

## Meeting the digital challenge: Reforming Australia's media in the digital age

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### Introduction

Since I first announced that I would be outlining proposals for a broad range of reforms to the media industry in Australia there has been a steady commentary in the media and much speculation.

I have spent a great deal of time listening to the views of a wide range of stakeholders in this process and I make no apologies for doing so.

To suggest that the views of the media industry in Australia are not legitimate when we are contemplating far reaching and comprehensive reforms is not justified.

But I also recognise that the views of a broader range of stakeholders – including the Australian community – are equally important.

In the end it is all about providing a richer and more diverse media environment for Australian consumers and that is why their views are important.

That is why today I am releasing a discussion paper outlining options for a strategic framework for proposed reforms to the media industry in Australia.

These reform options marry the Government's longstanding policy of changes to cross media laws in Australia and relaxation of the foreign ownership restrictions with reforms to ensure

Australia will not be left behind as the world converts to digital.

This process has not been one of conforming to any particular media player's view of the world. Instead it has been one of balancing the need for diversity and new and innovative services for Australian consumers now, with the need to equip Australia for the digital future.

There is a compelling case for change and if the Government does not act, then there is a genuine risk that Australia will become a dinosaur of the analogue age.

### Regulation for an analogue world

Traditional media services are being challenged by new digital technologies and this is resulting in the emergence of new players, new content, new services and new platforms.

For the consumer, this means an ever-increasing number of new sources of information and entertainment. For the media sector, while this evolution poses challenges as audiences are attracted away from traditional media sources, it also presents significant opportunities to embrace new ways of doing business.

For the Government, the impact of digital technologies means the current regulatory settings, which are largely designed for an analogue world, require review.

To date, media policy has traditionally closely controlled who may enter the market and what services they may offer. The regulated settings for old media – commercial TV broadcasting, print and radio – assumed a settled and steady media landscape.

But the global conversion to digital means we can no longer rely on traditional structures to deliver consumers the services they need and demand. In a converged environment the lines are blurring.

The traditionally distinct telecommunications, broadcasting, print and IT sectors are delivering an increasingly common range of services, and as we move towards a digital world it will become increasingly difficult to regulate the emergence of new players and new services.

The shift to digital has substantially impacted not only upon entertainment services, but also on sources of news, public opinion and information.

For instance, use of internet-based news media has been growing rapidly. In fact news is now available from hundreds of unmediated sources in addition to the news available on the regulated platforms.

While many popular news sites are provided by traditional media companies, the emergence of weblogging, news via mobile phones and independent online news services means news and current affairs reporting has become more interactive.

All of these developments mean we must consider models which move away from controlling market structures and consider a new media regulatory framework that embraces rather than resists digital trends.

A model that allows for some efficiencies of scale and scope for existing industry players while encouraging new entrants, new investment and new services to contribute to diversity in a global, competitive environment.

It is longstanding Government policy to reform Australia's media ownership laws. However, the convergence of technologies means these reforms can no longer be considered in isolation from the looming digital challenge.

Australia will be left behind if we do not release the media industry from their current lock-step, allow some efficiencies, encourage new services and protect localism and diversity with robust consumer safeguards.

## The digital challenge

The digital television policy settings put in place in 1998 and 2000 were envisaged as transitional arrangements. So there are a number of legislated changes that will come down the pipeline from January 1, 2007 ready or not.

First, the moratorium on allocating new commercial television broadcasting licences expires. From this date, if changes are not made to the current legislative arrangements, the regulator – ACMA – will have the capacity to allocate new free-to-air commercial TV licences in the BSB.

Secondly, the moratorium will also end on the allocation of new FTA TV services delivered over other platforms such as wireless, satellite and cable broadband networks.

Thirdly, in keeping with the Government's desire to ensure that new services become available, from January 1, 2007, the restrictions on datacasting will be substantially lifted and new datacasting transmitter licences could be used to provide a wider range of services such as pay-TV, niche (narrowcast) free to air channels and DVB-H services (ie: TV over a mobile device) over currently reserved spectrum.

Fourthly, the existing free to air television licencees are currently prohibited from acquiring a datacasting transmitter licence and unless some steps are taken, that prohibition would remain.

However, these automatic changes to the regulatory framework do not affect existing cross media and foreign ownership restrictions, restrictions on multi-channelling, the anti-siphoning regime, high definition television quotas or the December 2008 date for analogue switchover.

This changing landscape means it is timely for the Government to review its approach to media regulation and provides an opportunity to develop a strategic framework for media reform in Australia that truly brings us in to the digital era.

The challenges and opportunities of digital for the broadcasting sector, the plethora of new services emerging over new platforms,

the pervasive nature of the internet and the need to free the media industry from the shackles of an old-media style regulatory framework are all interrelated.

Analogue switch-off provides a natural start date for a range of reforms. It is only when we can reach analogue switch-off that the necessary spectrum will become available in congested markets for the full range of new digital services.

However there is scope for new services for Australian consumers now. We can encourage innovation and investment now, as the forerunner to the complete digital experience at switch-over.

We also have the opportunity to provide new services to balance any consolidations following the implementation of the Government's long-standing policy to reform Australia's media ownership laws.

## **Moving to analogue switchover - the Digital Action Plan**

A fundamental plank in achieving a digitally capable nation is turning off the analogue TV signal.

While the transition to digital started in 2001, by relying mainly on market forces to drive take-up of FTA digital television we have clearly not progressed at a level or pace to allow the switch-over to commence at the end of 2008 as originally planned.

Developments in Australia and across the world now compel us to expedite a switch-over plan. Other countries are moving rapidly to analogue switchover and the period 2010 to 2012 is increasingly being identified as a common switchover target internationally.

Australia must now implement a strategy to energetically drive digital take-up to achieve switchover.

Already, according to industry information, by 31 December 2005 suppliers had sold 1,304,000 free to air digital television receivers to retailers.

While take-up appears to be sluggish – around 15.5 per cent there are some positives. When you add in digital pay-TV take-up that figure jumps to around 27.5 per cent.

More than 95 per cent of the population has access to at least one FTA broadcaster service in digital mode, with more than 85 per cent of the population having access to all broadcasters in their area in digital mode.

While I have often said that the current legislated date for switch-over of 2008 is, in my view, unachievable, I do not believe there is a need to

push this date back as far as 2015 – a date suggested as recently as last week.

The obvious consumer benefits of digital aside, there is also a clear cost benefit to broadcasters and taxpayers in reaching switch-over sooner rather than later.

The Government already spends around \$75 million annually contributing to the simulcasting costs of the national broadcasters and supporting the digital rollout for commercial operators in regional Australia.

Preparation and management of analogue switchover will be a challenging and substantial task, involving careful planning, and coordination of the efforts of the Government, ACMA, broadcasters, manufacturers, retailers, consumers and others.

The Government therefore proposes to release a Digital Action Plan this year to provide a roadmap to switch-over with measures to drive digital take-up, incentives for broadcasters and manufacturers to strive for switch-over and measures to assist consumers make the switch.

We will also look at forming a dedicated new organisation – something like Switch Co in the UK - to oversee and co-ordinate the activities necessary to achieve analogue switchover.

The Digital Action Plan would also recognise the different requirements for achieving analogue switchover in metropolitan and regional areas nationally.

At this stage, it is proposed that plan would aim for an analogue switchover period commencing in 2010 to 2012, consistent with the targets set in many other industrialised nations.

## **New Digital Services**

To complement this energetic plan to drive digital take-up in Australia we need to look at removing impediments to new digital only services emerging. New content as well as the benefits of a clearer picture are two of the biggest recognised drivers of take-up.

During the transition to digital, there is the opportunity to allocate some available spectrum for new, digital only services on two currently unallocated digital channels in the BSB that could be put to a variety of uses.

One use could be as a fourth FTA commercial television service.

## Fourth TV licence

I have said on many occasions I do not see a compelling case for a fourth free-to-air commercial station at this stage.

The media sector is changing rapidly and many opportunities for new and different services are emerging that could be better deployed on the only remaining spectrum until switch-off in congested markets.

In my view, the current arrangements with three free-to-air commercial TV broadcasters are working well in delivering quality services to Australian viewers.

Therefore, the Government does not propose to allocate a new commercial TV licence at the end of the current moratorium and we do not envisage allocating any new licences before analogue switch-over.

However, the Government is not proposing to continue to restrict the availability of new terrestrially-delivered commercial television licences indefinitely.

The Government proposes to review the scope for new FTA commercial television broadcasting licences within the BSB at a time closer to the end of the digital/analogue simulcast period (which could be as early as 2010).

In the meantime, consistent with our election commitment, the Government will amend legislation to ensure that the decision about whether to allocate new commercial television licences both within and outside the BSB will be a matter for the government of the day, rather than for ACMA.

Another option for the use of the unallocated BSB spectrum is for other new digital broadcasting and related services.

After a lacklustre response to the datacasting spectrum in 2001, the spectrum has mainly been used for trials of new digital services including DVB-H – television over a mobile device and datacasting services.

The Government now has a strong interest in deploying this spectrum to provide significant opportunities for new innovative digital service options of interest and value to consumers and provide the opportunity for new entrants into the market.

The attractiveness of this spectrum should increase when the limits on what can be shown

by the holder of a datacasting transmitter licence expire next year on 1 January.

Trials of datacasting services are currently underway in Sydney providing a range of material including traffic and weather reports, text-based news, Government information such as employment opportunities and public health information, financial information, Parliamentary audio channels – my favourite – and shopping channels.

The Government recognises that one of the challenges in the design of new services will likely be the adaptation of suitable content.

International mobile TV trials suggest that consumers may prefer short clips, sometimes referred to as 'snack content', such as news headlines, sports highlights, music videos, entertainment and information that can be accessed when convenient to the user.

With new and improved compression technologies being rolled out around the world, just one of the 7MHz channels could feasibly provide up to 30 channels of content on a mobile service.

However, the datacasting spectrum would not be a de facto way of providing a look-alike traditional TV station but rather should offer something new to Australian consumers. Therefore the framework favours designing the use of this spectrum to help increase diversity in the Australian market.

ACMA has already been asked to start planning for the allocation of the datacasting spectrum should the Government choose to go down this path. How the spectrum would be allocated and the guidelines for its use will be considered as part of this process.

## Regulating other platforms

New platforms outside the BSB offer opportunities for both existing and emerging players to offer new and innovative digital services over wireless, satellite and broadband networks.

By not extending the moratorium on new commercial TV licences these services could emerge from 1 January 2007 subject to obtaining the appropriate licences.

New services on these platforms would face significant challenges in terms of start-up costs, receivers and equipment and establishing a sustainable audience base. Therefore a more

flexible approach to regulating these services is justified.

The Government is therefore not inclined to impose unnecessary restrictions on these new platforms in order to encourage new and innovative services for Australian consumers.

It is proposed that the specific media and ownership control provisions that apply to these services would be relaxed at the same time as services that operate within the BSB.

It is proposed that the Government of the day would be responsible for the decision to allocate these licences and following the end of the moratorium on new licences at the end of the year could allocate them if they were in the public interest.

It is also proposed to exempt these services from the licence area ownership limits and the 75 per cent audience reach restrictions.

However, these services would remain subject to general competition law and foreign investment restrictions.

Therefore both current and new players could potentially take advantage of a range of new opportunities to participate outside the traditional broadcasting environment.

For instance, broadcasters are gatekeepers of a substantial quantity of valuable programming and are already showing interest in different ways of packaging this content for delivery over other digital platforms.

Channel 7 recently partnered with Yahoo to form the Yahoo/7 internet portal, Channel Nine has done with Microsoft to create ninmsn. FTA and subscription networks have shown interest in providing content for the mobile TV trial currently being conducted in Sydney and there may well be more services in which broadcasters are interested in participating.

Clearly, following analogue switchover additional spectrum will become available in the BSB and that will provide further opportunities for new services to emerge. During the transition there are some practical limitations on how much is possible.

## **Multi-channelling and HDTV**

During my informal consultations on the challenges and opportunities of the digital age – a range of views from commercial broadcasters and other stakeholders were expressed about a

mandated requirement for high definition television (HDTV) and multi-channelling.

Currently multi-channelling by the FTA broadcasters is prohibited until analogue switch-over. However, both national broadcasters – the ABC and SBS have successfully launched multi-channels under exemption, subject to genre restrictions.

As part of my earlier conversations with some stakeholders, a group of industry engineers and representatives from ACMA drilled down into some of the more technical issues relating to compression technologies and the capacity to broadcast in HDTV as well as providing high quality multi-channels.

Their advice to me was that using existing compression technology, there is a legitimate technical obstacle to broadcasters being able to transmit the highest quality HDTV while transmitting high quality multi-channels at the same time.

Recently at Senate Estimates, the Director of Technology and Distribution at SBS also acknowledged that there would be significant quality issues with their existing multi-channel if the station were to use the highest quality HDTV – 1080i. Currently both the ABC and SBS show 576p HDTV.

The HDTV quotas were introduced to provide some assurance to consumers, manufacturers and production companies that HDTV material would be available in Australia following its introduction.

In my view the rationale for the quota remains. However, like the rationale for restricting multi-channelling – which was to ensure during the transition to digital viewers of analogue and digital had access to substantially the same programming, it is much less compelling once Australia has reached analogue switch-over.

The approach I am suggesting recognises that while multi-channelling restrictions have provided a period of stability during the transition to digital, the end of the simulcast period provides a natural end point for these restrictions – a position which is already reflected in legislation.

Therefore the Government proposes that both the HDTV quotas and restrictions will be lifted at switch-over. In a fully digital broadcasting environment, there would no longer be a rationale for continuing these restrictions.

In the interim, to help drive both digital and HDTV take-up, broadcasters could be permitted to show HD programming on a digital only multi-channel without a requirement for it to be simulcast in standard definition.

This gives those broadcasters who choose to do so an opportunity to provide new, digital-only services to consumers in the lead up to switch-over when full multi-channelling will be permitted but not required.

The Government also proposes to allow regional broadcasters some concessions to enable them to provide one HDTV feed across their licence area rather than multiple local program 'breakouts'. This would reduce the cost and complexity of complying with the HDTV quota requirements for these broadcasters.

The Government would however be prepared to reconsider this proposed approach to both HDTV and multi-channelling should any changes in the lead-up to analogue switchover help overcome some of the technical difficulties currently associated with providing high quality HDTV and providing multi-channels at the same time.

## **National Broadcasters**

Both national broadcasters in Australia have expressed a strong desire to enhance their multi-channelling capability and continue to innovate and help drive digital take-up. This is a legitimate role for the national broadcasters and entirely consistent with their Charter obligations.

Currently the genre restrictions that apply to the national broadcaster's multi-channels present a practical limitation of their ability to develop new services that could attract a wide audience for digital television.

For example, the national broadcasters are allowed to provide educational, science, religious, health programs and children's programs on new digital channels, but not programs such as national news broadcasts, drama, movies and most sport broadcasts.

It is proposed to remove the current legislative restrictions and allow full multi-channelling by the national broadcasters as soon as possible, subject to restrictions on the screening of anti-siphoning sport.

This will provide the national broadcasters with an opportunity to provide attractive new digital content and to experiment with digital program

production and new digital services such as interactivity. It would also be consistent with their public service role and enable them to make further use of their valuable archival material.

## **Anti-siphoning**

With both the introduction of pay-TV and the move to digital TV, the anti-siphoning list continues to play a role in ensuring important national sporting events are shown on FTA television.

However, while I consider the rationale for the list remains, I am of the view that there is scope for further scrutiny of the anti-siphoning list and the number of events on it.

There are currently a number of events on the list that are protected in their entirety despite not all the events in the competition being broadcast. This is particularly the case with tournaments which comprise multiple rounds such as tennis and golf.

While digital take-up is still relatively low, the migration of events on the anti-siphoning list to multi-channels would be inconsistent with the objective of the anti-siphoning scheme - to provide the widest access for viewers to listed events.

It would also have an adverse impact on pay TV's capacity to provide sports programming.

The Government proposes that FTA broadcasters would be prohibited from broadcasting sports events on the anti-siphoning list on any digital multi-channels unless the content has already been shown (or is shown simultaneously) on their main channel.

This restriction would initially apply to national broadcasters, on the basis of the proposal that they be permitted to provide full multi-channelling services during the simulcast period. In the event commercial broadcasters are permitted to multichannel prior to analogue switchover, this restriction would also apply to them

It is also proposed that commencing 1 January 2007, a "use it or lose it" scheme would be introduced for events on the anti-siphoning list, based on the results of ACMA's first year of monitoring events.

The scheme would identify criteria against which "use" of an event by a FTA broadcaster could be measured and, if the event is not "used", it may be removed from the anti-siphoning list.

Ministerial discretion would be retained in respect of any decision to remove events from the anti-siphoning list.

The Government proposes to review the ongoing rationale for the anti-siphoning scheme prior to the expiry of the current list on 31 December 2010 and before the end of the simulcast period.

This review would also consider the restriction on the national and commercial broadcasters multi-channelling sport on the anti-siphoning list.

## **Cross and Foreign**

Clearly the time for action to meet the challenges of digital is now. When I first started to look at how to move Australia into the digital age it became increasingly apparent that any moves to reform the media sector needed to be seen in conjunction with the impact of new media and analogue switchover.

The current cross media laws increasingly risk inhibiting the growth of new services, limiting media companies from obtaining economies of scale and scope, constraining them in addressing the challenges posed by emerging media forms and foreclosing future developments in the marketplace. As a result, investment and innovation in Australian media is curtailed.

Cross media restrictions and foreign ownership restrictions deal with the “old” media – the regulated platforms of print, commercial TV and radio.

The purpose of the proposed framework I am outlining today is to provide the opportunity for new entrants and new services as well as allowing some movement by existing media players.

A combination of reforms that would both enable new services and new players to emerge and allow existing media providers to respond more flexibly to the dynamic digital market place offer the potential for improved services and choice to media consumers.

However, there must be safeguards to ensure there is no undue concentration of ownership of Australia’s media entities.

Therefore it is proposed that cross media transactions would be allowed, subject to there remaining a minimum number of commercial media groups in the relevant market - four in regional markets, five in mainland state capitals.

It is important to remember that in addition to commercial media services, consumers will continue to have access to the two national broadcasters, community television and radio broadcasters, subscription TV, a proliferation of news, information and entertainment on the internet and ‘out of area’ newspapers (such as national newspapers).

Existing specific limits on audience reach and the number of licences that can be controlled by one person (one television and two radio in one market) would be retained for regulated platforms and cross media entities would be required to disclose their relationship when reporting on another entity within that group.

The Government also proposes that the foreign ownership restrictions specifically relating to media will be lifted. The foreign ownership safeguards provided by the media sector's status as a “sensitive sector” should be sufficient to ensure that any investment that is contrary to Australia’s national interest is prevented.

ACMA would continue to oversee the diversity test and the competition rules would continue to apply, administered by the ACCC. In addition, the Government has separately proposed improving ACMA's powers to give it a more appropriate gradation of penalties and powers.

This will assist the regulator's ability to monitor and respond to any issues that may arise as part of broader media reforms.

## **Rural and regional**

“Live and local” media remains incredibly important – particularly for people living in rural and regional Australia.

The Government is committed to ensuring that Australians in regional markets will continue to have access to locally relevant news and information programming regardless of any ownership changes that might take place between the media outlets in their market.

Licence conditions are currently imposed on television broadcasters in aggregated regional commercial television markets in regional Queensland, northern NSW, southern NSW and regional Victoria which require minimum levels of content to be broadcast on matters of local significance.

In recognition of the importance of local content to regional communities, the Government proposes to legislate to require the retention of

these licence conditions and to extend this requirement to the aggregated market of Tasmania.

ACMA and the Government will continue to monitor the provision of local content in other regional television licence areas and on regional commercial radio services, and the Government may consider extending licence conditions relating to levels of local content to those markets if local content levels decline materially.

Due to the high costs and smaller audience numbers, most regional markets already have four or fewer media groups and therefore the scope for mergers under cross media and foreign ownership changes would be limited.

Regional incumbents already enjoy a high level of protection with entry to commercial radio and television broadcasting strictly limited by moratoriums and the planning decisions of the broadcasting regulator and therefore changes in most markets could only occur if a new player was introduced.

## Timing

The new media environment will likely provide a richer and more diverse media and entertainment experience for consumers across Australia.

This is not about taking away any of the current services, it is about providing the opportunity for more.

As changes scheduled to occur to the digital regime give rise to opportunities for new services, there are two possibilities for the timing of the introduction of any reforms to the cross

and foreign restrictions – 2007 when the introduction of new digital services is possible or at analogue switch-over.

Both options would enable media transactions to occur together with opportunities for new digital services and new players to emerge.

## Conclusion

Obviously there is a lot more detail to these proposals than I have been able to cover today.

I encourage all of you to read the discussion paper released today carefully. Submissions can be made until April 18.

I will consider submissions and whether any refinements to the framework need to be made before Government makes a final decision on the way forward.

I have endeavoured to set out options to develop a strategic plan for media reform – one that recognises what can be done now and what is required going forward to achieve a new digital landscape for Australians.

The disproportionately high level of interest in any proposed media reforms are indicative of how highly the current services are valued. But we should not shy away from moving forward, from meeting the digital challenge, from allowing proprietors an opportunity to make new investments.

If we are too timid, ultimately it will be Australian consumers who will miss out on the benefits that others take for granted.

**Disclaimer:** This is a copy of Senator Coonan's speech as supplied to CEDA. The speech as delivered may differ from the speech supplied here.