



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON COMMUNICATIONS, TRANSPORT
AND THE ARTS

Reference: Adequacy of radio services in non-metropolitan Australia

TUESDAY, 29 MAY 2001

BRISBANE

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON COMMUNICATIONS, TRANSPORT AND THE ARTS
Tuesday, 29 May 2001

Members: Mr Neville (*Chair*), Mr Gibbons, Mr Hardgrave, Mr Jull, Mr Lindsay, Ms Livermore, Mr McArthur, Mr Mossfield, Mr Murphy, and Mr St Clair

Members in attendance: Mr Hardgrave, Mr Jull, Mr McArthur, Mr Neville and Ms Livermore

Terms of reference for the inquiry:

To inquire into and report on the adequacy of radio services in regional and rural Australia and the extent to which there is a need for the Government to take action in relation to the quantity and the quality of radio services in regional and rural Australia, having particular regard to the following:

- The social benefits and influence on the general public of radio broadcasting in non-metropolitan Australia in comparison to other media sectors;
- Future trends in radio broadcasting, including employment and career opportunities, in non-metropolitan Australia;
- The effect on individuals, families and small business in non-metropolitan Australia of networking of radio programming, particularly in relation to local news services, sport, community service announcements and other forms of local content, and;
- The potential for new technologies such as digital radio to provide enhanced and more localised radio services in metropolitan, regional and rural areas.

WITNESSES

CAMPLIN, Mr Ronald Barry, Vice-Chairman (Regional), Federation of Australian Radio Broadcasters Ltd	849
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Committee met at 9.23 a.m.**CAMPLIN, Mr Ronald Barry, Vice-Chairman (Regional), Federation of Australian Radio Broadcasters Ltd****CARROLL, Mr Graeme, Manager, Public Affairs, Federation of Australian Radio Broadcasters Ltd****MEREDITH-MARX, Ms Tracey Geraldine, Regulatory Consultant, Federation of Australian Radio Broadcasters Ltd**

CHAIR—Welcome. I do not intend to read yesterday's introduction because I think most of the players have been with us throughout these hearings. We are now coming to the seminal point in the inquiry. This will be our second last day of public hearings. There will be a little bit of tidying up in Canberra and then we will start writing the report. It is appropriate that the ABA and FARB should be our last two witnesses, because one is a representative of the industry and the other speaks as the regulator of the industry. Obviously we will take their evidence very much into consideration in framing our suggestions to the minister. Mr Carroll, would you like to make an opening statement?

Mr Carroll—Yes.

CHAIR—Would you like to give an overview of either your total evidence thus far, or your most recent documents, or would you just like to generally set the scene before we go into examination?

Mr Carroll—I am happy to go through the various recommendations if you so wish. If you have already read the document—

CHAIR—I do not want to go into the detail of them. You have supplied us with new material; do you want to touch on that first?

Mr Carroll—I could, and then we can briefly go through the recommendations if you wish.

CHAIR—Let us do that.

Mr Carroll—FARB welcomes the opportunity to make a further submission to the regional radio inquiry and to make a number of recommendations designed to assist the committee in formulating its recommendations aimed at improving the adequacy of regional radio for listeners. The submission does not represent the views of all members of FARB, some of whom have already given their own submissions with specific recommendations.

Some of the criticisms levelled at the industry have been valid, but we would contend that the vast majority are not. In the past nine years commercial radio services to regional Australia have increased from 109 to 202, but these stations share only 35 per cent of the industry's \$680 million revenue, and that is based on the latest 1999-2000 figures. While these economics remain, it makes it almost impossible for regional commercial stations to sustain a totally local broadcasting operation in the old-fashioned way—that is, announcers sitting in studios whenever the station is on air.

Various commercial operators have presented the inquiry with evidence which has a common theme—that of the difficulty in maintaining viability of their operations in an increasingly competitive media environment and economically declining rural sector. While these operators have differing views on how this issue should be addressed, there are several recommendations on associated issues which the industry would like to put before the committee for its consideration and for which there is broad support.

While many submitters have focused responsibility for the delivery of local content on commercial broadcasters, that is clearly not what was intended by the act itself. The schedule to part 8, standard conditions of licence for commercial broadcasting services, clearly places an obligation for services of all broadcasters in the market to be considered when deciding if listeners are being adequately serviced. Based on that criteria, we would contend that there is indisputable evidence to suggest that regional Australia has never been better served by the large number of new services, that is, commercial, community, national and narrowcasting, which have evolved during the past six years.

Commercial broadcasters are clearly committed to retaining localism, but it should not dominate to the point of excluding outside influences as well. The degree of localism will be, and indeed is being, determined by market forces. FARB strongly believes that its members should be able to choose the kind of local programming and associated services they broadcast, provided that they are meeting their requirements under the BSA.

Commercial radio has served regional Australian communities for many years. Other industries—namely, banks, energy, water, transport and education—have all consolidated the provision of services to rural Australia and in some cases have ceased to provide local infrastructure and maintain a local presence. However, commercial radio has stuck by local communities and reinvented the way in which it serves listeners to ensure that they continue to receive the best programming available with which they can interact as they go about their daily lives.

There are a number of recommendations which I will briefly run through with you. Firstly, following completion of the ABA's planning process, there should be a 10-year moratorium on the issue of further licences in regional markets—that is, commercial, community, narrowcasting, section 40s and low power open narrowcasters—to improve the viability of incumbent operators. Secondly, there should be a five-year moratorium on the payment of licence fees for all new regional commercial broadcasting services delivered by the planning process. This would serve as an offset against the capital infrastructure cost of establishing the new services. Thirdly, we would seek the committee's support for commercial radio broadcasters' calls opposing the removal of the one per cent broadcast cap in the Copyright Act to assist viability. While this does not go directly to the terms of reference of the inquiry, nonetheless it goes to the heart of the key issue of viability.

The fourth is the introduction of a government funded black spots program to assist regional listeners in receiving better reception and to extend commercial services. The committee has heard a number of submitters who do not even receive a commercial service, and this program is designed to enhance that process. We have already taken steps to address it and we have spoken with the minister and have received a favourable response in that area. In fact, we have identified something like 175,000 people whom we could serve through a black spot program.

The fifth is the issue of coverage of emergency events. We have also initiated a number of discussions with emergency bodies to foster an ongoing forum with them. We have had some very successful meetings in Victoria and we have also spoken with the weather bureau about resurrecting some older guidelines that have sat in the background over the past few years but which we see great value in resurrecting.

The sixth is the issue of declaring radio stations as an emergency service in the event of these events happening and the station being taken off air if there is to be some sort of obligation on commercial broadcasters or radio broadcasters in general. We would see it as essential that they be declared as an emergency service themselves so that they can get priority repairs in case that happens, to keep the listeners informed.

The seventh is an issue of ensuring that there is some proactive enforcement by the ABA in having community and narrowcasting services meet their obligations under the act.

The eighth is seeking a recommendation from the committee for commercial operators to use VHF spectrum to lessen the financial burden of moving to digital radio should we go down the path of using Eureka 147 technology. That will enable regional listeners to receive a far better service by way of their reception rather than using the L band spectrum that has been identified internationally for digital radio.

Our last recommendation—while again not directly associated with the terms of reference—is that of lifting the blackout provisions on political advertising to allow electronic media to compete on an equal footing with print media and improve viability. I would be happy to take questions, Mr Chairman.

CHAIR—Do you want to add anything, Mr Camplin or Ms Meredith-Marx? No? I suppose it would be fair to say that the whole focus, and probably the main term of reference from the minister, has centred on localism and, quite frankly, I was very disappointed in the definition of localism. I think it is self-serving and it has obviously been designed by the networks. It has not been designed with the interests of the community at heart. It says:

Localism doesn't have to be someone in the studio in the town to which the program is being broadcast.

In other words, anything else goes.

Mr Carroll—No.

CHAIR—It seems to me that your whole chapter on localism is slipping and sliding away from the key issue, that is, to put more locally sourced programs delivered by local people into the community, which is a term of reference that we are committed to. It seems to me that all this is saying that pseudo localism—putting it on a cassette from the hub—suffices, or turning up with the AB van once every couple of months and putting on a ding at the local show creates localism. Surely the fabric of localism goes beyond that. Is that really the vision of FARB for localism? I think it is the most disappointing part of your whole submission.

Mr Carroll—I think it has been demonstrated by the evidence that has been presented to you that the networks themselves do have a local presence and they pride themselves on the local presence. They provide an extensive locally oriented programming by virtue of the live

programming that they do produce in the studios throughout most of the day and then either automate or go on networking in the evening period and on weekends. They do have a presence in the local community. They must always maintain a presence in the local community if they are to sell advertising in that community.

CHAIR—I was just going to say that it must go beyond between two and five salesmen in an office, surely.

Mr Carroll—I think it is true to say that the station managers in all the markets are part of the local community. Part of localism is that they must be a member of the local community and that presence will always remain.

CHAIR—How does that translate to the local radio station? Are you arguing the case that, because the salesman and the manager live in the community, that is a sufficient connect with the community to obviate all other difficulties?

Mr Carroll—No, definitely not. It is being in the community and operating by virtue of having all your announcers who are in the community out and about. They are part of the community and they become part of it.

CHAIR—In many communities they broadcast from either 5 until 9, or 6 until late morning or midday, and that is about it, with very few exceptions.

Mr Carroll—I would suggest that there are far more than that who are broadcasting live during the day.

CHAIR—Many of those 5 to midday ones also take out three hours for some form of shock jock program, which is hardly local, either.

Mr Carroll—That would be on one of their services but the other service remains local.

CHAIR—This committee has never argued that there is anything wrong with networking per se, nor syndication per se. Indeed, it has been the nature of the radio industry right back to the days of the serials, quiz shows, Lux radio theatre, Mobilquest, amateur hour and so on. All of those things were either networked or syndicated in one form or another; no-one is arguing with that. What we are arguing with is the reduction in locally produced content being delivered locally in the community.

Mr Camplin—As you know, I am a small market stand-alone solus operator, but I am here today in my capacity as deputy chairman of FARB and also chairman of the industry's regional committee, which comprises all the groups, networks and independents. I think there has been an enormous change in the way we operate in the country. I explained to you that in Bathurst, as a result of the increase in competition that had occurred in my marketplace, we were operating the same service with 20 fewer people. We were able to do it through technology. We live there; I am a network of one so we have to be there. We have chosen to stay in the business so we found a new way of doing it.

With the networks—and I can understand why they have done it the way they have—first of all, they had to cut their cloth to operate economically. They were not living in the marketplace but they made enormous investments in this country, especially the overseas people. I have had a long association with people like Paul Thompson. He is a most ethical, very astute broadcaster. Paul honestly believes that what he is doing is the best for his community under the circumstances. I know how professional their operation is because I compete with it. A new station in Orange is just like a new station in Bathurst because it is only that far away. They are a very professional operation, so much so that they do compete with us in our marketplace for certain audiences. Paul is convinced that his kind of localism is good for his marketplace, as I am convinced that my kind of localism is good for my market under the circumstances. I do not know whether that helps explain.

Mr McARTHUR—What you are saying to the committee is that there is a different interpretation of the definition of localism?

Mr Camplin—I think we have been forced into that. As we all know, our regional markets, throughout Australia, are not growing to the same extent as our metropolitan markets—indeed, I think they are declining—but we have had a huge increase in the number of broadcasting services in those markets. We have had not just commercial services but community services, narrowcast services and high-powered narrowcast services. We have very competitive regional TV services in our marketplace and we have very strong newspaper groups in regional areas today. All of these have meant far greater competition in our marketplace. In Bathurst, I was able to demonstrate to you that our revenue in the year 2000-01 was less than our revenue in 1990-91. That is as a result of increased competition.

Mr HARDGRAVE—The fact that large companies may have made an investment in a declining sector of the industry is, in one sense, not really a matter of concern to anybody in a free market. Their choosing to throw heaps of money into something that is on its way down and then want to see matters accommodated so that they can then, over time, turn it around, is probably part of the reason why this inquiry is occurring.

We have talked to small operators who are standing alone. I can think of the Bathurst circumstance and I can think of the Longreach circumstance that we saw, Chair. There were smaller overheads and there was less exposure, and there was still a business that was operating and turning a profit, whether they had 20 more staff in years past or not. This morning, we have to walk through the various issues that are associated with this question of viability. We want to get to the bottom of what is really happening in your industry sector. The point the chairman has made is correct. You could also then argue that the sector is declining because a lot of people are disengaging from the radio in country areas because they are not happy with the service. I am not saying that I am arguing that, but you could try to argue that as well.

We have the Broadcasting Services Act—and your own most recent submission says that the services of all broadcasters in the market need to be considered when deciding if listeners are being adequately serviced—but no penalty imposed on any broadcaster in a market if they are not. So help us through this. What do we do, putting the listeners first, to provide them with an adequate and comprehensive service, contributed to by each station, to ensure that they do not sit around saying, ‘Somebody else has to provide that service, because we can’t’? The listeners are losing out—that is what we are hearing.

Ms Meredith-Marx—Mr Chairman, I wonder whether we might backtrack a little bit and just look at that issue of localism again.

Mr HARDGRAVE—Which definition are we going to use?

Ms Meredith-Marx—Not necessarily our definition or your definition, but let us look at the issue of localism and how you do define it. If you had, for argument's sake, programs emanating from a radio station in town actually created in the studio and broadcast to the town from that studio, with a presenter based in that studio, there is no particular guarantee that that would engender any more localism in and of itself than a program which comes from somewhere else and which might address local issues. I am trying to get to the crux of the issue. Is it talking about local issues? How would a program that is actually created in the town—

Mr HARDGRAVE—There is no test of it either way, is there?

Ms Meredith-Marx—No.

CHAIR—Let me take you up on that very point. In an earlier manifestation, I fancied myself as quite a good debater. I used to be a member of the Queensland Debating Union. One of the golden rules of debating was that if you wanted to wrong-foot the other team, you redefined the subject—you redefined the terms of reference of the debate and then argued that case. Quite frankly, I think that is what you have done with localism. You are trying to say that, because a person is in a studio in a local town on a given day, he or she is no better equipped than someone 1,000 kilometres away in a hub studio.

I disagree with that, for a number of reasons. They did not drive on the road into town that might have been snow covered for the first time in 20 years, or drive on the road that had been dug up, or drive to the bridge that was down, or drive on the road where the car crash had occurred, or know that the sugar cane crushing started that morning or that the lorries are bringing the wheat into the silos in western New South Wales or wherever it might be—all that local colour. In many instances, they have read the local newspaper by the time they go into that studio. They are conversant with the local appeals that might be on in the town—the Girl in a Million, the Cancer Quest or whatever it might be—or the festivals that might be on next weekend—the sugar festival or the banana festival or the orange festival or whatever it might be.

We heard Mr Shier infer yesterday that the ABC had become too Sydneycentric, and he was determined to break that up because you needed people on the ground. He says that for a reason. If you are living in a hub—be it Bunbury, Townsville, Albury, the Gold Coast or wherever—those announcers and those newsrooms will be coloured to some extent—osmotically, if you like— by the atmosphere in which they live. The music that is the go on the Gold Coast or the music that might be the go in Bunbury will permeate through the network, especially on any of those network programs. The ABC recognises now that it has taken the *7.30 Report* back to Sydney. In fact, other than the half-hourly news updates, every program from 7.30 p.m. onwards—especially on television, whether it be on the ABC, SBS or the commercial stations—comes out of Sydney.

If the journalists in that particular newsroom get a bee in their bonnet or they meet for a beer on Friday afternoon and the topic of conversation is something in the Sydney media, that permeates the whole of Australia and, to a lesser extent—coming back to radio and coming back to hubs—that atmosphere will permeate the rest of Australia. For example, if there are a lot of American sailors in Townsville and reggae music is the go at that particular time, that whole network might be subjected to reggae music. There is a loss of diversity of one form or another. It is not just news; it is not just the chitchat of what happened yesterday; it is a whole permeation. Given time, if you allow the capital city to become the hub, you lose a lot of individuality from the towns. This is what ordinary people in the street are telling us. People making private submissions are telling us that.

Ms Meredith-Marx—It is a very ethereal concept, though, isn't it? It is trying to identify what this issue is. It is a very ethereal concept of localism, flavour and input that comes from being on the ground in a particular place. I am not quite sure how one can define that adequately to enable people to work in a prescriptive fashion to a particular formula. That is what is concerning me. I take your point: it is true that someone who is driving to work would have a better understanding of whether there are road works going on in the centre of town. I do not know how you put that into some sort of recipe which results in localism because it would be too prescriptive. I think that is the difficulty.

CHAIR—There is no prescription.

Mr Camplin—Some years ago, sitting at a luncheon with members of the ABA, I said to them at that time that if, through this new act, they were to issue all these new stations, they were going to change the face of commercial broadcasting in regional areas of Australia. I told them that they would find—and I stated this at the time—that eventually they would not have as good a service as we provided to our listeners at the time. I said that they would find one day that we would be sitting down at another inquiry changing all that. We are doing that right now. I do not know what the answer is because I really believe the horse has bolted.

Mr HARDGRAVE—I do not disagree with what Ms Meredith-Marx has said. It is basically hard to pin down, because different types of people disengage and look for different things. The radio industry markets and programs itself for different segments accordingly. I think that some of the solution may lie in encouraging the market to interfere a little bit in certain ways. I thought that the FARB submission gave a raft of possibilities that should certainly be explored. Should we be looking at things like softening the licence fee structures for stations that embark upon a stronger local commitment than something that comes off a stick from 2,000 kilometres away?

One of the things the BSA did was make a statement about the viability of the industry. It gave an option for big purchasers of large numbers of stations so that an economy of scale was created. The consequence was that networking was allowed, stations were snapped up and an on-relay circumstance was always going to evolve because that was the only way they could run it.

Having said that, they have got a greater amount of distance between cost and income; they have got a greater profit. The small stations that are plugging along still trying to hold on, whether they are automated or do five, 12 or 24 hours live, should be rewarded. Is it a

reasonable concept to look at a fee structure that rewards the extra cost structure of localism, broadcasting live and/or both?

Mr Camplin—We were discussing the concept yesterday of whether this could be a possibility to be considered.

Mr Carroll—It has certainly got some potential. I would be happy to canvass our members on it and get a response to you on that, if you so wish.

Mr JULL—What, roughly, is the annual licence fee for a regional station?

Mr Carroll—Ron might be better able to answer that.

Mr Camplin—It is \$10,000.

Mr HARDGRAVE—Is it a total percentage of income or profit?

Ms Meredith-Marx—Yes, it is based on percentage.

Mr Carroll—So, \$20,000, I guess.

Mr JULL—But if we said you can put another local shift on air and we will knock your licence fee off by 50 per cent, that is not going to do much for you, is it?

Mr Camplin—Not really, but it is some incentive. I cannot think of any other way. The thing that concerns me most of all in my small marketplace is having to get back to some form of licence—I hate to use the word licence ‘renewal’, but some form of—

Mr JULL—Review.

Mr Camplin—Review, which takes up an enormous amount of our time.

Mr JULL—But should that be your responsibility? Should the review be of your station or should it be done by an outside body—say, the ABA—of the viability of that particular market? If every five years the ABA went into Bathurst and said things are crook—the population is declining, retail spending is down, blah, blah, blah—therefore we can make this adjustment on costs, is that a way out of it?

Mr Camplin—I suspect that would be the only way it could be addressed. I think the ABA would be the only body that could administer something like that.

Mr HARDGRAVE—You do not want to end up hiring a raft of lawyers to go through air check tapes and produce the fact that no one has said a four-letter word—and all the silly things that used to happen in years past. What if there were a different process of review? My colleagues have talked about this ad nauseam, but the BBC, for instance, have a process of making a statement of promises to listeners and viewers. They hold a regular public meeting—it would be far more regular than I would imagine the commercial sector should be subjected to—

and say, 'What do you expect of your local radio stations? What aren't you getting on your local radio stations?' It is open. Big networks do it anyway on the phone every night. It actually sets a standard that you have to meet and, if you do not meet that, there is comment about that from the ABA and you have to try harder. Within reason—they do not want John Laws doing the breakfast program live out of Bathurst every morning. But you get what I mean.

Mr Camplin—He would not accept my offer.

Mr HARDGRAVE—There has to be a connection re-established. Bathurst is not a good example because I think the connection is there already: in fact, I know it is. There needs to be a connection between what comes out of the stick and the listener that to my mind, from what we are hearing, is not automatically there. Maybe that kind of 'What does the public want?' process might be a start.

Mr Camplin—The ABA has recently instituted or initiated some of these checks as a result of the cash for comment inquiry. We have new requirements from the ABA. Also, as a result of our codes, we now have developed a system with the ABA where our codes are regularly checked and audited at the end of the year. We are moving towards that kind of closer working cooperation with the ABA on these matters.

Mr McARTHUR—What really emerged out of the cash for comment inquiry? What really happened after all the hubbub?

Mr Carroll—We now have a set of standards: one on disclosure by presenters of current affairs programs, another one governing advertising and another which introduces a compliance regime for stations in that they must very strictly adhere to all the codes and standards and provide annual audits, which go to the ABA.

Mr McARTHUR—Except there would be an impression abroad that nothing really happened out of it. You changed the rules, but nothing happened to those people involved in the cash for comment. You changed the rules after the event.

Mr Carroll—That is not entirely correct. 2UE does now have a number of conditions on its licence which are quite onerous and have quite serious consequences. Also, if the other industry players breach those standards which are now in place, there are quite serious consequences for those stations.

Mr McARTHUR—What sort of consequences are you talking about? Would their licence be withdrawn?

Ms Meredith-Marx—Yes, potentially. A breach of a standard is a breach of a condition of the licence and potentially the ABA could withdraw that.

Mr McARTHUR—But would they actually do it? That is my question.

Mr Carroll—I think that is a question you would have to ask of the ABA.

Ms Meredith-Marx—The prime ill that was identified in the cash for comment inquiry was a failure on the part of some broadcasters to let the audience know when in fact matter was really being broadcast as part of a commercial arrangement between the presenter and a third party. That is the problem that has been rectified. You are quite right: presenters in certain circumstances—not all stations, I would stress—still have commercial arrangements with third parties. But the ill has been corrected to the extent that the audience is now aware of those arrangements.

Mr HARDGRAVE—There were some stupid arguments generated by journalists who got free books themselves. I got Shirley Conran's *Lace*, Jack Pollard's history of Australian cricket and Douglas Adams's *The Hitchhikers Guide to the Galaxy* and I will have to hand those back because I interviewed the authors in 1982 on 4BK. Fair dinkum! It was a stupid argument. On this question of licence fees, I think we were probably a bit stunned to find that the figure of licence fee renewals is so low. It had been suggested to us that there was a sliding scale incentive scheme that could be considered, which is what I was asking about before. That leads me to think that the one question that needs to be asked is whether or not, maybe for the places that have no other commitments to an area other than a stick which broadcasts a signal from somewhere else and the odd half-hour mention of the town on a cartridge from somewhere else, we might have to bump their fees up. Maybe we need to in fact increase licence fees for that type of station

CHAIR—What is the licence fee as a percentage?

Ms Meredith-Marx—It is a sliding scale based on the total revenue of the station. The fee goes up according to the higher band of revenue.

Mr HARDGRAVE—So they are essentially paying more if they are more successful?

Ms Meredith-Marx—Yes. If you earn more, you pay more.

Mr HARDGRAVE—So there is a penalty built in. But what if there were a rule that outwardly said, 'We want to encourage local commitment and local content'? Again, we would have to debate how to measure it. But if you said, 'If your cost overheads are reduced by this networking process, what we will do is take a bit more out of you. We will charge you more,' how would FARB react to that kind of a process? I have put you right on the spot now, Mr Carroll. You can take it on notice if you want.

Mr Carroll—I may have to take the entire issue on notice. But I do not think it would be something that would be favoured by the vast majority of our members.

Mr HARDGRAVE—Let me put it to you another way. In your most recent submission, dated 23 May, your final submission, you have also outlined the fact—or certainly implied it at the very least—that television networks through the same areas are basically getting away with it. In fact, it says here:

To change the rules now by imposing content rules on commercial broadcasters—and ignoring other media (broadcasting and print)—

I imagine you meant television and print—

would destroy the fabric of the industry and place it under even more pressure relative to its competitors in the marketplace.

Radio is competing with commercial television for its dollars. But commercial television is not subjected to the same scrutiny about local content that we are debating here today, is it?

Ms Meredith-Marx—No, that is right.

Mr HARDGRAVE—So would it be wise, then, to even look at the concept of bringing local television into the loop of discussion about their contribution to the local area, with their competency? I know it is outside FARB's brief, but you have raised it.

Mr Carroll—What we are suggesting is that, if content regulations in terms of local coverage were placed on commercial radio broadcasters which were not applicable across the other sectors, that would force commercial radio operators to introduce other measures—perhaps employ extra staff, et cetera—which would place them, again, at an economic disadvantage in being able to provide that service. We would argue that there ought to be equality across the categories if that were to be the case, because the issue that we have identified all along has been one of viability, and that would squeeze that even harder.

CHAIR—I do not mind some comparisons, but the terms of reference of the inquiry are not to examine the difference between television and radio. If we argue that television did go down a wrong path and that aggregation does not fulfil the best intentions of regional listeners, it is not an excuse to send radio down the same path, surely. It is to learn something and to make sure radio does not go down the same path. Just because you say that the television sector to some extent has become bastardised—for want of a better expression—and that it has lost all its localism through networking, aggregation or alignment with one of five networks, two public and three private, is that an excuse for taking the brakes off radio? In fact, to me it would be an object lesson in what not to do rather than what to do.

Ms Meredith-Marx—But the point of that submission was merely to highlight the fact that if you impose content restrictions on, for example, commercial radio—which is the subject of this inquiry—it will have an economic impact on the service because it will be competing on a less favourable basis with other mediums in the area, like television. The last thing one wants to do, I would imagine, is to have an economic effect on an industry that is already struggling to provide the services it currently is providing in the regions.

Mr JULL—On that point, I would like to ask Ron Camplin a question. In the Bathurst market, have you got many local advertisers on television?

Mr Camplin—Yes. It is much cheaper to buy TV than it is to buy local radio. I think Mr Higginbotham explained yesterday that when TV became aggregated they relayed all the programs, including the windows. We put a submission to the productivity inquiry that we estimated there were an additional 3,000 ads a day that had to be filled. In the good old days we were the economical medium, at \$50 a spot. Television is about \$500 an ad locally, and when aggregation came along they had so many windows that had to be filled that they got 50 ads for that \$500. I was not able to compete with that and never have been. So we have had to change our selling, and it has affected our great strength, and we are about 70-30 national-local. But it has affected our local advertising, and our local advertising has not increased in the past 10

years. The competition from television alone in that marketplace makes it very difficult to increase or maintain the business that we have already got.

Mr McARTHUR—Would you say that competition is unfair because of aggregation?

Mr Camplin—No, I do not like the word ‘unfair’. It makes it difficult, but we are out there fighting anyway; we are trying to find ways. We sell on the basis that ‘we are here and we are very local’. People know that if they are advertising on 2BS it is there on a street corner in Bathurst. If you advertise on television it could be in Dubbo, Mudgee, Orange or Lithgow, so we are still pushing that angle.

Mr JULL—In that respect I suppose you would regard 2BS as more local than the new station in Orange?

Mr Camplin—Absolutely, especially in Bathurst. The new stations in Orange are listened to in Bathurst. You cannot help that, because if you put a transmitter on top of Mount Canablas you need very little power to cover an enormous area. They have a signal throughout Bathurst that is equal to our FM signal and of course we have always been competitive with 2GZ AM in that marketplace. 2GZ and 2BS historically have been quite competitive. It is a very competitive little market. We have 30,000 people in our beautiful city of Bathurst, but we also have seven commercial stations selling in that marketplace. We have a total of 19 radio stations selling in that marketplace in one way or another—I am sorry, not all selling; the ABC does not sell advertising. The ABC is much more competitive today than it was 10 years ago. Triple J is directed at the audience that we always covered. It also has four licences in our marketplace, whereas years ago it simply had 2CR, the local ABC station.

Mr HARDGRAVE—The comparison with aggregation and what is happening in the radio industry is relevant because the traditional television station in a rural and regional area is the station that is most watched and probably provides local news, whereas the ones that come from outside that city do not. That example seems to be true. But is the difference that there was protection of the number of licences issued to television stations versus the radio industry, where there have been additional pressures of extra licences?

Mr Camplin—That is right.

Mr HARDGRAVE—In some markets there are four stations where there used to be one and that sort of thing.

Mr Camplin—The trade-off with television is that they were given far greater licence areas to market in, as long as they shared those with the other TV stations. That could not happen in radio because you would lose, in regional areas, the localism.

Mr JULL—Have you got a pay TV service in Bathurst yet?

Mr Camplin—Yes, we have. Austar is there and it is very effective. There are about 42 channels.

Mr McARTHUR—Do you see that as competing very strenuously with radio?

Mr Camplin—They are selling advertising into the national marketplace, although we find that they are one of our best advertisers so we are pleased to have them there. They are also on top of my mast, so they are paying me rent for that; so again I am pleased to have them there. I also promote them very strongly because they do compete with television.

Mr HARDGRAVE—We will send them a copy of this *Hansard*.

Mr JULL—They sound like fine people.

Ms Meredith-Marx—Could I say one thing about the aggregated television market? I think Ron will agree with me that as those markets were aggregated—and what Ron described is what happened—the television rates came down to \$50, \$60 or \$70.

Mr Camplin—Or \$10.

Ms Meredith-Marx—Or \$10 in some markets. That is right. It never changed and they never went back up to \$500. The introduction of aggregation had not just a one-off effect on these markets for radio; it had a continuing long-term effect.

Mr HARDGRAVE—Which is why the television argument is somewhat relevant to what is happening in regional radio.

Mr Camplin—We lose more local advertisers—

CHAIR—I hate to disagree, but I want to keep the inquiry focused on what we are talking about. I understand you have to have comparisons, but what we are talking about here in the term of reference is the effect on individuals—families and small business—in non-metropolitan Australia of the networking of radio programming, particularly in relation to local news service, sport, community service announcements and other forms of local content. That is our term of reference. It is valid to make comparisons with television, but that is not the central argument.

Mr HARDGRAVE—The reason I was pursuing this is that I just wanted to find out why it is that radio is coping these complaints and television is not, and I have been trying to steer it to this question. Why is it that radio cops the complaints that it has been getting? Isn't it because it is such a personal one-to-one medium compared with the broadcasting of television programs?

Ms Meredith-Marx—And people expect pre-recorded programming on television.

Mr HARDGRAVE—That is right, but they do not expect it on radio. They expect radio to be in their town, don't they? That is the perception people have, but radio is not meeting it and the Broadcasting Services Act is not, in fact, testing whether or not people's expectations for radio are being met. That is really the nub of it. You guys are doing what you are doing because you are allowed to. That is essentially it, isn't it?

Mr Camplin—It is not so much that. It is what we are able to do economically in the marketplace. If we simply cannot write the dollars, and the dollars are not there, we have to find another way to survive, and we have done that.

Mr HARDGRAVE—We heard yesterday that Mr Caralis, in a discussion with Mr Lodge, looking at the 2DU example where a DMG station from outside that area is now broadcasting into that area and is on network, said, ‘What is the point in having it live and local because no-one is listening to it?’ What do we do about these sorts of circumstances? What do you suggest? Do we just let the market do what the market is doing?

Mr Camplin—That was as a result of the new act. The broadcasters themselves warned constantly that we could have too much competition. Everybody was saying that it is about time you fellows in the bush had a bit more competition. I heard it ad infinitum, and we said, ‘This is what will happen in these small markets where the advertising pie is finite. If we have to split that so many ways then eventually programs will have to suffer.’

Mr HARDGRAVE—So we cannot turn it back? Is that what you are also submitting?

Mr Camplin—I would love to be able to turn it back, or if you can encourage enough people to decentralise we could probably handle these new stations.

Mr McARTHUR—Could we continue this argument of the licence that leads on to this debate of the issuing of new licences?

Mr Camplin—Yes.

Mr McARTHUR—Firstly, could you help with the evidence put before us yesterday that DMG have now put in for a licence in Sydney, which they have paid \$155 million for, and yet we see in regional Australia, even on your own submission, about a 65 per cent increase in the number of commercial stations on air since the introduction of the BSA. Why has the ABA allowed one new licence in Sydney, as I am hearing it, at \$155 million? Is that a matter of spectrum, or is that a matter of market power?

Mr Camplin—No. The ABA has had to interpret an act. I believe the ABA endeavoured to interpret that act as it was presented to them. There was one thing that we had enormous disagreement with the ABA over, and that was on the word ‘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 naturally from listener demand from within our communities. It was not interpreted that way. That is why we got all these new stations.

Ms Meredith-Marx—If it helps, it was given in a planning context rather than a social demographic context. If there was a frequency available—

Mr McARTHUR—Let us get your assessment on the record. What we are hearing from the evidence is that in the smaller regional areas—my own area of Geelong has been mentioned at the inquiry and is a classic example—two stations come under one owner and become viable.

Mr Camplin—Yes.

Mr McARTHUR—What would you be recommending to this committee in terms of the proliferation of licences that have been undertaken in the last 10 years? What are we going to do in the future?

Mr Carroll—We have recommended that there be a moratorium.

Mr McARTHUR—Let us just tease this out. What do you mean by a moratorium? Do you say that no more licences be issued?

Mr Camplin—After planning is finished that there be no more licences. We are also looking towards the future and asking that we have your support, also, with VHF in the development of radio for the future. We believe that radio, like most other things, will become digital in the future. It will be much better for the audience. Digital will be clearer. It will be interactive, we hope. We are hoping that regional radio can also move into the digital era. We would like to think that perhaps in this we would be granted free access to move over to digital within the next 10 years. What we cannot do with digital is to expect more new players in our market again. That would be absolutely disastrous for us.

Mr McARTHUR—Because the cost of moving across to digital would be so great for the current players?

Mr Camplin—That is going to be a cost—certainly a transmission cost. There will be very few listeners for quite a long time because there are not the receivers available in the market yet. We will have to help develop the digital system in Australia. Because it will give a better service and be interactive and become a better industry in the future, we are prepared to invest in it. But it would be far more expensive to establish a regional broadcasting station than it would a metropolitan station because of the huge areas. There are no people living in many of these areas. That is why we are asking that you support the VHF.

Mr McARTHUR—Can we just go back to this issuing of one licence in the metropolitan area and yet issuing a big number in the regional areas. Could you give us a rationalisation for this taking place?

Mr Camplin—There was not the frequency.

Ms Meredith-Marx—Just to put that in total context, there were actually three frequencies available in the Sydney market. They have been planned. They have been allocated for one additional commercial FM service immediately, and that was the one that was auctioned recently.

Mr McARTHUR—That is FM?

Ms Meredith-Marx—Yes. Another of those licences will become available in another three years. One has been allocated to a high-powered community broadcasting service.

Mr Carroll—That is the same in Melbourne.

Mr McARTHUR—You are telling us it is a matter of spectrum in the city location so that they could issue only one licence. It just happened to be a lot of people there—like three million.

Mr Carroll—Sure, whereas there happens to be an abundance of spectrum available in the regional areas.

Mr McARTHUR—An abundance of spectrum. We need to get this fundamental argument right. It is a spectrum argument in the metropolitan areas. Why have we had so many licences in regional areas? Is it because you have got more spectrum and it is an easy option?

Mr Camplin—Yes. All they had to do was put their hand up and demand that they wanted one.

Ms Meredith-Marx—The capacity was there.

Mr Carroll—We have had a 92 per cent increase in the number of commercial services— from 109 to 201. Most of that has occurred in the last four years as the ABA has progressed through the planning process. As Mr Camplin said, it has been interpreted as entrepreneurial demand, because there was not the requirement to go and look at the commercial viability of the operators in the market.

CHAIR—Take Mr McArthur's point: what is your recommendation if you say there has to be a moratorium? The remainder of the level 4 licences are to be finalised and the level 5 licences, as I understand it, are also to be processed. Were you suggesting we put on the brakes?

Mr Carroll—We are suggesting that that be applied after the completion of the entire planning process. That is not necessarily the view of all of our members, some of whom you have already heard from. But, in terms of the equity of all players in the market, the general view is that that should not apply until the planning process has been completed.

CHAIR—Even if that means a fourth licence going into some markets?

Mr Carroll—The view that has been expressed to date, which is a majority view, is that it should continue until the planning process has been completed.

Mr McARTHUR—We have a big problem as to how we make a change. Members of the parliament have found that a moratorium is always difficult when you have a statutory regime to change it from one set of circumstances to another. You have opened up the licences, and a lot of the witnesses have told us that some of the smaller markets are unviable and hubbing goes on. We have a dilemma as to how we can interpret a lot of this evidence. Some people are saying that they are in the marketplace and they do not want anyone else to come in. We had

evidence on that yesterday. Others are saying, 'Let's open it all up and some overseas interest will buy the whole lot.' We have a bit of a dilemma in the parliament as to how we might interpret this range of views. What are you telling us?

Mr Camplin—I think it is important that we maintain the level of localism that we have managed to hang on to. I would hate to see any more overseas ownership of radio. Radio was singled out to be the only major medium to be sold nationally, but DMG acted within the act. They have spent an awful lot of money in Australia to acquire their radio stations and they are operating them in the way that they believe they should. But I am concerned about where we go from here. I do not want to see any more restrictions placed on our operations, especially mine. I want to stay in this business. I do not want to be in the situation where I am forced to sell to someone from overseas because it is no longer viable for me to operate my very small stand-alone station. There are not too many of us left, but there are some very good independent operators.

Mr McARTHUR—What are the factors that would force you out of business?

Mr Camplin—If there were another licence in my marketplace. That is unlikely to happen now, because planning is finished.

Mr McARTHUR—Why is it unlikely?

Mr Camplin—We are hoping that planning will be finished and that it will not be revisited. We are hoping that, after all of this is over, it will not be revisited again with the option of people saying, 'Now I have changed my mind and I do want to apply for Bathurst or another licence in Orange,' because there are frequencies still available in those markets.

Mr McARTHUR—You are putting great emphasis on the interpretation of the term 'entrepreneurial demand'.

Mr Camplin—Yes.

Mr McARTHUR—But after this round of discussions there may be a new set of players in the bureaucracy and in the government, and the whole thing may change.

Mr Camplin—I think the new thing is going to be moving across to digital. I think that is the next stage that we have to be planning. I would like to think that the first stage of digital would be in the allocation of space to the current operators to help develop digital in Australia. I would be very interested in my area, in my market, in getting a VHF channel to start moving my operation to digital, but it would be very difficult for me if there were three or four other digital operators who are also allocated space in my market at the same time. It would make it impossible.

Mr McARTHUR—Why should you be protected, though?

Mr Camplin—I do not know whether that is correct. I believe that I have a licence in the Bathurst area to serve my community with the very best radio broadcasting service that I can

possibly afford, and if new technology comes along I think I should have the opportunity to use that technology for the benefit of the people in my marketplace.

CHAIR—Which is indeed what has happened with the commercial television stations. They have been given a window in which to establish digital spectrum.

Mr Camplin—Yes.

Mr Carroll—I think it is true to say that the future of digital will be pushed by the existing operators because they have the program content and the other knowledge to be able to push digital into the future.

CHAIR—While we are on this digital thing, the question I would like to throw to you all is this: how do you respond to people, especially Western Australians, saying, ‘Why are you talking about digital when you haven’t covered the landmass of Australia with normal AM and FM transmission’?

Mr Carroll—That is a good question. Again, it comes down to the issue of viability and being able to service those markets.

CHAIR—Is it viability or is it this proclivity we have in Australia for rolling out a new technology, be it mobile phones or one form of television or radio, getting up to 93 per cent or 94 per cent coverage of the population and, when it gets all too hard, we roll out the next one? That last six or seven per cent of the population sitting at the end of the queue keep getting pushed further and further back. How do we obviate that sort of thing?

Mr Carroll—It is one of the dilemmas of having a country as big as we have. It is a geographic problem in that a lot of these communities are very isolated. There is no local business to sustain an operator putting a service into the market so it becomes an issue of the operator deciding whether it is viable to proceed. It becomes an added overhead to him and that is why we have looked at the black spots program that has been around now for some time with regard to television. That program has been able to roll out quite a number of services to remote areas in Australia.

CHAIR—Or areas that have grown up—for example, sitting between Kirsten and me there is an area called Maryvale-Agnes Water where, suddenly, there emerged a population of between 4,000 and 6,000 people who have no television.

Mr Carroll—We have been gathering information from all the operators—

CHAIR—The radio is not real smart there, either, I might add.

Mr Carroll—We have identified a number of areas within existing licence areas where there are quite sizeable populations which receive either a very ordinary reception or do not receive the service at all.

CHAIR—While you are on this point, I would like you to flush this out, too. Does your model—and I have not read that section of yours, so forgive me for that—say that the nearest incumbents should be given first right of transmission into those black spot areas?

Mr Carroll—Yes, all the areas that we have identified are designated areas for the operators. Essentially, they fall within what is known as the north-east, central, south-east and western zones. As you are aware, there are various defined market areas around Australia. These zone licences are all the areas in between.

CHAIR—I do not think that matters so much. Do you suggest the same sort of control mechanisms—that the local authority or community organisation should trigger the application?

Mr Carroll—In the discussions we have had with the department, it would need to be triggered by a local council or a local action group that are looking for the service—

CHAIR—Should it be looking comprehensively, if any of those areas have not got one or the other of the ABC services, to put two or three signals off the same stick?

Mr Carroll—Yes, in terms of prioritising, we have looked at whether there is no service at all, whether it has ABC services but no commercial, or vice versa.

CHAIR—How much per channel?

Mr Carroll—In total we have identified about 100 services.

CHAIR—How much per service? The cap for the television is \$25,000 per channel.

Mr Carroll—A lot of these can be done for about \$12,500 plus site costs. They would not be expected to be very high—probably on average a bit over \$20,000. But when you have satellite up-links involved, that is going to be a bit more expensive in some areas. To reach the roughly 175,000 people that we have so far identified, all up we are looking at a total cost of about \$3½ million to \$4 million. We are not talking about a large amount of money to get to quite a sizeable population.

CHAIR—Does anyone else want to pursue this before we move on?

Mr Camplin—I would like to make one more comment. Even if there is no black spot funding there are areas in my service area and beyond my service area where I would be delighted to spend my own dollars if I could get increased power to cover them. My defined service area, my licence area, in Bathurst is very small. It has a total population of 40,000 people. That defined service area was established because, back in 1967, 2BS was sold to old Sir Frank Packer's Consolidated group—I bought it in 1969—so they could put on air 3AK Melbourne. They shared the same frequency of 1503. That meant that south of Bathurst—30 minutes away—you can hardly hear us. I would love to have the opportunity to have that frequency changed, at my cost—

CHAIR—In the television model, \$4 million or \$5 million—I forget the percentage—is put aside to boost and enhance existing services. You could have that as a dimension of the program.

Mr Camplin—I should not be talking so much. I apologise to my colleagues.

Mr Carroll—It is certainly something that we will explore and, when we have finalised the submission, we plan to give the committee a copy. We hope that that might be in the next two or three weeks. At the moment we are gathering information from all the members to identify the various areas, then we will be in a position to lodge it.

CHAIR—You are asking, Mr Camplin, that there be a review of some existing coverage?

Mr Camplin—What I am trying to say, and perhaps I did not explain myself very well, is that all commercial operators that I know are very keen to cover as much of their licence areas as efficiently and effectively as they possibly can. In some areas we do not have either the power or the frequencies to do it.

Mr HARDGRAVE—Do you cover Orange in your service area?

Mr Camplin—It is not part of my defined licence area, no.

Mr HARDGRAVE—But you get fortuitous coverage?

Mr Camplin—We get this thing where we do get coverage of each other's market. But Orange comes into my market much better than I get into theirs, unfortunately.

Mr HARDGRAVE—If you were sitting on this committee armed with all the submissions, you would be looking at the ABA planning process and saying, 'The viability question was factored out in 1992; that has got to go back in.' I suspect we have to start looking at the viability thing, and one of the matters that we should perhaps be looking at is the fact that there are operators in the next town and, just as they did with the television aggregation thing—sorry, Chair, I am back on it—give you, and for that matter 2GZ Orange, the opportunity to be officially heard in both places, even though you are, currently, anyway.

Mr Camplin—That could have been very easily fixed, not by drawing lines and defining service areas—and I have said this for years; all that was needed was to give us a bit more power.

Mr HARDGRAVE—Can that still be done?

Mr Camplin—Yes. Regional stations generally operate on 5,000 watts. If we were given an increase in power we would be able to cover a wider area.

Mr McARTHUR—We have a position now where DMG has 59 stations, as I understand it. You are telling us that there are too many licences in some of the regional markets. In your own case, Mr Camplin, how can you, in the longer run, withstand the power of DMG hubbing from

three main centres just to wipe out the competition in these smaller regional markets—just the sheer commercial ability of that group to fundamentally take over regional Australia?

Mr Camplin—I guess that is called competition and we have to find a way to compete with it.

Mr McARTHUR—Except that the competition has been generated by the government regulation of allowing more licences into the area. The DMG group has now accumulated those licences and those stations and they are in a position of dominant market power, as I would judge it, so smaller operators such as you, who claim to be providing a local service, will be squeezed out by the sheer commercial pressure of the bigger group. Would you care to comment?

Mr Camplin—It has in fact happened in some areas. Some of us are more determined to stay than others. We just have to be a lot quicker on our feet.

Mr McARTHUR—The government has issued these extra licences—and this has been a continuing theme throughout the submissions—that have made it difficult for people like you to continue. Are you saying we should just call a moratorium to withstand the market power of the DMGs of this world?

Mr Camplin—I would like to see a moratorium on any new licences, as proposed in the FARB submission, to give us a chance to collect ourselves and plan for the future. I believe that there is still a great future—as you saw in Bathurst when you were there—in radio in small markets. We are much more competitive; they have certainly given us the competition that was supposed to be good for us, and we have survived that. This is my 53rd year in the broadcasting business. Most of those years—since I was 22 years old—I have spent in management and since I was 25 in ownership. I have seen enormous changes in this industry. Television was supposed to wipe us out; it did not. Colour television was supposed to be the end of us; it was not. Now we are faced with enormous numbers of radio stations. They have not wiped us out. We have adapted. Some of us have remained very local and stayed local. There are 70 members in a group that I am part of—that I helped form—called IRRB, Independent Regional Radio Broadcasters of Australia. They are all fiercely local—the Janet Camerons and the Kevin Blightons. Yesterday, you heard from the Ace network. They are all part of that independent group. We are all fiercely local; all still living in the marketplace. We do have extra competition and, in numbers of stations, almost certainly the quality of broadcasting has improved. It is probably right to say that there is a better standard of radio in regional areas now than ever before. It is more difficult for me to maintain my level of localism, but being there to me is very important. Being there, being part of my community, is important.

Mr McARTHUR—On a world basis, do you think you compete favourably with regional broadcasters around the world, say, in America and Europe?

Mr Camplin—I believe that we still have the best broadcasting system in the world. I am still involved in an international broadcasters group, and the international broadcasters group ideas bank had their annual convention in Bathurst in the late 1980s. We had any amount of American broadcasters there. They were absolutely amazed. These were mostly small market broadcasters from the United States. They were amazed at the level of service that we were

giving to our community. They were amazed at the number of people that we had employed. They were amazed at the standard of broadcasting. They said, 'This is not radio; this is heaven. We wish we had this. What is the difference?' I said to them, 'It is a simple matter. The viability question must be taken into account. Hence, we can give this kind of service to our communities.' We still have a better system in Australia than the United States—much better than in Europe. Again, that brings us to the other point of wanting your assistance with this one per cent copyright—I am changing the subject, I know.

Mr HARDGRAVE—I wanted to continue to work through this FARB submission of 23 May, especially in relation to recommendation 1 about the 10-year moratorium. Mr Camplin, I do not know whether you are wearing your IRRB, 2BS or FARB hat, but would the bigger transmission power to stations in the next market be okay under that 10-year moratorium, or would there be a freeze on that concept as well from your point of view?

Mr Camplin—I guess it depends on whether I am buying or selling. When the ABA finishes its planning of the area south of Bathurst, I hope that I will have the opportunity to adjust my power, but the report has not been finalised.

Mr HARDGRAVE—The point is that an existing competitor on a bigger power usage is not the problem that an extra licence would be.

Mr Camplin—No.

Mr Carroll—I think what Mr Camplin is suggesting too is that, under the technical specifications that apply to licences, there is a requirement that you adequately service all the licence area that has been allocated to you. In his case, because there is a limited power restriction to the south because of the potential interference with the station from Melbourne, he is not able to adequately service the Oberon area. That is the issue that is really at hand. We need to identify that, where stations do have townships within their licence area that they cannot adequately service because of some sort of power restriction, that ought to be addressed.

Mr HARDGRAVE—Are you telling me that, after all of the stages of this licence area plan process, they still have not fixed up a throwback to the days when Sir Frank Packer bought 3AK? This is yet another example of the ABA still not getting the job done.

Mr Carroll—I am not technically minded, so I cannot really argue the point on it.

Mr HARDGRAVE—What you are talking about is that you cannot service his coverage area because—

Mr Carroll—Because of some technical restraint.

Mr HARDGRAVE—Yes, because 1503 is allocated to 3AK in Melbourne, which is something that has been in existence for 40 years. All right, we have that one on the record, too. In relation to this 10-year moratorium matter, you say in your submission that you oppose the reintroduction of adequate and comprehensive provisions for individual licensees. Would FARB also be prepared to entertain a trade-off, if this committee were to recommend that the 10-year moratorium was a reasonable and fair suggestion, to enable you to catch your breath viability

wise, the trade-off being that we wanted to see that the existing individual licensees were, in fact, doing something in those communities that they were meant to serve? Would that be a reasonable trade-off?

Mr Carroll—It is something that we have not canvassed with the membership, but we will take it on notice.

Mr Camplin—Yes.

Mr HARDGRAVE—Mr Camplin says yes as an operator and as the vice-chairman, so there is a starting point for FARB.

Mr Camplin—Personally I would be very pleased with something like that.

Mr HARDGRAVE—You are doing it in your market, so of course you would be. The other argument is that yesterday we had a great debate with DMG, and the Caralis people also made the point that local managers with 50 years experience amongst them are doing the local decision making. So one would imagine that they would believe they are providing an adequate and comprehensive service to their individual licensees too, wouldn't they?

CHAIR—Let us move on to this issue of emergency services. Quite frankly, it is my personal view, not necessarily that of the committee, that the response was a bit self-serving. It seemed to me, even before we finished this inquiry, that both you and the ABA were out there to try to prove to the world that we have fixed it up before we could even make a recommendation on the matter.

Mr Carroll—We considered that these issues were so important that we should act immediately. They were issues that came to the fore in the initial days of the inquiry and, from FARB's perspective, we considered that we should act because of certain issues that had been identified.

CHAIR—There were some pretty horrific examples, weren't there, in the evidence?

Mr Camplin—The FARB board took it very, very seriously. It has been a matter of considerable discussion at every FARB board meeting since, and we intend to do something to address it.

CHAIR—But you want us to let it go more as a code of practice rather than to have something prescriptive. I just wonder whether an industry that has neglected things like that for so long is in a position to ask for a code of practice rather than some form of prescription.

Mr Carroll—I do not think it was a matter of neglecting the issues. In the discussions that we initiated with people like the state emergency services and the weather bureau, we found that it all evolved in the way that we operated and the way we communicated with each other. Because of the consolidation and change of ownership that has taken place, those sorts of communication issues had in some cases fallen into a little bit of disrepair, for want of a better way of describing it. We decided that we would talk with the various state emergency committees in each state and try and develop some form of a model to be able to act as a

backstop to the individual stations who also, through the inquiry, had been shown to have some deficiencies. That is now showing quite some promise.

CHAIR—Was it so much a matter of falling into disrepair or was it that the perceived excessive networking that has taken place just did not adapt or would not adapt to emergency situations in this country? We were given the example of a person ringing up the hub station and being told by the switch girl, ‘Wouldn’t it be better if you talked to your SES?’ I just find that staggering.

Mr Carroll—I am afraid I cannot answer for the individual stations.

CHAIR—No. I just find that attitude staggering. Is it just that there was some tidying up to be done, or was it that—

Mr HARDGRAVE—In the rush to network—

CHAIR—The rush to networking just did not take public safety into account? Do you want to say something, Ms Meredith-Marx?

Ms Meredith-Marx—I am looking as though I do! I am champing at the bit.

CHAIR—I notice you are pawing the carpet there, yes!

Ms Meredith-Marx—In the proposition that a code of practice be preferred over some sort of express regulatory requirement, the submission would be that that is probably the appropriate approach because, hitherto, the emergency services relationship with commercial radio stations has been based, by and large, for many years, on good citizenship, not as a result of any sort of prescriptive requirement. It has been there as a result of good community relationships.

CHAIR—I could not agree with you more.

Ms Meredith-Marx—So, purely from the point of view of looking at regulation versus a slightly more formal voluntary arrangement through a code of practice, I would simply submit that it is probably preferable that the industry be given an opportunity to address this issue as part of a coregulatory arrangement rather than a prescriptive regulatory arrangement.

Mr HARDGRAVE—But recommendation 6 of the 23 May submission says:

As an acknowledgement of radio’s role in responding to emergency situations a declaration of radio services as ‘emergency services’ to ensure they receive priority restoration of electricity supply and telecommunications repairs, etc.

That is not good citizenship by the electricity supply and telecommunications suppliers; that is a prescriptive legislative provision that you want. Again, the trade-off might be that you might get that, provided there is a trade-off on a requirement that radio stations provide those sorts of matters that you would like to have done as a code of practice.

Ms Meredith-Marx—But, Mr Hardgrave, it was not really in that spirit that that recommendation was made.

Mr HARDGRAVE—They are in the same submission, though. There has to be some coherence between recommendations.

Ms Meredith-Marx—There is. The logic behind it is the following. Even if you have a voluntary and a coregulatory arrangement where you say, ‘We will do these things; we will enter into arrangements with emergency services,’ you nonetheless have to have the capacity to be able to actually fulfil that code requirement. So it is more a setting in place. It is not so much a trade-off giving a benefit to the radio industry. It is simply saying that underneath all of these voluntary arrangements there has to be a certain level of formal arrangements with the people who are actually at the front line.

Mr Carroll—And the codes themselves do place a clear obligation on the operators.

CHAIR—Just on that point, you said that this was a dimension of good citizenship in the community.

Mr Carroll—That is right.

CHAIR—I think the corollary to that might be that because of the networking you are not as much in touch with your community and that may have been the point where it fell down. I say ‘you’ in a generic sense.

Ms Meredith-Marx—Based on my knowledge, I think I could point to individual examples of some networks—I think Broadcast Operations is such a network—that had voluntarily implemented rather good procedures to actually identify procedures when emergencies occurred. So I do not think it is networking per se that has caused the problem, but it may well have been that, for some networks, in the process of networking those issues were not addressed as they should have been. It is not to say that because you network you cannot address these issues—you can. But you have got to put procedures in place and you have got to deal with them differently from perhaps the way you would if you were the local station relating to the local fire brigade.

Mr JULL—And for the ABC as fully as—

Ms Meredith-Marx—Yes.

Mr HARDGRAVE—I just think you cannot have it both ways. You can, I guess, try to have it both ways. But I do not disagree that there would be a good citizenship application as is evidenced in your submission about SES commanders bringing people across swollen rivers—or offering to—to ensure the local radio station was back on air. Why? Because the SES would make a determination under their professional approach that the station could give good citizenship, so it would be worth directing personnel to carry them across. You would like a prescriptive right for that—which I do not think is unreasonable, I have to say—but then, at the same time, you do not want a prescriptive obligation to actually make sure that you do meet the demands of those, like the SES, who may contact the station and demand that a certain broadcast be made.

Mr Camplin—We do not need a prescriptive obligation; we have an obligation in our marketplace to provide this service—and we do provide this service. I think you have identified a few areas where perhaps somebody has slipped up—it could have been an individual. But, for the last 40 or 45 years, we have made emergencies our number one priority in our area. In fact, my radio station is completely turned over, as are most radio stations that I know—like 2DU in Dubbo during the recent storm they had—to the police and the SES. That has been part and parcel of our obligation.

Mr HARDGRAVE—It has been, Mr Camplin. But we have found examples of those who do not live to the standard of 2BS. I am simply looking at the submission which has come from FARB and which has asked for one set of legislation to support the activities of the station, but not a set of legislation that prescribes, as you quite rightly address, traditional radio stations because of the care and concern for the community they have shown.

Mr Camplin—Yes.

Ms Meredith-Marx—I would like to add one final comment. Let's try the coregulation route first and, if that doesn't work, then move to regulation.

Mr HARDGRAVE—Yes. That is fair enough, I have to say to you. But it still comes back to this question of how we test when it does or does not work. Unless we have these regular public meetings or public interaction that is governed or administered by the regulator, we have no way of testing whether or not the code of practice has in fact been adhered to. I am a bit smitten by thinking about things like the Press Council, which is dominated by one operator in regard to these things. I have some residual doubt, with the greatest of respect, that FARB could be completely able to enforce a code of practice.

Ms Meredith-Marx—But may I say this: if it is not working, it is the one subject area where you will find out.

Mr Camplin—Yes. The ABA views very seriously any breaches of our codes of practice. If we breach them, they will introduce a standard.

Mr HARDGRAVE—They will introduce a standard as they have done with 2UE—is that what you are saying?

Mr Camplin—Yes, absolutely.

Mr Carroll—The ABA has taken a very strong approach to this issue, to the extent that we are endeavouring to get it in place as soon as possible. But I must also say that, during the discussions that we have had with the various services, there has been an admission from the services themselves that their own systems have fallen down. So the problems are not entirely associated with radio.

Mr HARDGRAVE—When I first read all of this, Chair, I was quite inclined to go along with it. It is just that this morning's conversation has made me want to test your mettle on these matters. I want to quickly ask a question about recommendation 4. With regard to the government funded black spot program, would it simply be offered to the traditional licence

holders and not to those that have appeared since 1992, to ensure that the older operators are able to repair their services?

Mr Carroll—It is to cover all categories of service, not just commercial radio. In our discussions with the department they have made it quite clear that, if this is going to be introduced, it needs to be introduced across the whole spectrum, including community, ABC and commercial.

CHAIR—But your preference would be for the nearest incumbent to be given it?

Mr Carroll—It will be within the licence areas. Essentially these are all identified within the licence areas of incumbent operators.

CHAIR—Let us say that you get a small community that has grown up between two existing operators; would you give both of them the chance to transmit to that area?

Mr Carroll—I am suggesting that it would be covered by one of these zone services, these satellite services.

CHAIR—Are lines on the map so definitive that a town must fall in one licence area or another?

Mr Carroll—Yes, they do—clearly.

Ms Meredith-Marx—There are very specific boundaries.

Mr Camplin—Yes, they are specifically defined, and to have them changed takes a lot of negotiation.

Mr Carroll—And where they are not covered by a particular boundary, they are the province of these zone operators.

Mr JULL—I would like to look at recommendation 7 and the situation with community broadcasters and narrowcasters. You have just said that the ABA strictly governs the provisions in terms of the community obligations on emergencies. What you are saying here is that the ABA does nothing to make sure that the community stations in fact behave themselves and abide by the conditions of their licences?

Mr Carroll—No, I would not say ‘nothing’. It has just been our experience that the ABA in certain cases has been slow to react, often because they are tied by some sorts of regulatory issues. We would prefer that we get a level playing field and that, if we are treated in a certain way from a regulatory point of view, other categories of service are treated in a similar matter so that everybody is being treated equally.

Mr Camplin—If I may add something to that: yesterday Mr Lodge from Broadcast Operations mentioned his concern about Racing Radio in Sydney. I know that you, Chair, had some comments about that. I was the one responsible for bringing this to the ABA. The ABA,

after many months of investigation, found that Racing Radio, 2KY, were in breach of their licence and were conducting a commercial broadcasting service at Bathurst which was relayed throughout New South Wales by 135 licences. I would like to make it quite clear that we have absolutely no objections to Racing Radio broadcasting racing through their narrowcast. What we did object to, do object to and continue to object to is the relay of the full programs of a Sydney commercial broadcasting station. Their breakfast session, for instance, from 5 a.m. until 10 a.m., is a commercial broadcasting service, with the news, the information, the sport, the competition and the ads of a normal commercial broadcasting service. That comes into our marketplace, and I strongly object to that because it is the relay of a commercial broadcasting station into our market. After 10 o'clock in the morning, they get into racing—no worries at all with that. We do object, however, to the general programming of a commercial service within our marketplace.

CHAIR—Would you suggest, perhaps, that there should be two feeds? 2KY would have that as of right in Sydney, would they not?

Mr Camplin—Absolutely. They have a commercial licence.

CHAIR—So you are suggesting that the TAB type station should have two feeds: anything that they have by right, they are at liberty to do, but where they relay to a wider market there should be a second stream?

Mr Camplin—Absolutely. When the racing is finished, they should shut down the broadcast. There should be no commercial broadcasting outside of that. A narrowcast station is exactly that: a narrowcast station.

Mr HARDGRAVE—Aren't they heard just in and around the TABs, though?

Mr Camplin—Absolutely not. They have the same power as my FM station in Bathurst; they broadcast from the same site, almost. They have 10,000 watts on top of Mount Ovens in the Bathurst area, they have very high power in Orange, but they also have another 135 low-power stations broadcasting their material.

CHAIR—Mr Lodge made the point yesterday with his network that, in addition to their AM network from 2SM, 2SM produce a separate stream for their 'hot rock' stations. You are saying that you have no objection to any TAB station that has an 'as of right' general licence to broadcast a breakfast program but that when they go on relay to narrowcast stations it should be a separate fee.

Mr Camplin—Absolutely.

CHAIR—That, surely, is a simple problem to solve.

Mr HARDGRAVE—Has the ABA acted on that?

Mr Camplin—The ABA has acted, and I have been advised by the ABA that they were to cease the broadcasts as of 30 April. That has not occurred, and I—

CHAIR—Could I interrupt you there. We will have to adjourn now. Some of us have 11 o'clock appointments that we have put into the break. We might have you back for another 10 minutes to round off your presentation, if that is okay with the ABA. So we will adjourn until 11.25 a.m., when we will regather. Then we will have 10 minutes with you, because some of my colleagues might have other questions to ask you. This end of the table has been doing most of the questioning.

Proceedings suspended from 11.03 a.m. to 11.25 a.m.

CHAIR—One area that we have not addressed that some of my colleagues would like to discuss is viability, which centres on your second recommendation.

Ms LIVERMORE—I have a question about recommendation 2, which is written very much from the point of view of viability. Can you go through that and rework it in view of our term of reference about localism? How do you draw the link between what you are proposing in recommendation 2 and increasing or promoting and supporting localism in regional radio? Is there a link? If so, draw it out for me.

Mr Carroll—I do not suppose we saw it as an actual link in the localism issue. It is certainly a link to the key issue of viability. There are precedents, as we have suggested there, in terms of the television aggregation infrastructure, where there was some assistance given. That would also be an assistance to our operators in terms of helping their viability issues.

Mr Camplin—These markets are finite with the amount of advertising that you can obtain from small regional markets. The more services that we have in those markets—we are dividing up that pie between more players. If our revenue is going to continue to decline as a result of being more players within that market area, our localism is going to suffer too. Local programs and local people will suffer.

Ms LIVERMORE—That is kicked up in recommendation 1 about the moratorium on issuing of new licences once the current planning processes are completed. I am wondering whether the No. 2 proposal can be reworked so it is not so much a freebie for commercial licence holders but some kind of carrot to encourage and provide an incentive for more local content and more local employment, if that is a measure you want to use.

Mr Carroll—It is something we would like to take on notice. I can see the potential in what you are suggesting. We would need to look at that in a little more detail. It would be a bit difficult to come up with a proposal off the top today. But we would be happy to look at it.

Mr JULL—Allied to that, on the figures you gave us in there—and you mentioned them earlier today—the number of non-profitable regional radio stations is down a bit. What is that attributable to—surely just networking?

Mr Carroll—That is certainly a conclusion you can draw. On the profitability issues, I recall yesterday that you were touching on that issue and you suggested that there had been an increase. In fact, when you look a little bit deeper into the figures, still about one-fifth of stations in regional Australia are unprofitable. 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.

Mr McARTHUR—It has not stopped the DMG purchasing 59 radio stations in the last five or six years.

Mr Carroll—That is a commercial decision that they have made.

Mr McARTHUR—But you are telling us that the returns are down, yet a commercial operator moved in and bought a big number of stations.

Mr Camplin—Just for clarification, my understanding is that—and I think it was mentioned yesterday by Mr Paul Thompson—they acquired those stations before the additional stations were actually issued, and they acquired the stations on the belief that there would not be a proliferation of new stations. Am I correct in that?

Mr Carroll—I do not recall.

Mr JULL—I would like to check the transcript on that. Is there a pattern of where these unprofitable stations are? Do they tend to be more, as was quoted yesterday, in the Western Australian wheat belt or is it a fairly scatter gun approach? Can you actually trace the areas where this happens?

Ms Meredith-Marx—Generally speaking, I think you will find that there is a nexus with market size. The smaller your market is—I suppose it is analogous to the reasons that banks and various other things are pulling out of smaller regional markets—the less potential you have for advertising, hence the less revenue you make and hence the less viable your service will be. So it is definitely linked to size. A distinction should be made: it is not the size of the licence area—you can have some quite significant licence areas—

Mr JULL—You can have half of Western Australia and still not make a buck.

Ms Meredith-Marx—Exactly. There are quite significant licence areas, but you have to look at the population of the communities within those licence areas and also the relationship between those community centres. For example, if they are very distant that will have a bearing on your revenue earning, as well.

Mr Carroll—In actual fact, when you look at the figures, they are spread fairly evenly through large, medium and small markets. According to the latest figures, 13 are unprofitable in small markets, the same in medium markets and 15 in larger markets.

CHAIR—I am not trying to be difficult, but how do you reconcile this with the other figures that we were quoted yesterday where the profitability of the small stations over the seven years to 1998-99 had gone from eight per cent to 15 per cent and the larger stations from 16 per cent

to 29 per cent? Is that just a reflection on the removal of staff from network stations or is there some other measure that is causing that? On the one hand, we are talking about viability and it is looking pretty grim; we do not want any more stations out there, yet we get another set of figures that says that profitability of the radio stations is actually going up.

Mr Carroll—Again, when you have a deeper look at the figures, what we have found is that, say, in the smaller regional stations there were 29 profitable stations averaging about \$114,000 per station in 1995-96, but that has fallen by seven per cent since then.

Mr HARDGRAVE—Can we try to lift the lid on this, because none of these figures really tell the story. Yesterday, for instance, we heard from two managers, two top guys under Mr Caralis, from the Caralis organisation—the Broadcast Operations Group. The story they told us was that one station—the Lismore station—was at the top end of the scale that started at \$10,000 and went to about \$1.4 million. So the Lismore station is towards the top end of that on the profitability factor.

The Dubbo station was about midway and, they think, heading down, which I think is a fair representation, because there is now a DMG station that has robbed \$50,000 to \$100,000 of revenue from them in the past 12 months. They have six stations which are sitting around the \$10,000 to \$25,000 profitability, mainly in the wheat belt of Western Australia. The question of cross-subsidy cannot be answered other than by Mr Caralis, but it serves as an example, because I would like to see the stations you are talking about to get an idea of exactly who is making a dollar and who is not, and you can make a judgment as to why, and also, for that matter, to find out whether within organisations one is propping up another.

In other words, if we start to change the rules, start to change the act to try to deal with viability questions and start to give 10-year moratoriums, are we in fact going to give a bigger lift to those who are already making the top end of the profits and do nothing for the ones at the bottom end of the profit scale? I have no idea of whether I am or not.

Mr Carroll—That is something we cannot answer, because we are simply not privy to the individual revenues of the various stations.

Mr HARDGRAVE—So who knows? The ABA would know, because they pay a percentage in licence fees—

Mr Carroll—The ABA collects the figures, but the figures are confidential to the extent that stations are identified only in small, medium, large or metropolitan markets, and that is to protect the commerciality of the various individuals.

Mr Camplin—One of Mr Caralis's stations is a station that I owned—2MG Mudgee. Mudgee has a population of about 8,000. The total service area is about 12,000 people. It was very difficult for me to operate that station when I owned it as a stand-alone operation. Today, I would imagine, with two radio stations in that market, because they were granted an S39 market, that it would be absolutely impossible to operate that small market as a stand-alone operation as we do, say, in Bathurst. I think it would be fairly close to say that his Parkes operation would be in a similar situation—there are 11,000 people in Parkes and a few more

people in Forbes. It is a bit bigger than Mudgee, but still it would have great pressures on it standing alone.

2DU Dubbo is a very successful operation, although they now have the additional competition, which will make a big difference to their bottom line, but they have an outstanding manager whom you met yesterday, Reg Ferguson, who has been in the business for 48 years. In my view, he is one of the best regional managers in Australia. That station has been one of the strong points, I would imagine, of Mr Caralis's group, as is Lismore. You are right: those larger stations have been able to offset the operations of some of the smaller stations. That does not happen, of course, in a situation like mine, where we are going to make sure that our network of one works.

Mr HARDGRAVE—How do we reconcile this average figure? As you stated in your submission, one of the variables is that regional operators have in many cases expended on average about \$1 million each—that is another average figure—to establish their new S39 FM service—

Mr Camplin—Yes.

Mr HARDGRAVE—while other operators have spent considerably more, coupled with a 25 per cent annual increase in operating costs for the S39 service against an estimated revenue increase of up to 10 per cent. But of course it is still going to the same company.

Mr Camplin—Absolutely.

Mr HARDGRAVE—So in fact it is not a 200 per cent expenditure equation; we are looking at 125 per cent buying you two stations. Your average figure is somewhat polluted if you consider the expense. You do not get two for the price of one, but you get two for the price of 1.25. You do not get double the expenditure to get double the radio stations.

Mr Camplin—No.

Mr HARDGRAVE—The figures need to be thrashed through. Can you help us with that, or again is that the ABA? I want to try and work out—

Mr Camplin—The ABA can give you specifics on that, but the only way that we were able to bring diversification of programming to regional areas such as an AM and an FM station in the small markets was through S39. As you know, other theories were tested, or other practices came in—we heard about those yesterday—and the stations actually went broke.

Mr HARDGRAVE—Mr Camplin, there is a range of profitability from \$10,000 through to \$1.4 million in the broadcast operations group—that was what we were hearing yesterday—and you find the average by dividing it by the number of stations within those extremes. But we found that there is an increase of 25 per cent in their operating costs to run two stations with the S39. What I am trying to drive at is that there is actually a polluted figure here. There is no way of actually tackling whether or not the \$10,000 station is really a \$10,000 station if it is running a station that is also making \$100,000.

Mr Camplin—In the same market?

Mr HARDGRAVE—Yes, because they are measuring the licences of individual stations that are in fact coupled in a lot of cases.

Mr Camplin—I can only answer from my own point of view. There has been no increase as a result of us bringing in an additional radio station.

Mr HARDGRAVE—No increase in revenue?

Mr Camplin—No increase in revenue. In fact, we have declined slightly.

Mr HARDGRAVE—So the S39 licence has not added to viability?

Mr Camplin—No, and we did not expect it to. But the alternative was horrific—bring in another independent and be at each others throats, chasing the same audience, with half the revenue each. In all those instances they failed.

Mr HARDGRAVE—In that regard, S39 has provided diversity but has not enhanced viability? It is not viability detracting either, is it?

Mr Camplin—It was the only viable way of bring that diversification into those small markets. They have not sent us broke, but they certainly have not made us any more money. It has cost us more money to put these services on.

Mr HARDGRAVE—Would a better way of measuring viability be the licence holder of the primary licence and the S39 licence combined income divided by two? Would that be a better way of working it all out?

Mr Camplin—That is pretty well what we do, I am sure.

Mr HARDGRAVE—Is that where the ABA figures come from?

Mr Camplin—The ABA get individual figures—

Mr HARDGRAVE—For each licence? Is the S39 treated the same as the primary licence?

Mr Camplin—In our marketplace we sold the additional station for another 30 per cent. The clients did not have another 30 per cent so they reduced their actual spend on the old AM. They took exactly the same amount of expenditure that they were spending before and we spread it over the two stations for them.

Mr HARDGRAVE—I can understand that, but I was just trying to get a measure of viability. We have got a sort of broad statement that says there are a couple of hundred licences where there used to be a hundred in the last decade. The viability of it has gone down on average but the average itself in fact reflects the fact that the principal licence that was there 10 years ago now has a supplementary licence that has an additional cost involved in its operation but it is

counted on an equal footing with the principal licence, even though it is owned by the same corporate structure. So the viability of an operation, even though an S39 licence may not be as viable as the principal licence or vice versa, nevertheless keeps that structure going when you combine the two figures.

Mr Camplin—I suggest that we are still viable; it is just that the profitability of the group has gone down as a result of the additional station.

Mr HARDGRAVE—So are you satisfied, without any doubt, the profitability of each group, or just your group—

Mr Camplin—I would think that most stations are making less profits in running an additional radio station in their marketplace, and very much less profits if they have a third or a fourth independent licence in their marketplace.

CHAIR—On a point that was canvassed yesterday: is it necessary to have a third licence in all communities and should there be a mechanism, like the section 39 licences, to create diversity in some areas but through the existing operator?

Mr Camplin—That would be my preference if there were a need for additional licences. As you have seen in my marketplace, we embraced narrowcasting because it allowed us to diversify our programming even further, even though they are one watt and only available in a very small area. We introduced tiny tots for under sixes and introduced an over 65s. I believe that with today's technology we are in a position to offer a more diversified service. That is my personal belief. It is not necessarily something that has been tested and tried.

CHAIR—Are you saying competition does not necessarily add diversity?

Mr Camplin—Competition does the exact opposite. If you bring in more individual stations, they are going to chase the 18- to 39-year-old age bracket and forget the rest.

Mr JULL—I want to raise one other issue. That is the vexed question of the community stations. I must confess that I am not convinced that I have seen any evidence yet of community stations knocking around the commercial operators in the regional areas. I am wondering if you have some examples of the more outrageous activities of some of the community stations or whether you can give us some examples where the operation of a community station has directly affected the viability of a commercial operator?

Mr Carroll—Offhand, I could not give you any particular examples. My colleagues might be able to, but I could not pinpoint any instantly.

Mr Camplin—Again, I have to talk local. In my marketplace, we have probably one of the best community operations in Australia in 2MCE FM. It is attached to Charles Sturt University. I understand that their news service is now the second largest relayed network news service in Australia to the ABC. It is outstanding. They have the whole communications degree course handling this news service. The marketing students are involved in selling that station. They can sell in my market at a fraction of the price that I am able to sell at, because we do have to employ people and pay them. They are quite competitive in our marketplace. I think they claim

that they have up to 30 per cent of our market listening to them at some time during the week. Our research shows that they have, perhaps, four to six per cent of the marketplace.

But I think there are some examples of outstanding community services. They are now pseudo-commercial stations. They can sell advertising in our markets, and the only thing where I would say they affect us is when we go to a local advertiser and they say to us, 'Why can't you give me 50 ads for \$50?', or 'Why can't you give me ads for \$1 a holler?' That does affect our marketing, and that makes it difficult for us, but I am less concerned about that than I am about new commercial competitors in the marketplace.

Ms Meredith-Marx—I would like to add a comment in relation to Mr Jull's question: there is often a cumulative effect. 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—both of which can now carry advertising and which do compete with local services, and neither of which pay licence fees, an additional distinction—you start to dilute the available revenue in the marketplace for commercial broadcasters, and that goes to viability. That is the sort of sequence of it.

There is a further factor. Because other services can carry advertising, they are relevant in that equation as well, whether or not a moratorium is introduced on the issuing of new commercial licences. A further complicating factor is that a narrowcast service, which can and does carry advertising—and some of them are very successful at it—does not have to have a licence. Narrowcasters operate their services under a class licence so, as long as there is a transmitter licence made available to them—in other words, as long as the capacity is there—they do not even have to approach the ABA for a licence. They can operate their narrowcasting service under a class licence and take revenue from the market. I know the ABA has an inquiry into narrowcasting on at the moment, but in some cases you may not even be aware of how many narrowcasting services there are in the market. So it is not so much that there is a particular service affecting another commercial service. It is a cumulative effect through the regional markets.

CHAIR—I do not think any community station we interviewed went anywhere near filling its four minutes, much less five. It makes me wonder to what extent they are a real threat.

Ms Meredith-Marx—It varies from station to station. Some community stations are much more successful than others. As I say, it is just a cumulative effect.

CHAIR—There is one here in Brisbane—4MBS, isn't it?

Mr HARDGRAVE—But that is a bit different because—

CHAIR—But that is the point I am making. They are all classical music stations, so the only station they are going to worry is ABC FM.

Mr Camplin—There is one little operation in the lakes district of New South Wales that is a real rocker, and I would suggest that they are filling their four minutes an hour. It is a very commercial operation—and very good to listen to, I might add; I know because I have a holiday place up there.

CHAIR—We received some anecdotal evidence—and I think it is on the record, too—that, where the local commercial stations will not take Laws or Sattler or someone like that, sometimes the community station will take them. Is that a breach of the act?

Mr Carroll—We have raised this as an issue by virtue of the fact that, if they are taking a commercial service, they are taking all the commercials that go with it—unless they are putting in the local windows. I have not got any clear evidence that I can give to you today, but we did raise the concern that a community service could take a commercial feed.

CHAIR—So your general position would be that you would have no objection, provided they fill their windows with sponsorship type ads and not with the commercials that might otherwise affect the local market?

Mr Carroll—I think it raises—

Mr Camplin—There are more than four minutes an hour in windows.

Mr Carroll—It raises a number of issues in terms of how that actually operates in reality, and we would like to explore that a bit further.

CHAIR—However, if a community station is the only station prepared to provide one or two hours of Laws or Sattler or Mitchell or someone, is it unreasonable that that should be done, provided they do not—

Mr Camplin—In my view, community stations were initially introduced to complement and supplement the current broadcasting system; to fill in the gaps where the ABC in one area and commercial in the other were not able to provide a service to the community. That seems to have been pretty well forgotten, and community stations today, as I know them, in many areas are just non-profit commercial stations.

Mr HARDGRAVE—Is that not an acknowledgment of the fact that in those areas—certainly from the evidence we have got—what was the local commercial radio station has become a networked station which has backed out of the local commitment that it used to have, and the community stations, with far lower cost structures, are simply filling a void created as a result of the industry's response to the Broadcasting Services Act?

Mr Camplin—Not in Bathurst, they are not.

Mr HARDGRAVE—That is Bathurst, but—

Mr Camplin—We have two community stations in Bathurst—

Mr HARDGRAVE—If only they were all like 2BS—and I mean that; I am not being cynical in my comment. But you are here as the vice-chair of FARB, and would you not concede that in far too many markets, other than Bathurst, because the local commercial operator has reacted—as indeed is their entitlement under the BSA 92—in a certain way, the local community stations have simply responded—a bit like the analogy drawn yesterday, when you used to have the

general manager's mates programming the local radio station? Is that not a reasonable generalisation to make about far too many markets around Australia?

Mr Carroll—I think you will find that community stations take the Laws program in only a handful of instances.

Mr HARDGRAVE—Yes, but again it is a response because they wanted to hear Laws and not Sattler in a couple of cases.

Mr JULL—Did that happen in Tamworth?

Mr HARDGRAVE—Exactly.

Mr JULL—Does the community station in Tamworth still take Laws?

Mr HARDGRAVE—The community station takes Laws because it is being forced to consume Sattler because the local station, 2TM, is part of the Broadcast Operations group. When the alternate station down the road, 2MO at Gunnedah, was owned by the Higginbotham family, it used to deliberately program itself separately. However, it also takes Sattler. So apparently all you have between 9 a.m. and midday is Sattler except for the community station, responding to the local commercial stations' decision making, which has filled the void with what the local community apparently wants. Now, I have no idea whether that is the case, as I have seen no ratings. I am just reflecting the evidence given to us. Could you not make a concession in respect to community stations which have done that?

Mr Camplin—It is unfortunate that that has occurred. That was not the intention of community radio to commence with.

Mr HARDGRAVE—Fair enough.

Mr McARTHUR—Mr Camplin, you have been in the game for 53 years. How do you see radio in regional Australia, and across the board, in 20 years time under the current regulatory regime?

Mr Camplin—Given the opportunities, I am still very bullish about my industry. I still think that there are great opportunities in this broadcasting industry, provided we are given the opportunities. I am very keen to see digital radio developed properly and we are prepared to invest in digital radio. All we are asking the government is that they provide us with the frequencies or spectrum to do that. With digital, we will be able to up the quality of broadcasting services in regional areas of Australia. We will also be able to move into a very exciting new era of an interactive radio service. That excites me. I think that is the future. The digital age is upon us and broadcasting should be in it. I am very excited about the future of our industry.

CHAIR—On that note, I would like to thank the representatives from FARB for their attendance and express our appreciation for the background material you provided. Will you get back to us with some material, Mr Carroll?

Mr Carroll—Yes.

CHAIR—We would appreciate that. I thank you all for your attendance. You will get a copy of the *Hansard* draft in due course.

[12.05 p.m.]

FLINT, Professor David, Chairman, Australian Broadcasting Authority

GENGAROLI, Mr Fred, Director, Engineering, Australian Broadcasting Authority

GORDON-SMITH, Mr Michael, Member, Australian Broadcasting Authority

MADDOCK, Ms Lyn, Deputy Chair, Australian Broadcasting Authority

TANNER, Mr Giles, General Manager, Australian Broadcasting Authority

CHAIR—Welcome. We are in the final stages of our inquiry, and it is important that we come back to the major players—namely, the ABC, the networks, FARB and the ABA—before we start writing our report. Would you like to give us an overview of your original submission, or would you like to give us an update and make any response about what you have heard and read since this inquiry started?

Prof. Flint—I would like to do both, if I may. Briefly, as an overview, the ABA is the creation of the parliament and our ultimate master is the Broadcasting Services Act. Of course, in any decision we take we are subject to correction, and that is correction by the courts. We experienced that in Melbourne with the Melbourne LAP: although we diligently, we thought, went through the consultation phase in relation to a change, the Federal Court has decided that we did not do enough consultation. The Federal Court has slowed us down a little because the court pointed out that its interpretation of the law obviously supersedes ours. We are also subject to the direction of the minister and, subject to all of that, we do have considerable discretion. I should point out that not one of the original members of the ABA is here. In fact, a majority of members of the existing board were appointed either last year or this year, so you get this constant turnover of people.

In our view, the Broadcasting Services Act, for the purposes of this inquiry, has had at least six important factors: firstly, the introduction of the planning function; secondly, the liberalisation of ownership and control; thirdly, the abolition of the renewal hearings, which in effect have meant that a degree of great permanency has been given to the existing licence holders; fourthly, the change in the way in which the provision of an adequate and comprehensive service should be provided in the licence area—that from being an individual responsibility of a broadcaster has been spread collectively to all services; fifthly, the introduction of new categories; and, finally, the concept of coregulation. If I may, I would like to go just to a little detail on that.

Having said that, there is obviously within the objects of the act a certain tension which parliament has given us, for example, in the provision of a diverse range of services yet at the same time providing adequate coverage of local matters. The results have been that in 1993 we began stage 1, which was the decision on planning priorities. That was made by the original board. I can well understand the decisions they made and I would not like to say that they made the wrong decision, but perhaps we could have started with the capital cities and gone to the

regions last. That would have been an alternative, but they —perhaps rightly and certainly very honestly and fairly—decided that the least served areas of Australia ought to get the attention of the ABA first.

The second stage was the frequency allotment plans, which were really trying to find out as far as they knew then what frequencies were available within certain targets. Then there was stage 3—the licence area plans—which has proved to be a bigger piece of work than I think the original authority ever contemplated. The recent decision of the Federal Court in Melbourne has demonstrated to us how precise and complicated the process of consultation is as envisaged by the act. We hope to have that completed for all of Australia by 2001.

One of the results of the planning process has been the phenomenon of networking. It has been much discussed—and rightly so—in this inquiry. It is undeniable that this has occurred. It was inevitable, having regard to the objects of the act. It is not necessarily undesirable; in fact, it has opened up to regional and rural listeners programs which they otherwise would not have got.

The big factor which has affected what this inquiry is looking at is the change in the obligation to provide the broadcast of matters of local significance—the changed from an individual obligation of an individual commercial licensee to that of all of the broadcasting services, not only the commercial but also the other categories: community, national and also, I suppose, television. It is important that we always have regard to those other sectors—sectors other than commercial—in deciding that. Our research tells us that on average about 31 per cent of listeners in rural and regional Australia are tuning in to those other services regularly, and that of course includes the national services. My experience certainly is that in regional and rural Australia the ABC does provide a superb local service.

Then there are the community broadcasters, which have developed certain common features which are of importance. They include the Christian broadcasters, the indigenous broadcasters and radio for the print media handicapped, which provides a very important service not only for those who cannot actually see but for the elderly, those who cannot get out to get the print media and education, and over-55s.

The result, as can be seen from our submission and the evidence you have been taking, is that, even with networking, regional radio still produces in-house about 67 per cent of its programs—much less than capital cities but is still a significant amount—about the same amount of music; less news than in the city and probably of that more which is syndicated or retransmitted; and the same with talk—less talk and of that more is retransmitted or syndicated. You have heard evidence on profitability. Notwithstanding all of this, the introduction of new commercial services and new types of broadcasting in the regions, profitability has certainly not overall declined.

I would like to at this stage reiterate the regulatory options of the ABA, because I think they offer within the act perhaps solutions to what the committee may decide are our problems. One is in planning. We do not have a power at the moment to alter the format of commercial licences. In relation to the coregulatory features of the act, the development of codes has been a very important part of our experience. In relation to the imposition of standards, where the

codes do not work we do have this power to impose standards to reduce the amount of coregulation and impose more direct regulation.

I would like to mention some of the ways in which those regulatory options have been used. Firstly—and this relates particularly to this inquiry—in relation to emergencies: in 1999 we became concerned about the role that radio could, and must, play in relation to emergencies. Obviously, print cannot perform the same role; obviously, television cannot, because it is so often networked and does not have local programs. We have come to the conclusion that this should be part of the code obligations, and we are in negotiation with FARB at the moment. We are not saying to FARB there should be a detailed spelling out in the code of how emergencies should be dealt with; we are saying there should be two principles there: firstly, that commercial radio be available to broadcast emergency announcements whenever needed in the regions, and that is obvious; and, secondly, the principle of mutual communications—that is, those in broadcasting stations ought to be all aware and know whom to contact in the case of emergency, the SES representative in their region.

The mutuality of that is that the SES must be able to know—and the ethical obligation would be on the broadcasters to tell the SES, to let the SES always know, who they should contact in relation to the broadcasting of emergency announcements. For example, if there is a program which is recorded in the middle of the night or there is a program which is networked, the SES person knows not just where the station is but the person—and, failing that, another person, and so on—so that there is always somebody available who can go to that station, open it up and broadcast the emergency announcement that the SES has—for example, that there is a gale coming, a flood or something of that nature which people are entitled to know of. People will turn to their radios to find out information, as that will be the only source of information. The phones may even be down, and that will be the way in which they will get that information.

The second way in which we used our options is in the creation of the temporary community broadcasting licences, which were then put into a statutory form, which allowed various people who wanted to become community licensees to try out on the air before the actual allocation took place. That sorted out those who were genuine. It gave them a reasonable attempt to try their hand and allowed us to see how they were behaving and how they fulfilled the needs of their community.

The third area was in narrowcasting, where we have decided to have an investigation under section 19 to find out those matters which we should add to tighten up narrowcasting so that it can be more properly made discrete as a sector in Australia. The fourth was in relation to the commercial radio inquiry, which was more directed to the capitals, because many of those programs are syndicated and retransmitted through the regions. That was of importance in the regions, but it demonstrated that the ABA can, if necessary, tweak the regulatory framework, dilute the amount of coregulation and move to more direct regulation—temporarily, in this case—through the imposition of standards where we see the code is not working.

What of the future? Our submission talks of the future and, apart from the regulatory options, mentions at least what we have learned about new technology, the development of digital radio in Australia and the various options available to both government and industry. We have talked about networking, which is an undeniable phenomenon—and not necessarily undesirable—but which does produce or allow access to programs that hitherto people in the regions did not

have; the sorts of programs that they, as it seems from the ratings, want to hear. Finally, the other services—the act itself directs us to that—available in a region ought to be considered when deciding whether or not there is sufficient localism. You also have to look at, under this act, the way in which the national services and the new community and narrowcasting services make provision for local programming. I think at that stage I should stop and hand the matter over to the committee.

CHAIR—I suppose the key issue for us is a perception in rural and regional areas that there has been an excess of licences and very few controls. That is the perception, and it is further fuelled by a feeling of disenfranchisement in certain parts of rural Australia—that their local broadcaster is no longer providing the services. When I looked through the objectives of the act the other day I just felt that they are lofty ideals but they seem to have no teeth—for example:

... to encourage the provision of means for addressing complaints about broadcasting services.

I suppose the complaints go down to you, but nothing much seems to happen. Have you put a radio station off the air in the last five years?

Prof. Flint—We have not put a radio station off the air, but we have—

CHAIR—Have you closed one down for a week?

Mr Tanner—We have actually refused to renew licences for temporary community broadcasting services that were clearly not fair dinkum. Those services are not going to air.

CHAIR—I am talking about commercial radio now.

Mr Tanner—No, we have never taken a commercial radio service off air.

Prof. Flint—I should say that closing down a commercial radio station means punishing the listeners. It would not be very popular. It is the atomic bomb solution, because it is not really a good solution. I think the act recognises that through the graduated series of responses that you make if you see a problem, which we did with the commercial radio inquiry. You see a problem and you are required to go through certain steps, which we did, to get to the standard.

Mr Gordon-Smith—I think that is right. The 2UE inquiry represents the moment in recent history where people directly suggested to us, after we had made our decision, that perhaps we should have done something more atomic. There were a number of comments from other people in other media suggesting that we should have turned 2UE off. But, as the chairman has just suggested, we did not think that it would be more in the public interest to take that sort of step than to do what we did, which was to put in place a set of new measures to try to guarantee the sorts of services and transparency to the listeners that was important, without compromising an independent news service and a source of information and entertainment important to a very large number of listeners. I think the step of turning somebody off is a problematic one.

CHAIR—Do you find, Professor Flint, that your powers to enforce the objectives of the act are sufficiently strong?

Prof. Flint—I think that there could be some changes. For example, I think we should have a direct power to be able to order the broadcast of an announcement of the result of an investigation, which might include an apology. That would be very important. One of the matters which is causing us some concern at the moment is unwarranted intrusions into privacy. That might well be of assistance to us. Another is in relation to our powers to seek injunctions. An injunction is a superb remedy and it contrasts very well with the process of initiating a prosecution, which means that we have to do all the work, gather all the evidence, prepare a brief and send it to the DPP. The DPP, naturally, who is a very busy person, thinks that drug offences are more important than broadcasting offences. So we go through that process and we may never get on, and it requires us then going to court with it and proving beyond reasonable doubt that something has happened.

CHAIR—The injunction puts the boot on the other foot.

Prof. Flint—Yes, and it is a very quick process. We might even get an interim injunction quite often and that is an important power.

Mr HARDGRAVE—Aren't you required under the act to provide advice to the government? You said you are a creature of the parliament. Have you provided advice about these sorts of matters to the government?

Prof. Flint—We do provide advice to the government.

Mr HARDGRAVE—Yes, but what about these matters?

Prof. Flint—Those matters have been covered. The precise advice is confidential, unless the minister releases it, but we have put our views to government.

Ms Maddock—The government currently has a discussion paper canvassing that range of things. We are obviously aware of that discussion paper and have been involved in the formulation of that discussion paper.

Mr HARDGRAVE—There is a lot of discussion that we have had in the course of this inquiry, and again this morning, with submissions coming to us about ways to improve the industry's viability and conduct. It seems to me that there is an opportunity for trade-offs: if somebody asks for something, you have an opportunity to ask them for something as well and reach an agreement. So from the ABA's point of view, you would like to see the BSA revisited with a view, among other things, to giving you more direct powers to act on matters, rather than referring it off to other authorities to determine whether or not there is a case to answer?

Prof. Flint—Yes, certainly the injunction power, and certainly the time for responding to complaints should be shorter. It is now 60 days and I think that is far too long. After 60 days are over, people have forgotten quite often what the complaint was about. If a person is dissatisfied or they have not got a response, we have said 30 days, which might be even more generous than you need. That certainly would help and the power to have something broadcast would be very important.

Mr HARDGRAVE—It would be a very powerful sanction to throw at a commercial operator to broadcast an apology, would it not?

Prof. Flint—Yes. The Press Council voluntarily has extracted that power.

Mr HARDGRAVE—A page 85 apology for a front page headline is not really a good example.

Prof. Flint—Yes. The headline Press Council ruling does not excite readers.

Mr HARDGRAVE—Can we get as a committee some understanding of this viability question? I guess your answer is going to be that it is commercial-in-confidence but, even it has some confidentiality stamped across it, it is vital for this committee to get an understanding of how this industry's viability is sitting. That may well be through the fees that are being paid by individual licence holders.

We need to get some real understanding because we are hearing, as you also said now, that the overall viability of the industry has improved, but we are hearing that the average viability has declined. The mathematics of that is not hard to figure, but we want to try and work out why we have got a \$10,000 profit in one station and \$1.4 million in another so that we can try and balance out what we do to try and aid an industry that claims viability is declining. So can we get something from you to help us with that?

Prof. Flint—Our difficulty is that our hands are tied in terms of confidential material, and of course I should imagine that your hands are not, in that you could, could you not, directly subpoena that?

Mr HARDGRAVE—If that is what needs to be done. I just wanted to get some advice from you on how we go about it.

Prof. Flint—I do not think we could—

Mr HARDGRAVE—We could subpoena it, you believe?

Prof. Flint—Not from us, but from—

Mr HARDGRAVE—From the organisations.

Prof. Flint—From the organisations.

CHAIR—Mr Hardgrave raised a very important point because viability is one of the things you have to consider. What is your measure when you allow a new station in a community? Is it a perception that you have, or is it supported by an examination of that community at some close quarters? How do you arbitrate on whether a community can stand another licence or not?

Mr Tanner—I might comment on that. There is no test of commercial viability in legislation, as there was in the previous legislation until May 1992. If you like, the ABA's statute has

abolished the test of viability. However, when we come to examine the criteria we have to consider in planning new services, section 23, which sets out the matters the ABA has to have regard to, includes the economic and social characteristics of markets. So, economic characteristics of markets is a relevant consideration. The ABA took a close look at that and concluded that there was no intention there to imply a test of viability for existing formats.

CHAIR—I disagree. Why would you examine the economics of a region if it were not in direct respect to its ability to carry a radio station? I mean, it is not just a nice academic exercise.

Mr Tanner—Far from it. Basically, what we concluded was that if we decide to plan a new service we must find that to do so would promote the objects of the act. 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.

CHAIR—Feasible by what measure?

Mr Tanner—I will come to that. One of the upshots is that in many small markets across Australia the ABA has not introduced any more commercial services other than the section 39 licence. It has tended to introduce additional services in the middle sized and large markets, whilst always looking at the local circumstances. As to how the ABA has done it, if you go back to the 1980s with the viability test there was a great deal of economic modelling done by bureaucrats, first of all, in the department, for the minister, before licences were even called, and then in the ABT before a new licence was issued.

The resources for all that and the expectations that that would be done all vanished with the commencement of 1992 legislation. 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 resources to do that and it was always our understanding that that was because we were not expected to do it.

Mr HARDGRAVE—What changed as a result of the Federal Court matter with regard to Melbourne?

Prof. Flint—It was a minor matter. We consulted with the narrowcasters about the change, did we not? The judge decided we should have consulted with the whole community.

Mr HARDGRAVE—Has that been a standard pattern everywhere else? Has the Federal Court decision actually exposed what has not been done properly in other places?

Mr Tanner—No. The Federal Court endorses the entirety of the ABA's view of the law to the extent that that was on trial there. The circumstances were that, after putting out a draft licence area plan, which as always we put out for wide public consultation, which is the statutory requirement, the ABA had a number of submissions which had the effect of persuading it that it needed to convert a frequency currently temporarily available for narrowcasting to use for broadcasting. The ABA, as always, was in a great hurry to try and stick with the timetable that it has been adhering to over a couple of years to finish this process. So instead of putting out a new draft and advertising it in the *Age* for wide public consultation, it simply consulted with all the affected broadcasters. The court felt that, on the issue at stake, it should have complied with the section 27 obligation to engage in wide public consultation. So on that issue of procedure, the matter was returned to the ABA. Sundberg, who was the judge, otherwise affirms the entirety of the ABA's reading of its powers. It has no wider implication for the way we have been doing planning. It simply serves to underline that there aren't many shortcuts with this very demanding set of statutory tests the ABA has been working with.

Mr HARDGRAVE—So you will be satisfied that the claim by the Federation of Australian Radio Broadcasters today, that this demand interpretation that the ABA has been following for years has been a demand of entrepreneurs rather than a demand of a community that is a part of a new licence, is really a quite unfair assessment to make? You have consulted widely with the communities before you have issued a licence.

Mr Tanner—Absolutely, and we have had regard to community demand. I would just make this point. Early on the ABA conducted research, asking people what they wanted.

Mr HARDGRAVE—Where was that—in Melbourne or everywhere?

Mr Tanner—No, it was conducted Australia-wide. It was a sample research. I would have to take on notice the details, but I would be very interested to draw those to your attention if that would be helpful. It concluded that the people polled, in general, do not necessarily want a lot of new radio services. If you push they will suggest things like, 'Alternative music would be good.' A very small percentage will opt for things like racing radio. It was about three or five per cent for Christian radio. We gave them a number of prompts. In general, our experience was that, when polled, a substantial minority of the public would like additional services that they identify, but the majority are not looking for new services.

Mr HARDGRAVE—When was that done?

Mr Tanner—It was done in the mid-1990s. 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. During the initial round of licence area plans—I am going right back into ancient history, to about 1994-95—the ABA conducted a lot of public meetings in small regional centres and often quite large ones, such as Mildura. It intermittently turned up high levels of demand, usually when there was some local factor that increased demand. A good example is the Mildura community which feels it missed out on television aggregation. We got 1,000 people in a hall asking us, 'When do we get three channels?' In general, you did not get large numbers to those meetings. You would get people who wanted SBS and those who wanted an additional ABC service.

Mr HARDGRAVE—This is a sample. It is not an exact process before you issue a licence in each market, is it?

Mr Tanner—What is striking is that it does not give you a lot of information about what the community would actually do, because people listen mainly to commercial radio. But people do not come along to public meetings to demand more commercial radio services and our polling does not detect that large majorities of people are demanding lots more services.

Mr McARTHUR—You issued a lot more licences—

Mr HARDGRAVE—In the same period.

Prof. Flint—One of the things that used to be said of equity is that it is as varied as the length of the chancellor's foot. You had a succession of different people in the ABA with very wide briefs, very wide parameters to move in. The earlier boards, having decided to do the regions first, were perhaps more open to some of the arguments there than the current board might be. When you give a board a wide brief, there are a number of factors to balance and you get that sort of result.

Mr McARTHUR—We find it interesting that you say that people have told you that they are not anxious to have more licences. The broad assumption from the evidence we have heard time after time is that there are too many licences in regional Australia and that they are cutting down the viability and the capacity to serve that marketplace. We find it interesting that there are two conflicting points of view.

Mr Tanner—I would like to draw out a theme, which I hope is in our first submission. These words are not used in the submission but, when you look back over, say, 15 years of broadcasting policy for radio, there are two truths in terms of the way governments have approached regional markets. There is a truth of localism—that was the watchword for policy in the 1980s—and there is a truth of choice. It is probably fair to say that, when you look at the objects of the Broadcasting Services Act and the planning powers, the intention in 1992 was to put the spectrum to work as far as possible so as to provide increased competition and a greater diversity of services. I have a quote from the explanatory memorandum to the bill. It states:

It is intended that barriers to entry to the broadcasting service industry be minimised and that competition in the provision of such services be facilitated through the quicker introduction of extra services.

The chairman made a comment at the beginning about whether the objectives had teeth. Certainly the presence of the ABA's planning power—its ability to plan new services and to allocate them—gave it a lot of power to promote diversity. It actually did that. It was certainly not planned in a way that put vast numbers of channels up to auction for commercial services, as I think some backers of the legislation wanted. In fact, we have planned many community and narrowcasting services which we believed would promote diversity. I think the time has come, having done that, to review whether or not the objective about locally relevant services has teeth as well. I guess that is partly what this committee is about.

CHAIR—Can I bring you back to the economic issue because it links up with this issue of how many services a community can stand. We know it is a truism—and this goes back over

quite some time; you can correct me if I am wrong—that radio controls about eight or nine per cent of the media advertising dollar in Australia. Although it might go up a little in some markets and down a little in others, that is roughly what it achieves, yet we have seen the doubling of the number of commercial radio stations in the last decade or so. We have actually doubled them. We are saying that, having done that, there is no viability test. I do not see how we can keep skirting around this issue by saying, ‘We look at what people want. We look for diversity.’ Some of the evidence we have been receiving is that there might be more channels available but there is not necessarily more diversity. You have seen that in areas where two FM stations have knocked each other out, for instance, in Geraldton and so on.

Mr HARDGRAVE—Everyone is targeting the same market.

CHAIR—Everyone goes for the same market. I want to know what test you applied to increase the number of licences by 90-something over recent years. What test did you apply before those licences were put out?

Mr Tanner—I have tried to describe the approach in terms of feasibility and looking at the local conditions of markets. I would make the point that we have had a succession of ABA boards—

CHAIR—What do you mean by ‘feasibility’? Is it feasible to put a stick up in the air, to put a radio station in the main street—feasible to what? Anyone can create a service if they have a transmitter and power and a few CDs.

Mr Tanner—Yes, and if the market is large enough to sustain that and the existing services.

Mr McARTHUR—Which markets do you mean? All the evidence we have had is that the market is limited in the listening area.

Mr Tanner—I mean the market within the licence area.

CHAIR—What do you mean by ‘sustain’? Sustain comes back to viability, doesn’t it? We know that we need viability but we skirt around it like the Indians circling the wagons. We do not come to the attack all the time.

Mr Tanner—The test of feasibility has some of the aspects of a test of viability, but the ABA has expressed it in terms that it would not contemplate putting an additional service into a market where it did not believe that that additional service, on top of those already there, was feasible.

Mr HARDGRAVE—So you would be suggesting, then, that the absence of the viability factor that was deliberately taken out of the 1992 act was just a huge mistake in hindsight?

Mr Tanner—I should say that a number of the people associated with the creation of the legislation—I am not talking here about parliamentarians; I am talking about the policy backroom people—certainly had a hope that the ABA would test the carrying capacity of markets by simply auctioning off all of the available channels that remained in markets. That was a very strong expectation.

Mr HARDGRAVE—And let the market sort itself out?

Mr Tanner—And let the market sort itself out. The ABA's conclusion that there was, if you like, a test of feasibility was the result of very careful analysis of the law. When we looked at the law that parliament made, we could not see that such a course of action would be proper—whether or not it was good policy, we could not see that it was good law.

Mr HARDGRAVE—What advice was offered back to government—feedback from the coalface—about those matters?

Mr Tanner—We did report back using our 158(n) power.

Mr HARDGRAVE—And that would be remaining confidential, because the minister would have to release it?

Mr Tanner—It is in the hands of the minister. But we are talking here about 1995.

Mr HARDGRAVE—We could probably subpoena that minister, whoever it was.

Mr Tanner—We have always been very frank about these issues.

Mr Gordon-Smith—Can I just add a couple of points to that. It 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 or more to a market. As Mr Tanner says, there are a number of markets where we have decided that the carrying capacity was probably at its limit, and we have not put in any additional commercial services—Emerald would be an example.

But the situation, as I understand it, that existed prior to this act had a large number of bureaucrats—government officials—who would look at competing evidence as divergent as the sorts of evidence that are represented now to this committee by, on the one hand, incumbents and, on the other, aspirants, look at different business plans, look at different claims about the way in which the business would or would not pan out and make some decision on a case by case basis. I am not sure whether a return to that or whether—in the terms that you, Mr Hardgrave, used a minute ago—abandoning that was such a terrible thing. I think probably not.

It is worth noting that the sorts of evidence that are put to us and the sorts of submissions that are put to us in the planning process vary and are as divergent as the sorts of evidence that have been put to you. 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.

The question you are asking us is what sort of process are we going to go through to be able to make a call between the representations on the one hand and the representations on the other.

Note also in passing that the sorts of comments that would be made by private or public firms, by people who are interested in their own commercial benefits, will change market to market. 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.

CHAIR—But you have one distinct advantage in that process, and it is this: given that radio has eight or nine per cent of the advertising market, you have the results of the two or more stations in this market where the new player may be the aspirant, and you are in a position to know, almost by gut instinct whether—

Mr Gordon-Smith— I am sorry to interrupt, but there is a problem for us in that. I think I know where you are going. As Mr Tanner and Professor Flint mentioned to you earlier, we have got some confidentiality issues about the use of that material, and because—

CHAIR—You can use it internally, surely.

Mr Gordon-Smith—No. Let me explain this. Because there is a requirement on us to make public any material that we take into account in the planning process, were we to take into account the results that you furnish to us for the purposes of paying licence fees, we would be obliged under the law to make those publicly available. We therefore do not use the information on the performance of the individual stations in an area in the planning process.

But the other thing I wanted to add is this: it may not always be correct simply to look at a licence area as, if you like, a hermetically sealed stand-alone area. The reality of the funding of radio as an industry is that—and to some extent this is reflected in the development of the sorts of networking things that you have been interested in—it is not usual for an operator to own a single station in a single market. Even in rural and regional areas, a significant portion of the revenue comes from national or at least regional advertising. If you are trying to look at viability, you cannot really look at it from the point of view of a place that is bricked in and sealed off from the outside world. You have got to look at it from the point of view of the way in which that new station might contribute to the viability of an operator's overall operation—for example, by making it easier for somebody to make a single sale of advertising for, say, all of Queensland or all metropolitan stations. It would be possible for you to take another station and lose money on that, but have a net gain.

CHAIR—Sure. Peripherally, I agree with you. But I thought we had evidence yesterday that, at least in the country situation, 80 per cent of the revenue was generated locally, so—

Mr Gordon-Smith—I am not sure it is as high as that.

CHAIR—Say it is 70 per cent. In that case, only 30 per cent is coming from the national advertisers. Aren't you just going to spread that over a greater number of players? It may improve slightly the viability of one network, but to the exclusion of the incumbent.

Mr Gordon-Smith—Perhaps the final thing that I should say is that there are other issues in the objectives of the Broadcasting Services Act to balance against the viability or the profitability of an incumbent. Mr Tanner read a couple of minutes ago some words from the

explanatory memorandum of the Broadcasting Services Act that seem quite clearly to demonstrate that the parliament's intent then was to reduce barriers to entry and to increase the number of services.

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

Mr HARDGRAVE—What is occurring there is economies of scale, because automatically the Daily Mail group will come in and buy up 57 country stations and put a stick where a studio and the people working in that studio used to be.

Mr Gordon-Smith—So there will be an increase in the number of services and the range of choice available to the audience.

Mr HARDGRAVE—Or it will be devaluing the service that used to exist.

CHAIR—You grimaced when he said 'devaluing the services'. What about Charters Towers? It is a 24-hour feed, isn't it?

Mr Gordon-Smith—Yes.

Prof. Flint—I have spoken of my predecessors, but in their defence, on page 10 of our submission we draw your attention to the explanatory memorandum which guides the authority of the [Broadcasting Services Amendment Bill 2000](#). It says that the price based allocation process:

... is a departure from that in the 1942 Act—there is no 'merit contest' ... viability of the proposed service or existing services is not a factor to be taken into account ...

That is used by the courts now in interpreting the legislation.

Mr HARDGRAVE—Absolutely. Professor Flint, if I were chairman of the ABA, I would also be defending the charge that you are given by the act to administer. I do not dispute that. The one key area where the authority is vulnerable is the question of the amount of advice that is being given back, but we cannot get that because apparently it is in the hands of the ministers.

In his opening comments, Mr Tanner said that essentially the time has come to address the issue of localism, which is what the chairman is driving at. What is the ABA's estimate? Let us keep it to ourselves; let us pretend that we are all ministers here. What is the problem? What is the ABA's advice to this committee about the problem of localism? How do you define it and what are you going to suggest? What is your recommendation to the minister?

Mr Tanner—I would not mind taking as a starting point this notion about objectives and teeth. There is an objective about a diverse range of services; there is an objective about competition. There are plenty of teeth to back those two up.

CHAIR—Can I add one other one? This has some relevance now with so many big players in the field: ‘to encourage diversity in the control of the more influential broadcasting services’. To what extent is that exercised?

Mr Tanner—I have always felt that the primary way we have of promoting that particular objective is through enforcement of the current control rules. To the extent the control rules mandate diversity of voice, that is really as far as we can push that.

Mr HARDGRAVE—Chair, with the greatest respect, I would really like to nail down the ABA’s definition of localism and then we can move on from there.

Mr Tanner—I would like to frame the question about localism a little bit. The point I am making is that objectives (a) and (b) have plenty of teeth in the planning process. I think the ABA has, in a number of quite subtle ways, taken account of issues about the effect on existing services of pushing more and more commercials. It has, for example, frequently refused to put in competing services. In most very small markets it has simply refused to do so. It has also pushed to greatly expand sectors that do not directly compete with the commercial services or where diversity is mandated. I am thinking here of narrowcasting and community. It has planned a lot of those—

Mr HARDGRAVE—Mr Tanner, I just asked if there was an ABA definition for localism. Haven’t you got that somewhere? You say, ‘Right, we’re going to go in and issue some new licences. One of the things we look at is localism.’ You go to a glossary of terms that defines localism and it tells you what you are looking at. What is localism?

Mr Tanner—You will not find a lot because the point is that there is an objective about local relevance of services, but when you actually look for the teeth you will find a condition, which you are well aware of and which you have already cited this morning in discussion with FARB. The condition has two features. One is that it refers to an extremely vague and general concept—that is, ‘an adequate and comprehensive range of services’. More significantly, it does not really seem to contain a mechanism for allotting responsibility for the various parts of the allocation. Moreover, by its existence, that condition appears to limit in various ways the ABA’s power to make explicit conditions about particular types of formats, although to what extent has not yet been tested.

Mr HARDGRAVE—Is that the problem: that again there is not enough power for the ABA to define this adequately? You have suggested that the time has come for it to address the issue of localism. The problem is either that you do not have a definition or that you do not have the power to enforce the definition you have or that there are so many competing views on it—in any case, we have to deal with it. Is that the problem?

Mr Tanner—There is no statutory definition unless we come up with one. If we were to come up with one, it is a little unclear which area of movement we actually have under the law. We would seek to pursue it.

Mr HARDGRAVE—What are you going to do? What is the intention of the ABA to deal with this problem that you have identified with the issue of localism?

Mr Tanner—There are some areas where we actually do have clear room to move. A very good example is one we have already given, which is emergency service responsiveness and radio. That is clearly the type of issue which is related to localism, where the existing code and standards powers are clearly adequate to address it. The ABA is ensuring that that is addressed. It has plenty of power there and I am truly hopeful that FARB are jumping to it and coming up with an adequate code that provides adequate community safeguards. That is an example of a localism issue where there clearly is the power.

Mr HARDGRAVE—FARB certainly are going to rely on you, from what they have told us today, to enforce what they would like to do as a code of practice. That is what they have suggested. The ABA can do that. In regard to the issues where you do not have the scope and the power that you need to address this problem of localism—whatever the problem is and whatever localism is—what advice are you going to be offering back? Just pretend that we are the ministers and we would like to find out what the ABA's advice is right now. You have not written a letter, so you are not breaching confidentiality. Let us just get it now.

Prof. Flint—It is rather like an ocean liner: it takes a long time to turn around. We have created a lot of rights. These licences are valuable. People have spent a lot of money building up networks. DMG does pay out an extraordinary amount of money.

Mr HARDGRAVE—That intimidates the ABA, does it?

Prof. Flint—No, but I think that there is a respect in our society for accrued rights. If people have acquired a property, you do not suddenly impose an obligation on them which will cost them money.

Mr HARDGRAVE—That is fair enough.

Prof. Flint—You might signal your intention over a period of time. You obviously cannot do this suddenly. Firstly, you find out—and this inquiry is in the process of doing that—what is missing in the regions and what people feel they are not getting from the totality of broadcasting services. They have all these new services—not only new commercial services but also new community narrowcasting, and they also have the ABC—so what do they expect and what is missing?

Mr McARTHUR—If you put a new service in the area, that is costing the current licence holders money, though. That is the evidence we have been getting time after time. New licences coming into areas cost the current licence holders viability and profitability and bring unfair competition and all the rest of it. That is what they are saying to us.

Prof. Flint—The ABA—not us, but our predecessors—were told not to take into account commercial viability. That is what parliament said. If the parliament endorses the minister's memorandum, when they pass the bill the memorandum becomes part of the interpretation frame for the courts. That is part of the law of interpreting the act. The parliament tells the ABA not to take into account commercial viability. This is a period when parliament is very keen on competition and wants to create a lot of new competition, so the ABA in taking its instructions from parliament does that.

Mr McARTHUR—In view of your experience, the new board under your chairmanship might give us a bit of a view on that. The message I am hearing is that you are bound very strongly by the act. What we are hearing in the evidence is that the proliferation of licences has in fact disenfranchised and reduced the value of the current licence holders. That is the message we are getting back.

Prof. Flint—It is very hard to turn the clock back, but I suppose one has to approach this in a new way. Certainly, the lesson here is that they are not for digital technology. Digital technology produces a wider spectrum and obviously the lesson that has been learned over this process is that, if there are mistakes in that, they should not be repeated with digital. I would not have thought you should flood the regions with even more stations. If you flooded Sydney or Brisbane with thousands of taxis, most of them would be driving around empty all day long and they would not be feasible.

Mr HARDGRAVE—But what has the ABA learnt out of the process? We keep coming back to what the advice is. It is really hard to turn a big ship around if no-one has their hand on the wheel. At some point or other there has to be a view from the ABA. We would like to celebrate that view here; we would like to know it.

Prof. Flint—We are so ephemeral, you see; we are not permanent. Clearly, somebody has to find out what is missing and what the people in the regions want. In the totality of broadcasting services they are certainly getting more than they ever had, because they are getting, for example, access to satellites and more television, so there is a similitude to what is available in the cities.

I was recently at Morawa in Western Australia and they were delighted that they were getting the extra service that we allowed there. There was excitement there that it was available. You would not want to deny them new services, but you have to really find out what they want and how you do it. It can perhaps be done by looking, for example, at the ABC. Is the ABC providing sufficient local services? I know they do a very good job at the moment but perhaps they should be funded to provide more services.

Mr HARDGRAVE—But I thought the ABA was discovering the feasibility of markets. I would have thought the ABA would have had an understanding of these unmet needs or dashed expectations, despite all of these new services. But I am not hearing any qualification of that understanding from the ABA, which means we are going down the same old paths again.

Mr Tanner—The ABA has some budgetary ability to afford research. It has not recently commissioned attitudinal research which looks directly at what people feel regional radio is lacking. That is something that is potentially within its discretion. We are, however, greatly stepping up our knowledge base of formats across the country. So I believe we are doing some laying of groundwork for a better evaluation of what is going on in markets. I think that, after a 10-year experiment with putting the spectrum to work and greater diversity, the ABA would like to be part of the process of evaluating what we have all wrought and working out what, if anything, is not working. Personally, I would be inclined, with my quite long experience as a bureaucrat rather than as a member, to affirm those two truths. The year 1992 was so sweepingly pro-competition because, in many ways, it was a backlash against a policy of localism which effectively blocked all new market entrants, whatever its strong points may have

been. It certainly has a number of features that I suspect the committee is groping towards missing. There is a need for localism but there is also a constituency for new services. Every government knows that, because every government promotes different kinds of expansion of radio in regional areas.

To go on with the point I was making about the codes and standards, which is one area where the ABA and the industry do have power, there is considerable power in that, or flexibility, for the industry itself by developing a code, or for the ABA by developing a standard. Remember, the ABA can do that only where it is satisfied that there is a failure to provide community safeguards. There is scope to look at programming requirements that are, I guess, amendable to one size fits all solutions. Emergency services is a good case in point. If there is going to be an emergency service standard, you want all radio services of a particular type to comply with it. There may be some other components of localism that I am hearing in these transcripts that are not really amenable to one size fits all solutions. If you are worried about the loss of a particular kind of local look and feel—there are going to be a lot of people who actually just want FM rock music—a one size fits all solution, which is what codes and standards offer you the freedom to do, may not be the way to approach it. If that is the sort of thing you are concerned about, then you set the mission. If you are the minister, set the mission. I would suggest that possibly the regulatory tools are not entirely what they would need to be to push in that direction.

Mr HARDGRAVE—You have called it a 10-year long experiment, so should we start to go down the path of altering the basis of this experiment to look at charging different fees for stations that have no other investment, apparently, in their operation, other than just simply broadcasting a signal from somewhere else and seeing where than pans out? Is that something we should look at?

Mr Tanner—Why not tradable credits for particular things? If you really want to mandate particular things that will cost the industry money, that is another way of ensuring that you get freedom to choose formats. That is just a suggestion.

Mr HARDGRAVE—There is a cost involved and a benefit involved.

Ms Maddock—One of the difficulties you will find if you are attracted to the idea of imposing a standard requirement of minutes, hours or whatever on an organisation is that you will get strip programming, as you do with children's television, to a certain extent, where everyone broadcasts kids' TV at 4 o'clock. If you want to look at maximising the number of hours, minutes, whatever, of local content in an area, then allow it to be traded to anyone, including to the community radio stations, which may give them a source of income, as well.

Prof. Flint—The recent project that we undertook with Bond University did peripherally look at the question of localism. Three-quarters of the respondents told us that local news and content were not covered adequately by the totality of the media. They thought that newspapers and public radio were best and said that commercial radio covered local and regional issues somewhat adequately. When they were asked what was missing, the thing that they listed highest, interestingly, was crime and drug use at 14 per cent, then local politics at 11 per cent and then general community issues. We do have some leads, which I think the ABA should develop in another research project to find out precisely what is—

CHAIR—We are talking about all this diversity. In most places now you have four ABC stations—the regional or metropolitan, FM, RN, Triple J and, in some instances PNN—generally, the existing or major commercial station and either an associate or section station attached to it using a hot rock format, and in many instances there is now a third commercial station. Then you might have a narrowcast station and you could have one or other community stations and a TAB. So there is plenty of diversity in the strict sense of the word, but the reality is that most of the community announcements are broadcast by the ABC regional station and by the commercial stations, generally the locally based commercial stations or, if there are no locally based stations, there is some form of pseudo localism. Those commercial stations, by and large, control about two-thirds of the market. If you do not have a regulatory framework that says something about those two-thirds, then I suggest that the whole act is meaningless. Diversity, of its very nature, exists in the multiplicity of services available. What we are focusing on is the minister's third term of reference to us—and we are going to have to make recommendations back to him—which states:

The effect on individuals, families and small businesses in non-metropolitan areas of Australia of networking of radio programming, particularly in relation to local news services, sport, community service announcements and other forms of local content.

That is the seminal reference of this inquiry. I do not want to be distracted by the number of peripheral services that might be around. We understand that 1.8 per cent and 2.2 per cent in the city listen to Radio National, two or three per cent listen to community radio and two or three per cent listen to something else. Then somewhere between 16 and 20 per cent listen to the ABC regional programs.

At the end of the day, they all stack up to about a third of the market, of which the ABC regional program is part of the localism. It is the other two-thirds—the commercial ones—where the inquiry needs to be focused. That is what I want to bring you back to. What are the rules? What should we be recommending to the parliament and the minister about what the rules are going to be to control that all-encompassing part of commercial radio that has a huge influence and is what people listen to? How do we bring them into the terms of reference of this inquiry? Let us not get diverted. I think it is a given that there is infinitely more diversity available in those areas than there was two decades ago—infinitely more. But we are seeing now that commercial radio's viability is in question; we are seeing that there is a lot of outside control of our radio stations; we are hearing from operators of commercial stations that one more licence in some areas will cripple all licences. Let us get to the nub of that this afternoon, if we can. I think that is so important.

Mr Tanner—Can I put a question back to the committee. We can analyse our powers and tell you where we have and have not got teeth, but what is the vision? I will tell you what I mean. If you look at our legislation, it is premised very much on the idea about what comes out of the radio—what it sounds like—rather than where it is made. So, if your vision of localism is about local employment, you will not find any relevant powers that the ABA really would have to mandate that, because they have powers over programming issues. If your vision is about the look and feel, maybe that is not so much of a problem. If your vision is about something which is amenable to one size fits all solutions, there is this terrific code making power backed up by standards where it does not work. If your vision is about fostering a particular kind of program that you see in decline for various economic reasons or under threat, maybe the powers are not there.

But I think all the discussion about the adequacy or inadequacy of our powers or the steps we take has to begin from a vision for this very amorphous thing: localism. If the concern of this committee is that networking itself is invidious—and the ABA do not have a concern with networking per se; we have made that clear—bear in mind that networking is a coherent market response to the expansion of the number of services and the cross-media rules which mean you cannot have economies of scope inside major metro markets anymore; you cannot have people buying the TV service and the newspaper. What is going to flow from your vision could be a number of different directions for reform of the Broadcasting Services Act or perhaps just some finetuning of the codes and standards.

Mr HARDGRAVE—I do not think the committee is expecting the ABA to take responsibility for the Broadcasting Services Act. I absolutely acknowledge that you are doing the job as specified in the act—as I said, with the one exception about the advice matter. Maybe, to try and crack the nut in a different way, we could turn to your experience in this sector and to the directors' experience as well, including the chairman's. If you look back at what was prescribed in the act, is the basis of the act actually exposing the fact that the people who framed the act did not really understand what radio as an industry was all about or what the expectations of the listener were all about—in other words, the influence of radio? The ABA have done work on influence. I think that whole matter with regard to 2UE was, if nothing else, a big stamp for radio's influence and importance. Professor Flint has been in the media recently talking about cross-media and foreign ownership matters and so forth, and his viewpoint is shared by a lot of people, I am sure. But do you think this act is based on either a misunderstanding of what radio is to the listener or a reasonable assumption of what radio is to the listener—that they do not care as long as they are hearing music?

Mr Gordon-Smith—I think it is important to remember that the ABA, as a statutory authority, currently comprises seven different people with seven different points of view so issues like localism and the weighting of the different objectives in the act are reflected in arguments, discussion and debates around the ABA table. I preface my remarks by reminding you that I am just one of seven.

I would be disconcerted to think of the experience to date of the Broadcasting Services Act simply as a failed experiment. I think it is important to remember that, when Mr Tanner was talking about the holding of public meetings around the country, 1,000 people turned up in Mildura because they missed out on access, they missed out on aggregation and they missed out on getting access to the number of services and the level of choice that they perceived was available to their metropolitan cousins.

My memory is that, at the time the Broadcasting Services Act came in, in addition to a mood and rhetoric of competition, there was also a great deal of mood and rhetoric for equity of access—that people who were not in metropolitan areas ought to have the same extent of choice available to them. Had we, for example, not gone through the course of adding a large number of services—and I will come back to that in a moment—we might very well be sitting here having a conversation about the range of material that was unavailable to people in regional areas, whether that be racing radio or simply a greater range of musical tastes.

In terms of musical tastes as well, I think there are real difficulties when you start to look at diversity. Even within the radio industry music is a famously divisive subject. One of the

reasons why many talkback stations do not want to play any music at all is, because when you start playing music, you might please some but you are instantly going to displease a bundle of others. So that what might appear to us as being a richness of diversity may be able to be supplemented in a way that will make a dramatic difference to the listening pleasure of a bundle of other people who would see finer differences than we do.

Finally, in this explosion of services that we have been talking about, I think it is important to remember that the bulk of the new services comes in categories other than commercial radio. 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.

CHAIR—Quite frankly, in most markets, they only control about two or three per cent.

Mr Gordon-Smith—To some extent, that may be because the felt need of localism is important to those two or three per cent of people much more than the felt need of access to a richness of choice of musical and entertaining listening or access to international or national news.

Mr HARDGRAVE—So we are back to the market again—

Mr Gordon-Smith—Back at least to the question of whether it is appropriate or ideal to try to put on to all commercial radio stations a requirement to meet the sorts of local needs that local commercial radio stations traditionally used to meet when they were provided with a local monopoly.

Mr HARDGRAVE—The ABA have embarked upon a study, which you talked about a moment ago, with Bond University about media, influence and so forth. What were the findings of that, as far as the influence of radio goes? Do those findings reflect that there has been an underestimation of the influence of radio?

Prof. Flint—Without doubt. Certainly, commercial talkback, for example, was seen as an agenda setter. As we know, that rates highly. Also, ABC news was seen as very important by journalists as a source for them. Radio is perhaps underrated; in particular, commercial radio is even more underrated and has been recognised as being more significant. What you have asked, Mr Hardgrave, is a difficult question. I think you are asking for my personal view on what I would have done. I suppose it is relevant in terms of how the act ought to be looked at as new technologies are released and they are licensed. I cannot understand why, in any situation where you are licensing, you would not consider commercial viability as a relevant factor. It seems to me to be rather strange—if you were redesigning the taxi licensing system in the city, surely you would look at commercial viability. I would have thought that you would also, given the importance of media, have said something about localism in terms of each licence. It is hard to come back now and impose that unless you do it gradually and unless you allow it to be tradeable because, as Michael Gordon-Smith says, some stations are going to be music and others are going to be news. Certainly, people do want local news. They certainly get it from

their newspapers. They are not getting it from television in the regions and they are not getting it sufficiently, it may be said, in relation to radio. But they certainly want it.

Mr HARDGRAVE—Mr Tanner talked about the trade-off matter, which I guess you have endorsed. We are dealing with radio, but television networks are treated differently from radio networks in an emotive sense, aren't they, certainly in this discussion? People expect more from their radio than they expect from their television, as far as local content is concerned.

Prof. Flint—Believe it or not, they even seem to want local advertising. That always seems strange, but when we are talking about putting in services, people do not want a service from outside, even though it has the same program content. They want the local service which gives them the local advertising.

Mr HARDGRAVE—So in a completely deregulated media marketplace in some rural or regional area, if we had a deregulated environment and the radio and television stations and newspapers are all owned by each other, you would have to have some safeguards on the question of the diversity of voices and opinion. You would have to have some safeguards to ensure that the impact was positive for the local area, surely.

Mr Tanner—I think our experience overall—and this is a generalisation so it is a personal observation—is that many of the hoped for benefits of competition are there; that is, the presence of competition does tend to goad services into exploring new markets for advertising and exploring new ways of charming their audience. But the effects on issues such as local news may depend a bit on where you are in an unregulated situation. For example, if you aggregate television markets, you no longer have local monopolies. Some of those local monopolies used their monopoly status to provide very cheap programming. I remember one New South Wales town that watched *The Onedin Line* 10 years after the rest of us had lost it from prime time. When the government created giant three-station markets, I suspect the overall effect was actually to increase local news and advertising in centres like Canberra by quite a margin, as that was the site for a great deal of competition. It may not have had such a benign effect in some other areas within the market. I guess there is always an issue with competition that it certainly does have benefits but there may be flaws in any given market, once you have identified what your minimal social policy goals are for the medium.

Mr HARDGRAVE—But it is okay for the market to determine what is going to happen in this or any other sector. We are seeing it in dairy and umpteen other sectors now, so to protect an industry against a background of deregulation of industries elsewhere would not go very far. But there have to be safeguards and there has to be a focus on the consumer, surely, in that regard. Does the market always provide a good result for the consumer? That is a seminal question, I suspect.

Ms Maddock—That is essentially a trade-off between personal benefits and the winners and the losers. That is essentially a political trade-off that you and your colleagues are in a position to make. We will give you suggestions as to how it might be done technically and efficiently, but the question of how or whether to impose cultural requirements is always a parliamentary question. I will give you the example of television. We have Australian content rules for television, which are mandated by the parliament. We administer them and we enforce them, but it is essentially a trade-off between conflicting community interests.

Mr HARDGRAVE—It is a local content requirement, is it not?

Ms Maddock—It is.

Mr HARDGRAVE—You are the all encompassing body that handles so many things these days, but would the ABA be relatively comfortable with testing its feasibility assessments in the first place aside the public perception of the performance of the radio stations in any market—that is, having regular public interaction and giving the people the opportunity to come to you and say, for example, that they are happy with a station or they are not happy with something once five years or something?

Prof. Flint—One of the changes was to take that away in the renewal hearings, which disappeared in 1992. But to get back to your point about safeguards, to an extent, there is a considerable safeguard in the Trade Practices Act. Since the cross media rules were introduced, there has been a substantial tightening of the merger rules, which moved from the market dominance test to the substantial lessening of competition tests, which catches many more mergers. The trick is, though, that the opinion of the Trade Practices Commission and the ACCC is that each of these media is a separate market. The media is not one single market. But we know there are advantages and that there are economies you can get from the market. I remember Brian Johns from the ABC telling me on one occasion that he was giving camcorders to his radio reporters in the regions so that they could also serve as television reporters. He said that there would be a considerable saving there and that would then be used to feed in. We have a rule which locks daily newspapers from owning radio stations, and I have had people say to me, ‘That’s an impediment because we could feed a lot into radio from the economies we have because we have such substantial concentrations of reporters.’

Ms Maddock—I would like to go back to an interchange between the chairman and Mr Gordon-Smith as to what it meant that two to three per cent of people listen to community radio. Obviously you can read that as meaning either that they are dreadfully unpopular and not doing what one hopes they would do or not doing it well or that those who are really interested in community participation and news and vote with their feet are listening to it. One of the challenges one always faces with community radio—and I will preface this by saying that this is a personal view and there may well be differences of view amongst the boardroom table on this—is to keep it fresh to community interests, to keep it reflecting where the community wants to go. If the community wants to go with the John Laws show and two minutes of local news, one has to be assured that the community service that is responsible for delivering that is responsive to that and that, if the community wants a country radio program and a lot of local news, the community group responsible for running the community radio stays fresh to that.

At the moment, community radio licences are issued for all time. That makes the capacity for them to stay fresh to a community’s needs more difficult to achieve. That would be one of the areas that I think, although I am very new to the ABA, we have had views on before and which we think could be worthwhile addressing.

Mr Gordon-Smith—I would endorse that.

Mr TANNER—I think that also goes to your question about the value of a periodical, audit based or whatever examination of the adequacy of services in an area. If there are not the discretions at the end of that in practical terms, then it serves only a symbolic purpose.

Ms LIVERMORE—Could you expand on that concept of tradeable credits, because we only touched on that. Can you throw in some examples of how you see it working?

Ms Maddock—Apart from the Kyoto agreement, which I think is where you have tradeable carbon credits. Let me again say that this is a personal view. 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. We have just been knocking that around. We have not done a great deal of work on how such an idea might be implemented. If that is the path you are thinking of going down, we would urge you to think more about that type of approach.

Mr Gordon-Smith—It also recognises that when you have an increase in the number of formats the sorts of requirements you want to impose fit more easily into some formats than others. You have got an analogous situation in PAY-TV for example when we say, 'Look, we want all drama channels to carry a certain amount of new Australian programming.' Then you get a person who is programming an old Westerns channel saying, 'How do I put that into my format?' If what you are saying is you want some local news and you have got a format which is minimal talking, maximum amount of rock music, it may sit less comfortably with that format than it sits with a more general or even a talk based format.

Mr Tanner—And your audience.

Mr Gordon-Smith—And your audience.

Prof. Flint—This could be achieved through the codes if we had a direction or a legislative permission to impose a format.

Ms LIVERMORE—It is a more specific way of achieving what I was trying to tease out with FARB before about manipulating the licence fees as a carrot to promoting localism.

Mr Gordon-Smith—Yes.

Ms Maddock—One of the things that you obviously have to face if you are going to go down that path is that this is going to impose cost on commercial radio that has to be met. The way in which you can allow any efficiencies to take place is going to keep that cost down. Letting them trade so that the most efficient producer does it may well reduce the total impost because you are going to have to weigh up the cost of that additional impost versus their current financial circumstances. If the impost is too great the end result may be that you just drive more networking.

Mr Gordon-Smith—For examples, if the individual cost were a quarter of a journalist amongst four stations, aggregated you have got one journalist paid for by one station. It is easier to manage than four different stations each trying to employ one quarter of one journalist. It is a way of spreading out a small impost in a way that is evenly shared but able to be aggregated.

Ms LIVERMORE—You have got to weigh that against what Gary has been pointing out that it is also a concentration of editorial control, which is the trade-off.

Ms Maddock—Yes.

Mr HARDGRAVE—Yes, there is that. I suspect that under your system people could almost pay for the privilege to not broadcast certain things. That is essentially what you are saying.

Mr Tanner—If you are running a heavy rock, no talk station, you are not going to want to broadcast a whole lot of local stuff.

Mr HARDGRAVE—The only difficulty we would have as a committee comes back to where we started an hour or so ago and that is to know exactly where this impacts and where it does not. Are we hitting for six the \$10,000 profit station and making life easier for the \$1.4 million profit station? We cannot seem to budge on the question of getting access to those figures.

Mr Gordon-Smith—What that does is give the individual managers of the individual stations the flexibility about whether they buy their way out or opt into localism as a way of cheapening their costs.

CHAIR—On that note we will adjourn for lunch.

Proceedings suspended from 1.40 p.m. to 2.26 p.m.

CHAIR—Before lunch we were exploring the concept of some form of tradeable credits. Unless there are any further questions on that, we will move on from there.

Mr HARDGRAVE—Chairman, through the course of the evidence there have been a number of specific issues, but they all seem to serve as some sort of an example of ABA response times. Before lunch, Professor Flint talked about perhaps improving the response times or the ability to act or demand action from a station. But, in regard to the ABA zone performance in this matter, there have been some specific problems relating to places like Walpole, which has absolutely no reception. We may have greater diversity of services across a large part of Australia, but in parts of Australia there are actually no services. It is my understanding that Walpole is tied into the service area that is coming from a satellite based

broadcasting system based in Karratha. Have you noted all of that? Are there any plans to revisit the Walpole matter?

Mr Tanner—I will have to take Walpole on notice. I apologise—I am not aware of that particular issue.

Mr JULL—There are other black spots too.

Mr HARDGRAVE—There are other places; yes, that is right.

Mr Tanner—We are talking about the satellite and the former remote commercial radio markets of Western Australia, central and north-eastern. It is very different from terrestrial radio, I guess. In general, there is a much greater reliance on community self-help, and for there to be community self-help there needs to be a satellite signal available. In Western Australia there are satellite signals available. There is certainly no shortage of spectrum. In central and north-eastern, the issue has been that, although there are licensees, they have not provided satellite services that have been widely re-transmitted. I believe you have had extensive submissions from Sun—that is one of these licensees. It is basically putting together a terrestrial network in certain parts of its licence area. But although the rest of the state—a very large area of land—is within its licence area, in the absence of a satellite service there is not really scope to have a roll-out of re-transmission facilities across it.

Mr HARDGRAVE—That essentially comes down to the fact that they are in the satellite service coverage area of this place, based on Karratha, even though they are an hour's drive to the west of Albany, about a five-hour drive to the south-east of Perth and are on a major state highway. But they are covered in a coverage area that centres on Karratha via satellite. They are not apparently getting radio services. Will the ABA be looking at ways and means of perhaps updating—even though the LAP process, I thought, was doing that—the results for people in smaller communities such as Walpole? If you are going to take that question on notice, that is fine.

You have raised the Sun FM matter. I think their difficulty was that their coverage area was a very large chunk of Australia and they were frustrated by the impact of the Gold Coast radio stations into part of their coverage area—that is, into Mount Tamborine and west of that. They find that they are languishing economically, and waiting for responses from the ABA have not added to their circumstance. Do you have any comment on that?

Ms Maddock—Before Giles goes on to that, I would just add something to your question about Walpole, which I do not know anything about, I am afraid. We have recently had a case in Western Australia—and I am hazy on the details and am happy to follow them up and get them right—where an isolated community not receiving a service from its licensed provider asked for authority to do a self-help retransmission of another provider. We allowed that. We encouraged that because, at the end of the day, we wanted the service there and, if the existing licensee was not willing to provide it, we were happy to look at that. I would think that sensible suggestions along those lines would do.

Mr HARDGRAVE—I am not asking the questions to make life uncomfortable for you this afternoon. I simply wanted to give you the opportunity to comment on it, because it has been raised in earlier evidence.

Ms Maddock—I want to flag it so that we can look at Walpole in that context, because we are trying to make sure that we get services.

CHAIR—I think it would be fair to say that we were not impressed by the standard of radio services in Western Australia. We recognise that it is about a third of the continent and that you have more scattered communities than you have in all the other states but, nevertheless, the standard of radio there is certainly not up to the rest of Australia.

Ms Maddock—I am a Queenslander, not a Western Australian, so I will talk about Queensland.

Mr HARDGRAVE—I can talk about a Queensland issue—that is, the issue of the Ipswich station, which broadcasts currently on 106.9. I believe the issue has been resolved by the ABA to the point where they are moving their frequency. That is the response. After 10 years of an identified and agreed problem in the main street of the principal town in their coverage area, which was left flapping around in the main street of Ipswich, knocking their viability in the overall marketplace, we have the ABA saying, ‘We aren’t going to give you a windfall of moving to Mount Coot-tha’. Yet all of the technical evidence shows that 106.9 was squeezed between ABC FM and Triple J. My understanding is that the technical solution always is to locate the source of those sorts of interferences, essentially in the same area because they cancel each other out. This thing was flapping around for 10 years and the final solution was to change their frequency and then to allocate the 106.9 frequency to whenever the third or fourth station comes up in Brisbane. It strikes me as a very parlous episode.

Mr Tanner—There are two issues. The 10 years is something which the ABA has no wish to defend; it is simply a product of the enormous and completely undesirable delays to the licence area planning process, which have seen completion of the metropolitan licence area plans only occurring around now. Sydney and Melbourne are done; we are about to allocate a commercial licence tomorrow for Brisbane; Perth and Adelaide have completion imminent.

Mr HARDGRAVE—But, at the end of that, is it reasonable to reallocate a licence to somebody else and find new spectrum for an existing station?

Mr Tanner—That is the second issue. The micro issue there is that the ABA took the view—and it is not a view shared by Star, I think it is fair to say—that the Ipswich market is a separate urban fringe market and that to allow them to take that frequency, which could have been down to Mount Coot-tha, would basically turn them into a Brisbane service, which would not promote the object of the act as far as it would do Ipswich out of a local service, whatever they were saying about having an Ipswich flavour.

CHAIR—Couldn’t you impose a licence condition to ensure that it was an Ipswich service?

Mr Tanner—They bought it as an Ipswich service, and the ABA put a lot of weight on trying to fix their legitimate and real reception difficulties within the Ipswich area. However, they

seemed for a lot of the time less interested in that than in moving to Mount Coot-tha and fixing some other perceived problems that they have. The ABA found that a very high price to pay to fix a technical problem and preferred to find them a terrestrial fix which actually gives them adequate Ipswich coverage.

Mr HARDGRAVE—You could argue this particular one until the cows come home, but at the end of it there was a technical problem, which was identified 10 years ago. The ABA apparently put a lot of weight into trying to fix this, but it took a decade. The LAP process interfered with that, but there was not priority afforded this. This is a radio station licence that was given to cover a certain area that was not covering that area adequately.

Mr Tanner—In fact many radio stations have technical coverage problems. Star do not have a monopoly on technical coverage problems.

Mr HARDGRAVE—What does the ABA do? This has to be a cost to an industry that is claiming viability as an issue.

Mr Tanner—It was always intended that the purpose of the licence area plans would be not just to make new services available if that was appropriate but also to address reception problems with existing services, and the ABA has done that. I could actually point—perhaps at the risk of simply increasing your wrath towards the delays to planning processes—to other services that have waited for a long time to get their problems fixed, because basically the ABA saw fit to address those problems inside the licence area planning process.

Mr HARDGRAVE—The same thing happened to 6IX in Perth too, didn't it?

Mr Tanner—Yes, and there have been community services like 5UE waiting for a chance to argue that they should convert to FM. There have been many AM services—commercial and other—around the country that have particular reception problems arising from those AM frequencies not giving them particularly good coverage. Many of those we have fixed. It was always the purpose of the LAP process that that was to be the site where a government regulator made decisions about how best to use the spectrum to improve reception of existing services, as well as to see if it was appropriate to plan any new ones. We have no defence for the delay except to say that it took us that long to do the job and that I think we have already covered the ground, basically, about the planning process. It was certainly no-one's intention—least of all parliament's and certainly not the ABA's—that the planning process would take so long.

Mr HARDGRAVE—But isn't there something wrong with the lines on the map in this particular case, and I am going to leave it at this, if it says that somewhere that is geographically within the greater Brisbane area—there is an imaginary line that literally runs down the side fence between two houses—is not part of Brisbane? So it is part of a different market, but every station in the Brisbane market can broadcast into the Ipswich market. It reveals that the ABA has absolutely no real understanding about the way the radio industry operates and the way that the local area in Brisbane is operating.

Mr Tanner—I am not quite sure what it is you are asking.

Mr HARDGRAVE—QFM Star 106 operates out of Ipswich in the Ipswich market, but it is heard right across the southern suburbs of Brisbane. The station has agreements with everybody in Ipswich to say that it is going to maintain its Ipswich focus, but its main competitors are every station in Brisbane which broadcasts loud and clear, as of right, into Ipswich. So why don't you put a brick wall up and stop the Brisbane stations broadcasting into Ipswich?

Mr Tanner—That dilemma is faced by all urban fringe services. It is true that Ipswich is, as an urban fringe area, particularly close in towards the middle of Brisbane, but the same is true of Gosford and the Campbelltown service that has been planned. It is open to form a view that those urban fringe services should be allowed to move into the centre of the frequencies and allowed to become city-wide services. You may then want to argue that perhaps there should be special conditions requiring them to retain—for some reason which is unclear to me—say, a Campbelltown focus, or an Ipswich focus; although why those urban fringe areas would be picked out to have a dedicated city-wide service to cover them but not other areas, which would then not have the good luck to have a local dedicated service, I do not know.

Mr HARDGRAVE—But Campbelltown is as relevant to Sydney as probably Beaudesert is to Brisbane. Ipswich is more like Parramatta. We have talked about spectra being available as a finite measure. Whether it is serving 3 million people or 3,000, spectra are still available in relation to what is available in the scheme of things. Likewise, the geography has to be factored in. That is not to say that Ipswich has a stand-alone city council and is therefore different from Brisbane. The most relevant measure would be Ipswich to Brisbane CBD or Parramatta to Sydney CBD. In relation to the 2WS example in Sydney, it would be far more relevant to compare it to anything in Ipswich than to Campbelltown. The signal to the industry is one of misunderstanding of what the industry is about.

Mr JULL—I want to return to community radio stations. If we move along the line of giving them a greater role in providing regional services, or if we encourage them to play a greater role, how can we do that bearing in mind that some of them are pretty doubtful commodities in terms of their management and financial arrangements? Do you have any suggestions as to how you might fix them up so they can fill some of those voids?

Mr Tanner—I assume that this goes back to the suggestion that a tradeable quota scheme might also extend to the community services.

Ms Maddock—That would allow them to earn some income and you would need to make legislative changes to allow that to happen.

Mr JULL—That is the sort of thing we are trying to flesh out.

Ms Maddock—If they are in the best position, because they have local networks on the ground or whatever, to develop and produce local services, they could earn the income by contracting with the commercial radio stations to provide those services. That might give them a nice fillip in terms of their overall financial situations. The question of the capacity of their management to handle that goes back to our earlier discussion about the fact that, at the moment, community licences are given forever and a day.

Mr JULL—Which leads me to ask, how do you handle it? We heard 2BS this morning make quite laudatory comments about the Charles Sturt University community station and its capacity to provide news services through its school of journalism. Obviously that is fine, but while you would not say it publicly, half these community stations are run by ratbags anyway—

Mr HARDGRAVE—It happens, Mr Jull.

Mr JULL—and I do not think that some of them would have the capacity to provide these sorts of services. Is there a line we should be looking at to perhaps provide a different sort of licence?

Mr Tanner—You have raised some interesting issues. One of the issues is that the community sector consists of special interest as well as general purpose community organisations, so I guess that the nature of the special interest to be served would be relevant in respect of questions about the propriety of its role in a tradeable credit scheme. More generally, I think we touched this morning on the issue that community licences are effectively issued in perpetuity unless something very egregious happens or the service fails. There are not many grounds on which performance can be reviewed. Over the history of community licences since the mid-1970s, services have gone on air, have stayed on air and they have not really been called to account unless there has been an egregious lapse in terms of their complying with the original reason they were put on air.

If pressure develops for new community formats, it frequently falls to the government to find additional channels for more services to start rather than there being an easy mechanism for that pressure to fall on the existing services. That has not been a problem while there has been more spectrum for allocation, although I think that the number of community services is a potential problem in a handful of centres if they are all competing for sponsorship. However, we are now reaching a point in most congested areas where there is not a lot of spectrum left, or where there may be no spectrum left for new high-powered services. In those circumstances, there are questions for the longer term—I add that these are personal observations; they are in no way ABA observations—about the accountability of community groups for the channels they have. I do not think the Broadcasting Services Act necessarily frees us to—

Prof. Flint—There is one other point and that is that, if you did have the power to review, given that there is so little spectrum to allocate, the ABA could have a power to order the sharing of a specific spectrum. That would mean that small interest groups would have some access to spectrum, particularly as new groups arise and old groups get out of date. You could even have one dedicated just to local content.

CHAIR—How could we seriously deliver community news, weather, talkback and all those sorts of things which are in the terms of reference of this inquiry (a) through the vast majority of these community stations and (b) if you are going to share spectrum? Which of the two would be responsible for doing it?

Ms Maddock—The idea we are exploring involves a question of how you can direct the money that any one commercial station—or more than one commercial station—would otherwise use to provide that news and local content. If the given amount of money is there,

whether it be done by each commercial station or by one commercial station on behalf of the other or through community radio does not affect—

CHAIR—I do not accept this concept. I do not accept that we let the commercial stations off the hook in providing local news, weather, community announcements and so on. What great imperative drives us to let them off the hook? Is this just sweeping the issue under the carpet?

Ms Maddock—Your assumptions may be different to ours, and if they are, by all means tell us and we will talk about your assumptions. However, we are working on the assumption that you have two ends that you are trying to achieve. One is to impose a cost obligation on the commercial stations to pay for a certain amount of content. The second is that a certain amount of content is delivered to the market. What we are suggesting though is that those two assumptions are not necessarily coupled. You can uncouple them and, if they are your two assumptions, we are suggesting that you look at whether they can be uncoupled and, if they can be, the way we are suggesting is a way you can achieve both of those in an uncoupled way.

Mr HARDGRAVE—So the station that provides the local news and the community announcements goes up in the ratings, and the station that does not will probably follow, and the market will impact?

Ms Maddock—It may well.

CHAIR—We have had some complaints during the inquiry that a number of community stations are acting as de facto commercial stations and are not being disciplined. What is your response to that?

Mr Tanner—We do not do make routine renewal inquiries or anything like that.

CHAIR—What if a station is clearly in breach?

Mr Tanner—If a person complains to us that there is a breach of license conditions—and if the ABA is independently satisfied it has the discretion to do this as well—we are required to investigate. One of the issues that was discussed this morning was the issue of the circumstances in which a community station could legally carry certain 2UE programming on syndication. The ABA is conducting an investigation of five instances of that and will presently be ruling on the legality of that practice.

CHAIR—Isn't there a community station in the Dubbo area that has more than its level of advertising content?

Mr Tanner—I am not aware of an investigation of a station.

CHAIR—I think there was a witness from Dubbo yesterday who said that he had complained on a number of occasions.

Mr Tanner—It would be odd to complain to you and not to complain to us. Once a person, including a commercial licensee, complains to us, we are required to investigate and report—and we would.

Ms Maddock—Indeed, we are currently investigating a number of cases that have been referred to us like that.

Mr Tanner—Certainly, if you look at the way community radio is faring across Australia, it is true that some community services do become very dependent on sponsorship, and that is currently quite legal. That can pose questions about the look and feel of the station—their sound—and pose issues about the relationship they have with the commercial licence. But, basically, the ABA is only able to intervene if they are doing something wrong—for example, carrying more than five minutes an hour of sponsorship or carrying advertising that is not sponsorship.

Prof. Flint—On this I can confirm that yesterday I approved a preliminary report, which will go out to the stations for comment, which alleges that a community station was in breach of its requirements and going over the level of advertising and sponsorship.

CHAIR—I might ask the same questions regarding narrowcasting: we had complaints yesterday about narrowcast stations that are not ‘narrowcasting’ in the strict sense of the word. When they ask for a narrowcast, do you define what area they are going to operate in or do you hold them to the terms of the original application—country and western, fifties and sixties or whatever it might be?

Mr Tanner—We have no power to bind a narrowcaster to any one format. However, if the format is not a narrowcasting format and their reception is not limited in some other way that would keep them within the open narrowcasting category, we can investigate and take action. However, I have to acknowledge here that a major problem for the ABA and for the industry with the open narrowcasting category has been the extremely general language used to define open narrowcasting on the one hand—

CHAIR—In the act, you are talking about?

Mr Tanner—and commercial broadcasting in the act. The ABA is not entirely helpless in this area, as it has a power in section 19 to basically develop clarifications of those criteria or determinations of additional criteria. The ABA is currently conducting a public investigation into whether it should exercise that power. The articulated purpose of that investigation is to attempt to clarify where the boundary lies, to give greater commercial certainty, we hope, to the commercial industry and commercial guidance to the narrowcasting industry on the other hand.

A number of the issues that have been discussed here, including this morning, are likely to be in play there. One, for example, is the scope of racing radio services. The ABA’s discussion paper on section 19, which was released late last year, canvasses issues with racing radio. Certainly, the ABA’s intention would not be to remove racing radio narrowcasting, but it would be to attempt to give a much clearer indication of what the boundaries of that are if it is to be narrowcasting. Once the ABA makes a section 19 determination, parliament gets the chance to disallow it—it is a disallowable instrument.

Ms Maddock—Because, as you can imagine, once you have got a racing radio station on the air, there is a great tendency for there to be creep: the radio station does not want down time between races, so it wants to play music; it wants to be on the air 24 hours a day, because people tune into 24 hours a day.

CHAIR—I do not think the objection is to that.

Ms Maddock—No, what we are attempting to do is to define where the boundaries currently are.

CHAIR—The objection is to them using blocks of programming as a de facto commercial broadcaster.

Ms Maddock—Breakfast programs—things like that.

CHAIR—Yes.

Mr McARTHUR—It was strongly alleged this morning by FARB that radio 2KY, racing, has been breaching its licence requirements, because it has been going well beyond its—

Mr Tanner—That is correct. In fact, Ron Camplin, whom you heard from this morning, actually lodged a complaint with the ABA and the ABA investigated it. He lodged it in relation to the particular outlet of the New South Wales racing radio service which is nearest Bathurst. The ABA upheld that complaint. It found that they were not providing an open narrowcasting service and the ABA served a notice on racing radio. We are hoping that the issue of commercial versus open narrowcasting concerns about the proper boundaries of racing radio can be resolved inside the section 19 process with a high degree of certainty.

Mr McARTHUR—Are you dealing with it now?

Mr Tanner—Yes.

Mr McARTHUR—Mr Camplin was not too sure this morning that you were having a go at it.

Mr Tanner—We have served a notice and we are currently addressing the issue with a section 19 inquiry.

CHAIR—Is there any limit on the amount of music they can play? Is it strictly forbidden—are they allowed to play any?

Mr Tanner—No, it is certainly not forbidden. You have to understand that the rules are far more general than that. In fact, the rules are so general that—I do not know if you have the time—I am tempted to quote the rules to give you an idea of the amount of statutory guidance we have about when something becomes open narrowcasting or commercial. A commercial broadcasting service is a service:

... that provide programs that, when considered in the context of the service being provided, appear to be intended to appeal to the general public ...

There are some other matters set out in the paragraphs underneath that indicating that they should usually be advertising funded, available on commonly available equipment and so on. That is how a commercial radio service is defined. If you look at section 18, which defines open narrowcasting, an open narrowcasting service is a broadcasting service:

whose reception is limited:

(i) by being targeted to special interest groups—

and then there are several other ways they can be limited, including:

(iv) because they provide programs of limited appeal—

or for some other reason. The only statutory guidance the ABA has to determine whether or not a service is commercial broadcasting or open narrowcasting is whether on the one hand—it may come down to this anyway, given that there are several criteria—a service is providing:

... programs that, when considered in the context of the service being provided, appear to be intended to appeal to the general public—

or on the other hand—

Mr McARTHUR—Mr Camplin was saying that the spirit of the arrangements have been overcome.

Mr Tanner—I entirely understand Mr Camplin's position; I have spoken to Mr Camplin about this.

Mr McARTHUR—He has put pretty strong evidence before this committee on this matter.

Mr Tanner—His concern, as I understand it—at the risk of verballing Mr Camplin—is that, whereas he was quite happy with the racing radio service, he feels that a racing radio service with a general, commercial radio style breakfast program should not be open narrowcasting. In fact, the ABA has upheld—

Mr McARTHUR—His argument, as I heard it, was that the racing narrowcast was provided and they expanded into the commercial licence which you guys gave him.

Mr Tanner—The point I have made is that the ABA has absolutely no 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. The point I am trying to make here is that in fact we get only extremely general guidance. This has in the past made enforcement somewhat difficult for the ABA.

Mr McARTHUR—If the spirit of your licence approval is not being adhered to, wouldn't you recommend to the government that there should be some changes in the act?

Mr Tanner—We are hoping, as far as possible, to fix the problem ourselves through the use of section 19. To the extent that that does not facilitate compliance by industry and enforcement by the ABA where necessary, then I think the ABA would be turning to government—

Mr McARTHUR—What does section 19 do?

Mr Tanner—but we are doing our best to use the powers we have been given by parliament to fix the problem as far as we can.

Ms Maddock—Let me add that there are a couple of ways you can go about skinning this cat: the first is that you attempt to define, as we are trying to do, what those very general words mean; the second is that when we get the complaint from Ron Camplin re Bathurst racing radio—I have forgotten the call signal—we take action on it; and the third is that we ask for injunction powers, because a lot of the problems with this are that, if somebody is doing it, you cannot act very quickly. You can put conditions on but the bus has gone—you cannot act quickly. That is one of the reasons why we think we need injunction powers—so that we can act and say ‘stop’ immediately.

CHAIR—I take your point, Mr Tanner, that, if somebody wanted to say, ‘We are a narrowcaster: this week, we are doing 50s and 60s popular music; next week, we are doing heavy metal; the week after that, we are doing nothing else but Christian radio; and the week after that we are doing horse trials across Australia,’ providing that in each block of that they stay within the spirit of narrowcasting they are not in breach.

Mr Tanner—That is correct.

CHAIR—It is like liquorice allsorts, isn’t it?

Ms Maddock—With the racing radio Bathurst situation, we found that the combination of the breakfast program, even though it had the racing results and the races through the day, made the total look and feel of it too commercial to be justified, so we told them to stop doing it in the way they were. You have got to make the decision in the total context of the station.

CHAIR—The reason is that they are rebroadcasting the 2KY signal.

Ms Maddock—I understand, yes.

CHAIR—When some organisation does apply for an open narrowcast licence—and I understand the commercials can do this too; can they not?—

Ms Maddock—They can.

CHAIR—doesn’t it have to tell you what it wants it for?

Mr Tanner—No. In fact, the intention—if you look at the theory behind this legislation; it is articulated in one of the early sections—is that the degree of regulation is proportional to the influence exerted by the service. The idea of open narrowcasting was to make it extremely easy

to provide services that were regarded as not influential, so easy in fact that you do not even need a licence to provide an open narrowcasting service. The content of open narrowcasting services is authorised by a class licence so, if there are open narrowcasting services being provided, the ABA do not even have to be told.

The only reason we know about most important open narrowcasting services is that in order to provide a radio service using the broadcasting bands of the spectrum you need a second authorisation and that is a transmitter licence from the ABA. So, because of our role planning and allocating transmitter licences that are needed by broadcasting bands open narrowcasters, the ABA are generally aware of where there are major open narrowcasting services operating. But we have very little power—in fact we have no power—to mandate the particular content of an open narrowcasting service, and that was never the statutory intention. I think that if you look at a lot of the things about the 1992 legislation you will find underlying it a certain policy faith in the efficacy of markets, therefore a wish to allow markets to operate. I guess this treatment of open narrowcasting is a facet of that.

CHAIR—Dear oh dear, you depress me. What other areas to examine, colleagues?

Mr HARDGRAVE—On the question of digital technology, the matter that you raised a moment ago, Professor Flint: does some of this concern about lack of spectrum for the variety of services disappear with digital technology?

Prof. Flint—I think that is a while away, apart from the minister's announcement. I think the position now is that the minister is waiting on the industry to suggest the preferred form of digital technology.

Mr HARDGRAVE—Say we have a variety of services coming out of one operator. As some would suspect, we could have used the digital spectrum allocation to commercial television for multichannelling and that sort of thing.

Prof. Flint—It has the potential to produce a number of services of high quality.

Mr HARDGRAVE—So the idea of a community aspirant having to share their air time with another community aspirant would evaporate if digital technology were being used for transmission?

Prof. Flint—Some community stations have more time than they really need. If they are targeting a narrow interest, they fill up the rest with inconsequential matter.

Mr HARDGRAVE—We say that about AM and FM now.

CHAIR—Are we going to allow this laissez-faire attitude that seems to have been in vogue since the 1992 legislation to translate into the digital spectrum and again multiply all the problems? Are we going to have a whole new raft of players who pretty well please themselves about content? Are we going to have people operating simultaneous AM, FM and digital licences? Are we going to look at some trade-off as the television stations have at present, that they will operate in two mediums for a length of time and then convert to the other medium? We have had people here this morning from FARB tell us there are 175 areas of Australia yet to

be covered with ordinary radio—AM and FM. Are we going to move into digital and go through all of the business like the mobile phones and the television and the AM and FM radio, yet we still cannot cover the land mass of Australia? Are we going to go through this whole tortuous problem again or are we going to approach it this time in a much more focused way? What is your recommendation?

Mr Tanner—I should explain that with digital radio, unlike with digital television, we actually have not even got to the point of choosing a standard.

CHAIR—I understand that.

Mr Tanner—So, depending on the standard you choose, there is a whole range of different issues, and a lot of those issues are simply not even the ABA's call yet.

CHAIR—I understand that too, but I want your opinion on which way it should be going.

Prof. Flint—My opinion is that you would make very sure that what we get is something which is suitable for Australia—and that means looking at other countries. You would make sure that the policy preferences of the parliament—for example, if the parliament wishes local content, if the parliament wishes to look at viability—were also looked at. It would have to be done, in my view, very carefully.

Mr Tanner—I would add to that point that, as we have not made those initial decisions about a standard or any of the decisions that go around that, I gather there has been bipartisan support in the past for the idea of conversion of existing players to whatever the digital medium is, with or without scope for competition. The sorts of questions that you are looking at about whether or not, say, same coverage needs to be a goal or whether we should be doing better than same coverage and making a strategic goal out of improving reception in areas that do not have radio are still downstream, and they are quite complicated issues because at present it is not completely clear yet how a commercially feasible path to digital radio is going roll out.

Australia and the ABA are spending a lot of time watching the emerging digital technologies and the trials that are going on overseas. There is a report on that in our first submission, which was intended to give you a snapshot of where things are actually up to. If you wanted to discuss what the options and issues are for using digital to address particular problems with the analog system, we would really have to get into a discussion on those various standards and where they might lead us. I will give you an example: the Americans have been working hard on a system called 'in band on channel' for FM conversion, and I think they have an AM equivalent as well. Obviously their system is going to mean, if one were to adopt that, that digital reception would broadly mirror existing analog reception and there would be the same number of digital services as there are analog services. That is one technology which is under examination.

Other technologies, such as Eureka, which has been a leader around the world for quite a few years now, are basically greenfield technologies that would allow, if you wished, a fresh start with different planning assumptions and different assumptions about quantity of services. But there are various pre-existing limitations that you then have to grapple with in terms of the spectrum that is available here in Australia and the spectrum that is not.

Mr HARDGRAVE—So we would want to learn some lessons out of what we have been through for the last decade before we started going down the digital path. Is that a reasonable assumption?

Mr Tanner—Yes.

Mr HARDGRAVE—What about public involvement in the process? It is my understanding that the ABA affords a public involvement in the planning process. We have heard about some involvement this morning, even if it is sampling. What avenues do people who are currently disadvantaged by their radio services, or who perceive they are, have for complaint to you? Does it have to be an official breach of the act before you will look into their comments?

Mr Tanner—In the event that a person is unhappy with the radio services they receive or their reception, usually there is not a breach of any licensee's condition—and that goes back to the very light-touch nature of that condition about contributing to an adequate range of services. I will give a good example: 4SUN, which we have talked about a fair bit, only serves corners of its licence area and yet it is not in breach of any condition; it is complying with all its conditions.

In general, the way the act is set up is that it is relatively easily to facilitate planning solutions. So, if a community wishes to do something itself, like provide a retransmission facility, then the planning process exists to pursue that. You probably came across a number of examples of this in Western Australia. It tends to draw the ABA into a lot of arguments about the appropriateness of allowing satellite reception inside a terrestrial market or terrestrial within a satellite market—arguments about whether or not we are cutting away at the viability of individual markets. The ABA has developed policies to try to balance and encourage the desire of communities to help themselves but, on the other hand, not to completely devalue the licence areas that people acquire with their licences.

Mr HARDGRAVE—No, but 4SUN's complaint is that for 10,000 people, the biggest community in their licence coverage area, they cannot get spectrum allocated by the ABA. Should they have had one of those 10,000 people, or 10,000 of those 10,000 people, write to you and say, 'They are in breach of their licence because I can't hear them'? Is that what should have happened?

Mr Tanner—We didn't actually answer this question before when you raised it.

Mr HARDGRAVE—No, you didn't. That is why I have raised it again.

Mr Tanner—I think there were different questions flying around. One of the things that the ABA gets heavily involved in—and, really, it is the wish of the industry that it be heavily involved—is the idea of fortuitous reception or overspill for signals. Because Australia is crumpled and was not really designed by radio engineers, it is very difficult to create a signal which provides a good service in the licence area but does not provide any kind of service immediately outside the licence area. Much of our planning is about minimising overspill while meeting the legitimate demands of the licensees to serve their own market.

Mr HARDGRAVE—Is this sort of Oberon 3AK argument we heard—the 2BS-3AK interaction at Oberon? Oberon can hear 3AK but they cannot hear 2BS.

Mr Tanner—That is the sort of argument you get into because what happens is that licensees that are licensed to service smaller areas commonly resent it when the ABA attempts to limit their signal to prevent overspill into larger markets and they tend to argue that, ‘Oh, but hang on, all their signals come booming into mine; it should be the same in reverse.’

Mr HARDGRAVE—That is right.

Mr Tanner—What the ABA has tried very hard to do at Mount Tambourine is a couple of things. The primary reason for the delay has been that, because it is so close to the Gold Coast and because this is a very congested market, the ABA did not believe it should plan Mount Tamborine for 4SUN in isolation when it did the remote licence area plan but should wait till it came to Brisbane and the Gold Coast to make sure it was looking at all needs for additional channels across that huge area—and not ripping off the conurbation of 2½ million to help the 10,000, if you like. But that caused a lot of delay.

Mr HARDGRAVE—But that is not very consistent. I am not going to spend my day debating the QFM Star 106 matter, but that is a complete contradiction of what you have just said. Your argument here is that the conurbation of 2½ million people is now a criterion for planning for the 10,000 who are on the other side of a line to the folks on the Gold Coast side of the line, yet 20 minutes ago you were telling me that Ipswich is encroaching on Brisbane. This is two bob each way here. This is where the frustration of this whole market in this part of the world gets caught up.

Mr Tanner—The ABA has decided not to allow further encroachment to Brisbane by the Ipswich service and it is endeavouring to do the same thing with Mount Tamborine. The principle is the same. The ABA is very sensitive to the need to address coverage issues within the market while minimising overspill. I can tell you that would have the uniform support of practically everyone in the industry.

Mr HARDGRAVE—Well, perhaps so, but—

Mr Tanner—It is a source of regulatory certainty. But it does cause a lot of technical planning problems and—

CHAIR—I do not think there is much point pursuing this further. We have given it a pretty good hit.

Mr HARDGRAVE—What I would still like to know is: what, under the current system, is the avenue available to radio listeners who are dissatisfied with the level of localism that they have? There is absolutely none. There is no opportunity for them to comment at all under the current system, is there?

Mr Tanner—Level of localism? There just isn’t. The closest that we have is—

Mr HARDGRAVE—Or whatever their complaint is.

Mr Tanner—Well, it depends on what they want to complain about.

Mr HARDGRAVE—It would have to be a breach of the act for them to get you interested: that is what you are saying.

Mr Tanner—A breach of the act or conditions.

CHAIR—Let us leave that. Mr Jull.

Mr JULL—FARB have given us a proposed recommendation that once the LAP is completed there should be a 10-year moratorium on the issuing of new licences, and that if you do have a new licence maybe you could look at some system of giving a five-year moratorium on the licence fees. With your experience, do you think that is a justifiable proposition and, in the long term, would it help?

Ms Maddock—Before I let Giles talk on the detail, can I suggest that you need to absolutely consider that on a case by case basis. If you have a licence going for \$155 million in Sydney, to suggest that you should give them a licence holiday seems to me to be a problem.

Mr JULL—I think we are talking regional.

Ms Maddock—And, ditto, there are some regional areas that are going to be profitable and others not.

Mr Tanner—With the completion of the licence area planning process, in a lot of areas we have substantially exhausted the supply of channels that are suitable for new, high-powered services—although that is not uniformly true and, depending on what you want, there might be further planning options. I suppose barn doors and horses come to mind here. To some extent, 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.

The other thing I would say is that the strong pressure on the ABA to plan new services has typically come 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. If the effect of a moratorium were to tie the government's hands and feet from addressing that sort of need if the spectrum allowed, I am not sure how easy that would be, in my experience of dealing with government on the one hand and people who wish to provide new services on the other.

Prof. Flint—May I add to that? As a general rule, that probably will happen, particularly in regional areas. But to have it as a hard and fast rule would be a disadvantage for us. For example, in Sydney, where we have just completed the community allocation process, we have realised there is such a demand for community that we have reopened the LAP and we are looking at redesignating, if the consultation agrees with it, a narrowcasting channel for a community channel so that we can then have another round and allocate that. So I think that would happen anyway in the regions. But it would be a good idea not to have it as a hard and fast rule. On that point, might I be excused, Mr Chairman?

CHAIR—Yes, thank you. Any final comments for the ABA?

Mr McARTHUR—In your submission, you talk about the rise of networking and the particular problem in the Geelong region—which I am familiar with, since I come from there—with Grant Broadcasters. It would appear to me and from your evidence that you have actually taken into account the viability of the two current stations owned by one proprietor and that the introduction of a third licence into the area would be unhelpful. I would like to get on the record exactly why you made that decision. You have it in your submission here; it is on page 3.

Mr Tanner—We do quote that, but we quote that in the context of a discussion about—

Mr McARTHUR—Networking.

Mr Tanner—definitions of localism. The point we were trying to make was that there are several extant definitions of localism and one is about local employment of people working in a radio service. We used the Grant Broadcasters quote in that context. I would have to refresh my memory on our reasoning in Geelong. I was not involved in that decision.

Mr McARTHUR—But it was really the rationale. I was familiar with this argument at this local level where, of the two stations, one was not in profit. When they came under the one ownership, the two separate stations then became profitable. But it seemed an amazing proposition to me that a third licence was even being contemplated. This matter has been canvassed over the hearing with a number of other witnesses.

Mr Tanner—That is true. I would go back to basics here: we have never had regard to the desirability of maximising the profitability of existing services.

Mr McARTHUR—It was not a matter of profitability; it was a matter of them actually surviving.

Mr Tanner—I think I have already discussed the way the ABA—

Mr McARTHUR—One of the services could not pay their bills; they were in a bankrupt position, as I understand it.

Mr Tanner—I do not know the particulars of the Geelong decision—I would have to take your issue on notice—but I think we have already had a fairly extensive discussion of the ways in which the ABA has had regard to feasibility—viability is the wrong word. That is the index of the process the ABA has used.

Mr McARTHUR—So we are getting down to the semantics of words in the act that will guide you in making sensible or otherwise decisions.

Mr Tanner—When you face the threat of a challenge in the courts from people who do not want you to do a particular action, the words in the act take on a peculiar meaning. Obviously there are also wide discretions given to the ABA as well, but they have to be within the channel, if you like, of the words of the act. On the issue of viability, which was expressly removed from

the legislation but has to some extent crept back in—through a careful analysis of part 3 of the act and the planning powers—what the lawyers say does become very important.

Mr McARTHUR—So viability through the back door is now a criterion?

Mr Tanner—No, I do not think the viability test, as such, has ever been a criterion. I can actually give you an excerpt from a licence area plan which articulates the proposition about feasibility, if that is helpful to you. That will give you a sense of what the ABA has been saying to submitters on the issue of when it would put in an additional service or not, in terms of the impact on—

Mr McARTHUR—But isn't the crux of the whole argument that we have been hearing over the last two days about the proliferation of extra licences in regional and rural Australia undermining the profitability of the current operators? That is the argument that has been put to us. I am not saying I agree or disagree.

Ms Maddock—Giles mentioned to me today, as we went out to lunch, some figures on how many new commercial radio licences have been issued.

Mr Tanner—Two-thirds or more of the commercial licences we have issued—and I think we have already made the point that we have issued a lot less commercial licences than narrowcasting in the community in regional areas—are in fact section 39 second licences given for a small fee to incumbents. So the actual number of additional services that have been put in, in a situation where there was an auction, is somewhat under 20, from memory.

Mr McARTHUR—So you would be saying to us that section 39—that is shifting your AM and your FM stations together—

Mr Tanner—No, section 39 is the allocation—usually or almost always—of an FM licence to a solus market station, which is always an AM. So it is the giving of an FM station to an AM single-station market licensee. We have handed out approximately 50 of those.

Mr McARTHUR—So you are refuting the argument that has been put to us that too many licences have been allocated in some of the smaller regional markets?

Mr Tanner—I would not claim that I was refuting that argument. I think there is lots of scope for disagreement about whether or not we have pushed too far with introducing competition into markets, wherever we actually drew the line. But I would make the point that the ABA was given a pretty strong brief from the parliament to push for greater competition and a greater number of services. I think that the ABA has, at all stages of history, approached that with a great deal of discretion and in a very cautious way. It is certainly not the case that the ABA has pushed competition wholesale into the smallest markets. In fact, it is almost always the case that the ABA has refused to put additional services into very small markets, even where there is entrepreneur interest in doing that, because the ABA has had regard to the economic characteristics of that market. What the ABA has done has greatly increased competition in a number of middle sized to large regional markets. Obviously there is scope for disagreement and also a great deal of very good 20-20 hindsight on the implications and impact of that.

Mr HARDGRAVE—There is just one other matter that I would not mind trying to have another go at. Given that earlier today we heard that the 1995 Mildura public meeting—or rather the surveys that came out through the ABA’s planning process—dictated that people did not want more services and that the ABA decided to ignore that and proceed and push ahead, that raises the question of how many times the ABA actually decided not to put more stations into one market. In answering that, I just quote back what Mr Tanner said earlier with regard to accountability for community station licence holders. He said, ‘They go on air, they stay on air and, unless there is some egregious matter which calls them to account, essentially they stay there.’ The same is said for commercial operators: there is absolutely no process available to pull them off, or to threaten to, or to bring them to account, unless it is something that is really quite outstanding. That is so, isn’t it?

Mr Tanner—I guess it goes to what your assessment is of the conditions they operate under.

Ms Maddock—And the BSA, in its format, makes the assumption that the market will make those choices.

Mr HARDGRAVE—So people can tune out if they are not happy?

Ms Maddock—That is the assumption of the act.

Mr HARDGRAVE—Then you start to understand what Mr Lodge told us yesterday of his conversation with Mr Caralis—we can only go on his reporting of that conversation—where Mr Caralis remarked last week, in connection with the Dubbo example, that the competitor in Dubbo is pulling \$50,000 to \$100,000 extra out per year and that people do not want localism anyway, so what is the point? That is my impression of what was said yesterday. Essentially, the markets are telling Mr Caralis that they do not want the local station anyway and they would much rather listen to the other station.

Ms Maddock—It does go to the question of, and I have not formed a strong view, local regions wanting John Laws.

Mr Tanner—It is very difficult to ascertain in any accurate scientific way exactly what people want, although it is frequently apparent when there is something wrong. I have already cited the ABA’s research into people’s wishes for new services. I certainly would not conclude from that that people do not like getting new services, but have you actually asked people if they would like some more radio services? It is not at the top of their mind generally, and only 40 per cent or 50 per cent have a quick answer about what they would like to have. What they tend to say then is things like—the term they preferred—alternative music, whatever that means. It is presumably alternative to what is already in the market.

Mr HARDGRAVE—One would suspect that the judgment of the ABA in 1995 to literally ignore the view of that meeting at Mildura, or whatever it was you were talking about earlier, was really the right move to take because, at the end of the day, the market in 2001 is saying to an operator like Broadcast Operations Group, ‘We are happy with this network station. We do not want the local station any more.’

Mr Tanner—If you sat down in focus groups of people to study their listening habits, I suspect they would like both the choice and the local relevance. I think people are deeply resentful when they get news from another state, or over a boundary, which they sense was made for someone else. I have talked to Adelaide people about the offence it causes them to see a car crash on Parramatta Road as late night news, and that sort of thing. That is a perennial fact about regional identity in Australia.

CHAIR—We might just leave it there. I apologise to you, Mr Gengaroli. You have gone to a lot of trouble, and we just have not got around to it. We will have to get you to come in on a Wednesday to our sitting at Parliament House, if you do not mind.

Ms Maddock—We thought he might be there to deter you from asking too detailed engineering questions.

CHAIR—No. How long does your presentation take?

Mr Gengaroli—It can take 15 or 20 minutes, if you like.

CHAIR—Yes. Could you arrange with the secretariat to come in on one Wednesday when we are sitting to give us that background? I apologise for leaving you off the end of the list.

Mr Gengaroli—Yes.

CHAIR—I would like to thank the ABA. We may need to have you back just for a short time. I must admit, I am more confused on this particular issue than I was before we started today. We will just keep that open if we can. Please get back to us on those few items that you took on notice.

Resolved (on motion by **Mr Hardgrave**):

That, pursuant to the power conferred by section 2(2) of the Parliamentary Papers Act 1908, this committee authorises publication of the evidence given before it at public hearing this day.

Committee adjourned at 3.27 p.m.