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**SUMMISSION BY REDWAVE MEDIA PTY LTD**

**LOCAL CONTENT REQUIRMENTS FOR REGIONAL  
COMMERCIAL RADIO**

**RESPONSE TO THE DISCUSSION PAPER ISSUED BY THE  
DEPARTMENT OF BROADBAND COMMUNICATIONS AND THE  
DIGITAL ECONOMY**

**MARCH 2010**



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Redwave Media Pty Ltd (RWM) welcomes the opportunity to participate in the review of local content requirements for regional commercial radio.

This response is on behalf of the following licenses operated by RWM –

- SL 10018 – Remote Commercial Radio Service Western Zone.
- SL 10354 – Remote Commercial Radio Service Western Zone.
- SL 10009 – Karratha
- SL 10337 – Karratha
- SL 10014 – Port Hedland
- SL 10342 – Port Hedland
- SL 10371 – Geraldton
- SL 10370 – Geraldton.

The above licenses have been the subject of two Trigger Event scenarios to date.

RWM considers there are a number of aspects of both the Local Content and Trigger Event legislation that impose inflexible operating conditions on licensees of regional radio services. The legislation also adds to compliance costs, obligations and has the potential to affect the value of some licenses.

RWM is urging the Government, as part of the review, to take into account the feedback from the Industry and see fit to amend the legislation that will allow licensees to support and service local communities around regional Australia.

#### KEY ISSUES RAISED IN THE DISCUSSION PAPER:

**Key Issue 1 - Should greater flexibility be provided for regional commercial radio broadcasters required to provide "material of local significance" ( for example, should broadcasters be permitted to broadcast material of local significance on weekends?)**

RWM is urging the Government to increase the flexibility of the rules which require the provision of "material of local significance".

Under the current legislation material can only be counted on business days. This excludes holidays and weekends. This legislation assumes that nobody is interested in local content on weekends and public holidays. Some of the stations in this network broadcast local football leagues (in season) and broadcast from local community events on the weekends. There should be provisions in the rules to allow any day of the week to be counted.

**RWM would urge the Government to amend the legislation (43c) to reflect any five days of the week rather than just business days of the week.**



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The current licence condition requires licensees to comply with the local content provisions for 52 weeks of the year.

Again, this does not take into account the fact that personnel are entitled to annual leave, sick and other leave. It also assumes there is a smooth transition from an exiting employee to a new employee. This is not always the case. RWM considers having to comply with this clause of the act unreasonable.

Regional operators, including ourselves, generally operate with fewer staff than metropolitan radio services. Staff working with regional operators are, in some cases, already multi tasking and do not have the time to fill in for employees whom are on leave. Employing an outsider, albeit on a temporary basis, or relocating staff from another office every time someone is on leave is neither practicable nor cost effective.

The current licence condition also does not consider the time it takes to replace staff in some of the smaller markets and sometimes remote markets where finding personnel is difficult at best.

**RWM is urging the Government to amend section 43C licence condition so that the requirement to broadcast "material of local significance" applies to no more than 46 weeks of the year.**

**Key Issue 2.1 – Should the "material of local significance" and local presence requirements in the Act apply to a) regional commercial broadcasters primarily providing racing services and b) remote commercial radio broadcasters.**

RWM operates two remote commercial radio services in Western Australia. Remote radio licenses were originally issued to cater for remote regions which lay outside of the normal commercial radio licence areas (LAPs). These areas did not receive any commercial radio services. The existing (including ourselves) remote zones cover very large and sparsely populated areas. In our case, we provide the same service across the entire remote licence area for each of our licenses. This area stretches from Kununurra in the far North of Western Australia to Bremer Bay in the South (distance approx 2400 kilometres) and from Christmas/Cocos Islands in the Indian Ocean to Aboriginal Communities along the Gunbarrel Highway to the South Australian border.

What's LOCAL to a licence area this large?

**RWM is urging the Government to add a provision to the BSA stating that both remote area broadcasters and providers of racing radio services are NOT required to broadcast "material of local significance" and, furthermore, exempt from local presence requirements.**



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**Key Issue 2.2 – Should the additional local news and information requirements imposed after a trigger event apply to a) remote commercial radio broadcasters: and b) regional commercial broadcasters primarily providing racing services?**

For reasons outlined in Key Issue 2.1 remote broadcasters should be exempted from the post trigger events relating to local news and information.

Again, over the distances of the remote licence area that RWM operates in what is local? This is an unrealistic and costly requirement.

**RWM urges the Government to exempt both remote radio services and racing radio services from the post trigger event local news and information requirements.**

**Key Issue 3 – Should section 61CB(1) be consistent with the media control principles in the Broadcasting Services Act 1992?**

The current section of the BSA captures a wide range of circumstances which we believe was not the original intention of the requirement. RWM believes the section should be altered to only affect situations where a cross media transfer or a relevant change of control of a registrable media group has occurred rather than that of individual licences.

**Key Issue 4 – How can existing requirements be modified to ensure the appropriate application of the trigger event related provisions? What type of events, if any, should be exempt from the trigger event requirements?**

The current requirements are far reaching and capture numerous situations that were not originally intended. RWM understands that the intention of the trigger event was to address the impact of cross media mergers and sales but it currently captures a range of situations e.g. Generational transactions, Corporate restructures not involving a change in controllers, joint venture arrangements etc.

**RWM is urging the Government to limit the trigger event definition to its original intention i.e cross media sales and mergers. The definition should exclude situations similar to those listed above.**

**Key Issue 5 – For how long should broadcasters comply with the additional requirements imposed after a trigger event occurs? If a change to the current arrangements is proposed, what type of change should apply and why is it appropriate?**

Following a trigger event a licensee must abide by section 43B(1) of the BSA requiring the broadcaster not to decrease number of staff or the local studio/production facilities that are in place immediately prior to the trigger event occurring. RWM cannot think of one private organisation, group, or Government body that is NOT allowed to adjust staff numbers

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downward to cater for various economic conditions. Furthermore, any reduction in staff numbers and facilities is in place FOREVER. Essentially you can increase your staff size or amount of facilities but never decrease! If you do increase that is the new level you MUST maintain. An absurd situation that applies to no other private or government business! This obligation does not give any consideration to economic conditions nor technical advancements.

The conditions at times could be considered counter productive. Here's a couple of factual examples.

- 1) In our Geraldton office we have the need for an extra person in the sales department. However, once we increase the staff level we cannot reduce the number should there be an economic downturn. The result is we have decided against increasing the staff numbers, meaning someone local misses out on an employment opportunity, existing staff are working harder. There is an obvious restraint on business growth.
- 2) In our Karratha LAP we had a client offer to take up advertising to allow for an extra local on air shift to occur. The client is a franchisor and is likely to be moved to another market sometime in the future. There was no guarantee the local shift would continue if not supported. Under the current trigger event conditions once we added the local shift we could not take it away. The result is less local content for the market than would have occurred without these conditions being imposed.
- 3) Staying with the Karratha office. We have two studios one of which is redundant. We are now planning a relocation to new premises and under the licence conditions imposed have to build a redundant studio to comply with the condition. This is an obvious waste of time, effort, space and money!!

These two aspects of the regulations (staff levels and facilities) seriously constrain the ability of broadcasters to operate in a normal business manner. Furthermore, it could be argued (as with the examples above) that the regulations are actually counter productive to what they set out to achieve and hamper local content.

The freezing of staff levels and facilities "forever" denies the broadcasters the opportunities that are provided to other private and government businesses to run their businesses efficiently through the differing economic cycles.

Licensees affected by a trigger event, under sections 61CD and 61CE of the BSA are required to meet the minimum service standards for local news, weather bulletins, community service announcements and emergency warnings. The local news aspect of the requirement is a costly for regional radio operators. It also does not distinguish between the differing sizes of radio markets. An operator needs to provide 12.5 minutes of local news each business day whether the market has a population of 15,000 or 200,000. Again, the cost is more significant for smaller markets. The assumption is also made that a similar amount of local news happens in every market regardless of size.



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Aside from the increasing costs of compliance there are the reporting and record keeping requirements. As a broadcaster affected by two trigger events we have spent endless weeks filling in Draft Local Content Plans for ACMA approval, Local Content Statements, Annual reports to ACMA on local content, keep weekly records of local content details, reports on maintaining existing levels of local presence, recording details of facilities and staff numbers. These reports and requirements are very time consuming and as the current obligations stand these will have to be compiled and submitted for an indefinite period of time.

The ACMA have now decided to conduct an audit on one our licences. We estimate that to retrieve the recorded content and provide on CD, as requested, will take approximately 12 hours. We have two weeks to provide the requested information. Again, we need to divert employees attention away from their normal job to comply with the request. This effects the day to day running of the business.

**RWM would urge the Government delete the trigger event obligations that have burdened the regional commercial radio sector. If not removal is not possible, we would urge the Government to implement a 12 month sunset clause.**

It is interesting to note that Productivity Commission conducted a review of the Regulatory Burdens on Business which included the impact of the Local Content and trigger event legislation on the regional commercial radio industry. The Commission noted the significant difficulties caused to the regional commercial radio industry as a result of the legislation. It recommended that the local content rules be met through more flexible rules. Furthermore, it recommended that local content obligations were not met through rigid daily content obligations. The Commission also questioned whether the rules were needed for both racing radio and remote commercial services. It then recommended the reporting requirements be streamlined to target compliance on broadcasters who have been identified as having a high risk of non compliance.

In relation to trigger events the Commission recommended that the Government introduce amendments to abolish the trigger event provisions for broadcasters, instead, relying on local content provisions to be used to ensure the broadcast of material of local significance.

**RWM supports the findings and would urge the Government to take into account the recommendations of the Productivity Commission as part of its review process.**

In Summary, RWM welcomes the opportunity to part of this review process. RWM is urging the Government to listen to the regional radio industry, Commercial Radio Australia and the Productivity Commission and make the necessary changes to this imposing legislation.

RWM is urging the Government to –

- A) Allow broadcasters to count material of local significance over any five days of the week rather than just business days.

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- B) Amend the provisions to require material of local significance to apply to only 46 weeks in the year.
- C) Exempt both remote area broadcasters and racing services from material of local significance, local presence and post trigger event news and information requirements.
- D) Refine the definition for a trigger event so it does not capture the broad events that it currently does.
- E) Reduce the requirement of 12.5 minutes of local news a day in smaller markets.
- F) Remove the trigger event obligations currently burdening regional commercial radio or insert a sunset clause with a maximum of 12 months.

For further information please contact Ian Kennedy, General Manager, Redwave media Pty Ltd -08 9381 1122.