

Pandora's Box Opened: Inquiry Into the Adequacy of Radio Services in Regional and Rural Australia

Carolyn Lidgerwood examines the activities of a bi-partisan parliamentary committee which has provided a lively forum for debate about the state and direction of the radio industry in regional and rural Australia.

In September 2000, the House of Representatives Committee on Communications, Transport and the Arts (Committee) accepted terms of reference for a broad ranging inquiry into the regional and rural radio industry (Regional Radio Inquiry).

Since that time, the Committee has been gathering evidence for the purpose of reporting on "the adequacy of radio services in regional and rural Australia and the extent to which there is a need for the Government to take action in relation to the quantity and quality of radio services in regional and rural Australia". The terms of reference direct the Committee to have particular regard to matters including:

- the social benefits and influence on the general public of radio broadcasting in non-metropolitan Australia in comparison to other media sectors;
- future trends in radio broadcasting in non-metropolitan Australia;
- the effect on individuals, families and small business in non-metropolitan Australia of networking of radio programming, particularly in relation to local news services, sport, community service announcements and other forms of local content; and
- the potential for new technologies such as digital radio to provide enhanced and more localised radio services in metropolitan, regional and rural areas.

Irrespective of the circumstances which led to the commencement of the Regional Radio Inquiry, it is clear that the Inquiry has generated a very large amount of

interest among audiences and broadcasters alike.

The website of the Committee indicates that 275 written submissions have been received², and that public hearings have been heard across the country. Representatives of all sectors of the radio industry – national broadcasters, commercial broadcasters, community broadcasters and open narrowcasters – have given evidence to the Committee. The Committee has also heard from federal and state government departments and agencies (including the ABA), shire councils, infrastructure providers, aspirant broadcasters, peak industry associations, sporting associations and private individuals.

As the Chair of the Committee noted when introducing one of the public hearings, this

is an indication of the importance of radio to regional Australia, of the concern in the community about the current policies and practices revolving around radio networks and also, no doubt, of the concerns that some have about possible changes to those policies and practices³.

Submissions have focused on how the provision of radio services in non-metropolitan Australia, particularly by commercial radio broadcasters, has changed over the last decade. As the Federation of Australian Radio Broadcasters Limited (FARB) outlined in its first appearance before the Committee, "regional radio today is the product of a number of evolutionary factors. In a nutshell, these can be identified as the *Broadcasting Services Act (BSA)*, prevailing market conditions and the impact of technology"⁴.

As outlined in the terms of reference, the Committee is required to report on matters including "the extent to which there is a need for the Government to take action in relation to the quantity and quality of radio services in regional and rural Australia". In that context, some of the interesting issues raised by and before the Committee are summarised below⁵.

SHOULD COVERAGE OF LOCAL ISSUES BY COMMERCIAL RADIO BE REGULATED?

The networking, syndication and automation of programming by regional radio broadcasters, particularly commercial radio broadcasters, has been discussed widely in the evidence presented to the Committee.

The use of new technologies, consolidation of ownership and commercial strategies in response to increased competition for advertising revenue has led to changes in how programming is provided in many non-metropolitan licence areas, and as some submissions have argued, the content of such programming⁶. The extent to which matters of local significance are covered by non-metropolitan radio, particularly commercial radio, is an issue which has dominated the evidence provided during the Committee's hearings. Certainly, the evidence presented to the Committee indicates that different approaches to the provision of local content are adopted throughout the regional and rural commercial radio industry⁷.

Networking and localism

In its written submission, FARB argued that networking by commercial radio does

not compromise "localism", as networked and local radio programming is "interwoven to produce a comprehensive service"⁸.

The Australian Broadcasting Association's (ABA) written submission noted that greater networking of regional radio services is "inevitable and not necessarily undesirable", but it expressed concern about whether the gains of greater networking have outweighed the "costs" – especially where networked programming has replaced locally produced material⁹.

An important issue which is expected to be considered in the report by the Committee (Committee's Report) is how coverage of matters of local significance on commercial radio can be ensured in a competitive environment where networking, syndication or automation may be considered by some broadcasters to be commercial imperatives. Also, it will be interesting to consider what weight the Committee's Report places on the coverage of matters of local significance by non-commercial radio broadcasters in regional and rural Australia.

As the ABA has explained, commercial licensees are not required individually to ensure coverage of matters of local significance¹⁰. The relevant condition of licence in Schedule 2 of the BSA requires licensees to provide a service that, when considered together with other broadcasting services available in the licence area of the licence (including another service operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area¹¹. While one of the objects of the BSA is to encourage "an appropriate coverage of matters of local significance"¹², this is not a condition of licence and is not currently a feature of codes of practice approved by the ABA under the BSA.

Suggested changes

Some commercial radio broadcasters have expressed a willingness to comply with local content conditions or standards if they were to be imposed. One suggestion put to the Committee was that local content standards should apply in

the context of a moratorium on the issue of new licences in regional areas, and the abolition of the "two to a market rule"¹³. Another suggestion was that local content standards should be applied in markets where no additional competition had been introduced, but not in other markets, as the licensees in markets facing increased competition may struggle to meet such standards¹⁴. Unsurprisingly, the introduction of regulation in the form of local content conditions or standards (rather than self regulation) has not been advocated in FARB's submissions.

The ABA's written submission suggested that the current legislative framework (utilising industry codes, standards and conditions of licence) may be adequate to regulate the coverage of matters of local significance¹⁵. However, in its appearance before the Committee, the ABA also suggested that introduction of "tradeable credits" could be considered. This could involve each (presumably commercial and community) licensee being responsible for the provision of a certain number of minutes programming each day on local or community issues, but being able to contract with another station in the area to deliver that local programming on their behalf. As the Deputy Chairperson of the ABA explained:

Say you mandate 30 minutes a day, it may mean that you get one hour a day on a station rather than two 30 minute segments running in opposition to each other on two different stations. It may mean that they ... contract with the community radio station to produce and distribute it on their behalf. It lets the market forces as to who is the most efficient at producing that local content do so in a way that may enhance the actual spread of time that is devoted to community news in an area ...¹⁶

The ABA acknowledged that it had not yet developed proposals about how this "tradeable credits" system may be implemented, but suggested it be considered by the Committee.

It is worth noting that some of the commercial radio broadcasters who appeared before the Committee were asked for their views about 3 yearly

performance reviews, which would examine "the extent stations are connected with their communities and provide a comprehensive service"¹⁷. Mixed responses were received¹⁸ - with some broadcasters conditionally favouring this approach, and others opposing it.

If the Committee accepts that changes are required to be made, it will be interesting to see whether the Committee's Report recommends changes within the existing legislative framework or whether it recommends that legislative changes be made.

SHOULD THE ABA'S LICENCE AREA PLANNING PROCESS BE CHANGED?

The Committee has heard a range of submissions about the impact of the ABA's licence area planning (LAP) process in regional markets. Some incumbent broadcasters have been critical of the issue of third and fourth licences in markets where the viability of such new licences was not established prior to their issue¹⁹. These are essentially criticisms of the existing legislative framework, rather than the ABA's application of that framework. The ABA's evidence explained how it had implemented the legislative framework by considering the "feasibility", rather than the "viability" of new services.²⁰

The LAP process has seen a dramatic increase in the number of licences on issue in regional Australia. The Committee has noted the fact that this is to be contrasted with metropolitan areas. FARB's evidence was that in the past 9 years, commercial radio services to regional Australia have increased from 109 to 202, but these stations share only 35% of the radio industry's \$680 million revenue²¹. The decline of regional radio's share of advertising revenue as a percentage of total advertising revenue is discussed in detail in a recent ABA report entitled *The Commercial Radio Industry 1978-79 to 1997-98*²².

Evidence has been presented to the Committee that in markets where additional competition has been introduced, broadcasters are under pressure to balance economic viability

with the pressure of meeting community expectations about local coverage. FARB noted that "while these economics remain, it makes it almost impossible for regional commercial stations to sustain a totally local broadcasting operation in the old-fashioned way – that is, announcers sitting in studios whenever the station is on air"²³. A theme of much of the evidence presented to the Committee has been that the issue of new licences following the LAP process has been directly linked to a decrease in localism.

One submission to the Committee was that if the LAP process continues, this will inevitably lead to further increases in networking and a further loss of localism. That submission argued that there should be a freeze on the issue of new commercial radio licences in regional Australia for the next 10 years – and that in return, incumbent regional broadcasters would be required to comply with minimum local content obligations²⁴. FARB agreed that there should be a 10 year moratorium on the issue of new licences, but took a different view about when the moratorium should commence²⁵. It is worth noting that in recognition of the cost of establishing new services, FARB also proposed that there should be 5 year moratorium on the payment of licence fees for all new services which are rolled out under the LAP process²⁶.

SHOULD RADIO BROADCASTERS BE SUBJECT TO COMMUNITY SERVICE OBLIGATIONS?

A range of evidence has been presented to the Committee about the relationship between networking and the ability to respond to national disasters. Emergency service organisations such as the Country Fire Authority, and government agencies such as the Bureau of Meteorology have made submissions to the Regional Radio Inquiry relating to their concerns about the impact of networking when emergency messages need to be delivered to particular communities²⁷. Each of these organisations responded in the affirmative when asked whether the *Broadcasting Services Act* should be altered to insert community service obligations. It was indicated that this



could involve a station having to demonstrate that it could broadcast a weather alert, for example, from its hub.

FARB gave evidence of its recent work with emergency bodies – and clearly favoured a self regulatory approach to the issue of emergency services, rather than a more prescriptive approach. The ABA indicated that it was working with FARB on this issue, and that the ABA's key objectives were to ensure that commercial radio is available to broadcast emergency announcements whenever needed in the regions, and that all broadcasters need to be aware of who to contact in the case of an emergency²⁸.

The Committee is expected to report in July-August 2001.

¹ *Terms of Reference* are set out in the Media Alert issued by the Committee on 8 September 2000, available at <http://www.aph.gov.au/house/committee/cta/irmed1.pdf>. The Terms of Reference are also included in Official Committee Hansard at <http://www.aph.gov.au/hansard/rep/committee/comrep.htm>

² <http://www.aph.gov.au/house/committee/cta/>

[irsub.htm](http://www.aph.gov.au/house/committee/cta/irsub.htm)

³ Official Committee Hansard, 30 January 2001, at 91.

Hansard is available from <http://www.aph.gov.au/hansard/rep/committee/comrep.htm>

⁴ Official Committee Hansard, 8 December 2001, at 18.

⁵ These are just some of the issues raised in evidence to the Committee. This paper does not address other important issues considered by the Committee, such as the role of national broadcasting in regional areas or digital radio policy, for example.

⁶ For example, see arguments about the reduction of quality of local radio (as a result of networking) in the Official Committee Hansard, 28 May 2001, at 810 (RG Capital Radio).

⁷ See, for example, Official Committee Hansard, 28 May 2001 at 774 (Ace Radio Broadcasters).

⁸ <http://www.aph.gov.au/house/committee/cta/irsub.htm>

⁹ <http://www.aph.gov.au/house/committee/cta/irsub.htm>

¹⁰ Official Committee Hansard, 29 May 2001, at 900.

¹¹ Clause 8(2)(a), Schedule 2, BSA.

¹² Section 3(g), BSA.

¹³ Official Committee Hansard, 2 February 2001,

at 337 (RG Capital Radio).

14 Official Committee Hansard, 19 February 2001, at 419 (Sun FM Stereo).

15 <http://www.aph.gov.au/house/committee/cta/lrsub.htm>

16 Official Committee Hansard, 29 May 2001, at 909.

17 Official Committee Hansard, 28 May 2001 at 804.

18 See Official Committee Hansard, 28 May 2001, at 805, 812 and 831 (DMG, RG Capital Radio, Broadcast Operations Group).

19 See, for example, Official Committee Hansard, 12 March 2001 at 501 (Grant Broadcasters).

20 Official Committee Hansard, 29 May 2001, at 896.

21 Official Committee Hansard, 29 May 2001, at 849.

22 The report is available from the ABA website at: http://www.aba.gov.au/what/research/pdf/comrad79_98.pdf

23 Official Committee Hansard, 29 May 2001, at 849.

24 Official Committee Hansard, 28 May 2001, at 811 (RG Capital Radio). Note that the proposal was for the moratorium to exclude licence areas which do not have a FM commercial radio service.

25 Official Committee Hansard, 29 May 2001, at 863.

26 Official Committee Hansard, 29 May 2001, at 850. FARB outlined 9 recommendations during the last day of the Committee's hearings – see at 850-851.

27 Official Committee Hansard, 30 January 2001, at 113.

28 Official Committee Hansard, 29 May 2001, at 889.

The views expressed in this article are those of the author and not necessarily those of the firm or its clients.

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ACIF Code Compliance – Measuring Up

Brenton Yates and Liam Buckley examine the ACIF regime for telecommunications industry self regulation.

Self-regulation within the telecommunications industry is an ideal which by now most, if not all, industry participants have turned their attention to in some way or another. A significant portion of that attention has been directed to the activities of the Australian Communications Industry Forum (ACIF). ACIF is an industry owned, resourced and operated organisation which was established to implement and manage communications self-regulation within Australia. This article outlines some of the issues arising from, and benefits of complying with, the numerous ACIF Codes of Practice, as well as discussing those issues which stand in the way of a successful transition into industry self-regulation.

BACKGROUND TO THE AUSTRALIAN COMMUNICATIONS INDUSTRY FORUM

Embodied in the policy statement of the *Telecommunications Act 1997 (Act)*, is the fundamental object that:

... telecommunications be regulated in a manner that:

- a) *promotes the greatest practicable use of industry self-regulation; and*

b) *does not impose undue financial and administrative burdens on participants in the Australian telecommunications industry;*

but does not compromise the effectiveness of regulation in achieving the objectives mentioned [elsewhere in the Act].¹

ACIF was established in 1997 as the industry body representing sections of the telecommunications industry charged with the implementation and management of communications self-regulation within Australia. ACIF has a Board, Advisory Assembly, Reference panels, Task Specific Working Committees, Issues Specific Facilitation/Co-ordination Groups and a full time Executive. These positions are filled by delegates from carriers, service providers, industry associations and user groups, consumer organisations and individual members.

In accordance with Part 6 of the Act, ACIF's role is to develop and administer technical and operating arrangements that promote both long-term interests of end-users and efficiency and international competitiveness of the Australian communications industry. In fulfilling this role, ACIF oversees the development of codes and standards for the support of competition, the protection of consumers and to facilitate the co-operative

resolution of strategic and operational industry issues. The success of this role however can only be guaranteed through widespread industry participation in developing, and compliance with, the codes and standards. ACIF is also responsible for additional publications including Industry Standards, Specifications, Guidelines and various other documents including Industry Statements, Reports, Overviews and Schemes.

Whilst all of the above publications are relevant to various industry participants, the ACIF Codes of Practice are of the most significance given that industry participants may be required and/or directed to comply with their provisions on a mandatory basis.

ACIF CODES OF PRACTICE

Under the Act, ACIF may deal with a wide range of matters through the implementation of Industry Codes and Standards. To date, ACIF has published numerous codes in the following three broad areas:

- (i) Consumer Codes – “Rules” for the supplier-customer interface & interactions in a particular area;
- (ii) Operations Codes – Primarily multi-lateral operating arrangements – ie