

Solutions

Restoration of the ABC's regional radio racing service

- 3.1 Racing has traditionally occupied a special place in the lives of Australians living in rural communities. It has had economic as well as social significance. For many rural Australians, listening to the ABC's race broadcasts on Saturday afternoons was a regular pleasure and a distinctive element of the rural ethos. Radio racing broadcasts may not interest the majority of Australians listeners, but the ABC is under no obligation to ensure its programs have majority appeal. Indeed, broadcasting the races was entirely consistent with the ABC's Charter which requires it amongst other things to broadcast programs 'that contribute to a sense of national identity and inform and entertain and reflect the cultural diversity of the Australian community'.¹
- 3.2 Many submitters felt that the discontinuation of the regional radio racing service represented a failure by the ABC to meet these obligations. While racing clearly occupies a special place in the national psyche, this does not in itself oblige the ABC to broadcast racing. It would be clearly impossible to program broadcasts to cover every contributing element to the national identity.
- 3.3 The majority of the submissions we received called for the restoration of the ABC's regional racing service. The calls came principally from racing clubs all over the continent and from individuals who either do not have satellite dishes or pay TV or the internet or who rely on the portability of radio to listen to the races while working or gardening or travelling. We appreciate the value placed on the ABC's racing service by those racing

¹ Section 6 of the ABC Act

enthusiasts who made submissions or lodged form letters or signed petitions.

- 3.4 In addition to individuals, a number of organisations called for the restoration of the ABC's service. To a large measure their calls were largely based on pragmatic grounds, namely that only the ABC has the necessary infrastructure in place to deliver the service to listeners across the nation. The WA TAB described the ABC's service as irreplaceable 'because of its span to the most remote of areas and its ability to reach rural people where they work' and claimed that 'only the Federal Government and the national broadcaster can solve the problem of providing vast areas in country WA with such a service.'²
- 3.5 According to the Australian Racing Board, the 'fact remains that with its national infrastructure and broadcast reach, funded in significant measure by the wealth created by the regions now denied a service, the ABC is best placed to provide a radio racing service to rural and regional Australians.'³
- 3.6 We concur with the view that the ABC, because of the coverage of its various networks, is best placed to provide a racing service to regional and rural listeners. Although racing broadcasters are making and have made efforts to extend the reach of their broadcasts there is, at least in some states, a considerable gap between the coverage they are able or willing to achieve.
- 3.7 Although TAB Limited claimed that the project of extending broadcasts throughout New South Wales was 'in part a customer relations exercise aimed at providing a high level of service to country customers at the best possible price'⁴, the fact remains that the TABs primarily outlay the money not for altruistic reasons but to encourage wagering sales. With the increasing privatisation of TABs, pressure for these commercial considerations is likely to intensify.
- 3.8 As explained by the WA TAB, 'it is not, nor will it ever, be in the position of being able to introduce a broad band cover similar to that which the ABC had in place, simply because of the cost of servicing an area of 1 million square kilometres and in view of the TAB's task in maximising the amount of funds available for distribution to the racing industry.'⁵ In its submission to the inquiry, the QLD TAB stated that it had 'over-extended its commitment to race broadcasting'.⁶

² Submission No 43, Vol 1, p 81 (WA TAB)

³ Submission No 149, Vol 2, p 521 (Australian Racing Board)

⁴ Submission No 159, Vol 2, p 555 (TAB Limited)

⁵ Submission No 43, vol 1, p 81 (WA TAB)

⁶ Submission No 71, Vol 1, p 158 (QLD TAB)

- 3.9 Given the commercial realities involved in current racing broadcasts, we are concerned that without a restoration of the ABC's service, listeners in many parts of the country who cannot afford alternative means of hearing radio race broadcasts will, at least in the short term, continue to be denied a radio racing service.
- 3.10 In the course of this inquiry, we heard evidence that in Victoria the ABC 'simulcast' their Saturday and Public Holiday afternoon sports programs on both AM and FM in Gippsland, North East District and Western District. According to the ABC from 1993 it did, in fact, split its coverage of *Grandstand* in the Gippsland region 'in an attempt to alleviate the impact of racing broadcasts on listeners who preferred uninterrupted coverage of sport'.⁷ The race broadcasts ceased in June 1998 when the ABC discontinued its regional racing broadcasts across the network. Given the ABC's insistence throughout the inquiry that it discontinued the broadcasts in order to accommodate the audience's preference for uninterrupted football or cricket, we are perplexed that it nevertheless abandoned the racing service in areas, such as Gippsland, where it was possible to accommodate both audiences.
- 3.11 We note that Sport 927 has offered the ABC its race broadcasts for this purpose.⁸ The offer includes covering all expenses connected with the provision of this service to the ABC (est, \$48,000 pa for landlines, links and staff costs). We understand that the ABC is prohibited under Subsection 25(3) of the ABC Act from accepting payment or other consideration for the broadcasting of any announcement, program or other matter. However, as discussed at 2.7-2.8, it may be possible to accept Sport 927's broadcast feed for relay purposes .
- 3.12 In responding to questions about the possibility of splitting coverage between AM and FM transmitters elsewhere in Australia, the ABC explained that it is only in Gippsland that the local audience has almost equal access to AM and FM transmitters, 'a scenario peculiar to the Gippsland region and not replicated elsewhere in Australia' and 'that an additional network of AM and FM transmitters around the country would be required to achieve equal transmission coverage around the country'.⁹ It estimated that the capital costs of doing so would be in order of several millions of dollars with recurrent annual operational costs around \$12 million per annum. Similarly, it reported that segmentation of broadcasts to enable different areas of regional Australia to receive race

⁷ Submission No 156.02, Vol 2, p 772, (ABC)

⁸ Submission No 119, Vol 1, p 289 (Radio Sport 927)

⁹ Submission No 156.02, Vol 2, p 772 (ABC)

broadcasts on the ABC would not be able to be done without considerable additional cost.¹⁰

3.13 We are acutely aware that the *Australian Broadcasting Act 1983* guarantees the independence of the ABC and gives it the power to make programming decisions on behalf of the people of Australia. We are simply not in a position to direct the ABC in programming matters.

3.14 We are not fully persuaded by the ABC's explanations regarding other options for accessing race broadcasts in regional Australia. Moreover, many of the proposals detailed later in this chapter, even if adopted, will take some time to implement. In view of this, and in view of the premature cessation of the service by the ABC, we consider that it should not be beyond the capacity of the ABC to restore a modified version of the regional radio racing service for a limited period.¹¹

Improving access

3.15 As we are unable to direct the ABC to restore its regional radio racing service, we propose a package of measures that should substantially improve access over time. The measures address a number of licensing issues that have been raised during the course of the inquiry.

Licensing Matters

3.16 Racing radio is currently carried on a mix of licences comprising commercial, open narrowcast, low power open narrowcast and community licences and in one instance on an experimental digital audio broadcast licence. Ownership and control of these licences ranges from companies, State or Territory TABs, individual entrepreneurs, community groups and local government organisations.¹² This mix of avenues for broadcasting races reflects the different approaches adopted by racing broadcasters in different states and territories to extend coverage of the races across their regions.

3.17 In describing their efforts to extend coverage, racing broadcasters raised a number of issues relating to licensing that impact significantly on their capacity and will to extend coverage of race broadcasts to regional and remote areas. These include the pace of the Licence Area Planning (LAP)

¹⁰ Correspondence from the ABC to the Committee dated 14 January 2000

¹¹ According to the ABC, the racing service cost approximately \$466,000 per annum. Submission No 156.03, Vol 2, p 795 (ABC)

¹² Submission NO 104, Vol 1, p 250 (4TAB)

process, the lack of security of open narrowcast licences and the price based auction system of allocation, and the hoarding of LPONs. With the exception of the pace of the LAP process, these issues and others will be discussed under the heading of the relevant licence type.

Pace of the LAP process

- 3.18 The ABA is responsible for planning and managing those parts of the radiofrequency spectrum used for free-to-air broadcasting services in Australia. It is currently in the process of an 'Australia-wide public planning process aimed at deciding, area by area, the number, type and technical characteristics of new broadcasting services that will be available and progressively licensing these services.'¹³ A part of this process is preparing a Licence Area Plan (LAP) for each area.
- 3.19 A number of submissions made to the inquiry urged the speeding up of the LAP process.¹⁴ Frustration over the pace of the LAP process has been particularly strong in Victoria where Radio Sport 927 has exerted considerable effort 'without success, to establish race broadcasts into the Gippsland, North East District and Western District, the three areas most affected by the ABC's decision'. In outlining solutions to the Committee, Sport 927 urged that the LAP process proceed as a matter of urgency.¹⁵
- 3.20 According to the ABA, 'LAPs for all areas of Australia, for radio and television, up to and including planning Priority Group 3, have now been determined. Gippsland is in priority area No 5.
- 3.21 The ABA advised the Committee in January 2000 that it is currently planning for the metropolitan areas (Priority 4) with Sydney having been determined in December 1999 and a draft for Melbourne released also in December. At that time, it expected to commence consultation with priority Group 5 'in the first half of 2000 and depending on the issues to be considered would expect to finalise planning in the first half of 2001. Any licence allocations would be expected to follow soon after that date.'¹⁶ We understand that it has recently commenced planning for analogue radio services for this group.
- 3.22 The pace of the LAP process has clearly been a factor in delaying access some regions have to free-to-air radio race broadcasts. We are appalled by the extent of the delays and by the cavalier and arrogant approach taken by the ABA in addressing the concerns of racing broadcasters seeking

¹³ www.aba.gov.au

¹⁴ Submission No 74, Vol 1, p 170 (2KY)

¹⁵ Submission No 119, vol 1, p 289 (Radio Sport 927)

¹⁶ Correspondence to the Chair from the ABA dated 13 January 2000

licences in order to expand their coverage. For example, in the light of efforts made by Sport 927 to extend its coverage in regional areas, including Gippsland, and the very strong response from that area to this inquiry, we find it astounding that the ABA could describe and include those areas as part of 'a ratbag of very low priority planning jobs to do in group 5'¹⁷. That the ABA so disregarded the needs of radio listeners in that area that it actually moved them to its last priority group¹⁸ defies belief. We are alarmed by the disdain demonstrated by the ABA in such actions towards these communities. It a matter of high priority that the planning and allocation of radiofrequency spectrum should be examined by the Auditor-General.

Recommendation 2

- 3.23 **The Minister for Communications, Information and Technology and the Arts should request the Auditor-General to conduct a performance audit of the history, efficiency and effectiveness of the planning and allocation of radiofrequency spectrum by the Australian Broadcasting Authority.**
- 3.24 We have also written to the Joint Committee of Public Accounts and Audit suggesting that the Committee advise the Auditor-General that an audit of the efficiency and effectiveness of the ABA's conduct of the Licence Area Planning process is a matter of high priority for the parliament.
- 3.25 While we welcome the commencement of the LAP process for Gippsland and other areas, we consider that given the delays and amount of time remaining before licences are actually allocated, temporary measures should be put in place to accommodate racing broadcasters who have been waiting for the LAP process for their areas to be completed. Under Section 34 of the *Broadcasting Services Act 1992*, the ABA may make unused or unplanned BSB spectrum available for other purposes. Accordingly, we consider that the ABA should make spectrum available to Radio Sport 927 in the Gippsland, North East District and Western District in Victoria (and any other regional areas where racing broadcasters have been unable to secure licences because the LAP process has not yet been completed) until such time as the LAP process has been completed and

17 Transcript of evidence, 18 October , Canberra, p 84 (Mr Tanner)

18 Transcript of evidence, 18 October , Canberra, p 84 (Mr Tanner)

Sport 927 (or other racing broadcaster in other areas) has had the opportunity to bid for any narrowcast licences made available for auction.

Recommendation 3

- 3.26 **In those areas where spectrum is known to be available, a broadcaster wishes to provide a radio racing service and the Licence Area Planning process has not been completed, the Minister for Communications, Information Technology and the Arts should direct the Australian Broadcasting Authority to make spectrum available until such time as the Licence Area Planning process is completed.**

Open narrowcast Licences

- 3.27 Created under the *Broadcasting Services Act 1992*, open narrowcasting services are broadcasting services:

- (a) whose reception is limited:
 - (1) by being targeted to special interested groups; or
 - (11) by being intended only for limited locations, or example, arenas or business premises; or
 - (111) by being provided during a limited period to cover a special event; or
 - (iv) because they provide programs of limited appeal; or
 - (v) for some other reason; ...¹⁹

- 3.28 Open narrowcast licences use spectrum that is not being used by other national, commercial or community broadcasters in a licence area. Spectrum is identified within each region as part of the LAP process. Licences are allocated by means of a price based auction with the minimum reserve set at \$4000. Although competition has resulted in some licences fetching significantly higher prices, licences for many of the smaller towns have been obtained for close to the reserve price. Open narrowcast licences are considerably less expensive than commercial licences and subject to less regulation than other broadcasting services. They are issued for a maximum of five years.

¹⁹ Section 18 of the Broadcasting Services Act.

- 3.29 According to the ABA, the relatively low price paid at auction for narrowcasting frequencies compared to commercial ones, reflects the lack of security of tenure and format and reception limitations.²⁰

License Tenure and Allocation Process

- 3.30 The majority of racing radio licences are open narrowcast licences. While the creation of open narrowcast licences has enabled racing broadcasters to extend their services to many regional areas, racing broadcasters are clearly dissatisfied with many aspects of the regime and in particular with the tenure arrangements and the price based system of allocation.
- 3.31 As stated above, high and medium power open narrowcast licences are issued for a five year period. The process for the renewal of the licence at the end of that period does not appear to have been finally determined.
- 3.32 According to broadcasters, the tenure arrangements and the price based system of allocation threaten their ability to continue rolling out services and amount to a serious disincentive to investing the considerable amount of money required to establish services in regional areas. As TAB Limited explained,
- This licensing process provides difficulties for our roll-out plans as we are at risk of being out-bid by other interests, thereby jeopardising the considerable capital expended to facilitate the initial broadcasts equipment installations. These expenditures at times equate to hundreds of thousands of dollars for individual locations.²¹
- 3.33 According to 2KY the current arrangements put them in the invidious position of being 'green mailed' at the auction re-allocation procedure 'by any party who wishes to out bid us for our licences and then offer to lease it back to us at an inflated rate'.²²
- 3.34 4TAB argues that 'the decision to allocate these licences by a price based auction system has allowed all and sundry who have an interest in establishing a broadcasting service to bid for these licences.' Despite a reasonably exhaustive planning process and generally being successful in covering the interest expressed in establishing radio services in various areas, what the ABA has not been able to stem 'is action by new players who have emerged after the planning process has been completed'.²³

²⁰ Submission No 203, Vol 3, p 682 (ABA)

²¹ Submission No 159, Vol 2, p 557 (TAB Limited, NSW)

²² Submission No 74, Vol 1, pp 169-170 (2Ky Racing Radio)

²³ Submission No 104, Vol 1, p 254 (4TAB)

- 3.35 In support of its view, 4TAB described an instance of being outbid for a licence held under a previous provision in Yeppoon in 1998 notwithstanding that the winning licensee had not announced the nature of its service to the area, nor conducted any research to ascertain community interest in or acceptability of what it might offer.²⁴
- 3.36 4TAB further illustrated the difficulty of planning for a state wide racing service within the current system with an account of its efforts to establish a high powered service which would reach towns scattered across more than one commercial radio market. This was denied by the ABA on the grounds that such wide coverage would give broadcasters a substantial competitive advantage in advertising as well as militate against diversity of ownership. In the event, QLD TAB gained a 3kW FM service to Bundaberg but other high powered services on offer were uneconomical and suitable frequency for lower powered services unavailable.²⁵ According to 4TAB, 'the planning process adopted by the ABA for narrowcast licences is based on the service areas established for the commercial licences. The planning of a state wide racing radio service has scant regard for lines drawn on a map to delineate commercial interests'.²⁶
- 3.37 While the evidence presented to us of actual instances in which racing broadcasters have been outbid by other broadcasters was limited to the cases mentioned above, 4TAB's experiences appear to have had a strong impact on other racing broadcasters. The sense of vulnerability created by 4TAB's experiences has recently been exacerbated by the reported interest in narrowcast licences by commercial operators in anticipation of then being automatically guaranteed access to spectrum for digital narrowcasting.
- 3.38 Broadcasters made clear to us that the current situation threatens not only the continued expansion of services but also the maintenance of existing services.

Where there was great unease in regional Queensland when the ABC withdrew, with the price based allocation system, I guess we cannot give a guarantee that we will even remain in the places that we currently are because of the events of the last year or to where we have established a radio service in some of the more key regional centres.

When those licences come up for release next time around, there is no guarantee that the TAB will even get those licences again. So our service, which goes some way toward providing a racing

²⁴ Submission No 104, Vol.1, pp 254-255 (4TAB)

²⁵ Submission No 104, Vol.1, p 255 (4TAB)

²⁶ Submission No 104, Vol 1, p 255 (4TAB)

service throughout regional Queensland, may well diminish under the current system. We cannot compete with other operators who are prepared to outbid us at auction. We just cannot compete.²⁷

3.39 Similarly, Radio Sport 927 alluded to the possibility of Victorians losing access to radio race broadcasts under the current system.

It is possible that the current level of Racing Radio coverage into regional areas, in all States, could diminish even further should the Racing Radio stations either not be in a position to afford to 'place' a winning bid when the licences are again offered at open auction by the ABA. In the case of Victoria Sport 927 operates these regional services that result in a significant annual expense to the station with there being absolutely no revenue return. Should Sport 927 not be in a position to afford to operate these services Racing Radio would be totally denied to all regional Victorians.²⁸

3.40 All racing broadcasters that made submissions to the inquiry called for changes to the licensing system to address the issue of security of tenure. While the suggestions themselves varied, they had the common goal of removing the uncertainty surrounding tenure. The suggestions included:

- the automatic re-issue of licences providing that there has been no improper conduct or breach of regulation (as per commercial licences)²⁹;
- the elimination of the limited tenure period;
- the extension of the period of tenure to ten years;
- the creation of a no or minimal cost licence renewal process for radio stations that provide a dedicated racing service to the community, and³⁰
- the establishment of a new class of 'Racing' broadcast licence³¹.

3.41 In considering the suggested changes, we have borne in mind the concerns expressed by the Federation of Australian Radio Broadcasters in relation to changes to tenure arrangements and the creation of a special class of licence.

Limiting the period during which transmitter licences for open narrowcasting services remain in force is consistent with the fact that such services (for example racing services) are targeted to special interest groups and provide programs of limited appeal.

²⁷ Transcript of evidence, p 18 (Mr Houston, TAB QLD)

²⁸ Submission No 119, Vol 1, p 290 (Radio Sport 927)

²⁹ Submission No 159, Vol 2, p 558 (TAB Limited)

³⁰ Submission No 63, Vol 1, p 141 (NT Government)

³¹ Submission No 74, Vol 1, p 170 (2KY); Submission No 104, Vol 1, p 257 (4TAB)

The fact that under current regulation such transmitter licences can be offered for re-allocation at regular intervals (at the end of each 5 years) generally enables persons desirous of providing alternative programming targeted to other special interest groups to participate in a price-based allocation of the radio communications spectrum.'....

It is not in the public interest for persons providing open narrowcasting radio broadcasting services (which provide programs targeted to special interest groups or of limited appeal) to be able to monopolise the use of scarce spectrum indefinitely for the purpose of providing such limited programming for their private commercial gain. The position can be contrasted with the legal obligation imposed on all commercial radio broadcasting service licensees to provide programming which is intended to appeal to the general public and not merely some private commercial interest of the person holding the licence.³²

- 3.42 FARB also claims that there is no evidence that the current limited duration of open narrowcast licences has resulted in reluctance on the part of persons to apply for those licences³³ and asserts that the prices paid for the open narrowcast licences reflect their limited duration.³⁴
- 3.43 We note that Sport 927 does not believe that there is a need to create a new class of 'Racing licence'. Nor, however, does it believe that there is a valid basis for the assumption in the Act that a special interest radio service for a section of the public must necessarily be for a limited duration.³⁵
- 3.44 We have some sympathy with this view. Narrowcast licence holders are limited by definition and restricted either in terms of content, location, or time period of transmission. The very nature of the licences restricts what licence holders can do. In combination with the fact that they use spectrum that is 'not being used by other national, commercial or community broadcasters in a licence area'³⁶, it could be argued that they do not pose a serious threat to holders of other forms of licence. Limiting the period of tenure, with no provision for assumption of automatic renewal upon compliance with licence conditions, may serve a valid purpose for licences that have been issued for a specific event but makes much less sense for services that are intended to be ongoing.

³² Submission 204, Vol 3, p 704-705 (FARB)

³³ Submission 204, Vol 3, p 704 (FARB)

³⁴ Submission No 203.01, Vol 3, p (ABA)

³⁵ Submission No 119.02, Vol 3, p 794 (Radio Sport 927)

³⁶ Submission No 203, Vol 3, p 681

- 3.45 According to the ABA, over 80 per cent of open narrowcast licences are held by racing broadcasters.³⁷ Racing broadcasters have clearly utilised the opportunity presented by the creation of this class of licence to extend their services to regional areas. While it may be the only commercially realistic licence option they have for doing so, it does not mean that the licence class is ideally suited for this purpose. As long as the current system is in place, racing broadcasters are at risk of being outbid by other broadcasters or new entrants wanting narrowcast licences. Given the commercial realities that underpin the operations of racing broadcasters, it is inevitable that the lack of security of tenure represents a serious threat to the establishment and maintenance of radio racing broadcasts in regional, rural and remote areas.
- 3.46 Racing services are as secure as the tenure of the licences under which they are broadcast. We consider that in the interests of protecting racing broadcasts to regional areas, the current open narrowcasting system needs modification.

Proposed modifications to open narrowcasting licences

- 3.47 Security of tenure is critically affected by the method used to renew licences. According to the ABA, new licences may be issued 'either by way of a price-based allocation system under s.106 of the Radiocommunications Act 1992 or by way of application under s.100 of the Radiocommunications Act 1992.'³⁸ In a submission to the ABA on the issue of the renewal process for existing open narrowcast licences, the Australian Racing Radio Association indicates its preference for the latter method.
- 3.48 While we are not in a position to assess the case for all open narrowcasting licences, we support the view that a price based allocation system for the renewal of licences is inappropriate for racing licences. Our preference is that the renewal of open narrowcast licences for racing radio should be by way of application under s.100 of the Radiocommunications Act 1992.
- 3.49 We consider that the period of renewal for open narrowcast licences should be for a period of five years. This both matches the initial licence period and is consistent with the renewal period for commercial licences.

³⁷ Submission No 203.01, Vol 3, p 712 (ABA)

³⁸ Australian Broadcasting Authority, 1999 'Price based-allocation of transmitter licences for open narrowcasting services', Sydney.

Recommendation 4

- 3.50 **The Minister for Communications, Information Technology and the Arts should direct the Australian Broadcasting Authority to renew existing open narrowcast licences held by racing radio broadcasters by way of application under s.100 of the Radiocommunications Act 1992 and make the period for which the licences are renewed five years.**
- 3.51 In the event of narrowcast licences being renewed by way of a price-based allocation system under s.106 of the Radiocommunications Act , we consider that the period for which the licence is renewed should be increased from five years to ten years. We note that in evidence to the inquiry, the ABA itself indicated that it had no in principle objection to such a change.

We have made the spectrum available for 10 years in an attempt to signal to the narrowcasters that we are not interested in five-year re-auctioning, but unfortunately, because we are issuing transmitter licences under the Radiocommunications Act³⁹and they have a maximum period of five years, we have no choice other than to put them out for that maximum period. But by making the spectrum available for 10 years, we are hoping to send the signal that we do not really envisage re-auctioning occurring in five years. That is the best guarantee that we can give within the law.⁴⁰

Recommendation 5

- 3.52 **The Minister for Communications, Information Technology and the Arts, in the event of narrowcast licences being renewed under s.106 of the Radiocommunications Act 1992, should prepare amendments to the Radiocommunications Act 1992 to provide for transmitter licences to be issued for a maximum period of ten years.**

39 Open narrowcast services belong to the class regime of the Broadcasting Services Act. Class licences, as described by the ABA, are not 'individually issued, but are a standing authority which will allow any operator to enter the market and provide a service, as long as the operator has access to deliver capacity (i.e. the radiofrequency spectrum in the case of services which use the BSB) and abides by the conditions relevant to the particular category of licence under which the service is provided ...Class licence service providers who wish to use the BSB must apply to the ABA for a transmitter licence to operate their service. A transmitter licence is a form of apparatus licence issued under the Radiocommunications Act 1992.' ABA. Price-based Allocation of Transmitter Licences for Open Narrowcasting services. Sydney, 1999.

40 Transcript of evidence, Monday 18 October 1999, p 99 (Mr Tanner)

- 3.53 The open narrowcasting category of licence was created well before the ABC's decision to discontinue its regional radio racing service. As suggested by 4TAB, at the time Section 34 of the Broadcasting Services Act was drafted, 'it could not reasonably have been seen how much of the spectrum released for open narrowcasting would be taken up by Racing Radio'.⁴¹
- 3.54 That amendments to the system are clearly required if a stable racing service is to be established in regional areas suggests that there is a case for creating a sub-category of open narrowcasting licence for racing radio or indeed a special class of licence. This case is considerably strengthened by the reality that the withdrawal of the regional radio racing service by the national broadcaster has, in effect, transferred responsibility for providing that service to the TABs/racing broadcasters.
- 3.55 We are pleased to note that the ABA intends to give consideration to 'the wider policy implications and options regarding matters such as tenure, licensing and the broader implications associated with the narrowcasting category of licence'.⁴² In the light of this advice we urge the government to provide resources and directions to the ABA to initiate a review of the narrowcasting category of licence without delay with a view to creating within it a special category of open narrowcasting licence for the broadcast of racing in regional, rural and remote areas.

Recommendation 6

- 3.56 **The Minister for Communications, Information Technology and the Arts should direct the Australian Broadcasting Authority to review the operation of the open narrowcasting category of licence with a view to creating within it a special category of open narrowcasting licence for the broadcast of racing in regional, rural and remote areas.**
- 3.57 The creation of more secure tenure arrangements should eliminate the risk of further reduction in access to racing broadcasts for regional areas. However, it would not necessarily lead to an expansion in the area covered by these services. According to the ABA, 'there are currently 60 open narrowcast licences which were offered by the ABA at auction but were passed in at auction due to no bids being received or applications being withdrawn'.⁴³ We understand that any of these licences would be available for re-auction should an expression of interest be made to

⁴¹ Submission No 104, Vol 1, p 254 (4TAB)

⁴² Correspondence from the ABA dated 13 January 2000

⁴³ Submission No 203.01, Vol.3, p 712 (ABA)

provide a service in a licence area. That so many licences are not being taken up suggests that racing broadcasters are being very selective in the areas they are willing to cover.

- 3.58 We suggest that any alterations to the open narrowcasting category that arise from the ABA's review are constructed in such a way that they have the effect of expanding areas covered by racing broadcasters. The creation of a special class of licence may provide the opportunity to attach special conditions to assist in achieving this result.

Affordability of licences and Financial assistance

- 3.59 TAB Limited (NSW) suggested that given the demand for the radio racing service and the superior quality of the service compared to the ABC's previous radio racing service, there is a case for giving racing radio more favourable financial arrangements either in the form of reducing licence fee outlays or through providing some form of assistance in the installation/capital equipment costs.⁴⁴ The Northern Territory Government also suggested that the ABA introduce a no or minimal cost licence renewal process for radio stations that provide a dedicated racing service.⁴⁵
- 3.60 We do not consider that it is necessary for the Commonwealth to provide direct financial assistance to highly profitable agencies such as TABs or affiliated broadcasters. A more appropriate form of support from the Commonwealth is to provide greater protection of investment through improving security of narrowcast licence tenure as recommended above.

Low power Open Narrowcast (LPON) Licences

- 3.61 Low power open narrowcast licences were introduced in December 1992 in response to demand for 'new types of radio services which could be planned and licensed more quickly than the main wide coverage broadcasting services.'⁴⁶ LPON licences occupy the lower end of the frequency band from 87.6 to 88.0 MHz. The licences are issued under Section 34 of the *Broadcasting Services Act 1992* and are available until 31 December 2003. According to the Australian Communications Authority (ACA), which is responsible for managing the licences, there is no guarantee that the ABA, which is responsible for planning and allocating radiofrequency spectrum, will make this spectrum available beyond this date.

⁴⁴ Submission No 159, Vol 2, p 558 (TAB Limited, NSW)

⁴⁵ Submission No 63, Vol 1, P 141 (Government of the Northern Territory)

⁴⁶ Submission No 206, Vol 3, p 729 (ACA)

- 3.62 Originally designed for localised services such as tourist information services and sporting commentary, the intended coverage radius was approximately 2km from the transmitter in residential areas and 5 to 10 km in rural areas.⁴⁷ Currently LPON formats now include religious programming, ethnic language programs, niche music programming and racing radio.
- 3.63 Compared to other forms of licence, LPONs are easily obtained and inexpensive. Licences are issued on application 'over the counter' for areas where frequency is available with the fee currently set at \$346 with an annual renewal rate of \$34.
- 3.64 Racing radio has utilised LPONs to take broadcasts to towns in many parts of regional Australia.

Extending power of transmitters to achieve greater coverage

- 3.65 As described at 2.66, the main shortcoming of LPONs in terms of taking racing broadcasts to regional and remote Australia is the limited coverage they can achieve. As the range of program formats has increased since the introduction of LPONs, there has been growing pressure on the ACA to extend the power of transmitters to allow broadcasters to achieve wider coverage.
- 3.66 The WA TAB stated its case for increasing the power of transmitters as follows:
- Having a licence is one thing, but a one-watt FM licence in some areas might give you a range of one kilometre. That does not really cover a lot of area. If you have any obstruction to the signal, then in some country towns you are lucky to get three or four hundred metres of coverage. What we have asked for – but not had a lot of success at is to get those one-watt transmitters increased to 10 watts. That would help enormously, and particularly in the rural township areas, to provide a reasonable service.⁴⁸
- 3.67 According to the ACA, 'extension of the limited coverage of the existing LPON transmitters by increasing their power would have significant planning and resource implications for both the ABA and the ACA. More importantly, were such a change in policy to be adopted, all existing LPON licences would probably have to be surrendered, cancelled or not renewed and a major replanning exercise would have to take place along

⁴⁷ Submission No 206, Vol 3, p 731, (ACA)

⁴⁸ Transcript of evidence, 18 October 1999, Canberra, p 110 (Mr Bennett)

the lines of that currently undertaken for spectrum in the Broadcasting Services Bands (BSB)⁴⁹.

- 3.68 We note that 'there is some concern amongst the existing broadcasters and the ABA that the delineation between the niche music programming (narrowcasting) and mainstream commercial music programming (broadcasting) is becoming blurred'⁵⁰ and appreciate the broader policy implications of altering the power of transmission attached to LPONs. However, the increasing use of LPONs for purposes beyond which what they were originally intended for and the consequential blurring of boundaries suggests that the current licence categories are no longer adequately dealing with the needs and demands of broadcasters and the community. The ACA advised that at some time in the future, a decision may be taken to replan LPON services and allow the new services to have increased power but this could only be done after extensive public consultation and after many broad policy considerations had been settled. We suggest that these matters should be considered as part of the review of the open narrowcasting category of licences.

Recommendation 7

- 3.69 The Minister for Communications, Information Technology and the Arts should direct the Australian Broadcasting Authority, as part of its review of the Open Narrowcasting Category of licence, to work in collaboration with the Australian Communications Authority to assess the potential to extend the power of Low Power Open Narrowcasting services for racing broadcasts and to determine the implications of such a measure on other broadcast licence categories.**

Hoarding of LPONS

- 3.70 Although the relative ease of allocation and low price of LPONs has made them attractive to racing broadcasters as a means of getting broadcasts out to small towns, these same features have made LPONs attractive to other individuals and organisations as well. Racing broadcasters reported some difficulties in obtaining LPONs in some areas owing to the fact they had already been purchased by others.

⁴⁹ Submission No 206, Vol 3, p 728 (ACA)

⁵⁰ Submission No 206, Vol 3, pp 729-730 (ACA)

- 3.71 Not all of these licences are then put to use. According to the ACA, of the 1500 LPON licences issued around Australia, around 65% of these licences are currently not being used to provide a radio service. The difficulties arising from this situation for racing broadcasters were outlined in the Tasmanian Government's submission to the inquiry.

There are a large number of LPON licences covering the North West Coast that have been purchased for an application fee of \$29 plus an annual licences fee of \$29. These licences have been purchased by individuals who either saw the opportunity to buy them up and then sell off or lease the licences at a later date or who intended to establish stations or networks and later found the capital or operating costs to be beyond their means.

The individuals holding LPON licences are quite prepared to offer them for sale or lease but at a substantial sum of money to a broadcaster such as 7TAB having regard to the economies of scale. Despite this, the individuals/organisations holding the licences are, unfortunately, not required to use these licences. Accordingly they remain unused and at minimal holding cost and no penalty to their owners.⁵¹

- 3.72 The Tasmanian Government suggested that such practice was contrary to the intention of the Government when issuing the licences and compared the situation with other broadcasting licences which carry with them a condition that stipulates a time within which the service must be established or the licence will be withdrawn.⁵²
- 3.73 In response to claims that licences are being hoarded with a view for later sale, the Minister asked the ACA to examine the issue and identify some options are addressing it. The ACA discussion paper released in July 1999 suggested a number of solutions including a 'use it' or 'lose it' condition. We understand that the department has recently completed its investigations and that the Department has provided the Minister on 8 May 2000 with a recommended regulatory framework for addressing the hoarding issue.
- 3.74 LPONs will only ever be part of a solution for providing access to race broadcasts for people in regional and remote Australia. As the ACA explained, it would be 'almost impossible to replicate the coverage area of the ABC's regional radio AM service via LPON transmitters because so many transmitters would be physically required that it would be quite impractical to establish them physically well as costly'. Notwithstanding their limitations, we consider that LPONs play an useful role in providing

⁵¹ Submission No 90, Vol 1, p 213 (Government of Tasmania)

⁵² Submission No 90, Vol 1, p 214 (Government of Tasmania)

access to race broadcasts in some regional centres and are likely to do so for some time. The WA TAB for instance suggested that its network could be enhanced considerably by a rapid expansion of the cheap and easily installed 1 W FM licences at more of its country TAB agencies.⁵³

- 3.75 Clearly the availability of LPONs would be increased if the hoarding was prevented by the application of a use it or lose it condition on the licences.

Recommendation 8

- 3.76 **The Minister for Communications, Information Technology and the Arts should insert conditions on LPON licences that require the licence holder to use the licence within a given period of time or lose it.**

Community licences

- 3.77 Racing is carried on two community licences, Triple S in the ACT and 107.3FM in Albury Wodonga. Community licences are restricted to 5 minutes per hour of advertising or sponsorship space. As described at 2.55, Triple S receives its funding largely from ACTTAB. We understand that it has no major difficulties in its operations.
- 3.78 107.3FM, in operation for over twenty years, has been broadcasting racing for 10 years. Initially it broadcast races on Saturdays only, adding Wednesdays and Thursdays as public demand grew. It has been broadcasting full time racing for the past five years. The station reach is 75 km from Albury-Wadonga in a radius.
- 3.79 In its submission to the inquiry, 107.3FM described its importance to the racing industry as follows:
- Our area coverage is very important to the Racing industry especially in the "North East District Racing Association (Vic) the "Riverina District Racing Association " (NSW); without 107.3 there would be no coverage available other than a narrowcast 2KY line.
- 3.80 In its early years, the station received some funding from the TABs in Victoria (\$26,000) and New South Wales (\$7,000).⁵⁴ This ceased with the privatisation of the TABs in 1997. 2KY provides feed to the station including its program *Four-Way Turf Talk*.

⁵³ Submission No 43, Vol 1, p 84 (WA TAB)

⁵⁴ Transcript of evidence, 1 November 1999, Melbourne, p 226(Mr Roly Eaton)

- 3.81 The withdrawal of funding by the TABs is regrettable and has placed 107.3 FM in a difficult financial position. These difficulties are exacerbated by the fact that the station's revenue raising capacity is limited by the terms of its community broadcast licence.
- 3.82 In his evidence, Mr Eton contrasted the sponsorship and advertising opportunities available to the narrowcast radio racing broadcasters and community broadcasters.
- Mr Eton**—If you take a program like Four-Way Turf Talk, I think every punter in Australia would listen to that. If you monitor the amount of advertising space they do in that one hour, they play six or seven breaks of two minutes.
- Mr Gibbons**—You take that as part of your—
- Mr Eton**—If I could sell that, our problems would be over.
- Mr Gibbons**—But you have to broadcast that because it is part of the arrangement?
- Mr Eton**—Yes, but we do not play all the ads; we are not allowed to. We override them. I talk about some local racing in the district. We give that a plug or we have a musical snippet for that two-minute period while they put their ads through. We do our own four minutes of it, but that is where we stop.⁵⁵
- 3.83 Given the claims made in evidence to the Committee by the TABs and affiliated racing stations of their efforts to extend services, the Committee is disappointed by their decision to withdraw support from a station such as 107.3FM, at least before ensuring comparable access to race broadcasts was available in the area.
- 3.84 The Committee appreciates the frustration that the station must feel because of the limitations of its licence. While the community licence provisions may work well as a means of providing racing broadcasts, inevitably broadcasters using a community licence need support from the TAB if they are to provide a racing service. It may be that the community licence is no longer the ideal form of licence for a station such as 107.3FM. The creation of a special class of racing licence may provide a better opportunity for a station such as 107.3FM to meet the needs of its community for racing services.
- 3.85 That racing broadcasters operate under the full range of licences to provide what is essentially the same service may lend weight to arguments that it is time to establish a separate class of licence or at least

⁵⁵ Transcript of evidence, 1 November 1999, Melbourne, p 223 (Mr Roly Eaton)

to amend the licensing regime to better accommodate the needs of the community for radio racing services.

Extending coverage to remote areas

3.86 The suggested measures outlined above should ensure the continuity of existing services and encourage the TABs and racing broadcasts to expand coverage. However, even with such measures, there may still remain gaps in services, principally for remote parts of the country. This section considers the feasibility of some other options that have been suggested for extending the reach of radio racing broadcasts.

High power FM licences

3.87 In a supplementary submission to the inquiry, the ABA suggested that the 'availability of FM spectrum provides a number of potential options for additional services (such as racing services) in remote areas'.

It is almost impossible to replicate AM coverage, however, the provision of a high power FM frequency licences in identified areas will go some way to providing the infrastructure required.⁵⁶

3.88 In developing this solution the ABA suggested that a high power (150kW) frequency at an identified site could be considered. Requiring an investment of an estimated \$900,000⁵⁷, it is a costly solution.

3.89 According to the ABA another solution may lie in establishing a central transmitter in a remote area with a number of lowered powered transmitters strategically placed. While this option would allow for more direct placement and delivery of services within a designated area, costs would still be considerable.

3.90 Mr Colin Knowles, from the ABC, graphically described the dilemma in providing such services.

Filling the gaps becomes a major economic nightmare. If you took a typical market and covered the major centres for the \$5000 because of our little transmitter model, you then go to the next scale of transmitter where you need to cover 50 kilometres. I am now talking about \$30,000 to \$40,000 and maybe several thousands of dollars per year just to operate the thing to maybe get a one percent increase in the number of users.⁵⁸

⁵⁶ Submission No 203.01, Vol 3, p 714 (ABA)

⁵⁷ Submission No 203.01, Vol 3, p 714 (ABA)

⁵⁸ Transcript of evidence, Monday, 3 April 2000, Canberra, p 279 (Mr Knowles)

- 3.91 As signalled by Mr Giles Tanner from the ABA, at issue is the question of who would pay.

It would require an investment on such a large scale that it is hard to imagine anyone doing it. Remember that investment would not come from governments, so in the end it will be the call of the TABs, whether they are prepared to back that up. The ABA does not provide for new services.⁵⁹

- 3.92 Even disregarding this question, the ABA advises that high powered FM licences would not provide the solution for all areas as in some situations co-channel and adjacent channel services may already be operating or planned in the regional areas.⁶⁰ Thus, while this may be a technical solution to the problem, it is not immediately an economic one. Nor given the ABA planning processes is it likely to be an immediate solution.
- 3.93 The value of solutions must be appraised in the context in which they are operating and while we can see value in the ABA making high power FM licences, this is only a useful solution if someone is prepared to pay for the infrastructure involved.
- 3.94 In considering this problem we have endeavoured to look at solutions which are in proportion to the size of the problem. Therefore, in assessing the benefits of the high powered FM licence options, we have done so with the knowledge that the cost of the ABC's original service was \$466,000 per annum⁶¹ which equates to approximately half the cost of establishing one 150kW service. We are also aware that the TAB revenue, within the racing sector, was more than \$1.4 billion in 1997-98.⁶² In this context, the question of availability of spectrum for the licences seems less daunting than the question of who will pay for the infrastructure for establishing the services if the licences are made available.
- 3.95 In considering the potential of high power FM services to contribute to a solution to the problem, we are also mindful of the ABA's advice that there are currently 60 open narrowcasting licences that have been offered by the ABA but passed in due to no bids having been received or to applications being withdrawn.⁶³ Furthermore, in evidence the ABA described the following situation.

In fact, in quite a lot of cases the frequencies that are allocated for narrowcasting are higher in power than the powers we have just

⁵⁹ Transcript of evidence, Monday 18 October 1999, Canberra, p 101 (Mr Tanner)

⁶⁰ Submission No 203.01, vol 3, p 714 (ABA)

⁶¹ Submission No 156.01, Vol 3, p 795 (ABC)

⁶² Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra.

⁶³ Submission No 203.01, Vol 3, p 712 (ABA)

stated, but they have to be transmitted from the site they have been planned at. Invariably, what we get is a request from those would-be operators to say, 'We don't like to transmit from that site which is too far away from the cluster of population we are trying to serve. We would like to come into town, drop the power and cover the bulk of the people.' I believe this is how you get the situation where the people who are driving the tractors and work in the fields and so on do not get the coverage that perhaps they now get with the ABC.⁶⁴

- 3.96 Such evidence does not convince us that high power licences would be necessarily be picked up by the TABs/Racing stations even if they were made available. Given the costs of establishing the infrastructure required to establish high power FM services, we can understand to some extent the reluctance of TABs/racing radio stations to make the investment particularly in the light of their reservations relating to the period of tenure and the price based system of allocation of the licences. We would expect, however, that should a special category of licence be created for racing services, TABs/racing broadcasters may be more interested in establishing high power services. We suggest that, in the event of the establishment of a special category of racing licence, one means of extending the reach of racing broadcasts beyond the towns would be to attach to those licences a use it or lose it condition and a requirement that licence holders be required to transmit at full power.
- 3.97 Given the planning process for regional and remote Australia is 'substantially completed', it should be a relatively straightforward exercise for the ABA to identify areas where frequency is available for high power FM licences and to make these available to racing broadcasters who are interested in obtaining them. If this proves not to be as straightforward as expected, then the audit process recommended at 3.23 should identify the impediments.

Recommendation 9

- 3.98 The Minister for Communications, Information Technology and the Arts should direct the Australian Broadcasting Authority to make available, where possible, high power FM licences in regional and remote areas to racing broadcasters who are interested in obtaining them. The licences should have attached a use it or lose it condition and a requirement that licence holders transmit at full power.**

⁶⁴ Transcript of evidence, 18 October 1999, Canberra, p 86 (Mr Gengaroli)

The commercial AM network

- 3.99 In evidence, the ABA advised that 'the allocation of new services by the government is only ever going to part of any approach' aimed at providing a racing coverage reasonably equivalent to the ABC's previous service. It suggested an option for broadcasters or TABs is to use the commercial AM network.⁶⁵ Although fragmented in terms of ownership, the network has the second widest coverage (after the ABC) of all networks.
- 3.100 We explored the possibility of commercial networks taking race broadcasts with FARB who advised that it was not viable to transmit racing programming on a commercial station 'because of the extremely small audience it attracts'. A further disincentive, it explained, was that the virtual back to back nature of race broadcasts provides little or no opportunity to schedule advertising to pay for the service. To drop more popular programming in favour of racing, it claimed, 'risks disenfranchising the wider listening audience who doesn't want to listen to the races.'⁶⁶
- 3.101 Notwithstanding these reservations, FARB advised the Committee that some broadcasters had indicated that they would be interested in broadcasting races on Saturday afternoons and public holidays if 'the broadcaster is subsidised by the TABs (as the main beneficiary) in each state to provide the service'.
- 3.102 This clearly presents another opportunity for the TABs to demonstrate their willingness to extend their broadcasts to regional areas. Although a Saturday and public holiday racing service may fall short of the full time radio racing services that have developed, such a measure would at least restore the level of services that racing supporters have lost as a result of the ABC's decision.
- 3.103 While we have been prepared to seriously consider calls from the TABs and racing broadcasters for greater security of tenure, we consider it appropriate in turn that the TABs as main beneficiaries of racing broadcasts demonstrate their willingness to extend the coverage area of broadcasts wherever reasonably possible to do so. We suggest that the Australian Racing Radio Association, supported by the state TABs, consult with FARB to identify areas where commercial networks may be willing to take race broadcasts and to develop the agreements between those broadcasters and the relevant TABs.

⁶⁵ Transcript of evidence, Canberra, 18 October 1999, p 85 (Mr Tanner)

⁶⁶ Submission No 204, Vol 3, p 790 (FARB)

Improving Access to Technological Solutions

- 3.104 The measures discussed above focus on spectrum and licensing issues. In considering further solutions to the problem of improving access to race broadcasts, we were mindful of the potential of new and emerging technologies to enhance access to race broadcasts.
- 3.105 Although as stated in Chapter 2, the Committee considers that the ABC has ignored important issues such as the costs involved in some of the alternative means of accessing race broadcasts and has failed to distinguish between merely accessing racing information and actually listening to the races, the fact remains, that race broadcasts are, technically at least, available to all parts of Australia via the internet or satellite delivered radio. In evidence, TAB Queensland suggested that an option available for rural Australians was to access the racing broadcasts through their satellite transponders 'for the relatively small costs of a decoder'.⁶⁷ Radio 2KY made a similar offer in evidence before the Committee. Referring to the satellite up-link to the PAS2 PanAmSat satellite, the footprint for which covers all of Australia and New Zealand, the Mr Unsworth, General Manager of 2KY, made the following offer.
- But I would say this: if someone is living in the most remote part of Australia, we can provide a service for him, provided he is prepared to help himself.... For a reasonable expenditure of, say, \$5,000, a person can install a satellite dish. We will then make available a decoder as part of the package, and switch them on from our computer. They will then be able to listen to the program wherever they are.⁶⁸
- 3.106 In examining these options, we acknowledge that they are not the preferred options of those who made submissions to the inquiry. The costs involved in the equipment necessary to get access to the signals has been an obstacle for many regional small time punters or for those who listened to the races for interest but without necessarily placing a bet. The lack of portability is also an issue for travellers and for those who need or wish to go about their daily business be it working in the paddock or pursuing recreational interests such as fishing or gardening.
- 3.107 It is likely that the cost of such access will in the near future diminish significantly. The government has moved to reduce the burden of costs associated with accessing these technologies by regional, rural and remote communities.

⁶⁷ Submission No 71, Vol 1, p 158 (TAB Queensland)

⁶⁸ Transcript of evidence, 24 September 1999, Parramatta, p 69 (Mr Unsworth)

- 3.108 Under the *Commonwealth's Networking the Nation Fund*, not for profit groups are assisted with capital to set up a local Internet Service Provider. In addition to providing this assistance, the Commonwealth has allocated a further \$36 million over three years (1999–2000 to 2001–2002) for enhancing internet access for people in rural or regional areas at a reasonable cost and involving a reasonable bandwidth. A key component under the *Internet Access Fund* will be the 'provision for un-timed local call internet access, or at least the equivalent where traditional dial-up access is not feasible, at reasonable price and bandwidth, to residents of a 'project area'.
- 3.109 The Federal Government also provides a rebate of 50 per cent of equipment and installation costs up to \$765 of a satellite dish and decoder for customers who cannot access integrated service digital network.
- 3.110 Telstra's recent announcement that regional and rural Australians will now pay up to 80 per cent less to be connected to its high speed internet satellite services reinforces our expectation that costs will be less of an issue for those wanting to use these technologies to access radio race broadcasts.
- 3.111 Under proposed new arrangements for the telecommunications universal service obligation, multiple universal service providers will be able to compete to provide universal service obligation subsidies in designated areas. Initially there will be two regional contestability pilots with a view to introducing contestability more widely over time. Universal service providers, in addition to being required to meet standard regulatory requirements in relation to the service, will be able to offer an extended range of alternative telephone services. The proposed changes have been welcomed by Cable & Wireless Optus who claimed that tendering would mean more people in remote areas will have access to the latest technology at affordable prices.⁶⁹ While we understand that the alternative services being considered at present include high speed internet and access to pay and free to air television through the satellite network, it is conceivable that racing radio could also be added.
- 3.112 We also expect that emerging technologies will eventually provide solutions that address the issue of portability. One rapidly developing technology Wireless Application Protocol (WAP), an industry standard that allows wireless devices to access information and services, is being adopted in many countries to enable wireless subscribers to access content on the internet and personal networks. It is conceivable that it will one day be possible to pick up radio broadcasts using this technology. It has been

69 'Optus welcomes changes to USO', 23 March 2000, www.cwo.com.au/newsroom/1,1450,159,00.html.

reported, for instance, that Vodafone has announced a 'series of WAP initiatives for release in the middle of the year, including messaging, information services, e-commerce applications and, eventually, downloading audio files.'⁷⁰ Such developments clearly signal that we are rapidly moving towards a situation where everyone will be able to access information regardless of where they are in Australia.

- 3.113 We also considered the potential of digital radio to impact on the access that people in regional and remote Australia may have to radio race broadcasts. Although in theory the capacity of digital radio to allow multi-channelling may present opportunities for any broadcasters, including the ABC, to provide a broader range of programs, ultimately broadcasters will only include racing services where they decide that it is in their interests to do so.
- 3.114 Digital radio may allow the provision of racing information as part of ancillary data services, as is being explored in current Digital Radio Trials.
- 3.115 According to the ABA, a further possibility is digital radio in the MF and HF bands which include the AM radio band. The ABA also advised us that 'the standard called Digital Radio Mondiale is expected to deliver high quality programs (on AM) as well as ancillary data services which could be used to deliver racing information, if required'.⁷¹
- 3.116 It is still difficult to predict the final shape that digital radio will take and the timeframe for its implementation. Therefore, having registered the possibility of digital radio contributing to the solution, we do not expect it to enhance the access rural and remote communities have to accessing race broadcasts in the near future.

Concluding comments

- 3.117 The ABC's regional radio racing service was clearly highly valued by racing enthusiasts across Australia. For many years it had occupied a special place in the lives of many in regional areas who considered it an outstanding service. Available to anyone who had a simple radio, it allowed people to follow their interest in racing on Saturday afternoons and public holidays whether at home with the family, travelling on the road or at work outdoors.
- 3.118 While in theory a reversal of the ABC's decision would be the most straightforward and cost effective means of allowing people in regional areas to regain access to radio racing broadcasts, the ABC Act guarantees

⁷⁰ Brad Howarth, 'Technology:World without wires', BRW Vol 22, No 4

⁷¹ Correspondence from the ABA January 2000.

the ABC the power to make programming decisions on behalf of the people of Australia. For this reason, we are not in a position to recommend that it restore the regional racing service.

- 3.119 The ABC claims that its decision was made primarily to better accommodate the preferences of its audience. We are unimpressed by the quality of the research proffered by the ABC in support of its decision. Moreover, we consider that the ABC did not have sufficient information about its audience's interests and needs at the time of actually making the decision. It is inconceivable that the ABC did not foresee the consequences of its decision to withdraw the radio racing service for regular listeners in regional areas. The ABC should review the measures that it has in place to consult with its audience with a view to improving its performance in this area. We have recommended that the ABC be required under its Charter to consult with its audience before making any major changes to its services.
- 3.120 The ABC also cited the increasing availability of alternative means of access to racing information a factor in its decision. We consider it disingenuous of the ABC to substitute the word information for broadcasts. There is a considerable difference between merely accessing information and the sense of participation that is part of the experience of listening to live race broadcasts. We accept that there are alternative means of accessing racing broadcasts but suggest that for many people there are significant additional costs involved in accessing these alternatives. For some people these costs are prohibitive.
- 3.121 TABs/racing broadcasters have been actively extending the reach of their broadcasts in each state and territory. As a result many people in regional Australia have access to far more comprehensive racing services than ever before. However, at this stage, there are still many people who are unable to access these broadcasts without the use of the internet or by means of a satellite dish and decoder. Typically, these are people living beyond the townships in rural areas. While we believe that ultimately new technology will provide the means to allow anyone in Australia to pick up radio race broadcasts, where ever they may be, and that these technological solutions will become increasing affordable, at this stage they are still beyond the reach of many regional Australians.
- 3.122 We have endeavoured to assist racing broadcasters continue their efforts to expand their coverage in regional areas by addressing some of the problems they have encountered.
- 3.123 The delays in the ABA's LAP process, for instance, have prevented some broadcasters from having the opportunity to bid for licences that would enable them to extend their coverage to some areas. We are appalled by

the delays in the LAP process and consider that the planning and allocation of radiofrequency spectrum should be examined by the Auditor-General as a matter of high priority. More immediately, we suggest that the ABA makes spectrum available to racing broadcasters who have been unable to extend coverage until the LAP process has been completed and they have the opportunity to bid for a licence.

- 3.124 The hoarding of LPONs has also prevented broadcasters from extending services to some country areas particularly in Tasmania and Western Australia. We consider that LPON licence holders should have to use the licence within a given period of time or lose the licence.
- 3.125 Radio racing broadcasts are currently carried on the full range of broadcasts licences. The establishment of the open narrowcasting category of licence by the *Broadcasting Services Act 1992* has created an opportunity for racing broadcasters to extend coverage to many parts of regional Australia, if only to township areas, for a relatively small cost. However, during the course of the inquiry, a number of issues concerning the licensing regime arose.
- 3.126 Of principal concern to racing broadcasters was the uncertainty surrounding tenure of the open narrowcast licences and the price based system of allocation of licences. We consider that it is unreasonable to expect broadcasters to invest the infrastructure necessary to establish services in regional areas without having greater certainty of continued tenure and have recommended that the renewal process be by means of application under s. 100 of the Radiocommunications Act 1992 and that the renewal period be for five years. In the event of narrowcast licences being renewed by way of a price-based allocation system under s.106 of the Radiocommunications Act 1992, we consider that the period for which the licence is renewed should be increased from five years to ten years.
- 3.127 Many racing broadcasters argued for the creation of special class of racing licence. We are basically sympathetic with the arguments put forward, namely that as long as the current system is in place, racing broadcasters are at risk of being outbid by other broadcasters or new entrants wanting narrowcasting licences. We consider this situation is not conducive for the maintenance of a stable radio racing service. In the interests of protecting racing broadcasts in regional areas, the current open narrowcasting system needs modification. We have recommended that it be reviewed with a view to establishing a separate category of open narrowcast licence for racing radio.
- 3.128 Such measures will make the racing services which do exist more secure. However, we are not convinced that they will in themselves lead to an expansion of racing broadcasts to more areas, particularly to areas beyond

the townships. To reach these areas, broadcasters need higher power licences. The establishment of such services will require both the identification of available spectrum by the ABA and the willingness of the TABs/racing broadcasters to make the considerable investment required to establish the infrastructure for these services. We have recommended that the ABA does its part and to make available, where possible, high power FM licences in regional and remote areas to racing broadcasters who are interested in obtaining them. We call on the TABs/racing broadcasters to accept their responsibility to ensure that their consumers in regional, rural and remote parts of Australia have affordable access to their services.

Paul Neville MP
Chair

19 June 2000