



23 February 2009

Mr Richard Home
General Manager
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Australian Competition and Consumer Commission
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Dear Mr Home

**CAPACITY CHANGES – TERMINATION FOR CONVENIENCE
DIGITAL RADIO MULTIPLEX TRANSMISSION SERVICES**

I write to thank you and your colleagues taking time to meet in teleconference on 9 February.

Since that teleconference it has come to our attention that a further amendment to the access agreement has been proposed by Commercial Radio Australia. That further amendment seeks to address an omission in the original documents with respect to termination of services and / or changes to capacity required by Access Seekers.

The amendment suggests six months notice is required for termination and/or for capacity change.

Six months is an inappropriately long time for the situation of community broadcasters, where an individual Access Seeker may quite often be needing to change or reduce their individual Access Seeker capacity requirement within the whole 2/9th capacity that is reserved on each multiplex.

The suggestion of such a long lead time may well be appropriate for situation of an Access Seeker that has at their individual disposal a full 1/9th of the multiplex (128 kbps) and has the ability to re-configure the service or services operating within that capacity without affecting their overall capacity requirements, service IDs or multiplex setups.

However, in the case of the community sector where only a small amount of capacity is available to each Access Seeker there is no such flexibility and community broadcaster Access Seekers necessarily have to negotiate between themselves (via the organ of the DRC) for changes to service arrangements. In other words it will often be the case that the individual service capacity requirement is coincident with the Access Seeker capacity requirement.

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As outlined in the CBAA's comments so far, and discussed briefly in our teleconference, this is one of the reasons why there needs to be an element of timeliness for response by the multiplex licensee actually specified in the undertaking / agreement. Six months notice of capacity re-allocation is clearly not universally appropriate to the situation of all Access Seekers.

As an example, it is envisaged that an individual community broadcaster Access Seeker will wish to broadcast material such as a live music festival broadcast event with images and data.

There is an overall low limit to the capacity available to be shared between all of the community broadcasters. Providing capacity sufficient for acceptable audio quality and associated data will therefore require temporary re-allocation of capacity to that Access Seeker and a concomitant reduction in capacity allocated to, probably, several other Access Seekers, for the duration of the event - typically for a 2 - 8 hour period.

Re-allocation and /or channel splitting for other reasons is also likely to be an operational requirement and would usually occur in day parts.

In most cases capacity changes would be planned ahead - special broadcasts are usually locked in a month ahead, some regular system of day or week parts by arrangement would be still be one capacity change advice even though the capacity change might be much more regular.

Taking all these things into account we believe a one month notice period is workable as the usual pattern, with a short notice changes being possible for special circumstances.

We believe 6 months notice is reasonable for a complete termination of a specified minimum level capacity allocation in respect of each specific Access Seeker.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Bawden', written in a cursive style.

Michele Bawden
GENERAL MANAGER