

# Abolish the Australian Communications and Media Authority

The Australia Communications and Media Authority (ACMA) should be abolished.

1. The ACMA is a threat to free speech.
2. The ACMA's functions are redundant.
3. The ACMA imposes costs on the Australian economy.

The IPA recommended abolishing the ACMA in *Be like Gough: 75 radical ideas to transform Australia*.<sup>1</sup>

The Australian Communications and Media Authority (ACMA) was established in July 2015 through the merging of the Australian Broadcasting Authority and the Australian Communications Authority. In 2015-16, the ACMA employed 420 people and received \$128 million in government funding.<sup>2</sup>

The ACMA oversees 26 Acts of Parliament and administers 400 regulatory instruments.<sup>3</sup> Its main function is to regulate broadcasting, radiocommunications, telecommunications, and online content through enforcement of the:

- Broadcasting Services Act 1992
- Radiocommunications Act 1992
- Telecommunications Act 1997
- Telecommunications (Consumer Protections and Service Standards) Act 1999

## ACMA is a Threat to Free Speech

The ACMA places tight regulations on radio and television broadcasters through issuance of Codes of Conduct<sup>4</sup> which bring a range of obligations:

- News must be presented accurately and impartially.
- Factual material must be clearly distinguishable from commentary and analysis.
- Reasonable opportunities for significant alternative viewpoints must be presented when dealing with controversial issues of public importance.

Dr Chris Berg of the Institute of Public Affairs argued, “the right to freedom of speech is meaningless without the right to choose that speech. No-one should be forced to say something they do not believe as a condition of saying something they do.”<sup>5</sup>

To regulate speech, the ACMA can launch investigations into broadcasters. Since 2006-07 ACMA has:

- Received 14,597 complaints from audiences.
- Undertaken 1,777 investigations.
- Found 571 Code of Conduct breaches.<sup>6</sup>

This imposes red tape on broadcasters. All complaints must be reviewed or responded to by the broadcaster. A single complaint is sufficient grounds for ACMA to launch an investigation. When investigating, the ACMA can compel the provision of documents; run hearings; and impose penalties, including revocation of license.<sup>7</sup>

Some investigations are trivial. A common breach occurs where a sponsorship advertisement runs over the allotted 5 minute per hour allowance.<sup>8</sup> Other investigations risk censoring serious public policy analysis. The 2GB network has been investigated numerous times for commentary on the NBN and climate change.<sup>9</sup>

Unelected regulatory bodies should not censor speech. It is anathema to a liberal democracy like Australia.

## ACMA's Role is Redundant

Aside from being inappropriate, the regulation of broadcasting content is outdated.

Australia's media landscape was different when today's media laws were established. There were far fewer broadcasting options for audiences. As such, it was commonly assumed that broadcasters had a duty to keep the public informed.

But with the expansion of various communication platforms, audiences can access opposing opinions and fact-check content online and in real time. The ACMA's role in ensuring impartiality, balance, and minimum Australian content requirements has been made redundant through technological change.

## ACMA Imposes Economic Costs

The ACMA also allocates spectrum, which is one of the economy's most valuable assets. Devices from smartphones to satellites rely on spectrum frequencies to transmit information.

The Centre for International Economics estimated that spectrum adds \$177 billion in value to Australia.<sup>10</sup>

However, the ACMA allocates spectrum inefficiently by dictating what parts of the spectrum band can be used for specific purposes. And because ACMA controls spectrum allocation, it can also control what technologies can be used on that spectrum.

In the past this has delayed new technologies, such as FM radio<sup>11</sup> and digital television<sup>12</sup>, getting to market, resulting in substantial economic costs.

The Government's 2015 *Spectrum Review* found a number of deficiencies with the status quo, including:

- "Licensing of spectrum is too complex and rigid..."
- "Allocation of spectrum takes too long..."
- "Market-based activity ... is not being made use of extensively."
- "Technical regulation is too detailed and administratively burdensome."<sup>13</sup>

Rather than direct regulation by the ACMA, all spectrum management should be devolved to users and private spectrum band managers.

Dr Chris Berg argued that under this approach, "users and private firms would decide how spectrum was allocated, the rules under which it was used, figure out pricing mechanisms, and they'd adjudicate disputes." This approach would be consistent with recommendation eight of the *Spectrum Review*, which the government agreed to implement.<sup>14</sup>

## Conclusion and Recommendation

Once the ACMA is removed from regulating speech and allocating spectrum, the remaining role for government would be to ensure a certain amount of spectrum is available for military, emergency services, and law enforcement uses. These functions could be folded within the Department of Communications and the ACMA should then be abolished.

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1 Roskam, John; Paterson, James; Berg, Chris, "Be like Gough: 75 radical ideas to transform Australia", Institute of Public Affairs Review, Melbourne, Australia, Vol. 64, Issue 2, (2012)

2 Commonwealth Government, "2016-17 Budget: Department of Communications and Arts Portfolio Budget Statement", Canberra, Australia, (2016), pg. 97

3 Australian Communications and Media Authority, "Response to the Department of Communications Review of the ACMA issues paper", Canberra, Australia, (August 2015), pg. 13

4 See, for example, the Australian and Media Communications Authority, "Commercial Radio Code of Practice", (March 2017)

5 Berg, Chris, "Media Watch: Everyone loves it until they advocate censorship", The Drum Unleashed, (28 March, 2011)

6 The Australia Media and Communications Authority, Annual Reports from 2006/07 to 2015/16. Available at <http://www.acma.gov.au/theACMA/annual-report>

7 Commonwealth Government, "Broadcast Services Act", Canberra, Australia, (1992)

8 See, for example, the Australian Communications and Media Authority, "Investigation Report No. BI-200", Canberra, Australia, (2016)

9 Australian Communications and Media Authority, "Investigation Reports No. 3322, 3056, 3065, 2974, and 2960", Canberra, Australia (2012-2015)

10 Centre for International Economics, "The economic value of spectrum", research report prepared for the Department of Communications, (January 2015). Estimates were over a 15 year period.

11 Commonwealth Government, "Radio in Australia", (13 April 2010), <http://www.australia.gov.au/about-australia/australian-story/radio-in-australia>

12 The Hon Malcolm Turnbull, MP, "RadComms 2014: Spectrum in the Age of Digital Innovation", Keynote Address, Sydney, Australia, (10 September, 2014)

13 Australian Government, "Spectrum Review", Canberra, Australia, (March 2015)

14 The Hon Malcolm Turnbull, MP, "Next Stage of Spectrum Reform to Commence", Joint release with the Hon Paul Fletcher, MP, (25 August, 2015)

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