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## SUBMISSION BY SOUTHERN CROSS MEDIA AUSTRALIA PTY LTD

### Background

This submission is made on behalf of Southern Cross Media Australia Pty Ltd (**SCM**) in response to the discussion paper issued by the Department of Broadband, Communications and the Digital Economy (**Department**) on 5 March 2010, titled '*Local Content Requirements for Regional Commercial Radio*'.

Despite the narrow title of the discussion paper, SCM understands that the review being conducted under s61CT of the *Broadcasting Services Act 1992 (BSA)* will focus on all the 'localism' obligations that were imposed on the regional commercial radio industry as part of the media ownership reforms that commenced operation in 2007, not just those relating to 'local content'. For instance, our understanding is that the review will also focus on the scope of the definition of 'trigger event' and the operation of the local presence licence condition described in section 43B of the *Broadcasting Services Act 1992 (BSA)*.

Subsidiaries of SCM own and operate 66 regional commercial radio broadcasting stations, with an additional two stations being operated by its Newcastle joint venture with Austereo. These commercial radio stations are located in 38 commercial radio licence areas in regional Australia. Of these licence areas, 27 have been affected by a 'trigger event'.

SCM has been provided with a copy of the submission made by Commercial Radio Australia (**CRA**) on behalf of the commercial radio industry. SCM fully supports and endorses the views put forward in CRA's submissions.

SCM wishes to make the following additional submissions on its own behalf in response to the key issues on which the Department is seeking public comment in the discussion paper.

### Summary

SCM welcomes the current review under s61CT of the BSA.

The three main issues that SCM wishes to focus on in the context of the review are:

- the scope of the definition of 'trigger event' in s61CB of the BSA. SCM's view is that the current definition is too broad. It is understood that the Parliament's intention was that a 'trigger event' would arise if there was a cross-media transaction. This is what should be reflected in the drafting of the definition of 'trigger event'. Our submissions on this issue are set out under 'Key Issue 4' below;
- the local presence licence condition imposed under s43B of the BSA (following a 'trigger event'). The local presence licence condition operates as a wholly unreasonable constraint on the operations of

regional commercial radio licensees. We agree with CRA that the licence condition should be repealed, or alternatively, be amended so that it ceases to apply after 12 months after the date of the relevant trigger event; and

- the number of weeks per year that the 'material of local significance' condition (imposed under s43C) and the local news/local information condition (under Part 5 of the BSA) each apply. At present, the obligations under conditions apply for 52 weeks of the year. This is an unreasonable and impractical requirement. It fails to recognise that local staff involved in the production of local content are entitled to annual leave and other leave.

At the outset, we note that SCM can accept the provisions under the s43C licence condition that require its regional commercial radio stations to provide 3 hours of 'material of local significance' on business days (or 30 minutes in small markets). While there are improvements that should be made to the drafting of those provisions that would allow greater flexibility (as discussed below), SCM does not take issue with this obligation as it is currently administered by the ACMA.

However, SCM does wish to emphasise that so long as 3 hours of material of local significance each day is the result, the 'means' of producing that material should be left to the broadcasters. For example, it should not be necessary to maintain a specific number of local radio studios to do so (as is required under the local presence licence condition).

All these matters are discussed in more detail below.

#### **Regulatory objectives and practical impact of the localism provisions**

- The localism provisions described above were introduced into the BSA when the prohibitions on cross-media ownership and control were removed by the *Broadcasting Services Amendment (Media Ownership) Act 2006 (Amendment Act)*, and replaced with a more flexible regulatory scheme. The revised Explanatory Memorandum to the Amendment Act (EM) stated that the over-arching purpose of the cross-media reforms introduced by the Amendment Act was to *free up media* from regulation.
- However, the EM also explained that the Government wished to ensure that the liberalisation of the media regulatory framework (ie to permit cross media transactions) would not lead to reductions in local content on regional commercial radio and regional commercial television.
- In that context the Government expressed that its objective was to address issues relating to localism within a *flexible regulatory framework*.
- However, contrary to the Government's stated intentions, the regulatory framework that was imposed upon the regional commercial radio industry is inflexible and subjects it to a disproportionately burdensome regulatory regime in comparison to the regulation of other forms of media.
- In short, the consequence of the 'localism provisions' has been to impose an unreasonably high administrative and compliance cost on regional commercial radio licensees.
- The Government recognised, in the EM, that one of the effects of the imposition of increased regulatory requirements on regional broadcasters would be increased costs of compliance. The Government also recognised that the capacity of the sector to meet the additional regulatory obligations imposed by the new localism rules would be ultimately linked to its commercial viability. In

that context, the EM expressly stated that the Government *would seek to balance these competing considerations*.

- Despite these statements, the localism regime that ended up being imposed on the regional commercial radio industry was neither appropriate nor balanced, particularly with respect to the local presence licence condition imposed under s43B of the BSA.
- SCM notes that no other form of media in Australia is subject to this level of regulatory intervention (with its accompanying compliance costs).
- This is particularly discriminatory against the regional commercial radio industry, particularly when it is recognised that it competes with other relatively unregulated media sectors for advertising revenue.
- For instance, the regional commercial radio industry directly competes with the following sectors of the media industry for local advertising revenue – none of which are subject to anything like the regulatory intervention experienced by the regional commercial radio industry:
  - Publishers of direct marketing materials (from pamphlets to catalogues);
  - Out of home media (that is, any advertising that reaches the consumer when they are outside their home – eg outdoor advertising on billboards, street furniture, public transport)
  - Online media and search engines such as the Yellow Pages and Google
- It is also difficult to identify any overseas examples (in developed democratic countries) where a sector of the commercial media industry is subjected to the level of intrusion into its commercial operations that Australian regional radio operators experience under the local presence licence condition.
- This is why SCM welcomes the current review. Our responses to the specific issues identified in the discussion paper follow.

### **Issues for comment 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?)*

#### **Compliance Period**

- SCM considers that greater flexibility is needed for regional commercial radio broadcasters to provide 'material of local significance' pursuant to the 'material of local significance' licence condition made under section 43C of the BSA.
- Section 43C of the BSA requires the ACMA to make and enforce a licence condition that has the effect of requiring the licensee of regional commercial radio broadcasting licences to broadcast, during daytime hours each business day, at least the 'applicable hours' of 'material of local significance' (determined to be 3 hours per business day, or 30 minutes per business day for licensees in small markets).

- The relevant provisions are contained in the *Broadcasting Services (Additional Regional Commercial Radio Licence Condition – Material of Local Significance) Notice 19 December 2007 (Local Significance Licence Condition)*.
- The Local Significance Licence Condition requires licensees to comply with the 'material of local significance' obligations set out in that licence condition for 52 weeks of the year.
- It is noted that the post trigger-event local news and other local information licence conditions (contained in Part 5 of the BSA) also require compliance on a 52 weeks per year basis.
- In both cases, this does not recognise the fact that local on-air staff employed by regional radio licensees to generate local content are not at work every week of the year.
- For example, journalists are entitled under the *Broadcasting and Entertainment Award 2010 (Award)* to six weeks' annual leave per year. Further, radio announcers may end up with more than four weeks' annual leave per year as under the Award they are entitled to additional annual leave days in exchange for work on Sundays or public holidays.
- In many regional radio markets, it simply is not feasible to expect licensees to be able to find qualified 'temporary' staff to fill in while local announcers are on leave. The best that can be done in many markets is to require local staff to fill in and work two jobs while their colleagues are on annual leave. This is a significant impost on the business (in terms of overtime payments) and the local staff also (from a personal perspective).
- In small markets there may not be another qualified person at the station who is available to step in when an announcer is on annual leave, and that makes compliance on a 52 weeks per year basis both challenging and costly in practice.
- It is also noted that the equivalent licence condition that applies to some regional commercial television licensees (under section 43A of the BSA) affords relatively greater flexibility in the manner in which those television licensees can meet their 'material of local significance' obligations. Regional commercial television licensees are not required to broadcast local material for 52 weeks of the year. Instead they are required to meet their obligations within designated 'eligible periods'. The television licence condition expressly excludes material broadcast in certain time periods (including a four week period from 15 December) from inclusion.
- From a practical perspective, particularly in relation to staffing, SCM considers that television licensees are afforded far greater flexibility. We do not see any justification as to why the regional commercial radio industry should be subject to more onerous requirements than the regional commercial television industry.
- *SCM supports and endorses CRA's request that the Government amends the section 43C licence condition such that the obligations to provide 'material of local significance' should apply during 46 weeks of the year, not 52 weeks of the year.*

#### Days on which 'material of local significance' is counted

- Presently the Local Significance Licence Condition requires licensees to broadcast the applicable number of hours *during daytime hours on a business day*. 'Business Day' is defined in the Act to

exclude weekends and public holidays, and 'daytime hours' has been defined to mean from 5am to 8pm (under the *Broadcasting Services (Hours Of Local Content) Regulations 2007*).

- It may be that the reference to 'business days' was inserted with the best of intentions (ie to limit the scope of the obligation so that it was reasonable). However what it means is that licensees may not count local material broadcast on weekends or public holidays towards compliance with the Local Material Licence Condition. We consider this distinction between local material broadcast on weekends and local material broadcast during the week to be a rather arbitrary distinction.
- We want to make it clear that we are not suggesting that the scope of the Local Significance Licence Condition be broadened so that it must be complied with on business days AND weekends and public holidays.
- Instead, what we are suggesting is that licensees should have the flexibility of counting material broadcast on weekends and public holidays towards their current 15 hours per week quota (2.5 hours per week in small markets).
- Our radio stations do broadcast significant amounts of local material on weekends.
- For example, some of our radio stations provide local sports coverage on weekends. Many of our radio stations feature local community events on weekends, or conduct outside broadcasts from local businesses. We also regularly feature special promotions involving listeners over weekends. All of these activities are popular with our listeners, and reflect our involvement in our communities. It appears to be an anomaly that we cannot count such content towards our obligations under the Local Significance Licence Condition.
- *SCM supports CRA's submission that the Government should amend the BSA to allow licensees to count material broadcast on any five days of the week (including weekends and public holidays) towards their section 43C licence condition obligations.*
- *An alternative approach would be to allow a regional commercial radio licensee to count content broadcast on any day of the week towards its 15 hours per week quota (2.5 hours in small markets) under the Local Significance Licence Condition.*
- *However such amendment should not have the effect of increasing the number of hours of 'material of local significance' that regional commercial radio licensees are required to provide. .*

## **Key issue 2**

SCM supports the submissions made by CRA in relation to section 40 licensees, remote area licensees and racing radio licensees. We do not seek to make any additional submissions on key issues 2.1 and 2.2 (as set out in the discussion paper).

## **Key issue 3**

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

- To summarise the definition in s61CB(1) of the BSA, a 'trigger event' will occur if there is a transfer of licence from one person to another person; or where a new 'registrable media group' is formed that

includes a regional commercial radio licensee; or where there is a change in the controller of a 'registrable media group' which holds a regional commercial radio licence.

- The discussion paper notes that there are relatively few transfers of licences in practice. It appears to suggest that the first limb of the definition of trigger event should refer to a change in control rather than to a transfer of a licence. We do not agree with this suggestion.
- We agree that when a radio station is sold this generally occurs by way of a sale of shares in the licensee company, rather than through a sale of assets (which would require the transfer of a licence). However we do not consider that this should mean that the current definition of 'trigger event' is broadened in the way that appears to be suggested in the discussion paper.
- Our view is that the scope of a 'trigger event' as presently defined in section 61CB(1) is already too broad. Our view is that a precondition to a 'trigger event' occurring should be that a cross media transaction has occurred. Detailed submissions on this issue are set out under key issue 4 below.
- *SCM supports the CRA's submission that s61CB(1) should not be amended to refer to a change of control of a licence in accordance with the general media control principles in the Act.*

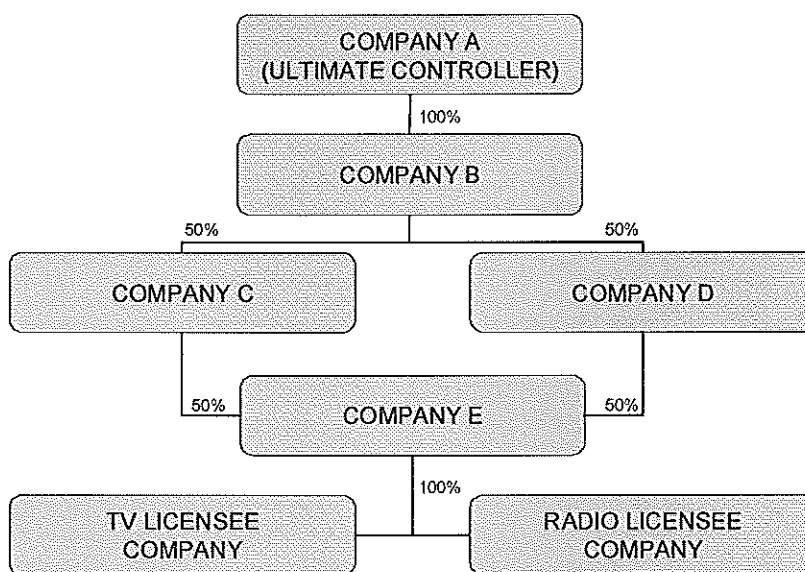
#### **Key issue 4**

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

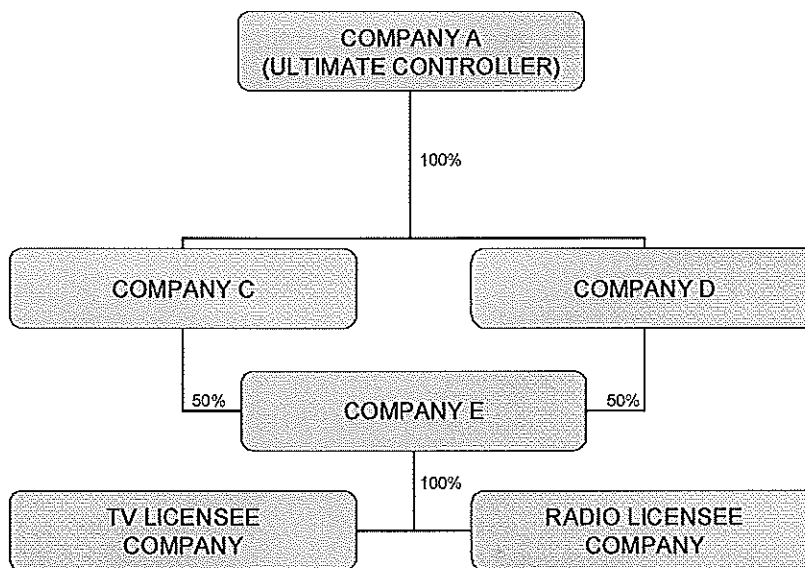
- As noted above, we consider that the existing definition of 'trigger event' set out in s61CB(1) is too broad.
- Our understanding is that the trigger event provisions were initially conceived of to address a situation where a significant cross-media merger occurred. The objective (as we understand it) was that if a transaction led to a reduction in the number of 'voices' in a licence area (expressed in the BSA as 'points' under s61AC of the BSA) then the localism provisions would operate to balance that perceived reduction in 'diversity'.
- The purpose of the 'trigger event' provisions (according to the second reading speech for the Amendment Act) was to ensure that regardless of any media mergers that may take place (as a consequence of liberalising the regulatory framework), regional audiences would be assured that they would continue to receive relevant local news and other information from the commercial broadcasters in their areas.
- However, a fundamental flaw in the drafting of the Amendment Act was that the definition of 'trigger event' made no express reference to a cross media transaction having occurred.
- As a result, the trigger event provisions have had far more broad-reaching impact on regional commercial radio licensees than they should have done. The drafting of s61CB(1) catches a much broader range of circumstances than those which arise as a result of a cross media transaction. This means the additional post trigger-event licence conditions are imposed on regional commercial radio licensees where there has been no risk of diminution to media diversity in a licence area.
- SCM's submission is that in order for a 'trigger event' to occur, there should (a) be a reduction in the number of 'points' in a licence area (under s61AC of the BSA); **and** (b) a cross media transaction must have occurred. In the absence of (a) and (b) being satisfied, there should be no trigger event.

- This amendment would mean that transactions that have no bearing on issues of media diversity in a licence area would cease to be trigger events.
- To illustrate, at present, a trigger event will occur where there is simply an internal reorganisation of companies within a 'registrable media group' (as defined in the BSA). The diagrams below illustrate a 'before' and 'after' scenario for a hypothetical 'registrable media group'.
- The 'after' diagram illustrates what that company structure chart would look like if an intermediate holding company was removed from that company structure due to an internal reorganisation (eg if it was decided that Company B's shareholdings in Company C and Company D should be transferred to Company A, and Company B wound up):

BEFORE:



AFTER:



- All that has happened in the 'after' diagram is that Company B has ceased to be a controller of the companies beneath it in the structure chart. However, this would amount to a 'change in control' of the registrable media group for BSA purposes, and hence it would fall within the definition of 'trigger event'.
- This is a simple corporate restructure that has absolutely no impact on the number of 'points' in a licence area. Nevertheless it is considered to be a 'trigger event' for the purposes of the BSA, and will lead to additional onerous licence conditions being imposed on the commercial radio licensees at the bottom of the corporate structure diagrams.
- In light of the intention of the trigger event regime (as detailed earlier), we do not see any policy justification for this type of event to be captured by the definition of trigger event.
- Another example arises because the definition of 'registrable media group' captures a 'radio only' group (eg one where the only media assets are two commercial radio licences in the same licence area). As a result, a 'radio to radio' sale would be captured, even though there is no change in the number of 'points' in the licence area.
- For instance, if a regional commercial radio licensee that controls two commercial radio licences in a licence area is acquired by a third party that holds no other media assets in the licence area, there will be a trigger event on the basis that there will be a change in control of a registrable media group. However there will be no change to the media diversity in the licence area. This is an example of the type of situation that should not result in a trigger event.
- The CRA submission also suggests that a trigger event should not arise if one half of a joint venture acquires the shares in a licensee company that are held by the other half of a joint venture. Under that situation, a registrable media group may cease to exist (ie because there is no longer a registrable media group containing the former shareholder and its other media assets in the licence area, in addition to those held by the continuing shareholder). We agree with CRA that the legislation should clarify that such occurrence would not be a change in control of a registrable media group (and otherwise be excluded from the definition of 'trigger event').
- *SCM supports the CRA submission that the Government should amend section 61CB(1) of the BSA so that the definition of 'trigger event' is restricted to instances where a cross-media transaction occurs. We agree that the definition of 'trigger event' should not capture internal corporate restructures where there is no change to the ultimate controller/s of a regional commercial radio licence; and it should not capture 'radio to radio' transactions that do not reduce the number of 'points' in a licence area, nor a 'buy out' by one side of a joint venture.*
- *Some drafting is annexed to this submission that may assist in the redrafting of the definition.*

#### **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?*

## i) Local Presence

- The following discussion provides an overview of the local presence licence condition imposed under s43B of the BSA (**Local Presence Licence Condition**) and illustrates the issues that arise in complying with the licence condition in practice.
- This discussion provides the context for our submission that the BSA provision requiring the ACMA to impose the local presence licence condition should be repealed (s43B), or at least be made subject to a 12 month 'sunset' clause – so that it expires 12 months after the relevant trigger event.
- Section 43B of the Act requires the ACMA to impose a licence condition requiring commercial radio licensees to 'maintain at least the existing level of local presence' after a trigger event for that commercial radio licence has occurred. Section 43B gives the ACMA the discretion to define 'local presence' provided that the definition covers both staffing levels and studios and other production facilities.
- The definition of 'local presence' developed by the ACMA is contained in the *Broadcasting Services (Additional Regional Commercial Radio Licence Condition – Local Presence) Notice 22 March 2007 (Local Presence Licence Condition)*.
- The Local Presence Licence Condition requires a regional commercial radio licensee to 'maintain at least the existing level of local presence' that existed at the time of a trigger event (assessed by reference to the 3 months prior to the trigger event – this establishes the relevant 'benchmark' figures). Under the ACMA definitions:
  - the existing level of local presence is maintained by reference to staffing if there is no material reduction in the average monthly staffing levels in the licence area in relation to the licence over the relevant financial year. This can be measured by counting staff numbers, expenditure on staff or hours worked; but in our experience the most practical approach is to count staff numbers (as the other approaches are more complicated); and
  - the existing level of local presence is maintained by reference to studios and local production facilities if there has been no material reduction in the average monthly broadcast hours produced during the relevant financial year using studio and other production facilities in the licence area
- In practice, the ACMA has considered anything more than a 5% reduction to be 'material'. This obviously imposes a far higher compliance burden on small licensees (with fewer numbers of staff) than on larger licensees.
- For instance, in a station with only 7 full time equivalent staff members, any staff member that leaves must be replaced (even if they were superfluous to requirements), because a reduction to 6 full time equivalent staff would be a reduction of more than 5%.
- Similarly, in a small station that produces a locally hosted breakfast program of 3 and a half hours from its local production studio every business day (and uses programming produced in a town in a neighbouring licence area for the rest of the day's programming), it will not be possible to reduce the duration of that locally hosted program to 3 hours. This will be the case even if there are good operational reasons for doing so. This is because such a reduction would be a reduction in the locally produced broadcast hours by more than 5%.

- It is also significant that the requirement to maintain the use of production studios captures studios that are not only used for the production of local programs, but also those used for the production of local commercials. As noted below, where there is an economic downturn, such studios will be used less than they were at the trigger event. However there is no recognition of this in the current regulatory regime.
- Our critical issue with the Local Presence Licence Condition is that a regional commercial radio station must maintain local staffing levels and also its use of local studios and production facilities *in perpetuity*. This is particularly pronounced in small markets (as highlighted by the examples above).
- We consider these obligations to be an unreasonable imposition on the freedom of regional commercial radio licensees to conduct their businesses as they see fit. We also believe that this unjustifiably subjects the regional commercial radio industry to a more onerous regulatory burden than any other Australian media sector. Indeed, we are unaware of any other industry generally that has been subjected to this level of intervention in the conduct of its business.
- It should be noted that the EM to the Amendment Act stated that the intention of the local presence requirements was for regional commercial radio licensees to *retain flexibility* to allocate resources *as their commercial operations require*, but that they should not significantly alter their resources in net terms.
- The reality is that the Local Presence Licence Condition imposes rigid obligations on regional commercial radio licensees affected by trigger events. We have provided some specific examples of this above.
- The fact that regional commercial radio stations cannot manage their staffing levels and the use of their other assets as they see fit means that they are constrained from adapting their business in response to market conditions. This places regional commercial radio at a competitive disadvantage with other sectors of the media industry.
- To elaborate, commercial radio stations rely on advertising revenue to conduct their business. However advertising revenue is not a 'constant' – in tough economic times, advertising business for regional commercial radio stations inevitably slows. However 'trigger event affected' regional radio stations are not permitted to respond to an economic downturn like other parts of the media industry - as they are required to maintain their staffing levels and are expected to still produce the same number of local advertisements.
- This illustrates the extreme and onerous impact of the Local Presence Licence Condition.
- Further, the Local Presence Licence Condition also operates as a disincentive to regional commercial radio licensees employing *more* people when the economy is buoyant.
- This is because regional commercial radio licensees must be conscious of the fact that if they do so, and then are affected by a trigger event, they will be locked into maintaining higher staff numbers in perpetuity. This limits growth in commercial radio, and stymies the development of the industry.

- Further, we fail to understand why the previous Government saw it necessary to regulate staffing numbers, noting that a trigger event does not mean that a reduction in staff must be imminent.
- In our experience there is a high correlation between a regional radio station's revenue, and the number of people it employs. That is, if a regional radio station is well managed, the more people it employs, the greater the radio station's revenue is likely to be. In that context, we consider the rationale underlying the previous Government's decision to regulate staff numbers is flawed. In our view, a well managed, successful radio station will always be looking to employ more people if there is a business case to do so. However the Local Presence Licence Condition interferes with that 'rule of the market' and acts as a disincentive to hiring more staff.
- Another obvious point is that the Local Presence Licence Condition acts as a disincentive to radio stations looking to make the most of new technologies.
- For instance, a radio station that is moving from one leased premises to new leased premises will be obliged under the Local Presence Licence Condition to install exactly the same number of studios and other production facilities, even if advances in technology mean that less studios are actually needed. This is not only a waste of resources, once again it stymies innovation.
- A pertinent point is that if the Local Presence Licence Condition was in place in the 1960s, every regional commercial radio station that had experienced a trigger event since then would be required to maintain a music auditorium! Once upon a time, every radio station needed a music auditorium to house the orchestra that would provide the soundtrack to live radio plays. Tastes change over time, and these days music auditoriums are no longer needed. However applying the logic of the previous Government, radio stations in regional areas are required to be trapped in a time warp.
- Another example is that under the Local Presence Licence Condition, it may not be possible to take advantage of new technologies that would allow a local breakfast announcer to provide his or her program from their studio at home (if they are so equipped), rather than coming into the station in person. This is because the Local Presence Licence Condition requires the use of the local studios to be maintained, and our understanding is that this means the announcer (or another member of the production staff) needs to be in the studio in the station, producing the program, in order for the relevant broadcast hours to be counted.
- This is a good example of how the licence condition stifles innovation, without being supported by any sound competing public policy.
- SCM's submission is that available technology should be the main guide to what a radio station 'looks like', not misplaced, interventionist regulation.
- For all these reasons, SCM urges the Government to repeal the Local Presence Licence Condition as a matter of urgency.
- *SCM supports the CRA's submissions that s43B should be repealed. This would abolish the requirement for regional commercial radio licensees to comply with local presence requirements following a trigger event.*
- *Alternatively, if the Government will not move to repeal s43B (despite all the compelling reasons to do so), SCM recommends that a 12 month 'sunset clause' be incorporated into s43B such that*

*regional commercial radio licensees should be required to comply with the local presence requirements following a trigger event for a maximum period of 12 months.*

- *SCM also supports CRA's submissions in relation to the repeal of Division 5C of the BSA.*
- *The drafting of Division 5C is unnecessarily complex, as it traps in time the minimum number of local news bulletins that are required to be provided after a trigger event. This means that a licensee does not have the option of replacing 3 short bulletins with a longer bulletin – as that would mean that the 'benchmark number' of bulletins would reduce. This is an inflexible provision in practice.*
- *If it Division 5C not repealed (as suggested by CRA), the Government is urged to take steps to simplify its operation. For the similar reasons as outlined under Key Issue 1, it should at least be made a 46 weeks a year obligation (not 52 weeks) as local journalists do need to take annual and other leave.*

## **ii) Reporting requirements**

- SCM also wishes to make some observations about the annual reporting requirements under the localism provisions generally.
- Last year, SCM was required to prepare (on behalf of its licensees):
  - 66 annual reports relating to compliance with s43C (material of local significance), noting that the 2 additional reports for the Radio Newcastle joint venture are prepared by that company. This included the provision of local content statements also (these are required to be maintained over the reporting period);
  - 44 annual reports relating to compliance with Local Content Plans (Local Content Plans are required to be lodged with the ACMA following a trigger event, and detail the provision of local news and other local information as at the date of the trigger event). Reporting on compliance with the Local Content Plans requires the supply of information about the broadcast of local news bulletins, local weather bulletins, local community service announcements and local emergency announcements over the reporting period; and
  - 44 annual reports relating to compliance with the Local Presence Licence Condition. This requires calculation of the average local staffing numbers and average local broadcast hours (both programs and locally produced advertisements) for the financial year. This is a complicated process as the circumstances of each station are different, and the level of detail that is required in order to produce the calculations required by the ACMA (particularly with respect to local broadcast hours) is significant.
- The number of reports and the level of detail required by the ACMA in such reports means that the annual reporting process is very resource intensive – both at local station level and at management level.
- To illustrate, the annual reporting process involves local station managers, local program directors and local production staff (involved in the production of local broadcast hours) collating material required for the reports. It also involves the SCM Legal department and our National Group Program Director spending many weeks completing the forms, verifying material and providing any

additional material required by the ACMA. Last year, this fully occupied the SCM Legal department alone for a solid month.

- It is difficult to see how this administrative burden can be described as anything but onerous. The level of reporting diverts staff from day to day operational matters and is a significant strain on our internal resources.
- This same process will soon need to be repeated, for the current financial year's annual reports.
- SCM urges the Government to take action to repeal the Local Presence Condition to reduce this regulatory compliance burden.

**Southern Cross Media Australia Pty Limited**  
**31 March 2010**

## ANNEXURE

### Suggested new drafting – definition of Trigger Event

#### 61CB Trigger event

##### *Cross-media transaction*

- (1) For the purposes of this Division, if a transaction takes place or an agreement is entered into that results in:
- a) a commercial radio broadcasting licence and a commercial television licence becoming part of a registrable media group; or
  - b) a commercial radio broadcasting licence and a newspaper associated with the licence area of that licence becoming part of a registrable media group;
- that transaction will be a '**trigger event**' for that commercial radio broadcasting licence.

##### *Formation of new registrable media group*

- (2) For the purposes of this Division, if:
- (a) a registrable media group comes into existence; and
  - (b) a regional commercial radio broadcasting licence and either a commercial television licence or a newspaper associated with the radio licence is in the group,
- the coming into existence of the group is a **trigger event** for the commercial radio broadcasting licence.

##### *Exceptions*

- (3) For the purposes of this Division, none of the following transactions will result in a trigger event for a commercial radio broadcasting licence:
- (a) an acquisition of all the company interests in a joint venture company by one of the parties to that joint venture; or
  - (b) any transaction that does not reduce the number of points in a licence area for the purposes of s61AC