File ref: 2002/0713

10 October 2005

Draft LAP Variation
Remote Central and Eastern Australia
Australian Communications and Media Authority
PO Box 34
BELCONNEN ACT 2616

Dear Sir/Madam

DRAFT LAP VARIATION – REMOTE CENTRAL AND EASTERN AUSTRALIA

I refer to AMCA’s proposals to vary the technical specifications of commercial radio services in areas of remote New South Wales, Queensland, South Australia and Victoria.

Southern Cross Broadcasting operates commercial radio stations 3AW and Magic 693 (3EE), through its subsidiaries 3AW Southern Cross Radio Pty Ltd and 693 Southern Cross Radio Pty Ltd respectively. Each of 3AW and Magic 693 broadcast to the Melbourne radio licence area.

Southern Cross Broadcasting supports the submission made by Commercial Radio Australia (CRA) regarding the proposed LAP variation. In addition, Southern Cross Broadcasting makes this separate objection in respect of the aspect of the proposal involving the proposed variation of the 8SAT Marysville service to operate on 89.3 MHz from Lake Mountain Road, with a maximum ERP of 500 W using a directional radiation pattern with vertical polarisation.

As noted in the extract of report by Bob Greeney to CRA attached to CRA’s submission, this proposal will lead to fortuitous reception of the 8SAT signal by perhaps 10,000 people in the north eastern part of the Melbourne radio licence area.

Southern Cross Broadcasting objects to this proposal on the following basis:

- As noted in ACMA’s Explanatory Paper regarding the proposed LAP variation, Freshstream FM has made repeated requests for extensions to its licence area to allow it to serve the Murrindindi and Yarra Shires in Victoria, which ACMA states in the Explanatory Paper do not appear to be supported by evidence regarding community of interest ties to those areas. Southern Cross Broadcasting agrees that evidence regarding community of interest ties
of 8SAT’s licence area to those areas is scant. Indeed, these areas are regarded as part of the greater Melbourne area and contain large numbers of residents who commute to inner areas of Melbourne to work, shop and to attend schools, colleges and universities;

- The proposed variation will, by virtue of extent of fortuitous reception of the 8SAT signal within the Melbourne licence area, extend the Freshstream FM licence area by stealth in circumstances where ACMA itself has stated that no basis has been demonstrated for such an extension;

- CRA has presented a viable alternative in the suggested reduction in power in the sector 170° to 250°. Unless ACMA can demonstrate that this alternative ERP is inappropriate for some reason due to inadequate reception within 8SAT’s licence area (which we do not believe it can), it is incumbent on ACMA to implement it to ensure consistency with the regulatory scheme in the Broadcasting Services Act, which limits fortuitous coverage to situations where it is unavoidable for technical reasons or justified due to inadequate reception provided by broadcasting services in adjoining licence areas; and

- Southern Cross Broadcasting has, over an extended period of time, invested significant time, effort and money in developing its brand, its presenters and its formats within the Melbourne licence area. The government has benefited from that investment through licence fees paid by Southern Cross Broadcasting. Southern Cross Broadcasting submits that it is unfair and contrary to the regulatory aims of the Broadcasting Services Act to potentially diminish the value of Southern Cross Broadcasting’s licences by effectively extending 8SAT’s coverage into the Melbourne licence area (even if such coverage is fortuitous).

Yours sincerely,

[Signature]

Tony Bell
Managing Director