SOUTHERN CROSS
BROADCASTING

Submission to the Productivity Commission's Inquiry into Broadcasting by Southern Cross Broadcasting (Australia) Limited

Executive Summary

Southern Cross Broadcasting (Australia) Limited (Southern Cross Broadcasting) is of the view that the Productivity Commission should recommend to the Federal Treasurer that:

- **Cross-media ownership rules in the Broadcasting Services Act should be repealed.** These rules are inappropriate for an industry in which there is a high, and growing, degree of globalisation

- **Foreign ownership rules in the Act should be repealed.** These rules, like the cross-media ownership rules, cannot survive the impact of globalisation in the longer term

  The rules have no application to the commercial radio industry, but coupled with the cross-media ownership rules, they produce an outcome in which large foreign owned transnational companies are free to acquire total ownership and control of Australian commercial radio services when Australian owned media companies, that have the skills to provide excellent Australian services, are locked out of the same market.

- **Competition regulation, possibly augmented by a public interest test, will be sufficient to ensure that the interests of the community are looked after.**

- **No change should be made to the audience reach rule, which serves to preserve localism in non-metropolitan television services.**

- **The inferior competitive position of commercial AM radio services relative to commercial FM services calls for measures to provide the commercial AM industry with relief.** Relief measures should include:

  - Extending the terms of Section 54 of the Act so as to permit a person to be in a position to exercise control of:

    - Three commercial AM services; or
    - Two commercial AM services and one FM service.

  - The introduction of a limited licence allocation process that will ensure that AM-to-FM conversions are maximised before new FM licences are offered to the market in major licence areas by the ABA

  - Legislative policy must recognise that commercial FM radio licences are essentially several times more valuable than their AM counterparts, and that this is particularly true of AM music stations

Productivity Commission

General Submission
Southern Cross Broadcasting (Australia) Limited

Southern Cross Broadcasting (Australia) Limited has interests in both radio and television. Each of its radio and television arms provides services in metropolitan and regional areas:

- Radio 3AW, News/Talk Melbourne;
- Radio Magic 693 Melbourne;
- Radio 6PR, News/Talk Perth;
- Radio 96FM Perth;
- Television Channel Nine Adelaide (NWS 9);
- Television Ten Capital, Southern N.S.W. including A.C.T;
- Television Ten Victoria, regional Victoria; and
- Television TNT 9 Tasmania.

Television

Southern Cross Broadcasting recommends the abolition of:

- Cross-media ownership rules; and
- Foreign ownership rules,

but advocates the retention of the audience reach rule in its present form.

Cross-Media Ownership Rules:

The cross-media ownership rules serve no useful purpose. They purport to restrain cross-ownership of three quite different communications sectors on the basis that, to allow them to be owned by a single party, whether foreign or local, will reduce plurality in the Australian community to unacceptable levels.

The growth in plurality alone, since these rules were first introduced, should convince the Productivity Commission that no damage would be done should the rules be repealed.

There has been huge growth in commercial television services, through the pursuit of equalisation policies and the introduction of pay television cable and satellite services.

Radio services have increased markedly over the years, particularly in under-served areas of Australia. Both commercial and national services have been rolled out to regional, rural and remote parts of the country, and community radio services have been significantly expanded in those areas as well.

The Internet has introduced another communications layer to all Australians. Australia is one of the highest users of Internet services in the world.

The Internet's engagement in the production of music services promises to make significant structural changes to both the music and radio industries. Distribution channels will change, retailers will face high levels of competition from electronic commerce wholesalers, and audiences will shrink, discouraging advertisers.

The Internet represents a significant threat to the commercial radio industry.

Notwithstanding the adverse effects of this structural change for the music and radio industries, the Internet represents good news on the plurality front. The Internet is incapable of central control, is cheap to access, and virtually universal in reach.

And millions of Australians have received additional radio and television services since the introduction of the cross-media ownership rules.

The products of radio, television and newspapers are not substitutable, and common ownership does not offer the possibility that content rationalisation will take place, with a consequent loss of diversity.

If one of the three major television networks owned a radio station in Melbourne, for example, there would be no realistic possibility that either broadcasting outlet would change its programming to effectively reduce the outlets of information into the community.

Administration savings might present themselves and corporate capabilities might improve, but audiences for radio, television and newspaper products will remain different and discerning. Industry cross-ownership represents no threat to plurality.

Another major force in the world's financial systems now is globalisation.

The globalisation of capital means that companies trading in international products, as the television industry is, must be prepared to compete with highly integrated large corporations with extensive carriage and content rights.

These forces are not likely to diminish over time – the contrary is likely – and Australian broadcasting companies should not be unfairly restrained from competing with global and regional competitors.

Foreign Ownership Rules:

These rules have no application to the commercial radio industry.

Since their abolition in 1992, commercial radio services in Australia have come under significant levels of foreign ownership.

This foreign ownership has not led to any noticeable changes in the radio products on offer.

The newspaper industry is subject to some foreign ownership rules, but foreign control of Australian newspapers is not prohibited, and there is significant foreign ownership in, and control of, regional newspapers. Again, this has not led to any noticeable change in newspaper content, or to any adverse editorial direction.

The combination of cross-media and foreign ownership rules is producing industry effects that are the reverse of those intended.

Foreigners are free to invest (and are investing) in the Australian commercial radio industry, but local media companies are restrained from doing so. Very large foreign owned media companies are facing no local competition for radio acquisitions.

The range of foreign owned companies with interests in Australian media companies is growing, and their investments span the range of outlets – television, radio and newspapers.

The only meaningful ban on foreign investment in Australian media companies is the ban on foreigners being in control of a commercial television licence. This position should be relaxed along the lines of the current radio or newspaper rules.

Audience Reach Rule:

This rule should be retained. It provides the only protection for local television programming in the non-metropolitan licence areas.

The relaxation of the rule in 1992, when permissible audience reach was extended from 60% to 75% of the Australian population, facilitated the expansion of capital city networks.

But further extension will make possible, and probable, truly national networks. A person will be able to control a network that reaches 100% of the Australian population if the rule is abolished.

At present a network can only achieve this if agreements are entered into with other licensees. These agreements leave room for the other licensees to substitute some level of locally produced programming for a part of the network feed.

Southern Cross Broadcasting presently provides non-metropolitan television services in parts of Australia, taking a network feed in order to satisfy the bulk of its programming needs. But Southern Cross Broadcasting also substitutes some local news programs in its Canberra and Tasmanian services.

These local news programs are very popular with their audience. If local programs were not provided, the audience would be seeing a service that originates in its entirety from a capital city source, including a capital city news program that would be of lesser interest to the local audience.

Localism, particularly in news programming, is a feature of the services provided by many non-metropolitan licensees.

Local programs keep people in touch in their local communities, provide them with information about those communities, provide the local business sector with avenues for advertising that would otherwise probably be unavailable, and promote community activities through fund-raising initiatives, community service announcements, local sponsorships and the like.

Of course, they also provide employment opportunities for their local communities.

The Productivity Commission should bear in mind that, in many regional parts of Australia, government policy has compelled the aggregation of licence areas. This equalisation policy was imposed by government on the commercial television industry at a great cost to the industry it would not otherwise have elected to incur.

The capital city networks have been the principal beneficiaries of the equalisation policy. They provide programs for a healthy fee, without incurring any of the attendant risks of establishing a local service. All those risks are borne by regional licensees.

To abolish the audience reach rule, after the impositions of the equalisation policy, would be a further rebuff for regional licensees.

An abolition of the audience reach rule would put localism, and all its attendant community benefits, at risk, as well as delivering complete network control over regional networks that have assumed risks and delivered very efficient services.

The audience reach rule is a rule that, in economic terms, costs very little to maintain. The community also obtains significant and definite value from retention of the rule. If the rule is abolished, network dominance of television will grow, with consequent loss of local programming and jobs, and for little economic return.

Southern Cross Broadcasting recommends its retention.

Radio

Southern Cross controls both commercial AM and FM radio services.

The general economic health of the Australian commercial radio sector is quite poor. The Australian Bureau of Statistics demonstrated this fact during 1996. In its report entitled *Radio and Television Services, Australia 1993-94*, the ABS reported (September 1996) that gross income for the industry during the year was nearly $800 million, against expenses of $782 million, resulting in an operating profit, before tax, of less than $18 million.

The private sector accounted for 265 of these businesses, with the majority (71%) of them employing less than 20 people.

The ABS study does not make clear how many of the 265 businesses were commercial operators, but there were, in fact, 159 commercial radio services in Australia for the 1993/94 financial year, thus making the average operating profit, before tax, less than $115,000.

And when one bears in mind that three private broadcasters - accounting for only 1% of businesses in the private sector component of the industry - contributed 30% to gross income and 18% to total employment, one can see how economically marginal were many of the other commercial broadcast businesses.

Indeed, the next largest 18 commercial radio businesses, employing between 50 and 99 persons each, accounted for 28% of industry employment, a further 30% of gross income, and an operating loss, before tax, of $6.8 million.

These are not the statistics of a healthy industry, whether radio or other.

Revenue and Expenditure:

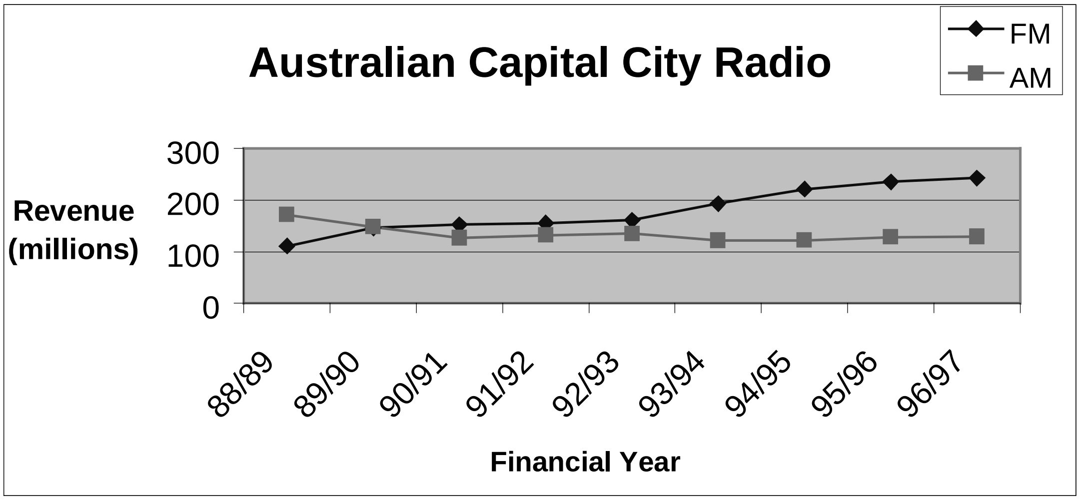
In 1988/89 Australia's 143 commercial radio stations secured revenue of $425.2 million. By 1996/97 total revenue for the industry, notwithstanding the addition of thirty-eight additional radio stations, stood at only $556.2 million. The annual revenue growth rate over the past five years has been only 5.3%.

Capital City revenue over the same period grew from $282.6 million to $372.6 million. The annual growth rate of these revenues between 1993 and 1997 was 5.9%.

Australia-wide expenditure increased from $407.2 million to $481.4 million, while Capital City expenditure increased from $273.7 to $322.2 million. The respective annual growth figures for each sector between 1993 and 1997 were 4.0% and 4.6% respectively.

These figures clearly illustrate that the industry as a whole has long been adjusted to small revenue increases and has not compromised its revenue difficulties by loose control over costs. Expenditures are very tightly contained.

The Table below demonstrates the shift that has occurred between Australia's Capital City AM and FM services. The four years between 1994 and 1997 – when the numbers of services in each sector have been roughly equal – demonstrate the higher earning capacity of the FM sector.

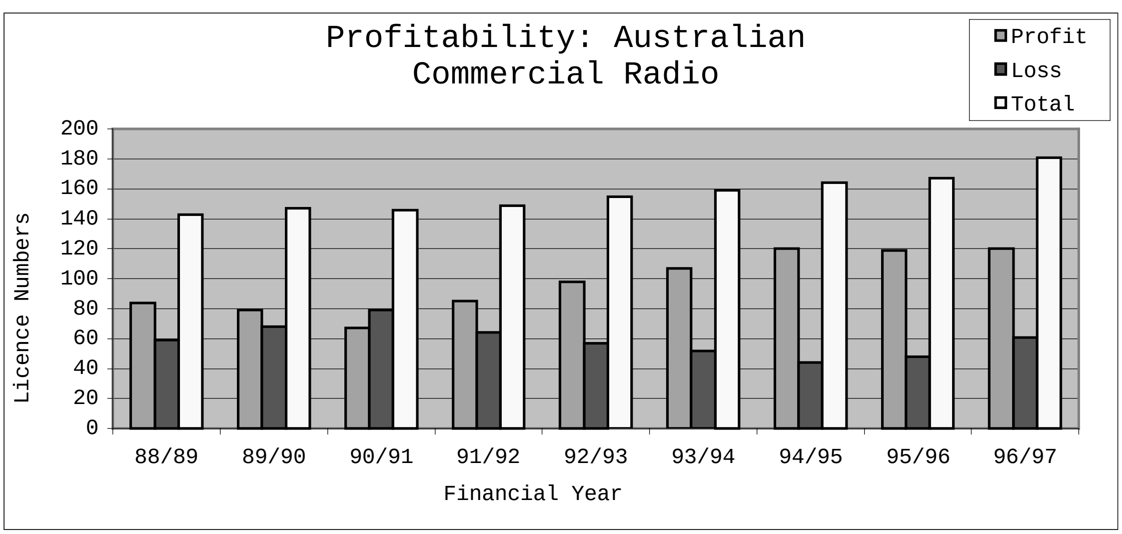


Profitability:

As can be seen, notwithstanding tight controls over expenditures, very small revenue growth leads inexorably to very poor profitability.

The following Table illustrates the extent of continued loss-making in the Australian commercial radio industry in the nine years to 1996/97.

Very few industries could point to such entrenched losses.



Financial Year 1996/97

On 29 January 1998 the ABA released its 1996/97 figures for the broadcasting industry.

Profits for the 181 free-to-air commercial radio licensees increased by 5.6% in the year, despite an increase in revenue of only 0.3%. Expenses decreased by 0.5%.

Capital City revenue increased by 2.2%, but for the 142 stations in regional markets, revenue decreased by 3.5%. Profits for those regional operators actually decreased by 13.6%. Fourteen more commercial radio stations were operating during 1996/97 than during the previous year.

Clearly, the introduction of more commercial radio stations into regional markets – virtually all of them being Section 39 stations, (i.e. second licences allocated to monopoly operators) – has proved particularly difficult for the economies of the regions to digest.

The overall decline in revenues for regional markets should demonstrate that adding additional stations to markets has absolutely no flow-on effect to the size of the advertising ‘pie’. Notwithstanding the increase in the number of stations in those markets, the size of the advertising ‘pie’ has shrunk.

Financial Year 1997/98

On 17 March 1999 the ABA released 1997/98 figures for the commercial radio industry.

Notwithstanding that this latest year’s figures were an improvement for the industry, 58 of the industry’s 215 commercial radio licences made a loss.

In the capital cities, from where the bulk of radio revenues are derived, ten licensees made a loss and twenty-nine made a profit. That is more than 25% of capital city licensees made a loss.

Taken as a whole, the industry continues to perform poorly, but the AM sector of the industry performs far worse than its FM counterpart.

In 1997/98 the numbers of AM and FM licences in Australia were almost evenly split – 106:109 respectively.

The number of AM *licences* in the market diminished slightly during the year – down from 109 to 106 – while the number of FM licences grew significantly – from 72 to 109.

The following table contains some comparisons that the Productivity Commission might find instructive about the differences between the AM and FM sectors.

Australian Commercial Radio AM and FM Comparisons 1997/98		
	AM	**FM**
Revenue	$239.6m	$356.2m
Expenses	$224.1m	$229.8m
Profit	$15.7m	$79.2m

While AM profit figures represented significant percentage growth – 50% - the sector profitability for well over a hundred commercial AM radio stations grew from only $10.5 million to $15.7 million.

Notwithstanding the significant growth in the FM sector – growth that probably accounts for the growth in expenses – FM profitability climbed steadily from $64.3 million to $79.2 million in the year.

AM Sector

In radio, Southern Cross is predominantly an AM broadcaster.

Commercial AM broadcasting is obviously very much the poor relation of commercial FM broadcasting.

While the overall economic health of the commercial radio industry is poor by any objective measure of business performance, the health of the AM sector of the industry is worse.

The AM sector therefore stands to lose much more in the way of competitiveness than does the FM sector should the ABA decide to plan and allocate more commercial radio licences in Australia’s major markets.

Any such licence is almost certain to be an FM licence.

The figures reported by the industry to the ABA for broadcasting profit before interest and tax (PBIT) also disclose that the AM sector of the industry is trading at a significant disadvantage when compared with the FM sector.

Clearly, the best years of the AM sector are now well behind it. The audience preference for FM sound quality has made marked inroads into its AM competition in the past five years. And this is after the FM sector of the market spent most of the 1980's consolidating its operations and absorbing a large number of AM-to-FM conversions.

AM Successes and Failures:

Southern Cross Broadcasting acknowledges that within the AM sector of commercial radio, there are very significant differences in economic fortune between some stations and others.

Clearly, stations like 2UE in Sydney, 3AW in Melbourne and 6PR in Perth are very successful. Their talk-back format, engaging the services of some of Australia's most compelling radio talent, has been very commercially successful.

Whist there are other successful AM talk stations, not all that employ a News/Talk format are successful.

The talk format is not, as is sometimes suggested, exclusive to the AM sector of the industry. An increasing number of FM stations engage in a considerable amount of talk radio. Even traditional FM music stations engage in talk during high-rating periods like 'breakfast' and 'drive'.

But the least successful AM stations are those that rely predominantly on music to engage the audience.

It is those stations that Southern Cross Broadcasting feels have been the principal victims of government policy down through the years.

The AM music audience now consists principally of people who grew up when there was only AM radio options, but that audience is shrinking as a proportion of the total audience pool and its appeal to advertisers is dwindling quite rapidly.

FM stations have been able to build on FM's superior technological quality, and to attract and maintain young listeners in particular.

Unfortunately the industry's yearly financial results tend to mask the particularly difficult situation of AM music stations. If the particular results for the handful of highly successful AM talk-back stations were capable of being stripped out of the industry results, the desperate situation of AM music stations would become clear.

AM to FM Conversions:

When the Broadcasting Services Act was passed by Parliament in 1992, it made provision within its transitional provisions for the carrying forward of AM to FM conversion arrangements that were, at the time of passage of the Act, still unfulfilled.

A number of AM to FM conversion arrangements were preserved by these provisions and since the passage of the Act, most of these have proceeded to finality of one kind or another.

It is reportedly the view of the ABA and of the Department of Communications that the transitional provisions are all but exhausted, and that the best legal device for achieving an AM to FM conversion lies in the utilisation of Section 67 of the Act.

Pursuant to Section 67 of the Broadcasting Services Act, a person may apply to the ABA for prior approval of a temporary breach of a provision of Division 2, 3 or 5 of the Act.

Divisions 2, 3 and 5 of the Act deal respectively with limitations on control of commercial television and radio broadcasting licences, limitations on numbers of directorships in radio and television companies, and the cross-media rules.

Section 67 has been used extensively by the commercial radio industry to restructure important sectors of it. The freedom conferred by the Act to acquire two commercial radio licences in any licence area, rather than the one licence previously allowed by law, has seen a number of operators obtain prior approval from the ABA for the acquisition of licences that would exceed the maximum of two in given licence areas.

The ABA's approval of these proposed acquisitions has assisted in an orderly restructuring of the market place as operators have attempted to obtain control of, in the main, Capital City FM licences, thereby building a network of such licences across the nation.

No greater endorsement of AM's inferiority can be imagined.

Since the limit on licences in licence areas was raised to two, and Section 67 became available, the commercial radio industry has voted with its feet, stampeding out of AM and into FM.

Without the device provided by Section 67 of the Act, operators would have been compelled to divest themselves of stations they did not wish to retain (often AM) before bidding for those they wished to acquire (often FM). This would have been a process fraught with uncertainty and would have created considerable instability in the market place.

Section 67 has recently been used by operators bidding at licence allocation exercises conducted by the ABA for new commercial radio licences.

The ABA apparently accepts that a proposal to bid at an auction will constitute a "transaction" or an "agreement" within the meaning of those terms as they appear in Section 67 of the Act, and that, provided the other requirements of the section are established, the device may be used by commercial AM broadcasters to acquire FM licences on offer through an ABA licence allocation exercise.

This is so even if that acquisition places them temporarily in breach of Section 54 of the Act (the 'cap' on two licences in any licence area), thus effecting a conversion from AM to FM.

A trade sale of the redundant AM licence would then need to be effected by the successful bidder within the time constraints imposed by the ABA in the terms of its prior approval.

Since the introduction of the Broadcasting Services Act in 1992, the allocation of commercial radio licences has been effected by means of a price-based allocation scheme. This scheme is, essentially, an auction and the licence is allocated to the highest bidder.

Matters that used to concern the Parliament about the allocation of licences – the viability of the industry on a market-by-market basis and the competence of those seeking to enter the market - are no longer matters that it requires the regulator to inquire into.

The price-based allocation process is the only device now that can be used to decide between competing bidders for a licence.

These processes cannot exclude particular bidders or classes of bidders, provided they satisfy modest registration requirements.

So these processes could conceivably allow the following classes of participant in an FM auction:

- an incumbent licensee seeking to acquire a second licence in a licence area, or a third (or fourth) licence in a licence area (provided the bidder has obtained prior approval from the ABA to temporarily breach the 'two licences to a market' rule)
- a bidder not presently licensed in the particular licence area

The incumbents could be either AM or FM licensees, or both.

An AM licensee seeking to effect a conversion to FM would be required to compete with all comers for the licence.

Southern Cross Broadcasting proposes that a new legislative scheme be adopted which will facilitate AM to FM conversions through the medium of a limited licence allocation process.

Limited Licence Allocation Process

Following the finalisation by the ABA of a Licence Area Plan for any licence area and before an open commercial licence allocation exercise for an FM frequency is conducted by the ABA, provision should be made for a 'limited' licence allocation exercise, also to be conducted by the ABA.

The only persons eligible to participate in this limited exercise would be those holding commercial radio licences for AM frequencies in that licence area. Pre-registration of bidders would be required, just as it is now for licence allocation exercises under the Act.

In the event that there were more bidders than licences available for allocation, these persons would bid competitively for the available FM licence(s).

Successful bidders who already own two stations in a particular market would need to obtain prior approval from the ABA for a temporary breach of the Act, satisfying section 67 of the Act, and would be required to remedy the breach, presumably by disposing of the redundant AM licence in the market, within any time constraints imposed by the ABA.

They would also undertake to be broadcasting on a FM frequency within the same timeframe as any new licensee. (See standard licence condition 8(1)(h) in Part 4, Schedule 2 of the Act)

Unsuccessful bidders will be in no worse a position than they were before.

In the event that there were as many, or more, FM frequencies available than there were AM operators who had pre-registered to participate in the limited licence allocation exercise, a competitive auction will not be possible.

In that event the Minister, or the ABA, should be given a power to specify a fee that bidders would need to pay for the available licence(s). This fee, the quantum of which would be determined entirely at the discretion of the Minister or the ABA, would be non-negotiable, and the bidder(s) would be given a short period within which to pay it.

If more than one fee needed to be set in any given licence area, because more than one FM frequency was available, the fee for each would be the same[1]. The allocation of frequencies would be a function for the ABA.

If payment of the fee was not made within the specified period, the limited licence allocation exercise would be regarded as concluded, and the ABA would then proceed to an open allocation exercise in the same way as it presently does.

If the Minister or his Department felt that adoption of this proposal would serve to return lesser amounts to the Crown at auction than if the auction was also open to all bidders, or that there would be the possibility of collusion among bidders, he, or the ABA, could be given the option of specifying a reserve for each or any FM frequency offered for allocation in any competitive limited licence allocation exercise.

However, such a reserve should be set at a reasonable level, commensurate with the fact that the new process is designed principally to effect AM to FM conversions, and that those participating in the process had already acquired their licences, had paid all due licence fees, and were only seeking to vary the frequencies upon which they broadcast. Reserve prices should not anticipate

[1] If there were good reason for the value of FM frequencies within a market to be differentiated, a solution to the resolution of this contest might lie in an even more limited licence allocation exercise. This would pit pre-registered competing bidders against each other for the most valuable FM frequencies in a descending order determined by the Minister or the ABA. See also the passage in this submission dealing with the quantum of conversion fees.

licence prices on the open market, but should be set at levels that reflect a proper fee for conversion[2].

Southern Cross Broadcasting proposes that any redundant commercial AM licence(s) would be handed in to the ABA for the express purpose of catering for any outstanding demand for Community and National (and even narrowcasting) services.

Their preferences to the contrary notwithstanding, community and national services do not depend upon the availability of FM frequencies, as opposed to AM frequencies, to nearly the same extent as does the commercial radio sector.

Notwithstanding this obvious fact, the policies of government down through the years has seen the community radio sector enjoy almost unfettered access to FM frequencies, while the national operators' preferences for FM have usually only needed to be expressed in order to be granted.

Southern Cross Broadcasting is not indifferent to the expectations of the community radio sector.

Accordingly Southern Cross Broadcasting is prepared to offer that sector any AM equipment, including transmitters, studio equipment, computers and the like, that is rendered surplus to its requirements as a consequence of any AM to FM conversion.

Southern Cross Broadcasting also believes that the commercial AM radio industry would be similarly sympathetic. Should the Parliament enact such a scheme it could confidently be expected that a considerable amount of such equipment, of significant value, would be donated in this way.

Southern Cross Broadcasting believes that the arrangement proposed is workable, that it would enable public interest considerations to be addressed in a way that does not impose unnecessary financial and administrative burdens on providers of broadcasting services, and that it would be a stable and predictable arrangement for the commercial radio industry.

[2] One method of calculating a reasonable quantum of conversion fees is to use 10% of the total revenue in a market as a cap. In, say, the Perth market, for example, such a calculation might produce a figure of $3.2 million (assuming the market is valued at $32 million). If only one conversion was to take place in that market, the fee to be charged for that conversion would be $3.2 million, but if two conversions were to be effected in that market, each would pay a fee of $1.6 million.

Southern Cross Broadcasting does not contend that AM licensees should face reduced competition in price-based allocation exercises because they wish to save money. Rather, they should to be allowed to exercise all remaining presently available AM/FM conversion options, and Southern Cross Broadcasting is confident they would be prepared to pay the appropriate conversion fees.

Every price-based allocation exercise conducted under current rules, in which an AM licensee is an under-bidder, further reduces the presently available options for AM/FM conversion.

Hence the proposal to allow a 'limited' licence allocation exercise restricted to those holding commercial AM radio licences in the relevant licence area.

The proposed limited licence allocation procedure will do nothing to substantially lessen competition in the commercial radio industry.

In fact, it will effectively increase competition within that sector of the industry where advertisers are predominantly directing their business and for that reason, it can be expected that it will be opposed by some elements of the industry.

The proposal leads only to increased number(s) of operators on the FM band, with a directly commensurate reduction in number(s) of operators on the AM band.

This outcome does nothing to offend the Trade Practices Act, or even general competition principles

After all, nothing is proposed that would prevent the ABA, at any time it considered it appropriate, from revisiting any of its licence area plans so as to consider the allocation of new licences.

Three-to-a-Market

There is no doubt that commercial AM stations, particularly music stations, are the poorest relations of an industry that is struggling in economic terms.

Fundamentally, despite fierce competition for audiences and advertisers and strenuous efforts to contain costs and maintain quality, the elements of a successful business are not all present in the AM sector of the industry, particularly the music segment thereof.

One missing element relates to inequalities of scale.

While there is no doubt that control of two FM licences in a licence area provides sufficient economies of scale for a business to operate profitably, control of one AM licence offering music and one FM licence in a licence area is problematic. And control of two AM licences offering music is demonstrably no more profitable a business proposition than control of one only.

It is time that policy-making in Australia began to distinguish between FM and AM in commercial radio.

The commercial Capital City AM sector bears no resemblance in economic terms to its FM counterpart and any new ‘three-to-a-market’ policy must take account of the respective strengths of the two sectors.

The present law on this topic (Section 54 of the Broadcasting Services Act) makes no differentiation between AM and FM frequencies.

But in the United States, the present law (found in the omnibus Telecommunications Act of 1996) is that in large markets with 45 or more commercial radio signals, a broadcaster may own up to eight stations with no more than five on either the AM or FM band. In markets with 30–44 commercial signals, the local limit is seven stations with a maximum of four of a kind. In markets with 15-29 stations, the local cap totals five with an allowance of three of a kind, but no more than half of the total stations in the market.

The market consolidation that has followed the making of these new statutory rules has been of great benefit to the industry, radically reordering it and improving its economics.

No doubt the Australian Government will wish to consider the benefits that initiatives of this kind might provide for the local industry, particularly as the US consolidation is serving to create American radio companies with the resources to look at Australian acquisitions.

Southern Cross Broadcasting suggests that any Australian measure of this kind must be focussed principally on resolving the difficulties of the commercial AM sector.

A measure the Government should consider is one that allows AM operators the opportunity to consolidate together, and with FM operators to a more limited extent, so that economies of operating scale are placed within their reach.

Specifically, the Government should consider an amendment to the Broadcasting Services Act that allows a person to control three commercial radio broadcasting services in a licence area, **provided that no more than one** of those services is broadcast on the FM band.

In other words, the following consolidations of licences within the same licence area should be allowed under the law

- three commercial AM services, or
- two commercial AM services and one FM service

Some market limitation on the application of this new rule is clearly indicated. The rule would only have application in markets with a minimum number of commercial stations. This would reflect the current US rule of the same kind.

In Australia at the present time it would seem that the markets of at least Sydney and Melbourne presently have sufficient services for the implementation of such an arrangement.

Apart from helping to resolve the structural distortion in the commercial radio market, such a change also offers considerable benefits for audiences.

As the Government would be aware, the music industry is occasionally critical of the radio industry because of the lack of musical diversity in present music programming. The Australian music industry is particularly critical of the level of local exposure given to Australian artists on commercial radio.

There is some truth to these criticisms, but the lack of diversity in radio programming is due principally to two factors

1. High industry entry costs
2. Intense competition over the most productive demographics

Each of these factors is related to each other to some extent. While not much can be done about the nature of industry entry costs without wholesale change to the current licence allocation legislative framework, the competition for audiences that are most attractive to advertisers is a matter that would respond to a reduction in supply-side competition.

The proof of this proposition has already been provided by the relaxation of the ‘one-licence-to-a-market’ rule courtesy of the Broadcasting Services Act.

Since broadcasters have been allowed to control two licences in the same licence area, programming diversity has undoubtedly increased. This is because broadcasters can provide complementary programming that spans a broader demographic than a single service can provide, and for example, male/female listening preferences within the same demographic can be better catered for.

But a further easing of control restrictions would undoubtedly lead to even greater programming diversity, particularly in music programming.

The beneficiaries of changes like this are undoubtedly the listening audience, and the Australian music industry.

And it must be borne in mind that maximum competition in the commercial radio industry is not an end in itself. The regulation of broadcasting has always been motivated by a determination to achieve social goals. Most of those goals have focussed on the audience for broadcasting services.

The proposals advanced in this paper are squarely focussed on achieving those objects of the Broadcasting Services Act that relate to the audience, including the promotion of a diverse range of services, the provision of high quality and innovative services, and the promotion of services that develop and reflect a sense of Australian identity, character and cultural diversity.

The proposal to allow an extension of Section 54 of the BSA to permit some further industry consolidation will not, in the view of Southern Cross, serve to substantially lessen competition in markets, particularly in large markets.

But, in any event, this paper does not propose that competition supervision in the commercial radio industry by the Australian Competition and Consumer Commission, presently based on Section 77 of the BSA, should be changed in any way.

The Demand for New Services

Southern Cross Broadcasting does not believe that there is substantial popular demand for new commercial radio stations in Australia's major metropolitan licence areas.

There is no advertiser demand for such services.

Indeed, the advertising industry is concerned that the prospect of more commercial radio services will only serve to further fragment audiences, making even harder the task of selling those audiences to their clients.

Listener satisfaction with commercial radio in Australia is very high.

The most comprehensive national research conducted into radio listening attitudes in Australia was conducted by the Australian Broadcasting Authority during 1993 and 1994. The ABA’s report, entitled **‘Listening to the Listeners’**, was published in August 1995.

The objectives of the research included:

- to explore community attitudes to radio services currently available, including people’s satisfaction with existing music and program formats;

- to examine the demand for services by category of service;

- to compare the demand for city-wide services (community and commercial) with the demand for services covering a sector of the city; and

- to gather information about listening behaviour.

The findings of the quantitative stage of the research included the following:

- There was a high level of satisfaction with radio. When asked to rate the various media on a scale of 1 to 10 where 1 equals terrible and 10 equals excellent, the mean rating for radio was 7.4, television 7.0, daily metro newspapers 6.1, and local/regional newspapers 6.0.

- 70% of respondents gave radio a rating of between 7 and 10 out of 10, indicating a high level of satisfaction.

- Metro listeners claimed to be happier with the radio services available to them. 57% of metro listeners believed they ‘have plenty of good stations to choose from’ compared to 41% of non-metro listeners, while only 5% of metro listeners and 12% of non-metro listeners claimed to 'not get enough choice and have to make do with radio which doesn't really suit me'.

- The level of demand for commercial FM services (17% - 7% metro and 26% non-metro) represents proportionately the strongest level of demand for all the services that were considered in the survey.

Notwithstanding the interest that may be expressed by entrepreneurs in obtaining new commercial radio stations, the Australian Broadcasting Authority should be wary of implying therefrom the existence of real audience demand for more metropolitan radio stations.

In 1998 the ABA, in conjunction with the Australia Council and the Australian Record Industry Association, produced **‘Headbanging or Dancing’,** Part 2 of Youth and Music in Australia.

Its findings in relation to music on radio are instructive.

In the survey commissioned by the research partners, 57% nominated a commercial FM service as their favourite station, followed by 26% who nominated Triple J.

A total of 76% of the sample nominated a commercial FM station as either their favourite or second favourite station, 42% mentioned Triple J, 10% mentioned a commercial AM service and 10% mentioned a community FM station.

The Internet

The Internet is shaping up to represent the greatest structural change to the music and radio industries that has been seen for many years.

As a new communications medium the Internet is gaining strength rapidly, but its power is diversifying as a means of delivering audio/visual material to consumers at a very cheap price.

The Internet is increasingly of interest to audiences and advertisers.

It is already practical and feasible for radio programs to be transmitted, and received, on the Internet. Commercial advantage is already being taken of this technological advance to provide radio (and video) services.

These services are being offered completely outside of the regulatory regime administered by the ABA.

The ABA's recent report **'Headbanging or Dancing?'** reported the results of a survey in which those who had used the Internet in the previous six months were asked whether they had accessed music, artist or radio sites, or used the Internet to distribute music to other people.

53% of users aged 12 to 24 years said they had accessed sites for bands or performers, 25% had accessed sites for radio stations and 4% had distributed music to other people over the Internet. A higher proportion of younger respondents aged 12 to 17 years (60%) had had accessed sites for bands or performers compared with respondents aged 18 to 24 years (46%).

The report also noted that a search of the Internet in August 1998 using Yahoo! Australia and New Zealand identified 28,690 sites, 1,215,822 web pages and 120 categories of sites related to music. It found 1293 sites for music magazines, 992 sites for music stores and 9070 sites for radio.

As the report goes on to say

> New technologies such as the Internet are already changing the way young people access and consume music. ………… Fast improving technology is enabling more people to download music of their choice and to distribute their own music to others. ……… A number of existing radio and television stations and programs within Australia are audio streaming their services over the Internet allowing visitors to sample on-air programming as well as to provide feedback through their web sites. ……… A virtual record store has recently opened in Australia which sells pop songs over the Internet and will specialise in Australian music. Songs can be downloaded or saved onto recordable CD-ROMs or Zip disks allowing consumers to buy individual songs and also to compile their own CDs of their favourite songs. Because of the reduction in packaging costs, distribution and production they should be cheaper for consumers and copyright can be automatically processed.

The ABA further reports:

- One study estimates that the Internet could be responsible for as much as 15% of music sales.

- The top 5 music sites made US$52 million in 1997 compared with US$21.5 million in 1996.

- The planned introduction of digital technology could increase Internet access to the home as broadcasting and Internet services converge

- Entertainment on demand systems are being developed in the USA which will deliver movies and music into people's homes as the computer merges with the television and recordable CD machines become more affordable

- 20% of respondents in the ABA survey specifically mentioned the Internet as new technology which will influence or change the way they obtain or use music

None of these developments are propitious for the radio industry.

In the same way that Australian pay television services are fragmenting audiences and causing commercial television networks to cut programs because of falling ratings, Internet music developments will fragment the commercial radio audience. Costs will be cut and quality standards will fall.

The Internet represents a very serious threat to the long-term viability of both the music and radio businesses.