



Narrowcasting: the radio family's black sheep

In May 1994, CU reported voices of discontent from within the radio industry concerning the creation of the 'class licensing' scheme. Two years later, these voices have grown.

When the federal government created the concept of open narrowcasting in 1992 with the introduction of the Broadcasting Services Act (the Act), it hoped to increase program diversity and assist the entry of new participants into the radio industry. After four years, the narrowcasting sector continues to be dominated by uncertainty and volatility.

In contrast to broadcasting services, whose programs are designed to appeal to the general public, a narrowcasting service, amongst other things, is one whose appeal or accessibility is limited to a particular section of the public. This limitation may be territorial, in that a service can only be received within a particular geographic area, or it may relate to the content of the service, in appealing to the interests of a specific group of people. Under the class licensing provisions of the Act, open narrowcasters (together with subscription narrowcasters) wishing to operate a service in the Broadcasting Services Band (BSB) are not required to obtain an individual service licence in order to commence operations. Instead, they are given a standing authority under a class licence to enter the market, providing they believe they possess the character of a narrowcasting service, and are able to obtain a technology (or transmitter) licence allocating them a operating frequency within a specific area.

Industry tension

The introduction of narrowcasting services into the broadcasting arena presents both an opportunity and a threat to the existing radio industry. An opportunity, because, in the absence of any ownership and control restrictions, it allows commercial operators to develop regional markets and to expand and experiment within their existing licence areas. Commercial stations such as 2KY in Sydney and 4TAB, for instance, have established successful regional networks re-transmitting live race calling services. Presently, the narrowcasting fraternity is roughly divided between existing commercial operators and so-called 'independent' narrowcasters.

Yet narrowcasting also poses a threat to the commercial radio industry, because class licensees can potentially attract lucrative niche markets that seep profits from existing commercial enterprises. Those in the commercial sector feeling threatened by the category are not alone: community stations fear the loss of sponsors' revenue arising from competition for similar audiences; and aspirant community broadcasters, who may spend up to 10 years accumulating their requisite audiences, resent having to compete directly with narrowcasters for frequency allocation in the Local Area Plan (LAP) process. Within the national sector, SBS is known to be concerned at the potential loss of its audiences to ethnic language narrowcasting services.

Uncertainty

As a result, the radio industry is closely monitoring narrowcasting operations to detect any breaches of class licence conditions, such as the deployment of excessively powerful transmission equipment or the scheduling of program content exceeding any 'limited appeal' requirements that may apply to the service. Enforcement of the latter, however, suffers from a perceived uncertainty, amongst broadcasters and narrowcasters alike, as to the kinds of services a narrowcaster can legitimately provide. Commercial stations, in particular, fear a Trojan horse - quasi-commercial stations that disguise themselves as narrowcasters in order to gain market entry, then proceed to compete under the lighter regulatory regime. Independent narrowcasters are wary of commercial operators undermining narrowcasting ideals of diversity and increased participation, by re-transmitting standard city commercial formats to regional stations.

Unfortunately, no reliable body of precedent exists. Under section 21 of the Act, a narrowcaster may seek from the ABA a binding opinion as to whether a service, proposed or operating, complies with the narrowcasting conditions. However, the Australian Broadcasting Authority (ABA) maintains that each application is dealt with on a case by case basis and the resultant opinion is therefore confined to the particular circumstances. In addition, only successful section 21 applications are on the public record for services already operating; opinions given to those services not yet operating, or characterised



as other than narrowcasting services, remain commercially sensitive and are undisclosed. This inhibits attempts by observers to develop an understanding of the ABA's interpretation of narrowcasting entry rules. While section 19 of the Act provides for the ABA to seek a clarification of any part of the Act, either at its own instigation or upon a Ministerial direction, the ABA has indicated to *CU* that it does not propose to do so.

Further uncertainty

What narrowcasters may gain in flexibility, however, they lose in security. While commercial and community licensees, holding individual service licences, operate on parts of the spectrum reserved for their category of service and enjoy security of tenure, narrowcasters, whose class did not exist when the spectrum was last planned, presently operate on spare or otherwise unused frequencies temporarily set aside for their use (for a period of up to 5 years), under section 34 of the Act. The ABA is under no obligation to re-allocate a frequency for narrowcasting use once the period has expired. Of course, once planning is complete, licence areas in which a demand for open narrowcasting services has been demonstrated may have spectrum reserved for them. This would provide narrowcasters with the security they seek because a transmitter licence, once allocated, carries a presumption of renewability.

However, the sector faces two hurdles. First, the Radiocommunications Act provides for transmitter licences to be allocated by either a first-come first-served or price-based (auction) system. The ABA has indicated that, once the planning process is completed, high and medium power licences for narrowcasting services operating in spectrum permanently reserved for their use will be allocated under a price-based system. Narrowcasters fear that, having established the viability of

a service in a licence area, they may then have to face being outbid for their frequencies by wealthier competitors.

Secondly, many narrowcasters wrongly presume that, should they develop a successful low power service, they may later transmit using medium or high power transmissions as their audience increases. Leaving aside the possibility that a limited geographical reach may be integral to their status as narrowcasters, the planning process considers low power services to be of a different character than medium or high power services. As such, spectrum may not be reserved for their anticipated future use and, if it is, they may have to bid for it at auction.

The digital horizon

Although there appears to be consensus that radio will move from analogue to digital transmission over the next 10 - 20 years, the radio industry is concerned at the rate of take-up and the eventual size of the market, given the current estimated \$1,000 cost of obtaining appropriate reception equipment. The commercial sector argues that in order to attract listeners to the digital band it will need more flexibility in its operations - largely, the ability to experiment with programming under similar levels of regulation to those now enjoyed by the narrowcasting sector. However, what the commercial operators perceive to be necessary incentives to enter into a risky and expensive undertaking, narrowcasters view more ominously as *Lebensraum*. They also fear the commercial sector will argue that, since they must offer the types of services on the digital band offered now by narrowcasters, the need for narrowcasters to be explicitly provided for in the digital scheme is thereby obviated.

This problem may be intensified by the possible separation of content and carriage in the digital radio environment. While radio stations operating in the present analogue system both pro-

duce and deliver their product, the prohibitive expense of digital transmission facilities for the individual broadcasters may result in most carriage facilities being owned by either a collaboration of broadcasters or a non-service provider. As such, service providers lacking a proprietary interest in carriage facilities will be seeking telecommunications-style access provisions. Narrowcasters, in the midst of the present planning overhaul, have yet to cement their right to exist. For them, this issue looms as a make or break test. □

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OF LIMITED APPEAL

Aspiring narrowcasters may seek opinions from ABA as to the characterisation of their service, pursuant to section 21 of the BSA.

The following services have been adjudged to be of 'limited appeal'. Quoted text is from the licensees' application forms.

- 'business news and trading information from Asia, the US and Europe' (CNBC Asia - subscription service)
- '18-44 year old males who frequent pubs and clubs and who enjoy watching sports programs' (Prime Sports - subscription television service)
- '100% unedited coverage of the proceedings of the two houses of parliament and their committees, with no commentary added' (Fedcast Parliamentary Broadcasting)
- 'Spoken Italian and Italian music programs' servicing the Gosford community (Radio Italia)
- Ambient music, 'a specialist style of music which primarily creates a mood effect. Its tempo is slow to medium and its texture is spacious'. A sample tape supplied to the ABA included tracks entitled 'Pure Love', 'Sun & Water' and 'The Woman and the Stone' (Mood FM, Sydney).
- 'Classical, flamenco, South American, contemporary flamenco, Latin American and Gypsy ... backed by relaxation and natural forest sounds' (Tambourine Mountain FM).



Radio regulation:

An overview of the regulatory scheme for radio services operating in the part of

	National	Community	Commercial
Features	ABC: to provide innovative and comprehensive services of a high standard; contribute to a sense of national identity; inform and entertain; reflect cultural diversity; educate. SBS: to provide multilingual and multicultural services that inform, educate and entertain; and promote awareness and understanding of Australia's cultural diversity.	Provided for community purposes and representing community interest; not operated for profit or as part of a profit-making enterprise; programs available free of charge to the general public on commonly available equipment.	Programs intended to be of appeal to the general public free of charge on commonly available equipment. Usually operated for profit and funded by advertising revenue.
Planning Issues	Provision for reservation of capacity by ABA or Minister. No licence areas but ABA can plan for services in LAPs pursuant to ss29/31 BSA.	Provision for reservation of capacity by ABA or Minister pursuant to s.31 BSA.	Subject to LAP process.
Service Licence: Allocation	Exempt.	Individual; merit-based; no fee. ABA under no obligation to issue licence in an area. Aspirants may apply to conduct temporary transmissions pursuant to s34 in order to gather community support and test equipment.	Individual; price-based. Reserve price (or fee, where no other applicants) of \$10 000. Pursuant to s39 determination, operators of single commercial licence in a licence area may obtain an additional licence, where two additional commercial licences are to be created in that area.
Service Licence: Term and Renewal		5 years, renewable, fixed fee.	5 years, renewable, annual licence fee for "preserved" (pre-1992) licences (no renewal fee for s39 and other licences).
Technology Licence: Allocation	Automatic entitlement: s100 Radiocommunications Act.	Automatic entitlement upon allocation/renewal of service licence: s102 Radiocommunications Act.	Automatic entitlement upon allocation/renewal of service licence: s102 Radiocommunications Act.
Technology Licence: Term and Renewal	5 years, renewable, fixed fee.	5 years, renewable, fixed fee.	5 years, renewable, fixed fee.
Ownership and Control		Regulated at ABA's discretion through licensing process. "Undesirable" for licensee to control two BSB licences in the same area, or for govt or political party to control licence	Licensee cannot control a television station, a newspaper or more than one other commercial radio licence in the same area. No foreign ownership restrictions. Similar controls concerning common directorships.
Advertising/Sponsorship	No.	No advertising. Maximum of four minutes of sponsorship per hour.	Advertising.
Transferable Licence	No.	No.	Yes. S.39 licence cannot be sold within 2 years of allocation.
Regulation	Codes of Practice and published editorial policies developed separately from ABA processes, pursuant to the ABC and SBS Acts. Regulated internally. Consumers may complain to ABA or Independent Complaint Review Panel (ICRP) regarding non-Code issues, or to the ABA regarding Code-related issues if broadcaster fails to respond, or responds inadequately to an initial complaint.	Community Broadcasting Radio Code of Practice; general conditions contained in cl. 9 of Schedule 2, BSA.	FARB codes of practice (relating to news, advertisements, Australian music, complaints); general conditions contained in Part 3 of Schedule 2, BSA.



the Broadcasting Services Band

the radiofrequency spectrum planned by the Australian Broadcasting Authority

Subscription Broadcasting/Subscription Narrowcasting/Open Narrowcasting

Subscription Broadcasting: programs of wide appeal provided to the general public upon payment of subscription or program-based fee.

Subscription Narrowcasting: reception only available upon payment of subscription or program-based fee; otherwise as per open narrowcasting.

Open Narrowcasting: not designed to be of appeal to general public, reception limited either by being targetted to special interest groups, being intended only for limited locations, being provided during a limited period to cover a special event, by providing programs of limited appeal, or for some other reason.

ABA may plan for narrowcasting in LAPs where demand for services demonstrated. Temporary channels may be made available to narrowcasters or subscription broadcasters for specific periods under s34 determinations, pending finalisation of LAP process. Thereafter, narrowcasters may be allocated channels where services are planned for, or may continue to be licensed temporarily pursuant to s34 in vacant or unused channels.

Class licence. May commence transmission providing service complies with character of service as defined in BSA. May seek s21 opinion from ABA concerning the service's proper character, which, if favourable, remains binding for 5 years.

A class licence comprises a standing authority for the licensee to commence operating. Operations may continue indefinitely providing licence terms are complied with and frequency continues to be made available (this aspect being regulated through the technology licensing process).

Prior to completion of LAPs: Either first-come first-served or price based, at ABA's discretion, pursuant to s100 Radiocommunications Act.
Following completion of LAPs: ABA's present policy is to allocate medium and high power services on price-based system.

Variable terms, fixed fee, renewable up to expiry of channel availability pursuant to s34 BSA. Thereafter, ABA may either roll over channel use to existing operator, allocate on price-based system or decline to re-allocate channel for narrowcasting use, at its discretion.

No restrictions.

Advertising.

Yes.

No industry codes of practice yet devised. Low level regulation as contained in cl.11 of Schedule 2, BSA.