

Mr Paul Neville MP  
Chairman  
House Communications Committee  
Parliament House  
CANBERRA ACT 2600

## **RE: EFFECT TO REGIONAL RADIO SERVICE- BUNDABERG**

Subsequent to our original submission of 27 October 2000 regarding your Regional Radio Inquiry, we now provide you with details of more recent events that are evidence of the social and economic effects of networking by large networks into regional areas.

Although this matter is now in the hands of our legal representatives, we wish to bring this matter to the attention of the committee so that the Minister can be informed.

### **Background**

Bundaberg Broadcasters Pty Ltd have been purchasing various radio programs from a supplier for the past 16 years. This supplier has now been put in a situation whereby they have given notice of termination of the contracts under which they supply those programs because of market place pressure from a network who has secured the third commercial licence in the Bundaberg area and who wish to use the programs currently supplied to us. The network has cited the "networking of programs" as the reason they must have access to those programs in this area. If they are unable to access these programs, they are unable to use their preferred networked program on the new FM licence in Bundaberg.

### **1 November 2000**

A representative of the supplier phoned our program manager and advised that contracts to supply programs to our company would be terminated on 31 December 2000 following demands being made on the supplier by a network. This was done despite the fact that we have agreements in place valid until June 30<sup>th</sup> 2001.

### **3 November 2000**

We sought legal advice regarding the notice of early termination of the 8 contracts we have in place with this supplier

### **7 November 2000**

We received written notification of the termination of our 8 contracts with the supplier, effective 31 December 2000.

### **8 November 2000**

We had a telephone conversation with a representative of the supplier and we were able to establish that the network wished to send program into Bundaberg from a particular source and that source program contained the programs in question. Therefore it was necessary for the network to secure those programs in the Bundaberg licence area too, as the contracts are market exclusive.

The supplier advised us that if the network was unable to secure those programs in the Bundaberg licence area, they would be forced to drop them from that particular network feed and all markets it contained. Some of these markets were crucial to the supplier who had secured program sponsors. The sponsors had identified certain markets within the network feed as essential to maintaining their sponsorship agreements in place. The representative of the supplier also informed us that the network had threatened to drop this supplier's programs from their entire network if they did not achieve the desired result in Bundaberg – this supplier would then effectively lose considerable sponsorships and potentially be out of business.

**8 November 2000**

Our solicitor contacted the supplier and advised that the contracts/agreements did not allow for early termination, only for termination, with the required amount of written notice, at the end of the term of the contract (30 June 2001 in all cases)

**15 November 2000**

Solicitors for the supplier advised that in their opinion, the contracts could be terminated early and the supplier gave written advice that the terminations would now become effective 4 weeks from the 14 November 2000.

**16 November 2000**

We authorised our legal representatives to commence proceedings to obtain injunctive relief from the termination notices.

There is no doubt that the actions of the supplier in wanting to prematurely terminate the agreements that are currently in place with us for the supply of programming features have been forced by the “negotiating tactics” of the network. These tactics appear to be motivated by:

- Their desire to achieve maximum market share as quickly as possible.
- Their decision to network a program into Bundaberg from the south (which contains the programs currently under contract to us,) rather than networking a program from the north which does not include the programs in question.
- The restrictions placed on programming flexibility by networking

We respectfully suggest to the committee that these actions are a clear example of network operators affecting the viability of existing local broadcasters by putting pressure on suppliers.

The long-term impact on regional communities if these actions are allowed to continue is that local jobs will disappear and regional Australians will be provided with networked programs delivered from network headquarters as opposed to full live studio coverage and access.

Be left in no doubt, that pressure bought to bear on a supplier on the basis of market buying power is the underlying factor in this action and is putting in jeopardy the commercial viability of one of the few independent and locally owned commercial broadcasting operations in regional Australia.

We further submit that the action is unethical and is not in the spirit of providing diverse commercial radio services to regional Australia and is certainly not the outcome intended by the ABA when allocating additional licences to regional areas of Australia.

Yours faithfully

Tom Dunphy A.D.R.M  
Station Manager  
Bundaberg Broadcasters Pty Ltd