated by the ABA rather than where the onus on participation is placed on the listener.
- 3.147 We consider that the audit should be done in consultation with Local Government. Given that the evidence suggests that the problems concerning lack of local content are likely to be more pronounced in the smaller markets, we suggest that the smaller markets be surveyed first.
- 3.148 In areas in which the audit results reveal that communities do not consider the radio services sufficiently local, we consider that the ABA should negotiate between the commercial radio licensee and the community, as represented by local government, with the goal of securing a better level of provision. Should the negotiation have not been successfully concluded at the end of six months, the ABA should make spectrum available for another commercial licence, and call for applications for that licence.
- 3.149 The existing commercial licence holder would not be eligible to purchase the licence and the ABA would only consider applications from operators that would guarantee a significantly higher level of local production, content and delivery of services than that currently provided.

- 3.150 Such an arrangement has the potential to place more of a responsibility on commercial radio licence holders in small markets than on those in other areas. In recognition of this and of both the added costs of providing for what we have and the smaller revenue in small markets, we propose that the licence fees in small markets be calculated not only on the basis of revenue but also in accordance with the degree to which the services meet the features we identified as characterising real local radio. In essence we are suggesting that a system of rebates be established to assist broadcasters provide for a form of local radio that is predominantly live and broadcast from the local studio.
- 3.151 While we consider that the threat to real local radio services in medium and larger areas is not as imminent as in smaller markets, consideration needs to be given to measures that will preserve real local radio in these areas. These measures are essentially related to the issue of commercial viability and are outlined in the next section.
- 3.152 In evidence before the Committee, the General Manager of the ABA, Mr Giles Tanner, pointed out that a periodical examination of the adequacy of services in an area served only a symbolic purpose 'if there are not discretions at the end of that in practical terms'.⁹³
- 3.153 The audit as suggested by this Committee is on one level a test of the implementation of the planning process, and to some extent the results will be providing some comment on the performance of the ABA. However, there are other factors that play a role in determining the level of services over which the ABA has no control and it would be unfair not to recognise this.
- 3.154 The audit will provide the data that is needed in order for parliament to properly assess the impact of the *Broadcasting Services Act 1992*. It will specifically identify gaps in services in specific areas. As such, it will be of great pragmatic value.
- 3.155 We consider the proposed audits to be of critical importance. In its interpretation of the BSA, the ABA has focussed intensely on the planning process and on achieving diversity. While this may be understandable in the context of the pro-competitive environment in which the reforms were conceived, we suggest that the ABA's efforts in planning need to be balanced by efforts to evaluate what was described by one witness as 'a ten year experiment with putting the spectrum to work'.⁹⁴

93 Transcript of evidence, 29 May 2001, Brisbane, p 909 (Mr Tanner)

94 Transcript of evidence, 29 May 2001, Brisbane, p 902 (Mr Tanner)

- 3.156 We therefore recommend that sufficient resources are allocated to the task to enable the audits of small, medium and large regional markets be completed within a reasonable time frame.

Recommendation 9

- 3.157 **The Minister for Communications, Information Technology and the Arts should direct the ABA following the completion of the LAP process to conduct an audit of licence areas to determine the degree to which the planning process has provided for localism and diversity and the level of community satisfaction with the services in their area.**

The Minister should ensure adequate resources are provided to the ABA to enable it to complete the audits within a reasonable time frame.

- 3.158 The audit process will reveal whether there is a need to address the problems identified in this inquiry with more stringent measures. If the audit mechanism proves to be an effective tool in assessing whether a community is receiving an adequate and comprehensive level of radio services, consideration could be given to conducting regular audits, on a five yearly basis, as a replacement for the public inquiry that was previously part of the licence renewal process.

Commercial viability

- 3.159 Any assessment of the adequacy of radio services in regional areas, particularly commercial radio services, must take into account factors that affect the capacity of commercial broadcasters to provide those services. Much of the evidence received during this inquiry suggested that that capacity has been significantly affected in recent years by the combination of regulatory, economic and technological developments.
- 3.160 One outcome of these developments has been a significant increase in the level of competition in the industry some of which is directly attributable to the BSA reforms.
- 3.161 The most direct spur to competition resulting from the reforms has been the growth in the number of radio services that resulted from the drive to

as far as possible 'put the vacant radiofrequency spectrum to use'⁹⁵ and the creation of additional categories of broadcasting. As described at paragraph in Chapter Two, since 1992 the number of commercial licences in regional areas has grown from 129 to 203 (excluding s40 licences) and the number of community licences (including BRACS services in small regions) has grown from 70 to 220. This period has also seen the allocation of 166 open narrowcast licences, and ten s40 licences (3 of which are Australia wide).⁹⁶

- 3.162 At the same time as leading to an increase in the number of services, the BSA removed the test of commercial viability that had been a feature of the previous broadcasting regime.
- 3.163 Reforms in the ownership and control rules also led to increased competition. The lifting of ownership limits from one to two in each licence area, the increase in the number of licences one person could control Australia wide and the abolition of foreign control provisions have led to a consolidation of ownership in the industry and an increase in the trend towards networking. The opportunity to achieve economies of scale available to the larger networks has the potential to increase the competitive pressure on smaller operators.
- 3.164 Other concurrent developments have also increased competition, one of the most significant of which has been the aggregation of television. Introduced in the late 1980s with the passage of the *Broadcasting Amendment Bill 1986*, television aggregation was intended to expand the number of television services available to audiences throughout Australia. It involved the creation of 'new, larger, competitive regional television markets by combining the existing smaller monopoly markets.'⁹⁷
- 3.165 According to FARB, at a time when radio was the economic medium with advertisements at approximately \$50 per spot, the aggregation of television brought the rates for a local advertisement on television down from \$500 down to between \$10 and \$70. The introduction of TV aggregation had 'not just a one-off effect on these markets for radio; it had a continuing long term effect'.⁹⁸
- 3.166 The enormity of the impact of television aggregation on radio operators was described by Mr Camplin, Chairman of Bathurst Broadcasters, as follows:
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95 Submission No 79, Vol 1, p 148 (ABA)

96 Submission No 79.05, Vol 9, p 2152/2153 (ABA)

97 Mackey, P. 'Aggregation of television markets in regional Australia'. Parliamentary Research Service 7 September 1993.

98 Transcript of evidence, 29 May 2001, Brisbane, p 861 (Ms Merideth-Marx)

Our biggest competitor in this marketplace in the last few years has been aggregated television. As to what happened with television going from one locally controlled television station in Orange that covered the local region to three, which covered a huge area networking everything, including windows for ads, the net effect of that was that it went from nine minutes an hour of advertising to 39 minutes an hour of advertising. If the nine minutes were not filled on the local radio station, just like my radio station, you play another record. However, when you are relaying the advertising windows as well as the programs you have got to fill them.

What then happened was that instead of paying, say, \$500 for a local ad on CBN Channel 8, with us being able to say, 'At 60 bucks, we're cheap, 'today \$500 can buy you many, many ads and we cannot compete in price.⁹⁹

- 3.167 Commercial broadcasters in regional areas also face competition from stations in adjoining markets, from other forms of media including newspapers and magazines, pay television services and the internet.
- 3.168 As pointed out by AMI Radio Pty Limited, a network that owns eight commercial licences in non-metropolitan Australia, the increase in competition facing commercial radio broadcasters 'has occurred at a time when there has been little, if any, population increase and at a time of adverse economic conditions for many.¹⁰⁰
- 3.169 FARB portrayed the competitive environment in which commercial radio operates as follows:

Today in most regional areas there are a minimum of two commercial radio stations per market, plus community aspirant community and narrowcast radio stations that are competing for advertising dollars. There are also three commercial television stations in each market spanning more radio station markets than the single TV station did prior to aggregation. In addition, most markets have long-established newspapers and local area free newspapers; 'yellow pages' style of business directories; more demands for sponsorship dollars from local businesses: internet advertising; and a variety of sophisticated outdoor advertising. Not to mention the national press, such as The Australian newspaper, the Australian Women's Weekly and Family Circle

99 Transcript of evidence, 1 February 2001, Bathurst, p 298 (Mr Camplin)

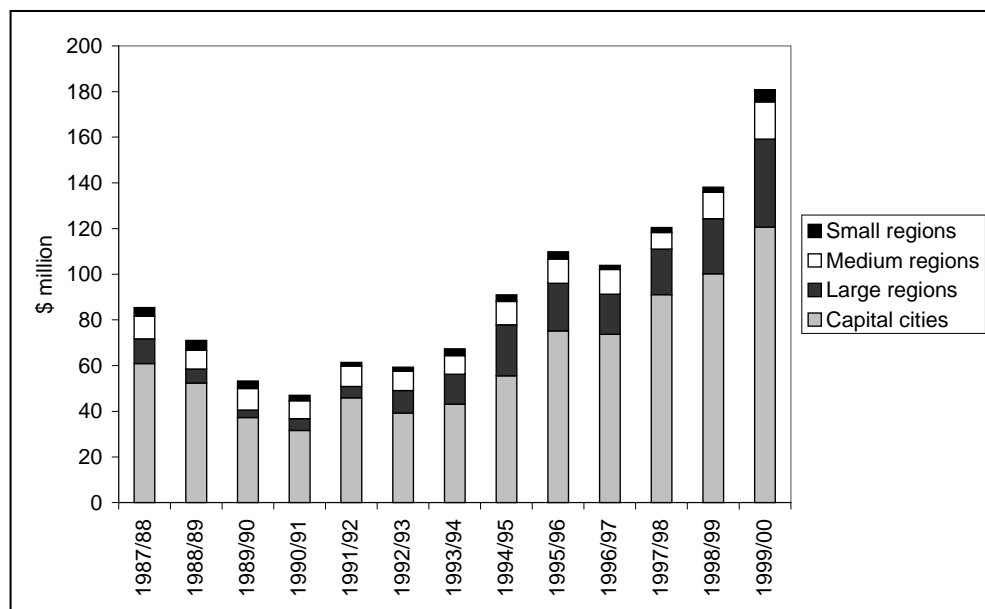
100 Submission No 152, Vol 5, p 842 (AMI Radio Pty Ltd)

magazines. All of this is squeezing radio profitability.¹⁰¹ The general view put to us from broadcasters was that the impact of the increased competition is to fragment the market and reduce profitability. The effect of the increase in the number of services competing for advertising revenue is cumulative, claimed FARB. 'It is not possible to identify one service that has had an enormous impact in a market, but by the time you add community services and narrowcasting services...you start to dilute the available revenue in the marketplace for commercial broadcasters, and that goes to viability.'¹⁰²

A view of commercial viability through the Broadcasting Financial Results

3.170 According to the ABA, despite the introduction of new commercial services and new types of broadcasting in the regions, the financial performance of the commercial radio industry has improved since the BSA as illustrated in the following tables.

Figure 3.1 Real profit before interest and tax, commercial radio licenses by region, 1978-79 to 1999-00 (1999-00 dollars)



Note: Radio profits converted to real values using the non-farm GDP implicit price deflator

101 Submission No 133, Vol 4, p 671 (FARB)

102 Transcript of evidence, 29 May 2001, Brisbane, p 883 (Ms Meredith-Marx)

Source ABA: ABS.

Table 3.4 Profitability of commercial radio licensees, large region

	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00
Number of licensees	40	41	46	48	51	56	61
Total service revenue (\$m)	86.8	94.4	107.3	100.1	105.0	114.6	137.1
Total service expenses (\$m)	76.6	83.0	90.5	86.9	89.5	94.7	103.3
Total of loss (\$m)	-2.1	-2.8	-2.6	-2.1	-2.6	-3.5	-4.5
Total of profit (\$m)	12.3	14.2	19.3	15.3	18.1	23.4	38.3
Total PBIT	11.5	12.2	19.8	16.9	19.4	23.5	38.5
Total service profit (loss)	10.3	11.4	16.8	13.2	15.5	19.9	33.8
Number of unprofitable licensees	9	12	14	14	12	17	15
Number of profitable licensees	31	29	32	34	39	39	46

Source ABA

Table 3.5 Profitability of commercial radio licensees, medium regions

	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00
Number of licensees	43	46	46	54	66	68	75
Total service revenue (\$m)	54.6	57.7	58.0	58.3	59.8	64.6	69.3
Total service expenses (\$m)	48.9	49.2	49.4	48.6	54.0	54.6	53.4
Total of loss (\$m)	-1.6	-0.8	-0.4	-1.0	-1.6	-0.8	-0.9
Total of profit (\$m)	7.3	9.3	9.0	10.7	7.5	10.9	16.8
Total PBIT	7.3	9.8	10.1	10.4	6.9	11.4	16.3
Total service profit (loss)	5.6	8.5	8.6	9.8	5.9	10.0	15.9
Number of unprofitable licensees	11	7	8	13	19	16	13
Number of profitable licensees	32	39	38	41	47	52	62

Source ABA

Table 3.6 Profitability of commercial radio licensees, small regions

	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00
Number of licensees	38	39	37	42	56	63	65
Total service revenue (\$m)	27.2	28.5	24.7	25.1	24.2	24.9	26.3
Total service expenses (\$m)	25.0	25.4	21.9	23.7	22.3	23.1	21.2
Total of loss (\$m)	-0.8	-0.7	-0.6	-1.8	-0.9	-1.2	-0.4
Total of profit (\$m)	3.0	3.8	3.3	3.1	2.8	3.0	5.5
Total PBIT	2.6	3.5	3.0	1.7	2.2	2.1	5.4
Total service profit (loss)	2.2	3.1	2.7	1.3	1.8	1.8	5.1
Number of unprofitable licensees	13	10	8	17	16	26	13
Number of profitable licensees	25	29	29	25	40	37	52

Source ABA

3.171 The 1999-00 Broadcasting Financial Results reveal that the commercial radio industry generated a record revenue of \$737.5m.¹⁰³ The average rate of return (excluding licence fees and licence values) achieved by regional commercial radio licensees nearly quadrupled between 1991-92 and 1990-00 from 8 to 29 percent. Although less profitable than metropolitan stations which achieved from 16 to 27 percent in the same period, their rates of return, the ABA suggested, appear to be converging.¹⁰⁴ This convergence is particularly apparent in the last year as shown in the tables below.

Table 3.7 Proportional distribution of profit and revenue, commercial radio licensees, 1998-99.

	Proportional distribution of revenue	Proportional distribution of profit*	Proportional revenue retained as profit
Capital Cities	0.67	0.72	0.23
Large regions	0.19	0.18	0.20
Medium regions	0.10	0.08	0.18
Small regions	0.04	0.02	0.08

Note: a. Profit is measured as profit before interest and tax.

Source ABA

103 Submission No 133.02, Vol 8, p1968 (FARB)

104 Submission No 79.05, Vol 9, p 2154 (ABA)

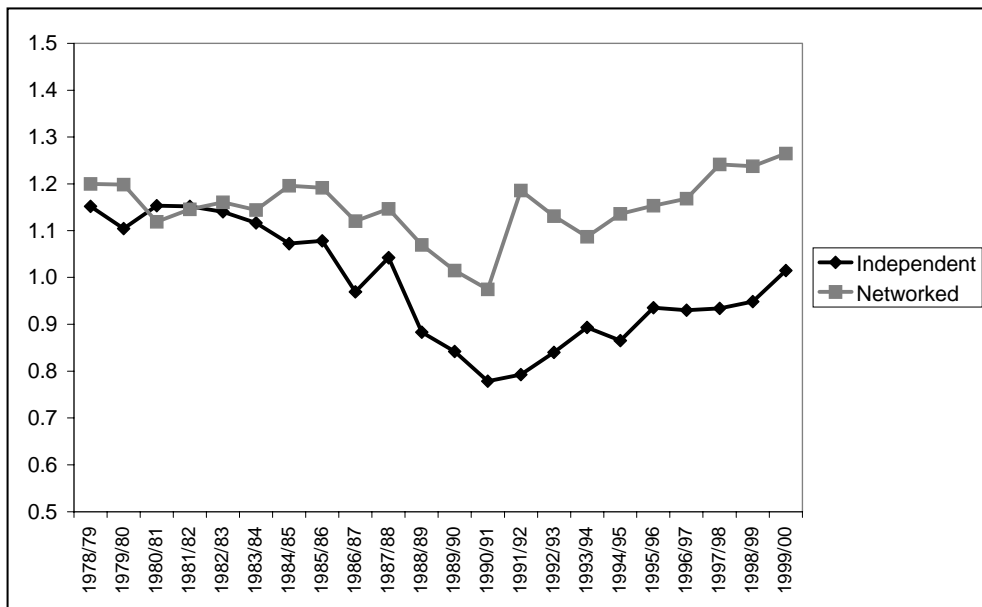
Table 3.8 Proportional distribution of profit and revenue, commercial radio licensees, 1999-00.

	Proportional distribution of revenue	Proportional distribution of PBIT	PBIT as a proportion of revenue
Capital Cities	0.68	0.67	0.24
Large Regions	0.19	0.21	0.28
Medium Regions	0.09	0.09	0.24
Small Regions	0.04	0.03	0.20

Source ABA

3.172 Data provided by the ABA indicated that a radio's ownership and affiliation status can have an important bearing on its financial performance with stations associated with networks consistently achieving a higher rate of return than independently owned stations.

Figure 3.2 Ratio of revenues to expenses, commercial radio stations by ownership status, 1978-79 to 1999-00.



3.173 The higher rate of return may be a result of the networks achieving economies of scale in operating expenses. For instance, according to the ABA, 'between 1987-88 and 1998-99, in real terms, average expenditure on employees in regional areas overall fell by 1.7 per cent.¹⁰⁶

3.174 FARB pointed out that despite a 13.5 per cent increase (\$28.5M) in regional radio revenue in 1999-00 over the previous year, the average revenue for

105 Submission No 79.05, Vol 9, p 2135 (ABA)

106 Submission No 79, Vol 1, p 174 (ABA)

regional stations had dropped from \$1.4M to \$1.15M.¹⁰⁷ Expanding on this point in giving evidence, FARB commented:

There has been a continual drop-off in the average revenue per station over the last 10 years. That has probably been exacerbated in some situations in the last five years, with the proliferation of stations in those regional areas—to the extent where, in smaller regional stations, the average revenue has dropped from \$640,000 to \$400,000, which is a 38 per cent drop in 10 years. In medium regional stations, it is down from \$1.2 million to \$920,000. In the larger regional operations, it is down to \$2.37 million, which is down nine per cent. So it is something that has impacted fairly heavily with the increase in stations, the numbers of which have almost doubled over the period. While the overall revenue of the industry has increased, it has had to be shared by a much higher number of stations.¹⁰⁸

According to FARB there are still about one-fifth of stations in regional Australia are unprofitable.

- 3.175 Understandably, FARB has represented the figures in a way that best suits its case. However, the increase in the number of commercial stations is largely as result of the issue of s39 licences which were allocated to incumbent broadcasters. We suggest, therefore, that the fact the average revenue for each station may be down does not necessarily mean that the average revenue for each operator has been reduced.
- 3.176 Moreover, figures provided by the ABA on profitability disaggregated according to the size of the market indicate that while there has been some variation in the proportion over the years, the proportion of unprofitable stations is significantly smaller in 1999-2000 in large, medium and small market than in 1991-92 and for some years preceding the introduction of the BSA. The figures for the years preceding the BSA may reflect the impact of television aggregation.

107 Submission No 133.02, Vol 8, p 1968 (FARB)

108 Transcript of evidence, 29 May 2001, Brisbane, p 877/878 (Mr Carroll)

Table 3.9 Profitable and unprofitable services

	Capital City		Small region		Medium region		Large region	
	Unprofitable	Profitable	Unprofitable	Profitable	Unprofitable	Profitable	Unprofitable	Profitable
1987/88	3	14	16 (46%)	19	10 (26%)	28	9 (29%)	22
1988/89	5	12	15 (43%)	20	12 (32%)	26	13 (39%)	20
1989/90	6	11	15 (43%)	20	15 (37%)	25	17 (49%)	18
1990/91	13	5	16 (47%)	18	19 (49%)	20	19 (53%)	17
1991/92	9	10	14 (41%)	20	13 (33%)	26	19 (50%)	19
1992/93	6	13	18 (47%)	20	12 (29%)	29	13 (34%)	25
1993/94	8	11	13 (34%)	25	11 (26%)	32	9 (22%)	31
1994/95	5	14	10 (26%)	29	7 (15%)	39	12 (29%)	29
1995/96	6	13	8 (22%)	29	8 (17%)	38	14 (30%)	32
1996/97	4	16	17 (40%)	25	13 (24%)	41	14 (29%)	34
1997/98	1	20	16 (29%)	40	19 (29%)	47	12 (24%)	39
1998/99	3	18	26 (41%)	37	16 (24%)	52	17 (30%)	39
1999/00	3	18	13 (20%)	52	13 (17%)	62	15 (25%)	46

Source ABA

3.177 We have been tentative about drawing firm conclusions from the data provided. At the heart of commercial viability is the share of the total advertising revenue each operator receives in a market. Given that most commercial operators have two licences in each of the markets they are in, it is difficult to gauge from the data provided how many operators may be profitable overall in their market even if one of the stations is not profitable. Without access to financial information about the profitability of operators rather than stations, we are forced to some degree to speculate about the real state of the industry. We consider that this information should be available publicly and elaborate on this issue at paragraph.

3.178 While the data is not conclusive in terms of the impact of the BSA reforms on commercial viability, and if anything suggests that the industry as a whole has made some degree of recovery in that time, the consistent presence of a reasonably significant number of unprofitable stations suggests that maintaining commercial viability may be difficult for at least some broadcasters in all sized regional markets. Clearly the level of commercial viability is influenced by changes in policy. Commercial viability considerations therefore must be factored into any strategy that is designed to preserve and encourage localism in radio services.

Measures to address commercial viability concerns

- 3.179 While most broadcasters expressed concern about commercial viability in the industry, there was some divergence of views on how the issue should be addressed. The measures suggested include:
- A moratorium on new licences
 - A moratorium on the payment of licences fees
 - A repeal of s.54 of the BSA
 - The restoration of a commercial viability test in the consideration of the granting of future licences.
- 3.180 A consideration of the suggestions follows.

Moratorium on new licences

- 3.181 FARB called for a 10 year moratorium on the issue of further radio licences in regional markets to be implemented after the completion of the LAP process as a means of improving the viability of incumbent broadcasters. It argued that:
- The increase in competition resulting from the planning process has led to viability issues for regional stations. A tangible way of allowing these stations to re-establish themselves in the wake of this competition is by placing a moratorium on the issue of further licences at the completion of the current planning process.¹⁰⁹
- 3.182 The moratorium would apply to commercial, community, narrowcasting, s.40 services and LPON services.
- 3.183 RGCR argued that additional licences reduced localism and suggested that the 'best and quickest way to ensure local services continue in its markets is for ABA to stop issuing further commercial radio licences in regional markets.'¹¹⁰ In evidence before the Committee RGCR made clear that they considered that this should happen immediately.¹¹¹
- 3.184 According to FARB, the general view of the industry was that the moratorium should not apply until the planning process had been completed in the interests 'of the equity of all players in the market'. We concur with the general view that it would be inequitable to impose a moratorium at this stage of the LAP process.

109 Submission No 133.02, Vol 8, p 1964 (FARB)

110 Submission No 186, Vol, 5, p 1077 (RGCR)

111 Transcript of evidence, 28 May 2001, Brisbane, p 811 (Mr Hughes)

- 3.185 We also have reservations about a broad based 10 year moratorium on licences as proposed by FARB. For a start, we do not expect that significant numbers of new licences will be issued following the completion of the LAP process. As explained by Mr Tanner when appearing before the Committee, 'the ABA does not have a plan for a widespread new consideration of new commercial licences in regional areas, basically, because we have been over the country and done that.'¹¹²
- 3.186 The ABA also expressed some concern about the impact of being unable to respond to the pressure that comes typically from 'the community and the open narrowcasting sectors, from demand for better reception of racing radio or from the desire of, say, Christian, Aboriginal or general purpose community groups to provide services.'¹¹³
- 3.187 We acknowledge FARB's point that narrowcast and community licences contribute to the cumulative effect of the introduction of new services in increasing competition. However, we do not consider that the threat provided in the form of these categories of services is sufficient to deny communities the access to diversity that may be created by the introduction of these services. We would, in fact, hope that in some areas of the country which are currently under serviced, such as parts of Western Australia, ways are found to encourage the expansion of the community sector. A general moratorium on the issue of new licences would not allow this.
- 3.188 In terms of commercial licences (with the exception of s.40 licences which are discussed later in this chapter, we have already indicated that new commercial licences should be based on community as well as entrepreneurial demand. Therefore, we consider that following the completion of the LAP process, it is inappropriate for any further new commercial licences to be issued in regional areas, until the view of the people has been established through an audit of that licence area.
- 3.189 While the advent of digital radio may be some time off, an issue discussed in Chapter 5, we do not believe it appropriate to recommend a broad moratorium on the issue of further radio licences. We appreciate the industry's concerns regarding digital radio bringing 'more new players'¹¹⁴ into the markets, given that the entry of new players would further fragment the market which may further threaten viability. However, we consider it imperative that the Government retains its capacity to assess the claims of all interested parties and to act in what it considers the best

112 Transcript of evidence, 29 May 2001, Brisbane, p 925 (Mr Tanner)

113 Transcript of evidence, 29 May 2001, Brisbane, p 925 (Mr Tanner)

114 Transcript of evidence, 29 May 2001, Brisbane, p 863 (Mr Camplin)

interests of the community over time without being constrained by a commitment to a moratorium on all new licences for the next ten years.

- 3.190 Although we understand the desire of some operators to have 'a chance to collect ourselves and plan for the future'¹¹⁵, we consider both that a moratorium would impose an unconstructive rigidity on the system and that a sense of stability can be created by other means.

Moratorium on the payment of licence fees

- 3.191 As a further incentive to assist stations to return to a more stable economic environment, FARB called for a five-year moratorium on payment of licence fees for all new regional commercial broadcasting services delivered by the ABA planning process since the introduction of the *Broadcasting Services Act 1992*. The proposed moratorium would operate on a sliding scale starting at 100% and reducing by 10% a year before reverting to full payment.¹¹⁶

- 3.192 FARB argued for the moratorium on the basis of incentive schemes having been granted to regional television to assist with aggregation infrastructure whereas this had not been done with the issue of s.39 licences.

While there are a number of variables, regional operators have in many cases expended on average, about \$1million each to establish their new s.39 FM service, while other operators have spent considerably more establishing new services. Coupled with a 25% annual increase in operating costs for the s.39 service, against estimated revenue increases of up to 10%, many services have, as evidenced by ABA financial statistics, found it almost impossible to remain viable without instigating networking or automation to invoke efficiencies in their operations.¹¹⁷

- 3.193 While we understand that there were establishment costs associated with adding the s.39 services and that the services have not contributed significantly to profitability of operators,¹¹⁸ we do not consider it appropriate that the Government provides compensation retrospectively. Granting the s.39 licences to incumbent broadcasters protected broadcasters from the extra competition that would have been created if the licences had been made available to other operators. In our view,

115 Transcript of evidence, 29 May 2001, Brisbane, p 869 (Mr Camplin)

116 Submission No 133.02, Vol 8, p 1967 (FARB)

117 Submission No 133.02, Vol 8, p 1968 (FARB)

118 Transcript of evidence, 29 May 2001, Brisbane, p 870 (Mr Camplin)

commercial broadcasters have already been well looked after in this respect.

Repeal of s.54 of the BSA.

3.194 Under s.54 of the BSA, a person must not be in a position to exercise control of more than 2 commercial radio broadcasting licences in the same licence area.

3.195 RGCR argued strongly for the repeal of this clause. Presenting a case study of a medium sized market in which it held the two commercial licences and in which it expected the ABA to plan a third commercial licence, it claimed that the new service would result in significant losses for the incumbent services. It also predicted that the revenue share for the new service would be 'barely adequate to cover capital expenditure financing costs.'¹¹⁹ According to RGCR, the likely response by both incumbent and new service providers to the situation would be as follows:

At these revenue levels, the new commercial FM service cannot afford to provide an equivalent level of local programming as the two incumbent services. The most cost effective option for the new service is to insert local advertising into a 24-hour networked service from a metropolitan market. This is model adopted by regional television with the introduction of the television aggregation in the 1980's.

The new FM service is also likely to provide network music programming that targets the same audience as the incumbent FM service. This is the largest audience most attractive to local and national advertisers. In a market of 70,000 people, a commercial service will not target a niche. In fact if there is a lucrative niche it is highly likely it will already be targeted by the new high powered narrowcaster – also advertiser funded – or by the new community radio service.

The incumbent radio station – faced with lower revenues and further operating losses – will need to find more cost effective ways of delivering programming to its two services. 'Live and local' programming may become a luxury that this radio station can no longer afford.

The ABA planned the new commercial radio service to provide this regional market with a greater choice of local service.

119 Submission No 186, Vol 5, p 1071 (RGCR)

Paradoxically the net effect will be less local programming on commercial radio.¹²⁰

- 3.196 A better way of achieving greater listening choice in the area, RGCR suggested, would be to allow the incumbent radio station to provide the third service.
- 3.197 At issue here is the question of whether diversity in regional markets is best achieved by increasing the number of owners in the licence area and limiting the number of services they can provide or limiting the number of owners and increasing the number of services it/they can provide.
- 3.198 We note observations in the evidence that RGCR pushed for and then bought third licences in a number of markets. While not directly commenting on RGCR, we also note observations made by ABA Board Member, Mr Gordon-Smith, when describing the difficulties of making judgments about allocating new licences that 'It is not unknown for us to have representations about the value of competition and the importance of new licences in one market from the same firm who will be representing to us that industry is on its last legs and cannot possibly bear any more in a market where they already have licences'.¹²¹
- 3.199 Nevertheless, we have some sympathy with the case presented by RGCR. Other broadcasters have also described situations in which a new commercial service would target similar audiences to the incumbent services rather than increasing diversity by introducing a new format. As explained by Mr Camplin, Vice-Chairman (Regional) of FARB and Chairman of Bathurst Broadcasters Pty Ltd, competition reduces diversity. "If you bring in more individual stations, they are going to chase the 18 to 39 year old age bracket and forget the rest."¹²²
- 3.200 Other broadcasters drew attention to the impact of granting the third licence to another operator on viability.

A lot of our stations certainly would not be able to sustain a third commercial station owned by an opposition company—they could if they owned it themselves but if an opposition company, such as DMG, RG Capital, ARN, went into those markets they would all go broke, no doubt about it.¹²³

120 Submission No 186, Vol.5, p 1071 (RGCR)

121 Transcript of evidence, 29 May 2001, Brisbane, p 898 (Mr Gordon-Smith)

122 Transcript of evidence, 28 May 2001, Brisbane, p 882 (Mr Camplin)

123 Transcript of evidence, 28 May 2001, Brisbane, p 841 (Mr Ferguson)

- 3.201 A recognition that diversity can be achieved in some markets by limiting competition is implicit in the practice of issuing FM licences to incumbent AM licence holders in solus markets under s.39 of the BSA. The BSA as a whole, however, encourages competition and to some degree uses it as a substitute for intensive regulation.¹²⁴
- 3.202 If s.54 is repealed, we would anticipate that in licence areas where a third licence is offered, the incumbent operator would seek to protect itself from competition by purchasing that licence. It is also reasonable to assume that there may be significant movement in the ownership of licences in areas where a third or indeed fourth licence has already been allocated. A potential result could be more markets in which there is only one owner or markets dominated by one of the commercial radio licence owners.
- 3.203 The potential for collusion that already exists, and its impact on the diversity of voices, is of concern enough. As explained by the Western Australian Department of Commerce and Trade, 'to be informed citizens needs a multiplicity of information sources. Single ownership of radio stations in the larger towns, while economically rational, lessens the diversity of information sources in a state where there is but a single daily newspaper and a single Sunday paper.'¹²⁵ To repeal s.54 would effectively retard the potential to expand the diversity of media ownership and subsequently the diversity of voices. It is ironic that the RGCR network, which is making the case for the repeal of s.54 on the basis of it increasing diversity, has a centralised news service. While the repeal of s.54 may make sense from an economic point of view and from the point of view of diversity of programming, there is a major social issue at stake, namely the importance of having access to diversity of voices.
- 3.204 Providing for both diversity and localism is an extremely difficult balancing act. Not all markets, in our view, are large enough to sustain the competition provided by more than one owner of commercial licences. We support the number of owners in these markets being limited to one. We also support the capacity of those operators to provide for greater diversity within their licence areas by the purchase of open narrowcast licences. We were, indeed, impressed by the efforts of Bathurst Broadcasters to cater for diverse interests in their licence area by introducing services for the under sixes and the over 65s through the operation of two low power open narrowcast services. Moreover, we recognise the potential of technology such as digital radio to significantly

124 Submission No 79, Vol 1, p 148 (ABA)

125 Submission No 178, Vol 5, p 945 (Department of Commerce and Trade, Western Australia)

expand the number of services that will be able to be provided by one operator.

- 3.205 Some regional markets, however, may be large enough to sustain competition and in these markets we believe that, in the interests of fostering diversity of voices, the community is best served by having more than one operator. We are persuaded, as discussed earlier, that competition in markets large enough to sustain it, can actually encourage localism.
- 3.206 On balance, therefore, while we consider that there is a case for the number of owners, rather than the number of licences, to be determined by the size of the market,¹²⁶ we do not support the repeal of s54 at this stage. To do so would be a radical departure from the philosophical basis of the legislation that would be, at this stage, unjustified. A significant and substantially demonstrated deterioration in the provision of localism may ultimately require an overhaul of the BSA at a later date. The advent of digital radio and the increasing convergence of communications technologies will almost certainly demand within a decade a serious reconsideration of the optimum regulatory framework. In the meantime, however, while our frustration with the delays in the LAP process are well documented, we consider that the LAP process must be completed and the industry and community be given the chance to settle into the environment created by the BSA before a total overhaul of the broadcasting legislative environment is contemplated.

Restoration of the commercial viability test to the Act as a consideration in the granting of future licences

- 3.207 The BSA removed the viability test that had been part of the previous broadcasting regime.
- 3.208 According to industry representatives, the absence of the viability test has led the ABA to interpret demand as entrepreneurial demand¹²⁷ rather than community demand.

The ABA's advisers advised that the word 'demand' meant entrepreneurial demand, that if somebody put their hand up and said, 'I want a new licence in Bathurst or Orange', then the ABA had to put it up for auction, and they did. Always when we were talking with North and the other members of the department on the structure of the act, we believed that demand would come

126 Size as determined by population rather than by area

127 Transcript of evidence, 29 May 2001, Brisbane, p 864 (Mr Carroll)

naturally from listener demand from within our communities. It was not interpreted that way. That is why we got all these new stations.¹²⁸

- 3.209 Although the BSA abolished the test of viability, under s.23 the ABA is required when considering new services, to have regard to a range of matters including the economic and social considerations of markets. The General Manager of the ABA, Mr Giles Tanner, described the way in which the ABA has regard to the economic considerations as follows:

The ABA concluded early on in its planning process, and has not deviated from this, that if the net result of planning a new service would be that that or another service would fail and you would not get any overall increase in the number of services, it would be very hard to argue that that would promote the objects of the act. So, if you like, the ABA has always used a test of feasibility. It has always sought to satisfy itself that the addition of more services into markets is feasible.¹²⁹

- 3.210 As a result of this approach, the ABA explained, it has not introduced any more commercial licences in many small markets other than s.39 licences. 'It has tended to introduce additional services in the middle sized and large markets, whilst always looking at local circumstances'.¹³⁰ While accepting the broad thrust of this in principle, the Committee is not convinced that it applies in practice.

- 3.211 In explaining how it assesses feasibility, Mr Tanner explained that in the absence of the resources for economic modelling that had accompanied the pre BSA viability test, the ABA has tended to run an adversarial process.

That is, if there are entrepreneurs with a track record and expertise in running broadcasting services that believe they can get new services into a market, the ABA has careful regard to that. If there are objections from incumbents that these markets are not able to support competition, the ABA has regard to that. The ABA also looks at the general economic conditions of that market. But, certainly throughout the planning process there has not been systematic modelling or second guessing of markets by bureaucrats. That practice ended in 1992. We have never had the

128 Transcript of evidence, 29 May 2001, Brisbane, p 862 (Mr Camplin)

129 Transcript of evidence, 29 May 2001, Brisbane, p 893 (Mr Tanner)

130 Transcript of evidence, 29 May 2001, Brisbane, p 893 (Mr Tanner)

resources to do that and it was always our understanding that that was because we were not expected to do it.¹³¹

3.212 Grant Broadcasters suggested that as a means of protecting the loss of localism in future, 'commercial viability needs to be restored to the Act as a consideration in the grant of future licences.'¹³²

3.213 In considering the case for the reintroduction of a viability test, we were very mindful of a number of points made by ABA Board Member, Mr Gordon-Smith. Highlighting the complexity of the task of making decisions about feasibility, Mr Gordon-Smith described the divergent nature of the evidence put to the ABA by incumbent and aspirant broadcasters.

Look, for example, at a current decision that we face in a metropolitan area. You can have a look at any of the submissions that are made to us through the planning process—because one of the requirements on us is to make the planning process completely transparent, so when people make submissions to us about the planning process they are all publicly available—and if you look at the sorts of things that are said about the Adelaide market by the incumbents, as opposed to the sorts of things that are said about the Adelaide market by aspirants, you would think you were reading about completely different markets.¹³³

3.214 Difficulties in assessing the feasibility are compounded by the fact that owing to a requirement to make publicly available any material that is taken into account in the planning process, the ABA is unable to use the information it has on the performance of the individual stations in an area.¹³⁴

3.215 Despite these difficulties, the evidence suggests that in terms of the viability of operators, hinted Mr Gordon-Smith, the ABA planning processes have been reasonable.

As the ultimate measure, if you like, of viability—of the stations that we have made available, so far no-one has returned a commercial service, even in those cases where an operator has decided, 'This is not a business I want to be in.' So far, they have always managed to sell those stations to someone else and no-one

131 Transcript of evidence, 29 May 2001, Brisbane, p 893 (Mr Tanner)

132 Submission No 187, Vol 5, p 1083 (Grant Broadcasters)

133 Transcript of evidence, 29 May 2001, Brisbane, p 897 (Mr Gordon-Smith)

134 Transcript of evidence, 29 May 2001, Brisbane, p 898 (Mr Gordon-Smith)

has had to return to us a licence for a commercial service saying, 'This is no longer viable. No-one will do this.'¹³⁵

- 3.216 The Committee acknowledges the very pertinent points made by Mr Gordon-Smith.
- 3.217 While we understand that no commercial licences have been handed back, we consider it is relevant that many have changed hands and there are significantly fewer owners than there were before the BSA. To what extent this is a result of some operators considering that it is no longer viable to stay in the market given the increased competition from other media if not other commercial radio operators, it is impossible to know.
- 3.218 We do not underestimate the difficulty of the ABA's task in making judgements about allocating new licences. Given that the ABA has to meet a range of competing needs and demands, and according to the ABA, even the sometimes conflicting objects of the Act,¹³⁶ it is understandable that it may not always have achieved a balance that satisfies everyone.
- 3.219 One area that we have some concerns about is the extent to which the ABA has interpreted demand as entrepreneurial rather than community. Although the General Manager of the ABA claimed that the ABA had regard to community demand¹³⁷, we heard in evidence that the only research which was actually conducted was done in the mid 1990s and it revealed that 'when polled, a substantial majority of the public would like additional services that they identify, but the majority are not looking for new services'.¹³⁸ Despite this, a number of new services have been planned.
- 3.220 Given the absence of community demand, and the reality that new services fragment markets considerably, we are bewildered by some of the ABA's decisions. This includes its decision to issue a fourth licence in Mackay, an area with a population of just over 100,000.
- 3.221 We also learnt that the public consultation phase of the planning process through public meetings had been streamlined out of existence. Given these comments by the ABA, we are not persuaded that community demand has had much impact on ABA decision making processes. In view of the fact that it is the community largely that will suffer should ABA decisions be incorrect, we believe that the community should be given a greater profile in the planning process. Earlier in this report we

135 Transcript of evidence, 29 May 2001, Brisbane, p 899 (Mr Gordon-Smith)

136 Submission No 79, Vol 1, p148 (ABA)

137 Transcript of evidence, 29 May 2001, Brisbane, p 894 (Mr Tanner)

138 Transcript of evidence, 29 May 2001, Brisbane, p 894 (Mr Tanner)

suggested than an audit be conducted of the level of community satisfaction with the radio services in their area. We do not believe that effective planning can be done without this form of evaluation.

- 3.222 The proposed audits of licence areas that we recommended earlier in this chapter will provide part of the material that the ABA requires to make sound decisions in future. The provision of radio services to communities should be determined by the interplay of various factors, including community demand, entrepreneurial demand and commercial viability. Different styles of radio services have different production costs. Providing for the level of localism that we described at the start of this chapter is more costly than providing a largely networked service. An assessment of commercial viability must take into account the level of service that a community seeks.
- 3.223 We do not consider that s.23 gives sufficient guidance to the ABA to assess viability. At the moment it would appear that the ABA is forced to decide between the persuasive skills of the incumbent and those of the aspirant broadcasters. We acknowledge the ABA efforts to incorporate economic feasibility. We also note that at one at least one broadcaster has noticed some 'movement' in recent ABA decisions.

I believe that in Geelong we were listened to, but we did much more than just put in a submission. We believed initially that that was the appropriate way to do it; that it was improper to speak to members; that it was improper to speak to our local member. But by the time we got to Geelong we realised that that was not what other people were doing. So we then spoke to, and had a lot of information from, people in Geelong indicating that they did not want a third licence there. We spoke to the local member and so on. So with the assistance of those people I think the ABA did listen to us.¹³⁹

- 3.224 While we also recognise that the ABA has not been given the resources to do otherwise than use an 'adversarial process', we do not believe that this is a satisfactory basis for judging the impact on commercial viability of allocating more commercial licences.
- 3.225 We consider that a test of viability should be restored to the BSA. The ABA should be given the resources to develop and apply the appropriate tools for the test to be of adequate rigour. The test should incorporate independent economic modelling taking into account the revenue base of

139 Transcript of evidence, 12 March 2001, Darwin, p 503 (Mrs Cameron)

the community. It should also incorporate information from the financial returns of individual operators.

- 3.226 The ABA's current policy for the use of confidential licensee and commercial-in-confidence financial information (Appendix G) precludes making publicly available financial information about individual licensees.
- 3.227 We understand that the ABA's current policy was developed in response to an audit by Deloitte Touche Tohmatsu of ABA policies and procedures for handling commercial licensee information. The audit found that a 'confidentiality policy for the use of financial data, which was in place since May 1993, provided inadequate safeguard of sensitive financial information relating to commercial licensees'.¹⁴⁰
- 3.228 However, we consider that the information forms an important part of the set of data that needs to be included in a test of viability and should be included.
- 3.229 In the interests of equity, however, we believe that this should not be introduced until the LAP process has been completed. The ABA should employ the processes it has used to date in developing licence area plans in the remaining licence areas.
- 3.230 In giving evidence to the Committee, Mr Gordon-Smith pointed out that that is important to distinguish between the 'exercise of assessing the viability of a particular station on the one hand and on the other the exercise of assessing the feasibility of adding one more to a market'. The distinction is important. In our view both aspects are relevant and need to be factored into the test. Ultimately the test will provide just one part of the information upon which decisions about new licences are based.
- 3.231 In a submission to the inquiry, FARB made the point that given the stage of the LAP process, the re-introduction of the tests for commercial viability would 'do nothing to address the issues of financial viability of the already planned markets'.¹⁴¹
- 3.232 We accept that this is the case. As mentioned earlier, we do not expect a large number of new full commercial licences will be planned following the completion of the LAP process. However, we consider that the introduction of a viability test should give broadcasters the confidence that the viability of their services will not be further threatened in the

140 Submission No 79.07, Vol 9, p 2163 (ABA)

141 Submission No 133.02, Vol 8, p 1967 (FARB)

future by the allocation of more commercial services, including narrowcast and s.40 services, in their licence areas.

- 3.233 Commercial viability demands a finely tuned balance between the number of services and the revenue base of a community. In our view, decisions about the number of radio services in an areas should be based on three sets of information: namely the level of demand in the community for services; the community's capacity to afford that number of services; and the interest of broadcasters in providing those services.
- 3.234 In removing the test of viability, the BSA removed one of the critical pieces of information required to make licence allocation decisions. In failing to give sufficient attention to community demand the ABA has effectively removed another critical piece of information. The combination of deficiencies in both the BSA and in the administration of the BSA by the ABA has resulted in decisions being primarily determined by entrepreneurial demand.
- 3.235 *Some entrepreneurs have generated viability in their operations by lowering costs. They have reduced local content regardless of the expectations of the community they are meant to serve and as such have retarded their contribution to the adequate and comprehensive provisions of the BSA.*
- 3.236 Our recommendations have the goal of ensuring that in future all three sets of information are used to determine decisions regarding the allocation of new licences. To this end we have already recommended that the ABA determine what the community actually thinks of its radio services by conducting audits. These audits should be based on rigorous survey techniques that ensure a sufficient sample of views from a cross section of the community are incorporated. Following the completion of the current LAP process, no new commercial licences should be issued in an area until an audit has been conducted. In order for the ABA to assess the ability of the community to afford new services, it needs to conduct a viability test. The test should incorporate economic modelling and financial information from commercial broadcasters in the area. Given the ABA is bound to make public the reasons for its decisions, it will also need to be able to disclose financial information relating to the stations in the area where new licences are being considered.

Recommendation 10

- 3.237 The Minister for Communications, Information Technology and the Arts should direct the ABA not to issue any further new commercial licences in regional areas, following the completion of the LAP process, until an audit of that licence area has been completed.**

Recommendation 11

- 3.238 The Minister for Communications, Information Technology and the Arts should prepare amendments to the Broadcasting Services Act to make provision for a test of commercial viability to be included, following the completion of the LAP process, before the issue of new licences.**

The Minister for Communications, Information Technology and the Arts should ensure that the ABA is provided with adequate resources to develop and implement the test.

Three other issues about viability

Repeal of s.40 licences

- 3.239 FARB called for the repeal of s.40 licences to overcome what it described as 'a disturbing anomaly in the planning and allocation of licences under the BSA.'¹⁴²**
- 3.240 The majority of commercial licences use the broadcasting services bands spectrum and are allocated under s.36 and s.39of the BSA. Under the current licensing regime, new commercial radio services using BSB spectrum can only be allocated 'after they are shown as available in a LAP under s.26 of the BSA.'**
- 3.241 However, under s.40 commercial radio licences may be allocated for services which use non BSB spectrum or an alternative method of carriage such as cable or satellite. Section 40 services use spectrum in the upper end of the AM band. They are issued over the counter by the ABA which 'has**

142 Submission No 133.03, Vol 8, p 2002 (FARB)

little discretion but to allocate on application unless the application is not a suitable person under the test of suitability'.¹⁴³

- 3.242 Section 40 licences do not come with an automatic entitlement to access to a means of carriage. Operators have to obtain their own means of carriage via cable or satellite or by obtaining 'over the counter' a licence for non-BSB spectrum from the ACA.
- 3.243 Until recently there has been little interest in s.40 licences. However, as explained by the ABA, 'a significant percentage of AM radio receivers now sold in Australia are able to tune above the highest frequency in the part of the MF spectrum that has been designated as broadcasting services bands.¹⁴⁴ Since 1998, ten s.40 licences have been allocated. Three of these are Australia wide.
- 3.244 Although s.40 licences do not come within the ambit of the ABA's planning process, once allocated, they are subject to the same rights and obligations as BSB commercial radio broadcasting licences.
- 3.245 The existence of s.40 licences clearly has serious implications for the commercial viability of operators using the BSB spectrum. In expressing its concern about the issue, FARB described it as 'inconceivable that after the ABA has determined that no further commercial service(s) should be issued, a non-BSB commercial radio licence can be purchased "over-the-counter" (from the same Authority) for that same market.'¹⁴⁵
- 3.246 While we understand that the anomaly whereby commercial licences which have the same entitlements and obligations are planned by different authorities has historical origins, we consider the situation to be entirely unsatisfactory. FARB called for the repeal of s.40 of the BSA. Although we share FARB's concerns about the impact of s.40 licences on commercial viability, we consider that in some instances s.40 licences may provide usefully for introducing services or increasing diversity in some markets.
- 3.247 The issue is not the existence of s.40 services but that under the current arrangements, they can be introduced in planned markets. Given the efforts made to plan the licence areas as a whole, it simply does not make sense to add unplanned services to planned markets. In the interests of consistency, equity and commercial viability, all commercial radio licences which operate in an area should be planned by the same authority and in our view that authority should be the ABA. We therefore recommend that

143 Submission No 79.04, Vol 9, p 2131 (ABA)

144 Submission No 79.04, Vol 9, p 2132 (ABA)

145 Submission No 133.03, Vol 8, p 2002/2003 (FARB)

the boundaries of the BSB part of the spectrum should be extended to encompass the frequencies used for s.40 licences.

Recommendation 12

- 3.248 The Minister for Communications, Information Technology and the Arts should prepare amendments to the relevant legislation to extend the boundaries of the Broadcasting Services Bands part of the spectrum to encompass the frequencies used for s.40 licences.**

The breaching of licence conditions by open narrowcast and community radio services

- 3.249 Given the breadth of issues raised in this inquiry, we have been unable to fully consider all of them. FARB raised a number of issues which arguably relate to the issue of commercial viability.
- 3.250 One of these matters concerned the community and narrowcast licences. In the course of this inquiry we received a small amount of anecdotal evidence that some community and narrowcast licences breach the conditions of their licence. FARB called for stricter 'proactive enforcement by the ABA of the regulations governing community broadcasting and narrowcasting to ensure they adhere to the BSA definitions and that community broadcasters deliver the service promised during the allocation process.
- 3.251 Both community broadcasting and narrowcasting contribute much of value in terms of the diversity of services available to many communities. Catering for specific interests or sectors of communities, they play an important role and should be supported. However, if operating outside the boundaries of their licences, they have the potential to have a considerable impact on the viability of commercial services. For this reason alone, the distinction between the different categories of services should be preserved.
- 3.252 In our previous report into racing radio services, we expressed some concern about the blurring of boundaries between the different categories of radio licences. Although we did not receive a large volume of evidence in this inquiry about the lack of clarity in definitions causing problems, we recognise that it is an important issue.

3.253 We note that the ABA has acknowledged that it is 'not always clear to service providers where the lines are to be drawn between the commercial, community and open narrowcasting categories of services' and has announced its intention to exercise its power under s.19 of the BSA to 'bring greater clarity to the concept of open narrowcasting services'¹⁴⁶. We consider that the ABA has taken the appropriate first step in clarifying the issue of boundaries and await the outcome of this investigation with interest.

3.254 We remain concerned, however, about one issue raised by the ABA in relation to its ability to regulate narrowcast services, namely its lack of power to restrict narrowcasters to the original format for which they got their licence.

The only power the ABA has is to stop them from being something other than an open narrowcasting service: for example, a commercial radio broadcasting service.¹⁴⁷

3.255 We do not believe that the ABA has been given sufficient statutory guidance in this area. Open narrowcast services exist for the purpose of providing services catering for particular interest that are not provided by another commercial services. It is consistent with the restricted nature of the service that the licences be issued for a particular format. Open narrowcast licences should not be able to change the broad format without permission from the ABA.

Recommendation 13

3.256 **The Minister for Communications, Information Technology and the Arts should prepare amendments to the Broadcasting Services Act 1992 to have narrowcast licences restrict narrowcast licences to a particular format and for open narrowcast licensees to require permission from the ABA before substantially changing the format.**

3.257 The ABA has also called for the power to issue restrictive injunctions. It argues that at present, its capacity to respond quickly to situations such as a complaint about a service operating outside its boundaries is limited.

146 Submission No 79, Vol 1, p 153 (ABA)

147 Transcript of evidence, 29 May 2001, Brisbane, p 919 (Mr Tanner)

- 3.258 While we are sympathetic to this argument, we have not been able to explore the issue fully and there is little evidence available to us on this matter. Accordingly, we are reluctant to recommend that the ABA be granted powers which would more typically be available only to courts. If the absence of such a power has proved to be a serious limitation on the ABA's capacity to administer the BSA, we suggest it submits the necessary advice to the Minister for his consideration.

Other matters

- 3.259 FARB also called for the removal of the 1% broadcast fee cap in the Copyright Act 1968 to assist commercial viability and the lifting of blackout provisions for political advertising as measures to assist commercial viability. Both of these issues have much broader implications than the commercial viability of commercial radio broadcasters and we consider the link between these issues and this inquiry to be tenuous at best.

The ABC and local radio

- 3.260 With a network of 48 (soon to be 50) Local Radio stations across Australia, the ABC makes a significant contribution to the provision of radio services for people living in regional and remote areas. The ABC's Local Radio service is, however, more of a regional service than a specifically local service as explained by the ABC as follows:

ABC Regional Radio stations serve many communities within each listening area. Unlike commercial radio licences for regional Australia that are based solely on a large town, the ABC provides a broadcast service to an entire region. Similarly, programming is not focused solely on the issues of the major towns. The ABC also has a large regional resource dedicated to reporting on primary industry and related issues of particular concern to Australians involved in the rural properties and industries.¹⁴⁸

- 3.261 Almost without exception, submissions referring to ABC Radio Services placed considerable value on the services received. While listeners were content with the regional flavour, the Committee received some submissions from areas where listeners wanted access to ABC radio stations with which they were more naturally linked. In Western

148 Submission No 108, Vol 3, p 456 (ABC)

Australia, the Mid-West Development Commission, for instance, described the Geraldton service as more appropriate for the region than the Karratha service that the area actually received.¹⁴⁹

- 3.262 The Committee received submissions from Far North Queensland expressing concerns about the same issue.¹⁵⁰
- 3.263 The Shire of Laverton, situated in the North Eastern Goldfields Region on WA, stated that it received ABC Regional Radio from the Kimberley Region. It advised that it had been able to convince the ABC that it would be more appropriate to receive the service from the Goldfields and that it expected the change to occur soon.¹⁵¹
- 3.264 In its submission to the inquiry, the ABC outlined its priorities for minor extensions and enhancements. These included the endorsement of a second Local Radio satellite service in Far North Queensland and in central Western Australia which would enable communities in those regions to gain access to more relevant local ABC services. We understand that the second satellite services have been established.

Improved services to regional areas.

- 3.265 The Federal Budget 2001-02 provided the ABC with an extra \$17.9 million for additional programming on radio, television and new media. In evidence before the Committee in May, advised the Committee that the 'majority of this would be made available to regional and rural Australia.'¹⁵²
- 3.266 In July 2001, the ABC provided the Committee with details of what the local radio component of the additional funding would deliver. The broad details are as follows:
- Three new ABC regional locations (in Victoria, Western Australia and the Northern Territory);
 - More than 50 new Program Maker positions servicing regional communities across Australia producing an additional 17.5 daily (weekday shifts) on radio for regional audiences;
 - More than 10,000 hours of additional regional content on radio per year, reducing the level of syndicated material;

149 Transcript of evidence, 12 March 2001, Geraldton, p 526 (Mid-West Development Commission)

150 Submissions Nos 102, 122 and 142

151 Submission No 54, Vol 1, p 79-80, (Shire of Laverton)

152 Transcript of evidence, 28 May 2001, Brisbane, p 736(Mr Shier)

- Increased regional and rural content for The Backyard (Online), Rural Online, ABC Radio and Television;
 - Increased rural content for local, State and national audiences in regional and urban areas;
 - Increased capacity to cover emergencies in regional areas; and
 - Increased employment opportunities in regional areas.
- 3.267 More details of what the ABC describes as its 'Regional Rollout' are found at Appendix F.
- 3.268 We welcome the initiatives outlined above.

Community radio as local radio

- 3.269 In discussing the access listeners in regional and remote areas had to local radio, many submissions highlighted the role that community stations play in providing local radio services. Community radio has its roots in local community. As explained in the Explanatory Memorandum to the BSA, the change of name from public broadcasting to community broadcasting was to reflect the community based nature of the services, that they are provided to 'meet the needs of a local community or of a particular sector of the community.'¹⁵³
- 3.270 In some communities, the community station is the only local service available.
- In addition to the 70 Remote Aboriginal communities served by BRACS (Broadcasting Remote Aboriginal Community Scheme) licences there are 36 places where the community station is the only local service available. This is not to say that these areas are not covered by a broad regional ABC service or are not within the extended coverage of a neighbouring commercial station but they do not have a local ABC or commercial station.¹⁵⁴
- 3.271 Many submissions noted that community radio was to some extent already filling the gaps in local radio that were appearing as a result of networking. According to the Western Australian Department of Commerce and Trade, for instance, community radio 'is the only realistic source of town-local content that is of high value to the town, but would

153 Explanatory memorandum, Broadcasting services Bill 1992, p 23

154 Submission No 130.01, Vol 7, p 1570 (CBAA)

not get air time on commercial stations. In small communities community radio is trying to reinvent the local sound that marked the heyday of the local commercial stations.¹⁵⁵

- 3.272 Specific examples of community stations filling the gaps in local radio include the following:

The local commercial station had several years ago stopped providing a local weekend sports program but this was a gap that the new community service was keen to fill with 4BCR now providing ninety minutes of coverage on Saturdays of events like little athletics and local football. Similarly 4BCR provides locally originated music programming on weekday mornings which provides Bundaberg audiences with the only real alternative to networked talkback out of 2UE in Sydney.¹⁵⁶

When it was announced that 3MA would be reducing the duration time of its local news services because of requirements to fit in with available time from the base network station at Albury, HOT FM increased the time of its local news to seven minutes bulletins (5am., 6am., 7am., 8am. and 9am.).¹⁵⁷

- 3.273 The CBAA argued that community radio is the 'logical antidote' to developments such as the increase in networking which has seen commercial radio lose to a large extent its local identity.¹⁵⁸
- 3.274 The ABA also suggested that community radio could be looked to as a means of providing coverage of matters of local significance.¹⁵⁹

We have increased the number of commercial radio stations from 117 to 188 but we have increased the number of community services from 52 to 191. So, at a time where the richness of diversity and the richness of choice increases, it may be that you need to reconsider the question of whether you would look to the local commercial radio station as the place from which you get the sorts of localism that you used to get. I do not think we should underestimate the value that is contributed by the local community stations.¹⁶⁰

155 Submission No 178, Vol 5, p 945 (Department of Commerce and Trade, Western Australia)

156 Submission No 130, Vol 4, p 639 (CBAA)

157 Submission No 193, Vol 6, p 1232 (HOT FM)

158 Submission No 130, Vol 4, p 639 (CBAA)

159 Submission No 79, Vol 1, p 152 (ABA)

160 Transcript of evidence, 29 May 2001, Brisbane, p 906 (Mr Gordon-Smith)

3.275 As discussed in Chapter 2, we acknowledge the contribution that the community radio sector makes to local radio services in regional areas. We consider, however, that given the limited resources, listenership and reach of community stations in regional and remote areas, it would be unfair to burden the sector with providing for services that the community rightfully expects from the commercial radio sector.