

IRR

INDEPENDENT REGIONAL RADIO

Submission

**Local content requirements
for regional commercial radio**

March 2010

Introduction

Independent Regional Radio (IRR), an association of licensees of 95 regional commercial radio stations distributed throughout all States and Territories, appreciates the opportunity to respond to the Discussion Paper issued by the Department of Broadband, Communications and the Digital Economy on local content requirements for regional commercial radio.

IRR was formed in 1987 to represent its members in matters of exclusive concern to regional commercial radio broadcasters. All IRR members are members of the peak industry body Commercial Radio Australia (CRA) and wholeheartedly endorse the CRA response to the Discussion Paper.

We have nothing to add to CRA's position on key issues 1, 2.1, 2.2 or 3.

Key issue 4

In respect of key issue 4 however, the depth of feeling among our members is such that we feel bound to make some further comment. We contend the trigger event provisions are seriously flawed in that they are-

- inequitable,
- inflexible,
- counter-productive and
- oppressive.

Inequity

Absent the trigger event provisions, the commendable thrust of the local content requirements for regional commercial radio is to establish a set of minimum standards, with some variations to recognise the special circumstances of racing, remote and small market stations and regional services operating outside the Broadcasting Services Bands.

Most if not all IRR members voluntarily exceed the minimum requirements, and many do so to a considerable degree, dependent on their circumstances. To these broadcasters, the minimum requirements represent a standard to be resorted to only in the event they are forced to do so for commercial reasons outside their control. Where they are not subject to a trigger event they are entitled under the law to change their staffing arrangements and production

facilities at any time so long as they comply with the minimum content requirements.

While a station subject to a trigger event has the same rights and entitlements in respect of local content, it is nevertheless locked into a different regime which imposes additional obligations and constraints which are not imposed on other stations, including competitors.

The inequity of such a situation is palpable. It has a depressing effect on value. It prevents a new owner from making efficient use of resources. In a multi-station market it places the station at a serious competitive disadvantage.

Inflexibility

The fundamental inflexibility of the trigger event provisions is that they implicitly assume that the operational requirements of broadcasting stations, in terms of human resources and physical resources, are constant.

The experience of at least the last four decades has demonstrated that this is not the case. In fact, the real constant has been change itself, accelerated by information technology and multi-tasking and the elimination of mundane tasks which can be performed more quickly and accurately by machines than people. Staffing and the use of studios and production facilities are classic examples of such change.

A further example of inflexibility is the fact that the trigger event provisions make no distinctions between staff actually involved in the preparation and presentation of programs, and other staff. Because staffing levels must be maintained, economies of scale which would have no effect on programs are impossible. A typical method of achieving economy of scale is to consolidate the functions of a number of stations such as accounting and administration into a single unit. Under the trigger event provisions this is proscribed, even though it would have no effect - adverse or otherwise - on a station's broadcast service.

Counter-productive

Measures which are inherently unfair and inflexible are bound to result in unforeseen and unwanted consequences. For example, a licensee contemplating the sale of a station would be strongly tempted to reduce its levels of local content and local presence in the period before a trigger event could come into effect. The losers in this case would be the listeners which the legislation purports to protect.

The fact that a licensee is prevented from implementing sensible efficiencies under the local presence regime gives no guarantee that existing levels of local content will be maintained or improved. On the contrary, efficiencies not implemented represent an opportunity cost which may have to be offset by reducing services.

Oppressive

The complex and onerous trigger event reporting and record keeping obligations, which have been clearly identified by CRA and which represent a major burden to all regional operators, are bureaucratic in the worst sense and totally disproportionate to the supposed benefits.

IRR strongly endorses the Productivity Commission view that local content provisions are the appropriate means of ensuring the broadcast of locally significant material. By these means local content levels would continue to be guaranteed, all stations would be treated equally and extensive paper work would be abolished.

IRR therefore supports the CRA case for repeal of section 43B and Division 5C of Part 5 of *Broadcasting Services Act 1992* or alternatively for a time limit not exceeding 12 months to be applied to the local presence condition and the additional content and reporting requirements.