From: Phil Ward [philward@beachaccess.com.au]
Sent: 22 July 1999 14:17
To: broadcasting@pc.gov.au
Subject: BROADCASTING SUBMISSION

Dear Sirs,

This is a submission about possible amendments to the Broadcasting Services Act. It suggests

1. That the distinction between Commercial, Narrowcast and Community radio be eliminated.
2. That the power of all one-watt radio stations be increased.
3. That the Government should receive a portion of the advertising revenue received by the present Narrowcast and Community stations.
4. That changes be made to eliminate bias at the ABA.
5. That the separation between station frequencies be reduced to allow more radio stations on the dial.
6. That changes be made so the benefits of radio automation be passed on to the listening public.
7. That no individual or group be allowed to hold more than 20 high-powered Commercial radio licences.
8. That individuals should be able to apply for Commercial radio licences on spare frequencies.

1. ELIMINATING THE DISTINCTION BETWEEN COMMERCIAL, COMMUNITY, AND NARROWCAST

I submit that the distinctions between Commercial, Narrowcast andCommunity radio be eliminated. Eliminating the distinctions would reduce the Government's cost of supervising radio.

The current Broadcasting Services Act has three classes of privately owned radio stations — Commercial, Narrowcast, and Community. The Act virtually says that each of these should have their own industry group.

The result of this is that the industry associations of each group try to attack radio stations in the other groups. An example of this is the magazine of the CBAA (the Community radio station's lobby group). It ran an article encouraging its readers to complain about Narrowcast stations.

The CBAA has deliberately created a climate in Community radio of complaining about Narrowcasters. This considerably increases the Government's cost of supervising radio stations.

Often these complaints are not justified. They are merely a way of adding to the pressure on managers of Narrowcast stations. If the narrowcast station managers have to spend time preparing legal submissions to the ABA, they have less time to seek advertising in the Community. This

reduces the competition for sponsorship dollars and makes it easier for the Community station to finance itself.

It is impossible for me to say how much money the ABA and ACA have spent processing complaints Community stations make against Narrowcasters. However, it would have to run into the many hundreds of thousands of dollars.

Similarly, an industry newsletter for Narrowcasters has run stories about the complaints that Community stations make against Narrowcasters. This inflames Narrowcasters so that some of them have retaliated by lodging complaints about Community stations. This again adds to the cost of running the Australian Broadcasting Authority.

I am aware that FARB (the commercial radio lobby group) has encouraged commercial stations to lodge complaints against Narrowcasters and Community stations. However, I can provide no specific evidence of this.

In brief, each of the three divisions of privately-owned radio deliberately tries to lay complaints against the others.

Examples of complaints by one section of the radio industry against another include the following.

Case 1. The CBAA lodged a complaint against Gold Coast Narrowcast station Hinterland-FM (later called Heartland-FM). Hinterland was broadcasting country music. A competing Gold Coast Community station (4CBA) approached the CBAA to ask if country music was an allowable music format for Narrowcasters. The CBAA then lodged a formal complaint with the ABA.

The complaint was made in the name of 4CBA. However, 4CBA did not make the complaint and was unaware that a complaint had been made in its name. (It had merely made an enquiry about format.) An analysis of the documents written by ABA staff on this matter would show that it was not a low-cost operation to handle this complaint. The process took (from memory) about nine months. The ABA eventually decided that the Narrowcaster was doing nothing wrong. However, it took a lot of public service time to prove this.

Case 2. A Community radio station on the NSW North Coast made a complaint about a Narrowcaster called Smooth-FM.

About five years beforehand, Smooth-FM (at Lismore and Byron Bay) applied to the Australian Broadcasting Authority for an opinion on its proposed format. It intended to broadcast music recorded in the Northern Rivers of NSW. An ABA officer telephoned to say that that format was so clearly Narrowcasting, that it would be a waste of money to get an ABA opinion. The ABA officer offered to return the money sent for the opinion. The operator accepted, the money was refunded and the station went to air.

However, following the Community station's complaint last year, the current ABA staff forced the station off air in October 1998. The basis of this action was that music from the Northern

Rivers of NSW was a commercial station format -- despite the fact that no commercial station in Australia broadcasts 16 Northern Rivers music tracks an hour (or even one an hour). The ABA threatened the operator with a fine of $250,000 a day (from memory) for every day he kept broadcasting that format.

It seems clear to the present writer that the CBAA has considerable lobbying power inside the ABA. This lobbying power was, I believe, the reason why the ABA changed its opinion about the Smooth-FM format. However, if there were no format differences between the three types of privately-owned radio stations, this type of dispute could not exist.

Case 3. Sunshine Coast Commercial station MIX-FM made a complaint to the ABA about a local Narrowcast broadcaster Classic Hits FM. Classic Hits was a tourist information station. Its target audience was tourists staying in the motels and other accommodation places on the Sunshine Coast. Its service was advertised in virtually every motel/hotel room on the Sunshine Coast. Cleaners in motels were instructed to turn each room's radio to that station when cleaning the rooms. Classic Hits did virtually no promotion to anyone except tourists. Very few locals knew the station existed because its promotion and format was aimed at tourists.

The Classic Hits format was to alternate tourist information and music. The basic format was virtually the same as the ABA approved six years ago for Laguna Bay FM at nearby Noosa. However, the ABA this year ruled that the format was commercial radio -- even though no commercial station in Australia broadcasts 16 tourist segments an hour 24 hours a day. The operator was threatened with fines of $250,000 a day which forced it off air.

Case 4. At Kingaroy in Queensland, the local commercial station lodged a complaint against Narrowcaster K-FM. K-FM has a format of broadcasting business information. It is basically an in-service training program for small business. Each hour it runs about 10 segments with ideas for improving the efficiency of small business. One music track plays between each business education segment.

The commercial broadcaster complained that the format was a commercial radio format. However, there is no commercial radio station in Australia which would run such a format — because there are not enough business managers to give it a decent audience. However, the ABA ruled that this is a commercial radio format.

The K-FM case is likely to end up in court because the narrowcaster believes his format is valid and he will not follow the ABA's instuction to cease broadcasting. If the ABA loses, as it probably will, the cost of the court case would be quite expensive. However, this cost could be totally avoided if there were no differences between Narrowcast and Commercial stations.

Case 5. Members of a Community station in Albany Western Australia lodged a complaint that a local one-watt Narrowcaster was overpowered. The ACA travelled from Perth to check. When they arrived, they measured the station's antenna power and found it was indeed one watt.

However, while there, the ACA officer found there was an anomaly in the specifications for one watt stations. Measurements taken 2km from the Albany transmitter showed that the station

was exceeding the signal strength limit of 48 dbu. This is because an error was made in the specifications when one watt stations were first set up.

There are no international tables to show the power of a radio station 2km from the transmitter. This is because measuring signal strength that close to a transmitter is considered invalid. Not having tables to calculate the correct power, the ABA had no guidance to set the power. It chose 48 dbu, however, the true power, ACA sources tell me, should be 72 dbu. (48 dbu is one-tenth of the power of 72 dbu.)

The Perth office of the ACA knew there was an error in the specification. However, because of the pressure from the Albany Community station, the ACA ordered the Narrowcaster's power to be turned down. They gave the operator a month to comply and told him privately to contact Canberra to get the mistake in the specification fixed. They expected the error in the specification would be corrected in that time-frame. However, the CBAA has considerable lobbying power within the ABA. It took this as an opportunity to have the power of Narrowcast stations reduced even further. As a result, the Albany station was told to turn its power down to one-tenth of a watt. Now people in Albany have been deprived of the radio service to which they should be entitled.

If there were no differences between the different groups of privately-owned radio stations, the expense involved in this action would not have occurred.

Since the Albany station was turned down to one-tenth of a watt, other Narrowcast services have also been turned down. In most of these cases, as far as I know, the action to turn down the power is a result of complaints by other radio stations.

The relevant specification says that the signal strength 10 metres above the ground at any point more than 2km from the antenna should not exceed 48 dbu. However, the 48 dbu figure is line-of-sight for a station of one-tenth of a watt. So the ACA (under instructions from the ABA) is turning SOME Narrowcast stations down to one-tenth of a watt. That effectively means those stations cannot be heard in homes for more than a few hundred metres. Interestingly, only SUCCESSFUL Narrowcasting stations are being turned down to one-tenth of a watt. The unsuccessful stations are being left at one-watt.

The common factor in the above examples is that these are all successful Narrowcast stations. Where the stations are not successful, the CBAA ignores them. But when they become successful, they are subject to considerable pressure usually through the CBAA complaining to or lobbying within the ABA. This usually means that the successful one-watt Narrowcast stations are forced to close because they do not have the money to prove their case in court.

Removing the distinction between Commercial and Community radio stations would improve the service provided by Community radio stations. Some Community stations are very profitable. But with others, no attempt is made to make efficient use of the frequency. Many of the stations are run by the long-term unemployed as a way of filling in their time. However, some of them could develop into good radio announcers. If the present Community stations were generating larger profits, they could employ these people as announcers, thus removing them from the dole.

2. INCREASE THE POWER OF ONE-WATT STATIONS

I submit that the antenna power of what are at present one-watt Narrowcast stations be increased to at least 10 watts (but preferably 20 or 50 watts). The one-watt power was a quirk of history. When the ABA was planning to introduce low-powered Narrowcasting, they phoned a transmitter manufacturer to find out what power transmitters he made. He made a one-watt transmitter, so they decided that low-powered radio in Australia would be one-watt. (That's not even as much as the power of a dull light-bulb.) To adequately cover the 2km-5km radius that the ABA's website says these stations should cover, the power needs to be at least 10 watts. (Low-powered radio may soon be introduced in the United States, but to the Americans "low-power" will probably be 100-1000 watts.)

To allow a power increase to 10-50 watts for 87.6 and 88 MHz stations, the existing 87.8 MHz stations should be moved to another available frequency. This would need to be a different frequency in different parts of Australia. This would leave sufficient separation between 87.6 MHz and 88 MHz so their power can be increased to 10-50 watts. (Note that the introduction of 87.8 MHz was done without any consultation with the Narrowcasting industry. It is commonly accepted within the Narrowcasting industry that 87.8 was introduced to prevent any increase in power for the 87.6 and 88 stations.)

The power increase of one-watt stations should be an absolute right where there is no other station on the same frequency within 20km. Where there are other on-air stations on the same frequency within 20km, an applicant should advise those other stations of its intention to increase its power. The second station should then be given the opportunity to increase its power at the same time (so its coverage area is not eaten into by the competitor's signal).

Only one-watt licences issued before the date this submission becomes public should be automatically allowed to have the higher power. This would prevent rivals deliberately applying for licences 10km away to prevent these stations increasing their coverage area. New one-watt licences issued after that date should remain at one-watt if they are within 20km of another station on the same frequency. This should not prevent the older station increasing its power to the approved higher level.

The amount of power increase could be graduated depending on the distance to the next station on the same frequency. If the next closest station is less than 20km, the power increase should be to either 10 or 20 watts. Where the next closest station is more than 20km away, the station should be allowed to increase its power to 50 watts.

Where engineering is required to ensure the power increase will not cause interference, this should be done at the station owner's cost. If the engineering showed that the higher power caused problems, the station should be allowed to increase its power only to the level where engineering says it will not cause problems.

Having two 10-20 watt stations 10km from each other would require a change in thinking about radio signals interfering with each other. At the moment, there is an area of virtually no

signal at the midway point between stations on the same frequency. However, with my suggested policy there would be an area of mixed signals at the midway point between the stations.

If two 10-watt stations were broadcasting across relatively flat land, at the midway point between the two stations there would be about 2km of mixed signals. A car driving between the two stations would first have one signal then the other, then the first again. (The more powerful would blot out the least powerful. With FM radio, where one signal is 50% more powerful than another, the weaker signal is not heard on the radio.) Existing policy would object to the existence of this area of clashing signals. However, it would only replace an area of no signals, so the public is not worse off. And in houses, there would usually be no problem because their aerials are in fixed positions so they would usually pick up the same station all the time.

I also submit that the measurement of signal strength for stations 50 watts or less be eliminated. The international scales for measuring signal strength do not measure signal strength closer than 10km from the antenna. That is because of the aberrations that can occur close to the antenna.

Measuring the signal 10 metres above the ground is another problem. Ten metres above the ground is above the height of most houses. Often there is a very good signal 10 metres above the ground, but there is not an adequate signal inside a nearby house. Plus, the 10 metres can be (and usually is) measured on a hill or in an open area way from buildings. Yet many buildings are in hollows or have other buildings between them at the signal source. So the 10 metre measurement is a totally unrealistic measurement parameter. It deprives the public of the radio service they should be receiving. It should be replaced by measuring the signal five metres above the ground.

3. GOVT SHOULD COLLECT REVENUE FROM NARROWCAST AND COMMUNITY STATIONS

At present, the Government collects virtually no revenue from Narrowcast or Community radio stations. I submit that these stations should pay the same percentage of their revenue as Commercial stations pay of their revenue. They are using a valuable and limited resource. Shouldn't they pay the same for it as the existing Commercial stations do?

At present, 10% of Community radio stations earn more than $300,000 a year. (This figure comes from the CBAA which has a higher membership fee for stations earning more than $300,000 a year. Ten percent of stations pay this higher fee.)

At present, the Government offers financial subsidies for some Community radio stations to operate. This can be a disincentive for them to operate efficiently. I personally am in the process of setting up a Community radio station on the Sunshine Coast. This station will operate extremely efficiently, probably costing about $30,000 a year to operate. However, many community stations cost ten times that amount to operate.

I submit that if the classification of Community radio station continues to exist, the "sponsorship" regulations for Community stations should be dropped. They should be able to

broadcast advertising, rather than sponsorship announcements. And they should be able to broadcast the same amount of advertising as Commercial stations. This would increase the revenue the Government receives from the public asset of the broadcasting frequency.

Of course, if my submission to end the distinction between Commercial, Community and Narrowcast stations was followed, all these stations would automatically pay a portion of their revenue to the Government. However, even if the distinction was maintained, all should still pay a percentage of revenue to the Government. Among other things, that would allow them to earn their keep by providing the funds necessary for the services they require from the ABA and thae ACA. And if the Government continued to subsidise some community stations, the revenue from the more profitable Community stations could be used to pay this subsidy.

4. ELIMINATING BIAS IN THE ABA

The ABA has a well-known bias against Narrowcasters. It is at times quite open and public about this bias. ABA officers have said in public meetings that Narrowcasting is their lowest priority. (However, no such low priority is spelt out in the Broadcasting Services Act.)

The bias in the ABA is further shown by comments from ABA officers like: "The commercial stations paid a lot of money for their licences, so you narrowcasters shouldn't be allowed to compete with them."

There is not the same bias against Community radio. There are staff at the ABA who work full time in the interests of Community Radio. Therefore those people tend to advance the interests of Community radio within the ABA. However, there are no staff working full time for Narrowcast radio.

The bias of the ABA towards Commercial radio is well known. This is partly because of the structure of the board itself. The board is partially made up of members who have experience in the commercial radio industry. When their time on the board ends, those board members know that they will be seeking another job in commercial radio. Therefore, to protect their future job prospects, they tend to help commercial radio in disputes against Community or Narrowcast radio.

The bias in the upper levels of the ABA is demonstrated by the case of Classic Hits FM Pty Ltd. Classic Hits was running a tourist format. The owners were planning to sell the station, so they decided to apply to the ABA for a formal opinion that their format was narrowcast. This would provide assurance for any new owner of the station. They made the appropriate payment and submissions, then during the process kept in contact with the ABA officers preparing the opinion.

About a week before the opinion was due to be provided, the ABA officer preparing the opinion told Classic Hits that the opinion would be that its format was narrowcasting. However, shortly after that phone call, that public servants' work was overruled by a superior in the ABA. When the final opinion was released, the ABA ruled that the Classic Hits format was commercial radio.

(I suggest that even the most superficial appraisal of the situation by the Productivity Commission would show that the Classic Hits format fits the narrowcasting provisions of Section 18 of the Broadcasting Services Act.)

Any bias at board level would be eliminated if the work of the ABA was taken over by the Australian Communications Authority. Because the ACA is a much larger organisation, the members of the ACA board would not "represent" specific, narrow interests. This would eliminate the problems caused by the bias at board level.

The Australian Communications Authority has a reputation with broadcasters as being a very efficient Government Department. This efficiency is demonstrated by the time it takes to transfer the location of a Narrowcast transmitter site. When this task was done by the ABA, it would often take nine months to receive approval. Since the task has been handed over to the ACA, approval is usually granted within a week.

5. REDUCING SEPARATION BETWEEN RADIO FREQUENCIES

I submit that the separation between commercial station frequencies be reduced. At present, there is an 0.8 MHz separation between FM stations in the same city. However, this could be reduced to 0.6 MHz, which would allow a 25% increase in the number of stations.

Similarly, the ABA places a very large distance between Commercial FM stations on the same frequency. (It is much greater than the distance between ABC stations on the same frequency.) The distances between these Commercial stations are far greater than is needed for practical purposes. By halving the distance between stations on the same frequency, we could get far more radio stations into Australia. This would increase the diversity of radio available to the Australian public.

6. ALLOW FOR BENEFITS OF AUTOMATION

Automation means that the cost of radio broadcasting is now far lower than a decade or two ago. This means that radio broadcasting can be far more economical and we can have far more radio stations in this country.

The present author has created the "SmartSound" computer program to run radio stations. That allows a high-quality radio program to be broadcast 24 hours a day with as little as four hours' work by an announcer each week.

At present, the benefits of automation are merely being used to increase radio station profits. However, modifications to the Broadcasting Services Act could be made so that the benefits of automation are passed on to the listening public.

Automation allows radio stations to provide a genuine local service. (At present many country Commercial stations are just relay stations with local advertisements inserted.)

I submit that the Act have a regulation that at least 50% of programming between 6am and midnight be local. This could be financially viable with automation.

For example, with SmartSound automation, one announcer could produce an entire day's local programming in four hours. This would mean that local radio stations would provide a genuine local service.

In locations where Narrowcast stations have made a big impact against Commercial stations, it is often because of the local content on the Narrowcast station. With computer programs like SmartSound, stations can provide a great deal of local content at extremely low cost. SmartSound can even provide a local news service at a fraction of the normal cost.

When recording news, announcers merely ad-lib news stories into a computer which is set up to work like a tape recorder. They can record two different versions of each story. And they can select whether the story runs in every bulletin, every second bulletin or every third bulletin. The stories do not need to be physically written, which saves considerable time. Thus, between 5.30am and 6am a newsreader-journalist can produce all the news bulletins for the next 4-6 hours of radio. (Normally, stations have one or two journalists work for six hours each to produce the breakfast show news.)

Stories in such bulletins can be a mixture of local stories and national and international stories. The local stories can come from local sources. The other stories can come from wire services accessed via the internet for $50 per week. Thus local stations can run a local automated news service at a fraction of the current cost.

Many existing Narrowcast stations would want to run such news services now. However, they are prevented because of the ABA's narrow interpretation of the Broadcasting Services Act which is that Narrowcast stations cannot broadcast news. If the distinction between Narrowcast and Commercial stations was removed, we would see far better local news services from stations which are currently narrowcast stations.

The low cost of automation suggests that regulations could be introduced to encourage more local programming. A 1000 watt station with SmartSound automation could be set up in a country town for $30,000. The production cost to run the station could be as little as $500 per week, including the cost of a local news service. Thus, the benefits of automation would be passed on to the listening public.

7. LIMITS ON RADIO STATION OWNERSHIP

At present broadcasters can hold an unlimited number of Narrowcast licences in their commercial radio coverage area. Some Commercial stations have used this loophole to eliminate competition.

The Commercial operator on the Gold Coast, for example, applied for many one-watt narrowcast licences to stop competition in the area. The Commercial station at Gympie had relatives of its then general manager apply for the one-watt licences in its area to prevent competition. About six months ago the Commercial station in Bundaberg went to auction to get the medium-powered narrowcast licences being issued to prevent a competitor entering the market. Similarly, a few weeks ago a Commercial operator in Toowoomba purchased at auction the three medium powered Narrowcast licences offered in that town. That gave the operator five radio stations in the one town.

I submit that if the distinction between Commercial and Narrowcast stations is eliminated, there be limits on the number of low-powered and medium-powered licences an operator can have. I submit that a high-powered licence be consider equal to two medium-powered licences, or four low-powered licences. The limits on ownership in any radio zone would then be two high-powered licences or their equivalent.

There should also be limits on the number of radio zones in which an licensee can hold licences. I submit they should not be able to hold licences in more than 10 provincial radio zones. For this provision, a licence in a capital city should be the equivalent to two licences in a provincial zone.

Should Narrowcasting continue as a separate radio category under the Act, I submit that Commercial broadcasters not be allowed to hold Narrowcast licences in the same coverage area as their Commercial stations.

8. APPLY TO USE SPARE FREQUENCIES

I submit that potential operators should be allowed to apply for unused radio frequencies. These could be high-powered licences, but would generally be relatively low-powered licences, possibly 100-500 watts.

In this system, an operator who wanted to provide a radio service on a spare frequency would have to do the engineering to prove that that frequency was suitable. The ABA (or ACA) would then announce an auction for a radio service on that spare frequency. Should another operator purchase the service at the auction, a provision of the purchase should be that it reimburse the engineering costs at a standard fee.

While there would not be many high-powered frequencies available, there would be many available at low and medium powers. For example, in a submission to the ABA in March last year I identified the following 27 frequencies in the Greater Brisbane Area. The ABA says there are no more high-powered frequencies in the area. But the possibility of using these 27 low-powered frequencies would dramatically improve the choice of radio services available to the public.

89.8	100w	Brisbane CBD
92.2	100w	Brisbane CBD
94.5	1kw	Sunshine Coast (Dulong Lookout)

97.5	5kw	Sunshine Coast (Dulong Lookout)
97.9	5kw	Gympie
98.7	1kw	Noosa or Gympie
99.5	50w	Noosa
99.5	50w	Coolangatta
99.5	50w	Lismore
99.9	50w	Noosa or Gympie
99.9	50w	Surfers Paradise
99.9	50w	Byron Bay
100.7	50w	Buderim or Caloundra (Sunshine Coast)
100.7	50w	Brisbane CBD, or Burpengary (Bris North)
101.9	50w	Buderim (Sunshine Coast)
102.3	50w	Noosa
102.3	50w	Byron Bay or Lismore
103.3	10kw	Sunshine Coast (Dulong Lookout) or Gold Coast (Mt Tamborine)
103.9	50w	Lismore or Coolangatta
104.3	100w	Byron Bay
106.5	1kw	Nerang (Gold Coast)
107.1	500w	Buderim (Sunshine Coast)
107.3	50w	Surfers Paradise
107.5	100w	Gympie
107.5	100w	Byron Bay
107.9	500w	Noosa

A similar number of low-powered frequencies would be available in most areas of Australia.

At the moment, the ABA usually thinks only in terms of high-powered Commercial stations. However, the above chart shows there is great potential for medium and low-powered Commercial stations.

I respectfully make these submissions to the Productivity Commission in the hope that they will help you provide a better radio service to the people of Australia.

If I can help further, please do not hesitate to phone me on (07) 5446 6479, or fax me on (07) 5446 6388.

Yours faithfully

Phil Ward
Managing Director
BEST-FM PTY LTD