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COMMUNITY  
BROADCASTING  
ASSOCIATION OF  
AUSTRALIA

25 January 2018

**Senator the Hon. Mitch Fifield**

Minister for Communications

Minister for Arts

Deputy Leader of the Government in the Senate

PO Box 6100  
Senate  
Parliament House  
Canberra ACT 2600

Dear Minister,

**I write regarding *The Broadcasting Legislation Amendment (Foreign Media Ownership and Community Radio) Bill 2017 (Bill)* which was introduced to the Senate in December last year.**

The Community Broadcasting Association of Australia (CBAA) supports the Government's intent to strengthen localism in community radio broadcasting and understands the need for the proposed changes to strike a balance between providing clarity to the community broadcasting sector and the ACMA on what is sought, while avoiding overly prescriptive or burdensome requirements.

It is our opinion that the wording of the Bill as it currently stands does not make the link between the amendments, the desire to ensure local content and the outcome sufficiently clear. In particular, the wording used in the proposed addition to 84(3) to define material of local significance lacks clear intent and is unlikely to withstand scrutiny and clear definition:

Proposed 84(3) - For the purposes of paragraph (2)(ba), material is of local significance if:

- (a) it is hosted in the licence area of the proposed licence; or
- (b) it is produced in the licence area of the proposed licence; or
- (c) it relates to the licence area of the proposed licence.

- The term 'hosted' cannot be effectively interpreted - if intended to mean 'broadcast on a community radio service' then all material broadcast would be classified as material of 'local significance'. If interpreted literally - that a 'host' of a program has to be in the licence area - this would require the interviewee and interviewer being in the local area. There are many examples in the commercial sector where the local 'host' is not actually local.
- The term 'produced' is inappropriate. Though there are situations where it is appropriate that material be 'produced' in the licence area there are many cases where it is not, for example RPH (radio programming for Australians with a print disability), indigenous programming and other specialist community of interest services.
- The term 'relates' is so broad and subjective it renders it fairly much meaningless when it comes to the application of this legislation.



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To reduce confusion and to better ensure the Government's intent to strengthen localism in community radio broadcasting is achieved we suggest that a rewording of s84(2)(ba) would remove the need for the 84(3) subsection – the section which we are struggling to assign clear meaning to. s84(2)(ba) could read:

(ba) in the case of a community radio broadcasting licence—the extent to which the proposed service or services would provide material relevant to local communities and the community interest served by the licence.

Such wording would ensure the ACMA's implementation matches the Government's intent to see more local content on community radio and consistency with the other broad areas the ACMA is to have regard to under 84(2).

In raising this with your Department, they have expressed their confidence that the Bills current drafting covers material related to the licence area in either a general geographic sense or in relation to a particular community interest within the licence area. They have also provided assurance that this intent is reinforced in the explanatory memorandum for the Bill:

**"Item 2 – At the end of section 84**

Item 2 would insert a new subsection 84(3) to provide that, for the purposes of paragraph 84(2)(ba), material would be of 'local significance' if it is hosted in; or produced in; or relates to, the licence area of the proposed licence.

The meaning of 'relates to' the licence area is not defined, in order to provide the ACMA with flexibility to adapt it over time as appropriate in the community radio context. Material could relate to the licence area if, for example, it relates to a person, community organisation or event in the licence area. Material could also relate to the licence area if it relates to a social, economic, political or cultural issue as it affects the licence area (either in the sense of the geographic area or a community within the licence area)."

Our strong preference is to remove subjectiveness from the proposed changes to ensure clarity and certainty for the sector, including in its implementation and regulatory work with ACMA. We request your consideration of making the changes outlined above and would be pleased to assist you in any way we can.

**Please don't hesitate to contact me for further information regarding this Bill.**

Yours faithfully,



Jon Bisset  
Chief Executive Officer  
Community Broadcasting Association of Australia

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<sup>1</sup> The Parliament of the Commonwealth of Australia, Broadcasting Legislation Amendment (Foreign Media Ownership and Community Radio) Bill 2017, Explanatory Memorandum, 45.