



18 September 2002

Mr Gordon Neil
General Manager
Licensed Broadcasting
Department of Communications, Information Technology and the Arts
GPO Box 2154
CANBERRA ACT 2600

Dear Mr Neil

Thankyou for the opportunity to contribute to the discussion on the "Options for Structural Reform in Spectrum Management". As you would be aware, Broadcast Australia (formerly ntl Australia Pty Ltd) is a major participant in the broadcasting industry and has a keen interest in issues relating to the structure and functioning of the broadcasting industry in Australia.

Background

Broadcast Australia (BA) completed the acquisition of the National Transmission Network (NTN) from the Commonwealth Government in 1999. The NTN covers all Australia delivering Television and Radio services to over 98.5% of the population. 80% of BA's facilities are situated in regional Australia. As the successful tenderer, BA entered into 15 year contracts to operate and maintain the NTN for its major customers, the national broadcasters (ABC and SBS) for the delivery of both analogue television and radio. Since then, Broadcast Australia won contracts with the ABC and SBS to rollout digital television services throughout Australia.

Broadcast Australia also provides consultancy services to the ABA relating to the planning of new analogue television and radio services and to the Department of Communications, Information Technology and the Arts for planning of black spots.

While there are a number of issues raised in the Department's discussion paper, BA wishes to make the following comments:

1. Spectrum Management

The current spectrum management arrangements result in a split of responsibilities, under which the Broadcasting Services Band (BSB) has been carved out of the ACA's overall spectrum plan responsibility and given to the ABA to manage.

BA recognises the concern of the Productivity Commission in its recent Broadcasting report that division of responsibility for spectrum management between two agencies may be leading to less than optimal overall spectrum management outcomes.

BA notes the various options for the management of the BSB. In previous submissions, BA has expressed concerns with the current approach taken by the ACA of allocating spectrum licences, in particular the use of an auction process. It is BA's view that this approach, particularly where new or emerging communications services are concerned, results in artificially high prices being paid for spectrum, favouring incumbent players and skewing the process against new entrants. Further, the auction process appears to over-emphasise the interest of government to maximise revenue rather than to facilitate the public interest in rollout of further broadcasting and telecommunications services. Indeed, in some instances the auction process in fact jeopardises the economic viability of rolling out new infrastructure due to the artificially high cost of spectrum and consequent impact on cost structure. BA notes that Hong Kong has recently adopted a "beauty contest" plus fixed fee based approach for 3G spectrum, presumably in response to recent problems being faced world-wide by the telecommunications industry.

BA's recognises that the ABA and ACA operate under differing statutory obligations. It is our view that the government should re-assess the statutory obligations of the ACA in relation to the management of spectrum, in particular, without reference to other factors. BA would support a more conservative approach to pricing spectrum which incorporated the more "public benefit" orientated objects of the ABA and Broadcasting Services Act. This would allow both financial and non-financial criteria to be taken into account when allocating spectrum and in our view result in a better outcome. For example, the Hong Kong approach consists of a traditional tender process with the associated quantitative and qualitative criteria. This incorporates a form of "beauty contest" which takes account of the financial strength and history of tendering parties as well providing for competition in the price paid. Such an approach would also allow assessment of tenderers on the basis of the policy objectives of the government of the day.

It is our view that this approach would result in:

- a more level playing field while at the same time providing a return to government for what is seen as a scarce resource;
- avoiding the pitfalls of encouraging and riding a volatile market which can be a barrier to entry for new industry participants;
- avoiding the imposition of a huge cost impost on industry participants and result in spectrum being allocated to companies with an established track record.

This process would not be applicable in markets where the demand for spectrum is low.

Irrespective of which of the proposed options is finally adopted, it is BA's view that the current approach to management of the BSB should continue ie. that it be managed subject to the principles enshrined in the objects of the Broadcasting Services Act, which encompass qualitative as well as quantitative and commercial criteria. In particular, the roll-out of digital services should be protected against any changes in the approach currently being taken.

2. Responsibility for Planning

Again, irrespective of which structural option for management of the BSB is adopted, BA believes that there is merit in contracting out some 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. 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.

The ABA supplements its planning resources by obtaining services from organisations such as BA. BA has 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. It has also provided planning consultancy services to DCITA for the television black spots project Australia-wide including identifying suitable sites and channels and measuring input signals to determine suitability. 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.

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 and oversight. In the UK, for example, spectrum planning for broadcasting is carried out by a panel of qualified private sector organisations. While there is some ad hoc contracting out of spectrum planning in Australia by both the ABA and DCITA (eg. current television black spots program), further clarity and consistency on government's intentions in this area (ie. a definitive policy of contracting out) would assist companies like BA develop and maintain the necessary resources to fulfil this function.

Thank you again for the opportunity to comment on these matters. Please do not hesitate to contact me on (02) 9425 4601 or e-mail clive.morton@broadcastaustralia.com.au or Linda Andersen on (02) 8425 4654 or e-mail linda.andersen@broadcastaustralia.com.au should you require any clarification on the issues raised.

Yours sincerely

Clive Morton
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