

DMG RADIO AUSTRALIA PARTNERSHIP

**FURTHER SUBMISSION TO THE PRODUCTIVITY
COMMISSION**

**PUBLIC INQUIRY INTO
BROADCASTING**



INTRODUCTION

- 1 DMG Radio Australia Partnership ("**DMG**") lodged submissions ("**Earlier Submissions**") with the Productivity Commission ("**PC**") before the issue by the PC of its draft report on 22 October 1999 ("**Draft Report**").
- 2 DMG makes this further submission in connection with the Draft Report.
- 3 DMG limits this further submission to the draft recommendations in the Draft Report which relate to broadcasting licences and spectrum allocation, and ownership and control, and in the context only of commercial radio broadcasting, being draft recommendations 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 8.1, 8.3 and 8.4 ("**Relevant Recommendations**").
- 4 DMG should not be taken to agree or disagree with any of the draft recommendations in the Draft Report other than the Relevant Recommendations.

DMG'S POSITION

- 5 Subject to point 6, DMG agrees with and supports the Relevant Recommendations.
- 6 DMG only agrees with and supports draft recommendations 8.3 and 8.4 in the Draft Report on the basis that those draft recommendations are not introduced and do not take effect unless and until:
 - the analogue planning process for radio broadcasting services is completed for every licence area under the Broadcasting Services Act 1992 ("**BSA**"); and
 - the maximum possible number of new FM commercial radio broadcasting licences are issued under the BSA by public auction in each of the capital city licence areas to persons other than those who already control FM commercial radio broadcasting licences in those capital city licence areas.
- 7 DMG in particular does not agree with or support the immediate repeal of section 54 of the BSA. DMG does not agree with or support the statement of the PC that "Spectrum availability does not limit entry [in commercial radio] as much as it currently does in television" in so far as that statement refers to capital city licence areas (page 191 of the Draft Report). DMG therefore repeats the two requirements set out in point 6.
- 8 DMG emphasises that the immediate repeal of section 54 of the BSA would allow existing owners of FM commercial radio broadcasting licences in capital city licence areas to prevent competition from new owners. They would do that by bidding for any new licences which are made available through the analogue planning process. They could bid for those new licences at a level much higher than anything which would make economic sense for a prospective new owner. That is because those existing owners would be protecting their vested interests and, to protect those interests, they would be prepared to pay artificial prices. The result would be the stifling of competition. DMG therefore believes that the immediate repeal of section 54 of the BSA would be against the best interests of the public audience and contrary to the proper development of the industry. DMG does recognise, however, that the repeal of section 54 of the BSA, after many

new owners acquire new licences and add to competition, may be a useful contribution to a competitive market structure.

9 DMG agrees with the following statements insofar as they relate to commercial radio broadcasting in capital cities:

- "... section 23 could be repealed. If it is to be retained, it should be simplified to remove the economic and other non technical criteria for determining commercial licences..." (page 151 of the Draft Report);
- "... removing regulatory restrictions on entry is a necessary but not sufficient condition for achieving contestability in broadcasting markets. Spectrum must also be made available for new operators. The completion of FM radio planning... would facilitate this access." (page 151 of the Draft Report);
- "... a planning process based on technical characteristics is quite complex. But the economic and other non technical criteria of section 23 add an extra layer of complexity to this planning process, potentially adding further delays and limiting the release of spectrum... the ABA's interpretation of these criteria has also limited the release of spectrum. The ABA's attempt to estimate the demand for new broadcasting services is a function that for most industries is left to the market. It has meant that fewer licences are issued than warranted on technical criteria alone. This can be illustrated by considering the recently released draft licence area plans for Sydney, Gosford, Katoomba and Lithgow..." (page 140 of the Draft Report);
- "the Commission finds that ... the non technical criteria of section 23 of the BSA... restrict competition beyond that which is required for technical reasons... the value of broadcasting licences... suggests that the restrictions on entry are of significant benefit to existing broadcasting... are [the] restrictions on entry necessary as a trade off for imposing [regulatory] obligations on the commercial broadcasters? Many other industries have obligations without any compensating restrictions on entry... it is not clear why the broadcasting industry should be marked for special treatment and compensated for meeting its obligations... the Commission is not convinced that these obligations... require restrictions on entry to the broadcasting industry" (pages 142 to 145 of the Draft Report);
- "consumers, including business consumers, bear the cost of entry restrictions through having fewer choices available to them... restrictions on entry have also lead to significant delays in the introduction of services which consumers value. FM radio ... [is a significant example]... some inquiry participants argue that new entrants would simply deliver more of the same... [but] new entrants will add to the potential for diversity in information and opinions... regulatory restrictions on entry into broadcasting potentially reduce the number of broadcasters and reduce diversity in the ownership and control of broadcasting services. This is contrary to the BSA objective "to encourage diversity in control of the more influential broadcasting services"... the need to counteract this lack of diversity, partly created by regulatory restrictions on entry, has given rise to further regulations... regulatory restrictions on entry prevent... aspirant broadcasters from entering the broadcasting industry and thus from competing for the audiences of the existing broadcasters. This system protects less efficient broadcasters from more efficient aspirants..." (pages 146 to 148 of the Draft Report).

10 DMG in support of its position repeats all of the observations and conclusions contained in the Earlier Submissions.