

# ON THE BROADCASTING SERVICES ACT

**THE TEXT OF A SPEECH GIVEN BY BRIAN  
JOHNS, CHAIRMAN OF THE ABA, AT THE  
FEDERATION OF THE AUSTRALIAN RADIO  
BROADCASTERS ANNUAL CONVENTION, 17-  
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**C**hairman, fellow panellists, distinguished guests, members of FARB and media watchers.

The new Broadcasting Services Act balances diverse objectives. It creates a regulatory framework that aims to serve the public interest in all its dimensions - social, cultural and economic - while meeting the needs of a changing and growing industry.

The new laws will allow the broadcasting industry to respond to both the market place and to opportunities created by technological developments.

The challenge is huge. But without this change, opportunities for industry and consumers would have been limited by complex, 50 year old regulation.

I see the new Act as providing a coherent regulatory framework which will accommodate future developments. It recognises that broadcasting is integral to developing an Australian identity and cultural diversity.

While many words have been written about Australian identity, it is worth remembering radio's early, and important, contributions in this area.

Radio provided opportunities and a living for many of our finest actors, producers and writers. There was an easy movement between radio and what we used to call 'The Legitimate Theatre'. I confess I well remember the family event that the Sunday Lux Theatre used to be - not to mention those well loved serials.

There is no doubt in my mind that the success of television soaps here and overseas is built on long established foundations of radio as is so much of our popular culture. The output was so professional and so prolific. Home product was the most popular. In a country of small markets we had to do it better. This impetus still applies today.

It is absolutely natural that people have a strong interest in their own experiences being probed and explored by way of

local content on television and radio, despite difficulties the media industry faces in meeting these demands.

Creative approaches to local product are vital to the operation of a democratic society which should allow the expression of identity and opinion.

Today's broadcasting legislation balances market needs against the public interest very deftly. Underpinning the whole framework, is the principle that different levels of regulatory control apply across the range of broadcasting services, according to the degree of influence these services can exert.

The Australian Broadcasting Authority will have a continuing role in encouraging an industry that is efficient and responsive to audiences.

For the first time, broadcasting laws allow the regulator to consider the full range of technical, social, economic and public considerations when making critical judgements.

A significant reform in the Act gives the ABA responsibility for planning the broadcasting services bands.

These planning provisions give greater industry certainty. They also allow public input to key decisions about the introduction of new services in the broadcasting services bands.

Planning decisions must balance the public interest against technical factors. This is why planning and management of the broadcasting parts of the radiofrequency spectrum, have been assigned to the ABA. The ABA is required to plan only those parts of the radiofrequency spectrum formally assigned to it by the Minister. In the first instance these will be bands used for AM and FM radio, and UHF and VHF television.

There are three main aspects of the planning process that lead to channels being made available for new national, commercial or community services:

- deciding planning priorities for par-

ticular parts of the broadcasting services bands, and particular areas of Australia;

- preparing frequency allotment plans which set out the number of channels to be made available in each geographic area;
- preparing licence area plans which set out the number of services to be available in a particular area.

When determining planning priorities, the ABA is required to observe criteria set out in the Act. These include: demographic, social and economic characteristics, the number of services and demand for new services, technological developments, technical constraints, and demand for alternative uses of the spectrum.

The Act assigns no particular weight to any of these characteristics. Instead, it's left to the ABA to determine the merits of any particular case.

The ABA is preparing a document on the state of planning to provide a basis for consultation and submissions. It will include technical details and an outline of former policies that have shaped past planning done by the Department of Transport and Communications.

The ABA will call for public submissions on past planning, and planning policies. Submissions made by established broadcasters on priorities have already been referred to the ABA. These will be taken into consideration.

As a starting point, it seems reasonable that we adopt the internationally recognised service planning and quality parameters already used for the development of broadcasting. We do not intend to depart from these unless there is good reason, and certainly not before a full and open debate.

While all this is happening, there are exciting options for radio owners and operators under the Act. I look forward to seeing new ideas for those parts of the spectrum the Minister assigns to us for

allotment.

Far from being excluded from this development, we would be disappointed if current commercial broadcasters were not some of the first in with proposals for new broadcast and narrowcast services. Indeed, people have already been knocking on our doors.

You may need patience for permanent allocation of new frequencies. The ABA is bound to complete the planning process before new commercial or community licences can be advertised.

However, while this is happening, or if a specific part of the spectrum is not being used, the ABA may decide to allow temporary use of frequencies for other purposes. This will ensure the planning process does not unnecessarily delay use of the spectrum.

I won't burden you here with more detail on how the planning process is intended to work. It is explained in the ABA's pamphlet on planning, available here today.

But I want to stress that we are open to new approaches to the market and will consider accommodating new ideas like suburban commercial radio, for which there already appears to be some interest. The Act gives us the opportunity to consider services which will add diversity and tap markets that traditional wide-coverage services have been unable to reach.

While interactive television is a hot topic of discussion at the moment, radio has always been interactive with talk-back, quiz shows and all kinds of audience participation. There is now the opportunity to pursue this type of creativity further.

We have seen this in the way that newspaper dynasties have diversified into magazines, shopping guides and specialised information services, such as the *Financial Review's* Infoline. Similar opportunities exist in radio with suburban services and specialised advice services.

But most importantly, where do the new planning processes leave you as commercial broadcasters?

Firstly, the ABA will not undertake regular inspection, or commissioning inspection, of stations. The onus will be on the operator to plan, establish and maintain a station according to the technical specifications of the licence. If called upon, the licensee must be able to demonstrate that appropriate systems are in place to ensure ongoing compliance.

Secondly, you will no longer be on the back foot arguing for your commercial viability and being boxed into a single service per market mode. Gary Draffin, Jeremy Cordeaux and Mark Day have already seen the benefits of this new freedom by buying another commercial radio service in the same market.

Thirdly, do not limit yourselves to commercial broadcasting services. There are lower cost opportunities for you in subscription radio and open narrowcast radio services - tourist, tab, ethnic and religious services come to mind there. And they can all sell advertising.

There are very few barriers in the way of expanding your business. Expansion may require further investment. But you can now look freely overseas for equity backing, and you probably see the benefits of having all your studios operating 24 hours a day.

Fourthly, what you have to decide is whether you want to have a radio business or be in the business of providing radio services.

While you are deciding, be aware there may be people already planning these services for your market. They may be in this room. They may be business entrepreneurs waiting for this opportunity to enter the radio industry. So sit on your hands at your own risk.

To ease your burden a little, the ABA recently announced lighter regulation for class licence holders. We need to take a relaxed approach to regulation of this new service category. Providers of class licensed services (open and subscription narrow casting services, subscription radio broadcasting services), will only be

required to observe standards on discriminatory broadcasts, accuracy and fairness in news and advertising directed at children.

Also, the ABA has temporarily adopted Australian Broadcasting Tribunal program standards for commercial television and radio.

We wanted to avoid a vacuum between the start of the ABA and the registering of industry codes of practice. It is also important that industry understand that the ABA has an open mind on standards as we all make the shift to codes of practice.

Most importantly, the ABA's decision to transfer across Tribunal standards, is intended to allow industry time to develop its own codes of practice by consulting the public. Meanwhile, the ABA will examine existing standards.

The ball is now in your court. I understand the radio industry is well advanced in developing codes of practice. We particularly look forward to seeing the code on broadcasting of Australian music.

#### **CONCLUSION**

There are many very positive aspects in the new Broadcasting Services Act for commercial radio.

You have finally been freed from many of the regulations that were imposed for policy consistency on both the commercial television industry and commercial radio. Typically, the new regulatory system acknowledges radio is a mature industry and deserves some freedom from ownership regulation.

I am sure that you will grab the 'de-regulation ball' with both hands and score a few goals. Along the way you will need to keep close to the needs and concerns of your audience.

Just as I face great challenges as the head of Australia's broadcasting regulator, so you face great challenges in Australia's new radio marketplace. I have little doubt we're all going to be very busy. I wish you good luck.

