

Chapter 1

Referral to the Committee

1.1 On 29 March 2007, the Senate referred the Broadcasting Legislation Amendment (Digital Radio) Bill 2007 (hereafter 'the bill') and the Radio Licence Fees Amendment Bill 2007 to the Senate Environment, Communications, Information Technology and the Arts (ECITA) Committee for inquiry and report by 30 April.

1.2 In accordance with the usual practice, the committee advertised the inquiry in *The Australian*, on Wednesday 4 April 2007 calling for submissions by Thursday 12 April 2007. The Committee also directly contacted a number of relevant organisations and individuals to invite submissions.

1.3 Submissions were received from seven organisations and individuals, as listed in Appendix 1. It was decided by the committee that, given the limited number of submissions, their high quality in identifying and discussing issues, and the length of previous Government consultation with interested parties, no hearings would be held as part of the inquiry.

1.4 The committee decided that, in light of a number of important and complex concerns raised by submitters, it would seek a detailed response from the Department of Communications, Information Technology and the Arts (DCITA) on a number of matters. Those matters are outlined in Chapter 2, and the Department's detailed response is included in an appendix to this report. In order to ensure sufficient time to consider these issues, and the Department's response, the committee made an interim report on 30 April 2007, indicating that it would make its final report prior to the next day of sittings.

Acknowledgments

1.5 The committee thanks all those who contributed to its inquiry by preparing written submissions. Their work has been of considerable value to the committee. The committee would particularly like to thank representatives of the Community Broadcasting Association of Australia (CBAA), the Australian Competition and Consumer Commission (ACCC) and officials of DCITA for their cooperation and advice.

Background to the bill

1.6 The strong growth of digital technology over the past decade has resulted in a requirement for broadcasting services to convert from analogue to digital technology. While provision has been made for the transfer of television broadcasts to digital, until now no provision had been made for the transfer of radio broadcasting.

1.7 The transition to digital is arguable the most important strategic issue facing Australian radio since the introduction of Frequency Modulated (FM) services in the 1970s and early 1980s.¹

1.8 Radio broadcasting has an established and unique position in the Australian media landscape. It is the most ubiquitous of all media, being found in virtually every home, car and workplace in the country.²

1.9 Digitisation is transforming all media and communications sectors, enabling the delivery of a common range of audio-visual, entertainment and information services to an increasingly more engaged, demanding and fragmented audience. This is no more evident than in radio, where evolving digital technologies, such as MP3 players and iPods – are changing listening patterns and re-shaping the way audio content is created, distributed and listened to.³

Options

1.10 The Explanatory Memorandum (EM) outlined three options for implementing the transfer from analogue to digital technology.

Option A – Defer Decision

1.11 Option A would seek to defer the decision on key elements of an introductory framework until there is further clarity on the role that digital radio services will play in the wider radio market in the long term.

Option B – ‘Conversion’ Model

1.12 Option B would seek to introduce digital radio under a full conversion model similar to that adopted for digital television that would seek to replace existing analogue services. The key assumption unpinning this model is that digital radio is a replacement technology for analogue. Commercial Radio Australia (CRA), the peak industry body representing commercial radio broadcasters, has expressed strong support for a conversion-based approach to digital radio and argued that radio be treated in an equivalent manner to television in the move to digital.

Option C – ‘Managed Introduction’ Model

1.13 Option C has been developed as an alternative position to a full conversion model. This model incorporates the Government’s stated commitments to industry and attempts to work within the constraints posed by the spectrum and technical limitations noted above. The key assumption upon which this model is based, drawn

1 The Hon. Bruce Billson, *House of Representatives Hansard*, 28 March 2007 (Second Reading Speech), p. 9.

2 Second Reading Speech, p. 9.

3 Second Reading Speech, p. 9.

from overseas experience, is that digital radio is not a replacement technology for analogue within a reasonable policy horizon, and that analogue radio will continue to provide a valuable and unique role for some time.⁴

1.14 The EM argued that Option C is the preferred option as it strikes a balance which recognises the role and legitimate interests of incumbent broadcasters, while seeking to promote the consumer benefits of digital radio by encouraging new services and providing pathways for new competitive entry.

1.15 The framework that is proposed in the bill is based on Option C.

Outline of the bill

1.16 The bill amends the *Broadcasting Services Act 1992*, *Radiocommunications Act 1992*, and the *Trade Practices Act 1974* so as to enable the licensing, planning and regulation of digital radio services to:

- enable the provision of digital radio services by commercial and wide-coverage community radio broadcasting licensees, and the national broadcasters, using the Digital Audio Broadcasting (DAB) technology;
- establish a new category of service, restricted datacasting, to enable the provision of innovative data services on the digital radio platform;
- establish a new multiplex transmitter licence category to accommodate the shared transmission platforms ('multiplexes') of the DAB system;
- provide the Australian Communications and Media Authority (ACMA) with powers to undertake planning and licence allocation activities for digital radio services;
- require incumbent commercial radio broadcasters and multiplex licensees to commence, and to continue to provide, digital radio services – in the case of the state capital city markets on or before 1 January 2009;
- provide the opportunity for existing commercial and wide-coverage community broadcasters to control the multiplex licences for their initial services, with subsequent licence allocations to be undertaken via a priced-based method;
- introduce a six year moratorium on the issue of new licence area planned commercial digital radio licences from the commencement of services in the respective market;

4 EM, pp 9–11.

- establish minimum access rights to multiplex transmission capacity for the commercial, wide-coverage community and national broadcasters on relevant multiplex licences;
- establish a multiplex access regime to ensure operators of commercial multiplexes provide access to transmission capacity on terms that are open, efficient and generally non-discriminatory;
- provide the Australian Competition and Consumer Commission (ACCC) with appropriate powers to enforce the access regime;
- provide ACMA with the power to determine technical standards relating to digital radio and restricted datacasting services, the operation of digital radio multiplex transmitters, and domestic digital reception equipment for radio services; and
- provide ACMA with the power to require industry to develop and register voluntary codes of practice dealing with a range of digital radio and restricted datacasting issues, and with a power to determine standards where such codes are not developed or do not operate effectively.⁵

1.17 Consequential amendments to the *Radio Licence Fees Act 1964* will also ensure the consistent application of licence fees to the revenue of commercial radio broadcasting licensees derived from analogue and digital radio services. These amendments are made in the Radio Licence Fees Amendment Bill 2007 (the Licence Fees Bill) which is part of this package.

Conclusion

1.18 Submissions to this inquiry were generally supportive of the bills' intent and provisions. The issues raised are explored in the following chapter.