

Community Broadcasting Association of Australia  
Response to the Productivity Commission's  
**Review of Broadcasting Legislation**  
**Draft Report**

3 December 1999

## **1. Introduction**

The CBAA is gratified that the Commission appears to have fully recognised the significance of the community broadcasting sector in terms of structural diversity and a broadcasting system that balances social, cultural and economic objectives. The CBAA supports the Commission's recommendations about full recognition of indigenous broadcasting as a sector in its own right with its own particular licence category. Similarly we are heartened by the Commission's recognition (in Chapter 5) of the problem with delinquent narrowcasters and the vagaries of narrowcast licensing. While the CBAA would support greater efficiency in ABA planning processes, we could not endorse an inherently inflexible blanket reservation of spectrum for non-commercial broadcasting needs, present and future. So while the Commission's report might generally garner praise from the community broadcasting sector, there will be brickbats for some of the draft report's specific proposals.

### **Sector growth**

The CBAA recognises that broadcasting landscape must change and policy processes must adapt to new technologies and looming exigencies. Aside from former BRACS services for remote indigenous communities, there are now more than 160 licensed community radio stations in Australia (mostly operating on the FM band). Although we have many fine examples of large, viable metropolitan stations, most community broadcasting stations are in regional areas and many of these depend absolutely on voluntary inputs and community benevolence. Now there are almost as many 'aspirant' groups vying for spectrum access through temporary licensing as there are established stations. Two years ago there were 135 community radio stations and in 2 years time there are likely to be 240. It is a rapidly expanding frontier brought on and underpinned by grassroots support. The growth spurt has been made possible by a new statutory regime for temporary licences and the ABA's planning and allocations processes finally bearing fruit.

Our biggest dilemma is that what you might casually assume to be an abundance of riches (in spectrum terms) becomes a major issue for sustaining viable services if government support remains frozen or declines while new commercial and narrowcasting services continue to devour the corporate sponsorship pie. This challenge, occurring now in the context of analog spectrum stands to become more acute with the advent of digital. The community broadcasting sector demands an equitable position in the new digital frontier too. To date this has been underscored by unequivocal Government policy commitments though not necessarily essential guarantees on funding for conversion.

### **Rights to spectrum**

Although digital raises new challenges, we share with other licensed broadcasters a solid resistance to breaking spectrum access and broadcasting rights into two separate licensing regimes. A broadcasting licence has hitherto entailed an integrated set of carriage rights and content obligations and if there is a necessary separation brought on by new technology there should be no differential treatment between commercial and community broadcasters.

Reserving spectrum for non-commercial broadcasting and putting all left-over capacity on the market might seem a very rational thing to do and might result in a one-off revenue gain for Government. But in terms of planning and licensing for the future capacity needs of non-commercial broadcasting it leaves no headroom, no flexibility.

There is no denying that in market terms the opportunity cost of spectrum reserved for non-commercial services would outscale the modest level of financial subsidy provided by the Government to community broadcasting. Only about 8% of community radio station's operating revenue comes from Government subsidy and community television in the fifth year of its trial phase receives no funding. But it really distorts the picture if you assume that free access to spectrum as a tacit subsidy correlates in any significant way with the scale of revenue foregone. What a commercial operator would notionally be prepared to pay in the marketplace is not commensurate with any tangible benefit that a community station could derive from

sale of sponsorship time within a strict limit of 4 minutes per hour (soon to be amended to 5 minutes).

It is acknowledged that commercial users pay the Commonwealth a fee for spectrum but non-commercial users do not. However, it is worth remembering that this allows exclusive rights to make private commercial gain from what would otherwise be a public resource. If unfettered commercial principles to spectrum use were applied – which of course, the Commission is not suggesting - there would be no public interest or public policy dimension for non-commercial broadcasting, be it national or community. Australian culture and society would be infinitely the poorer in the case of such an outcome.

Enhanced transparency and accountability are laudable public policy objectives but the Commission's proposal that the ACA should quantify and publicly report on the value of spectrum reserved for non-commercial broadcasting seems to us, impractical and ideologically-driven. If you assume non-commercial broadcasters should have a 'place in the sun' then they necessarily require spectrum to broadcast. But that does not amount to a subsidy. Whichever way it falls, the scale of Government subsidy for community broadcasting relative to the widespread social and cultural benefit will still be modest in relative terms. While that benefit is not always quantifiable in financial terms, it is obvious to those supplying a voice in their local communities in the face of increasing monopolisation of the media by both nationally based and foreign services.

### **Transition to digital**

We have estimated that one-off capital funding in the vicinity of \$20-25 million will be required to make the transition into digital radio for our sector. Whether this should be met through industry cross-subsidy, direct appropriation or some form of community service obligation is still a matter for lively debate. But nothing is surer, community broadcasters will not tolerate being left behind on an obsolete analog platform. With a track record as technology pioneers 25 years ago as early adopters of stereo FM, the challenge that many community broadcasters are champing at the bit to take up is to develop cost-effective, innovative approaches to digital

transmission technology. There is already a burgeoning uptake of digital production technology across the sector.

The existing statutory scheme for digital conversion provides for the digital transmission of standard definition community television, free-of-charge. The idea is that datacasting licensees will operate multiplexes and will be obliged to provide carriage. The Commission's proposal that there be greater scope for multichannel television and that the community access carriage obligation be subject to tender, warrants consideration. Already the CBAA has expressed our CTV members' misgivings about the incremental roll-out of datacasting and its far from universal coverage in its early years. We believe that carriage on a multiplex provided by a television service provider, maybe the SBS or the ABC, could prove to be a better solution. Whether there is any real prospect of recurrent government subsidy or whether other models of industry cross-subsidy might prove viable could be worked through once the overall industry structure is known and fixed. Our casual observation, for what it is worth, is that the Government seems rock-solid in its commitment to market exclusivity for the incumbent networks.

### **Selecting community broadcasters on their merits**

The auction based model for licence allocation is patently unsuitable for the allocation of community broadcasting licences. Community broadcasting licences are awarded on merit to non-profit community groups. It is recognised that this poses problems for the regulator when interests compete – be they Christian, indigenous, gay etc – and spectrum is limited. The TCBL scheme is only a temporary relief valve with a 'timebomb' waiting once the current analog allocations come to an end. Many groups who currently enjoy intermittent access under temporary licensing will ultimately fail in the 'permanent' licence stakes. The TCBL scheme has created hopes that ultimately cannot be fully met. We would hope that the problem will be ameliorated once digital spectrum is plentiful. But future licensing, access and regulatory arrangements are at this stage unknown. There may be some merit in the Commission's proposal for 'template' licence area plans but the closer one looks at community broadcasting the more one realises that the exceptions may militate against there being a workable 'typical' licence area. If the template proposal were

developed it would need to ensure greater efficacy in planning processes while at the same time preserving the requisite degree of flexibility to address a range of demographic and cultural diversity.

The CBAA can only concur with the view of the Communications Law Centre that the current merit-based approach to community licence allocation remains the most appropriate method. No market-based method could ensure access and equity and case-by-case evaluation of social and cultural needs. The CBAA is fairly satisfied that the ‘principle of subsidiarity’ the Commission has identified is already operating to some degree in the ABA’s licence area planning processes. Put simply, the existing ABA is a statutory authority with delegated powers (therefore at arms length from Parliament and political processes) and in both stages of the planning process (frequency allotment and licence area planning) effort is made to consult stakeholders at the local level. The proposal put to the Commission by an aspirant group that the CBAA and local municipal councils jointly become licensing authorities for the sector is fraught with conflicts of interest for the CBAA as a representative body. It is not a practical option.

The fact that 6.3% of radio licences are for community radio and less than 1% are for community TV means that in relative terms, gross turnover and audience will continue to be fractional in the big picture. However community broadcasting is pervasive and as a grass roots cultural industry its intrinsic value resists quantification. Community broadcasting stations are vital to the cohesion of local communities, particularly in regional areas. The sector is unique in its capacity to address the diverse needs of communities and will continue to grow and diversify in the digital age.

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