



7 March 2010

Senator the Hon Stephen Conroy,
Minister for Broadband, Communications & Digital Economy
Parliament House
Canberra ACT 2600

Dear Minister

Review of regional commercial radio content requirements

Thank you for the opportunity to comment on the above discussion paper in regard to the Government's proposed changes to trigger event definitions and local presence conditions. The current rules and their negative impact on regional radio licensees were introduced by the former Government at the insistence of the National Party.

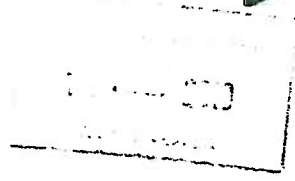
To recap my own involvement, in 2006 I made a submission on behalf of our company to the Standing Committee on Environment, Communications, Information Technology and the Arts, and on the 29th September 2006 was invited to give evidence to the Senate Inquiry on cross-media legislation.

You may recall some of the questions you asked me:

- (1) *"The provision of local content on regional radio has been a significant issue in these hearings. Can you describe what local content you provide on your radio services?"*
- (2) *Do you believe that the local content measures contained in the bill represent an onerous cost burden on regional radio?*
- (3) *Do you think that the very presence of these rules will lower the value of your business because any new purchaser would be subject to quite stringent new regulations?*

My answers are a matter of record, mostly in response to (1) above, such as:

"....we are about as local as it is possible to be I had been in the industry for almost 60 years the past 40 in Bathurst unnecessary regulation such as this had proved a waste of time and public money, i.e. licence renewal hearings our stations were regulated from within, if we failed to service the market adequately listeners and advertisers would switch off.... as a result of increased competition, regional operators had been promised less regulation, not more And, pleaded with the committee not to impose more regulations on our business."



COPIED TO: Minister Chief of Staff Adviser
 Received in the Office of the Minister for Broadband, Communications and Digital Economy (Parliament House)
 on 15 MAR 2010

ACKNOWLEDGEMENT BY:
 Chief of Staff
 Adviser
 Department

REPLY BY:
 Minister Adviser
 Chief of Staff Department

URGENT REPLY BY / /

APPROPRIATE ACTION

ADDITIONAL INFORMATION:
 Ref: QID

REFER TO COMMENTS:

BDS / NUCB

Given hindsight, I know now I failed to recognise the significance of your questions and missed the opportunity to provide adequate answers to question (2) and (3). I also believed the Government of the day was 'business friendly', was committed to 'less regulation' and would never agree to impose such regulation on one section only of the Australian media industry.

I was wrong!

The National Party, led by Paul Neville, Barnaby Joyce and Fiona Nash insisted, that if they were to support the passage of the coalition Government's new Cross Media Ownership legislation, new rules and regulations directed at commercial regional radio licensees would have to be included – rules, that would not apply to any other media, neither regional television, regional press, ABC regionals, community radio, nor any metropolitan media.

My company has fought against these additional and onerous regulations and has been actively opposed to them since their introduction. On the other hand, we are strong proponents of your Government's proposed amendments.

I understand the CEO of Commercial Radio Australia, Joan Warner, is making a submission on behalf of all Australian regional radio operators. Nonetheless, I would like to relate some of the difficulties we have had in complying with these new regulations:

- Firstly, being a small independently owned and operated regional business the increased compliance burden on our management and staff has been considerable and is effecting the ability of our key people, including myself, to carry out our core service of radio broadcasting
- They are impractical, a disincentive to increasing staff, have unduly influenced our programming decisions, have created a barrier to our company's potential growth and have impacted on the value of our business.
- Since their introduction we have continued to lobby members of the National Party - without success – some correspondence is attached.

I would be very pleased to provide additional information if required and commend your Government for bringing this matter forward and for giving us the opportunity to comment.

Sincerely,
Bathurst Broadcasters Pty Limited



Ron Camplin, OAM
Chair



COPY

Meeting on the proposed changes to Trigger Event Definition and Local Presence Conditions

Thank you for meeting with us in Bundaberg on Monday 21st December 2009 to discuss our concerns on the significant issues of **Trigger Events and Local Presence Licence Conditions**.

I was pleased that you agreed a little more flexibility could be allowed around:

- Local content hours across any five days of the week.
- The non-compliance period of 6 weeks for local content.
- Exemption for remote area licensees and Racing Radio services.
- Exemption for family share transfers, death, divorce, insolvency, corporate restructures that do not impact on the ownership, etc.

I was, however, very disappointed at our failure to convince you that the **Local Presence Licence Condition** is bad policy. Not only is inequitable and unfair, it devalues regional radio stations – hence, my investment. Frankly, I cannot understand why you will not support an end date on this unduly restrictive intervention in a commercial enterprise. Particularly, in view of your own insistence that **“this was not one of my proposals”**

Joan Warner has detailed our concerns in her letter to you, but to give you a broader understanding of the impact this legislation is having on the day-to-day operation on our radio stations in Bathurst, I have attached a copy of my letter to the Mayor of Lithgow City Council, Cllr. Neville Castle in regard to our offer to buy the two Lithgow radio stations and the reasons for our withdrawal of that offer.

if there is any chance you would reconsider your position, I and other regional radio operators would be pleased to arrange further discussions with you and your NPA colleagues.

Sincerely,
Bathurst Broadcasters Pty Limited

Ron Camplin, OAM
Chairman

23 December 2009



5 December 2009

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Sale: Lithgow Commercial Radio Stations 2LT AM – 107.8 FM.

Firstly, please accept my apologies for taking so long to get back to you following my call earlier this year to seek your views on our plans to acquire the above radio stations in Lithgow. At that time, you advised you could see no adverse community reaction to our proposal – for which we thank you.

As a result, in May 2009 we made an indicative offer to O'Brien Palmer, Chartered Accountants - later revised in June/July and then another in October 2009. There has been no response and reluctantly, we have decided to withdraw from further negotiations - at least for the present time.

One of the main reasons for our decision concerns the anomalies that exist under the current broadcasting legislation – introduced by the previous Government. In particular, the difficulties encountered by a purchaser of a commercial regional radio licence with a so called “trigger event” that automatically applies in the event of a radio station being bought or sold. For example, a “Local Presence Licence Condition” once triggered freezes *forever*, staff and local production facilities.

Clearly, if our company was to acquire the two Lithgow stations, we would want to operate them together with our Bathurst stations; sharing production, programme and technical facilities and so maximise the benefits and increased diversity of four stations in the Bathurst/Lithgow markets. We believed this union would have resulted in long-term benefits for both our company and the communities of Bathurst and Lithgow.

The Federal Government has, in fact, honoured a pre-election promise and drafted amendments to the Act that would allow us to implement this plan of action. Unfortunately, the Nationals have raised objections and are threatening to oppose the amendments in the Senate. **Thus, our decision not to proceed with our offer at this time.**

However, in the event the NPA Senators withdraw their opposition to the amendments - and the stations are still on the market at that time - we will reconsider our position.

Sincerely,
BATHURST BROADCASTERS PTY LIMITED

Ron Camplin, OAM
Chairman



24 November 2009

COPY

Government's Proposed Changes to Trigger Event Definition, Local Presence Conditions, Local Content

Knowing that you were meeting with Joan Warner at the National Leaders Forum in Perth last week I delayed following-up to my letter 5 November 2009. I had intended to call your office the following week, However, was reasonably confident that Joan, given the opportunity to speak personally to you and your colleagues, could find a way through this regulatory maze.

Sadly, this was not to be, and my appeals to you and your colleagues to ease this unnecessary regulatory and compliance burden on small regional broadcasters (like ours), has again been ignored.

Frankly, I still find it inconceivable that legislation such as this could have been engineered, promoted and supported and by a party that purports to represent regional Australia. It is a bad law – restrictive, discriminatory, does not and cannot serve any purpose insofar as providing better services.

After more than fifty years of membership in the NPA, (the Party of John McKewan, Doug Anthony, Ian Sinclair, etc.) I cannot accept the direction you and your colleagues have chosen in regard to this legislation.

Accordingly, given the unreceptive response in Perth to our submission, I will now redirect my efforts to the grass-roots of our community, including, Councils, Shires and local Liberal and National branches.

Sincerely,
BATHURST BROADCASTERS PTY LIMITED

Ron Camplin, OAM
Chairman



COPY

Government's Proposed Changes to Trigger Event Definition, Local Presence Conditions, Local Content

Thank you for your email of 29 October 2009. While I was relieved to learn "the Nats will be looking at this closely", I was a little concerned at "when we get the legislation?" I was under the impression you had a copy of the proposed amendments. Indeed, I forwarded draft amendments to your office some time ago. However, that is in the past and to ensure you have all the information on hand before it reaches a vote I am writing to you again to request your support for changes the industry has agreed with the Government to the definition of a "trigger event" and the consequences of a trigger event – I have attached an overview for your information.

In addition, on a related but separate matter, the Government is also proposing to make minor amendments to the local content requirements. These three amendments, set out below, were already agreed by both sides before the last election. Please note that neither the commercial radio industry nor the Government are seeking or proposing to alter the required hours of local content for commercial radio licence holders, in place since January 2008. These local content requirements will stay.

However, the major and most vital amendments to the Media Reform Act for regional commercial radio stations are to the broad definition of a so-called "trigger" event and the resultant consequences when a "trigger" event occurs. In particular, the Local Presence Licence Condition that is triggered.

The overly broad definition of a trigger event and accompanying draconian and interventionist trigger event licence conditions have resulted in unwarranted and unprecedented Government intervention in the running of what are, essentially, small local businesses dependent on the local economy for much of their income.

The trigger event and consequences have also devalued regional radio stations as currently, in the event of a sale or any other changes in ownership, shareholding or structure within a network, a "trigger" event is deemed to occur and stations are then hit by a staff freeze and production facilities freeze which has no end.

In addition, as well as additional reporting requirements for the required hours of local content, the trigger event licence condition imposes yet another set of reporting requirements – all this at a time of economic turmoil and falling radio revenues.

No other small to medium private sector businesses, or for that matter any Government organisations, in regional Australia have been targeted in this way by a political party.

AGREED LOCAL CONTENT CHANGES

All regional commercial radio stations – all commercial radio stations in areas outside of Sydney, Melbourne, Brisbane, Adelaide, Perth – are required to broadcast a certain number of local content hours per day. Both parties, before the election, agreed to the following amendments and the industry now requests the promises to make these simple amendments are honoured:

- **remote area licensees, (broadcasting one program stream over vast sparsely populated areas), and Racing Radio stations to be exempted from daily local content obligations;**
- **licensees be permitted to deliver the per day local content hours across any five days of the week to allow local weekend sports broadcasts to be included, (currently restricted to Mon- Fri);**
- **6 week non-compliance period for local content is allowed each year to allow for holiday period.**

TRIGGER EVENT DEFINITION

The local presence condition (staff and facilities freeze) and the "minimum standards" for local news, (12.5 minutes per day), are the two consequences of a "trigger event".

The current definition of a "trigger event" is too broad.

As it stands, it captures all changes in the ownership and control of regional commercial radio licensees that have nothing to do with cross-media transactions - changes such as corporate restructures (in parent companies, offshore associated companies and/or in a partnership or a joint venture), radio to radio sales, non-media purchase of regional radio; transfers of shares within a family, death, an inheritance and/or divorce.

The Government is proposing, as you can see from the attachment, to narrow this definition so that instances such as family share transfers, and, corporate restructures that do not impact on the ownership of the stations, are no longer classed as trigger events.

LOCAL PRESENCE LICENCE CONDITION (activated by a trigger event)

Retention of Studios and Production Facilities

The Local Presence Licence Condition freezes forever staff and local production facilities. Neither can ever be decreased - even in tough financial times or when advances in technology make current production facilities obsolete.

There is, unbelievably, no end to this requirement - this is inequitable and unacceptable Government intervention in the day to day running of a commercial enterprise.

No other business upon sale is burdened through Government regulation with the retention of existing staff and facilities - **and with no end date**. And in fact, no Government businesses, including the ABC, are subject to this unreasonable restriction on the running of the business.

While the industry has been requesting since November 2007 that the local presence licence condition as a consequence of a trigger event be deleted completely from the Act, the Government does not agree but has instead proposed a sunset clause on the trigger event consequences.

The industry supports this compromise and asks that you do the same and use your influence with your colleagues to gain support in the Senate for these amendments to be passed and subsequently untie the hands of regional radio operators in the day to day running of their businesses.

I will call your office in the next week or so to arrange a meeting to discuss with you personally whether you are willing to support your local radio station in our attempt to be treated fairly and to have the unfair aspects of the Media Reform act rectified.

I look forward to discussing this with you.

Yours sincerely
BATHURST BROADCASTERS PTY LIMITED



Ron Camplin, OAM
Chair

5 November 2009

**OVERVIEW OF PROPOSED GOVERNMENT AMENDMENTS TO
TRIGGER EVENT DEFINITION, LOCAL PRESENCE CONDITION, LOCAL CONTENT**

1. A reduction in the compliance period for providing minimum amounts of local content in terms of material of local significance from 52 weeks to 46 weeks – **agreed by Liberal, National, Labor prior to the election**
2. Amendment of the local content requirement for minimum amounts of material of local significance on each of the five (5) business days to any five (5) days in the week - **agreed by Liberal, National, Labor prior to the election**
3. Exemption of Section 40 regional commercial radio broadcasters from the local content, local presence and local news and information requirements
4. Exemption of remote area and racing radio from the local content, presents news, information and reporting requirements - **agreed by Liberal, National, Labor prior to the election.**
5. Amendment of the trigger event definition to explicitly exclude:
 - Inter-generational transactions that do not involve a sale of a regional commercial radio licence;- **supported by radio industry**
 - The formation of a new registrable media group (required to be entered on the Register of Controlled Media Groups) that is created only due to geographic or demographic changes in a licence area - **supported by radio industry**
 - Internal corporate restructures where ultimate controller does not change - **supported by radio industry**
6. Amendment of the trigger event definition to provide ACMA with discretion to determine, on a case by case basis, whether the following circumstances should be excluded:
 - Involuntary “trigger events” arising from a court order, or court approved process, death, bankruptcy, voluntary administration and winding up, schemes of arrangement and family court orders - **supported by radio industry**
 - Minor corrections of a clerical or administrative error to the Register of Controlled Media Groups, but not entries of new controlled media groups - **supported by radio industry**
7. Implementation of a 12 month sunset clause on trigger event related local presence, news, information and reporting requirements – **supported by radio industry – key point**
8. Amendment of the trigger event definition so that it refers to a change in ‘control’ rather than ‘transfer’ of a regional commercial radio licence – **not supported by the radio industry**