

SUBMISSION

to

SENATE LEGISLATION COMMITTEE

for

ENVIRONMENT, COMMUNICATIONS,
INFORMATION TECHNOLOGY AND THE
ARTS

On

BROADCASTING SERVICES
AMENDMENT (MEDIA OWNERSHIP)
BILL 2006

By

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OPENING & OVERVIEW:

I've taken the step of making a Submission to the Standing Committee because I believe the legislation before the Parliament will determine the character of the media in Australia for the next two decades and beyond.

It is a course not to be taken lightly. The notions of freedom of the press, diversity of opinion and an informed community are not some esoteric concepts but real and integral parts of the democratic process. I therefore welcome the closest examination of all aspects of the legislation.

My comments should not be characterised as being anti-government or Neville vs the Minister, they are my deeply held views which I have articulated for nearly a decade. I would like to argue principles rather than personalities.

Not unexpectedly, much of this submission deals with radio. Why?

First, in the Broadcasting Services Act there has been no real control of foreign ownership of radio stations.

Second, other than the two-station rule there has been no brake on the number and concentration of radio services.

Thirdly, Section 67 of the Act has not been used for emergent or unusual episodes of ownership but rather as a commercial facilitatory process.

Fourthly, and most importantly, I believe that the Australian Broadcasting Authority (ABA) failed to uphold key objectives in Section 3 of the Act which specifically states in part;

“to encourage diversity in control of the more influential broadcasting services”
and
“to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance”

Another reason for a focus on radio is that local markets are determined on the footprint of the radio stations, not those of newspapers or television stations.

As an overview statement the holding of a radio or TV licence is a privilege and carries with it certain responsibilities. Any radio or TV station has to be more than generic piped programming. It should be part of the culture of the region it serves, expressing its ambitions, expectations and opinions as well as interacting with activities in the community of which it is a part. Much of this has been lost over the last 15 years.

It is not acceptable that people in regional and rural centres should be subjected to a second-class engagement with the Fourth Estate.

START OF THE FAILURE:

While the old Australian Broadcasting Tribunal was excessively bureaucratic and prescriptive, the laissez-faire attitude which has developed under the current Broadcasting Services Act (as administered by the ABA & ACMA) has seen deterioration in the quality and diversity of services, as well as a concentration of radio ownership.

Under the old regime a prospective broadcaster had to convince the Tribunal that he/she was a person of character and repute, had financial capacity, had the skills and expertise to run a station and could demonstrate an engagement with the community to be served.

The auction system for licences (and arguably the number of new licences) has fuelled an unfulfilled commercial expectation and in the process, has driven up the price of radio stations.

This, in turn, has led to excessive networking and the reduction of services as well as the floating of the excuse that proprietors can't afford newsrooms. With regard to this latter point, after paying up to \$15 million in a regional market or \$100 million in a capital city market, it is trite and disingenuous to say "Oh, we can't possibly provide a newsroom".

I find it strange that national sentiment requires (quite properly) that radio stations play 25% of Australian music content, but that the ownership of stations and how they deliver services to the Australian community, have no such constraints.

The above features have led to a concentration of ownership of radio stations, not necessarily in individual markets, but rather generically across Australia or in specific regional districts.

That leads me to one of my basic premises – if we are to allow some form of more concentration ownership, what are the trade offs? If a proprietor can afford to purchase additional forms of media in a market, should there not be the requirement to re-establish a news room as a demonstration of a serious commitment to that market? How do we avoid the continuation of the current situation – or should we see this as an opportunity for a renaissance in regional media rather than a meaningless concentration?

LOCAL CONTENT PLAN

I strongly support the Ministers concept of a Local Content Plan and believe that stations should be required to report to ACMA (as part of their other annual requirements).

Further, there should be an independent report to Parliament on a 3 yearly basis on the compliance with, and quality of, the Local Content Plan.

In the event of any concentration, such a Plan should exclude "ripping and reading" news from one medium to another.

LOCALISM

All radio stations should be required to broadcast "local and live" for a minimum of 6 hours a day between Breakfast and Drive time and that programming should be locally sourced and presented, not some pseudo-localism from a hub

There should be a requirement for not less than 12 ½ minutes per day of locally sourced and presented news, exclusive of weather reports. Scrolling repeats of the same bulletin should also be prevented.

Licensees having two stations in the market (i.e. a Section 39 Licence) should not be required to have separate newsrooms. While there should be no constraints on national and state news being purchased (a commendable practice), separate

proprietors in the same market should not share the same local news. Diversity of interpretation and opinion should be paramount.

SYNDICATION AND NETWORKING:

I have been characterised as being anti-networking and opposed to syndication. This is wrong. We have had networking and syndicated programs for over 50 years (and even before TV). Nor should there be restrictions on talk shows provided that the minimum content hours are met and that no two stations in a market (or in a dual centre market) use the same syndicated talk show or streamed music.

NUMBER OF VOICES:

This is the nub of the legislation.

Given that the “voice” markets are based on the radio footprint, I believe that to differentiate them properly, there needs to be 3 categories.

- Capital City (Sydney, Melbourne, Brisbane, Perth and Adelaide)
- Large Provincials (i.e. markets with 6 or 7 voices)
- Country (5 voices or less)

Capital City

In the Capital City Markets there are Sydney 12 voices, Melbourne 11 voices, Brisbane 10 voices, Perth 8 voices, Adelaide 7 voices.

However if you remove the TAB and (predominantly) music stations from the analysis, the picture becomes Sydney 7, Melbourne 6, Brisbane 6, Perth 5 and Adelaide 5. It should also be noted that a number of “voices” have less than 10% of the radio market and by extension, even less of a total capital city media market.

This invites the question of how many stations in these markets really influence public opinion in the strict sense of the word.

I believe this is a question the Committee and the Parliament should address.

Regional

My prime concern is the Provincial Market (re 6 or 7 voices). I believe it is totally unacceptable for one proprietor to own the

- daily newspaper
- two radio stations (albeit one “voice”)
- one TV station

in such a market. This is far too dominant an influence from the point of view of affecting public opinion or exerting undue influence through advertising deals.

My view is that no proprietor should be allowed ownership of more than two voices in three with an overriding four voices remaining.

Country

In country markets (i.e. of 5, 4, 3 and 2 “voices”) the minimum of the 4 voices rule should substantially protect most of their situations.

It should be noted however, that a number of the “5” markets have dual station voices. By selling off the least performing unit to another company, a proprietor can turn that into a “6” market.

I would add the following rider here, that should a radio station in a 3 or 2 voice market be able to demonstrate severe financial constraint in providing a local newsroom, a Ministerial exemption should be available but that it not be a blanket approval.

PROBITY:

To avoid conflicts of interest and anti-competitive behaviour all companies and proprietors holding radio and television licences should be required to have a clear and transparent ownership structure.

A associates test should require that no radio, television station or newspaper company or proprietor should have influence by way of financing or program control that would prevent another proprietor from being truly independent and competitive.

Tracing Provisions should be put in place to reveal the ultimate owner and/or controller of a media company including a financial or beneficial interest (to encompass financial products/implements, shares, debt or equity) – which might result in a degree of control.

Commercial surrogacy in any form should be specifically disallowed and practices such as leasing, “warehousing” or “parking” of radio licences be prevented by legislation.

The principles of competition, diversity and localism must be clearly enshrined in amendments to the Objects of the Act, as practices over recent years have led to a reduction of competition, the limiting of diversity and in some instances the removal of any meaningful localism, even to the point of removing a newsroom in a market of 100,000 people, leaving it without any local commercial news bulletin.

ENFORCEMENT:

ACMA and ACCC should be pro-active and have clear pre-emptory rights to immediate enforcement of defined areas of the Amended Act. This should extend beyond acting on complaint or Ministerial advice (though not excluding the latter).

The Minister must have a clear and readily enforceable power, under the Amended Act, (subject to spectrum availability), to install an additional radio station in any market where;

- there are persistent breaches of the Act
 - there is a lack of compliance with the spirit of localism
 - there is a demonstrable community discontent with the quality or quantity of localism
 - there is a recommendation by the 3 year review process
- or
- an existing licence is sold to a non-competitive entity (eg TAB, Christian broadcaster etc).

In the event of an extra licence being issued, existing offending licensees should be precluded from bidding for the new license.

SYDNEY

Daily Telegraph (News)
 Sydney Morning Herald (F'fax)
 SEVEN
 NINE
 TEN

Radio %

| | |
|-------------------|-------|
| Singleton 2CH/2GB | 19.0 |
| South'n Cross 2UE | 8.0 |
| Austereo 2DAY/MMM | 17.6 |
| ARN WSFM/MIX | 14.4 |
| DMG NOVA/VEGA | 8.3 |
| SUPER 2SM | 1.0 * |
| TAB 2KY | 1.0 * |

MELBOURNE

Age (Fairfax)
 Herald Sun (News)
 SEVEN
 NINE
 TEN

Radio %

| | |
|-----------------------|-------|
| Sthrn Cross 3AW/MAGIC | 21.2 |
| Austereo FOX/MMM | 23.1 |
| ARN MIX/GOLD | 14.3 |
| DMG NOVA/VEGA | 10.1 |
| V. R. NET 3MP/SEN | 5.6 |
| TAB | 1.0 * |

BRISBANE

Courier Mail (News)

 SEVEN
 NINE
 TEN

Radio%

| | |
|-----------------------|-------|
| South'n Cross 4BC/4BH | 16.5 |
| MMM/BIO5 MMM/B10 | 21.5 |
| DMG NOVA | 15.9 |
| ARN 4KQ | 7.6 |
| DMC/ARN 97.3FM | 11.4 |
| TAB 41P | 1.0 * |

ADELAIDE

Advertiser (News)

 SEVEN
 NINE
 TEN

Radio%

| | |
|-------------------|------|
| DMG 5AA/NOVA | 28.5 |
| Austereo MMM/SAFM | 23.7 |
| ARN MIX/CRUISE | 21.0 |

PERTH

West Australian (Ind)

 SEVEN
 NINE
 TEN

Radio%

| | |
|------------------------|------|
| South'n Cross 6PR/96FM | 23.4 |
| Austereo MIX/29.9 | 26.6 |
| DMG NOVA | 11.2 |
| GRANT 6IX | 4.5 |

N.B Stations marked in **RED** are major "talk" stations

* Some TAB and small stations are not surveyed so a notional 1% has been allocated