MACQUARIE REGIONAL RADIOWORKS LETTERHEAD

25 September 2006

Ms Roxane Le Guen
The Committee Secretary
Senate Environment, Communications,
Information Technology and the Arts
References Committee
Parliament House
CANBERRA ACT 2600

By email and by facsimile: 02 6277 5818

Dear Ms LeGuen

Inquiry into Broadcasting Services Amendment (Media Ownership) Bill 2006

Macquarie Regional Radioworks (**MRRW**) operates commercial radio broadcasting stations across regional Australia.

MRRW supports the relaxation of the cross-media ownership restrictions that are presently contained in the *Broadcasting Services Act* 1992 (**BSA**).

However, there are a number of issues arising from the *Broadcasting Services Amendment (Media Ownership) Bill* 2006 (**Bill**), which MRRW wishes to highlight for the benefit of the Committee. MRRW's views on these matters follow below.

1 Summary

1.1 Introductory comments

The Explanatory Memorandum to the Bill (**EM**) states that the "objective of the Bill is to remove impediments to greater efficiency, competitiveness and responsiveness in the media sector, while continuing to support the existing objectives of the BSA relating to diversity and quality of the media".

Unfortunately, the effect of the "diversity of ownership test" in the Bill (**diversity test**) in the Bill is to reduce significantly the potential benefits that media consolidations would otherwise bring to audiences in regional Australia. The Bill is weighted significantly in favour of the diversity test at the expense of the other objectives referred to above. The Bill fails to establish a framework that adequately recognises the importance of ensuring that:

- audiences in regional Australia continue to receive high quality commercial radio services; and
- that such services are sustainable (ie efficient and competitive).

At the outset, MRRW notes that in the lead-up to the introduction of the Bill, much was made about the convergence of broadcasting, telecommunications, newspapers and the internet. This was presented as one of the reasons why reform of media ownership legislation was timely. In this context, MRRW questions why only the "traditional" media of commercial radio, commercial television and associated newspapers are relevant for the purposes of the diversity test, and why other media such as subscription television, online services and even weekly and bi-weekly local newspapers are not considered. This would appear to be an appropriate matter for consideration by the Committee.

1.2 Commercial television/associated newspaper mergers

(a) MRRW is greatly concerned by the likely effect of a commercial television/associated newspaper merger in a regional licence area. Such a merger could be commercially devastating for the commercial radio licensees in that licence area, particularly where there is no prospect for any further consolidation (ie due to the operation of the diversity test and the "two to a market rule" in sections 54 and 56 of the BSA).

(b) While it is acknowledged that the Australian Competition and Consumer Commission (**ACCC**) would need to approve such a merger, MRRW also notes there is uncertainty about how the ACCC will apply the tests under section 50 of the *Trade Practices Act* 1974 (**TPA**) to a commercial television/associated newspaper merger in a regional licence area.

(c) This explains why MRRW has suggested changes to the "two to a market rule" and the "diversity test". These changes are discussed below.

(d) MRRW's view is that if these changes are not accepted, television/associated newspaper mergers in small regional radio licence areas should be prohibited outright.

1.3 Repeal of "two to a market" rule

(a) MRRW is concerned that retention of the "two to a market rule" will place commercial radio operators at a comparative disadvantage in those regional licence areas where a commercial television/associated newspaper merger occurs. MRRW's submission is that the "two to a market rule" should be repealed.

(b) In the absence of the "two to a market rule", the ACCC would assess whether holding more than two commercial licences in a licence area complies with the TPA. This approach would create a more level field of competition in the regional licence areas.

(c) MRRW also considers that audiences in regional licence areas would be better served if the "two to a market" rule was removed. This would result in greater diversity of content for regional audiences (ie a greater variation between formats and more choice).

1.4 Effect of "Diversity Test"

(a) The proposed new regulatory framework overlooks the importance of diversity of content and choice of formats in regional Australia. This is the effect of the proposed "diversity test", when considered alongside the existing "two to a market rule".

(b) To illustrate, in licence areas that currently have less than 4 separate media groups, the "diversity test" in the Bill may have the effect of providing for diversity of ownership at the expense of quality programming and sustainable commercial radio services.

(c) For instance, a cross-media transaction across a number of licence areas may require commercial radio stations in small markets to be divested (in order to ensure that the "diversity test" is complied with). Ironically, the operation of the "diversity test" in such circumstances may result in "stand alone" stations which, in the absence of the subsidies received from a broader network operation, may prove to be unviable. This may ultimately lead to the closure of commercial radio businesses that have been required to be divested in the wake of a cross-media transaction. This is not in the interests of audiences.

(d) Alternatively, another effect of the "diversity test" could be that no further media consolidations occur in regional areas. This is because an anticipated obligation to divest existing assets (ie in order for the transaction to receive regulatory approval) would act as a significant disincentive. In such circumstances, audiences in regional areas would be denied the benefits of media consolidations (such benefits are discussed at section 2 below).

(e) For these reasons, MRRW considers that it would be in the best interests of audiences for the "two to a market rule" to be removed, and for the Bill to be amended to insert an exemption from the "diversity test" in small radio markets (ie of less than 60,000 people).

1.5 Localism

(a) As a separate matter, MRRW has a number of concerns about the proposals relating to local content regulation (following a "trigger event").

(b) MRRW is concerned that the regulatory discretions in this area are too broad, and that the ACMA's lack of commercial experience in the commercial radio industry means that it is ill-placed to arbitrate upon what are essentially operational issues. Specifically, MRRW considers that:

(i) issues relating to "local presence" should be left for the market to determine;

(ii) the requirement to develop a Local Content Plan (and have this approved by the ACMA) imposes unnecessary and unreasonable administrative costs upon regional commercial radio licensees, particularly those with large holdings. This is exacerbated by the breadth of the ACMA's discretion about what is included in a Local Content Plan, and how it is approved;

(iii) some of the "minimum service standards" for local content (eg relating to the broadcast of emergency information) are already addressed under the *Commercial Radio Industry Codes of Practice*, and are more appropriately contained in the Code, rather than licence conditions; and

(iv) the Minister's discretion to increase the "minimum service standards" for local content programs appears to be unfettered, and this must be changed. At a minimum, the Bill should specify that this power must only be used in exceptional circumstances, and following a formal review process (involving wide public consultation and an independent assessment of the economic impact of the increase on the operations of regional commercial radio stations); and

(c) MRRW considers that the definition of "trigger event" in section 61CD should be amended to ensure that corporate restructures within an existing media group do not result in a "trigger event".

In our experience, the resources of a larger radio group enable stations in the group to make more local programming than if they "stood alone". This is because the better performing stations can and do cross subsidise the poorer performing stations (ie in licence areas with small populations), and enable resources to be applied to producing local programs. This happens in the MRRW group because fostering "live and local" programming is a key objective.

However, in the absence of the removal of the "two to a market rule" (discussed at section 4 below), and in the absence of exemption of very small regional markets from the diversity test (discussed at section 5 below), the approach in the Bill is to prioritise "diversity of voice" over all other broadcasting objectives.

MRRW questions this approach (as outlined below) and would welcome the opportunity to explore this in more detail with the Committee.

2 General comments: practical effect of the "diversity test"

The practical effect of the "diversity test", as described in the Bill, will mean that in many regional licence areas it will only be possible for one media sector consolidation to occur. After the first merger, that can be expected to be the end of all other corporate activity in the relevant area.

This will limit the real benefits that follow media consolidations. MRRW is well placed to comment on this issue, as it is the result of the only significant media consolidation that has occurred in regional

Australia in recent years (following its acquisition of the RG Capital Radio commercial radio licences and the DMG Regional Radio commercial radio licences).

The demonstrated benefits of large scale media consolidations include:

- improved programming (eg increased professionalism and differentiated formats);
- improved service levels (eg more reliable transmissions and better sales services for advertisers); and
- better career paths for regional radio employees, contributing to skills retention in regional areas.

MRRW's view is that the "diversity test" (and specifically the requirement for 4 traditional media groups in regional areas) will unduly restrict the availability of such benefits.

Further, given the large number of regional media markets which currently contain 4 or less media groups, the effect of the "diversity test" will be a significant disincentive to undertaking further media consolidations. If MRRW expected to be required to divest some of its existing commercial radio licences following a cross-media transaction (eg because in some licence areas the number of media groups would either drop to less than 4, or remain at less than 4), MRRW may be much less likely to proceed with the transaction (than would otherwise be the case).

This means that the potential benefits of improved efficiency, choice and service delivery that would otherwise flow from media consolidations will not be realised.

3 Commercial television/associated newspaper mergers

MRRW understands that the once the Bill is enacted, the application of the new "media diversity" rules is likely to mean that in many licence areas, a commercial television operator will be able to acquire a newspaper publisher (that is "associated" with that licence area).

MRRW's concern is that a commercial radio broadcaster that is permitted to operate only two commercial radio stations in a licence area is likely to find itself at a very significant comparative (and competitive) disadvantage when attempting to compete for local advertising revenue against a media group that contains a commercial television licensee and an associated newspaper.

While it is acknowledged that cross-media acquisitions will be:

- subject to the Australian Communications and Media Authority (**ACMA**) confirming that no "unacceptable media diversity situation" exists (for the purposes of clause 61AB of the Bill); and
- subject to compliance with the *Trade Practices Act* 1974 (**TPA**),

it remains unclear exactly how the ACCC will apply the "substantial lessening of competition" test under section 50 of the TPA in such circumstances, or how it will define the relevant markets.

For instance, the ACCC's *Guidelines on Media Mergers* (August 2006) state that "it is impossible to pre-empt whether a particular television station may be given informal clearance to merge with a newspaper or radio station until the markets that both businesses operate in are thoroughly analysed in a merger investigation conducted at the time clearance is sought". It is noted that the ACCC has not yet assessed (for the purposes of the new approach outlined in the Guidelines) whether in a regional radio market, two or more of commercial television, commercial radio and associated newspapers operate in the same market for the purposes of the test in section 50.

MRRW's concern is that a cross-media merger that is approved by the ACCC may nevertheless have adverse commercial impacts upon the commercial radio operator in the relevant licence area. This could result from how the ACCC defines the relevant markets in a particular case. It could also result from the fact that the ACCC may find it difficult to assess future competitive impacts with any accuracy (ie these may not become apparent until the cross-media transaction has been implemented in

practice, and until there is experience of how radio markets respond to cross-media mergers involving other regulated media operations).

In this context, MRRW is greatly concerned by the likely effects of a commercial television/associated newspaper merger in a small regional licence area.

MRRW's view is that regional newspapers and regional radio services compete directly for local advertising revenue in regional radio licence areas. Regional radio advertisers are often targeting very local audiences. By contrast, commercial television advertisers often target a broader audience (sometimes extending across an entire aggregated commercial television licence area).

MRRW's concern is that a commercial television/associated newspaper merger in a regional licence area (particularly where there is no prospect for any further consolidation) could be commercially devastating for the commercial radio licensees in that licence area. For this reason, MRRW has suggested changes to the "two to a market rule" and the "diversity test". These changes are discussed below.

If these proposed changes are not accepted, then MRRW's view is that commercial television/associated newspaper mergers in small regional radio licence areas should be prohibited outright.

4 Remove the "two to a market" rule

In the commercial television/associated newspaper merger context described above, the continuation of the "two to a market rule" in sections 54 and 56 of the BSA places regional commercial radio operators at a relative disadvantage to a merged commercial television and newspaper media group.

For instance, a commercial television/newspaper merger in a radio licence area where there are presently 6 separate "media groups" would reduce the number of media groups in that market to 5 (and comply with the proposed "diversity test"). In such circumstances a commercial radio operator that controls two commercial radio licences in that licence area would be prevented from acquiring further licences to strengthen its competitive offering. However, it would face significant additional competition from the new merged TV/newspaper media group, and be limited in how it could respond.

For instance, while the merged TV/newspaper media group will benefit from synergies and reduction of duplication in their operational activities, regional radio will not be able to respond in a comparable way (due to the operation of the two to a market rule).

This will be particularly so in licence areas where:

- a commercial television/associated newspaper merger benefits from a "first mover advantage" after the Bill is enacted (or, as it is described in the EM, where it wins the "race for the threshold"); and

- such first mover advantage takes place in markets where the only other media operation that would otherwise be available for acquisition (whether as a result of the operation of the "diversity test" or otherwise) are commercial radio businesses.

For this reason, MRRW considers that the best way of ensuring that a "level playing field" operates in a post cross-media merger environment is to repeal the "two to a market" rule, and subject to the suggestion below relating to small markets, leave the number of licences that can be controlled by the same person to a combination of a diversity test under the BSA, and to the operation of the TPA. MRRW considers that it is appropriate for the ACCC to determine whether or not a regional radio operator should be able to control more than two commercial radio stations in a licence area, instead of the BSA continuing to impose the arbitrary two to a market rule.

Leaving this issue to the ACCC would also ensure that a consistent approach is applied in practice (ie across different regulated media sectors).

5 Small market exemptions

Under the proposed "diversity test" in the Bill no regional radio licence area can have less than four media groups or "voices". As noted at the outset, the only media groups that are considered relevant for the purposes of the proposed "diversity test" are commercial radio, commercial television and associated newspapers (ie there is no reference to other media that make significant contributions to regional audiences, such as subscription television, online services and newspapers that are published less than 4 days per week).

It is understood that the ownership and control situation in licence areas that currently have less than four media groups will be "grandfathered", but this will limit how the commercial radio licences contained in such groups can be dealt with (going forward).

As the Committee will be aware, large regional operators such as MRRW are able to provide higher quality programming in small regional markets than would be the case if the stations in those markets did not have the benefit of cross-subsidies flowing from commonly-owned stations in larger markets.

However, if MRRW was to merge its operations with those of another media operator in a different media sector (eg television or print) across a number of licence areas, MRRW understands that it would be required to divest the commercial radio licences in those licence areas which have less than 4 voices at present (ie in order to obtain regulatory approval for the proposed transaction).

This outcome would be likely to lead to result in lower quality programming, and it is quite possible that a stand-alone commercial radio operator in such markets would not be viable.

To provide the Committee with an indication of the kind of costs we are referring to, we note that if a stand alone operator was required to pay for all its programming costs itself (rather than having some of these spread across a network group), its annual programming costs would include:

- $100,000 to produce content entertainment/drive programming;
- $80,000 for "off peak" programming (ie late night and pre-breakfast); and
- $70,000 for news and weather programming.

A stand alone radio operator in a small or "marginal" licence area would find that such local programming costs could not be absorbed. The alternative to these costs is to provide very significant amounts of pre-recorded programming (eg a 24 hour taped music feed).

Therefore, the result of the application of the diversity test in the Bill in such circumstances could be either reduction of the number of services available to audiences in small licence areas, or a marked drop in the quality of such services (due to heavy reliance on pre-recorded programs). This would not be in the interests of those audiences.

In such circumstances there must be a rebalancing between the policy supporting the diversity test, and the public interest of ensuring that audiences in regional Australia receive high quality commercial radio services.

MRRW requests that this issue be addressed in the Bill. One way of ensuring this would be to include an exemption from the "diversity test" for licence areas with small populations (eg than 60,000 people), on the basis that such markets do not presently have the number of independent voices that are envisaged by the Bill, and that those audiences would be better served by diversity of programming than by no programming at all. We note that this 60,000 figure is based on how the radio industry currently classifies markets (licence areas with less than 60,000 people are regarded as small), and in MRRW's experience, this is an appropriate benchmark.

6 Trigger Event

The first limb of the definition of "trigger event" in clause 61CB of the Bill describes a transfer of a regional commercial radio licence from one person to another as being a "trigger event".

MRRW understands that this would mean that a corporate restructure within an existing media operation could result in a "trigger event".

For example, a media operator could decide to restructure how it holds its commercial radio licences (eg by moving all the licences into one licensee company, rather than having a separate licensee company for each licence). However, under the Bill, this would result in a "trigger event", despite the fact there had been no change in the ultimate ownership or control of the licence.

MRRW consider that a "trigger event" should only occur if licences are transferred to an unrelated third party following a cross-media transaction. This would reflect that there had been a material change in the ultimate ownership and control of the licence, rather than a change that was caused by a restructure within an existing media group.

If this issue is not clarified in the Bill, MRRW considers that this is likely to distort the value of regional radio licences relative to licences in metropolitan areas, which are not subject to the same restrictions.

MRRW also notes that this is likely to be the effect of the "local content" proposals, that are discussed below. MRRW considers that it is important for regional radio licensees not to be so regulated that the relative value of those licences diminishes by comparison to their capital city counterparts. This is already a challenge that the regional radio industry faces, in that it has absorbed far greater relative levels of additional competition (as a result of the former ABA's licence area planning process and subsequent licence auction processes) than metropolitan operators. Over-regulation of regional radio operators is not in the interests of the industry, advertisers or audiences. This theme is discussed in more detail below.

7 Localism

The Bill proposes that after a "trigger event", there occur a range of regulatory intervention in the operation and programming of regional commercial radio licensees. Specifically, after a "trigger event", licence conditions will require:

- the maintenance of at least the "existing level of local presence";
- "minimum service standards" for local news and weather bulletins, local community service announcements and emergency warnings to be met;
- the development of a Local Content Plan (**LCP**) relating to the licensee's operations in the relevant licence area, which must be approved and registered by the ACMA.

The Bill sets out what amounts to minimum service standards for local news and weather bulletins, local community service announcements and emergency warnings. However, this is subject to a provision that enables the Minister to increase these minimum service standards, by making a determination to that effect. It is unclear from the drafting of the Bill when such determination-making power could be exercised. It is also unclear from the drafting of the Bill whether such determinations could include types of local programs other than those specified in section 61CD of the Bill.

MRRW has a number of concerns about these proposals, as outlined below. Before discussing each specific concern, it needs to be emphasised that it is unclear why regional radio has been "singled out" for such regulation. Given regional radio's comparatively small share of national advertising revenue (eg when compared with commercial television, print and outdoor), it is the sector least able to absorb the costs of complying with the proposed additional regulation, thus highlighting the Bill's inequitable approach.

7.1 Local Presence

Clause 43B of the Bill provides that the ACMA must impose licence conditions that require regional commercial radio licensees to maintain the "existing level of local presence" following a "trigger event".

What is meant by “existing level of local presence” will be a matter for the ACMA to address in the licence condition, and the Bill states that this must include “staffing levels” and “studios and other production facilities.

MRRW takes little comfort from the statement in the Explanatory Memorandum to the Bill that the intention is “not to prevent all reductions in resources, or to prevent the re-allocation of resources, but any decrease in resources should not be significant”. This provision does not acknowledge the fact that the level of local staffing and resourcing that existed prior to an acquisition of a regional commercial radio licence may have been inefficient or based on nepotism.

MRRW considers that the level of staffing and resourcing of radio stations are issues that should be left to the free market to determine, and should not be matters for regulatory intervention (particularly in light of the other requirements being proposed by the Bill). Further, staffing and resourcing of regional commercial radio services appears to have little relationship with diversity of ownership or diversity of content, particularly in a world where the mechanisms by which content is communicated is changing rapidly.

MRRW does not consider that the ACMA is qualified to assess how regional radio stations should be staffed or resourced, particularly from a commercial and practical perspective. It is noted that none of the ACMA board members or staff are experienced in operating commercial radio businesses (nor can they be expected to be). This highlights why this particular proposal is an unnecessary and inappropriate regulatory intervention in the marketplace.

7.2 Local Content Plans

Following a “trigger event”, a regional commercial radio licensee must prepare a Local Content Plan (**LCP**), and submit this to the ACMA for approval and registration.

Clause 61CF of the Bill does not specify what an LCP must contain. The EM states that it is intended that a LCP address how the licensee will meet its local content obligations, and what resources it will use to do so. The EM also states that LCPs are not intended to be a vehicle for additional local content requirements, and are intended to provide a “public means of assessing the commitment of broadcasters to meet their local content obligations”. The EM also states that the LCPs will include descriptions of existing and proposed news gathering facilities and staff, the number and timing of bulletins and where they are produced. MRRW considers that the ACMA’s discretion about what is to be contained in LCPs is too broad, as it would be open to the ACMA to require a level of detail that is unreasonable.

Further, the ACMA also has a very broad discretion about whether to register LCPs.

It is also noted that the Minister is able to direct the ACMA under clause 61CQ about the exercise of its powers in relation to LCPs, and this discretion also appears to be unfettered.

The breadth of the ACMA’s discretion (and the Minister’s discretion) is likely to exacerbate the already significant compliance costs that will be associated the preparation and registration of LCPs.

The EM specifically notes how MRRW is adversely affected by this, as follows:

> “The cost of preparing and registering an LCP would depend on the current operations and size of licensees. If a large company such as Macquarie Regional Radioworks understood a cross-media merger, it would be required to prepare a LCP for each licence area in which it remained following the merger (it is likely that in such circumstances MRR would be required by the 5/4 rule to divest itself of licences in a number of licence areas). Small companies operating in a limited number of licence areas, if they became subject to the requirements, would have a correspondingly lighter burden; licensees already meeting local content requirements would be able to provide a LCP that was essentially descriptive.” (EM page 50)

MRRW agrees that the administrative costs of formulating, lodging, negotiating and reviewing LCPs will be significant, particularly when this is required for potentially dozens of licence areas. This

"licence area by licence area" approach is onerous. MRRW does not accept that this administrative burden is reasonable, or that LCPs are necessary from a regulatory perspective.

These concerns are exacerbated by the scope of the discretions held by the Minister and the ACMA in this regard. MRRW's submission is that the Bill should narrow the ACMA's discretion about what it can require to be included in LCPs, and it should specify the grounds for rejection with far more precision (with the objective of narrowing the ACMA's discretion to impose unreasonable requirements). The same point applies to the Minister's discretion in this context.

MRRW also notes that licensees will be required to report annually on their compliance with their LCP, as part of their annual financial reporting to the ACMA. This imposes a further administrative burden. It must be acknowledged that the greater the administrative costs of operating radio businesses, the greater the impact on the maintenance of high quality programming.

Finally, MRRW is also concerned by the ACMA's lack of commercial experience in the radio industry in this context. Given the breadth of the ACMA's discretions in this context, MRRW is concerned that this will result in inappropriate regulatory intervention.

7.3 Minimum Service Standards for Local Content

The "minimum service standards" for local content that are set out in clause 61CD of the Bill address some matters that are already addressed under the Commercial Radio Industry Codes of Practice. While MRRW does not concede that further regulation of these matters is necessary, if the Committee takes a different view, these are all matters better left to the "co-regulatory scheme" under the Commercial Radio Codes of Practice, rather than licence conditions. The approach under the Bill is more heavy-handed than it needs to be.

However, MRRW's most significant concern in relation to "minimum service standards" is the fact that the Minister has the discretion to increase the minimum service standards outlined in sections 61CE, by making a determination to that effect. The Bill contains no fetter on the exercise of this discretion, which is inappropriate and needs to be clarified. No comfort can be obtained from the EM in this regard.

At a minimum, the Bill should specify that this power must only be used in exceptional circumstances, and only after a formal review process involving wide public consultation, including an independent assessment of the economic impact of such an increase on the operations of regional radio stations (including upon the future provision of high quality programming and diversity of content). It needs to be acknowledged that if the "minimum service standards" for local content are increased, this is likely to impact directly on the viability of radio services in marginal regional markets.

As a separate point, the uncertainty in the Bill around the local content requirements (following a trigger event) will act as a marked disincentive to the acquisition of any further media assets (thus denying the audience in the relevant licence areas from the benefits of scale outlined at section 2 above), and will also constrain MRRW from trading its existing assets. MRRW considers that this is an unwarranted regulatory intervention in its lawful business activities.

7.4 Assessment of Compliance

Finally, MRRW notes that under clause 61CN of the Bill, the ACMA will be required to review LCPs every three years. The EM also refers to the ACMA assessing compliance with local content licence conditions every 3 years. The Bill leaves it to the ACMA as to how it approaches such review.

The EM notes that the ACMA already conducts reviews in a commercial television context and that this may involve some "limited costs on broadcasters for the retention and storage of broadcast material" (which is required separately under the BSA, for example in relation to complaints handling)".

However, this statement fails to recognise that under the BSA, records of broadcast material are only required to be retained for 6 weeks, not 3 years! The cost of introducing and maintaining such record keeping processes across a large regional radio network is significant, and so MRRW would not

support a 3 year audit process. Further, radio is different to television in that there are many more licence areas, and many more stations (over smaller areas). This would make the requirement of retaining records for 3 years particularly onerous.

The alternative of "regular sampling" of broadcast material (as suggested in the EM) would be preferred, as this would place the relevant resourcing obligations upon the ACMA, not the already-stretched regional radio industry.

8 Conclusions

The EM states that the Government recognises that the imposition of greater regulatory requirements on regional broadcasters involves additional costs, and that the capacity of regional radio (as the least profitable of the regulated media sectors) to meet such obligations is linked to its commercial viability. MRRW agrees with this observation.

However, MRRW considers that the "balance" in the Bill is so weighted in favour of the "diversity of voice" test, and with an over-zealous approach to local content regulation, that other important objectives of broadcasting regulation have been ignored. At the forefront of these are those we identified at the outset, being the objectives of ensuring that

- audiences in regional Australia continue to receive high quality commercial radio services; and
- that such services are sustainable (ie efficient and competitive).

These are important issues, and we request the Committee to give them due consideration.

We would welcome the opportunity to appear before the Senate Committee to discuss these issues.

Yours faithfully

Tim Hughes
Executive Chairman

Rhys Holleran
Chief Executive Officer

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25 September 2006

Ms Roxane Le Guen
The Committee Secretary
Senate Environment, Communications,
Information Technology and the Arts
References Committee
Parliament House
CANBERRA ACT 2600

By email and by facsimile: 02 6277 5818

Dear Ms LeGuen

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1.1 Introductory comments

The Explanatory Memorandum to the Bill (**EM**) states that the "objective of the Bill is to remove impediments to greater efficiency, competitiveness and responsiveness in the media sector, while continuing to support the existing objectives of the BSA relating to diversity and quality of the media".

Unfortunately, the effect of the "diversity of ownership test" in the Bill (**diversity test**) in the Bill is to reduce significantly the potential benefits that media consolidations would otherwise bring to audiences in regional Australia. The Bill is weighted significantly in favour of the diversity test at the expense of the other objectives referred to above. The Bill fails to establish a framework that adequately recognises the importance of ensuring that:

- audiences in regional Australia continue to receive high quality commercial radio services; and
- that such services are sustainable (ie efficient and competitive).

At the outset, MRRW notes that in the lead-up to the introduction of the Bill, much was made about the convergence of broadcasting, telecommunications, newspapers and the internet. This was presented as one of the reasons why reform of media ownership legislation was timely. In this context, MRRW questions why only the "traditional" media of commercial radio, commercial television and associated newspapers are relevant for the purposes of the diversity test, and why other media such as subscription television, online services and even weekly and bi-weekly local newspapers are not considered. This would appear to be an appropriate matter for consideration by the Committee.

1.2 Commercial television/associated newspaper mergers

(a) MRRW is greatly concerned by the likely effect of a commercial television/associated newspaper merger in a regional licence area. Such a merger could be commercially devastating for the commercial radio licensees in that licence area, particularly where there is no prospect for any further consolidation (ie due to the operation of the diversity test and the "two to a market rule" in sections 54 and 56 of the BSA).

(b) While it is acknowledged that the Australian Competition and Consumer Commission (**ACCC**) would need to approve such a merger, MRRW also notes there is uncertainty about how the ACCC will apply the tests under section 50 of the *Trade Practices Act* 1974 (**TPA**) to a commercial television/associated newspaper merger in a regional licence area.

(c) This explains why MRRW has suggested changes to the "two to a market rule" and the "diversity test". These changes are discussed below.

(d) MRRW's view is that if these changes are not accepted, television/associated newspaper mergers in small regional radio licence areas should be prohibited outright.

1.3 Repeal of "two to a market" rule

(a) MRRW is concerned that retention of the "two to a market rule" will place commercial radio operators at a comparative disadvantage in those regional licence areas where a commercial television/associated newspaper merger occurs. MRRW's submission is that the "two to a market rule" should be repealed.

(b) In the absence of the "two to a market rule", the ACCC would assess whether holding more than two commercial licences in a licence area complies with the TPA. This approach would create a more level field of competition in the regional licence areas.

(c) MRRW also considers that audiences in regional licence areas would be better served if the "two to a market" rule was removed. This would result in greater diversity of content for regional audiences (ie a greater variation between formats and more choice).

1.4 Effect of "Diversity Test"

(a) The proposed new regulatory framework overlooks the importance of diversity of content and choice of formats in regional Australia. This is the effect of the proposed "diversity test", when considered alongside the existing "two to a market rule".

(b) To illustrate, in licence areas that currently have less than 4 separate media groups, the "diversity test" in the Bill may have the effect of providing for diversity of ownership at the expense of quality programming and sustainable commercial radio services.

(c) For instance, a cross-media transaction across a number of licence areas may require commercial radio stations in small markets to be divested (in order to ensure that the "diversity test" is complied with). Ironically, the operation of the "diversity test" in such circumstances may result in "stand alone" stations which, in the absence of the subsidies received from a broader network operation, may prove to be unviable. This may ultimately lead to the closure of commercial radio businesses that have been required to be divested in the wake of a cross-media transaction. This is not in the interests of audiences.

(d) Alternatively, another effect of the "diversity test" could be that no further media consolidations occur in regional areas. This is because an anticipated obligation to divest existing assets (ie in order for the transaction to receive regulatory approval) would act as a significant disincentive. In such circumstances, audiences in regional areas would be denied the benefits of media consolidations (such benefits are discussed at section 2 below).

(e) For these reasons, MRRW considers that it would be in the best interests of audiences for the "two to a market rule" to be removed, and for the Bill to be amended to insert an exemption from the "diversity test" in small radio markets (ie of less than 60,000 people).

1.5 Localism

(a) As a separate matter, MRRW has a number of concerns about the proposals relating to local content regulation (following a "trigger event").

(b) MRRW is concerned that the regulatory discretions in this area are too broad, and that the ACMA's lack of commercial experience in the commercial radio industry means that it is ill-placed to arbitrate upon what are essentially operational issues. Specifically, MRRW considers that:

(i) issues relating to "local presence" should be left for the market to determine;

(ii) the requirement to develop a Local Content Plan (and have this approved by the ACMA) imposes unnecessary and unreasonable administrative costs upon regional commercial radio licensees, particularly those with large holdings. This is exacerbated by the breadth of the ACMA's discretion about what is included in a Local Content Plan, and how it is approved;

(iii) some of the "minimum service standards" for local content (eg relating to the broadcast of emergency information) are already addressed under the *Commercial Radio Industry Codes of Practice*, and are more appropriately contained in the Code, rather than licence conditions; and

(iv) the Minister's discretion to increase the "minimum service standards" for local content programs appears to be unfettered, and this must be changed. At a minimum, the Bill should specify that this power must only be used in exceptional circumstances, and following a formal review process (involving wide public consultation and an independent assessment of the economic impact of the increase on the operations of regional commercial radio stations); and

(c) MRRW considers that the definition of "trigger event" in section 61CD should be amended to ensure that corporate restructures within an existing media group do not result in a "trigger event".

In our experience, the resources of a larger radio group enable stations in the group to make more local programming than if they "stood alone". This is because the better performing stations can and do cross subsidise the poorer performing stations (ie in licence areas with small populations), and enable resources to be applied to producing local programs. This happens in the MRRW group because fostering "live and local" programming is a key objective.

However, in the absence of the removal of the "two to a market rule" (discussed at section 4 below), and in the absence of exemption of very small regional markets from the diversity test (discussed at section 5 below), the approach in the Bill is to prioritise "diversity of voice" over all other broadcasting objectives.

MRRW questions this approach (as outlined below) and would welcome the opportunity to explore this in more detail with the Committee.

2 General comments: practical effect of the "diversity test"

The practical effect of the "diversity test", as described in the Bill, will mean that in many regional licence areas it will only be possible for one media sector consolidation to occur. After the first merger, that can be expected to be the end of all other corporate activity in the relevant area.

This will limit the real benefits that follow media consolidations. MRRW is well placed to comment on this issue, as it is the result of the only significant media consolidation that has occurred in regional

Australia in recent years (following its acquisition of the RG Capital Radio commercial radio licences and the DMG Regional Radio commercial radio licences).

The demonstrated benefits of large scale media consolidations include:

- improved programming (eg increased professionalism and differentiated formats);
- improved service levels (eg more reliable transmissions and better sales services for advertisers); and
- better career paths for regional radio employees, contributing to skills retention in regional areas.

MRRW's view is that the "diversity test" (and specifically the requirement for 4 traditional media groups in regional areas) will unduly restrict the availability of such benefits.

Further, given the large number of regional media markets which currently contain 4 or less media groups, the effect of the "diversity test" will be a significant disincentive to undertaking further media consolidations. If MRRW expected to be required to divest some of its existing commercial radio licences following a cross-media transaction (eg because in some licence areas the number of media groups would either drop to less than 4, or remain at less than 4), MRRW may be much less likely to proceed with the transaction (than would otherwise be the case).

This means that the potential benefits of improved efficiency, choice and service delivery that would otherwise flow from media consolidations will not be realised.

3 Commercial television/associated newspaper mergers

MRRW understands that the once the Bill is enacted, the application of the new "media diversity" rules is likely to mean that in many licence areas, a commercial television operator will be able to acquire a newspaper publisher (that is "associated" with that licence area).

MRRW's concern is that a commercial radio broadcaster that is permitted to operate only two commercial radio stations in a licence area is likely to find itself at a very significant comparative (and competitive) disadvantage when attempting to compete for local advertising revenue against a media group that contains a commercial television licensee and an associated newspaper.

While it is acknowledged that cross-media acquisitions will be:

- subject to the Australian Communications and Media Authority (**ACMA**) confirming that no "unacceptable media diversity situation" exists (for the purposes of clause 61AB of the Bill); and
- subject to compliance with the *Trade Practices Act* 1974 (**TPA**),

it remains unclear exactly how the ACCC will apply the "substantial lessening of competition" test under section 50 of the TPA in such circumstances, or how it will define the relevant markets.

For instance, the ACCC's *Guidelines on Media Mergers* (August 2006) state that "it is impossible to pre-empt whether a particular television station may be given informal clearance to merge with a newspaper or radio station until the markets that both businesses operate in are thoroughly analysed in a merger investigation conducted at the time clearance is sought". It is noted that the ACCC has not yet assessed (for the purposes of the new approach outlined in the Guidelines) whether in a regional radio market, two or more of commercial television, commercial radio and associated newspapers operate in the same market for the purposes of the test in section 50.

MRRW's concern is that a cross-media merger that is approved by the ACCC may nevertheless have adverse commercial impacts upon the commercial radio operator in the relevant licence area. This could result from how the ACCC defines the relevant markets in a particular case. It could also result from the fact that the ACCC may find it difficult to assess future competitive impacts with any accuracy (ie these may not become apparent until the cross-media transaction has been implemented in

practice, and until there is experience of how radio markets respond to cross-media mergers involving other regulated media operations).

In this context, MRRW is greatly concerned by the likely effects of a commercial television/associated newspaper merger in a small regional licence area.

MRRW's view is that regional newspapers and regional radio services compete directly for local advertising revenue in regional radio licence areas. Regional radio advertisers are often targeting very local audiences. By contrast, commercial television advertisers often target a broader audience (sometimes extending across an entire aggregated commercial television licence area).

MRRW's concern is that a commercial television/associated newspaper merger in a regional licence area (particularly where there is no prospect for any further consolidation) could be commercially devastating for the commercial radio licensees in that licence area. For this reason, MRRW has suggested changes to the "two to a market rule" and the "diversity test". These changes are discussed below.

If these proposed changes are not accepted, then MRRW's view is that commercial television/associated newspaper mergers in small regional radio licence areas should be prohibited outright.

4 Remove the "two to a market" rule

In the commercial television/associated newspaper merger context described above, the continuation of the "two to a market rule" in sections 54 and 56 of the BSA places regional commercial radio operators at a relative disadvantage to a merged commercial television and newspaper media group.

For instance, a commercial television/newspaper merger in a radio licence area where there are presently 6 separate "media groups" would reduce the number of media groups in that market to 5 (and comply with the proposed "diversity test"). In such circumstances a commercial radio operator that controls two commercial radio licences in that licence area would be prevented from acquiring further licences to strengthen its competitive offering. However, it would face significant additional competition from the new merged TV/newspaper media group, and be limited in how it could respond.

For instance, while the merged TV/newspaper media group will benefit from synergies and reduction of duplication in their operational activities, regional radio will not be able to respond in a comparable way (due to the operation of the two to a market rule).

This will be particularly so in licence areas where:

- a commercial television/associated newspaper merger benefits from a "first mover advantage" after the Bill is enacted (or, as it is described in the EM, where it wins the "race for the threshold"); and

- such first mover advantage takes place in markets where the only other media operation that would otherwise be available for acquisition (whether as a result of the operation of the "diversity test" or otherwise) are commercial radio businesses.

For this reason, MRRW considers that the best way of ensuring that a "level playing field" operates in a post cross-media merger environment is to repeal the "two to a market" rule, and subject to the suggestion below relating to small markets, leave the number of licences that can be controlled by the same person to a combination of a diversity test under the BSA, and to the operation of the TPA. MRRW considers that it is appropriate for the ACCC to determine whether or not a regional radio operator should be able to control more than two commercial radio stations in a licence area, instead of the BSA continuing to impose the arbitrary two to a market rule.

Leaving this issue to the ACCC would also ensure that a consistent approach is applied in practice (ie across different regulated media sectors).

5 Small market exemptions

Under the proposed "diversity test" in the Bill no regional radio licence area can have less than four media groups or "voices". As noted at the outset, the only media groups that are considered relevant for the purposes of the proposed "diversity test" are commercial radio, commercial television and associated newspapers (ie there is no reference to other media that make significant contributions to regional audiences, such as subscription television, online services and newspapers that are published less than 4 days per week).

It is understood that the ownership and control situation in licence areas that currently have less than four media groups will be "grandfathered", but this will limit how the commercial radio licences contained in such groups can be dealt with (going forward).

As the Committee will be aware, large regional operators such as MRRW are able to provide higher quality programming in small regional markets than would be the case if the stations in those markets did not have the benefit of cross-subsidies flowing from commonly-owned stations in larger markets.

However, if MRRW was to merge its operations with those of another media operator in a different media sector (eg television or print) across a number of licence areas, MRRW understands that it would be required to divest the commercial radio licences in those licence areas which have less than 4 voices at present (ie in order to obtain regulatory approval for the proposed transaction).

This outcome would be likely to lead to result in lower quality programming, and it is quite possible that a stand-alone commercial radio operator in such markets would not be viable.

To provide the Committee with an indication of the kind of costs we are referring to, we note that if a stand alone operator was required to pay for all its programming costs itself (rather than having some of these spread across a network group), its annual programming costs would include:

- $100,000 to produce content entertainment/drive programming;
- $80,000 for "off peak" programming (ie late night and pre-breakfast); and
- $70,000 for news and weather programming.

A stand alone radio operator in a small or "marginal" licence area would find that such local programming costs could not be absorbed. The alternative to these costs is to provide very significant amounts of pre-recorded programming (eg a 24 hour taped music feed).

Therefore, the result of the application of the diversity test in the Bill in such circumstances could be either reduction of the number of services available to audiences in small licence areas, or a marked drop in the quality of such services (due to heavy reliance on pre-recorded programs). This would not be in the interests of those audiences.

In such circumstances there must be a rebalancing between the policy supporting the diversity test, and the public interest of ensuring that audiences in regional Australia receive high quality commercial radio services.

MRRW requests that this issue be addressed in the Bill. One way of ensuring this would be to include an exemption from the "diversity test" for licence areas with small populations (eg than 60,000 people), on the basis that such markets do not presently have the number of independent voices that are envisaged by the Bill, and that those audiences would be better served by diversity of programming than by no programming at all. We note that this 60,000 figure is based on how the radio industry currently classifies markets (licence areas with less than 60,000 people are regarded as small), and in MRRW's experience, this is an appropriate benchmark.

6 Trigger Event

The first limb of the definition of "trigger event" in clause 61CB of the Bill describes a transfer of a regional commercial radio licence from one person to another as being a "trigger event".

MRRW understands that this would mean that a corporate restructure within an existing media operation could result in a "trigger event".

For example, a media operator could decide to restructure how it holds its commercial radio licences (eg by moving all the licences into one licensee company, rather than having a separate licensee company for each licence). However, under the Bill, this would result in a "trigger event", despite the fact there had been no change in the ultimate ownership or control of the licence.

MRRW consider that a "trigger event" should only occur if licences are transferred to an unrelated third party following a cross-media transaction. This would reflect that there had been a material change in the ultimate ownership and control of the licence, rather than a change that was caused by a restructure within an existing media group.

If this issue is not clarified in the Bill, MRRW considers that this is likely to distort the value of regional radio licences relative to licences in metropolitan areas, which are not subject to the same restrictions.

MRRW also notes that this is likely to be the effect of the "local content" proposals, that are discussed below. MRRW considers that it is important for regional radio licensees not to be so regulated that the relative value of those licences diminishes by comparison to their capital city counterparts. This is already a challenge that the regional radio industry faces, in that it has absorbed far greater relative levels of additional competition (as a result of the former ABA's licence area planning process and subsequent licence auction processes) than metropolitan operators. Over-regulation of regional radio operators is not in the interests of the industry, advertisers or audiences. This theme is discussed in more detail below.

7 Localism

The Bill proposes that after a "trigger event", there occur a range of regulatory intervention in the operation and programming of regional commercial radio licensees. Specifically, after a "trigger event", licence conditions will require:

- the maintenance of at least the "existing level of local presence";
- "minimum service standards" for local news and weather bulletins, local community service announcements and emergency warnings to be met;
- the development of a Local Content Plan (**LCP**) relating to the licensee's operations in the relevant licence area, which must be approved and registered by the ACMA.

The Bill sets out what amounts to minimum service standards for local news and weather bulletins, local community service announcements and emergency warnings. However, this is subject to a provision that enables the Minister to increase these minimum service standards, by making a determination to that effect. It is unclear from the drafting of the Bill when such determination-making power could be exercised. It is also unclear from the drafting of the Bill whether such determinations could include types of local programs other than those specified in section 61CD of the Bill.

MRRW has a number of concerns about these proposals, as outlined below. Before discussing each specific concern, it needs to be emphasised that it is unclear why regional radio has been "singled out" for such regulation. Given regional radio's comparatively small share of national advertising revenue (eg when compared with commercial television, print and outdoor), it is the sector least able to absorb the costs of complying with the proposed additional regulation, thus highlighting the Bill's inequitable approach.

7.1 Local Presence

Clause 43B of the Bill provides that the ACMA must impose licence conditions that require regional commercial radio licensees to maintain the "existing level of local presence" following a "trigger event".

What is meant by “existing level of local presence” will be a matter for the ACMA to address in the licence condition, and the Bill states that this must include “staffing levels” and “studios and other production facilities.

MRRW takes little comfort from the statement in the Explanatory Memorandum to the Bill that the intention is “not to prevent all reductions in resources, or to prevent the re-allocation of resources, but any decrease in resources should not be significant”. This provision does not acknowledge the fact that the level of local staffing and resourcing that existed prior to an acquisition of a regional commercial radio licence may have been inefficient or based on nepotism.

MRRW considers that the level of staffing and resourcing of radio stations are issues that should be left to the free market to determine, and should not be matters for regulatory intervention (particularly in light of the other requirements being proposed by the Bill). Further, staffing and resourcing of regional commercial radio services appears to have little relationship with diversity of ownership or diversity of content, particularly in a world where the mechanisms by which content is communicated is changing rapidly.

MRRW does not consider that the ACMA is qualified to assess how regional radio stations should be staffed or resourced, particularly from a commercial and practical perspective. It is noted that none of the ACMA board members or staff are experienced in operating commercial radio businesses (nor can they be expected to be). This highlights why this particular proposal is an unnecessary and inappropriate regulatory intervention in the marketplace.

7.2 Local Content Plans

Following a “trigger event”, a regional commercial radio licensee must prepare a Local Content Plan (**LCP**), and submit this to the ACMA for approval and registration.

Clause 61CF of the Bill does not specify what an LCP must contain. The EM states that it is intended that a LCP address how the licensee will meet its local content obligations, and what resources it will use to do so. The EM also states that LCPs are not intended to be a vehicle for additional local content requirements, and are intended to provide a “public means of assessing the commitment of broadcasters to meet their local content obligations”. The EM also states that the LCPs will include descriptions of existing and proposed news gathering facilities and staff, the number and timing of bulletins and where they are produced. MRRW considers that the ACMA’s discretion about what is to be contained in LCPs is too broad, as it would be open to the ACMA to require a level of detail that is unreasonable.

Further, the ACMA also has a very broad discretion about whether to register LCPs.

It is also noted that the Minister is able to direct the ACMA under clause 61CQ about the exercise of its powers in relation to LCPs, and this discretion also appears to be unfettered.

The breadth of the ACMA’s discretion (and the Minister’s discretion) is likely to exacerbate the already significant compliance costs that will be associated the preparation and registration of LCPs.

The EM specifically notes how MRRW is adversely affected by this, as follows:

> “The cost of preparing and registering an LCP would depend on the current operations and size of licensees. If a large company such as Macquarie Regional Radioworks understood a cross-media merger, it would be required to prepare a LCP for each licence area in which it remained following the merger (it is likely that in such circumstances MRR would be required by the 5/4 rule to divest itself of licences in a number of licence areas). Small companies operating in a limited number of licence areas, if they became subject to the requirements, would have a correspondingly lighter burden; licensees already meeting local content requirements would be able to provide a LCP that was essentially descriptive.” (EM page 50)

MRRW agrees that the administrative costs of formulating, lodging, negotiating and reviewing LCPs will be significant, particularly when this is required for potentially dozens of licence areas. This

"licence area by licence area" approach is onerous. MRRW does not accept that this administrative burden is reasonable, or that LCPs are necessary from a regulatory perspective.

These concerns are exacerbated by the scope of the discretions held by the Minister and the ACMA in this regard. MRRW's submission is that the Bill should narrow the ACMA's discretion about what it can require to be included in LCPs, and it should specify the grounds for rejection with far more precision (with the objective of narrowing the ACMA's discretion to impose unreasonable requirements). The same point applies to the Minister's discretion in this context.

MRRW also notes that licensees will be required to report annually on their compliance with their LCP, as part of their annual financial reporting to the ACMA. This imposes a further administrative burden. It must be acknowledged that the greater the administrative costs of operating radio businesses, the greater the impact on the maintenance of high quality programming.

Finally, MRRW is also concerned by the ACMA's lack of commercial experience in the radio industry in this context. Given the breadth of the ACMA's discretions in this context, MRRW is concerned that this will result in inappropriate regulatory intervention.

7.3 Minimum Service Standards for Local Content

The "minimum service standards" for local content that are set out in clause 61CD of the Bill address some matters that are already addressed under the Commercial Radio Industry Codes of Practice. While MRRW does not concede that further regulation of these matters is necessary, if the Committee takes a different view, these are all matters better left to the "co-regulatory scheme" under the Commercial Radio Codes of Practice, rather than licence conditions. The approach under the Bill is more heavy-handed than it needs to be.

However, MRRW's most significant concern in relation to "minimum service standards" is the fact that the Minister has the discretion to increase the minimum service standards outlined in sections 61CE, by making a determination to that effect. The Bill contains no fetter on the exercise of this discretion, which is inappropriate and needs to be clarified. No comfort can be obtained from the EM in this regard.

At a minimum, the Bill should specify that this power must only be used in exceptional circumstances, and only after a formal review process involving wide public consultation, including an independent assessment of the economic impact of such an increase on the operations of regional radio stations (including upon the future provision of high quality programming and diversity of content). It needs to be acknowledged that if the "minimum service standards" for local content are increased, this is likely to impact directly on the viability of radio services in marginal regional markets.

As a separate point, the uncertainty in the Bill around the local content requirements (following a trigger event) will act as a marked disincentive to the acquisition of any further media assets (thus denying the audience in the relevant licence areas from the benefits of scale outlined at section 2 above), and will also constrain MRRW from trading its existing assets. MRRW considers that this is an unwarranted regulatory intervention in its lawful business activities.

7.4 Assessment of Compliance

Finally, MRRW notes that under clause 61CN of the Bill, the ACMA will be required to review LCPs every three years. The EM also refers to the ACMA assessing compliance with local content licence conditions every 3 years. The Bill leaves it to the ACMA as to how it approaches such review.

The EM notes that the ACMA already conducts reviews in a commercial television context and that this may involve some "limited costs on broadcasters for the retention and storage of broadcast material" (which is required separately under the BSA, for example in relation to complaints handling)".

However, this statement fails to recognise that under the BSA, records of broadcast material are only required to be retained for 6 weeks, not 3 years! The cost of introducing and maintaining such record keeping processes across a large regional radio network is significant, and so MRRW would not

support a 3 year audit process. Further, radio is different to television in that there are many more licence areas, and many more stations (over smaller areas). This would make the requirement of retaining records for 3 years particularly onerous.

The alternative of "regular sampling" of broadcast material (as suggested in the EM) would be preferred, as this would place the relevant resourcing obligations upon the ACMA, not the already-stretched regional radio industry.

8 Conclusions

The EM states that the Government recognises that the imposition of greater regulatory requirements on regional broadcasters involves additional costs, and that the capacity of regional radio (as the least profitable of the regulated media sectors) to meet such obligations is linked to its commercial viability. MRRW agrees with this observation.

However, MRRW considers that the "balance" in the Bill is so weighted in favour of the "diversity of voice" test, and with an over-zealous approach to local content regulation, that other important objectives of broadcasting regulation have been ignored. At the forefront of these are those we identified at the outset, being the objectives of ensuring that

- audiences in regional Australia continue to receive high quality commercial radio services; and
- that such services are sustainable (ie efficient and competitive).

These are important issues, and we request the Committee to give them due consideration.

We would welcome the opportunity to appear before the Senate Committee to discuss these issues.

Yours faithfully

Tim Hughes
Executive Chairman

Rhys Holleran
Chief Executive Officer