



**Senate Standing Committees on Environment and
Communications:
Broadcasting Legislation Amendment (Media Reform) Bill 2016**

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NSW Farmers' Association Background

The NSW Farmers' Association (the Association) is Australia's largest State farmer organisation representing the interests of its farmer members – ranging from broad acre, Livestock, wool and grain producers, to more specialised producers in the horticulture, dairy, egg, poultry, pork, oyster and goat industries.



Executive Summary

The Association is concerned that local programming may suffer if regional commercial television broadcasting licensees are allowed to consolidate with predominantly metropolitan commercial television broadcasting licensees.

We submit that it is unlikely that any of the foreseeable mergers of regional licensees with metropolitan licensees would result in new local programming without robust policing of quotas. The Association is concerned that the legislation is more likely to result in content delivered to regional areas from a larger media company, covering a larger region with headquarters located in a metropolitan area. It is hard to see how market forces would make regional content stronger or more sustainable.

As the explanatory memorandum makes clear, local content involves “significant costs and investment outlays”. However, the Association does not accept that mergers with metropolitan licensees will guarantee efficiencies that would be employed subsidising local content. The key to guaranteeing this lies in the compliance powers and activities of the Australian Communications and Media Authority (ACMA) – these are not outlined in the explanatory memorandum. It will not be enough for ACMA to simply report on the ‘local programming’, it will also need to enforce the requirements.



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1. Abolition of the 75 per cent audience reach rule

The Association is concerned that local programming may suffer if regional commercial television broadcasting licensees are allowed to consolidate with predominantly metropolitan commercial television broadcasting licensees.

Whilst we note the difficulties of regional licensees providing local content in the context of rising affiliation fees, as the explanatory memorandum also notes, we submit that the cost of providing local content¹ is also not likely to decrease and larger players, with bases in the metropolitan areas, are no more likely to 'sustainably supply' local programming.

We note that the explanatory memorandum to the Bill states that the consolidation in the commercial television sector would be subject to competition law. Whilst we welcome the Government's response to the Harper Review, including the important commitment to introduce an *effects test*, we have often found that in thin markets, competition law has been a weak tool.²

1.1 'New' local programming requirements

The Association notes the proposed changes to s43A of the *Broadcasting Services Act 1992* (BSA) to set a minimum amount of local programming each week which would increase should a change of control result in a 'trigger event'. Under the terms of the BSA, a trigger event is when the "*combined licence area* populations exceed 75% of the population of Australia."

If a 'trigger event' is not met, the new legislation will result in the same local programming quotas ("120 points of material of local significance per week to local areas within the licence areas"). If the trigger is met, and the increased quotas apply (150 points over a six week period with a minimum of 120 minutes per week), the headquarters of the new licensee will be likely located in a metropolitan area. It is hard to see how this makes regional content stronger or more sustainable in the long term, we suspect it is the opposite.

In fact, if a licence area expands, presumably, the notion of what is *local* content expands with it (we note that the legislation will require ACMA to determine a definition of 'filmed in the local or license area'). Should mergers between metropolitan licensees and regional licensees occur following passage of the Bill, there is likely to be a perverse outcome, which appears to be contradictory to the intent of the legislation.

Recommendation: *The Association recommends an amendment to the legislation that ensures that the character and quality of 'local' content within a regional licensee's area is maintained following any future merger.*

If a trigger event is met, then ACMA's role in enforcing local content quotas is more important than ever.

¹ ACMA 2013 *Regional commercial television local content investigation*, page 26

² see also Australian Government June 2014, *Department of Communications - Policy Background Paper 3: Media Control and Ownership*, pages 9-11



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1.2 ACMA

ACMA's role in policing local content is a key component of the success of the Bill. In the explanatory memorandum, compliance and reporting is listed as the role of the ACMA, but no detail is given on compliance, only on the definition by which ACMA would 'report' on 'local content within the license area.' Our members report increasing dissatisfaction with local content on the basis of thinner and thinner reporting of local issues and a poor understanding of regional industries generally.

The Association submits that there may be merit in pursuing a more sustainable industry through economies of scale, but this will only work for regional programming if the quotas/points systems mean something and the rules are enforced.

Recommendation: *The Association recommends an amendment to the legislation that ensures that ACMA has clear responsibilities in terms of effective compliance activities in regard to policing 'local' content.*

2. 2 out of 3 cross-media control rule

The Association accepts that the Act, as it currently stands, does not account for the contemporary media landscape (having regard to only the traditional media platforms of television, radio and newspapers). However, regional NSW (most of which is an 'aggregated market' under the terms of the Bill) continues to suffer from substandard data coverage making traditional media platforms, in many areas, just as powerful as they have ever been.

3. The regional media and cuts to the ABC

Whilst not directly relevant to this Bill, \$207 million of cuts to the Australian Broadcasting Commission (ABC)'s budget from July 2015, on top of funding reductions of \$120 million announced by the Government in May 2014, have had an effect in the bush. Our members are already feeling the effects of these cuts in the loss of regional programming. We have had numerous complaints from members following a decision to axe breakfast market reports from local rural radio earlier this year. ABC management has said that farmers get what they need online or from the Country Hour. Early AM rural and 6.30am is a better time for farmers than Country Hour and, when internet coverage is still as poor it is in the bush, being diverted to the 'online option' makes farmers mad. As we state above, the traditional media platforms are the most powerful in the bush because data coverage is not universal. Indeed, it is often inconsistent when it is available.

Recommendation: *That the Senate move to upgrade consumer protections to voice and data in telecommunications, such as reform to the Universal Service Obligation to include both voice and data.*



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Conclusion

The Association submits that there may be merit in pursuing a more sustainable industry through economies of scale, but this will only work for regional programming if the quotas/points systems mean something and the rules are enforced and local content is actually maintained. Further, there is no doubt merit in updating media laws for the digital age – but legislators must have an eye to the bush which is a long way behind urban communities when it comes to data coverage.