



**Australian  
Broadcasting  
Authority**



# **MELBOURNE, GEELONG & COLAC**

## **DRAFT LICENCE AREA PLANS**

### **DRAFT VARIATION TO SHEPPARTON LICENCE AREA PLAN**

#### **AND REASONS FOR PRELIMINARY VIEWS**

#### **DISCUSSION PAPER**

**DECEMBER 1999**



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## EXECUTIVE SUMMARY

This discussion paper accompanies the draft radio licence area plans (LAPs) for Melbourne, Geelong and Colac and the draft variation of the LAP for Shepparton (Alexandra/Eildon community radio)<sup>1</sup>.

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

The draft LAPs and the draft variation to the Shepparton 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](mailto:metrodraftlap@aba.gov.au)

By mail: Planning Officer for Melbourne, Geelong and Colac  
ABA Planning Branch  
PO Box 34  
BELCONNEN ACT 2616

By fax: (02) 6253 3277

Quoting the following file numbers:

Melbourne – 1999/5378

Geelong – 1999/5377

Colac – 1999/5376

Shepparton – 1999/5375

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

Any enquires concerning technical matters raised in this document should be directed to Russell Morris on (02) 6256 2852. Other enquires should be directed to Stirling Finlay on (02) 6256 2831.

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<sup>1</sup> The Shepparton LAP was determined by the ABA in September 1997. The LAP made available a community radio service for Alexandra/Eildon. The licence was allocated to Upper Goulburn Community Radio Inc in May 1998.

**The closing date for submissions is 5.00 pm on 28 January 2000. 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 Melbourne, Geelong and Colac, and the proposed change to the Shepparton LAP, 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 a 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 Melbourne, Geelong and Colac and proposed variation to the Shepparton LAP.

## **BACKGROUND**

The draft licence area plans for radio in Melbourne, Geelong and Colac 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 radio frequency spectrum. These are the parts of the spectrum used by AM and FM radio services. The draft variation to the Shepparton LAP contains a proposal for changes to the Alexandra/Eildon community radio service.

‘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 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 for 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 ABA's proposals:

### Melbourne

- To improve reception of the two medium power Melbourne AM national radio services (3PB and 3EA) the ABA proposes day/night switching, with a trial period of 18 months after the determination of the LAP.
- To improve daytime reception of AM commercial radio services 3EE, 3AK, 3AW, 3MP and 3UZ in Melbourne, the ABA proposes day/night switching, with a trial period of 18 months after the determination of the LAP.
- Making two additional high power commercial radio services available, with the allocation of the second licence 4 years after the determination of the LAP.
- In order to improve daytime reception of 3CR, the ABA proposes day/night switching, with a trial period of 18 months after the determination of the LAP.
- Changes to be made to the technical specifications of existing wide coverage community radio services including increases in maximum transmission power for 3MBS, 3PBS and 3ZZZ.
- Making two additional wide coverage community radio services available in Melbourne.
- Changes to be made to the technical specifications of existing local coverage community services, including 3ECB, 3INR, 3NOW, 3SER, 3SCB, 3WRB, 3RPP, 3MDR, 3PVR and 3VYV with the provision for all existing Melbourne

local services to have the option of transmitting with vertical, horizontal or mixed polarisation.

- Extension to the licence area of the community radio service 3NOW and seeking comments on an extension to the licence area of community radio service 3RIM.
- Making available a local coverage community radio service at each of Bacchus Marsh, Camberwell, Melbourne City, Sunbury, Waverley and Werribee.
- Making three open narrowcasting radio services available.

### **Geelong**

- Excising Bacchus Marsh from the licence area of 3CAT to make the 3CAT and 3BAY licence areas identical.
- Making one additional high power commercial radio service available.
- Changing the frequency and technical specifications of community radio service 3YYR, with an increase in power within 12 months of the determination of the LAP, and an extension of its licence area.
- Making available one additional FM community radio service with an option for two to be made available.
- Making two open narrowcasting services available.

### **Colac**

- Extending the licence areas of the commercial AM 3CS and FM 3CCS services.
- Making channel capacity available for transmitters for the 3CCS service at Lorne and Apollo Bay.
- Making a new community radio service available with transmitters at Lorne and Apollo Bay.

### **Shepparton**

- Making channel capacity available for transmitters for the 3UGE Alexandra/Eildon service at Yea and Marysville and extending the licence area of the 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 Act 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.

The technical specifications also detail any special conditions which are attached to a technical specification. Existing and potential service providers should read these special conditions and must provide a service which operates in accordance with these special conditions.

## PRELIMINARY VIEWS

The preliminary views that are detailed below and in the following 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 it in making informed decisions in the licence area planning process.

## PRELIMINARY VIEWS

### PRELIMINARY VIEW 1 - NATIONAL RADIO – MELBOURNE

The ABA proposes channel capacity be reserved for all existing national radio services in Melbourne in accordance with the Minister's notification. To improve reception, the ABA proposes day/night switching for the two existing medium power AM national services. The ABA proposes the services trial day night switching for a period of 18 months following finalisation of the LAP to determine suitability of the solution. The Melbourne national radio services are proposed to operate as follows:

- The existing medium power national AM services continue to operate on 1026 kHz with a maximum CMF of 1130 V day/800 V night (Omni-directional), which is equivalent to a transmission power of 10 kW day/5 kW night and 1224 kHz with a maximum CMF of 1.48 kV day/1.05 kV night (Directional), which is equivalent to a transmission power of 10 kW day/5 kW night.

- The existing high power national AM radio services continue to operate on AM 621 kHz and 774 kHz with a maximum cymomotive force (CMF) of 2.8 kV and 3.11 kV respectively, which is equivalent to a transmission power of 50 kW each (Omni-directional).
- The existing national FM radio services continue to operate from Mt Dandenong on FM 93.1 MHz, 105.9 MHz and 107.5 MHz with a maximum effective radiated power (ERP) of 100 kW (Omni-directional).

### **PRELIMINARY VIEW 2 - EXISTING COMMERCIAL RADIO – MELBOURNE**

In order to improve reception of the Melbourne AM commercial radio services (3EE, 3AK, 3AW, 3MP and 3UZ) during the day, the ABA proposes day/night switching to allow these services to increase their transmission power during the daytime only. The existing transmission power and the radiation pattern during the nighttime is proposed to remain unchanged. The ABA proposes a day/night switching trial for a period of 18 months after the finalisation of the licence area plan in order to determine suitability of the solution. These services are proposed to operate as follows:

- 3EE is proposed to continue to operate on 693 kHz from Mt Cottrell with a maximum cymomotive force (CMF) of 2.33 kV (day)/1.65 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Directional).
- 3UZ is proposed to continue to operate on 927 kHz from View Bank with a maximum CMF of 1.41 kV (day)/1.0 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Omni-directional).
- 3AW is proposed to continue to operate on 1278 kHz from Lower Plenty with a maximum CMF of 1.1 kV (day)/780 V (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Omni-directional).
- 3MP is proposed to continue to operate on 1377 kHz from Rowville with a maximum CMF of 1.73 kV (day)/1.225 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Directional).
- 3AK is proposed to continue to operate on 1503 kHz from Lower Plenty with a maximum CMF of 1.817 kV (day)/1.285 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Directional).

The ABA proposes that the existing FM commercial radio services (3TTT, 3FOX, 3KKZ and 3MMM) continue to operate as follows:

- 3TTT to operate on 101.1 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).
- 3FOX to operate on 101.9 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).

- 3KKZ to operate on 104.3 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).
- 3MMM to operate on 105.1 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).

The ABA proposes to re-define the licence areas of the existing Melbourne commercial AM and FM services using 1996 Census boundaries. The ABA is seeking comments on the suitability of extending the licence area of the 8SAT remote commercial radio service to include Warburton and the appropriateness of creating an overlap with the existing Melbourne commercial radio services.

### **PRELIMINARY VIEW 3 – ADDITIONAL WIDE COVERAGE COMMERCIAL RADIO – MELBOURNE**

The ABA proposes to make two additional high power commercial radio services available in Melbourne. The services are proposed to operate on 100.3 MHz and 91.5 MHz from Mt Dandenong, each with a maximum ERP of 56 kW.

The ABA proposes to allocate the second additional commercial radio service (91.5 MHz) 4 years after the date of publication of the Gazette notice that the Melbourne LAP has been determined.

Allocation of 100.3 MHz is dependent on 3YYR Geelong making the transition from its existing frequency to a proposed new frequency. This transition is proposed to occur within 12 months of publication of the Gazette notice that the Melbourne LAP has been determined.

The channel for the proposed second licence (91.5 MHz) has the potential to cause interference to the television reception of ABNT3 in North-East Tasmania. The maximum ERP of the second licence will be restricted to 22 kW on a bearing of 170° unless test transmissions as part of the Start Up Procedures outlined in the Technical Planning Guidelines indicate that this restriction is not required.

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 - EXISTING WIDE COVERAGE COMMUNITY RADIO - MELBOURNE**

In order to improve reception of the existing community AM radio service 3CR during the daytime, the ABA proposes day/night switching. The night-time transmission power is proposed to remain unchanged.

3CR is proposed to continue to operate on 855 kHz from Hoppers Crossing, with a maximum Cymomotive Force (CMF) of 996 V day/705 V night, which is equivalent to a transmission power of 5 kW day/2 kW night (Directional). The ABA proposes a day/night switching trial for a period of 18 months after the finalisation of the licence area plan in order to determine suitability of the solution.

3RPH is proposed to continue to operate on 1179 kHz from Lower Plenty with a maximum CMF of 920 V (Omni-directional) which is equivalent to a transmission power of 5 kW.

The ABA proposes to increase the maximum transmission power of the existing wide coverage community FM radio services (3MBS, 3PBS and 3ZZZ) in Melbourne as follows:

- 3MBS is proposed to continue to operate on 103.5 MHz from Mount Dandenong, with an increase in maximum ERP to 56 kW (Directional).
- 3PBS is proposed to continue to operate on 106.7 MHz from Mount Dandenong, with an increase in maximum ERP to 56 kW (Directional)
- 3ZZZ is proposed to continue to operate on 92.3 MHz from Mount Dandenong, with an increase in maximum ERP to 56 kW (Directional).

The ABA proposes that the existing community FM service 3RRR continue to operate on 102.7 MHz from Mount Dandenong with a maximum ERP of 56 kW (Directional).

The ABA proposes to redefine the licence areas of the existing Melbourne wide coverage community AM and FM services using 1996 Census boundaries, but otherwise proposes no changes.

### **PRELIMINARY VIEW 5 – ADDITIONAL WIDE COVERAGE COMMUNITY RADIO - MELBOURNE**

The ABA proposes to make two additional wide coverage community radio services available in Melbourne. The services are proposed to operate on 89.9 MHz and 90.7 MHz from Mt Dandenong, each with a maximum ERP of 56 kW (Directional).

These channels have the potential to cause interference to the television reception of ABNT3 in North-East Tasmania. The maximum ERP will be restricted on a bearing of 170° to 3.5 kW for 89.9 MHz and 2.3 kW for 90.7 MHz unless test transmissions conducted as part of the Start Up Procedures under the Technical Planning Guidelines indicate that this restriction is not required.

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

### **PRELIMINARY VIEW 6 - EXISTING LOCAL COVERAGE COMMUNITY RADIO – MELBOURNE**

The ABA proposes channel capacity continue to be made available for the existing local coverage community radio services in Melbourne. The ABA also proposes changes to the technical specifications of some the services as indicated below and proposes to make provision for all existing Melbourne local services to have the option of transmitting with vertical, horizontal or mixed polarisation.

<b>Area Served</b>	<b>Callsign</b>	<b>Frequency</b>	<b>Maximum ERP</b>	<b>Polarisation</b>	<b>Nominal Location</b>
Melbourne Eastern Suburbs	3ECB	98.1 MHz	200 W	Mixed	Ringwood East
Melbourne NE Suburbs	3INR	96.5 MHz	400 W	Mixed	Heidelberg
Melbourne NW Suburbs	3NOW	98.9 MHz	400 W	Mixed	Broadmeadows
Melbourne SE Suburbs	3SER	97.7 MHz	400 W	Mixed	Narre Warren North
Melbourne Southern Suburbs	3SCB	88.3 MHz	200 W	Mixed	Moorabbin
Melbourne West	3WRB	97.4 MHz	200 W	Mixed	Tottenham
Melton	3RIM	97.9 MHz	200 W	Mixed	Mt Kororiot
Mornington	3RPP	98.7 MHz	800 W	Mixed	Arthurs Seat
	3RPP	98.3 MHz	10 W	Mixed	Mt Eliza
Mountain Districts	3MDR	97.1 MHz	400 W	Mixed	Kallista
Plenty Valley	3PVR	88.6 MHz	400 W	Mixed	Yarrambat
Yarra Valley	3VYV	99.1 MHz	400 W	Mixed	Briarty Hill

The ABA proposes to extend the licence areas of the community radio service 3NOW Melbourne NW Suburbs, and seeks comment from the licensee of 3RIM Melton regarding a possible extension to its licence area. The 3NOW and 3RIM licence areas will be defined in 1996 Census boundaries.

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

### **PRELIMINARY VIEW 7 - ADDITIONAL LOCAL COVERAGE COMMUNITY RADIO - MELBOURNE**

The ABA proposes to make available for allocation six additional local coverage community radio services in the Melbourne area. The services are proposed to operate as follows:

<b>Area Served</b>	<b>Frequency</b>	<b>Maximum ERP</b>	<b>Nominal Location</b>
Melbourne City	94.9 MHz	250 W	Melbourne Central
Bacchus Marsh	98.5 MHz	400 W	Mt Gorrock
Camberwell	94.1 MHz	100 W	Camberwell
Sunbury	99.3 MHz	400 W	Sunbury
Waverley	95.7 MHz	100 W	Clayton
Werribee	88.9 MHz	400 W	Werribee

The licence areas of the proposed additional services will be defined using 1996 Census boundaries.

**PRELIMINARY VIEW 8 - OPEN NARROWCASTING RADIO – MELBOURNE**

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

- 1116 kHz from Lower Plenty with a maximum CMF of 1.245 kV;
- 1422 kHz from Werribee with a maximum CMF of 700 V; and
- 1593 kHz from Epping with a maximum CMF of 800 V.

**PRELIMINARY VIEW 9 - COMMERCIAL RADIO GEELONG**

The ABA proposes the existing FM commercial radio services in Geelong, 3BAY and 3CAT, continue to operate as follows:

- 3BAY to operate on 93.9 MHz from Murradoc Hill with a maximum ERP of 56 kW (Directional).
- 3CAT to operate on 95.5 MHz from Murradoc Hill with a maximum ERP of 56 kW (Directional).

The ABA proposes that Bacchus Marsh be excluded from the licence area of 3CAT to make the 3CAT and 3BAY licence areas identical, and that the licence areas be defined using 1996 Census boundaries.

The ABA proposes to make channel capacity available for one additional high power commercial radio service in Geelong. The service is proposed to operate on 96.3 MHz from Murradoc Hill, with a maximum ERP of 56 kW (Directional).

The ABA proposes the licence area of the additional service be identical to that of the existing commercial radio service 3BAY, and defined using 1996 Census boundaries.

**PRELIMINARY VIEW 10 - EXISTING COMMUNITY RADIO – GEELONG**

The ABA proposes that channel capacity continue to be made available for the existing FM community radio service 3YYR in Geelong. It is proposed that this service change frequency from 100.3 MHz to 94.7 MHz, change maximum ERP from 800 W (Omnidirectional) to 56 kW (Directional), and continue to operate from the nominal site at Murradoc Hill.

The ABA proposes that the licensee should change frequency and increase power to no less than 5 dB of 56 kW (approximately 18 kW) within 12 months of publication of the Gazette notice that the Geelong radio LAP has been determined.

The ABA proposes that the licence area of this service be extended to include the wider Geelong region, and redefined using 1996 Census boundaries.

## **PRELIMINARY VIEW 11- ADDITIONAL COMMUNITY RADIO – GEELONG**

The ABA proposes that channel capacity be made available for one additional FM community radio service in Geelong. It is proposed that this service operate as follows:

- On 99.5 MHz, with a maximum ERP of 800 W (Omnidirectional), from a nominal site at Ceres Brownhill Heights Reserve.

Alternatively, depending on the ABA's decision regarding relocation of 3YYR (see Preliminary View 10), the ABA proposes that channel capacity be made available for one additional FM community radio service in Geelong. It is proposed that this service operate as follows:

- On 94.7 MHz, with a maximum ERP of 56 kW (Directional), from a nominal site at Murradoc Hill.

The ABA proposes that the licence area of this service be defined using 1996 Census boundaries.

Should testing of channel capacity at 91.9 MHz, currently being undertaken by an aspirant community broadcaster in Geelong, prove suitability of the use of 91.9 MHz in Geelong, the ABA proposes a second additional community radio service be made available in Geelong.

The ABA proposes that if this channel capacity is made available, the licence area of the service be defined, using 1996 Census boundaries, to be identical to that currently defined for the existing community radio service 3YYR.

## **PRELIMINARY VIEW 12 - OPEN NARROWCASTING RADIO – GEELONG**

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

<b>Area Served</b>	<b>Frequency</b>	<b>Maximum CRF/ERP</b>	<b>Nominal Location</b>
Geelong	1341 kHz	1.205 kW	Portarlinton
Geelong	89.3 MHz	250 W	Ceres Brownhill Heights Reserve

The ABA proposes to make channels available for open narrowcasting services under s.34 of the *Broadcasting Services Act 1992*, for a minimum period of five years, the provider to be determined by use of a price-based allocation process under s.106 of the *Radiocommunications Act 1992*.

## **PRELIMINARY VIEW 13 - EXISTING COMMERCIAL RADIO – COLAC**

The ABA proposes that the existing commercial radio services (3CS and 3CCS) continue to operate as follows:

- 3CS to operate on 1134 kHz with a maximum CMF of 2.8 kV (Directional).
- 3CCS to operate on 106.3 MHz from Warrion Hill with a maximum ERP of 10 kW (Directional).

The ABA proposes that channel capacity be made available in both Lorne and Apollo Bay for low power FM transmitters associated with the 3CCS service, to operate as follows:

- 92.7 MHz from a nominal site of Mt Cowley with a maximum ERP of 100 W.
- 95.9 MHz from a nominal site of Wyelangta with a maximum ERP of 250 W (Directional).

The ABA proposes that the licence areas of the Colac commercial radio services be increased to include Apollo Bay and redefined using 1996 Census boundaries.

The ABA does not propose to make any additional commercial radio services available in Colac.

#### **PRELIMINARY VIEW 14 - NEW COMMUNITY RADIO – COLAC**

The ABA proposes to make channel capacity available for a community radio service in Colac. The new service is proposed to operate as follows:

<b>Area Served</b>	<b>Frequency</b>	<b>Maximum Effective ERP</b>	<b>Nominal Location</b>
Colac	104.7 MHz	10 kW (DA)	Warrion Hill
Apollo Bay	99.1 MHz	250 W (DA)	Wyelangta
Lorne	88.7 MHz	100 W (DA)	Mt Cowley

It is proposed that the licence area for the community radio service be identical to the licence area proposed for the existing commercial radio service and be defined using 1996 Census boundaries.

#### **PRELIMINARY VIEW 15 – VARIATION TO SHEPPARTON LAP – EXISTING COMMUNITY RADIO 3UGE ALEXANDRA/EILDON**

The ABA proposes to make channel capacity available for two transmitters associated with the existing FM community radio service 3UGE Alexandra/Eildon as follows:

- A service to operate on 98.1 MHz from Mt Broughton, Yea, with a maximum ERP of 100 W.
- A service to operate on 98.5 MHz from Mt Gordon, Marysville, with a maximum ERP of 100 W.

The ABA proposes to extend the licence area of the existing community FM radio service 3UGE Alexandra/Eildon into Yea and Marysville and redefine 3UGE's licence area using 1996 Census boundaries.

**PRELIMINARY VIEW 16 – MELBOURNE, GEELONG, COLAC,  
ALEXANDRA, MARYSVILLE AND YEA – 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 Melbourne, Geelong, Colac, Remote Central and Eastern Australia, Alexandra, Marysville and Yea to reflect preliminary views 1 to 15.



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## 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)<sup>2</sup> 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)

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. At each of the stages of the planning process, the ABA must make provision for wide public consultation [Subsection 27(1)].

### 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 plans (FAP) and licence area plans (LAP). The ABA determined its planning priorities in September 1993. A document entitled “Planning Priorities - 1993”, which includes the planning priorities and explanatory notes, is available free of charge from the ABA.

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<sup>2</sup> Section 158(b) of the Act.

### **PREPARATION OF FREQUENCY ALLOTMENT PLAN**

The second stage of the planning process, in accordance with section 25 of the Act, is 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 BSB.

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 effective radiated power in each direction from the transmitter site. Potential and current service providers must "read" the LAP together with the Technical Planning Guidelines (TPGs) so that they are fully aware of their technical obligations in establishing services. The ABA was obliged to develop these technical planning guidelines pursuant to section 33 of the Act. The TPGs came into force on 10 August 1995. Paragraphs 109(1) (d) and (e) of the *Radiocommunications Act 1992* apply the technical specifications in the LAP and TPGs as conditions of a transmitter licence issued to commercial and community broadcasting service providers by the Australian Communications Authority (ACA, formerly the Spectrum Management Agency, SMA).

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

### **VARIATION OF FREQUENCY ALLOTMENT PLAN**

The FAP determined channel capacity based on the ABA's knowledge and public submissions received at the date the FAP was prepared (ie. 10 August 1994). The FAPs assumptions about demand, nominal transmitter specifications and siting will be re-examined during preparation of the LAPs for particular areas of Australia. This process may necessitate variations to the FAP as a result of the ABA's public consultation process. No permanent allocations of new spectrum for a particular area will be made until LAPs for that area have been prepared. If it is necessary to amend the FAP as a result of the LAP process, then this will be done consistently with the planning priorities. Consultation on any changes to the FAP 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.

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## 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 (contained in 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; and.
- (k) to provide a means for addressing complaints about certain Internet content; and
- (l) to restrict access to certain Internet content that is likely to cause offence to a reasonable adult; and
- (m) to protect children from exposure to Internet content that is unsuitable for children.

The relevance of these objects to the variation of the FAP and the preparation of LAPs is discussed below, as part of the examination of section 23 of the Act.

### **REGULATORY POLICY**

Subsection 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.

Subsection 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 section 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 specifications 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 specifications 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 which relate to its planning function have been specifically referred to the ABA pursuant to section 161 of the Act.

### **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 the ABA (under subsection 162 (1) of the Act) 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**

The following is an inclusive list of international conventions which the ABA considers must be given effect in planning. Of all the international conventions to which Australia is a party, these appear the most relevant to the ABA's planning function.

*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 Australian Communications Agency (ACA) (formerly the Spectrum Management Agency).

However, a number of the International Telecommunications Union (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 radionavigation 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.

## **SECTION 23 - SPECIFIC OBLIGATIONS OF THE ABA**

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 objects 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 sections 25 and 26) might promote the matters in section 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 sections 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 FAPs and LAPs, 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 service. (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, adding little to diversity. It is not the ABA’s role 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.

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.

Third, 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.

Fourth, 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 licensee 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 FAPs and LAPs 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.

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.’ In the context of a genuinely competitive market, the stations that are ‘efficient’ and ‘responsive to audience needs’ will tend to overcome rivals that are inefficient and/or less responsive to the needs of their audience.

Consistent with this reading, 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 section 38A. Similarly, an existing commercial radio service provider may be entitled to acquire a second licence, either under section 39 or via the price-based allocation system.

- (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)<sup>3</sup>. 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 the object at section 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.

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<sup>3</sup> 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 locally<sup>4</sup>. 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 section 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 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.

<sup>4</sup> 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.

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*.

Subsection 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.

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## **CHAPTER 2 – DEVELOPMENT OF DRAFT RADIO LICENCE AREA PLANS FOR MELBOURNE, GEELONG, COLAC AND VARIATION TO SHEPPARTON**

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 Melbourne, Geelong, Colac and proposed variation to the LAP for Shepparton, 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. The determination of the FAP was released on 10 August 1994.

Planning priority and frequency allotment plan submissions relevant to Melbourne, Geelong, Colac and Shepparton were taken into account in the preparation of the draft licence area plans.

### **CONSULTATION IN MELBOURNE, GEELONG, COLAC AND SHEPPARTON**

An Information Booklet for Planning of Broadcasting Services in Melbourne, Geelong and Colac was published by the ABA in February 1998. Consultation meetings were held in the respective regions in April 1998.

Notices inviting submissions were placed in local and national papers 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 OF 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](http://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.

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## **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 (Subsection 27 (2)).

The purpose of the record to be kept under Subsection 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 section 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.

### **RECORD OF ASSUMPTIONS**

An assumption in the context of subsection 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 1992*, 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 Subsection 27 (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 Melbourne, Geelong, Colac and Shepparton is at Appendix 3.

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## PRELIMINARY VIEW 1 - NATIONAL RADIO – MELBOURNE

**The ABA proposes channel capacity be reserved for all existing national radio services in Melbourne in accordance with the Minister’s notification.**

**To improve reception, the ABA proposes day/night switching for the two existing medium power AM national services. The ABA proposes the services trial day/night switching for a period of 18 months following finalisation of the LAP to determine suitability of the solution. The Melbourne national radio services are proposed to operate as follows:**

- **The existing medium power national AM services continue to operate on 1026 kHz with a maximum CMF of 1130 Vday/800 V night (Omni-directional), which is equivalent to a transmission power of 10 kW day/5 kW night and 1224 kHz with a maximum CMF of 1.48 kV day/1.05 kV night (Directional), which is equivalent to a transmission power of 10 kW day/5 kW night.**
- **The existing high power national AM radio services continue to operate on AM 621 kHz and 774 kHz with a maximum cymomotive force (CMF) of 2.8 kV and 3.11 kV, respectively, which is equivalent to a transmission power of 50 kW each (Omni-directional).**
- **The existing national FM radio services continue to operate from Mt Dandenong on FM 93.1 MHz, 105.9 MHz and 107.5 MHz with a maximum effective radiated power (ERP) of 100 kW (Omni-directional).**

NOTE: The Melbourne national radio services also serve the Geelong area.

### 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 s.3 (a) of the Act<sup>5</sup> 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 of the Act. The ABA found that:

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<sup>5</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

*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 Melbourne and one new national radio service in Cobden, VIC.

Section 23 (g) of the Act 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 Gazette No. GN 48 dated 3 December 1997. This notice specifies the amount of spectrum capacity required for national services. It is for the ABA to choose the frequencies and technical characteristics.

### **Existing National Radio Services**

The ABA had regard to existing national radio broadcasting services in Melbourne and found that:

*Finding 1.2.* Seven national radio services operate in Melbourne.

The national radio services operate as follows:

<b>Area Served</b>	<b>Callsign</b>	<b>Frequency</b>	<b>Maximum Effective Radiated Power (FM) Cymomotive Force (AM)</b>	<b>Nominal Location</b>
Melbourne	3RN	621 kHz	2.8 kV (50 kW)	Sydenham
	3LO	774 kHz	3.11 kV (50 kW)	Sydenham
	3PB	1026 kHz	800 V (5 kW)	East Heidelberg
	3EA	1224 kHz	1.05 kV (5 kW)	Craigieburn
	3SBSFM	93.1 MHz	100 kW	Mt Dandenong
	3ABCFM	105.9 MHz	100 kW	Mt Dandenong
	3JJJ	107.5 MHz	100 kW	Mt Dandenong

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).

### **Submissions Relating to National Radio Services**

In response to the ABA's call for submissions to the Melbourne Information Booklet released in February 1998, the former National Transmission Agency<sup>6</sup> (NTA) in its submission dated 15 June 1998, recommended that a study be carried out to ensure that 94.9 MHz in the Melbourne CBD can successfully co-channel with the Triple J service at Mt Dundas VIC. The Australian Broadcasting Corporation (ABC) in its submission dated 26 June 1998 commented similarly in relation to the use of 94.9 MHz.

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<sup>6</sup> The NTA has been privatised and is now known as NTL Australia Pty Ltd.

An ABA engineering study has been undertaken and concludes that there is sufficient protection to the reception of the Triple J service to allow co-channel operation with a proposed service operating on 94.9 MHz with a maximum ERP of 250 W from the Melbourne CBD. In addition to the ABA engineering study, transmissions of up to 250 W ERP under TCBL arrangements have been conducted with no reported interference to the reception of the Triple J service.

*Finding 1.3.* FM frequency 94.9 MHz can be used in the Melbourne CBD with a maximum ERP of 250 W with little likelihood of causing interference.

Section 23 (e) of the Act requires the ABA to have regard to technical restraints relating to delivery and reception of broadcasting services in Melbourne and neighbouring regions.

The Special Broadcasting Service (SBS) in its submission dated 14 June 1998 responded to the February 1998 Information Booklet in relation to both the 3EA service and the SBS FM service.

In relation to the 3EA service which operates on 1224 kHz, the SBS sought a power increase from 5 kW to 10 kW. The ABA conducted a broadcasting interference assessment and found:

*Finding 1.4.* An increase in the power of the 3EA Melbourne national AM radio service from 5 kW to 10 kW is likely to increase the night time interference level to 2RPH Sydney, 6RN Busselton and a service at Invercargill in New Zealand which all operate on the same frequency as 3EA.

As a result of Finding 1.4, the ABA does not consider a power increase for 3EA to be a solution to addressing the issues raised by the SBS. However, subject to international agreement, the ABA proposes that day-night switching which allows for a power increase during the day only, may be a possible solution. An 18 month trial in co-ordination with relevant neighbouring and international broadcasters is proposed after the Melbourne LAP is finalised, to determine if a power increase under these arrangements is acceptable.

The SBS submission also expressed concern about the longer term future of the 3EA site at Craigieburn because residential areas are encroaching on the site which could lead to community pressure to relocate the 3EA facility to another location, and that the LAP acknowledge this situation and have contingencies to ensure the continuity of the 3EA service. The ABA found:

*Finding 1.5.* Contingency plans for broadcasting services are the responsibility of the individual broadcaster and the ABA's *Interim Australian Broadcasting Handbook* outlines in Part 2, the change in transmitter site procedure which is to be followed when proposing to locate a transmission facility at a site which is not the current location described in the licence area plan (LAP).

As the LAP for Melbourne is not yet finalised, the SBS may propose an alternative site for the 3EA AM service as part of the current planning process.

In relation to the SBS FM service which operates on 93.1 MHz, the SBS requested that the lower adjacent channel of 92.9 MHz not be planned for use in the Melbourne area to avoid interference to the SBS FM service. The ABA found:

*Finding 1.6.* The use of 92.9 MHz is restricted in use in Melbourne due to the adjacent channel protection ratios as detailed in the ABA's *Technical Planning Guidelines*.

The ABA in its FM planning for Melbourne has assumed a maximum ERP of 100 kW for the high power national services. The operation of 3SBS Melbourne on 93.1 MHz is likely to restrict the use of 92.9 MHz to a separate non-adjacent area to Melbourne to avoid interference.

The SBS in a further submission dated 9 April 1999, indicated interest in an additional frequency for the SBS service in Sydney, Melbourne, Adelaide, Brisbane, Canberra, Darwin, Hobart, Newcastle and the Hunter Valley, Perth and Wollongong. In considering this request the ABA found:

*Finding 1.7.* The Minister's notification of 21 November 1997 has not requested the ABA to reserve additional capacity in the broadcasting services bands for expansion of the SBS radio service in Melbourne.

The ABA will not plan for additional national radio services unless specific provision is made for this in a Ministerial reservation notice.

The ABC in its submission dated 26 June 1998 advised that it had received numerous complaints from listeners in the Colac, Otway Ranges and South Coast (Lorne and Apollo Bay) areas indicating inadequate reception of ABC radio services. The ABC stated that it is not in a position to firmly indicate a requirement for a service in this area, but believes it would be advantageous for the ABA to nominate a frequency for a service. The former NTA in its submission dated 15 June 1998 requested that consideration be given for a wide coverage FM channel at Lookout Hill to be assigned for a possible future Radio National service.

While the Ministerial notification reserved capacity for a national radio service at Cobden, it did not reserve capacity for any other regions in the Colac licence area. In regard to Cobden, no submission has been received from the former National Transmission Agency or the ABC regarding coverage required from a proposed national radio service in the Cobden area. If the ABC intends to provide a national radio service to Cobden, the ABA requests that the ABC provide technical planning details accordingly so that appropriate technical specifications can be developed.

**In addition, the ABA seeks comments on:**

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

**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 Melbourne and one new national radio service in Cobden, VIC.
- Seven national radio services operate in Melbourne.
- FM frequency 94.9 MHz can be used in the Melbourne CBD with a maximum ERP of 250 W with little likelihood of causing interference.
- An increase in 3EA's power from 5 kW to 10 kW is likely to increase the night time interference level to 2RPH Sydney, 6RN Busselton and a service at Invercargill in New Zealand which all operate on the same frequency.
- Contingency plans for broadcasting services are the responsibility of the individual broadcaster and the ABA's *Interim Australian Broadcasting Handbook* outlines in Part 2, the change in transmitter site procedure which is to be followed when proposing to locate a transmission facility at a site which is not the current location described in the licence area plan (LAP).
- The use of 92.9 MHz is restricted in use in Melbourne due to the adjacent channel protection ratios as detailed in the ABA's *Technical Planning Guidelines*.
- The Ministers notification of 21 November 1997 has not requested the ABA to reserve additional capacity in the broadcasting services bands for expansion of the SBS radio service in Melbourne.

**CONCLUSION**

Having regard to the above matters, the ABA believes that to promote object 3 (a) of the Act and the economic and efficient use of the spectrum, the 3EA service be permitted a power increase with 5 kW/10 kW day night switching arrangement on a trial basis to determine if interference to other services on the same frequency occurs.



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## **PRELIMINARY VIEW 2 - EXISTING COMMERCIAL RADIO – MELBOURNE**

In order to improve reception of the Melbourne AM commercial radio services (3EE, 3AK, 3AW, 3MP and 3UZ) during the day, the ABA proposes day/night switching to allow these services to increase their transmission power during the daytime only. The existing transmission power and radiation pattern during the night time is proposed to remain unchanged. The ABA proposes a day/night switching trial for a period of 18 months after the finalisation of the licence area plan in order to determine suitability of the solution. These services are proposed to operate as follows:

- 3EE is proposed to continue to operate on 693 kHz from Mt Cottrell with a maximum cymomotive force (CMF) of 2.33 kV (day)/1.65 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Directional).
- 3UZ is proposed to continue to operate on 927 kHz from View Bank with a maximum CMF of 1.41 kV (day)/1.0 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Omni-directional).
- 3AW is proposed to continue to operate on 1278 kHz from Lower Plenty with a maximum CMF of 1.1 kV (day)/780 V (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Omni-directional).
- 3MP is proposed to continue to operate on 1377 kHz from Rowville with a maximum CMF of 1.73 kV (day)/1.225 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Directional).
- 3AK is proposed to continue to operate on 1503 kHz from Lower Plenty with a maximum CMF of 1.817 kV (day)/1.285 kV (night), which is equivalent to a transmission power of 10 kW day/5 kW night (Directional).

The ABA proposes that the existing FM commercial radio services (3TT, 3FOX, 3KKZ and 3MMM) continue to operate as follows:

- 3TTT to operate on 101.1 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).
- 3FOX to operate on 101.9 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).
- 3KKZ to operate on 104.3 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).
- 3MMM to operate on 105.1 MHz from Mt Dandenong with a maximum ERP of 56 kW (Directional).

**The ABA proposes to re-define the licence areas of the existing Melbourne commercial AM and FM services using 1996 Census boundaries. The ABA is seeking comments on the suitability of extending the licence area of the 8SAT remote commercial radio service to include Warburton and the appropriateness of creating an overlap with the existing Melbourne commercial radio services.**

## **FINDINGS OF FACT AND REASONS**

The ABA accepts the fact that most of the commercial AM radio services are currently experiencing reception problems within Melbourne. The ABA believes that the reception problems may be resolved if the operating powers are increased. The ABA also believes the proposals outlined in this preliminary view are likely to promote object 3 (a) of the Act<sup>7</sup>, 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 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 planning criteria under s.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 3UZ, the licensees of the existing commercial AM radio services (3EE, 3AW, 3MP and 3AK) are interested in increasing their maximum transmission power.

## **Submissions Received**

The following submissions were received from Southern Cross Broadcasting (Australia) Limited (3EE and 3AW), Malbend Pty Ltd (3MP) and Fusion Media Pty Ltd (3AK), requesting variations to the technical specifications of their services. Submissions were also received from community radio stations Musical Broadcasting Society of Victoria (3MBS), Multicultural Melbourne Radio (3ZZZ) and 3UZ Pty Ltd (3UZ), which made comments on technical specifications of existing commercial radio services.

- In its submission dated 6 July 1998, 3EE and 3AW expressed interest in AM/FM conversion. The submission also stated that 3AW and 3EE could not provide their services throughout their allocated licence area due to the attenuation of their high frequency signal. It further stated that the crucial features affecting AM services in Melbourne in recent years were the enormous increase in background electrical

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<sup>7</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

noise. Accordingly, 3EE and 3AW sought a power increase for the services to 25 kW (day and night).

- In its submission dated 23 June 1998, 3MP addressed its reception and/or interference problems and also requested an increase in power and coverage which would enable 3MP to overcome the shortcomings in its licence area.
- In its submission dated 11 August 1997, 3AK registered its concern at the difficulty being experienced in adequately servicing its licence area, citing the frequency of 1503 kHz and night-time co-channel interference from 2BS Bathurst as impediments to good coverage. Three options were proposed: increase the transmission power from 5 kW to 10 kW; move to a better frequency; or exchange the AM frequency for one of the proposed FM frequencies.
- In its submission dated 26 May 1998, 3UZ expressed concerns that there would be a proposal from some commercial AM services in Melbourne to be allowed a power increase; and if 3AW were to be granted a power increase, it would cause interference to 3MP and affect a large number of their listeners.
- In its submission dated 15 June 1998, 3MBS stated that the power level 35 kW  $\pm 2$  dB of existing commercial FM radio services did not appear justified and that this power level had not resolved the reception difficulties at Hawthorn and the South Yarra areas. 3MBS claimed that multipath reception in built up areas, especially in the CBD, was exacerbated by increased ERP. 3MBS suggested that existing and proposed commercial FM radio services be specified as no greater than 35 kW. 3MBS also stated that it had suffered from third order intermodulation interference since commercial FM operators increased power from 10 kW to 35 kW ERP in February 1992.
- In its submission dated 11 June 1998, 3ZZZ questioned the need for existing commercial radio services to increase the power level to 35 kW  $\pm 2$  dB to serve their licence areas which were the same as that of 3ZZZ because 3ZZZ believes it adequately serves the licence area with 10 kW ERP. 3ZZZ submitted that the maximum ERP for all existing and proposed services be specified as 35 kW directional.

To date, the ABA has not received any submissions from the existing commercial FM radio licensees to change their technical specifications.

### **Power Requirements**

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

*Finding 2.2.* The existing commercial AM radio services operate at a maximum CMF ranging from 780 V to 1.7 kV which is equivalent to a transmission 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 commercial AM radio frequencies indicated in finding 2.2 have been licensed under the *Broadcasting 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](http://www.aba.gov.au)) and more detailed information in the ABA stations database.

### **Discussion**

The ABA is required to have regard to technical restraints relating to the delivery or reception of broadcasting services (s.23 (e)).

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

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

To this end, broadcasting interference assessments at 10 kW, 15 kW and 25 kW were conducted. Discussion of the results of these assessments can be found in the Technical Restraints at Appendix 1. Based on these results, the ABA concludes that power increases to the commercial AM radio services of 3EE, 3UZ, 3AW, 3MP and 3AK are a viable solution to the reception difficulties.

Given the night-time potential interference to other AM services as outlined in the Technical Restraints at Appendix 1, the ABA proposes an 18-month day/night switching trial after the finalisation of the licence area plan to determine suitability of the solution.

The ABA notes 3UZ did not request a power increase. However, as the ABA is proposing day/night switching for the other four commercial AM services and the SBS AM service, it is also offering this option to 3UZ. The licensee of 3UZ may reject this proposal for their service, in which case the ABA will propose no changes be made to the technical specifications of the 3UZ service.

The ABA notes 3AK's option of AM/FM conversion but it does not propose to consider this option. It is the intention of the *Broadcasting Services Act 1992* that additional commercial radio (and television) broadcasting licences will be allocated via a price-based allocation system, except in the special case of commercial radio service licences allocated under s.39 of the Act. The ABA will not consider converting existing commercial AM radio services to the FM band outside this price-based allocation system, particularly in a situation where there may be competing claims on the frequency or other commercial services might be disadvantaged. 3AK may, however, bid for an FM frequency during the price-based allocation process.

With regard to the option of changing frequency, there are three AM frequencies (1116 kHz, 1422 kHz, and 1593 kHz) which are proposed to be made available for open narrowcasting services in the Melbourne area (Preliminary View 8).

These frequencies are currently used for high power open narrowcasting services.

**The ABA seeks 3AK's detailed engineering assessment of the AM frequencies if it wishes to change to one of these frequencies.**

In response to the submission from 3MBS, the ABA is aware of their request that all existing and proposed commercial FM services operate at a power of 35 kW. However, the ABA is also aware that the existing FM commercial radio services and one FM community radio service currently operate at a power of 56 kW. This increase in power was granted to these services, prior to the commencement of the ABA, to improve coverage of these services over an expanding Melbourne population. To reduce the power of these services to match the three remaining wide coverage community radio services to improve current multipath interference problems these services experience appears to be against the objects of the Act, particularly that at s. 3 (a) and the economic and efficient use of the spectrum. Consequently, the ABA considers the possibility of power increases for the three remaining wide coverage FM community radio services the only feasible solution to current reception problems. This proposal is discussed further in Preliminary View 4.

### **Licence Areas**

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

The service areas of the existing commercial radio services were determined by the then Minister for Transport and Communications during 1987. These service areas are now taken to be licence areas under s8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

In determining the service areas, the Minister took into account the 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 2.4.* The licence areas of the existing commercial AM and FM radio services in Melbourne are appropriate.

In general, the ABA assumes<sup>8</sup> that the licence areas of the 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 vary them where boundaries are based on outdated Census descriptions. No licensee has asked for a variation of its existing licence area. The ABA proposes to re-define the licence areas using the 1996 Census descriptions, but otherwise proposes no changes to the licence areas.

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<sup>8</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

### **Remote Commercial Radio Service in the Central Zone**

The ABA received the following submissions which suggest that Warburton is not adequately served by the existing Melbourne commercial radio services.

- In its submissions dated 15 June 1998 and 1 February 1998, an existing remote commercial licensee in the Central Zone, Central Zone FM Services Pty Ltd, (8SAT) requested an extension of its licence area to cover the town of Warburton which is outside its licence area and in the Melbourne commercial radio licence area. 8SAT stated that the 8SAT licence area surrounded the town of Warburton on three sides and surrounds the town of East Warburton on four sides. 8SAT considered that it would be impossible for a Melbourne commercial radio translator to serve Warburton and East Warburton without overspill to the 8SAT licence area. 8SAT further submitted that “a great many years have passed without the provision of an adequate commercial radio service in Warburton from any Melbourne radio station”. 8SAT proposed to use frequency 106.3 MHz to serve Warburton from Mt Victoria.
- In its submission dated 2 July 1998, the Shire of Yarra Ranges stated that it supports “the application by 8SAT for a re-transmission service located at Mount Victoria, Warburton.” The Shire further stated “As well as the variety of programming our residents would expect, and which this station would assist in providing, we are concerned that there is poor or no coverage in the Warburton area and on the Black Spur road leading from Healesville to Narbethong. Both these areas are prone to bushfire, and radio reception is important to the safety of visitors using these tourist areas, as well as local residents and those of neighbouring municipalities.”

The ABA is considering extending the licence area of 8SAT to include Warburton and is seeking comments on the appropriateness of this extension and the creation of an overlap with the Melbourne commercial radio services.

### **EVIDENCE OR OTHER MATERIAL ON WHICH THE FINDINGS ARE BASED**

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

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

### **SUMMARY OF FINDINGS**

- With the exception of 3UZ, the licensees of the existing commercial AM radio services (3EE, 3AW, 3MP and 3AK) are interested in increasing their maximum

transmission power.

- The existing commercial AM radio services operate at a maximum CMF ranging from 780 V to 1.7 kV which is equivalent to a transmission power of 5 kW.
- An increase in daytime power for the existing commercial AM services is likely to help improve the current reception problems.
- The licence areas of the existing commercial AM and FM radio services in Melbourne 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 may be improved by increasing the daytime maximum transmission power.

The ABA proposes a 18-month trial involving neighbouring and international broadcasters, to determine whether day/night switching is an acceptable solution. Day/Night switching will make the existing commercial AM radio services more accessible to listeners in Melbourne 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 specifications of the existing Melbourne commercial FM radio services. The ABA proposes these services continue operating under their existing technical specifications.

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

The ABA is considering extending the licence area of 8SAT to include Warburton and is seeking comments on the appropriateness of this extension, the creation of an overlap with the Melbourne commercial radio licensees or the excision of Warburton from the licence areas of the Melbourne commercial radio services.



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## **PRELIMINARY VIEW 3 – ADDITIONAL WIDE COVERAGE COMMERCIAL RADIO – MELBOURNE**

**The ABA proposes to make two additional high power commercial radio services available in Melbourne. The services are proposed to operate on 100.3 MHz and 91.5 MHz and from Mt Dandenong, each with a maximum ERP of 56 kW.**

**The ABA proposes to allocate the second additional commercial radio service (91.5 MHz) 4 years after the date of publication of the Gazette notice that the Melbourne LAP has been determined.**

**Allocation of 100.3 MHz is dependent on 3YYR Geelong making the transition from its existing frequency to a proposed new frequency. This transition is proposed to occur within 12 months of publication of the Gazette notice that the Melbourne LAP has been determined.**

**The channel for the proposed second licence (91.5 MHz) has the potential to cause interference to the television reception of ABNT3 in north-east Tasmania. The maximum ERP of the second licence will be restricted to 22 kW on a bearing of 170° unless test transmissions as part of the start-up procedures outlined in the Technical Planning Guidelines indicate that this restriction is not required.**

**The licence areas of the additional services are proposed to be identical to that of the existing commercial radio services, using 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)<sup>9</sup>, (b)<sup>10</sup> and (c)<sup>11</sup>, including the economic and efficient use of spectrum. This may also promote the objects at paragraphs 3 (f)<sup>12</sup> and (g)<sup>13</sup>. 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 Melbourne commercial radio market, the likely impact of other preliminary views in the Discussion Paper, and other relevant matters under s.23 (a) - (g). An account of this process of consideration follows.

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<sup>9</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>10</sup> 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.

<sup>11</sup> To encourage diversity in control of the more influential broadcasting services.

<sup>12</sup> To promote the provision of high quality and innovative programming by providers of broadcasting services.

<sup>13</sup> 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 forming its preliminary view on whether or not additional commercial radio broadcasting services should be made available in Melbourne, the ABA considered the following relevant issues:

- the demand for, and interest in the provision of, new services (s.23 (c) and (g));
- the channel capacity in the Melbourne 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 Melbourne 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 Melbourne, the ABA first had regard to any expressed interest in providing new commercial radio services in the Melbourne market. The ABA found:

*Finding 3.1.* There is interest in the acquisition of further commercial radio licences in Melbourne.

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

<b>Submitter</b>	<b>Date of Submission</b>	<b>Proposal</b>
Crisp and Son Pty Ltd	8 June 1998	Suggests that the two AM frequencies of 1116 kHz and 1422 kHz be made available for commercial radio instead of open narrowcasting.
Lynton Properties	3 Feb 1997 and 3 June 1998	Requests that high power AM channels, 1116 kHz, 1422 kHz and 1593 kHz be made available for commercial radio in Melbourne and that Lynton Properties is interested in providing two commercial services, one on AM and one on FM.
Mallesons Stephens Jacques obo DMG Radio	15 June 1998	DMG intends to bid for two new commercial FM licences if made available at the forthcoming auction for Melbourne.
Martin Broadcasting Services Pty Ltd	6 May 1998	This company has two overseas investors interested in investing in metropolitan commercial FM radio markets.

Submitter	Date of Submission	Proposal
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).
Richard Micallef	6 January 1998	Wishes to provide a service which promotes Australian music.
The Australian Fax Company <sup>14</sup>	10 Nov 1997	Wishes to install and operate a commercial radio station in Werribee where the population is almost 100,000.

**Table 1: Expressed demand to establish additional commercial radio services in Melbourne.**

Limited spectrum supply is a major consideration in the Melbourne market as there are a large number 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 Melbourne, 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 and demographic and industry growth within the Melbourne 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 Melbourne market. Some of these factors are discussed here and others are discussed later in this document.

One relevant consideration in assessing interest in provision of additional commercial radio services in a market is that of recent costs of commercial radio licences allocated in regional areas. The following table lists those markets and costs.

Market	Cost	Market	Cost
Albury	\$2 325 000	Townsville	\$500 000
Dubbo	\$1 600 000	Orange	\$1 500 000
Ballarat	\$800 000	Bendigo	\$1 220 000
Shepparton	\$1 250 000	Rockhampton/Gladstone	\$525 000
Cairns	\$550 000	Rockhampton/Gladstone	\$575 000
Cairns	\$500 000	Maryborough	\$700 000
Mackay	\$400 000	Coffs Harbour	\$100 000
Mackay	\$325 000	Kempsey	\$200 000

<sup>14</sup> Efforts to trace and contact this company to confirm its interest have been unsuccessful.

Market	Cost	Market	Cost
Bundaberg	\$600 000	Toowoomba/ Warwick	\$800 000
Townsville	\$500 000		

**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 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 Melbourne market.

Three existing commercial operators in Melbourne, Austereo (licensee of 3FOX & 3MMM), Australian Radio Network (ARN) (licensee of 3KKZ and 3TTT) and Southern Cross Broadcasting (Australia) Limited (Southern Cross) (licensee of 3EE and 3AW) are opposed to additional commercial radio licences being made available in Melbourne or in metropolitan licence areas generally. Their comments in relation to the economic impact of making additional commercial radio services available in Melbourne or in major licence areas are discussed under findings 3.15 and 3.16. The remainder of the arguments from Austereo, ARN and Southern Cross as to why additional commercial radio licences should not be offered in Melbourne or in major licence areas are discussed below.

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).

Firstly 3 (b) states:

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.

In this regard 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 discussed later in the reasoning under the heading *The diversity and number of existing and competing channel requirements*.

In relation to object 3 (g) which states:

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'.

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.

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.

Southern Cross in its submission received on 7 July 1998 details the differences in success both economically and in popularity between AM and FM services. The difference between success and failure in the AM sector appears to depend upon the extent to which Australia's talkback talent can be harnessed by the stations. Southern Cross states:

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

Southern Cross 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.

Southern Cross proposes that a new limited licence allocation process be introduced which would facilitate AM to FM conversions. In its submission Southern Cross 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.

The ABA's response to the Southern Cross Broadcasting proposal above is that the current legislation does not provide for AM to FM conversion in the manner outlined.

Southern Cross believes that there is no "substantial popular demand" for new commercial radio stations in metropolitan markets. In addition Southern Cross 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 Melbourne 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 in Melbourne.

### **Licence Areas**

In general, the ABA assumes<sup>15</sup> 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 assumes<sup>16</sup> 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. Relevantly the ABA found:

*Finding 3.3.* The licence areas of the existing commercial radio services in Melbourne are the most appropriate for any additional commercial radio services in Melbourne.

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 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*.

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.

### **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.

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<sup>15</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

<sup>16</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

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

*Finding 3.4.* The five existing high powered commercial AM radio services operate at a maximum CMF ranging from 780 V to 1.7 kV (transmitter power of 5 kW).

*Finding 3.5.* The four existing high powered commercial FM radio services operate at a maximum ERP of 56 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 (FM)/Transmitter Power (AM)
Melbourne	1116 kHz	5 kW
Melbourne	1422 kHz	5 kW
Melbourne	1593 kHz	5 kW
Melbourne	89.9 MHz	56 kW
Melbourne	90.7 MHz	56 kW
Melbourne	91.5 MHz	56 kW
Melbourne	100.3 MHz <sup>17</sup>	56 kW

**Table 3: High Power Frequencies available in Melbourne**

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

*Finding 3.6.* The three available high powered (5 kW) frequencies on the AM band would provide comparable coverage to the existing commercial AM services in Melbourne and are therefore suitable for commercial use.

*Finding 3.7.* One of the four available high powered frequencies (100.3 MHz) on the FM band would provide comparable coverage to the existing commercial FM services in Melbourne and is therefore suitable for commercial use. The other three frequencies may not provide comparable coverage as restrictions need to be placed on the radiation towards north-east Tasmania to avoid interference to reception of the ABNT 3 television service.

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 Melbourne (s.23 (c) and (e)).

<sup>17</sup> The frequency 100.3 MHz is currently being used by community radio service 3YYR Geelong and cannot be used in Melbourne unless 3YYR moves to an alternate frequency.

## **Discussion**

Three AM frequencies (1116 kHz, 1422 kHz and 1593 kHz) are currently being used for open narrowcasting purposes until the end of December 1999. These frequencies were previously used for commercial radio services prior to the licensees of the services converting to operation on the FM band. The ABA proposes at Preliminary View 8 that these three AM channels continue to be made available for open narrowcasting purposes.

With regard to the available FM frequencies, the ABA considered the transmission site locations and radiation pattern that would be required to provide an adequate coverage to the existing Melbourne commercial radio licence area. The ABA considered that equivalent coverage would be desirable to compete effectively with the existing services in the market, or in the event an additional service was co-owned with an existing service, to complement it throughout its existing coverage area.

The ABA considered the likely potential coverage area using the available FM frequencies. It concluded that one high powered service (100.3 MHz) would provide equivalent coverage to the existing commercial FM radio broadcasting services, if the Mt Dandenong site is used, based on field strength predictions interpreted by ABA staff.

The frequency of 100.3 MHz is currently in use in Geelong by community radio station 3YYR. The licensee of 3YYR has requested that it be permitted to operate at a high power level and acknowledges that to do so requires a change in frequency. The ABA is consequently proposing an alternative channel for 3YYR (94.7 MHz). This matter is detailed in Preliminary View 10. The change in frequency for 3YYR would allow 100.3 MHz to be made available in Melbourne for a wide coverage service. However, as discussed in Preliminary View 10, it is unclear to the ABA whether 3YYR could provide a high power service in Geelong. Therefore to ensure that 100.3 MHz is available for use in Melbourne, the ABA has identified an alternative lower power channel for 3YYR if it confirms that it is unable to provide a high power service. If 3YYR is required to move to the lower power channel to make 100.3 MHz available for use in Melbourne, the ABA intends to place a condition on the licence for the proposed 100.3 MHz Melbourne commercial radio service, requiring the successful bidder to pay reasonable costs incurred by 3YYR in changing frequency in order to maximise spectrum efficiency.

The other three frequencies (91.5 MHz, 90.7 MHz and 89.9 MHz) require differing restrictions on the power radiated towards north-east Tasmania to avoid interference to the ABNT 3 television service. Of the other three frequencies, 91.5 MHz requires less restriction in this regard. Refer to the Technical Restraints at Appendix 1 for further details.

The matter of clearance of the ABNT3 television service will be considered when the ABA undertakes its television planning for Tasmania as part of its group 5 planning priorities.

This means that of the available high powered FM frequencies for Melbourne, 100.3 MHz has suitable characteristics for commercial radio service use, providing optimal coverage of the Melbourne commercial radio licence area comparable to that

of the existing FM commercial radio services. Depending on the results of test transmissions, 91.5 MHz may also be able to provide coverage comparable to 100.3 MHz and the existing FM commercial radio services.

### **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 3.8.* If additional commercial radio services were made available in Melbourne 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'.

### **Submissions Received**

One submission specifically addressed this matter. In a submission dated 15 June 1998, Mallesons Stephens Jacques on behalf of DMG Radio Australia, submitted its interest in providing two new commercial radio licences on the FM band in Melbourne:

The technical specification of the new commercial licences on the FM band, in each of the capital cities, should be the same as the technical specifications of the existing commercial licences on the FM band, in the same cities.

Only one submitter interested in providing a commercial radio service to the Melbourne area requested a different licence area to that of the existing commercial services in Melbourne. However, attempts to trace and contact this submitter (The Australian Fax Company) to confirm its interest dated 10 November 1997 in providing a service to the Werribee area have been unsuccessful.

Submissions from other potential commercial operators interested in providing a new service to the Melbourne area provided no indication of intention to provide other than coverage comparable to existing services.

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

In reaching a preliminary view on whether or not to make additional commercial radio services available in Melbourne, the ABA had regard to a further finding relevant to the medium to longer term outlook for additional commercial radio services in Melbourne. In having regard to s.23 (f) of the Act (the demand for radiofrequency spectrum for services other than broadcasting services) the ABA found that:

*Finding 3.9.* 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 new technologies may have on analog broadcasting in the metropolitan markets. These submissions are detailed below with comments from existing metropolitan broadcasters appearing first followed by comments from aspirant commercial radio groups.

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 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 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 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 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 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.

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.

In a submission dated 18 September 1998, Mallesons Stephens Jacques (MSJ) on behalf of DMG Radio Australia points out, in response to Austereo's submission<sup>18</sup> 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. MSJ 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. MSJ 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.

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<sup>18</sup> Submission from Austereo received on 8 July 1998.

With regard to the impact digital radio will have on existing analog services, the ABA 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. One of the ABA's functions under the Act is 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 country<sup>19</sup>.

In response to the comments made by Southern Cross that LAPs should not be determined until digital radio policies are announced, the ABA believes that there is currently public interest in receiving a diversity of services, in a competitive industry and interest in innovation. To not determine LAPs while waiting for digital radio policies to be announced would be against the objects of the Act.

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

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

Relevantly, the ABA found that:

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<sup>19</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

*Finding 3.10* Melbourne is a multi-station radio market being second only to Sydney which has the largest number of radio services of any market.

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 Melbourne, using the broadcasting services bands.<sup>20</sup>

Coverage Area	Category of Service	
	Radio Services	Television Services
Melbourne	<ul style="list-style-type: none"> <li>- 3 AM ABC (3RN, 3LO, 3PB)</li> <li>- 2 FM ABC (3ABCFM, 3JJJ)</li> <li>- 1 AM SBS (3EA)</li> <li>- 1 FM SBS (3SBSFM)</li> <li>- 5 AM commercial (3EE, 3UZ, 3AW, 3MP, 3AK)</li> <li>- 4 FM commercial (3TTT, 3FOX, 3KKZ, 3MMM)</li> <li>- 2 AM community (3CR, 3RPH)</li> <li>- 4 FM community (3ZZZ, 3RRR, 3MBS, 3PBS)</li> <li>- 3 AM open narrowcasting (temp)</li> </ul>	<ul style="list-style-type: none"> <li>- 1 ABC</li> <li>- 1 SBS</li> <li>- 3 commercial (PRIME, NINE, TEN)</li> </ul>
Melbourne Eastern Suburbs	- 1 FM community (3ECB)	
Melbourne North East Suburbs	- 1 FM community (3INR)	
Melbourne North West Suburbs	-1 FM community (3NOW)	
Melbourne South East Suburbs	- 1 FM community (3SER)	
Melbourne Southern Suburbs	- 1 FM community (3SCB)	
Melbourne West	- 1 FM community (3WRB)	
Melton	- 1 FM community (3RIM)	
Mornington	- 1 FM community (3RPP)	
Mountain Districts	- 1 FM community (3MDR)	
Plenty Valley	- 1 FM community (3PVR)	
Yarra Valley	- 1 FM community (3VYV)	

**Table 4: Existing Broadcasting Services in Melbourne**

The ABA assumes the demand for additional broadcasting services can be inferred from demographic, social or economic indicators with 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.<sup>21</sup>

*Finding 3.11* The Melbourne market is the second largest demographically of the commercial radio broadcasting markets in Australia.

<sup>20</sup> Source: ABA, *Radio and Television Broadcasting Stations, 1999*, RADCOM database and Register of *High Power AM & TV Open Narrowcasting Service Licensees*.

<sup>21</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

*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.

In making these findings, the ABA had regard to its s.30 Determination of population figures (as at the 1996 Census) as determined on 23 September 1999.

### **ABS Census Data**

The ABA had regard to Australian Bureau of Statistics (ABS) Census data in relation to Melbourne, 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 Melbourne commercial licence area at Census 1996 was 3,163,812.
- The intercensal population growth between the 1991 Census and 1996 Census for Melbourne was 4.1% which was less than that of Sydney<sup>22</sup> at 5.1%, but neither city increased in population as much as Australia as a whole at 6.2%.
- The estimated population growth<sup>23</sup>, 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 Melbourne were slightly above the Australian average and much lower than for Sydney. See Appendix 4 for further detail.

### **Submissions Received**

Austereo in its submission received on 8 July 1998 stated:

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.

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<sup>22</sup> Sydney is the largest commercial radio licence area in Australia with a population of 3,373,512 at the 1996 Census and Melbourne the second largest with a population of 3,163,812.

<sup>23</sup> See Appendix 4 for an explanation of how estimated resident population is derived.

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.

Austereo also states in its submission that there is an imperative upon the ABA to conduct appropriate economic modelling in order to be properly informed to fulfil its responsibilities in assessing which new services might promote the objects of the *Broadcasting Services Act 1992*.

Included as an attachment with the Austereo submission was a population and radio audience profile, along with an analysis about broadcast advertising revenue and commercial broadcasting profits for Melbourne. In relation to the Melbourne market and demographic feature, Austereo provided the following overall comments:

Melbourne has as many commercial radio stations as Sydney despite having 15% less population and one-third less advertising revenues. Having a smaller critical mass of potential listeners and advertising revenues per station, radio in Melbourne captures a smaller share of combined radio and television advertising revenues relative to Sydney.

While overall broadcast profit margins in Melbourne have been reasonable in recent years, 44% of all commercial radio stations have operated at a loss during three of the last four years.

Southern Cross in its submission dated 7 July 1998 put the view that the state of economic affairs in the Australian commercial radio industry is such that the grant of additional licences is not justified in economic terms and will only damage a struggling industry. The submission suggested that other factors like the pressures on the commercial AM radio industry because of its parlous economic state, the advent of DRB, the Internet and online services, and facilitation of further AM to FM conversions should also be taken into consideration.

La Trobe Union Radio Incorporated, an aspirant community radio group, provided a submission dated 29 June 1998 which included a comment that Melbourne cannot support any more commercial radio stations and that the commercial radio market is already saturated by commercial radio stations.

Kiss 90 FM, also an aspirant community radio group, lodged a submission dated 15 June 1998 which opened with a comment that it is their belief that the Melbourne radio market is saturated with commercial stations. Kiss 90 FM also commented that while it is admitted that there are commercial interests eager to expand their reach into the Melbourne market, it must also be noted that there are only a limited number of corporate funds available in this market.

ARN 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 that even if only one new FM licence is made available, 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 eliminate the total profits of the industry in Melbourne.

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.<sup>24</sup>

Contrasting views to those put forward by Austereo, Southern Cross, La Trobe Union Radio Incorporated, Kiss 90 FM and ARN were provided by DMG Radio Australia Partnership (DMG) in submissions dated 15 June 1998, 12 August 1998 and 18 September 1998.

In its submission of 18 September 1998, DMG addresses some of the views and conclusions reached by Austereo in its submission received on 8 July 1998 and included a sample of recent published figures 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

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<sup>24</sup> Submission from Australian Radio Network Pty Ltd dated 29 June 1998.

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 exceptional 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.

### 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 shown is the population of each licence area market.

Capital City	1996-97 (\$M)	1997-98 (\$M)	Annual % Growth (Decline)
<b>Sydney</b> (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
<b>Melbourne</b> (9 licensees)			
Licence Area Population (1996 Census) 3,163,812			
Revenue	100.2	112.5	12.3
Expenditure	85.3	91.8	7.6
Profit (Loss)	14.9	20.8	39.6
<b>Brisbane</b> (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
<b>Adelaide</b> (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
<b>Perth</b> (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
<b>Hobart and Darwin</b> (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

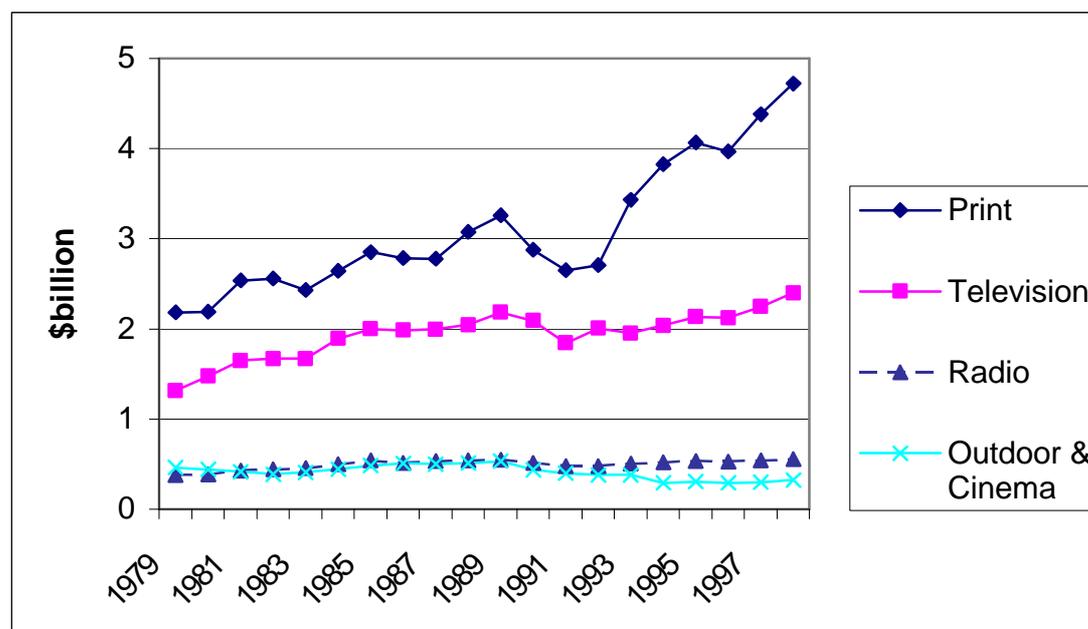
**Table 6: Radio Revenue, Expenditure and Profit figures for the Capital Cities and population for each Licence Area.**

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 the profit between 1996-97 and 1997-98 increased in Sydney by 31.7%, in Melbourne by 39.6%, in Brisbane by 147.9%, in Adelaide by 8.5%, in Perth by 8.5% and for Hobart/Darwin by 80%.

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

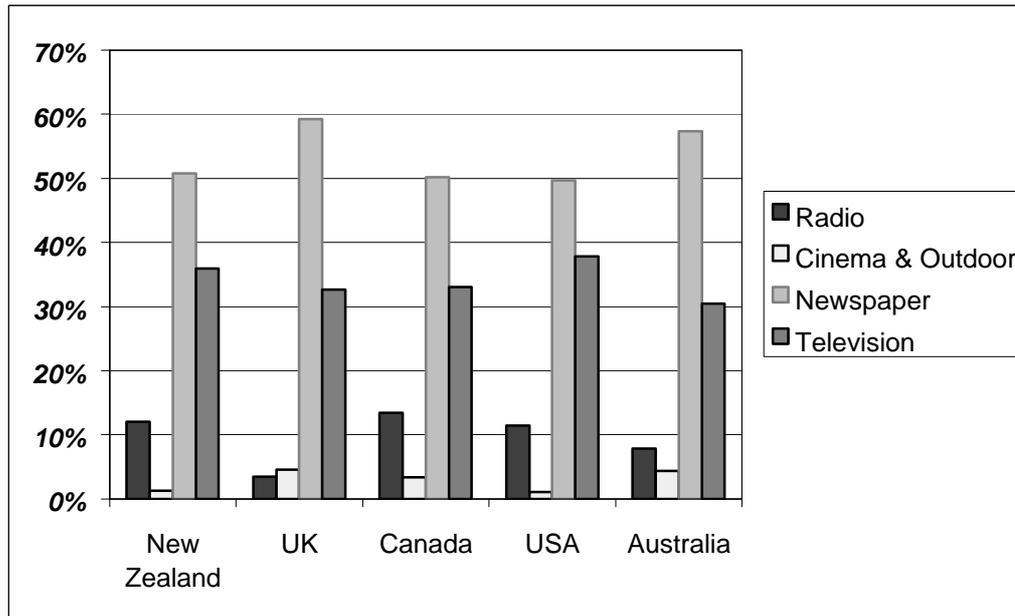
**Chart 1: Real Advertising Expenditure in Australian Main Media for 1979 to 1998 in constant 1998 dollars**



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.

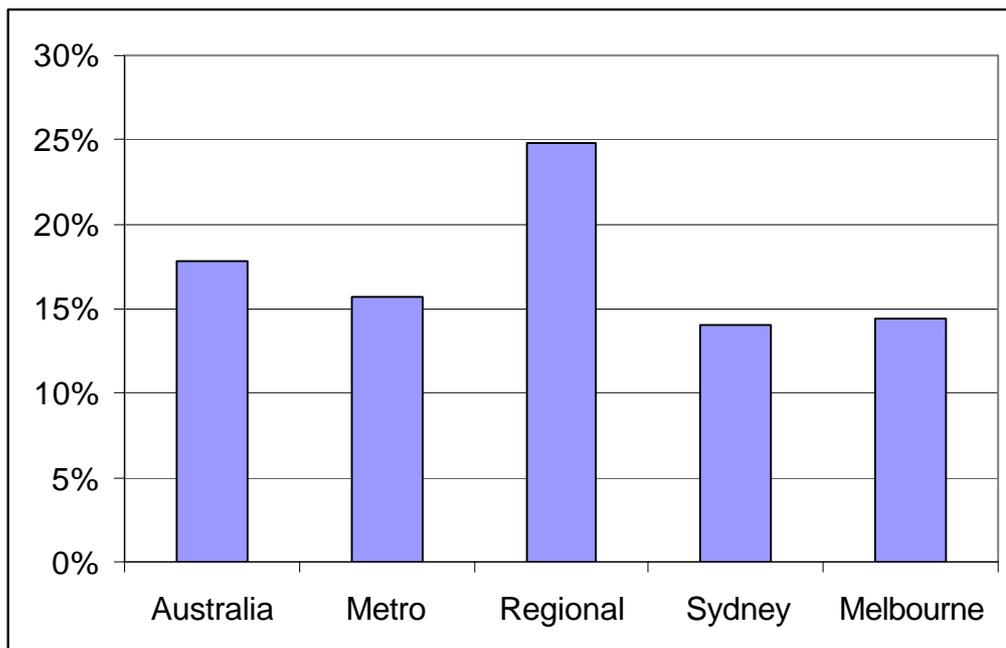
**Chart 2: International Advertising Expenditure by Main Media in 1997**



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

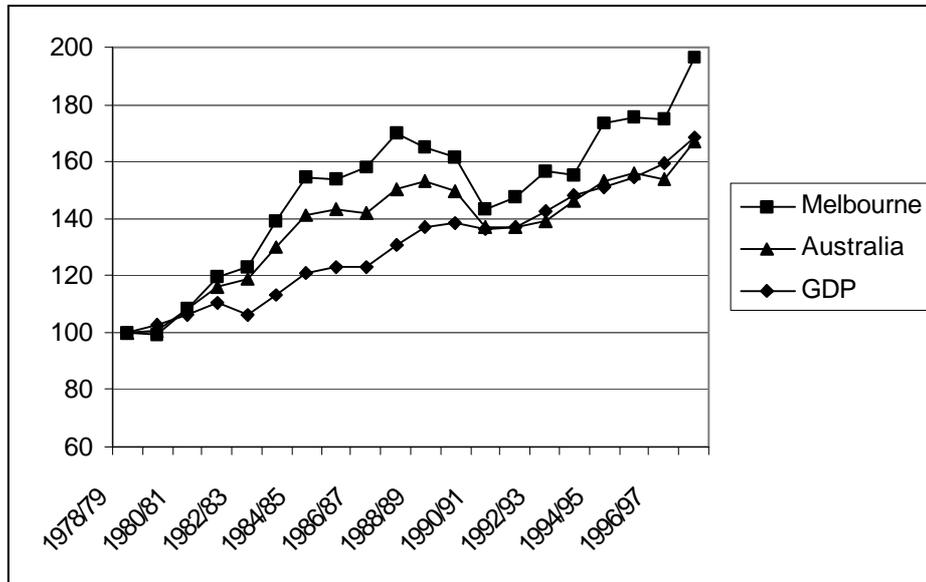
The relatively low share of radio advertising expenditure in the United Kingdom is associated with the dominance of public radio broadcasters. In 1997 direct mail advertising expenditure, which was excluded from this analysis, accounted for approximately 20 per cent of the total United States advertising 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**



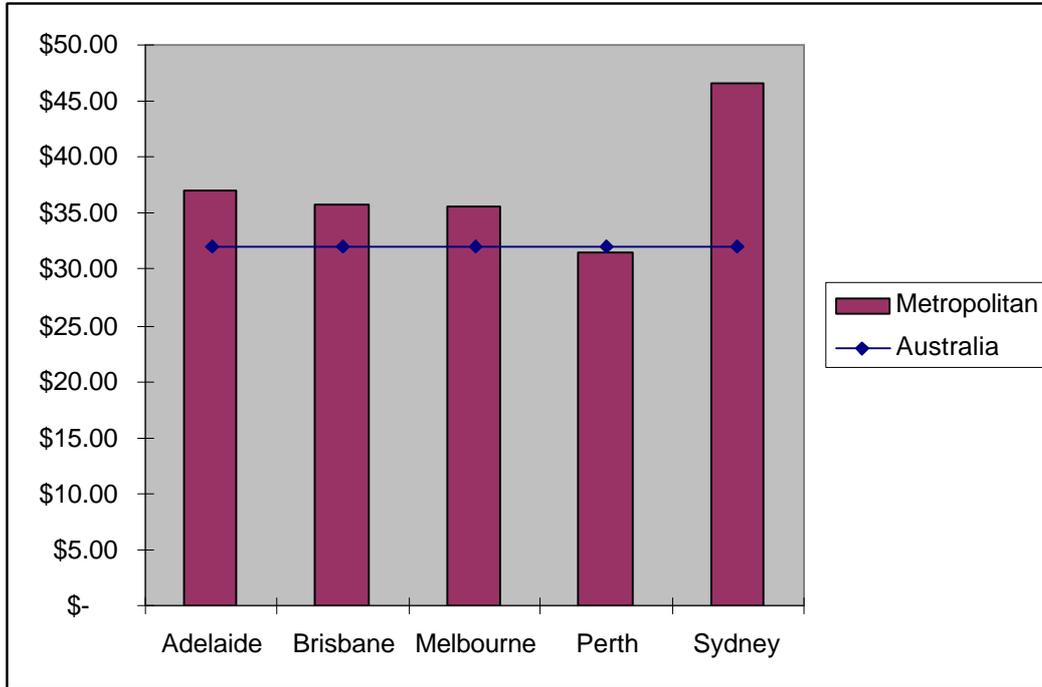
This comparison suggests that television advertising commands a larger share of the combined market in metropolitan markets than in regional markets, and that the radio share is lower in Sydney and Melbourne than elsewhere in Australia.

**Chart 4: Real Australian and Melbourne Radio Advertising Revenue and Real GDP for 1978/79 to 1997/98 in constant 1997/98 dollars – base=100**

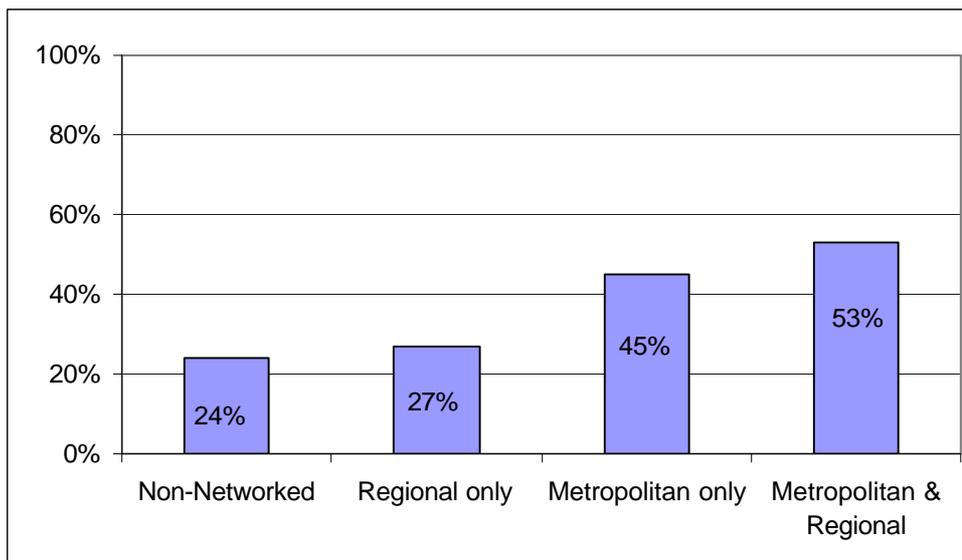


In 1997/98, Melbourne’s radio market accounted for nearly twenty percent of Australian advertising revenue. The real growth in radio advertising revenue tends to match, or slightly exceed, the real growth in Australian gross domestic product. Real advertising growth in the Melbourne radio market has increased at a greater rate when compared to the Australian radio market over the last two decades.

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



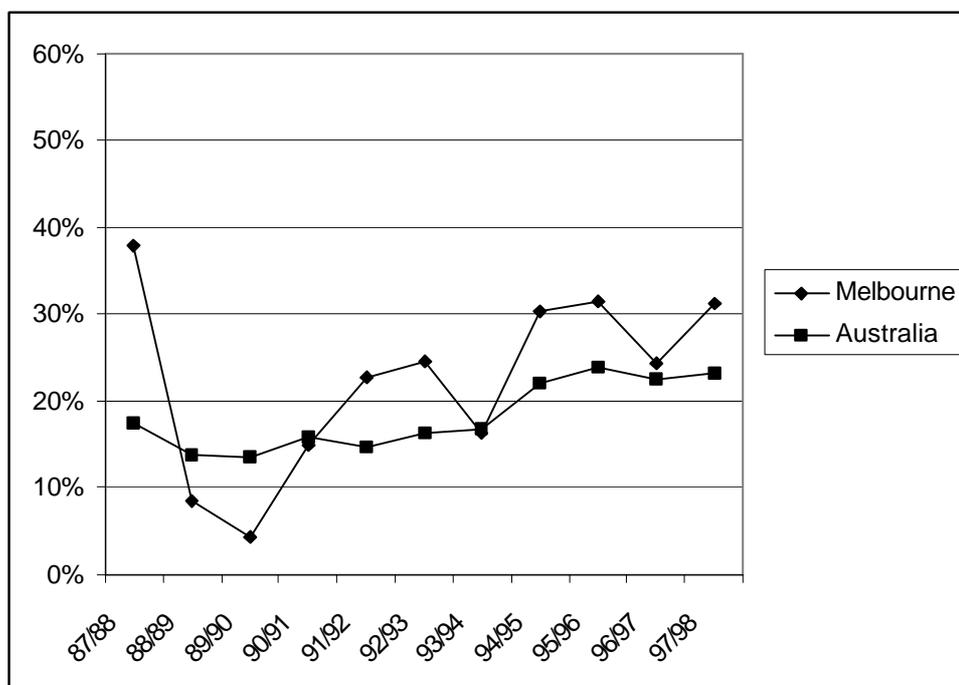
**Chart 6: National Advertising Share of Total Paid Advertising Revenue<sup>25</sup> by Network Ownership in 1997/98**



<sup>25</sup> 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 Melbourne 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.

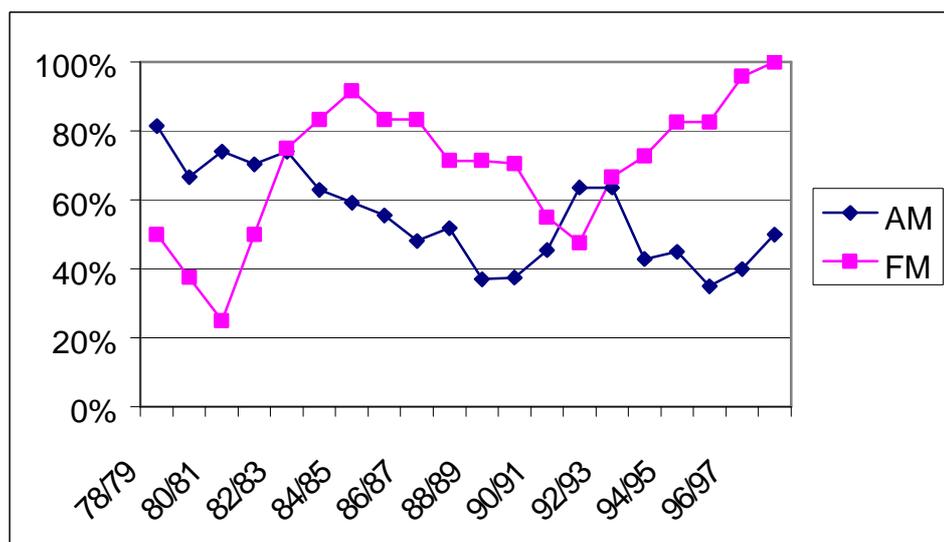
The Industries Commission and the Bureau of Transport and Communications Economics concluded that intangible assets should be excluded from the asset base as the broadcasting licence value represents a capitalisation of expected economic rents.

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 periods<sup>26</sup> a higher proportion of Metropolitan FM stations have been profitable than compared to Metropolitan AM stations. The deterioration in profitability in these two periods demonstrates the short term impact of significant changes to licensing arrangements.

The ABA took into account the most recent AC Nielsen Australia Melbourne Radio Survey #8 1999: Sept 19 – Nov 27, 1999 (*Share of Listening, Monday - Friday 5.30 am – 12 midnight*) which indicates how Melbourne radio services audience share is broken up:

Station	% Share	Station	% Share	Station	% Share
3AW	14.9	GOLD	6.0	ABCFM	2.0
FOXFM	14.4	MAGIC	5.7	3RN	1.8
3MMM	10.7	3JJJ	5.6	NEWS'R	1.3
3LO	10.6	3MP	3.5	O/AM	3.1
TTFM	9.7	SPORT	3.1	O/FM	7.5

**Table 7: Audience Share**

## Discussion

The ABS and other data demonstrate that Melbourne is the second largest single market after Sydney. For Melbourne commercial FM radio stations, each 1% of audience share represents an audience of approximately 7,900 people, compared with a national average of approximately 1,500 people.

<sup>26</sup> The exception periods are associated with the start up 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.

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

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

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 National 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 s.3 (a) of the Act 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 Melbourne market.<sup>27</sup>

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, the frequency that was to be made available for commercial or community radio broadcasting 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 a licence to use that spectrum.

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

*Finding 3.13* 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.

*Finding 3.14* Making available frequencies for both commercial and community radio services contributes to diversity in the market.

Section 3 (a) of the Act 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 number of the submissions received that addressed whether or not new commercial radio services should be made available in Melbourne 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 programming as the services already operating in the Melbourne 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 that include comments about diversity are detailed below. Those submissions that 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 Melbourne.

### **Submissions Received**

In a submission from Mallesons Stephens Jacques dated 15 June 1998 comments were made in relation to diversity of programming. MSJ 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 MSJ states:

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<sup>27</sup> 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.

...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 MSJ 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, MSJ comments on the submission made by Austereo received on 8 July 1998. In response to the Austereo submission, MSJ's views about what is the most appropriate mix of services (commercial, community and open narrowcasting) to be available in Melbourne 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 Melbourne 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 majority.

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.

DMG in a submission dated 31 May 1999 commented unfavourably in relation to the concept of fixed formats for commercial radio:

Effective diversity is best achieved by more commercial licences with free formats.

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.

In a submission dated 15 June 1998, Republic Communications Pty Ltd believes that the introduction of new commercial services in Melbourne 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 will 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 licences 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 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 of services and programming.

La Trobe Union Radio Inc, provided a submission dated 29 June 1998 which included a comment that Melbourne cannot support any more commercial radio stations and that the commercial radio market is already saturated by commercial radio stations.

Kiss 90 FM lodged a submission dated 15 June 1998 which opened with a comment that it is their belief that the Melbourne radio market is saturated with commercial stations. Kiss 90 FM then stated:

While it is admitted that there are commercial interests eager to expand their reach into the Melbourne market, it must also be noted that there are only a limited number of corporate funds available in this market. More commercial stations would therefore be vying for the same audience and in doing so programming very similar formats.

Triple Seven Communications Inc, another aspirant community radio group provided a submission dated 11 June 1998 containing a comment about commercial radio diversity in the Melbourne region:

It is the view of the Triple Seven Communications Inc Board that there is a real lack of diversity amongst the existing commercial stations within the Melbourne region. Community groups provide the opportunity for diversity and we believe therefore, ought to receive a minimum of three of the four high powered licences to be issued.

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 states 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 62<sup>nd</sup> Edition (November 1999-March 2000)* about the formats offered by the existing commercial and community radio services in Melbourne. The following table briefly describes the format of each Melbourne commercial and community station appearing in *Margaret Gees*:

<b>Station</b>	<b>Format</b>
3AK	Magazine style
3AW	Information, entertainment, news sport
3MP	Soft adult contemporary

Station	Format
3EE	Unforgettable Songs
3UZ	Racing, Sport, Lifestyle
3FOX	Today's Best Music
3KKZ	Classic Hits
3MMM	Modern Rock with Great Classics
3CR	Political, Specialist Music
3ECB	Community Information
3INR	Easy Listening
3MBS	Classical Music, Jazz
3MDR	Public Access Radio
3NOW	Community access, talk
3PBS	Specialist, under-represented and cutting edge music
3PVR	Interviews, Current Affairs
3RIM	Eclectic
3RPH	Information radio for people unable to read, handle or comprehend the written word
3RPP	Variety, local sport
3RRR	Not stated
3SCB	Local Information, talk
3SER	Community/Ethnic
3TTT	Top 40
3VYV	Easy listening, interviews, community affairs and community information, specialist music
3WRB	Music, community service, entertainment, ethnic and sport
3ZZZ	Ethnic, 56 languages

**Table 8: Existing radio formats in the Melbourne market**

## Discussion

The AC Nielsen Australia Melbourne Radio Survey #8 shows that commercial radio is currently the most popular format in the Melbourne radio market.

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

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

As discussed in the Legislative Framework in relation to the object of the Act at s.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.40<sup>28</sup> 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

<sup>28</sup> 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.

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 the format of 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 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...<sup>29</sup>

Certainly the proliferation of services with similar formats in an area may not promote the object at s.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.

As indicated above, there are nine Melbourne-wide commercial broadcasting services, six Melbourne-wide community broadcasting services, three Melbourne-wide open narrowcasting services (currently made available under s.34 of the Act until 31/12/99), and eleven local coverage community radio services currently operating in Melbourne.

While there is sufficient technical capacity to make four additional commercial FM radio services available in Melbourne at a maximum ERP of 56 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 Melbourne. 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 Melbourne (s.23 (e)).

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

The ABA believes that proposing to make available two additional Melbourne-wide commercial radio services, two additional Melbourne-wide community radio services

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<sup>29</sup> Schedule 2, Part 4, Section 8, Sub-section 2(a) of the Act.

(Preliminary View 5), and three Melbourne-wide open narrowcasting services (Preliminary View 8), is likely to promote the objects of the Act at paragraph 3 (a).

### **Diversity in Control**

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

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 Melbourne market, this will lead to diversity of control of commercial radio broadcasting services in the Melbourne market.

### **Submissions Received**

In a submission from MSJ dated 15 June 1998, comments were included about the lack of diversity in ownership in relation to the existing commercial radio services in Melbourne in so far as there are only two owners and operators of the four commercial radio stations on the FM band in Melbourne. The submission also included the comment that one of these two owner/operators targets younger age groups and the other targets older age groups and, as a result, the existing market is made up of demographic monopolies.

### **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 Austereo currently operates two of the four existing commercial FM licences (3FOX and 3MMM) and ARN operates the other two (3KKZ and 3TTT).

The ABA believes diversity in control of the more influential broadcasting services (section 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 Melbourne 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 (s.3 (g)) in the following way:

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 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 (s.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 behaviour (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. Submissions received from both existing and potential commercial broadcasters in Melbourne 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, s.3 (g) relates to ‘appropriate coverage of matters of local significance’ and s.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’.

### **Submissions Received**

A submission dated 15 June 1998, from MSJ 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, MSJ 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 on 8 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".

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.

## **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 ABA also recognises that some audiences prefer the high quality programming provided by networked services.

### **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 section 3 (f) in the following way:

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 s.3 (b) to be relevant to discussion on high quality and innovative programming. Section 3 (b) states:

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 Melbourne included comments about the impact additional commercial radio services would have on their ability to provide high quality and innovative programming. In contrast, some submissions received from potential commercial operators 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 section 3 (b) of the Act, 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.

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 15 June 1998, MSJ 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 dated 18 September 1998, MSJ 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.

MSJ 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. MSJ further submits that the nature of commercial radio means that increasing (FM commercial radio) competition beyond the existing two owners in Melbourne 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 (section 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 s.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 its 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 in the acquisition of further commercial radio licences in Melbourne.
- There is some opposition to the introduction of additional commercial radio broadcasting services in the Melbourne market.
- The licence areas of the existing commercial radio services in Melbourne are the most appropriate for any additional commercial radio services in Melbourne.
- The five existing high powered commercial AM radio services operate at a maximum CMF ranging from 780 V to 1.7 kV (transmitter power of 5 kW).
- The four existing high powered commercial FM radio services operate at a maximum ERP of 56 kW.
- The three available high powered (5 kW) frequencies on the AM band would provide comparable coverage to the existing commercial AM services in Melbourne and are therefore suitable for commercial use.
- One of the four available high powered frequencies (100.3 MHz) on the FM band would provide comparable coverage to the existing commercial FM services in Melbourne and is therefore suitable for commercial use. The other three frequencies may not provide comparable coverage as restrictions need to be placed on the radiation towards north-east Tasmania to avoid interference to reception of the ABNT 3 television service.
- If additional commercial radio services were made available in Melbourne 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.
- Melbourne is a multi-station radio market being second only to Sydney which has the largest number of radio services of any market.
- The Melbourne market is the second largest demographically of the commercial radio broadcasting markets in Australia.
- 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.
- 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.
- Making available frequencies for both commercial and community radio services contributes to diversity in the market.

- If additional commercial radio services were made available in the Melbourne market, this will lead to diversity of control of commercial radio broadcasting services in the Melbourne 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 of 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 the spectrum in Melbourne, is to make available two additional commercial radio services using high power FM frequencies.

In considering the demand for, and interest in, the provision of new commercial radio services (s.23 (c) and (g)), the ABA believes there is sufficient evidence to suggest that if two additional commercial radio services were made available in the Melbourne market, this would result in two additional commercial radio services being provided in the Melbourne market. The ABA also believes that this would result in a more balanced mix of broadcasting services offered in the Melbourne market (s.3 (a)).

The ABA has found four available high power channels in Melbourne, with three of those channels potentially restricted due to the possibility of interference to a television service in Tasmania. The ABA believes that with at least two of these channels, it can make available FM frequencies which will provide comparable coverage to the existing commercial radio services in Melbourne (s.3 (a)). Making available these two channels has the potential to enable independently owned (competing) new service providers to enter the Melbourne market and be equally competitive, thereby promoting diversity in control in the Melbourne market (s.3 (c)).

The ABA also believes that introducing two new commercial radio services in the Melbourne market would introduce competition to the market and facilitate the development of a broadcasting industry that is more efficient, competitive and responsive to audience needs (s. 3 (b)).

The ABA acknowledges that one affect of the introduction of competition in the market is the likelihood of pressure to reduce costs. While such pressure is desirable when it leads to increased efficiencies, the ABA is aware that such pressure may effect diversity of programming (s.3 (a)), quality of programming (s.3 (f)) and appropriate coverage of matters of local significance (s.3 (g)).

In regard to local programming, the ABA prefers to accept a more general view that planning of additional commercial radio services might be expected to promote this object. 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. Also the ABA considers that greater competition in a market (s.3 (b)) may encourage all service providers in Melbourne to provide more appropriate coverage of matters of local significance.

In considering the other possible affects, the ABA acknowledges that there is a possibility that the introduction of competition may lead to a decline in revenues and profitability for the industry. However, Chart 4 in this chapter indicates that the Melbourne market accounted for nearly 20% of Australian advertising revenue in 1997/98 and that real advertising growth has increased at a greater rate compared to the total Australian market over the last two decades.

Given the ABA's acknowledgment of the potential for effect on these three objects of the Act, the ABA proposes to make one commercial radio service available immediately after finalisation of the Melbourne LAP. It proposes to make the second commercial radio service available four years after determination of the LAP. This proposal to delay introduction of the second additional commercial radio service may provide for some certainty to the industry and financial market place on the timing of new entrants. Under these circumstances, the ABA is confident that the Melbourne market can absorb the additional competition of two new commercial radio licences.

Taking into account the evidence before it, the ABA believes the objects of the Act will be best promoted by making two high powered commercial radio services available in Melbourne. Such a decision is likely to promote the objects of the Act at sections 3 (a), (b) and (c), including the economic and efficient use of the spectrum. This decision may also promote the objects at sections 3(f) and (g).

## **SUBMITTERS**

**The ABA will take into account any further information provided about additional commercial radio services in the Melbourne market. The ABA requires all potential service providers to address the following questions:**

- a) **Whether and in what way providing additional commercial radio broadcasting services in the Melbourne 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 Melbourne 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 Melbourne market, the supporting economic evidence must be provided with the submission.**

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

**The ABA would prefer submissions to be sent by email ([metrodraftlap@aba.gov.au](mailto:metrodraftlap@aba.gov.au)) or on an IBM compatible or Mac 3.5 inch floppy disk wherever possible.**

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## **PRELIMINARY VIEW 4 - EXISTING WIDE COVERAGE COMMUNITY RADIO - MELBOURNE**

**In order to improve reception of the existing community AM radio service 3CR during the daytime, the ABA proposes day/night switching. The nighttime transmission power is proposed to remain unchanged.**

**3CR is proposed to continue to operate on 855 kHz from Hoppers Crossing, with a maximum Cymomotive Force (CMF) of 996 V (day)/705 V (night), which is equivalent to a transmission power of 4 kW day/2 kW night (Directional). The ABA proposes a day/night switching trial for a period of 18 months after the finalisation of the licence area plan in order to determine suitability of the solution.**

**3RPH is proposed to continue to operate on 1179 kHz from Lower Plenty with a maximum CMF of 920 V (Omni-directional) which is equivalent to a transmission power of 5 kW.**

**The ABA proposes to increase the maximum transmission power of the existing wide coverage community FM radio services (3MBS, 3PBS and 3ZZZ) in Melbourne as follows:**

- 3MBS is proposed to continue to operate on 103.5 MHz from Mount Dandenong, with a maximum ERP of 56 kW (Directional).**
- 3PBS is proposed to continue to operate on 106.7 MHz from Mount Dandenong, with a maximum ERP of 56 kW (Directional).**
- 3ZZZ is proposed to continue to operate on 92.3 MHz from Mount Dandenong, with a maximum ERP of 56 kW (Directional).**

**The ABA proposes that the existing community FM service 3RRR will continue to operate on 102.7 MHz from Mount Dandenong, with a maximum ERP of 56 kW (Directional).**

**The ABA proposes the licence areas of the existing Melbourne wide coverage community AM and FM services be redefined using 1996 Census boundaries, but otherwise proposes no changes.**

### **FINDINGS OF FACT AND REASONS**

The ABA believes the proposals outlined in this preliminary view are likely to promote the objects of the Act at s.3 (a)<sup>30</sup>, (f)<sup>31</sup> and (g)<sup>32</sup> including the economic and

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<sup>30</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>31</sup> To promote the provision of high quality and innovative programming by providers of broadcasting services.

efficient use of radiofrequency spectrum (s.23). The 'Legislative Framework' (Chapter 1) contains a detailed discussion of how various planning outcomes may promote the objects of the Act.

## **CHANNEL CAPACITY**

In considering the operating conditions of the existing Melbourne-wide community radio services, the ABA found:

*Finding 4.1* The licensees of the existing wide coverage community FM radio services 3PBS and 3ZZZ expressed desire to have the same transmission power level as that of the commercial services.

*Finding 4.2* The licensees of the existing wide coverage community FM radio service 3MBS and AM radio service 3CR requested an increase in power.

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 planning criteria set out in this section. Specifically, s.23 (e) requires the ABA to have regard to technical restraints relating to the delivery or reception of broadcasting services.

## **Submissions Received**

Submissions have been received from one wide coverage community AM radio licensee (3CR) and three wide coverage community FM radio licensees (3MBS, 3ZZZ and 3PBS). Summary of the submissions follows.

### **3CR (855 kHz)**

In its submission dated 12 June 1998, Community Radio Federation Pty Ltd (3CR) requested an increase of transmitter power and a change of radiation pattern to overcome co-channel interference and poor coverage. 3CR stated:

...3CR's coverage of inner north-east suburbs of Melbourne is shadowed some 6-10 dB by the Melbourne CBD. Moreover significant parts of the more distant parts of the licence area also experience a field strength of 5-10 mV/m.

While this signal level can be passable in optimum conditions, it is unsatisfactory in denser urban areas with higher levels of man-made noise. Depending on prevailing ionospheric conditions, it can be frequently unacceptable at night as well, remembering that 3CR's night Eu is 12.4 mV.

Nighttime listening for 3CR is more problematic. Strong skywave from co-channel Queensland stations 4QO Eidsvold and 4QB Pinalba combines with adjacent channel effects from 2CY Canberra to make 3CR's urban Eu 12.4 mV/m at night. 3CR frequently receives

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<sup>32</sup> 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.

complaints about “the ABC station in the background”. Such comments can even come from areas known to be in excess of the urban Eu of 10 mV/m.

### **3MBS (103.5 MHz)**

In its submission dated 25 June 1998, Music Broadcasting Society of Victoria (3MBS) stated that there were a number of factors that seriously impact on 3MBS’s ability to fulfil its licence obligations, particularly reception problems caused by intermodulation interference. 3MBS submitted that an increase in ERP would ‘minimise further damage to 3MBS’.

### **3ZZZ (92.3 MHz)**

In its submission dated 11 June 1998, Ethnic Public Broadcasting Association of Victoria Ltd (3ZZZ) stated that its current power level of 10 kW was adequate. However, 3ZZZ argued that “the technical operating conditions for all metropolitan coverage FM services operating from Mount Dandenong should be the same”. 3ZZZ also expressed concern at the likelihood of significant interference to its reception caused by intermodulation interference.

### **3PBS (106.7 MHz)**

In its submission dated 15 February 1999, Progressive Broadcasting Service Co-operative Ltd (3PBS) sought confirmation from the ABA as to whether it was able to vary its technical specifications in line with the technical specifications of the community FM service 3RRR and commercial stations. 3PBS also requested an increase of transmission power.

The ABA did not receive any submissions from the licensees of 3RRR (102.7 MHz) and 3RPH (1179 kHz). With the absence of their submissions, the ABA assumes that these licensees are satisfied with the operation under their current technical specifications.

The ABA then considered the transmission power levels of the existing community AM and FM radio broadcasting services in Melbourne and found:

- Finding 4.3* The existing wide-coverage community AM radio service 3CR operates on 855 kHz with maximum CMF of 710 V (transmitter power of 2 kW) directional, from Hoppers Crossing.
- Finding 4.4* The existing wide coverage community AM radio service 3RPH operates on 1179 kHz with maximum CMF of 920 V (transmitter power of 5 kW) omni-directional, from Lower Plenty.
- Finding 4.5* The existing wide coverage community FM radio service 3MBS operates on 103.5 MHz with a maximum ERP of 16 kW directional, from Mount Dandenong.
- Finding 4.6* The existing wide coverage community FM radio service 3PBS operates on 106.7 MHz with a maximum ERP of 16 kW directional, from Mount Dandenong.

*Finding 4.7* The existing wide coverage community FM radio service 3RRR operates on 102.7 MHz with a maximum ERP of 56 kW, directional, from Mount Dandenong.

*Finding 4.8* The existing wide coverage community FM radio service 3ZZZ operates on 92.3 MHz with a maximum ERP of 16 kW, directional, from Mount Dandenong.

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

The AM and FM radio frequencies indicated in the radio capacity findings 4.2 - 4.8 have been licensed under the *Broadcasting 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](http://www.aba.gov.au)) and more detailed information in the ABA stations database.

The ABA notes that the existing wide coverage community radio service 3RRR is already operating on 56 kW and that the Melbourne wide coverage community licence areas are identical to the commercial licence areas. From a purely technical perspective, the other three wide coverage community FM radio services (3MBS, 3PBS and 3ZZZ) should be entitled to an equivalent technical specification.

A technical assessment of a power increase for the three community FM radio services and the community AM radio service is discussed in the Technical Restraints at Appendix 1 (under the respective frequency on which each service operates).

### **Power Requirements**

In considering the potential to increase transmission power of the services, the ABA found:

*Finding 4.9* An increase in power for the existing wide coverage community FM services 3MBS, 3PBS and 3ZZZ is likely to improve the current reception problems.

*Finding 4.10* An increase in power during the day time for the existing wide coverage community AM radio service 3CR is likely to resolve the current reception problems.

The ABA is required to have regard to the existing services within a licence area s.23 (c) of the Act. In addition, the ABA is required to take into account 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 4.3 - 4.8 with the fact that the existing commercial FM services in Melbourne will be operating on 56 kW (Preliminary View 2), the difference in transmission power levels suggests that community

broadcasters are providing inferior services to that of the commercial services within the same licence area.

Having considered the engineering concerns as detailed in the Technical Restraints at Appendix 1, together with the submissions received from 3MBS, 3PBS and 3ZZZ, the ABA proposes an increase of transmission power to 56 kW with mixed polarisation for all three FM services. The ABA considers that the power increase and the co-siting of the three FM services will improve reception within the Melbourne radio licence area.

The importance of finding 4.9 is that the ABA has considered the proposals to rectify reception problems of the existing wide coverage community FM radio broadcasting services. The ABA is of the view that the increase of maximum ERP to 56 kW would improve reception problems. The ABA believes this proposal is likely to promote object 3 (a) of the Act. The technical restraints applicable to each of the existing community services are discussed in the Technical Restraints at Appendix 1.

Accordingly, the ABA proposes to increase maximum ERP of the existing wide coverage community FM radio services to 56kW.

The importance of finding 4.10 is that the ABA has considered the proposal to rectify reception problems of 3CR. The ABA notes that 3CR has requested coverage of Geelong and that Geelong is not within the licence area of 3CR and acknowledges that fortuitous reception of community and commercial Melbourne AM and FM services occurs within the Geelong radio licence area. The ABA is concerned about a station's coverage within its licence area and in minimising overspill into adjacent licence areas.

Accordingly, the ABA proposes a day/night switching trial for a period of 18 months after the finalisation of the licence area plan in order to determine suitability of the solution. The ABA does not propose to improve 3CR's reception in Geelong.

### **Licence Areas**

The ABA is required by s.23 (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 take into account technical restraints relating to delivery or reception of broadcasting services (s.23 (e) of the Act).

The service areas of the existing commercial radio services were determined by the then Minister for Transport and Communications during 1987 and are now taken to be licence areas under s8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

In determining the service areas, the Minister took into account the 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 4.11* The licence areas of the existing wide coverage community radio services in Melbourne are appropriate.

In general, the ABA assumes<sup>33</sup> that the licence areas of the existing commercial and community broadcasting services, using the broadcasting services bands, represent accepted media markets and it will not vary them without good reason, other than to amend them where boundaries are based on outdated Census descriptions. No licensee has asked for a variation of its licence area. The ABA proposes to redefine 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 Legislative Framework; and
- ABA Record of Advice and Assumptions

#### **SUMMARY OF FINDINGS**

- The licensees of the existing wide coverage community FM radio services 3PBS and 3ZZZ expressed desire to have the same transmission power level as that of the commercial services.
- The licensees of the existing wide coverage community FM radio service 3MBS and AM radio service 3CR requested an increase in power.
- The existing wide coverage community AM radio service 3CR operates on 855 kHz with a maximum CMF of 710 V (transmitter power of 2 kW) directional from Hoppers Crossing.
- The existing wide coverage community AM radio service 3RPH operates on 1179 kHz with a maximum CMF of 920 V (transmitter power of 5 kW) omnidirectional from Lower Plenty.
- The existing wide coverage community FM radio service 3MBS operates on 103.5 MHz with a maximum ERP of 16 kW directional, from Mount Dandenong.

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<sup>33</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

- The existing wide coverage community FM radio service 3PBS operates on 106.7 MHz with a maximum ERP of 16 kW directional, from Mount Dandenong.
- The existing wide coverage community FM radio service 3RRR operates on 102.7 MHz with a maximum ERP of 56 kW directional, from Mount Dandenong.
- The existing wide coverage community FM radio service 3ZZZ operates on 92.3 MHz with a maximum ERP of 16 kW directional, from Mount Dandenong.
- An increase in power for the existing wide coverage community FM services 3MBS, 3PBS and 3ZZZ is likely to improve the current reception problems.
- An increase in power during the day time for the existing wide coverage community AM radio service 3CR is likely to improve the current reception problems.
- The licence areas of the existing wide coverage community radio services in Melbourne are appropriate.

## CONCLUSION

The ABA believes that increasing the transmission power of the existing wide coverage community FM radio services (3MBS, 3PBS and 3ZZZ) and permitting 3CR to operate under the day/night switching, may improve the reception difficulties being experienced by these services and, as a consequence, these services will be accessible to a greater number of people in the Melbourne area.

The ABA also notes that the four FM services offer a range of formats. That is 3MBS provides quality music programs, 3PBS specialist, under-represented and cutting edge music, 3RRR alternative music and talk and 3ZZZ ethnic radio service with 56 languages.

The ABA concludes that improving the reception of these services 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 to encourage community broadcasters to provide an appropriate coverage of matters of local significance (s.3 (g)).



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## **PRELIMINARY VIEW 5 – ADDITIONAL WIDE COVERAGE COMMUNITY RADIO - MELBOURNE**

**The ABA proposes to make two additional wide coverage community radio services available in Melbourne. The services are proposed to operate on 89.9 MHz and 90.7 MHz from Mt Dandenong, each with a maximum ERP of 56 kW (Directional).**

**These channels have the potential to cause interference to the television reception of ABNT3 in north-east Tasmania. The maximum ERP will be restricted on a bearing of 170° to 3.5 kW for 89.9 MHz and 2.3 kW for 90.7 MHz unless test transmissions conducted as part of the Start Up Procedures under the Technical Planning Guidelines indicate that this restriction is not required.**

**The licence areas of the additional services are proposed to be identical to that of the existing wide coverage community FM radio services, using 1996 Census boundaries.**

### **FINDINGS OF FACT AND REASONS**

In the ABA's view, this preliminary view promotes the objects of the Act at sections 3 (a)<sup>34</sup>, (f)<sup>35</sup> and (g)<sup>36</sup>, 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 Melbourne 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.

#### **Interest in provision of Community Radio Services**

In regard to the interest of aspirant community radio broadcasters the ABA found:

*Finding 5.1*            There is interest from aspirant community radio broadcasters in Melbourne in providing wide coverage FM community radio services.

*Finding 5.2*            There is expressed public demand in Melbourne for new (wide coverage) community radio services.

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<sup>34</sup> To promote the availability to audience throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>35</sup> To promote the provision of high quality and innovative programming by providers of broadcasting services.

<sup>36</sup> 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.

Below is a table showing those who currently have expressed an interest in establishing additional wide coverage community radio services in Melbourne.

<b>Submitter</b>	<b>Date of Submission</b>	<b>Proposal</b>
3ZZZ	6 June 1996	Requests an additional frequency to establish a second multicultural radio service.
HITZ FM Broadcasters Inc	8 June 1998	Is interested in providing in a community licence to service Melbourne youth. Additionally, they suggest that two community and two commercial high powered FM channels be made available for Melbourne.
KISS 90 FM	15 June 1998	Is interested in a community licence to provide a service with a dance music and arts format.
La Trobe Union Radio Inc	29 June 1998	La Trobe Union Radio Inc expressed interest in operating either a wide coverage FM or low power 200 W community service to cater to the Melbourne student community.
Melbourne Gospel Radio	18 June 1998	Melbourne Gospel radio is interested in providing a primarily Christian community radio service which includes ethnic programs.
Triple Seven Communications Inc	11 June 1998	Triple Seven Communications is interested in operating a Christian radio service.

**Table 1: Submissions of interest in additional community radio services in Melbourne**

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 draft licence area plans for Melbourne, 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.

The licensee of 3ZZZ, which provides a multicultural community radio service in Melbourne, stated in its submission dated 6 June 1996 that it would like to provide a second community radio service:

3ZZZ, licensed under the Community Broadcasting category since 1989, broadcasts on 92.3 MHz FM with 55 different ethnic community broadcasting groups. Many of these groups have only an hour available each week and those with several hours are often only able to be transmitted at very early or late hours.

3ZZZ feels strongly that its broadcasting needs cannot be fully met under its present situation and that only the availability of a second frequency would permit adequate broadcasting hours.

The ABA notes 3ZZZ's interest in providing an additional community radio service in Melbourne. However, the ABA is also aware of the provisions of the Act which state under section 84 (2) (e):

In deciding whether to allocate a community broadcasting licence that is a broadcasting services bands licence to an applicant or to one of a group of applicants, the ABA is to have regard to the undesirability of one person being in a position to exercise control of more than one community broadcasting licence that is a broadcasting services bands licence in the same licence area.

In a submission dated 8 June 1998, Hitz FM suggested that of the four high powered FM channels potentially available for Melbourne, two should be made available for community licences and two for commercial licences. Hitz FM is keenly interested in a community licence to serve the youth of Melbourne:

Founded in 1992, Hitz FM has repeatedly demonstrated the need for a service that is responsive to and reflective of the needs of the youth of Melbourne, a section of the wider community not adequately catered to by existing community, commercial and government broadcasters.

Traditionally, community stations target older sections of the population providing minimal access to youth broadcasters while commercial stations do not cater to the youth "market" as the financial incentive is not there. The government's youth broadcaster, Triple J, is relayed across the country and therefore cannot successfully present local youth issues with the knowledge and expertise of a Melbourne based youth broadcaster.

Kiss 90 FM in its submission dated 15 June 1998, indicated its interest in a community radio licence to serve a culture that embraces dance music and its associated arts, and stated its view that the Melbourne radio market is saturated with commercial radio stations:

... the community sector on the other hand has a solid and ever increasing sponsorship pool. This is evidenced by the large number of aspirant broadcasters able to survive without the luxury of a full time licence or the cash flows that are generated by full time transmission.

La Trobe Union Radio Inc which represents the La Trobe University community provided a submission dated 29 June 1998 which indicated its interest in operating a wide coverage FM community radio service, or alternatively a low power 200 W service in the northern suburbs of Melbourne.

La Trobe Union Radio Incorporated is one of at least five student radio broadcasters aspiring for a full time licence. We are the only organisation with aims to serve all students in Melbourne as well as on our own campus. We would be happy to work with these organisations in providing a radio service for students.

Melbourne Gospel Radio Inc provided a submission dated 18 June 1998 which indicated its interest in supplying a community radio service to the entire community but in particular, the Christian community of Melbourne. Melbourne Gospel Radio in conducting temporary transmissions and meeting the needs of the community of Melbourne stated that it also has incorporated diverse ethnic programs designed to provide an extra service to multicultural Melbourne.

Triple Seven Communications Inc in its submission of 11 June 1998 affirmed its interest in providing a Christian radio service to Melbourne:

In a city the size of Melbourne with the need for diversity, a radio station which presents a Christian perspective would be an important addition to the existing range of community and commercial radio stations and should receive high priority in the allocation of future licences.

The ABA has considered the type of programming each of the aspirant community radio groups wish to provide in relation to the demographic and social characteristics of the Melbourne commercial and community licence areas (s.23 (a) and (b) of the Act). In accordance with the 1996 Census data compiled by the Australian Bureau of Statistics and detailed at Appendix 4, the ABA notes that the Melbourne commercial and community radio licence area has a total population 3,163,812. It has a total

youth population (15-24 yrs) of 474,948 (15%), a total population of English speaking persons (over 5 years) of 2,081,820 (65.8%) and persons speaking other than English (over 5 years) of 759,876 (24%). A total of 2,078,582 persons nominated their religious affiliation as Christian, being 65.7% of the population.

The ABA notes that all of the aspirant groups which provided submissions indicating interest in wide coverage community services (Hitz FM Broadcasters Inc, Kiss 90 FM and Melbourne Gospel Radio and Triple Seven Communications Inc) have in the past or currently are operating under a TCBL.

The ABA also notes that are three other groups, Laughtertainment Community Radio Inc, Hot FM Current Chart Radio Inc and New Gen Radio Inc that have operated under TCBL's. However these groups have not provided submissions to the planning process with regard to their interest in establishing a community radio service in response to the ABA's invitation for submissions.

ARN in its submission dated 29 June 1998 stated that it is supportive of additional community radio services being made available in Melbourne. 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 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 5.1 and 5.2 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 Melbourne.

### **Technical Capacity**

In making its preliminary view, the ABA had regard to the channel capacity for wide coverage radio services in Melbourne.

<b>General Area Served</b>	<b>Frequency</b>	<b>Maximum CMF (AM)/ Maximum ERP (FM)</b>
Melbourne	1116 kHz	1.1 kV (5 kW transmitter power)
Melbourne	1422 kHz	700 V (5 kW transmitter power)
Melbourne	1593 kHz	800 V (5 kW transmitter power)
Melbourne	89.9 MHz	56 kW
Melbourne	90.7 MHz	56 kW
Melbourne	91.5 MHz	56 kW
Melbourne	100.3 MHz <sup>37</sup>	56 kW

**Table 2: Technical Capacity for Wide Coverage Services**

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<sup>37</sup> The frequency 100.3 MHz is currently being used by community radio service 3YYR Geelong and cannot be used in Melbourne until 3YYR moves to an alternate frequency.

## Power requirements

The ABA considered the radiated power levels of the existing community radio services operating throughout Melbourne. It found:

- Finding 5.3* There are two wide coverage AM community radio services in Melbourne. 3CR operates at a maximum CMF of 710 V based on a transmitter power of 1 kW, and 3RPH operates at a maximum CMF of 920 V based on a transmitter power of 5 kW.
- Finding 5.4* There are four wide coverage FM community radio services in Melbourne. 3MBS, 3PBS and 3ZZZ, operate at maximum ERP of 16 kW and 3RRR operates at maximum ERP of 56 kW.
- Finding 5.5* There are eleven local coverage FM community radio services in Melbourne (3ECB, 3INR, 3NOW, 3SER, 3SCB, 3WRB, 3RIM, 3RPP, 3MDR, 3PVR, 3PYV), operating at maximum ERP's ranging from 100 W to 800 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 Melbourne, 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 service<sup>38</sup> and the channel requirements of existing and aspirant community radio broadcasters.

In regard to other categories of broadcasting service, the ABA had regard to the other preliminary views for the Melbourne LAP:

- Satisfying s.31 reservations for additional national FM radio services (Preliminary View 1);
- making FM channels available for two additional wide coverage commercial radio services in Melbourne (Preliminary View 3);
- making three AM channels available for open narrowcasting services in Melbourne (Preliminary View 8).

Taking the above into consideration, there is sufficient channel capacity to make wide coverage FM community radio services available in Melbourne as follows:

General Area Served	Frequency	Maximum ERP
Melbourne	89.9 MHz	56 kW
Melbourne	90.7 MHz	56 kW

**Table 3: Remaining Technical Capacity for FM Wide Coverage Services**

<sup>38</sup> 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.

### **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 Melbourne. The ABA found:

*Finding 5.6* Making two high power (56 kW) FM frequencies available in Melbourne is likely to suit the coverage needs of the aspirant community broadcasters.

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 Melbourne and neighbouring regions (s.23 (c) and (e)).

There are five aspirant radio groups that have expressed interest in providing wide coverage community radio services in Melbourne (Hitz FM Broadcasters Inc, Kiss 90 FM, La Trobe Union Radio Inc, Melbourne Gospel Radio and Triple Seven Communications Inc). All of these groups and three other groups (Laughtertainment Community Radio Inc, Hot FM Current Chart Radio Inc and New Gen Radio Inc) have conducted transmissions under a TCBL.

In its submission of 9 June 1998, Hitz FM Broadcasters Inc put forward the view that two of the four available high power FM channels be used for new community radio services, and while it may not be a preference, there are particular aspirant community broadcasters that could operate on the AM band without compromising their intentions. Hitz FM suggested that two community and one commercial service would be a fair distribution of the remaining available high powered AM spectrum.

Melbourne Gospel Radio in its submission dated 18 June 1998 advised of its preference to use the Mount Gisborne site rather than Mount Dandenong due to access and co-siting difficulties. Melbourne Gospel Radio has conducted transmissions from Mount Gisborne at 10 kW ERP which it states as providing an excellent stereo signal for the whole of the Melbourne area.

Due to the limited spectrum available in Melbourne, the ABA has been unable to find enough available FM frequencies to satisfy the expressed demand for provision of wide coverage FM community radio services in Melbourne. There are three available AM channels which, due to lack of demand for their use from other potential service providers, the ABA is proposing to make available for additional open narrowcasting radio services. Should an aspirant wide coverage community radio service provider express an interest in obtaining an AM channel for community radio, the ABA will further consider making additional community radio services available in Melbourne.

The ABA is of the belief that the aspirant community broadcasters will be satisfied with the technical specifications proposed for the additional community radio services. The two proposed additional FM community services with a maximum ERP of 56 kW would achieve similar or greater reception coverage than the existing wide coverage Melbourne 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 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. Therefore the ABA found:

*Finding 5.7*        The licence areas of the additional community radio services in Melbourne should be identical to that of the existing wide coverage community FM radio services, using 1996 Census boundaries.

The ABA is required by s.23 (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 (s.23 (e)).

The service areas of the wide coverage community radio services in Melbourne were determined by the then Minister for Communications on 10 November 1988 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 Melbourne, 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.

## 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 Legislative Framework; and
- ABA Record of Advice and Assumptions.

## SUMMARY OF FINDINGS

- There is interest from aspirant community radio broadcasters in Melbourne in providing wide coverage community radio services.
- There is expressed public demand in Melbourne for new wide coverage FM community radio services.

- There are two wide coverage AM community radio services in Melbourne. 3CR operates at a maximum CMF of 710 V based on a transmitter power of 2 kW, and 3RPH operates at a maximum CMF of 920 V based on a transmitter power of 5 kW.
- There are four wide coverage FM community radio services in Melbourne. 3MBS, 3PBS and 3ZZZ, operate at maximum ERP of 16 kW and 3RRR operates at maximum ERP of 56 kW.
- There are eleven local coverage FM community radio services in Melbourne (3ECB, 3INR, 3NOW, 3SER, 3SCB, 3WRB, 3RIM, 3RPP, 3MDR, 3PVR, 3PYV), operating at maximum ERPs ranging from 100 W to 800 W.
- Making two high power (56 kW) FM frequencies available in Melbourne is likely to suit the coverage needs of the aspirant community broadcasters.
- The licence areas of the additional community radio services in Melbourne should be identical to that of the existing wide coverage community FM radio services, using 1996 Census boundaries.

## **CONCLUSION**

Having regard to the above matters, the ABA's preferred option for promoting the objects of the Act at sections 3 (a), (f) and (g), including the economic and efficient use of the radiofrequency spectrum, is to make available two additional wide coverage community radio services in Melbourne, using high power (56 kW) FM frequencies.

Taking into consideration the available spectrum (s.23 (e)), the interest expressed by potential service providers for wide coverage FM 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 two additional wide coverage community radio services available in Melbourne.

There are three available AM channels which, due to lack of demand for their use from other potential service providers, the ABA is proposing to make available for additional open narrowcasting radio services. Should an aspirant wide coverage community radio service provider express an interest in obtaining an AM channel for community radio, the ABA will further consider making additional community radio services available in Melbourne.

The ABA believes that s.3 (a) will be served well by making two additional wide coverage community radio services available, as there are currently five known groups interested in providing such services. These groups are active in that they have operated or are currently operating on Temporary Community Broadcasting Licences. 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 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 (includes youth, dance

music, Christian formats) additional community radio services will add to the diversity of radio services on offer in Melbourne. 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)).



## PRELIMINARY VIEW 6 - EXISTING LOCAL COVERAGE COMMUNITY RADIO - MELBOURNE

The ABA proposes channel capacity continue to be made available for the existing local coverage community radio services in Melbourne. The ABA also proposes changes to the technical specifications of some the services as indicated below and proposes to make provision for all existing Melbourne local services to have the option of transmitting with vertical, horizontal or mixed polarisation.

Area Served	Callsign	Frequency	Maximum ERP	Polarisation	Nominal Location
Melbourne Eastern Suburbs	3ECB	98.1 MHz	200 W	Mixed	Ringwood East
Melbourne NE Suburbs	3INR	96.5 MHz	400 W	Mixed	Heidelberg
Melbourne NW Suburbs	3NOW	98.9 MHz	400 W	Mixed	Broadmeadows
Melbourne SE Suburbs	3SER	97.7 MHz	400 W	Mixed	Narre Warren North
Melbourne Southern Suburbs	3SCB	88.3 MHz	200 W	Mixed	Moorabbin
Melbourne West	3WRB	97.4 MHz	200 W	Mixed	Tottenham
Melton	3RIM	97.9 MHz	200 W	Mixed	Mt Kororiot
Mornington	3RPP	98.7 MHz	800 W	Mixed	Arthurs Seat
	3RPP	98.3 MHz	10 W	Mixed	Mt Eliza
Mountain Districts	3MDR	97.1 MHz	400 W	Mixed	Kallista
Plenty Valley	3PVR	88.6 MHz	400 W	Mixed	Yarrambat
Yarra Valley	3VYV	99.1 MHz	400 W	Mixed	Briarty Hill

The ABA proposes to extend the licence area of the community radio service 3NOW Melbourne NW Suburbs, and seeks comment from the licensee of 3RIM Melton regarding a possible extension to its licence area. The 3NOW and 3RIM licence areas will be defined in 1996 Census boundaries.

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

## FINDINGS OF FACT AND REASONS

The ABA believes the proposals outlined in this preliminary view are likely to promote the object of the Act (s.3 (a))<sup>39</sup>, 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 specifications of the existing local coverage community FM radio broadcasting services throughout Melbourne and found:

*Finding 6.1.* There are eleven existing local community FM radio services within Melbourne with maximum ERPs ranging from 100 W to 800 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 Melbourne licence area.

Area Served	Category of Service	Callsign	Frequency	Maximum ERP	Nominal Location	Polarisation Pattern <sup>40</sup>
Melbourne East	Community	3ECB	98.1 MHz	200 W	Ringwood East	V/OD
Melbourne NE Suburbs	Community	3INR	96.5 MHz	200 W	Heidelberg Repatriation Hospital	V/OD
Melbourne NW Suburbs	Community	3NOW	98.9 MHz	100 W	Broadmeadows	V/OD
Melbourne SE Suburbs	Community	3SER	97.7 MHz	400 W	Narre Warren North	V/OD
Melbourne South	Community	3SCB	88.3 MHz	200 W	Moorabbin	V/DA
Melbourne West	Community	3WRB	97.4 MHz	200 W	Tottenham	V/OD
Melton	Community	3RIM	97.9 MHz	200 W	Mt Kororoit	V/OD
Mornington	Community	3RPP	98.7 MHz	800 W	Arthurs Seat	V/OD
Mountain District	Community	3MDR	97.1 MHz	400 W	Kallista	Mixed/OD
Plenty Valley	Community	3PVR	88.6 MHz	400 W	Yarrambat	M/OD
Yarra Valley	Community	3VYV	99.1 MHz	200 W	Briarty Hill	V/OD

**Table 1: Existing local coverage community radio services in Melbourne.**

<sup>39</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>40</sup> V = Vertical, H = Horizontal, M = Mixed, DA = Directional, OD = Omnidirectional

The community radio frequencies indicated above have been licensed under the *Broadcasting 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](http://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 specifications and licence areas of the existing local coverage community radio services throughout Melbourne, the ABA had regard to submissions received and found:

- Finding 6.2.* 3VYV Yarra Valley, 3PVR Plenty Valley, 3NOW Melbourne NW Suburbs, 3INR Melbourne NE Suburbs and 3ECB Melbourne East are interested in changing their technical specifications.
- Finding 6.3.* 3NOW Melbourne NW Suburbs, 3INR Melbourne NE Suburbs and 3ECB Melbourne east are interested in extending their licence areas.
- Finding 6.4.* 3RPP Mornington and 3ECB Melbourne East are interested in additional transmitters to serve areas within their licence areas.

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 specifications and licence areas for the existing local coverage community radio services, together with the ABA's proposals. Details of the technical restraints relating to delivery or reception are discussed at Appendix 1 – Technical Restraints under the respective frequencies.

## DISCUSSION OF SUBMISSIONS

### 3VYV Yarra Valley (99.1 MHz)

In its submission dated 10 March 1998, Yarra Valley Broadcasters (3VYV) sought an increase in power up to 2.5 kW  $\pm$ 10 dB in order to improve coverage of their licence area.

#### ABA Proposal

The ABA proposes to allow 3VYV to increase its power from 200 W omnidirectional to 400 W directional (200 W to the west and 400 W to the East) and change from vertical to mixed polarisation. Increasing the ERP of the service to 2.5 kW  $\pm$ 10 dB as requested is not technically feasible due to interference and

overspill restrictions. The technical restraints for the increase in power are discussed in Appendix 1.

### **3PVR Plenty Valley (88.6 MHz)**

In its undated submission received in August 1998, Plenty Valley FM (3PVR) requested an increase in power to 800 W  $\pm$ 3 dB.

#### **ABA proposal**

Coverage predictions indicate that increasing the ERP of 3PVR as requested will exacerbate the overspill into neighbouring licence areas but not provide a significant improvement to the reception in the identified locations within the 3PVR licence area. The ABA does not propose a power increase to this service. To enable 3PVR to improve its reception, however, the ABA proposes to allow 3PVR to change the polarisation from vertical to mixed. The technical restraints for the frequency are discussed in Appendix 1.

### **3NOW Melbourne NW Suburbs (98.9 MHz)**

In its undated submission received in August 1998, North West Community Radio Association Inc (3NOW) requested an increase to its power to 'no less than 298 W'. 3NOW also requested an extension of its licence area to cover Attwood, Greenvale, Melbourne Airport, Bulla, Oaklands, Yuroke, Roxburgh Park and Brunswick.

#### **ABA Proposal**

The ABA proposes to increase the licence area of 3NOW to include the Moreland City – Brunswick to the south and part of Hume City – Craigieburn to the north and north-west. The inclusion of Brunswick results in the whole Moreland City being included in the 3NOW licence area. The inclusion of Craigieburn results in 3NOW's contiguous licence area rather than separate entities. The Melbourne Airport is included in the licence area extension to the north-west and this results in a licence area overlap with 3WRB Melbourne West.

The ABA proposes to increase the maximum ERP of 3NOW from 100 W to 400 W and proposes to change polarisation from vertical to mixed in order to improve reception throughout the extended licence area. The technical restraints for the increase in power are discussed in Appendix 1.

### **3INR Melbourne NW Suburbs (96.5 MHz)**

In its submission dated 12 June 1998, Inner North East Community Radio Inc (3INR) requested an increase in power from 100 W to 200 W and an extension of its licence area to include the Melbourne and Camberwell regions.

#### **ABA Proposal**

The ABA proposes to increase the maximum ERP of 3INR to 400 W to the East and change the polarisation from vertical to mixed. The ABA notes that only one third of the City of Manningham is within the 3INR licence area. Fortuitous reception of

3INR in the City of Manningham outside 3INR's licence area is possible, as well as in parts of the proposed Melbourne and Camberwell regions. The ABA does not propose an extension of 3INR's licence area as requested. The ABA also notes that with the use of adjacent channel 96.3 MHz in Geelong, the fortuitous reception of 3INR outside its current licence area may be degraded. The technical restraints are discussed in Appendix 1.

### **3ECB Melbourne East (98.1 MHz)**

In its submission dated 10 June 1998, Melbourne Eastern Community Broadcasters Inc (3ECB) requested an increase in power to 4 dB or two translators: one at Birt's Hill to serve Lilydale, Wonga Park, Warrandyte and Doncaster; and one at the Dandenong Foothill to serve Knox and nearby shaded areas. 3ECB also expressed an interest in extending its licence area to cover border areas.

#### **ABA Proposal**

The ABA acknowledges that there may be reception difficulties in some parts of 3ECB's licence area due to the nature of the terrain. Coverage predictions indicate that increasing the ERP of 3ECB will exacerbate the overspill into neighbouring licence areas. The ABA does not propose an increase of power as requested. Neither does it propose infill translators in the Croydon and Knox areas due to frequency demand in the Melbourne area. The technical restraints are discussed in Appendix 1. In order to improve the coverage within its licence area, however, the ABA proposes change the polarisation from vertical to mixed. The ABA will consider a request from 3ECB to try synchronous FM transmissions on the same frequency as the main signal.

### **3RPP Mornington (98.7 MHz)**

In its submission dated 9 June 1998, Radio Port Phillip Association Inc (3RPP) expressed concern about its signal strength over the past ten years. 3RPP also expressed an interest in establishing a 1W translator to serve the Frankston area in the south-east area of Melbourne.

#### **ABA Proposal**

The ABA proposes a translator at Mountain View Rd, Mt Eliza to operate on 98.3 MHz with a maximum ERP of 10 W, mixed polarisation in order to overcome signal deficiency in the Frankston area of the 3RPP licence area. The ABA also proposes change to the polarisation of its main transmitter from vertical to mixed. The technical restraints are discussed in Appendix 1.

#### **All Services**

The ABA proposes all services be offered the choice of operating with horizontal, vertical or mixed polarisation, by changing all services to mixed polarisation. The ABA will also consider proposals from any local community service to test synchronous operation of FM transmissions on the same frequency as the main signal.

## Licence Areas

The ABA is required by s.23 (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 take into account technical restraints relating to delivery or reception of broadcasting services (s.23 (e) of the Act).

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

In determining the service areas, the Minister took into account the 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 6.5.* With the exception of the licence areas of 3NOW Melbourne NW Suburbs and 3RIM Melton, the licence areas of other existing local coverage community radio services in Melbourne are appropriate.

*Finding 6.6.* Extension of the licence area of 3NOW will form one contiguous licence area.

In planning additional local coverage community radio services for the Melbourne area, the ABA has become aware that part of the licence area for the proposed Werribee community radio service, as indicated in its Melbourne Information Booklet released in February 1998, may be adequately covered by 3RIM Melton. While the ABA did not receive a submission from the licensee of 3RIM, it seeks comments from 3RIM about the suitability of extending its licence area to include the Statistical local area of Melton (S) – Bal. The ABA does not propose to include this area in any Werribee community radio licence area.

In general, the ABA assumes<sup>41</sup> that the licence areas of the existing commercial and community broadcasting services, using the broadcasting services bands, represent accepted media markets and it will not vary them without good reason, other than to amend them where boundaries are based on outdated Census descriptions. With the exception of the licence areas of 3NOW and 3RIM, the ABA proposes to redefine the licence areas of other existing local community radio services using 1996 Census boundaries.

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<sup>41</sup> 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 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;
- Submissions received;
- ABA's Legislative Framework; and
- ABA Record of Advice and Assumptions

**SUMMARY OF FINDINGS**

- There are eleven existing local community FM radio services within Melbourne with maximum ERPs ranging from 100 W to 800 W.
- 3VYV Yarra Valley, 3PVR Plenty Valley, 3NOW Melbourne NW Suburbs, 3INR Melbourne NE Suburbs and 3ECB Melbourne East are interested in changing their technical specifications.
- 3NOW Melbourne NW Suburbs, 3INR Melbourne NE Suburbs and 3ECB Melbourne East are interested in extending their licence areas.
- 3RPP Mornington and 3ECB Melbourne East are interested in additional transmitters to serve areas within their licence areas.
- With the exception of the licence areas of 3NOW Melbourne NW Suburbs and 3RIM Melton, the licence areas of other existing local coverage community radio services in Melbourne are appropriate.
- Extension of the licence area of 3NOW will form one contiguous licence area.

**CONCLUSION**

The ABA believes that increasing the transmission power of the 3VYV, 3INR and 3NOW services, changing polarisation of all services, offering testing of synchronous operation and allowing 3RPP to establish a translator to serve the Frankston area will improve the reception difficulties being experienced by all existing local community FM radio services. As a consequence, these services will be accessible to a greater number of people in the Melbourne area.

The ABA believes that an extension of the licence area of 3NOW will form one contiguous licence area.

The ABA notes that all the eleven local community FM radio services offer a wide range of formats targeting at audience of various ages, tastes, interests and ethnic backgrounds.

The ABA concludes that improving the reception of these local community services 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 to encourage community broadcasters to provide an appropriate coverage of matters of local significance (s.3 (g)).

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## **PRELIMINARY VIEW 7 - ADDITIONAL LOCAL COVERAGE COMMUNITY RADIO - MELBOURNE**

**The ABA proposes to make available for allocation six additional local coverage community radio services in the Melbourne area. The services are proposed to operate as follows:**

<b>Area Served</b>	<b>Frequency</b>	<b>Maximum ERP</b>	<b>Nominal Location</b>
<b>Melbourne City</b>	<b>94.9 MHz</b>	<b>250 W</b>	<b>Melbourne Central</b>
<b>Bacchus Marsh</b>	<b>98.5 MHz</b>	<b>400 W</b>	<b>Mt Gorrock</b>
<b>Camberwell</b>	<b>94.1 MHz</b>	<b>100 W</b>	<b>Camberwell</b>
<b>Sunbury</b>	<b>99.3 MHz</b>	<b>400 W</b>	<b>Sunbury</b>
<b>Waverley</b>	<b>95.7 MHz</b>	<b>100 W</b>	<b>Clayton</b>
<b>Werribee</b>	<b>88.9 MHz</b>	<b>400 W</b>	<b>Werribee</b>

**The licence areas of the proposed additional services will 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 sections 3 (a)<sup>42</sup>, (f)<sup>43</sup> and (g)<sup>44</sup>, 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 Melbourne, the likely impact of other planning preliminary views in the draft LAP and other relevant matters under s.23 (a) - (g).

### **INTEREST IN PROVISION OF COMMUNITY RADIO SERVICES**

In regard to the local coverage channel requirements of aspirant community radio broadcasters the ABA found:

*Finding 7.1*        There is interest from aspirant community radio broadcasters throughout Melbourne 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

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<sup>42</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>43</sup> To promote the provision of high quality and innovative programming by providers of broadcasting services.

<sup>44</sup> 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.

regard to such other matters, as it considers relevant. In preparing the draft licence area plan for Melbourne, 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 Melbourne region:

<b>Submitter</b>	<b>Date of Submission</b>	<b>Proposal</b>	<b>Comment</b>
Bacchus Marsh Community Radio Inc	23 April 1998	Interested in providing a community radio service to the Shire of Moorabool.	Have operated under a TCBL on 98.5 MHz.
Whitehorse-Boroondara FM Inc	9 June 1998	Interested in providing a community radio service to the Camberwell area.	Have operated under a TCBL on 94.1 MHz
Nick Velaoras	Received undated on 9 February 1995	Interested in providing a Greek community radio service in the Clayton area.	No further correspondence received.
3MU Monash University Radio	12 June 1998	Interested in providing a community radio service to the Monash University students in Clayton and Caulfield.	Have operated under a TCBL on 95.7 MHz.
Melbourne Pulse Radio Incorporated	15 June 1998	Interested in providing a community radio service to the City of Melbourne, Yarra, Stonnington and Port Phillip.	Have operated under a TCBL on 94.9 MHz.
RMIT Student Radio Association Inc.	Received undated on 24 April 1998	Interested in providing a community radio service to the sub metropolitan area.	Have operated under a TCBL on 94.9 MHz.
Nu Country Music Radio Inc	5 August 1997	Interested in providing a community radio service to the northern suburbs of Melbourne.	Have operated under a TCBL on 94.9 MHz.
La Trobe Union Radio Inc	29 June 1998	Interested in providing a community radio service to the La Trobe University Community. State that the majority of staff and students live in the north Melbourne region	Have operated under a TCBL on 91.5 MHz.
3 NRG INC	6 July 1998	As an aspirant group based in Sunbury, wish to cover an area that includes Craigieburn, Somerton, Broadmeadows, Gisborne, Romsey and Lancefield.	Have operated under a TCBL on 99.3 MHz.
Allan Martin	19 June 1998	Interested in providing a community radio service to the Waverley area.	Have not operated under a TCBL.
Werribee Broadcast Unit	3 October 1995	Letter advising of intention to provide a community radio service to the Werribee area.	Have not operated under a TCBL.

Submitter	Date of Submission	Proposal	Comment
Wyn FM Community Radio Inc	12 June 1998	Interested in providing a community radio service to an area covering a radius of 25 km from the Werribee CBD.	Have operated under a TCBL on 88.9 MHz.
3TD Thornbury Darebin Secondary College	Received undated on 11 June 1998	Interested in providing a community radio service on a Melbourne or Sunbury low power frequency. Would be happy to amalgamate with other student radio groups.	Have operated under a TCBL on 89.1 MHz.

**Table 1: Expressions of interest in local coverage community radio services in Melbourne.**

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 Melbourne.

## CHANNEL CAPACITY

In making its preliminary view, the ABA had regard to the channel capacity for additional local coverage community radio services in the Melbourne area.

General Area Served	Frequency	Maximum ERP
Bacchus Marsh	98.5 MHz	400 W
Camberwell or alternatively, Melbourne City	94.1 MHz	100 W
Melbourne City	94.9 MHz 94.1 MHz 95.7 MHz	250 W 250 W 250 W
Sunbury	99.3 MHz	400 W
Waverley, Caulfield or Melbourne City	95.7 MHz	100 W
Werribee	88.9 MHz	400 W

**Table 2: Available Channel Capacity for Melbourne 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 Melbourne local coverage community radio services operating. It found:

*Finding 7.2* The existing permanent local coverage community radio services in Melbourne operate with maximum ERPs ranging between 100 W to 800 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 Melbourne region.

Area Served	Category of Service	Callsign	Frequency	Maximum ERP	Nominal Location
Melbourne East	Community	3ECB	98.1 MHz	200 W	Ringwood East
Melbourne NE Suburbs	Community	3INR	96.5 MHz	200 W	Heidelberg Repatriation Hospital

Melbourne NW Suburbs	Community	3NOW	98.9 MHz	100 W	Broadmeadows
Melbourne SE Suburbs	Community	3SER	97.7 MHz	400 W	Narre Warren North
Melbourne South	Community	3SCB	88.3 MHz	200 W	Moorabbin
Melbourne West	Community	3WRB	97.4 MHz	200 W	Tottenham
Melton	Community	3RIM	97.9 MHz	200 W	Mt Kororoit
Mornington	Community	3RPP	98.7 MHz	800 W	Arthurs Seat
Mountain District	Community	3MDR	97.1 MHz	400 W	Kallista
Plenty Valley	Community	3PVR	88.6 MHz	400 W	Yarrambat
Yarra Valley	Community	3VYV	99.1 MHz	200 W	Briarty Hill

**Table 3: Existing permanent local coverage community radio services in Melbourne.**

The community radio frequencies above have been licensed under the former *Broadcasting 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](http://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 are competing channel requirements for other categories of radio service<sup>45</sup> and the channel requirements of existing and aspirant community radio broadcasters.

In regard to other preliminary views for the draft LAP in Melbourne affecting the technical capacity for additional local coverage community radio services, this relates to proposals at Preliminary View 6 for spectrum to continue to be made available for existing local coverage community radio services including some changes to technical specifications.

Taking the proposals at Preliminary View 6 into consideration, there is sufficient channel capacity to make additional local coverage radio services available in each of Bacchus Marsh, Camberwell, Melbourne City, Sunbury, Waverley and Werribee.

### **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 Melbourne. The ABA found:

*Finding 7.3*      There are no permanent local community radio services operating in Bacchus Marsh, Camberwell, Melbourne City, Sunbury, Waverley and Werribee.

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<sup>45</sup> 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.

- Finding 7.4* Making one local coverage community radio service in each of Bacchus Marsh, Camberwell, Melbourne City, Sunbury, Waverley and Werribee, is likely to suit the needs of the majority of the relevant aspirant community broadcasters.
- Finding 7.5* Making a local coverage community radio service available in each of the Camberwell and Waverley areas, precludes making more than one local coverage service available in the Melbourne City area.

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, which indicates the existing permanent local coverage community radio services operating throughout Melbourne.

As indicated in Table 1, submissions have been received from aspirant community broadcasters that have operated with TCBLs in the areas of Bacchus Marsh, Camberwell, Waverley, Melbourne City, Sunbury and Werribee.

In addition, there are a number of groups that have operated under a TCBL that have not made submissions to the planning process as follows:

**Melbourne City area:**

Joy Melbourne Independent Community  
 South Eastern Indigenous Media Assoc  
 Victorian Muslim Community Information Service  
 Employment Access Radio  
 Central Melbourne FM Inc

**Camberwell:**

Swinburne Student Union Inc

**Waverley/Caulfield:**

Golden Days Radio for Senior Citizens

Due to the limited spectrum available in Melbourne, the ABA has been unable to find more than one frequency for the Melbourne City area. The only option found for making available more than one channel in the Melbourne City area is to not make channels available in either or both of the Camberwell and Waverley areas. That is, the channels found as suitable for Camberwell (94.1 MHz) and Waverley (95.7 MHz) could alternatively be used in the Melbourne City area.

Technical aspects of the proposed Melbourne local coverage services are discussed under the respective frequencies in Appendix 1, Technical Restraints.

**Licence areas**

The ABA is satisfied that the maximum effective radiated power levels proposed for each service in Preliminary View 7 will adequately serve the proposed licence areas.

The areas that the aspirant community broadcasters which have made submissions wish to serve are shown in Table 1.

## **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 Legislative Framework; and
- ABA Record of Advice and Assumptions.

## **SUMMARY OF FINDINGS**

- There is interest from aspirant community radio broadcasters throughout Melbourne in providing local coverage community radio services.
- The existing permanent local coverage community radio services in Melbourne operate with maximum ERPs ranging between 100 W to 800 W.
- There are no permanent local community radio services operating in Bacchus Marsh, Camberwell, Melbourne City, Sunbury, Waverley and Werribee.
- Making one local coverage community radio service in each of Bacchus Marsh, Camberwell, Melbourne City, Sunbury, Waverley and Werribee, is likely to suit the needs of the majority of the relevant aspirant community broadcasters.
- Making a local coverage community radio service available in each of the Camberwell and Waverley areas, precludes making more than one local coverage service available in the Melbourne City area.

## **CONCLUSION**

The ABA's proposal to make six additional local coverage community radio services available would assist in there being a local coverage community radio service accessible to listeners throughout the Melbourne area. The ABA is of the belief that the needs of aspirant community broadcasting throughout Melbourne will be met with this proposal.

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 Bacchus Marsh, Camberwell, Melbourne City, Sunbury, Waverley and Werribee areas.

The ABA believes that s.3 (a) will be served well by making local coverage community radio services available, as there are aspirant groups interested in 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 these areas, 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 (s.3 (g)).



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## **PRELIMINARY VIEW 8 - OPEN NARROWCASTING RADIO – MELBOURNE**

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

- **1116 kHz from Lower Plenty with a maximum CMF of 1.245 kV directional, which is equivalent to a transmitter power of 5 kW.**
- **1422 kHz from Werribee with a maximum CMF of 700 V which is equivalent to a transmitter power of 5 kW; and**
- **1593 kHz from Epping with a maximum CMF of 800 V directional, which is equivalent to a transmitter power of 5 kW.**

**The ABA proposes to make these channels available for open narrowcasting services under s.34 of the *Broadcasting Services Act 1992*, for a minimum period of five years. 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 section 3 (a)<sup>46</sup> 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.

On 5 December 1994, the ABA obtained legal advice from counsel, JJ Speigelman QC, on options for planning open narrowcasting services during the public planning process.<sup>47</sup> The advice indicates that the ABA is entitled to show an open narrowcasting service as being available in a LAP, although there are some indications in the Act that this may not be the case.

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<sup>46</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>47</sup> The ABA's Record of Advice (in accordance with subsection 27 of the Act) are at Appendix 2.

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 (that is, 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.

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 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.

In preparing the licence area plan for Melbourne, the ABA found:

*Finding 8.1*        There is considerable interest from open narrowcasting radio broadcasters in providing open narrowcasting radio services in Melbourne.

The ABA received submissions from ten parties in relation to the provision of open narrowcasting radio services in Melbourne. 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 Melbourne, with the most popular format being ethnic radio. In response to the ABA's February 1998 request for information in relation to radio in Melbourne, the following submissions relating to open narrowcasting services were received:

- Austereo Pty Ltd submitted in July 1998, that it is interested in offering two wide coverage FM open narrowcasting services in the Melbourne market. Austereo also indicated that depending on the availability of other frequencies, it may wish to offer additional open narrowcasting services in Melbourne. Its decisions about this matter will also be influenced by factors such as power levels and coverage.
- Best-FM in a submission dated 4 June 1998 indicated its interest in an open narrowcasting service for small business purposes on either low power or high power.
- Peter Corso and Paul Taylor on 15 June 1998 wrote on behalf of the licensee of the 1116 kHz open narrowcasting service requesting that the Melbourne and Geelong licence area be combined and the service be permitted to operate with 20 kW/10 kW day/night switching accordingly.

- Greek Broadcasters Pty Ltd in a submission dated 1 June 1998 stated that it should have the first right of refusal if any sale of the licence is made in the future.
- Holding Redlich on 1 June 1998 wrote on behalf of Mr Harry Stamoulis, indicating ongoing interest in the 1116 kHz open narrowcasting service and advising of a proposed program format change from a Greek language service to a Chinese language service.
- Kids Radio in a submission dated 15 June 1998 advised of its interest in providing an AM open narrowcasting radio service preferably on 1422 kHz aimed at primary school children.
- Phillips Fox Lawyers in submissions dated 11 June and 8 July 1998 on behalf of Tatley Pty Ltd, trading as Rete Italia, indicated its continued interest in providing an AM open narrowcasting service in Melbourne on 1593 kHz.  
The submission dated 11 June 1998 also included 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.
- Pointon Grant Lawyers provided a submission dated 29 June 1998 on behalf of 3AB Radio, the licensee of the AM open narrowcasting service operating on 1116 kHz. The submission suggested that a number of open narrowcasting services be proposed in the draft Licence Area Plan. The submission also stated:
 

Furthermore, we submit that the tenure of those licences categorised as open narrowcast licences pursuant to the licence area planning process needs to be far more secure than has been the case in the past.
- Richard Micallef in a submission dated 6 January 1998 indicated interest in providing a service which promotes Australian music copyrights.
- The Gay and Lesbian Association of Australia indicated interest in a low power open narrowcasting service in submissions dated 23 March 1998 and 15 May 1998.

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 Melbourne.

With regard to Phillip Fox Lawyers submission and the Pointon Grant 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, radio frequency spectrum availability for open narrowcasting services can be cancelled or suspended 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.

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.

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.

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 Melbourne.

## **TECHNICAL 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 high power open narrowcasting radio services in Melbourne for which the channels have been made available under s.34 of the Act.

<b>Area</b>	<b>Frequency</b>	<b>Maximum CMF (Transmitter Power)</b>
Melbourne	1116 kHz	1.25 kV (5 kW)

Melbourne	1422 kHz	700 V (5 kW)
Melbourne	1593 kHz	800 V (5 kW)

In addition to the above high power open narrowcasting radio services, there are one hundred and six low power (1 watt) open narrowcasting radio services in Melbourne for which the channels have been made available under s.34 of the Act

The ABA considered the existing open narrowcasting radio services operating in Melbourne and found that:

*Finding 8.2* There are one hundred and six low power open narrowcasting services in Melbourne, operating in the FM frequency range 87.5 MHz-88.0 MHz, for which the channels have been made available under s.34 of the Act.

*Finding 8.3* There are three high power open narrowcasting radio services in Melbourne operating on AM 1116 kHz, 1422 kHz and 1593 kHz for which channels have been made available under s.34 of the Act.

*Finding 8.4* There has been no demand expressed for the use of AM channels other than by potential open narrowcast radio service providers.

Section 23 (e) also provides that the ABA is to 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 Melbourne, 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 service<sup>48</sup>. Given that the ABA is of the preliminary view that additional FM commercial and community radio services should be made available in the Melbourne region for the reasons indicated in Preliminary Views 3, 5 and 7, the ABA found that:

*Finding 8.5* There is no remaining channel capacity for high/medium powered FM open narrowcasting radio services in Melbourne.

However, the ABA found that:

<sup>48</sup> The need to balance all the additional services the ABA proposes to plan in Melbourne against the known supply of vacant spectrum in Melbourne has already been discussed in the context of Preliminary View 3.

*Finding 8.6* There is channel capacity for three high/medium powered AM open narrowcasting radio services in Melbourne to complement the other services proposed to be made available.

In preparing the licence area plan for Melbourne, the ABA has received a number of submissions from prospective and current open narrowcasting radio service operators. 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 is to have regard to the technical restraints relating to delivery and reception of broadcasting services.

Below is a summary of channel capacity that remains available within the Melbourne market for purposes other than national, commercial and community.

Frequency	Maximum CMF	Nominal Site	Comments
1116 kHz	1.25 kW (5 kW)	Lower Plenty	This frequency is currently used for a high powered open narrowcasting service by Radio 3BM. The licence expires on 31 December 1999.
1422 kHz	700 V (5 kW)	Werribee	This frequency is currently used for a high powered open narrowcasting service by Greek Broadcasting Pty Ltd. The licence expires on 31 December 1999.
1593 kHz	800 V (5 kW)	Epping	This frequency is currently used for a high powered open narrowcasting service by Rete Italia. This frequency has been dropped through for open narrowcasting use until 31 December 2001.

**Table 2: Channel capacity available in Melbourne for alternative uses of broadcasting services bands.**

In a submission dated 15 June 1998, Radio 3BM which is the current licensee of the 1116 kHz service requested that a power increase under day/night switching arrangements be permitted for the service, and that its licence area be increased to that of a combined Melbourne and Geelong service.

While the ABA is proposing day/night switching for AM national, commercial and community radio services, it does not believe it is an appropriate proposal for open narrowcasting services at this stage. Once the allocation process of the proposed high powered Melbourne AM open narrowcasting services is completed, the ABA will consider requests from the successful providers for day/night switching. In relation to the licence area request, open narrowcasting services do not have defined licence areas and are restricted by coverage of the available frequencies. The ABA proposing to make additional open narrowcasting services available in Geelong (see Preliminary View 12) for which 3BM may apply.

In considering the Gay and Lesbian Association submission for a low power open narrowcasting radio service, the ABA is aware that there are currently 106 licensed low power open narrowcasting services in the Melbourne area. The ABA does not plan low power open narrowcasting services in LAPs. These services are currently administered by the Australian Communications Authority (ACA). The Gay and

Lesbian Association may bid for any high power open narrowcasting radio service made available in the LAP.

The ABA is aware that it is unable to meet all demand for high/medium powered FM open narrowcasting services in Melbourne. However, it should be noted that radio frequency spectrum for open narrowcasting services is made available under s.34(1) (f) of the Act and s.34 of the Act is for 'Alternative uses of broadcasting services bands'. That is, s.34 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 Melbourne 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 Melbourne.

Also, if there are no successful bidders for any additional commercial radio services that are made available in Melbourne, the radio frequency spectrum proposed to be made available for those services could then be made available for open narrowcasting purposes under s.34 of the Act.

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 Melbourne may meet some of the demand for 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 Legislative Framework;
- ABA Record of Advice and Assumptions.

## **SUMMARY OF FINDINGS**

- There is substantial interest from potential open narrowcasting radio broadcasters in providing open narrowcasting radio services in Melbourne.

- There are one hundred and six low power open narrowcasting services in Melbourne, operating in the FM frequency range 87.5 MHz - 88.0 MHz, for which channels have been made available under s.34 of the Act.
- There are three high power open narrowcasting radio services in Melbourne, operating on AM 1116 kHz, 1422 kHz and 1593 kHz for which the channels have been made available under s.34 of the Act.
- There has been no demand expressed for the use of AM channels other than by potential open narrowcast radio service providers.
- There is no remaining capacity for high/medium powered FM open narrowcasting radio services in Melbourne.
- There is channel capacity for three high/medium powered AM open narrowcasting radio services in Melbourne to complement the other services proposed to be made available.

## **CONCLUSION**

For the reasons given above the ABA is of the opinion that making three high/medium powered AM open narrowcasting radio services available is likely to promote the object at section 3 (a) of the Act, including the economic and efficient use of the radiofrequency spectrum.

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## **PRELIMINARY VIEW 9 - COMMERCIAL RADIO GEELONG**

**The ABA proposes the existing FM commercial radio services in Geelong, 3BAY and 3CAT, continue to operate as follows:**

- **3BAY to operate on 93.9 MHz from Murradoc Hill with a maximum ERP of 56 kW (Directional).**
- **3CAT to operate on 95.5 MHz from Murradoc Hill with a maximum ERP of 56 kW (Directional).**

**The ABA proposes that Bacchus Marsh be excluded from the licence area of 3CAT to make the 3CAT and 3BAY licence areas identical, and that the licence areas be defined using 1996 Census boundaries.**

**The ABA proposes to make channel capacity available for one additional high power commercial radio service in Geelong. The service is proposed to operate on 96.3 MHz from Murradoc Hill, with a maximum ERP of 56 kW (Directional).**

**The ABA proposes the licence area of the additional service be identical to that of the existing commercial radio service 3BAY, and defined 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 s.3 (a)<sup>49</sup>, (b)<sup>50</sup> and (c)<sup>51</sup>, including the economic and efficient use of the spectrum. This view may also promote the objects at s.3 (f)<sup>52</sup> and (g)<sup>53</sup>. 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 9, the ABA had regard to the objects of the Act, the local circumstances of the Geelong commercial radio market, the likely impact of other preliminary views in the discussion paper, and other relevant matters under s.23 (a) - (g). An account of this process of consideration follows.

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<sup>49</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>50</sup> 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.

<sup>51</sup> To encourage diversity in control of the more influential broadcasting services.

<sup>52</sup> To promote the provision of high quality and innovative programming by providers of broadcasting services.

<sup>53</sup> 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 forming its preliminary view on whether or not additional commercial radio broadcasting services should be made available in Geelong, the ABA considered the following relevant issues:

- interest in the provision of additional commercial radio services in the Geelong market (s.23 (g));
- the technical capacity in the Geelong market (s.23 (e));
- the power requirements of commercial radio services in Geelong (s.3 (a), s.3 (b) and s.23 (e));
- demographic, social and economic characteristics of the licence area (s.23 (a) and (b));
- the number and diversity of existing services, and competing channel requirements (s.3 (a) and (b), s.23 (c) and (g));
- whether, if additional commercial radio services were made available in Geelong, it is likely that 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 that 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.23 (f)).

### **INTEREST IN PROVIDING ADDITIONAL COMMERCIAL RADIO SERVICES**

In the *Planning for Radio Broadcasting Services in Melbourne, Geelong and Colac Information Booklet February 1998*, the ABA sought submissions from parties interested in providing additional radio services in the Geelong region. The ABA, in reaching its preliminary view, considered the submissions it has received. The ABA found that:

*Finding 9.1* There is interest from independent (competing) operators in providing additional commercial radio services in Geelong.

Section 23 (g) provides that, in performing its functions under s.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 Geelong, the ABA has received submissions from existing and potential broadcasting service providers in the Geelong 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 Geelong market.

Sub No.	Date	Submitter's Name	Comments
98/7007	undated	Austereo Pty Ltd	Interested in operating 2 commercial FM services in Geelong Stating that the 3CAT and 3BAY licence areas should be identical, using the 3BAY boundaries. Opposing forced relocation of existing services, especially 3YYR Geelong, unless agreed to by 3YYR.
98/6561	8.6.98	Crisp & Son Pty Ltd (formerly Ron Roach & Barry Browne)	Building a network of city and regional stations. Supporting 1341 kHz as commercial in Geelong and surrounds. Supporting 96.3 MHz TS6598001 as <u>another</u> commercial in Geelong and surrounds.

**Table 1: Expressed demand in establishing additional commercial radio services in Geelong**

### Submissions Received

In its submission received on 8 July 1998, Austereo Pty Ltd (licensee of 3FOX and 3MMM in Melbourne) stated:

#### Geelong

Consistent with its policy to expand into the growth corridors of the capital cities it already services, Austereo is interested in operating two commercial FM services in Geelong.

The submission from Crisp and Son Pty Ltd expressing interest in providing additional commercial radio services in Geelong stated:

Our interest in Geelong stems from much the same problem that exists in the Melbourne area. In Geelong 1341 kHz (TS 7283001) is a 'narrowcast'. Originally it, too, was a full-on commercial station, 3GL, opening in the 1930s. We feel that it, as a full commercial licence, would be of great benefit to Geelong and surrounding areas. We also feel that the opening of another FM commercial licence (96.3 MHz, TS 6598001) in the area would do that same, as, at present the two existing FM licences are owned by Grant Broadcasting...

AM frequencies are not in great abundance in this area, yet country and provincial audiences are still 'AM' oriented, and are therefore at a disadvantage.

Our idea of trying to build a network of city and regional stations would enable us to present a position of strength in the industry.

The existing commercial operators in Geelong, Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd (both members of the Grant Broadcasting Group) have expressed opposition to additional commercial radio services being made available in Geelong.

In a joint submission opposing additional commercial radio services in Geelong, Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd stated:

We submit that the Geelong region is very well served by radio broadcasting services, particularly from Melbourne, and any additional commercial services in the region would have the effect of lowering the quality of service provided to the region, particularly in the area of localism.

We submit that there should be no further commercial radio licences granted for the region as the area has a wide diversity of program choice and any additional commercial service would only replicate what is already available in the market. The area cannot support any additional commercial licences as recent history has proven when the introduction of a second commercial licence resulted in losses for both operators and insolvency of one. Without the merging of the two operations it is extremely unlikely that both services would have continued

to exist.

...Should the ABA feel it is necessary to allocate any additional frequencies then the most efficient use of the spectrum is to allocate the 94.7 FM frequency to 3YYR and the 96.3 FM frequency to one of the aspirant community broadcasters. The community broadcaster is more likely to provide some localism and diversity than another commercial broadcaster...

The Geelong region is well served by the existing broadcasting services. There are a total of 6 broadcasting services licensed to cover the Geelong region. However, due to the topographical nature of the region all Melbourne signals can be clearly heard in the Geelong CBD...

...Currently there is no expression of demand for an additional commercial licence but there are several expressions of interest for community licences. Allocating the available frequencies to those aspirant community broadcasters would be the most efficient and economic use of the spectrum...

In regard to the claims that the Melbourne commercial radio services are heard well within the Geelong licence area, the ABA acknowledges that there is an approximately 30% overlap between the licence areas of the Geelong and Melbourne commercial radio services. In planning the technical specifications of the services, the ABA endeavours to ensure conditions which will provide minimal overspill into the neighbouring licence area. While some reception of the Melbourne commercial radio services exists in Geelong outside the 30% overlap area, it is fortuitous and the ABA will not provide protection for those services outside the licence area of the Melbourne services.

### **Discussion**

The ABA has received submissions from two companies expressing interest in providing additional commercial radio services in Geelong. In relation to other categories of service, submissions have also been received from three community groups advising they have an interest in providing community radio services, and from two companies expressing interest in providing open narrowcasting radio services in Geelong.

Taking into consideration the expressed demand from parties interested in establishing additional commercial radio services in Geelong (s.23 (g)), the ABA notes one of these parties operates existing commercial radio services in Melbourne and other metropolitan markets. While having regard to remarks made by Geelong Broadcasters and Bay FM that there are sufficient commercial radio services in Geelong and that additional commercial radio services in Geelong would have an adverse effect on localism, the ABA believes that on balance, the evidence of demand for provision of commercial radio services in Geelong outweighs the opposition expressed.

Based on the evidence for this finding the ABA believes that, if it were to make additional commercial radio services available in Geelong, the licences 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 then had regard to whether channel capacity exists in the Geelong 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 Geelong (s.23 (c) and (e)). The channel capacity as outlined in the Technical Restraints at Appendix 1 is indicated below:

General Area Served	Frequency	Max ERP	Nominal Site
Geelong	1341 kHz <sup>54</sup>	1.2 kW (DA) (5 kW)	Portarlington
Geelong	89.3 MHz	250 W (OD)	Ceres Brownhill Heights Reserve
Geelong	91.9 MHz	500 W (OD)	Ceres Brownhill Heights Reserve
Geelong	93.9 MHz	56 kW (DA)	Murradoc Hill
Geelong	94.7 MHz	56 kW (DA)	Murradoc Hill
Geelong	95.5 MHz	56 kW (DA)	Murradoc Hill
Geelong	96.3 MHz	56 kW (DA)	Murradoc Hill
Geelong	99.5 MHz	800 W (OD)	Ceres Brownhill Heights Reserve
Geelong	100.3 MHz	800 W (OD)	Mathew Flinders High School

**Table 2: Channel capacity in the Geelong market**

The ABA considered availability of channel capacity in the Geelong market and found that:

*Finding 9.2* The existing FM community radio service 3YYR operates on 100.3 MHz.

*Finding 9.3* The existing FM commercial radio service 3BAY operates on 93.9 MHz.

*Finding 9.4* The existing FM commercial radio service 3CAT operates on 95.5 MHz.

The FM commercial radio frequencies indicated in Findings 9.2 to 9.4 have been licensed under the former *Broadcasting Act 1942*. Evidence of this can be found in the ABA publication entitled *Radio and Television Broadcasting Stations 1999*, and in the ABA's public website ([www.aba.gov.au](http://www.aba.gov.au)), while more detailed information is available in the ABA stations database.

Therefore, all other channels identified in the above table are considered to be available for allocation in the Geelong 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 Geelong (s.23 (c) and (e)).

<sup>54</sup> Currently allocated to a high power open narrowcasting service. The licence is due to expire on 31 December 1999.

Having identified available channel capacity exists in the Geelong 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 at 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 Geelong market, the ABA considered the power levels of existing radio broadcasting services and found that:

*Finding 9.5* The existing commercial FM radio services operate at a maximum ERP of 56 kW (Directional).

*Finding 9.6* The existing community FM radio service currently operates at a maximum ERP of 800 W (Omni-directional).

A table of 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 that:

*Finding 9.7* A commercial radio service previously occupied AM channel 1341 kHz and provided further coverage than the existing services.

*Finding 9.8* The ABA considers it unlikely that, if the AM channel were made available for commercial broadcasting, a commercial operator would be able to commence 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 Geelong and to such other matters as it considers relevant (s.23 (c), (e) and (g)).

Prior to converting to the FM band, 3CAT Geelong successfully operated an AM commercial radio service (3GL) on 1341 kHz. Interest has been expressed by Crisp & Sons in obtaining this channel for a commercial radio broadcasting service.

The ABA is aware that the AM site is privately owned land, and the transmission facility is currently owned by the licensee of Radio Hellas. The ABA considers it unlikely that a new commercial radio operator would be likely to obtain the existing transmission facility and, given the availability of FM frequencies, would be unlikely to be willing to purchase the necessary equipment to provide an AM service, if it were able to arrange use of the land.

In considering other available frequencies in the Geelong market, the ABA found:

*Finding 9.9* The two available high powered (56 kW (Directional)) frequencies on the FM band would provide comparable coverage to the existing commercial FM services in Geelong and are therefore suitable for commercial use.

### **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 Geelong, and to such other matters as it considers relevant (s.23 (c), (e) and (g)).

Details of the suitability of these frequencies to operate at high power can be found in the Technical Restraints, Appendix 1.

### **Likelihood of Comparable Coverage**

Given there is capacity for two additional commercial radio services, the ABA considered submitted interest in providing additional commercial radio services in the Geelong region and found that:

*Finding 9.10* If additional commercial radio services were made available in Geelong 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 considers information provided to it in submissions.

While no submitter specifically addressed the issue of comparable coverage, in its submission of 8 June 1998, Crisp & Sons specifically requested the allocation of the AM frequency 1341 kHz for commercial broadcasting.

In Geelong, 1341 kHz is a 'Narrowcast'. Originally it, too, was a full-on Commercial Station, 3GL, opening in the 1930s. We feel that it, as a full Commercial Licence, would be of great benefit to Geelong and surrounding areas.

As 3GL previously occupied this frequency and provided coverage larger than that of the existing FM commercial radio services in Geelong, it could be inferred from this request for an AM frequency that Crisp & Son would offer a service of comparable coverage to that of the existing services.

## Licence Areas

In general, the ABA assumes<sup>55</sup> 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 assumes<sup>56</sup> 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 considering the licence areas of the existing commercial radio services in Geelong, the ABA found:

*Finding 9.11* The existing commercial radio services 3BAY and 3CAT in Geelong have different licence areas, but have identical technical specifications.

*Finding 9.12* Based on coverage of the services, the licence area of 3BAY is the most appropriate for commercial radio services in Geelong.

The first commercial service in Geelong was the AM service 3GL, which converted from AM to FM operation, and changed its callsign to 3CAT upon conversion. Before this conversion took place, 3BAY began operation as the first FM commercial radio service in Geelong, with a smaller licence area than that of the AM service, based on the coverage provided by its technical specifications.

Although Bacchus Marsh, an area of overlap with the Melbourne commercial radio services, had originally been included in the AM licence area, the quality of reception of the AM service from Geelong was such that it was not included in the FM licence area. During the AM to FM conversion of 3GL to 3CAT, this problem was addressed and it was agreed that the licence areas of the 3CAT and 3BAY services should be the same. However, due to the structure of the legislation at that time, 3CAT was automatically given the licence area that had belonged to 3GL.

The FM commercial radio service 3BAY Geelong (93.9 MHz) currently overlaps with the Melbourne metropolitan commercial radio service licence areas by 29.82%. The FM commercial radio service 3CAT Geelong (95.5 MHz) currently overlaps with the Melbourne metropolitan commercial radio service licence areas by 32.95%.

It is now proposed to rectify this anomaly by bringing the 3CAT licence area in line with that of 3BAY, (ie excluding Bacchus Marsh from the 3CAT licence area), as both services are operating with identical technical specifications. The ABA considers this good reason to vary the existing 3CAT licence area as it will result in both services having identical licence areas, with a population overlap with Melbourne of 29.82%.

The ABA proposes to update the licence areas of existing Geelong commercial radio services using 1996 Census descriptions.

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<sup>55</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

<sup>56</sup> *ibid*

A submission from Austereo Pty Ltd, interested in providing additional commercial radio services in Geelong, indicated its interest in providing coverage comparable to existing services, using the 3BAY licence area.

Austereo believes that where Technical Specifications (incorporating transmitter site location, power output etc) are identical or almost identical for any two or more services, the Licence Area for each of those services should be identical.

To the extent that this may require an alteration of any Licence Area within a Licence Area Plan, this should occur in the present planning process.

An example of this principle lies in Geelong where the commercial FM services appear not to have matching Licence Areas...

Austereo submits that the 3CAT and 3BAY licence areas should correspond and that, to achieve this, the current 3BAY licence area should be adopted for both.

Knowing that technical capacity exists with comparable coverage to make additional broadcasting services available in Geelong, and having considered the area to be covered by any additional commercial radio services, the ABA considered how many additional broadcasting services it should make available, if any, and the category of such services.

### Demographic, Social and Economic Characteristics

The ABA is required by s.23 (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 compared Geelong with similar sized and larger markets in Australia.

Relevantly, the ABA found that:

*Finding 9.13* The Geelong market is larger demographically than most existing three and four commercial radio station markets in Australia.

A comparison to other markets of a similar or smaller size with three or four commercial radio services shows:

Area	Population	No of commercial services	No made available in LAP/LAP status
Newcastle	475,244	4	1
Geelong	302,540	2	Not yet determined
Katoomba	267,970	3	Not yet determined
Gosford	260,839	3	Not yet determined
Wollongong	246,795	2	0
Hobart	216,338	2	Not yet determined
Townsville	177,888	4	2
Toowoomba/Warwick	172,704	4	1
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 the submitters indicating interest in providing additional commercial radio services in the Geelong 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. It can also be inferred from comparison with other markets with similar demographic, social and economic characteristics. This is relevant even where it receives no submissions during the public consultation phase of planning, or where the evidence of submissions conflicts with the demographic, social or economic evidence.<sup>57</sup>

### **ABS Census Data**

The ABA had regard to Australian Bureau of Statistics (ABS) Census data in relation to Geelong, 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 of the Geelong commercial radio licence area at Census 1996 (based on the licence area of the 3BAY commercial radio service) was 302,540.
- The intercensal population growth between the 1991 Census (289,135) and 1996 Census (302,540) for Geelong (4.6%) was slightly higher than that for the neighbouring licence area of Melbourne (4.1%) but less than that for Australia as a whole (6.2%).
- The estimated population growth<sup>58</sup> for Geelong, Melbourne and Australia shows that Geelong (1.6%) has grown slightly faster than Melbourne (1.5%) and marginally faster than Australia (1.2%) over the period 30 June 1997 to 30 June 1998.

In considering the s.23 criteria, the objects of the Act and the information provided to it at this stage the ABA believes that on balance, making at least one additional commercial radio service available in the Geelong 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.**

### **THE DIVERSITY, NUMBER OF EXISTING SERVICES, AND COMPETING CHANNEL REQUIREMENTS**

The following table shows the range of broadcasting services currently operating in the Geelong market:

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<sup>57</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

<sup>58</sup> See Appendix 4 for an explanation of the derivation of estimated population growth.

Radio Services	Television Services
2 commercial FM (3BAY & 3CAT) 1 community FM (3YYR) 1 AM open narrowcasting (temporary – 31/12/99)	Geelong television services are received via Melbourne television stations.

**Table 4: Services currently operating in Geelong**

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 (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. And, in general, community organisations cannot afford to purchase commercial radio broadcasting licences, particularly in markets where investor interest forces prices up.

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, the frequency that was to be made available for commercial or community radio broadcasting 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 a licence to use that spectrum.

In Geelong, limited spectrum supply is a major consideration. There are a number 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 Geelong, while weighing up the merits of different broadcasting types.

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 only one commercial radio service available in Geelong is to ensure a mix of different types of radio services in the market. In particular the ABA had regard to s.23 of the Act (that is, taking into consideration the number of existing services and the demand for new community and open narrowcasting services (s.23 (c) and (g)), and the limited spectrum available in Geelong (s.23 (e)).

## Submissions Received

In reaching its preliminary view, the ABA considered the submissions it has received, the number of existing services and the evidence before it. Relevantly, the ABA found that:

*Finding 9.14* If an additional commercial radio service were made available in Geelong 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.

A number of the submissions received that addressed whether or not new commercial radio services should be made available in Geelong included comments about diversity, as discussed below. Submissions opposing the introduction of new commercial radio services in the Geelong market are discussed first, followed by submissions expressing an interest in establishing new commercial radio services in Geelong.

In their initial submission, Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd stated:

We submit that there should be no further commercial radio licences granted for the region as the area has a wide diversity of program choice and any additional commercial service would only replicate what is already available in the market...

We submit that there is demand for community licences with Radio Rhema and Country FM both having carried out test broadcasting...The community broadcaster is more likely to provide some localism and diversity than another commercial broadcaster.

...The Geelong region is well served by the existing broadcasting services. There are a total of 6 broadcasting services licensed to cover the Geelong region. However, due to the topographical nature of the region all Melbourne signals can be clearly heard in the Geelong CBD...

...There are a total of 33 broadcasting services with a signal strength of 6 or greater out of 10 that can be received in the Geelong CBD. This is broken up as follows: -

<u>Service</u>	<u>Total</u>	<u>FM</u>	<u>AM</u>
Commercial	13	6	7
National	7	3	4
Community	9	8	1
Narrowcast	4	1	3

This demonstrates the diversity of services that can be received in the Geelong region.

A second submission from Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd stated:

### Diversity

Listeners in Geelong already receive all the Melbourne commercial and national radio stations in addition to the two commercial Geelong based stations. If there is an argument that Melbourne has no need of an increase in diversity then this argument would be more applicable in Geelong...

If it is believed that the diversity of commercial radio signals is to be increased in the Melbourne/ Geelong area then we would submit that this is best achieved by allocating more

stations to the larger and commercially sound Melbourne area than to Geelong. We have little doubt that the Geelong listeners would get reception of any new stations covering Melbourne.

Pointon Grant, on behalf of 3AB Radio (Greek language open narrowcasting service) stated:

We note that one of the objects of the Broadcasting Services Act (section 3 (a)) is to: promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

In our view, the allocation of licences to open narrowcast providers would assist in fulfilling this object. In contrast, the extensive allocation of commercial broadcast licences is likely to subvert this objective.

This is because commercial broadcast stations must provide services which appeal to as many members of the population as possible. That is, they must take a lowest common denominator approach...The result is that commercial broadcast stations tend to end up providing quite similar mainstream programming.

This means that the interests of those members of the community with listening tastes which deviate substantially from those of the "average" member of the community may be neglected.

Open narrowcast services, by definition, seek to cater to segments of the population rather than the community at large. Therefore, the greater the number of licences allocated for narrowcast services then the greater is the likelihood of audiences being provided with a diverse range of radio services.

Crisp and Son Pty Ltd stated:

We feel that all proposed commercial frequencies in the Melbourne, Geelong and Colac areas nominated in your Planning Information Booklet should be put up for public auction as soon as possible. We consider this to be of the utmost importance for the viability of competition envisaged to carry out the spirit of Section 160(a) "Objects of the Act", paragraph 'c', ie "to encourage diversity in control of the more influential broadcasting services".

In summary, we feel that in Melbourne...the release of the extra four FM channels would also help in the diversity of ownership and competition. The same criteria apply to the Geelong and Colac areas.

In addition, in relation to diversity of control in the market (s.3 (c)), Crisp and Son stated:

We also feel that the opening of another FM Commercial Licence in the area would do the same, as, at present the two existing FM Licences are owned by Grant Broadcasting (The Cameron Family), a situation we understand Businesses and others are greatly concerned with, as, if they wish to advertise locally in the Electronic Media, Grant Broadcasting is the only one they can deal with. So much for competition.

Based on the evidence for this finding the ABA believes that, if it makes one additional commercial service available in Geelong, it is likely that this 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).

While there is sufficient technical capacity to make an additional commercial radio service available in Geelong at a maximum ERP of 56 kW, a deciding factor in proposing to make an additional commercial radio service available is to attempt to ensure a mix of different types of broadcasting services in Geelong. 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 Geelong (s.23 (e)).

In addition, the ABA notes that Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd (both members of the Grant Broadcasting Group) currently operate the two existing commercial FM licences (3BAY and 3CAT) and also the one open narrowcasting service in Geelong. These licensees offer different formats in order to reach a separate audience. The ABA is of the view that if an additional commercial radio service is made available, that licensee may also offer different formats and may result in a greater diversity of choice for listeners.

The ABA acknowledges the comments made by the existing operators (Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd) and points out that it is proposing to make additional community (Preliminary View 11) and open narrowcasting services (Preliminary View 12) available in addition to making a new commercial radio service available.

The ABA believes that making available one additional commercial radio service, two additional community radio services (Preliminary View 11), and two open narrowcasting services (Preliminary View 12), is likely to promote the objects of the Act at s.3 (a).

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

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 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 s.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.

Three submissions were received from the existing licensees and potential service providers containing comments addressing coverage of matters of local significance. From the submissions received, the ABA found that:

*Finding 9.15* 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.

In performing its functions the ABA is required to have regard to the object of the Act at s.3 (g) concerning appropriate coverage of matters of local significance, and s.23 (g) relating to such other matters as it considers relevant.

### **Submissions Received**

The submission from Crisp & Son Pty Ltd expressing interest in establishing new commercial radio services is discussed first, followed by the submissions (from Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd) opposing new commercial radio services being made available in Geelong. The submission from Austereo Pty Ltd relating to Geelong contained no comments on matters of local significance.

Crisp & Son Pty Ltd stated:

We fully endorse the objects laid out in Section 160(A) A-J inclusive, as these relate entirely to our objectives, eg setting up an independent news department, more Australian ownership of the industry, backing and encouragement of our Australian artists, and involvement in Australian activities...

We advise that if we are successful in our endeavours, network regional licences will be involved in their local communities by way of local news, local sport and activities pertaining to their own areas. Having been a part of provincial radio in the past, we understand the importance of being part of the local community, and not just a relay from some distant capital city.

Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd stated:

We submit that...any additional commercial services in the region would have the effect of lowering the quality of service provided to the region, particularly in the area of localism...

The community broadcaster is more likely to provide some localism and diversity than another commercial broadcaster...

#### **4. Impact on Localism of Additional Commercial Licences**

An additional competitive commercial licence will lead to the splitting of total revenue between the two operations with negligible growth of total revenue...As we will face significant decreases in our overall revenue, we will be forced to reduce our overall costs...This can only lead to a reduction in localism provided to the community, particularly in the area of news...The local news would simply be a response to media releases. With no local television this would mean that local press would be the only real source of local news thereby reducing the diversity of editorial opinion.

In a second submission Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd stated:

...Given Austereo's strong desire to maintain coverage of matters of local significance in markets in which they operate, it seems hypocritical to suggest that a market like Geelong should receive two additional commercial services when they already state that significantly larger markets cannot sustain localism.

Austereo also state that "networking is the antithesis of localism". It is well known that Austereo have a high level of networking, both within their own stations and as syndicated programs to other radio stations around the country. Their desire to have additional stations in Geelong would only force further networking and a reduction in localism.

## Discussion

Having regard to all the submissions which address appropriate coverage of matters of local significance (s.3 (g) of the Act), while acknowledging the comments made by the existing broadcasters (Geelong Broadcasters Pty Ltd and Bay FM Pty Ltd), the ABA also notes the comments of a potential broadcaster, Crisp & Sons. The ABA is of the view that making an additional commercial radio service available in Geelong is more likely to have a positive or at worst a neutral effect on the provision of local programming.

The ABA has also taken into account the contributions made by community and open narrowcasting services to coverage of events of local significance.

The ABA acknowledges that planning an additional commercial radio service may not necessarily promote the object at s.3 (g) of the Act, however the ABA has taken those concerns into account and has weighed the possible costs in terms of local coverage against favourable benefits in terms of other objects of the Act.

## HIGH QUALITY AND INNOVATIVE PROGRAMMING

A number of submissions received commented on the impact additional commercial radio services would have on the provision of high quality and innovative programming by providers of existing and potential new commercial broadcasting services. From submissions received, the ABA found that:

*Finding 9.16* If an additional commercial radio service was made available in Geelong it is likely that an independent (competing) operator would offer high quality and innovative programming.

## Submissions Received

Two submissions addressing provision of high quality and innovative programming were received. The submission from Crisp & Son Pty Ltd is discussed first, followed by the submission from Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd opposing new commercial radio services being made available in Geelong.

Crisp and Son Pty Ltd briefly stated:

Maybe by having a little more competition, they [existing licensees] would be able to put some extra effort in providing diversity in programming...

Geelong Broadcasters Pty Ltd and BAY FM Pty Ltd stated:

We submit that there should be no further commercial radio licences granted for the region as the area has a wide diversity of program choice and any additional commercial service would only replicate what is already in the market.

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

While additional services may not always promote the provision of high quality and innovative programming by providers of broadcasting services, 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 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 believes that making an additional commercial radio service available in the Geelong market is likely to have a positive effect on the provision of high quality and innovative programming (s.3 (f)).

### **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 Geelong and found:

*Finding 9.17* 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. Geelong Broadcasters and Bay FM, in their submission, stated that:

With the imminent introduction of digital radio technology and the consequential explosion of radio services, there is even less reason to allocate any further frequencies in the Geelong market. To make a capital investment in FM technology which will shortly become redundant makes little economic sense.

### **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.

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, although 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 country<sup>59</sup>.

In addition, 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 *Broadcasting Services Amendment (Online Services) Act 1999* established a regulatory regime for online services to be administered by the ABA. One of the ABA's functions is to conduct research into Internet usage and the ABA is currently considering specific issues that might be included in such research.

#### **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 Legislative Framework; and
- ABA's Record of Advice and Assumptions;

#### **SUMMARY OF FINDINGS**

- There is interest from independent (competing) operators in providing additional commercial radio services in Geelong.
- The existing FM community radio service 3YYR operates on 100.3 MHz.
- The existing FM commercial radio service 3BAY operates on 93.9 MHz.
- The existing FM commercial radio service 3CAT operates on 95.5 MHz.
- The existing commercial FM radio services operate at a maximum ERP of 56 kW (Directional).

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<sup>59</sup> The ABA's Record of Assumptions (in accordance with subsection 27(2) of the Act) are at Appendix 3.

- The existing community FM radio service currently operates at a maximum ERP of 800 W (Omni-directional).
- A commercial radio service previously occupied AM channel 1341 kHz and provided further coverage than the existing services.
- The ABA considers it unlikely that, if the AM channel were made available for commercial broadcasting, a commercial operator would be likely to commence a service.
- The two available high powered (56 kW (Directional)) frequencies on the FM band would provide comparable coverage to the existing commercial FM services in Geelong and are therefore suitable for commercial use.
- If additional commercial radio services were made available in Geelong it is likely an independent (competing) operator would offer coverage comparable to existing services.
- The existing commercial radio services 3BAY and 3CAT in Geelong have different licence areas, but have identical technical specifications.
- Based on coverage of the services, the licence area of 3BAY is the most appropriate for commercial radio services in Geelong.
- The Geelong market is larger demographically than most existing three and four commercial radio station markets in Australia.
- If an additional commercial radio service were made available in Geelong it is likely that an independent (competing) operator may add to the diversity of available services.
- 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.
- If an additional commercial radio service was made available in Geelong it is likely that an independent (competing) operator would offer high quality and innovative programming.
- 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 the radiofrequency spectrum in Geelong is to propose one additional commercial radio service using FM frequency 96.3 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 likely to result in a more balanced mix of broadcasting services in the Geelong market (s.3 (a)). The ABA believes that given the limited availability of radiofrequency spectrum in the Geelong market, that the most efficient use of this spectrum is to make only one additional commercial radio service available in Geelong, allowing availability of other categories of services, adding to the balanced mix of services available in Geelong.

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 Geelong, 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 (s.3 (b)).

Similarly, making an additional commercial radio service available in the Geelong market is likely to promote diversity in control of the more influential broadcasting services (s.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 (s.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. 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 (s.3 (b)) may encourage all service providers in the market 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 Geelong. 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 will take into account any further information provided about additional commercial radio services in the Geelong market. The ABA requests that potential service providers address the following questions:

- a) Whether and in what way providing an additional commercial radio broadcasting service in the Geelong market would represent an economic and efficient use of the radiofrequency 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 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 Geelong 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 Geelong market must supply supporting economic evidence.

Submissions of over five pages in length must provide an executive summary.

The ABA would prefer submissions to be sent by email ([metrodraftlap@aba.gov.au](mailto:metrodraftlap@aba.gov.au)) or on an IBM compatible or Mac 3.5 inch floppy disk wherever possible.



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## PRELIMINARY VIEW 10 - EXISTING COMMUNITY RADIO – GEELONG

**The ABA proposes that channel capacity continue to be made available for the existing FM community radio service 3YYR in Geelong. It is proposed that this service change frequency from 100.3 MHz to 94.7 MHz, change maximum ERP from 800 W (omnidirectional) to 56 kW (directional), and continue to operate from the nominal site at Murradoc Hill.**

**The ABA proposes that the licensee should change frequency and increase power to no less than 5 dB of 56 kW (approximately 18 kW) within 12 months of publication of the Gazette notice that the Geelong radio LAP has been determined.**

**The ABA proposes that the licence area of this service be extended to include the wider Geelong region, 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 s.3 (a)<sup>60</sup> and (g)<sup>61</sup>, 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 Geelong region, the likely impact of other planning preliminary views in the draft LAP and other relevant matters under s.23 (a) – (g).

### CHANNEL CAPACITY

In reaching this preliminary view, the ABA initially had regard to the technical specifications of the existing FM community radio broadcasting service in Geelong and found that:

*Finding 10.1.* There is one existing local community FM radio service within Geelong operating on 100.3 MHz from Murradoc Hill, with a maximum ERP of 800 W (Omnidirectional).

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. Section 23 (e) requires the ABA to have regard to technical restraints relating to the delivery or reception of broadcasting services.

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<sup>60</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

<sup>61</sup> To encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matter of public interest and for an appropriate coverage of matters of local significance

The community radio frequency indicated above has been licensed under the former *Broadcasting Act 1942*. Evidence of this can be found in the ABA publication entitled *Radio and Television Broadcasting Stations 1999*, and at the ABA's public website ([www.aba.gov.au](http://www.aba.gov.au)). More detailed information can be found in the ABA stations database. Further information about these frequencies is available in the Technical Restraints, Appendix 1.

In considering 3YYR's operating conditions, the ABA found:

*Finding 10.2.* 3YYR is interested in moving from 100.3 MHz to 94.7 MHz, increasing its power from 800 W omnidirectional to 56 kW directional, with transmissions initially at 10 kW from Murradoc Hill, and extending its coverage from Geelong city to the wider Geelong region.

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 it considers relevant.

Below is a discussion of the submissions received in relation to changes to technical specifications and licence area for the existing Geelong community radio service.

### **Submissions Received**

In a submission dated 11 June 1998, Geelong Community Radio Co-operative Pty Ltd (3YYR) sought a change in operating frequency from 100.3 MHz to 94.7 MHz to allow an increase in effective radiated power from 800 W omnidirectional to 56 kW directional, with an increased licence area to cover the wider Geelong region. The submission stated:

Geelong Community Radio (3YYR-FM) seeks a variation of its current technical operating conditions as part of its community broadcasting licence.

The change would entail moving from the present licence condition of "low-powered" coverage of "Geelong City" to "high-powered" coverage of the wider Geelong region with transmission from "Murradoc Hill" as indicated in the Frequency Allotment Plan.

3YYR-FM seeks to gain this variation before the Licence Allocation Plan is issued and, in particular, requests the frequency of 94.7 as designated in recent ABA documents.

...3YYR-FM wishes to apply to transmit at a power of 56 kilowatts as specified in the ABA's documents with transmissions initially at an effective radiated power of 10 kilowatts.

3YYR-FM seeks, therefore, variation of its licence conditions to permit high-powered coverage of the wider Geelong region with transmission from Murradoc Hill.<sup>62</sup>

Submissions with comments relating to the 3YYR community radio service were also received from Geelong Broadcasters Pty Ltd (3CAT) and Bay FM Pty Ltd (3BAY) (a joint submission), Austereo Pty Ltd, and Mallesons Stephens Jacques (MSJ).

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<sup>62</sup> Submission no.98/6654 dated 11/6/98.

The submission from the licensees of the two existing Geelong commercial radio services, 3CAT and 3BAY, stated:

...Should the ABA feel it is necessary to allocate any additional frequencies then the most efficient use of the spectrum is to allocate the 94.7 FM frequency to 3YYR and the 96.3 FM frequency to one of the aspirant community broadcasters. The community broadcaster is more likely to provide some localism and diversity than another commercial broadcaster.

Austereo Pty Ltd, licensee of two existing Melbourne commercial radio services, opposing forced relocation of existing services, stated:

...We oppose any forced relocation of a service and this also applies to the proposal that 3YYR Geelong change frequency, unless that is agreed by 3YYR.

MSJ lodged two submissions supporting relocation of 3YYR Geelong. Its first submission stated:

The ABA must direct 3YYR to transfer its services to a frequency on the AM band (which for this purpose includes low power frequencies on the FM band. The successful bidder for the new commercial licence on 100.3 FM should give financial and technical assistance in relation to that transfer. Moreover, in particular, that service should not be transferred to another frequency on the FM band which could potentially be used for high power services. That would reduce the number of such frequencies on the FM band otherwise available for commercial licences.

The second submission from MSJ stated:

Austereo opposes any forced relocation of 3YYR in Geelong. DMG does not agree. So long as adequate compensation is paid, by acquirers of new services, it is fanciful to suggest that the continuation of a service in Geelong should be allowed to reduce the number of commercial services otherwise available in Melbourne, in circumstances where simple relocation of the service in Geelong would alleviate the problem.<sup>63</sup>

In considering available high power capacity in the Geelong market, the ABA found:

*Finding 10.3.* There is a high power channel available on 94.7 MHz at 56 kW (Directional) in Geelong.

The suitability of the use of this channel at high power is discussed in the 'Technical Restraints', Appendix 1.

In considering the likelihood that if 3YYR were offered a high power channel, it would be capable of providing a high power community radio service in Geelong, the ABA found:

*Finding 10.4.* There is some doubt of the likelihood of a high power community radio service being available in the Geelong market if channel capacity is made available for 3YYR.

In performing its functions, the ABA is required to have regard to such other matters as it considers relevant (s.23 (g)), including the economic and efficient use of the spectrum.

<sup>63</sup> Submission no.98/7658 dated 18/9/98.

A newspaper article appeared in the Geelong Advertiser dated 12 February 1999. The article stated:

The chairman of the station's board, Gunter Sahr, ...said the station [3YYR] needed to increase its revenue because it was "limping on year to year perilously" and sometimes made a loss. "If we do not try this it may well be that in a year there will be no station," Mr Sahr said.<sup>64</sup>

The ABA seeks confirmation from 3YYR that it is in a position to provide a high power community radio service in Geelong. The ABA intends to impose a condition on the licence that the service must operate at 5 dB of the increased power no later than one year after the publication of the Gazette Notice that the Geelong radio LAP has been determined.

In considering alternatives for 3YYR, if it is unable to operate a high power frequency, the ABA found:

*Finding 10.5.* The frequency currently operated by 3YYR, 100.3 MHz is suitable for use for a high power commercial radio service in Melbourne.

*Finding 10.6.* Channel capacity on 99.5 MHz is available in Geelong at a similar ERP to that currently provided by 3YYR.

The ABA is required to have regard to the number of existing broadcasting services within the licence area, the demand for new broadcasting services within the licence area and within neighbouring licence areas, the technical restraints relating to delivery or reception of broadcasting services, s.23 (c) and (e).

Suitability of the use of 100.3 MHz in Melbourne is discussed in Preliminary View 3 and in the Technical Restraints, Appendix 1. Suitability of the use of 99.5 MHz is discussed in the Technical Restraints.

If 3YYR advises that it is unable to provide a high power (56 kW) service, increasing its power to approximately 18 kW within the given time frame, the ABA proposes that 3YYR move to an alternative lower power frequency of 99.5 MHz. The ABA then proposes that 94.7 MHz be made available for an additional community radio service (see Preliminary View 11).

If 3YYR were to move to the lower power frequency, the ABA proposes imposing a condition on the licence of the proposed new commercial radio service in Melbourne (100.3 MHz) to pay reasonable costs incurred by 3YYR in changing frequency in order to maximise spectrum efficiency.

### **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

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<sup>64</sup> Newspaper article of 12/2/99 by Oliver Warren, *Geelong Advertiser*, on file 97/5129: Melbourne & Geelong – Record of Advice & Assumptions – Specific.

account of technical restraints relating to delivery or reception of broadcasting services (s.23 (e)).

Relevantly, the ABA found that:

*Finding 10.7.* Should 3YYR move to an alternative 56 kW frequency, it would be operating under similar technical specifications to the existing Geelong commercial radio service 3BAY.

The service areas of existing 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 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 claiming to serve the community or communities in the area.

The ABA has considered the existing community – of – interest links of the commercial radio market in Geelong and has concluded that the commercial licence area of 3BAY would be appropriate for a high power community radio service in Geelong.

### **Submissions Received**

The submission from 3YYR requesting increased power and coverage over the greater Geelong region was accompanied by a petition containing over 2,000 signatures, many of which were from persons living outside its existing Geelong city licence area. In its submission 3YYR stated:

3YYR wishes to emphasise

...the breadth of its community coverage, the inclusive nature of the access offered to community groups and to individual members of the overall Geelong community; interest and support shown by the regional community beyond Geelong City (Bellarine Peninsula, Geelong hinterland including the Golden Plains and Surf Coast Shires)...

...Interest expressed (*see attachment 2 – letters of support including community groups in the wider area*) suggests that many people are potential listeners given a stronger signal. This is borne out by the wide range of areas from which 3YYR-FM presenters and programmers live. (Approximately 20% of our current presenters and volunteers live in areas such as Clifton Springs, Queenscliff, Pt Lonsdale, Ocean Grove, Barwon Heads, Torquay and Jan Juc.) Many of them have commented on the weak signal and in many instances, no signal at all in their homes.)

A representative sample of signatures, (*see attachment 3 – petition in support of submission*) collected in little over a week, indicates that approximately one third of signatories come from outside the current licence service area.

When 3YYR was first licensed as a broadcaster to “Geelong City”, the urban area at Geelong comprised not only the City of Geelong but many surrounding municipalities all since amalgamated into one municipality as the City of Greater Geelong. 3YYR wishes to grow

and develop its broadcast potential to the whole of the local government area – and beyond into the Borough of Queenscliff, the Golden Plains Shire and the Surf Coast Shire.<sup>65</sup>

### **Discussion**

If 3YYR is able to confirm its ability to provide a high power 56 kW service, the ABA proposes that the licence area of the 3YYR service be extended to match that of the existing Geelong commercial radio service 3BAY. The 3YYR community service would be operating on similar technical specifications to 3BAY and would therefore provide coverage of its service to a much wider audience.

If 3YYR does not increase power, the ABA proposes the licence area be redefined using 1996 Census boundaries, but otherwise remain unchanged.

### **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 Legislative Framework; and
- ABA's Record of Assumptions.

### **SUMMARY OF FINDINGS**

- There is one existing local community FM radio service within Geelong operating on 100.3 MHz from Murradoc Hill, with a maximum ERP of 800 W (Omnidirectional).
- 3YYR is interested in moving from 100.3 MHz to 94.7 MHz, increasing its power from 800 W omnidirectional to 56 kW directional, with transmissions initially at 10 kW from Murradoc Hill, and extending its coverage from Geelong city to the wider Geelong region.
- There is a high power channel available on 94.7 MHz at 56 kW (Directional) in Geelong.
- There is some doubt of the likelihood of a high power community radio service being available in the Geelong market if channel capacity is made available for 3YYR.
- The frequency currently operated by 3YYR, 100.3 MHz is suitable for use for a high power commercial radio service in Melbourne.

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<sup>65</sup> Submission no.98/6654 dated 11/6/98.

- Channel capacity on 99.5 MHz is available in Geelong at a similar ERP to that currently provided by 3YYR.
- Should 3YYR move to an alternative 56 kW frequency, it would be operating under similar technical specifications to the existing Geelong commercial radio service 3BAY.

## CONCLUSION

The ABA believes that changing the technical specifications of the Geelong community radio service 3YYR to provide a high power service in an extended licence area will allow a wider audience access to a diverse range of services in Geelong, and will promote the objects of the Act at s.3 (a), (f) and (g). That is, by increasing the power the ABA believes that the quality of the reception will be improved and as a result this service will be accessible to a greater number of people in the greater Geelong region. Therefore improved reception of this service 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)).



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## **PRELIMINARY VIEW 11 - ADDITIONAL COMMUNITY RADIO - GEELONG**

**The ABA proposes that channel capacity be made available for one additional FM community radio service in Geelong. It is proposed that this service operate as follows:**

- **On 99.5 MHz, with a maximum ERP of 800 W (Omnidirectional), from a nominal site at Ceres Brownhill Heights Reserve.**

**Alternatively, depending on the ABA's decision regarding relocation of 3YYR (see Preliminary View 10), the ABA proposes that channel capacity be made available for one additional FM community radio service in Geelong. It is proposed that this service operate as follows:**

- **On 94.7 MHz, with a maximum ERP of 56 kW (Directional), from a nominal site at Murradoc Hill.**

**The ABA proposes that the licence area of this service be defined using 1996 Census boundaries.**

**Should testing of channel capacity at 91.9 MHz, currently being undertaken by an aspirant community broadcaster in Geelong, prove suitability of the use of 91.9 MHz in Geelong, the ABA proposes a second additional community radio service be made available in Geelong.**

**The ABA proposes that if this channel capacity is made available, the licence area of the service be defined, using 1996 Census boundaries, to be identical to that currently defined for the existing community radio service 3YYR.**

### **FINDINGS OF FACT AND REASONS**

The ABA believes this preliminary view is likely to promote the objects of the Act at s.3 (a) and (e), 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 view, the ABA considered and reached views about the likely effects of its proposal, having regard to the local circumstances in the market, the likely impact of other planning proposals in this draft LAP and other relevant matters under s.23 (a) – (g). An account of this process of consideration follows.

### **INTEREST IN THE PROVISION OF ADDITIONAL COMMUNITY RADIO SERVICES**

In considering whether to plan for any additional community radio services in the Geelong region, the ABA first considered whether there was any interest in providing additional community radio in the region and found that:

*Finding 11.1.* There is interest from two aspirant community radio broadcasters in Geelong in providing additional FM 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 Geelong, 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**

Submissions were received from both aspirant community radio broadcasters, Radio Rhema and Country FM.

In its submission, Radio Rhema stated:

...We submit several reasons for requesting a high powered licence.

- a) The interference and weak signals over the Bellarine Peninsula...
- b) To increase our coverage throughout the surrounding coastal areas, from the Surf Coast towards Apollo Bay...
- c) To enable us the use of a "subcarrier" for educational programs.

...Severe problems are encountered in most areas of the Bellarine Peninsula. When conducting field strength measurements, our field strength meter detected interference from the commercial signal. The commercial signal strength was about 10 mV on the western outskirts of Drysdale, 5 km from the transmitter. These problems will disappear if we co-site, and therefore increase power...

Country FM stated:

It can be argued that the best use of the spectrum is with low power transmitters covering smaller areas. This is the situation that we have addressed so far. It could also be argued that the best use of the spectrum is to use high-powered stations covering much wider areas. Perhaps a mixture of both is the answer.

Both groups have operated TCBLs. Radio Rhema has operated a wide coverage service for 19 months and Country FM has operated a lower power service for five years.

Given the strong interest in providing additional community radio services in the Geelong licence area expressed by aspirant groups based in Geelong, the ABA believes the objects of the Act, particularly that at s.3 (g) and the economic and efficient use of the spectrum, are likely to be promoted by making additional community radio services available in Geelong.

The importance of this finding is that the ABA believes that if it were to make additional community radio services available in Geelong, it is likely to increase the overall number of services of that type in Geelong.

### CHANNEL CAPACITY

The ABA then considered whether channel capacity exists on the FM Band in the Geelong market to consider making additional community services available in the market.

Frequency	Maximum Power	Nominal Site	Current use
1341 kHz	1.2 kW (DA) (5 kW)	Portarlington	HPON – 31/12/99, Geelong Broadcasters Pty Ltd
89.3 MHz	250 W (OD)	Ceres Brownhill Heights Reserve	Not used
94.7 MHz	56 kW (DA)	Murradoc Hill	TCBL – 31/12/99, Southern Victoria Community Radio Inc (Country FM)
96.3 MHz	56 kW (DA)	Murradoc Hill	TCBL – 31/12/99, Geelong Gospel Radio Inc (Radio Rhema)
99.5 MHz	800 W (OD)	Ceres Brownhill Heights Reserve	Not used

**Table 1: Channel capacity available in the Geelong market**

In considering the above available frequencies, the ABA has also identified a further FM frequency at 91.9 MHz, which may be suitable for use in the Geelong market. The suitability of this frequency is currently being tested by Country FM.

### Power Requirements

The ABA considered the power levels of the existing community radio broadcasting service in Geelong and found that:

*Finding 11.2.* There is one existing local coverage FM community radio service in Geelong. This service operates on 100.3 MHz at 800 W from Murradoc Hill.

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 Geelong (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*, and on the ABA's public website ([www.aba.gov.au](http://www.aba.gov.au)). More detailed information exists in the ABA stations database.

Further evidence for this finding 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 service<sup>66</sup>.

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 (see Preliminary View 10).

In this respect, the ABA had regard to the other preliminary views for the draft LAP in Geelong:

- making 96.3 MHz available for one additional wide coverage commercial radio service in Geelong (see Preliminary View 9);
- making 94.7 MHz available for relocation of existing community radio service 3YYR to allow the use of its existing frequency in Melbourne (see Preliminary View 10);
- making 1341 kHz and 89.3 MHz available for one existing AM and one additional FM open narrowcasting radio services in Geelong respectively (see Preliminary View 12).

### Remaining Capacity

Taking the above into consideration, there is currently sufficient channel capacity to make additional community radio services available in Geelong as follows:

Frequency	Maximum Power	Nominal Site	Current use
1341 kHz	1.2 kW (DA) (5 kW)	Portarlinton	HPONC
99.5 MHz	800 W (OD)	Ceres Brownhill Heights Reserve	Not used

**Table 2: Remaining Technical Capacity for Community Radio Services.**

### Whether to make an additional community radio services available

Knowing that technical capacity exists with comparable geographical coverage to that provided by the existing community radio service, the ABA then considered whether it should make an additional community service available in Geelong. The ABA found that:

*Finding 11.3.* There is no demand for use of the available AM frequency by aspirant community radio broadcasters.

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<sup>66</sup> 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 9.

*Finding 11.4.* The available technical capacity may suit the technical operating requirements of one of the two aspirant community radio broadcasters in Geelong.

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 Geelong and neighbouring regions (s.23 (c) and (e)).

Engineering consideration of the suitability of these frequencies is cited in the Technical Restraints at Appendix 1.

### **Submissions**

In its submission received on 24 June 1998, Country FM stated:

Southern Victoria Community Radio Inc (Country FM) has operated on a temporary basis since 1994. In the beginning the station was borrowing a 100 watt transmitter each time that it went to air. It now goes to air with a 500 watt transmitter, which is owned by the station. A 250 watt standby transmitter is also in the rack should the 500 watt unit fail for any reason. Within three months the station...will solely own all equipment within the station...

...With regard to spectrum efficiency please be assured that Country FM will cooperate with the ABA in whichever way they would like to proceed

In its submission received 6 August 1998, Radio Rhema stated:

#### **Increase in or Changes to Effective Radiated Power**

We submit several reasons for requesting a high powered licence.

- A) The interference and weak signals over the Bellarine Peninsula, including the following towns: Urban Geelong; Clifton Springs; Drysdale; Portarlington; Indented Head; St Leonards; Queenscliff; Point Lonsdale; Ocean Grove; Barwon Heads; Torquay.
- B) To increase our coverage throughout the surrounding coastal areas, from the Surf Coast towards Apollo Bay.
- C) To enable us the use of a "subcarrier" for educational programs.

#### **Changes to Radiation Patterns**

The original design of the radiation patterns for the Geelong commercial FM stations seems suitable for the task.

#### **Increase in or Changes to Coverage**

...The terrain is a rugged coastline, with steeply rising land to heights of 300 to 700 metres, within 1 or 2 km of the coast. It is extremely difficult to achieve good coverage from local transmitting sites, even if there were 10 or more.

...The current commercial FM transmitter site, referred to as "Murradoc Hill", is well suited to this purpose, and although there will still be some dead spots, coverage in general is a major improvement.

This terrain prevents coverage to this coastal fringe from inland sites, such as our present Lovely Banks site, or a Colac site, therefore we suggest the extension of our coverage area to reach as far as Apollo Bay.

**Reception and/or Interference Problems within our Area**

Severe problems are encountered in most areas of the Bellarine Peninsula. When conducting field strength measurements, our field strength meter detected interference from the commercial signal. The commercial signal strength was about 10 mV on the western outskirts of Drysdale, 5 km from the transmitter. These problems will disappear if we co-site, and therefore increase power...

**Discussion**

While Country FM did not specifically address potential frequency or power requirements in its submission, it did address its current equipment status, indicating its potential to provide a 500 W service. The ABA has inferred from this that Country FM would intend to serve the area covered by its current TCBL, which the ABA considers would be adequately served with a maximum ERP of 500 W.

Radio Rhema addressed its power, coverage, site and licence area preferences, based on its experience operating a service under a high power (50 kW) TCBL. The ABA is of the belief that this aspirant community radio broadcaster is likely to be in a position to operate a high power community service and acknowledges that both aspirant groups would prefer to operate high power services. However, as discussed in Preliminary View 10, the ABA is proposing 3YYR, the existing community broadcaster move to a high power frequency, leaving only lower power capacity in the Geelong market.

Should 3YYR indicate it is unable to provide a high power service within the proposed time frame, the ABA proposes making this high power channel, 94.7 MHz available for additional community radio in Geelong. The ABA would then propose 3YYR change frequency to 99.5 MHz (see Preliminary View 10).

The ABA recognises that channel capacity exists on the AM band to provide a higher power service than that it is currently proposing for an additional community radio service for Geelong. However, neither aspirant broadcaster expressed interest in operating an AM community radio service, and the ABA is currently proposing this channel capacity be made available for a high power open narrowcasting service. If either aspirant group wishes to express interest in the available AM capacity, the ABA will further consider its preliminary view on additional community radio services in Geelong.

**Licence areas**

The ABA assumes that the current licence area of the existing community radio service represents an accepted media market and will not vary it 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 services using the broadcasting services bands within those markets should have the same licence area unless there are good reasons to the contrary.

Relevantly, the ABA found that:

*Finding 11.5.* It is appropriate that the licence area of the proposed new local coverage Geelong community radio service be the same as that of the existing 800 W 3YYR community radio service.

The ABA is required by s.23 (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 (s.23 (e)).

The service area of the existing community radio service in Geelong was determined by the then Minister for Transport and Communications in 1987 and continued as a licence area by s.8 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

In determining the existing community licence area for Geelong, the then 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 claiming to serve the community or communities in the area.

The proposed additional local coverage community radio service in Geelong will operate at the same power to that currently operated by the existing 3YYR 800 W community radio service. The ABA is satisfied that the maximum ERP for the proposed service will adequately serve the proposed licence area. Therefore, it proposes the licence area of the proposed new service should be identical to that currently served by 3YYR.

Should the ABA propose a wide coverage community radio service in Geelong, it would be proposed to operate under the same technical specifications and cater to the same licence area as that of the existing 3BAY commercial radio service. The ABA is satisfied that the maximum ERP for this service would adequately serve the proposed licence area.

## **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 Legislative Framework; and
- ABA's Record of Assumptions.

## SUMMARY OF FINDINGS

- There is interest from two aspirant community radio broadcasters in Geelong in providing additional FM community radio services.
- There is one existing local coverage FM community radio service in Geelong. This service operates on 100.3 MHz at 800 W from Murradoc Hill.
- There is no demand for use of the available AM frequency by aspirant community radio broadcasters.
- The available technical capacity may suit the technical operating requirements of one of the two aspirant community radio broadcasters in Geelong.
- It is appropriate that the licence area of the proposed new local coverage Geelong community radio service be the same as that of the existing 800 W 3YYR community radio service.

## CONCLUSION

Taking into consideration the available spectrum (s.23 (e)) and the interest expressed by aspirant service providers for additional community radio services in Geelong (s.23 (g)), the ABA believes the objects of the Act at s.3 (a), (f) and (g) are likely to be promoted by making two additional community radio services available in Geelong.

The ABA is of the opinion that, based on the scarcity of available spectrum in the Geelong area, the maximum ERP levels and licence areas proposed in the licence area plan offer the best possible solution to community radio broadcasting needs in the Geelong area. Should testing of 91.9 MHz prove its suitability for use in the Geelong area, the ABA proposes a second additional community radio service be made available in Geelong, further addressing the needs of community broadcasting in Geelong.

The ABA recognises that channel capacity exists on the AM band to provide a higher power service than it is currently proposing for an additional community radio service in Geelong. However, neither aspirant broadcaster expressed interest in operating an AM community radio service and the ABA is currently proposing this channel capacity be made available for a high power open narrowcasting service. If either aspirant group wishes to express interest in the available AM capacity, the ABA will further consider its preliminary view on additional community radio services in Geelong.

The ABA believes that s.3 (a) will be well served by making these additional community services available, as there are currently two aspirant broadcasters interested in providing such services. Both of these groups are currently operating under TCBLs. Although TCBLs confer no rights nor indicate any ABA preference for a group to be granted a permanent community radio licence, the ABA is of the belief that, if a permanent community radio service is made available for allocation, it is likely that the license would be taken up.

The ABA also believes that an additional community radio service will add to the diversity of radio services on offer in Geelong (s.3 (c)). In addition, this new service is likely to have a positive effect on innovative programming (s.3 (f)) and coverage of matters of local significance (s.3 (g)).



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## PRELIMINARY VIEW 12 - OPEN NARROWCASTING RADIO – GEELONG

**The ABA proposes to make two open narrowcasting services available in Geelong. The services are proposed to operate as follows:**

<b>Area Served</b>	<b>Frequency</b>	<b>Maximum CMF/ERP</b>	<b>Nominal Location</b>
<b>Geelong</b>	<b>1341 kHz</b>	<b>1.205 kV</b>	<b>Portarlington</b>
<b>Geelong</b>	<b>89.3 MHz</b>	<b>250 W</b>	<b>Ceres Brownhill Heights Reserve</b>

**The ABA proposes to make these channels available for open narrowcasting services under s.34 of the *Broadcasting Services Act 1992*, for a minimum period of five years. The provider to be determined by use of a price-based allocation process 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 plays an important role in promoting the object at s.3 (a)<sup>67</sup> 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 play in making a range of broadcasting services available. For this reason, the ABA chooses to consider planning open narrowcasting services at the same time it considers the need for other types of services.

On 5 December 1994, the ABA obtained legal advice from counsel, JJ Speigelman QC, on options for planning open narrowcasting services during the public planning process.<sup>68</sup> The advice indicates that the ABA is entitled to show an open narrowcasting service as being available in a LAP, 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 (that is, 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.

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<sup>67</sup> To promote the availability to audiences throughout Australia of a diverse range of radio services offering entertainment, education and information.

<sup>68</sup> The ABA's Record of Advice (in accordance with subsection 27 of the Act) are at Appendix 2.

## INTEREST IN THE PROVISION OF OPEN NARROWCASTING RADIO SERVICES

In considering submissions made to the ABA to date, the ABA found that:

*Finding 12.1* There is interest from potential open narrowcasting radio broadcasters in providing open narrowcasting radio services in Geelong.

Section 23 (c) of the Act requires the ABA to have regard to the number of existing services and the demand for new broadcasting services within a licence area, within neighbouring licence areas and within Australia generally. Section 23 (e) provides that the ABA have regard to the technical restraints relating to delivery and reception of broadcasting services. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant.

### Submissions

The ABA received three submissions from parties interested in providing open narrowcasting services in Geelong. The following table lists the demand for open narrowcasting radio services in the Geelong area:

Submitter	Interest
BEST-FM	Requests a narrowcasting service to the whole of the Geelong area and western areas of Melbourne for small business education, either: 1) a 56 kW FM from Murradoc Hill, 2) a medium power FM service, 3) a 5 W AM service, or 4) a lower-powered AM service, using half power at night.
Geelong Broadcasters Pty Ltd and BAT FM Pty Ltd	Requesting 1341 kHz for open narrowcasting use.
Pointon Grant (obo 3AGB Radio) (Greek language ONC 1116 AM)	Requesting retransmission facilities in Geelong.

**Table 1: Interest in providing open narrowcasting radio services in Geelong**

In its submission, BEST-FM stated:

There are several possibilities for small business radio in Geelong. In order of preference these are:

1. A 56 kW FM service from Murradoc Hill;
2. A medium-powered FM service;
3. The proposed 5 watt Geelong AM service;
4. A lower-powered AM service.

...To provide the maximum benefit for small business, the Small Business Education Station needs to strongly cover the whole of the Geelong coverage area. This makes one of the two 56 kW licences the most desirable licence for this purpose.

...However, if such a high-powered frequency cannot be made available, I submit that a medium powered service be allocated for Small Business Education Radio in Geelong. This service should have mixed polarisation so that it can be easily received inside business buildings.

...If there was no FM licence available for small business education, I submit that the available 5 kW AM licence be allocated for small business radio.

...Failing that, if none of the above possibilities were available for small business education, perhaps the ABA could examine the possibility of a lower-powered AM frequency in Geelong. The lower power would be so the Geelong station would not interfere with other stations on that frequency elsewhere in Australia. Also, this lower-powered Geelong station could operate with half power at night so that it causes no interference to distant stations on the same frequency...

Geelong Broadcasters Pty Ltd, licensees of the existing AM open narrowcasting radio service in Geelong, stated in a joint submission with BAY-FM Pty Ltd:

The frequency 1341 kHz has operated successfully as a narrowcast licence for the last two years and we submit that it should be offered again as a narrowcast licence.

Pointon Grant, lawyers and business advisors writing on behalf of 3AB Radio, a Greek language open narrowcasting service, stated:

...3AB Radio does submit that the entity broadcasting on 116AM following the allocation of licences be permitted to establish retransmission facilities in the Geelong and/or Colac areas.

On balance, based on submissions received, the ABA is satisfied that planning of an additional open narrowcasting radio broadcasting service would be likely to increase the overall number of services of that type in Geelong.

## CHANNEL CAPACITY

In considering available channel capacity in the Geelong market, the ABA found:

*Finding 12.2* There is one existing AM open narrowcasting radio service in Geelong on 1341 kHz, licensed to operate until 31 December 2000.

*Finding 12.3* There are 17 low power open narrowcasting services operating in Geelong

Section 23 (c) of the Act requires the ABA to have regard to the number of existing services and the demand for new broadcasting services within a licence area, within neighbouring licence areas and within Australia generally. Section 23 (e) provides that the ABA have regard to the technical restraints relating to delivery and reception of broadcasting services. Section 23 (g) requires the ABA to have regard to such other matters as it considers relevant.

The AM open narrowcasting service is licensed to Geelong Broadcasters Pty Ltd. The 17 low power services are operated by:

Barrow Group Pty Ltd  
 Suzette Munro  
 Linfox Transport (Aust) Pty Ltd  
 Geelong Broadcasters Pty Ltd  
 Victorian Narrowcast Network  
 City by the Bay Tourism Association  
 Geelong Independent Radio Ltd

### **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 Geelong 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 9.

Given that the ABA is proposing to make available for allocation one additional commercial radio service (Preliminary View 9) and two additional community radio services (Preliminary View 11) and is proposing changes to the operating conditions of the existing community radio service (Preliminary View 10), the ABA found that:

*Finding 12.4* There is channel capacity for one AM open narrowcasting radio service in Geelong.

*Finding 12.5* There is channel capacity for one lower power FM open narrowcasting service in Geelong.

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 s.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 Geelong 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 open narrowcasting 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 one local coverage FM frequency available for an open narrowcasting service which may assist in meeting the demand for open narrowcasting services. If an aspirant open narrowcasting service provider fails to obtain the AM frequency it may choose instead to provide a local coverage service in Geelong on the FM frequency.

### **EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED**

In preparing its preliminary view on open narrowcasting 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 Legislative Framework; and
- ABA's Record of Assumptions.

### **SUMMARY OF FINDINGS**

- There is interest from potential open narrowcasting radio broadcasters in providing open narrowcasting radio services in Geelong.
- There is one existing AM open narrowcasting radio service in Geelong on 1341 kHz, licensed to operate until 31 December 2000.
- There are 17 low power open narrowcasting services operating in Geelong.
- There is channel capacity for one AM open narrowcasting radio service in Geelong.
- There is channel capacity for one lower power FM open narrowcasting service in Geelong.

### **CONCLUSION**

Taking into consideration the available spectrum (s.23 (e)) and interest expressed by existing and prospective open narrowcasting service providers, the ABA believes the objects of the Act at s.3 (a) and (f) are likely to be promoted by proposing one AM and one additional FM open narrowcasting radio services in Geelong.



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## **PRELIMINARY VIEW 13 - EXISTING COMMERCIAL RADIO – COLAC**

**The ABA proposes that the existing commercial radio services (3CS and 3CCS) continue to operate as follows:**

- **3CS to operate on 1134 kHz with a maximum CMF of 2.8 kV (Directional).**
- **3CCS to operate on 106.3 MHz from Warrion Hill with a maximum ERP of 10 kW (Directional).**

**The ABA proposes that channel capacity be made available in both Lorne and Apollo Bay for low power FM transmitters associated with the 3CCS service, to operate as follows:**

- **92.7 MHz from a nominal site of Mt Cowley with a maximum ERP of 100 W (Directional).**
- **95.9 MHz from a nominal site of Wyelangta with a maximum ERP of 250 W (Directional).**

**The ABA proposes that the licence areas of the Colac commercial radio services be increased to include Apollo Bay and redefined using the 1996 Census boundaries.**

**The ABA does not propose to make any additional commercial radio services available in Colac.**

### **FINDINGS OF FACT AND REASONS**

The ABA believes this preliminary view is likely to promote the objects of the *Broadcasting Services Act 1992* (the Act) at s.3 (a) and (e), and represents an 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 view, the ABA considered and reached opinions about the likely effects of this proposal, having regard to the local circumstances in the Colac and neighbouring markets, the likely impact of other preliminary views on the draft LAP and other relevant matters under s.23 (a) – (g) of the Act.

### **INTEREST IN PROVIDING ADDITIONAL COMERCIAL RADIO SERVICES**

In considering whether to plan for an additional commercial radio service in the Colac region, the ABA first considered whether there was any interest in providing an additional commercial service in the region and found:

*Finding 13.1.* There is interest from one aspirant commercial radio broadcaster in providing an additional commercial radio service in Colac.

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

### **Submissions received**

The ABA received two submissions in relation to additional commercial services in the Colac area, one from Crisp & Son Pty Ltd and the other from ACE Radio Broadcasters Pty Ltd (on behalf of 3CCS and 3CS).

In a submission dated 8 June 1998, Crisp & Son expressed interest in providing an additional commercial FM service for the Colac area. It requested 104.7 MHz for commercial use in Colac:

We are also interested in the Colac District (104.7 MHz. TS 6753001) as this is the 'Gateway' to the Western District of Victoria. It too, has both the AM and the FM Commercial Radio Licences owned by the one Company, 'Ace Radio'.

...We consider this to be of the utmost importance for the viability of competition envisaged to carry out the spirit of Section 160 (A)... to encourage diversity in control of the more influential broadcasting services.

Ace Radio in its submission dated 16 June 1998 states that there is a broad range of commercial services currently being provided to the Colac market. It is opposed to an additional commercial service being made available.

This market already has one of the most diverse selection of commercial radio services in Australia.

We believe to ensure that the services provided by 3CS/FM106.3 continue in this community there should not be, nor is there a need for an additional commercial licence.

...considering the social and economic characteristics of the licence area, the likelihood of the sustainability of a new commercial licence is at very best, extremely remote.

In our view a Community and/or Narrowcast service would provide the most economic and efficient use of the radio frequency spectrum and at the same time ensure the continued variety of services to the community that already exist.

### **CHANNEL CAPACITY**

The ABA then considered whether channel capacity exists in the Colac market for provision of additional commercial broadcasting services. The channel capacity as outlined in the Technical Restraints at Appendix 1 is indicated below.

Category of Service	Call Sign	Frequency	Maximum CMF/ERP	Nominal Location	Licensee
Commercial	3CCS	106.3 MHz	10 kW (DA)	Warrion Hill	Ace Radio
Commercial	3CS	1134 kHz	2.8 kW	Rossmoyne	Ace Radio
Community TCBL	CPR	104.7 MHz	100 W	Murray St, Colac	Colac Public Radio

**Table 1: Channel capacity in the Colac market.**

The ABA considered availability of channel capacity in the Colac market and found:

*Finding 13.2.* The existing AM commercial radio service 3CS operates on 1134 kHz with a maximum CMF of 2.8 kW, which is equivalent to a transmitter power of 5 kW, from Rossmoyne.

*Finding 13.3.* The existing FM commercial radio service 3CCS operates on 106.3 MHz with a maximum ERP of 10 kW directional from Warrion Hill.

*Finding 13.4.* One FM channel, 104.7 MHz is available in Colac.

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 Colac (s.23 (c) and (e)).

With regard to the objects of the Act and other relevant matters under s.23 (a) - (g), it is unclear whether or not, and in what way, providing an additional commercial radio broadcasting service in the Colac market would increase the number of services or represent an economic and efficient use of the radiofrequency spectrum.

The ABA believes that planning additional services in the Colac market would not represent an economic and efficient use of the radio frequency spectrum, nor would it serve to promote the objects of the Act.

## DEMOGRAPHIC, SOCIAL AND ECONOMIC CHARACTERISTICS

The ABA is required by s.23 (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 compared Colac with similar sized and larger markets in Australia.

Relevantly, the ABA found:

*Finding 13.5.* Colac is a relatively small commercial radio market with comparative levels of service to that of demographically larger markets.

A comparison to other markets of similar or smaller size with one or two commercial radio services shows:

1996 Population	Call Sign/market	No. of Licences	No. of licences made available in LAP
49,416	5SE, 5SEF* Mount Gambier	2	0
47,828	2GF, 2CLR* Grafton	2	0
47,737	2NM, 2VLY Muswellbrook	2	0
45,399	4SB, 4KRY* Kingaroy	2	0
44,812	3SH, 3SHI* Swan Hill	2	0
44,703	4HI, 4HIT* Emerald	2	0
44,423	4AM, 4AMM Atherton/Mareeba	2	0
43,475	3HA Hamilton	1	Group 5
43,335	3CS, 3CCS* Colac	2	Group 4
42,774	2VM, 2NOW Moree	2	0
42,085	2BS, 2BXS* Bathurst	2	0
41,468	2LF, 2LFF* Young	2	Group 5
40,713	5AU Port Augusta	1	Group 5

**Table 2: Colac Market Comparison**

\*s.39 service

The ABA also had regard to Australian Bureau of Statistics (ABS) data in relation to the demographic, social and economic characteristics of the Colac market (s.3(c)).

Relevantly the ABA noted that:

- The population of Colac licence area at Census 1996 (based on the proposed licence area of the 3CCS commercial radio service) was 45 953.
- The intercensal population growth between 1991 Census and 1996 Census for Colac shows a slightly lower rate of growth (1.1%) compared with the rate for Australia as a whole (6.2%).
- The estimated growth for Colac between 1996 and June 1998 indicates Colac has grown marginally slower (0.05%) than Australia as a whole (1.2%).

The ABA assumes, in the absence of submissions addressing these issues, the demand for additional broadcasting services can be inferred from demographic, social or economic indicators within market, or from comparison with other similar markets. This is relevant even where it receives no submissions during the public consultation phase or planning.

Given the comparative rate of growth between the Colac region and the rest of Australia at Census 1996, the ABA is not satisfied that there is sufficient demand from the Colac market to warrant an additional commercial service in the area at this stage.

The ABA believes that no additional commercial radio services should be made available in Colac at this time. In view of the submissions received, the ABA is not satisfied that the provision of an additional commercial service would significantly add to the range and diversity of service in the Colac market or deliver the most economic and efficient use of the radio frequency spectrum. Nor is the ABA satisfied from the submissions that an additional commercial radio service would offer wide coverage or of the effect on coverage of local issues. It is unclear whether the overall

level of programming covering matters of local significance would be increased by an additional commercial radio service.

## **SUBMITTERS**

**On the strength of submissions to date, the ABA believes it has insufficient evidence to reach a decision in the provision of an additional commercial radio service in Colac.**

**The ABA will take into account further information about additional commercial radio services in the Colac market. The ABA requires all potential service providers address the following questions:**

- a) **Whether and in what way providing additional commercial radio broadcast services in the Colac 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 Colac in accordance with the technical specifications proposed in the Information Booklet;**
- f) **Whether your interest is contingent in any way.**

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

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

**The ABA would prefer submissions to be sent by email ([metrodraftlap@aba.gov.au](mailto:metrodraftlap@aba.gov.au)) or on an IBM compatible or Mac 3.5 inch floppy disk wherever possible.**

## **EXISTING SERVICES**

Ace Radio, the licensee of the commercial radio services in its submission dated 1 September 1999, requested an extension to the licence area of 3CCS and additional

transmitter frequency to include Apollo Bay and Lorne. Lorne is an area of poor reception within the 3CCS licence area.

We would be most interested in providing a commercial service into Lorne as well as Apollo Bay.

We are currently of the view, that in practical terms, a new frequency would be ideally suited to Lorne and the same for Apollo Bay.

Alternatively, Ace Radio propose a retransmission of their 3CCS FM service to Apollo Bay on their current frequency of 106.3 MHz from Mt Sabine.

...we consider a retransmission from Mt Sabine of our current frequency (106.3) into Apollo Bay, is also a viable alternative.

Apollo Bay is currently within the licence area of the remote commercial radio service for the Central Zone, 8SAT. For residents of Apollo Bay to receive the 8SAT service, they would be required to purchase equipment with large receiving antenna dishes. The licensee of 8SAT recently obtained a licence to provide a service terrestrially at Apollo Bay but a service is not yet operational. The ABA is unaware of anyone receiving the 8SAT service via satellite.

In considering these requests, the ABA found:

*Finding 13.6.* Channel capacity is available in both Lorne and Apollo Bay for low power FM transmitters associated with the 3CCS commercial FM service.

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. The ABA is also required to take into account the technical restraints relating to delivery or reception of broadcasting services (s.23 (e)).

The ABA proposes that channel capacity be made available in both Lorne and Apollo Bay for low power FM transmitters for the 3CCS service.

### **Licence areas**

In considering the licence area for commercial radio services in the Colac region. The ABA found:

*Finding 13.7.* The licence area for commercial FM radio service 3CCS should be increased to include Apollo Bay and be redefined using 1996 Census boundaries.

*Finding 13.8.* It is appropriate to extend the licence area of the 3CS commercial AM service to match that proposed for the FM service.

The ABA is required by s.23 (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 (s.23 (e)).

The service areas of the commercial radio services in Colac were determined by the then Minister for Communications on 10 November 1988 and continued as licence areas by s.8 of the *Broadcasting Services (Transitional Provision and Consequential Amendments) Act 1992*.

In determining the community licence area for Colac, 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.

Given that technical capacity is available, there is sufficient interest in providing a commercial radio service to the Apollo Bay area and the ABA believes community – of – interest ties exist between Colac and Apollo Bay, the ABA proposes that the licence area of 3CCS Colac be increased to include Apollo Bay.

Although technical capacity is not available to provide a transmitter for the 3CS AM commercial radio service at Apollo Bay, the ABA believes, based on signal coverage maps, that it is likely a listenable signal of the 3CS service is currently available in and around Apollo Bay. Accordingly, it proposes to extend the 3CS licence area to include Apollo Bay.

## **EVIDENCE OR OTHER MATERIALS 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**

- There is interest from one aspirant commercial radio broadcaster in providing an additional commercial radio service in Colac.
- The existing AM commercial radio service 3CS operates on 1134 kHz with a maximum CMF of 2.8 kV, which is equivalent to a transmitter power of 5 kW, from Rossmoyne.
- The existing FM commercial radio service 3CCS operates on 106.3 MHz with a maximum ERP of 10 kW (Directional) from Warrion Hill.
- One FM channel, 104.7 MHz is available in Colac.

- Colac is a relatively small commercial radio market with comparative levels of service to that of demographically larger markets.
- Channel capacity is available in both Lorne and Apollo Bay for low power FM transmitters associated with the 3CCS commercial FM service.
- The licence area for commercial FM radio service 3CCS should be increased to include Apollo Bay and be redefined using 1996 Census boundaries.
- It is appropriate to extend the licence area of the 3CS commercial AM service to match that proposed for the FM service.

## **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 the radiofrequency spectrum in Colac, is to propose that no additional commercial radio service be made available at this time.

Taking into consideration the available spectrum (s.23 (e)), demographic, social and economic characteristics (s.23 (a) and (b)), and the interest expressed by the potential service providers for extended coverage (s.23 (c)), the ABA believes that changing the licence area of the commercial radio services at Colac to provide extended coverage to include the Apollo Bay area will allow wider audience access to existing services in Colac and will best promote the objects of the Act at s.3 (a), (f) and (g).

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## PRELIMINARY VIEW 14 - NEW COMMUNITY RADIO – COLAC

**The ABA proposes to make channel capacity available for a community radio service in Colac. The new service is proposed to operate as follows:**

<b>Area Served</b>	<b>Frequency</b>	<b>Maximum Effective ERP</b>	<b>Nominal Location</b>
<b>Colac</b>	<b>104.7 MHz</b>	<b>10 kW (DA)</b>	<b>Warrion Hill</b>
<b>Apollo Bay</b>	<b>99.1 MHz</b>	<b>250 W (DA)</b>	<b>Wyelangta</b>
<b>Lorne</b>	<b>88.7 MHz</b>	<b>100 W (DA)</b>	<b>Mt Cowley</b>

**It is proposed that the licence area for the community radio service be identical to the licence area proposed for the existing commercial radio service and be defined using 1996 Census boundaries.**

### FINDINGS OF FACT AND REASONS

The ABA believes this preliminary view promotes the objects of the *Broadcasting Services Act* (the Act) at s.3 (a)<sup>69</sup> and (e)<sup>70</sup>, and represents an 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 view, the ABA considered and reached opinions about the likely effects of this proposal, having regard to the local circumstances in the Colac market, the likely impact of other preliminary views in this draft LAP and other relevant matters under s.23 (a) – (g) of the Act.

### INTEREST IN THE PROVISION OF A NEW COMMUNITY RADIO SERVICE

In considering whether to plan for a new community radio service in the Colac region, the ABA first considered whether there was any interest in providing a community radio service in the region and found:

*Finding 14.1.* There is interest from an aspirant community radio broadcaster in providing a community radio service in Colac.

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

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<sup>69</sup> To promote the availability to audiences throughout Australia of a diverse range of radio services offering entertainment, education and information.

<sup>70</sup> To promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity.

In forming this preliminary view for Colac, the ABA has considered submissions from existing and potential broadcasting service providers in the Colac and neighbouring markets. 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 of interest to date in the provision of a community radio service in the Colac market.

<b>Submitter</b>	<b>Date of Submission</b>	<b>Proposal</b>
Geelong Gospel Radio Inc (Radio Rhema)	August 1998	Requests extended coverage into Apollo Bay, Colac & Camperdown via a repeater in the western side of the Colac area, possibly Mt Leura in Camperdown, or to the NW at Red Rock near Coragulac.
Colac Public Radio Inc (CPR)	12 June 1998	Interested in continuing to provide a community broadcasting services for the Colac Otway Shire. Offering 2 planning options for Colac/Otway community radio identifying: Extending LA to include southern coastal areas via translators 35km S of Colac; and Increasing ERP to 500 W from Colac with two 500 W translators (from the Country Fire Authority site, Mount Chapple (Wyelangta), and the Telstra tower site at Mount Cowley (Lorne/Kennett River area)), or alternatively a high power service from the Warrion site, with translators for the southern LA extensions. Currently operating TCBL in the Colac area. Have conducted test transmissions.

**Table1: Expressed interest in establishing a new community radio service in Colac**

### **Submissions received**

In its submission Colac Public Radio Inc stated:

...Colac Public Radio Inc strongly believes that a permanent community licence be made available to the Colac/Otway area.  
Colac Public Radio Inc has identified via test transmissions over the past five years that there has been support for a community service in these identified areas.  
Otway shire has indicated that their preference would be for total coverage of the shire as a community radio service. This support has also been shown from many individuals and organisations who reside in the extension areas.

In its submission, Geelong Gospel Radio Inc stated:

...we suggest the extension of our coverage area to reach as far as Apollo Bay.

Considering the population figures of the Geelong area, 270 468 (ref: ABA p.38) and Colac 44 441 (ref: ABA p.41), sufficient support for an independent Christian Broadcaster in the Colac area seems unlikely. With a repeater in the area though duplication of our service would be a possibility.

Both aspirant groups operate TCBLs. Colac Public Radio has operated in the Colac region for the past 5 years. Geelong Gospel Radio currently operates within the

Geelong licence area but wishes to extend to the Apollo Bay/Colac region via retransmission.

Given the interest in providing a community radio services to the Colac licence area expressed by aspirant groups based in Geelong and Colac, 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 a new community radio service available in Colac.

## CHANNEL CAPACITY

The ABA then considered whether channel capacity exists on the FM band in the Colac market for the provision of a new community broadcasting service.

Frequency	Maximum CMF/ERP	Nominal Location	Current Use
106.3 MHz	10 kW (DA)	Warrion Hill	Commercial – Ace radio (3CCS)
1134 kHz	2.5 kW	Rossmoyne	Commercial – Ace Radio (3CS)
104.7 MHz	100 W	Murray St, Colac	TCBL – 31/12/00 Colac Public Radio (CPR)

**Table 1: Channel capacity in the Colac market**

The ABA considered availability of channel capacity in the Colac market and found:

*Finding 14.2.* There is no existing community radio service in the Colac region.

*Finding 14.3.* Channel capacity is available to make one FM community radio service available in Colac operating on 104.7 MHz at 10 kW.

*Finding 14.4.* Channel capacity is also available to make transmitters associated with the 104.7 MHz service available in Lorne (88.7 MHz) and Apollo Bay (99.1 MHz).

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 Colac (s.23 (c) and (e)).

The Technical Restraints (Appendix 1) discusses the suitability of the use of these frequencies in Colac.

## Competing Channel Requirements

The ABA received a submission from Pointon Grant (on behalf of 3AB Radio), dated 29 June 1998, stating its interest in retransmitting an open narrowcasting service from Melbourne.

...3AB Radio does submit that the entity broadcasting on 1116AM following the allocation of licences be permitted to establish retransmission facilities in the Geelong and/or Colac areas.

As identified above, the ABA has channel capacity for the additional service in Colac. Relevantly the ABA found:

*Finding 14.5.* Making a community radio service available is more likely to suit the needs of the Colac community.

The ABA is required to have regard to demand for new services (s.23 (c)) and the technical restraints relating to delivery or reception of services (s.23 (e)).

The Colac Public Radio has provided a TCBL service for 5 years in the Colac region. There is currently no open narrowcasting service operating in Colac. Open narrowcasting services by their nature are limited services as described under s.18 of the Act.

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.

The retransmission of an open narrowcasting service would therefore, appear not to comply with the open narrowcasting definition from the Act, of being a ‘limited’ service. While the ABA may choose to make an open narrowcasting service available in Colac, which 3AB Radio may purchase at a price-based allocation, the ABA does not consider that it has sufficient evidence before it to make an open narrowcasting service available.

As indicated in the Legislative Framework, planning a community radio service in a market, particularly one without a community radio service, is likely to promote the objects at s.3 (a) and (e) and may promote the object at s.3 (g). Planning an open narrowcasting service is likely to promote the object at s.3 (a). On balance, evidence suggests a community radio service is more likely to promote the objects of the Act, including the economic and efficient use of the spectrum.

### **Licence areas**

In considering an appropriate licence area for a new Colac community radio service. The ABA found:

*Finding 14.6.* Colac Public Radio Inc proposes to serve the Colac Otway Shire.

*Finding 14.7.* Geelong Christian Broadcasters proposes to serve the Apollo Bay and Colac areas.

*Finding 14.8.* The licence area of the proposed new community radio service be the same as that of the existing Colac Otway Shire boundary.

The ABA is required by s.23 (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. Sections 23 (c) and (e) also require the ABA 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 the Colac and neighbouring regions.

Aspirant community broadcaster, Colac Public Radio Inc has operated a 100W TCBL service in the area since 1994 on 99.1 kHz, and following two test transmissions, has requested that Lorne and Apollo Bay be included in the Colac community radio licence area.

Colac Public Radio Inc believe that the coastal areas in the southern aspects of [Colac Otway and Corangamite] Shires should be included in the Licensing area.

It is proposed that a community licence be established... for a Colac transmission site and 2... translating services positioned at strategic positions within the identified licensing area.

Colac Public Radio Inc would also be seeking the opportunity to offer a translation service, as these areas identified in the licence area would require this (southern extensions identified in the extension to licence area response).

Geelong Gospel Radio Inc (Radio Rhema) in its submission, expressed interest in providing a service to the Colac Otway Shire, including Apollo Bay, as part of a retransmission of its Geelong community radio service. The group, to date, has not operated under a TCBL in the Colac area, but requested extended coverage into Apollo Bay via repeater sites on the western side of the Colac area (Mt Leura in Camperdown or to the NW at Red Rock near Coragulac).

We have proposed some variances to the preliminary draft technical specifications as outlined in the planning for radio services guide 1998. These variances are based on what we believe the most efficient and economic was to delivery a community based broadcasting service.

The ABA believes that the Colac Otway Shire, including Apollo Bay, represents a community – of - interest area and that a community radio service providing coverage of this area is likely to promote the objects of the act.

## **EVIDENCE OR OTHER MATERIALS 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;
- The ABA's Legislative Framework;
- August 1994 Frequency Allotment Plan; and
- The ABA's Record of Assumptions.

## **SUMMARY OF FINDINGS**

- There is interest from aspirant community radio broadcasters in providing a community radio service in Colac.
- There is no existing community radio service in the Colac region.
- Channel capacity is available to make one FM community radio service available in Colac operating on 104.7 MHz at 10 kW.
- Channel capacity is also available to make transmitters associated with the 104.7 MHz service available in Lorne (88.7 MHz) and Apollo Bay (99.1 MHz).
- Making a community radio service available is more likely to suit the needs of the Colac community.
- Making a community radio service available is more likely to suit the needs of the Colac community.
- Colac Public Radio Inc proposes to serve the Colac Otway Shire.
- Geelong Christian Broadcasters proposes to serve the Apollo Bay and Colac areas.
- The licence area of the proposed new community radio service be the same as that of the existing Colac Otway Shire boundary.

## **CONCLUSION**

Taking into consideration the available spectrum (s.23 (e)) and the interest expressed by aspirant service providers for community radio services, the ABA believes the objects of the Act at s.3 (a), (f) and (g) will best be promoted by making a new FM community radio service available in Colac.

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## **PRELIMINARY VIEW 15 – VARIATION TO SHEPPARTON LAP – EXISTING COMMUNITY RADIO 3UGE ALEXANDRA/EILDON**

**The ABA proposes to make channel capacity available for two transmitters associated with the existing FM community radio service 3UGE Alexandra/Eildon as follows:**

- **A service to operate on 89.1 MHz from Mt Broughton, Yea, with a maximum ERP of 100W.**
- **A service to operate on 98.5 MHz from Mt Gordon, Marysville, with a maximum ERP of 100W.**

**The above services are planned for town only coverage and are interference limited. Only field strengths of 66 dBmV/m and above will be protected from interference.**

**The ABA proposes to extend the licence area of the existing community FM radio service 3UGE Alexandra/Eildon into Yea and Marysville and redefine 3UGE's licence area using 1996 Census boundaries.**

### **FINDINGS OF FACT AND REASONS**

The ABA believes that the proposals outlined in this preliminary view are likely to promote the objects of the Act at s.3 (a)<sup>71</sup> 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 SERVICE**

In reaching this view, the ABA firstly had regard to the current technical specifications of the community radio service 3UGE. The ABA found:

*Finding 15.1* The existing community FM radio service 3UGE is operating on FM frequency 106.9 MHz from Devils River with a maximum ERP of 1 kW.

### **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 set out in s.23. Section 23 (e) requires the

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<sup>71</sup> To promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information.

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 submissions received and found:

*Finding 15.2* The licensee of the existing community FM radio service 3UGE is interested in extending the licence area of the service and providing transmitters at Yea and Marysville to serve the extended area.

### **Discussion of Submissions**

In its submission dated 8 August 1996, Upper Goulburn Community Radio Inc (3UGE) expressed interest in providing low powered transmitters to serve Yea (in the west) and Marysville (in the south) due to the very mountainous terrain in the areas. Also, in its submission dated 5 April 1999, 3UGE pointed out that Yea, Glenburn and Kinglake which were part of the Shire of Murrindindi did not appear as part of its licence area and therefore sought a licence area variation.

### **Licence Areas**

In considering 3UGE's request to extend its licence area, the ABA found:

*Finding 15.3* It is appropriate to extend the licence area of 3UGE to include Yea and Marysville and re-define 3UGE's licence area using the 1996 Census boundaries.

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

The licence area of the community radio service 3UGE was defined under the 1991 Census boundaries at the time the LAP for Shepparton was determined in September 1997. The ABA did not take 3UGE's request for a licence area extension into consideration at that time due to its belief that the extension would inhibit the licence area planning for the Melbourne area.

Having completed draft planning for the Melbourne LAP, the ABA proposes to extend the licence area of the community radio service 3UGE to include Yea and Marysville and to re-define its licence area using the 1996 Census boundaries.

The ABA does not propose to include Glenburn and Kinglake in 3UGE's licence area as these towns are within the overlapped area of the Melbourne radio licence area and the proposed translator services are not expected to adequately serve these towns. Details of the technical restraints relating to coverage limitations are discussed at Appendix 1.

## **ABA Proposal**

Having considered a licence area extension appropriate, the ABA proposes channel capacity be made available for two transmitters: one to serve Yea on frequency 98.1 MHz from Mt Broughton with a maximum ERP of 100 W, and one to serve Marysville on frequency 98.5 MHz from Mt Gordon with a maximum ERP of 100 W. Details of the technical restraints relating to the proposed coverage of the transmitters are discussed under '98.1 MHz' and '98.5 MHz' respectively in Appendix 1.

## **EVIDENCE OR OTHER MATERIAL ON WHICH FINDINGS ARE BASED**

In preparing its preliminary view on extension of the community radio licence area of 3UGE, 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 community FM radio service 3UGE is operating on FM frequency 106.9 MHz from Devils River with a maximum ERP of 1 kW.
- The licensee of the existing community FM radio service 3UGE is interested in extending the licence area of the service and providing a transmitter at Yea and Marysville to serve the extended area.
- It is appropriate to extend the licence area of 3UGE to include Yea and Marysville and re-define 3UGE's licence area using the 1996 Census boundaries.

## **CONCLUSION**

The ABA believes that an extension of the licence area of 3UGE and the provision of two transmitters will improve the reception currently being experienced and, as a result, these services will be accessible to a greater number of people in the Yea and Marysville areas.

The ABA concludes that improving the reception of this community service is like to promote the availability of a diverse range of radio services (s.3 (a) of the Act).



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## **PRELIMINARY VIEW 16 – MELBOURNE, GEELONG, COLAC, ALEXANDRA, MARYSVILLE AND YEA - 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 Melbourne, Geelong, Colac, Alexandra, Marysville and Yea 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 s.23 (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: s.26 (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 FAPs) 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.