THE SENATE

BILLS

Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013, Television Licence Fees Amendment Bill 2013

Second Reading

SPEECH

Wednesday, 20 March 2013

BY AUTHORITY OF THE SENATE
Senator LUDLAM (Western Australia) (19:22): The Greens are firmly on the record condemning the decision made by the government to impose such an arbitrary time frame for examining these bills, so it will not surprise the chamber to know that I disagree with much of the contribution just read in by Senator Birmingham, apart from his comments on the process that this chamber, and indeed this parliament, has been subjected to over these bills. There is no reason that I am aware of why these bills could not have been introduced last June, last November or, indeed, this February. It is not at all good enough to say that the comprehensive debate and examination undertaken during the course of the Convergence Review and the Finkelstein review into media reforms can be applied to this package.

What we have here are some elements from those much more comprehensive reports and much more detailed and considered recommendations. What we have here is a diminished and partial set of proposals—some of them derived from the Convergence Review, some of them grabbed from remnants of the Finkelstein report and some of them plucked from somewhere else and bundled into this overarching but nonetheless diminished package. We have been working around the clock since the announcement was made that these bills would be tabled to understand how they would operate in the real world, quite practically, and how they can be improved. It has put enormous pressure on staff—not just ours but the coalition’s and the crossbenchers’ both here and in the other place—committee secretaries and, most important to acknowledge, witnesses and people who gave evidence to these inquiries on the basis of a phone call and, in some instances, less than a day’s notice.

The Greens are on the record as supporting a much broader approach, and we should indeed go back to the rationale for the Convergence Review, which was to investigate proposals for a converged regulator. The whole reason—or one of the greater reasons—that we are having this debate at all is that the media landscape is changing before our eyes in this so-called phenomenon of convergence whereby people are consuming news, current affairs, entertainment and content on a variety of platforms and some of the old ways are breaking down. In that context it makes very little sense to have one regulator looking after what is left of the print sector, one regulator looking after the broadcast sector and nobody really looking after what happens online. That appears to have been left by the side of the road some time ago.

Neither the Finkelstein review nor the Convergence Review was perfect. They were in their own way partial, but nonetheless these are important bodies of work that have been put into the public domain, and I do not accept it when the minister says, ‘Look, these matters have been under discussion for two years, so you have to cop less than a fortnight’s debate on what the government ultimately decided to bring forward as their media package.’ It is not true.

However, the fact that the opposition communications spokesperson and the Leader of the Opposition, Mr Abbott, rejected the package before they had seen it, and were clearly not interested in debating the merits of the package or the bills days before they had even seen them, effectively leaves the crossbenchers in a situation where, as the minister said last week, we have to take it or leave it. We are then forced into the position of having to decide whether the proposals put before the parliament are an improvement to the status quo as far as media regulation is concerned or whether they take us backwards. That is the simple proposition.

One of the things that I believe are driving this rapid and arbitrary timetable that the minister and the government have placed on the entire parliament is that the government are not sure that these proposals would even survive the Easter recess. Perhaps on this we have common cause with the coalition. That is potentially one entirely plausible reason why the government have decided that this deadline needs to be imposed: that they are simply not confident that they can hold onto themselves and hold themselves together for long enough to pass it otherwise. What a remarkable position to put the crossbench and the parliament in that is the deadline that has been imposed. Nonetheless, we are sent here to do a job, and in this instance it means analysing these proposals to determine whether it is in the public interest that the proposals or a subset of them be passed, rejected or amended.
I will confine my comments largely to the bills that are before us tonight, recognising that there is a larger package: there are another four bills relating to media reforms. There is an amendment still floating around the building relating to the lifting of the reach rule, which obviously interests broadcasters. However, tonight I will confine my comments largely to discussion of the two bills that have in fact reached us from the other place, the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 and the Television Licence Fees Amendment Bill 2013.

The Television Licence Fees Amendment Bill provides a full 50 per cent reduction in licence fees for the commercial TV broadcasters, to a maximum of 4.5 per cent of gross earnings. That is an enormous cut to Commonwealth revenue and to licensing fees, and the Greens believe that a reduction of somewhat less than 50 per cent would still have been a very significant recognition of the commercial pressures that are faced by Australia's TV industry. We do not deny that. We have seen Australian TV networks on life support in recent months. We know that they are facing pressures. We know that audiences are shifting, as the new head of Channel 10 admitted in an interview the week before last. Young people are not watching scheduled television in the same way as earlier generations did, because there are so many more options. That is one of the things that are placing commercial pressure on free-to-air television.

However, broadcasting spectrum is not a free gift; it is a public good, and the commercial TV broadcasters should be required to put a minimum of Australian content on their stations. Senators may note that the Greens have circulated an amendment which is identical in form to one which we proposed in the other place when the bill was debated last night. This would meet some of the concerns of the Australian screen production sector, who have said it is entirely possible that the TV networks will be gaming the amendments that the government proposes to make to local content rules. This is a complex quota system that involves points for certain kinds of content, hours for certain kinds of content and different quotas attached to main channels as opposed to multichannels, and I think it is very difficult to ascertain whether it will be possible for the TV networks to effectively bid down the price of Australian content.

So we are seeking an undertaking from the government—and I understand that the government supports this view and believe it is a view that may be held by Senator Xenophon as well—that an annual review be undertaken to ascertain whether we are getting more or less local content on TV stations, on which of the main or multichannels it is running and how the broadcasters are allocating the points that they need to achieve to meet their licence conditions. I suspect that the amendment will be lost on the votes of the major parties, but I did want to point out now that we have put that amendment into play again tonight as we did last night in the hope that there can be some recognition that the Australian screen sector is an enormously important part of Australian culture and that we should support it not because their product is any poorer but because it is so much cheaper simply to dump endless repeats of content produced at lower cost principally in the United States but elsewhere as well.

The Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 stipulates that in return for spectrum Australian content will be shown on the commercial TV stations across all of their channels as it happens. There will be 730 hours in 2013, 1,095 hours in 2014 and 1,460 hours from 2015. And yet the proposed regulation for Australian content on the multichannels is comparatively very low and will in fact, if my reading of the bills is correct, require the networks only to screen local content for 12 per cent of the total broadcast hours across their multichannels. The government might come back and say: 'Who cares? People can channel hop. They can find the stuff that they're looking for.' The fact is that audience share on the multichannels is vastly lower than on the main channels, and we are very concerned that the broadcasters will in fact be bidding down the price of content and effectively gouging Australian content producers.

A review will not prevent it from happening but will identify whether it is happening, so we are looking to the minister representing the government or to a government senator to speak during the course of the debate tonight and make clear exactly what it is the government is committed to in that regard. I acknowledge that Senator Ludwig has pricked up his ears and is making a note. The Greens are concerned that, for example, sport and repeats count for full points of Australian content. While of course that is content that many people enjoy, it should not be allowed to simply soak up what should be going into points for creation of quality original Australian drama and Australian stories.

We believe that there needs to be a safety net that adequately protects the Australian public from cheap foreign imports. These imports, according to Screen Australia, typically cost around 75 per cent less per hour than the
Australian equivalent content. We are seeking an undertaking from the government acknowledging that it is likely that the Australian Greens amendment to protect local screen producers will be lost.

I turn now to what the Greens support, why we will be supporting these bills and an acknowledgement of the coalition's support for these bills which I thought might have been at risk. Senator Birmingham's comments have allayed some of those concerns. As senators know, last year I introduced a private senator's bill that would keep the Australia Network in public hands by requiring the ABC to be the sole provider of Commonwealth funded international broadcasting services. Senator Birmingham has indicated that he has circulated an amendment to carve that out. Depending on the course of the debate tonight, I will notify the coalition that the Greens will not be supporting the amendment that they proposed to retender the Australia Network out. We know from the chaotic process that ensued the last time this was put out to tender that there were no substantive justifications put forward for tendering that service out in the first place any more than we tender out any of the other highly valuable functions that the ABC provides to Australian broadcasting. We believe that having the Australia Network in public hands is in the national interest, as are the rest of the services that the ABC provides.

The Australia Network informs Australia's relationship with nations in our region and also globally. Other countries provide international broadcasting services. The BBC has the World Service, Germany has Deutsche Welle and Australia has the ABC—recognising that the budget is proportionally much lower than those stations. But can you imagine if in the United States the Voice of America were tendered out to a private entity or, here, News Limited, perhaps, provided the voice of Australia in our region?

The ABC has a charter that obliges it to reflect Australian cultural diversity and the arts with public editorial policies, independent review mechanisms and, I might say, very high standards of production. Commercial broadcasters do not share many of these qualities, responsibilities or statutory obligations; and, as private broadcasters, nor should they be required to. But they are driven by different motivations, and that is why the Greens support the ABC being our international broadcaster. So I congratulate the government for bringing that reform forward, because it means I can stand down my private senator's bill, which would have gone to the same effect. That is one less thing for us to worry about.

I also want to address the issue of ABC online. The ABC provides an extraordinary range of services online like catch-up TV with iview and news services provided on mobile devices. The ABC's online presence is, in fact, an excellent example of what we mean by convergence. This bill—with, I am pleased to note, support from across the parliament—will protect the ABC's capacity to provide these digital online services, which are certainly part of the broadcaster's future. A 2010 Newspoll survey found that 88 per cent of Australians believe the ABC provides a valuable service to the community no matter what platform they receive the service on, so enshrining the ABC's online presence in the charter is timely and appropriate. I note that during the committee's inquiry I was able to clarify that the prohibition on advertising remains.

That, of course, brings us to SBS. NITV becoming a part of the SBS was a move that the Greens strongly supported and means that it makes sense that at least one Aboriginal non-executive director be appointed, and this bill provides for that. I should note, however, that there appear to be no restrictions whatsoever as to SBS's advertising presence on its website, unlike that of the ABC, and that in fact what this bill provides for is essentially unregulated advertising. At least on SBS's channels—although we disagree with it, and Senator Birmingham was quite correct to point this out—the government when in opposition had a policy of opposing in-program advertising, for example. No such restrictions will apply online. I understand that the government is proposing this and that the coalition appear to have no problem at all with an unlimited and unregulated amount of advertising on SBS, so a Greens amendment on this matter would also be lost.

I also want to draw the attention of the chamber to an area that is frequently neglected, and that is our enormously important and valuable community broadcasting sector—not just neglected in this bill but, I would say, neglected during the entire course of debate on these issues. It is not specifically noted in the bills that television spectrum has been set aside for community broadcasters. The minister has, I acknowledge, publicly stated that a portion of this spectrum will indeed be reserved for community television as well as datacasting, narrowcasting and other services. So may I say to Senator Ludwig: if you are keeping a list, we are seeking an acknowledgement from the government—and I understand that will be forthcoming—that that spectrum be reserved for community television broadcasting. I understand that that commitment has been made. I would not mind an explanation as to why that did not make it into the bill, but if that is the government's intention then they should be happy to put that on the record tonight.
The community broadcasters deserve this spectrum. The community broadcasting sector provides a lot through up to 80 community TV licences reaching more than 3½ million Australians. The sector overall engages 23,000 volunteers, with more than 70 per cent of television and radio broadcasting stations located in rural, regional and remote areas providing a highly diverse range of services, including cultural and specialist talks programming, alternative news and current affairs, music of all genres, Aboriginal language content, print handicapped, religious, ethnic and multicultural services and so on. It is time that the community broadcasting sector was given its place in the sun.

During the course of an election year it may be that two metropolitan community radio broadcasters fall over, go dead, because the Australian government cannot find less than $1½ million to maintain the digital radio program. While we are handing back hundreds of millions of dollars in licence fees to the commercial broadcasters, acknowledging the pressure that they face, somehow the government has been unable to find $1½ million to prevent community radio broadcasters from going off the air. There is nothing on that in this bill and there is very little for the community broadcasting sector in this package.

The Greens are disappointed that the government has chosen to bring these important reforms through the parliament in such an unbelievably shambolic fashion. I have been here for nearly five years. There are senators in this place who have been here for much longer than that, but in my brief time here I have not seen a package handled in this way. We deserve and the Australian public deserve a much better process. That is why we have the parliament; it is why we have the committee system; it is why we submit matters like this to debate; it is why we take evidence; it is why we hear expert views. To have, on matters as important as this, those processes short-circuited is extraordinary. Senator Macdonald is to follow my contribution. I expect him to give the government and the cross-benches both barrels for permitting what the government has proposed.

Senator Macdonald: You are right!

Senator Ludlam: Yes, quite right. I am looking forward to it, Senator Macdonald—not. However, I will concur with you that this is not the process that the government should have followed and nowhere have we seen a rational justification for why it has been done. Unlike the coalition, however, we did not reject this package out of hand. We think it is our obligation to protect media diversity in Australia. We have proposed some sensible amendments to the other package of bills, which the government this afternoon has accepted, and we believe that is the way forward.

This is a diminished set of reforms. The story of convergence is not done yet. In fact, every day that we delay, some of the reforms that were proposed and reviewed in depth by the two reports become more urgent. We could in fact emerge from this process not simply with a regulator for print and a regulator for broadcasters but more than one regulator for print. Multiple press councils was in the government’s original drafting. I am pleased that we have been able to at least close that loophole. We now believe that the remaining bills are in fact in the public interest, will help protect media diversity and should be passed by this parliament.

For tonight, however, the package that is before us involves only the two broadcasting bills, acknowledging that the government has undertaken to make some commitments on reviews for local content and a commitment for spectrum for community broadcasters. Nonetheless, and understanding that Greens amendments in these matters would otherwise be lost, we believe that these bills are at least a step forward and that they enshrine the important place of our national public broadcasters as they continue to break new ground and provide an essential service to Australians online here in Australia and now in the region.