

**Office of
Professor David Flint
Chairman**

27 October 2000

Hon. Paul Neville MP
Chairman
Standing Committee on Communications, Transport and the Arts
RG.95 Parliament House
Canberra ACT 2600

[Dear Mr Neville]

ABA Submission to the House Committee on Communications

Government's announcement of the inquiry into the radio industry, particularly the adequacy of radio services in regional and rural Australia, is very timely.

The Australian Broadcasting Authority (ABA) has implemented many of the provisions of the *Broadcasting Services Act 1992*, including those relating to the planning and allocation of new services. Eight years later, it is opportune to consider the extent to which the deregulation of radio broadcasting has delivered improved services, and whether legislative provisions have adequately addressed community needs.

The ABA welcomes the opportunity to provide the attached submission to the House Committee. The submission provides an overview of the effectiveness of the legislative provisions, in particular, those that are relevant to the Inquiry's terms of reference. We would be happy to provide additional information on any particular aspect of the ABA's submission should the House Committee so require.

I note the House Committee may conduct public hearings in relation to matters covered by this inquiry, and I would be happy to attend if invited to do so. Please do let me know if we could be of further assistance in the meantime.

Yours sincerely

[David Flint]

**Submission by the Australian Broadcasting Authority
to the House Committee on Communications
Inquiry into the Radio Industry**

The changing regulatory environment

Twenty years ago, a ‘typical’ regional Australian radio market contained, in addition to one or more ABC services, a single commercial radio station operating on the AM band. There was little community (then known as ‘public’) radio outside of the metropolitan areas. Though facing relatively little competition in their markets, regional commercial services faced far higher levels of regulatory oversight than today.

This level of regulatory accountability could be seen as a *quid pro quo* for their monopoly position. All commercial radio services were subject to an obligation to provide ‘an adequate and comprehensive service’ (Section 83(1)) of the *Broadcasting Act 1942*. This obligation had both content and technical dimensions: a station could be called upon to improve either some aspect of its programming or of its technical coverage. Each station’s performance was regularly monitored, as licences were renewed every three years following a public inquiry conducted by the ABA’s predecessor, the ABT.

The intervening years have seen vast and irrevocable changes in regional radio. Following the opening up of the FM radio bands during the eighties, the 1992 reforms that created the ABA also sought to substitute greater competition for intensive regulation as the primary incentive for regional commercial radio to meet audience needs. The *Broadcasting Services Act 1992* (BSA) reforms included:

1. new licence planning and allocation mechanisms, designed to speed introduction of new services and, as far as possible, to put vacant radiofrequency spectrum to use;
2. new ownership and control limits that liberalised ownership of commercial radio. Ownership limits were lifted from one to two licences in each market, foreign control prohibitions were abolished and the overall number of licences one person could control Australia-wide was increased;
3. abolition of regular licence renewal inquiries and amendment of the ‘adequate and comprehensive service’ requirement so that individual commercial broadcasters were now required merely to contribute to the provision of an adequate and comprehensive range of broadcasting services; and
4. creation of additional categories of broadcasting, relevantly, including open narrowcasting services, which are subject to even lighter regulatory control.

The BSA conferred the responsibility for implementing these reforms on the ABA, together with the promotion of the BSA’s sometimes conflicting objects, including the liberalisation of ownership of commercial radio and the encouragement of appropriate coverage of matters of local significance. For example, object 3(a) requires the promotion of the availability of a diverse range of radio and television services to audiences throughout Australia, and object 3(b) requires a regulatory

environment that facilitates the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs. Further, object 3(g) requires the providers of commercial and community services to be responsive to the need, among other matters, for the appropriate coverage of matters of local significance.

The impending completion of initial licence area plans and the allocation processes for radio in all markets in Australia makes it timely to consider the extent to which the mechanisms of the BSA have delivered improved services, and where they have failed to address community needs. The changes in the regulatory framework and how safeguards for the public interest can be addressed are described in Attachment 1.

Outcomes of BSA reforms

Eight years on from the introduction of the BSA, the result is a proliferation of radio services,¹ both competing and commonly owned, throughout regional Australian markets. In allocating and licensing new services, the ABA has implemented the BSA's legislative blueprint, placing primary emphasis on ensuring community needs are addressed through promotion of the availability of a diverse range of radio services. This has included additional national, commercial, community and narrowcasting services in most markets, depending on spectrum availability and the level of interest in providing additional services.

To date, the ABA has completed the first two stages of the planning process set out by the BSA: determining planning priorities in 1993 and a frequency allotment plan in 1994. The third stage, development of licence area plans (LAPs), is a complex process including wide public consultation and comprehensive engineering groundwork. LAPs have been completed for the top three priority areas, including the majority of regional areas where the needs were greatest, with the remainder (both regional and metropolitan areas) due for completion in 2001.

While it is much harder now to generalise about a 'typical' regional market, some examples give a flavour of the range of outcomes:

- Mt Isa (a small regional centre) has two commercial radio services, two community services and two allocated open narrowcasting services;
- Mildura (a medium regional centre) has three commercial radio services, two community services and one allocated open narrowcasting service; and
- Shepparton (a large regional centre) has three commercial radio services, two community services and four allocated open narrowcasting services.

A more detailed account of the planning process and the number of services allocated can be found at Attachment 2.

As a result of the BSA reforms, the number and range of services available in regional areas in Australia has increased considerably. For example, post-BSA, the

¹ Currently, radio reaches 95% of Australians, with commercial radio by far the most popular, reaching 78% of Australians. (Source: *ACNielsen Radio Surveys 2000*)

total number of commercial radio services operating in regional areas on the Broadcasting Services Bands increased from 117 to 188, the number of community services increased from 52 to 191, and 173 open narrowcasting services have been allocated. However, it is still the case that regional radio listeners have fewer choices of commercial radio stations than their capital city counterparts and regional commercial radio stations have access to fewer listeners.

Despite the competitive threat posed by the new commercial and community broadcasters and narrowcasters, the financial performance of commercial radio stations has improved since the BSA reforms. The average rate of return (excluding licence fees and licence values) achieved by commercial radio stations in regional areas increased fivefold between 1991-92 and 1998-99, from 3% to 15%, although still well behind the corresponding returns of 14% and 29% for capital city stations.

Additional details on the ownership of commercial radio services and financial performance of the sector can be found at Attachment 3.

The rise of networking

The solus commercial radio station of twenty years ago needed to be ‘all things to all people’. It also tended to be locally produced, that is, the content on air was often substantially the work of locally-employed people. The progressive loss of locally-produced content in favour of centralised or networked production continues to be a focus of concern about ABA planning and licensing decisions. For example, Grant Broadcasters submitted earlier this year to the ABA, with regard to the LAP for the Geelong area, that:

The outcome of the introduction of a third licence in Geelong would be to reduce the overall resources that can support localism. The consequence of this for Grant Broadcasters is that we would be likely to have to adopt networking for the first time in Geelong and thus would introduce networking for all our stations. This goes against our belief in the importance of localism.

Submissions along similar lines were made, for example, in relation to the Mildura/Sunraysia LAP in 1994/95, indicating that this has been an area of concern for some time about the potential impact of new licences in regional areas.

It is undeniable that the last decade has seen a move towards greater networking. The BSA reforms have encouraged it in several ways. For example:

- Liberalised ownership rules have permitted smaller numbers of proprietors, including major foreign entrants, to control greater numbers of stations: the number of allocated regional networked stations increased by more than 80% between 1993 and 2000;
- The spectrum planning rules have increased competition in markets by encouraging the ABA to plan the whole spectrum in areas. Once reservation for national and community broadcasting services are taken out, all remaining

channels have frequently been made available for open narrowcasting or commercial broadcasting; and

- Increased competition has encouraged rationalisation and ‘hubbing’ or centralisation of content production by squeezing profit margins, as networks gain financial efficiencies by sharing programming and administration costs.

However, the primary role of new technologies should not be denied, with massive changes to radio production and distribution methods facilitating much greater centralisation of radio production.

Networking and local relevance

In evaluating the effects of increased networking, a distinction needs to be drawn between loss of local employment and loss of local relevance of the service. Greater networking tends to reduce direct employment in radio in some regional centres while increasing it in others (radio production ‘hubs’ are typically located in regional centres). While there may be legitimate objections to both these developments, the ABA has traditionally been concerned only about the latter. That is, the BSA gives the ABA no brief to promote local employment – rather, the objects and conditions of the BSA relate to the adequacy and local relevance to the community of what is actually put to air.

The ABA believes that greater networking is inevitable and not necessarily undesirable. The issue for the regulator is whether, on a case-by-case basis, centralisation of production has resulted in a failure to provide appropriate coverage of matters of local significance. There can be benefits from networking, for example, by reducing production costs, this could allow for more choice of services overall. Moreover, many radio formats meet needs that are not confined to particular geographical areas. Hence, networking could facilitate the extension of services of wide appeal, for example, specialist music services. At its best, the concentration of creative resources in a ‘hub’ could actually improve the quality of local inserts in all markets serviced.

On the other hand, the intrinsically local nature and appeal of radio imposes limits to what can usefully be achieved through centralisation. At its worst, networking may simply mean the extinguishment of locally-relevant material in circumstances where no other local station is providing that content.

Have the gains of greater networking (including the viability of increased numbers of services overall) outweighed the costs to listeners, especially in regional areas where syndicated programming has replaced locally produced material? In 1999, commercial radio stations provided information on their programming to the ABA. The results of that study are at Attachment 4, which shows programming provided by commercial stations in regional areas compared to those in capital cities. The Attachment also includes details on the adequacy of radio services from findings of attitudinal research conducted by the ABA in 1994. It may be significant that in early 2000, on average, regional networked stations provided more news and community announcements than their metropolitan counterparts in large and medium regional areas. Unfortunately, the ABA’s study at Attachment 4 does not

reveal the extent of news specific to the local area from either networked or independent regional stations. No differentiation is made in the study between capital city based networks or purely regional networks.

One of the objects of the BSA is ‘to encourage the providers of commercial and community broadcasting services to be responsive to the need for... an appropriate coverage of matters of local significance’ (section 3(g)). The ABA considers a station’s involvement and identification with its local community, to be an important criterion for assessing the performance of radio stations within regional communities.

The localism object of the BSA exists in tension with commercial licence service conditions. As noted above, before the introduction of the BSA, each broadcaster was subject to an obligation to provide ‘an adequate and comprehensive service’. Now, the obligation on any single licensee is to:

provide a service that, when considered together with other broadcasting services available in the licence area of the licence (including another service operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area (Clause 7(2)(a), Part 3, Schedule 2 to the BSA)

There is no obligation on any single commercial licensee to provide an adequate and comprehensive range of services. Moreover, commercial radio stations are considered to be one of a number of broadcasting media providing information to a community: community and national radio services, and also television, must be taken into account in determining whether a commercial radio station is meeting its licence conditions. A shortcoming of the current ‘adequate and comprehensive’ condition is that it does not impose a clear obligation on any single licensee to do anything in particular. Thus, if all services in a market ceased to carry local news, it is unclear which, if any, has breached the obligation to ‘contribute ... to the provision of an adequate and comprehensive range of services’.

The role of other radio sectors

Object 3(g) requires the providers of commercial and community services to be responsive to the need, among other matters, for the appropriate coverage of matters of local significance. There are other ways of achieving coverage of matters of local significance, for example, through community broadcasting, narrowcasting, and potentially datacasting. Currently, commercial radio commands the largest audience Australia-wide (69%), with a substantial minority (31%)² of the total radio audience listening to other sectors of radio, including national, community and narrowcasting services.

Over its thirty-year history, community radio has evolved several discrete special interest sectors catering to community needs not adequately addressed by mainstream radio. The special interest sectors most widely represented in regional Australia are Christian radio and Aboriginal and Torres Strait Islander radio. Also found in some regional areas, though less widespread, are special interest services

² Source: *ACNielsen Radio Surveys 2000*.

catering for Radio for the Print Handicapped, education and 'Over 55' radio, among others. Otherwise, most special interest needs are addressed through wide-purpose community licences that seek to cater to many different interests. A summary of the types of special interests catered for by community services may be found in a speech to the 1999 CBAA Annual Conference at http://www.aba.gov.au/about/public_relations/speeches/gt_broad99.pdf.

The development of discrete forms of special interest radio under the community 'umbrella', each addressing community needs that are not otherwise addressed, may suggest there would be benefits in more national strategies to meet special interest needs than the current *ad hoc* market-by-market approach to community licence planning.

Balancing requirements of the BSA

These developments have been monitored by the ABA in order to pursue a balance between the objects of the BSA. While some of the changes under the BSA are irreversible, and others would require legislative amendment, the ABA retains a number of regulatory options to provide community safeguards and address public interest concerns. These include:

- the power, subject to the availability of spectrum, to plan and allocate additional services – though noting the ABA cannot limit the formats of new commercial services or allocate other than on the basis of prices bid at auction;
- the ability to drive changes to codes of practice through research into whether existing codes are providing adequate community safeguards; and
- if codes fail, the power to determine mandatory program standards applied as conditions of licence.

Recent uses of some of these powers include:

- under section 34 of the BSA, the ABA made available spectrum, which would otherwise have remained unused, prior to completion of a LAP for Temporary Community Broadcasting Licences (TCBLs). This has enabled aspirant community broadcasters to operate temporary community broadcasting services in areas where frequencies were available. Currently, 67 TCBLs have been allocated in regional areas and 66 TCBLs in metropolitan areas;
- in April 2000, the ABA announced its intention to exercise its power under section 19 of the BSA to 'bring greater clarity to the concept of open narrowcasting radio services'; and
- the ABA recently conducted an inquiry under section 170 of the BSA into the commercial radio industry regarding the disclosure of commercial agreements by presenters. The ABA found systemic failure by the commercial radio licensees to ensure the effective operation of the industry's self-regulatory codes of practice. Consequently, the ABA proposed three new standards, which the broadcasters must comply with as a condition of licence from November 2000.

Beyond these, there are issues where the ABA's ability to resolve problems is limited as it does not have the necessary powers. What are the needs that must be met in the future? Some specific areas are worthy of further examination, such as recognising the irrelevance of treating each licensee as a separate entity in a networked environment, or learning from the ways in which other regulators ensure localism. A comparison of how localism is achieved in Canada, the UK and the USA is provided at Attachment 5. Further, areas have also been identified in the findings of the Commercial Radio Inquiry, where the ABA has submitted that it could more effectively meet some specific functions under the BSA with suitable injunctive powers.

Future challenges

What is clear is that 'localism' – once a term used to justify the combination of local monopolies and intensive regulation that formerly characterised commercial radio in regional Australia – must now be pursued in very different ways.

The increased numbers of radio outlets in most markets are by and large a *fait accompli* – the challenge for regulation is to square the wishes of regional Australians to enjoy an appropriate range of services with their desire that radio should remain locally relevant, and to do this in ways that the market can sustain.

As licence area planning has exhausted high quality channels in many of the more congested regional radio markets, there will be technical constraints on solutions that simply increase the number of services. Where new services are considered desirable, this may raise issues such as:

1. whether the ABA's powers to clear analog frequencies, for example, by re-assigning existing channels so as to make room for additional services, are adequate;
2. any legal fetters on the ABA's ability to mandate the purpose or interest to be served by additional licences (for example, the ABA is constrained to allocate new commercial radio licences solely on price bids); and
3. issues about timing, given the ABA's considerable load of existing planning work.

Whatever goals the Committee identifies as a result of its Inquiry, it may wish to consider, before recommending substantial changes to legislation, whether the existing 'tiered' regulatory mechanisms – codes of practice, licence conditions and standards – in fact already contain the flexibility to provide additional community safeguards.

Whatever governments seek to accomplish through regulation, technological innovation will continue to drive changes in ways Australians seek to entertain and inform themselves. At Attachment 6, the ABA has included a short survey of up-and-coming digital technologies likely to impact on regional radio in the years to come. Among other things, the survey shows that digital replacement technologies are unlikely in the short term to prove a substitute for analog AM and FM radio as the paramount means of providing locally-relevant audio entertainment and

information in both 'fixed' and mobile markets. Analog radio, with its near-universal signal coverage and cheap and ubiquitous receiver population, will remain a uniquely important part of Australia's communications infrastructure for some years to come.

Should the Committee recommend changes to the BSA to provide greater opportunities for localism to thrive, it may not be necessary to create more regulation, but rather, it may be preferable to provide the ABA with greater flexibility in meeting the demands of an evolving broadcasting environment. The current framework – of industry codes, standards applied as conditions of licence and the BSA provisions – provide an incremental process for regulating the industry.

Broadcasting regulatory framework and safeguards for the public interest

A1.1 The changing legislative environment

A1.1.1 Broadcasting Act 1942

Prior to the commencement of the *Broadcasting Services Act 1992* (BSA), the Department of Transport and Communications was responsible for the planning of the radiofrequency spectrum for broadcasting services. Allocation of licences for services planned by the Department was carried out by the predecessor to the ABA, the Australian Broadcasting Tribunal.

The *Broadcasting Act 1942* provided criteria for the Australian Broadcasting Tribunal to consider before allocating a commercial licence to an applicant. In particular, section 83A of the *Broadcasting Act 1942* provided that the Tribunal was to consider whether the applicant:

- was a fit and proper person to hold the licence;
- had the financial, technical and management capabilities necessary to provide an adequate and comprehensive service pursuant to the licence; and
- was otherwise capable of complying with the conditions of the licence.

Section 83A of the *Broadcasting Act 1942* also provided that, where there was more than one applicant for a commercial licence, the Tribunal was to grant the licence to the most suitable applicant.

A1.1.2 Broadcasting Services Act 1992

The BSA commenced operation on 5 October 1992 and replaced the regulatory regime established under the *Broadcasting Act 1942*.

The ABA is charged with the responsibility, under Part 3 of the BSA, of planning new services throughout Australia. Under section 24 of the BSA, the ABA determined priorities, between particular areas of Australia and between different parts of the broadcasting services bands, for the preparation of frequency allotment plans and licence area plans. These are achieved through determinations: of *frequency allotment plans*, which define the number of channels to be available in particular areas of Australia; and of *licence area plans*, which define the number and characteristics of broadcasting services that are to be available in particular areas of Australia. The ABA must make provision for wide public consultation in the preparation of these plans.

When planning new services, the ABA must promote the objects of the BSA, including the economic and efficient use of the radiofrequency spectrum, and it must have regard to the criteria in section 23 of the BSA, namely:

- (a) demographics; and

- (b) social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally; and
- (c) the number of existing broadcasting services and the demand for new broadcasting services within the licence area, within neighbouring licence areas and within Australia generally; and
- (d) developments in technology; and
- (e) technical restraints relating to the delivery or reception of broadcasting services; and
- (f) the demand for radiofrequency spectrum for services other than broadcasting services; and
- (g) such other matters as the ABA considers relevant.

The Explanatory Memorandum to the *Broadcasting Services Bill* states that the planning of broadcasting services by the ABA is

... the “driving force” of broadcasting regulation. It is at the planning stage that judgments will be made about the number and types of services to be available in market areas. There will no longer be provision at the licence allocation stage for reconsideration of whether or not there should be another service of a particular category in a licence area – such issues will be settled during the planning stage.

In accordance with this role, the ABA plans for the availability of a mix of commercial broadcasting, community broadcasting and narrowcasting services in licence area plans.

Once a licence area plan is completed, the ABA proceeds to allocate any new commercial radio broadcasting services identified in the plan, through a price-based process defined in section 36 of the BSA. The Explanatory Memorandum to the *Broadcasting Services Bill* states that the price-based allocation process

... is a departure from that in the 1942 Act – there is no ‘merit contest’ as to which proposal for a service is the most desirable; viability of the proposed service or existing services is not a factor to be taken into account; a licence may only be refused or cancelled because the licensee is unsuitable, that is, a licensee will no longer be required to demonstrate “technical, financial and management capability” as was provided in the 1942 Act.

The BSA represents a marked change from the *Broadcasting Act 1942* in the planning and allocation of broadcasting services. Where the *Broadcasting Act 1942* required the Australian Broadcasting Tribunal to make judgments regarding the viability and merit of an application, the BSA allows the market to make this assessment.

A1.2 Licence conditions

Under the BSA, holders of broadcasting licences are subject to a number of conditions on their licence. The licence conditions are set out in Schedule 2 to the BSA and cover matters such as the broadcasting of political and election matter, record keeping by licensees, and advertising relating to medicines and tobacco products.

A1.2.1 Commercial licences

Commercial radio licences are also subject to the condition at clause 8(2)(a) in Part 4 of Schedule 2 that:

... the licensee will provide a service that, when considered together with other broadcasting services available in the licence area of the licensee (including another service operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area;

There is no obligation on each commercial radio licensee to provide an 'adequate and comprehensive' service in its own right, as there was in the *Broadcasting Act 1942*. Furthermore, there is no requirement under the BSA for a commercial radio licensee to provide any news service (local or otherwise). The present licence condition is concerned with the provision of services in the market as a whole, and takes into account all the radio and television services in the licence area. The service provided by a licensee is thus to be considered in the context of all broadcasting services available in that area.

The BSA does not prescribe the method by which programs are to be delivered. Thus, the 'service' referred to in the licence condition is the set of programs received by a viewer. This is not affected by the location in which any element of the programming is made. The BSA does not empower the ABA to intervene in commercial decisions made by broadcasters, unless such decisions relate to compliance with the Act, a condition of licence or an industry code of practice.

The ABA remains concerned that the community is satisfied about these and related matters. Accordingly, the ABA has approved a major research project on the sources of news and current affairs, which is currently under way. One of the themes of the project is to explore the regional coverage of news and current affairs. The results of this project will provide valuable information to assist the ABA in its policy decisions regarding various matters of public interest, particularly in light of object 3(g) of the BSA.

During 2000, the ABA conducted five investigations into 'networking' on commercial radio. Each investigation has resulted in the ABA finding that the stations concerned did not breach a condition of their licence or a code of practice. The BSA does not specifically address the issues of networking, automation and the presence or absence of local employees. However, these issues can be addressed by the commercial radio industry through its code of practice or through Government intervention by way of additional licence conditions.

A1.2.2 Community licences

Community radio broadcasters are subject to the condition at clause 9(2)(b) in Part 5 of Schedule 2 that:

... the licensee will continue to represent the community interest that it represented at the time when the licence was allocated;

Both commercial radio licences and community radio licences are subject to the conditions at clause 8(1)(d) and (e) and clause 9(1)(d) and (e) respectively:

... the licensee will, if the Minister, by notice in writing given to the licensee, so requires broadcast, without charge, such items of national interest as are specified in the notice;

and

... the licensee will, if the Minister notifies the licensee in writing that an emergency has arisen which makes it important in the public interest that persons authorised by the Minister have control over matter broadcast using the licensee's broadcasting facilities, allow those persons access to and control over those facilities;

The radio industry can expect to play a key community role as a source of essential information during emergencies and following disasters. As a result, the ABA has discussed with the commercial radio industry the issue of contingency planning for emergencies and disaster recovery. The ABA is of the view that commercial broadcasters should have appropriate disaster recovery or business continuity plans to ensure they would be able to continue to provide services that comply with the licence conditions in the event of any disaster or emergency.

The ABA has also sought information from the commercial radio industry concerning its ability to respond appropriately if an emergency arose. For example, there may be a situation where an accident or emergency arose late at night, in an area and at a time when available commercial radio services were 'hubbed' from another site or providing a fully pre-recorded service. The ABA is of the view that minimum standards should exist throughout the commercial radio industry to ensure that people such as emergency services know how to contact radio service providers and to get on-air with important information.

The ABA's concerns go beyond the requirements of the licence conditions, however, as object 3(g) of the BSA encourages 'providers of commercial ... broadcasting services to be responsive to the need for ... an appropriate coverage of matters of local significance'. This issue could be addressed by the commercial radio industry through its code of practice or through Government intervention by way of an additional licence condition.

A1.3 Codes of practice

It was Parliament's intention that radio and television industry groups, in consultation with the ABA and taking into account any relevant research conducted by the ABA, would develop codes of practice which are applicable to the broadcasting operations of the relevant industry sectors. Before the ABA can register a code of practice, it must be satisfied under section 123(4)(b) of the BSA that:

- (i) the code of practice provides appropriate community safeguards for the matters covered by the code; and

- (ii) the code is endorsed by a majority of the providers of broadcasting services in that section of the industry; and
- (iii) members of the public have been given an adequate opportunity to comment on the code;

The commercial and community radio industries have developed codes of practice, which cover matters such as programs unsuitable for broadcast, news and current affairs, advertising, Australian music and complaint handling. The community radio code of practice also covers issues concerning the rights and responsibility of volunteers and dispute resolution. Under the current system of industry codes of practice, the primary responsibility for program content rests with the radio stations.

Complaints about the content of programs on radio must first be made to the broadcaster concerned. If a commercial or community station fails to answer a written complaint within 60 days, or the response is considered inadequate, the complainant may make a complaint to the ABA about the matter. The ABA must investigate the matter unless it is satisfied that the complaint is frivolous, vexatious or not made in good faith. The ABA also investigates complaints about potential breaches of licence conditions or of the Act. Such complaints can be made directly to the ABA in the first instance.

Any action taken by the ABA as a result of a breach finding would depend on the seriousness of the breach. A breach of a code of practice may result in the ABA making compliance with that code of practice a condition of licence. A breach of a licence condition or of the Act may result in the ABA taking administrative action, such as issuing a notice to ensure compliance.

A1.4 Commercial Radio Inquiry

An example of how the ABA can act to review the effectiveness of codes of practice is the recent Commercial Radio Inquiry. On 12 July 1999, the ABC program *Media Watch* broadcast a story concerning an alleged financial agreement between 2UE presenter Mr John Laws and the Australian Bankers Association (an organisation representing the major Australian banks). On 15 July 1999, the ABA announced that it would be using its formal powers under the BSA to conduct an investigation into the issues raised by the *Media Watch* program.

After further allegations appeared in the media concerning financial arrangements between 2UE's breakfast program presenter, Mr Alan Jones, and commercial interests, the ABA announced that it would widen the scope its inquiry to include 2UE broadcasters other than Mr Laws.

Soon after the commencement of the 2UE investigation, the ABA received information relating to commercial arrangements entered into by an announcer, Mr Howard Sattler, at commercial radio station 6PR Perth. In addition, further allegations were raised on the *Media Watch* program of 26 July 1999 concerning Mr Jeremy Cordeaux and radio station 5DN. As a result, on 30 July 1999 the ABA decided to expand the terms of reference of the Commercial Radio Inquiry.

In November 1999, the ABA again expanded the terms of reference of the Inquiry to include allegations concerning radio station 3AW. In the course of the investigation, evidence was obtained about understandings between other 3AW presenters and third parties, and in March 2000, the ABA amended the terms of reference to ensure such issues were covered.

The ABA's Inquiry resulted in a finding of systemic failure by the commercial radio licensees to ensure the effective operation of the industry's self-regulatory codes of practice. Consequently, the ABA proposed three standards, which are contained in the report of the Commercial Radio Inquiry. The proposed standards relate to disclosure of commercial agreements by presenters of current affairs programs, the need to distinguish advertisements from other programs and the establishment of compliance programs by licensees. Unlike codes of practice, compliance with standards is a condition of a broadcaster's licence. The proposed standards will become effective from 1 November 2000 and end on 2 April 2003.

Planning radio broadcasting services and allocating radio broadcasting licences

A2.1 Licence planning

The BSA charges the ABA with the responsibility for planning the Broadcasting Services Bands (BSB) of the radiofrequency spectrum. Currently, the BSB includes parts of the Medium Frequency Band (used for AM radio), parts of the Very High Frequency Band (used for FM radio and VHF television) and parts of the Ultra High Frequency Band (used for UHF television).

The BSA was intended to provide a more open planning regime and a more flexible and discretionary approach to licensing management, with the aim of increasing the availability of services. As stated in the Explanatory Memorandum to the *Broadcasting Services Bill*:

It is also 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.

However, the ABA considers the requirement to both promote the objects of the BSA and to meet the requirements of other relevant sections of the BSA, such as the planning criteria at section 23, have resulted in a more rigorous planning process than initially intended.

For example, in order to promote the objects of the BSA, the ABA is charged with the task of promoting potentially conflicting objects, for example:

- 3(a) to promote the availability to audiences throughout Australia of a diverse range of radio and television service offering entertainment, education and information; and ...
- 3(g) to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance;

In balancing these objects, the planning process is necessarily subsumed by considerations of whether the introduction of new licences would result in a reduction of local program content, as networks centralise their operations. Further, the section 23 planning criteria have been interpreted to include consideration of the viability and sustainability of commercial radio services, contributing to the length and complexity of the planning process.

A2.2.1 Planning to date

The BSA required the ABA to follow a three-stage planning process, determining:

1. Planning Priorities under section 24 of the BSA;
2. a Frequency Allotment Plan (FAP) under section 25 of the BSA; and
3. Licence Area Plans (LAPs) under section 26 of the BSA.

In the first stage, the ABA determined its Planning Priorities in 1993 after completing two rounds of public consultation, as required under section 27 of the BSA. The Planning Priorities established five planning zones within Australia, with relative under-served markets being given highest priority and relatively well-served markets low priority. The majority of regional areas in Australia were given top planning priority. The fifth priority zone included a mixed group of areas in both regional and metropolitan Australia.

The second stage, determining the FAP, was completed in August 1994 after two rounds of wide public consultation. The FAP lists existing broadcasting services and the likely available capacity in each priority zone.

The third stage, Licence Area Planning, is currently being undertaken. To date, the ABA has completed planning in the first three priority zones. In the fourth planning zone, the ABA has completed planning in two of the five markets (Sydney and Melbourne). Of the three remaining markets, Brisbane is scheduled to be completed by the end of 2000, and Perth and Adelaide are scheduled for completion by June 2001. Radio planning for the fifth priority zone is scheduled for completion during 2001.

A2.3 Licence allocation

A2.3.1 Commercial radio broadcasting services

Commercial radio services are defined in section 14 of the BSA as:

... broadcasting services:

- (a) that provide programs that, when considered in context of the service being provided, appear to be intended to appeal to the general public; and
- (b) that provide programs that:
 - (i) are able to be received by commonly available equipment; and
 - (ii) are made available free to the general public; and
- (c) that are usually funded by advertising revenue; and
- (d) that are operated for profit or as part of a profit-making enterprise; and
- (e) that comply with any determinations or clarifications under section 19 in relation to commercial broadcasting services.

Commercial broadcasting service licensees of require one Broadcasting Service Licence (BSL) per service. BSLs are subject to the conditions set out in Part 4 of Schedule 2 of the BSA and any other conditions the ABA may impose under section 43 of the BSA. BSLs are allocated under a price-based system defined by section 36 of the BSA. A BSL entitles the licensee to provide a commercial radio service. To operate a transmitter to provide the service using the BSB, the licensee must also obtain an Apparatus Licence issued under section 102 of the *Radiocommunications Act 1992* (Radcoms Act).

Under section 40 of the BSA, the ABA can allocate commercial radio licences that use bandwidth other than the BSB. The ABA is required to designate a particular geographic areas for such licences. Non-BSB commercial licences can be allocated

upon application accompanied by a fee determined by the ABA, rather than through a price-based allocation process.

Reception of these services may not be accessible to the general public as most receivers are not capable of receiving those parts of the radiofrequency spectrum outside the BSB. Currently, there are only eight section 40 commercial radio licences in remote/regional Australia, of which two are Australia-wide, and one section 40 commercial radio licence in metropolitan Australia. The licence areas of two of the non-BSB licences are Australia-wide.

A2.3.2 Community broadcasting services

Community broadcasting services are defined in section 15 of the BSA as:

- ... broadcasting services that:
 - (a) are provided for community purposes; and
 - (b) are not operated for profit or as part of a profit-making enterprise; and
 - (c) that provide programs that:
 - (i) are able to be received by commonly available equipment; and
 - (ii) are made available free to the general public; and
 - (d) comply with any determinations or clarifications under section 19 in relation to community broadcasting services.

Licensees of community broadcasting services also require one licence per service and these licences are subject to the conditions set out in Part 5 of Schedule 2 of the BSA and such other conditions the ABA may impose under section 87 of the BSA. Licences are obtained by way of a merit selection process under section 84 of the BSA. As with commercial radio licensees, the BSL entitles the licensee to provide only a community radio service, and the licensee must also obtain an Apparatus Licence issued under section 102 of the Radcoms Act.

In addition, the ABA has used its power under section 34 of the BSA to make available spectrum, which would otherwise have remained unused prior to completion of a LAP, for Temporary Community Broadcasting Licences (TCBLs). This has enabled aspirant community broadcasters to operate temporary community broadcasting services in areas where frequencies were available. Currently, 67 TCBLs have been allocated in regional areas and 66 TCBLs in metropolitan areas.

A2.3.3 Open narrowcasting services

Open narrowcasting services are essentially services whose reception is limited, and are defined in section 18 of the BSA as:

- ... broadcasting services:
 - (a) whose reception is limited:
 - (i) by being targeted to special interest groups; or
 - (ii) by being intended only for limited locations, for example, arenas or business premises; or
 - (iii) by being provided during a limited period or to cover a special event; or
 - (iv) because they provide programs of limited appeal; or

- (v) for some other reason; and
- (b) that comply with any determinations or clarifications under section 19 in relation to open narrowcasting services.

Further, the Minister's second reading speech on the *Broadcasting Services Bill* indicated that narrowcasting was intended to supply 'niche services'. Some current examples of niche services include:

- temporary services that cover special events, such as the Olympic games;
- tourist information services;
- services in languages other than English;
- racing and betting information services; and
- services that predominantly feature music genres not carried on commercial services.

Compared to other broadcasting services, open narrowcasters are subject to minimal regulation under the BSA. Open narrowcasting licensees are not subject to any domestic or foreign ownership and control provisions, but are subject to the general licence conditions that apply to all broadcasters and narrowcasters, for example content regulation.

- *Class licences*

Class licences are not issued individually, but are a standing authority for any operator to enter the market and provide a service, as long as the operator has access to delivery capacity and abides by the conditions relevant to the particular category of class licence. Under Part 8 of the BSA, the ABA may determine a class licence for the provision of:

- subscription radio broadcasting services; or
- subscription radio narrowcasting services; or
- open narrowcasting radio services.

As required by section 118(3) of the BSA, each class licence is subject to the conditions set out in Part 7 of Schedule 2 of the BSA.

On 1 October 1992, the ABA determined a class licence for the provision of open narrowcasting radio services pursuant to section 117(d) of the BSA. Under the class licence provisions, the licensee of an open narrowcasting service requires only an apparatus licence to operate the transmitter, which is allocated under section 100 of the Radcoms Act.

If spectrum is available, channels for medium and high power open narrowcasting services are identified within each region during the planning process. These services are then made available by way of a price-based allocation system determined under section 36 of the BSA.

Alternatively, low power open narrowcasting services (LPONs) are designed to provide narrowcasting programs to a limited area using limited power, typically a

radius of two kilometres in residential areas and five to ten kilometres in rural areas. LPONs generally operate on the frequencies 87.6 MHz, 87.8 MHz or 88.0 MHz and are administered by the Australian Communications Authority on a 'first come, first served' basis.

- *Clarifying open narrowcasting criteria*

On 27 April 2000, the ABA announced its intention to exercise its power under section 19 of the BSA to 'bring greater clarity to the concept of open narrowcasting radio services'. The ABA was concerned that it is not always clear to service providers where the lines are to be drawn between the commercial, community and open narrowcasting categories of services: some open narrowcasters were found, as a result of investigations, to be in breach of their licences, with potentially serious consequences. The ABA believes that greater regulatory certainty will assist the open narrowcasting industry to maintain its important role in enhancing the range of radio services and programs available to the community.

Under section 19, which has not yet been used, the ABA has the power to clarify the existing criteria in sections 14 to 18 for categories of broadcasting services and to determine additional criteria via a formal notice in the Gazette. A section 19 notice is a disallowable instrument and must be laid before both Houses of Parliament.

Before exercising the section 19 power to clarify the open narrowcasting criteria, the ABA will issue a discussion paper for public comment. Any decisions the ABA may make to clarify criteria or to determine new criteria will also be issued in draft for public comment. The ABA hopes to issue the discussion paper before the end of October 2000 and to be in a position to make its decisions by April 2001.

A2.3.4 BSB services planned, allocated and operational

The following tables provide an overview of the numbers of licences for various categories of services in regional/remote and metropolitan markets.

Table A2.1 BSB services planned, allocated and operational in regional and remote markets as at 30 September 2000

Category	Existing prior to ABA	Planned by ABA	Allocated by ABA	Operating since ABA
Commercial	117	81	77	71
Community	52	216 ¹	153	139
Open Narrowcasting	0	232	173	Not known

Note: 1. The figure for community broadcasting services planned under the ABA includes 79 services that were operating under the *Broadcasting Act 1942* under a scheme called the *Broadcasting for Remote Aboriginal Communities Scheme (BRACS)*. These services were deemed to be community broadcasting services on commencement of the BSA under the transitional provisions of the *Broadcasting Services (Transitional Provisions Act and Consequential Amendments Act) 1992*

Table A2.2 BSB Services Planned, Allocated and Operational in Metropolitan Markets as at 30 September 2000

Category	Existing prior to the ABA	Planned ¹	Allocated	Operational
Commercial	35	5	2	0
Community	42	16	0	0
Open narrowcasting	0	4	0	Temporarily

Note: 1. As the ABA has only partially completed planning in its fourth priority zone, which contains the metropolitan markets of Sydney, Melbourne, Brisbane, Adelaide and Perth, the figures above reflect only Sydney and Melbourne, where planning has been completed. Two commercial radio licences were made available in each market, with one being deferred in each market. Thus, to date, there has been one allocation exercise for a commercial radio service in Sydney. A merit selection process is currently under way to determine the successful applicants for three of the community radio services in Sydney.

The state of the Australian commercial radio broadcasting industry

A3.1 Ownership

Since the introduction of the BSA, the commercial radio industry has seen a significant degree of restructuring. The BSA liberalised the ownership rules for commercial radio, removing impediments to networking and allowing new and existing owners to make new acquisitions.³ Significant changes in ownership of commercial radio stations have occurred in both regional areas and capital cities as licence owners sought to build networks of stations.

For example, British media group Daily Mail and General Trust entered the Australian commercial market in 1996 and has acquired a network of 59 commercial radio licences, 57 of which are in regional licence areas. The Austereo and Australian Radio Network (ARN) groups control mainly metropolitan licences, but are also in a position to control several regional licences. Two of the regional licences (1CBR and 2ROC Canberra) are controlled jointly by Austereo and ARN.

As at 30 September 2000, there was a total of 253 commercial radio licences. Of this number, 36 licences were in metropolitan markets (Adelaide, Brisbane, Melbourne, Perth, Sydney) and 217⁴ were in regional areas. Of the 217 regional licences, 176 are controlled⁵ as part of a group of licences.

There appears to be some interest by regional groups in acquiring radio licences in metropolitan markets as new licences become available through the ABA's planning process. This was indicated by the recent auction of a new commercial FM radio licence in the Sydney licence area, where Daily Mail and General Trust bid over \$150 million to acquire the licence. However, given the significantly higher commercial value and cost of metropolitan radio licences, acquisitions in metropolitan licence areas by regional operators are likely to be limited.

This is not to suggest that there may not be further change in the ownership structures of radio stations within regional areas. Between 1993 and 1999, the growth in the number of networked stations significantly outpaced the growth in the number of independently owned stations, both in regional areas and capital cities (Table A3.2). In the same period, networked stations were more likely to change hands than independently owned stations: 58% of networked stations operating in 1993 were controlled by different groups in 1999, compared with 11% of independently owned stations. In addition, ownership turnover in regional areas is considerably higher than in capital cities: 57% of regional stations operating in 1993

³ The BSA permits a person or company to be in a position to exercise control of two commercial radio broadcasting licences in the same licence area (section 54). The BSA does not place any limits on foreign ownership or control of commercial radio licences.

⁴ This number includes all regional commercial radio broadcasting licences as well as two licences with licence areas that cover all of Australia.

⁵ Any person or company that has a company interest greater than 15% in a commercial television or commercial radio broadcasting licence is deemed to be in a position to exercise control of that licence (clause 6 of Schedule 1 of the BSA).

were controlled by different groups in 1999, compared with 38% of capital city stations. According to Peter Don of Broadcast Programming and Research, ‘Consolidation in smaller regional markets is probably inevitable...’ (*Mediaweek*, 17 October 2000).

Table A3.1 Major commercial radio network owners⁶ as at 30 September 2000

Group¹	Regional licences	Metropolitan licences	Total licences
DMG Regional Radio Pty Ltd (controlled by Daily Mail & General Trust plc)	57	2	59
Broadcast Operations Pty Ltd (controlled by Bill and Pamela Caralis)	30	1	31
RG Capital (Australia) Pty Ltd (controlled by Reg and Joy Grundy)	28	0	28
Grant Broadcasters Pty Ltd (controlled by Janet Cameron)	15	1	16
Ace Radio Broadcasters Pty Ltd (controlled by the Handbury family)	9	0	9
Associated Media Investments Pty Ltd (diverse shareholdings)	8	0	8
Capital Radio Network Pty Ltd (controlled by Kevin Blyton)	7	0	7
North West Radio Pty Ltd (controlled by Mary Aspinal)	6	0	6
Goulburn Valley Broadcasters Pty Ltd (diverse shareholdings)	4	0	4
Australian Radio Network Pty Ltd (controlled by Australian Provincial Newspapers, Dr A O’Reilly & Clear Channel Inc, a US public company)	7 ²	8	15
Austereo Pty Ltd (controlled by Village Roadshow Group, B L Kirby and R Kirby)	4 ²	10	14
Totalizator Agency Board of Tasmania	2	0	2
Win Corporation Pty Ltd (controlled by Bruce Gordon)	2	0	2

Notes: 1. The word ‘group’ is used to describe a company that is in a position to exercise control of regional commercial radio licences in *more than one licence area*.

2. Two regional Australian Radio Network licences are controlled jointly with Austereo.

Source: ABA.

⁶ Of the companies that own and operate radio stations, four are publicly listed companies. (Source: Speech by David Bacon, FARB CEO, at the ACNielsen Seminar, 20/10/00, Melbourne)

Table A3.2 Number of operating commercial radio stations, by ownership and region⁷, operating as at June 1993 and allocated as at October 2000

Network	Region	1992	1999
Independently owned radio stations	Capital cities	5	6
	Large regional areas	4	4
	Medium regional areas	4	9
	Small regional areas	6	17
Radio stations controlled by a group	Capital cities	29	30
	Large regional areas	42	65
	Medium regional areas	34	69
	Small regional areas	25	51

Source: ABA.

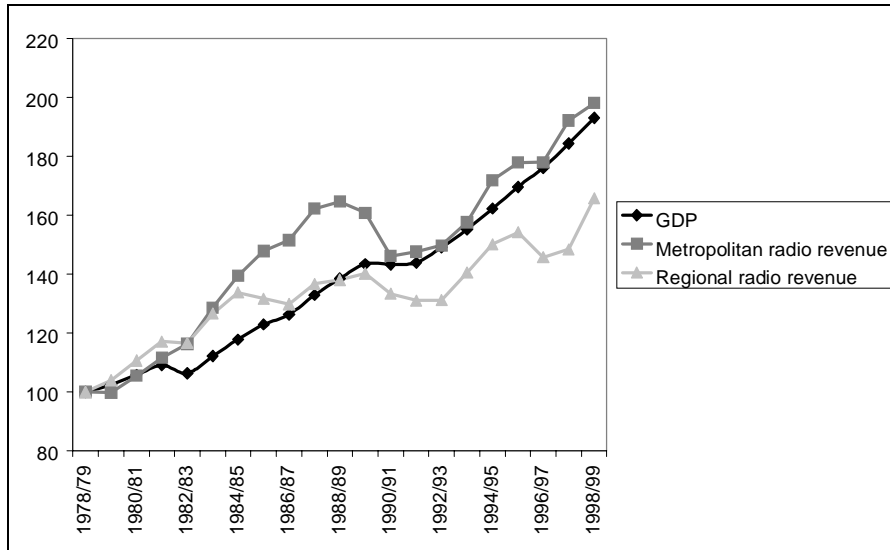
A3.2 Advertising revenues and profitability

Advertising is the primary revenue source of the commercial radio industry – on average, advertising revenue contributes about 95% of total radio service revenue.

Commercial radio service revenue has grown apace with the Australian economy. Between 1978-79 and 1998-99, total radio service revenue grew, in real terms, by 86%, close to the increase in Gross Domestic Product (GDP) of 93%. Although regional radio revenue increased by 66% over the same period, overall revenue growth disguises losses in revenue share to regional television and capital city radio broadcasters (Figures A3.1 and A3.2). Between 1978-89 and 1989-99, regional radio's share of total radio revenue fell from 39 to 33% and its share of regional radio and television revenue fell from 37 to 26%. At least some of this loss is directly attributable to the aggregation of regional television licences, which began in the late 1980s (BTCE 1990).

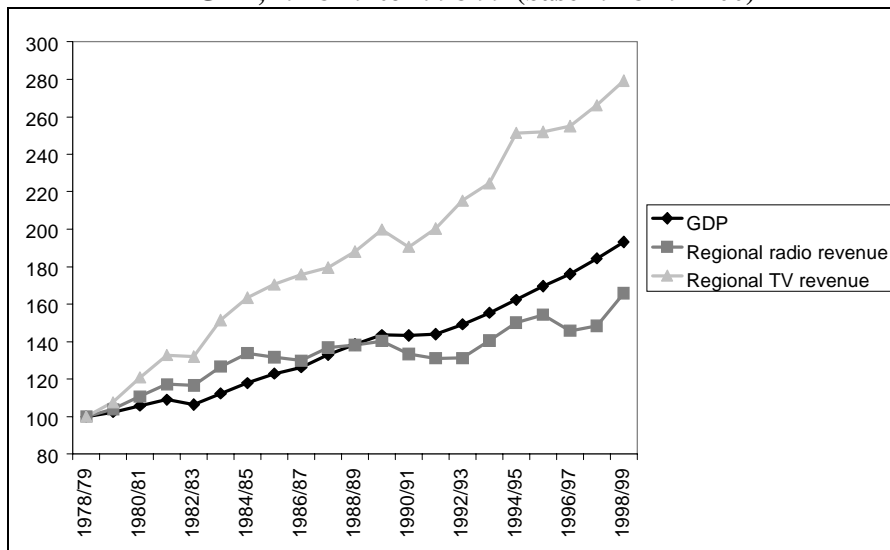
⁷ Throughout this paper, large regional areas are defined as having populations of more than 100,000, medium regional areas have populations of between 40,000 and 100,000 and small regional areas have populations of less than 40,000. Capital cities include Sydney, Melbourne, Brisbane, Adelaide and Perth. Canberra, Hobart and Darwin are classified as large regional areas.

Figure A3.1 Index of real^a metropolitan and regional radio service revenue and real GDP, 1978-79 to 1998-99 (base 1978-79=100)



Notes: a. Radio revenues converted to real values using the non-farm GDP implicit price deflator.
Sources: ABA Broadcasting Financial Results (unpublished), ABS National Accounts.

Figure A3.2 Index of real^a regional radio and television service revenue and real GDP, 1978-79 to 1998-99 (base 1978-79=100)



Notes: a. Radio revenues converted to real values using the non-farm GDP implicit price deflator.
Sources: ABA Broadcasting Financial Results (unpublished), ABS National Accounts.

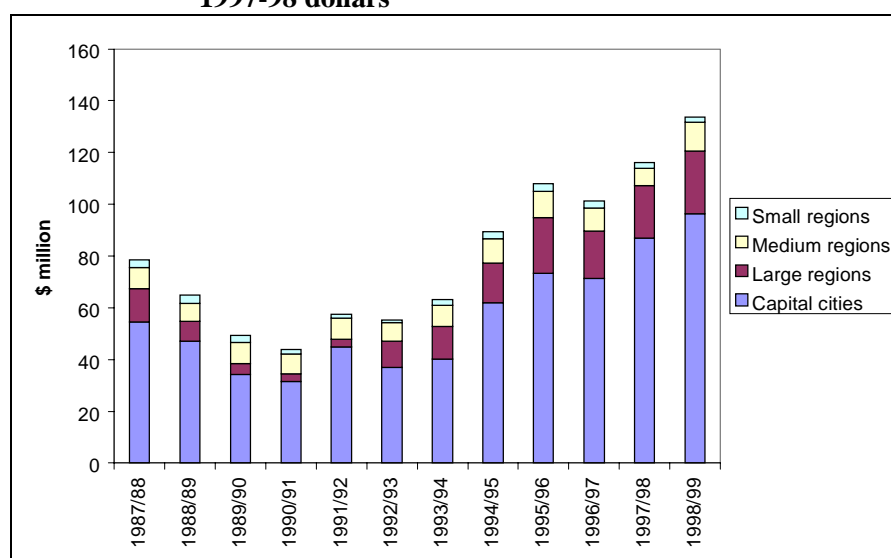
Table A3.3 Proportional distribution of profit and revenue, commercial radio licensees, 1998-99

	Proportional distribution of revenue	Proportional distribution of profit ^a	Proportion of revenue retained as profit
Capital cities	0.67	0.72	0.23
Large regions	0.19	0.18	0.20
Medium regions	0.10	0.08	0.18
Small regions	0.04	0.02	0.08

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

Sources: ABA Broadcasting Financial Results (unpublished).

Figure A3.3 Real^a profit before interest and tax, commercial radio licences by region, 1997-98 dollars



Notes: a. Radio revenues converted to real values using the non-farm GDP implicit price deflator.

Sources: ABA Broadcasting Financial Results (unpublished), ABS National Accounts.

Not only do capital city radio stations attract more revenue than regional stations, they receive a greater share of industry profit and retain a greater proportion of their revenue as profit. For example, in 1998-99, capital city and larger regional stations retained approximately 20% of their revenues as profit, compared with only 8% for small region stations (Table A3.3). The proportional revenue and profit breakdowns for 1998-99 provided in Table A3.3 are indicative of a long-standing trend in the radio industry (Figure A3.3).

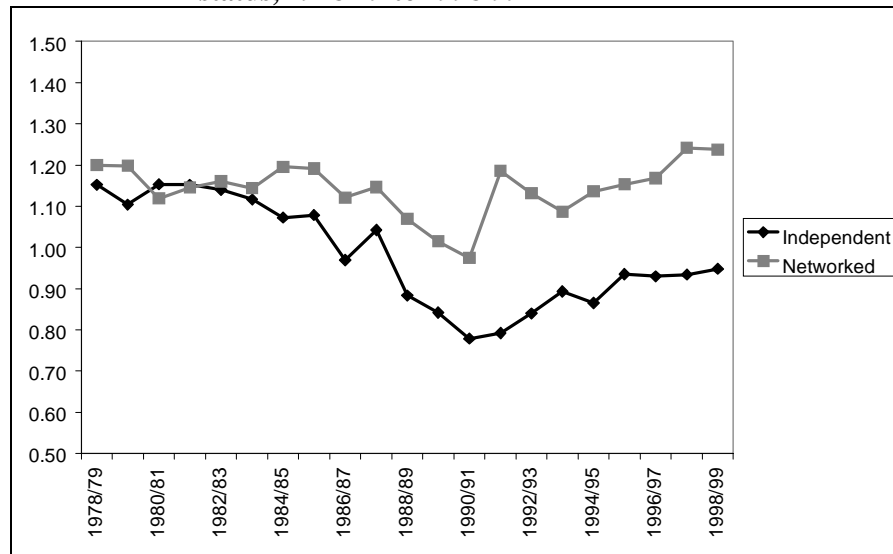
A radio station's ownership and affiliation status can also have an important bearing on its financial performance. The rates of return earned by, ie. the profitability⁸ of, stations affiliated with networks in capital cities and in larger regional areas are

⁸ Profitability of a company is usually measured as the ratio of profit before interest and tax to total assets. In the case of broadcasting licence holders, this measure is highly sensitive to changes in the value of the licence. Excluding intangible assets (on average, licence values represent about 96% of the value of intangible assets) and licence fees from the ratio provides a more robust measure of profitability (BTCE 1996, PC 2000).

consistently well above the average of the of the rest of the industry. For example, in 1998-99, stations associated with networks achieved an average rate of return (excluding licence fees and licence values) of 29%, compared with a small loss of 0.1% by independently owned stations.

Metropolitan stations are also more profitable than regional stations. The average rate of return (excluding licence fees and licence values) achieved by commercial radio stations nearly doubled between 1991-92 and 1998-99, from 8 to 15 per cent, although still behind the corresponding returns of 16% and 29% for capital city stations.

Figure A3.4 Ratio of revenues to expenses, commercial radio stations by ownership status, 1978-79 to 1998-99



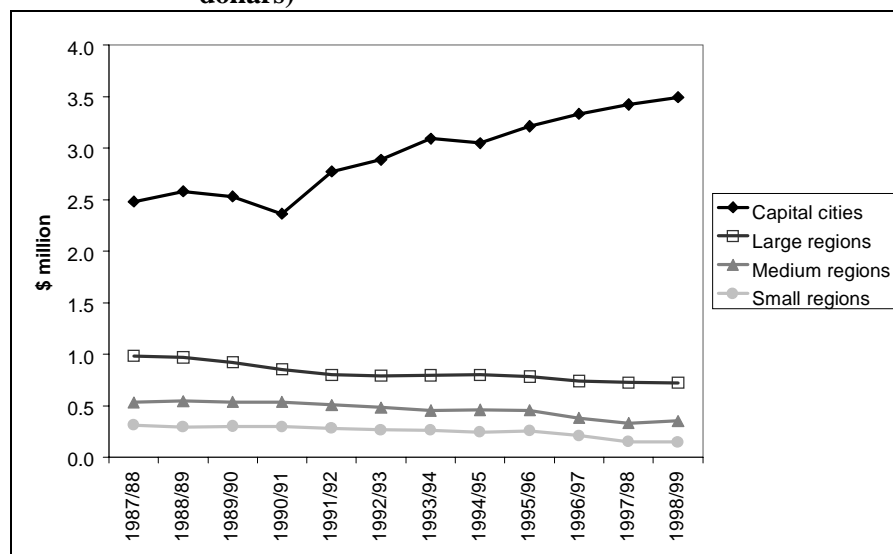
Sources: ABA Broadcasting Financial Results (unpublished).

Networks are thought to achieve higher profits than independent stations by achieving economies of scale in operating expenses. The ratio of revenue to expenses (Figure A3.4) provides some evidence that networks are achieving higher profit margins by reducing expenses relative to revenues, in particular in capital cities and larger regions. (However, some care should be taken in interpreting Figure A3.4 as proof that networked stations are improving their profit performance: the figure defines stations as networked or independent based on their control status as at October 1999. Figure A3.4 can also be interpreted as suggesting that controlling groups have concentrated on purchasing only profitable stations, or stations that could be run more efficiently, thereby enhancing their profit performance.)

Improved profit performance through networking creates tensions between the economic and social objectives of the BSA. Networking creates incentives for owners to simulcast and share expenses across stations, rather than provide local content, potentially breaching the requirement that they contribute to the provision of an adequate and comprehensive range of broadcasting services in any one licence area. In addition, although the financial performance of regional networked stations has improved, it is not necessarily the case that regional communities receive direct economic benefits in turn.

For example, Figure A3.5 shows that although commercial stations in capital cities are spending more on employees, stations in regional areas are spending less, perhaps as networked stations rely increasingly on content created in capital cities and independent stations are driven to reduce costs. Between 1987-88 and 1998-98, in real terms, average expenditure on employees increased by 1.4 per annum in capital cities, and overall fell 1.7 % per annum in regional areas.

Figure A3.5 Average salaries and wages and employee on-costs per station, commercial radio stations by region, 1987-88 to 1998-99 (1997-98 dollars)



Sources: ABA Broadcasting Financial Results (unpublished), ABS National Accounts.

A3.2 Population coverage by commercial radio

Regional radio listeners have fewer choices of commercial radio stations than their capital city counterparts and regional radio stations have access to fewer listeners. On average, about four commercial radio licences are allocated in any given regional area, two of which are likely to be wide-area satellite services. Up to around seventy times more people can receive a commercial city radio station's signal than the signal of a station in a small regional area. There are up to forty times more people per radio station in capital cities than in regional areas. For example, there are, on average about 350,000 people per radio station in capital cities, seven times the 50,000 per station in comparable large regional areas and nearly fifty times the 7,000 per station in small regions.

Although licences may be allocated, listeners may not be able to receive the signals of all licensees in any particular area: for example, licensees may be yet to start broadcasting. Alternatively, although licensees must start broadcasting within 12 months of licence allocation, and transmission plans are put in place for entire licence areas, commercial radio licensees are not obliged to retransmit throughout their licence areas.

Table A3.4 Coverage of allocated^a commercial radio licences, March 2000

Geographic area ⁹	Number of commercial stations			Average population reach per station ^b
	Maximum	Average	Minimum	
Capital cities	11	7.2	5	2,073,000
Large regional areas	4	2.3	1	194,000
Medium regional areas	3	2.0	1	67,000
Small regional areas	3	2.0	1	24,000

Note: a. Estimates are based on the number of allocated commercial radio licences, as at March 2000 and 1996 Census estimates and exclude the two Australia-wide satellite services

b. Population estimates are rounded to the nearest 1000.

Source: ABA, ABS Census data.

Table A3.5 Number of commercial radio licences allocated per licence area, March 2000

Number of allocated commercial licences	Number of licence areas			
	Capital cities	Large regions	Med. regions	Small regions
1	-	9	7	3
2	-	10	25	28
3	-	4	7	3
4	-	7	-	-
5	2	-	-	-
6	1	-	-	-
9	1	-	-	-
11	1	-	-	-

Note: a. Estimates are based on the number of allocated commercial radio licences, as at March 2000 and exclude the two Australia-wide satellite services.

Source: ABA.

ABA research

A4.1 Program formats and Australian content

In October 1999, the ABA conducted a survey of program formats broadcast by commercial radio stations. The results provide a picture of the differences between metropolitan and regional, and networked and independent radio station programming. The results of the survey are summarised in Table A4.1.

The survey indicates that the major differences in radio programming are between metropolitan and regional areas, rather than between networked and independent radio stations. However, it is possible that the ABA's definition of a radio network (essentially stations controlled by a company or entity) may blur the observable differences between networked and independent stations.

The following observations are possible using the survey data:

Advertising: Independent and networked radio stations carry similar amounts of advertising in all regions.

Music: For all stations in all areas, on average, more music is broadcast than any other program type. Generally, regional stations broadcast more music than metropolitan stations (which instead broadcast more talkback, current affairs and sport).

Music is the only program type for which the commercial radio code prescribes a minimum Australian content level. Regional radio stations play as much as five times the amount of new Australian music as metropolitan stations, and about 50% more other Australian music. Networked stations broadcast more new Australian music than independent stations, and small region stations broadcast proportionally more new Australian music than other stations.

Community announcements and announcer talk: Radio stations in regional areas broadcast more community announcements and announcer talk than metropolitan radio stations. The time devoted to announcements by independent radio stations in small regional areas is as much as two to three times that of other radio stations. There are no significant differences in the amount of community announcements broadcast by networked stations across regional areas, although there is less announcer talk in smaller regional areas.

News and current affairs: Networked stations generally provide more news programming than independent stations, with the exception of stations in small regional areas. Regional areas received a fraction of the current affairs programming broadcast in capital cities – networked small regional stations broadcast more current affairs than other regional stations. It is not possible to identify local news and current affairs from the available data.

Sport: Dedicated sports radio stations in capital cities push the average sports program broadcast time for independent capital stations upwards. Networked radio

stations provide more sports programming in large regional areas than in smaller areas. In small regional areas, sports content is similar for networked and independent stations. It is not possible to determine from the survey data whether sport programming includes local content.

Talkback: Regional radio station broadcast approximately half or less talkback programming than capital city stations. A large proportion of talkback broadcast by regional stations consists of syndicated programming, including John Laws and Stan Zemanek.

Table A4.1 Commercial radio program formats, by region and by ownership/affiliation, 1998-99 (% of total programming)

Overall program formats

<i>Region</i>	<i>Capital</i>		<i>Large region</i>		<i>Medium region</i>		<i>Small region</i>	
<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>
Advertising	9.9	12.2	11.1	12.0	13.4	12.5	11.0	12.2
Community announcements	0.9	0.8	0.7	1.3	0.8	1.3	2.6	1.2
News	3.6	4.8	3.1	5.0	4.4	6.1	6.0	5.4
Current affairs	6.2	3.6	0.1	0.6	0.3	0.7	0.2	1.8
Sport	28.1	4.1	0.8	4.5	2.2	3.0	2.3	2.1
Talkback	10.8	10.2	0.0	4.5	3.3	4.9	5.6	4.3
Other programming	10.1	6.2	4.4	4.2	3.3	2.7	2.7	3.6
Music	30.4	57.9	79.9	68.0	72.4	68.8	69.6	69.4

Music programming

<i>Region</i>	<i>Capital</i>		<i>Large region</i>		<i>Medium region</i>		<i>Small region</i>	
<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>
New Australian music	0.6	2.8	3.9	4.6	5.3	5.4	6.3	9.5
Other Australian music	3.4	10.2	12.8	12.3	13.2	13.4	16.7	15.5
Other music	26.4	45.0	63.1	51.1	53.8	50.0	46.6	44.4

Other programming

<i>Region</i>	<i>Capital</i>		<i>Large region</i>		<i>Medium region</i>		<i>Small region</i>	
	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>	<i>Independent</i>	<i>Network</i>
Competitions	0.0	0.8	3.0	1.1	0.5	0.6	0.8	0.3
Comedy	0.0	0.3	0.1	0.3	0.1	0.4	0.0	0.1
Leisure	0.3	1.3	0.3	0.7	0.3	0.5	0.8	0.2
Advice	0.0	0.1	0.0	0.1	0.0	0.0	0.0	0.0
Infomercials	0.0	0.1	0.0	0.0	0.2	0.0	0.3	0.0
Promotions	0.4	0.8	1.0	0.2	0.2	0.0	0.0	0.1
Reports and features	0.0	0.0	0.0	0.1	0.4	0.0	0.1	0.1
Announcer talk	0.0	2.6	0.0	1.1	1.4	0.7	0.6	0.1
Other programming	9.4	0.1	0.1	0.6	0.0	0.5	0.3	2.6

Definitions: A *network* here is defined as a group of radio stations controlled by a company in a position to exercise control of commercial radio and/or commercial television broadcasting licences in more than one licence area. Any person or company that has a company interest greater than 15% in a commercial television or commercial radio broadcasting licence is deemed to be in a position to exercise control of that licence (clause 6 of Schedule 1 of the BSA).

Independent stations are those that are not classified as networked stations.

Source: ABA survey of commercial radio stations, 1999.

A4.2 Attitudinal research

In March and April 1994, the ABA conducted extensive attitudinal research in order to understand the social benefits and influence on the general public of radio broadcasting. The research consisted of focus groups, which took place in March and April 1994, and a national survey of 3,217 people aged 14 years and over, conducted in July 1994 and was published as *Listening to the Listeners: Radio Research and Music, new music and all that: Teenage radio in the 90s*.¹⁰

A4.2.1 Adequacy of radio services and program formats

The majority of regional survey respondents said they were satisfied with radio services. Out of the 8.4% of the sample who gave radio a low satisfaction rating, people living in non-metropolitan areas were more likely to describe radio as having music that did not appeal (20%) compared to metropolitan areas (10%).

Fewer non-metropolitan listeners believed they had plenty of good radio stations to choose from (41%) compared to metropolitan listeners (57%). More non-metropolitan listeners said they did not get enough choice and had to make do with radio that really didn't suit them (12%), compared to metropolitan listeners (5%).

The focus group discussions revealed that listeners in metropolitan and rural areas had quite different expectations and experiences of radio, determined primarily by choice and availability of services. For instance, some people living in regional areas had a greater reliance on radio for up to the minute local news compared to those in metropolitan areas. The radio listening choices available to people in the country were limited compared to the repertoire of stations available to city listeners. Many regional focus group participants saw radio services as trying to cater for such a wide audience that they failed to provide the variety of formats to satisfy many segments of their audience – particularly children and young people, and also older listeners.

The focus groups indicated that people aged 30 to 45 years in regional areas were generally happy with and well catered for by current radio services. However, many in this age group remembered radio programs they had enjoyed in their childhood and regretted that there were no programs especially for young children.

Older people in the focus groups (aged 55 years and over) indicated some dissatisfaction with radio services in both metropolitan and regional areas. Some older people said they missed entertainment programs such as serials, book readings and play readings that were more involving. Many were interested in educational radio and programs that covered hobbies and special interests. Current affairs and fine classical music were also mentioned. Access to ABC radio services and community radio stations in certain areas met some of these interests.

¹⁰ The most recent listener surveys, *ACNielsen Radio Surveys 2000*, found that more women aged 18 years and over (71.4% of listeners) listen to commercial radio than men in the same age group (65.6% of listeners). Also, of the people who listen to commercial radio, the highest number (76.6% of listeners) are in the 10-17 years age group, with the lowest number (59.5% of listeners) aged 55 and over.

According to some of the regional focus group participants, particularly those who were older, there was seen to be a lack of international news available in the media generally.

Young listeners were less satisfied than other segments of the regional survey sample. In the survey, teenagers (14 to 19 years of age) who lived in cities were significantly more satisfied with radio (70%) than teenagers living in regional areas (46%). Similarly, 52% living in cities said they had plenty of good stations to choose from, whereas 33% of teenagers in country areas made the same comment. More teenagers living in regional areas believed they did not get enough choice or that radio did not really suit them (13%) compared to young people living in metropolitan areas (4%).

Many of the younger listeners (aged between 12 and 18 years) who participated in the focus groups in regional areas also expressed dissatisfaction with the radio currently available to them, and felt that it made little attempt to cater for their needs. A significant issue for younger listeners in rural areas was that of access to music generally. In more remote areas, CDs and cassettes were difficult to obtain and expensive. As well, young people in these areas rarely had access to live performers or bands. Because of this, there was a heavy reliance on radio for new music and music information, and this was not seen to be an area the local stations catered well for.

In a later survey commissioned by the ABA in 1997 (*Headbanging or dancing: Youth and music in Australia*), a similar proportion of young people aged between 12 and 24 years in metropolitan and non-metropolitan areas were satisfied with the music choice available on radio (76% and 78% respectively).

A4.2.2 Demand for new radio services

When the 1994 research was conducted, the majority of rural listeners were in areas serviced by one commercial and one ABC station only, whereas metropolitan listeners had a wide range of stations to choose from, on both the AM and the FM bands. This research was conducted prior to the complete roll-out of Triple J into country areas and the allocation of additional licences by the ABA.

In 1994 there was much greater interest in increasing the variety of radio available in rural areas than there was in the city. Primarily, respondents wanted to have access to the range of stations which were available in the city, particularly the commercial FM stations. In the survey, most interest was expressed in regional areas for commercial FM services (26%) in relation to other service types. This compares to 7% for people living in metropolitan areas.

Mostly notably, 68% of country teenagers who said they did not have access to Triple J at the time of the survey said they would be interested in that station, compared to 15% of metropolitan teenagers. Fifty-four percent (54%) of country teenagers said that they would be interested in specialist music stations compared to nine percent from the city.

The majority of younger listeners in focus groups had been exposed to metropolitan radio and felt that local radio compared poorly. In particular, stations like Triple J, Triple M and 2DAYFM were mentioned as being desirable. Younger rural listeners strongly perceived that FM radio was the one that catered for people in their age groups, and that AM radio was for older people.

International comparisons

The regulatory regimes of Canada, the UK and the USA all recognise the importance of local content. Each country, however, has adopted different approaches to ensure that radio stations provide local programming.

A5.1 Canada

Section 3(1)(I)(ii) of the *Broadcasting Act 1991* states that the programming provided by the Canadian broadcasting system should be drawn from local, regional, national and international sources.

The Canadian Radio-Television and Communications Commission has a local programming policy for radio (Public Notice CRTC 1993-98 entitled *Policies for Local Programming on Commercial Radio Stations and Advertising on Campus Stations*). Under this policy, and as a condition of licence, licensees of commercial FM stations in markets served by more than one private commercial radio station are generally required to devote at least one-third of the broadcast week to local programming if they wish to solicit or to accept local advertising. Single station markets are exempt, that is, where there is only one commercial FM radio station. AM stations are required to commit to a minimum level of local programming, but must indicate the amount that they intend to broadcast, and the Commission has the discretion to impose conditions of licence guaranteeing certain levels.

A5.2 UK

It is the duty of the Radio Authority under the *Broadcasting Act 1990* to do all that it can to secure the provision within the UK of a range and diversity of local services (section 85(2)(b). Furthermore, under section 85(3) the Authority must discharge its functions in the manner which it considers is best calculated to:

- (a) facilitate the provision of licensed services which (taken as a whole) are of high quality and offer a wide range of programmes calculated to appeal to a variety of tastes and interests; and
- (b) ensure fair and effective competition in the provision of such services and services connected with them.

Under section 105 of the Act, in granting a local licence, the Radio Authority must have regard to:

- (a) the ability of each applicant to maintain the proposed service throughout the licence period;
- (b) the extent to which the proposed service would cater for the tastes and interests of persons living in the area or locality for which the service would be provided, and, where it is proposed to cater for any particular tastes and interests of such persons, the extent to which the service would so cater;

- (c) the extent to which the proposed service would broaden the range of programmes available by way of local services to persons living in the relevant area or locality, and, in particular, the extent to which the service would cater for tastes and interests which are different from those already catered for by existing local services in the area; and
- (d) the extent to which any application is supported by persons living in that area.

A5.3 USA

In the United States, legislative provisions, court rulings and Federal Communications Commission policy provide the framework for the support of localism. Under the *Communications Act 1934*, applicants for broadcast licences must agree to provide program service to the particular community to which they are licensed. The United States Court of Appeals further ruled in 1956 that in requiring “a fair, efficient and equitable distribution” of service, section 307(b) of the Communications Act encompasses "not only the reception of an adequate signal but also community needs for programs of local interest and importance and for organs of local self-expression." The Court affirmed that "the prime factor" in broadcast programming regulation "is the presentation of programs of local interest and importance".¹¹

News, public affairs programming and other opportunities for local self-expression are the most important of the 14 specific programming "elements usually necessary to meet the... needs and desires of the community in which the station is located...," as enumerated in the FCC's 1960 formulation of public interest programming obligations:

The principal ingredient of such obligation consists of a diligent, positive and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his service area.¹²

¹¹ *Pinellas Broadcasting Co. v. FCC*, 230 F.2d 204, 206 cert. denied, 350 US 1007 (D.C. Cir. 1956).

¹² *Report re En Banc Programming Inquiry*, 44 FCC 2203, 2314 (1960).

New technologies and their potential influence on radio in Australia

A6.1 Digital Radio Broadcasting (DRB)

Several digital radio broadcasting technologies exist or are under development. The technologies have widely differing characteristics, confronting analog broadcasters and governments with a growing choice of digital radio standards. Some systems are only suitable for conversion of a subset of analog radio services, eg. FM IBOC (designed for conversion of FM services). Not all are necessarily suited to replacing terrestrial analog radio transmissions, eg. systems that would use only satellite transmissions. Which technologies ultimately prove feasible for and viable in Australia may depend on which are successful in developing mass markets for affordable receiving equipment overseas.

A6.1.1 Eureka DAB (Eureka 147 Digital Audio Broadcasting)

To date, most work in Australia has focused on Eureka DAB. This system has already been adopted in Europe, Britain, Canada, Malaysia and Singapore. So far, however, the high cost of Eureka DAB receivers has inhibited market penetration in those countries. Like existing AM and FM radio, Eureka is able to be delivered via a terrestrial radiocommunications transmitter located near the community it is intended to serve. It has been implemented using VHF (Band III) spectrum (used in Australia for analog and digital television) and the L-Band (1.5GHz). Thus, Eureka DAB does not use either the VHF Band II spectrum used by FM radio, or the MF spectrum used by AM radio. While Eureka was also intended for delivery of satellite services in its early development, all current applications are terrestrial. It is generally acknowledged that Eureka is not the most efficient system for satellite delivery. This, coupled with the high costs inherently associated with satellite transmission and the absence of an established receiver population, has resulted in limited interest in the satellite application.

Each Eureka DAB transmitter will distribute digital data at a rate sufficient to deliver five CD quality audio channels or a larger number of lower quality channels. (They may also be used to transmit other data.) Thus, each transmitter can accommodate five or more traditional radio services. A device called a multiplexer is used to combine several different radio services into a single stream of digital data, and Eureka DAB receivers are able to reconstitute these signals into discrete services.

A6.1.2 FM In-Band On-Channel (IBOC) System

Work in the United States has focused on digital services that are able to share VHF FM radiofrequencies with existing analog services. This so called in-band on-channel (IBOC) technology allows a digital radio signal to 'piggyback' existing analog transmissions. The digital data rate permits transmission of one high quality audio stream. Although FM IBOC has been under development for several years, it has yet to reach the stage where it can be considered a mature and proven

technology. Additional field tests conducted recently by the proponents of the IBOC system aimed to demonstrate that a hybrid (analog FM and digital) IBOC signal can exist without interference to/from adjacent analog channels.

As a result of this additional work by the USA, the IBOC system was added to a special digital sound broadcasting handbook currently being finalised by the international radiocommunications standards organisation. The publication will contain system descriptions and performance for Eureka 147, IBOC, ISDB-T and WorldSpace.

A6.1.3 ISDB-Tn

A standard for this system is understood to be close to finalisation in Japan. The system is similar to Eureka DAB, but offers greater flexibility in channel bandwidth (hence the number of services accommodated per transmitter). The system has been developed to operate within Japanese spectrum allocations and was recommended recently for inclusion in the appropriate international broadcasting standard.

A6.1.4 Digital radio options for MF and HF spectrum

MF spectrum is used by AM radio services in Australia. Digital technologies that make use of MF spectrum include Digital Radio Mondiale (DRM). DRM has been able to demonstrate wide coverage of good quality audio signals using vacant MF frequencies. The DRM system is a robust digital system providing better quality as a replacement for short waves (HF) as well as MF as mentioned. Unlike IBOC, DRM is a replacement technology. At the recent IBC2000 in Amsterdam, DRM stated that the standard is now ready for inclusion in international broadcasting standards. This is planned to occur during the last quarter of this year. There has also been work in the United States on AM IBOC systems that would permit simultaneous analog and digital transmissions on the same channel.

A6.1.5 Other digital radio technologies

WorldSpace, now operating in several countries, is an example of a digital technology designed for satellite delivery. A hybrid (satellite/terrestrial) variant of this has just been developed by WorldSpace. This system, known as Digital System DH, is currently under consideration for inclusion in international broadcasting standards.

Digital audio streaming is also widespread on the internet. Developments such as mobile internet access suggest that point-to-point access via the internet may prove to be an alternative route to the digitalisation of audio entertainment and information.

A6.1.6 Digital radio broadcasting in Australia

In March 1998, the Minister indicated that commercial, community and national (ABC and SBS) radio broadcasters would be able to convert to digital, but would

be required to transmit their programs in analog mode for a simulcasting period to ensure that listeners were not disadvantaged. He also announced that there would be opportunities for new digital commercial radio services, with the number and timing of new entrants to be determined as part of the planning process¹³.

Following this announcement, the Department of Communications, Information Technology and the Arts convened a Planning and Steering Committee comprising Commonwealth agencies and industry representatives to consider the introduction of digital radio in Australia.

The Planning and Steering Committee convened a Technical Working Group consisting of engineers from industry sectors and government agencies with an interest in the issue, including the ABA. The Technical Working Group developed initial plans for accommodating existing services, while allowing scope for additional services using the Eureka DAB system on spectrum in the L-Band. In conjunction with the ABA's planning for the introduction of digital television, some work is also proceeding on whether Eureka DAB might be introduced using VHF spectrum, particularly in regional areas.

The ABA has a radiofrequency spectrum planning team located in its Planning and Licensing Branch, including several people with expertise in spectrum planning for the Eureka DAB and other digital radio technologies. The ABA would be happy to provide additional information on digital radio standards and radiofrequency planning issues if required.

A6.2 Productivity Commission Broadcasting Inquiry Report and Convergence Review

The potential of digital radio and new technologies was addressed in two recent reports. These were the Productivity Commission's report on broadcasting¹⁴ and the Convergence Report resulting from a Government review.

In March 2000, the Productivity Commission's report to the Treasurer on practical courses of action to improve competition, efficiency and the interests of consumers in broadcasting services was released. In the Commission's view:

- the costs to consumers of converting existing AM and FM radio to digital would be substantial;
- the benefits in terms of freed spectrum appear to be relatively minor; and
- a conversion scheme involving allocation of new spectrum to existing stations, like that used for television, should not be contemplated.¹⁵

The Convergence Report was prepared as part of Government's review into, among other matters, whether any amendments of laws of the Commonwealth should be made in order to deal with convergence between broadcasting and other services. It was tabled in Parliament on 10 May 2000 by the Minister for

¹³ Media Release 35/98 by Senator Richard Alston, 24 March 1998.

¹⁴ Productivity Commission 2000, *Broadcasting Inquiry Report No. 11*, AusInfo, Canberra.

¹⁵ p.18.

Communications, Information Technology and the Arts. The Convergence Report provides a comprehensive and authoritative strategic analysis of the issues related to the convergence of technologies and markets in the telecommunications, information technology, broadcasting and media industries, and the wider economy, over the next five to ten years. The Report suggests the following among the desired national outcomes:

- widespread, affordable, reliable access to digital services;
- broad geographic spread of domestic economic activity; and
- broad, deep markets for high-skill and high-value employment.

Perhaps of relevance to this Inquiry into the adequacy of radio services in regional and rural areas, the Report forecasts that there will be growth in the role of user communities:

Digital technology allows services to be re-programmed by users to better meet their own needs, weakening the service providers' hold on service definition...Growing user control is fuelling the emergence of niche service providers that can support particular communities of interest.¹⁶

The Report, however, holds forth a more pessimistic view on the potential of digital audio streaming:

The narrowband Internet already offers sufficient bandwidth to be used as an audio delivery channel, but a number of factors prevent this being a complete substitute for traditional broadcast radio...In addition, there are significant commercial difficulties associated with establishing a new online audio service...One result is that much Internet radio is provided by the existing radio broadcasters¹⁷.

The Report also notes that:

... the emergence of niche service offerings can significantly fragment domestic mass audiences, weakening local cultural identity.¹⁸

In order to meet the desired national outcomes, the Report suggests that structural interventions may be necessary, including direct or indirect government participation in the market. Government participation could include control of service market entry, competition rules, technical regulation of markets and tax concessions.

¹⁶ p.20.

¹⁷ p.27.

¹⁸ p.36.