



## **Communications Law Centre, UTS**

Submission to the Inquiry into the Australian Broadcasting  
Corporation Amendment (Local Content) Bill 2014

7/1/2015

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## Communications Law Centre, UTS

### Executive Summary

1. The CLC submits that the provision of local content is essential for participatory democracy, particularly in rural and regional communities throughout Australia. Legislation and regulation should continue to support local content and production on radio and television (and radio and television like) services.
2. The ABC's Charter obligations require the ABC to provide high quality local content to the public, even in the absence of regulated quotas.
3. The ABC has demonstrated a long standing commitment to local content and production. The ABC has also sought to develop new platforms for disseminating local content and to encourage local production.
4. The ABC has a role to play in correcting market failure in local content production. Any rationalisation has the potential to adversely affect both the quantity and quality of local content produced.
5. The CLC acknowledges the high level of public concern surrounding the proposed closure of the South Australian television production unit, and the rationalisation and centralisation of content and production to the major metropolitan centres in general.
6. The CLC submits that the implementation of local content or production quotas such as those proposed by the Bill should not be applied. There is a significant public interest in maintaining the independence of the ABC, and additional government legislation and regulation has the potential to impinge upon this independence.
7. There is a case for introducing a less specific amendment proposed by the Bill to ensure the ABC has a presence in each State and Territory.
8. The ABC should have a distinct and discernible presence in each State and Territory, across all platforms on which the Corporation disseminates content.
9. If the ABC fulfils its existing core Charter obligations adequately with due oversight from the Board, then together with this additional measure, local content on each of the ABC's platforms should be adequately guaranteed. Specific quotas on local content and production should therefore not be required.

### 1. Introduction

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- 1.1 The Communications Law Centre, UTS (CLC) is an independent, non-profit, public interest centre specialising in communications, media and online law and policy. We appreciate this opportunity to respond to the Committee's Inquiry into the Australian Broadcasting Corporation Amendment (Local Content) Bill 2014 ('the Bill'). The following comments relate to both the Terms of Reference and the specific measures proposed by the Bill.

## 2. The importance of local content in Australia, and the role the Australia Broadcasting Corporation should play in the provision of such content

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- 2.1 The CLC submits that the provision of local content is essential for participatory democracy, particularly in regional communities throughout Australia. Despite improvements in communications technology, the ‘digital divide’ between regional and metropolitan areas remains evident. Although the delivery mechanism may change, radio and television remain the most immediate (and hence effective) media to disseminate information in dispersed regional communities. Therefore, legislation and regulation should continue to support local content and production on radio and television (and radio and television like) services.
- 2.2 The Australian Broadcasting Corporation (‘ABC’) is required, through its Charter, to “provide broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community...”<sup>1</sup> The provision of local content is regarded by the ABC as being integral to this obligation.<sup>2</sup> The ABC is also obliged to provide innovative and comprehensive broadcasting services of a high standard in the public interest.<sup>3</sup> These Charter obligations ensure that the ABC provides high quality local content to the public, even in the absence of regulated quotas.
- 2.3 The CLC submits that the ABC has demonstrated a long standing commitment to local content and production. It has over 52 news bureaux across Australia, which allows extensive coverage of matters of local significance.<sup>4</sup> Its designation as the emergency services broadcaster necessitates ‘on the ground’ reporting in affected areas, providing timely information to local communities. The coverage provided by the ABC during emergencies such as the Black Saturday bushfires in 2009, the Queensland floods in 2011 and the Tasmanian bushfires in January 2013 was of a very high standard and accessible to the public through various media including online platforms.<sup>5</sup>
- 2.4 The ABC has also sought to develop new platforms for disseminating local content and to encourage local production. The *ABC Open* initiative has allowed ‘hyperlocal’ production by members of regional and remote communities.<sup>6</sup> Additionally, the *iView* platform has made locally produced

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<sup>1</sup> *Australian Broadcasting Corporation Act 1983* (Cth.) s 6 (1) (a) (i).

<sup>2</sup> “The ABC views the provision of local content as central to its Charter requirement to “reflect the cultural diversity of the Australian community””. Australian Broadcasting Corporation, submission in response to the Convergence Review Interim Report, February 2012, 11.

<sup>3</sup> *Australian Broadcasting Corporation Act 1983* (Cth.) s 6 (1) (a). There is a more general requirement on commercial broadcasters to contribute to the provision of adequate and comprehensive broadcasting services in a licence area. See for example Cl. 7 (2) (a) Sch. 2 Broadcasting Services Act 1992(Cth.).

<sup>4</sup> <<http://www.abc.net.au/abccontentsales/librarysales/faq.htm>>.

<sup>5</sup> For example, the ABC set up an emergency website for the 2013 Tasmanian bushfires, see <<http://www.abc.net.au/news/2013-01-04/richmond2c-forcett-26-lake-repulse-bushfires---tas---jan-2013/4452480>>. This complemented extensive coverage on radio and television.

<sup>6</sup> <<https://open.abc.net.au/>>.

content available to a wider audience. Online delivery of content provides a convenient way for citizens to obtain access to local content. However, local content should continue to be produced on radio and television because they remain the most influential media.

- 2.5 The CLC recognises that television and radio production is costly and requires significant economies of scale in order to recoup investment. As a result of supply side pressures, together with the equalisation policy and technological developments such as ‘hubbing’, commercial television and radio broadcasters have significantly cut back local content and production in favour of centralised content and production in capital cities.<sup>7</sup>
- 2.6 The ABC has a role to play in correcting market failure in local content production. It should not merely ‘deliver audiences to advertisers’, with its associated impacts on program provision and selection. However, as made plain by Senator Madigan in his 2<sup>nd</sup> Reading Speech on this Bill, the ABC is currently facing significant budgetary constraints. Any rationalisation has the potential to adversely affect both the quality and quantity of local content produced. There is evidence to suggest that the ABC is already under- resourced. In its submission to the Convergence Review Interim Report in 2012, the ABC stated that it would increase its local content production if it were able to access additional resources either through direct funding or through a proposed ‘converged content fund’.<sup>8</sup> The submission goes on to identify regional video journalism as an area where expansion is required to cover remote communities which do not receive any ABC services.

### **3. Comments on the Bill’s proposed measures for specific local content requirements in the ABC Charter**

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- 3.1 The CLC submits that local content or production quotas such as those proposed by the Bill should not be required. Programming and production decisions should continue to be the responsibility of the ABC. There is a significant public interest in maintaining the independence of the ABC, and additional government legislation and regulation has the potential to impinge upon this independence. The existing core Charter obligations as set out in s 6 *Australian Broadcasting Corporation Act 1983* (Cth.) oblige the ABC to provide local content to audiences.
- 3.2 The CLC acknowledges the high level of public concern surrounding the proposed closure of the South Australian television production unit, and the rationalisation and centralisation of content and production to the major metropolitan centres in general. This trend is likely to continue if there are further budgetary constraints imposed on the ABC, because it is less costly to produce content in major metropolitan centres such as Sydney and Melbourne. Therefore, there is a case for introducing a less specific amendment proposed by the Bill to provide a minimum safeguard for the local production of content by the ABC outside major metropolitan areas.

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<sup>7</sup> Regional television equalisation occurred in the late 1980s and early 1990s. Commercial regional television licences were aggregated and affiliations with metropolitan commercial stations increased. This policy was implemented ostensibly to give viewers in regional areas greater choice, however many local news bureaux were closed in the process. See <<http://televisionau.com/feature-articles/aggregation>> for further discussion.

<sup>8</sup> Australian Broadcasting Corporation n 2 above.

3.3 The CLC supports the following proposal:

- The Corporation must have a distinct and discernible presence in each State and Territory, across all platforms on which the Corporation disseminates content.

3.4 If the ABC fulfils its existing core Charter obligations then local content on each of the ABC's platforms should be adequately guaranteed. Specific quotas on local content and production should not be required.

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