



BROADCAST AUSTRALIA

Level 3, 655 Pacific Highway
St Leonards NSW 2065
Australia

t: (61-2) 8425 4666

f: (61-2) 9437 0825

www.broadcaustralia.com.au

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Dr Simon Pelling
General Manager
Digital Broadcasting and Spectrum Management
Department of Communications, Information Technology and the Arts
GPO Box 2154
CANBERRA ACT 2600

Dear Dr Pelling

Thank you for the opportunity to comment on the "Proposal for New Institutional Arrangements for the Australian Communications Authority and the Australian Broadcasting Authority".

As you may be aware, Broadcast Australia (BA) is the owner of the National Transmission Network (NTN), an Australia-wide network of nearly 600 terrestrial broadcast transmission sites. Acquired from the Commonwealth in April 1999, Broadcast Australia's network reaches 98.5% of the Australian population, with a core business of providing digital and analogue television and radio transmission services to the national broadcasters, ABC and SBS. Broadcast Australia also provides transmission and other services to metropolitan and regional commercial free-to-air television and radio broadcasters and telecommunications companies.

Given our main focus, BA has continuing contact with both the ABA and ACA as the regulators of the telecommunications and broadcasting sectors. BA has ongoing and highly constructive dialogue with the ABA relating to spectrum planning (in some cases, BA acts as a technical service provider to the ABA), the trialling of new services, technical planning guidelines, information exchange on technological innovations and trends, and a range of other matters. BA has also worked constructively with the ACA on a range of issues (eg. EME, standards, non-broadcasting services band spectrum licensing and policy etc), albeit on a less intensive basis.

For these reasons, BA has a particular interest in any new arrangements which have the potential to impact on the regulation of the broadcasting services band (BSB) and new convergent communications technologies and makes the following comments.

Minimal change

As a matter of principle, BA supports the government's determination to create a single agency with responsibility for broadcasting, telecommunications, radiocommunications and online regulation and we broadly concur with the likely organisational and operational benefits. In particular we support an approach which preserves existing legislation and separate regulatory regimes (ie. different regulatory framework for BSB spectrum). We understand that any substantive changes to the policy underpinning this regulation would be subject to future, separate review processes.

Spectrum Pricing

BA notes that the government is not proposing any changes to the spectrum pricing process in the BSB. While BA supports this approach at this time, it concurs with the statement in the Discussion Paper that the objectives of the ABA and ACA are different when it comes to this particular area, in particular, where the BSA emphasises the "public service" nature of broadcasting. BA believes that it is particularly important that these differences continue to be respected in a merged organisation. Indeed, BA believes that any future review of spectrum pricing in general should examine the impact of the objectives of the ACA as compared to the ABA ie. the extent to which the focus on short-term financial outcomes from non-BSB spectrum sales have jeopardised the actual roll-out of new and innovative services (which is the public policy interest sought to be advanced by releasing the spectrum).

Culture

BA recognises that convergence of what have traditionally been considered as broadcast and non-broadcast technologies will make it inevitable that these two organisations will need to work together even more closely in the future. As referred to above, however, the ABA and ACA have quite different objectives and cultures. BA believes that it is important that the culture surrounding broadcasting be preserved in the new organisation given the different nature of, and public policy interests involved in, the broadcasting sector.

It is important that a merged entity not pursue a 'one size fits all' approach to issues in both the broadcasting and telecommunications sector where the broadcasting sector may already be effectively managing such an issue and regulatory changes may lead to unnecessary duplication and inefficiency. To illustrate by example, electro-magnetic energy (EME) is an issue that the broadcasting sector has been managing effectively and through prudent risk management practices for many years. In contrast, the mobile telephony sector is less mature and has a far greater number of sites with different location and technical characteristics. It is important that communications sectors overseen by the new merged entity are recognised as having different characteristics and are not regulated in the same way where this is not appropriate.

Contracting out the provision of services

As stated in an earlier submission, BA believes that irrespective of which structural option for management of the BSB is adopted, there is merit in contracting out spectrum planning functions from government agencies to the private sector.

Spectrum planning is currently undertaken by both the ACA and ABA. The ABA is responsible for planning within the Broadcasting Services Band while the ACA is responsible for all other spectrum planning. BA understands that the ACA outsources its planning function utilising consultants for channel planning within non-BSB frequency bands. BA understands that this has been a satisfactory arrangement and has the advantage of drawing on private sector expertise, reducing costs to the government both in staffing and the planning tools required, and allows for peaks in planning to be met.

Currently, the ABA pursues a somewhat different approach and simply supplements its own planning resources on an ad hoc basis by obtaining services from organisations such as BA. BA has, for example, undertaken Licence Area Plan (LAP) planning for the states of Victoria and Tasmania. BA has also undertaken field testing for the ABA particularly in relation to interference management, the introduction of new services and service relocation. The ABA has also outsourced some of the planning required for the conversion to digital television but the bulk of this work has been undertaken by the ABA. BA understands that the ABA has found it difficult to attract the required level of expertise in-house and given its work load has consequently utilised the services of BA and other providers. The success of this approach further indicates that the required expertise is available within the private sector.

However, given the uncertainty of the private sector workflow provided by the ABA in relation to BSB spectrum planning, it is difficult for private sector organisations like BA to plan and organise internal resources for this purpose. Further clarity and consistency on government's intentions in this area (ie. a definitive policy of contracting out BSB spectrum planning over an extended period eg 3-5 years) would assist companies like BA develop and maintain the necessary resources to fulfil this function. Spectrum planning is a highly technical engineering function, and it is BA's view that it is a function best fulfilled by the private sector in accordance with government policy but must be implemented in such a way which provides certainty to those providing the services.

Locations

BA supports the proposal that there is no need for rationalisation of the agencies in terms of their locations.

Should you have any queries on this submission please don't hesitate to contact me on (02) 8425 4601 or Clive.Morton@broadcastaustralia.com.au or Linda Andersen on (02) 8425 4654 or Linda.Andersen@broadcastaustralia.com.au.

Yours sincerely



Clive Morton
Product Development Director