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Productivity Commission

SUBMISSION TO PRODUCTIVITY COMMISSION BY RG CAPITAL RADIO PTY LTD

1. Introduction

RG Capital Radio Pty Ltd (**RG Capital**) provides commercial radio broadcasting services throughout regional and rural Australia. RG Capital has considered the Broadcasting Issues Paper released by the Productivity Commission in March 1999 (the **Issues Paper**). RG Capital makes the following submission to the Productivity Commission in relation to the regulatory policy and ownership and control provisions of the *Broadcasting Services Act* 1992 (the **BSA**), which are discussed at pages 17-19 of the Issues Paper.

2. Impact of New Media and Regulatory Policy

The Issues Paper outlines the changes currently taking place within the broadcasting industry. It recognises the impact of 'new media' upon the business of operating traditional media formats, such as commercial radio. The regulatory scheme contained in the BSA recognises that Australian audiences have traditionally relied on commercial radio as a primary source of entertainment and information. While commercial radio now competes with a variety of 'new media' such as the internet and subscription audio services (eg those provided by pay TV licensee Austar) for audiences, RG Capital's view is that this has not diminished the role that commercial radio plays in influencing community views in Australia.

The Issues Paper poses a number of questions about the regulatory policy and overall regulatory scheme contained in the BSA. RG Capital agrees that it is appropriate for such issues to be examined, in recognition of the high level of change currently being experienced in the Australian broadcasting environment.

3. Relevant Questions

The Issues Paper poses the following questions:

> *What do you understand by 'the degree of influence ... in shaping community views in Australia'?*
>
> *What forms of broadcasting have the most influence in shaping community views in Australia?*
>
> *Is 'degree of influence' still an appropriate criterion for designing and applying broadcasting regulation?*

Should the regulatory approach be technologically neutral, that is, not distinguishing between different means of delivery? Or, do the different delivery platforms justify different regulations?

What are the advantages and disadvantages of the current broadcasting ownership and control restrictions?

Will technological convergence and competition between the traditional broadcasting services and other newer services reduce or increase the need for special limitations on control and ownership?

Should there be special limits on foreign ownership applying to television, radio and newspapers? If so, why?

4. Degree of Influence

Section 4 of the BSA provides that different levels of regulatory control be applied across the range of broadcasting services according to the degree of influence that different types of broadcasting services are able to exert in shaping community views in Australia.

RG Capital is firmly of the view that commercial radio has a stronger 'editorial voice' than any other form of media. This is especially highlighted in regional and rural areas, where the number of media outlets is more restricted than in major metropolitan areas.

This element of 'editorial voice' is what RG Capital understands the expression 'degree of influence' to mean. Influence, in the broadcasting context, means shaping public opinion and providing information which audiences can use to form their views. In the commercial radio environment, this is most evident on talk-back radio formats which examine current affairs. However, commercial radio stations which broadcast predominantly music formats also provide a forum for influencing debate on a wide range of social issues, as evidenced by the popularity of on-air comedy teams, for example.

RG Capital's view is that using 'degree of influence' as a benchmark for regulation is appropriate. However, RG Capital's submission is that such a test should be applied across all mass media outlets on a consistent basis, to determine the amount of regulation which should be applied. Different delivery platforms do justify different regulation, but only if the difference in the relevant 'degree of influence' each platform wields is clearly discernible.

The next issue is what kind of ownership and control regulation is appropriate. RG Capital's view is that the existing restrictions on cross-media ownership are of limited relevance in the Australian broadcasting environment. In an environment where there are increasing numbers of alliances between commercial television licensees, telecommunications companies, subscription television licensees and on-line information and entertainment providers, the existing restrictions on cross ownership of newspapers, commercial radio and commercial television are clearly outdated.

However, RG Capital's submission is that there is an ongoing role for regulation of foreign ownership. The reasons for this are illustrated by RG Capital's experience in providing commercial radio broadcasting services to regional and rural Australia, and are primarily based on principles of national interest and cultural identity.

5. Ownership & Control Rules: Relevant Provisions

5.1 Foreign Ownership

Currently, there are no foreign ownership rules in the BSA which apply to commercial radio. RG Capital's view is that there should be foreign ownership restrictions on commercial radio, in recognition of the degree of influence that commercial radio has in relation to Australian audiences. Foreign ownership restrictions should also apply to other particularly influential forms of mass media, including television and the print media. If other forms of new media are objectively demonstrated to wield a similar level of influence in shaping community views, then it would be appropriate for similar foreign ownership restrictions to apply to such new media also.

Australian ownership of the most influential media is essential to 'promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity' and to ensure 'an appropriate coverage of matters of local significance' (in accordance with the objects in sections 3(e) and 3(g) of the BSA).

In rural Australia, these functions are especially pronounced. In regional areas, local radio stations provide a forum for matters of local significance to be discussed, and enables community identities to be both maintained and further developed. Regional television does not fulfil this same role, especially given the levels of affiliation and networking between regional television licensees and their capital city counterparts. Introduction of foreign ownership restrictions to commercial radio would ensure that Australian audiences hear an Australian voice on issues of editorial and community importance.

5.2 Cross Media Ownership

RG Capital's submission is that the existing cross media rules should be repealed. This recognises the fact that due to increasing amounts of 'new media' in the Australian broadcasting environment, the regulation of 'cross' interests in commercial television, commercial radio and the print media is increasingly anachronistic. In addition, cross-fertilisation between traditional media and 'new media' illustrates of the fact that diverse services can be provided despite the existence of 'common ownership'.

Foreign ownership of all mass media should be regulated (depending on the amount of 'influence' each form of media wields in the marketplace), but it is artificial to limit cross media interests instead of 'the national interest'.

5.3 Overlap rule

Overlap area is defined in section 6 as follows:

> Overlap area, in relation to a licence area part of which is in another licences area, means the area of overlap between the two licence areas.

Section 51 provides as follows:

> If:
> (a) more than 30% of a licence area population of a licence area is attributable to an overlap area; or
> (b) a licence area is entirely within another licence area;
> the rules in this Part apply to the 2 licence areas, but not between those licence areas and other licence areas, as if the 2 licence areas were one.

The Explanatory Memorandum described the purpose of this section as to prevent undue concentration of ownership and control of broadcasting licences in overlapping licence areas. Section 54 prevents a broadcaster who owns two commercial radio licences in a licence area from acquiring a station in an adjoining licence area, if there is an overlap between the two licence areas.

RG Capital's submission is that the 30% benchmark unfairly discriminates against regional licensees.

In licence areas adjoining capital city markets, there is a significant amount of 'fortuitous' reception of commercial radio services emanating from the capital city market. This largely escapes the operation of the overlap rules, given that the listening audience is concentrated in the capital city area, and is therefore well over the requisite minimum 70% percentage. Nevertheless, such fortuitous reception has a large impact on the ratings of local commercial stations in adjoining markets. By contrast, in regional licence areas, 'fortuitous reception' is more likely characterise an 'overlap' area.

The overlap rule unfairly penalises regional broadcasters. RG Capital's submission is that it would be appropriate to lift the allowable degree of overlap to 50%. This would retain the philosophy of 'two to a market' but would allow regional broadcasters additional flexibility to expand into adjoining markets.

6. Digital Radio

Finally, RG Capital Radio notes that the questions posed by the Issues Paper in relation to digital broadcasting are all in relation to digital television broadcasting. Given the absence of any legislative scheme for digital radio broadcasting, RG Capital notes that the policy for the introduction of digital radio broadcasting will need to be carefully developed to ensure that regional broadcasters are not disadvantaged.

RG Capital
14 May 1999