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BROADCASTING AMENDMENT BILL 1986

Date introduced: 12 November 1986
House: House of Representatives
Presented by: Hon. Michael Duffy, M.P.,
Minister for Communications

DIGEST OF BILL

Purpose

To ensure that regional areas receive three commercial television services through either aggregation or multi-channel services.

Background

Commercial television is largely concentrated in the capital cities. In June 1985 there were 50 commercial television stations serving 90% of the population. The capital cities generally have three services each (Perth has two but a third is soon to be introduced) while the 36 regional urban centres have one service each. This is reflected in the audience of the two areas with the 36 urban centres reaching only 35% of homes with TV sets[1].

In an October 1984 statement, the Minister announced the government's intention to proceed with an equalisation policy that would ensure that three commercial services were available to all communities. In June 1985 a report prepared by the Department of Communications, titled Future Directions for Commercial Television, was released and canvassed the various means to implement the equalisation policy. The report found two basic means to achieve this goal, aggregation and multi-channel services. Briefly, aggregation will combine existing markets with the right to transmit in the amalgamated market being extended to all stations that operated in the markets that were combined to form the new, larger market. Multi-channel services (MCS) will provide for the issue of supplementary or additional licences to ensure three channels within existing markets[2].

The report noted that the decision as to the appropriate course of action would be largely based on the costs and revenue effects of each proposal. In this regard the report noted that estimated capital costs for MCS would, in most cases, be substantially less than for aggregation while the estimated annual operating costs are very similar[3]. On revenue, the report noted the problems in estimating this area and, on the basis of a survey of three stations, concluded that 'the table demonstrates that for the two largest stations... the estimated revenue is greater for MCS than for aggregation but for the small station,... the reverse is shown[4].

Following consideration of the report by interested bodies and the media, a Ministerial Statement on this matter was made to the House of Representatives on 20 May 1986 and detailed three goals of the reform of regional commercial television i.e. equalisation, the creation of larger and more viable markets through aggregation and the encouragement of competition. The statement also noted that it was not expected that equalisation would be implemented on a uniform timetable across Australia and that the most appropriate form of equalisation would largely depend on assumptions as to advertising revenue. Though no decision was made as to which system was to be introduced and the need for further consultation was emphasised the Minister stated 'In order to encourage licencees to opt for and implement aggregation at an early stage, the Government decided, in December (1985), to exempt from sales tax all ultra high frequency television transmitters purchased specifically for aggregation.... Further, we have also decided that if licencees opt for aggregation, we will rebate their fees paid under the Licence Fees Act 1964.' The rebate is to operate between 1986-87 and 1989-90 and will cost an estimated \$22 million[5]. In the second reading speech to this Bill the Government's preference for aggregation over MCS was made clear, largely on aggregations ability to encourage competition.

The Bill was referred to the Senate Select Committee on Television Equalisation on 4 December 1986.

Outline

There is to be an Indicative Plan which will provide a framework for equalisation. Aggregation is to occur in an approved market unless all stations in that area express a preference for MCS. Special provisions will apply to Tasmania where both commercial television stations are owned by the same organisation.

Main Provisions

Clause 4 of the Bill defines aggregation completion date to generally be 31 December 1996.

The majority of Part II of the Bill (clauses 3 to 16) contains amendments consequential upon the introduction of the equalisation plans. Of more interest is clause 13 which amends section 92 of the **Broadcasting Act 1942** (the Principal Act). Under the amendments it will be a breach of the Act if a person holds an interest in two or more licences in the one approved market unless such interests were held prior to the commencement of the Bill.

Proposed Part IIIC will be inserted into the Principal Act by clause 16 and deals with the equalisation of regional commercial television.

The objects of the Part are listed in proposed section 94 and are to ensure that people living in regional areas have access to three commercial TV services, that the stations have larger and more commercially viable markets and that the services are provided on a competitive basis.

Proposed section 94A will allow the Minister to formulate guidelines that are to be complied with by licencees when preparing and submitting implementation plans.

Proposed Division 2 will deal with the Indicative Plan. The Minister is to prepare a Equalisation of Regional Commercial Television Indicative Plan (the Plan) that is to specify which licences are to be regional licences, the approved market areas, the aggregation areas, licences eligible for consolidation and any areas eligible for extra licences.

Approved markets are dealt with in proposed section 94C. Each market is to consist of the service areas of two or more regional licences and in determining the markets the Minister is to have regard to the combined areas being as close to each other as is practicable, community interests, commercial viability and the desirability of the market being in one State and time zone.

An aggregation area may consist of the whole or part of an approved market (proposed section 94D).

The Minister is to publish the Plan (proposed section 94E).

The Minister will be able to vary the Plan except as it relates to altering the area of an approved market or aggregation area (proposed section 94F).

Proposed Division 3 is titled Election by licencees for immediate aggregation or aggregation via multi-channel services. Proposed section 94G deals with elections by licencees while, under proposed section 94H, all licencees in an approved market will be required to request multi-channel services or they will proceed towards immediate aggregation.

Licencees will be required to submit implementation plans (proposed section 94K) that are to detail the timetable for implementation and any proposal for consolidation (proposed clause 94L). The Minister is to determine whether to approve the plan having regard to the matters listed in proposed section 94M (e.g. the objects of the Part, any guidelines and any other matter the Minister considers relevant). The Minister will be able to vary implementation plans but not so as to vary the period of multi-channel operation, if any, without the approval of all licencees in the market (proposed section 94Q).

Proposed Division 5 will deal with aggregation and multi-channel services. Where an implementation plan provides for aggregation the Minister will be able to extend a licence to cover the aggregation area. This power may be exercised at the Minister's discretion or upon application (proposed section 94S).

A multi-channel permit will enable the holder to provide additional services within their service area (proposed section 94T). The Minister is not to issue more than two permits in respect of a licence (proposed section 94V).

Proposed Division 6 deals with the consolidation of licencees. Where two or more licencees are specified in the indicative plan as being eligible for consolidation and the licencees apply for consolidation, the Minister may approve consolidation. The service area for the consolidated licence will be the same as the service areas relating to the licencees consolidated (proposed section 94ZC).

Proposed Division 8 contains special provisions for Tasmania. The existing licencees may be consolidated (proposed section 94ZG) while proposed section 94ZH will

give the Minister power to direct that the service area of a licence be extended to cover the combined service areas of the existing licences.

Part III contains amendments to the **Broadcasting and Television Amendment Act 1985**. A new section 99A will be inserted into this Act by clause 32 and will allow the Minister to direct that a new system licence be granted to the holder of an old system licence where satisfied that there is no substantial change to the service area or the conditions of the licence.

For further information, if required, contact the Law and Government Group.

4 March 1987

Bills Digest Service
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References

1. Department of Communications, Future Directions for Commercial Television, June 1985, p.1.
2. Ibid., p.12.
3. Ibid., p.81.
4. Ibid., p.82.
5. House of Representatives, Hansard, 12 November 1986, p.2865.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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