

**HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON  
COMMUNICATIONS, TRANSPORT AND THE ARTS –  
INQUIRY INTO THE ADEQUACY OF RADIO SERVICES IN REGIONAL  
AND RURAL AUSTRALIA**

**SUBMISSION BY THE DEPARTMENT OF COMMUNICATIONS,  
INFORMATION TECHNOLOGY AND THE ARTS**

**Introduction**

The Department of Communications, Information Technology and the Arts (DCITA) has as one of its main objectives the creation of a world-class communications and cultural infrastructure into the next century to enrich the economic, social and cultural wellbeing of all Australians.

This submission is intended to provide background information on each of the major radio sectors present in regional and rural Australia and on the existing regulatory framework.

**Overall regime**

The *Broadcasting Services Act 1992* (BSA), which commenced operation on 5 October 1992, established the current regulatory regime for broadcasting in Australia. The BSA sets out objects for the legislation, and outlines a regulatory policy which is principally that ‘different levels of regulatory control be applied...according to the degree of influence that different types of broadcasting services are able to exert in shaping community views in Australia.’

The BSA also establishes the Australian Broadcasting Authority (ABA) as an independent statutory authority, and defines its role and functions as the industry regulator.

The BSA defines the following categories of broadcasting services covering both radio and television:

- *National broadcasting services* - Government funded, independently administered free-to-air radio and television services operated by the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS). Although some aspects of the BSA affect the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS) – including spectrum allocation and planning by the ABA – these national broadcasters operate under a separate regulatory framework (see below).
- *Community broadcasting services* - non-profit free-to-air services provided for community purposes – these services are funded by Government grants, limited program sponsorship, and listeners’ subscriptions or donations.
- *Commercial broadcasting services* - free-to-air radio and television services of general appeal to the public operated for profit and funded predominantly by advertising revenue.

- *Subscription broadcasting and narrowcasting services* - radio and television services available only on payment of subscription fees and funded by subscriptions and limited advertising revenue. Services of general appeal to the public are categorised as broadcasting services (eg pay TV). Services whose reception is limited by audience appeal, location, time period, or some other reason are categorised as narrowcasting services. Narrowcasting services are not individually licensed but operate under a 'class licence'.
- *Open narrowcasting services* - free-to air services whose reception is limited by audience appeal, location, time period, or some other reason.

The regulatory arrangements under the BSA for the broadcasting and narrowcasting service categories cover such matters as:

- planning of the broadcasting services bands;
- licence allocation, conditions, renewal, transfer and surrender;
- ownership and control;
- action in respect of breaches of the Act, and complaints procedures; and
- some program content requirements (see below).

Licence fees are determined under separate radio and television licence fee Acts.

The ABA is required by the BSA to plan those parts of the radiofrequency spectrum assigned to it by the Minister under the *Radiocommunications Act 1992* (Radcomms Act). The Minister has assigned the AM radio band, the VHF broadcasting bands (both FM radio and VHF television) and UHF television bands to the ABA for planning. These bands are known as the broadcasting services bands (or BSB).

In performing its planning functions, the ABA must promote the objectives of the BSA, including the economic and efficient use of the radiofrequency spectrum and the planning criteria outlined in the Act (which include demographics, social and economic characteristics, technology, the number of existing services and the demand for new services).

The planning process has three stages which are all subject to wide public consultation:

1. *Determination of planning priorities* - the ABA determined planning priorities (in terms of both geographical areas and different parts of the broadcasting services bands) in September 1993 with five groups identified by priority;
2. *Preparation of a Frequency Allotment Plan (FAP)* - the ABA determined a FAP in August 1994 which identified the number of channels available in particular areas of Australia to provide broadcasting services in the broadcasting services bands; and
3. *Preparation of a Licence Area Plan (LAP)* - this determines the number and characteristics (including technical specifications such as licence area, category, transmitter sites and carrier frequencies) of broadcasting services that are to be made available in a particular area. LAPs are prepared on an area-by-area basis in accordance with planning priorities are consistent with the FAP. The process typically involves inviting expressions of interest for providing additional services,

then release of a draft LAP. Following further consultations and submissions, a final LAP is released.

This process has been continuing since the development of the FAP. Most planning has now been completed for radio with, for instance, final plans available for Sydney and Melbourne as well as the majority of regional areas. The LAP process is, however, still underway in the following areas:

- Murrumbidgee/Riverina (NSW)
- Gippsland (Vic)
- Northern Tasmania
- Southern Tasmania
- Western Victoria
- South East South Australia
- Spencer Gulf (SA)

As well, planning for the Brisbane licence area is continuing. This area includes surrounding regions such as the Gold Coast, Sunshine Coast, Gympie and Richmond/Tweed (NSW).

Under the BSA, the ABA may also temporarily allocate broadcasting services bands spectrum in an area for which planning has not yet been completed, or spectrum which is unused, having regard to:

- (a) the possible future demand for the use of that part of the radiofrequency spectrum; and
- (b) such other matters as the ABA considers relevant.

Subscription and open narrowcasting services, which operate under a class licence system, have been allowed to operate in this spectrum.

Holders of broadcasting licences require apparatus (or transmitter) licences issued under the Radcomms Act before they can deliver a free-to-air service.

The Radcomms Act regulates the use of the radiocommunications spectrum more generally. Its aims include maximising the overall public benefit from the spectrum, and ensuring adequate provision of the spectrum for use by public or community services.

The Radcomms Act gives a range of powers to the Australian Communications Authority (ACA), including the promulgation of spectrum plans, determining types of apparatus licences, developing schemes for price-based allocation of certain apparatus licences, and decisions on unacceptable interference levels and standards.

Radcomms Act transmitter apparatus licences for broadcasting services and high power narrowcasting services are allocated by the ABA, under delegation from the ACA. Transmitter licences for low power narrowcasting services using this spectrum are allocated directly by the ACA.

## **National Radio**

### **The ABC and SBS**

The ABC and the SBS are independent statutory authorities that have been established under their own acts. The Commonwealth Government determines the level of Budget funding for each organisation but does not have editorial control or programming responsibility.

The role and functions of the ABC and SBS are set out in their respective Charters, which form part of their enabling legislation. They are independent of government and are accountable to the Parliament through Annual Reports, Corporate Plans and appearances before Parliamentary Committees.

Each Corporation is governed by a Board of Directors appointed by the Governor-General. However, the ABC has one staff-elected director. The affairs of both are managed by their respective Managing Directors who are appointed by the Boards. The Boards are independent from the Government in determining policies relating to the functions of the broadcasters.

### **ABC**

The Charter of the ABC is set out in the *Australian Broadcasting Corporation Act 1983* which outlines specific public interest objectives designed to meet the programming needs of Australians. The functions of the ABC include the broadcasting of programs that inform, educate, entertain and reflect the cultural diversity of the Australian community.

The ABC's radio broadcasting activities comprise:

- four national specialist radio networks (Radio National, Classic FM, Triple J, and NewsRadio on the Parliamentary and News Network);
- metropolitan radio stations in nine cities and regional radio stations in 48 locations providing information, entertainment, specialist rural and sports coverage in local, state and national formats; and
- an international radio service (Radio Australia).

In 1992 there were 351 ABC radio services. From 1992 to 2000, 257 ABC radio services were extended to new transmission areas, an average of 29 per year. The Government currently funds the provision of 608 ABC radio services (plus 80 services provided through the Broadcasting for Remote Aboriginal Communities Scheme – BRACS). In addition, communities are currently providing and funding the self-help re-transmission of some 87 ABC services.

## EXTENSION OF ABC RADIO SERVICES – 1992 TO 2000

	1992	2000	Increase
<b>Radio National</b>	139	248	109
<b>Regional Radio</b>	144	222	78
<b>Classic FM</b>	42	63	21
<b>Triple J</b>	9	56	47
<b>PNN</b>	8	9	1
<b>Metro Radio</b>	9	10	1
<b>Total Services</b>	<b>351</b>	<b>608</b>	<b>257</b>
<b>QLD</b>	111	181	70
<b>NSW</b>	56	143	87
<b>VIC</b>	22	63	41
<b>TAS</b>	12	34	22
<b>SA</b>	34	43	9
<b>WA</b>	84	104	20
<b>NT</b>	27	35	8
<b>ACT</b>	5	5	0
<b>Total Services</b>	<b>351</b>	<b>608</b>	<b>257</b>

### SBS

The SBS Charter is set out in the *Special Broadcasting Service Act 1991*. The Charter identifies the principal function of the SBS as being to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multicultural society.

SBS's radio broadcasting activity consists of a radio network which includes AM and FM services in Sydney and Melbourne, as well as a national signal heard in all other capital cities and many regional centres:

- This network, which broadcasts programs in 68 languages, is the most linguistically diverse radio network in the world.

In the future, SBS hopes to take advantage of the opportunity that the new digital broadcasting and datacasting legislation provides to transmit SBS Radio through SBS Television channels, and thus extend its reach in regional Australia.

### Commercial Radio

#### Overview

Commercial radio services are free-to-air services of general appeal to the public and can be received by commonly available equipment. They are usually funded by advertising revenue and are operated for profit. These services fall within the definition of commercial broadcasting services under s.14 of the *Broadcasting Services Act 1992*. Channels and frequencies for commercial radio are identified by the Australian Broadcasting Authority (ABA) through its licence area planning exercise. If provision is made within a final licence area plan for a new commercial licence in that coverage area, the ABA allocates these licences on the basis of a price-

based allocation scheme which it determines under section 36 of the BSA, with reserve prices appropriate to the individual licence.

### **Industry Structure**

There are currently 253 commercial radio licences on issue in Australia spread over 106 radio licence areas. Of these, 239 licences are operational, including 201 in regional and remote areas.<sup>1</sup> The ABA has allocated 89 new commercial radio licences since it commenced its planning of analog radio services:

- 26 licences through price based allocation (section 36 of the BSA);
- 54 additional licences in regional solus markets (under section 39 of the BSA, which provides for the allocation of a second licence to the holder of the sole commercial licence in a licence area); and
- 9 under section 40 of the BSA (including 8 in remote/regional areas, of which 2 are Australia wide) which allows for the allocation of a commercial licence that operates outside the Broadcasting Services Bands (BSBs).<sup>2</sup>

The commercial radio industry body, the Federation of Australian Radio Broadcasters (FARB), currently has 221 members, which is representative of over 90% of the “on-air” commercial radio sector. Membership ranges from large metropolitan to small independent operators. FARB has stated that over the past five years, the commercial radio sector has experienced a reduction in the number of individual commercial radio station owners to around 39. About 80% of the commercial stations belong to twelve major networks. The commercial radio sector also now generates more than \$600 million advertising revenue per annum.<sup>3</sup> This compares with over \$2,500 million revenue for commercial television stations.

An affiliate of FARB is the Australian Association of Independent Regional Radio Broadcasters (IRB). Membership of the IRB is limited to licensees who own or control regional commercial radio stations and do not own or control television stations or newspapers.

### **Financial Results<sup>4</sup>**

In 1998-99, 226 commercial radio licences generated \$635.5 million in revenue (a 6.7% increase from 1997-98) and \$528 million in expenses (a 5.4% increase over the previous period). Overall, the commercial radio industry earned profits of \$107.5 million in 1998-99 (which represents a 13.4% increase over the previous year's profits of \$94.8 million and a 90.8% increase since 1994-95).

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<sup>1</sup> ABA Commercial Radio Database, ABA Website, 6 September 2000. The ABA has announced that a new commercial radio licence will be offered in Melbourne on 14 December 2000.

<sup>2</sup> ABA s.36, s.39 and s.40 Commercial Radio Databases, ABA Website, 11 October 2000.

<sup>3</sup> “What does FARB Do?”, FARB Website, October 2000.

<sup>4</sup> ABA Annual Broadcasting Financial Results 1998-99, 4 April 2000.

## Service Profitability and Number of Regional Commercial Radio Stations

Regional Stations	1994-95	1995-96	1996-97	1997-98	1998-99
Numbers: AM	90	90	89	88	90
FM	38	41	56	86	97
Total	128	131	145	174	187
Profitability: AM	17	15.2	14.1	11.7	12.5
(\$m) FM	6	12.9	10.2	11.5	19.2
Total	23	28.2	24.3	23.2	31.7

The 46.1% increase in the number of FM and total regional stations since 1994 can be attributed to the ABA licence area planning process.

1999-2000 financial results for the commercial radio industry are due for release in 2001.

The industry relies on advertising revenue for approximately 94.4% of its income. While commercial radio competes in the broad media market for advertising share, the industry's share of overall advertising revenue has remained relatively constant (8-9%) in the period from 1994-95 to 1998-99.

### Regulatory Environment

The main regulatory requirements for licensing, ownership and control of commercial radio services are in Parts 4 and 5, Schedule 1 and Part 4 of Schedule 2 of the BSA.

The ownership restrictions for commercial radio are less than those applying to television. Commercial radio services are subject to stronger ownership and control restrictions than other radio services. The limitations that apply to commercial radio are that a person must not be in a position to control:

- more than two commercial radio licences in the same licence area;
- a commercial radio licence and an associated newspaper in the same licence area; and
- a commercial television licence and a commercial radio licence in the same licence area.

These limitations extend to certain directorships of companies that control a licence or associated newspaper.

Since the introduction of the BSA, there have been no specific limits on foreign ownership of commercial radio licences. However, the purchase of radio licences is subject to the *Foreign Acquisitions and Takeovers Act 1975*. This requires aspirant licensees who are foreign persons to obtain the consent of the Foreign Investment Review Board before they can invest in a commercial radio licence.

## **Community Radio**

Community broadcasters operate not-for-profit services emphasising community participation, access to minority and special interest groups, and promotion of the Australian music industry. Stations are located in metropolitan, regional and remote areas, and often provide the only source of local news and information.

- There are around 200 licensed community radio services operating throughout Australia (around 70 have been granted since the introduction of the BSA, all in remote and regional areas). Around 80 aspirant groups are seeking permanent licences.
- An estimated 15,000 volunteers are involved in running the sector.
- Community radio broadcasters are licensed under Part 6 of the BSA, and licences are granted free of charge.

Community radio funding forms an important part of the Government's on-going support for the community broadcasting sector. Funding is provided through an annual grant to the Community Broadcasting Foundation Ltd (CBF), an independent company established by the sector to allocate funds. Under the grant agreement, specific amounts are allocated to ethnic, indigenous, Radio for the Print Handicapped and general sub-sectors. In 2000-01, Commonwealth funds will total \$5,407,220 (before GST). There is also substantial benefit for the sector through the allocation of spectrum at no charge.

## **Narrowcasting Radio**

### **Overview**

There are two types of narrowcasting radio services identified in the BSA – open narrowcasting and subscription narrowcasting as defined under sections 17 and 18 of the BSA. Both types of narrowcasting services provide a service which is limited in some way, but whereas open narrowcasters are available “free to air”, subscription narrowcasting services are available only on the payment of subscription fees. The limitation on reception can be defined by several means including (but not restricted to):

- targeted at a special interest group (eg religious programming);
- limited location (eg shopping centres, arenas, hospitals, schools);
- limited time period of transmission (eg a community festival); and
- programs of limited appeal (eg ethnic language services).

There has been growing debate in recent years about the definition of narrowcasting. The ABA has announced that it proposes a clarification of the narrowcasting category, under section 19 of the BSA, in an attempt to give industry greater certainty. The ABA expects to release a discussion paper later this year and report on the issue in 2001. It has also announced that narrowcasting auctions in major metropolitan areas will be held following the conclusion of this exercise.

Narrowcasting services use the spectrum that is not being used by other national, commercial or community broadcasters within a licence area.



## **Industry Structure**

There are two main types of open narrowcasting radio services – high/medium power and low power. The use of the terms high/medium/low are to distinguish between the different types of narrowcasters and do not translate to high or low power AM and FM frequencies identified in licence area plans.

The ABA has issued 170 high power open narrowcasting licences during its planning process – most of these licences are in regional areas. Over 75% of these licences are owned by racing radio and TAB interests. There have been 60 licences passed in at auction – the majority of these are in smaller regional and rural centres in Western Australia (30) and Queensland (21). In areas where the ABA has not completed its planning process, there are currently 9 high power open narrowcasting licences.<sup>5</sup>

The ACA (and prior to 1996, the ABA) have issued over 1600 low power open narrowcasting licences. These services were originally established for the purposes of providing information for regional racing or tourist radio. However, the range of services provided today is much greater and includes ethnic broadcasting, community information services, niche music services and religious programming.

The industry association which generally represents narrowcasters is the Australian Subscription Television and Radio Association (ASTRA) which was founded in 1997 when the industry associations representing subscription television and radio platforms, narrowcasting and program producers joined forces. Membership is quite diverse, not only in terms of the many delivery mediums but in the size and influence of individual members.

## **Regulatory Environment**

Unlike broadcasters, narrowcasters operate under a class licence and do not need individual broadcasting licences. Services provided under class licences may broadcast advertisements subject to applicable conditions. A person providing a subscription narrowcasting service must ensure that subscription fees continue to be the predominant source of revenue for the service. Service providers under class licences are required to observe licence conditions and codes of practice. Conditions regulate the content of programs, advertisements and other matters. The ABA is also able to specify additional conditions. Service providers who breach licence conditions or fail to provide the service in accordance with the relevant class licence, can be prevented from providing services under a class licence.

Compared to commercial and community broadcasters, narrowcasters are subject to minimal regulation under the BSA. This reflects the overall design of the BSA in which the level of regulation should reflect the potential level of influence of the service on broader community views. For example, narrowcasters are not subject to foreign ownership control provisions, limitations on owning licences in the same market, or Australian content levels. However, they are subject to general licence conditions that apply to all broadcasters and narrowcasters (eg prohibition of tobacco advertising, compliance with programming standards and not using the service to commit an offence).

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<sup>5</sup> ABA Narrowcasting Radio Databases, ABA Website, September 2000.

Channels for high power open narrowcasting services are identified through the ABA's licence area planning process. Licences are auctioned through a price based allocation system, with a reserve price of \$4,000. The amounts paid for these narrowcasting licences are therefore considerably less than those paid by commercial broadcasters. This reflects the relatively lower degree of certainty of tenure for operators, which in all cases is subject to continuing section 34 "drop through" of spectrum by the ABA.

On 30 October 2000 the Department issued a discussion paper on options for improving certainty of tenure for high-power open narrowcasting (HPON) operators above the current arrangements. The Government will give consideration to the views of the industry in considering the most appropriate approach.

Unlike high power services, low power open narrowcasting services are allocated outside the ABA planning process. Applicants wishing to operate a low-power open narrowcasting (LPON) service apply to the ACA for an apparatus licence which is allocated on a "first come, first served" basis, subject to spectrum availability. Licence fees for LPONs are currently \$346 with an annual renewal fee of \$34. LPONs are also subject to the general licence conditions associated with a narrowcasting licence issued under the BSA. The Government is currently examining measures to prevent hoarding of these licences.

### **Digital radio**

In March 1998 the Minister for Communications Information Technology and the Arts announced a planning process for digital radio aimed at introduction in 2001. The main elements of the planning were:

- commercial, community and national broadcasters to be able to convert to digital but required to simulcast programming;
- planning to proceed on basis of Eureka 147 system operating in the L-Band but with consideration of VHF spectrum in regional areas;
- new entrants allowed but number and timing of entry to be determined;
- existing broadcasters sharing a multiplex providing 5 CD quality services; and
- other planning options and transmission standards not being discounted in the planning process.

The Digital Radio Planning and Steering Committee, chaired by the Department of Communications, Information Technology and the Arts, and involving the ABA, ACA and industry representatives was established at the same time. This Committee, in turn, established a Technical Working Group.

The Planning and Steering Committee met a number of times. No consensus emerged from the group on a single preferred digital technology for radio or on an implementation timetable. The Technical Working Group undertook an extensive channel planning exercise in the L-Band using various conversion scenarios based on Eureka 147 technology. This work suggested that under certain scenarios the spectrum requirements for the conversion of all national, community and commercial

broadcasters to digital would be difficult to fully meet within the L-Band, at least on the technical parameters agreed among the stakeholders.

Some of the important issues in planning the implementation of digital radio that need to be addressed include:

- consumer interests including access, competition, new services and receiver costs;
- whether digital radio should be treated as a replacement for analog radio or as a supplementary service;
- the implications of different technologies on the 'conversion' process (eg in-band versus out of band technologies);
- whether a single set of technical standards ought to be applied;
- the basis on which incumbent and new broadcasters might access spectrum for digital broadcasting;
- the nature of simulcasting requirements and the timing of any hand back of spectrum;
- spectrum planning issues, particularly allocation of L-band and VHF spectrum;
- the types of new or additional services which might be offered by digital radio; and
- capital and running costs for digital radio services particularly costs for national and community broadcasters.

2KY Racing Radio, the Austereo and ARN Networks and the ABC combined to form the DR2000 (digital radio 2000) consortium to conduct digital radio broadcasting trials based on Eureka 147 technology.

The Eureka 147 system for digital radio is now well established in Europe, Canada and parts of Asia, but take-up by consumers has been slow. In the UK receivers generally cost 500 pounds or more and offer only audio services. The USA has not adopted the European model and appears to favour the 'IBOC' (in band on channel) technology that provides for the digital service in the same band as the existing analog service. This approach has the advantage of not requiring additional spectrum for the digital service but is less able to offer the additional data services which Eureka and other 'out of band' systems are able to offer. At this time IBOC technology is not proven to the same level as Eureka 147.

The Government is continuing to consult with broadcasters and other interested bodies on the parameters for the implementation of digital radio. The Federation of Australian Radio Broadcasters provided a formal submission to the Minister for Communications, Information Technology and the Arts on 2 November 2000 outlining their preferred approach to implementing digital radio. The Minister is considering the submission.