

The following extracts are taken from a speech by Peter Webb, ABA Chairman, at the Federation of Australian Radio Broadcasters' Convention in August 1995, in which he outlines the ABA's planning process.

Planning for radio

I want to outline for you how we are going about the process of planning, because the production of the first radio licence area plan (LAP), in Mildura, while it is the end product or the culmination of the planning work we have been doing for the past 18 months, is more significant as the blueprint for the future.

A brief recap on history provides some essential context.

The Broadcasting Services Act was launched with high expectations it would make large amounts of broadcasting spectrum quickly available for new services.

This expectation flowed on from the shape of the exposure draft of the Act, released in 1991.

But when we looked at the Act finally given to us we found the discrepancy between this expectation and the actual terms of this Act to be inexorably widening as the lawyers teased away at it.

This has an impact on the output of new radio services in several areas:

Section 39 licences

Notwithstanding industry expectations that s.39 licences would be more like the former supplementary licences, it is clear the ABA is not legally empowered to release additional commercial radio licences in solus markets under s.39 until after licence area planning. In some cases this will have (or would have) unavoidably delayed the introduction of s.39 licences for three or even four years after commencement of the Act.

I'm not sure how widely understood has been the fact that a solus operator's second licence comes with a third competitive licence in that market, because

we have received a large number of s.39 applications in tiny markets.

For markets as small as eight or ten thousand people, we were facing the prospect of making two operators and three commercial services available in markets that may only be capable of



Mr Peter Webb, ABA Chairman

coping with one operator and two services at best. The competitive service, the third service, if it is to be successful, must use a high-tech approach or force the incumbent to use a high-tech approach, with all the adverse implications that has for localism.

The Minister's announcement* of proposed changes to s.39 therefore has, in our view, a number of justifications to underpin it. The industry will, as a whole, get a better result. The audience will be much better served by the complementary programming offered by the solus operator, and the Australian music industry, among others, should also get a boost from that complementarity.

Planning timetable

The third major discrepancy between expectation and actuality has been the increasing involvement of the ABA in considering matters related to the sustainability of existing or additional broadcasters in markets.

The cumulative effect of these legal advices can be seen in the content and timing of the initial licence area plans in Mildura and Griffith.

In terms of timing, these plans have appeared more than a year after they were scheduled in September 1993, when the ABA released its priority decision and published its five-stage timetable for all LAPs. That timetable anticipated completion of all initial LAPs Australia-wide in five groups, planned and completed at six monthly intervals.

The first group was to have been planned and completed by the middle of 1994; instead production of the first two (of 12) LAPs for that group have been completed by mid-August 1995.

The question for the ABA now is how, consistent with the actual requirements of the Act, can it restore the timetable, or in any case ensure that LAP output accelerates from here on in.

New approach

In relation to those matters within the ABA's power the ABA has been looking to smarter strategies for an increase in LAP output.

The approach we have adopted is to limit the process to planning for presently manifest demand - for the demand for which there is good evidence now.

In other words the ABA will only plan additional services where satisfactory evidence is available that there is a likelihood the services which will pro-

* See Update No. 35 pp 11,12

mote the objects of the Act will be taken up.

This approach is, in effect, that which has emerged from the evolution of the Act as it came to be applied to group one planning issues.

A quick glance at our group one discussion papers to date suggests that the ABA has not always followed this logic in the past.

The result has been discussion papers that propose additional services, but which contain only equivocal evidence to suggest they are likely to be taken up.

However, this shortcoming has been addressed in the final LAPs now being produced.

Those preliminary views proceeded from an earlier view of the law, that the ABA did not need to form a view that new services were likely to result from the decision to show a particular service as available in a licence area plan.

Rather, the view was that the ABA would be entitled to rely on its allocation processes to test the demand for services of a type.

According to this view, if there were eight vacant FM radio channels in a market, the ABA would be free to offer them all for allocation.

If less than eight were sold, it could then confidently drop the rest through for some other purpose.

Meeting objectives of the Act

However, the legal view now prevails that we need to have some reason for believing that planning a new service will promote the objects of the Act. Promoting the objects of the Act is a phrase that we in the ABA are used to tossing around.

It's a shorthand way of saying something that is actually very important and often complex, but we tend to gloss over it, and assume that everyone understands the meaning of the phrase.

This is cavalier and probably a bit silly because the promotion of the objects of the Act is something that might have very different meanings depending upon the context in which it is used.

The Mildura LAP contains an essay of several pages in length about the objects of the Act and the various ways and

means whereby they might be promoted, and I recommend it to you.

But in a nutshell the objects of the Act are a list of outcomes that the Parliament intends be achieved by all involved in the industry, including the ABA and the operators.

They include things like:

- the promotion of a diverse range of service;
- the facilitation of an industry that is efficient, competitive and responsive to audience needs;
- the promotion of the role of broadcasting services in developing and re-

**‘the planning
approach adopted in
the Mildura LAP will
be the model for all
future radio planning’**

flecting a sense of Australian identity, character and cultural diversity;

- the provision of high quality and innovative programming; and
- the encouragement of service providers to be responsive for an appropriate coverage of matters of local significance.

As you can readily see, the objects of the Act can quite easily be in competition with each other.

In a situation where efficiency of operations is vying with the provision of high quality programming, or with local coverage, something will very often have to give.

Our job is to assess how to give expression to the objects of the Act. It is a job that must be done on a case-by-case basis. It is also your job if you want to provide a new service or oppose the introduction of a new service in a market.

This task would be easy for the ABA if we could do convincing market modelling and feasibility studies of our own, that showed more services were likely to promote the objects of the Act. This is

a far from trivial task and is likely to raise as many questions as it answers.

The appropriate strategy now seems to be the one we have adopted in Mildura and Griffith. If there is one thing of particular importance about planning you should take note of in my remarks today, it is this: the planning approach adopted in the Mildura LAP will be the model for all future radio planning.

That is, if aspirants want to provide a new service, they have to be prepared to persuade us that to do so will promote the objects of the Act.

If they are insufficiently serious about new services the ABA will not pay regard to such claims and will move quickly on to where there is demand.

Similarly, if two existing commercial operators want to aggregate their boundaries so as to provide their services to more people, we will do it, in the absence of better suggestions, and if it promotes the outcomes identified by the Parliament.

At present we feel there is a risk that the entrepreneurial community will expect the ABA to do all the work of justifying additional services.

This expectation has been fostered by the enduring but unrealised promise of the Act, and, to be candid, by the ABA's own apparent past willingness to plan new services even where their likelihood of success seemed small.

Yet the ABA is not doing the work of 'second guessing' the markets at present and has no wish to do so.

Accordingly, we must require people with an entrepreneurial idea to bring it to us in a detailed and justified form, and to be prepared to defend it against all comers in an open submission process.

The ABA has made the 'tyre-kickers' in commercial television elaborate on and defend their interest in providing additional services, and radio entrepreneurs are now being asked to do the same. ▢

**Copies of the completed
LAPs, Mildura, Griffith
and Darwin are
available from the ABA.
Call 1800 226 667 to
obtain free copies.**