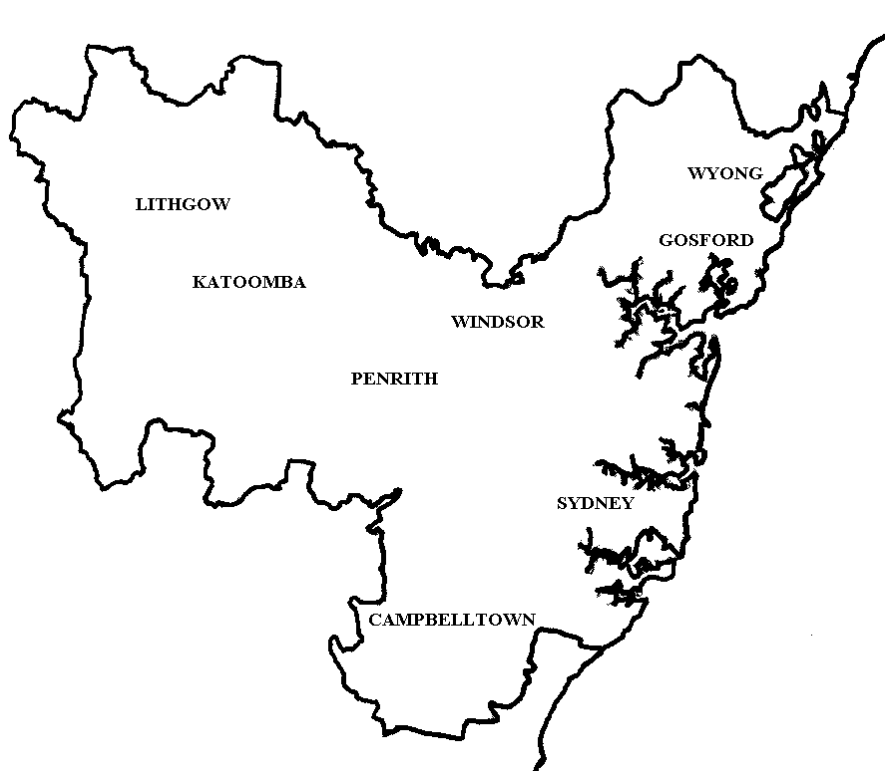




**Australian
Broadcasting
Authority**



SYDNEY, GOSFORD, KATOOMBA & LITHGOW

DRAFT LICENCE AREA PLANS

AND REASONS FOR PRELIMINARY VIEWS

DISCUSSION PAPER

AUGUST 1999

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EXECUTIVE SUMMARY

This discussion paper accompanies the draft radio licence area plans (LAPs) for Sydney, Gosford and Katoomba and the draft variation of the LAP for Lithgow.¹

Planning for television in the regions is currently scheduled to take place in the second half of 2000.

The draft LAPs and draft variation to the Lithgow LAP represent the preliminary views of the ABA on the number and characteristics of radio services that are proposed to be made available within the regions. The characteristics of each radio service include carrier frequency, transmitter site and technical conditions, including maximum effective radiated power (ERP) or cymomotive force (CMF) in all directions, and the service's licence area in respect to commercial and community radio services.

The basis of the preliminary views and the assumptions on which the draft LAPs were prepared are discussed in this paper.

CALL FOR PUBLIC SUBMISSIONS

The ABA is seeking public comment on the preliminary views and the draft LAPs. Comments may be made to the ABA as follows:

By email: metrodraftlap@aba.gov.au

By mail: Planning Officer for Sydney, Gosford, Katoomba and Lithgow
ABA, Planning Branch
PO Box 34
BELCONNEN ACT 2616

By fax: (02) 6253 3277

Quoting the following file numbers:

Sydney – 1999/5280

Gosford – 1999/5282

Katoomba – 1999/5281

Lithgow – 1999/5283

The ABA would prefer submissions to be sent by e-mail or on an IBM compatible or Mac 3.5 inch floppy disk wherever possible.

Any enquiries concerning technical matters raised in this document should be directed to Mr Shanthilal Nanayakkara on (02) 6256 2844. Other enquiries should be directed to Ms Wendy Jones on (02) 6256 2859.

¹ The Lithgow LAP was determined by the ABA in May 1997.

The closing date for submissions is 5.00 pm on 11 October 1999. Extensions to the closing date will only be granted in exceptional circumstances.

To assist the ABA in making decisions about the category of radio services to be made available in Sydney, Gosford, Katoomba and Lithgow, potential service providers should include in their submissions any relevant information about why the available frequency of interest should be used to provide either a commercial, community or open narrowcasting service. The submission should also address why such a decision would represent economic and efficient use of the radiofrequency spectrum and would be likely to promote the objects of the *Broadcasting Services Act 1992* ('the Act').

If submissions address the economic characteristics of the Sydney market, supporting economic evidence must also be provided in the submission.

Any submissions that are over five pages in length must provide an executive summary.

All submissions received are available for public inspection and will be considered in finalising the radio LAPs for Sydney, Gosford and Katoomba and proposed variation to the Lithgow LAP.

BACKGROUND

The draft licence area plans for radio in Sydney, Gosford and Katoomba contain details of all national, commercial, community or open narrowcasting radio broadcasting services that are proposed to be available using the 'broadcasting services bands' of the radiofrequency spectrum. These are the parts of the spectrum used by AM and FM radio services. The draft variation to the Lithgow LAP contains proposals for changes to the Lithgow commercial radio services.

'National broadcasting services' refers to free-to-air ABC or SBS services, or to Parliamentary broadcasts. 'Commercial broadcasting services' are privately owned free-to-air services operated for a profit. 'Community broadcasting services' are free-to-air services provided for community purposes by non-profit groups. 'Open narrowcasting services' are free-to-air services that are limited by targeting programs to a specific audience or by signal coverage area.

The Australian Government primarily funds extensions of or improvements to national services.

The respective operators fund extensions of or improvements to commercial and community services within their licence areas.

It is important to note that the ABA cannot fund or compel others to fund additional broadcasting services, or improved reception of existing broadcasting services, in an area. It can only make channel capacity available.

With the exception of the capacity reserved for national broadcasters and channel capacity made available for allocation to community broadcasters, other capacity set out in the LAPs will generally be made available for commercial licences and open narrowcasting services, under a price-based allocation scheme.

Capacity set out for community licences will be made available by means of a merit-based system. The ABA will generally begin the allocation process after a final LAP for each area has been determined.

Channels not immediately required for broadcasting services may be allocated for other purposes (such as open narrowcasting) for a fixed period determined by the ABA.

At the end of that period, the spectrum will once again become available for mainstream broadcasting.

MAIN ISSUES

The main planning issue disclosed to date by the ABA's consultation process is the limited availability of spectrum to accommodate the interest expressed by existing and potential radio broadcasters in establishing new services. Below is a summary of the the ABA's proposals:

Sydney

- The possible reservation of further technical capacity for national services in Richmond/Windsor. The Minister for Communications, Information Technology and the Arts, Senator Richard Alston, has asked the ABA to seek comment on: a) the level of community dissatisfaction with the reception of national services; b) relative community demand for improved reception of national services *vis a vis* new services.
- Making two additional wide coverage commercial radio services available, with the allocation of the second service four years after determination of the LAP.
- 2ICE Lithgow changing frequency to allow a 150 kW FM service to be made available in Sydney.
- 2MWM Manly North and South and 2NSB Chatswood changing frequency to allow additional wide coverage Sydney community radio services.
- Making three additional wide coverage community FM radio services available.
- Making one local coverage Campbelltown commercial FM radio service available.
- Making local coverage community FM radio services to serve the Blacktown, Hornsby, Campbelltown and Penrith regions available.
- Changes to be made to the technical operating conditions of the existing national, commercial and community radio services, including frequency changes for the

community radio services 2BCR Bankstown, 2RDJ Burwood, 2VTR Windsor, 2MWM Manly and 2NSB Chatswood.

- Possible compensation for 2MWM Manly and 2NSB Chatswood for costs incurred in changing frequency.
- Making two wide coverage Sydney AM open narrowcasting radio services available.

Gosford

- Making one additional commercial FM commercial radio service available.
- Making two additional community radio services available.
- Changing the frequency of community radio service 2CCC and extension of its licence area.
- Making four open narrowcasting radio services available.
- The possible reservation of technical capacity for new national services in Gosford. The Minister for Communications, Information Technology and the Arts, Senator Richard Alston, has asked the ABA to seek comment on: a) the level of community dissatisfaction with the reception of national services; b) relative community demand for improved reception of national services *vis a vis* new services.

Katoomba and Lithgow

- 2ICE Lithgow changing frequency, three years after the determination of the Sydney LAP, to allow a 150 kW FM frequency to be made available in Sydney and extension of the 2ICE and 2LT Lithgow licence areas into Katoomba.
- A power increase and extension of licence area to Blackheath for the 2BLU Katoomba community radio service.

TECHNICAL RESTRAINTS

The technical restraints relating to delivery or reception of broadcasting services, including submissions received in relation to technical restraints, are discussed at Appendix 1.

TECHNICAL SPECIFICATIONS

Broadcasters are required to provide their services in accordance with technical conditions contained in an apparatus licence and the *Technical Planning Guidelines* (TPGs). The technical conditions specified in these licences must reflect the technical specifications contained in the LAP.

The technical specifications in the LAP for each service specify a nominal site. The TPGs specify the provisions relating to siting a facility other than at the nominal site. The new planning scheme under the *Broadcasting Services Act 1992* will permit a site tolerance

away from the nominal site shown in the LAP only if the proposed site passes certain mandatory conditions as specified in the TPGs, which are enforced under s.109 of the *Radiocommunications Act 1992*. In essence, the TPGs will require that any proposed alternative site would not cause interference to radiocommunications services, and would not cause interference to, or preclude altogether, any broadcasting service using a planned additional broadcasting channel.

PRELIMINARY VIEWS

The preliminary views that are detailed in the following section and Chapters state the ABA's thinking at this stage of the planning process. Before reaching a final decision on the issues raised in this discussion paper, the ABA will have regard to the submissions obtained through public consultation on the draft LAPs. The ABA seeks information from interested parties that will assist in making informed decisions in the licence area planning process.

PRELIMINARY VIEWS

PRELIMINARY VIEW 1 –NATIONAL RADIO - SYDNEY

The ABA proposes channel capacity be reserved for all existing national radio services in Sydney NSW in accordance with the Minister's notification, as follows:

- The existing national AM radio services will continue to operate on AM 576 kHz, 630 kHz, 702 kHz and 1107 kHz with a maximum CMF (CMF) of 2.69 kV, 995 V, 3.11 kV and 920 V respectively.
- The existing national FM radio services will continue to operate from Gore Hill on FM 92.9 MHz, 97.7 MHz and 105.7 MHz. The maximum ERP (ERP) will be increased from 60 kW to 150 kW, and the maximum antenna height will be increased from 130 metres to 170 metres.

PRELIMINARY VIEW 2 - EXISTING COMMERCIAL RADIO - SYDNEY

In order to improve reception of the Sydney AM commercial radio services (2UE, 2SM, 2GB, 2CH and 2KY) during the day, the technical specifications for these services are proposed to be changed to permit day/night switching. The ABA does not propose to increase the night-time transmission power for the above services. This change will only be permitted after the Sydney Olympics. These services are proposed to operate as follows:

- 2GB to operate on 873 kHz from Homebush Bay, with a maximum CMF (CMF) of 1350 V (day) / 955 V (night), which is equivalent to a transmission power of 10 kW day / 5 kW night respectively (Omnidirectional).
- 2UE to operate on 954 kHz from Homebush Bay, with a maximum CMF of 1350 V (day) / 955 V (night), which is equivalent to a transmission power of 10 kW day / 5 kW night respectively (Omnidirectional).
- 2KY to operate on 1017 kHz from Homebush, with a maximum CMF of 1250 V day/885 V night, which is equivalent to a transmission power of 10 kW day / 5 kW night (Omnidirectional).
- 2CH to operate on 1170 kHz from Salt Marsh, Homebush Bay, with a maximum CMF of 1300 V day / 920 V night, which is equivalent to a transmission power of 10 kW day / 5 kW night (Omnidirectional).
- 2SM to operate on 1269 kHz from Homebush Abattoirs, Homebush, with a maximum CMF of 1350 V day / 955 V night, which is equivalent to a transmission power of 10 kW day / 5 kW night (Omnidirectional)

The ABA proposes that the existing FM commercial radio services (2UUS, 2DAY, 2MMM and 2WFM) continue to operate as follows:

- 2UUS to operate on 101.7 MHz from TCN-9 Television Tower, Artarmon Road, Willoughby, with a maximum ERP of 150 kW (Directional).
- 2DAY to operate on 104.1 MHz from Ch 10 Tower, Artarmon, with a maximum ERP of 150 kW (Directional).
- 2MMM to operate on 104.9 MHz from Ch 10 Tower, Artarmon, with a maximum ERP of 150 kW (Directional).
- 2WFM to operate on 106.5 MHz from Ch 10 Tower, Artarmon, with a maximum ERP of 150 kW (Directional).

The ABA proposes the existing Sydney commercial AM and FM licence areas be redefined using 1996 Census boundaries, but otherwise remain unchanged.

PRELIMINARY VIEW 3 – ADDITIONAL WIDE COVERAGE COMMERCIAL RADIO - SYDNEY

The ABA proposes to make two additional commercial radio services available in Sydney. The services are proposed to operate on 96.9 MHz and 95.3 MHz from the Channel 10 Tower, Artarmon, each with a maximum ERP of 150 kW.

The ABA proposes to allocate the second additional commercial radio service (95.3 MHz) 4 years after the date of publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Sydney radio LAP has been determined.

Allocation of the second licence (95.3 MHz) is dependent on 2ICE Lithgow making the transition from its existing frequency to a new frequency.

The licence areas of the additional services are proposed to be identical to that of the existing commercial radio services, against 1996 Census boundaries.

PRELIMINARY VIEW 4 – ADDITIONAL COMMERCIAL RADIO - CAMPBELLTOWN REGION

The ABA proposes to make one additional commercial radio service available in the Campbelltown region. The service is proposed to operate on 91.3 MHz from a nominal transmitter site at Mt Hercules Road, Razorback, with a maximum ERP of 1 kW.

This service is proposed to be restricted to a maximum ERP of 200 W towards Sydney until the clearance of 2NSB Chatswood from 91.5 MHz to 99.3 MHz.

This service will not be made permanently available, unless it can be demonstrated that it will not cause unacceptable interference to NBN3 Newcastle or WIN3 Wollongong.

The licence area of the additional service is proposed to include the City of Campbelltown, the Local Government Area of Camden, and part of the Local Government Area of Wollondilly, against 1996 Census boundaries.

PRELIMINARY VIEW 5 – EXISTING WIDE COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes that the existing AM community radio service 2RPH continue to operate on 1224 kHz with a maximum CMF of 1.26 kV from Church Lane, Prospect.

The ABA proposes to increase the maximum transmission power of the existing wide coverage community FM radio services (2000, 2MBS, 2CBA, and 2SER) in Sydney as follows:

- 2000 to operate on 98.5 MHz from Optus Tower, North Sydney, with a maximum ERP of 50 kW (directional).
- 2MBS to operate on 102.5 MHz from Government Phillip Tower, , Sydney, with a maximum ERP of 50 kW (directional).
- 2CBA to operate on 103.2 MHz from Miller St, Sydney, with a maximum ERP of 50 kW (directional).
- 2SER to operate on 107.3 MHz from University of Technology, Ultimo, with a maximum ERP of 50 kW (directional).

The ABA proposes the existing Sydney wide coverage community AM and FM licence areas be redefined using 1996 Census boundaries, but otherwise remain unchanged.

PRELIMINARY VIEW 6 – ADDITIONAL WIDE COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes to make three additional wide coverage community radio services available in Sydney as follows:

- A service to operate on 92.1 MHz from the Channel 10 Tower, Artarmon, with a maximum ERP of 15 kW.
- A service to operate on 93.7 MHz from the Channel 10 Tower, Artarmon, with a maximum ERP of 50 kW.
- A service to operate on 94.5 MHz from the Channel 10 Tower, Artarmon with a maximum ERP of 150 kW.

Allocation of 92.1 MHz and 93.7 MHz licences is dependent on 2MWM Manly and 2NSB Chatswood making the transition from existing frequencies to new frequencies.

The ABA proposes the licence areas of the additional services be identical to that of the existing wide coverage community radio services, against 1996 Census boundaries.

PRELIMINARY VIEW 7 – EXISTING LOCAL COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes channel capacity continue to be made available for the existing local coverage community radio services in Sydney. It is proposed some of the services change frequency, maximum ERP and polarisation as follows:

| Area Served | Callsign | Frequency | Maximum ERP | Polarisation | Nominal Location |
|-------------|----------|----------------------------|---------------------|---------------------|--------------------------------------|
| Bankstown | 2BCR | From 88.7 MHz to 100.9 MHz | From 160 W to 200 W | Vertical to Mixed | Condell Park |
| Burwood | 2RDJ | From 88.1 MHz to 100.5 MHz | 80 W to 100 W | Horizontal to Mixed | Church St Burwood |
| Chatswood | 2NSB | From 91.5 MHz to 99.3 MHz | 130 W to 200 W | Mixed | Victor St Chatswood |
| Liverpool | 2GLF | 89.3 MHz | 80 W | Mixed | Mount Pritchard |
| Manly North | 2MWM | From 93.7 MHz to 88.7 MHz | 160 W to 200 W | Mixed | Bilgola Plateau Plateau Road |
| Manly South | 2MWM | From 92.1 MHz to 90.3 MHz | 40 W to 50 W | Mixed | Tania Park Balgowlah Heights |
| Narwee | 2NBC | 90.1 MHz | 160 W to 200 W | Vertical to Mixed | Penshurst Water Tower |
| Parramatta | 2CCR | 90.5 MHz | 200 W | Mixed | Seven Hills Rd Baulkham Hills |
| Ryde | 2RRR | 88.5 MHz | 80 W | Mixed | Goulding Rd Trig Point North Ryde |
| Sutherland | 2SSR | 99.7 MHz | 100 W to 200 W | Mixed | Eton St Sutherland |
| Sydney | 2RSR | 88.9 MHz | 70 W to 200 W | Vertical to Mixed | Sydney Town Hall Sydney |
| Waverley | 2RES | 89.7 MHz | 160 W to 200 W | Vertical to Mixed | Waverley College Birrell Rd Waverley |
| Windsor | 2VTR | From 89.7 MHz to 89.9 MHz | 40 W to 750 W | Mixed | Kurrajong Heights |

It is proposed that 2BCR Bankstown, 2RDJ Burwood, 2NSB Chatswood, 2MWM Manly and 2VTR Windsor change frequency at a date not later than one year after publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Sydney radio LAP has been determined.

The ABA proposes the existing local coverage community licence areas be redefined against 1996 Census boundaries, but otherwise remain unchanged.

PRELIMINARY VIEW 8 – ADDITIONAL LOCAL COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes channel capacity be made available for four additional local coverage community radio services. The services are proposed to operate from:

| Area Served | Frequency | Maximum ERP (FM) CMF (AM) | Nominal Location |
|--------------------|------------------|--------------------------------------|--------------------------|
| Blacktown | 99.9 MHz | 200 W | Horsley Park |
| Hornsby | 100.1 MHz | 200 W | 10 Romsey St Waitara |
| Campbelltown | 100.3 MHz | 200 W | Mt Hercules Rd Razorback |
| Penrith | 100.7 MHz | 200 W | Uni of Western Sydney |

The ABA proposes the licence areas be defined using 1996 Census boundaries.

PRELIMINARY VIEW 9 - OPEN NARROWCASTING RADIO – SYDNEY AND PENRITH

The ABA proposes to make three additional open narrowcasting radio services available in Sydney. The services are proposed to operate on:

- 1386 kHz from Homebush with a maximum CMF of 1.015 kV;
- 1539 kHz from Bicentennial Park, Concord West with a maximum CMF of 385 V; and
- 1476 kHz from Emu Plains 5km NW of Penrith with a maximum CMF of 225 V.

Any channels mentioned above, if allocated for open narrowcasting services, will be made available under s.34 of the *Broadcasting Services Act 1992*, for a minimum period of five years, and the provider will be determined by use of a price-based allocation system under s.106 of the *Radiocommunications Act 1992*.

PRELIMINARY VIEW 10 – COMMERCIAL RADIO - GOSFORD

The ABA proposes that the existing FM commercial radio services (2CFM and 2GGO) continue to operate as follows:

- 2CFM to operate on 101.3 MHz from Lot 319 Debanham Road, Somersby, with a maximum ERP of 16 kW.
- 2GGO to operate on 107.7 MHz from Mt Penang with a maximum ERP of 16 kW.

The ABA proposes the existing Gosford commercial licence areas be redefined against 1996 Census boundaries, but otherwise remain unchanged.

The ABA proposes to make one additional commercial radio service available in Gosford. The service is proposed to operate on 104.5 MHz from Mt Penang with a maximum ERP of 16 kW.

The licence area of the additional service is proposed to be identical to that of the existing commercial radio services, against 1996 Census boundaries.

PRELIMINARY VIEW 11 – EXISTING COMMUNITY RADIO - GOSFORD

The ABA proposes to continue to make channel capacity available for the existing community FM radio service in Gosford, 2CCC.

The ABA proposes to change the frequency of the service from 96.3 MHz to 94.1 MHz, increase the maximum ERP of the service to 2 kW and increase the licence area of the service to include the Shire of Wyong at a date not later than one year after publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Gosford radio LAP has been determined. The ABA proposes to redefine the licence area using 1996 Census boundaries.

PRELIMINARY VIEW 12 - ADDITIONAL COMMUNITY RADIO - GOSFORD

The ABA proposes to make available for allocation two additional community radio services in Gosford. The services are proposed to operate as follows:

| Area Served | Frequency | Maximum ERP | Nominal Location |
|--------------------|------------------|--------------------|-------------------------|
| Gosford | 93.3 MHz | 2 kW | Mt Penang |
| Gosford | 94.9 MHz | 2 kW | Mt Penang |

It is proposed that the licence areas for the two additional community radio services be identical to the licence area proposed for the existing community radio service and be defined against 1996 Census boundaries.

PRELIMINARY VIEW 13 - OPEN NARROWCASTING RADIO - GOSFORD

The ABA proposes to make four open narrowcasting services available in Gosford. The services are proposed to operate as follows:

| Area Served | Frequency | Maximum ERP (FM) CMF (AM) | Nominal Location |
|-------------|-----------|------------------------------|------------------|
| Gosford | 801 kHz | 1.35 kW | Chittaway Point |
| Gosford | 92.5 MHz | 200 W | Mt Penang |
| Gosford | 96.3 MHz | 500 W | Mt Penang |
| Gosford | 98.1 MHz | 500 W | Mt Penang |

The ABA proposes to delay allocation of the 96.3 MHz FM frequency until 2CCC makes the transition from its existing frequency to its proposed new frequency.

Channels made available for open narrowcasting services will be made available under s.34 of the *Broadcasting Services Act 1992* for a minimum period of five years, and the provider will be determined by use of a price-based allocation system under s.106 of the *Radiocommunications Act 1992*.

PRELIMINARY VIEW 14 – EXISTING COMMERCIAL RADIO – KATOOMBA AND LITHGOW

The ABA proposes that the existing commercial radio service 2ONE Katoomba continue to transmit on FM 96.1 MHz from 31 - 45 Great Western Highway, Wentworth Falls, with a maximum ERP of 5 kW.

The ABA proposes the licence area of 2ONE be redefined against 1996 Census boundaries.

The ABA proposes to extend the licence areas of the existing AM and FM commercial radio services in Lithgow (2LT and 2ICE) into Katoomba. The ABA proposes that these services operate as follows:

- 2LT to operate on 900 kHz from 3.5km E of Wallerawang, with a maximum CMF of 925 V (5 kW), and a transmitter associated with the 2LT service be made available to operate on 783 kHz from Wentworth Falls, Katoomba with a maximum CMF of 440 V.
- 2ICE to change its current frequency from 95.3 MHz to 107.9 MHz and to operate from Bonaventure Road, Mount Lambie with a maximum ERP of 10 kW, and a transmitter associated with the 2ICE service be made available to operate on 99.5 MHz from Gang Gang St, Katoomba with a maximum ERP of 200 W.
- The ABA proposes that 2ICE change frequency from 95.3 MHz to 107.9 MHz within three years after the date of publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Lithgow radio LAP has been determined.

The ABA proposes the existing Lithgow commercial AM and FM licence areas be extended to include the Katoomba region and redefined against 1996 Census boundaries.

PRELIMINARY VIEW 15 – EXISTING COMMUNITY RADIO - KATOOMBA

The ABA proposes that the existing community radio service 2BLU Katoomba continue to transmit on FM 89.1 MHz from Gang Gang Street, and the maximum ERP be increased from 160 W to 200 W.

The ABA proposes the licence area of 2BLU Katoomba be extended to include Blackheath, and redefined against 1996 Census boundaries.

PRELIMINARY VIEW 16 – SYDNEY, GOSFORD, KATOOMBA AND LITHGOW FREQUENCY ALLOTMENT PLAN

The ABA proposes to vary the frequency allotment plan (FAP) for the MF-AM Band and the VHF-FM Band as it relates to Sydney, Gosford, Katoomba and Lithgow to reflect Preliminary Views 1-15.

INTRODUCTION - OVERVIEW OF THE PLANNING PROCESS

BROADCASTING SERVICES BANDS

One of the primary functions of the ABA is to plan the availability of the broadcasting services bands (the BSB)² which have been referred to it by the Minister. The BSB which have been referred by the Minister to the ABA for planning are:

- (a) 526.5 - 1606.5 kHz (inclusive) The MF-AM radio band
- (b) 45 - 52 MHz (inclusive) VHF television band I (channel 0)
- (c) 56 - 70 MHz (inclusive) VHF television band I (channels 1 and 2)
- (d) 85 - 108 MHz (inclusive) The VHF-FM radio band is 87.5 - 108 MHz. The assignment covers 85 - 108 MHz to cater for existing VHF television band II (channels 3, 4 and 5)
- (e) 137 - 144 MHz (inclusive) VHF television band III (channel 5A)
- (f) 174 - 230 MHz (inclusive) VHF television band III (channels 6, 7, 8, 9, 9A, 10, 11 and 12)
- (g) 520 - 820 MHz (inclusive) UHF television bands IV and V (channels 28-69 inclusive)

The ABA is required to plan the availability of segments of the BSB on an area basis.

THREE STAGES OF THE PLANNING PROCESS

The planning functions of the ABA are set out in part 3 of the *Broadcasting Services Act 1992* (the Act). The Act requires the ABA to promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum for broadcasting and to have regard to the matters set out in section 23. The planning process has three stages. These are set out in sections 24, 25 and 26 of the Act. All of the stages of the planning process must be the subject of wide public consultation.

DETERMINATION OF PLANNING PRIORITIES

The first stage of the planning process in accordance with section 24 of the Act, is the determination by the ABA of planning priorities, between particular areas of Australia and between different parts of the BSB, for the preparation of frequency allotment plan (FAP) and licence area plans (LAP). The ABA determined its planning priorities in September

² Section 158(b) of the Act.

1993. A document entitled "Planning Priorities - 1993", which includes the planning priorities and explanatory notes, is available free of charge from the ABA.

PREPARATION OF FREQUENCY ALLOTMENT PLAN

The second stage of the planning process, in accordance with section 25 of the Act, has been the preparation of a frequency allotment plan (FAP) which determines the number of channels that are to be available in particular areas of Australia to provide broadcasting services using that part of the radiofrequency spectrum designated as the broadcasting services bands.

After releasing two exposure drafts of the FAP for public comment in May and December 1993, the ABA determined a FAP for the BSB on 10 August 1994. A document entitled "Frequency Allotment Plan - August 1994", which includes the FAP and explanatory notes, is available free of charge from the ABA.

PREPARATION OF LICENCE AREA PLANS

The third stage of the planning process in accordance with section 26 of the Act, is the preparation of licence area plans (LAPs) which determine the number and characteristics of broadcasting services that are to be made available within particular areas of Australia. The characteristics of each service include the service's licence area, category, carrier frequencies, transmitter sites and technical conditions, including maximum ERP in each direction. Potential and current service providers must "read" the LAP together with the Technical Planning Guidelines, so that they are fully aware of their technical obligations in establishing services. Paragraph 109(1) (d) and (e) of the *Radiocommunications Act 1992*, apply the technical specifications in the LAP and technical planning guidelines as conditions of a transmitter licence issued to commercial and community broadcasting service providers.

LAPs are prepared on an area by area basis in accordance with the ABA's determination of planning priorities.

VARIATION OF FREQUENCY ALLOTMENT PLAN

As mentioned above the FAP determines channel capacity based on the ABA's current knowledge and public submissions received to date. The FAP's assumptions about demand, nominal transmitter specifications and siting will be re-examined during preparation of the LAPs for particular areas of Australia, at which time it will be subject to intensive public consultation. This process may necessitate variations to the FAP. There will be no permanent allocation of new spectrum until LAPs for any area have been prepared. Any subsequent variation to the FAP necessitated by planning during the LAP process will take their priority from the relevant LAP. Consultation on the changes will take place within the LAP consultation process.

The FAP will also be revised to reflect any additional services planned during the LAP stage (particularly low power channels). If the amended FAP brings about changes to channel

capacity for areas outside the area for which the LAP is being prepared, the changes will be subject to public consultation in affected areas.

CHAPTER 1 - LEGISLATIVE FRAMEWORK

Section 158 of the Act provides that one of the ABA's primary functions is to plan the availability of segments of the broadcasting services bands on an area basis.

Section 160 of the Act imposes a general obligation on the ABA to perform its functions in a manner consistent with:

- (a) the objects of the Act and the regulatory policy described in section 4 of the Act; and
- (b) any general policies of the Government notified by the Minister under section 161; and
- (c) any directions given by the Minister in accordance with the Act; and
- (d) Australia's obligations under any convention to which Australia is a party, or any agreement between Australia and a foreign country.

SECTION 160(a) - OBJECTS OF THE ACT

The objects of the Act (section 3) are:

- (a) to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information; and
- (b) to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs; and
- (c) to encourage diversity in control of the more influential broadcasting services; and
- (d) to ensure that Australians have effective control of the more influential broadcasting services; and
- (e) to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity; and
- (f) to promote the provision of high quality and innovative programming by providers of broadcasting services; and
- (g) to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance; and
- (h) to encourage providers of broadcasting services to respect community standards in the provision of program material; and

- (i) to encourage the provision of means for addressing complaints about broadcasting services; and
- (j) to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material, which may be harmful to them.

The relevance of these objects to the variation of the frequency allotment plan and the preparation of licence area plans is discussed below, as part of the examination of s.23 of the Act.

REGULATORY POLICY

Section 4(1): The Parliament intends 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.

Section 4(2): The Parliament also intends that broadcasting services in Australia be regulated in a manner that, in the opinion of the ABA:

- (a) enables public interest considerations to be addressed in a way that does not impose unnecessary financial and administrative burdens on providers of broadcasting services; and
- (b) will readily accommodate technological change; and
- (c) encourages:
 - (i) the development of broadcasting technologies and their application; and
 - (ii) the provision of services made practicable by those technologies to the Australian community.

Subsection 4(2) is of particular relevance to the planning process. Having regard to the matters in s.23 of the Act, it may be necessary to vary the technical conditions of the licences of existing broadcasters in a manner, which imposes costs on them. Examples are:

- clearance of television services from VHF Band II to make room for additional FM radio services;
- relocation of transmitter sites or changes of frequency of existing services to maximise the number of channels available in an area; and
- otherwise changing the technical operating conditions of existing services to improve the service to the public.

In order not to impose unnecessary financial and administrative burdens on service providers, the ABA has taken account of the cost to broadcasters of any variations to their existing technical operating conditions as a relevant consideration to be weighed against any

benefits that might accrue in terms of the Act's objects and the economic and efficient use of spectrum.

SECTION 160(b) - GENERAL POLICIES OF THE GOVERNMENT NOTIFIED UNDER SECTION 161 OF THE ACT

No Government policies have been specifically referred to the ABA pursuant to section 161 of the Act which relate to its planning function.

SECTION 160(c) - DIRECTIONS GIVEN BY THE MINISTER

On 17 March 1994 the then Minister for Communications and the Arts, the Hon Michael Lee MP, notified the ABA to reserve capacity for an Australia wide sixth high power national television channel, for the provision of national broadcasting services or for community broadcasting services.

On 17 March 1994 the then Minister also directed (under subsection 162(1) of the Act) the ABA to give favourable consideration to the House of Representatives Standing Committee on Transport, Communications and Infrastructure (HORSCOTCI) Report into the future use of the sixth channel. HORSCOTCI gave priority to the sixth channel's use for educational television over community access television in the longer term. It further recommended that:

- A decision on permanent use of the sixth high power television channel should not be made prior to the review of the television broadcasting industry to be conducted by the Minister by 1 July 1997 in accordance with Clause 215 of the Broadcasting Services Act 1992.
- The channel should be made available immediately for community access television using low power transmitters on a continuing trial basis until 1 July 1997.

The ABA has made spectrum available for temporary use by community and educational television groups in several locations. This has been done by the use of the section 34 ("drop through") provisions of the Act.

On 27 May 1997, the Minister for Communications and the Arts, Senator Richard Alston, advised the ABA that he supported an extension of the community television trial for another twelve months from July 1997.

On 24 December 1997, the Minister advised that the Government had decided to allow the community broadcasting sector to continue to utilise the sixth television channel until at least the year 2000.

The ABA extended the community television trial on the sixth channel to 30 June 2000 in all areas in which services were being provided: Sydney, Melbourne, Brisbane, Lismore and Adelaide. Licences in areas in which a service was not on air at the time of renewal, that is Perth, Hobart and Bendigo, were extended to 30 June 1999. The service in Perth is now on air and the licence has been extended to 30 June 2000; the Hobart licensee no longer

wishes to provide a community service and the ABA decided not to renew the Bendigo group's licence when their status was reviewed just prior to 30 June 1999.

On 31 May 1999, the Minister unreserved the sixth channel spectrum in all areas except where a licence had been issued for trial community television services. This was in recognition of the need to make available as much vacant spectrum as possible to assist in the planning of digital television services.

SECTION 160(d) - INTERNATIONAL CONVENTIONS TO WHICH AUSTRALIA IS A PARTY

International Telecommunication Convention, Final Protocol and additional protocols I-IV: Geneva 21/12/59. This includes the 1959 Radio Regulations which have been revised many times since 1959 and which, in effect, were superseded by the Radio Regulations of 5 December 1979.

Regional Agreement concerning the use by the broadcasting service of frequencies in the medium frequency bands in Regions 1 and 3 and in the low frequency bands in Region 1: Geneva 22/11/75. This agreement applies only to the MF-AM Band. It provides that member countries shall adopt for their broadcasting services operating in the MF-AM Band, the characteristics specified in the Plan annexed to that agreement.

Final Acts of the World Administrative Radio Conference for the planning of the Broadcasting satellite service; Geneva 13/2/77

Final Acts of the World Administrative Radio Conference; Geneva 5 December 1979 (into force on 1/1/82). Introduces new Radio Regulations.

International Telecommunications Convention with Final Protocol, Additional protocols and Optional additional protocol: Nairobi 6/12/82. Chapter III, Special Provisions for Radio is particularly relevant. It imposes obligations on Australia in relation to the Rational Use of the Radio Frequency Spectrum (Article 33) and operating stations in such a manner as to not cause Harmful Interference (Article 35).

Final Acts of the Second Session of the World Administrative Radio Conference for the allocation of High Frequency bands allotted to broadcasting; Geneva, 8 March 1987. (in force 14 May 1992). This revised the Radio Regulations of December 1979.

The obligations flowing from these agreements are largely the purview of the Spectrum Management Agency.

However, a number of the ITU Radio Regulations are relevant to the ABA's planning functions.

Article 35 requires that all stations are established and operated in such a manner as to not cause harmful interference to the radio services or communications of other members.

Article 33 requires that members shall endeavour to limit the number of frequencies and the spectrum space used to the minimum essential to provide in a satisfactory manner the necessary services. To that end they shall endeavour to apply the latest technical advances as soon as possible.

Article 9 states that in the assignment and use of frequencies, members should take into account that special measures are required to ensure that safety aspects of radio navigation and other safety devices are free from harmful interference.

SECTION 5 - ROLE OF THE ABA

Finally, section 5 of the Act contains a general direction from the Parliament to the ABA on how it is to achieve the objects of the Act in a way that is consistent with the regulatory policy referred to in section 4. Section 5(1)(b) is of particular relevance to the ABA's planning powers. It provides in part that the Parliament:

confers on the ABA a range of functions and powers that are to be used in a manner that, in the opinion of the ABA, will:

- (i) produce regulatory arrangements that are stable and predictable;

The structure of Part 3 of the Act and in particular the public planning process described in sections 24 - 27 of the Act are designed among other things to ensure a high degree of predicability in spectrum planning and allocation. In addition to the bare requirements of those sections, the ABA has endeavoured to ensure stable and predictable regulatory arrangements by making all aspects of its reasoning processes transparent through the release of discussion papers and preliminary views.

SPECIFIC OBLIGATIONS OF THE ABA - SECTION 23

Section 23 of the Act imposes specific obligations on the ABA when carrying out its planning functions. First, the ABA is required to perform its functions in a way that promotes the objects of the Act, including the economic and efficient use of the radiofrequency spectrum. The ABA is also required, when performing its functions, to have regard to the range of matters set out in paragraphs (a) - (g) of the section.

The ABA notes that not all of the objects will be promoted by its planning functions; some of the objects will be more directly promoted by other functions of the ABA. For example, the development of codes of practice and program standards will directly promote object 3(h), (j) and to some extent (g). The following discussion of the objects canvasses some of the ways the ABA believes that planning decisions (under ss.25 and 26) might promote the matters in s.23. Whether or not a given planning decision is likely to promote the objects is, of course, a question of fact that will depend on the particular circumstances of the area being planned. The following observations do not constitute an inflexible policy of the ABA towards planning, but describe strategies that might tend to promote the objects of the Act, including the economic and efficient use of spectrum, depending on the particular facts of the situation.

The Explanatory Memorandum to the Broadcasting Services Bill 1992 ('the Explanatory Memorandum') explains the role and uses of the objects in the following way:

The purpose of these objects is to set out clearly the outcomes Parliament wishes to see in the regulation of broadcasting, to assist with the formulation of decisions consistent with the policy enshrined in the Act, and to guide the ongoing administration and enforcement of the Act. It is important to note that the objects are not set out in any order of priority; in other words the relative importance of an object may be determined by the issue being considered at the time - that relative importance could vary from time to time.

It is recognised that there are tensions between the objects. It is intended that the ABA, in the exercise of its regulatory powers, should have regard to the competing objectives, drawing on its ability to assess community views and needs, and to monitor developments in the broadcasting industry. It is expected that the relative importance of each object may vary over time, and vary in relation to different functions and powers of the ABA.

The objects that are of most obvious importance to the ABA's powers in section 25 and 26 of the Act are those at paragraphs (a) and (b) of section 3.

- (a) *to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.*

According to the Explanatory Memorandum:

Clause 3(a) relates to the intention that the Act will encourage and facilitate the provision of both 'free to air' broadcasting services as well as subscription and 'niche' broadcasting services to allow a broad range of general and special interests and needs to be met. Diversity in the range of services is encouraged by a more open planning regime that is expected to increase the availability of services, and by a licensing regime which is designed to accelerate the introduction of services and encourage the emergence of the new 'niche' services.

As these observations make clear, the ABA's planning powers have a vital role to play in promoting the object at 3(a), but it is unrealistic to expect that planning alone will promote the object in all its aspects. In particular, some of the 'diversity' of new services can be expected to come from the proliferation of non-broadcasting services bands services such as satellite and cable subscription television broadcasting and narrowcasting services of all kinds.

When preparing frequency allotment plans and licence area plans, the ABA may be able to promote this object in several ways.

First, the ABA can seek to ensure areas enjoy a mix of different types of broadcasting services. (The reference in section 26 to the 'characteristics' of services includes, in the ABA's view, the category of each service and whether it is television or radio.) National broadcasters and community broadcasters frequently provide programs that are immediately distinguishable from commercial broadcasting, often serving needs that the commercial sector has not addressed. These sectors also have an important role in providing education.

Open narrowcasting also has a place in promoting diversity, particularly open narrowcasting whose reception is limited either:

- by being targeted to special interest groups; or
- because they provide programs of limited appeal.

These types of ‘niche’ services clearly have a major role in promoting diversity, particularly of information but also of certain types of entertainment, such as entertainment in languages other than English.

Second, as envisaged in the Explanatory Memorandum, the ABA can make additional services available in areas where there is a likelihood this will increase the overall number of broadcasting services being provided. This will create opportunities for service providers to add to the range of services.

It is important to note that the impact of new services on diversity may vary. In the case of commercial radio formats, the outcome of additional services may include lengthy periods of competition between similar formats. Formats which appear similar to some listeners will be perceived as diverse by listeners whose interests are met by the new service. For example, an additional sports format may be seen by a sports lover as increasing diversity of the sports covered, while listeners not interested in sport will experience no increase in diversity. In any event, even if the format is identical, it is not the ABA’s role to ensure that an additional commercial broadcasting service will not simply mimic an existing service in the area, playing the same style of music or even the same songs.

It is not the ABA’s role to regulate formats of commercial services. This is underlined by the price-based nature of the commercial broadcasting allocation process and by the generic condition on commercial licences requiring only that they:

... provide a service that, when considered together with other broadcasting services available in the licence area of the licence (including another service operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area...

Certainly the proliferation of services with similar formats in an area will do little to promote the object at section 3(a), though it may further other objects of the Act. On the other hand, allocation of additional commercial broadcasting licences may well result in competing formats and hence greater diversity of choice. As the ABA has little control over the legitimate programming choices of new market entrants, it is truer to say that planning of additional commercial broadcasting services is likely to promote the availability of a diverse range of services in markets, but that in the case of commercial radio broadcasting services, it cannot ensure it.

Thirdly, the ABA can enable improved reception of existing broadcasting services. Inadequate reception currently denies many Australians, particularly those outside of major centres, access to the full diversity of services currently on offer. It can make spectrum available for re-transmission and change licence areas and technical characteristics so as to make it possible for services to reach into areas where they might not otherwise reach.

Fourthly, the ABA can plan smaller (local coverage) services or larger services serving more than one existing market. Smaller services in particular, whether community or commercial broadcasting or open narrowcasting, may tend to promote diversity because they are better suited to different types of programming than wide coverage services. Of course, there will often be circumstances where the object is best served by services with similar coverage areas. A hypothetical example, is where an existing wide-coverage commercial television service is showing programs drawn from all three commercial networks. If a second licence were issued serving only the main town, it is likely that the second licence would acquire the rights to transmit the programs of at least one of the networks. The result may be to deprive viewers in outlying areas of programming from that network. This problem could be avoided by planning the second service as a wide-coverage service. Finally, there may be circumstances where enlarged or aggregated licence areas will promote diversity by increasing the chances that a viable additional service will be offered in the market.

- (b) *to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs.*

According to the Explanatory Memorandum:

Of particular relevance to this object are the flexibility of the planning and licensing schemes...

As the broadcasting services bands remain by far the most important means for delivering free-to-air broadcasting services, and as there is potential for these bands to carry additional services, the ABA's planning process is at present fundamental to the further development of the broadcasting industry in Australia. As a part of the 'regulatory environment', the ABA's frequency allotment plans and licence area plans should promote development of an industry that is 'efficient, competitive and responsive to audience needs'.

Examination of the Act suggests that introduction of competition is intended to play a key role in promoting this object. For example, the licensing scheme of the Act is designed to encourage exploitation of alternative means of delivery to the broadcasting services bands. This observation is supported by the regulatory policy in section 4(2) of the Act. Some types of broadcasting require no ABA authorisation at all and access to licences for more influential services (commercial broadcasting and subscription television broadcasting) is subject only to a few simple tests, except in the special case of broadcasting services bands spectrum.

The move to a more open and competitive regulatory regime is also supported by changes to the conditions attached to commercial broadcasting services, both television and radio. The condition that services merely 'contribute' to the provision of an adequate and comprehensive range of broadcasting services in their market will enable bolder experimentation with formats, continue existing industry trends towards networking and also

permit the commercial survival of services with a smaller share of the market than may previously have been possible.³

The development of an efficient and responsive broadcasting industry will occur primarily as a result of industry growth. The radio industry should be expected to grow at least at the same rate as the economy generally. As revenues grow in real terms additional competitive entrants to the industry will contribute to industry development.

The ABA believes that permitting new services to make use of the broadcasting services bands and, in particular, planning the availability of additional commercial broadcasting services, is likely, depending on the particular facts of the market, to promote the object at 3(b) of the Act.

This approach is supported by the Explanatory Memorandum, which states in its general comments on Part 3 of the Act:

It is... intended that barriers to entry to the broadcasting service industry be minimised, and that competition in the provision of such services be facilitated through the quicker introduction of extra services.

Three other objects are potentially relevant to the preparation of licence area plans and frequency allotment plans.

- (c) *to encourage diversity in control of the more influential broadcasting services.*

According to the Explanatory Memorandum:

Diversity in control is to be promoted by allowing a greater number of services (subject, in relation to commercial television, to a review to be completed by 1 July 1997 - refer to clauses 28 and 215) under the planning and licensing regimes, supported by the O & C (ie. Ownership and control) limits in Part 5 relating to commercial broadcasting ...

Planning of additional services could promote this object by enabling independently-owned (competing) new service providers to enter the market. Often this outcome will be furthered by the ownership and control limits, which will restrict the right of incumbent commercial radio and commercial television service providers to own or control the new services.

Introduction of additional services to markets will not always promote this object. For example, if an additional commercial television service is shown as available in a licence area plan, an existing commercial television service provider, if it is the only service of that type in the market, may be entitled to apply to the ABA to provide a second service under s.38A. Similarly, an existing commercial radio service provider may be entitled to acquire a second licence, either under s.39 or via the price-based allocation system.

³ According to the Macquarie Dictionary, the meanings of 'competition' relevantly include 'the rivalry between two or more business enterprises to secure the patronage of prospective buyers', and the meaning of 'competitive' is: 'of, pertaining to, involving or decided by competition.'

- (f) *to promote the provision of high quality and innovative programming by providers of broadcasting services.*

The Explanatory Memorandum relevantly states:

Clause 3(f) is based on the expectation that the emergence of 'niche' broadcasting services and the development of a more competitive environment should result in high quality and innovative programming if broadcasting service providers, particularly of subscription services, are to attract and retain audience interest.

However, the ABA has received a submission suggesting that additional services may not always promote the criterion in 3(f)⁴. In essence, the submission argued that if additional commercial television services were introduced to the 'solus' (ie a single licence) commercial television market in question:

there would be no significant addition to the overall quality or innovation of programming, as the existing service was already able to 'cherry-pick' the best of the three networks' programs;

additional television services would actually detract by constraining the ability of the existing service provider to continue to produce locally relevant and innovative programming; and

additional television services would have a similar constraining effect on the ability of radio services to produce locally relevant and innovative programming.

While additional services may not always promote object 3(f), in the ABA's view, the effect of introducing additional commercial services is more likely to be positive than negative when measured against this object. What is an innovative program is often a matter of judgement for the viewer or listener and 'cherry picking' may focus on the popularity of programs rather than how innovative they are.

The ABA is of the view that additional services may well permit additional high quality and innovative programming to be broadcast, whether in the form of innovative new ideas for local services or top quality programming 'networked' from other parts of the country.

- (g) *to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.*

Planning decisions are liable to affect coverage of matters of local significance in several ways.

⁴ The submission is contained in a letter dated 31 January 1994 from Blake Dawson Waldron on behalf of NTD 8 Darwin, in response to the ABA's request for submissions on licence area planning for Darwin.

In general, planning of additional services might be expected to promote appropriate coverage of matters of local significance, where there is some prospect those additional services might be taken up. For example, planning may enable new service providers to address needs not adequately catered for by existing licensees. Also, greater competition in markets may encourage service providers to provide more appropriate coverage of matters of local significance.

However, in planning of highest priority areas a number of submissions on behalf of existing broadcasters have argued that the introduction of competition to small markets will diminish the ability of existing broadcasters to produce programs locally⁵. This may hinder appropriate coverage of matters of local significance, if the new services do not redress the deficiency by covering matters of local significance themselves.

If the ABA believes that planning of additional services may not promote the object at 3 (g) of the Act, it will take those concerns into account in its decision and, where appropriate, weigh the possible costs in terms of local coverage against any benefits in terms of the other objects of the Act.

In making its planning decisions, the ABA will also take into account the contributions made by national and community services to coverage of events of local significance in many areas.

... including the economic and efficient use of the radiofrequency spectrum

In performing its planning functions, the ABA must promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum.

The word 'economic' in this context suggests 'economical', in the sense of 'avoiding waste or extravagance; thrifty' (Macquarie Dictionary). 'Efficient' can mean 'productive of effects; operative' (Shorter Oxford English Dictionary). The idea of promoting the economic and efficient use of the radiofrequency spectrum suggests that spectrum should not be planned in a wasteful way, that it should as far as possible be put to productive use, but that conversely, it should not be planned for a particular use if it is not really needed for that use.

Examples of how the ABA might promote the economic and efficient use of the radiofrequency spectrum include:

1. all planning measures designed to maximise spectrum productivity; and
2. not planning broadcasting services in excess of the number required. For example, by planning for very long term demand in one area, the ABA may limit its ability to meet

⁵ See for example the submission dated January 1994 and supporting appendices from commercial television operator RTS 5A Riverland in response to the ABA's request for submissions on licence area planning for the Riverland area of South Australia.

more immediate demand in another. Similarly, it may be wasteful of spectrum - and unlikely to further the objects of the Act - to make more services available of a type than are ever likely to be used.

Section 23 also lists a number of matters that the ABA 'is to have regard to' when performing its functions under Part 3 of the Act.

Finally, the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*, requires the ABA to take into account the licence areas referred to in subsection 8(1) of that Act in preparing a licence area plan under s.26 of the *Broadcasting Services Act 1992*.

S.8(1) states as follows:

Subject to any action taken under the new Act and to section 15, a licence to which subsection 5(1) applies has as its licence area the area that was the service area of the former licence under the Broadcasting Act immediately before the commencement of this Act.

CHAPTER 2- DEVELOPMENT OF DRAFT RADIO LICENCE AREA PLANS FOR SYDNEY, GOSFORD, KATOOMBA AND LITHGOW

Under section 27 of the Act, the ABA must undertake wide public consultation in performing its three stage planning process. In preparing the draft licence area plans for Sydney, Gosford, Katoomba and proposed variation to the LAP for Lithgow, the statutory obligation of wide public consultation was performed in the following way.

GENERAL PUBLIC CONSULTATION

On 7 December 1992, the ABA made an initial call for public submissions to determine the priorities for planning broadcasting services throughout Australia. The ABA then published an exposure draft of planning priorities and made a further call for public comment with the release of the draft on 2 May 1993. The determination of planning priorities was released on 30 September 1993.

On 2 May 1993, an invitation was made for public comment on an exposure draft of the frequency allotment plan (FAP). A further invitation to comment was issued with the release of a second exposure draft on 15 December 1993.

Summaries of submissions received in the first and second round were provided to all submitters. In addition, these summaries were widely circulated to licensees, broadcasting industry groups, local government bodies and parliamentarians. Microfiche copies of complete submissions were also made available for public inspection.

Planning priority and frequency allotment plan submissions relevant to Sydney, Gosford, Katoomba and Lithgow were taken into account in the preparation of the draft licence area plans.

CONSULTATION IN SYDNEY, GOSFORD, KATOOMBA AND LITHGOW

The 'Technical Options Discussion Paper' (about the availability of high power FM frequencies for radio in Sydney) was circulated by the ABA for comment in December 1996.

An Information Booklet for 'Planning of Broadcasting Services in Sydney, Katoomba and Gosford' was published by the ABA in February 1998. Consultation meetings were held in the respective regions, as well as Lithgow, in March/April 1998.

Notices inviting submissions were placed in local and national newspapers in May 1998.

All advice and submissions received and all assumptions made by the ABA in preparing the draft licence area plans are available for public inspection.

**CIRCULATION OF REASONS FOR PRELIMINARY VIEWS DISCUSSION
PAPER AND DRAFT LAPS/VARIATION TO FAP**

The reasons for preliminary views discussion paper, draft LAPs and proposed variations to the FAP have been placed on the ABA Web site (www.aba.gov.au) and will be made available free of charge to those who request copies.

Notices inviting submissions commenting on the draft LAPs and draft variation to the FAP have been placed in local and national newspapers.

CHAPTER 3 - RECORD OF ADVICE AND ASSUMPTIONS

Section 27 also requires the ABA to keep a record of, and make available for public inspection, all advice received by the ABA, and all assumptions made by the ABA, in performing its functions under sections 24, 25 and 26 (s.27(2)).

The purpose of the record to be kept under s.27(2) is to facilitate the 'wide public consultation' referred to in sub-section (1). This is confirmed in the Explanatory Memorandum, which notes with respect to sub-section (2):

'This is one of the many provisions in this Act which are intended to make the ABA accountable in the exercise of its powers and performance of its functions.'

The combined effect of 'advice' and 'assumption' is to encompass a broad range of sources of information available to the ABA for the purpose of performing its functions under the planning provisions. The overriding purpose of s.27 is to facilitate public understanding of and participation in the planning process.

RECORD OF ADVICE

The ABA has not treated the word 'advice' as limited to formal or professional opinion, although it includes such. The Macquarie Dictionary defines 'advice' among other things as:

'a communication, especially from a distance, containing information'

The Australian Concise Oxford Dictionary expresses this meaning without the reference to distance, as:

'information given, news'

The Index of Documents which comprise the record of advice received by the ABA in preparation of the draft licence area plans and variation of frequency allotment plan for Sydney, Katoomba, Lithgow and Gosford is at Appendix 2.

RECORD OF ASSUMPTIONS

An assumption in the context of sub-section 27(2) bears the meaning set out in the Macquarie Dictionary:

'something taken for granted; a supposition'

The fact that the ABA is permitted to make such assumptions in performing its planning functions is confirmed in section 169 of the Broadcasting Services Act, which provides:

'In making a decision on any matter, the ABA is not limited to a consideration of material made available through an investigation or hearing conducted in relation to the matter, but may take into account such other matters as it considers relevant, including the knowledge and experience of the members.'

The following excerpts are from legal advice prepared by JJ Spigelman QC and NJ Williams of counsel on 7 November 1994 and included in the record of advice:

‘The word “assumption” obviously does not extend so far as to encompass the whole of the “knowledge and experience” of the members of the Authority. What s27(2) does is to impose an obligation to formally record the matters, which the Authority either takes for granted or supposes to be true, on the basis of the Authority’s collective “knowledge and experience”.

‘There are matters of such common knowledge that persons involved in the public consultation process would be expected to be aware of them. Accordingly the purpose of the maintenance of a record for public inspection would not be served by requiring such matters to be recorded.

‘The ABA should keep a record of any supposition it makes that may have a practical impact on the exercise of the planning powers unless the supposition is so obvious that one could assume that any participant in the public consultation process should be aware that the assumption would be made.’

A record of assumptions used by the ABA in preparation of the draft licence area plans and variation to the frequency allotment plan for Sydney, Gosford, Katoomba and Lithgow is at Appendix 3.

PRELIMINARY VIEW 1 - NATIONAL RADIO - SYDNEY

The ABA proposes channel capacity be reserved for all existing national radio services in Sydney NSW in accordance with the Minister's notification, as follows:

- **The existing national AM radio services continue to operate on AM 576 kHz, 630 kHz, 702 kHz and 1107 kHz with a maximum CMF (CMF) of 2.69 kV, 995 V, 311 kV and 920 V respectively.**
- **The existing national FM radio services continue to operate from Gore Hill on FM 92.9 MHz, 97.7 MHz and 105.7 MHz. The maximum ERP (ERP) be increased from 60 kW to 150 kW, and the maximum antenna height be increased from 130 metres to 170 metres.**

FINDINGS OF FACT AND REASONS

In performing its functions under sections 26 and 31 of the *Broadcasting Services Act 1992* (the Act), the ABA is required to promote the objects of the Act including the economic and efficient use of the spectrum.

As discussed in the 'Legislative Framework' (Chapter 1), the ABA can promote the object at paragraph 3 (a) of the Act⁶ by making available a mix of different types of broadcasting services in an area.

In forming this preliminary view, the ABA first had regard to a Ministerial notification under s.31. The ABA found that:

Finding 1.1 On 21 November 1997, the Minister notified the ABA that capacity in the broadcasting services bands is to be reserved for seven existing national radio services in Sydney NSW.

Section 23 (g) requires the ABA to have regard to such other matters as the ABA considers relevant.

The Minister's notice of 21 November 1997 was published in the *Commonwealth of Australia Gazette* No. GN 48 dated 3 December 1997. This notice specifies the spectrum capacity required for national services in Sydney.

In a letter dated 25 August 1999, Senator the Hon Richard Alston, Minister for Communications, Information Technology and the Arts, advised that he was aware that there was shortage of available spectrum in the Sydney region. The Minister further advised that he was considering notifying the ABA to reserve additional spectrum capacity in the Richmond/Windsor region but, before making a decision, asked the ABA to undertake public consultation and inform him on the following matters:

⁶ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

- a) the level of community dissatisfaction with the reception of national services;
- b) relative community demand for improved reception of national services *vis a vis* new services.

Existing national radio services

The ABA had regard to existing national radio broadcasting services in Sydney NSW. The ABA found that:

Finding 1.2 Seven national radio services operate in Sydney.

The national radio services operate as follows:

| Area Served | Callsign | Frequency | Maximum ERP (FM) CMF (AM) | Nominal Location |
|-------------|----------|-----------|---------------------------------|-------------------------|
| Sydney | 2RN | 576 kHz | 2.69 kW (50 kW) | Liverpool |
| | 2PB | 630 kHz | 995 V (10 kW) | Liverpool |
| | 2BL | 702 kHz | 3.11 kW (50 kW) | Liverpool |
| | 2EA | 1107 kHz | 920 V (5 kW) | Salt Marsh Homebush Bay |
| | 2ABCFM | 92.9 MHz | 60 kW | ABC Studios Gore Hill |
| | 2SBS | 97.7 MHz | 60 kW | ABC Studios Gore Hill |
| | 2JJJ | 105.7 MHz | 60 kW | ABC Studios Gore Hill |

Section 23 (c) of the Act requires the ABA to have regard to the number of existing broadcasting services within a licence area (see Table 4 in Preliminary View 3).

Reception difficulties with existing services

The ABA received submissions from the Australian Broadcasting Corporation (ABC), the Special Broadcasting Service (SBS) and the National Transmission Agency⁷ (NTA). These three organisations have identified coverage difficulties with their FM services, particularly in the Richmond/Windsor, Penrith and Central Coast areas and have suggested power increases or additional transmitter services as a means of improving reception in these areas. The ABA considered the options of power increases or additional transmitters to address the national FM services reception problems. The ABA found:

Finding 1.3 An increase in power for the three national FM services (ABCFM, 2JJJ and SBSFM) will best suit the needs of the national broadcasters and is likely to alleviate most of the reception difficulties.

⁷ The NTA has been purchased and is now known as NTL Australia Pty Ltd.

Section 23 (e) of the Act requires the ABA to have regard to technical restraints relating to delivery and reception of broadcasting services in the Sydney licence area and neighbouring licence areas. The information provided in the submissions from the ABC, SBS and the NTA is discussed below.

In response to the ABA's call for submissions to the Sydney draft LAP in May 1998, the ABC in its submission dated 26 June 1998, responded on several issues including reception problems for ABC radio services, current technical specifications and previous ABC submissions.

Reception problems for ABC radio services

The ABC states that there are reception problems with its ABC Classic FM and Triple J services at Gore Hill due to the use of the SBS FM antenna for these transmissions. The ABC advised in its submission that the three services now operate on a reduced antenna height of 30 metres. This change in operating conditions has caused reception problems in many areas of Sydney, notably in the Northern Beaches, North West, South West, Eastern Suburbs, Inner West and North Sydney (particularly in the lower North Shore). The ABC stated:

The ABC is seeking restoration of ABC Classic FM and Triple J to the original height on the tower as soon as possible to restore the service in line with the apparatus licence.

The ABA believes an upgrade of all the national ABC and SBS FM radio services in Sydney to ensure operation at the licensed technical operating conditions would improve reception of these services. The ABA however, is not responsible for the establishment or maintenance of any (including national) broadcasting facilities. The ABC will need to seek advice from NTL Australia Pty Ltd (NTL) with regard to implementing this proposed upgrade.

Current Specification

The ABC indicated that it believes that the maximum ERP for the ABC Classic FM and Triple J services should be increased to match that of the commercial stations in the Gore Hill triangle.

The ABA notes that although the commercial services appear to have a greater maximum ERP than the national services, this is not the case over all of the sectors of the radiation pattern. The commercial services have a 25 kW restriction towards Gosford and Wollongong, and a 55 kW restriction towards Katoomba. These restrictions would require the ERP of the national services to be reduced over these sectors. The current apparatus licences for the national FM services in Sydney allow for 60 kW over all sectors (ie Omni-directional).

The ABA therefore proposes a directional radiation pattern with an increase in maximum ERP to 150 kW in all directions, except in the 15°T-205°T sector, for the national services, which should improve the reception in those areas indicated by the ABC.

The ABC has pointed out that the ABA's summary of its submission to *the Sydney High Power FM Options Discussion Paper* (circulated to interested parties in December 1996) was incorrect. The ABC's position to that paper was:

....the proposed frequencies do not appear to pose interference problems for ABC radio services. However a more detailed interference analysis is needed before conclusions are drawn.

National Transmission Agency Submission

The National Transmission Agency (NTA) in its submission dated 15 June 1998, advised that its theoretical studies and limited field results support the ABC concerns about the coverage of its Classic FM and Triple J services in parts of Sydney. To rectify the reception problems:

- the NTA considered the possibility of upgrading the facilities at Gore Hill to operate at a similar power to the existing commercial licensees. The NTA believes this would improve the coverage in the Richmond/Windsor and Penrith areas while coverage in the Central Coast area would remain poor.
- The NTA also recommended that additional transmitters at Windsor be considered as an option if the Gore Hill transmissions could not resolve reception difficulties.

The NTA is also mindful of public concerns about high power transmissions being radiated from the Artarmon Triangle, consequently, lower power infill translators may provide a more acceptable solution.

- The NTA further suggested that if the existing national frequencies (FM 92.1 MHz, 97.7 MHz and 105.7 MHz) cannot increase in ERP, the frequencies 94.5 MHz and 96.9 MHz be considered for allocation to the national services.

The NTA has indicated that incremental test transmissions as suggested by the ABA in the Information Booklet are not a practical proposition, and could not be achieved within the ABA's desired timeframe.

The ABA is open to any suggestions the ABC and SBS may have in relation to testing the frequencies up to the specified maximum ERP. The ABA also acknowledges that the existing national facilities are not capable of achieving any more power and the former NTA was considering upgrading the facilities. However, the ABA re-iterates that it is now the responsibility of NTL to improve facilities and the responsibility of the ABC and SBS to ensure that their services do not cause any interference to other broadcasting or radiocommunications services.

The ABA considers the upgrade of the existing national FM services to be the most suitable solution in terms of promoting the economic and efficient use of spectrum.

SBS Submission

The Special Broadcasting Service (SBS), in a submission dated 14 June 1998, stated that although its FM service is currently not operating at its maximum ERP the ABA should not

change its technical specifications as it hopes to rectify the situation in the future. SBS has also requested that the ERP of the SBSFM service be increased to match that of the commercial stations broadcasting from the Gore Hill triangle.

As indicated above in consideration of the ABC submission, the ABA believes an upgrade to the National SBS FM radio service facility at Gore Hill would improve reception throughout the Sydney area.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on national radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions;
- ABA's Legislative Framework; and
- Ministerial Notification of Reservation.

SUMMARY OF FINDINGS

- On 21 November 1997, the Minister notified the ABA that capacity in the broadcasting services bands is to be reserved for seven existing national radio services in Sydney NSW.
- Seven national radio services operate in Sydney.
- An increase in power for the three national FM services (ABCFM, 2JJJ and SBSFM) will best suit the needs of the national broadcasters and is likely to alleviate most of the reception difficulties.

CONCLUSION

Having regard to all of the above matters, the ABA believes that increasing the power of the existing national FM services is likely to promote the object of the Act at paragraph 3 (a) and the economic and efficient use of spectrum. That is, continuing to make capacity available for the existing national services and increasing the maximum ERP and antenna heights of the FM services to improve their coverage means that Sydney listeners will continue to have a diverse range of national services on offer and those in poor coverage areas (in relation to the FM services) should have improved reception.

However, as indicated above, the Minister has asked the ABA to inform him on the following matters:

- a) the level of community dissatisfaction with the reception of national services;
- b) relative community demand for improved reception of national services *vis a vis* new services.

The ABA is therefore seeking comment on this issue.

PRELIMINARY VIEW 2 - EXISTING COMMERCIAL RADIO - SYDNEY

In order to improve reception of the Sydney AM commercial radio services (2UE, 2SM, 2GB, 2CH and 2KY) during the day, the technical specifications for these services are proposed to be changed to permit day/night switching. The ABA does not propose to increase the night-time transmission power for the above services. This change will only be permitted after the Sydney Olympics. These services are proposed to operate as follows:

- 2GB to operate on 873 kHz from Homebush Bay, with a maximum CMF (CMF) of 1350 V (day) / 955 V (night), which is equivalent to a transmission power of 10 kW day / 5 kW night respectively (Omnidirectional).
- 2UE to operate on 954 kHz from Homebush Bay, with a maximum CMF of 1350 V (day) / 955 V (night), which is equivalent to a transmission power of 10 kW day / 5 kW night respectively (Omnidirectional).
- 2KY to operate on 1017 kHz from Homebush, with a maximum CMF of 1250 V day/885 V night, which is equivalent to a transmission power of 10 kW day / 5 kW night (Omnidirectional).
- 2CH to operate on 1170 kHz from Salt Marsh, Homebush Bay, with a maximum CMF of 1300 V day / 920 V night, which is equivalent to a transmission power of 10 kW day / 5 kW night (Omnidirectional).
- 2SM to operate on 1269 kHz from Homebush Abattoirs, Homebush, with a maximum CMF of 1350 V day / 955 V night, which is equivalent to a transmission power of 10 kW day / 5 kW night (Omnidirectional)

The ABA proposes that the existing FM commercial radio services (2UUS, 2DAY, 2MMM and 2WFM) continue to operate as follows:

- 2UUS to operate on 101.7 MHz from TCN-9 Television Tower, Artarmon Road, Willoughby, with a maximum ERP of 150 kW (Directional).
- 2DAY to operate on 104.1 MHz from Ch 10 Tower, Artarmon, with a maximum ERP of 150 kW (Directional).
- 2MMM to operate on 104.9 MHz from Ch 10 Tower, Artarmon, with a maximum ERP of 150 kW (Directional).
- 2WFM to operate on 106.5 MHz from Ch 10 Tower, Artarmon, with a maximum ERP of 150 kW (Directional).

The ABA proposes the existing Sydney commercial AM and FM licence areas be redefined using 1996 Census boundaries, but otherwise remain unchanged.

FINDINGS OF FACT AND REASONS

The ABA accepts that most of the AM commercial radio services are currently experiencing reception problems within Sydney and believes that the reception problems may be resolved if the operating powers are increased. The ABA believes this preliminary view is likely to promote the object of the Act at paragraph 3 (a)⁸, including the economic and efficient use of spectrum. The 'Legislative Framework' (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

CHANNEL CAPACITY

In performing functions under Part 3 of the Act, the ABA is to promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum, and is to have regard to the planning criteria under section 23. Section 23 (e) requires the ABA to have regard to technical restraints relating to the delivery or reception of broadcasting services.

In reaching this view, the ABA had regard to the following finding:

Finding 2.1 With the exception of 2KY, the licensees of the existing AM commercial radio services (2UE, 2GB, 2CH and 2SM), are interested in increasing their maximum transmission power during the daytime.

Submissions Received

The following submissions were received from Macquarie Radio Network (on behalf of 2CH and 2GB) ('Macquarie'), Radio 2UE Sydney Pty Ltd (licensee of 2UE), Radio 2SM Pty Ltd (licensee of 2SM) and 2KY Broadcasters Pty Ltd (licensee of 2KY) requesting variations to the technical operating conditions of their services.

- In a submission dated 2 July 1998, Macquarie submitted a request for an increase in 2CH's and 2GB's ERP. Macquarie stated that both stations are seeking an increase in power in order to more effectively cover their service area in the face of increased man-made noise and areas of bad reception.

Macquarie also stated that the power increase sought is for both a night-time service as well as a day/night switching facility. Macquarie advised that it was undertaking further analysis and investigation to assess the extent to which the power will be able to be increased in both circumstances. The ABA has not received a further submission with the additional information to date.

- In June 1998, 2UE requested a variation in the technical operating conditions of 2UE by increasing daytime power to 20 kW, while retaining night-time power of 5 kW.

⁸ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

2UE stated that metropolitan AM stations are finding it increasingly difficult to cover their service areas with their existing transmitters because of increasing levels of man made electrical noise.

2UE also stated that urban development is increasing the physical area covered by the capital cities and the populations now spread well beyond the areas which the AM stations were originally designed to cover. The signal strength in some of these extended population centres is inadequate to cope with the levels of interference and noise.

- 2SM, in a submission dated 24 June 1998, presented three options to address the on-going coverage problems that 2SM has suffered for many years. A licence area survey report conducted by Comsys was attached to the submission from 2SM. The report stated that the existing technical operating conditions are inadequate and proposed three possible solutions to address the on-going coverage problems suffered by 2SM. The options presented in 2SM's submission are listed below:
 1. 2SM hands back its AM licence, and is given a commercial FM licence in exchange with technical operation conditions identical to 2DAY/FM.
 2. Allow an increase in transmitting power to a level of 20 kW daytime and 10 kW night power levels or higher, thus giving increased field strength in the service area.
 3. Issue FM repeater/translator licences in at least seven (7) key locations to allow FM coverage of the 'problem' areas in the 2SM service area.
- In a submission dated 26 May 1998, 2KY advised that it opposes a proposal to allow for the increase of day time power at Sydney transmitter sites. 2KY also stated that:

With fortuitous reception in the Sydney Basin broadcasts are currently received well beyond the licence area of most licences. No good purpose will result from any change to the existing allocations.

To date, the ABA hasn't received any proposals from the existing commercial FM radio services providers to change the technical operating conditions of their services.

The ABA is also conscious that 2SM and MRN requested power increase's at night-time as well as the daytime power increase. A broadcasting interference assessment conducted at 10 kW indicates the potential for interference to other broadcasting services. The results are outlined in the Technical Restraints at Appendix 1. As a result, the ABA is proposing day/night switching.

The ABA acknowledges that 2KY doesn't support the proposal of day-night switching. However, taking into account that the ABA is considering changes to the technical specifications for the other Sydney commercial AM radio services, it would be consistent to offer 2KY a similar option for day-night switching.

Power Requirements

The ABA then considered the power levels of the existing AM radio broadcasting services in Sydney and found:

Finding 2.2 The existing commercial AM radio services operate at a maximum CMF ranging from 885 V to 955 V (transmitter power of 5 kW).

The ABA is required to have regard to existing services within a licence area (s.23 (c)) of the Act.

The AM commercial radio frequencies indicated in finding 2.2 have already been licensed under the former *Broadcasting Services Act 1942*. Evidence of this can be found in the ABA publication *entitled Radio and Television Broadcasting Stations 1999*, the ABA's public website (www.aba.gov.au) and more detailed information in the ABA stations database.

Submissions Received

Submissions received for Gosford and Wollongong would suggest that the Sydney commercial AM services already have a reception overspill into adjacent markets.

- In a submission dated 31 March 1999, Gilbert and Tobin lawyers representing RG Capital Pty Limited (licensee of 2GGO and 2CFM Gosford) provided an analysis of reception levels and rating figures from AC Nielsen suggesting that the Sydney national and commercial radio services can be well received within Gosford.
- In a submission dated 21 April 1999, Wave Broadcasters Pty Ltd (licensee of 2UUL Wollongong) expressed concern regarding the financial viability of Wollongong commercial stations given the high level of fortuitous listening to Sydney radio services.

Discussion

The ABA is required to have regard to technical restraints relating to the delivery or reception of broadcasting services (s23(e)) of the Act.

In considering current reception problems, and reception overspill conditions, the ABA found:

Finding 2.3 An increase in daytime power for the existing commercial AM services is likely to resolve the current reception problems.

Finding 2.4 Overspill into adjacent licence areas is minimal.

The ABA acknowledges that Sydney's population is increasing and expanding. With an increase in population density, it can be assumed that man-made electrical noise also proportionally increases.

Consequently, a broadcasting interference assessment at 10 kW was conducted. As a result the ABA does not consider a permanent (day and night) power increase to the commercial AM radio services of 2UE, 2SM, 2GB, 2CH and 2KY to be a viable solution to the reception difficulties reported by them. The ABA's assessment of current operating conditions suggests that overspill of services outside their licence areas is minimal and indicates reception difficulties of existing services within Sydney is likely with current operating conditions.

Given the comments made in relation to existing overspill conditions and the night time interference potential to other AM services as outlined in the Technical Restraints at Appendix 1, the ABA proposes day-night switching, subject to international agreement, as a possible solution. However, the ABA is seeking detailed assessment of current overspill from Sydney services into neighbouring licence areas.

Licence Areas

The ABA is required by s.23 (a) and (b) of the Act to have regard to demographics and social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally. The ABA is also required to take account of technical restraints relating to delivery or reception of broadcasting services (s.23 (e)).

The service areas of the existing commercial radio services were determined by the then Minister for Transport and Communications during 1987 and continued as licence areas by s.8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

In determining the licence areas, the Minister took into account the following factors: social and economic links between the major urban centres in the area; governmental functions and responsibilities; topography; signal coverage and possible effects on the commercial balance between the stations and other stations claiming to serve the community or communities in the area.

Relevantly, the ABA considered the licence areas of the existing services and found:

Finding 2.5 The licence areas of the existing commercial AM and FM radio services in Sydney, are appropriate.

In general, the ABA assumes⁹ that the licence areas of existing commercial and community broadcasting services, using the broadcasting services bands, represent accepted media markets and the ABA will not vary them without good reason, other than to update them where boundaries are based on outdated Census descriptions. No licensee has asked for a variation of the existing licence areas. Therefore, the ABA proposes to update the licence areas to 1996 Census descriptions.

⁹ The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on existing commercial radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- With the exception of 2KY, the licensees of the existing AM commercial radio services (2UE, 2GB, 2CH and 2SM), are interested in increasing their maximum transmission power during the daytime.
- The existing commercial AM radio services operate at a maximum CMF ranging from 885 V to 955 V (transmitter power of 5 kW).
- An increase in daytime power for the existing commercial AM services is likely to resolve the current reception problems.
- Overspill into adjacent licence areas is minimal.
- The licence areas of the existing commercial AM and FM radio services in Sydney, are appropriate.

CONCLUSION

Having considered the proposals to rectify reception problems of the existing commercial AM radio broadcasting services, the ABA is satisfied that these reception problems can be resolved by increasing the daytime maximum transmission power. This will make the existing commercial AM radio services more accessible to listeners in Sydney and will promote the availability of a more diverse range of services as per the objects of the Act.

The ABA notes that it has not received submissions regarding changes to the technical operating conditions of the existing Sydney commercial FM radio services. The ABA proposes to continue to allow these services to operate unchanged.

Although the ABA proposes day-night switching as a solution to resolve reception difficulties within Sydney, the ABA seeks further evidence from both the Sydney commercial AM licensees and neighbouring licensees regarding the existing reception levels outside the Sydney commercial licence area.

PRELIMINARY VIEW 3 – ADDITIONAL WIDE COVERAGE COMMERCIAL RADIO - SYDNEY

The ABA proposes to make two additional commercial radio services available in Sydney. The services are proposed to operate on 96.9 MHz and 95.3 MHz from the Channel 10 Tower, Artarmon, each with a maximum ERP of 150 kW.

The ABA proposes to allocate the second additional commercial radio service (95.3 MHz) 4 years after the date of publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Sydney radio LAP has been determined.

Allocation of the second licence (95.3 MHz) is dependent on 2ICE Lithgow making the transition from its existing frequency to a new frequency.

The licence areas of the additional services are proposed to be identical to that of the existing commercial radio services, against 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

The ABA believes that preliminary view 3 is likely to promote the objects of the Act at paragraphs 3 (a)¹⁰, (b)¹¹ and (c)¹², including the economic and efficient use of spectrum. This may also promote the objects at paragraphs 3(f)¹³ and (g)¹⁴. The 'Legislative Framework' (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In developing preliminary view 3, the ABA had regard to the objects of the Act, the local circumstances of the Sydney commercial radio market, the likely impact of other preliminary views in the LAP, and other relevant matters under s.23(a) - (g). An account of this process of consideration follows.

In forming its preliminary view on whether or not additional commercial radio broadcasting services should be made available in Sydney, the ABA considered the following relevant issues:

- the demand for, and interest in the provision of, new services (s.23 (c) and (g));

¹⁰ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

¹¹ To provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs.

¹² To encourage diversity in control of the more influential broadcasting services.

¹³ To promote the provision of high quality and innovative programming by providers of broadcasting services.

¹⁴ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

- the channel capacity in the Sydney market (s.3(a), s.3 (b) and s.23 (e));
- other uses of the spectrum (s.23(f));
- demographic, social and economic characteristics of the licence area (s.23 (a) & (b));
- diversity (s.3 (a), s.3 (b), s.23 (c) and s.23 (g));
- whether if additional commercial radio services were made available in Sydney it is likely that an independent (competing) operator would offer coverage of matters of public interest and appropriate coverage of matters of local significance (s.3 (b) and s.3 (g)); and
- whether if additional commercial radio services were made available it is likely that an independent (competing) operator would offer high quality and innovative programming (s. 3(b) and s.3(f)).

DEMAND FOR, AND INTEREST IN PROVISION OF, NEW SERVICES (S.23 (C) AND (G))

In considering whether or not to make additional commercial radio services available in Sydney, the ABA first had regard to any expressed interest in providing new commercial radio services in the Sydney market. The ABA found:

Finding 3.1 There is considerable interest in the acquisition of further commercial FM radio licences in Sydney.

Below is a table showing who to date has expressed an interest in establishing additional commercial radio services in Sydney.

| SUBMITTER | DATE OF SUBMISSION | PROPOSAL |
|--|---------------------------|---|
| 2UE Sydney P/L | 10 June 1998 | Is interested in acquiring another licence in Sydney and believes that the ABA should provide for the maximum number of commercial radio broadcasting services possible in the Sydney LAP. |
| Blake Dawson Waldron obo Telecasters Australia Ltd | 12 June 1998 | Is interested in providing an additional FM commercial radio service in Sydney. Telecasters, based on its broadcasting experience, believes it is strongly placed to assess the level of likely demand for new commercial radio services in Sydney. To this end Telecasters is of the opinion that Sydney is heavily underserved in relation to commercial FM radio services. |
| RG Capital | 29 June 1998 | Is interested in providing an FM service in Sydney and believes there be the opportunity for at least two additional duopoly services to be |

| SUBMITTER | DATE OF SUBMISSION | PROPOSAL |
|--|-------------------------|--|
| | | established as high powered commercial FM services and the opportunity for some existing AM operators to acquire a high powered FM service. |
| Mallesons Stephens Jacques obo DMG Radio | 15 June 1998 | DMG intends to bid for two new commercial FM licences at the forthcoming auction for Sydney. |
| Lynton Properties | 26 March & 14 June 1998 | Requests that the AM frequency 1476 kHz at Penrith be used for a commercial service. Similarly, Lynton Properties also requests that the AM frequencies 1386 kHz and 1539 kHz be made available for commercial radio services. Lynton Properties has confirmed that it is interested in establishing a new AM commercial radio service in Sydney. |
| Macarthur South West Broadcasting P/L | 12 June 1998 | Is interested in establishing a commercial FM or AM radio service to serve the Macarthur South East Region (Campbelltown). |
| Martin Broadcasting Services P/L | 6 May 1998 | This company has two overseas investors interested in investing in the Sydney commercial FM radio market. |
| Radio One | 4 May 1998 | Is interested in establishing either a commercial or community AM radio service with a regular multicultural format, that is, have a large degree of local-interest content, with added highly contemporary content from overseas and they are to be broadcast 95% in English. |
| Republic Communications P/L | 15 June 1998 | Mr Ian Rodney Grace former CEO of Triple M Broadcasting and Macquarie Radio Network in Sydney, now a Radio Consultant operating overseas, advises that he is aware of a number of international clients who have expressed interest regarding the availability of new commercial radio licences in Sydney, Melbourne and Brisbane. (AM or FM not specified). |
| Radio Lebanon | 10 June 1998 | Radio Lebanon is interested in providing a commercial radio service to cover the south western suburbs of Sydney and expects to be providing a service to cover the Lebanese community and all the Arabic population in general. (AM or FM not specified). |
| Jagdish Lodhia | 15 August 1998 | Is interested in a commercial radio frequency to cater to the local minority ethnic group, broadcasting in ethnic languages. (AM or FM not specified). |

Table 1: Expressed demand to establish additional commercial radio services in Sydney

In Sydney limited spectrum supply is a major consideration, as there are a large number (33) of existing and/or potential broadcasters interested in providing a variety of radio broadcasting services relative to the spectrum capacity the ABA has been able to identify to date.

In considering the competing channel requirements the ABA has chosen to place heavy reliance on the interest its consultation process has disclosed from potential service providers in establishing additional radio services in Sydney, while weighing up the merits of different broadcasting types.

While the ABA has placed some weight on the intentions of aspirant service providers, it considers interest in provision of new services can be inferred from several other factors. In its process of consideration the ABA has had regard to such factors as: the success of recent commercial radio allocation processes; media reports of possible costs of obtaining a commercial radio licence in the Sydney market; demographic and industry growth within the Sydney market.

The ABA has also had regard to indirect evidence of potential popular demand for new radio services, including the existence of unmet preferences within the market and the existence of formats in other markets not yet used or tried in the Sydney market. Some of these factors are discussed here and others are discussed later in the document.

In considering the recent costs of commercial radio licences allocated in regional licences, the following table lists those markets and costs.

| Market | Cost |
|---------------|-------------|
| Albury | \$2 325 000 |
| Dubbo | \$1 600 000 |
| Ballarat | \$800 000 |
| Shepparton | \$1 250 000 |
| Cairns | \$550 000 |
| Cairns | \$500 000 |
| Mackay | \$400 000 |
| Mackay | \$325 000 |

| Market | Cost |
|---------------------------|-------------|
| Bundaberg | \$600 000 |
| Townsville | \$500 000 |
| Townsville | \$500 000 |
| Orange | \$1 500 000 |
| Bendigo | \$1 220 000 |
| Rockhampton/ Gladstone | \$525 000 |
| Rockhampton/ Gladstone | \$575 000 |
| Maryborough | \$700 000 |

| Market | Cost |
|-----------------------|-------------|
| Coffs Harbour | \$100 000 |
| Kempsey | \$200 000 |
| Toowoomba/ Warwick | \$800 000 |

Table 2: Regional commercial licence prices

Licences are allocated via an auction process with the reserve price of licences being \$100,000. With the exception of Coffs Harbour and Kempsey, each of the licences allocated in the past two years has been sold well above the reserve price.

In addition to its knowledge of the cost of recently allocated regional commercial radio licences, the ABA has considered media reports of potential prices for metropolitan commercial radio licences, particularly in the Sydney market. A recent article in the *Australian Financial Review*¹⁵ estimated costs of a new licence in Sydney to be between \$20 million to \$50 million. The ABA considers this information an indicator of the high level of interest in the provision of additional commercial radio services in the Sydney market.

In considering the submissions the ABA also found:

Finding 3.2 There is some opposition to the introduction of additional commercial radio broadcasting services in the Sydney market.

Two of the existing commercial operators in Sydney, Austereo (2DAY FM & Triple M), Australian Radio Network (2WS) and Southern Cross Broadcasting (the licensee of 6IX, 6PR and 6NOW Perth and 3AW and 3EE Melbourne) have stated in submissions that they are opposed to additional commercial radio services being made available in Sydney. Southern Cross has further stated it is opposed to additional commercial radio licences being made available in Sydney or in other major licence areas. Their comments in relation to the economic impact of making additional commercial radio services available in Sydney, the effect on effective competition and local coverage are discussed under findings 3.16 and 3.17. The remainder of the argument from Southern Cross Broadcasting about why additional commercial radio licences should not be offered in Sydney or in major licence areas is discussed below.

Southern Cross Broadcasting in its submission received on 7 July 1998 details the successes and failures of AM radio services both economically and their popularity with audiences in comparison to FM stations. The most successful talkback stations are those with talkback formats using high quality talent as the drawing card. Southern Cross Broadcasting states:

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

Southern Cross Broadcasting points out that in the current allocation process for commercial licences an existing AM licensee seeking to effect a conversion to FM would be required to compete with all other existing licensees and new entrants for the licence.

¹⁵ Luke Collins, *Radio Wars: FMs refuse to share the pie*, *Australian Financial Review*, Thursday 29 July 1999.

Southern Cross Broadcasting proposes that a new limited licence allocation process be introduced which would facilitate AM to FM conversions. In its submission Southern Cross Broadcasting further details how this allocation process would work,

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.

Southern Cross Broadcasting believes that there is no “substantial popular demand” for new commercial radio stations in metropolitan markets. In addition Southern Cross Broadcasters states that listener satisfaction with commercial radio in Australia is high and that there is no advertiser demand for new commercial radio services.

CHANNEL CAPACITY (S.23 (E))

The ABA had regard to the channel capacity for Sydney as outlined in the Technical Restraints at Appendix 1.

As indicated in Preliminary View 1, the ABA, in accordance with the Minister’s s.31 notification, proposes to reserve capacity for the existing national AM and FM radio services at Sydney. The ABA also proposes to increase the maximum ERP (ERP) and increase the antenna heights of the existing national FM radio services. Below is a summary of channel capacity that remains available within the Sydney market for purposes other than national radio services.

Power Requirements

In considering whether to plan additional commercial broadcasting services, one of the matters the ABA has particular regard to is whether or not any additional service would be likely to offer wide coverage comparable to existing services. The ABA believes object 3(a) of the Act and the ‘economic and efficient’ use of spectrum is best served by making comparable coverage services available rather than low powered services addressing only a fraction of the population served by the existing licensees.

The ABA considered the power levels of the existing radio broadcasting services in Sydney and found:

Finding 3.3 The existing high powered commercial AM radio services operate at a maximum CMF ranging from 885 V to 955 V (transmitter power of 5 kW).

Finding 3.4 The existing high powered commercial FM radio services operate at a maximum ERP of 150 kW.

A table of all existing services and technical characteristics is at Appendix 1, Technical Restraints.

The ABA then identified remaining channel capacity that may be suitable for commercial use, as outlined below.

| General Area Served | Frequency | Max ERP |
|---------------------|------------------------|---------|
| Sydney | 1386 kHz | 5 kW |
| Sydney | 94.5 MHz | 150 kW |
| Sydney | 95.3 MHz | 150 kW |
| Sydney | 96.9 MHz ¹⁶ | 150 kW |
| Sydney | 92.1 MHz | 15 kW |
| Sydney | 93.7 MHz | 50 kW |

Table 3: Frequencies available in Sydney

The ABA then considered the power requirements of existing commercial radio broadcasting services, to decide whether the capacity it has identified is appropriate for commercial radio services. The ABA found that:

- Finding 3.5* The available high powered 5 kW service on the AM band would not provide comparable coverage to the existing commercial AM services in Sydney and is therefore not suitable for commercial use.

- Finding 3.6* The three available high powered (150 kW) services on the FM band would provide comparable coverage to the existing commercial FM services in Sydney and are therefore suitable for commercial use.

- Finding 3.7* The remaining capacity on the FM band (15 kW and 50 kW) would not provide comparable coverage to the existing commercial FM services in Sydney and are therefore not suitable for commercial use.

The ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in Sydney (s.23(c) and (e)).

Discussion

The 5 kW AM frequency, formerly used by the 2EA Sydney national SBS service, has a directional pattern imposed to protect other broadcasting services. The directional pattern thus limits reception levels in some parts of Sydney, and therefore does not match the coverage of the existing AM commercial services. For further details about the engineering assessment please refer to the Technical Restraints at Appendix 1.

¹⁶ This frequency is available as a high power frequency in Sydney dependent on the existing commercial radio service 2ICE Lithgow changing frequency, as proposed in Preliminary View 14.

The ABA also notes that the existing AM services in Sydney (with the exception of 2KY) have all requested power increases due to inadequate coverage of their licence areas. Details about this issue can be found at Preliminary View 2 and the Technical Restraints at Appendix 1.

With regard to the available FM frequencies, the ABA considered the transmitter locations and radiation pattern that would be required to provide an adequate coverage to the existing Sydney commercial radio licence area. The ABA also undertook to minimise overspill into the neighbouring commercial radio markets.

It concluded that high powered (150 kW) services would provide approximately equivalent coverage to the existing commercial FM radio broadcasting services, based on field strength predictions interpreted by ABA engineering staff.

This means that the 3 available high powered FM frequencies in Sydney have suitable power requirements for commercial radio service use, providing optimal coverage of the Sydney commercial radio licence area and minimising overspill into neighbouring markets. Refer to the Technical Restraints at Appendix 1 for further detail.

Licence Areas

In general, the ABA assumes¹⁷ that the licence areas of existing commercial and community broadcasting services, using the broadcasting services bands, represent accepted media markets and the ABA will not vary them without good reason, other than to update them where boundaries are based on outdated Census descriptions. The ABA assumes¹⁸ that additional broadcasting services within those markets, using the broadcasting services bands, should have the same licence area as existing services unless there are good reasons to the contrary. (A proposed additional commercial radio service for Campbelltown is an exception - see Preliminary View 4 for further details). Accordingly the ABA found:

Finding 3.8 The licence areas of the existing commercial radio services in Sydney are the most appropriate for any additional commercial radio services in Sydney.

The ABA is required by s.23 (a) and (b) of the Act to have regard to the demographics and social and economic characteristics within the licence area, within neighbouring licence area and within Australia generally. The ABA is also required to take account of technical restraints relating to the delivery or reception of broadcasting services (s.23 (e)).

The service areas of the existing commercial radio services were determined by the then Minister for Transport and Communications during 1987 and continued as licence areas by s.8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

¹⁷ The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

¹⁸ *ibid*

In determining the licence areas, the Minister took into account the following factors: social and economic links between the major urban centres in the area; governmental functions and responsibilities; topography; signal coverage and possible effects on the commercial balance between the stations and other stations claiming to serve the community or communities in the area. The aspirant commercial radio groups have not made any requests to cover a different licence area to that of the existing commercial services in Sydney.

Interest in comparable coverage

The ABA then considered interest in providing additional commercial services to determine whether aspirant commercial radio service providers wish to provide services of comparable coverage, serving existing licence areas. From the submissions received the ABA found:

Finding 3.9 If additional commercial radio services were made available in Sydney it is likely an independent (competing) operator would offer coverage comparable to existing services.

Section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to 'such other matters as it considers relevant'. A number of submissions from potential commercial operators were received advising that it is their intention to offer coverage comparable to existing services. These submissions are detailed below.

Submissions Received

In a submission dated 10 June 1998, Radio 2UE Sydney Pty Ltd who is interested in acquiring another commercial licence in this area made the following comment:

It is a well-documented and generally undisputed fact that under existing technical operating conditions, the reception of commercial radio services operating in Sydney in the AM mode is grossly inadequate.

In the same submission 2UE has requested an increase in the power of its existing service to improve the coverage and reception of its current service. It could be inferred from this that 2UE would wish that any new commercial services made available in Sydney would offer wide coverage.

Blake Dawson Waldron in its submission dated 12 June 1998 on behalf of Telecasters Australian Limited ('Telecasters') advised that Telecasters would offer signal coverage comparable to existing services if Newcastle Band II were cleared. In this regard Telecasters have noted that two of the four frequencies shown as available in the ABA's Information Booklet on Planning for Radio Broadcasting Services in Sydney, Katoomba and Gosford are at a power of 15 kW. Telecasters believe that with at least one of these frequencies the power limitation is a result of the Band II services in Newcastle not being cleared. Telecasters then provide further detail on the impact that offering lower powered services will have:

Given Sydney's topography, a service at these relatively low rates of power will have poor reception qualities through many of the major parts of Sydney, particularly in comparison with

other high-powered FM services. As a result the service will be revenue-constrained, because it will not be attractive to advertisers. It will therefore be limited in its ability to provide a service which is comparable in quality and production values to those of other commercial FM broadcasting licensees. In addition, the failure to reach large parts of Sydney will have the result that this service will have limited ability to target specialised formats, because these formats necessarily require reach across the entire Sydney licence area, in order to maximise the listening audience.

R G Capital Radio Pty Limited in its submission dated 29 June 1998, has stated that it believes that an additional six frequencies should be identified to allow the provision of high powered commercial FM services.

In the submission dated 15 June 1998, from Mallesons Stephens Jacques on behalf of DMG Radio Australia, DMG submit the following:

DMG agrees that the ABA should take all possible steps to ensure that the maximum ERP for all of the new commercial licences is the same as the maximum ERP for existing commercial licences on the FM band in Sydney.

OTHER USES OF THE SPECTRUM (S.23 (F))

In addition, in reaching a preliminary view on whether or not to make additional commercial radio services available in Sydney, the ABA had regard to a further finding relevant to the medium to longer term outlook for additional commercial radio services in Sydney. In having regard to s23 (f) of the Act (the demand for radiofrequency spectrum for services other than broadcasting services) the ABA found that:

Finding 3.10 It is unlikely that alternative means of delivering radio services will substantially reduce the ability of the market to sustain commercial radio broadcasting services using AM and FM spectrum in the short to medium term.

Section 23 (d) of the Act requires the ABA to have regard to developments in new technology. In addition, section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to 'such other matters, as it considers relevant'.

On 24 March 1998, the Minister for Communications, the Information Economy and the Arts, Senator the Hon Richard Alston, announced that the Government had put in place planning processes which will allow the start up of digital radio services in Australia in 2001. He said that planning will proceed on the basis that the Eureka 147 system will be used to provide digital services, operating generally in the L band but with consideration of VHF spectrum in regional areas. Existing broadcasters will share a multiplex facility, which can provide five CD quality radio services.

The Minister also announced that commercial, community and national (ABC and SBS) radio broadcasters will be able to convert to digital but will be required to transmit their programs in analog mode for a simulcasting period. He said that there will also be opportunities for new digital commercial radio services, with the number and timing of new entrants to be determined as part of the planning process.

Submissions Received

A number of submissions received commented on the impact that new technologies might have on analog broadcasting in the metropolitan markets. These submissions are detailed below with the comments from existing broadcasters in the metropolitan markets appearing first then comments from aspirant commercial radio groups following.

Austereo in its submission received on 8 July 1998, believes that the introduction of digital radio will have an enormous impact on all sectors of Australian radio, for instance:

In embarking on digital radio broadcasting Austereo anticipates that it alone will incur an initial investment of some 10 million dollars or more with recurrent additional annual facility costs of in excess of \$1.5 million, before any product development costs have even been factored in. At the same time, no commensurate revenue gains can be expected for some considerable time, possibly for some years given necessary simulcasting.

In the same submission, Austereo also mentions how such things as Digital Audio Radio by satellite, cable services and the Internet will challenge traditional radio broadcasting.

The submission from Southern Cross Broadcasting (Australia) Limited received on 7 July 1998 states that digital radio broadcasting will undoubtedly have a major impact on the radio sector and will require significant investment by licensees without the prospect of increased returns. Therefore Southern Cross Broadcasting (Australia) Limited believes that the ABA should take into consideration the impact of digital broadcasting policy before it makes decisions about new licences in the metropolitan markets. In addition Southern Cross Broadcasting (Australia) Limited submits that the ABA should take into consideration the impact of online services and the Internet when making its planning decisions for new services.

In the same submission Southern Cross Broadcasting also points out that with the advent of Digital Radio Broadcasting (DRB) the existing commercial radio industry needs to have access to the Government's DRB policies very soon and that final LAPs should not be determined until this occurs.

Given the growth trends in Internet usage and online services, Southern Cross Broadcasting is of the view that:

..... the ABA should, pursuant to Section 158 (m) of the *Broadcasting Services Act*, further inform itself and advise the Minister by public report on these technological advances and service trends in broadcasting.

The Australian Radio Network Pty Ltd (ARN) in its submission dated 29 June 1998, submits that with regard to digital broadcasting the Government's decision to prohibit new entrants in the television sector, will result in radio broadcasters being disadvantaged in relation to advertising and this will be intensified by the potential for new digital commercial radio services. ARN states further:

The radio industry faces significant digital investment with the L band nominated as the preferred band to distribute the Eureka 147 digital radio system. The propagation qualities of the L band are inferior to the VHF band and will require transmitters to be sited more closely together. More transmitters will cost operators more money and distributing programming to several DRB transmitters will represent significant ongoing costs to the radio industry.

ARN contends that new analog services cannot be planned in isolation to the introduction of digital broadcasting.

In the same submission ARN submits that the ABA is not obliged to maximise the use of spectrum but is obliged to take into account whether both new and existing services are capable of being operated for profit. ARN disputes the ABA's opinion that analog planning can be completed before the introduction of digital radio. ARN requests that the impact of digital services on analog services be reassessed.

In summing up ARN also makes the following point:

The provision of translator frequencies and the licensing of additional community and narrowcast services is the only way the ABA can guarantee to meet the objectives of the Broadcasting Services Act 1992 (BSA) and meet the requirement to ensure the efficient and economic use of the spectrum.

RG Capital Radio Pty Limited in its submission dated 29 June 1998, provides comments on the possible impact of new technology. RG Capital points to the United Kingdom and much of Europe as examples where digital radio has been operating for some twelve months and the impact on existing services has been almost zero. With regard to digital radio in Australia, RG Capital makes the following comment:

Current planning in Australia is proceeding on the basis that there will be an opportunity for existing broadcasters to seek to develop digital services commencing some time in the year 2001, however there is simply no planning for the licensing of additional services in the foreseeable future or evidence that such services would meet with any significant consumer demand.

In a submission dated 18 September 1998, Mallesons Stephens Jacques on behalf of DMG Radio Australia points out, in response to Austereo's submission¹⁹ that the broadcasting industry will have to deal with the introduction of digital radio technology just as any business is required to respond to new technologies and competition everyday. DMG believes that the fact that incumbent commercial radio licensees have to deal with such issues is not a justification to reduce the number of new commercial radio services to be made available. DMG also states that the cost and effect of digital radio will not be felt for many years when taking into consideration the required simulcast periods and the environmental concerns that are likely to impact on the introduction of digital technology.

¹⁹ Submission from Austereo received on 8 July 1998.

With regard to the impact digital radio will have on existing analog service the ABA's notes a newspaper article appearing in the AD News on 26 March 1999 with regard to the progress of digital radio in the United Kingdom. The article states:

In the UK both the BBC and commercial network, GWR, have been broadcasting radio digitally since 1 January this year. The take-up of digital radio receivers is, however, very slow. As with all new technology, receivers are scarce and pricey, at about 500 pounds (AS1,300). The prediction is by 2005 only 12% of the UK population will be listening to digital radio while more than 40% will be watching digital television in 2005 (source: Merrill Lynch September 1998).

Discussion

The ABA is aware of the increase in usage of online services through its monitoring of surveys conducted by other organisations, in particular the *Use of the Internet by Householders, Australia* conducted by the Australian Bureau of Statistics. This information has been included in relevant papers prepared by the ABA and most recently in the ABA's submission to the Senate Select Committee on Information Technologies. The Committee is currently examining the *Broadcasting Services Amendment (Online Services) Bill 1999* that will establish a regulatory regime for online services to be administered by the ABA. One of the ABA's functions under the Bill will be to conduct research into Internet usage and the ABA is currently considering specific issues that might be included in such research.

The ABA assumes that new technologies such as digital radio broadcasting ('DRB') and digital terrestrial television broadcasting ('DTTB') have the potential to alter the planning environment considerably by allowing capacity for more or enhanced broadcasting services using the same amount of spectrum. The Minister has announced that DRB may commence on 1 January 2001 and that licences for any new entrants will be made available via the planning process. The ABA assumes that all radio LAPs will be finalised before DRB transmissions can start on 1 January 2001.

The ABA assumes that though DRB can commence in Australia on 1 January 2001, AM and FM services would still remain the most important media for radio services for a number of years, as it would take an extended period of time for DRB receivers to reach comparable penetration rates and for DRB transmission facilities to provide a comprehensive coverage throughout the country²⁰.

DEMOGRAPHIC, SOCIAL AND ECONOMIC CHARACTERISTICS (S.23 (A AND B))

The ABA considered the demographic and social economic characteristics of the Sydney market and also compared Sydney with other metropolitan markets and Australia generally.

Relevantly, the ABA found:

Finding 3.11 Sydney has the largest number of radio services of any market.

²⁰ The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

Section 23 (c) of the Act requires the ABA to have regard to the number of existing broadcasting services in a licence area. The following table shows the services that to the ABA's knowledge are licensed to operate in Sydney and Katoomba, using the broadcasting services bands.²¹

²¹ Source: ABA, *Radio and Television Broadcasting Stations, 1994*, RADCOM database and Register of *High Power AM & TV Open Narrowcasting Service Licensees*.

| Coverage Area | Category of Service | |
|----------------|---|---|
| | Radio Services | Television Services |
| Sydney | <ul style="list-style-type: none"> - 3 AM ABC (2RN, 2PB, 2BL) - 2 FM ABC (2ABCFM, 2JJJ) - 1 AM SBS (2EA) - 1 FM SBS (2SBS) - 5 AM commercial (2GB, 2UE, 2KY, 2CH, 2SM) - 4 FM commercial (2UUS, 2DAY, 2MMM, 2WFM) - 1 AM community (2RPH) - 4 FM community (2OOO, 2MBS, 2CBA, 2SER) - 1 AM open narrowcasting (temp) | <ul style="list-style-type: none"> - 1 ABC - 1 SBS - 3 commercial (TEN, NINE, PRIME) |
| Bankstown | - 1 FM community (2BCR) | |
| Burwood | - 1 FM community (2RDJ) | |
| Chatswood | -1 FM community (2NSB) | |
| Liverpool | - 1 FM community (2GLF) | |
| Manly | - 1 FM community (2MWM) | |
| Narwee | - 1 FM community (2NBC) | |
| Parramatta | - 1 FM community (2CCR) | |
| Ryde | - 1 FM community (2RRR) | |
| Sutherland | - 1 FM community (2SSR) | |
| Sydney (local) | - 1 FM community (2RSR) | |
| Waverley | - 1 FM community (2RES) | |
| Windsor | - 1 FM community (2VTR) | |
| Katoomba | <ul style="list-style-type: none"> - 1 FM commercial (2ONE) - 1 FM community (2BLU) | |

Table 4: Existing Services in Sydney and Katoomba

The ABA is required by s.23 (a) and (b) of the Act to have regard to demographics and social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally. The ABA found:

- Finding 3.12* There is a positive relationship between the population and wealth of cities and the number of commercial radio broadcasting services they are able to sustain.
- Finding 3.13* The Sydney market is the largest and possibly most financially important commercial radio broadcasting market in Australia, and radio advertising revenue in this market has grown substantially in real terms since 1981.

In making these findings, the ABA had regard to its s.30 Determination of population figures (as at the 1996 Census) as gazetted on 6 January 1999.

The ABA assumes the demand for additional broadcasting services can be inferred from demographic, social or economic indicators within a market or from comparison with other markets with similar demographic, social and economic characteristics, even where it receives no relevant submissions during the public consultation phase of planning, or where the evidence of submissions conflicts with the demographic, social or economic evidence.²²

ABS Census Data

The ABA had regard to Australian Bureau of Statistics (ABS) Census data in relation to Sydney, including demographic, social and economic characteristics (s.23 (a) and (b)). The information the ABA considered is at Appendix 4.

In particular the ABA has noted:

- The population in the Sydney commercial licence area at Census 1996 was 3373516.
- The intercensal population growth between the 1991 Census (3210476) and 1996 Census (3373516) for Sydney of approximately 163 000 people (5.1%) was greater than that of Melbourne²³ (4.1%), but neither city increased in population as much as Australia as a whole (6.2%).
- The estimated population growth²⁴, for Sydney, Melbourne and Australia shows that Melbourne (1.5%) has grown slightly faster than Sydney (1.3%) and Australia (1.2%) over the period 30 June 1997 to 30 June 1998.
- At the 1996 Census, the median value for monthly housing loan repayments and weekly rental payments for Sydney were much higher than both Melbourne and Australia, see Appendix 4 for further detail.

²² The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

²³ Melbourne is the next largest commercial radio licence area in Australia after Sydney, at the 1996 Census the population of the Melbourne commercial radio licence area was 3,163,812.

²⁴ See Appendix 4 for an explanation of how estimated resident population is derived.

ABS Data

Submissions Received

Austereo in its submission received on 8 July 1998 states:

The issuing of an excessive and disproportionate number of new commercial radio licences in metropolitan markets will inevitably lead to the detrimental fragmenting of commercial radio audiences and advertising revenues per station to the extent that:

- commercial radio's competitive position relative to commercial television in those markets will be seriously eroded;
- Sydney's dominance of metropolitan radio will be further intensified; and
- the diversity of local voices and local content on commercial radio will be significantly reduced.

These are the major findings of two financial assessments, which were commissioned by Austereo from ANZ Investment Bank.

In the same submission Austereo advised in relation to economic wellbeing of the commercial radio industry that the industry's profit is low and also volatile, with the industry operating at an overall loss in two of the last ten years. Austereo believes the issuing of any new commercial licences will only serve to exacerbate the industry's chronic lack of profitability.

To expand on the second dot point above about Sydney's dominance of metropolitan radio, Austereo states:

Sydney already dominates commercial radio by virtue of attracting a disproportionate share of commercial metropolitan radio revenues and advertising revenues per station which enables stations in that market to have significantly larger programming budgets than their commercial counterparts in the four other metropolitan markets, thereby enabling them to outbid their interstate radio rivals for key talent.

This imbalance will be intensified if an equal number of new commercial radio licences are issued in each of the five metropolitan markets. In such circumstances, Sydney's comparative advantage in terms of advertising revenue per station relative to the three smaller metropolitan markets of Brisbane, Adelaide and Perth will increase still further.

In its submission, Austereo also raises advertising as a factor to consider in deciding whether to make additional commercial radio services available. Austereo advises that the advertising industry generally does not wish to see more outlets vying for the commercial radio's share of advertising revenue, as there is insufficient demand for those services from advertisers. Austereo has received letters from two major advertising firms, Omnicom and Zenithmedia, expressing concern at the prospect of more commercial radio services. These advertising firms point out how radio is required to compete with television (which in some circumstances is less expensive than some radio operators) and now also the Internet and Pay TV.

Austereo also states in its submission received 8 July 1998 that it is imperative that the ABA conduct appropriate economic modelling in order to be properly informed and to fulfil its

responsibilities in assessing which new services might promote the objects of the *Broadcasting Services Act 1992*.

Based on an attachment included with the Austereo submission, which is a population and radio audience profile, along with analysis about broadcast advertising revenue and commercial broadcasting profits for Sydney, Austereo believes:

It is clear that the introduction of any additional commercial radio broadcasting services licence into the Sydney market will only have the effect of spreading the same amount of revenue over a large number of operators, thereby depressing profits.

Less moneys will be available for programming, and because there is a clear correlation between programming costs and programming quality - this is certainly the case in the Austereo network - program quality will suffer and audience satisfaction levels will drop, potentially quite markedly.

Southern Cross Broadcasting Limited, is of the view that the state of economic affairs in the Australian commercial radio industry is such that the granting of additional licences is not justified in economic terms and will only damage a struggling industry. Other factors like the pressures on AM operators, the advent of DRB, the Internet and online services and conversions from AM to FM should be taken into consideration.²⁵

Australian Radio Network (ARN) the licensee of 2WS, believe the licensing of additional FM stations will alter significantly the financial position of the radio industry as a whole and of individual stations. ARN expects even with one new FM licence the industry will experience a significant decline in profitability with the position of loss-making stations considerably worsening and perhaps becoming untenable. ARN has also included an "Economic Impact Study of FM Radio Licensing in Australia" completed by Case Associates for ARN. One of the findings from the study was that licensing of two or more FM services would reduce profits to a negligible level in Sydney.

In the same submission ARN concludes:

In a sector where 50% of stations recorded a loss in 1996/97 the inescapable conclusion is that more competition will increase losses and push some stations to bankruptcy.

These financial pressures will be exacerbated as the impact of the Asian downturn feeds through the economy and as stations come to terms with the extent of the required digital investment. The result will range from cost cutting to receivership. In this process it will be inevitable that program standards will fall as some stations decide to pursue ratings and cut costs. The financial circumstances of the industry will thus put pressure on the diversity of Australian metropolitan radio and its ability to invest in local programming and high-risk innovative programs and formats.²⁶

In contrast to the points of view of Austereo, Southern Cross Broadcasting and ARN, Radio 2UE Sydney Pty Ltd in its submission of 10 June 1998 states:

²⁵ Submission from Southern Cross Broadcasting received 7 July 1998.

²⁶ Submission from Australian Radio Network Pty Ltd dated 29 June 1998.

Self-serving claims that additional stations will not add to diversity, or that they can be introduced only at the expense of viability, or that they will disturb the so-called “balance” between the national, commercial and community sectors are actually a disguised plea to protect the profitability of the claimants. There is, however, no requirement under the Act that profitability should be protected.

Similarly, DMG radio in its submission of 18 September 1998 addresses some of the views and conclusions reached by Austereo in its submission received on 8 July 1998. Based on recent published figures provided in its submission as shown below:

| ITEM | AMOUNT | COMMENT |
|---|-----------------|---------------------------------------|
| Total revenue of all Sydney commercial radio services 97/98 | \$143.1 million | 9.5% increase over the previous year |
| Total revenue of all Melbourne commercial radio services 97/98 | \$99.4 million | 14.1% increase over the previous year |
| Total revenue of all Brisbane commercial radio services 97/98 | \$49.3 million | 7.2% increase over the previous year |
| Total revenue of all Adelaide commercial radio services 97/98 | \$36.9 million | 17.8% increase over the previous year |
| Total revenue of all Perth commercial radio services 97/98 | \$39.1 million | 21.5% increase over the previous year |
| Total profit of all Australian commercial radio services 96/97 | \$74.7 million | 5.6% increase over the previous year |
| Total profit of all commercial metropolitan radio services 96/97 | \$50.4 million | 18.3% increase over the previous year |
| Total profit of all FM commercial metropolitan radio services 96/97 | \$54.1 million | 19.6% increase over the previous year |
| Total profit of all commercial regional radio services 96/97 | \$24.3 million | 13.6% drop from previous year |

Table 5: Commercial broadcasting revenue figures provided by DMG Radio

DMG is of the view that the commercial metropolitan radio industry is in “extraordinarily good shape” and therefore is in a good position to deal with increased competition. DMG also makes the following comments:

Austereo’s profits (and those of the other owner of significant commercial metropolitan services on the FM band) might be diminished from their existing record levels to levels which are more realistic and sustainable (and still well in excess of the profits earned at any time in the past). This is a negative element, which is specific to Austereo (and the other owner). It is not a relevant consideration and is not an element, which will impact on the market. The effect of the submissions of incumbent owners seems to be that it is unacceptable for new commercial services to be issued if they will reduce the exceptionable and unprecedented profits now enjoyed by them. That has nothing to do with the planning process. DMG notes that there is no legislative requirement to protect profits of incumbent owners.

Blake Dawson Waldron on behalf of Telecasters Australia Limited who is interested in providing an additional commercial FM radio service in Sydney, makes the same remarks with regard to the demographic and social and economic characteristics of Sydney. In its submission of 12 June 1998 Blake Dawson Waldron states that while Sydney is the most populated, dynamic and diverse of any licence area in Australia, it is also heavily underserved in comparison to other licence areas in Australia and overseas. Blake Dawson Waldron also state that it is almost twenty years since there was any increase in the number of commercial broadcasting services available in Sydney; during that time Sydney has grown both geographically and demographically and the population of Greater Sydney has increased by over 11% in 10 years.

Broadcasting Financial Results

The ABA considered the broadcasting financial results released by it on 19 March 1999. There are 39 licensees in the seven capital cities of Sydney, Melbourne, Brisbane, Adelaide, Perth, Hobart and Darwin. Revenue generated by these licensees in 1997-98 totalled \$406.8 million, up 9.2 per cent compared to the previous year's figure of \$372.6 million. Expenses totalled \$335.3 million, a 4.1 per cent increase over the previous year's expenses of \$322.2 million. Broadcasting profit was \$71.6 million, a 42.1 per cent increase over the previous year's figure of \$50.4 million.

The following provides an overview of capital city licensees' revenue, expenditure and broadcasting profit performance in 1997-98 compared with 1996-97. Also included is the population of each licence area market.

| CAPITAL CITY | 1996-97 (\$M) | 1997-98 (\$M) | ANNUAL % GROWTH (DECLINE) |
|---|----------------------|----------------------|--------------------------------------|
| Sydney (9 licensees) Licence Area Population (1996 Census) 3,373,512 | | | |
| Revenue | 145.6 | 154.4 | 6.0 |
| Expenditure | 125.4 | 127.9 | 2.0 |
| Profit (Loss) | 20.2 | 26.6 | 31.7 |
| Melbourne (9 licensees) Licence Area Population (1996 Census) 3,163,382 | | | |
| Revenue | 100.2 | 112.5 | 12.3 |
| Expenditure | 85.3 | 91.8 | 7.6 |
| Profit (Loss) | 14.9 | 20.8 | 39.6 |

| CAPITAL CITY | 1996-97 (\$M) | 1997-98 (\$M) | ANNUAL % GROWTH (DECLINE) |
|--|---------------|---------------|---------------------------|
| Brisbane (6 licensees) Licence Area Population (1996 Census) 1,495,615 | | | |
| Revenue | 51.3 | 53.4 | 4.1 |
| Expenditure | 46.5 | 41.4 | (11.0) |
| Profit (Loss) | 4.8 | 11.9 | 147.9 |
| Adelaide (5 licensees) Licence Area Population (1996 Census) 1,089,107 | | | |
| Revenue | 32.9 | 39.2 | 19.1 |
| Expenditure | 31.9 | 37.8 | 18.5 |
| Profit (Loss) | 8.2 | 8.9 | 8.5 |
| Perth (5 licensees) Licence Area Population (1996 Census) 1,089,107 | | | |
| Revenue | 32.9 | 39.2 | 19.1 |
| Expenditure | 24.8 | 30.3 | 22.2 |
| Profit (Loss) | 8.2 | 8.9 | 8.5 |
| Hobart and Darwin (5 licensees) Licence Area Population (1996 Census) Hobart 216,338, Darwin 112,294 | | | |
| Revenue | 8.9 | 7.0 | (21.3) |
| Expenditure | 8.4 | 6.0 | (28.6) |
| Profit (Loss) | 0.5 | 0.9 | 80.0 |

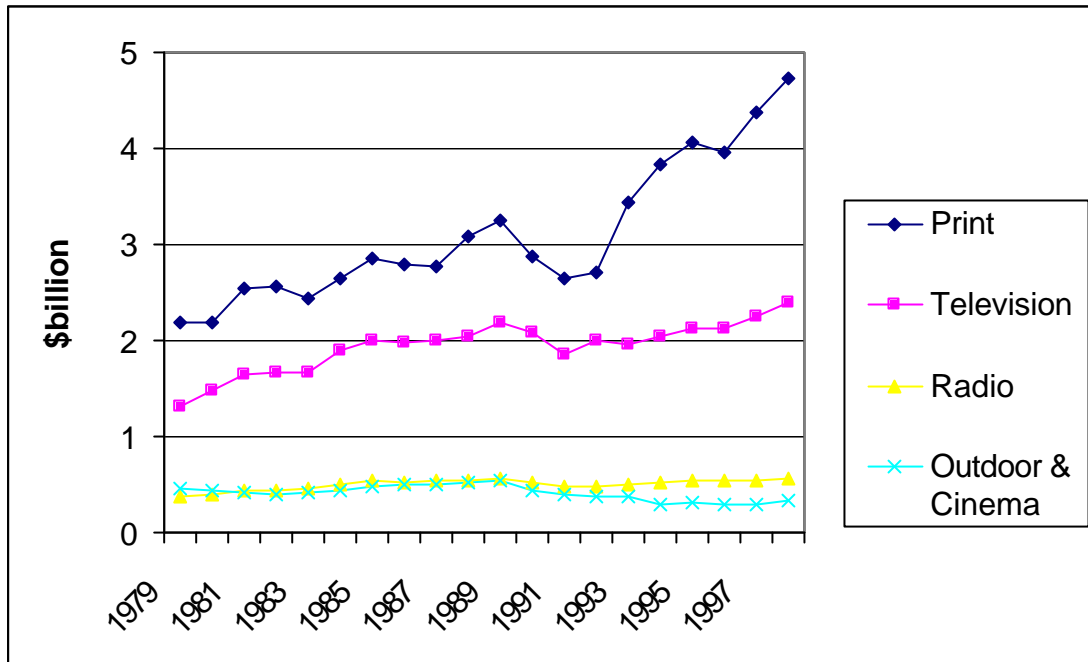
Table 6: Radio Revenue, Expenditure and Profit figures for the Capital Cities and population for each Licence Area.

Of the \$406.8 million revenue earned by commercial radio licensees in the capital cities, Sydney accounted for 38.0 per cent, Melbourne 27.7 per cent, Brisbane 13.1 per cent, Adelaide 9.9 per cent, Perth 9.6 per cent, and Hobart/Darwin 1.7 per cent. Of the \$78 million of total industry profits, Sydney accounted for approximately 34%, Melbourne for approximately 26%, Brisbane for 15%, Adelaide and Perth for 11% each and Hobart/Darwin for 1%.

The table also shows that while the proportion of total revenue earned in Sydney decreased, the profit between 1996-97 and 1997-98 increased by 31.7%. In Melbourne it increased by 39.6%, Brisbane by 147.9%, Adelaide by 8.5%, Perth by 8.5% and Hobart/Darwin by 80%.

Below are charts, which provide a consolidated analysis of the former Australian Broadcasting Tribunal (ABT's) and ABA's broadcasting financial results for commercial radio and other media.

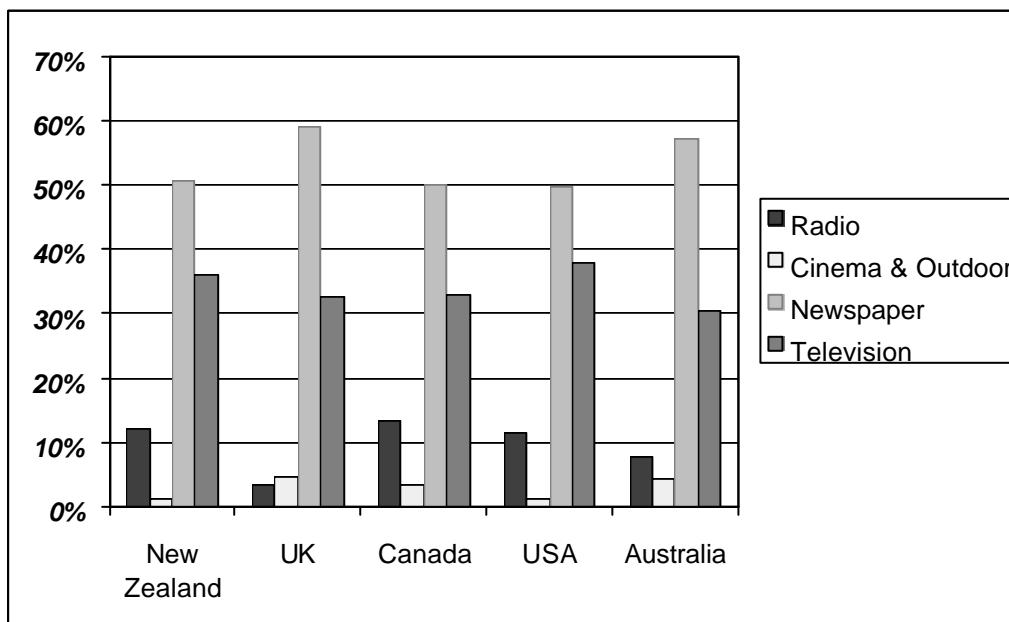
Chart 1 Real Advertising Expenditure in Australian Main Media for 1979 to 1998 in constant 1998 dollars



Source: The CEASA Report, Advertising Expenditure in Main Media, 1979 to 1998 annual editions.

Over the last two decades, the print and television industries have led the substantial real growth in advertising expenditure whilst the radio and outdoor & cinema media have experienced little advertising expenditure growth in real terms.

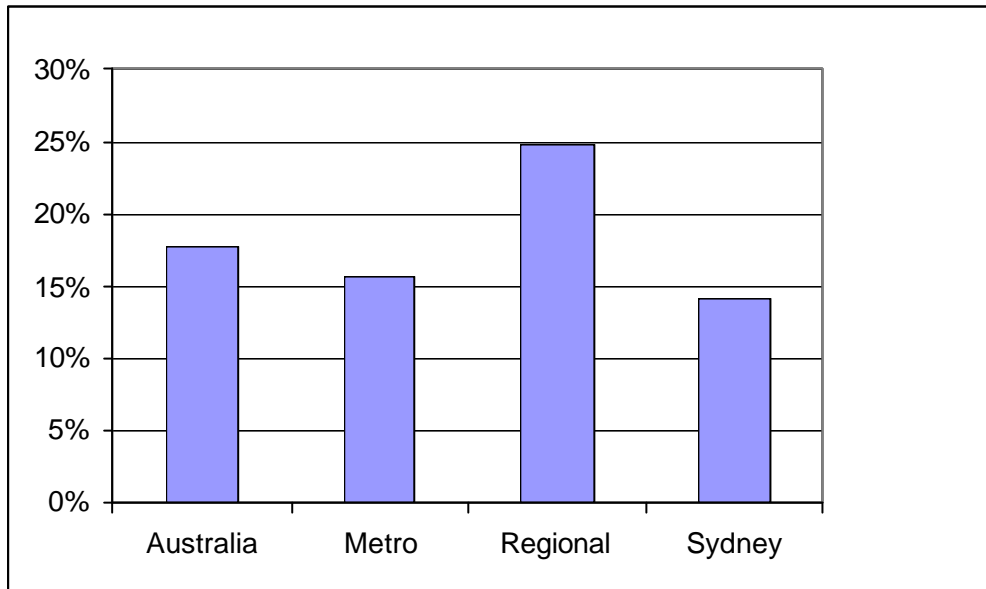
Chart 2 International Advertising Expenditure by Main Media in 1997



Source: The CEASA Report: Advertising Expenditure in Main Media, 1998 edition.

The relatively low share of radio advertising expenditure in the United Kingdom is associated with the dominance of public radio broadcasters. In 1997 direct mail advertising expenditure, which was excluded from this analysis, accounted for approximately 20 per cent of the total United States advertising expenditure. If direct mail had been included, the share of radio advertising expenditure in the United States would have been similar to that reported for Australia.

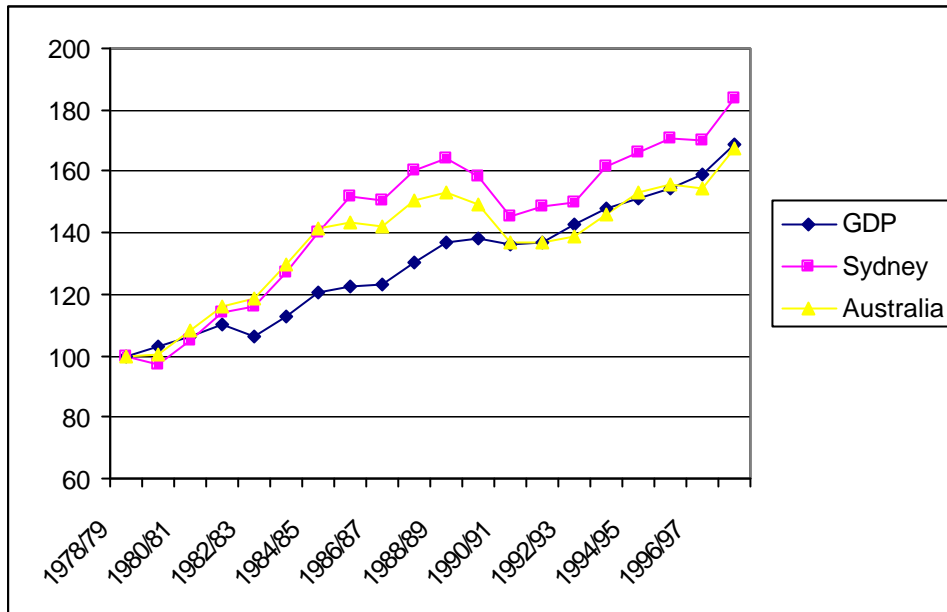
Chart 3 Radio Share of Combined Advertising Revenue (Radio and Television) in



1997/98

This comparison suggests that television advertising commands a larger share of the combined market in metropolitan markets than in regional markets, and that the radio share is lower in Sydney than elsewhere in Australia.

Chart 4 Real Australian and Sydney Radio Advertising Revenue and Real GDP for 1978/79 to 1997/98 in constant 1997/98 dollars – (base = 100)

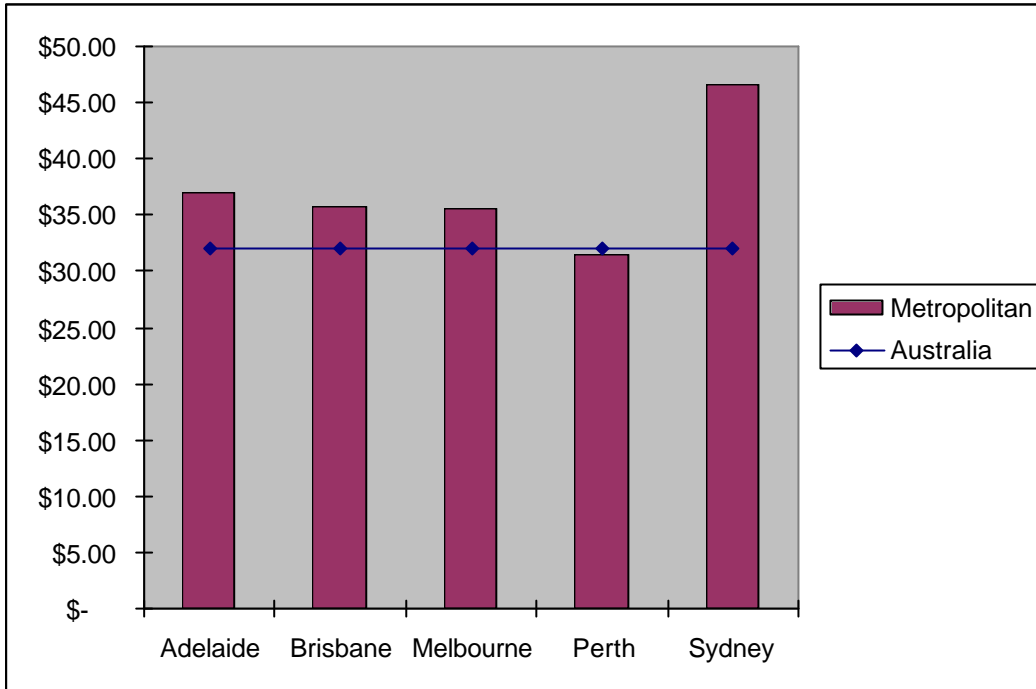


The real growth in radio advertising revenue tends to match, or slightly exceed, the real growth in Australian gross domestic product.

In 1997/98, Sydney’s radio market accounted for just over one quarter of Australian advertising revenue. Real advertising growth in the Sydney radio market is very similar to that experienced by the total Australian radio market over the last two decades.

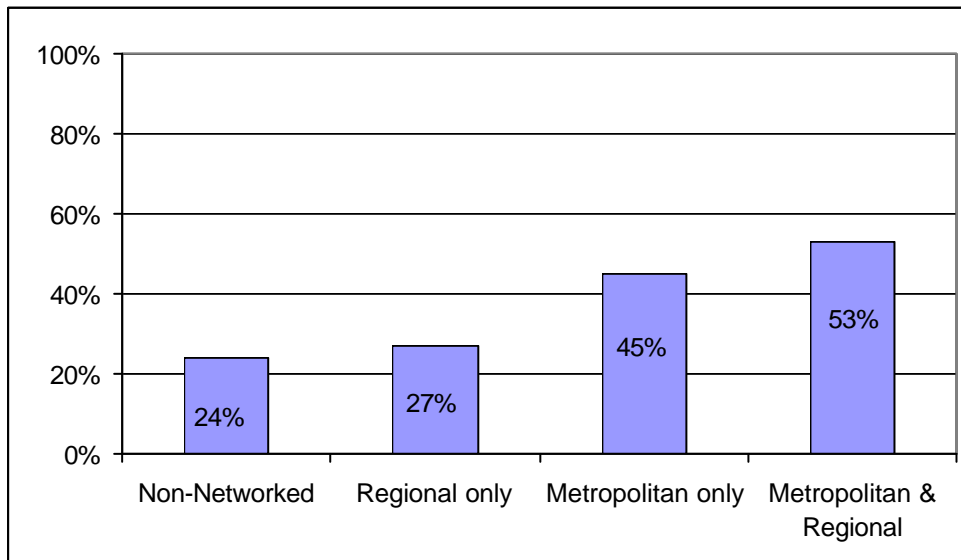
Since the last time an additional commercial licence was made available in Sydney there has been significant growth in radio advertising revenues, and the trend is for revenue growth to match growth in the economy generally.

Chart 5 Total Radio Advertising Revenue per Capita for Metropolitan Markets and Australia in 1997/98



Total advertising revenue per capita was substantially higher in the Sydney radio market than the Australian and other Metropolitan radio markets.

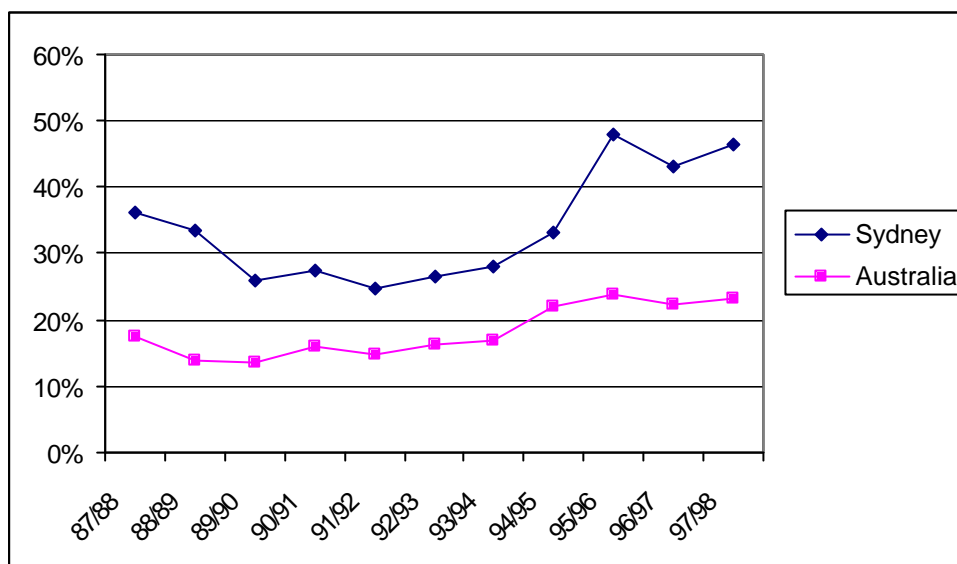
Chart 6 National Advertising Share of Total Paid Advertising Revenue²⁷ by Network Ownership in 1997/98



²⁷ Total paid advertising revenue includes national advertising and non-national (local) advertising. It excludes contra or in-kind advertising.

Network owners with radio stations in metropolitan and regional markets combined receive over half of their paid advertising revenue from national advertising. Companies that only own one radio station have to rely on local advertising for over three-quarters of their paid advertising revenue.

Chart 7: Ratio of Profit before Interest and Taxation (PBIT) to Tangible Assets by the Sydney and Australian Radio Markets between 1987/88 and 1997/98



The measure of profitability used here is a ratio of profit before interest and tax (PBIT) to tangible assets.

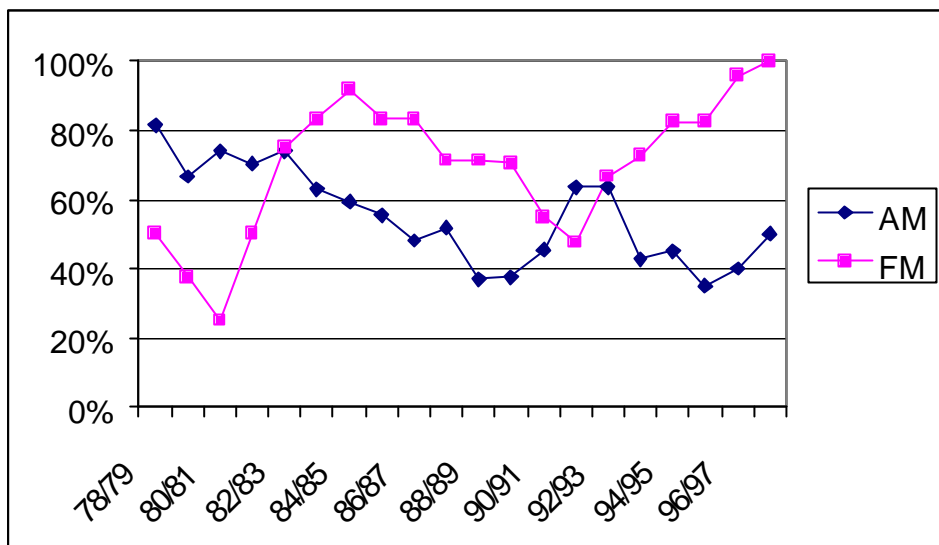
The Industries Commission and the Bureau of Transport and Communications Economics concluded that intangible assets should be excluded from the asset base as the broadcasting licence value represents a capitalisation of expected economic rents.

In addition, variations in accounting practices can lead to quite large differences in the valuation of intangible assets. As always comparisons within the industry and more especially with other industries should be approached with care.

For a further discussion of this issue see:

1. Arthur, N. 1990, 'Financial reporting to the Industries Assistance Commission: A study in the role of accounting information in regulatory decision making', *Australian Journal of Management*, vol. 15, no.2, December, pp. 217-241.
2. BTCE 1996, *Australian Commercial Television 1986-1995*, BTCE Report no. 93, AGPS, Canberra.

Chart 8: Proportion of Profitable Metropolitan Radio Stations by Band (AM & FM) between 1978/79 and 1997/98



Except for two periods²⁸ a higher proportion of Metropolitan FM stations have been profitable than compared to Metropolitan AM stations. The deterioration in profitability in these two periods demonstrate the short term impact of significant changes to licensing arrangements.

The ABA took into account the most recent AC Nielsen Australia Sydney Radio Survey #4 1999: 28 March – 12 June, 1999 (*Share of Listening, Monday – Sunday 5.30 am – 12 midnight, People 10+*) which indicates how Sydney radio services audience share is broken up.

| Station | % Share |
|----------|---------|
| 2UE | 13.7 |
| 2DAY | 13.0 |
| 2MMM | 10.9 |
| Other FM | 9.5 |
| MIXFM | 8.7 |
| 2CH | 7.7 |
| 2BL | 7.6 |
| 2WSFM | 7.5 |

| Station | % Share |
|----------|---------|
| 2JJB | 5.5 |
| 2GB | 4.5 |
| ABCFM | 2.7 |
| 2RN | 2.1 |
| 2SM | 2.0 |
| Other AM | 2.0 |
| 2KY | 1.6 |
| NEWS'R | 1.1 |

²⁸ The exception periods are associated with the startup of FM stations in the late 70s and early 80s and the conversion from AM to FM of many metropolitan radio stations in the early 1990s.

Table 7: Audience Share

Discussion

The ABS and other data demonstrate that Sydney is the single largest market in Australia. For Sydney commercial FM radio stations each 1% of audience share represents an audience of approximately eight thousand five hundred people, compared with a national average of approximately one thousand five hundred people.

These findings under *Demographic, Social and Economic Characteristics* corroborate that there is likely to be some potential for additional commercial radio services in the Sydney commercial radio market.

DIVERSITY (S.3 (A) AND S.3(C))

Diversity (s.3 (a))

The Explanatory Memorandum to the Broadcasting Services Bill 1992 ('the EM') explains the role and uses of the objects in the following way:

The purpose of these objects is to set out clearly the outcomes Parliament wishes to see in the regulation of broadcasting, to assist with the formulation of decisions consistent with the policy enshrined in the Act, and to guide the ongoing administration and enforcement of the Act. It is important to note that the objects are not set out in any order of priority; in other words the relative importance of an object may be determined by the issue being considered at the time - that relative importance could vary from time to time.

It is recognised that there are tensions between the objects. It is intended that the ABA, in the exercise of its regulatory powers, should have regard to the competing objectives, drawing on its ability to assess community views and needs, and to monitor developments in the broadcasting industry. It is expected that the relative importance of each object may vary over time, and vary in relation to different functions and powers of the ABA.

It provides the following information in relation to object 3 (a):

- (a) *to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.*

According to the Explanatory Memorandum:

Clause 3(a) relates to the intention that the Act will encourage and facilitate the provision of both 'free to air' broadcasting services as well as subscription and 'niche' broadcasting services to allow a broad range of general and special interests and needs to be met. Diversity in the range of services is encouraged by a more open planning regime that is expected to increase the availability of services, and by a licensing regime which is designed to accelerate the introduction of services and encourage the emergence of the new 'niche' services.

Diversity is quite difficult to define and to measure. Most commonly used measures of program diversity do not take into account diversity within a category. For example, the concurrent radio broadcast of an Australian Football League and Australian Rugby League match on two channels would be measured as offering no diversity even though the two programs would be likely to be seen as offering increased diversity by sport audiences.

Grant (1992) and Walker (1994) concluded that increased diversity could be achieved through multi-channel broadcasters. Network owners could increase the total audience size by experimenting with different program formats on new channels. The mechanism involves targeting a number of smaller demographic groups additively instead of only one large demographically significant group.

Glasser (1984, p.129) extended the seminal work of Steiner (1952) and proposed that format duplication depends on profit maximisation ie 'a station will duplicate an existing format rather than produce a unique format if its share of the audience for a duplicated format yields higher profits than the profits generated by the entire audience for a unique format.'

Steiner (1952), Rothenberg (1962) & Levin (1971, p81) argue that program format duplication is less likely to occur with the introduction of a new service if:

1. There are already a large number of services in the market;
2. The disparity between the size of the different audiences is small; and
3. The disparity between the audience shares of competing stations is large.

For a further discussion of diversity see:

Bureau of Transport and Communications Economics (1991). *Economic Aspects of Broadcasting Regulation*, Report no. 71, AGPS, Canberra.

Glasser, T L (1984), 'Competition and diversity among radio formats: legal and structural issues', *Journal of Broadcasting*, 28(2), 127-142.

Hotelling, H (1929), 'Stability in competition', *Economic Journal*, 34, 41-57.

Levin, H J (1971), 'Program duplication, diversity, and effective viewer choices: Some empirical findings', *American Economic Review*, no.61, 81-88.

Owen, B M (1977), 'Regulating diversity: The case of radio formats', *Journal of Broadcasting*, 21(3), 305-319.

Rothenberg, J (1962), 'Consumer sovereignty and the economics of TV programming', *Studies in Public Communication*, 4, 45-54.

Steiner, P O (1952) 'Program patterns and preferences, and the workability of competition in radio broadcasting', *The Quarterly Journal of Economics*, 66(2), 194-223.

Walker, A M (1998) 'Multi-channel broadcasting and program diversity', *1998 Communications Research Forum*, 24-25 September 1998, Old Parliament House, Canberra.

As discussed under the ‘Legislative Framework’ (Chapter 1), the ABA can promote the object at 3(a) of the Act²⁹ by making available a mix of different types of broadcasting services in an area. Community broadcasters (and national broadcasters) frequently provide programs that are immediately distinguishable from commercial broadcasting, often serving needs that the commercial sector has not addressed. Open narrowcasting services also promote diversity, in particular those ‘niche’ services of information (eg. tourist or racing news) and entertainment (eg. entertainment programs provided in languages other than English).

In weighing up the merits of different categories of radio broadcasting services, the ABA considers community and commercial radio services to be mutually exclusive options, as a community radio broadcasting licence must be operated by a non-profit organisation. That is, any profits cannot be distributed amongst individuals. In general, community organisations cannot afford to purchase commercial radio broadcasting licences, particularly in markets where investor interest forces prices up, which is very likely in the Sydney market.³⁰

Open narrowcasting radio services are a different case, for two reasons. First, an open narrowcasting provider can bid for a commercial licence, as commercial radio licences are allocated through a price-based process, and second, a commercial or community radio broadcasting licence can be made available for open narrowcasting if it is not taken up during the ABA’s allocation process (under the provisions of s.34). So making a frequency available for commercial or community broadcasting purposes does not necessarily preclude an open narrowcasting service provider from obtaining the licence.

Relevantly the ABA found in considering both the number of existing services and the evidence before it:

Finding 3.14 If two additional commercial radio services were made available it is likely that independent (competing) operators will add to the diversity of available services, but within popular tastes.

Section 3 (a) ‘to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information’ relates to this finding. In addition, Section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to ‘such other matters, as it considers relevant’.

A large number of the submissions received, which addressed whether or not new commercial radio services should be made available in Sydney included comments about diversity. Comments ranged from submitters arguing about whether diversity can be achieved through additional broadcasting services of the same type (such as commercial) being made available and whether additional services would offer different or the same

²⁹ Object 3(a) states ‘to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information’.

³⁰ The ABA’s commercial licence allocation process involves a price-based allocation system, whereby the highest bidder is able to purchase a commercial licence in an area.

programming as the services already operating in the Sydney market. Other submissions argued that to achieve diversity, a mix of services (such as commercial, community and open narrowcasting) would need to be made available. The submissions, which include comments about diversity, are detailed below. Those submissions, which express an interest in establishing new commercial radio services, are discussed first, followed by the submissions that are opposed to new commercial radio services being made available in Sydney.

Submissions Received

Radio 2UE Sydney Pty Ltd in its submission dated 10 June 1998, is of the view that additional commercial radio stations will increase diversity, as it will discourage “sound alike” programming and fragment the audience and advertising revenue of those services offering similar formats. In the same submission 2UE also makes the following comment:

2UE also disputes the notion that a greater emphasis should be give to community broadcasting, given that community radio already accounts for 21 of the 29 VHF-FM frequencies presently in use in the Sydney area. Without wishing to denigrate community broadcasting, which undoubtedly has merit, 2UE submits that this very substantial application of a national resource to a service which is actually being used by a very small proportion of the population, is very generous.

In a submission dated 12 June 1998, from Blake Dawson Waldron on behalf of Telecasters Australia Limited (‘Telecasters’) have made a number of comments about how best to achieve diversity of services and programming in Sydney. With regard to diversity in programming Blake Dawson Waldron make the following comments:

The relative lack of product differentiation between the four commercial FM radio services available in Sydney is largely a function of lack of competition. Claims that more services result in cost-cutting and “sameness” of format are refuted by overseas experience, where comparable markets with a larger number of FM services have a far wider range of commercial FM formats. These formats include many variations of jazz, country, blues, easy listening, rap, hip-hop and even classical (which is programmed differently when produced as a commercial service than as a national or community service). Sydney’s size and diversity has produced large followings for all these formats, which are not represented commercially. Substantially increased competition will result in FM services, which cater for these musical interests. In the United States, even the formats described above are regarded as relatively “mainstream”, with a great variety of more specialised formats being available.

In relation to diversity of the services to be available in Sydney, Telecasters believe that the larger proportion of listeners listen to commercial radio and that national and community radio complement what the commercial radio services offer and generally add to the mix of available broadcasting services. Blake Dawson Waldron add that it would appear from the number of national and community services currently available in Sydney that there will be a limited future demand for such services.

In a submission dated 29 June 1998, RG Capital Radio Pty Ltd provided statistical data from AGB McNair, which shows that 74.6% of radio listeners listen to commercial radio services. Therefore RG Capital submits that higher weighting should be given to making channels available for commercial radio services compared to community radio services when a diversity of community services currently exists.

RG Capital also points out that there are only two commercial FM station operators in Sydney, each being a major network throughout Australia. To this end RG Capital believes:

.... there should be the opportunity for at least two other duopoly services to be established as high-powered commercial FM operators in Sydney as well as the opportunity given for some existing AM service providers to acquire an high-powered FM service.

As far as diversity of the type of services to be available in Sydney, RG Capital is of the opinion that there is a clear under-provision of high powered commercial FM radio services in Sydney compared to the wide variety of national and community services available.

In a submission from Mallesons Stephens Jacques on behalf of DMG Radio Australia dated 15 June 1998 comments were made in relation to diversity of programming. DMG believes that audience tastes and demands have changed over the last decade in that music has become very fragmented and each style of music has its own market and as a result there are more audiences to serve. On this point DMG states:

...community stations and narrowcast stations cannot serve those markets for many reasons, which include, in particular their inability to generate commercial profits and, therefore, invest in programs and infrastructure of necessary quality.

With regard to community and narrowcasting radio services DMG believes that based on the overall popularity of and greater ratings of commercial stations, where possible FM frequencies should be made available for commercial licences and AM frequencies should be made available for community and narrowcasting licences.

In a subsequent submission dated 18 September 1998, Mallesons Stephen Jacques (on behalf of DMG Radio Australia) comments on the submission made by Austereo received on 8 July 1998. In response to the Austereo submission, DMG's views about what is the most appropriate mix of services (commercial, community and open narrowcasting) to be available in Sydney and the likely outcomes if new commercial radio services are made available (that is the likely formats to be offered by new commercial entrants in the Sydney market) is summed up by the following comments:

DMG submits that the very great majority of the population listen to commercial broadcasting services and, as a result, to issue a lot more community and narrowcast broadcasting services will only increase diversity for a very small minority and will not have any affect on diversity for the very great minority.

DMG believes that new commercial services, even if they target similar demographics to those of existing services, will not do so in the same way and each service will adopt a different format or style and will find new and innovative ways to connect with the target audience and, as a result, more commercial services will mean more choice and an increase in diversity.

Martin Broadcasting Services in its submission dated 6 May 1998, believes that there is currently no competition in the metropolitan commercial FM radio market with innovative programming and sales ideas.

It is interesting to note that three other groups/persons interested in establishing new commercial radio services in Sydney, namely Radio One, Radio Lebanon and Mr Jagdish

Lodhia are all interested in providing ethnic radio services. That is, these groups are proposing to offer niche programming.

In a submission dated 15 June 1998, Republic Communications Pty Ltd believes that the introduction of new commercial services in Sydney would create a much needed diversity of choice in relation to programming.

Austereo's submission received on 8 July 1998, provided comments on whether additional commercial radio services would add to diversity in the programming formats offered. Austereo's views is best summed up by the following:

The investment in infrastructure and prices paid for licence in metropolitan markets will compel any successful bidder in a price-based allocation exercise to compete with the market leaders to maximise audience share. Niche programming will not be a commercial option against the background of the necessary investment. This competition will be head-to-head in terms of format. At best minor variations can be expected. From the point of view of diversity, the listening audience will not benefit significantly, if at all, from this form of competition.

On the other hand open narrowcast and community services assure an increase in diversity.

Southern Cross Broadcasting in its submission received on 7 July 1998, is of the view that the ABA should give priority to the planning of additional community and open narrowcasting services in order to increase both diversity in service and programming.

The Australian Radio Network (ARN) in its submission dated 29 June 1998, is of the view that additional commercial radio services will not increase diversity and that there is already a large range of formats available in the metropolitan markets. ARN also believes that the smaller number of stations currently in operation allows advertisers to reach a large and diverse audience base and stations are still able to offer quality local programming. ARN state that the only way the ABA can ensure a diverse range of formats is to allocate any available spectrum to community and open narrowcasting interests. ARN conclude that the financial pressures that would be imposed if additional commercial radio stations were made available would:

...put pressure on the diversity of Australian metropolitan radio and its ability to invest in local programming and high-risk innovative programs and formats.

Program Formats

The ABA also took into account information found in the *Margaret Gee's Australian Media Guide 61st Edition (July 1999-November 1999)* about the formats offered by the existing commercial and community radio services in Sydney. The following table briefly describes the format of each Sydney commercial and community station appearing in *Margaret Gee's*:

| STATION | FORMAT |
|---------|-------------------------|
| 2CH | Easy Listening |
| 2GB | News/Talk/Sport |
| 2KY | Racing/News/Information |
| 2SM | Gold |
| 2UE | News/Information/Sport |

| STATION | FORMAT |
|------------|--|
| 2DAY | Today's Best Music |
| 2UUS (2WS) | Best Songs of All Times |
| 2WFM | Sydney's Continuous Easy Mix of the 70's, 80's and 90's |
| 2MMM | Rock |
| 2BCR | 90's music (days)/Multicultural music (nights) |
| 2CBA | Quality of Life/Beautiful Music |
| 2CCR | New Adult Contemporary/ Smooth Jazz |
| 2GLF | Community Information/Music |
| 2MWM | Community radio |
| 2NBC | Talk/Music/Multicultural |
| 2NSB | Current Affairs/Community Programs/Classic Jazz/Rhythm/Jazz |
| 2RDJ | Contemporary Mix |
| 2RPH | Radio reading service for print-handicapped, reading newspapers, magazines and books |
| 2RRR | Mixed/Community Access |
| 2RSR | Black music, including world and Aboriginal music/Local independent music and techno |
| 2SER | Underground/Music/Politics |
| 2SSR | Contemporary/Country/Light Classical/Jazz specialist |
| 2RES | Community Access/Arts Magazine/Jazz/Blues/World Music/Ethnic/Soul |
| 2MBS | Classical Music/Jazz/Blues/Experimental/Alternative/ Contemporary Music |

Table 8: Existing radio formats in the Sydney market

Discussion

The AC Nielsen Australia Sydney Radio Survey #4 (Table 7 on page 25) shows that commercial radio is currently the most popular format in the Sydney radio market.

From the Margaret Gee's information on current formats, it is evident that there is a good cross section of formats already available in Sydney. However, it is important to note that while there is a cross section of formats already available in Sydney, this in no way exhausts the full range of possible formats available to commercial radio operators.

The ABA believes that making two additional commercial radio services available will not detract from and will further complement the diverse range of services currently available in Sydney.

Table 1 lists submissions from aspirant broadcasters in the Sydney market, which identify possible formats for the Sydney radio market.

As discussed in the Legislative Framework in relation to the object of the Act at paragraph 3(a), the ABA has a vital role to play in promoting this object, but it is unrealistic that planning alone will promote the object in all its aspects. In particular some of the 'diversity' of new services can be expected to come from non-broadcasting services bands services s.40³¹ and narrowcasting services of all kinds.

³¹ Under section 40 of the Act, the ABA may allocate to a person on application in writing a commercial radio broadcasting licence for a service which does not use the broadcasting services bands.

It is important to note that the impact of new services on diversity may vary. In the case of commercial radio formats, the outcome of additional services may include lengthy periods of competition between similar formats, adding little to diversity.

It is not the ABA's role to regulate the specific formats of commercial services. This is underlined by the price-based nature of the commercial broadcasting allocation process and by the generic condition on commercial licences requiring only that they:

... provide a service that, when considered together with other broadcasting services available in the licence area of the licence (including another service operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area...³²

Certainly the proliferation of services with similar formats in an area may not promote the object at section 3(a), though at the same time it may further other objects of the Act. On the other hand, allocation of additional commercial broadcasting licences may well result in competing formats and hence greater diversity of choice

As indicated above under finding 3.11, there are nine Sydney-wide commercial broadcasting services, five Sydney-wide community broadcasting services, one Sydney-wide open narrowcasting service (currently made available under s34 of the Act until 31/12/99), and eleven local coverage community radio services currently operating in Sydney.

While there is sufficient technical capacity to make three additional commercial radio services available in Sydney at a maximum ERP of 150 kW, a deciding factor in proposing to make two additional commercial radio services available is to attempt to ensure a mix of different types of broadcasting services in Sydney. In particular the ABA has had regard to s.23 of the Act (that is, taking into consideration the number of existing services and demand for new community and open narrowcasting services (s.23 (c) and (g)) and the limited spectrum available in Sydney (s.23 (e)).

The ABA acknowledges the comments made by the existing operators (Austereo, Southern Cross Broadcasting and ARN) with regard to open narrowcasting and community radio services increasing diversity, and points out that the ABA is proposing to make additional community and open narrowcasting services available in addition to proposing to make new commercial radio services available.

The ABA believes that proposing to make two additional Sydney-wide commercial radio services, three additional Sydney-wide community radio services (Preliminary View 6), one local coverage commercial radio service in Campbelltown (Preliminary View 4), one local coverage community radio service in each of Blacktown, Hornsby, Penrith and Campbelltown (Preliminary View 8) and two Sydney-wide open narrowcasting services (Preliminary View 9), is likely to promote the objects of the Act at paragraph 3(a).

³² Schedule 2, Part 4, Section 8, Sub-section 2(a) of the Act.

Diversity in Control

It is important to note that diversity in control of broadcasting services is another important object of the Act. Object 3 (c) states:

(c) *to encourage diversity in control of the more influential broadcasting services.*

According to the Explanatory Memorandum:

Diversity in control is to be promoted by allowing a greater number of services (subject, in relation to commercial television, to a review to be completed by 1 July 1997 - refer to clauses 28 and 215) under the planning and licensing regimes, supported by the O & C (ie. Ownership and control) limits in Part 5 relating to commercial broadcasting...

Relevantly, the ABA found:

Finding 3.15 If additional commercial radio services were made available in the Sydney market, this will lead to diversity of control of commercial radio broadcasting services in the Sydney market.

Submissions Received

In a submission from Mallesons Stephens Jacques on behalf of DMG Radio Australia dated 15 June 1998, comments have been made about the lack of diversity in ownership in relation to the existing commercial radio services in Sydney. As noted by RG Capital's submission there are only two owners and operators of commercial stations on the FM band in Sydney. In addition these two owners monopolise the Sydney demographics with stations targeting both the younger and older age groups.

Discussion

Section 54 of the Act states:

A person must not be in a position to exercise control of more than 2 commercial radio broadcasting licences in the same licence area.

The ABA notes that Austero currently operates two of the four existing commercial FM licences (2DAY and 2MMM) and ARN operates the other two (2UUS and 2WFM).

The ABA believes diversity in control of the more influential broadcasting services (Object 3(c) could be promoted by planning two additional commercial radio services, as it would enable independently owned (competing) new service providers to enter the Sydney market and to be equally competitive.

FAIR AND ACCURATE COVERAGE OF MATTERS OF PUBLIC INTEREST AND APPROPRIATE COVERAGE OF MATTERS OF LOCAL SIGNIFICANCE [S.3 (G)]

The Explanatory Memorandum to the Broadcasting Services Bill 1992 ('the EM') explains the role and uses of this object in the following way:

- (g) *to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.*

The EM states:

The reference in this object to “a fair and accurate coverage of matters of public interest” recognises that for most people, broadcasting is a major source of information on issues and events in the world. It is intended that, in the reporting of events and the presentation of issues, providers of broadcasting services will report the facts and facilitate the presentation of issues, the range of views on any particular issues. This does not mean, however, that broadcasters will be required to give equal time to every view on any particular subject...

As discussed in the Legislative Framework, in general, planning of additional services might be expected to promote appropriate coverage of matters of local significance (the object at paragraph 3(g) of the Act relates), where there is some prospect those additional services might be taken up. For example, planning may enable new service providers to address needs not adequately catered for by existing licensees. Also greater competition (the object at paragraph 3(b)) in markets may encourage service providers to provide more appropriate coverage of matters of local significance.

On the other hand, introduction of competition can be expected to focus attention on costs and lead broadcasters to seek production efficiencies. If matters of local significance do not influence audience listening behavior (and hence advertising revenue) cost reductions may go so far as to diminish the ability of existing broadcasters to produce programs locally. This may hinder appropriate coverage of matters of local significance, if the new services do not redress the deficiency by covering matters of local significance themselves. A number of the submissions received from both existing and potential commercial broadcasters in Sydney have commented on the impact new commercial services will have on the coverage of local significance. From submissions received, the ABA found:

Finding 3.16 If additional commercial radio services were made available it is likely that an independent (competing) operator would offer fair and accurate coverage of matters of public interest and appropriate coverage of matters of local significance.

Relevantly, section 3 (g) relates to ‘appropriate coverage of matters of local significance’ and section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to ‘such other matters, as it considers relevant’. A number of the submissions received included comments about the impact additional commercial services in Sydney would have on coverage of matters of local significance.

Submissions Received

The submission from Blake Dawson Waldron on behalf of Telecasters Australia Limited (“Telecasters”) dated 12 June 1998, states that commercial FM radio services primarily provide a music format whereas AM commercial services usually offer talk/information formats. For this reason additional commercial FM radio services should not significantly affect coverage of matters of local significance. Telecasters also submit that as Sydney is such a large and diverse commercial radio market there will always be a demand for a range

of formats and that any additional services will provide additional local programming and will be new sources of local product.

The submissions from Macarthur South West Broadcasting Pty Ltd (MSW), an aspirant group interested in provided a commercial radio service to the Campbelltown area of Sydney, are detailed under Preliminary View (4). It is worth noting that MSW submits there is a need for a local commercial radio service in Campbelltown as the area currently receives little local programming.

A submission dated 15 June 1998, from Mallesons Stephen Jacques on behalf of DMG Radio Australia (DMG) comments that even with additional commercial operators to split the revenue, the existing commercial licensees will be able to continue the current level of investment in local programs and talent (including news services) and still generate more than adequate profits. In a subsequent submission dated 18 September 1998, Mallesons Stephens Jacques makes the following comments on behalf of DMG in relation coverage of matters of local significance:

DMG contends that local news and current affairs services are regarded by audiences as critical to the quality of the product they receive and, in light of that fact and also because revenues are so significant in metropolitan markets and are able to support local news and current affairs services, it follows that those services will not be networked and coverage of matters of local significance will be satisfied and enhanced;

Austereo in its submission received 8 July 1998 provides comments in relation to some of the objects of the *Broadcasting Services Act 1992*, the objects addressed include 3 (a), (b), (c), (e), (f) and (g).

In relation to object 3 (g) which states:

3 (g) to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance

Austereo is of the view that new commercial radio services will discourage commercial licensees from coverage of matters of local significance whereas the addition of community and open narrowcasting services is likely to promote "localism".

The Australian Radio Network (ARN) in its submission of 29 June 1998, believes that the introduction of new services in the metropolitan radio markets, which it believes are already competitive, will result in directly undermining the public interest.

With regard to networking of services and the provision of local programming DMG makes the following comments in its submission of 18 September 1998:

DMG believes that the acquirers of new commercial services in metropolitan cities will not network news and current affairs services. DMG's research demonstrates, without doubt, that local news and current affairs services are regarded by audiences as critical to the quality of the product they receive. In light of that fact and because revenues are so significant in metropolitan markets and are able to support local news and current affairs services, it follows, as a matter of commercial common sense, that news and current affairs will not be networked

and object (g), which refers to coverage of matters of local significance, will be satisfied and in fact enhanced.

DMG in its most recent submission dated 6 April 1999, states that planning additional commercial radio will have a positive effect on the appropriate provision of local programming as the success of new services attracting listeners is critical to their very survival. DMG believes this is demonstrated around Australia where local stations broadcasting matters of local significance, always achieve more listener support.

Austereo in its submission received on 7 July 1998, stated that the introduction of additional commercial radio licences would discourage commercial licensees from providing coverage of matters of local significance. Austereo believes that the addition of community and open narrowcasting services in the metropolitan markets is likely to promote "localism".

In its submission dated 29 June 1998, the Australian Radio Network Pty Ltd (ARN) details how the station provides a great deal of local programming to the Greater West region of Sydney, including local news, current affairs, traffic and wet weather information, community announcements, 'Job Watch' segments and generally cater to the needs of local community and sporting organisations. ARN comment further:

It is no exaggeration to state that the local service 2WS provides to Sydney's Greater West will be put at risk with the entry of new commercial services in Sydney. The pressure to further exploit cost reductions in the face of falling revenue will lead to an intensification of networking and automation.

Discussion

Network structures are an important part of the commercial arrangements of the industry, both for the sale of advertising and for the sale of programs. Advertising revenue is derived from sales both to national advertisers and to local advertisers. The proportion of national advertising is substantially greater for stations belonging to larger national networks. The unit costs of sales of national advertising are lower than for local advertising, so that networked stations enjoy a cost advantage over non-networked stations. Similarly, higher cost programs are supported through larger audience bases. News services in particular have developed a high level of networked sales. News programs entail higher production costs than many other forms of programming. The cost structure of the industry produces pressures towards the aggregation of audiences, both for the efficient sale of advertising, and for the amortisation of program costs. This tendency and the trend it produces are likely to continue. The limiting factor to the ability of stations to network programming is the preference of audiences for local programming. Networking has proved successful for programs in which there is wider audience interest, but not for those programs where local content is critical to success.

The ABA recognises the tendency of the industry towards networked programs may to some extent work against the coverage of matters of local significance, but it may also provide audiences with access to higher cost programming than can be supported by the local audience alone. The Sydney market is the largest market in Australia. It is particularly important, both to the sale of national advertising and to the supply of programs. It is likely to be a principal source of programs for other markets. The ABA therefore considers that

both the quality, and the range of programs produced for the Sydney market is likely to have an effect on the whole industry.

HIGH QUALITY AND INNOVATIVE PROGRAMMING (S.3 (F))

The Explanatory Memorandum to the Broadcasting Services Bill 1992 ('the EM') explains the role and uses of this object in the following way:

- (f) *to promote the provision of high quality and innovative programming by providers of broadcasting services.*

The EM states:

Clause 3(f) is based on the expectation that the emergence of 'niche' broadcasting services and the development of a more competitive environment should result in high quality and innovative programming if broadcasting service providers, particularly of subscription services, are to attract and retain audience interest.

The ABA also considers object 3 (b) to be relevant to discussion on high quality and innovative programming. Object 3 (b) states:

- (b) *to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs.*

According to the EM:

Of particular relevance to this object are the flexibility of the planning and licensing schemes...

The EM states in its general comments on Part 3 of the Act:

It is... intended that barriers to entry to the broadcasting service industry be minimised, and that competition in the provision of such services be facilitated through the quicker introduction of extra services.

Submissions

Some of the existing operators in Sydney included comments about the impact additional commercial radio services would have on their ability to provide high quality and innovative programming. In contrast a number of submissions have been received from potential commercial operators who comment on their intentions to offer high quality and innovative programming. Relevantly, the ABA found:

- Finding 3.17* If additional commercial radio services were made available it is likely that an independent (competing) operator would offer high quality and innovative programming.

Austereo in its submission received 8 July 1998 provides comments in relation to some of the objects of the *Broadcasting Services Act 1992*. The objects addressed include 3 (b) and (f).

In addressing s.3 (b) Austereo is of the view that it is unlikely that additional commercial radio services will improve efficiency in the market and that additional community and/or open narrowcasting services may improve the responsiveness of the industry to audience needs.

Austereo also believes that with regard to a competitive broadcasting industry the ABA appears to confine its focus on the planning and licensing of commercial radio services alone. Accordingly Austereo is of the opinion that both community and open narrowcasting services also compete to some degree with commercial radio and should also be considered in the equation. The ABA's views on this issue are detailed in the reasoning above under '*Diversity*'.

With regard to Object 3 (b) of the Act (facilitating a broadcasting industry that is efficient, competitive and responsive to audience needs), DMG in its submission dated 6 April 1999 believes that this object would be enhanced by:

Making at least 3 high powered commercial FM radio services available in each of the five major capital city markets because the current structure whereby there are the same two FM duopoly owners in Sydney, Melbourne, Adelaide and Perth and one FM duopoly owner in Brisbane means that there should be an opportunity to obtain a duopoly of new licences in each of these markets in order to be fully competitive.

In its discussion of object 3 (f) Austereo refers to the ABA's discussion of this object in its Legislative Framework and notes that there is no discussion of the role that national, community and open narrowcasting services may have on object 3(f). Austereo also believes that the ABA has not fully considered the potential of additional commercial radio services to diminish quality programming and make innovative programming more risky.

The Australian Radio Network Pty Ltd (ARN) in its submission dated 29 June 1998, states that the introduction of new commercial radio services will fragment the advertising revenue which will in turn impact on the ability of stations to support high quality programming and make innovative programming too risky a proposition. ARN gives an example of its current programming commitments/investments:

The Australian Radio Network has invested nearly \$3 million on an innovative multi-media project unlikely to ever be entertained in countries like the United States or New Zealand. ... In stark contrast, Australian radio has been willing to invest in Australia's enormous talent bank ensuring cutting edge, quality product. Radio can only make such investments with some assurance of large returns. If you invest heavily you need to expect big returns. The industry will be unable to make the returns necessary for such large investments if new commercial licences are introduced.

In its submission dated 12 June 1998, Blake Dawson Waldron on behalf of Telecasters Australia Limited argue that the limited number of services available in Sydney will prevent the development of dual station operations which would compete with the current radio networks – Austereo and ARN. Telecasters state further:

Dual services offer a greater prospect of complementary programming than single services, including programming for new or innovative formats.

RG Capital in its submission dated 29 June 1998, believes that there should be six additional high powered commercial FM radio services made available in Sydney and that an increase in the number of commercial services available will create a more competitive environment which will promote the provision of high quality and innovative programming.

In its submission dated 15 June 1998, Mallesons Stephens Jacques on behalf of DMG Radio Australia (DMG) states that the current level of investment in programming and talent could be maintained without intolerable pressure on profits and that audience demands will be met in order to achieve ratings. In a subsequent submission from Mallesons Stephens Jacques on behalf of DMG dated 18 September 1998, DMG state:

With specific reference to commercial broadcasting, DMG agrees with the ABA that more commercial broadcasting services are more likely to be positive than negative when measured against this object. DMG believes that more commercial services will mean an increase in the number of different formats and styles to connect with the target audience. History demonstrates that the development of different formats and styles will add to high quality and innovative programming.

DMG points out in its most recent submission dated 6 April 1999, that commercial radio engages in extensive and costly research in order to provide services that are innovative and that will be appeal to mainstream Australia. DMG further submits that the nature of commercial radio means that increasing (FM commercial radio) competition beyond the existing two owners in Sydney will mean both the existing and new services will aim to provide innovative programming in an attempt to appeal to potential listeners.

Martin Broadcasting Services in its submission dated 6 May 1999, believes that currently there is no competition in the metropolitan commercial FM radio market with innovative programming and sales ideas.

Discussion

The ABA acknowledges that what is an innovative program is often a matter of judgement for the listener in the case of radio broadcasting.

While additional services may not always promote the provision of high quality and innovative programming by providers of broadcasting services (Object 3 (f) of the Act), the effect of introducing additional commercial services is more likely to be positive than negative when measured against this object. The ABA believes that increasing competition (the object at paragraph 3(b)) is likely to encourage broadcasters to be more responsive to audience needs. The ABA is of the view that additional services may well permit additional high quality and innovative programming to be broadcast, whether in the form of innovative new ideas for local services or top quality programming 'networked' from other parts of the country. Increased competition would put pressure on both existing and new service providers to offer programming that will allow them to maintain/attain the necessary audience share of the market.

Taking into consideration all comments made by the above submitters the ABA prefers those views of the potential broadcasters regarding the effect additional commercial services will have on the provision of high quality and innovative programming (s.3 (f)).

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on commercial radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- There is considerable interest in the acquisition of further commercial FM radio licences in Sydney.
- There is some opposition to the introduction of additional commercial radio broadcasting services in the Sydney market.
- The existing high powered commercial AM radio services operate at a maximum CMF ranging from 885 V to 955 V (transmitter power of 5 kW).
- The existing high powered commercial FM radio services operate at a maximum ERP of 150 kW.
- The available high powered 5 kW service on the AM band would not provide comparable coverage to the existing commercial AM services in Sydney and is therefore not suitable for commercial use.
- The three available high powered (150 kW) services on the FM band would provide comparable coverage to the existing commercial FM services in Sydney and are therefore suitable for commercial use.
- The remaining capacity on the FM band (15 kW and 50 kW) would not provide comparable coverage to the existing commercial FM services in Sydney and are therefore not suitable for commercial use.
- The licence areas of the existing commercial radio services in Sydney are the most appropriate for any additional commercial radio services in Sydney.
- If additional commercial radio services were made available in Sydney it is likely an independent (competing) operator would offer coverage comparable to existing services.

- It is unlikely that alternative means of delivering radio services will substantially reduce the ability of the market to sustain commercial radio broadcasting services using AM and FM spectrum in the short to medium term.
- Sydney has the largest number of radio services of any market.
- There is a positive relationship between the population and wealth of cities and the number of commercial radio broadcasting services they are able to sustain.
- The Sydney market is the largest and possibly most financially important commercial radio broadcasting market in Australia, and radio advertising revenue in this market has grown substantially in real terms since 1981.
- If two additional commercial radio services were made available it is likely that independent (competing) operators will add to the diversity of available services, but within popular tastes.
- If additional commercial radio services were made available in the Sydney market, this will lead to diversity of control of commercial radio broadcasting services in the Sydney market.
- If additional commercial radio services were made available it is likely that an independent (competing) operator would offer fair and accurate coverage of matters public interest and appropriate coverage of matters of local significance.
- If additional commercial radio services were made available it is likely that an independent (competing) operator would offer high quality and innovative programming.

CONCLUSION

Having regard to all of the above matters, the ABA's preferred option for promoting the objects of the Act, including the economic and efficient use of radiofrequency spectrum, in Sydney is for two additional commercial broadcasting services using high power (150 kW) FM frequencies.

On the material before it, the ABA believes that planning two additional commercial radio services is likely to result in two more services being provided for in the area, and is likely to result in a more balanced mix of broadcasting services in Sydney (Object 3(a)). Planning services that are not allocated, or that are allocated but not successfully established, would not appear to promote the objects of the Act, particularly the economic and efficient use of spectrum. However, apart from situations where planning two additional commercial radio services would occupy all available capacity, which is not the case in Sydney, the ABA does not regard planning two additional commercial radio services as potentially wasteful of spectrum.

The ABA also believes that two additional commercial radio services for Sydney would offer wide coverage comparable to the existing commercial radio services. This should reduce the opportunity for entrepreneurs to only provide a service to the more commercially

lucrative areas within the licence area at the expense of the quality of services enjoyed in other parts of the licence area (Object 3(a)).

The ABA believes that making two additional services available in Sydney would introduce competition to the market and facilitate the development of a broadcasting industry that is more efficient, competitive and responsive to audience needs (Object 3 (b)). Availability of additional licenses may be expected to lead to further growth in the radio industry.

However, the introduction of additional services may be expected to cause a short term shock³³. This approach is supported by the Explanatory Memorandum to the Broadcasting Services Bill 1992 which explains the roles and uses of the objects of the Act. In regard to its general comments on Part 3 of the Act the Explanatory Memorandum states:

It is... intended that barriers to entry to the broadcasting service industry be minimised, and that competition in the provision of such services be facilitated through the quicker introduction of extra services.

The ABA accepts that the introduction of additional commercial radio services to the Sydney market is likely to result in increased competition for advertising. The ABA does not believe it is possible to forecast accurately the extent to which additional commercial stations are likely to generate additional revenue, or to fragment existing revenue. The ABA accepts that one result of the introduction of additional competition is likely to be a pressure to reduce costs. Such pressure is a desirable result of competition when it leads to increased efficiencies, but the ABA acknowledges concern that such pressure may go beyond efficiency and have a negative effect on program quality. Sydney is the largest radio market in the country. Sydney metropolitan stations play an important role in networks, both as a large audience important to national advertisers, but also as a source of programs supplied to networks or to stations in other licence areas.

The ABA is concerned at the possibility that a substantial increase in the number of commercial licences in the Sydney market would lead to a decline in revenues and profitability for the industry as a whole. If cost pressures led to a decline in program quality, this would affect programming for a large number of stations, not only those in the Sydney market.

Chart 4 demonstrates that there has been substantial growth in the Sydney market since the last increase in licences in 1980. Under these circumstances, the ABA is confident that the Sydney market can absorb the additional competition of two new commercial licences

One new commercial licence is proposed to be allocated immediately. One additional station represents an increase of 11% in the number of stations. The introduction of two stations would be an increase of 22%. The ABA is concerned that such an increase would represent a shock and is likely to have undesirable consequences on the industry. The ABA proposes therefore to allocate the second commercial licence four years from determination of the LAP. This will provide certainty to the industry and the financial marketplace on the

³³ See Chart 8 within this Preliminary View.

timing of new entrants and it will allow for further growth in GDP to be factored in before the introduction of a second service.

Diversity in control of the more influential broadcasting services (Object 3(c)) could be promoted by planning two additional commercial radio services, as it would enable independently owned (competing) new service providers to enter the Sydney market and to be equally competitive.

The ABA also wishes to promote an appropriate coverage of matters of local significance (object 3(g) of the Act relates). On this point the ABA acknowledges that there may be a loss of local programming on the existing services (if it makes two additional services available) which may then result in less appropriate coverage of matters of local significance, particularly if the new services are unable to redress any deficiency by covering matters of local significance. However, the ABA prefers to accept a more general view that planning of additional services might be expected to promote appropriate coverage of matters of local significance, where there is some prospect those additional services might be taken up. In this respect, the ABA accepts what the aspirant commercial broadcasters propose in regard to local programming and expects this to be the outcome. Also, the ABA considers that greater competition in markets (Object 3 (b)) may encourage all service providers in Sydney to provide more appropriate coverage of matters of local significance.

The ABA acknowledges that it has little control over the legitimate programming choices of new market entrants and therefore it cannot ensure that making two additional commercial radio services available will promote Object 3(f) (high quality and innovative programming). However, the ABA believes introducing additional commercial services is more likely to be positive than negative when measured against this object.

Based on the evidence before it particularly the entrepreneurial interest not only for commercial services but also the interest by potential broadcasters to establish additional community and open narrowcasting services (s23(c) and (g) and the available spectrum (s23 (e)), the ABA believes the Objects of the Act will be best promoted by making two (as opposed to none, one or three) high powered commercial radio services available in Sydney. Such a decision is likely to promote the objects of the Act at paragraphs 3 (a), (b) and (c), including the economic and efficient use of the radiofrequency spectrum. This may also promote the objects at paragraphs (f) and (g).

SUBMITTERS

The ABA seeks additional information from potential service providers to assist in finalising a decision about additional commercial radio services in the Sydney market. The ABA requires all potential service providers address the following questions:

- | |
|---|
| a) Whether and in what way providing additional commercial radio broadcasting services in the Sydney market would represent an economic and efficient use of the radio frequency spectrum; |
|---|

- b) Whether or not any additional commercial radio service you propose to provide would offer signal coverage at least comparable to existing services;**
- c) The likely impact of any increase in the number of services on diversity in the range of services offered and the overall level programming and the area covering matters of local significance;**
- d) Information and supporting evidence about your capability to provide a commercial radio service;**
- e) Whether sufficient capital is currently or potentially available to you to commence and continue to provide additional commercial radio services in Sydney in accordance with the technical specifications proposed in the draft LAP;**
- f) Whether your interest is contingent in any way.**

If submissions address the economic characteristics of the Sydney market, the supporting economic evidence must be provided with the submission.

All submissions over five pages in length must provide an executive summary.

PRELIMINARY VIEW 4 - LOCAL COMMERCIAL RADIO, CAMPBELLTOWN REGION

The ABA proposes to make one additional commercial radio service available in the Campbelltown region. The service is proposed to operate on 91.3 MHz from a nominal transmitter site at Mt Hercules Road Razorback, with a maximum ERP of 1 kW.

This service is proposed to be restricted to a maximum ERP of 200 W towards Sydney until the clearance 2NSB Chatswood from 91.5 MHz to 99.3 MHz.

This service will not be made permanently available, unless it can be demonstrated that it will not cause unacceptable interference to NBN3 Newcastle or WIN3 Wollongong.

The licence area of the additional service is proposed to include the City of Campbelltown, the Local Government Area of Camden, and part of the Local Government Area of Wollondilly, against 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

The ABA believes that preliminary view 4 is likely to promote the objects of the Act at paragraphs 3 (a)³⁴ and (b)³⁵, including the economic and efficient use of the radiofrequency spectrum. This will promote the objects at paragraphs 3(f)³⁶ and (g)³⁷. The 'Legislative Framework' (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In developing preliminary view 4, the ABA had regard to the objects of the Act, the local circumstances of the Campbelltown region, the likely impact of other preliminary views in the LAP, and other relevant matters under s.23 (a) - (g). An account of this process of consideration follows.

In forming its preliminary view on whether or not additional commercial radio broadcasting services should be made available in Sydney, the ABA considered the following relevant issues:

- interest in provision of, and demand for, commercial radio services (s.23(c) and s.23 (f);

³⁴ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

³⁵ To provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs.

³⁶ To promote the provision of high quality and innovative programming by providers of broadcasting services.

³⁷ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

- the channel capacity in the Campbelltown region (s.23(c) and s.23 (e));
 - demographic, social and economic characteristics of the Campbelltown region (s.23 (a) & (b));
- diversity, coverage of matters of local significance and innovative programming (s.3 (a), s.3(b), s.3(f), s.3(g) and s.23(c).

INTEREST IN PROVISION OF, AND DEMAND FOR, ADDITIONAL COMMERCIAL RADIO SERVICES

The ABA in reaching its preliminary view considered whether there was any interest in the provision of a commercial radio service in the Campbelltown region. The ABA found that:

Finding 4.1 In the event that a local coverage commercial radio service was made available in the Campbelltown region, it is likely that potential radio broadcasters would be interested in providing a service.

Section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to ‘such other matters, as it considers relevant’. As the public is dependent on the private sector to provide commercial radio broadcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Submissions Received

In 1988, Macarthur South West Broadcasters Pty Ltd (MSW) expressed an interest in establishing a commercial radio service in the Macarthur region. Since the formation of the ABA, many submissions have been received by the ABA from MSW confirming its interest in providing a local coverage commercial radio service in the region.

Public Demand for Commercial Radio Services

On the issue of expressed popular demand disclosed during the public consultation process, the ABA found that:

Finding 4.2 There is strong public demand for a local commercial radio service to serve the Campbelltown region.

In performing its functions under s.23(c) of the Act, the ABA is to have regard to the demand for new broadcasting services within a licence area, within neighbouring licence areas and within Australia generally.

Appended to a submission from MSW, received by the ABA on 9 February 1993, was a petition indicating support for a new a local commercial radio service for Campbelltown and the surrounding areas. The petition contained 1,210 signatories.

In addition, appended to the submission were letters of support for MSW in the provision of a commercial radio service in the Macarthur region from the following: John Kerin MP,

Member for Werriwa; The Council of the Municipality of Camden; McDonald's Campbelltown; Macarthur Tile Service Pty Ltd; Marsdens Attorneys (Campbelltown); William Inglis and Sons Pty Ltd (Auctioneers and Real Estate Agents, Camden); Leppington Pastoral Company Pty Ltd (Bringelly); Red Cross/Lend Lease Community Centre (Campbelltown); Clintons Toyota (Campbelltown); Oran Park Motor Sport Pty Ltd (Narellan); T/AS Campbelltown Exhaust Centre; Boral Concrete; Campbelltown City Bowling Club Co-op Ltd; Discount Hire Pty Ltd (Campbelltown) and Aquila Steel (Leumeah); Paul Wakeling Holden (Campbelltown); Golden Carpets Pty Ltd (Campbelltown); BBC Hardware; Campbelltown Watts Dry Cleaners; Campbelltown Catholic Club Limited; Western Suburbs Roof Tiling Pty Ltd (Mittagong); De Hall Dance (Campbelltown); Ralph's Pharmacy; Nepean Bearing and Transport Supplies Pty Ltd (Narellan); South West Electrical Pty Ltd (Narellan); Mikki's Nite Club (Campbelltown); Caltex (Campbelltown); Ken W. Wallace Auto Electrical Pty Ltd (Campbelltown); Trade Centre Mowers (Leumeah) and Campbelltown Auto Radiator Repairs.

In a submission dated 8 November 1996, John Fahey MP, Member for Macarthur, Minister for Finance (and presently Minister for Finance and Administration) supported the recognition of the region of Macarthur as a district and relevant region for a commercial radio licence.

In a submission dated 14 November 1996, Councillor Russell Matheson, Mayor, Campbelltown City Council, supported MSW providing a regional commercial broadcasting service in the Macarthur and South West Region of Sydney.

CHANNEL CAPACITY

The ABA next had regard to whether channel capacity existed in the Campbelltown region for provision of a local coverage commercial broadcasting service. The ABA found that:

Finding 4.3 There is channel capacity for a local commercial radio service to serve the Campbelltown region.

The ABA is required to have the technical restraints relating to delivery and reception of broadcasting services (s.23e). Section 23(g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to 'such other matters, as it considers relevant'.

The channel capacity identified by the ABA is outlined below.

| General Area Served | Frequency | Maximum ERP |
|----------------------------|------------------|--------------------|
| Campbelltown | 91.3 MHz | 1 kW |
| Campbelltown | 100.3 MHz | 200 W |
| Campbelltown | 783 kHz | 2 kW |

Table 1 Channel capacity in Campbelltown

Submissions Received

Radio Transmission Engineering (RTE) a broadcasting consultant representing MSW, in submissions dated 30 April 1997, 1 May 1997 and 18 September 1997, proposed both a FM and AM option for the allocation of a channel for a Campbelltown commercial radio service.

The FM option would have to be I believe a wide coverage service and therefore I would suspect would be required to be drawn from one of the wide coverage FM services in the Sydney mix so as to be compatible with the rest of the adjacent FM spectrum.

Preference was for a FM frequency. However, RTE did put forward options for AM services, in particular the relocation of 783 kHz from Katoomba.

Discussion

As there are suitable FM frequencies for the Campbelltown region, the ABA has not pursued the issue of moving the vacant AM Katoomba frequency to Campbelltown.

In examining the wide coverage FM option for Campbelltown suggested by RTE, it would require the re-allocation of one of the available Sydney wide coverage FM radio services. The ABA is of the view that use of a high powered Sydney wide coverage FM frequency in the Campbelltown region would not represent economic and efficient use of the radiofrequency spectrum.

The ABA has identified 91.3 MHz and 100.3 MHz as suitable medium coverage Campbelltown region frequencies, which could not be made available as Sydney wide coverage services.

91.3 MHz with a maximum ERP of 1 kW (omnidirectional) from Mt Hercules Road Razorback, could be made available in Campbelltown with the following restrictions:

- Interference calculations suggest a maximum ERP of 200 W in the direction of 2NSB Chatswood. 2NSB Chatswood would be required to change frequency for a Campbelltown 1 kW service to broadcast in this direction;
- Interference calculations suggest a maximum ERP of 100 W in the direction of WIN3 Wollongong. The WIN3 transmission is horizontally polarised, therefore a FM transmission only vertically polarised would provide a greater level of protection and would allow an increase in ERP to 1 kW.

100.3 MHz with a maximum ERP of 200 W from Mt Hercules Road, could be made available in the Campbelltown region. This frequency is restricted to 200 W to prevent interference to the proposed 2RDJ Burwood alternative frequency on 100.5 MHz and the proposed Hornsby community radio service on 100.1 MHz.

The ABA has also considered whether there were competing channel requirements for other categories of radio service. Macarthur Community Radio Association Incorporated

(MCR), an aspirant community radio broadcaster, currently operates a Temporary Community Broadcasting Licence (TCBL) on 100.3 MHz. As indicated in Preliminary View 8, the ABA proposes to make 100.3 MHz available for a local coverage community radio broadcasting service to serve the Campbelltown region.

Taking this into consideration, there is sufficient channel capacity to make one local coverage commercial radio service available in the Campbelltown region on 91.3 MHz with a maximum ERP of 1 kW.

Knowing that channel capacity exists to make a local coverage commercial radio service in the Campbelltown region, the ABA considered if it should make a service available.

DEMOGRAPHIC, SOCIAL AND ECONOMIC CHARACTERISTICS

The ABA considered the demographic and social economic characteristics of the Campbelltown region, surrounding region and Australia overall.

Based on the submissions received and ABS Census data, outlined below, the ABA found:

- Finding 4.4* The Campbelltown region has a higher population growth rate and a younger population than New South Wales and Australia overall.
- Finding 4.5* The Campbelltown region has a higher income rate than New South Wales and Australia overall.
- Finding 4.6* The Campbelltown region has a separate federal electoral boundary to the Sydney metropolitan region.

The ABA is required by s23 (a) and (b) of the Act to have regard to demographics and social and economic characteristics within a licence area, within neighbouring licence areas and within Australia generally. Section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to 'such other matters, as it considers relevant'. As the public is dependent on the private sector to provide commercial radio broadcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Submissions Received

In its submission of 25 May 1993, MSW proposed a licence area to include the City of Campbelltown and the Local Government Areas (LGAs) of Camden, Wollondilly and Wingecarribee.

MSW stated that the Macarthur region is a homogeneous one and cannot by any measure be considered to be part of the Sydney Metropolitan area. MSW also stated that neither Campbelltown nor Camden, much less Wollondilly or Wingecarribee have any community of interest with the Penrith region, which is the centre of operations for 2WS. MSW indicated that the parameters which applied at the time of the 2WS licence grant are no longer valid for the Macarthur region mainly because of the doubling of the numbers of the

population in the region since that time and the greatly altered status of Campbelltown itself from a rural village to the commercial centre of a thriving community. MSW further stated:

In the past decade, the area of major population with the proposed service area, Campbelltown and Camden, have dramatically changed from almost rural centres to ones of urban growth. This urbanisation has extended into Wollondilly and Wingecarribee Shires and is likely to do so at an increasing rate...

Bowral, and those parts of Wingecarribee shire adjacent to it have a service provided through a translator from 2ST, Nowra.

Whilst Nowra is geographically closer to Bowral than any other region possessing a commercial radio station, there is little, if any community of interest between the two centres since they are serviced by separate arteries of commercial and transport from the Capital City...

Wingecarribee, lying as it does upon the Hume Highway and adjacent to Wollondilly, has a strong community of interest with its northern neighbours and is part of the Macarthur Region.

In a submission dated 14 November 1996, the Mayor of the Campbelltown City Council supported a regional commercial broadcasting service for the Macarthur and South Region of Sydney. The Mayor stated that it was anticipated Campbelltown will grow by at least 2% p.a. and will reach 151,200 at the end of 1996. In the long term, Campbelltown is planned to accommodate a population of 220,000. The Mayor further stated:

Like the rest of Western Sydney, Campbelltown's population has a 'young' population profile with 30% of its population aged 19 years or less. There is only 7% of the population aged 60 years or more.

An extensive educational setup has been established within Campbelltown. The area has one of the highest provision of schools (public and private) within the State. Interestingly, a number of private schools are now looking to locate within the area.

The University of Western Sydney has its Macarthur Campus located within Campbelltown. The University (along with the TAFE) will continue to be one of the attributes of the area providing the education and skills for employment.

Campbelltown has one of the greatest diversities in ethnic groups – this will continue to add to the culture of Western Sydney.

Western Sydney is developing an extensive transport system. The railway and road system within Campbelltown will continue to contribute to its growth along with Western Sydney's development. The New motorway (M5) from Sydney to the main southern freeway (F5) has greatly improved the access to Campbelltown and Sydney.

It will act as a catalyst for further development in Western Sydney, importantly bringing jobs to where the majority of Sydney's population lives. Campbelltown has lands available for further industrial and commercial development.

The inclusion of a regional commercial broadcasting service would only contribute to the benefits Western Sydney has to offer and reflect the necessity of a regional commercial service and not an extension of the present Sydney services.

The submission from MSW, dated 25 May 1993, appended a 1988 submission to the former Australian Broadcasting Tribunal. As this submission contained demographic and

social and economic characteristics from the ABS 1986 Census, the ABA did not consider this data relevant.

Appended to MSW submission of 16 June 1998 was a report from the *Macarthur Regional Organisation of Councils (MACRO), Macarthur Investment Prospects*³⁸. MACRO indicated that Macarthur, located 35-75 kilometres south west of the Sydney GPO, consists of the Local Government areas of Camden, Campbelltown and Wollondilly. The data contained in the report ranged between 1991 to 1996³⁹.

The table below provides a summary of the 'Competitive Advantages' contained in the MACRO report:

| <i>Demographics</i> | <i>Macarthur</i> | <i>Penrith</i> | <i>Wollongong</i> | <i>Liverpool</i> | <i>Central Coast</i> | <i>Blacktown</i> |
|---|------------------|----------------|-------------------|------------------|----------------------|------------------|
| Nineteen years or less ⁴⁰ (1995) | 40% | 36% | 30% | 32% | 29% | 35% |
| Median age (1995) | 26 | 27 | 31 | 28 | 34 | 27 |
| Households with children (1995) | 56.70% | 53.50% | 40.20% | 47.00% | 36.10% | 52.30% |
| Growth in Dwellings (1991-1995) | 9.69% | 6.90% | 4.55% | 6.71% | 9.59% | 7.32% |
| Population Growth (1991-1995) | 11.07% | 11.44% | 4.28% | 6.74% | 11.44% | 7.26% |

Table 2: Competitive Advantages

MACRO also indicated the students at the University of Western Sydney (UWS) grew from 6,405 in 1993 to about 8,279 in 1996, an increase of 29% between this period.

In a submission dated 9 June 1998, Grant Broadcasters Pty Ltd, subsidiary companies Wollongong Broadcasters Pty Ltd (2UUL) and South Coast and Tablelands Broadcasting Pty Ltd (2WSK and 2ST Nowra), stated there appears to be no real official definition of the word "Macarthur", however the two newspapers, the Macarthur Chronicle and the Macarthur Advertiser, both claim to cover most of Campbelltown, Camden and Wollondilly but in both cases they state that they have no distribution past Bargo.

³⁸ The ABA's Records of Advice (in accordance with subsection 27(2) of the Act) are at Appendix 2.

³⁹ Sources: APASCO, MAP and UWS

⁴⁰ Derived from graphs in the MACRO report, therefore approximate percentages.

Grant Broadcasters Pty Ltd further stated that there is one organisation, the Macarthur Regional Organisation of Councils, that uses the term and this represents the two shires of Wollondilly and Camden and the city of Campbelltown.

Grant Broadcasters Pty Ltd submitted that if a licence is granted in the Macarthur region, then contrary to the proposal by Macarthur South West Broadcasting Pty Ltd, the commercial licence area for any station covering the Campbelltown area be limited to the shires of Camden and Wollondilly and the city of Campbelltown without any overlap into the licence areas of 2ST and 2WSK Nowra.

ABS Census Data

From the 1991 to 1996 Census, the population growth rate of the proposed Campbelltown region licence area was 9.68%. This compares with a growth rate in New South Wales of 5.4% and Australia overall a growth rate of 6.16%.

Age Profile

In 1996, the median age of Campbelltown, Camden and Wollondilly was 28 years. This compares with 34 years in New South Wales and 34 years in Australia overall.

Income

| Area | Median Household Income (Weekly) \$ | Median Personal Income (Weekly) \$ |
|---|--|---|
| Campbelltown, Camden, Wollondilly | 796 | 349 |
| New South Wales | 655 | 292 |
| Australia | 637 | 292 |

Industry and Commerce

| Census Variable | Campbelltown, Camden, part of Wollondilly | % of Population |
|------------------------------|--|------------------------|
| Agric, Forestry, Fish & Hunt | 1342 | 0.66 |
| Mining | 836 | 0.41 |
| Manufacturing | 14258 | 7.09 |
| Electricity, Gas & Water | 655 | 0.32 |
| Construction | 6519 | 3.24 |

| Census Variable | Campbelltown, Camden, part of Wollindilly | % of Population |
|--------------------------------------|--|-----------------|
| Wholesale & Retail Trade | 17558 | 8.73 |
| Hospitality | 2740 | 1.36 |
| Transport & Storage | 4909 | 2.44 |
| Communication | 1950 | 0.97 |
| Finance, Property & Busns Serv | 11141 | 5.54 |
| Education, Public Admin & Defence | 9233 | 4.59 |
| Community Services | 6698 | 3.33 |
| Recrtn, Personal & Other | 4486 | 2.23 |
| Not Classifiable | 1143 | 0.56 |
| Not Stated | 1430 | 0.71 |

Discussion

The ABA accepts that Campbelltown could be regarded as a discrete market due to the relative youth of its population and the relative lack of community interest with other adjacent markets and believes there is likely to be some potential for a local coverage commercial radio service in the Campbelltown region.

Licence area

In considering a licence area for a local coverage commercial radio service for the Campbelltown region, the ABA has had regard to s.23 (a), s.23(c) and s.23 (e) of the Act.

The City of Campbelltown and the LGA of Camden are within the licence areas of the Sydney commercial radio services (2CH, 2DAY, 2GB, 2KY, 2MMM, 2SM, 2UE and 2WFM) and 2UUS Western Suburbs. Part of the LGA of Wollondilly is within the 2UUS licence area, but not within the licence areas of the Sydney commercial services. The Wingecarribee LGA is within the licence area of commercial radio services 2ST and 2WSK Nowra.

As indicated above, MACRO indicated the Macarthur region consists of Campbelltown City and the LGAs of Camden and Wollondilly. However, the Macarthur electorate, of which Mr John Fahey MP is currently the member, consists of the City of Campbelltown, the LGAs of Camden, Wollondilly and Wingecarribee.

The proposed 1 kW service would not adequately serve the Wingecarribee LGA, in accordance with the guidelines set out in *the Interim Australian Broadcasting Planning*

Handbook. If a local coverage commercial radio service were made available in the Campbelltown region, it would therefore not include the Wingecarribee LGA.

With regard to the LGA of Wollondilly, the 1 kW signal would not adequately serve the whole of the LGA of Wollondilly in accordance with the abovementioned handbook. Accordingly, the ABA found:

Finding 4.7 The City of Campbelltown, the Local Government Area of Camden and part of the Local Government Area of Wollindilly against 1996 boundaries is the most appropriate.

This region is what the ABS describes as the *Statistical Subdivision of Outer South Western Sydney*.

The table below shows the proposed licence area population if a local coverage Campbelltown region commercial radio service was made available, together with overlapping licence areas and the percentage in the overlap. A comparison with Sydney licence area overlaps with other commercial radio licence areas is also provided:

| Licence area name | Population of licence area | Overlapping licence area | Population in overlap area | Percentage of Population in overlap area |
|---------------------|----------------------------|--------------------------|----------------------------|--|
| Campbelltown region | 200,964 | Sydney | 175,882 | 87.52% |
| | | Western Suburbs | 200,964 | 100% |
| Sydney | 3,373,512 | Campbelltown region | 175,882 | 5.21% |
| | | Western Suburbs | 1,320,143 | 39.13% |
| | | Katoomba | 204,124 | 6.05% |
| Western Suburbs | 1,391,462 | Campbelltown region | 200,964 | 14.44% |
| | | Sydney | 1,320,143 | 94.87% |
| | | Katoomba | 235,035 | 16.89% |
| Katoomba | 267,970 | Sydney | 204,124 | 76.17% |
| | | Western Suburbs | 235,035 | 87.71% |

Table 3: Licence Area Population

DIVERSITY, COVERAGE OF MATTERS OF LOCAL SIGNIFICANCE AND INNOVATIVE PROGRAMMING

Existing Services

The table below shows the range of broadcasting services currently licensed to serve the Campbelltown region.

| Coverage Area | Category of Service | |
|---------------|---|---|
| | Radio Services ⁴¹ | Television Services |
| Sydney | <ul style="list-style-type: none"> - 3 AM ABC (2RN, 2PB, 2BL) - 2 FM ABC (2ABCFM, 2JJJ) - 1 AM SBS (2EA) - 1 FM SBS (2SBS) - 5 AM commercial (2GB, 2UE, 2KY, 2CH, 2SM) - 4 FM commercial (2UUS, 2DAY, 2MMM, 2WFM) - 1 AM community (2RPH) - 4 FM community (2OOO, 2MBS, 2CBA, 2SER) - 1 AM open narrowcasting (temp) | <ul style="list-style-type: none"> - 1 ABC - 1 SBS - 3 commercial (TEN, NINE, PRIME) |

Table 4: Existing Services

Diversity

An important factor in considering making a local coverage commercial radio service available in the Campbelltown region is to ensure a mix of different types of radio services in a market.

In addition to the above existing services, the ABA proposes to make two additional wide coverage commercial radio services and three additional wide coverage community radio services in Sydney, whose licence areas would encompass the Campbelltown region (Preliminary Views 3 and 6). The ABA also proposes to make one local coverage community radio service available in the Campbelltown region (Preliminary View 8).

As discussed in the Legislative Framework in relation to the object of the Act at paragraph 3(a), the ABA has a vital role to play in promoting this object, but it is unrealistic that planning alone will promote the object in all its aspects. In particular some of the ‘diversity’

⁴¹ It should be noted that the reception of these radio services in the Campbelltown region varies due to the different technical characteristics of the services and, in particular, the maximum ERPs.

of new services can be expected to come from non-broadcasting services bands services (s.40⁴²) and narrowcasting services of all kinds.

It is important to note that the impact of new services on diversity may vary. In the case of commercial radio formats, the outcome of additional services may include lengthy periods of competition between similar formats.

It is not the ABA's role to regulate the specific formats of commercial services. This is underlined by the price-based nature of the commercial broadcasting allocation process and by the generic condition on commercial licences requiring only that they:

... provide a service that, when considered together with other broadcasting services available in the licence area of the licence (including another service operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area...⁴³

Certainly the proliferation of services with similar formats in an area may not promote the object at section 3(a), though at the same time it may further other objects of the Act. On the other hand, allocation of additional commercial broadcasting licences may well result in competing formats and hence greater diversity of choice.

Matters of Local Significance and High Quality and Innovative Programming

With regard to coverage of matters of local significance, as discussed in the Legislative Framework, in general, planning of additional services might be expected to promote appropriate matters of local significance (the object at paragraph 3(g) of the Act), where there is some prospect those additional services are taken up. For example, planning may enable new service providers to address needs not adequately catered for by existing licensees. The increased competition in the market (the object at paragraph 3(b)) may also encourage service providers to provide more appropriate matters of local significance.

As also discussed in Legislative Framework, while additional services may not always promote the provision of high quality and innovative programming by providers of broadcasting services (Object 3 (f) of the Act), the effect of introducing additional commercial services is more likely to be positive than negative when measured against this object. The ABA believes that increasing competition (the object at paragraph 3(b)) is likely to encourage broadcasters to be more responsive to audience needs.

In the case of the Campbelltown region, the ABA found:

Finding 4.8 If a local coverage commercial radio service was made available in the Campbelltown region, it is likely that an independent (competing) operator may add to the diversity of available services.

⁴² Under section 40 of the Act, the ABA may allocate to a person on application in writing a commercial radio broadcasting licence for a service which does not use the broadcasting services bands.

⁴³ Schedule 2, Part 4, Section 8, Sub-section 2(a) of the Act.

Finding 4.9 If a local coverage commercial radio service was made available in the Campbelltown region, it is likely that an independent (competing) operator would offer coverage of matters of local significance and offer innovative programming.

Section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to ‘such other matters, as it considers relevant’. As the public is dependent on the private sector to provide commercial radio broadcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Program Formats

The ABA took into account information found in the *Margaret Gee’s Australian Media Guide 60TH Edition (July 1999-November 1999)* about the formats offered by the existing commercial and community radio services that are licensed to serve the Campbelltown region. The following table briefly describes the format of the wide coverage Sydney commercial and community station appearing in *Margaret Gee’s*:

| STATION | FORMAT |
|----------------|--|
| 2CH | Easy Listening |
| 2GB | News/Talk/Sport |
| 2KY | Racing/News/Information |
| 2SM | Gold |
| 2UE | News/Information/Sport |
| 2DAY | Today’s Best Music |
| 2UUS (2WS) | Best Songs of All Times |
| 2WFM | Sydney’s Continuous Easy Mix of the 70’s, 80’s and 90’s |
| 2MMM | Rock |
| 2CBA | Quality of Life/Beautiful |
| 2RPH | Radio reading service for print-handicapped, reading newspapers, magazines and books |
| 2SER | Underground/Music/Politics |
| 2MBS | Classical Music/Jazz/Blues/Experimental/Alternative/ Contemporary Music |

From the Margaret Gee’s information on current formats, it is evident that there is a good cross section of formats already available in Sydney licence area⁴⁴.

⁴⁴ It should be noted that the reception of these radio services in the Campbelltown region varies due to the different technical characteristics of the services and, in particular, the maximum ERPs.

Submissions received

In its submission of 25 May 1993 appending its 1988 submission to the former Australian Broadcasting Tribunal, MSW stated:

While there are several commercial radio services available in the area, this is irrelevant unless one of these, or all of them in total, fulfill the requirement of the Broadcasting Act in regard to an "Adequate and Comprehensive Service." It was accepted more than ten years ago, when the 2WS licence was granted, that the Sydney metropolitan stations fail to provide this service and whilst the 2WS licence was made available to do so it fails to do so now...

... In the local market, which is a considerable one, little, if any serious attempt has ever been made by commercial radio broadcasters to service advertisers. In Campbelltown itself, there are a number of independent business houses whose managements operate under the aegis of such buying groups as Retravision, Mitre 10 and like organisations. When these groups mount an advertising campaign on Sydney Radio, Television or in the national press, members all take part as they are bound to do under the terms of their membership. However, recent inquiries made among Campbelltown business people have failed to find a single case where a local business has, without subsidy or co-operative participation, spent portion of the advertising budget on Metropolitan Radio advertising.

The above is hardly surprising since rates set to meet the needs of a market of 3 million people would hardly be attractive, or even affordable to an enterprise doing business in a market of only 200 000. It is plain that a new licensee in the Macarthur Region seeking to establish a viable business would meet competition for the local market only from the local print media...

MSW indicated the types of programs which will eventually be broadcast by the new station will be determined only after comprehensive surveys have been conducted by competent professionals, however, certain elements are considered by the sponsors to be essential and will be given priority in any future service. MSW added:

What can be said, however, and with certainty, is that the means by which a Local Regional Station gains and retains a Local Regional Audience is well known. It involves something called Localism and means much more than simply finding the kind of music the locals like and playing it twenty four hours a day.

MSW further stated that local news, current affairs at a local level and information regarding local sporting and cultural matters would be primary considerations. This would provide local residents with a means of communication, which is currently lacking insofar as these important community matters are concerned.

In addition to the services provided "on air", it is the intention of the sponsors that a new station would become an important factor in such community affairs as local cultural and sporting events, the activities of service clubs and such community organisations as require publicity to foster their affairs. All of this to foster community spirit and improve the quality of life for all of the residents of the region.

In the letters of support for MSW in provision of a local coverage commercial radio service for the Campbelltown region cited under Finding 4.2, the majority of the businesses indicated that there are limited advertising opportunities in the region for local businesses as those provided by the Sydney broadcasting networks are too expensive and not able to adequately cater for the local market.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on a local coverage commercial radio service for the Campbelltown region, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- In the event that a local coverage commercial radio service was made available in the Campbelltown region, it is likely that potential radio broadcasters would be interested in providing a service.
- There is strong public demand for a local commercial radio service to serve the Campbelltown region.
- There is channel capacity for a local commercial radio service to serve the Campbelltown region.
- The Campbelltown region has a higher population growth rate and a younger population than New South Wales and Australia overall.
- The Campbelltown region has a higher income rate than New South Wales and Australia overall.
- The Campbelltown region has a separate federal electoral boundary to the Sydney metropolitan region.
- The City of Campbelltown, the Local Government Area of Camden and part of the Local Government Area of Wollindilly against 1996 boundaries is the most appropriate.
- If a local coverage commercial radio service was made available in the Campbelltown region, it is likely that an independent (competing) operator may add to the diversity of available services.
- If a local coverage commercial radio service was made available in the Campbelltown region, it is likely that an independent (competing) operator would offer coverage of matters of local significance and offer innovative programming.

CONCLUSION

There is channel capacity to make a local coverage commercial radio service available in the Campbelltown region.

Based on the evidence before it to date, the ABA believes that if it makes a local coverage commercial radio service available in the Campbelltown region it is likely to be taken up and is likely to promote the objects of the Act at s.3 (a) and (b). The ABA is also of the belief that given the current interest in provision of a local coverage commercial radio service in the Campbelltown region, object s.3 (g) (coverage of matters of local significance) will be promoted. In addition, the ABA believes that the object of the Act at Object s.3 (f) will be promoted, as innovative new ideas for a local service would result.

PRELIMINARY VIEW 5 - EXISTING WIDE COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes that the existing AM community radio service 2RPH continue to operate on 1224 kHz with a maximum CMF of 1.26 kV from Church Lane, Prospect.

The ABA proposes to increase the maximum transmission power of the existing wide coverage community FM radio services (2000, 2MBS, 2CBA, and 2SER) in Sydney as follows:

- 2000 to operate on 98.5 MHz from Optus Tower, North Sydney, with a maximum ERP of 50 kW (directional).**
- 2MBS to operate on 102.5 MHz from Government Phillip Tower, Sydney, with a maximum ERP of 50 kW (directional).**
- 2CBA to operate on 103.2 MHz from Miller St, Sydney, with a maximum ERP of 50 kW (directional).**
- 2SER to operate on 107.3 MHz from University of Technology, Ultimo, with a maximum ERP of 50 kW (directional).**

The ABA proposes the existing Sydney wide coverage community AM and FM licence areas be redefined using 1996 Census boundaries, but otherwise remain unchanged.

FINDINGS OF FACT AND REASONS

The ABA believes this preliminary view is likely to promote the objects of the Act at paragraphs 3(a)⁴⁵, (f)⁴⁶ and (g)⁴⁷ including the economic and efficient use of spectrum. The 'Legislative Framework' (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

CHANNEL CAPACITY

Object 3(a) relates to this finding. In addition, section 23 provides that in performing its functions under Part 3 of the Act, the ABA is to promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum, and is to have regard to the

⁴⁵ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁴⁶ To promote the provision of high quality and innovative programming by providers of broadcasting services.

⁴⁷ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

planning criteria under section 23. Section 23(e) requires the ABA to have regard to technical restraints relating to the delivery or reception of broadcasting services.

In reaching this view, the ABA had regard to the following findings:

Finding 5.1 All the licensees of existing FM wide coverage community radio services (2000, 2MBS, 2CBA and 2SER) have requested an increase in power.

Submissions Received

As detailed in the submissions below, the four wide coverage FM community radio operators have requested an increase in power to improve reception of their services throughout Sydney.

In a submission dated 18 June 1998, Multicultural Community Radio Association Limited (Radio 2000 FM) requested an increase in power from 4 kW to the maximum allowable. 2000 FM has advised that a number of factors have led to its request to increase power including:

- the proposal from the National Transmission Agency to increase the power of 2SBS to 100 kW which may cause interference to 2000 FM;
- the commercial radio service 2WFM on 106.5 MHz may also cause interference to 2000 FM; and
- to provide greater access of the station's services to the non-English speaking communities of Sydney.

The Christian Broadcasting Association Limited (2CBA-FM) in a submission dated 9 June 1998 has advised that based on its current licensed power of 5 kW it is experiencing coverage problems in the built up metropolitan area as well as some regional areas within its licence area. 2CBA-FM has requested:

While we do not seek power increases comparable with our commercial counterparts, we do believe that an increase to 20 kW ERP will increase our coverage within our service area without overspill into adjacent service areas and at the same time improve our coverage performance in those more difficult areas mentioned above.

In detailed submissions dated 10 March and 15 May 1998, the Music Broadcasting Society of New South Wales Co-operative Limited (2MBS-FM) has requested an increase in ERP to 35 kW to operate from its present site, Governor Phillip Tower. In its submission of 15 May 1998, 2MBS-FM has stated that a stronger signal will enable the station to offer a wider availability of quality broadcast music programs in the Sydney area.

In a submission dated 12 June 1998, 2SER has requested an increase in power from 14 kW to 60 kW to resolve poor reception in the north and north west of its licence area and to resolve the current problem of receivers having difficulty in discriminating between the 2SER signal on 107.3 MHz and the commercial radio service in Gosford (2GGO-FM) on 107.7 MHz.

The ABA notes that the Sydney wide coverage community licence areas are identical to the commercial licence areas, and therefore from a purely technical perspective the four wide coverage FM community radio services should be entitled to an equivalent technical specification. The ABA notes that commercial FM radio services in Sydney are restricted to 25 kW maximum in a north and south direction to prevent overspill and interference to neighbouring services.

A technical assessment of a power increase for the four FM community radio services is detailed in the Technical Restraints at Appendix 1 (under the respective frequency each service operates on).

On 12 March 1999, ABA Planning Officers met with representatives of the existing Sydney wide community services 2CBA, 2000, 2MBS and 2SER, to discuss planning and implementation concerns of the ABA Planning Branch, particularly in relation to the four services requests for power increases.

In response to the ABA meeting of 12 March 1999, the four community radio stations provided further advice regarding their proposals for power increases as follows:

- 2000-FM, in a submission dated 12 March 1999, has requested an upgrade in power to 25 kW.
- 2MBS-FM, in a submission dated 24 March 1999, seeks an increase in power to 25 kW nominally omnidirectional with tolerance up to 50 kW.
- 2CBA-FM, in a submission dated 25 March 1999, now wishes to apply for an increase to 25 kW ERP.
- 2SER-FM, in a submission dated 9 April 1999, has requested a new operating power of 25 kW nominal with tolerance up to 50 kW.

The ABA did not receive any submissions from the wide coverage AM community radio station 2RPH and therefore the ABA assumes the station is happy to continue to operate under its current technical specifications.

The ABA then considered the transmission power levels of the existing FM radio broadcasting services in Sydney and found:

Finding 5.2 The existing wide coverage community FM radio service 2000, operates on 98.5 MHz with a maximum ERP of 4 kW from Optus Tower, North Sydney.

Finding 5.3 The existing wide coverage community FM radio service 2MBS, operates on 102.5 MHz with a maximum ERP of 8 kW from Young St, Sydney.

Finding 5.4 The existing wide coverage community FM radio service 2CBA, operates on 103.2 MHz with a maximum ERP of 8 kW from Miller St, Sydney.

Finding 5.5 The existing wide coverage community FM radio service 2SER, operates on 107.3 MHz with a maximum ERP of 14 kW from University of Technology, Ultimo.

The ABA is required to have regard to the existing services within a licence area (s23(c)) of the Act.

The FM radio frequencies indicated in the radio capacity findings 5.2 to 5.5 have already been licensed under the former Broadcasting Services Act 1942. Evidence of this can be found in the ABA publication entitled *Radio and Television Broadcasting Stations 1999*, the ABA's public Website (www.aba.gov.au) and more detailed information in the ABA stations database.

Power Requirements

In considering the community broadcasters (2000, 2MBS, 2CBA and 2SER) requests for increases in power; their existing transmission power levels and the fact that they have the same licence area as the existing commercial radio services, the ABA also considered the transmission power levels of the commercial FM broadcasters (150 kW) as discussed in Preliminary View 2. Relevantly the ABA found that:

Finding 5.6 An increase in power for the existing wide coverage community FM services is likely to resolve current reception problems.

The ABA is required to have regard to the existing services within a licence area (s23(c)) of the Act. In addition the ABA is required to take account of technical restraints relating to delivery or reception of broadcasting services (s.23(e)).

The ABA's *Interim Australian Broadcasting Planning Handbook*, details the minimum field strength levels required to overcome the normal generation of electrical interference by domestic and industrial equipment.

In comparing the evidence for findings 5.2-5.5 (community) with the evidence for finding 5.6 (commercial), the difference in transmission power levels would suggest that the community broadcasters are not providing adequate field strength levels to the Sydney radio licence area.

In considering the engineering concerns detailed in the Technical Restraints at Appendix 1, together with the submissions received from 2CBA, 2000, 2MBS and 2SER, the ABA proposes a 50 kW directional technical specification with a special condition allowing the flexibility for an omnidirectional pattern up to 25 kW for all four FM services. Increasing the ERP to 50 kW directional, will increase the received field strength and thus improve reception with the Sydney radio licence area.

The importance of findings 5.2 to 5.6 is that the ABA has considered the proposals to rectify reception problems of the existing wide coverage community FM radio broadcasting services, and is of the belief that the maximum transmission power should be increased to improve reception, and this is likely to promote object 3(a) of the Act. The technical

restraints applicable to each of the existing community services are outlined in the Technical Restraints at Appendix 1.

Licence Areas

The ABA is required by s.23 (a) and (b) of the Act to have regard to demographics and social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally. The ABA is also required to take account of technical restraints relating to delivery or reception of broadcasting services (s.23 (e)).

The service areas of the existing commercial radio services were determined by the then Minister for Transport and Communications during 1987 and continued as licence areas by s.8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

In determining the licence areas, the Minister took into account the following factors: social and economic links between the major urban centres in the area; governmental functions and responsibilities; topography; signal coverage and possible effects on the commercial balance between the stations and other stations claiming to serve the community or communities in the area.

Relevantly, the ABA found that:

Finding 5.7 The licence areas of the existing wide coverage community radio services in Sydney, are appropriate.

In general, the ABA assumes⁴⁸ that the licence areas of existing commercial and community broadcasting services, using the broadcasting services bands, represent accepted media markets and the ABA will not vary them without good reason, other than to update them where boundaries are based on outdated Census descriptions. No licensee has asked for a variation of its licence area. The ABA proposes to update the existing licence areas with 1996 Census boundaries.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on existing community radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

⁴⁸ The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) is at Appendix 3.

SUMMARY OF FINDINGS

- All the licensees of existing FM wide coverage community radio services (2000, 2MBS, 2CBA and 2SER) have requested an increase in power.
- The existing wide coverage community FM radio service 2000, operates on 98.5 MHz with a maximum ERP of 4 kW from Optus Tower, North Sydney.
- The existing wide coverage community FM radio service 2MBS, operates on 102.5 MHz with a maximum ERP of 8 kW from Young St, Sydney.
- The existing wide coverage community FM radio service 2CBA, operates on 103.2 MHz with a maximum ERP of 8 kW from Miller St, Sydney.
- The existing wide coverage community FM radio service 2SER, operates on 107.3 MHz with a maximum ERP of 14 kW from University of Technology, Ultimo.
- An increase in power for the existing wide coverage community FM services is likely to resolve current reception problems.
- The licence areas of the existing wide coverage community radio services in Sydney, are appropriate.

CONCLUSION

The ABA believes that increasing the transmission power of the four existing wide coverage community radio services in Sydney will promote objects of the Act at s.3 (a), (f) and (g). That is, by increasing the power the ABA believes that the reception difficulties these services currently experience will be improved and as a result these services will be accessible to a greater number of people in the Sydney area. The ABA also notes that the four FM services offer a range of formats, that is 2000 provides a multicultural format, 2MBS 'quality music programs', 2CBA 'Quality of Life/Beautiful' and 2SER 'Underground/Music/Politics'. Therefore improving the reception of these services throughout Sydney is likely to promote the availability of a diverse range of radio services (s.3 (a)), promote the provision of high quality and innovative programming (s.3 (f)) and provide appropriate coverage of matters of local significance (s.3 (g)).

PRELIMINARY VIEW 6 - ADDITIONAL WIDE COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes to make three additional wide coverage community radio services available in Sydney as follows:

- **A service to operate on 92.1 MHz from the Channel 10 Tower, Artarmon, with a maximum ERP of 15 kW.**
- **A service to operate on 93.7 MHz from the Channel 10 Tower, Artarmon, with a maximum ERP of 50 kW.**
- **A service to operate on 94.5 MHz from the Channel 10 Tower, Artarmon with a maximum ERP of 150 kW.**

Allocation of 92.1 MHz and 93.7 MHz licences is dependent on 2MWM Manly and 2NSB Chatswood making the transition from existing frequencies to new frequencies.

The ABA proposes the licence areas of the additional services be identical to that of the existing wide coverage community radio services, against 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

In the ABA's view, this preliminary view promotes the objects of the Act at paragraphs 3 (a)⁴⁹, (f)⁵⁰ and (g)⁵¹, including the economic and efficient use of the radiofrequency spectrum. The 'Legislative Framework' (Chapter 1), contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In forming its views, the ABA considered and reached opinions about the likely effects of its preliminary view, having regard to the local circumstances of the Sydney market, the likely impact of other preliminary views in the LAP and other relevant matters under s.23 (a) – (g). An account of this process of consideration follows.

⁴⁹ To promote the availability to audience throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁵⁰ To promote the provision of high quality and innovative programming by providers of broadcasting services.

⁵¹ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

CHANNEL CAPACITY

In making its preliminary view, the ABA had regard to the channel capacity for wide coverage radio services in Sydney.

| General Area Served | Frequency | Maximum CMF/ERP |
|---------------------|-----------|-----------------|
| Sydney | 1386 kHz | 1.26 kV (5kW) |
| Sydney | 1539 kHz | 385 V |
| Sydney | 94.5 MHz | 150 kW |
| Sydney | 95.3 MHz | 150 kW |
| Sydney | 96.9 MHz | 150 kW |
| Sydney | 93.7 MHz | 50 kW |
| Sydney | 92.1 MHz | 15 kW |

Table 1: Channel Capacity for Wide Coverage Services

Power requirements

The ABA considered the power levels of the existing community radio services operating throughout Sydney. It found:

- Finding 6.1* There is one (2RPH) wide coverage AM community radio service in Sydney. This service operates at a maximum CMF of 1.26 kV based on a transmitter power of 5 kW.
- Finding 6.2* There are four (2000, 2MBS, 2CBA, 2SER) wide coverage FM community radio services in Sydney, operating at maximum ERP's ranging from 5 to 14 kW.
- Finding 6.3* There are twelve (2RSR, 2BCR, 2RDJ, 2NSB, 2GLF, 2MWM, 2NBC, 2CCR, 2RRR, 2SSR, 2RES and 2VTR) local coverage FM community radio services in Sydney, operating at maximum ERP's ranging from 40 to 200 W.

Section 23 (c) of the Act requires the ABA to have regard to the number of existing broadcasting services within a licence area (see Table 4 in Preliminary View 3).

In making this preliminary view, the ABA also had regard to the technical restraints on planning additional community radio services in Sydney, and in particular the radio capacity detailed in the Technical Restraints at Appendix 1. It has also considered whether there

were competing channel requirements for other categories of radio service⁵² and the channel requirements of existing and aspirant community radio broadcasters.

In deciding on suitable technical capacity the ABA also considered the submissions for ERP increases made by the existing wide coverage community services (2SER, 2MBS, 2CBA and 2000) as an indication of what may be considered appropriate technical conditions. Refer to Preliminary View 5.

In regard to other categories of broadcasting service, the ABA had regard to the other preliminary views for the LAP in Sydney:

- satisfying s.31 reservations for additional national FM radio services (Preliminary View 1);
- making 95.3 MHz and 96.9 MHz available for two additional wide coverage commercial radio services in Sydney (Preliminary View 3);
- making 91.3 MHz available for one commercial radio service in Campbelltown (Preliminary View 4); and
- making 1386 kHz and 1539 kHz available for open narrowcasting services in Sydney (Preliminary View 9).

Taking the above into consideration, there is sufficient channel capacity to make wide coverage community radio services available in Sydney as follows:

| General Area Served | Frequency | Maximum ERP |
|---------------------|------------------------|-------------|
| Sydney | 92.1 MHz ⁵³ | 15 kW |
| Sydney | 93.7 MHz ⁵⁴ | 50 kW |
| Sydney | 94.5 MHz | 150 kW |

Table 2: Remaining Channel Capacity for Wide Coverage Services

Interest in provision of community radio services

In regard to the channel requirements of (wide coverage) aspirant community radio broadcasters the ABA found:

Finding 6.4 There is interest from aspirant community radio broadcasters in Sydney in providing wide coverage community radio services.

⁵² To balance the mix of all additional services, the ABA proposes to plan against the known supply of vacant spectrum as discussed in the context of Preliminary View 3.

⁵³ The availability of this frequency is contingent on 2NSB Chatswood and 2MWM South changing frequencies.

⁵⁴ The availability of this frequency is contingent on 2MWM North changing frequency.

Finding 6.5 There is expressed public demand in Sydney for new (wide coverage) community radio services.

Section 23 (c) of the Act requires the ABA to have regard to demand for new broadcasting services within a licence area. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant. In preparing the licence area plans for Sydney, the ABA has received submissions from prospective broadcasting service providers. As the public is dependent on organisations within the community to provide community broadcasting services, the views and intentions of those aspirant community broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

2ac Australian Chinese Radio in its submission dated 8 July 1998 has expressed interest in a high powered radio channel (AM or FM) in Sydney. 2ac currently operates as a narrow band area station in Sydney, Melbourne, Adelaide and Brisbane and believes it currently has an audience of 200,000 throughout Australia. 2ac further states in its submission that it:

...is the only operator of two independently programmed and round-the-clock channels catering for the needs of two major dialect groups of the Chinese speaking population in Australia. It enjoys the advantage of having a team of 60 part-time and full-time media and broadcast professionals of Chinese origin who settled in Australia and are willing to contribute their skill and expertise for the service of the community. We are well-equipped with the state-of-the-art broadcast facilities as well as qualified editors, presenters and production personnel at our disposal.

In a submission dated 18 May 1998, Cosmovation Cable Television Pty Ltd (Cosmovation) has confirmed that it is still interested in a high powered FM frequency in Sydney. In the same submission, Mr Fernando Felgueras, Director of Cosmovation refers to an earlier submission (dated 15 April 1997) detailing the programming concept for the proposed radio service – a musical-cultural station offering a quality fusion and pop from around the world with an English presenter. Attached to an earlier submission from Double FF Productions (now known as Cosmovation) dated 15 April 1997, were 12 letters in support of Double FF Production's proposal for a community radio service.

Fbi – Free Broadcast Inc (Fbi) in its submission dated 15 June 1998, has requested that the maximum number of community licences be made available in Sydney. Fbi wishes to cater to expressions of emerging culture in Sydney, while not being limited to youth programming and to provide broadcasts that are at least 50% Australian music. Fbi further details the type of service it wishes to provide:

...an intelligent station which is an outlet for local talent and sets new radio standards in contemporary music, comedy, performance, public affairs and community debate...

In the same submission, Fbi advises that it has 1225 members and has attached to its submission 59 letters of support from both the general public and organisations. Two additional letters of support for Fbi from individuals were received by the ABA in July 1997.

Gadigal Information Services (GIS) in its submission received on 30 June 1998 strongly supports the allocation of a community radio licence for the Sydney Metropolitan area and that any such wide coverage service should be granted to the Aboriginal community. GIS

refers to comments both the ABA has made as well as a letter dated 1 October 1992, by the then Minister for Communications that special interest groups (for example ethnic radio for the print handicapped, Christian and Aboriginal services) should be catered for where there is a need. GIS further submits it:

....is currently funded for administration purposes from ATSIC and has successfully received funding for two broadcasting studios, a 5000 watt transmitter, a multi media studio and additional equipment and material for a broadcasting operation. We have been able to hire our transmitter out to other aspirants which has been valuable revenue.

Of all the aspirants, GIS has the longest history (even before one takes Radio Redfern into account). The test transmission are vital to our community as there is no existing Aboriginal service. When people talk about GIS they use the term dynamic and exciting, and with good reason. Even prior to gaining its full licence, GIS is developing many of the same areas, which the longer established full-service stations are moving into. It is very important the GIS receive a full community licence for the reasons stated above, and also because an aboriginal station in Sydney will help raise the profile of the whole sector, help relationships with non Aboriginal Australia and give a voice to Australia's most disadvantaged group.

GIS also points out that the largest single concentration of Aboriginal people live in Sydney, that is 38,000 which is one quarter of the national Indigenous population.⁵⁵

Attached also with the submission from GIS are 220 letters and 205 signatures supporting GIS's endeavours in gaining a full time broadcasting licence.

WILD FM in a submission dated 4 May 1998, has comments on the competing aspirant community broadcasters, in particular an aboriginal community group. WILD FM believes that allocating a broadcasting licence to an Aboriginal community group would be extremely inefficient use of the spectrum. In its submission WILD FM provides statistical information about the aboriginal population in Sydney and has asked the ABA to take this information into account in its planning for Sydney. Based on the 1996 Census WILD FM points out the following:

1. The Aboriginal population of Sydney in 0.9% (a total of 28,754 people).
2. A large percentage of this population is located around the foot of the Blue Mountains, Liverpool and Campbelltown and extends to the area midway between Parramatta and the City of Sydney.

In comparison WILD FM states that it targets the youth market – 29% of the Sydney population.

In a separate submission, but also dated 4 May 1998, WILD FM has advised how many of its supporters have written to the ABA directly requesting a community broadcasting licence be granted to a youth radio service.

⁵⁵ These figures are based on the Australian Bureau of Statistics 1996 National Survey of Indigenous Peoples.

In its submission dated 15 June 1998, Nepean Christian Broadcasters has advised that although it currently operates under Temporary Community Broadcasting Licence (TCBL) in the Katoomba area, support for its service (400 letters of support submitted to the ABA) have indicated there is also demand for its service in Sydney. Nepean Christian Broadcasters has stated in its submission that it now wishes to broaden its official target community to include the entire Sydney area, and it believes a 15 kW service would be appropriate.

In a submission dated 4 May 1998, Mr Robert Iezzi, Managing Director of Radio-One confirmed his interest in establishing either a commercial or community radio service on the AM band with a multicultural format.

The ABA considered the type of programming each of the aspirant community radio groups wish to provide to the Sydney community and have taken into account the demographic and social characteristics of the Sydney commercial and community licence area (s.23 (a) and (b) of the Act). In accordance the 1996 Census data compiled by the Australian Bureau of Statistics and detailed at Appendix 4, the ABA notes that the Sydney commercial and community radio licence area (total population 3373516) has a total population of Aboriginal and Torres Strait Islanders of 29,592 (0.88%). It has a total youth population (15-24 yrs) of 504728 (15%), a total of English speaking persons (over 5 years) of 2101990 (62.3%) and persons speaking other than English (over 5 years) of 899551 (26.7%). 2365017 persons nominated their religious affiliation as Christian, ie 70.1% of the population. 95986 (2.84%) persons nominated their religious affiliation as Islam.

The ABA notes that four out of the seven aspirant groups (Fbi- Free Broadcast Inc, Gadigal Information Services Aboriginal Corporation, WILD FM and Nepean Christian Broadcasters) have in the past or currently are operating under TCBL.

The ABA also notes that there are a number of other groups operating high powered services under TCBL who have not provided submissions to the planning process (with regard to their interest in establishing a wide coverage community radio service) in response to the request for submissions in May 1998. These groups include: Chinese Community Radio, Australian Film and TV Radio School, Free FM (this group has expressed an interest in obtaining an open narrowcasting licence), OUT FM, Muslim Community, Combined Multicultural Christian, Islamic Council and Underground Broadcasting Inc.

The Australian Radio Network Pty Ltd (ARN) in its submission dated 29 June 1998 stated that it is supportive of additional community radio services being made available in Sydney. ARN believes that making additional community and open narrowcasting services available is the only way the ABA can ensure that additional and alternative programming formats are available.

Similarly, Southern Cross Broadcasting (Australia) Limited in its submission received on 7 July 1998, believes that the ABA should give priority to planning community and open narrowcasting radio services thereby promoting diversity by the type of services and programming available.

The importance of findings 6.4 and 6.5 is that the ABA is satisfied the planning of wide coverage community radio broadcasting services would be likely to increase the overall number of services of that type in Sydney.

How many wide coverage community radio services to make available?

The ABA then considered how many wide coverage community radio services, if any, should be made available in Sydney, and whether the technical operating conditions of some of the community radio services should be varied. The ABA found:

- Finding 6.6* Making three wide coverage (150 kW, 50 kW and 15 kW) FM frequencies available in Sydney is likely to suit the technical needs of the wide coverage aspirant community broadcasters.
- Finding 6.7* The ABA requires 2NSB Chatswood and 2MWM Manly (both its North and South services) to change frequencies in order to make two new wide coverage (15 kW and 50 kW) community radio services available on 92.1 MHz and 93.7 MHz in Sydney.
- Finding 6.8* The wide coverage (150 kW) community radio service proposed on 94.5 MHz available in Sydney is not encumbered by another broadcaster.

Amongst other things, the ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in Sydney and neighbouring regions (s.23 (c) and (e)).

There are seven aspirant radio groups that have expressed interest in providing wide coverage community radio services. Four of the seven aspirant groups (Fbi – Free Broadcast Inc, Gadigal Information Services Aboriginal Corporation, WILD FM and Nepean Christian Broadcasters) currently hold Temporary Community Broadcasting Licences. One of the groups known as 2ac – Australian Chinese Radio has been operating (out of the broadcasting bands) on narrowband licences⁵⁶ in Sydney since July 1995.

In its submission of 15 June 1998, Fbi – Free Broadcast Incorporated identifies a number of high and low power frequencies available in Sydney and believes priority in the allocation of the high powered frequencies should be given to community broadcasters, particularly those which are committed to offering at least 50% Australian made music.

Gadigal Information Services (GIS) in its submission received 30 June 1998, has advised that initially it proposes to broadcast at 5 kW then increase to 15 kW in the future which would allow it to effectively serve the greater Sydney metropolitan wide area.

⁵⁶ A narrowband area station (NAS) is a licence that provides a one-way radiocommunications service to not less than 4 NAS receivers using an occupied bandwidth not exceeding 4 MHz.

Both Cosmovision Cable Television Pty Ltd and 2ac Chinese Australian Radio have indicated in their respective submissions that they are interested in high power channels.⁵⁷

The ABA also notes that as discussed previously, there are a number of other groups operating high powered services under TCBLs who have not provided submissions to the planning process.

Having regard to the matters in s.23 of the Act, the ABA believes it is necessary to change the frequencies of the existing community radio services 2NSB Chatswood and 2MWM Manly (both its North and South services) to allow for the maximum number of channels available in Sydney. In order not to impose unnecessary financial and administrative burdens on service providers, the ABA is required to take account of the cost to these broadcasters to change frequencies as a relevant consideration to be weighed against any benefits that might accrue in terms of the Act's objects and the economic and efficient use of the spectrum. Further the ABA is of the view that following allocation of commercial or community licences it has the power to impose a condition to compensate existing broadcasters for costs involved in shifting frequency.

The proposed change of frequency of the Manly and Chatswood community radio services has no direct link to the proposed additional commercial radio services as indicated in Preliminary View 3. The ABA therefore cannot impose a condition on any additional commercial radio licences to compensate 2MWM and 2NSB for costs incurred. The only option open to the ABA at present is the imposition of a condition on the proposed additional community licences on frequencies 93.7 MHz and 92.1 MHz following allocation of the licences. **The ABA is seeking comment from interested parties on this option.**

Due to the limited spectrum available in Sydney the ABA has been unable to find enough available frequencies to satisfy the expressed demand for provision of wide coverage community radio services in Sydney.

The ABA is of the belief that given the ERP levels requested by existing and aspirant community broadcasters, they may be satisfied with the technical operating conditions proposed for the proposed additional community services. The three proposed additional FM community services (15 kW, 50 kW and 150 kW) would achieve at least similar (if not greater) reception coverage than the existing wide coverage Sydney community radio services.

Licence Areas

The ABA assumes that the licence areas of the existing community radio services represent accepted media markets and will not vary them without good reason. The ABA endeavours to plan new services at the same power levels as the existing services⁵⁸. The ABA further

⁵⁷ The date of the Cosmovision Cable Television Pty Ltd submission is 18 May 1998 and the date of the 2ac Australian Chinese Radio submission is 8 July 1998.

⁵⁸ The ABA proposes to increase the power of the existing wide coverage community radio services to 25 kW omnidirectional.

assumes that additional broadcasting services using the broadcasting services bands within those markets should have the same licence area unless there are good reasons to the contrary. However, it is technically not possible for the proposed frequencies 92.1 MHz and 93.7 MHz to operate at 150 kW due to the operation of broadcasting services in neighbouring markets (refer to the Technical Restraints at Appendix 1 for more details). Although the proposed new community radio services will not have the same power levels as the existing community radio services their licence areas will be the same. Therefore the ABA found:

Finding 6.9 The licence areas of the additional community radio services in Sydney will be identical to that of the existing wide coverage community FM radio services, against 1996 Census boundaries.

The ABA is required by s23 (a) and (b) of the Act to have regard to demographic, social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally. The ABA is also required to have regard to technical restraints relating to the delivery or reception of broadcasting services (s23 (e)).

The service areas of the community radio services in Sydney were determined by the then Minister for Communications on 12 February 1987 and continued as licence areas by section 8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

In determining the community licence areas for Sydney, the Minister took into account the following factors: social and economic links between the major urban centres in the area; governmental functions and responsibilities; topography; signal coverage and possible effects on the commercial balance between the station and other stations claiming to serve the community or communities in the area.

Although the proposed community licence areas are the same as the existing commercial and wide coverage community licence areas, the power levels of two of the proposed services are significantly different. Two of the proposed community services will have a maximum ERP of 15 kW and 50 kW while the other proposed community service has a maximum ERP of 150 kW. The existing and proposed commercial FM services are able to operate up to a maximum ERP of 150 kW.

It is not technically possible to allow two of the new wide coverage radio services to operate above 15 kW/50 kW due to potential interference to neighbouring broadcasting services.

The ABA is of the opinion, based on submissions received to date from the wide coverage aspirant community radio groups that the maximum ERP level of 15 kW/50 kW will satisfy their technical requirements. Where it doesn't, those aspirants will have the opportunity to apply for the higher powered (150 kW) service on 94.5 MHz.

The ABA is seeking additional information from wide coverage aspirant community radio broadcasters in Sydney about the power (maximum ERP) they require for the delivery of their services, the geographic area they wish to serve and the proposed

transmitter location. The information the ABA receives will impact on the determination of the licence areas for any community radio services in Sydney.

The ABA is also seeking comment on the compensation for existing community radio broadcasters 2MWM Manly and 2NSB Chatswood.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on additional community radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- There is one (2RPH) wide coverage AM community radio service in Sydney. This service operates at a maximum CMF of 1.26 kV based on a transmitter power of 5 kW.
- There are four (2000, 2MBS, 2CBA, 2SER) wide coverage FM community radio services in Sydney, operating at maximum ERP's ranging from 5 to 14 kW.
- There are twelve (2RSR, 2BCR, 2RDJ, 2NSB, 2GLF, 2MWM, 2NBC, 2CCR, 2RRR, 2SSR, 2RES and 2VTR) local coverage FM community radio services in Sydney, operating at maximum ERP's ranging from 40 to 200 W.
- There is interest from aspirant community radio broadcasters in Sydney in providing wide coverage community radio services.
- There is expressed public demand in Sydney for new (wide coverage) community radio services.
- Making three wide coverage (150 kW, 50 kW and 15 kW) FM frequencies available in Sydney is likely to suit the technical needs of the wide coverage aspirant community broadcasters.
- The ABA requires 2NSB Chatswood and 2MWM Manly (both its North and South services) to change frequencies in order to make two new wide coverage (15 kW and 50 kW) community radio services available on 92.1 MHz and 93.7 MHz in Sydney.

- The wide coverage (150 kW) community radio service proposed on 94.5 MHz available in Sydney is not encumbered by another broadcaster.
- The licence areas of the additional community radio services in Sydney will be identical to that of the existing wide coverage community FM radio services, against 1996 Census boundaries.

CONCLUSION

Having regard to the above matters, the ABA's preferred option for promoting the objects of the Act at section 3 (a), (f) and (g), including the economic and efficient use of the radiofrequency spectrum, is to make available three additional wide coverage community radio services in Sydney, using high power (one 150 kW, one at 50 kW and one at 15 kW) FM frequencies.

Taking into consideration the available spectrum (s.23 (e)), the interest expressed by potential service providers for wide coverage community radio services and the interest of potential broadcasters in establishing additional commercial radio, local coverage community radio and open narrowcasting services (s.23 (g)), the ABA believes the objects of the Act at s.3 (a), (f) and (g) will be best promoted by making three (as opposed to one or two) additional wide coverage community radio services available in Sydney.

The ABA believes that s.3 (a) will be served well by making three additional wide coverage community radio services available, as there are currently seven groups interested in providing such services. Four of the seven groups are active in that they have or are currently operating on Temporary Community Broadcasting Licences. Another group is operating outside the broadcasting services bands on a Narrowband Licence.⁵⁹ Although TCBL's confer no rights nor indicate any ABA preference for a group to be granted a permanent community radio service, the ABA is of the belief that if three permanent community radio services were made available for allocation, it is likely that the licences would be taken up. The ABA also believes that taking into consideration the type of formats these aspirant groups propose (ranging from multicultural, Chinese, Aboriginal, youth, Sydney culture) additional community radio services will add to the diversity of radio services on offer in Sydney. In addition, these types of new services are likely to have a positive effect on innovative programming (s.3 (f)) and coverage of matters of local significance (s.3 (g)).

⁵⁹ A narrowband area station (NAS) is a licence that provides a one-way radiocommunications service to not less than 4 NAS receivers using an occupied bandwidth not exceeding 4 MHz.

PRELIMINARY VIEW 7 - EXISTING LOCAL COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes channel capacity continue to be made available for the existing local coverage community radio services in Sydney. It is proposed some of the services change frequency, maximum ERP and polarisation as follows :

| Area Served | Callsign | Frequency | Maximum ERP | Polarisation | Nominal Location |
|-------------|----------|----------------------------|---------------------|---------------------|--------------------------------------|
| Bankstown | 2BCR | From 88.7 MHz to 100.9 MHz | From 160 W to 200 W | Vertical to Mixed | Condell Park |
| Burwood | 2RDJ | From 88.1 MHz to 100.5 MHz | 80 W to 100 W | Horizontal to Mixed | Church St Burwood |
| Chatswood | 2NSB | From 91.5 MHz to 99.3 MHz | 130 W to 200 W | Mixed | Victor St Chatswood |
| Liverpool | 2GLF | 89.3 MHz | 80 W | Mixed | Mount Pritchard |
| Manly North | 2MWM | From 93.7 MHz to 88.7 MHz | 160 W to 200 W | Mixed | Bilgola Plateau Plateau Road |
| Manly South | 2MWM | From 92.1 MHz to 90.3 MHz | 40 W to 50 W | Mixed | Tania Park Balgowlah Heights |
| Narwee | 2NBC | 90.1 MHz | 160 W to 200 W | Mixed | Penshurst Water Tower |
| Parramatta | 2CCR | 90.5 MHz | 200 W | Mixed | Seven Hills Rd Baulkham Hills |
| Ryde | 2RRR | 88.5 MHz | 80 W | Vertical to Mixed | Goulding Rd Trig Point North Ryde |
| Sutherland | 2SSR | 99.7 MHz | 100 W to 200 W | Mixed | Eton St Sutherland |
| Sydney | 2RSR | 88.9 MHz | 70 W to 200 W | Vertical to Mixed | Sydney Town Hall Sydney |
| Waverley | 2RES | 89.7 MHz | 160 W to 200 W | Vertical to Mixed | Waverley College Birrell Rd Waverley |
| Windsor | 2VTR | From 89.7 MHz to 89.9 MHz | 40 W to 750 W | Mixed | Kurrajong Heights |

It is proposed that 2BCR Bankstown, 2RDJ Burwood, 2NSB Chatswood, 2MWM Manly and 2VTR Windsor change frequency at a date not later than one year after publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Sydney radio LAP has been determined.

The ABA proposes the existing local coverage community licence areas be redefined using 1996 Census boundaries, but otherwise remain unchanged.

FINDINGS OF FACT AND REASONS

The ABA believes this preliminary view is likely to promote the object of the Act at paragraph 3 (a)⁶⁰, and represent economic and efficient use of the radiofrequency spectrum. The ‘Legislative Framework’ (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

EXISTING SERVICES

In reaching this view, the ABA firstly had regard to the technical operating conditions of the existing FM local coverage community radio broadcasting services throughout Sydney and found:

Finding 7.1 There are thirteen existing local community FM radio services within Sydney with maximum ERPs ranging from 40 W to 200 W.

Section 23 (c) of the Act requires the ABA to have regard to the number of existing broadcasting services within a licence area. Section 23 (e) requires the ABA to have regard to the technical restraints relating to delivery of reception of broadcasting services.

The following table details the existing local coverage community FM radio services available in the Sydney licence area.

| Area Served | Category of Service | Callsign | Frequency | Maximum ERP | Nominal Location | Polarisation/Pattern ⁶¹ |
|-------------|---------------------|----------|-----------|-------------|------------------------------|------------------------------------|
| Bankstown | Community | 2BCR | 88.7 MHz | 160 W | Garrison Pt Georges Hall | V/DA |
| Burwood | Community | 2RDJ | 88.1 MHz | 80 W | Church St Burwood | H/DA |
| Chatswood | Community | 2NSB | 91.5 MHz | 130 W | Victor St Chatswood | M/DA |
| Liverpool | Community | 2GLF | 89.3 MHz | 80 W | Mount Pritchard | V/OD |
| Manly North | Community | 2MWM | 93.7 MHz | 160 W | Bilgola Plateau Plateau Road | M/DA |
| Manly South | Community | 2MWM/T | 92.1 MHz | 40 W | Tania Park Balgowlah Heights | M/DA |
| Narwee | Community | 2NBC | 90.1 MHz | 160 W | Penshurst Water Tower | V/DA |
| Parramatta | Community | 2CCR | 90.5 MHz | 200 W | Seven Hills Rd Baukham Hills | M/DA |

⁶⁰ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁶¹ V = Vertical, H = Horizontal, M = Mixed, DA = Directional, OD = Omnidirectional

| | | | | | | |
|------------|-----------|------|----------|-------|---|------|
| | | | | | Baukham Hills | |
| Ryde | Community | 2RRR | 88.5 MHz | 80 W | Goulding Rd Trig Point North Ryde | V/OD |
| Sutherland | Community | 2SSR | 99.7 MHz | 100 W | Eton St Sutherland | M/DA |
| Sydney | Community | 2RSR | 88.9 MHz | 70 W | Sydney Town Hall Sydney | V/DA |
| Waverley | Community | 2RES | 89.7 MHz | 160 W | Waverley College Birrell Rd Waverley | V/OD |
| Windsor | Community | 2VTR | 89.7 MHz | 40 W | Miles Comms Old Site 246 Buralow Rd Kurrajong Heights | M/OD |

Table 1: Existing local coverage community radio services in Sydney.

The community radio frequencies indicated above have been licensed under the former *Broadcasting Services Act 1942*. Evidence of this can be found in the ABA publication entitled *Radio and Television Broadcasting Stations 1999*, the ABA's public website (www.aba.gov.au) and more detailed information in the ABA stations database. Further information about these frequencies is available in the Technical Restraints, Appendix 1.

CHANNEL CAPACITY

In considering the technical operating conditions and licence areas of the existing local coverage community radio services throughout Sydney, the ABA had regard to submissions received and found that:

Finding 7.2 2BCR Bankstown, 2RDJ Burwood, 2NSB Chatswood, 2NBC Narwee, 2CCR Parramatta, 2SSR Sutherland, 2RSR Sydney, 2RES Waverley and 2VTR Windsor are interested in changing their technical operating conditions.

Finding 7.3 2RDJ Burwood and 2SSR Sutherland are interested in extending their licence areas.

In considering the requests by the existing local coverage community radio services, the ABA also needs to balance competing demands for additional services in accordance with s23 (c) of the Act. Relatively the ABA found:

Finding 7.4 2NSB Chatswood, 2MWM Manly (North and South) and 2RDJ Burwood are required to change frequency to accommodate the provision of additional FM services.

In performing its functions, the ABA is to promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum. Section 23 (c) of the Act requires the ABA to have regard to the number of existing broadcasting services within a licence area. Section 23 (e) requires the ABA to have regard to the technical restraints

relating to delivery or reception of broadcasting services. Section 23 (g) requires the ABA to have regard to such other matters as the ABA considers relevant.

Below is a discussion of the submissions received in relation to changes to technical operating conditions and licence areas for the existing local coverage community radio services, together with the ABA's proposals. Please note that full details of the technical restraints relating to delivery or reception are discussed at Appendix 1 – Technical Restraints under the respective frequencies.

DISCUSSION OF SUBMISSIONS

Many community broadcasters only incorporate a transmission antenna that is singly polarised (either vertical or horizontal) to reduce their initial implementation costs. The ABA proposes to make the provision for all existing Sydney local services to have the **option** of transmitting with vertical, horizontal or mixed polarisation.

2BCR Bankstown (88.7 MHz – alternative 100.9 MHz)

Bankstown City Radio Co-operative, licensee of 2BCR Bankstown, in a submission dated 28 May 1998, requested a change of frequency from 88.7 MHz to eliminate interference caused by community radio service 2RRR Ryde on 88.5 MHz. 2BCR requested the ABA investigate a change of frequency to 100.5 MHz.

ABA Proposal

The ABA proposes to allow 2BCR Bankstown to change frequency from 88.7 MHz to 100.9 MHz, increase its maximum ERP from 160 W to 200 W and change from vertical to mixed polarisation to improve reception throughout the 2BCR licence area. The technical restraints for the alternative frequency, 100.9 MHz, are discussed under '100.9 MHz' in Appendix 1.

2RDJ Burwood (88.1 MHz – alternative 100.5 MHz)

RDJ-FM Community Radio Co-op Ltd, licensee of 2RDJ Burwood, in submissions dated 28 April 1998 and 11 June 1998, requested a review of its radiation pattern to omnidirectional and an increase in ERP from 80 W to 1 kW. 2RDJ also requested an extension of its licence area to include the areas of Auburn, Homebush, Canterbury, Marrickville and Leichhardt.

In its submission dated 11 June 1998, 2RDJ stated that it was aware that some open narrowcasters on adjacent frequencies between 87.9 MHz and 88.3 MHz have complained that 2RDJ's signal interferes with their services. 2RDJ further stated that it has been operating on frequency 88.1 MHz for fifteen years, and could see no reason to inconvenience its current supporters or damage its potential growth in sponsors and listeners by undergoing any technical changes that would disadvantage 2RDJ. 2RDJ respectfully suggested the ABA find alternate frequencies for open narrowcasters within the Sydney area that would solve the problem.

Nepean Riverlands Community Radio Association (trading as AIR-FM), an aspirant community radio group based in Penrith, in a submission dated 4 June 1998, stated:

I object to 2RDJ on 88.1MHz receiving an increase in ERP from 100 watts to 200 watts as per their request, based on field strength readings that we have done, the current output is sufficient for their licensed coverage area, they should look at placing their antenna in a better location.

Furthermore I feel that 2RDJ on 88.1 MHz should be moved from this frequency to one of the numbers of others that have been identified as available, in moving 2RDJ off 88.1 MHz it would release 88.0 MHz for LPON services.

Information Radio Services, in a submission dated 4 June 1998 regarding 2RDJ, provided a similar statement to that of AIR-FM.

ABA Proposal

To accommodate 2RDJ's request for an increase in power, the ABA proposes to change 2RDJ's frequency from 88.1 MHz to 100.5 MHz. 2RDJ is unable to increase its operating power on its current frequency of 88.1 MHz. This change in frequency will also allow the introduction of low power open narrowcasting services throughout Sydney and Katoomba (see also Preliminary View 9). The ABA also proposes to allow 2RDJ to change from horizontal to mixed polarisation and to increase in maximum ERP from 80 W to 100 W. The ABA notes that 2RDJ requested a power increase to 1 kW and a licence area extension.

The ABA does not propose to extend the 2RDJ licence area to Auburn, Canterbury, Marrickville, Leichhardt or Homebush. Auburn and Homebush are within the 2BCR Bankstown community radio licence area, Canterbury is within the 2NBC Narwee community radio licence area, Marrickville is within both the 2NBC and 2RSR Sydney community radio licence areas and Leichhardt is within the 2RSR community radio licence area. As these areas are also within the licence areas of the five existing and three proposed wide coverage community licence areas, the ABA is of the view there are likely to be sufficient community broadcasting services for these areas.

Therefore, the ABA is of the view that a maximum ERP of 100 W should adequately serve 2RDJ's current licence area and does not propose any further increase in the maximum ERP of the service. The technical restraints for the alternative frequency are discussed under '100.5 MHz' in Appendix 1.

2RDJ has suggested that the ABA find alternative frequencies for low power open narrowcasting services (LPONs) in the Sydney area. LPON services operate within the FM radio broadcasting band using the channels centred on the frequencies 87.6 MHz, 87.8 MHz and 88.0 MHz. LPON services in this broadcasting band operate Australia wide. There are no alternative frequencies for LPON operators in Sydney.

The ABA is of the view that following allocation of an open narrowcasting licence, it does not have the power to impose a condition to enable 2RDJ Burwood to be compensated for costs involved in shifting frequency.

2NSB Chatswood (91.5 MHz, alternative 99.3 MHz)

Northside Broadcasting Cooperative Ltd, licensee of 2NSB Chatswood, provided submissions dated 24 January 1997, 7 March 1998 and 1 June 1998. 2NSB has sought ABA approval for an increase in maximum ERP from 130 W to 1-2 kW, and a change of radiation pattern from vertical to mixed.

In its submissions dated 7 March 1998 and 1 June 1998, 2NSB opposed the proposal in the February 1998 Information Booklet for its change of frequency on the following grounds:

- The loss of hard-won station-identification and listener good-will;
- The costs of producing new on-air promotional material, stationery and advertising;
- The costs of replacing the transmitting equipment; and
- The threat to new and on-going sponsorship.

In response to the ABA's proposal in the February 1998 Information Booklet that 2NSB conduct test transmissions on an alternative frequency, 2NSB stated it was of the belief that the ABA doesn't appreciate the financial realities of undertaking such test transmissions where community broadcasters are involved, and indeed, the overall costs that would be incurred through the imposition of a new transmission frequency. It also stated that in the event that the proposed change takes place, any expense incurred by 2NSB would need to be met by the ABA. 2NSB also requested the ABA establish a time schedule for clearance of Band II.

ABA Proposal

The ABA proposes to change 2NSB's frequency from 91.5 MHz to 99.3 MHz in order to make available 92.1 MHz as a wide coverage Sydney community radio service. The ABA proposes to allow 2NSB to increase its maximum ERP from 130 W to 200 W. 2NSB's radiation pattern is already licensed for mixed polarisation.

The ABA notes that 2NSB requested a power increase to 1-2 kW. The ABA is of the view that a maximum ERP of 200 W should adequately serve 2NSB's licence area. Any further increase in maximum ERP would result in overspill and interference to services in neighbouring licence areas. The technical restraints for the alternative frequency are discussed under '99.3 MHz' in Appendix 1.

The ABA is investigating whether or not it could engage a consultant to test the alternative frequency for 2NSB.

The ABA is of the view that following allocation of commercial or community licences it has the power to impose a condition to compensate existing broadcasters for costs involved in shifting frequency.

The proposed change of frequency of the Chatswood community radio service has no direct link to the proposed additional commercial radio services as indicated in Preliminary View 3. The ABA therefore cannot impose a condition on any additional commercial radio licences to compensate 2NSB for costs incurred. The only option open to the ABA at present is the imposition of a condition on the proposed additional community licences on frequencies 93.7 MHz and 92.1 MHz following allocation of the licences. **The ABA is seeking comment from interested parties on this option.**

The ABA requires 2NSB Chatswood to provide an estimate of costs associated with a change of frequency.

2MWM Manly (North 93.7 MHz, South 92.1 MHz - alternative North 88.7 MHz, South 90.3 MHz)

In response to the ABA's proposal in the February 1998 Information Booklet regarding the proposed change of frequencies for 2MWM, Manly-Warringah Media Co-operative Ltd, licensee of 2MWM Manly, in submissions dated 27 March 1997 and 10 June 1998, sought assurance that:

- The new frequencies still perform adequately without interference to its broadcasts from other frequencies, and that its broadcasts will not cause interference to others.
- The changeover will not be at 2MWM's expense.

2MWM requested compensation in advance to cover the following costs:

- For test broadcast estimated at \$1,000.00
- New equipment at transmitter and translator sites;
- Costs for adjustments to its 'rack';
- Advertising new frequencies:
 - i) notice to members, service providers, local organisations, three local councils; ii) public notices in local press to the community for benefit of broadcasters and listeners.
- Printing and stationery with altered frequencies
- Alterations to its public street signage.

Mallesons Stephen Jaques Solicitors, representing DMG Radio Australia, in a submission dated 15 June 1998, stated:

The ABA should encourage and, if necessary, direct 2NSB Chatswood and 2MWM South to transfer their services to frequencies on the AM band (which for this purposes includes low power frequencies on the FM band). The successful bidder for the new commercial licence on 92.1 FM should give financial and technical assistance in relation to those transfers.

ABA Proposal

The ABA proposes to change the 2MWM Manly North frequency from 93.7 MHz to 88.7 MHz and the South frequency from 92.1 to 90.3 MHz in order to allow two additional

wide coverage services to be made available in Sydney. The technical restraints for the alternative frequencies are discussed under '88.7 MHz' and '90.3 MHz' in Appendix 1. The ABA proposes to increase the maximum ERP of the Manly North service from 160 W to 200 W and the Manly South service from 40 W to 50 W.

The ABA is investigating whether or not it could engage a consultant to test the alternative frequencies.

The ABA is of the view that following allocation of commercial or community licences it has the power to impose a condition to compensate existing broadcasters for costs involved in shifting frequency.

The proposed change of frequencies of the Manly community radio service has no direct link to the proposed additional commercial radio services as indicated in Preliminary View 3. The ABA therefore cannot impose a condition on any additional commercial radio licences to compensate 2MWM for costs incurred. The only option open to the ABA at present is the imposition of a condition on the proposed additional community licences on frequencies 93.7 MHz and 92.1 MHz following allocation of the licences. **The ABA is seeking comment from interested parties on this option.**

The ABA requires 2MWM to provide an estimate of costs associated with a change of frequencies.

2NBC Narwee (90.1 MHz)

Narwee Baptist Community Broadcasters Limited, licensee of 2NBC Narwee, in a submission dated 24 July 1998, requested an increase in maximum ERP from 160 W to 400 W.

ABA Proposal

The ABA proposes to allow 2NBC to increase its maximum ERP from 160 W to 200 W. The ABA notes that 2NBC requested a power increase to 400 W. Any further increase in maximum ERP would result in overspill and interference to services in neighbouring licence areas.

2CCR Parramatta (90.5 MHz)

Cumberland Media Association, licensee of 2CCR, in a submission dated 10 June 1998, indicated reception difficulties within its licence area. 2CCR sought a solution to its reception difficulties. Suggestions from 2CCR range from an ERP increase to the North and South to a re-configuration of its antenna radiation pattern and change of site.

ABA Proposal

A discussion of the ABA's investigation of alternative siting for 2CCR is contained in Appendix 1 – Technical Restraints under frequency '90.5 MHz'. The ABA's investigation does not identify immediate answers to improve 2CCR reception difficulties. The ABA

does not propose to increase 2CCR's maximum ERP beyond its current operating power of 200 W as an increase in ERP would result in overspill and interference to services in neighbouring licence areas.

2SSR Sutherland (99.7 MHz)

Sutherland Shire Community Radio Association, licensee of 2SSR Sutherland, provided several submissions dated 19 January, 24 February, 4 March, 7 April, 15, 20 and 25 June, 6 July and 7 December 1998, and 7 March 1999. 2SSR requested an increase in maximum ERP from 100 W to 500 W with a restriction in the north-west direction if necessary. 2SSR also requested a licence area extension to include the opposite side of the Georges River - Botany Bay to the International Airport. 2SSR expressed concern about co-channel interference from the community radio service made available in the Newcastle LAP, which is currently licensed as a TCBL to Newcastle Christian Broadcasters.

ABA Proposal

The ABA proposes to allow 2SSR to increase its maximum ERP from 160 W to 200 W. The ABA is of the view that a maximum ERP of 200 W should adequately serve 2SSR's current licence area. Any further increase in maximum ERP would result in overspill and interference to services in neighbouring licence areas.

The ABA's does not intend to extend 2SSR's licence area to the opposite side of the Georges River – Botany Bay to the International Airport. This area is currently within the community radio licence areas of 2NBC Narwee, 2RSR Sydney and 2RES Waverley. As this area is also within the licence areas of the five existing and three proposed wide coverage community licence areas, the ABA is of the view there is likely to be sufficient community broadcasting services for these areas.

The Newcastle radio licence area plan, determined on 8 October 1998, made provision for an additional community radio service on 99.7 MHz with a restriction of 2 kW towards Sydney and a special condition:

The licensee is required to reduce ERP in the 160-220 sector if any co-channel interference is received by 2SSR Sutherland, especially over the summer months.

The ABA believes the proposed increase in ERP for 2SSR, together with the restriction placed on the Newcastle community radio service, should improve reception and alleviate interference concerns raised by 2SSR.

2RSR Sydney (88.9 MHz)

Radio Skid Row, licensee of 2RSR Sydney, in submissions dated 11 February 1998 and 10 June 1998, requested an increase in ERP from 70 W to 250 W.

ABA Proposal

The ABA proposes to allow 2RSR to increase its maximum ERP from 70 W to 200 W. The ABA is of the view that a maximum ERP of 200 W should adequately serve 2RSR's

licence area. Any further increase in maximum ERP would result in overspill and interference to services in neighbouring licence areas.

2RES Waverley (89.7 MHz)

Radio Eastern Sydney Co-Operative Limited, licensee of 2RES Waverley, in a submission dated 2 June 1998, requested an increase in maximum ERP from 160 W to 500 W and a change in polarisation from vertical to mixed.

ABA Proposal

The ABA proposes to allow 2RES to increase its maximum ERP from 160 W to 200 W and a change from vertical to mixed polarisation to improve reception throughout the 2RES licence area. The proposed frequency change of the 2VTR Windsor service from 89.7 MHz to 89.9 MHz (see below) should also improve 2RES Waverley's reception without compromising frequencies on the adjacent channels. Any further increase in maximum ERP of the 2RES service, as requested by 2RES, would result in overspill and interference to services in neighbouring licence areas.

2VTR Windsor (89.7, alternative 89.9 MHz)

Hawkesbury Radio Communications Co-operative Society Limited, licensee of 2VTR Windsor, provided submissions dated 19 January 1997, April 1997, 19 December 1997, 6 April 1998, 7 May 1998, 29 May 1998 and 29 June 1998.

The April 1997 submission recommended allocation of 94.5 MHz to 2VTR as a medium power assignment to alleviate interference within its licence area caused by 2RES Waverley.

The 19 December 1997 submission, following a conversation with Mr Craig Todd of the ABA, suggested that as the costs to change the frequency of 2VTR to possibly 99.5 MHz would not result in an appropriate improvement to coverage, 2RES Waverley should be requested to change frequency as the costs to 2RES would be minimal.

The 6 April 1998 submission confirmed that 2VTR had undertaken test transmissions on 99.5 MHz, licensed to a maximum ERP of 50 W. 2VTR reported that the TCBL services on 100.3 MHz from Blacktown was radiating spurious emissions, and 2SSR Sutherland on 99.7 MHz appeared to be over-deviating.

In the submissions of 7 May 1998, 29 May 1998 and 29 June 1998, 2VTR indicated that the test transmission on 99.5 MHz at 50 watts caused no overspill into adjacent frequency 99.3 MHz at Killara. However, 2VTR indicated that the signal strengths at Windsor, South Windsor/Bligh Park and Windsor Downs were not satisfactory. 2VTR suggested that a maximum ERP of 100 W would be required to adequately serve these areas.

ABA Proposal

The ABA does not propose to change 2VTR's frequency from 89.7 MHz to 99.5 MHz, as it is proposing 99.5 MHz be made available to 2ICE Lithgow as a translator frequency in

Katoomba (see Preliminary View 15). However, the ABA does propose to change 2VTR's frequency to 89.9 MHz, which the ABA regards as a minor frequency change. The ABA also proposes to allow 2VTR to change its radiation pattern from 50 W omnidirectional to 750 W directional. The ABA does not propose to allow 2VTR to exceed a maximum ERP of 50 W in the direction of Sydney, to limit overspill of reception into neighbouring areas and to prevent adjacent channel interference to 2NBC Narwee. The technical restraints for the alternative frequency are discussed under '89.9 MHz' in Appendix 1.

Licence Areas

The ABA proposes that all existing local coverage community radio licence areas be redefined using 1996 Census boundaries, but otherwise remain unchanged.

The ABA believes that this view represents the economic and efficient use of the radiofrequency spectrum. However, in order not to impose unnecessary financial and administrative burdens on service providers, the ABA is required to consider the cost to broadcasters of changing frequencies as a relevant factor to be weighed against any benefits that might accrue in terms of the Act's objects and the economic and efficient use of the spectrum.

The ABA is unable to fund the change of frequencies proposed for 2NSB, 2MWM and 2RDJ.

The ABA is of the view that following allocation of commercial or community licences it has the power to impose a condition to compensate existing broadcasters for costs involved in shifting frequency

The proposed change of frequency of the Manly and Chatswood community radio services has no direct link to the proposed additional commercial radio services as indicated in Preliminary View 3. The ABA therefore cannot impose a condition on any additional commercial radio licences to compensate 2MWM and 2NSB for costs incurred. The only option open to the ABA at present is the imposition of a condition on the proposed additional community licences on frequencies 93.7 MHz and 92.1 MHz following allocation of the licences. The ABA is seeking comment from interested parties on this option.

The ABA has no power to impose a condition on an open narrowcasting (class) licence to compensate for costs involved in shifting frequency. As a result, 2RDJ Burwood is unable to be compensated.

The ABA's seeks advice from 2NSB Chatswood, 2MWM Manly and 2RDJ Burwood detailing the costs associated with changing frequency.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on existing local community radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- There are thirteen existing local community FM radio services within Sydney with maximum ERPs ranging from 40 W to 200 W.
- 2BCR Bankstown, 2RDJ Burwood, 2NSB Chatswood, 2NBC Narwee, 2CCR Parramatta, 2SSR Sutherland, 2RSR Sydney, 2RES Waverley and 2VTR Windsor are interested in changing their technical operating conditions.
- 2RDJ Burwood and 2SSR Sutherland are interested in extending their licence areas.
- 2NSB Chatswood, 2MWM Manly (North and South) and 2RDJ Burwood are required to change frequency to accommodate the provision of additional FM services.

CONCLUSION

The ABA believes that increasing the transmission power of 2BCR Bankstown, 2RDJ Burwood, 2NSB Chatswood, 2NBC Narwee, 2SSR Sutherland, 2RSR Sydney, 2RES Waverley and 2VTR Windsor, together with a change of radiation pattern or polarisation for some of these services, is likely to promote the object of the Act at s.3 (a). That is, by increasing the power and change of radiation patterns, the ABA believes that the reception difficulties these services currently experience will be improved and as a result these services will be accessible to a greater number of people in the Sydney area. For this reason, changing the frequencies of 2BCR Bankstown and 2VTR Windsor is also likely to promote the object of the Act at s.3 (a).

The ABA requirement for 2NSB Chatswood, 2MWM Manly North and South and 2RDJ Burwood to change frequency is also likely to promote the availability to audiences throughout Sydney of a diverse range of broadcasting services.

PRELIMINARY VIEW 8 - ADDITIONAL LOCAL COVERAGE COMMUNITY RADIO - SYDNEY

The ABA proposes to make available for allocation four additional local coverage community radio services in Blacktown, Hornsby, Campbelltown and Penrith. The services are proposed to operate as follows:

| Area Served | Frequency | Maximum Effective Radiated Power | Nominal Location |
|---------------------|------------------|---|--|
| Blacktown | 99.9 MHz | 200 W | Horsley Park |
| Hornsby | 100.1 MHz | 200 W | Pacific Hwy & Romsey Rd Waitara |
| Campbelltown | 100.3 MHz | 200 W | Mt Hercules Rd Razorback |
| Penrith | 100.7 MHz | 200 W | Uni of Western Sydney |

The ABA proposes the licence areas be defined using 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

In the ABA's view, this preliminary view promotes the objects of the Act at paragraphs 3 (a)⁶², (f)⁶³ and (g)⁶⁴, including the economic and efficient use of the radiofrequency spectrum. The 'Legislative Framework' (Chapter 1), contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In forming its preliminary view, the ABA considered and reached opinions about the likely effects of its preliminary view, having regard to the local circumstances of Sydney, the likely impact of other planning preliminary views in the draft LAP and other relevant matters under s.23 (a)-(g).

CHANNEL CAPACITY

In making its preliminary view, the ABA had regard to the channel capacity for local coverage services in Sydney.

⁶² To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁶³ To promote the provision of high quality and innovative programming by providers of broadcasting services.

⁶⁴ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

| General Area Served | Frequency | Maximum ERP |
|---------------------|-----------|-------------|
| Penrith / Blacktown | 88.3 MHz | 200 W |
| Bankstown / Manly | 88.7 MHz | 200 W |
| Windsor | 89.9 MHz | 750 W |
| Manly | 90.3 MHz | 200 W |
| Campbelltown | 91.3 MHz | 1 kW |
| Chatswood | 99.3 MHz | 200 W |
| Penrith/Katoomba | 99.5 MHz | 200 W |
| Blacktown | 99.9 MHz | 200 W |
| Hornsby | 100.1 MHz | 200 W |
| Campbelltown | 100.3 MHz | 200 W |
| Burwood | 100.5 MHz | 200 W |
| Penrith | 100.7 MHz | 200 W |
| Bankstown | 100.9 MHz | 200 W |

Table 1: Available Channel Capacity for Sydney Local Coverage Services

The technical restraints relating to the frequencies above are discussed in Appendix 1.

Power Requirements

The ABA considered the power levels of the existing local coverage community radio services operating. It found:

Finding 8.1 The permanent local coverage community radio services in Sydney, Bankstown, Burwood, Chatswood, Liverpool, Manly, Narwee, Parramatta, Ryde, Sutherland, Waverley and Windsor operate with maximum ERP’s ranging between 40 W to 200 W.

Section 23 (c) of the Act requires the ABA to have regard to the number of existing broadcasting services within a licence area. The table below indicates the permanent local coverage community radio services currently operating in the Sydney region.

| Area Served | Category of Service | Callsign | Frequency | Maximum ERP | Nominal Location |
|-------------|---------------------|----------|-----------|-------------|-------------------------|
| Sydney | Community | 2RSR | 88.9 MHz | 70 W | Sydney Town Hall Sydney |

| Area Served | Category of Service | Callsign | Frequency | Maximum ERP | Nominal Location |
|-------------|---------------------|----------|-----------|-------------|---|
| Bankstown | Community | 2BCR | 88.7 MHz | 160 W | Garrison Pt Georges Hall |
| Burwood | Community | 2RDJ | 88.1 MHz | 80 W | Church St Burwood |
| Chatswood | Community | 2NSB | 91.5 MHz | 130 W | Victor St Chatswood |
| Liverpool | Community | 2GLF | 89.3 MHz | 80 W | Mount Pritchard |
| Manly North | Community | 2MWM | 93.7 MHz | 200 W | Bilgola Plateau Plateau Road |
| Manly South | Community | 2MWM/T | 92.1 MHz | 50 W | Tania Park Balgowlah Heights |
| Narwee | Community | 2NBC | 90.1 MHz | 160 W | Penshurst Water Tower |
| Parramatta | Community | 2CCR | 90.5 MHz | 200 W | Seven Hills Rd Baukham Hills |
| Ryde | Community | 2RRR | 88.5 MHz | 80 W | Goulding Rd Trig Point North Ryde |
| Sutherland | Community | 2SSR | 99.7 MHz | 100 W | Eton St Sutherland |
| Waverley | Community | 2RES | 89.7 MHz | 160 W | Waverley College Birrell Rd Waverley |
| Windsor | Community | 2VTR | 89.7 MHz | 40 W | Miles Comms Old Site 246 Buralow Rd Kurrajong Heights |

Table 2: Existing permanent local coverage community radio services

The community radio frequencies above have been licensed under the former *Broadcasting Services Act 1942*. Evidence of this can be found in the ABA publication *entitled Radio and Television Broadcasting Stations 1999*, the ABA's public website (www.aba.gov.au) and more detailed information in the ABA stations database.

Further information regarding these frequencies is set out in the Technical Restraints at Appendix 1.

Competing channel requirements

The ABA has also considered whether there were competing channel requirements for other categories of radio service⁶⁵ and the channel requirements of existing and aspirant community radio broadcasters.

In regard to other categories of broadcasting services, the ABA had regard to the other preliminary views for the draft LAP in Sydney that affect the technical capacity for additional local coverage community radio services:

- Not making 88.3 MHz available in the draft LAP in order to accommodate low power open narrowcasting services in Sydney and Katoomba (Preliminary View 9)
- Making 91.3 MHz for one commercial radio service in Campbelltown (Preliminary View 4);
- Making spectrum available for three Sydney-wide community radio services, two of which require 2MWM Manly to change the frequency of both its north and south transmitters and 2NSB Chatswood to change frequency (Preliminary Views 6 and 7);
- Making 88.7 MHz and 90.3 MHz available as alternative frequencies for 2MWM Manly’s north and south transmitters (Preliminary View 7);
- Making 99.3 MHz available as an alternative frequency for 2NSB Chatswood (Preliminary View 7);
- Making 89.9 MHz as an alternative frequency for 2VTR Windsor (Preliminary View 7);
- Making 99.5 MHz available in Katoomba for a commercial translator for 2ICE Lithgow (Preliminary View 15);
- Making 100.5 MHz available as an alternative frequency for 2RDJ Burwood (currently operating on 88.1 MHz) in order to accommodate low power open narrowcasting services in Sydney and Katoomba (Preliminary Views 7 and 9); and
- Making 100.9 MHz as an alternative frequency for 2BCR Bankstown (Preliminary View 7);

Taking the above into consideration, there is sufficient channel capacity to make additional local coverage radio services available in Sydney as follows:

| General Area Served | Frequency | Maximum ERP |
|----------------------------|------------------|--------------------|
| Blacktown | 99.9 MHz | 200 W |
| Hornsby | 100.1 MHz | 200 W |

⁶⁵ The need to balance all additional services the ABA proposes to plan against the known supply of vacant spectrum has already been discussed in the context of Preliminary View 3.

| General Area Served | Frequency | Maximum ERP |
|---------------------|-----------|-------------|
| Campbelltown | 100.3 MHz | 200 W |
| Penrith | 100.7 MHz | 200 W |

Table 3: Remaining Channel Capacity for Local Coverage Services

INTEREST IN PROVISION OF COMMUNITY RADIO SERVICES

In regard to the local coverage channel requirements of aspirant community radio broadcasters the ABA found:

Finding 8.2 There is interest from aspirant community radio broadcasters throughout Sydney in providing local coverage community radio services.

Section 23 (c) of the Act requires the ABA to have regard to demand for new broadcasting services within a licence area. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant. In preparing the licence area plan for Sydney, the ABA has received submissions from prospective broadcasting service providers. As the public is dependent on organisations within the community to provide community broadcasting services, the views and intentions of those aspirant community broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Below is a table showing who to date has expressed an interest in establishing additional local coverage community radio services in the Sydney region:

| SUBMITTER | DATE OF SUBMISSION | PROPOSAL | COMMENT |
|---|--------------------|---|-------------------------------|
| Blacktown City Community Radio (SWR-FM) | 17 August 1998 | Interested in providing a community radio service to serve the Holroyd and Fairfield Shires (Blacktown region). | Operating a TCBL on 99.9 MHz |
| Hornsby Ku-ring-Gai Community Radio (North FM) | 14 June 1998 | Interest in providing a community radio service to serve the Hornsby and Ku-ring-Gai Shires. | Operating a TCBL on 100.1 MHz |
| Macarthur Community Radio Association (MCR) | 15 June 1998 | Interest in providing a community radio service to serve the Campbelltown, Camden and Wollondilly Shires. | Operating a TCBL on 100.3 MHz |
| Nepean Riverland Community Radio Association (AIR-FM) | 4 June 1998 | Interested in providing a community radio service to serve Springwood in the West, Richmond, Windsor in the north, Rooty Hill in the East and Wallacia to Bringelly in the South, stating that Penrith is the | Operating a TCBL on 100.7 MHz |

| SUBMITTER | DATE OF SUBMISSION | PROPOSAL | COMMENT |
|---|--------------------|--|---|
| | | nucleus for this entire area. | |
| Way Out West Fine Music Inc. (WOW-FM) | June 1998 | Interested in providing a community radio service to serve the cities of Penrith and Blacktown. | Operating a TCBL on 88.3 MHz |
| New Wave Broadcasters Ltd | 17 June 1998 | Interested in providing a community radio service to serve Killara, Pennant Hills, Beecroft, Turramurra, Gordon, Pymble, St Ives, Ryde, Carlingford, Cherrybrook, Marsfield Epping, Gladesville, Eastwood, Thornleigh, Hornsby, Asquith, Brooklyn, Berowra, Mt Colah, Dural and St Ives. | Operating a TCBL on 99.3 MHz (sharing with Pump FM) |
| Pump Broadcasters Ltd (Pump FM) | 15 June 1998 | Interested in providing a community radio service to serve Killara, Turramurra, St Ives, Ryde, Gordon, Epping, Pennant Hills, Marsfield, Eastwood, Thornleigh, Beecroft, Chatswood, Willoughby, St Leonards, Wahroonga, Roseville, Lane Cove, Mosman, North Sydney, Artarmon and Waverton. | Operating a TCBL on 99.3 MHz (sharing with New Wave Broadcasters Ltd) |
| Symban FM Radio | 18 June 1998 | Interested in providing a Greek community radio service to serve the 'inner south western suburbs of metropolitan Sydney', namely, Lane Cove to the North, Maroubra to the East, Sutherland to the South and Fairfield to the West. | Operating a Narrowband Licence 151.675 MHz. |
| Spanish Broadcasting Association Incorporated | 23 December 1998 | Western suburbs of Sydney and Campbelltown. | Operating a TCBL on 100.9 MHz which serves the Chester Hill/Bankstown region. |

Table 4: Expressions of interest in local coverage community broadcasting services

The importance of this finding is that the ABA is satisfied the planning of local coverage community radio broadcasting services would be likely to increase the overall number of services of that type in Sydney.

HOW MANY LOCAL COVERAGE COMMUNITY RADIO SERVICES TO MAKE AVAILABLE?

The ABA then considered how many local coverage community radio services, if any, should be made available in Sydney. The ABA found:

Finding 8.3 There are no permanent local community radio services operating in the Blacktown, Hornsby, Campbelltown and Penrith regions.

Finding 8.4 Making one local coverage (200 W) community radio service in each of the Blacktown, Hornsby, Campbelltown and Penrith regions is likely to suit the needs of the majority of aspirant community broadcasters.

Section 23 (c) of the Act requires the ABA to have regard to the number of existing broadcasting services within a licence area. See Table 2 (page 2) which indicates the permanent local coverage community radio services operating throughout Sydney.

As indicated in Table 4 (page 4), aspirant community broadcasters currently hold temporary community broadcasting licences (TCBLs) in the Blacktown, Hornsby, Campbelltown, Penrith, Killara, Bankstown (Chester Hill) and Penrith/Blacktown regions. Symban FM radio currently operates a Narrowband Licence⁶⁶, and wishes to provide a community radio service to serve the inner south western suburbs of Sydney.

The submissions from the aspirant community broadcasters in relation to technical aspects of the local coverage services throughout Sydney, under the respective frequencies the aspirants broadcasters are currently operating TCBLs on, are discussed in Appendix 1, Technical Restraints.

For all of the local coverage community services the ABA proposes to make available, it is not technically possible to allow more than a maximum ERP of 200 W due to potential for adjacent channel interference with neighbouring licensees.

Due to the limited spectrum available in Sydney, the ABA has been unable to find enough available frequencies to satisfy the expressed demand for provision of additional local coverage community radio services in Killara, Bankstown (Chester Hill), Penrith/Blacktown and the inner south western suburbs. It should be noted, however, that the areas the aspirant groups wish to serve will either be served by the proposed new community licences or are currently served by existing community radio licensees.

All aspirant community broadcasters have the option of applying for the proposed new local coverage community licences in the Blacktown, Hornsby, Campbelltown and Penrith

⁶⁶ A narrowband area station (NAS) is a licence that provides a one-way radiocommunications service to not less than 4 NAS receivers using an occupied bandwidth not exceeding 4 MHz.

regions as well as the proposed new wide coverage community radio licences (see Preliminary View 6).

LICENCE AREAS

The ABA is satisfied that a maximum ERP of 200 W for the proposed services will adequately serve the proposed licence areas. The technical restraints for the proposed services are discussed in Appendix 1.

Finally, the ABA found that:

- Finding 8.5* The licence area of the Blacktown community radio service will be the City of Blacktown, the City of Holroyd and the City of Fairfield, against 1996 Census boundaries.
- Finding 8.6* The licence area of the Hornsby community radio service will be the Hornsby and Ku-ring-Gai Local Government Areas, against 1996 Census boundaries.
- Finding 8.7* The licence area of the Campbelltown community radio service will be the City of Campbelltown, the Local Government Area of Camden and part of the Local Government Area of Wollondilly, against 1996 Census boundaries.
- Finding 8.8* The licence area of the Penrith community radio service will be the City of Penrith and part of the Local Government Area of the Blue Mountains, against 1996 Census boundaries.

Section 23 (c) of the Act requires the ABA to have regard to demand for new broadcasting services within a licence area. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant. Section 23 (e) requires the ABA to have regard to the technical restraints relating to delivery of reception of broadcasting services.

The areas the aspirant community broadcasters wish to serve are shown in the table above in this preliminary view.

The ABA notes that New Wave Broadcasters Ltd, Pump Broadcasters Ltd, Nepean Riverland Community Radio Association, Symban FM Radio and Spanish Broadcasting Association Incorporated wish to serve areas beyond the licence areas proposed in the above findings. As a maximum ERP of more than 200 W is not technically possible, the ABA is unable to define licence areas beyond those indicated above.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on additional local coverage community radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;

- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- The permanent local coverage community radio services in Sydney, Bankstown, Burwood, Chatswood, Liverpool, Manly, Narwee, Parramatta, Ryde, Sutherland, Waverley and Windsor operate with maximum ERP's ranging between 40 W to 200 W.
- There is interest from aspirant community radio broadcasters throughout Sydney in providing local coverage community radio services.
- There are no permanent local community radio services operating in the Blacktown, Hornsby, Campbelltown and Penrith regions.
- Making one local coverage (200 W) community radio service in each of the Blacktown, Hornsby, Campbelltown and Penrith regions is likely to suit the needs of the majority of aspirant community broadcasters.
- The licence area of the Blacktown community radio service will be the City of Blacktown, the City of Holroyd and the City of Fairfield, against 1996 Census boundaries.
- The licence area of the Hornsby community radio service will be the Hornsby and Kuring-Gai Local Government Areas, against 1996 Census boundaries.
- The licence area of the Campbelltown community radio service will be the City of Campbelltown, the Local Government Area of Camden and part of the Local Government Area of Wollondilly, against 1996 Census boundaries.
- The licence area of the Penrith community radio service will be the City of Penrith and part of the Local Government Area of the Blue Mountains, against 1996 Census boundaries.

CONCLUSION

Given that all areas throughout Sydney would receive a local coverage community radio service, coupled with the five existing wide coverage Sydney community radio services and the ABA's proposal to make three additional wide coverage Sydney community radio services available, the ABA is of the belief that the needs of community broadcasting throughout Sydney will be met.

Having regard to all the above matters, the ABA's preferred option for promoting the objects of the Act 3 (a), (f) and (g), including the economic and efficient use of

radiofrequency spectrum, is to plan local coverage community radio services to serve the Blacktown, Hornsby, Campbelltown and Penrith regions.

The ABA believes that s.3 (a) will be served well by making local coverage community radio services available, as there are currently several groups interested providing such services. Although TCBL's confer no right nor indicate any ABA preference for a group to be granted a permanent community radio service, the ABA is of the belief that if permanent community radio services were made available for allocation in the Blacktown, Hornsby, Campbelltown and Penrith regions, it is likely that the licences would be taken up.

In addition, these types of new services are likely to have a positive effect on coverage of matters of local significance (s.3 (f)) and innovative programming (s3(g)).

PRELIMINARY VIEW 9 - OPEN NARROWCASTING RADIO – SYDNEY AND PENRITH

The ABA proposes to make three additional open narrowcasting radio services available in Sydney. The services are proposed to operate on:

- **1386 kHz from Homebush with a maximum CMF of 1015 kV;**
- **1539 kHz from Bicentennial Park, Concord West with a maximum CMF of 385 V; and**
- **1476 kHz from Emu Plains 5km NW of Penrith with a maximum CMF of 225 V.**

Any channels mentioned above, if allocated for open narrowcasting services, will be made available under s.34 of the *Broadcasting Services Act 1992*, for a minimum period of five years, and the provider will be determined by use of a price-based allocation system under s.106 of the *Radiocommunications Act 1992*.

FINDINGS OF FACT AND REASONS

As discussed in the Legislative Framework, the ABA takes the view that planning for open narrowcasting services has an important role in promoting the object at paragraph 3(a)⁶⁷ of the Act. For example, such open narrowcasting formats as foreign language, racing information and tourist or traveller information services have a unique contribution to make the range of broadcasting services available in areas. For this reason, the ABA is concerned to accommodate open narrowcasting services during the public planning process at the same time it considers the need for other types of services.

As there are differences in both the planning and subsequent allocation processes between open narrowcasting services and conventional commercial and community radio services, the ABA has given consideration in the course of the planning process to what is the appropriate way to cater for open narrowcasting requirements disclosed during the public planning process.

It should be noted that the ABA retains the power to make spectrum available for open narrowcasting or other purposes outside licence area plans, by use of section 34 of the Act.

INTEREST IN PROVISION OF OPEN NARROWCASTING

Section 23 (c) of the Act requires the ABA to have regard to demand for new broadcasting services within a licence area, within neighbouring licence areas and within Australia generally. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant.

⁶⁷ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

In preparing the licence area plan for Sydney, the ABA found:

Finding 9.1 There is substantial interest from potential open narrowcasting radio broadcasters in providing open narrowcasting radio services in Sydney.

The ABA has received eighteen submissions from prospective and current open narrowcasting radio service providers. As the public is dependent on the private and community sectors to provide open narrowcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Interest in open narrowcasting radio services varies in Sydney, with the most popular format being Ethnic radio. In response to the ABA's request for information in relation to radio in Sydney, the following submissions relating to open narrowcasting services were received:

- Austereo Pty Ltd submitted in July 1998, that it is interested in offering one wide coverage FM open narrowcasting service in the Sydney market. Austereo also indicated that depending on the availability of other frequencies, it may wish to offer additional open narrowcasting services in Sydney. Its decisions about this matter will also be influenced by factors such as power levels and coverage.
- Capital Media N.S.W. Pty Ltd requested the provision of an FM frequency dedicated specifically for special event usage. Capital Media also indicated its interest in providing an open narrowcasting service on a FM frequency for road traffic information (two submissions dated 6 June 1998).
- InfoRadio Australia Ltd has requested the ABA to take into account the provision of low powered AM open narrowcasting frequencies for Suburban Radio. InfoRadio also requested the provision of an open narrowcasting FM frequency for road traffic information (two submissions dated 13 July and 6 June 1998).
- Radio broadcaster 2KY, also known as Racing Radio, has stated in a submission dated 26 May 1998, that it has a particular interest in the frequency 1386 kHz (formerly operated by SBS) to provide an open narrowcasting service.
- On 15 June 1998, Sutherland Shire Community Radio Station Inc (2SSR) expressed interest in providing an open narrowcasting service to cover the Sutherland Shire to serve special interest groups which cannot be catered for on the community station.
- Australian Chinese Communications Pty Ltd submitted on 8 July 1998, that it is interested in providing an AM or FM open narrowcasting service in the Chinese language.
- Best-FM submitted on 27 May 1998, its interest in providing an open narrowcasting radio service in Sydney for Small Business Education, either by 1 high powered service or several low powered translators. Best-FM would also be interested in an AM licence if no FM frequencies were made available.

- Croation Radio Australia submitted on 26 June 1998, that reasonable provision be made for new narrowcasting services, by way of both high and medium powered frequencies for ethnic radio services.
- On 12 June 1998, Foreign Language Publications Pty Ltd expressed interest in providing an AM or FM open narrowcasting service to serve the Greek community.
- In a submission dated 15 May 1998, the Gay & Lesbian Association of Australia state that it would like to provide an open narrowcasting radio service in Sydney to the Gay community. It proposes that the ABA make channel capacity available for a medium powered FM frequency.
- Information Radio Services submitted on 14 April 1998, its interest in operating high powered open narrowcasting services in Penrith and Blacktown.
- Radio Lebanon submitted on 10 June 1998, its interest in providing a commercial radio service to cover the South Western suburbs of Sydney. It has indicated that if a commercial radio channel is not made available it will pursue an open narrowcasting radio licence. Radio Lebanon's preference is for a FM service, however, would consider operating on the AM band.
- Sky Country 88FM submitted on 31 August 1998, its interest in providing a high power (1 kW) open narrowcasting radio service to serve country music listeners in Sydney's outer West.
- Phillips Fox Lawyers submitted on 11 June 1998, on behalf of Tatley Pty Ltd, trading as Rete Italia, a proposal that the ABA:
 - (a) makes adequate provision during the planning process for open narrowcasting frequencies;
 - (b) introduces an appropriate system for allocating open narrowcast licences to the wide range of competing services providers: and
 - (c) determines a licence period of sufficient length to afford open narrowcasters some security of tenure, together with a more certain system for renewal.
- Noise FM states in a submission dated 12 July 1998, that there is a need for two high powered open narrowcasting services to cover the Hawkesbury Local Government Area (Richmond/Windsor).
- The P.A. People submitted a proposal on 6 January 1998, that the ABA make available a frequency on the FM band with a low power of less than 1 W for the provision of sound reinforcement and PA systems for Stadium Australia.

On balance the ABA is satisfied that based on the submissions it has received, there is substantial interest from potential open narrowcasting radio broadcasters, who are likely to be in a position to provide open narrowcasting services in Sydney.

With regard to Phillip Fox Lawyers' submission discussing tenure, it should be noted that Section 18 of the Act states:

Open narrowcasting services are broadcasting services:

- (a) whose reception is limited:
 - (i) by being targeted to special interest groups; or
 - (ii) by being intended only for limited locations, for example, arenas or business premises; or
 - (iii) by being provided during a limited period or to cover a special event; or
 - (iv) because they provide programs of limited appeal; or
 - (v) for some other reason; and
- (b) that comply with any determinations or clarifications under section 19 in relation to open narrowcasting services.

Open narrowcasting services, by their very nature, cannot be regarded as permanent services. Providers of open narrowcasting services do not (and cannot) have security of tenure, and unlike commercial and community licences, open narrowcasting services can be revoked at any time by the ABA. Therefore, the ABA cannot guarantee tenure for open narrowcasting services.

DEMAND FOR OPEN NARROWCASTING SERVICES

Section 23 (c) of the Act requires the ABA to have regard to demand for new broadcasting services within a licence area, within neighbouring licence areas and within Australia generally. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant.

The ABA considered the demand for open narrowcasting radio services in Sydney and found that:

Finding 9.2 There is some public demand for open narrowcasting services in Sydney.

The Sky Country 88.0 FM's submission of 31 August 1998 includes 157 letters of support from individuals for a full time high power FM open narrowcasting service providing country music to Sydney's outer West.

The ABA also received a submission dated 28 August 1998 from the Minister for Communications, the Information Economy and the Arts, the Hon Senator Richard Alston, expressing his desire for the ABA to give full weight to the claims of open narrowcasters, the importance of such services in contributing to the achievement of diversity in broadcasting services, and to meeting the needs of niche interests in the community.

A submission received on 6 July 1998, by Southern Cross Broadcasting (Australia) Limited (commercial operator in Melbourne and Perth) stated that the ABA's priority in planning should be given to the community and open narrowcasting radio sectors, thereby promoting increased diversity of services and programming.

Whilst the ABA recognises that there is some local audience demand for open narrowcasting services in Sydney, it is important to note that the ABA cannot fund or compel others to fund additional broadcasting services in an area. It can only make channel capacity available.

As a result of the above considerations, the ABA is satisfied that planning of additional open narrowcasting radio broadcasting services would be likely to increase the overall number of services of that type in Sydney.

CHANNEL CAPACITY

Existing Services

Section 23(c) requires the ABA to have regard to the number of existing services and the demand for new broadcasting services within a licence area. The table below sets out the number of existing open narrowcasting radio services in Sydney which are licensed under s34 of the Act.

| Suburb | Frequency | Maximum ERP/CMF (Transmitter Power) |
|-----------------|------------------|--|
| Springwood | 87.6 MHz | 1 W |
| Campbelltown | 87.6 MHz | 1 W |
| Kings Cross | 87.6 MHz | 1 W |
| Caringbah | 87.6 MHz | 1 W |
| Darling Harbour | 87.6 MHz | 1 W |
| Homebush | 87.6 MHz | 1 W |
| Carlingford | 87.6 MHz | 1 W |
| Brookvale | 87.6 MHz | 1 W |
| Fairfield | 87.6 MHz | 1 W |
| Lakemba | 87.6 MHz | 1 W |
| Mosman | 87.6 MHz | 1 W |
| Chatswood | 87.6 MHz | 1 W |
| Mount Pritchard | 87.8 MHz | 1 W |
| North Sydney | 87.8 MHz | 1 W |
| Glenbrook | 88.0 MHz | 1 W |
| Bondi | 88.0 MHz | 1 W |
| Concord West | 1539 kHz | 385 V (1 kW) |

Table 1: Existing low and high powered open narrowcasting services in Sydney

The ABA considered the existing open narrowcasting radio services operating in Sydney and found that:

Finding 9.3 There are several low powered open narrowcasting services in Sydney, operating in the FM frequency range 87.6 MHz – 88.0 MHz, licensed under s34 of the Act.

Finding 9.4 There is one (1) high power open narrowcasting service, operating on AM 1539 kHz, in Sydney licensed under s34 of the Act.

Section 23(e) also provides that the ABA have regard to the technical restraints relating to delivery and reception of broadcasting services.

Discussion

In making its preliminary view, the ABA had regard to the technical restraints on planning additional open narrowcasting radio services in Sydney, and in particular, see the Technical Restraints at Appendix 1.

Before deciding how many additional open narrowcasting radio broadcasting services, if any, it should show as available in the licence area plan, the ABA also considered the channel requirements of aspirant open narrowcasting radio providers and whether there were competing channel requirements for other categories of radio service⁶⁸. Given that the ABA is of the preliminary view that additional FM commercial and community radio services should be made available in the Sydney region for the reasons indicated in Preliminary Views 3, 4, 6 and 8, the ABA found that:

Finding 9.5 There is no remaining channel capacity for high/medium powered FM open narrowcasting radio services in Sydney.

However, the ABA found that:

Finding 9.6 There is channel capacity for three high/medium powered AM open narrowcasting radio services in Sydney to complement the other services proposed to be made available.

In preparing the licence area plan for Sydney, the ABA has received a number of submissions from prospective and current open narrowcasting radio service providers. As the public is dependent on the private and community sectors to provide open narrowcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions. Section 23(e) also provides that the ABA have regard to the technical restraints relating to delivery and reception of broadcasting services.

⁶⁸ The need to balance all the additional services the ABA proposes to plan in Sydney against the known supply of vacant spectrum in Sydney has already been discussed in the context of Preliminary View 3.

Below is a summary of channel capacity that remains available within the Sydney market for purposes other than national, commercial and community.

| FREQUENCY | MAXIMUM CMF (TRANSMITTER POWER) | NOMINAL SITE | COMMENTS |
|-----------|---------------------------------|-----------------------------------|--|
| 1386 kHz | 1.015 kW (5 kW) | Homebush | This frequency was formerly used by the national SBS service 2EA Sydney. |
| 1539 kHz | 385 V (1 kW) | Bicentennial Park Concord West | 2RPH formerly used this frequency. It is currently used for a high powered open narrowcasting service by Rete Italia. The licence expires on 31 December 1999. |
| 1476 kHz | 220 V (500 W) | Emu Plains 5km NW of Penrith | This frequency was formerly used by 2KA Katoomba commercial service as a translator for Penrith. |

Table 2: Channel capacity available in Sydney for Alternative uses of broadcasting services bands.

In a submission dated 11 June 1998, Rete Italia is of the view that the frequency 1539 kHz that has only 1 kilowatt of power could be increased to 10 kW during the day and 5 kW at night in order to improve the quality of the frequency. As mentioned in Preliminary View 2 the ABA has recognised the need to improve reception of the Sydney commercial AM services, given the presence of increasing man-made electrical noise within the licence area. However, a permanent (day and night) power increase is not considered an appropriate solution given the presence of overspill conditions and the night-time interference potential to other AM services. Refer to the technical restraints at Appendix 1.

As noted in Preliminary View 2, the ABA is proposing day/night switching for the AM commercial broadcasters. Once the allocation process of the proposed medium/high powered AM open narrowcasting services is completed, the ABA will consider requests from the successful providers for the two Sydney frequencies (1386 kHz and 1539 kHz) to consider day/night switching.

In relation to 1476 kHz, as noted in the technical restraints at Appendix 1 the ABA/ACA are responsible for international co-ordination of medium frequency (MF) assignments with the international Telecommunications Union (ITU). In accordance with Australia's International obligations a number of AM radio frequencies are restricted in power. Under an international agreement 1476 kHz is restricted to a maximum CMF not exceeding 220 volts, and 1476 kHz cannot be considered for day/night switching.

In further considering available technical capacity the ABA also found that:

Finding 9.7 There may be channel capacity for additional low powered FM open narrowcasting radio services in Sydney.

Amongst other things, the ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to

delivery and reception of broadcasting services in Sydney and neighbouring regions (s.23(c), (e) and (g)).

On 1 December 1992, the ABA released five channels in the FM radio broadcasting band for low powered (1 W) open narrowcasting services throughout Australia to provide local information services with a field strength of 48 dBuV/m at 2 kilometres from the radiating antenna.

The five channels in the 87.5 – 88.0 MHz part of the FM band (87.6, 87.7, 87.8, 87.9, 88.0) are intended for use by transmitters with a coverage of less than two kilometres in urban areas (this restriction is eased in rural areas to allow coverage of up to ten kilometres because there is less chance of interference).

Under current arrangements (Revised Planning and Licensing Arrangements for Low Power Information Services in the Category of Open Narrowcasting Services) the Australian Communications Authority (ACA) licences low powered open narrowcasting services on behalf of the ABA via a streamlined process.

Within these guidelines there are restrictions on assignments for low powered open narrowcasting services where a television service is operating VHF channel 3, or there are FM radio services operating on frequencies below 88.4 MHz.

These restrictions affect the Sydney area due to the continued operation of VHF channel 3 at Newcastle and Wollongong, and the operation of the community radio service 2RDJ Burwood on 88.1 MHz. As discussed in Preliminary View 4, the ABA is proposing to move 2RDJ to 100.5 MHz, thus creating greater provision for additional FM open narrowcasting services in Sydney within the sub band 87.5 – 88.0 MHz, hence, providing a diverse range of radio services.

The ABA and ACA are currently addressing the proposal to allow the ACA to process applications for low powered open narrowcasting services that fall outside the parameters of the current policy guidelines.

The most common ‘out-of-policy’ requests would most likely concern licensing within the various exclusion zones for the protection of VHF TV Channel 3 and the FM radio frequencies 88.1 MHz and 88.3 MHz. These exclusion zones were created on the basis of limited ‘worst case’ engineering and with individual assessment of applications it is likely that many additional services could be licensed without compromising reception of the protected services.

To date there are 16 low power (1 W) open narrowcasting radio services in Sydney licensed under s34 of the Act.

All the low powered open narrowcasting services in Sydney are currently licensed in exclusion zones on the basis of engineering undertaken by the ABA prior to the implementation of the current streamlined procedures.

The ABA is aware it is unable to meet the demand for high/medium powered FM open narrowcasting services in Sydney. However, it should be noted that open narrowcasting services are licensed under s34(1)(f) of the Act and s34 of the Act is for 'Alternative uses of broadcasting services bands'. That is, s34 is intended to allow the ABA to make some departures from the normal statutory scheme and planning instruments in circumstances where, in effect, a part of the broadcasting services spectrum bands would be wasted if it were not temporarily put to some other use.

The ABA is also aware that the expansion of other broadcasting opportunities flowing from the Sydney draft licence area plan has the potential to alter the demand for open narrowcasting. As discussed in preliminary view 3, the allocation of open narrowcasting radio services and commercial radio services are not mutually exclusive options, as open narrowcasting service providers may choose to bid for additional commercial radio broadcasting services being made available in Sydney.

Also, if there are no successful bids for any additional commercial radio services that are made available in Sydney, these licences could then be made available for open narrowcasting under s.34 of the Act.

The Director of Radio Lebanon, Mr Marcel Assaf, has indicated in a submission dated 10 June 1998, that Radio Lebanon is prepared to bid for an open narrowcasting licence if an appropriate commercial service is not offered in the licence area plan.

Alternatively, additional commercial and community radio broadcasting services may choose to meet some of the demand that might otherwise be catered for by open narrowcasting radio services. Hence, the proposals to plan additional commercial and community radio services in Sydney may meet some of the demand for open narrowcasting services.

With regard to low powered FM open narrowcasting radio services, recent studies by the ABA and the Australian Communications Authority (ACA), using digitised terrain data, have enabled the exclusion boundaries associated with NBN3 Newcastle and WIN-3 Wollongong to be re-appraised.

The studies reveal that the current exclusion radii of 150 km and 50 km around the Newcastle and Wollongong transmitters respectively should remain but that an 'exempted region' to these exclusion zones is denoted in the Technical Restraints at Appendix 1.

As a result there is likely to be additional channel capacity for low powered FM open narrowcasting radio services available in Sydney within the exempted region. The technical restraints at Appendix 1, provides more a discussion relevant to Low Power Open Narrowcasting services.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on additional open narrowcasting radio services, the ABA has had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;

- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- There is substantial interest from potential open narrowcasting radio broadcasters in providing open narrowcasting radio services in Sydney.
- There is some public demand for open narrowcasting services in Sydney.
- There are several low powered open narrowcasting services in Sydney, operating in the FM frequency range 87.6 MHz – 88.0 MHz, licensed under s34 of the Act.
- There is one (1) high power open narrowcasting service, operating on AM 1539 kHz, in Sydney licensed under s34 of the Act.
- There is no remaining channel capacity for high/medium powered FM open narrowcasting radio services in Sydney.
- There is channel capacity for three high/medium powered AM open narrowcasting radio services in Sydney to complement the other services proposed to be made available.
- There may be channel capacity for additional low powered FM open narrowcasting radio services in Sydney.

CONCLUSION

For the reasons given above the ABA is of the opinion that making three high/medium powered AM open narrowcasting radio services available and making the FM sub band more accessible will promote the object at section 3 (a) of the Act, including the economic and efficient use of the radiofrequency spectrum.

PRELIMINARY VIEW 10 - COMMERCIAL RADIO – GOSFORD

The ABA proposes that the existing FM commercial radio services (2CFM and 2GGO) continue to operate as follows:

- **2CFM to operate on 101.3 MHz from Lot 319 Debanham Road, Somersby, with a maximum ERP of 16 kW.**
- **2GGO to operate on 107.7 MHz from Mt Penang with a maximum ERP of 16 kW.**

The ABA proposes the existing Gosford commercial licence areas be redefined using 1996 Census boundaries, but otherwise remain unchanged.

The ABA proposes to make one additional commercial radio service available in Gosford. The service is proposed to operate on 104.5 MHz from Mt Penang with a maximum ERP of 16 kW.

The licence area of the additional service is proposed to be identical to that of the existing commercial radio services, against 1996 Census boundaries.

NOTE: In a letter dated 25 August 1999, Senator the Hon Richard Alston, Minister for Communications, Information Technology and the Arts, advised that he was aware that there was shortage of available spectrum in the Gosford region. The Minister further advised that he was considering notifying the ABA to reserve additional spectrum capacity in the Gosford region but, before making a decision, asked the ABA to undertake public consultation and inform him on the following matters:

- a) the level of community dissatisfaction with the reception of national services;
- b) relative community demand for improved reception of national services *vis a vis* new services.

The ABA is therefore seeking comment on this issue.

FINDINGS OF FACT AND REASONS

The ABA believes that this preliminary view is likely to promote the objects of the Act at paragraphs 3 (a)⁶⁹, (b)⁷⁰ and (c)⁷¹, including the economic and efficient use of the spectrum.

⁶⁹ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁷⁰ To provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs.

⁷¹ To encourage diversity in control of the more influential broadcasting services.

This may also promote the objects at section 3 (f)⁷² and (g)⁷³. The ‘Legislative Framework’ (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In developing preliminary view 10, the ABA had regard to the objects of the Act, the local circumstances of the Gosford commercial radio market, the likely impact of other preliminary views in the draft LAP, and other relevant matters under s.23 (a) – (g). An account of this process of consideration follows.

In forming its preliminary view on whether or not additional commercial radio broadcasting services should be made available in Gosford, the ABA considered the following relevant issues:

- interest in the provision of additional commercial radio services (s.23 (c));
- the channel capacity in the Gosford market (s.23 (e));
- the power requirements of commercial radio services in Gosford (s.3 (a), s.3(b) and s.23 (e));
- demographic, social and economic characteristics of the licence area (s.23 (a) & (b));
- the diversity, number of existing services and competing channel requirements (s.3 (a), s.23 (c) and s.23 (g));
- whether if additional commercial radio services were made available in Gosford it is likely than an independent (competing) operator would offer coverage of matters of local significance (s.3 (b) and s.3 (g));
- whether if additional commercial radio services were made available it is likely than an independent (competing) operator would offer high quality and innovative programming (s.3 (b) and s.3 (f)); and
- other uses of the spectrum (s.3 (f)).

INTEREST IN PROVIDING ADDITIONAL COMMERCIAL RADIO SERVICES

In the Planning for Radio Broadcasting Services in Sydney, Katoomba and Gosford Information Booklet February 1998, the ABA sought submissions from parties interested

⁷² To promote the provision of high quality and innovative programming by providers of broadcasting services.

⁷³ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

in providing additional radio service in the Gosford region. The ABA in reaching its preliminary view considered the submissions it has received. The ABA found that:

Finding 10.1 There is interest from independent (competing) operators in providing additional commercial radio services in the Gosford market.

Section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to ‘such other matters as it considers relevant’. In preparing the draft licence area plan for Gosford, the ABA has received submissions from existing and potential broadcasting service providers in the Gosford and neighbouring markets. As the public is dependent on the private sector to provide commercial radio broadcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Below is a table of interest expressed to date in the provision of additional commercial radio services in the Gosford market.

| Submitter | Date of Submission | Proposal |
|---------------------------------|--------------------|---|
| Lynton Properties Pty Limited | 3 February 1997 | Provide an AM service on 801 kHz and an FM service on an unspecified frequency. |
| Lynton Properties Pty Limited | 3 June 1998 | Reconfirming interest in establishing a commercial service in Gosford on 801 kHz. |
| New Century Media Pty Limited | 10 June 1998 | Recommending the ABA allocates AM 801 kHz to a commercial broadcaster and expressing interest in providing that service. Suggests FM frequency 104.5 MHz would be subject to interference difficulties from 2DAY and 2MMM Sydney. |
| DMG Radio Australia Partnership | 15 June 1998 | States there is only one owner of commercial stations in Gosford. Indicates maximum number of commercial radio licences on the FM band should be issued in Gosford. |
| Jadish Lodhia | 15 August 1998 | Wishes to establish additional commercial radio service in Gosford. |
| Radio 2UE Sydney Pty Ltd | 24 November 1998 | Expresses interest in bidding for commercial radio licence at Gosford operating on AM. |

Table 1: Expressed demand to establish additional commercial radio services in Gosford.

Submissions Received

The existing commercial operator in Gosford (R G Capital) and the licensee of the commercial television service at Newcastle (NBN) have both expressed opposition to additional commercial radio services being made available in Gosford.

In its submission, RG Capital states:

The ABA has identified no potential high powered FM frequencies for Gosford unless 104.5 was made available by changing its use by community radio Taree and in addition if it were not utilised in Newcastle.

It is our submission that Newcastle is in far greater need of additional commercial FM frequencies than is Gosford as Gosford is clearly substantially if not entirely overlapped by services from Sydney which therefore provide an enormous array of alternatives of that community.

In its submission dated 15 June 1998, NBN Television stated:

In relation to the proposed new services for the Central Coast the NBN position can be summarised as:

more is not necessarily better;

an AM Licence could be justified in this market because it is not currently serviced by such;

Sydney market overlap provides sufficient FM commercial radio services;

Commercial viability is doubtful for more FM commercial radio services.

As discussed under finding 10.9, FM frequency 104.5 MHz was not available for use in the Newcastle LAP as community station 2BOB Taree did not change frequency. Therefore, having conducted further engineering assessment of this frequency the ABA believes it is suitable for use in the Gosford market.

In regard to the claims that the Gosford market is substantially overlapped by Sydney services, the ABA acknowledges that there may indeed be some overlap of the area by the Sydney services. However, the licence areas of the Gosford and Sydney commercial radio services do not overlap and any reception of Sydney services in the Gosford region is fortuitous. The ABA considers that any reception of Sydney services in Gosford would not be of a suitable listening quality technically, therefore, in reality, there are two commercial radio services in the Gosford market which are of an acceptable technical quality for residents.

Discussion

The ABA has received five submissions from companies/persons expressing an interest in providing additional commercial radio services in Gosford. In relation to other categories of service, it has received six submissions from community groups advising they have an interest in providing additional community radio services and six submissions from companies, persons and community groups expressing interest in providing open narrowcasting services in Gosford.

Taking into consideration the expressed demand from parties interested in establishing additional commercial radio services in Gosford (s.23 (g)) the ABA notes there are several parties interested (5) and that at least two of those parties operate existing commercial radio services, one in Sydney (2UE) and one in regional markets (DMG). While having regard to

the remarks made by RG Capital and NBN that there are sufficient commercial radio services available in Gosford⁷⁴ and that making an additional commercial radio service available in Gosford would not promote diversity in programming⁷⁵ the ABA believes that, on balance, the evidence of demand for additional commercial radio services in the Gosford market far outweighs evidence of opposition expressed.

Based on the evidence for this finding the ABA believes that if it were to make an additional commercial radio service available in Gosford, the licence would be taken up and that such a decision is likely to promote the objects of the Act particularly at s.3 (a) and (b).

CHANNEL CAPACITY

The ABA next had regard to whether channel capacity exists in the Gosford market for provision of additional commercial broadcasting services. In considering available technical capacity, the ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to the delivery and reception of broadcasting services in Gosford (s.23 (c) and (e)). The channel capacity as outlined in the Technical Restraints at Appendix 1 is indicated below.

| General Area Served | Frequency | Maximum CMF/ERP | Nominal Location |
|---------------------|-----------------------|-----------------|------------------|
| Gosford | 801 kHz ⁷⁶ | 1.35 kW | Chittaway Point |
| Gosford CBD | 92.5 MHz | 200 W | Mt Penang |
| Gosford | 93.3 MHz | 2 kW | Mt Penang |
| Gosford | 94.1 MHz | 2 kW | Mt Penang |
| Gosford | 94.9 MHz | 2 kW | Mt Penang |
| Gosford CBD | 96.3 MHz | 500 W | Mt Penang |
| Gosford | 98.1 MHz | 500 W | Mt Penang |
| Gosford | 101.3 MHz | 16 kW | Somersby |
| Gosford | 104.5 MHz | 16 kW | Mt Penang |
| Gosford | 107.7 MHz | 16 kW | Mt Penang |

Table 2: Channel capacity in the Gosford market

The ABA considered availability of channel capacity in the Gosford market and found:

Finding 10.2 The existing FM community radio service 2CCC operates on 96.3 MHz.

Finding 10.3 The existing FM commercial radio service 2CFM operates on 101.1 MHz.

Finding 10.4 The existing FM commercial radio service 2GGO operates on 107.7 MHz.

⁷⁴ Section 23 (g)

⁷⁵ object 3 (a)

⁷⁶ Currently allocated to a high power open narrowcasting service. The licence is due to expire on 31 December 1999.

Therefore, all other channels identified in the above table are considered to be available for allocation in the Gosford commercial radio market.

Power Requirements

The ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in Gosford (s.23 (c) and (e)).

Having identified available channel capacity exists in the Gosford market, in considering whether to plan additional commercial radio services in the market, one of the matters the ABA has particular regard to is whether or not any additional service would be likely to offer wide coverage comparable to existing services. The ABA believes the object of the Act a s.3 (a) and the economic and efficient use of the spectrum is best served by making comparable coverage services available rather than lower powered services addressing only a fraction of the population served by the existing licensees. The ABA's preference for comparable coverage services reduces the opportunity for entrepreneurs to only provide a service to the more commercially lucrative areas within a licence area at the expense of the quality of services enjoyed in other parts of the licence area.

Having considered the capacity in the Gosford market, the ABA considered the power levels of existing radio broadcasting services and found:

Finding 10.5 The existing commercial FM radio services operate at a maximum ERP of 16 kW.

Finding 10.6 The existing community FM radio service currently operates at a maximum ERP of 500 W.

A table of all existing services and technical characteristics is also at Appendix 1, Technical Restraints.

The ABA then considered the likely power requirements of the various types of radio broadcasting services to decide whether the capacity it has identified is appropriate for commercial radio services. The ABA found:

Finding 10.7 A commercial radio service previously occupied AM channel 801 kHz and provided comparable coverage to existing services.

Finding 10.8 The ABA considers it unlikely that, if the AM channel were made available for commercial broadcasting, a commercial operator would be capable of commencing a service.

Discussion

The ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area, to technical restraints relating to delivery or reception of broadcasting services in Gosford and to such other matters as it considers relevant (s.23 (c), (e) and (g)).

Prior to converting to the FM band, 2GGO Gosford successfully operated an AM service (2GO) on 801 kHz. Interest has been expressed by 2UE, Lynton and New Century Media, in obtaining this channel for a commercial radio broadcasting service. Of those expressing interest in the AM frequency, neither 2UE or Lynton indicated where they would propose to site the service. New Century Media submitted that, if successful in obtaining the licence, it would site the service at the existing AM site of Chittaway Point. Failing that, it indicated it would site it at another site, but provided no details of that proposed site.

The ABA is aware that 2GO Gosford, operator of the FM service 2GGO, owns the existing AM site and facilities. The ABA is also aware that 2GO Gosford currently has a commercial agreement with Rete Italia, an open narrowcasting service provider, which is currently leasing the facilities to provide an open narrowcasting service in Gosford. The ABA is unable to predict future commercial arrangements of the owner of the site, and indeed does not know any future plans of the owners of the site. However, it considers it unlikely that 2GO would sell or lease the site to any competing commercial radio operator.

The ABA has considered potential alternative AM sites in the Gosford region and has been unable to identify any. **The ABA is willing to accept detailed technical submissions identifying any potential AM transmission sites.**

In considering other available frequencies the ABA found:

Finding 10.9 FM channel 104.5 MHz would provide comparable coverage to the existing commercial FM services in Gosford and is therefore suitable for commercial use.

The ABA is required to have regard to existing services, the demand for new broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in Gosford and neighbouring regions (s.23 (c) and (e)).

Its February 1998 Information booklet indicated the potential for FM frequency 104.5 MHz to be available in Gosford if the community radio service 2BOB Taree changed frequency and 104.5 MHz was not used in the Newcastle area. 2BOB Taree did not change frequency, therefore 104.5 MHz was unable to be used in the Newcastle area. The ABA has conducted an engineering assessment of the suitability of this frequency at high power in the Gosford region and has concluded it is suitable for use.

New Century Media, one of the aspirant commercial broadcasters, indicated it did not believe the FM frequency would be suitable and would be subject to interference from 2DAY and 2MMM Sydney. The ABA has assessed this possibility and does not believe interference problems will occur.

Details of the suitability of this frequency to operate at a high power can be found in the Technical Restraints, Appendix 1.

Likelihood of comparable coverage

Given there is capacity for one additional commercial radio service, the ABA considered submitted interest in providing additional commercial radio services in the Gosford region and found:

Finding 10.10 If additional commercial radio services were made available in Gosford it is likely an independent (competing) operator would offer coverage comparable to existing services.

Discussion

Section 23 (g) provides that in performing its functions the ABA is required to have regard to such other matters as it considers relevant. The ABA has considered the information provided in submissions to date to determine if potential commercial radio service providers intend providing comparable coverage to existing services. This information is detailed below.

In its submission dated 10 June 1998, New Century Media Pty Limited made the following comment:

New Century Media recommends that the ABA allocate the AM frequency 801 KHz for commercial broadcasting. It is the channel formerly occupied by 2GO Gosford and provides signal coverage comparable to existing commercial FM services.

While no other submitter specifically addressed the issue of comparable coverage, in its submission of 3 February 1997, Lynton Properties Pty Limited specifically requested the allocation of the AM frequency 801 kHz for commercial broadcasting. In addition, in its submission dated 24 November 1998, Radio 2UE Sydney Pty Ltd indicated interest in bidding for a commercial broadcasting licence at Gosford on AM. As 2GO previously occupied this AM frequency and provided coverage comparable to that of the existing FM commercial broadcasting services, it could be inferred from these requests for an AM frequency that both Lynton and Radio 2UE would offer a service of comparable coverage to that of the existing services.

Knowing that technical capacity exists in the Gosford market to make an additional broadcasting service available, the ABA considered whether it should make an additional commercial broadcasting service available in Gosford.

DEMOGRAPHIC, SOCIAL AND ECONOMIC CHARACTERISTICS

The ABA is required by s.23 (a) and (b) of the Act to have regard to demographics and social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally. It also compared Gosford with similar sized and larger markets in Australia.

Relevantly the ABA found:

Finding 10.11 The Gosford market is larger economically and demographically than some existing three and four commercial station markets in Australia.

In making these findings, the ABA had regard to its s.30 Determination of population figures (as at the 1996 Census) as gazetted on 6 January 1999.

Markets of comparative size, and smaller sized markets which have three or four commercial services, include those listed in the following table:

| Market | Population | No. of commercial services | No. made available in LAP/LAP status |
|---------------|-------------------|-----------------------------------|---|
| Geelong | 289,051 | 2 | Not yet determined |
| Katoomba | 267,970 | 1 | Not yet determined |
| Gosford | 260,839 | 2 | Not yet determined |
| Hobart | 216,338 | 3 | Not yet determined |
| Wollongong | 246,795 | 2 | 0 |
| Townsville | 177,888 | 4 | 2 |
| Shepparton | 153,457 | 3 | 1 |
| Rockhampton | 149,462 | 4 | 2 |
| Cairns | 142,859 | 4 | 2 |
| Mackay | 108,256 | 4 | 2 |

Table 3: Comparative markets

Of those submitters indicating interest in providing additional commercial radio services in the Gosford market, none addressed issues of demographic, social or economic characteristics in the market.

The ABA assumes the demand for additional broadcasting services can be inferred from demographic, social or economic indicators within a market or from comparison with other markets with similar demographic, social and economic characteristics, even where it receives no relevant submissions during the public consultation phase of planning, or where the evidence of submissions conflicts with the demographic, social or economic evidence.⁷⁷

⁷⁷ The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) is at Appendix 3.

ABS Census Data

The ABA has considered information provided by the Australian Bureau of Statistics in considering these characteristics of the Gosford market. The information the ABA considered is at Appendix 4.

In particular the ABA has noted:

- The population in the Gosford commercial licence area at Census 1996 was 260,839.
- The intercensal population growth between the 1991 Census (229, 424) and 1996 Census (260, 839) for Gosford (13.7%) was greater than that for the neighbouring licence area of Sydney (5.1%) and greater than that of Australia as a whole (6.2%).
- The estimated population growth⁷⁸ for Gosford, Sydney and Australia shows that Sydney (1.5%) has grown slightly faster than Gosford (1.4%) and marginally faster than Australia (1.2%) over the period 30 June 1997 to 30 June 1998.
- At the 1996 Census, the median value for monthly housing loan repayments and weekly rental payments for Gosford were lower than that for Sydney and marginally higher than that for Australia, see Appendix 4 for further details.

The ABA has limited economic data available to it at this stage, but believes that on balance, in considering all other s.23 criteria and the objects of the Act, that making an additional commercial radio service available in the Gosford market is likely to further the objects of the Act, particularly s.3 (a) and (c). **In making a final decision, the ABA is reliant on additional information from submitters.**

This finding, and the evidence available to date, corroborates that there is likely to be some potential for additional commercial radio services in the Gosford commercial radio market.

THE DIVERSITY, NUMBER OF EXISTING SERVICES AND COMPETING CHANNEL REQUIREMENTS

The table below shows the range of broadcasting services currently operating in the Gosford market.

⁷⁸ See Appendix 4 for an explanation of the derivation of estimated population growth.

| Category of Service | |
|-------------------------------------|--|
| Radio Services | Television Services |
| 2 commercial FM (2GO & 2CFM) | 1 ABC |
| 1 community FM (2CCC) | 1 SBS |
| 1 AM open narrowcasting (temporary) | 6 commercial (TEN (2), NINE (2), PRIME, SEVEN) |

Table 4: Services currently operating in Gosford

As discussed under the ‘Legislative Framework’ (Chapter 1), the ABA can promote the object at 3(a) of the Act by making available a mix of different types of broadcasting services in an area. Community broadcasters (as do the national broadcasters) frequently provide programs that are immediately distinguishable from commercial broadcasting, often serving needs that the commercial sector has not addressed. Open narrowcasting services also promote diversity, in particular those ‘niche’ services of information (eg. tourist or racing news) and entertainment (eg. entertainment programs provided in languages other than English).

In weighing up the merits of different categories of radio broadcasting services, the ABA considers community and commercial radio services to be mutually exclusive options, as a community radio broadcasting licence must be operated by a non-profit organisation. That is, any profits cannot be distributed amongst individuals. And, in general, community organisations cannot afford to purchase commercial radio broadcasting licences, particularly in markets where investor interest forces prices up.⁷⁹

Open narrowcasting radio services are a different case, for two reasons. First, an open narrowcasting provider can bid for a commercial licence, as commercial radio licences are allocated through a price-based process, and second, a commercial or community radio broadcasting licence can be made available for open narrowcasting if it is not taken up during the ABA’s allocation process (under the provisions of s.34). So making a frequency available for commercial or community broadcasting purposes does not necessarily preclude an open narrowcasting service provider from obtaining the licence.

In Gosford, limited spectrum supply is a major consideration, as there is strong interest from existing and potential broadcasters in providing a variety of radio broadcasting services, relative to the spectrum capacity the ABA has been able to identify to date.

In considering the competing channel requirements, the ABA has chosen to place heavy reliance on the interest its consultation process has disclosed from potential service providers in establishing additional radio services in Gosford, while weighing up the merits of different broadcasting types.

⁷⁹ The ABA’s commercial licence allocation process involves a price-based allocation system, whereby the highest bidder is able to purchase a commercial licence in an area.

The ABA acknowledges that planning additional services in a market may not represent 'economic and efficient use of the radiofrequency spectrum', nor would it serve to promote the objects of the Act, unless there were some likelihood that the number of service(s) of that type would increase as a result.

An important factor in proposing to make one commercial radio service available in Gosford is to ensure a mix of different types of radio services in the market. In particular the ABA has had regard to s.23 of the Act (that is, taking into consideration the number of existing services and demand for new community and open narrowcasting services (s.23 (c) and (g)) and the limited spectrum available in Gosford (s.23 (e)).

Submissions Received

In reaching its preliminary view, the ABA has considered the submissions it has received, the number of existing services and the evidence before it. Relevantly, the ABA found:

Finding 10.12 If an additional commercial radio service were made available in Gosford, it is likely that an independent (competing) operator may add to the diversity of available services.

The objects of the Act at s.3 (a) and (c) relate to this finding.

In its submission of 15 June 1998, Mallesons Stephen Jacques, on behalf of DMG commented:

It is fair to say that during most periods in the past broad ranges of music had mass appeal. Accordingly, a relatively small number of commercial licences could meet the demands of the majority of the public for their music preferences. That is no longer the case. Over the past decade, music has become very fragmented and each type or style of music has its own market. There are many more markets today and, therefore, many more audiences to serve.

The commercial radio broadcasting industry cannot serve the audiences and satisfy all of the demand, and is forced to pursue the middle ground, as a compromise, because of the scarcity of commercial licences, particularly on the FM band ...

The issue of new commercial licences on the FM band will enable all of the markets to be served and, in that way, the commercial radio broadcasting industry will satisfy demand and properly fulfil its role in society. Community stations and narrowcast stations cannot serve these markets for many reasons which include, in particular, their inability to generate commercial profits and, therefore, invest in programs and infrastructure of necessary quality.

The submission also commented on the lack of diversity in ownership in relation to commercial radio services in Gosford, pointing out that both services are currently operated by one owner.

In addition, both New Century Media and Jagdish Lahdia propose to serve audiences which they consider are not currently served by the existing commercial radio services in Gosford.

In commenting on diversity in the Gosford market, NBN Television stated:

More FM commercial radio services will not provide diversity in services only in ownership.

Although NBN intended this as a negative comment, the ABA believes that diversity in ownership is one of the desirable outcomes of the planning process. While diversity of ownership of itself is not guaranteed to lead to diversity of programming, the ABA feels that on balance, given the comments made by aspirant broadcasters in the region, that making an additional commercial radio service available in Gosford is likely to add to the diversity both in ownership and program choice in the Gosford market.

The ABA considers that this preliminary view, along with that to facilitate a change in the licence area and technical conditions of the existing community radio service (Preliminary View 12), to make two additional community radio services available in Gosford (Preliminary View 13), one high power open narrowcasting service available in Gosford (Preliminary View 14) and three CBD coverage open narrowcasting services available is likely to best promote the object of the Act at s.3 (a).

COVERAGE OF MATTERS OF LOCAL SIGNIFICANCE

As discussed in the Legislative Framework, in general, planning of additional services might be expected to promote appropriate coverage of matters of local significance, where there is some prospect those additional services will be taken up. For example, planning may enable new service providers to address needs not adequately catered for by existing licensees. The increased competition in the market may also encourage service providers to provide more appropriate coverage of matters of local significance.

On the other hand, introduction of competition may diminish the ability of existing broadcasters to produce programs locally. This may hinder appropriate coverage of matters of local significance if new service providers in the market do not redress the deficiency by covering such matters themselves.

A number of submissions received from the existing licensees and potential service providers in the Gosford region have commented on the coverage of matters of local significance. From the submissions received, the ABA found:

Finding 10.13 If an additional commercial radio service were made available in Gosford it is likely that an independent (competing) operator would offer coverage of matters of local significance.

In performing its functions the ABA is required to have regard to the object of the Act at s.3 (g) appropriate coverage of matters of local significance and s.23 (g) such other matters as it considers relevant.

Submissions Received

A submission dated 15 June 1998, from Mallesons Stephen Jacques on behalf of DMG radio Australia (DMG) comments:

The existing owners and operators, and also the competitors, will aim to secure and increase ratings by being attractive to large audiences. Such audiences will demand local programs and talent (including news services). The current level of investment in those programs and that

talent will be possible without intolerable pressure on profits. Audience demands will therefore be met, in order to achieve ratings.

In its submission, New Century Media indicates that it has identified a local programming void in the Gosford market that it would propose to serve.

A locally based talk-oriented station would serve a significant segment of the Central Coast population.

In addition, Jagdish Lodhia proposes to cater for local ethnic communities. Such a service, if successful in gaining a licence, would be likely to enhance coverage of matters of local significance.

Discussion

Having regard to all the submissions that address s.3 (g) the ABA notes that those comments are made only by parties interested in providing additional commercial radio services. Therefore it believes that if it were to make an additional commercial radio service available in Gosford, the operator of that service would be likely to have a positive impact on the coverage of matters of local significance.

The ABA acknowledges that planning an additional commercial radio service may not necessarily promote the object at 3(g) of the Act. However it has taken those concerns into account and has weighed the possible cost in terms of local coverage against favourable benefits in terms of other objects of the Act. It has also taken into account the contributions made to coverage of matters of local significance by community and open narrowcasting services.

HIGH QUALITY AND INNOVATIVE PROGRAMMING

None of the submissions received commented on the impact an additional commercial radio service may have on the provision of high quality and innovative programming. While additional services may not always promote the provision of high quality and innovative programming by providers of broadcasting services, the ABA considers the effect of introducing additional commercial radio services is more likely to be positive than negative when measured against this object. The ABA believes that increasing competition is likely to encourage broadcasters to be more responsive to audience needs and may well permit additional high quality and innovative programming to be broadcast, whether in the form of innovative new ideas for local services or top quality programming 'networked' from other parts of the country. Increased competition is likely to pressure both existing and new service providers to offer programming that will attract/maintain audience share within the market.

LICENCE AREAS

In general, the ABA assumes⁸⁰ that the licence areas of existing commercial and community broadcasting services using the broadcasting services bands represent accepted media markets and the ABA will not vary them without good reason, other than to update them where boundaries are based on outdated Census descriptions. The ABA assumes⁸¹ that additional broadcasting services within those markets, using the broadcasting services bands, should have the same licence area as existing services unless there are good reasons to the contrary. In relation to the licence area of the proposed service the ABA found:

Finding 10.14 The licence areas of the existing commercial radio services in Gosford, against 1996 Census boundaries, are the most appropriate for any additional commercial radio service in Gosford.

The ABA is required by s.23 (a) and (b) of the Act to have regard to the demographic, social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally. The ABA is also required to take into account technical restraints relating to the delivery or reception of broadcasting services (s.23 (e)).

The service areas of the existing commercial radio services were determined by the Minister for Communications in 1987 and continued as licence areas by s.8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

In determining the licence areas, the Minister took into account the following factors: social and economic links between major urban centres in the area; governmental functions and responsibilities; topography; signal coverage and possible effects on the commercial balance between the stations and other stations claiming to serve the community or communities in the area.

The licensee of the existing commercial radio services has not requested any changes to the existing commercial radio licence areas. The aspirant commercial radio groups have not made any requests to cover a different licence area to that of the existing commercial radio services in Gosford.

OTHER USES OF THE SPECTRUM

In having regard to s.23 (f), the ABA considered the medium to longer term outlook for additional commercial radio services in Gosford and found:

Finding 10.15 It is unlikely that alternative means of delivering radio services will substantially reduce the ability of the market to sustain commercial radio broadcasting services using AM and FM spectrum in the short to medium term.

⁸⁰ The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

⁸¹ *ibid*

Section s3 (d) of the Act requires the ABA to have regard to developments in new technology. The ABA did not receive any submissions specifically addressing this issue.

Discussion

On 24 March 1998, the Minister for Communications, the Information Economy and the Arts, Senator the Hon Richard Alston, announced that the Government had put in place planning processes which will allow the start up of digital radio services in Australia in 2001. He said that planning will proceed on the basis that the Eureka 147 system will be used to provide digital services, operating generally in the L band but with consideration of VHF spectrum in regional areas. Existing broadcasters will share a multiplex facility which can provide five CD quality radio services.

The Minister also announced that commercial, community and national (ABC and SBS) radio broadcasters will be able to convert to digital, but will be required to transmit their programs in analog mode for a simulcasting period. He said that there will also be opportunities for new digital commercial radio services, with the number and timing of new entrants to be determined as part of the planning process.

With regard to the impact digital radio will have on existing analog service the ABA's notes a newspaper article appearing in the AD News on 26 March 1999 with regard to the progress of digital radio in the United Kingdom. The article states:

In the UK both the BBC and commercial network, GWR, have been broadcasting radio digitally since 1 January this year. The take-up of digital radio receivers is, however, very slow. As with all new technology, receivers are scarce and pricey, at about 500 pounds (A\$1,300). The prediction is by 2005 only 12% of the UK population will be listening to digital radio while more than 40% will be watching digital television in 2005 (source: Merrill Lynch September 1998).

The ABA is aware of the increase in usage of online services through its monitoring of surveys conducted by other organisations, in particular the *Use of the Internet by Householders, Australia* conducted by the Australian Bureau of Statistics. This information has been included in relevant papers prepared by the ABA and most recently in the ABA's submission to the Senate Select Committee on Information Technologies. The Committee is currently examining the *Broadcasting Services Amendment (Online Services) Bill 1999* that will establish a regulatory regime for online services to be administered by the ABA. One of the ABA's functions under the Bill will be to conduct research into Internet usage and the ABA is currently considering specific issues that might be included in such research.

The ABA assumes that new technologies such as digital radio broadcasting ('DRB') and digital terrestrial television broadcasting ('DTTB') have the potential to alter the planning environment considerably by allowing capacity for more or enhanced broadcasting services using the same amount of spectrum. The Minister has announced that DRB may commence on 1 January 2001 and that licences for any new entrants will be made available via the planning process. The ABA assumes that all radio LAPs will be finalised before DRB transmissions can start on 1 January 2001.

The ABA assumes that though DRB can commence in Australia on 1 January 2001, AM and FM services would still remain the most important media for radio services for a number

of years, as it would take an extended period of time for DRB receivers to reach comparable penetration rates and for DRB transmission facilities to provide a comprehensive coverage throughout the country⁸².

EXISTING COMMERCIAL RADIO SERVICES

The ABA did not receive any submissions from the existing commercial radio licensee and therefore assumes no changes to existing service are required. It therefore proposes that the existing services continue to operate as licensed.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on commercial radio broadcasting services, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- There is interest from independent (competing) operators in providing additional commercial radio services in the Gosford market.
- The existing FM community radio service 2CCC operates on 96.3 MHz.
- The existing FM commercial radio service 2CFM operates on 101.1 MHz.
- The existing FM commercial radio service 2GGO operates on 107.7 MHz.
- The existing commercial FM radio services operate at a maximum ERP of 16 kW.
- The existing community FM radio service currently operates at a maximum ERP of 500 W.
- A commercial radio service previously occupied AM channel 801 kHz and provided comparable coverage to existing services.

⁸² The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

- The ABA considers it unlikely that, if the AM channel were made available for commercial broadcasting, a commercial operator would be capable of commencing a service.
- FM channel 104.5 MHz would provide comparable coverage to the existing commercial FM services in Gosford and is therefore suitable for commercial use.
- If additional commercial radio services were made available in Gosford it is likely an independent (competing) operator would offer coverage comparable to existing services.
- The Gosford market is larger economically and demographically than some existing three and four commercial station markets in Australia.
- If an additional commercial radio service were made available in Gosford, it is likely that an independent (competing) operator may add to the diversity of available services.
- If an additional commercial radio service were made available in Gosford it is likely that an independent (competing) operator would offer coverage of matters of local significance.
- The licence areas of the existing commercial radio services in Gosford, against 1996 Census boundaries, are the most appropriate for any additional commercial radio service in Gosford.
- It is unlikely that alternative means of delivering radio services will substantially reduce the ability of the market to sustain commercial radio broadcasting services using AM and FM spectrum in the short to medium term.

CONCLUSION

Having regard to all of the above matters, the ABA's preferred option for promoting the objects of the Act, including the economic and efficient use of radiofrequency spectrum in Gosford, is to propose one additional commercial radio service using FM frequency 104.5 MHz.

On the material before it, the ABA believes that planning one additional commercial radio service is likely to result in one more service being provided in the area, and is more likely to result in a more balanced mix of broadcasting services in the Gosford market (object 3 (a)). The ABA believes that if it were to propose a second additional commercial radio service in Gosford the service may not commence operation, thereby not promoting the objects of the Act particularly the economic and efficient use of the spectrum.

The ABA believes that making one high power channel available for a commercial radio service is likely to result in a commercial radio service being provided with coverage comparable to existing services. It also believes making an additional commercial radio service available in a market such as Gosford, with two services operated by one owner, is

likely to introduce competition into the market and facilitate the development of a broadcasting industry that is more efficient, competitive and responsive to audience needs (object 3 (b)).

Similarly, making an additional commercial radio service available in the Gosford market is likely to promote diversity in control of the more influential broadcasting services (object 3 (c)) as it would enable an independently owned new service provider to enter the market.

The ABA also wishes to promote an appropriate coverage of matters of local significance (object 3 (g)). The ABA acknowledges there may be a loss of local programming on the existing services upon introduction of a third commercial radio service that may then result in overall less appropriate coverage of matters of local significance, particularly if the new service is unable to redress any deficiency by covering matters of local significance. However, it prefers to accept a more general view that planning of additional services might be expected to promote appropriate coverage of matters of local significance, where there is some prospect that additional services might be taken up. In this respect, the ABA has no reason before it not to accept as true what the aspirant commercial broadcasters propose in regard to local programming. In addition, the ABA is aware of the contribution towards coverage of matters of local significance made by other categories of radio broadcasting services. Also, the ABA considers that greater competition in markets (object 3 (b)) may encourage all service providers in Sydney to provide more appropriate coverage of matters of local significance.

The ABA acknowledges that it has little control over the programming choices of new market entrants and therefore it cannot ensure that making an additional commercial radio service available will promote object 3 (f) (high quality and innovative programming). However, the ABA believes the introduction of an additional commercial radio service is more likely to have a positive than negative impact when measured against this object.

Based on the evidence before it, particularly entrepreneurial interest in all categories of radio broadcasting services (s.23 (c) and (g)) and the available spectrum (s.23 (e)), the ABA believes the objects of the Act will be best promoted by making one high power commercial FM radio service available in Gosford. This proposal is likely to promote the objects of the Act at s.3 (a), (b) and (c), including the economic and efficient use of the spectrum, and may also promote the objects at s.3 (f) and (g).

SUBMITTERS

The ABA seeks additional information from potential service providers to assist in finalising a decision about additional commercial radio service in the Gosford market. The ABA requests that potential service providers address the following questions:

- | |
|--|
| <p>a) Whether and in what way providing an additional commercial radio broadcasting service in the Gosford market would represent an economic and efficient use of the radiofrequency spectrum;</p> |
|--|

- b) Whether or not any additional commercial radio service you propose to provide would offer signal coverage at least comparable to existing services;**
- c) The likely impact of any increase in the number of services on diversity in the range of services offered and the overall level of programming in the area covering matters of local significance;**
- d) Information and supporting evidence about your capability to provide a commercial radio service;**
- e) Whether sufficient capital is currently or potentially available to you to commence and continue to provide an additional commercial radio service in Gosford in accordance with the technical specifications proposed in the draft LAP;**
- f) Whether your interest is contingent in any way.**

Submissions addressing economic characteristics of the Gosford market must supply supporting economic evidence.

Submissions of over five pages in length must provide an executive summary.

PRELIMINARY VIEW 11 - EXISTING COMMUNITY RADIO - GOSFORD

The ABA proposes to continue to make channel capacity available for the existing community FM radio service in Gosford, 2CCC.

The ABA proposes to change the frequency of the service from 96.3 MHz to 94.1 MHz, increase the maximum ERP of the service to 2kW and increase the licence area of the service to include the Shire of Wyong at a date not later than one year after publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Gosford radio LAP has been determined.

The ABA proposes to redefine the licence area against 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

The ABA believes this preliminary view is likely to promote the objects of the Act at paragraphs 3 (a)⁸³ and 3 (g)⁸⁴ and represent economic and efficient use of the radiofrequency spectrum. The ‘Legislative Framework’ (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In forming this preliminary view, the ABA considered and reached opinions about the likely effects of this preliminary view, having regard to the local circumstances of the Gosford region, the likely impact of other planning preliminary views in the draft LAP and other relevant matters under s.23 (a) – (g).

CHANNEL CAPACITY

Section 23 (c) of the Act requires the ABA to have regard to, in part, the number of existing broadcasting services within a licence area. In reaching this preliminary view, the ABA first had regard to the technical operating conditions of the existing FM community radio broadcasting service in Gosford and found:

Finding 11.1 The existing FM community radio service 2CCC Gosford operates on 96.3 MHz from a nominal transmitter site at Mt Penang with a maximum ERP of 500 W.

The ABA is required to have regard to the number of existing broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in the Gosford licence area (s.23 (c) and (e) of the Act).

⁸³ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁸⁴ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

There is one community radio service in the Gosford licence area, namely 2CCC Gosford. 2CCC Gosford was licensed under the former *Broadcasting Services Act 1942*. Evidence of this can be found in the ABA publication *Radio and Television Broadcasting Stations 1999*, the ABA's public website (www.aba.gov.au) and more detailed information exists in the ABA stations database.

Further evidence for this finding is also set out in the Technical Restraints at Appendix 1.

Licence Areas

The ABA has received submissions from 2CCC Gosford which indicate that:

Finding 11.2 2CCC Gosford is interested in changing its frequency, increasing its maximum ERP, changing its radiation pattern and extending its licence area to include the Wyong shire.

In performing its functions, the ABA is required to promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum. Section 23 (c) requires the ABA to have regard to, in part, the number of existing services within a licence area. Section 23 (e) requires the ABA to have regard to the technical restraints relating to delivery or reception of broadcasting services. Section 23 (g) requires to the ABA to have regard to 'such other matters as it considers relevant'.

In an undated submission received by the ABA in June 1998, Central Coast Community FM Radio Association Inc, the licensee of the existing community FM radio service in Gosford, stated:

Our submission dated 11 February 1993, regarding the expansion of our Licence Area stands as is, in that to satisfactorily service the community for which we are licensed, the service area should co-incide with the geographic area of that community.

We consider that we should be allowed an increase in ERP from our present 500W to 2 kW. This would allow the signal to provide more satisfactory penetration of the difficult terrain of the Central Coast, where the topography includes a range of mountains cut by several deep valleys. ...

It is requested that the radiation pattern be changed to radiate the majority of the signal energy ...[to] the area containing the majority of the Coast's population.

Transmissions on 96.3 Mhz by 2CCC suffer two serious problems. 2ONE-FM at Wentworth Falls causes adjacent channel interference in many areas where 2CCC's signal is reduced by topographical difficulties, and 2JJJ-FM at Middle Brother Mountain, north of Taree, causes co-channel interference in many areas of our Licence Area, being in particular subject to coastal channelling effects when certain meteorological conditions prevail. We request, therefore, to be allowed to change frequency to 94.1 MHz, ...

In considering the information available in regard to the licence area the ABA found:

Finding 11.3 An increase in the licence area to include the Wyong Shire and redefinition of the licence area against 1996 Census boundaries is appropriate.

In performing its functions, the ABA is required to promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum. Section 23 (c) requires the ABA to have regard to, in part, the number of existing services within a licence area. Section 23 (e) requires the ABA to have regard to the technical restraints relating to delivery or reception of broadcasting services. Section 23 (g) requires the ABA to have regard to 'such other matters as it considers relevant'.

In general, the ABA assumes that the licence areas of existing commercial and community broadcasting services using the broadcasting services bands represent accepted media markets and the ABA will not vary them without good reason, other than to update them where boundaries are based on outdated Census descriptions.⁸⁵ In considering whether a change in a community licence area is appropriate, the ABA has developed criteria which are detailed in *The ABA's General Approach to Planning*.

As part of its approach to determining the Planning Priorities in September 1993, the ABA called for submissions. The licensee of the existing community radio service in Gosford provided a submission dated 11 February 1993 addressing some of those criteria.

The submission stated, in part:

It is proposed that Central Coast Community Radio should service the whole of the Central Coast, including those areas outside 2CCC's current service area, none of which fall within the service area of any other community station.

It will be demonstrated that the Central Coast, defined as the Local Government Areas of the City of Gosford and the Shire of Wyong, constitutes a Region on criteria relating to geography, demographics, economic development, and governmental, social, cultural and sporting organisations.

2CCC Gosford provided detailed information on each of these aspects, linking the City of Gosford and the Shire of Wyong as one region.

In updating the information provided in its original submission, 2CCC Gosford stated:

Experience over the past five years has shown that community interest in the station has been coast-wide, with approximately half our membership residing in the Wyong Shire, and contact with our station (program enquiries, music requests, etc.) coming from the Wyong Shire area as much as from the City of Gosford.

The extension requested ... has merit in that Wyong Shire Council has been a strong supporter of 2CCC, having donated \$4 000 to purchase of equipment, and also conducting a regular weekly Shire News program, which is supported financially on a user-pays basis for studio time.

This station is also receiving interest and support from the Federal Members of Parliament for Robertson and Dobell. Whilst the present Licence Area covers the Robertson electorate in its entirety, it would also seem appropriate for it to also cover Dobell as a community of interest.

⁸⁵ The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

This Association also feels that it is only fair and reasonable that the community licences for this area should cover the same territory as the commercial licences for the Central Coast, in order to give listeners in the area a choice of programming, thus promoting the ideal of media diversity. Whilst the programming output of this station makes a choice of programs available to some areas of the Central Coast, it is felt that this should be on a wider basis, corresponding as far as possible with that of the commercial broadcasters.

Having considered the evidence provided, the ABA believes extending the licence area of the existing community radio service to include the whole of the Wyong Shire is likely to promote the objects of the Act at paragraphs 3 (a) and (g) and the economic and efficient use of the spectrum.

It is also proposed to update the licence area to reflect 1996 Census boundary descriptions.

Power Requirements

Having proposed to increase the licence area of the service, the ABA considered appropriate technical conditions to provide coverage of the increased area and found:

Finding 11.4 The FM frequency 96.3 MHz, currently operated by the existing community radio service, is limited to 500 W maximum ERP.

Finding 11.5 A change in frequency to 94.1 MHz and an increase in the maximum ERP to 2 kW of the existing community radio service is appropriate.

In performing its functions, the ABA is required to promote the objects of the Act including the economic and efficient use of the radiofrequency spectrum. Section 23 (e) requires the ABA to have regard to the technical restraints relating to delivery or reception of broadcasting services. Section 23 (g) requires the ABA to have regard to 'such other matters as it considers relevant'.

As discussed previously, 2CCC Gosford currently operates on FM 96.3 MHz with a maximum ERP of 500 W. Engineering assessment of this frequency indicates it is unable to be operated at a higher ERP. Full technical details of this assessment are in the Technical Restraints at Appendix 1.

Therefore, if the licence area of the existing community radio service is increased, 2CCC Gosford will need to operate at a higher ERP to maximise coverage of its extended licence area. The ABA has identified 94.1 MHz as alternative FM capacity in the Gosford region which can be operated at a maximum ERP of 2 kW. The ABA considers that 94.1 MHz is suitable for coverage of the extended licence area. The ABA proposes to permit 2CCC Gosford to change its frequency to 94.1 MHz which will allow an increase in the maximum ERP of the service and an increase in the licence area. Full technical details of the suitability of 94.1 MHz to operate at 2 kW in Gosford are in the Technical Restraints at Appendix 1.

The ABA notes that 2CCC Gosford originally requested a change in frequency to extend its licence area. The ABA further notes that 2CCC Gosford has subsequently suggested that it should be compensated for any requirement to change frequency. In its submission dated 15 June 1998 2CCC Gosford stated:

We understand that one of the conditions of a new licence being granted is that the new licensee is not to cause interference to existing services. This is patently not being adhered to in the case of 2CCC and 2JJJ. We therefore request that either

- (i) the frequency of 2JJJ Taree be changed, or that
- (ii) in the light of 2CCC being forced to change frequency (and thus take up one of the new frequencies being offered on the Central Coast, effectively reducing the number available to aspirants to two) to avoid this co-channel interference, that 2CCC receive financial compensation of \$70 000 for the costs and losses involved in such an operation.

The ABA considers that an increase in the licence area of the existing community radio service will require a change in frequency. Should the existing community radio service not wish to increase its licence area, it may remain on its current frequency of 96.3 MHz. If the existing community radio service does wish to increase its licence area it will be required to change its frequency to 94.1 MHz. Consequently, the ABA does not propose to provide financial compensation to the existing community radio service for any costs associated with the changing of frequency.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on the existing community radio broadcasting service in Gosford, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- The existing FM community radio service 2CCC Gosford operates on 96.3 MHz from a nominal transmitter site at Mt Penang with a maximum ERP of 500 W.
- 2CCC Gosford is interested in changing its frequency, increasing its maximum ERP, changing its radiation pattern and extending its licence area to include the Wyong shire.
- An increase in the licence area to include the Wyong Shire and redefinition of the licence area against 1996 Census boundaries is appropriate.
- The FM frequency 96.3 MHz, currently operated by the existing community radio service, is limited to 500 W maximum ERP.
- A change in frequency to 94.1 MHz and an increase in the maximum ERP to 2 kW of the existing community radio service is appropriate.

CONCLUSION

The ABA believes that changing the frequency, increasing the maximum ERP and extending the licence area of 2CCC Gosford is likely to promote the objects of the Act at s.3 (a) and 3 (g). The ABA believes that making these changes to the technical conditions of the existing community radio service will increase the coverage 2CCC Gosford and alleviate current reception difficulties thereby making the service accessible to a greater number of people in the Gosford and Wyong regions.

PRELIMINARY VIEW 12 - ADDITIONAL COMMUNITY RADIO - GOSFORD

The ABA proposes to make available for allocation two additional community radio services in Gosford. The services are proposed to operate as follows:

| Area Served | Frequency | Maximum Effective Radiated Power | Nominal Location |
|--------------------|------------------|---|-------------------------|
| Gosford | 93.3 MHz | 2 kW | Mt Penang |
| Gosford | 94.9 MHz | 2 kW | Mt Penang |

It is proposed that the licence areas for the two additional community radio services be identical to the licence area proposed for the existing community radio service and be defined using 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

The ABA believes that this preliminary view promotes the objects of the Act at paragraphs 3 (a)⁸⁶, (f)⁸⁷ and (g)⁸⁸, including the economic and efficient use of the radiofrequency spectrum. The ‘Legislative Framework’ (Chapter 1), contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In forming this preliminary view, the ABA considered and reached opinions about the likely effects of this preliminary view, having regard to the local circumstances of the Gosford region, the likely impact of other planning preliminary views in the draft LAP and other relevant matters under s.23 (a) – (g).

INTEREST IN THE PROVISION OF ADDITIONAL COMMUNITY RADIO SERVICES

In considering whether to plan for any additional community radio services in the Gosford region, the ABA first considered whether there was any interest in providing additional community radio in the region and found:

Finding 12.1 There is interest from aspirant community radio broadcasters in providing additional community radio services in the Gosford region on the FM Band.

⁸⁶ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁸⁷ To promote the provision of high quality and innovative programming by providers of broadcasting services.

⁸⁸ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

Finding 12.2 There is expressed public demand in Gosford for new community radio services.

Section 23 (c) of the Act requires the ABA to have regard in part, to demand for new broadcasting services within a licence area. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant. In preparing the draft licence area plan for Gosford, the ABA has received submissions from prospective broadcasting service providers. As the public is dependent on organisations within the community to provide community broadcasting services, the views and intentions of those aspirant community broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Submissions Received

In its submission dated 31 March 1995, Wyong Gosford Progressive Community Radio (PCR FM) stated:

... has been established since 1992 and has much public support. We have conducted three successful test transmissions.

Central Coast Broadcasters Ltd provided a submission dated 9 June 1998, which stated:

For the past two years Central Coast Broadcasters have been operating a very successful aspirant station on the Central Coast.

As Country Music Broadcasters Pty Ltd
Our first preference would be to apply for a 2 to 5 kW Narrowcast Licence

As Central Coast Broadcasters Ltd
Our second preference would be to apply for a permanent Community Licence

Radio Five-O-Plus, in its submission received on 12 June 1998, stated:

Radio Five-O-Plus believes it is of vital importance that one of the available frequencies be allocated to a community station dedicated to serving the needs of the older people on the Coast.

Radio Five-O-Plus has always planned its programs to serve the senior citizens in the community ...

A list of the many associated organisations can be provided if required. Expressions of support for this submission have been offered and also can be supplied if required.

Radio Five-O-Plus conducted its first test transmission in March 1993. Since July 1993, it has broadcast every weekend ...

In its submission received 15 June 1998, Central Coast Christian Broadcasters stated:

Central Coast Christian Broadcasters Association Inc., represents the interests of the Christian Community of the Central Coast. According to information gained from the Bureau of Statistics Estimates 1993 Report, the Christian population of the Central Coast is 79.7% of its total population. Next to the General Community Radio Station already in operation full time (2CCC) this makes us the largest single interest community group in the Central Coast area. This in itself does not constitute an area of need, but we believe that with the supporting evidence (55

support letters and 1275 signatories on petitions) supplied in this submission, we do indeed have a support base intent on seeing a *full time* Christian Community Radio Station on the Central Coast. (submitter's emphasis)

A submission provided by Hawksbury River Radio Group Incorporated (Radio Yesteryear) dated 4 June 1998, indicated its interest in providing additional community radio services to the Central Coast region.

Newcastle Christian Broadcasters (NCB), in a submission received 5 August 1998, requested an extension to its licence area to include the Central Coast region. NCB is an aspirant community broadcaster in the Newcastle region.

Although the Central Coast is not in NCB Ltd's temporary broadcast area, NCB has and maintains some 500 members on the Central Coast who receive and listen to our transmissions by way of 'fortuitous signal'. NCB Ltd is advised often by those members of their wish for better reception of NCB's broadcast signal. It should be noted that NCB has in no way sought or endeavoured in any way to attract supporters from the Central Coast NSW. NCB also has on our records 33 current 'Sponsors' (businesses from the Central) who choose to support us. They also have expressed their desire for better reception of our service.

It is clear to NCB Limited, that demand exists for reception of our service on the Central Coast and this is born out in the degree of support that we receive. ...

Newcastle Christian Broadcasters Limited now formally requests the ABA's consideration to make extensions to the licence area for our broadcast area to include the Central Coast NSW.

Given the strong interest in providing additional community radio services in the Gosford licence area expressed by aspirant groups based in Gosford or Wyong, the ABA believes the objects of the Act, particularly that at s.3 (g) and the economic and efficient use of the spectrum, are more likely to be promoted by making additional community radio services available in Gosford. Newcastle Christian Broadcasters is eligible to apply for any available community radio licences in Gosford and compete with other aspirant broadcasters in a merit based selection process.

The importance of these findings is that the ABA believes that if it were to make additional community radio services available in Gosford, it is likely to increase the overall number of services of that type in Gosford.

CHANNEL CAPACITY

The ABA then considered whether channel capacity exists on the FM Band in the Gosford market to consider making additional community services available in the market.

| General Area Served | Frequency | Maximum CMF/ERP | Nominal Location |
|---------------------|-----------|-----------------|------------------|
| Gosford CBD | 92.5 MHz | 200 W | Mt Penang |

| General Area Served | Frequency | Maximum CMF/ERP | Nominal Location |
|---------------------|-----------|-----------------|------------------|
| Gosford | 93.3 MHz | 2 kW | Mt Penang |
| Gosford | 94.1 MHz | 2 kW | Mt Penang |
| Gosford | 94.9 MHz | 2 kW | Mt Penang |
| | | | |
| Gosford | 98.1 MHz | 500 W | Mt Penang |
| Gosford | 104.5 MHz | 16 kW | Mt Penang |

Table 1: Channel capacity in the Gosford market

Power Requirements

The ABA considered the power level of the existing community radio broadcasting service in Gosford and found:

Finding 12.3 The existing FM community radio service 2CCC currently operates with a maximum ERP of 500 W. The ABA is proposing the service operate at a higher maximum ERP of 2 kW.

The ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in Gosford (s.23 (c) and (e)).

The community radio service indicated above has been licensed under the former *Broadcasting Services Act 1942*. Evidence of this can be found in the ABA publication *Radio and Television Broadcasting Stations 1999*, the ABA's public website (www.aba.gov.au) and more detailed information exists in the ABA stations database.

Further evidence for these findings is set out in the Technical Restraints at Appendix 1.

Channel Requirements

The ABA has also considered the channel requirements of existing and aspirant community radio broadcasters and whether there were competing channel requirements for other categories of radio service⁸⁹.

In deciding on suitable technical capacity the ABA also considered the submissions of the existing community radio service for an increase in ERP as an indication of what may be considered appropriate technical conditions. Refer to Preliminary View 11.

⁸⁹ The need to balance all additional services the ABA proposes to plan against the known supply of vacant spectrum has already been discussed in the context of Preliminary View 10.

In this respect, the ABA had regard to the other preliminary views for the draft LAP in Gosford:

- making 104.5 MHz available for an additional wide coverage commercial radio service in Gosford (Preliminary View 10);
- changing the operating frequency from 96.3 MHz to 94.1 MHz of the existing community radio service (Preliminary View 11); and
- making 92.5 MHz, 96.3 MHz and 98.1 MHz available for open narrowcasting radio services in Gosford (Preliminary View 14).

It should be noted that it is not technically possible for 2CCC's current frequency (96.3 MHz) to be operated with a maximum ERP of more than 500 W, and hence serve the Wyong Shire as well as Gosford City.

Taking the above into consideration, there is sufficient channel capacity to make additional community radio services available in Gosford as follows:

| General Area Served | Frequency | Maximum ERP |
|---------------------|-----------|-------------|
| Gosford | 93.3 MHz | 2 kW |
| Gosford | 94.9 MHz | 2 kW |

Table 2: Remaining Technical Capacity for Community Radio Services

HOW MANY ADDITIONAL COMMUNITY RADIO SERVICES TO MAKE AVAILABLE?

Knowing that technical capacity existed with comparable geographical coverage to that proposed for the existing community radio service, the ABA then considered how many additional community radio services to make available, if any. The ABA found:

Finding 12.4 The available technical capacity is likely to suit the technical operating requirements of known aspirant community radio broadcasters in Gosford.

Amongst other things, the ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in Gosford and neighbouring regions (s.23 (c) and (e)).

Engineering consideration of the suitability of these frequencies to operate at 2 kW is cited in the Technical Restraints at Appendix 1.

Submissions Received

In its submission received in May 1998, Hawksbury River Radio provided a list of frequencies it considered could potentially be available in the Gosford region at 2 kW. While the ABA does not agree that all of these frequencies are available in the region,

engineering assessment indicates that to provide a service to the Gosford/Wyong Central Coast region the maximum ERP of the service should be 2 kW. Engineering assessment of the frequencies proposed by Hawksbury Radio is also available in the Technical Restraints at Appendix 1.

In its submission dated 9 June 1998, Central Coast Broadcasters indicated it would apply for a permanent community radio licence operating at a frequency of 2 to 5 kW.

Radio Five-O-Plus provided a submission received 12 June 1998, which stated:

At present, the ERP (ERP) of Radio Five-O-Plus (95.3 MHz) is 200 watts (1000 watts approved) and the nearest co-channel station is at Lithgow (Mt Lambie) on 1000 watts.

Under these conditions interference to Radio Five-O-Plus on the Central Coast is low to negligible. An increase in the power of Radio Five-O-Plus to 1000 watts will assist in filling in the identified low signal areas on the Central Coast, and ultimately 2000 watts would appear adequate.

Discussion

While Central Coast Christian Broadcasters (CCCB) did not specifically address potential frequency or power requirements in its submission, it did address its proposed community of service, which it considers to be the Central Coast region. The ABA has inferred from this that CCCB would intend to serve the Gosford and Wyong regions, which the ABA considers would be adequately served with a maximum ERP of 2 kW.

The ABA is of the belief that given the ERP levels requested by existing and aspirant community broadcasters, and the inferences it has drawn in regard to one of the aspirant groups potential requirements, the proposed additional community services are likely to appeal to aspirant community broadcasters. The proposed two additional FM community services would achieve at least similar reception coverage as that proposed for the existing Gosford community radio service.

DIVERSITY

In considering the likely contribution of additional community radio services in the Gosford licence area the ABA found:

Finding 12.5 Making two additional frequencies available for community radio in Gosford is likely to add to the diversity of services available in Gosford.

In performing its functions under Part 3 of the Act, the ABA is required to have regard to, in part, existing services and demand for new services within a licence area (s.23 (c)).

As discussed previously, the ABA is aware of interest in the provision of additional services from five aspirant community radio broadcasting groups. Each of these groups is interested in providing a service to a larger licence area than that currently served by the existing community radio service. Each aspirant proposes to serve an area that includes the City of

Gosford and the Wyong Shire and considers it will provide programming currently unavailable in the Gosford licence area.

PCR FM provided a submission dated 26 May 1996, which stated:

It also seems that the ABA considers that a single Class C station in an area is an indication that the particular station effectively caters to all the needs of its particular region. This is not necessarily correct and the ABA would have to look at a particular station's programming in detail to discover whether this is the case or not.

... For example the established community radio licensee in the Gosford market would not be considered as a special interest station generally providing an 'easy listening' format to the 'retirees' of the region.

It is not the function of the ABA to licence the formats of services. Therefore, over time, a service may no longer provide the same programming format as that provided at the commencement of the service. However, in considering whether making additional services available in a region is likely to promote the objects of the Act, particularly that at paragraph 3 (a), the ABA considers the current formats of existing services in a region as well as the formats proposed by aspirant broadcasters in that region.

In its submission, received 9 June 1998, Hawksbury River Radio stated in relation to diversity:

Taking into account the population figures and demographics of the Gosford area, there is a large demand for several programming formats which cannot be satisfied due to lack of licences. This is backed up by research conducted by AGB McNair Anderson, on behalf of Hawksbury River Radio Group.

In its submission dated 9 June 1998, Central Coast Broadcasters Ltd provided the following information in relation to proposed programming:

Our first preference would be to apply for a 2 to 5 kW Narrowcast Licence consisting of ..

- (1) 90% Country Music including Australian and overseas content
- (2) 10% Local & National News, Talkback & Central Coast Tourism.
- (3) Continue Live 24hr program on the web
- (4) Run 1 weeks of live football if allowable by ABA (each year)

Our 2nd preference to apply for a permanent Community Licence on 94.1, 2 to 5 kW consisting of.

- (1) Music format of Australian and Overseas Country Music
- (2) Promotion of local Country Music and artists
- (3) Support the Tourist Industry of the Central Coast
- (4) Support Central Coast Rugby League and continue with Live calls of the game
- (5) Local News, National News and Talk Back Radio
- (6) Train young presenters with a view to entering the Radio TV & Film school.
- (7) Continue the 24 hr LIVE internet service taking Australian Country Music and the Central Coast to the World. This is our current station format 3 days per week.

Radio Five-O-Plus provided a submission received 12 June 1998, which stated in part:

Radio Five-O-Plus has always planned its programs to serve the senior citizens in the community, especially the elderly, those who have physical handicaps including sight impairment, the socially isolated, and those who are housebound because of afflictions

such as arthritis. Our programs began as mainly music, but we have gradually developed information segments for our target audience. These segments include health, sport, recreation, safety, insurance, continuing education and transport, to name just a few.

In its submission, received 15 June 1998, Central Coast Christian Broadcasters stated:

We strongly believe that our programming, which is structured on a practical, Biblical viewpoint, touches on issues that effect everybody such as family, personal well-being, and moral values, whilst offering hope and encouragement to all listeners irrespective of race or culture.

As part of our programming we will provide a platform for community groups such as Salvation Army, Red Cross, Cancer Council, Christian Youth Services, Royal Blind Society, Christian Churches and Christian organisations, and other community groups that hold to the programming philosophy we have adopted.

Our organisation is committed strongly to involvement with the youth of our area, by way of offering specific youth oriented programmes, and encouraging creative input, in particular the aspects that surround them daily, such as unemployment, drugs, personal, social and moral issues.

Considering the above information, the ABA believes that making two additional frequencies available for community radio services is likely to increase the diversity of services available in the Gosford region. It also considers it is likely to promote the object of the Act at s.3 (g).

Due to the limited spectrum available in the Gosford licence area the ABA has been unable to find enough available frequencies to satisfy the expressed demand for provision of more than two additional community radio services serving the Gosford licence area.

LICENCE AREAS

The ABA assumes that the licence areas of the existing community radio services represent accepted media markets and will not vary them without good reason. The ABA endeavours to plan new services at the same power levels as the existing services. The ABA further assumes that additional broadcasting services using the broadcasting services bands within those markets should have the same licence area unless there are good reasons to the contrary. In Preliminary View 11 the ABA proposes to increase the licence area of the existing community radio service and increase the power of the service to 2 kW. Therefore the ABA found that:

Finding 12.6 It is appropriate that the licence areas of the additional community radio services in Gosford be identical to that proposed for the existing community FM radio service, against 1996 Census boundaries.

The ABA is required by s.23 (a) and (b) of the Act to have regard to demographics and social and economic characteristics within the licence, within neighbouring licence areas and within Australia generally. The ABA is also required to have regard to technical restraints relating to the delivery or reception of broadcasting services (s23(e)).

The service area of the existing community radio service in Gosford was determined by the then Minister for Communications and continued as a licence area by section 8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

The ABA is proposing changes to the licence area of the existing community radio service as detailed in Preliminary View 11.

For the reasons discussed in Preliminary View 11, and based on the submissions from aspirant groups seeking to serve the larger area proposed for the existing community service, the ABA proposes that the licence area of any new community radio service be identical to that proposed for the existing community radio service.

The ABA is seeking information from any aspirant group willing to use a lower power frequency to provide a service to the City of Gosford CBD only.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on additional community radio broadcasting services in Gosford, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- There is interest from aspirant community radio broadcasters in providing additional community radio services in the Gosford region on the FM Band.
- There is expressed public demand in Gosford for new community radio services.
- The existing FM community radio service 2CCC currently operates with a maximum ERP of 500 W. The ABA is proposing the service operate at a higher maximum ERP of 2 kW.
- The available technical capacity is likely to suit the technical operating requirements of known aspirant community radio broadcasters in Gosford.
- Making two additional frequencies available for community radio in Gosford is likely to add to the diversity of services available in Gosford.

- It is appropriate that the licence areas of the additional community radio services in Gosford be identical to that proposed for the existing community FM radio service, against 1996 Census boundaries.

CONCLUSION

Having regard to all of the above matters, the ABA's preferred option for promoting the objects of the Act at s.3 (a), (g) and (f), including the economic and efficient use of radiofrequency spectrum, in Gosford is for two additional community radio services.

Taking into consideration the available spectrum (s.23 (e)), the interest expressed by potential service providers for community radio services and also interest by potential broadcasters to establish additional commercial radio, local coverage community radio and open narrowcasting services (s.23 (g)), the ABA believes the objects of the Act at s.3 (a), (f) and (g), and the economic and efficient use of the radiofrequency spectrum, will be best promoted by making two (as opposed to none or one) additional community radio services available for allocation to serve the Gosford licence area.

The ABA believes that s3 (a) (to promote the availability to audiences throughout Australia of a diverse range of radio services) will be served well by making two additional community radio services available for allocation. There are currently five groups interested providing such services. All five of the groups are active in that they have or are currently operating on Temporary Community Broadcasting Licences. Although TCBL's confer no rights nor indicates any ABA preference for a group to be granted a permanent community radio service, the ABA is of the belief that if two permanent community radio services were made available for allocation, it is likely that the licences would be taken up. The ABA also believes that taking into consideration the type of formats these aspirant groups propose will add to the diversity of radio services on offer in the Central Coast region. In addition, these types of new services are likely to have a positive effect on innovative programming (s.3 (f)) and coverage of matters of local significance (s3 (g)).

The ABA is aware that there is strong interest in the provision of additional community radio services and would be interested in submissions from aspirant groups seeking to use a lower power frequency and provide a community radio service to the City of Gosford, rather than the extended City of Gosford/Shire of Wyong region.

PRELIMINARY VIEW 13 - OPEN NARROWCASTING RADIO - GOSFORD

The ABA proposes to make four open narrowcasting services available in Gosford. The services are proposed to operate as follows:

| Area Served | Frequency | Maximum Cymomotive Force/Effective Radiated Power | Nominal Location |
|-------------|-----------|---|------------------|
| Gosford | 801 kHz | 1.35 kV | Chittaway Point |
| Gosford | 92.5 MHz | 200 W | Mt Penang |
| Gosford | 96.3 MHz | 500 W | Mt Penang |
| Gosford | 98.1 MHz | 500 W | Mt Penang |

The ABA proposes to delay allocation of the 96.3 MHz FM frequency until 2CCC makes the transition from its existing frequency to its proposed new frequency.

Channels made available for open narrowcasting services will be made available under s.34 of the *Broadcasting Services Act 1992* for a minimum period of 5 years, and the provider will be determined by use of a price-based allocation system under s.106 of the *Radiocommunications Act 1992*.

FINDINGS OF FACT AND REASONS

As discussed in the Legislative Framework, the ABA takes the view that planning for open narrowcasting services has an important role in promoting the object of the Act at paragraph 3 (a)⁹⁰. For example, such open narrowcasting formats as foreign language, racing information and tourist or traveller information services have a unique contribution to make to the range of broadcasting services available. For this reason, the ABA chooses to consider planning open narrowcasting services at the same time as it considers the need for planning other types of services.

PLANNING FOR OPEN NARROWCASTING SERVICES IN LICENCE AREA PLANS

On 5 December 1994, the ABA obtained legal advice from counsel, J J Spigelman QC⁹¹, on options for planning open narrowcasting services during the public planning process. The advice indicates that the ABA is entitled to show an open narrowcasting service as being

⁹⁰ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁹¹ The ABA's Records of Advice (in accordance with subsection.27 of the Act) are at Appendix 2.

available in a licence area plan, although there are some indications in the Act that this may not be the case.

During the preparation of LAPs, the ABA has considered the advice from counsel regarding open narrowcasting services and has decided to cater, as far as possible, for long-term open narrowcasting demand within LAPs. Short-term open narrowcasting services (ie low power open narrowcasting services operating at powers from 1 W to 10 W) will continue to be planned outside the LAPs. It should be noted that the ABA retains the power under s.34 of the Act to make spectrum available for open narrowcasting or other purposes outside the LAPs.

Interest in providing open narrowcasting services

In considering submissions made to the ABA to date the ABA found:

Finding 13.1 There is substantial interest in providing additional open narrowcasting services in Gosford from aspirant open narrowcasting radio service providers.

Section 23 (c) requires the ABA to have regard to, in part, demand for services within the licence area. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant. In preparing the draft LAP for Gosford, the ABA has received submissions from a number of prospective and current open narrowcasting radio service providers. As the public is dependent on the private and community sectors to provide open narrowcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning proposals.

The ABA has received submissions from six parties interested in establishing open narrowcasting radio services in Gosford. Of these, two have expressed interest in a high power AM frequency, two have expressed interest in a FM frequency and one has requested a lower power FM frequency in each of Gosford and Wyong. One of the parties has expressed interest firstly in providing an open narrowcasting service and secondly, if unsuccessful, in a community radio service.

The following details interest expressed in providing open narrowcasting radio services:

- On 22 February 1995, Tourist Radio expressed interest in providing a 20 W to 100 W service in each of Gosford and Wyong.
- On 11 May 1996, Inforadio Australia expressed interest in providing one 2.5 kW open narrowcasting radio service for the Central Coast on 94.1 MHz.
- On 11 October 1996, Bruce Carty expressed interest in providing an open narrowcasting radio service to Gosford and Wyong. The submission requested a service with an ERP of 250 W on an unspecified frequency.
- On 26 May 1998, 2KY submitted that the high power AM frequency currently used for open narrowcasting should remain as an open narrowcasting frequency. It expressed interest in bidding for this frequency in the allocation process.

- On 11 June 1998, Phillips Fox, on behalf of Rete Italia, expressed continuing interest in the AM high power open narrowcasting service it is currently providing. It also submitted that open narrowcasting services should be subject to a system of renewal, rather than reallocation, at the end of the five year availability period, thus providing some security of tenure.
- On 9 June 1998, Country Music Broadcasters Pty Ltd expressed interest in providing a 2 kW to 5 kW open narrowcasting service for the Central Coast.

On balance, based on submissions it has received, the ABA is satisfied that there is substantial interest in the provision of open narrowcasting radio services in the Gosford licence area, and the makers of these submissions are likely to be able to provide open narrowcasting radio services in the region.

With regard to the Phillips Fox submission on a system of renewal for open narrowcasting radio services, it should be noted that Section 18 of the Act states:

Open narrowcasting services are broadcasting services:

(a) whose reception is limited:

- (i) by being targetted to special interest groups; or
- (ii) by being intended only for limited locations, for example, arenas or business premises; or
- (iii) be being provided during a limited period or to cover a special event; or
- (iv) because they provide programs of limited appeal; or
- (v) for some other reason; and

(b) that comply with any determinations or clarifications under section 19 in relation to open narrowcasting radio services.

Open narrowcasting services, by their very nature, are not permanent services. Providers of open narrowcasting services do not (and cannot) have security of tenure. Section 34 of the Act permits the ABA to make spectrum available for allocation for specified time periods and specified purposes to allow the ABA to make efficient use of the broadcasting services bands and ensure parts of those bands do not remain unnecessarily idle. Demands for the provision or reception of additional services in a region may change over time and the licensing of spectrum for temporary use by open narrowcasting services provides flexibility in the planning process, allowing use of the spectrum in the short to medium term and leaving planning options available in the longer term.

As a result of the above, the ABA is satisfied that planning open narrowcasting services in Gosford would be likely to increase the overall number of services of that type in Gosford.

Existing open narrowcasting services

In considering open narrowcasting services currently provided in Gosford the ABA found:

Finding 13.2 There are two low powered open narrowcasting services in the region; one at Gosford operating on 99.1 MHz at 1 W and one at Wyong operating on 99.1 MHz.

Finding 13.3 There is one high power open narrowcasting service operating on AM 801 kHz, licensed under s.34 of the Act until 31 December 1999.

Section 23 (c) requires the ABA to have regard to the number of existing services and demand for new broadcasting services within a licence area. The existing open narrowcasting services in the Gosford licence area are licensed under s.34 of the Act.

The two low power open narrowcasting services are owned by 2NNN FM. The high power open narrowcasting service is provided by Rete Italia.

How many additional open narrowcasting services to make available?

In reaching its preliminary view, the ABA had regard to the technical restraints on planning additional services in the Gosford market. Detailed discussion of engineering assessment of available frequencies is at Appendix 1.

Before deciding how many additional open narrowcasting radio services, if any, should be proposed in the draft LAP, the ABA considered the channel requirements of aspirant open narrowcasting service providers and whether there were competing channel requirements for other categories of radio services. The need to balance competing channel requirements has been discussed in the context of Preliminary View 10.

Given that the ABA is proposing to make available for allocation one additional commercial radio service (Preliminary View 10) and two additional community radio services (Preliminary View 12) and is proposing changes to the operating conditions of the existing community radio service (Preliminary View 11), the ABA found that:

Finding 13.4 There is channel capacity for one high power AM open narrowcasting radio service.

Finding 13.5 There is channel capacity for three FM open narrowcasting services covering the Gosford CBD only.

Section 23 (c) of the Act requires the ABA to have regard to demand for new broadcasting services within the licence area, within neighbouring licence areas and within Australia generally. Section 23 (e) requires the ABA to have regard to the technical restraints relating to delivery or reception of broadcasting services and section 23 (g) requires the ABA to have regard to such other matters as it considers relevant.

The channels which the ABA proposes to make available for open narrowcasting radio services form the only technical capacity remaining in the Gosford market after consideration of additional commercial and community radio services and the requirements of the existing community radio service.

Detailed engineering assessment of the suitability of these frequencies for open narrowcasting radio purposes is in the Technical Restraints at Appendix 1.

The ABA considers that it is not able to meet the demand for high power services having available only one high power AM channel. The ABA is aware that the expansion of other

broadcasting services as a result of the proposals in the draft LAP has the potential to alter demand for open narrowcasting. In addition, aspirant open narrowcasting radio service providers may choose to bid for the proposed commercial radio licence.

Alternatively, the proposed additional commercial and community radio services may choose to meet some of the demand that might otherwise be catered for by open narrowcasting radio services, thereby reducing the demand for open narrowcasting radio services.

The ABA is proposing to make three City of Gosford CBD frequencies available for open narrowcasting services which may assist in meeting the demand for open narrowcasting services. If an aspirant open narrowcasting service provider fails to obtain the high power frequency it may choose instead to provide its service to the City of Gosford CBD.

It should be noted that the ABA has reservations about the suitability of the use of 92.5 MHz in the Gosford licence area. Consequently, the ABA is proposing that the frequency be made available subject to interested parties testing it prior to finalisation of the licence area plan.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on open narrowcasting radio broadcasting services in Gosford, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- There is substantial interest in providing additional open narrowcasting services in Gosford from aspirant open narrowcasting radio service providers.
- There are two low powered open narrowcasting services in the region; one at Gosford operating on 99.1 MHz at 1 W and one at Wyong operating on 99.1 MHz.
- There is one high power open narrowcasting service operating on AM 801 kHz, licensed under s.34 of the Act until 31 December 1999.
- There is channel capacity for one high power AM open narrowcasting radio service.
- There is channel capacity for three FM open narrowcasting services covering the Gosford CBD only.

CONCLUSION

For the above reasons, the ABA is of the opinion that making four open narrowcasting services available in the Gosford market is likely to promote the object at s.3 (a) of the Act, including the economic and efficient use of the spectrum.

PRELIMINARY VIEW 14 - EXISTING COMMERCIAL RADIO – KATOOMBA AND LITHGOW

The ABA proposes that the existing commercial radio service 2ONE Katoomba continue to transmit on FM 96.1 MHz from 31 - 45 Great Western Highway, Wentworth Falls, with a maximum ERP of 5 kW.

The ABA proposes the licence area of 2ONE be redefined using 1996 Census boundaries.

The ABA proposes to extend the licence areas of the existing AM and FM commercial radio services in Lithgow (2LT and 2ICE) into Katoomba. The ABA proposes that these services operate as follows:

- 2LT to operate on 900 kHz from 3.5km E of Wallerawang, with a maximum CMF of 925 V (5 kW), and a transmitter associated with the 2LT service be made available to operate on 783 kHz from Wentworth Falls, Katoomba with a maximum CMF of 440 V.**
- 2ICE to change its current frequency from 95.3 MHz to 107.9 MHz and to operate from Bonaventure Road, Mount Lambie with a maximum ERP of 10 kW, and a transmitter associated with the 2ICE service be made available to operate on 99.5 MHz from Gang Gang St, Katoomba with a maximum ERP of 200 W.**
- The ABA proposes that 2ICE change frequency from 95.3 MHz to 107.9 MHz within three years after the date of publication of the Gazette notice (as required by s.35 of the *Broadcasting Services Act 1992*) that the Lithgow radio LAP has been determined.**

The ABA proposes the existing Lithgow commercial AM and FM licence areas be extended to include the Katoomba region and redefined using 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

The ABA believes that this preliminary view is likely to promote the objects of the Act at paragraphs 3 (a)⁹² and (b)⁹³, including the economic and efficient use of the radiofrequency spectrum. This may also promote the objects at paragraphs 3 (f)⁹⁴ and (g)⁹⁵. The

⁹² To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

⁹³ To provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs.

⁹⁴ To promote the provision of high quality and innovative programming by providers of broadcasting services.

‘Legislative Framework’ (Chapter 1), contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

In developing preliminary view 14, the ABA had regard to the objects of the Act, the local circumstances of the Katoomba commercial radio market, the likely impact of other preliminary views in the draft LAP, and other relevant matters under s.23 (a) – (g). An account of this process of consideration follows.

In forming its preliminary view on whether or not an additional commercial radio broadcasting service should be made available in Katoomba or whether or not the licence areas of the existing Lithgow commercial radio services should be extended to include Katoomba, the ABA considered the following relevant issues:

- interest in the provision of additional commercial radio services (s.23(c));
- the channel capacity in the Katoomba and Lithgow markets (s.23(e));
- the power requirements of commercial radio services in Katoomba (s.3(a), (b) and s.23 (e));
- demographic, social and economic characteristics of the licence area (s.23(a) & (b));
- the diversity, number of existing services and competing channel requirements (s.3(a), s.23(c) and s.23(g));
- whether if an additional commercial radio service was made available in Katoomba it is likely that an independent (competing) operator would offer coverage of matters of local significance (s.3(g)); and
- whether if an additional commercial radio service was made available in Katoomba it is likely that an independent (competing) operator would offer high quality and innovative programming (s.3(f));

INTEREST IN COMMERCIAL RADIO – KATOOMBA

Demand for New Services

The ABA first considered the demand for commercial radio services in Katoomba and found:

⁹⁵ To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

Finding 14.1 There is interest from independent (competing) operators in providing an additional commercial radio service in the Katoomba market.

Section 23(g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to ‘such other matters, as it considers relevant’. The ABA has received submissions from existing and potential broadcasting service providers expressing interest in providing an additional commercial radio service in the Katoomba market. As the public is dependent on the private sector to provide commercial radio broadcasting services, the views and intentions of aspirant broadcasters are of clear relevance to questions about the likely effect of licence area planning decisions.

Below is a table of interest expressed to date in the provision of additional commercial radio services in the Katoomba market.

| Submitter | Date of Submission | Proposal |
|-------------------------------|--------------------|--|
| Lynton Properties Pty Limited | 3 February 1997 | Provide an AM service on 783 kHz and a FM service on an unspecified frequency. |
| Lynton Properties Pty Limited | 26 March 1998 | Reconfirming interest in establishing a commercial service in Katoomba on 783 kHz. |
| Lynton Properties Pty Limited | 3 June 1998 | Reconfirming interest in establishing a commercial service in Katoomba on 783 kHz. |
| Soni Jagdish Lal S. Lodhia | 15 August 1998 | Wishes to establish an additional commercial radio service in Katoomba. |
| Grant Broadcasters Pty Ltd | 9 June 1998 | Submits that the AM frequency of 783 kHz could be made available or a FM frequency for an additional commercial radio service in Katoomba. |

Table 1: Interest in Commercial Radio - Katoomba

In addition to the above submissions expressing interest in providing a new commercial service in the Katoomba market, the ABA received a submission from Midwest Radio Limited dated 11 May 1999. Having considered the submission, the ABA found that:

Finding 14.2 There is interest from Midwest Radio Limited, the licensee of 2ICE Lithgow, to extend its licence area and provide a translator service to the Blue Mountains.

Although Midwest Radio Limited did not initially request a licence area extension and frequency for its AM service, 2LT, the ABA found that:

Finding 14.3 Midwest Radio Limited is agreeable in principle to extending both its AM and FM services to the Katoomba area.

In addition to interest in providing commercial radio services, the ABA has received two submissions indicating interest in providing open narrowcasting services.

Below is a table of interest expressed to date in the provision of open narrowcasting radio services in the Katoomba market.

| Submitter | Date of Submission | Proposal |
|--------------------------|---------------------------|--|
| 2KY Broadcasters Pty Ltd | 26 May 1998 | Provide an AM open narrowcasting service on 783 kHz in Katoomba. |
| Mr Sam Saleh | 18 March 1999 | Application for an AM open narrowcasting service to operate on 531 kHz . |

Table 2: Interest in Open Narrowcasting Radio - Katoomba

CHANNEL CAPACITY

In making its preliminary view, the ABA next had regard to the channel capacity in the Katoomba market. In considering available technical capacity, the ABA is required to have regard to the number of existing broadcasting services and the demand for new broadcasting services within the licence area, within neighbouring licence areas and within Australia generally and to technical restraints relating to the delivery or reception of broadcasting services in Katoomba (s.23(c) and (e)). The channel capacity as outlined in the Technical Restraints at Appendix 1 is identified below.

| General Area Served | Frequency | Maximum CMF/ERP | Nominal Location |
|----------------------------|------------------|------------------------|--|
| Katoomba | 89.1 MHz | 160 W | Gang Gang Street |
| Katoomba | 96.1 MHz | 5 kW | 31-45 Great Western Hwy, Wentworth Falls |
| Katoomba | 99.5 MHz | 200 W | Gang Gang Street |
| Katoomba | 783 kHz | 440 V | Wentworth Falls |
| Lithgow | 95.3 MHz | 10 kW | Bonaventure Road Mt Lambie |
| Lithgow | 107.9 MHz | 10 kW | Bonaventure Road Mt Lambie |
| Lithgow | 900 kHz | 925 V | 3.5 km E of Wallerawang |

Table 3: Channel capacity in the Katoomba and Lithgow market

Existing Services

The ABA considered availability of channel capacity in the Katoomba and Lithgow markets and found:

- Finding 14.4* The existing Katoomba FM community radio service 2BLU operates on 89.1 MHz.
- Finding 14.5* The existing Katoomba FM commercial radio service 2ONE operates on 96.1 MHz.
- Finding 14.6* The existing Lithgow FM commercial radio service 2ICE operates on 95.3 MHz.
- Finding 14.7* The existing Lithgow AM commercial radio service 2LT operates on 900 kHz.

Therefore, all other channels identified in the above table are considered to be available for allocation.

Power Requirements and Comparable Coverage

The ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to delivery or reception of broadcasting services in Katoomba (s.23 (c) and (e)).

Having identified available channel capacity exists in the Katoomba market, in considering whether to plan additional commercial radio services in the market, one of the matters the ABA has regard to is whether or not any additional service would be likely to offer wide coverage comparable to existing services. The ABA believes object 3(a) of the Act and the 'economic and efficient' use of the spectrum is best served by making comparable coverage services available rather than lower powered services addressing only a fraction of the population serviced by the existing licensees. The ABA's preference for comparable coverage services reduces the opportunity for entrepreneurs to only provide a service to the more commercially lucrative areas within a licence area at the expense of the quality of services enjoyed in other parts of the licence area.

The ABA considered the capacity identified in the Katoomba and Lithgow markets, identified what is currently utilised by radio broadcasting services and the power levels of existing radio broadcasting services and found:

- Finding 14.8* The existing commercial FM radio service in Katoomba is licensed to operate at a maximum ERP of 5 kW.
- Finding 14.9* The existing community FM radio service in Katoomba is licensed to operate at a maximum ERP of 160 W.
- Finding 14.10* The existing commercial FM radio service in Lithgow is licensed to operate at a maximum ERP of 10 kW.

Finding 14.11 The existing commercial AM radio service in Lithgow is licensed to operate at a maximum CMF of 925 V.

Having considered the channel capacity, the power requirements, the number of existing broadcasting services and the demand for new broadcasting services within the licence area, within neighbouring licence areas and within Australia generally (s.23(c)), the ABA then found that:

Finding 14.12 FM channel 95.3 MHz, currently used by 2ICE Lithgow would be suitable to operate with a maximum ERP of 150 kW in Sydney.

Finding 14.13 FM channel 107.9 MHz would be suitable to operate with a maximum ERP of 10 kW in Lithgow.

Discussion

Section 160 of the Act imposes a general obligation on the ABA to perform its function in a manner consistent with the objects of the Act and the regulatory policy described in section 4 of the Act. Subsection 4(2), sub-paragraph (a) is of particular relevance to the planning process, given the ABA is to address public interest considerations in a way that does not impose unnecessary financial and administrative burdens on providers of broadcasting services. Having regard to the matters in section 23 of the Act, it may be necessary at the time to vary the technical conditions of the licences of existing broadcasters under section 26(2) of the Act.

Taking this into consideration the ABA is of the view that there is sufficient channel capacity to change 2ICE Lithgow's frequency from 95.3 MHz to an alternative frequency of 107.9 MHz. As a result 95.3 MHz would be available for use as a high powered frequency for an additional commercial radio service in Sydney.

A table of all the existing services and technical characteristics is at Appendix 1, Technical Restraints.

The ABA then considered the likely power requirements of the various types of radio broadcasting services to decide whether the remaining capacity it has identified as available is appropriate for commercial radio services. The ABA found that:

Finding 14.14 The Katoomba commercial radio service previously occupied AM channel 783 kHz.

Finding 14.15 The FM frequency 99.5 MHz is restricted to a maximum ERP of 200 W in Katoomba.

Prior to converting to the FM band, 2ONE Katoomba operated an AM service (2KA) on 783 kHz, although to adequately serve its licence area it required a translator service at Penrith which operated on AM 1476 kHz. However, given the reasons indicated in Preliminary View 9, the ABA is of the opinion that making AM 1476 kHz available for an

open narrowcasting radio service will promote the object at paragraph 3(a) of the Act, including the economic and efficient use of the radiofrequency spectrum.

Given that the ABA is of the preliminary view that additional AM open narrowcasting radio services should be made available in the Sydney region for the reasons indicated in Preliminary View 9 the ABA found that:

Finding 14.16 There is no remaining channel capacity for a transmitter in the Penrith area to be associated with an additional AM commercial radio service in Katoomba.

In considering other available frequencies the ABA found:

Finding 14.17 FM channel 99.5 MHz would not provide comparable coverage to the existing commercial FM service in Katoomba.

The ABA is required to have regard to existing services, to demand for new broadcasting services within a licence area and to technical restraints relating to delivery and reception of broadcasting services in Katoomba and neighbouring regions (s.23(c) and (e)).

Interest has been expressed by Lynton Properties Pty Limited and Grant Broadcasters Pty Ltd, in obtaining a FM frequency for a commercial radio broadcasting service in Katoomba.

The ABA has conducted an engineering assessment of the suitability of FM 99.5 MHz and concluded that it would be suitable for use with a maximum ERP of no more than 200 W.

Details of the suitability of this frequency to operate at a higher power can be found in the Technical Restraints, Appendix 1.

Likelihood of comparable coverage

As there is no suitable channel capacity for an additional commercial radio service in Katoomba offering comparable coverage to the existing commercial radio service, 2ONE, the ABA considered whether it should make available a service offering coverage less than that of the existing service. In this regard the ABA found:

Finding 14.18 If an additional commercial radio service was made available in Katoomba it is likely an independent (competing) operator would be interested in offering coverage less than that of the existing service.

Discussion

Section 23(g) provides that in performing its functions the ABA is required to have regard to 'such other matters, as it considers relevant'. While there is no suitable technical capacity available to provide comparable coverage services, the ABA has considered the information provided in submissions to date to determine if potential commercial radio service providers intended providing comparable coverage to the existing service. This information is detailed below.

In its submission dated 9 June 1998, Grant Broadcasters Pty Ltd expressed interest in providing a commercial radio service on an AM or FM frequency to serve the area. Grant Broadcasters Pty Ltd also made the following comment:

The area has a distinct community as is evidenced by the report of the Blue Mountains Community Plan Steering Committee (undated but produced in 1995). Katoomba with 8,297 people in 1991 is the largest population centre, however the attached table and plan show the 23 towns throughout the area.

In its submissions, Grant Broadcasters Pty Ltd provided a table indicating the area it wished to serve within the Blue Mountains. This area did not include the portion of the lower Blue Mountains (ie Richmond-Windsor, Londonderry, Cranebrook, Penrith, Mulgoa and Wallacia) which is currently in the licence area of 2ONE Katoomba.

No other submitter specifically addressed the issue of comparable coverage in their submissions.

On the material before it to date, it is apparent that any additional commercial radio services to serve Katoomba would not offer comparable coverage to the existing 2ONE service.

Licence Areas

The ABA then considered licence areas for extension of the 2ICE and 2LT commercial licence areas, or provision of independent commercial licence areas in the Katoomba region. The ABA found:

Finding 14.19 The proposed extended 2BLU licence area is the most appropriate licence area for any commercial radio service on 99.5 MHz.

Finding 14.20 Mt Riverview in the east to Katoomba in the west is the most appropriate licence area for any commercial radio service on 783 kHz.

The proposed FM frequency 99.5 MHz has a restriction of a maximum ERP of 200 W and will only provide an adequate service to the proposed extended 2BLU licence area.

As indicated above, prior to converting to the FM band, 2ONE Katoomba operated an AM service (2KA) on 783 kHz. However, to adequately serve its licence area it required a translator service at Penrith which operated on AM 1476 kHz. As the ABA proposes to make 1476 kHz available for an open narrowcasting service in Penrith, the Penrith region is not proposed to be included in the licence area for any proposed commercial radio service 783 kHz.

DEMOGRAPHIC, SOCIAL AND ECONOMIC CHARACTERISTICS

ABS Census Data

The ABA assumes the demand for additional broadcasting services can be inferred from demographic, social or economic indicators within a market or from comparison with other markets with similar demographic, social and economic characteristics, even where it

receives no relevant submissions during the public consultation phase of planning, or where the evidence of submissions conflicts with the demographic, social or economic evidence.⁹⁶

The ABA has considered information provided by the Australian Bureau of Statistics in considering these characteristics of the Katoomba market. The information the ABA considered is at Appendix 4.

In particular the ABA has noted:

- The population in the Katoomba commercial licence area at Census 1996 was 267,970.
- The intercensal population growth between the 1991 Census (246,280) and 1996 Census (267,970) for Katoomba (8.8%) was greater than that for the neighbouring licence area of Sydney (5.1%) and greater than that of Australia as a whole (6.2%).
- The estimated population growth⁹⁷ for Katoomba, Sydney and Australia shows that Sydney (1.5%) has grown marginally faster than Australia (1.2%) and Katoomba (1.1%) over the period 30 June 1997 to 30 June 1998.
- At the 1996 Census, the median value for monthly housing loan repayments and weekly rental payments for Katoomba were lower than that for Sydney, but much higher than Australia as a whole, see Appendix 4 for further details.

Significant Data

The ABA is required by s.23 (a) and (b) of the Act to have regard to demographics and social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally.

In further considering whether to make an additional service available or whether to extend the licence areas of the existing Lithgow commercial radio services, the ABA considered the demographic, social and economic characteristics of the Katoomba commercial radio market and also compared Katoomba with similar sized and larger markets in Australia.

Relevantly, the ABA found:

Finding 14.21 The Katoomba commercial radio market is larger economically and demographically than some existing one station commercial radio markets in Australia.

Finding 14.22 The Katoomba commercial radio market has a significant population overlap with the Sydney commercial radio licence areas.

In making these findings, the ABA had regard to its s.30 Determination of population figures (as at the 1996 Census) as gazetted on 6 January 1999.

⁹⁶ The ABA's Records of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

⁹⁷ See Appendix 4 for an explanation of the derivation of estimated population growth.

Markets of only one commercial station, include those listed in the following table:

| Market | Callsign | Population |
|------------------------|----------|------------|
| Burnie* | 7BU | 58 826 |
| Central Zone | 8SAT | 156 171 |
| Geelong | 3BAY | 289 051 |
| Geelong | 3CAT | 302 540 |
| Hamilton | 3HA | 43 475 |
| Ipswich | 4QFM | 170 827 |
| Katoomba | 2ONE | 267 970 |
| Maryborough | 3CV | 135 561 |
| Murwillumbah | 2MW | 181 806 |
| North East Zone* | 4SUN | 178 294 |
| Port Augusta | 5AU | 40 713 |
| Port Lincoln* | 5CC | 24 424 |
| Port Pirie | 5CS | 81 139 |
| Sale | 3TR | 139 414 |
| Scottsdale* | 7SD | 16 135 |
| Warragul | 3GG | 176 758 |
| Warrnambool | 3YB | 59 310 |
| Western Suburbs Sydney | 2UUS | 1 391 462 |

Table 4: Single commercial radio markets*⁹⁸

The commercial radio licence area (2ONE) had a population of 267,970 at the 1996 Census. Its population overlap with Sydney was 204,124. This represents a 76.17% overlap with Sydney, and Sydney has a 6.05% overlap with Katoomba. For this reason, 2ONE Katoomba was not eligible for a second licence, pursuant to s.39 of the Act.

Submissions Received

In its submission dated 9 June 1998, Grant Broadcasters Pty Ltd stated:

⁹⁸ Eligible for a second commercial licence, pursuant to s.39 of the Act, but not yet finalised.

‘The population of the Blue Mountains is now 72,506. Although there is good reception of all the Sydney commercial radio stations throughout most of the area we submit that the population is sufficient to sustain a local commercial radio station’.

Also in its submission, Grant Broadcasters Pty Ltd provided a table that reflects that between 1986 and 1991, the Blue Mountains population experienced a growth rate of 9% (Source: ABS Census Data, 1986 and 1991).

As indicated in finding 4.3 Midwest Radio Limited is interested in extending its commercial radio licence areas to the Katoomba area. In this regard, the ABA then found:

Finding 14.23 The population of the 2LT/2ICE commercial radio licence areas is the third smallest of all commercial radio licence areas in New South Wales.

Finding 14.24 Lithgow has social and economic links with Katoomba.

The population in the Lithgow commercial radio licence areas at Census 1996 was 22,164. The only other two commercial radio licence areas that were smaller were Broken Hill with a population of 21,715 and Mudgee with 17,970.

The ABA took into consideration its policy guidelines for assessing community of interest ties, which was developed in May 1997. On 14 April 1999, the ABA contacted Mr Stuart McPherson of the Greater Lithgow City council and Ms Debbie Low of the Blue Mountains City Council to obtain their views on the community of interest links between the inhabitants of Lithgow and the Blue Mountains (A record of the conversations are part of the ABA’s ‘Records of Advice’).

Both their comments were similar in that there is some strong community of interest ties between the townships of Lithgow and Katoomba, which included transport, shopping patterns, employment and sporting activities.

In its submission dated 11 June 1998, Midwest Radio Limited proposed a licence area extension to include the area of Katoomba. Midwest Radio Limited state that economic conditions as well as other factors including links in tourism, national parks, transport and shopping have seen Lithgow’s affinity with the Blue Mountains area grow to an all time high. Lithgow is now considered part of the Blue Mountains. Midwest Radio Limited further stated:

The growing community of interest is evident in economic, social and regional interest terms.

With decline in the Lithgow economy an increasing number of Lithgow residents are community daily to the Blue Mountains for work, as well a number of Midwest Radio Staff commute from the Blue Mountains to Lithgow for employment.

The Lithgow Bus service, Jones Bros provides 2 daily return services to the Blue Mountains.

Lithgow is termination point of the Blue Mountains City Rail Network, which services the entire Mountain. 2LT is already used by City Rail to promote any trackwork, service disruptions etc, as there is no other effective way of informing upper mountains residents.

A large number (110) of Lithgow students travel daily to Blue Mountains schools. Buses also

run daily bringing 90 Mountains students to Lithgow schools.

Lithgow and the Blue Mountains are served by the same electricity supplier Integral Energy.

Lithgow and the main centre of the current Blue Mountains licence area Katoomba are in the same Telstra local phone call area.

Major Lithgow businesses have offices situated throughout the Blue Mountains eg. Westfund, Family First Credit Union etc.

Lithgow is now promoted World Wide as part of the Blue Mountains Tourist area.

DIVERSITY

As discussed in the Legislative Framework in relation to the object of the Act at section 3(a), the ABA has a vital role to play in promoting this object, but it is unrealistic that planning alone will promote the object in all its aspects. In particular some of the 'diversity' of new services can be expected to come from non-broadcasting services bands services s.40⁹⁹ and narrowcasting services of all kinds.

It is important to note that the impact of new services on diversity may vary. In the case of commercial radio formats, the outcome of additional services may include lengthy periods of competition between similar formats, adding little to diversity. The ABA is not empowered under the *Broadcasting Services Act 1992* to ensure that an additional commercial broadcasting service will not simply mimic the format of an existing service in the area, playing the same style of music or even the same songs.

Nor is the ABA empowered to regulate the specific formats of commercial services. This is underlined by the price-based nature of the commercial broadcasting allocation process and by the generic condition on commercial licences requiring only that they:

... provide a service that, when considered together with other broadcasting services available in the licence area of the licence (including another service operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area...¹⁰⁰

Certainly the proliferation of services with similar formats in an area may not promote the object at section 3(a), though at the same time it may further other objects of the Act. On the other hand, allocation of additional commercial broadcasting licences may well result in competing formats and hence greater diversity of choice. As the ABA has little control over the legitimate programming choices of new market entrants, it is truer to say that planning of additional commercial broadcasting services is likely to promote the availability of a diverse range of services in markets, but that in the case of commercial radio broadcasting services, it cannot ensure it.

⁹⁹ Under section 40 of the Act, the ABA may allocate to a person on application in writing a commercial radio broadcasting licence for a service which does not use the broadcasting services bands.

¹⁰⁰ Schedule 2, Part 4, Section 8, Sub-section 2(a) of the Act.

Discussion

As indicated in findings 14.4 and 14.5, the community radio service 2BLU and the commercial radio service 2ONE are the existing services in Katoomba. As also indicated in finding 14.20, 204,124 persons of the Katoomba commercial radio licence area receive the nine commercial radio services from Sydney. This number does not include the town of Katoomba itself. It should also be noted that 204,124 persons in the Katoomba commercial radio licence area are in the licence areas of five wide-coverage community radio services. Even so, the ABA is of the view that given the much lower maximum ERP's of the community services, an adequate signal would not be received.

On the material before it, the ABA believes that either extending the 2ICE and 2LT Lithgow licence areas to Katoomba, or making a separate commercial radio service available to serve Katoomba, would be likely to result in more services being provided for the area and it would be likely to result in a more diverse choice of services for audiences.

COVERAGE OF MATTERS OF LOCAL SIGNIFICANCE

As discussed in the Legislative Framework, in general, planning of additional services might be expected to promote appropriate coverage of matters of local significance (the object at section 3(g) of the Act relates), where there is some prospect those additional services might be taken up. For example, planning may enable new service providers to address needs not adequately catered for by existing licensees. Also greater competition (the object at section 3(b)) in markets may encourage service providers to provide more appropriate coverage of matters of local significance.

On the other hand, introduction of competition may diminish the ability of existing broadcasters to produce programs locally. This may hinder appropriate coverage of matters of local significance, if the new services do not redress the deficiency by covering matters of local significance themselves.

Submissions Received

The submissions received from the existing and potential service providers in the Katoomba region have commented on the coverage of matters of local significance. From the submissions received, the ABA found:

Finding 14.25 If a local coverage commercial radio service was made available in the Katoomba region, it is likely that an independent (competing) operator would offer coverage of matters of local significance.

Finding 14.26 If the licence areas of the existing Lithgow commercial radio services (2LT and 2ICE) were extended, it is likely that Midwest Radio Limited would offer coverage of matters of local significance.

Relevantly, section 3 (g) relates to 'appropriate coverage of matters of local significance' and section 23 (g) provides that in performing its functions under Part 3 of the Act, the ABA is required to have regard to 'such other matters, as it considers relevant'.

A submission dated 9 June 1998, from Grant Broadcasters Pty Ltd comments:

Since the conversion to FM (ONE FM) of the original AM station covering Katoomba, the concentration of that station has been to the Penrith area and to the western part of the Sydney service area. We understand that the service of localism for the Blue Mountains is not now covered by a local commercial radio station.

We submit that either the original AM frequency of 783 kHz could be made available or an FM frequency should be determined to serve the area and to bring back a local commercial radio station that has now effectively been lost.

In its submission, Midwest Radio Limited indicates that it has identified that the existing commercial radio station 2ONE does not serve the Blue Mountains area.

2ONE FM has clearly indicated they now wish to be considered part of the Sydney radio market. This has become clearer over recent years with their move from Katoomba, to Penrith and now finally to Seven Hills in Sydney. The station's abandonment of the Mountains is evident in on air programming such as Sydney traffic reports, beach reports etc. 2ONE FM are now targeting Sydney at the expense of the Mountains, they have now removed all station signage from the Blue Mountains and are in fact advertising on buses in the Mosman area of the city.

Midwest Radio Limited also indicated that they contracted an independent company, 'Media Monitors' to conduct surveys on the content of 2ONE.

The first survey conducted in October 1994 indicated a mere 7 minutes of Mountains content in an entire day surveyed.

An identical survey carried out in November 1997 revealed not one minute of Blue Mountains content in an entire survey day. Without doubt this indicates that 2ONE FM have no interest in servicing the Blue Mountains. As pseudo neighbouring licensee to the Lithgow service area, this would indicate them having no objections to an overspill from a Lithgow station into an abandoned market.

Midwest Radio's Blue Mountains advertising content has been steadily increasing since the departure of 2ONE FM. Local advertisers find that they have been discouraged from using 2ONE FM due to lack of localism, as well as the fact that they have been priced out of radio advertising by metropolitan rates. We are being approached by Blue Mountains advertisers to fill the void.

Midwest Radio have found that Blue Mountains residents where possible are already turning to 2LT and 2ICE FM for localism. Blue Mountains City Council at its latest meeting on 9 June 1998 in fact resolved to support the application of Midwest Radio for an extension of its service area.

2LT and 2ICE FM are currently the only stations promoting Blue Mountains Weather (Lithgow is in the bureau of meteorology Katoomba weather forecast area) Blue Mountains community service announcement and Blue Mountains Local News content. This fact was highlighted during the recent Blue Mountains bushfire situation. Midwest Radio was inundated with phone calls from Blue Mountains residents looking for accurate local fire information.

In addition, Jagdish Lodhia proposes to cater for local ethnic communities, such a service if successful in gaining a licence would be likely to enhance coverage of matters of local significance.

Discussion

Having regard to all the submissions which address ‘appropriate coverage of matters of local significance’ the ABA believes that either extending the 2ICE and 2LT Lithgow licence areas to Katoomba, or making a separate commercial radio service available to serve Katoomba, that the operator of the service would be likely to have a positive impact on the coverage of matters of local significance.

The ABA acknowledges that making additional commercial radio services available in Katoomba, either by planning an additional commercial radio service or by extending the licence areas of the Lithgow commercial radio services, may not necessarily promote the object at 3(g) of the Act. However, it has taken those concerns into account and has weighed the possible cost in terms of local coverage against favourable benefits in terms of other objects of the Act

HIGH QUALITY AND INNOVATIVE PROGRAMMING

Discussion

None of the submissions received commented on the impact an additional commercial service may have on the provision of high quality and innovative programming. While additional services may not always promote the provision of high quality and innovative programming by providers of broadcasting services, the ABA considers the effect of introducing additional commercial radio services is more likely to be positive than negative when measured against this object. The ABA believes that increasing competition is likely to encourage broadcasters to be more responsive to audience needs and may well permit additional high quality and innovative programming to be broadcast, whether in the form of innovative new ideas for local services or top quality programming ‘networked’ from other parts of the country. Increased competition is likely to pressure both existing and new service providers to offer programming that will attract/maintain audience share within the market.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on commercial radio broadcasting services in the Katoomba region, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;
- August 1994 Frequency Allotment Plan;
- ABA’s Record of Advice and Assumptions; and
- ABA’s Legislative Framework.

SUMMARY OF FINDINGS

- There is interest from independent (competing) operators in providing an additional commercial radio service in the Katoomba market.
- There is interest from Midwest Radio Limited, the licensee of 2ICE Lithgow to extend its licence area and provide a translator service to the Blue Mountains.
- Midwest Radio Limited is agreeable in principle to extending both its AM and FM services to the Katoomba area.
- The existing Katoomba FM community radio service 2BLU operates on 89.1 MHz.
- The existing Katoomba FM commercial radio service 2ONE operates on 96.1 MHz.
- The existing Lithgow FM commercial radio service 2ICE operates on 95.3 MHz.
- The existing Lithgow AM commercial radio service 2LT operates on 900 kHz.
- The existing commercial FM radio service in Katoomba is licensed to operate at a maximum ERP of 5 kW.
- The existing community FM radio service in Katoomba is licensed to operate at a maximum ERP of 160 W.
- The existing commercial FM radio service in Lithgow is licensed to operate at a maximum ERP of 10 kW.
- The existing commercial AM radio service in Lithgow is licensed to operate at a maximum CMF of 925 V.
- FM channel 95.3 MHz currently used by 2ICE Lithgow would be suitable to operate with a maximum ERP of 150 kW in Sydney.
- FM channel 107.9 MHz would be suitable to operate with a maximum ERP of 10 kW in Lithgow.
- The Katoomba commercial radio service previously occupied AM channel 783 kHz.
- The FM frequency 99.5 MHz is restricted to a maximum ERP of 200 W in Katoomba.
- There is no remaining channel capacity for a transmitter in the Penrith area to be associated with an additional AM commercial radio service in Katoomba.
- FM channel 99.5 MHz would not provide comparable coverage to the existing commercial FM service in Katoomba.
- If an additional commercial radio service was made available in Katoomba it is likely an independent (competing) operator would be interested in offering coverage less than that of the existing service.

- The proposed extended 2BLU licence area is the most appropriate licence area for any commercial radio service on 99.5 MHz.
- Mt Riverview in the east to Katoomba in the west is the most appropriate licence area for any commercial radio service on 783 kHz.
- The Katoomba commercial radio market is larger economically and demographically than some existing one station commercial radio markets in Australia.
- The Katoomba commercial radio market has a significant population overlap with the Sydney commercial radio licence areas.
- The population of the 2LT/2ICE commercial radio licence areas is the third smallest of all commercial radio licence areas in New South Wales.
- Lithgow has social and economic links with Katoomba.
- If a local coverage commercial radio service was made available in the Katoomba region, it is likely that an independent (competing) operator would offer coverage of matters of local significance.
- If the licence areas of the existing Lithgow commercial radio services (2LT and 2ICE) were extended, it is likely that Midwest Radio Limited would offer coverage of matters of local significance.

CONCLUSION

Having regard to all of the above matters, the ABA's preferred option for promoting the objects of the Act at section 3 (a), (g) and (f), including the economic and efficient use of radiofrequency spectrum in Katoomba, is to extend the licence areas of 2LT and 2ICE to include Katoomba.

The ABA acknowledges there is interest from independent service providers in providing an additional commercial radio service in Katoomba and it believes that both options, either making an additional commercial radio service available in Katoomba or extending the licence areas of the Lithgow commercial radio services, are likely to promote the objects of the Act.

On the material before it, the ABA believes that changing the frequency of 2ICE Lithgow from 95.3 MHz to 107.9 MHz is the most economic and efficient use of the radiofrequency spectrum, as it maximises the number of channels available within the Katoomba, Lithgow and Sydney licence areas. The change of frequency by 2ICE will enable the ABA to make another high powered FM frequency available in Sydney, where spectrum availability is limited and entrepreneurial demand to provide new services is high.

In order not to impose unnecessary financial and administrative burdens on Midwest Radio Limited, the ABA has taken account of the significant cost to the broadcaster of the

variation to its existing technical operating conditions and weighed it against the benefits that may accrue in terms of the Act's objects and the economic and efficient use of spectrum.

The ABA believes that extending the licence areas of the existing commercial radio services in Lithgow to include Katoomba will compensate the costs involved in shifting 2ICE's frequency.

The area included in the extension currently has a limited number of services. The addition of 2ICE and 2LT in the area is likely to promote diversity of services available and the provision of high quality and innovative programming.

Based on the evidence before it, the ABA acknowledges there may be a lack of local programming by the existing commercial radio service, which has resulted in an overall loss of appropriate coverage of matters of local significance. The ABA has considered the significant community of interest ties between Lithgow and Katoomba and believes that Midwest Radio Limited may already have the appropriate links with local businesses and the like, in the Katoomba region, which would encourage the overall level of programming in the area covering matters of local significance.

The ABA also acknowledges the fact that the existing commercial licence areas of Lithgow are very small and believes that by extending them will enable Midwest Radio Limited to be on a more competitive level with other existing services within the region and to sustain a viable service.

SUBMITTERS

The ABA seeks the views of 2ONE on this proposal.

The ABA seeks additional information from potential service providers to assist in finalising a decision about an additional commercial radio service in the Katoomba market. The ABA requests that potential service providers address the following questions:

- | |
|---|
| <p>g) Whether and in what way providing additional commercial radio broadcasting services in the Katoomba market would represent an economic and efficient use of the radio frequency spectrum;</p> <p>h) Whether or not any additional commercial radio service you propose to provide would offer signal coverage at least comparable to existing services;</p> <p>i) The likely impact of any increase in the number of services on diversity in the range of services offered and the overall level programming and the area covering matters of local significance;</p> <p>j) Information and supporting evidence about your capability to provide a commercial radio service;</p> |
|---|

- | |
|---|
| <p>k) Whether sufficient capital is currently or potentially available to you to commence and continue to provide additional commercial radio services in Sydney in accordance with the technical specifications proposed in the draft LAP;</p> <p>l) Whether your interest is contingent in any way.</p> |
|---|

If submissions address the economic characteristics of the Katoomba market, the supporting economic evidence must be provided with the submission.

Any submissions that are over five pages in length should provide an executive summary.

PRELIMINARY VIEW 15 - EXISTING COMMUNITY RADIO - KATOOMBA

The ABA proposes that the existing community radio service 2BLU Katoomba continue to transmit on FM 89.1 MHz from Gang Gang Street, and the maximum ERP be increased from 160 W to 200 W.

The ABA proposes the licence area of 2BLU Katoomba be extended to include Blackheath, and redefined using 1996 Census boundaries.

FINDINGS OF FACT AND REASONS

The ABA believes this preliminary view is likely to promote the objects of the Act at paragraphs 3(a)¹⁰¹ and (g)¹⁰², including the economic and efficient use of spectrum. The 'Legislative Framework' (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

SOCIAL AND ECONOMIC CHARACTERISTICS

In reaching this view, the ABA had regard to the following findings:

Finding 15.1 The licensee of 2BLU is interested in extending its licence area to encompass the area that extends from Lithgow to Springwood. Also a change of transmission location from Katoomba to the Queen Victoria Hospital building at Wentworth Falls with an additional transmitter located between Blackheath and Lithgow.

Finding 15.2 There are strong community of interest links between Katoomba and Lithgow, but not as strong with Springwood.

The ABA is required to have regard to existing services and the demand for new broadcasting services within a licence area, within neighbouring licence areas and within Australia generally (s23 (c) of the Act). The ABA is also required to have regard to social and economic characteristics within the licence area, within neighbouring licence areas and within Australia generally (s23 (b)).

The Blue Mountains Public Broadcasting Society Incorporation's (licensee of 2BLU) submission of 15 June 1998 requesting a change of site and licence area extension of its service is part of the ABA Records of Advice.

¹⁰¹ To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

¹⁰² To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.

The ABA took into consideration its policy guidelines for assessing community of interest ties which was developed in May 1997. On 14 April 1999, the ABA contacted Mr Stuart McPherson of the Greater Lithgow City Council and Ms Debbie Low of the Blue Mountains City Council to obtain their views on the community of interest links between the inhabitants of Lithgow and the Blue Mountains. (Records of the conversations are part of the ABA's 'Records of Advice').

Both their comments were similar in that there is some strong community of interest ties between the townships of Lithgow and Katoomba, which included transport, shopping patterns, employment and sporting activities. Whereas, the links for the inhabitants of the township of Springwood between Lithgow and Katoomba are very limited.

CHANNEL CAPACITY

The ABA then had regard to the channel capacity findings as follows:

- Finding 15.3* A power increase from a maximum ERP of 160 W to 200 W would improve reception to Blackheath, but not Springwood or Lithgow.
- Finding 15.4* A change in the location of 2BLU's transmitter site to Wentworth Falls would result in a significant overspill into the Sydney licence area.
- Finding 15.5* A change in the location of the 2BLU's transmission site to Wentworth Falls would result in interference to other broadcasting services.

The ABA is required to have regard to technical restraints relating to delivery and reception of broadcasting services in a licence area (s23 (e)).

Discussion

In 2BLU's submission dated 15 June 1998, to adequately serve its licence area it requested the maximum ERP would need to increase to between 300 W and 500 W.

However, during a conversation with Peter Olson, the Vice President of 2BLU, it became apparent to the ABA that 2BLU is currently operating at only a maximum ERP of 50 W, that is well below its specified maximum ERP of 160 W. (The record of conversation is part of the ABA's 'Records of Advice'). If 2BLU were to operate at the optimum levels to which it is licensed, many of the current reception deficiencies could be resolved.

Mr Olson also mentioned the reason why 2BLU is not operating at its maximum ERP of 160 W is that its transmitter has an upper limit of 100 W. Mr Olson also advised that it is 2BLU's intention to purchase a new transmitter after the finalisation of the licence area plan for Sydney, Katoomba and Gosford. 2BLU is finding it very difficult to get sponsorship due to its currently inadequate coverage of its licence area.

The ABA is aware the rugged terrain conditions of the Blue Mountains make it difficult to serve a large area adequately, particularly with a single transmission. The ABA estimates

that to serve the area proposed by 2BLU would require two high power (approximately 5kW) services, located at Wentworth Falls and Mt Lambie (near Lithgow).

In considering the suitability of the Queen Victoria Hospital building at Wentworth Falls, as a new transmitter site for 2BLU, the ABA is concerned that 2BLU's coverage would inadvertently be received well into the western suburbs of Sydney.

Nepean Christian Broadcasters (NCB) previously performed temporary transmission under the ABA's temporary community broadcasting licence (TCBL) scheme from the Boddington Hospital at Wentworth Falls on 99.9 MHz with a maximum ERP of 200 W. Submission received in support of NCB, would indicate a listening audience as far as Parramatta.

A broadcasting interference assessment indicates that, due to the high elevation of 2BLU's current transmission site at Gang Gand Street Katoomba, it may already cause adjacent channel interference to 2RSR Sydney and 2GLF Liverpool. It has the potential to cause interference to NBN3 Newcastle and WIN3 Wollongong and finally it may also cause second harmonic interference to VHF Channel 8 which is currently under evaluation as a potential television channel for the introduction of digital television to Sydney.

Another factor in determining the site at Wentworth Falls as inappropriate for 2BLU's transmitter, as it would cause adjacent channel interference to 2RSR Sydney on 88.9 MHz and to 2GLF Liverpool on 89.3 MHz.

Licence Area

The importance of these findings of fact is that the ABA has considered proposals for increased coverage from the licensee of 2BLU, and is of the belief that its licence area should be extended to include Blackheath, but not Springwood or Lithgow, and that it will promote the objects of the Act. These are the proposals to upgrade the power, and hence coverage, of the main transmitter.

It should be noted that in May 1997, the radio licence area plan for Lithgow was determined, which made available a 100 W local community radio service on 90.5 MHz. At that time, allocation of the licence was delayed for two years to enable aspirant groups time to conduct temporary transmissions and develop a strong support base and skills before applying for a service licence. To date, there have been no applications for a Temporary Community Broadcasting Licence (TCBL) in Lithgow pursuant to section 84(2)(e) of the Act, 2BLU will be eligible to apply for the Lithgow community radio licence as Lithgow is not included in its licence area.

EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED

In preparing its preliminary view on the existing community radio service in Katoomba, the ABA had regard to the following material:

- Technical expertise of Planning and Licensing Branch Officers;

- August 1994 Frequency Allotment Plan;
- ABA's Record of Advice and Assumptions; and
- ABA's Legislative Framework.

SUMMARY OF FINDINGS

- The licensee of 2BLU is interested in extending its licence area to encompass the area that extends from Lithgow to Springwood. Also a change of transmission location from Katoomba to the Queen Victoria Hospital building at Wentworth Falls with an additional transmitter located between Blackheath and Lithgow.
- There are strong community of interest links between Katoomba and Lithgow, but not as strong with Springwood.
- A power increase from a maximum ERP of 160 W to 200 W would improve reception to Blackheath, but not Springwood or Lithgow.
- A change in the location of 2BLU's transmitter site to Wentworth Falls would result in a significant overspill into the Sydney licence area.
- A change in the location of the 2BLU's transmission site to Wentworth Falls would result in interference to other broadcasting services.

CONCLUSION

Although the ABA has been unable to meet 2BLU's proposal with regard to extending its coverage to Springwood, it is of the belief the objects at 3(a) and (g) will still be promoted with improved reception to Blackheath and its licence area as a whole. Given the community of interest links between Katoomba and Lithgow, the ABA encourages 2BLU to apply for the Lithgow community radio licence.

PRELIMINARY VIEW 16 – SYDNEY, GOSFORD, KATOOMBA AND LITHGOW - VARIATION TO FREQUENCY ALLOTMENT PLAN

The ABA proposes to vary the frequency allotment plan (FAP) for the MF-AM Band and the VHF-FM Band as it relates to Sydney, Gosford, Katoomba and Lithgow to reflect preliminary views 1 to 15.

FINDINGS OF FACT AND REASONS

In forming this view, the ABA considered and reached views about the likely effects of its proposal, having regard to the local circumstances in each of the markets within, the likely impact of other planning proposals in this draft LAP and other relevant matters under s23(a)-(g). An account of this process of consideration follows.

The FAP and LAP for an area together constitute the ABA's 'blueprint' for the development of broadcasting in that area using the broadcasting services bands. The frequency allotment plan sets out the number of channels and the licence area plan describes the characteristics of the services using, or that are proposed to use, those channels. The two documents must be consistent: s26(1).

In preparing its initial, Australia-wide frequency allotment plan of August 1994, the ABA foreshadowed that the plan would be revised as necessary, market by market, to accommodate any additional or changed broadcasting requirements disclosed during public consultation at the licence area planning stage:

‘*The FAP's* assumptions about demand, nominal transmitter specifications and siting will be re-examined during preparation of the LAPs for particular areas of Australia, at which time it will be subject to intensive public consultation. This may necessitate variations to this FAP... Consultation on the changes will take place within the LAP consultation process.’

‘The FAP will also be revised to reflect any additional services planned during the LAP stage (particularly low power channels). If the revised FAP results in changes in channel capacity for areas outside the area for which the licence area plan is being prepared, the changes will be subjected to public consultation in affected areas.’
(Frequency Allotment Plan; August 1994; Pg. 9, ‘Planning Process Overview’)

The details of the proposed variation to the FAP are contained in the draft FAP variation instrument.

APPENDIX 1 – TECHNICAL RESTRAINTS

APPENDIX 2 – RECORDS OF ADVICE

APPENDIX 3 – RECORDS OF ASSUMPTIONS

**APPENDIX 4 – ABS SOCIAL AND ECONOMIC
CHARACTERISTICS**