

Community Broadcasting Association of Australia
Submission to the Productivity Commission
Review of Broadcasting Legislation

18 May, 1999

1. Introduction

Founded in 1974, the Community Broadcasting Association of Australia (CBAA) (or Public Broadcasting Association as it was then) is the major national representative organisation for community radio and television stations in Australia. More than 85% of permanently licensed community radio and television stations are members of the CBAA and a further 50% of the 155 TCBL's (aspirants broadcasting on Temporary Community Broadcasting Licences while awaiting permanent licences) are also members.

However, the community broadcasting movement is very broadly based and a number of sub-sections of the wider movement have formed their own national representative organisations to develop and promote the specific interests of stations and broadcasters with those attributes in common. The organisations are:

- National Ethnic and Multicultural Broadcasters Association (NEMBC)
- National Indigenous Media Association of Australia (NIMAA)
- Radio for the Print Handicapped Australia (RPHA)
- Australasian Christian Broadcasters (ACB)

Most of these organisations are preparing their own submissions to the Inquiry addressing matters of specific concern to the interests they represent, as well as to all community broadcasters. Those submissions have the endorsement and support of the CBAA which recognises their greater capacity to speak on behalf of their specific interest groups.

Due to severe time and resource constraints this submission will confine itself to the major issues affecting the community broadcasting sector. The CBAA may have views on some of the questions raised in the Productivity Commission's Issues Paper which are of a broader nature or which potentially impact far more heavily on other sections of the broadcasting industry than ourselves, but with the very short time available for the preparation of submissions we have not been able to give them our attention. We would expect some of them to be addressed by the other sector bodies or by submissions from individual community stations or people concerned with the future of community broadcasting in Australia.

2. The nature and philosophy of community broadcasting

During the past 25 years community broadcasting has grown to assume a significant role in Australia's social and cultural life. The sector provides a range of general and special interest programming to a diverse set of audiences. As the third tier of the free-to-air broadcasting system, its continuing development ensures structural diversity and provides the opportunity for many people to take control and to become producers of radio and TV programs, as well as consumers. This is of major significance in a world where there is increasing opportunity for passive consumption of a vast array of mass media entertainment but a decline in outlets at the local community level for people to take control of their own communications needs.

The community broadcasting sector is sustained by the efforts of over 15,000 volunteers and its services are both culturally diverse and local in focus. In addition to specific licensing arrangements for remote Aboriginal communities¹ throughout Australia there are now some 160 fully-licensed community radio stations, 155 temporary licensees (TCBL's) and 8 community television licensees. Over the past 2 years the sector has experienced a major growth phase due to the advent of the temporary licensing regime inaugurated through an amendment to the Act in 1997, and the long-awaited and much delayed outcome of the ABA's spectrum planning and licensing process.

The Broadcasting Services Act 1992 (BSA) provides the statutory framework for all categories of broadcasting services, including 'Community'. Part 3 of the Act sets out the planning powers and responsibilities of the Australian Broadcasting Authority (ABA) which include criteria such as the demographics, social and economic characteristics and the demand for new services in each service area. Section 15 solely defines the service category "community broadcasting" and requires that services are provided for community purposes, not operated for profit or part of a profit-making enterprise and that programs are receivable on commonly available equipment, free of charge. Part 6 sets out suitability criteria for licence applicants and the responsibilities of the

¹ Some 160 special community licences formerly known as BRACS – Broadcasting to Remote Aboriginal Communities – represented by NIMAA, the National Indigenous Media Association of Australia

ABA with respect to licence allocation. Schedule 2, Part 5 sets out the statutory conditions which apply to community broadcasting licences.

In deciding whether to allocate a community broadcasting licence, the ABA must have regard to a number of elements including the extent to which the proposed service would meet the existing and perceived future needs of the community within the service area, the nature and diversity of interests of that community and the nature and diversity of other broadcasting services.

Unlike commercial broadcasting licences which are allocated at auction, community broadcasting licences are subject to ABA discretion or what is sometimes known colloquially as a 'beauty contest'. When a new community licence is offered in an area it may be subject to competing community based applicants known as 'aspirants' each vying to be recognised as representing valid communities of interests and adjudged to be most worthy of holding a licence.

From the community broadcasting sector's point of view, access and participation are the defining principles, which means that volunteers become involved in making and presenting programs or in the management and technical operation of services. The sector is sustained by the voluntary efforts of over 15,000 people and some 300 paid personnel. Community broadcasting services do not exist for commercial gain but are provided for community benefit. Program content is produced at marginal cost and is distributed and exchanged without commercial consideration. Each station must be run on a non-profit basis by a community owned and controlled association or non-profit company.

All of these principles enshrined in the Act for community broadcasting were developed and tested over the first 20 years of the sector's growth from 1972 to 1992. They have served community broadcasting very well, and in general the CBAA would want to see them retained and strengthened in any changes to the legislation, or to Australia's broadcasting system. They establish community broadcasting quite separately from the commercial and National sectors and guarantee it an individual and equal role in the Australian broadcasting system.

The principles established in the Act protect community stations from formal takeover by commercial interests. They also protect the integrity of community broadcasting as an ideal by limiting the capacity of boards or the

management of stations to ignore the requirement for community participation in favour of embracing commercial imperatives. This always requires a delicate balancing act on the part of station management because as government assistance falls away commercial sponsorship inevitably comprises a larger and larger proportion of stations' incomes. Community stations are obliged to enter the commercial market place and to compete there, but if they allow commercial considerations to become paramount, and program their airtime accordingly, they inevitably abandon the purpose for which they were licensed. Financial issues are addressed in a following section.

3. Localism and diversity

Although commercial broadcast media in Australia include 219 commercial radio stations and 47 commercial television stations they are structured as networks and the bulk of programming is standardised within each network. Commercial radio is dominated by networking and syndication of programming out of the capital cities resulting in a dramatic decline in localism throughout the 1990s. Despite the deliberate preservation of regionally based commercial television operators under the Government's Television Equalisation program in the late 1980's, the commercial television sector is now dominated by networked programming and most regional services are aligned with one of three metropolitan networks. National broadcasting services ABC TV, SBS TV, Radio National, News Radio, Classic FM, JJJ and SBS Radio - are also largely networked, notwithstanding the fact that the ABC does operate 39 regional radio stations.

It is an article of faith among those who promoted broadcasting deregulation in the early 1990's, and those who continue to push for more of it today, that opening up the airwaves and licensing more stations to provide ever more competition will provide diversity, and make the consumer happy. But in Australian radio where does the real diversity lie? Where is the innovation in programming? Where is Australian culture being promoted and supported through the broadcasting of new Australian music? The contribution of the ABC and in particular the JJJ Network has to be acknowledged, but it is in community broadcasting that progress is being made, a fact recognised recently by the Government through a \$1.5 million grant over three years for the establishment of an Australian Music Channel for satellite and on-line distribution of program material. This project will help community stations

develop and promote on air Australian music, not only in the youth format of JJJ, but in all genres of music from classical to country, including Indigenous and ethnic contributions.

In most cases additional commercial licences have brought audiences stale, uninspiring music programs packaged in the major capitals, or even overseas, and bereft of innovation or inspiration. Nor have they brought the advantages of additional employment to country and provincial centres as local independent operators sold out to large groups, mainly foreign, whose first act was often to close the local radio newsroom and take a bland “rip-and-read” service from a major agency. Diversity in the provision of news services has shrunk dramatically rather than increased with more licences. The only new service to be made available for radio over the past few years is an independent news service, *National Radio News*, prepared and presented by the community stations 2NUR in Newcastle and 2MCE in Bathurst in conjunction with their respective universities and carried on the CBAA satellite.

The free market economists’ notion that the public interest is best served if all available frequencies in any location are licensed to radio operators who live or die by market forces may please the Treasury but it has little to do with providing the community with improved radio services. Too many radio services in any one market may serve to force commercial stations into providing a diet of automated, networked programming in order to survive, but the affect on local community stations can be so much worse.

Community broadcasting grows organically from within the community. A group forms in response to a perceived community need. It matures slowly, gradually acquiring the necessary equipment and expertise and holding a series of time-limited on-air broadcasts to hone skills and prepare for full time broadcasting. With government assistance virtually negligible, and traditional sources of help from local councils, tertiary institutions, etc in serious decline as these bodies also concentrate on their ‘bottom line’ the new community ‘aspirant’ enters the market for sponsorship dollars against the established operators, and any other aspirants trying their hand. It is indeed a fragile flower.

Unless it is seeking a licence to serve a specialist community interest (ethnic, Indigenous, print-handicapped, Christian, etc), or intends to operate in a major capital city where all radio services are highly specialised, the

community aspirant is obliged to open its doors to all sections of the local community interested in providing radio programs. It knows that many of the interest groups will be small in number and the programs they generate of little or no value as sponsorship vehicles to local businesses. If it is to survive the station will have to find popular volunteer announcers and program formats for 'prime time' slots which will interest commercial sponsors but these will effectively subsidise other less popular programs.

It is this segmenting of the market, a total anathema to a commercial operator bent on maximising the audience throughout the day, which ensures that the many interests which exist within a community have the opportunity to be exposed through the broadcast medium. The simplistic ideological free market approach of licensing more and more stations cannot provide an alternative way of reaching these audiences because the niche markets concerned are mostly too small and commercially insignificant to be attractive to commercial broadcasters, or even to narrowcasters.

What occurs, however, with the licensing of more services, be they commercial or in some cases additional community stations, is that the existing community licensee's fragile economic base is put under more pressure, particularly in rural centres already feeling the pinch from reduced government and private infrastructure and a falling population. The community is in danger of losing an established radio service built by dedicated volunteers over a long period, and charged with giving the whole community a voice. Many community stations outside of the major capitals have told the CBAA of their increasing struggle to remain viable in the face of a static local economy and an increase in competition from new radio services.

There is a recognised need for locally owned, controlled and operated community broadcasting throughout Australia and many groups have seized the opportunity to apply for a TCBL and to begin the challenging task of establishing a viable community radio station. The removal of any requirement on the part of the broadcasting regulator in 1992 to consider the potential financial affect of new entrants on existing operators, or on the chances of the new entrants making a go of it, might make some sense for commercial operators. They are free to seize new business opportunities and to adjust programming policies to fit economic circumstances, but the 'let a thousand flowers bloom' approach provides no benefit to community

broadcasting, nor, we would contend, to the quality listening options for local audiences.

With the rapid conversion of other kinds of broadcasting to the provision of networked, satellite delivered, programming the cause of localism has increasingly become the preserve of the community radio station. The CBAA provides a satellite delivered service featuring the best programs produced by our member stations but these always remain a secondary choice for local stations. They provide examples of what community stations can achieve and are used to fill program slots (such as midnight to dawn) when local volunteers are not available.

It is here that the CBAA sees a strong case for increased government assistance. We conducted a vigorous but unsuccessful lobbying effort during the last election campaign to have this need recognised, as it has been in the case of ethnic, print handicapped and Indigenous community broadcasters.

It is this connection to their local communities, and the participation of local people in the management and operation of community broadcasting stations which the CBAA sees as a potential protection for them against the possible inroads of direct broadcasts from foreign countries. Practically all non-metropolitan commercial radio services and most National services are networked via satellite with limited local windows to give the appearance of a local connection. Community broadcasters live with the apparent disadvantages of untrained and often inexperienced on-air (and behind-the-scenes) personnel but if they remain closely connected with the communities they serve and are responsive to their audiences needs, they may be better able to defend against the threat of competition from afar than the networked services of other broadcasters.

4. Financial Viability

Licensed community broadcasting stations, radio and TV, have a combined annual gross income of around \$25 million per year, which is indeed a tiny proportion of the income of any of the other sectors. Direct government grants in 1998-99 will amount to \$4.053 million which is comprised as follows:

	\$
General Community broadcasting	779,000
Ethnic broadcasting	2,376,000
Indigenous broadcasting ²	628,000
Radio for the Print Handicapped	270,000

In addition the Government has provided \$1.5 million over three years (1996-1999) for the development of a computer network and database (called the CAN/CBD project) for community radio and TV stations and a further \$1.5 million over three years (1998-2001) for an Australian music project which will see new Australian music provided to stations through satellite and on-line delivery mechanisms.

In 1996 the grants for ethnic programming was increased from \$1.2 million to \$2.2 million annually for a three year period, and this was extended for three further years in the 1999 Budget. Similarly, funding for the CAN/CBD project was extended for a further three years in the 1999 Budget.

During the 1998 election campaign the CBAA lobbied the major political parties for an additional sum of \$2 million over three years in recognition of the on-going expansion of community broadcasting and its importance as a force for social cohesion and improved communications, particularly in rural and regional Australia. The number of permanently licensed community stations is expected to almost double during the five years beginning in 1997, yet outside of the area of ethnic broadcasting there has been no increase in general grant money distributed by the Community Broadcasting Foundation (CBF).

In the early 1980's the CBAA (then the Public Broadcasting Association of Australia) determined that a station's income stream was at its most healthy in terms of sustaining the licensee's integrity and independence when it was comprised of three roughly equal parts: government (local, state and federal, including all public agencies); commercial sponsorship; and other fundraising activities such as membership fees, 'radiothons', subscriptions, donations, etc. We still believe the attainment of such a balance to be a highly desirable aim for the community broadcasting stations, but there remain only a small number of licensees outside of the specialist areas of

² The major proportion of government funding for indigenous broadcasting is provided through ATSIC - \$12.4 million in 1998-99.

Indigenous and ethnic broadcasting (for which government funding remains substantial) where such a model would be at all feasible.

In line with the decline in government funding across many community activities, rather than increase grant funds other than for specific tied projects the Government chose to signal its preference for the future by promising to raise the statutory limit for on-air sponsorship from four minutes in the hour to five. It is expected that the BSA will be amended during 1999 to institute this change. There may be a few stations in larger centres which will benefit, as will community TV, but the great majority of stations in non-metropolitan areas have a long way to go before they reach their four minute time limit, let alone achieve five.

For the first 20 years or so of community broadcasting there was a considerable range of ways that a station could avail itself of help and support other than commercial sponsorship. These have largely evaporated with the need for local government, statutory authorities, and educational institutions to operate as commercial enterprises and to make every dollar count. The CBAA knows it is futile to try to turn back the clock but we are very wary of calls for further deregulation and increased competition on the grounds that this will benefit the community. It may benefit some of the major media players and the coffers of the Government, but it might also help to destroy some very important local services which have been established over a long period due to the unpaid dedication of many people within the community. Unlike competing commercial interests community broadcasting stations are not expendable or easily replaceable when unsustainable competitive pressures force their closure.

4. Technology and Innovation

Community broadcasting has always embraced technical innovation and since its birth in the mid 1970's has served as a test-bed for new and original approaches to broadcasting. Community broadcasters pioneered the FM band in the late 1970's and early 1980's at a time when commercial stations were unwilling to risk exchanging their AM frequencies for the untried FM band. In 1991 with Government assistance, the sector established a national satellite program distribution system which in 1998 migrated onto a fully digital satellite platform.

Acknowledging that the future of both radio and TV broadcasting lies in the provision of digital services, the CBAA has been an active and equal participant in the industry/government consultative process formulating policy for the new platforms. Our technical consultant, David Sice, had a major role in the preparation of the Report of the Digital Radio Advisory Committee³ (DRAC) which was established by the Minister to advise the Government on how to introduce digital radio into Australia. The CBAA remains an active member of its successor, the Digital Radio Advisory Committee, and would once again expect community broadcasters to adopt a pioneer role in exploiting the new technology – if we are in a financial position to do so.

In the knowledge that the conversion to digital transmission will be very costly for community radio licensees which will have to simulcast on analog for many years, the CBAA has made consistent approaches to government for financial assistance to provide for conversion. Early estimates suggest a basic cost of between \$75,000 and \$150,000 per station for conversion, depending on location and the kind of arrangement made with the multiplex operator. This is likely to be well beyond the capacity of all but the larger community stations to fund from their own resources. The conversion cost for the whole sector is estimated at between \$20 million and \$25 million.

In making its case for funding digital conversion the CBAA has acknowledged the Government's statements of good intention made clear by successive Ministers at CBAA Annual Conferences - that community broadcasting would be included equally with others in Australia's digital future. However, we have pointed out in response that equal access will need to be affordable access in order for the Government's reassurances to mean anything.

Since we recognise the current reluctance of governments to find funds for such purposes from general revenue, the CBAA has sought to achieve the desired result by having the Government earmark for digital conversion a small proportion of the revenue from asset sales in the communications area. We tried this approach in the case of the sale of the National Transmission Agency, and are hoping to have more success with negotiations aimed at securing an advantage from the sale of a further portion of Telstra.

³ See the DRAC Report, *Digital Radio Broadcasting in Australia*, August 1997

If community broadcasting is to remain an integral and equal part of the Australian broadcasting system, and we believe there is an unassailable case that it should, we must have effective and continued support from both the Government and the regulatory regime. These are times when it is fashionable to decry public financial support for community-based services such as ours and to see regulation as a hindrance to efficiency. But both provide crucial support for the important community service we have built over the past 25 years, and Australia will be much the poorer if our place in the broadcasting system is eroded through lack of support.

For community TV the future is more clearly determined since the Government has provided in legislation⁴ “for a review into the digital transmission of a community television service, free of charge, using spectrum in the broadcasting services bands allocated for use for the provision of datacasting services”. Of significance in this current Inquiry is that the legislative and regulatory framework will require partnership and collaboration between community television licensees and a new breed of non-broadcasting licensee, the datacaster.

5. Issues for the Inquiry

As stated in our introduction, the CBAA is unable to address all of the questions posed in the Productivity Commission’s *Issues Paper* due to time and resource constraints but we have chosen a number of those most pertinent to the interests of the sector to comment upon in brief.

The changing nature of broadcasting

What major developments do you anticipate in the broadcasting industry in the short to medium term?

The most significant challenge facing the broadcasting industry is the migration of the existing broadcasting system into a digital environment. The technology will offer a comprehensive upgrade in operability and a set of capabilities that will boost the information and entertainment value of content. There is the potential to multiply the number of channels but this must be weighed against the imperative of maintaining the content and service quality of services on offer.

⁴ The Television Broadcasting Services (Digital Conversion) Act 1998

The migration must be managed in legislative and regulatory terms so as to facilitate further co-development of all sectors of broadcasting without sacrificing the gains that have been made or harming current licensed players' capacity to make the transition and to continue to meet community needs.

What implications does technological convergence have for you or your business, and what implications does it have for broadcasting policy?

Technological convergence offers greater opportunity for access and participation in community media. Through government funded new initiatives the community broadcasting sector has undertaken to develop the Community Access Network (linking most stations in the sector via computers and modems) and the Community Broadcasting Database an on-line project which will maximise access to and sharing of statistical data, web-published information and program content. The expected outcome will be improved efficiencies and across-the-board improvements in service quality.

What are some of the competitive advantages and disadvantages of the various sectors of the local industry? What are some of the limitations?

This submission has already canvassed the shortcoming of the 'more competition is naturally better' approach. It makes community stations particularly vulnerable because they mostly operate on very low margins and are vulnerable in terms of their capacity to sell sponsorship/promotional airtime in competition with commercial competitors.

As operating entities they are not expendable or replaceable in a market. Others such as open narrowcasters can serve some niche markets but only those which are commercially viable. Commercial services may be more flexible in reacting to shifting market trends, but they cannot meet the ongoing needs of the wide range of interests which comprise any community.

The public interest and the objectives of broadcasting policy

Implicit in the objectives is the notion that in the absence of government intervention, Australia's broadcasting industry would not address these

problems [the social, cultural, administrative and economic problems the BSA's objects seek to address] adequately. Do you agree or disagree? Please give reasons.

The CBAA is firmly of the view that without specific legislative provision for community broadcasting, the rest of the broadcasting industry would not deliver the diverse range of radio and television services that are now on offer. In a 1993 Bureau of Transport and Communications Economics (BTCE) study it was noted that broadcasting is unusual because it operates concurrently in two different product markets – the entertainment/information market and the advertising market⁵. The BTCE also applied the Hotelling principle to explain the tendency for broadcasters to market entertainment/information products of ‘excessive sameness’.⁶ The specialised nature of community broadcasting services and their close match to small or underserved communities means that the commercial and national broadcasters are unlikely to provide like services.⁷

Does this list adequately describe the social, cultural and economic problems which broadcasting legislation should address? If not, please indicate what should be changed, added or removed.

Overall the objects of the BSA are quite comprehensive and have served the wider Australian community well. Object (b), *to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs* is deficient in that it precludes the ABA from having regard to the financial viability of community broadcasting services when performing its planning and licensing functions.

Social dimensions of the public interest

Does the current broadcasting policy framework support access to adequate broadcasting services throughout Australia, including regional or remote areas? What could be done to improve matters?

The current framework has amply served the public in allowing the ABA to comprehensively plan services across the entire country – including regional

⁵ Bureau of Transport and Communications Economics, Elements of Broadcasting Economics, p. 45

⁶ Ibid, p.46

⁷ Ibid, p.125

and remote areas. The key planning principle of ‘universal access’ has to date served the Australian population well and the ABA has generally viewed favourably the need to make spectrum available for community services in most service areas.

Community radio licences are quite comprehensively spread across most markets and the CBAA has made public its wish that every significant population centre in Australia have at least one community radio station through which all interest groups within the service area potentially have access.

In the case of television more needs to be done to widen the potential audience reach. Since 1994 eight apparatus licences have been issued for community and educational purposes using the sixth analog channel. Community television services have been operating as open narrowcasters in four metropolitan and one regional market. A new metropolitan service and an additional regional service are due to commence in June 1999 using the analog sixth channel.

The CBAA understands that the ABA has advised the Minister for Communications, Information Technology and the Arts to revoke his BSA section 31 reservation on the sixth channel nationally and to reserve spectrum selectively for markets where there is an incumbent community television operator. It is clear that any future growth or diversification of community television as a sector will have to occur using other than analog terrestrial delivery. The Digital Conversion Act envisages free access to spectrum otherwise used by datacasters for non-broadcasting services.⁸

Does the existing framework provide and ensure fair and accurate coverage of matters of national and local significance?

The Community Radio Code of Practice (which has been registered by the ABA) provides that stations must:

- present factual material accurately and ensure that reasonable efforts are made to correct substantial errors of fact at the earliest possible opportunity
- clearly distinguish factual material from commentary and analysis

⁸ The Digital Conversion Act 1998, sub-clause 59(1)(e)(ii)

- not present news in such a way as to create public panic or unnecessary distress to listeners
- not misrepresent a viewpoint by giving misleading emphasis, editing out of context or withholding relevant available facts

In a similar vein, the Community Television Code of Practice provides that stations must:

- clearly distinguish factual material from commentary and analysis
- situate issues in context, identifying all interviewees, not misrepresenting a viewpoint by giving misleading emphasis, editing out of context or withholding relevant available facts
- present factual material accurately and clearly and ensure that reasonable efforts are made to correct substantial errors of fact at the earliest possible opportunity

Does the current policy framework provide adequately for the use of different technologies and infrastructure to provide broadcasting services, including in regional or remote areas?

In regard to the television medium the Government is understood to be putting forward changes to both the BSA and the Copyright Acts 1968 to establish a new consent-based regime for the retransmission of free-to-air channels. A new Part 14B of the BSA would provide statutory exemptions from the existing regulatory regime covering:

- re-transmission by self-help groups;
- re-transmission within a free-to-air licensee's service area by a subscription television broadcasting licensees; and
- re-transmission outside a free-to-air licensee's service area by any person provided it is in a declared remote areas or in any other area it is with express ABA permission.

There have been problems to date with the commercial FTAs challenging pay TV operators' right to retransmit without payment and there is evidence of customer equipment installations resulting in either all the FTAs being bypassed on the customer's tuner or (most commonly) the local community television service being excluded. The proposed new scheme based on

consent is not likely to help if the subscription television operators do not seek permission to re-transmit community television.

Is existing regulation of political broadcasting appropriate and is it achieving its objectives?

The existing Special Conditions under Part 2, Schedule 2 of the BSA relating to the broadcasting of political or controversial material are well-understood in the community broadcasting sector. The identification requirements and election advertisement ‘blackout’ during election periods is upheld by community broadcasters.

Principles of regulation

What do you understand by ‘the degree of influence...in shaping community views in Australia’? Views about what?

The existing regulatory policy, that different levels of regulatory control should be applied to broadcasting services according to the degree of influence those services have on shaping community attitudes, has never been fully realised in practice. Community broadcasting services by their nature do not seek to command the broad, mass audience but it remains in the public interest that they be fully licensed and appropriately regulated under the BSA, and the sector’s Codes of Practice.

Is ‘degree of influence’ still an appropriate criterion for designing and applying broadcasting regulation? If not, can you suggest alternative regulatory principles?

The underpinnings of the ‘degree of influence’ approach – that a ‘light touch’ regulatory approach is preferred and that the ABA intervenes by exception remain valid. However, the CBAA is concerned that the ABA continue to be provided with the necessary resources to maintain effective regulation, albeit of the ‘light touch’ variety.

What are the strengths and weaknesses of a self regulatory approach to program standards through the development of codes of practice? Please provide examples and evidence, if available.

The CBAA is largely satisfied with the current self regulatory approach to program standards through the development of codes of practice. This organisation had oversight of the development of the community broadcasting codes which we believe to be thorough in the parameters they set for the operation and good governance of community broadcasting stations.

Once again, the CBAA is concerned with resources. At the time that the codes of practice were put into place this organisation informed the ABA that it had no capacity to act as a collection or reporting agent for the authority with respect to complaints alleging breaches of the code. We agree that the first port of call for a complainant should be the station allegedly in breach. If no satisfaction is gained the complaint should go to the ABA which should deal with the matter in accordance with the rules and procedures it has laid down. It is important that the Government resource the ABA adequately to carry out this function.

Do the codes achieve the Government's objectives as expressed in the BSA? Do they adequately reflect community attitudes toward broadcasting?

In the case of the Community Radio Broadcasting Code of Practice and the Interim Community Television Code of Practice we believe the answer to both questions is 'yes'. Great care has been to develop the Codes in conjunction with our licensees and in consultation with the public. The ABA plays an instrumental role in ensuring that a high premium is placed upon such objectives as the protection of children in the exercise of its discretion whether or not to register a code.

What should be the appropriate balance between legislation, standards and codes of practice?

After seven years we believe the existing balance remains appropriate at least in the community broadcasting sector. Should codes fail, the regulator has the power to impose standards or licence conditions. Such intervention has not been necessary to date, and we would not expect that to change.

What are the advantages and disadvantages of requiring conversion to digital transmission technology according to the schedule prescribed from 1 January 2001? Is this timetable achievable or realistic?

Community television is not caught by the mandatory digital conversion requirements except in so far as a set of third party interests, commercial datacasting licensees will be required to provide sufficient spectrum access to community TV licensees to allow for the carriage of a standard definition digital television service. A potential disadvantage for community television operators is that stand-alone datacasting licences are not subject to the same mandatory commencement timetable as are incumbent television networks. The CBAA is concerned to see that the digital datacasting platform is rolled-out expeditiously from 2001 and no time is wasted in providing for community television in the maximum number of metropolitan and regional markets.

Although simulcasting of community television has not been specified with the Digital Conversion Act, the CBAA maintains the view that access to a digital channel on spectrum allocated for datacasting should supplement, not replace analog sixth channel access and in the absence of Government funding, a period of analog/digital simulcasting is necessary to sustain viability.

The role of the Australian Broadcasting Authority

What have been the strengths and weaknesses of the division of responsibilities between the ACA and the ABA?

The CBAA strongly endorses the preservation of a broadcasting-specific regulator which is able to undertake the task of planning and allocating radiofrequency spectrum while taking into account social and cultural criteria

Co-regulation

What are the strengths and weaknesses of the ABA's planning processes?

The strength of the process is in its dedication to a system and a long term plan, rather than ad hoc and often politically motivated attention to 'squeaky

wheels' as they occur. The major weakness has been the inordinate time taken in the past to progress the planning process in the face of a shortage of resources, and threats of legal action from commercial players attempting to secure their positions.

A process meant to last a few years has gone on for nearly a decade with the prospect of up to two years further waiting for community licensees in the major capitals Sydney and Melbourne. Rumour has it that whatever decisions the ABA takes in these markets there could be further delays as unsuccessful or aggrieved applicants take up their cause in the courts.

What progress has the ABA made in detailed planning for digital conversion? How do provisions of the BSA affect the planning process? (For example, providing for merit based community licence allocations versus price based commercial licence allocations).

Detailed planning for conversion of radio to digital has not yet commenced but the ABA has made considerable progress in regard to television with the publication of Draft Channel Plans for eleven regional and metropolitan television markets. The question of how and when merit-based community licence allocations will be undertaken has not yet been determined. To date community television services have operated as open narrowcasters with a special condition on their apparatus licences that services be provided for community and educational purposes. In undertaking its digital channel planning the ABA has assumed that in markets where community television stations are operating on the analog sixth channel, that channel shall remain in analog use and not be considered for digital use.

Has the ABA adopted relevant principles of good decision making (for example, transparency, consultation, natural justice and assessing the impacts (costs and benefits) of different options)?

In broad terms from the perspective of community broadcasters, the 'report card' on the ABA is good with regard to decision making. By and large decisions regarding our sector, whether or not they enjoy the support of our members, have been made after a due process of consultation involving discussion papers and draft options. The ABA's Service Charter is to be commended for at least positioning the authority's intentions to consult and liaise with clients and address community expectations for timely information.

6. Request for Research

If the Productivity Commission was to recommend to the Government major changes to the legislative and regulatory framework for broadcasting in order to improve competition and efficiency in the interests of consumers, it would need to understand and take into account the public benefit that the current system facilitates through provision for community broadcasting.

Save for brief and preliminary work in 1993 undertaken by the BTCE⁹ there is little quantified data about the economics of community broadcasting. The CBAA believes that analysis of the demand for services and the underlying value of inputs to the sector would be of considerable benefit to a thorough empirical understanding of the sector. Accordingly the CBAA has written to the Chairman of the Inquiry under separate cover asking the Commission to undertake such research.

⁹ Bureau of Transport and Communications Economic, op cit.