

## Broadcasting Inquiry

7<sup>th</sup> December 1999

Productivity Commission  
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Attn: Jenny Luxmoore

Without prejudice

Dear Chairman

### **My first concern:** The make up of the ABA board

[1] Under the Broadcasting Services Act 1992, the ABA consists of a Chairperson, Deputy Chairperson and not more than 5 other members. The governor-general appoints these members with additional provision under the Act for the Minister to appoint associate members.

The current membership of the Board is:

Professor David Flint,	Chairman
Gareth Grainger,	Deputy Chairman
Michael Gordon-Smith,	Member
Kerrie Henderson,	Member
John Rimmer,	Member
Ian Robertson,	Member
Jeffrey Hilton,	Associate Member (also Senior Counsel of the ACCC)
Dr Robert Horton,	Associate Member (also Deputy Chairman of the ACA)

[2] After the implementation of the ACT of 1992, we saw the introduction of the Narrowcast spectrum, this now constitutes 1560 licenses which were issued across Australia.

[3] It's my opinion that the ABA board should be broadened to have at least 1 if not 2 members from the Narrowcast spectrum to represent the diversity of opinions and views that this emerging medium has to offer.

### **[4] My second concern:** License fees should be introduced for Community radio stations

[5] Community radio stations should pay an annual license fee at the same rate per watt as Narrowcasters currently pay to the ACA.  
Community stations are operating on power outputs of 1000 to 2000 watts with the desired result of reaching their target audience.

[6] Narrowcasters on the other hand are licensed to a power output of 1 watt in urban areas. Operating at 1 watt with the intention to reach a target audience and obtain revenues to cover operating costs is next to impossible.

[7] For example, the signal output from a narrowcast transmitter does not have the strength to reach tourists, if the targeted audience is tourist, when they are housed in the local motels, hotels, caravan parks, bus terminus, airports.  
The Narrowcast signal is much like a mobile phone, which invariably drops out. The audience, or intended targeted audience, would have to move their radio receiver around to face the transmitter or drive on to where the signal strength is achievable.

[8] Trying to get a 1watt signal through or around brick, steel, wood, or concrete construction is extremely difficult and to ask for a license fee from the narrowcasters adds insult to injury.

[9] I therefore suggest two courses of action:

- (1) Increase the power output of Narrowcasters to 50 watts so that they can successfully target their audience while keeping the Narrowcast fees at the same rate as present.
- (2) The license fees charged should be changed to a per watt rate for both Narrowcasters and Community stations. Community stations would be compensated for this by the advertising revenues they are able to gather

**[10] The Third Concern:** Complaints mechanism and the CBAA's role

[11] Our station in little over 4 years has received two complaints from the ABA via a CBAA sponsored campaign targeting Narrowcasters.

With the opening of the spectrum to Narrowcasters, CBAA had a headline in a publication to its members Which read " How to DOB in a Narrowcaster " This agenda was obviously designed to preserve the income streams of their members against the Narrowcasters

[12] The first complaint against my radio FM 88 Springwood was wide and varied in its claims but received considerable favour as it was supported by the Local Federal Member of Parliament who until his sacking as the Minister for Department of Administrative Services was a former member and broadcaster on the local community station making the complaint. (This was clearly a conflict of interest)

[13] We believed and still believe to this day that we were targeting Special Interest Groups in accordance with the Broadcasting Act 1992. Our training program in a little less than 14 months had trained over 150 local people into the radio industry by giving them a start in the city in which they lived. This was a considerable achievement for a pioneering radio service especially as we had an age group ranging from 13 to 70.

[14] We are constrained by the Act in a number of different respects for example; we are required to target Special Groups. By having to target Special Interest groups our program is constantly changing in content, style and format and therefore we are unable to realistically hold our audience and therefore places us at a further disadvantage to the Community radio stations.

[15] The ABA considered the complaint made by the CBAA in relation to Narrowcasters and went on to insist that Narrowcasters be of Broad Appeal and NOT Limited Appeal. If we did not comply we were threatened with fines of up to A\$5,000.00 per day

[16] The ABA had discretion to utilize subsection (e) of the Broadcasting Act 1992 for Narrowcasters in determining the scope of Broadcasters use of the license. They failed to use their discretion appropriately

[17] As a result 43 local people failed to continue their employment with my particular station. I find it unpalatable that the Broadcasting Act 1992 gives the ABA the right to be, judge, juror and executioner in respect of these issues. There is no thought or compassion to these people who were given the opportunity to gain experience in the radio industry.

The effect of our closure had a detrimental effect on the local community.

(FYI: In Logan City the unemployment rate for kids is something akin to 40 %, for mums who have been out of work perhaps 70 % and for persons over 50 they might as well take the pension)

[18] Yet it would appear the ABA is using its discretion, allowed to it under the act, inconsistently. In far less straightforward circumstances the ABA has ventured into using its discretion to allow Commercial license holders to buy up Narrowcast licenses furthering their Commercial interests. This has occurred in Sydney, Melbourne and Brisbane e.g. as vehicles for the promotion of the TAB

**[19] The last Issue:** Narrowcasters perceived by the ABA to be Commercial radio stations

[20] There have been instances where the ABA has investigated Narrowcasters such as myself after receiving complaints from the CBAA regarding the content of our broadcast.

[21] It is difficult to see how any Narrowcasters can be remotely considered to be operating as a commercial radio station simply because of the content of its broadcast, especially given that a Narrowcaster is limited to a 1 watt capacity.

[22] This would render a Narrowcaster potentially to a fine of A\$ 250,000.00 per day for breach of the Broadcasting Act.

[23] By no stretch of the imagination could a Narrowcaster with a mere 1-watt capacity be considered to be a commercial radio station.

[24] A 1 watt capacity only enables the signal to go no further than 2 kms in radius. This would serve little purpose to anyone and cannot even be remotely considered to be a threat to the Community radio stations, which are broadcasting with 2000 times that capacity.

[25] Due to the fact that Narrowcast stations are under threat of prosecution for potentially acting outside their authorised scope of activity. Hundreds of Narrowcaster broadcasters have ceased operating all together and ironically now find themselves under further threat by the ABA who can now potentially allege that holders of Narrowcaster licenses are merely hoarding those licenses and not utilizing them.

[26] In summary therefore it would be a sensible solution to have all both categories of Broadcasters operating as the same criteria. This would resolve the state of uncertainty under which Narrowcasters in particular are operating and would enable the ABA to act consistently in determining any issues, which may arise.

Ladies and Gentleman thank you for your time.

Yours faithfully

Jeffrey Shaw  
Managing Director