



21 October 2020

Senate Environment and Communications Legislation Committee
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Parliament House
CANBERRA ACT 2600

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Dear Chair and Committee Members

RADIOCOMMUNICATIONS LEGISLATION AMENDMENT (REFORM & MODERNISATION) BILL 2020

I write to thank the Chair and Committee for making time for the CBAA during hearings conducted on 12 October 2020 in relation to the Radiocommunications Legislation Amendment Bill 2020, and, as requested, to provide further information.

OBJECT OF THE ACT

We agreed to provide text regarding the Object. As outlined in evidence, we consider the word 'broadcasting' should be inserted.

We reiterate points discussed with the Committee:

- that there is undiluted support for the key role of free-to-air broadcasting;
- that there is a need for spectrum to be designated as Broadcasting Services Bands in an overall competitive framework; and
- that there is an inter-linked 'right' from the Broadcasting Services Act licence given 'means' through the Radiocommunications Act.

Inserting the word 'broadcasting' is a worthwhile inclusion that would have broad support. The term 'national broadcasting' is not sufficient.

We suggest the Object clause (b) be amended to read:

- (i) commercial purposes; and
- (ii) defence purposes, national security purposes, **broadcasting purposes**, and other non-commercial purposes (including public safety and community purposes).

Additionally, we suggest the Object Clause (c) be amended to read:

- (c) supports the communications **and broadcasting** policy objectives of the Commonwealth Government.

Free-to-air broadcasting makes extensive use of spectrum which the Minister has designated under section 31 of the Radiocommunications Act (RA) as being Broadcast Services Bands (BSB).

Community broadcasting services are licensed under Part 6 of the Broadcasting Services Act (BSA), and rights that flow from those service licences include access to spectrum - where section 102 of the RA requires the ACMA to issue a transmitter licence to access broadcast band spectrum.

The Broadcasting Services Act gives the right, the Radiocommunications Act the means.

FREE-TO-AIR BROADCASTING

Free-to-air broadcasting has core characteristics that set it apart from other services. The broadcasting operational model:

- does not require the user to pay – including for data – to use. It is free-to-air.
- is highly spectrum efficient, being able to scale to many simultaneous users, rather than chewing up large amounts of spectrum with multiple one-to-one services.
- enables the public to receive services on commonly available equipment, not via a plan.

As digitisation of media continues these core characteristics are critical, especially where other delivery mechanisms require one-to-one and both-way connectivity with its attendant costs, and risks to:

- listener security and/or privacy;
- provision of listener data for third party and/or gatekeeper use; and
- listener commodification and/or personal targeting.

None of these risks occur with free-to-air broadcasting.

COMMUNITY TELEVISION

The transmitter licence issued under section 102 of the Radiocommunications Act is always tied to the term of the service licence under the BSA – except and uniquely in the case of community television – where, under section 103(4A)(c), the Minister may determine a different period for the transmitter licence.

As broadcasting service licensees, it is hard to see a legitimate policy reason why community television is treated uniquely and differently in this respect.

Given a key policy thrust of this legislative amendment bill is for the ACMA to have flexibility and make best use of spectrum, it would be consistent and in keeping to delete this unique provision.

As part of this set of legislative amendments, we ask that Section 103(4A)(c) be deleted.

The term of transmitter licences issued under the Radiocommunications Act as a result of a licence issued under BSA will then always be in alignment, as they should, and within the remit of the ACMA.

CERTAINTY AND FUNDING

Evidence and submissions to the Committee from major telecommunications operators show strong support for the amendment bills. The clear and urgent objective of the telecommunications industry is to be provided greater certainty for investment. Telstra urges passage of the bills this calendar year.

The CBAA wishes to highlight that community broadcasting also seeks certainty for planning and development of community sector infrastructure and support. In its case – and with a similarly pressing timeline – the urgent matter is certainty of funding.

While the comparative investment may be small, the benefits to the community of community broadcasting are highly significant.

The CBAA is disappointed that the October Federal Budget did not at least maintain existing levels of funding to support community broadcasting, ongoing throughout the forward estimates.

There is a significant drop in national funding forecast as from July 2021.

The CBAA is committed to work with the Minister and the Department to ensure the forward estimates are revised upwards as part of MYEFO statements, so as to at least maintain existing levels of funding to support community broadcasting.

It is vital that the Government act. Digital transition and continuation of free-to-air community radio broadcasting services requires certainty of ongoing targeted funding as a high priority, which the MYEFO timing will address.

I encourage members of this Committee to support the Minister to ensure that outcome.

Yours sincerely /



Jon Bisset
Chief Executive Officer