

# SUBMISSION

MEETING THE DIGITAL CHALLENGE  
Reforming Australia's media in the digital age  
DISCUSSION PAPER ON MEDIA REFORM OPTIONS

The General Manager  
Digital Broadcasting and Spectrum Management  
Department of Communications, Information Technology and the Arts  
GPO Box 2154  
CANBERRA ACT 2601

RE: The Discussion on Media ownership and diversity

Dear Sir/Madam,

Accompanying this letter are four documents constituting my Masters Research Project plus some additional elements in the appendices document, which addresses matters related to Narrowcast Radio, in particular the low-power category. Some of my investigation and conclusions would not be relevant to this discussion which focuses on digital broadcasting, but it may provide a substantial body of work that could shape the government's approach to the rolling out of digital radio services and address the need for regulatory reform in the narrowcasting sector.

The summary below is derived from and an extension of the recommendations that form part of my research paper. The full text of those recommendations is now included as part of this file.

1. Do not permit foreign entities to own shares in media entities in Australia that include in their portfolio Open Narrowcast Radio licences (HPON and LPON) and Open Narrowcast TV licences (when such are made available). Narrowcasting should remain in the hands of Australians so that independent local media innovators can create services that reflect the diversity of Australian culture. In short, Narrowcasting should NOT be foreign controlled or owned.
2. Formulate and implement regulations for all open narrowcast media that prevents excessive concentration of ownership in a given media market. The impact of narrowcasting should not be taken lightly and curbs on excessive concentration of ownership should be enforced soon.
3. Expedite the development of the a regulatory regime for issuing open narrowcast TV licences which, while provided for under the Broadcasting Services Act 1992, has never been properly developed. If a proper regulatory regime for OPEN narrowcast TV is established, applications to supply such services (Low and High Power) will soon be forthcoming.
4. Remove LPON radio exclusion zones surrounding Channel 3 TV stations nationwide as quickly as possible, even before the digital rollout is complete. The fact that there are many exemptions to such bans is evidence enough that the likelihood of interference from LPONs to existing analogue TV transmissions is minimal. A first step would be to reduce the size of the radii of exclusion by 50 per cent by 2007, and then lift the bans entirely by 2008.
5. Include narrowcasters in the digital conversion regime, and allow such conversions to take place soon after the commercial and community broadcasters have completed such transitions.
6. Allocate one of the two reserved digital channels of terrestrial spectrum in 2007 to FTA Christian narrowcasting. It may be that a consortium of Christian TV content providers could deliver such a service.
7. Retain existing commercial cross media ownership rules and ensure they cover narrowcast licence holders, both Radio and TV.

Sincerely,

Philip Smith

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INC. Brisbane LPON survey documents (Essay, Appendices, Bibliography, survey Excel file)  
[NOT SUITABLE FOR FURTHER PUBLICATION]

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## **Appendix 10 - Recommendations to improve LPON RADIO sector**

1. That the ACMA conduct an audit of the narrowcast holdings for each LPON owner with licences in the HD Zone, in an effort to impose some discipline on the sector and combat the persistent and widespread pattern of hoarding licences. Any licences among their holdings that are found to be inactive should be promptly and publicly cancelled to serve as an incentive for other LPON owners in other parts of Australia to activate, sell, trade, or surrender their licences. At the same time, any licences that are shown to be severely over-powered should be penalised.

2. Introduce new measures that would restrict LPON ownership and programming content control in a given market so as to limit but not eliminate the growth of independent networks. A possible formula might be as follows: Network narrowcasters can own and / or have programming on up to 30 percent of the total number of LPONs in a designated radio area, AND only on up to 50 per cent of the LPONs on one particular frequency, applicable where there are five or more LPONs. The issue of concentration of ownership and control needs to be addressed by introducing a new regulation like this that would prevent any independent LPON owner from capturing control of a market by networking LPONs. These measures, if implemented, would have significant beneficial outcomes for the sector in the following ways:

- It would reduce but not eliminate hoarding in a short space of time, and crack open a market controlled by narrowcasters who, like all media operators, try to capture as much of their market as possible.
- It would prevent one narrowcasting entity from becoming predominant in a given radio market, in terms of ownership of licences AND in terms of control of programming content. Limitation on ownership AND programming content would prevent existing organisations from setting up dummy companies that could own licences and carry the network owner's programming.
- It would allow a narrowcaster to build up a network in an area but would prevent an ambitious narrowcaster from growing so large as to potentially challenge a community or commercial broadcaster for audience share.
- As new LPON players enter a market that is not saturated, larger owners could also gradually increase the number of LPONs they also are able to own, while preserving a diversity of narrowcasting formats from competing operations.

This measure should be applicable to any Radio Area as designated in the listed Licence Area Plans (LAPs) where there are 5 or more LPONs in existence. In radio markets where there are fewer than 5 LPONs it is unlikely that the competition for licences is going to be strong enough to warrant concerns about diversity and concentration of ownership and control. If this measure was applied to the Brisbane RA1, one owner would have to divest themselves of their LPON holdings such that the profiles would look something like this:

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**EXISTING PROFILE**

OWNER	87.6 FM	87.8 FM	88.0 FM	TOTALS
Vision Radio	13	13	7	33
Planet Radio	0	3	9	12
Celestial	2	0	7	9
Sth Qld SDA Church	0	3	1	4
Others	7	1	6	14
<b>TOTALS</b>	<b>22</b>	<b>20</b>	<b>30</b>	<b>72</b>

**REVISED PROFILE: UCB would probably divest itself of 12 licences**

OWNER	87.6 FM	87.8 FM	88.0 FM	TOTALS
Vision Radio	5	10	6	21
Planet Radio	0	3	10	13
Celestial	2	0	7	9
Sth Qld SDA Church	0	3	1	4
Others	7	1	6	14
AVAILABLE	8	3	1	12
<b>TOTALS</b>	<b>22</b>	<b>20</b>	<b>30</b>	<b>72</b>

As you can see, Vision Radio Network would remain the strongest player in the Brisbane RA1 market, especially on 87.8 FM, even after losing 12 licences. Planet Radio would be able to retain their 10 licences on 88 FM, matching UCB's strength in 87.8 FM frequency. It seems likely that other narrowcasters who are dominant in a given radio area - such as Robert & Carolyn Carr and even UCB on the Gold Coast, Shine FM on the Sunshine Coast, and perhaps Alstonville SDA Group in the Lismore area - would all have to divest themselves of some licences on at least one frequency, and / or swap some frequencies to comply with the requirements. The first licences to go would probably be those that have been hoarded for an extended period, but the implementation of this measure alone would not negate the need to keep a check on licence hoarding. It is likely that any new provision designed to curb concentration of ownership in LPONs could spark a bout of licence trading or swapping among some existing multiple-licence holders, in an effort to reposition their holdings so that they lose as few licences as possible. There would therefore need to be some supervision of the transfer of licences to prevent collusion among existing network owners, who might try to enlarge their share at the expense of aspirant newcomers. Ultimately, some owners will lose licences in order to comply with the new regulations, and that in itself should lead to an increase in diversity of stations operating, primarily in more densely populated urban areas.

3. Impose restrictions on the number of LPON and HPON licences that can be owned by a licenced commercial or community broadcaster in a designated radio area. If a community broadcaster wants to establish a repeater site a zone of verifiably poor signal reception within their radio area, then one LPON licence should be all that is allowed to carry their broadcast signal. Commercial licence owners should also be

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limited to one LPON or HPON in a designated radio area, either as repeaters or as a means of exploring the potential of a narrowcast format. This is designed to stop commercial enterprises hogging a scarce and valuable resource that should be available to a wider variety of broadcast interests. Independent dedicated narrowcasters should also be prevented from owning more than one HPON in a designated radio area (although it is quite rare for there to be more than one HPON licence made available in any given market), and where they own an HPON, they should be prevented from owning more than one LPON in that same radio area.

4. ACMA should use the aforementioned audit process to determine where narrowcasters are operating outside the parameters of narrowcasting, and promptly urged them to modify their format so as to comply with the set limits of the narrowcast category they claim to follow. Some operations have stretched and probably even flouted the definition of 'narrow' by making their content as 'broadly-commercial' in style and approach as possible, and they should be brought back into line. Commercial and community broadcasters should not be unduly challenged in the marketplace by a competent and creative narrowcaster operating on a network of licences. Perhaps the definitions of narrowcasting need to be 'broadened' slightly so that they are not too restrictive in case narrowcasting becomes of such 'limited appeal' that it is no longer appealing.

5. The ACMA should amend the Planning Model in the following ways:

- The ACMA should end its ban on LPONs in so-called LPON Exclusion Zones. There is evidence that this is already beginning to take place, with ACMA announcing on its homepage on March 8 2006, that the ban on LPONs within the exclusion zone around Mt Barrow near Launceston in Tasmania was to be lifted forthwith ([www.acma.gov.au](http://www.acma.gov.au)). If some exclusion zones covering key markets are to remain in place for some time yet, then the ACMA should consider allowing new applications in zones where LPONs already exist until there is near parity in the number of licences on each LPON frequency. This means that where 88.0 and 87.6 LPONs exist in Sydney, Newcastle, Wollongong, Melbourne, Townsville, Bunbury, and inside other designated LPON exclusion zones surrounding Channel 3 television stations, additional 87.8 FM licences should be permitted to emerge according to the current planning model, until the number of LPONs on each frequency in that exclusion zone is nearly equal. If existing LPONs can operate in exclusion zones without causing undue interference to the larger commercial broadcasters, then adding a number of 87.8 FM LPONs is not going to cause any greater levels of interference in all but one or two such zones in Victoria. This would allow for up to 64 applications for new 87.8 FM and up to 17 applications for new 87.6 FM LPON one-watt licences in key radio markets across Australia. The total number of LPONs operating inside exclusion zones would potentially reach a maximum of 240 licences, increasing the number of existing licences approved to operate inside LPON exclusion zones by about one third. By this one action, ACMA would satisfy a large part of the residual demand that exists for LPONs in those exclusion zones, and also help to curb the high price for trading in such licences on the open market. Nevertheless, ACMA should restrict applications to limit excessive concentration of ownership in a recognised radio area.
- In rural areas / low density zones, the double limitation on 10 watt licences should be retained as they are, but a third power rating should be created to allow

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LPONs to operate at up to five (5) watts in low and remote density areas with correspondingly proportional separation parameters, which do not restrict how far the licence must be from a UCL boundary. In cases where there are multiple applicants for a licence in a low density area, one of which is an application for a licence to transmit at five watts, the higher power application should ALWAYS take precedence, provided the separation parameters are met, and thus the successful applicant will receive a five watt licence.

6. The ACMA could also embrace a supervisory role in the trading of LPONS on the open market. It could establish a website where LPON owners seeking to divest themselves of surplus LPONs could register and advertise to sell licences. ACMA could charge a flat fee for each listing. Some supervision may be needed to prevent ONC licence prices escalating on the open market.

7. Enact laws to prevent ONC licences (high and low power) being owned by foreign entities. ONC licences should be preserved to reflect the local diversity of Australian culture as expressed through the medium of radio. These specific niche services should be provided by individuals and companies that are fully Australian owned and reflecting Australian interests. Any commercial broadcaster which owns ONC licences and provides a narrowcast service should be required to sell those if it is to be bought by a foreign-owned entity.

8. It is also recommended that further research be undertaken at the postgraduate level to investigate specific aspects of narrowcasting in Australia. Here are some suggested topics:

- Racing Radio - historical development, comparing different state-based networks, assessing influence on broadcasting in general and open narrowcasting in particular, public perceptions, political influence, news and current affairs, concentration of ONC ownership.
- Christian Radio in Australia - historical development, a comparison between Community Christian stations and Narrowcasters, peak bodies (ACB/UCB), sources of conflict, clout in broadcast sector, public profile, market penetration, networks, political influence.
- Tourist Radio - comparing narrowcasting styles and format variations across different regions or states, technology used, program elements, compliance issues, network strategies.
- Comparative study of the usage and effectiveness of Community, ONC, and NAS station licences for Indigenous, or Islamic, or Ethnic Language Broadcasting.
- A quantitative and qualitative survey of the ownership and use of HPONs and/or NAS licences in Australia, content and format profiles, compliance issues, hoarding, networks.
- News and Current Affairs provided on ONC and NAS licenced stations.
- Comparison between the Australian experiment with Low-power radio stations and overseas experience and models.
- Comparison between Community and Narrowcast stations in their approach to training in radio techniques, especially in the school / university sector, also indigenous radio.