2010-2011-2012

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

BROADCASTING SERVICES AMENDMENT (REGIONAL COMMERCIAL RADIO) BILL 2011

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

(Circulated by authority of the Minister for Broadband, Communications and the Digital Economy, Senator the Honourable Stephen Conroy)
OUTLINE

The Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011 (the Bill) would amend various provisions in the Broadcasting Services Act 1992 (the BSA) that relate to obligations imposed on regional commercial radio broadcasting licensees in relation to local content, local presence and local news and information.

The measures in the Bill are intended to reduce the regulatory burden on regional commercial radio broadcasters that results from legislative requirements to maintain existing levels of local presence, to provide minimum amounts of local content and to meet minimum service standards for local news and information.

The Government proposes two amendments to the Bill. The amendments would:

• remove the proposed requirement that the Australian Communications and Media Authority (ACMA) perform its broadcasting, content and datacasting functions, and exercise its powers relating to those functions, in a manner consistent with Australia’s obligations under the Australia-United States Free Trade Agreement (AUSFTA);
• remove proposed modifications to the application of the local content licence condition imposed by the ACMA on regional commercial radio broadcasting licensees in accordance with subsection 43C(1) of the BSA.

The Australian Government has established an independent review to examine the policy and regulatory frameworks that apply to the converged media and communications landscape in Australia. The amendments will allow the Government to consider Australia’s ongoing compliance with AUSFTA requirements alongside other content related recommendations arising from this wide ranging review.

FINANCIAL IMPACT STATEMENT

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

AMENDMENT (1)

Amendment (1) would omit item 1 of Schedule 1 to the Bill.

Item 1 of Schedule 1 to the Bill, as originally drafted, proposed to insert a new section 16A into the *Australian Communications and Media Authority Act 2005*.

The new section 16A would have required the Australian Communications and Media Authority (ACMA) to perform its broadcasting, content and datacasting functions, and exercise its powers relating to those functions, in a manner consistent with the Australia-United States Free Trade Agreement (AUSFTA).

A particular focus of the amendment was to ensure that, in the context of local content for commercial radio broadcasting licensees, the ACMA acted in a way that was consistent with the AUSFTA. The content rules in items 10, 11 and 12 of Schedule 1 to the Bill, as originally drafted, are being omitted (see amendment 2 below) and in that context item 1 of Schedule 1 is also being removed.

AMENDMENT (2)

Amendment (2) would omit items 10, 11 and 12 of Schedule 1 to the Bill.

Item 10 of Schedule 1 to the Bill, as originally drafted, proposed to repeal and replace subsections 43C(4) to (4C) of the BSA, which are spent provisions.

The replacement subsections would have modified the application of the local content licence condition imposed on regional commercial radio broadcasting licensees by the ACMA in accordance with subsection 43C(1), to the extent that the local content concerned Australian music.

Items 11 and 12 of Schedule 1 to the Bill, as originally drafted, proposed to insert new definitions of *Australian music* and *music* for the purposes of section 43C.

Items 10, 11 and 12 of Schedule 1 to the Bill are explained in detail in the original explanatory memorandum (pg 22 – 24).

The Australian Government has established an independent review to examine the policy and regulatory frameworks that apply to the converged media and communications landscape in Australia. The amendment will allow the Government to consider Australia’s ongoing compliance with AUSFTA requirements alongside other content related recommendations arising from this wide ranging review.