Amendments and New Clauses to be Moved on Behalf of the Government
(Sheet Number QS391)

(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The Bill implements the Government’s longstanding commitment to reform Australia’s outdated media ownership laws while protecting the public interest in a diverse and vibrant media sector.

Foreign ownership

The Bill will remove broadcasting-specific restrictions on foreign investment in Australia’s media sector.

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 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 Australian Communications and Media Authority (the ACMA) will maintain a Register of Controlled Media Groups identifying the ownership and control of media groups in each licence area. A person who undertakes a transaction that breaches the BSA will be guilty of an offence, and may be ordered by the ACMA to divest licences or newspapers to return to compliance with the Act.

Public disclosure of cross-held entities

The Bill will establish a requirement for public disclosure when a media outlet reports on the activities of a cross-held entity.

Regional protections

The Bill requires that all mergers involving commercial radio, commercial television and Associated Newspapers within a regional radio licence area will be required to obtain a clearance from the ACCC prior to transacting.

The ACMA will be required to impose licence conditions on commercial television licensees in regional Queensland, NSW, Victoria and Tasmania from 1 January 2008 to provide minimum levels of content on matters of local significance. Licence conditions were put in place by the ABA in 2003 in those markets following an investigation undertaken in response to the closure of local news services.
requirement for licence conditions will also be extended to Tasmanian licensees.

The Bill establishes local content licence conditions and Local Content Plans for regional radio licensees. These are intended to provide protection for local content on radio in regional areas. They will apply where control over a commercial radio licence is transferred or becomes part of a merged media group. These requirements may also be imposed if the format of a commercial radio service is narrowed or the Minister directs the ACMA to consider imposing them. These conditions will establish minimum standards for local news and weather bulletins, local community service announcements, emergency warnings and minimum service standards for other types of local content, if specified by the Minister by legislative instrument. Licensees subject to these conditions will be required to maintain existing higher services, and maintain existing levels of local presence.

Licensees will be required to demonstrate in a Local Content Plan (LCP) how they will meet the local content licence conditions and what resources they will have in place to meet the requirements.

**Government Amendments**

An unintended consequence of the definition of regional licence areas in the Bill was the inclusion of the Western Suburbs Sydney RA1 licence area in the category of regional licence areas. This licence area incorporates much of the Sydney metropolitan area and serves the Sydney community, and its inclusion as a regional licence area is inconsistent with the policy intention of the Bill.

The amendment will define the Western Suburbs Sydney RA1 licence area as a metropolitan licence area for the purposes of the Bill. That area will therefore be a metropolitan area for the purposes of the cross-media amendments made by the Bill, and will not be covered by the regional protection measures in the Bill. This ensures that licensees in a licence area that predominantly serves metropolitan Sydney and which is identified entirely with the western Sydney community are not, for the purposes of the protection of media diversity and local content, regulated as regional licensees.

**FINANCIAL IMPACT**

The amendments are not expected to have any significant impact on Commonwealth expenditure or revenue.
NOTES ON AMENDMENTS ON SHEET QS391

Amendment (1)

Amendment (1) replaces the definition of “metropolitan licence area” in new section 61AA of the Broadcasting Services Act 1992 (the BSA).

The new definition includes the Western Suburbs Sydney RA1 licence area. That area does not contain the Sydney GPO, so would not otherwise be a metropolitan licence area for the purposes of new Division 5A of Part 5 of the BSA (inserted by item 8 of Schedule 1 to the Bill). Division 5A replaces the BSA cross-media rules with a prohibition on mergers and acquisitions that reduce the number of independently controlled media operations below 5 (in metropolitan licence areas) or 4 (in all other licence areas – defined as regional licence areas).

The amendment means that the Western Suburbs Sydney RA1 licence area will be a “metropolitan licence area” for the purposes of Division 5A. This reflects the fact that the Western Sydney licence predominantly serves the western suburbs of the city of Sydney, and that the licensee operating in Western Sydney is significantly different in its programming and intended audience from the regional radio licensees to which Division 5A is intended to apply.

Amendment (2)

New Division 5C of Part 5 of the BSA, inserted by item 7 of Schedule 2 to the Bill, introduces minimum local news and information requirements for regional commercial radio licensees.

Amendment (2) makes the same amendment to the definition of “metropolitan licence area” in new section 61CA of the BSA as Amendment (1) makes to new section 61AA.

The effect of Amendment (2) is that the Western Suburbs Sydney RA1 licence area will not be subject to the requirements in Division 5C. This reflects the fact that the Western Sydney licence predominantly serves the western suburbs of the city of Sydney, and that the licensee operating in Western Sydney is significantly different in its programming and intended audience from the regional radio licensees to which Division 5C is intended to apply.