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The Secretary
Senate Environment, Communications, Information Technology and the Arts
Legislation Committee
Department of the Senate
Parliament House
Canberra ACT 2600

Email: ecita.sen@aph.gov.au

Dear Sir/Madam

**RE: INQUIRY INTO THE PROVISIONS OF THE BROADCASTING LEGISLATION
AMENDMENT (DIGITAL RADIO) BILL 2007**


Please find enclosed a submission from Broadcast Australia in response to the Bill.

Thank you for the opportunity to provide comments on the provisions of the Bill and, more broadly on the introduction of digital radio in Australia.

We would be pleased to provide any additional information that would assist the Committee with its deliberations.

Should you have any questions relating to our submission please don't hesitate to contact me on (02) 8113 4666 or email Graeme.Barclay@broadcastaustralia.com.au or alternatively Linda Andersen on (02) 8113 4654 or email Linda.Andersen@broadcastaustralia.com.au.

Yours sincerely



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SUBMISSION BY BROADCAST AUSTRALIA TO THE INQUIRY INTO THE PROVISIONS OF THE BROADCASTING LEGISLATION AMENDMENT (DIGITAL RADIO) BILL 2007

1. Broadcast Australia

Broadcast Australia (BA) is Australia's leading broadcast transmission provider and plays a critical role in the Australian free-to-air (FTA) broadcasting sector. Our core business is the provision of services for the transmission of television and radio broadcasts to audiences across Australia. BA has over 70 years broadcast transmission experience, covering both analogue and digital broadcasting services and aims to provide world class broadcasting solutions to its customers, both now and in the future.

BA was created from the Commonwealth Government's sale of the 'National Transmission Network' in 1999. BA is a wholly-owned subsidiary of Macquarie Communications Infrastructure Group (MCIG), an entity listed on the Australian Stock Exchange (ASX code: MCG). MCIG's major shareholders include a broad range of institutional and retail investors.

BA owns and operates an extensive broadcast transmission infrastructure network in Australia. The company provides transmission services from approximately 600 strategically located transmission sites across metropolitan, regional and rural Australia and reaches over 99% of the country's population.

BA's principal customers are the ABC and SBS: BA delivers virtually all of the national broadcasters' television and radio managed transmission services under long term service level agreements. The company also provides services and/or co-hosting for commercial FTA broadcasters, the community broadcasting sector, telecommunications companies and radiocommunications users (such as emergency services organisations).

BA has been at the forefront of Australia's consideration and implementation of digital broadcast technologies. The company has invested in excess of \$A200m to date in digital TV transmission infrastructure across Australia to deliver ABC and SBS digital television services, and has made significant investments in important technical and commercial trials of new digital broadcast technologies/applications such as Datacasting (Sydney market, 2004 to today), Mobile TV utilising the DVB-H standard (Sydney market, 2005 to Jan 2007), Digital Radio utilizing the Eureka 147 standard (Melbourne market, 2004 to today) and Digital Radio Mondiale standard (Canberra market, late 2006 to today). BA has worked closely with the Australian Communications and Media Authority (ACMA) in relation to these trials.

In relation to digital radio, BA maintains close contact with the international industry body (WorldDMB), radio broadcasters, transmission services providers, equipment manufacturers and others, including with leading operators in the UK as the world's leading digital radio market. BA, CRA and the ABC worked very closely and successfully together to achieve the introduction of DRB+ into the globally accepted digital radio standard. This was a crucial element for the establishment of DAB services in Australia.

2. Digital Radio – Key Issues

In BA's view, digital radio is a "once-in-a-generation" development in the evolution of radio services and should offer Australian consumers a range of significant additional benefits and services not available in analogue. Experience in other international markets indicates that consumers are embracing digital radio due to the availability of additional (digital-only) audio services, new data services, higher audio and reception quality (particularly relative to AM analogue services) and improved receiver features such as "rewind" and "store" functions and more recently, EPG features. With substantial growth in services and receivers in the United Kingdom and elsewhere in Europe (indeed, in the UK, the leading electronics retailer, Dixons, reports that sales of digital radios outstrips the demand for traditional sets), BA strongly supports the introduction of digital radio in Australia and the rationale of the Bill.

The key issue to be addressed by Australia's policy makers is to ensure that the policy framework and implementation model maximises actual realisation and delivery of the potential benefits from this "new" technology. BA understands that this needs to occur in the context of Australia's incumbent radio broadcasting industry (national, commercial and community) and the existing regulatory framework for broadcasting services.

BA submits to the Committee that there are a number of key policy, commercial and technical considerations that are central to the introduction of digital radio in Australia and will ultimately play a significant part in its success or otherwise. These can be summarised as: the delivery of new services, significant promotion of the new services and the availability of "right" priced handsets. The following comments have been developed in the context of these success factors:

- Choice/new services. BA's observation of the introduction of digital broadcast technologies internationally and in Australia is that consumer take-up of digital receivers is largely driven by the availability of new digital-only services (rather than simply a simulcast of existing analogue services). It is therefore essential to ensure that there is a mix of new and existing services with the introduction of digital radio.
- Promotion of digital radio. Consumer take-up of digital receivers is predicated on consumer awareness of the new platform and the benefits that it offers. The most effective vehicle for the development of consumer awareness is cross-promotion via analogue radio, although other education/marketing channels can also play a role (e.g. consumer electronic retailers).
- Role of national broadcasters. The introduction of digital broadcast technologies internationally and in Australia strongly suggests a central role for national broadcasters as a critical success factor. National broadcaster services are a vitally important part of the radio consumed in Australia and, in the context of a six year moratorium on new commercial entrants, the innovative content offerings available from national broadcasters is likely to be of even greater importance to the successful introduction of digital radio. The entry of the BBC into digital radio in the United Kingdom with new service offerings ensured the success of that platform which was struggling to make traction. The BBC was able to deliver from its extensive store a number of genre based radio services in addition to its analogue services. Services 1-5 below are provided in both analogue and digital and Radio 6 & 7, Asian Network and 1Xtra are provided in digital only. i.e.



- Adequate licence area coverage. The successful establishment of digital radio in Australia is predicated on a timely rollout of services that are accessible to people across relevant licence areas on an equal or near-equal basis to the analogue services in that licence area ('same coverage'). This adequacy of coverage relates to the geographic area covered by digital signals and, importantly, the situations in which consumers listen to radio – in-the-home, in-car and itinerant (i.e. personal portable).
- Choice of technology standard. There are a number of alternative technology standards for digital radio, and BA believes that Australia is making the correct choice in opting for Eureka 147, the world's most mature and accepted digital radio standard. Importantly, the 'basic' variant of Eureka 147 (known as MPEG 1-Layer II) which has been implemented in the UK and elsewhere in Europe has evolved recently with the certification of an 'advanced' variant (known as DAB+). In simple terms, the DAB+ compression technology is at least twice as efficient as the earlier, basic variant meaning that DAB+ enables twice as much content to be provided using the same amount of channel bandwidth e.g. increasing the capacity from say 9 to 18 services per multiplex, or enabling a greater mix of program and data services, such as program enhancements.
- Spectrum scarcity. This point is closely linked with the technology standard issue, above. Eureka 147 digital radio services are most cost-effectively deployed on VHF Band III spectrum (the spectrum used in Australia for analogue television). This spectrum is scarce in Australia's major metropolitan and some regional markets. In practical terms, the only choices available are Channel 9A (the 6 MHz spectrum block between Channels 9 and 10) or Channel 13 (which is currently used by the Department of Defence). BA understands the suitability of Channel 13 is under examination but would require the agreement of the Department of Defence. In either case, it is certain that in most licence areas there will be some transmission 'gap-filler' sites required (i.e. to cover those local areas which do not receive adequate signal from the main transmission site serving a licence area). If channel 9A is used, because of the reduced main transmitter power (restricted to minimise interference to the adjacent channel analogue television services) a larger number of gap-fillers will be required and extended coverage can only be achieved through the utilisation of another frequency band (identified as L-Band). If channel 13 is used, a smaller yet still significant number of gap-fillers will be required but these can be provided through the use of single frequency networks which involve reuse of ch13. For this reason, channel 13 is the preferred frequency outcome.
- Services for regional/rural areas. Australia's introduction of digital radio is premised on the Eureka 147 technology standard (reflected in the Bill). While BA believes this is the right technology standard choice for metropolitan and larger regional areas, it is unlikely to be ideal for wide coverage areas in many rural markets. The best solution for these areas is expected to be provided via the Digital Radio Mondiale standard (DRM), a proven technology for wide

area coverage using MF spectrum. This should be factored into Australia's policy framework for digital radio.

- **Transmitter facility access.** Like digital TV, the introduction of digital radio will require new infrastructure (e.g. transmitters, combiners, antennas etc) to be installed on existing broadcast transmission sites. Access to existing broadcast transmission sites is recognised in the Bill. However, unlike digital TV and as set out above, digital radio will require a significant number of gap-filler services that will need to be accommodated on sites that are not currently used for broadcast transmission (e.g. telecommunications sites) – timely and cost-effective deployment of digital radio will require regulated access to these non-broadcast sites.
- **Receiver availability.** The specification of digital receivers for the Australian market is a key short term issue and one that must take into account Australia's particular requirements. This relates in particular to the inclusion of DAB+ capable chipsets into digital receivers and the anticipated future deployment of services via DRM in regional areas. From discussions with the receiver manufacturing sector, BA understands that DAB+ capable chipsets will be incorporated into digital radios for Australian distribution by the end of 2007. DRM receivers are progressively becoming available as more markets introduce DRM services.

3. Specific Comments on the Bill

Broadly speaking, BA believes the Bill represents a reasonable legislative framework for the set of digital radio policy decisions that the Government announced in October 2005. BA makes the following comments and recommendations to the Committee in relation to specific provisions of the Bill:

Scope of 'digital program enhancement content' (Item 15)

While some forms of visual content are stipulated by the Bill to fall within this definition (and are, therefore, permitted), the question of whether moving images may be provided is a matter for ministerial determination. BA believes that the ability to provide such images is likely to be of importance to the overall digital radio consumer proposition. Any concern that moving images may somehow replicate or compete with commercial TV broadcasting services is, in BA's view, unfounded given the applicable bandwidth limitations in the digital radio context.

BA recommends that a new element be introduced into the definition that refers to (and permits) "moving visual images".

Definition of 'restricted datacasting licence/service' (Items 24, 25 and 110)

As presently drafted, the existing definition of datacasting services in Schedule 6 of the *Broadcasting Services Act* (BSA) will define content permitted in restricted datacasting services. This is unless or until there is a ministerial determination which otherwise defines or limits these services. BA believes these services may be a significant additional element to the overall digital radio consumer value proposition and would welcome a clear statement as to the government's intentions on what other restrictions, if any, will apply to the type of services that could be provided.

Provision of substantive and adequate digital coverage (Items 56 and 166)

BA is concerned that the Bill does not appear to impose any specific obligations on broadcasters or multiplex transmitter licensees to achieve service rollout or coverage milestones, nor does it provide ACMA with any direction as to its planning to achieve this result. This is despite the statement on page 23 of the Explanatory Memorandum that at least in the case of state capitals similar coverage in the licence area is contemplated. Provisions in the Bill which appear to confer powers on ACMA or the Minister to potentially make future relevant determinations include:

- Proposed subsections 130AA and 130AB of the BSA (Item 56) make provision for ACMA to determine technical standards relating to the transmission of digital radio services and operation of multiplex transmitters, respectively.
- Proposed subsections 109B(1)(q) and (r) and 109B(2), (3) and (4) of the *Radiocommunications Act* (RA) relate to implementation plans by licensees and ACMA's powers to determine requirements to be complied with in these plans and the Minister's powers to direct ACMA on these requirements.
- Proposed new subsections 109B(t), 109B(9) and (10), existing paragraph 111(1)(a) and new subsections 111(6) and (7) of the RA could be used in the future to impose rollout and coverage obligations on multiplex transmitter licensees.

BA recommends that the legislation require foundation multiplex transmitter licensee to provide substantial, rather than nominal, digital coverage within 12-18 months of start-up. This obligation should be specified in implementation plans to be lodged with ACMA as should the requirement that equivalent coverage (to analogue services) be achieved by the end of the moratorium period. Ideally, this equivalent coverage should specifically be based on a 'reference receiver' which, as a minimum, permits widespread, reliable in-the-home reception (rather than simply in-car reception with fortuitous in-the-home reception).

Access to non-broadcast transmission facilities (Item 172)

Item 172 (Division 4C) essentially replicates the transmitter access regime provided in relation to digital TV under Part 5 of Schedule 4 to the BSA. Unlike digital TV, however, the rollout of digital radio in many licence areas will require a significant number of 'gap-filler' services/sites (that are not currently used for broadcasting purposes) to ensure coverage in locations not adequately serviced from a main transmitter site. In many instances where a gap-filler site is required, a multiplex transmitter licensee (or a party on its behalf) will have the choice of establishing a new site or trying to gain access to an existing non-broadcast transmitter (e.g. telecommunications) site. BA submits that from both an economic and environmental perspective it would make sense to be able to access existing telecommunications sites including building rooftops.

BA recommends that the Bill be amended to provide regulated access for digital radio multiplex licensees (or parties on their behalf) to existing non-broadcast communications infrastructure sites by applying the same access provisions and obligations to these sites for the purpose of deploying services using broadcasting services band spectrum). If it is not practical for the Bill to be so amended, we recommend that the Committee recommend that the Government immediately commence industry consultations to this end.

Obligation to promote the digital radio platform

The Bill currently defines only very limited circumstances where there is any obligation on licensees to promote the digital radio platform – this arises in Item 166 (proposed subsection 109C(2)) where promotion of digital radio is nominated as one of the potential uses for funds from an auction of excess-capacity access entitlements. In the absence of such funds coming into existence, no source of promotional funds is established and no other requirement for promotion exists.

BA submits that there is a strong case for digital commercial licensees to have a positive obligation to cross-promote the digital radio platform using their existing analogue services (this could possibly be complemented by government consumer communication) or further “develop” the digital radio band in other ways. BA notes its view that the very limited amount of cross-promotion by commercial TV broadcasters has been at least one factor in slower-than-expected consumer take-up of digital TV receivers in Australia. BA would also note the imposition of a positive obligation on UK digital radio broadcasters to invest an annual sum in the promotion of the digital radio platform.

BA recommends the insertion of a new provision that obliges individual licensees to devote a certain small percentage of their available airtime to cross-promotion of the digital radio platform in peak listening times each week.

Ends