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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**BROADCASTING SERVICES AMENDMENT
(MEDIA OWNERSHIP) BILL 2006**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and New Clauses to be Moved on Behalf of the Government
(Sheet Number PZ249)

(Circulated by authority of Senator the Hon. Helen Coonan,
Minister for Communications, Information Technology and the Arts)

GOVERNMENT AMENDMENTS TO THE BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) BILL 2006

OUTLINE

The Broadcasting Services Amendment (Media Ownership) Bill 2006 (the Bill) amends the *Broadcasting Services Act 1992* (the BSA) to reform the foreign and cross-media ownership regime in Australia.

The current foreign ownership and control restrictions relating to free-to-air commercial television broadcasting, and cross-media ownership restrictions in the BSA limit competition in the media sector and restrict access to capital, expertise and opportunities for growth. The proposed changes will encourage greater competition and allow media companies to achieve economies of scale and scope, while protecting the diversity of Australia's media.

Cross-media ownership

The Bill will permit cross-media mergers in radio licence areas where sufficient diversity of media groups remains following the merger. At least five separate media groups will be required to remain after any merger activity in mainland State capitals, and four groups in licence areas elsewhere, including regional areas. Any media merger, including one that is not a cross-media merger, will not be permitted if it would permanently reduce the number of media groups in a licence area below the minimum level.

To ensure compliance with the minimum number of separate media groups rule, the Bill provides that the Australian Communications and Media Authority (the ACMA) will maintain a Register of Controlled Media Groups (the Register) identifying the ownership and control of media groups in each licence area.

Amendments

The amendments and new clauses proposed to be moved by the Government relate to the local news and information requirements for regional commercial radio broadcasting licensees.

Local news and information requirements for regional commercial radio licensees, and local news target number

The Bill provides that, if a "trigger event" occurs in relation to a regional commercial radio broadcasting licence, the licensee must meet minimum service standards for local news. Those minimum standards include a requirement for the licensee to broadcast a minimum number of least five local news and weather bulletins in a week.

Amendments to the Bill alter this requirement so that, after a trigger event occurs, a regional commercial radio broadcasting licensee must separately meet minimum service standards (which require at least 5 bulletins in a week) for local news and minimum service standards for local weather (which require at least 5 bulletins).

Amendments to the Bill will also provide that the local news bulletins broadcast on at least 5 days a week must consist wholly of material that has not been previously broadcast in the licence area concerned and have a total duration on each of those days of 12.5 minutes.

Local content plans: annual compliance reports

The amendments provide that, where an approved LCP is in force for a regional commercial radio broadcasting licence, the licensee must provide an annual report to the ACMA on its compliance with that LCP.

FINANCIAL IMPACT

The amendments are not expected to have any significant impact on Commonwealth expenditure or revenue.

NOTES ON AMENDMENTS

Local news and information requirements for regional commercial radio licensees

New Division 5C of the BSA (new sections 61CA-61CR) is inserted by item 7 of Schedule 2 of the Bill, and provides for minimum local news and information requirements to be imposed on non-metropolitan commercial radio broadcasting licensees where a “trigger event” occurs.

Amendments (1)-(11)

New subsection 61CE(1) in the Bill currently provides for “minimum service standards for local news”. Those minimum standards are met during a particular week if during that week the licensee broadcasts the required number of eligible local news and weather bulletins. Section 61CE also provides for “minimum service standards for community service announcements” (subsection 61CE(3)), “minimum service standards for emergency warnings” (subsection 61CE(5)), and “minimum service standards for designated local content programs” (subsection 61CE(6)).

Amendment (10) inserts new subsections (2A) and (2B) into section 61CE, which provide for “minimum service standards for local weather”. A commercial radio broadcasting licensee meets those minimum standards if the number of eligible local weather bulletins it broadcasts is at least the local weather target number (new subsection 61CE(2A)). The local weather target number is five bulletins, unless the Minister determines a higher number by legislative instrument (new subsection 61CE(2B)).

As a result of the insertion of new subsections 61CE(2A) and (2B), several consequential changes are made to the Bill:

- Amendment (1) removes the reference to “a news and weather bulletin” in the definition of “designated local content program” in section 61CA, and replaces it with separate references to “a news bulletin” and “a weather bulletin”.
- Amendment (3) removes the definition of “eligible local news and weather bulletin” from section 61CA, and amendment (2) replaces this deleted term with two new terms: “eligible local news bulletins” and “eligible local weather bulletins”:
 - Determining what are eligible local news bulletins will be significant in deciding whether a commercial radio broadcasting licensee has met the minimum service standards for local news. Eligible local news bulletins are bulletins that are broadcast on at least five days of the week, have a duration of at least 12.5 minutes per day, are broadcast during prime-time hours (see new section 61CA) and adequately reflect matters of local significance. In addition, in order to be eligible,

none of the bulletins must consist wholly of material that has previously been broadcast. These measures are intended to ensure that the minimum service standards for local news result in provision of news services that are comprehensive, up-to-date and relevant.

- Determining what are eligible local weather bulletins will be significant in deciding whether a commercial radio broadcasting licensee meets the minimum standards for local weather. Eligible local weather bulletins are bulletins that are broadcast on at least five days of the week and are broadcast during prime-time hours (see new section 61CA).
- Amendment (5) removes the definition of “news and weather bulletin” in section 61CA, and amendments (4) and (6) replace this definition with separate definitions for “news bulletin” and “weather bulletin”:
 - A “news bulletin” means a regularly-scheduled news bulletin.
 - The definition of “weather bulletin” inserted by amendment (6) provides that a “weather bulletin” means a regularly scheduled weather bulletin, and in addition, provides that a weather bulletin may either be transmitted as a stand-alone bulletin or in conjunction with a news bulletin. This provision is intended to acknowledge the common practice of providing weather information together with the news.
- Amendment (7) inserts a new paragraph (aa) into new section 61CD, with the effect that after the occurrence of a trigger event for a regional commercial radio broadcasting licence (see new section 61CB), the licensee must meet minimum standards for local weather (see new subsections 61CE(2A) and (2B), inserted by amendment (10)). This will ensure minimum levels of information on local weather, which is of great importance to local communities.
- Amendments (8) and (9) make minor amendments to subsection 61CE(1) that are necessary as a result of items (4), (6) and (10).
- Amendment (11) makes a minor amendment to subsection 61CK(1) that is necessary as a result of the inclusion of new subsection 61CE(2B) (see amendment (10)). New section 61CK provides additional requirements on a commercial radio broadcasting licensee where the Minister makes a legislative instrument increasing the minimum standards for local content required under new section 61CE after a Local Content Plan (LCP) was approved (see new subdivision C of New Division 5C, inserted into the BSA by the Bill). In such a situation, the licensee would be required to submit a draft variation to the LCP and an additional statement setting out information required by the ACMA within 90 days (new subsections 61CK(1) and (2)). The ACMA may vary the LCP by legislative instrument if the licensee fails to comply with this requirement (new subsection 61CK(3)). Amendment (11) applies this section

to an instrument made by the Minister increasing the local weather target number under new paragraph 61CE(2B)(b).

Local content plans: annual compliance reports

Amendment (12)

Amendment (12) inserts a new section 61CPA into subdivision C of New Division 5C of the BSA. That subdivision sets out the circumstances in which regional commercial radio broadcasting licensees are required to develop LCPs, as well as the process for approval and variation of LCPs.

New section 61CPA provides that where an approved LCP is in force for a regional commercial radio broadcasting licence during a financial year, the licensee of that licence must give the ACMA a report about the licensee's compliance with the approved LCP during that financial year. The ACMA can set out a form which licensees must use for the provision of annual compliance reports for LCPs, and the ACMA may specify the information that the ACMA requires to be included in such reports (new subsection 61CPA(3)). The licensee must provide this report to the ACMA within three months of the end of the financial year (new subsection 61CPA(2)).