



Australian Government

# Media Reform Green Paper

Modernising television regulation in Australia

November 2020

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# Executive summary

## The free-to-air television business model is increasingly challenged

The business model for free-to-air television in Australia is increasingly challenged. The trend is clear over the last decade. Viewer numbers are down sharply; in turn so is advertising revenue. This is mainly due to intense competition from large, usually overseas-based, internet services. These include social media platforms like Facebook and YouTube as well as Subscription Video-on-Demand (SVOD) services like Netflix, Amazon Prime, and Disney+.

This is a significant problem for the three metropolitan commercial television networks. The regional television broadcasters arguably face even greater challenges.

While the metropolitan networks have mitigated some of their losses with advertising revenue earned from their internet-delivered Broadcast Video-on-Demand (BVOD) platforms (7plus, 9Now and 10 Play), the regional broadcasters do not have their own BVOD platforms and hence they do not have this additional source of revenue. In addition, the regional broadcasters are losing viewers to the BVOD platforms of the metropolitan networks which can be viewed over the internet in regional areas.

## Why this is a public policy problem

That the business model of free-to-air television networks is increasingly challenged is certainly a problem for the owners of these networks. It is also a public policy problem, for several reasons.

First, many Australians rely on free-to-air television. If a service was withdrawn because a broadcaster ceased to be financially viable, this would cause harm to consumers. Older Australians, the less affluent and those in regional and remote areas are less likely to use alternatives to free-to-air television, such as subscription television and SVOD services. They would be disproportionately affected by the withdrawal of a service.

Second, our existing public policy framework relies heavily on free-to-air television to meet public policy objectives. One such policy objective is the wide availability of news services—both for items of national importance, and items of local significance such as those carried on the local news services of regional television networks.

Another objective is making Australian stories available on our television screens. The free-to-air networks face a requirement that 55 per cent of their content must be Australian, with additional sub-quota requirements across Australian children's, documentary and drama content.

If we fail to act, meeting these objectives will be even harder as the trends of the past decade accelerate. It is likely that revenue for free-to-air television broadcasters will continue to shrink. Some providers may collapse.

The financial pressure on broadcasters will have knock-on effects for the production of Australian content. The volume, variety and quality of Australian content available is likely to decline; audiences will have access to fewer Australian voices and stories.

## The Morrison Government has committed to reform

The Australian Competition and Consumer Commission's (ACCC's) Digital Platforms Inquiry, which reported in 2019, recommended that the Australian Government implement a staged program of reform towards 'platform neutral' media regulation. As the ACCC pointed out, digital platforms like Facebook and Google and the SVOD services like Netflix, Amazon Prime and Disney+ do not face the regulation which is imposed on free-to-air television. Yet they are competing for the same eyeballs and, in many cases, the same pool of revenue.

In its response to the Digital Platforms Inquiry, the Morrison Government committed to commence a staged process to reform media regulation towards an end state of a platform-neutral regulatory framework covering both online and offline delivery of media content to Australian consumers.

In September this year, the Government announced its first stage of reforms. This deals with the Australian content obligations which apply to free-to-air television networks, and with the mechanisms to provide funding support to the Australian screen production sector.

But there remains much more to do as part of this staged reform process. Today's regulatory framework seeks public policy outcomes from traditional broadcasters despite their increasingly tenuous financial position. On the other hand, fast growing SVOD services face no regulatory requirement to contribute to these public policy outcomes.

That is why the Government is now issuing this green paper.

## This green paper sets out a potential plan for reform

This green paper sets out a potential plan for reform of the media regulatory framework in Australia, as the basis for consultation with stakeholders. The objectives of the plan are to:

- support the free-to-air television sector to move to a sustainable operating model, in both metropolitan and regional Australia;
- reduce the regulatory imbalance between free-to-air television and internet-based competitors;
- secure a new funding source to support Australian news and Australian content; and
- sustain the continued delivery of news and other Australian content across different platforms that Australians view.

To achieve these objectives the plan includes proposals to:

- offer free-to-air television broadcasters a path to a lower cost model using less radiofrequency spectrum;
- further reduce regulatory obligations on free-to-air television businesses;
- establish new funds to support the provision of more regional news and more Australian drama, documentary and children's content, with those funds capitalised with a share of the expected proceeds from reallocating spectrum which will no longer be required by the free-to-air television sector;
- legislate to set clear expectations of SVOD and advertising video-on-demand (AVOD) businesses about their investment in Australian programming; to monitor performance against those expectations; and to implement formal regulatory requirements if those expectations are not met; and
- legislate to codify the role of the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS) in commissioning and providing new Australian programming, consistent with the arrangements in place (or proposed) for other sectors of the Australian media industry.

### A lower cost model using less radio frequency spectrum

Today, under the *Commercial Broadcasting (Tax) Act 2017*, the holder of a commercial television broadcasting licence must pay commercial broadcasting tax each year for each of their transmitters. For each of the metropolitan commercial television networks, this tax currently totals between \$9.5 million to \$12 million per annum. In exchange, the licence holder is entitled to use a specified amount of radiofrequency spectrum (7 MHz) to broadcast television services.

The Government proposes to introduce a new kind of licence under the *Broadcasting Services Act 1992* (BSA), referred to in this green paper as a 'new licence.' (This green paper uses the term 'traditional licence' for licences presently held by broadcasters under the BSA.) The holder of a traditional licence would have the option to make a one-time transition to a new licence. There would be no requirement to transition. If a licence holder did make the transition from a traditional to a new licence, the choice would be irrevocable.

If a licence holder chooses to transition to a new licence under the Government's proposed model, there would be two important changes to the present arrangement.

- First, the holder of a new licence would no longer be required to pay a tax for the use of spectrum.
- Second, the holder of a new licence would be required to transition to using less radiofrequency spectrum, under a multi-year process to be initiated by Government when certain conditions were met.

As chapter four of this green paper explains, television compression technology has advanced since the current arrangements for digital television broadcasting were first legislated in 1998. This means television broadcasters could move to transmission arrangements which use less spectrum but which maintain service levels at close to current levels, with a minimal impact on viewers. That chapter also explains that if at least two of the three free-to-air television networks agree to participate (by taking up a new licence), then an industry-wide process can commence (which would also involve the ABC and SBS).

Once the industry-wide process is completed, it will bring further operating cost reductions for the commercial free-to-air television networks that participate, as well as for the ABC and SBS. This is because using less spectrum means reduced transmission costs for a television business.

## Further reduce regulatory obligations

Under a new licence, free-to-air television businesses would be relieved of certain other regulatory obligations they presently face. While holders of new licences would continue to be required to meet the Australian content requirements on their primary channels (55 per cent of programming between 6 am and midnight), and comply with the new flexible sub-quota arrangements to be introduced from 1 January 2021, the current Australian content transmission obligation on their multichannels would be repealed.

## This model gives free-to-air television businesses a choice

The intention of this plan is to give free-to-air television businesses a choice. If a licensee chooses to move to a lower cost operating model, it can take up a new licence that would deliver immediate cost reductions through the removal of the commercial broadcasting tax, while also offering a path to a lower cost operating model using less radiofrequency spectrum.

Alternatively, if a licensee judges that it is better placed to continue operating under the current regulatory framework, and it sees value for money in continuing to pay a commercial broadcasting tax, it can choose to do so.

## Establish new funds to support Australian news and content—capitalised through the proceeds of spectrum reallocation

As chapter four of the green paper explains, assuming at least two commercial free-to-air television broadcasters in each market choose to take up a new licence, then it would become possible to rationalise the amount of radiofrequency spectrum used for television broadcasting across all of Australia. As part of this process, television spectrum would also be rationalised by moving the ABC and SBS to more efficient transmission arrangements as well as rationalising unused broadcasting spectrum. The first consequence of the rationalisation would be to combine the signals of different broadcasters into what are known as 'multiplexes'. Currently, each free-to-air television service broadcasts from its own dedicated multiplex transmitter; however, the planned rationalisation of spectrum would allow services to be shared across multiplexes; for example, five services in a particular market could be consolidated across three multiplexes in that market. Sharing multiplexes is a more efficient way of using radiofrequency spectrum and should have little noticeable impact to viewers.

The process would only be initiated if at least two existing commercial free-to-air broadcasters elected to take up a new licence. If this occurred, the legislation would require the ABC and SBS to make a similar transition to more efficient spectrum use. The Australian Communications and Media Authority (ACMA) would undertake the re-planning of free-to-air television services under the new framework, and this would be followed by a 'restack' of those channels.

The second consequence of the rationalisation would be that a considerable amount of radiofrequency spectrum will become available to be reallocated to other uses—most likely for mobile telecommunications. It is likely that around 84 MHz of Ultra High Frequency (UHF) spectrum, within the 600 MHz band, would become available for reallocation. The reallocation of this valuable spectrum, which is a multibillion-dollar public resource, would likely occur through a spectrum auction process that could generate significant proceeds. The auction could occur prior to the completion of the restack, although the spectrum would not be available for the other uses until the restack was complete.

A portion of the proceeds of the auction could be allocated to capitalise specific funds that would be established to support future television content delivery, in two priority areas: support for regional news services; and support for Australian drama, children’s and documentary content. Each would be established as a trust fund operating under a legislative framework and would be overseen by an independent board of trustees. The first would be known as the Public Interest News Gathering Trust (PING Trust); the second would be known as the Create Australian Screen Trust (CAST).

These arrangements would be implemented through legislative amendments to the BSA, the *Radiocommunications Act 1992* and other relevant legislation. The Government considers that a portion of the proceeds of the spectrum allocation process could be set aside for this purpose, with a portion allocated to the PING Trust and another portion to the CAST. More detail on the proposed operation of these trusts is set out in chapter five, and in that chapter the Government seeks comments on the proposed model.

There are likely to be transition costs incurred by the free-to-air television sector to implement the new spectrum arrangements. A contribution to these costs could be made from the proceeds of the spectrum auction.

## Legislated expectations on SVOD businesses, AVOD businesses and the national broadcasters

Earlier this year, the Government reviewed the current arrangements for Australian screen content, starting the process by issuing an options paper prepared by Screen Australia and ACMA. An outcome of the review was the Government’s decision to request that SVOD services above a certain size report to ACMA on Australian content acquisition.

The Government now proposes that a formal investment obligation could be imposed, with provisions in the BSA that:

- set an expectation that SVODs and AVODs invest a percentage of their Australian revenue in Australian content, in the form of commissions, co-productions and acquisitions;
- make Australian content discoverable to Australian audiences;
- require SVOD and AVOD businesses to report to ACMA each year on performance against those expectations; and
- give the Minister the power to implement formal regulatory requirements on an SVOD or AVOD service that has failed to meet expenditure expectations for two consecutive years.

The Government also proposes to impose an explicit requirement for the ABC and SBS to provide new Australian programming. This measure recognises the key role that the national broadcasters play in the commissioning and broadcast of Australian content, and seeks to codify the expectation that they continue to fulfil this role.

The purpose of these proposed provisions would be to support Australian audiences having access to Australian content, regardless of whether they prefer to watch free-to-air television, subscription television or BVOD, AVOD or SVOD services.

## The benefits of these proposals

The potential public policy return from this new regulatory framework is significant.

- By being relieved of the commercial broadcasting tax, the holder of a new licence would have a more sustainable business model; in turn this could assist the broadcasting sector to continue to deliver key public policy outcomes, including the provision of public interest journalism and support for Australian content.

- A shift to more efficient broadcasting technologies and the use of less spectrum to deliver services could deliver transmission cost savings to broadcasters in the long term.
- Multiplex sharing by broadcasters could enable the return of a significant amount of spectrum which could be reallocated to different uses, such as mobile telecommunications. A proportion of the revenue obtained through this reallocation would be set aside by Government to fund public policy initiatives to support the Australian media and production sectors.
- A key cost burden on regional broadcasters would be reduced because they would be eligible to seek assistance towards the cost of regional news services under the PING Trust.
- Cost burdens on broadcasters (and other services who commission Australian content) may be reduced because additional funding towards the cost of content (children's, documentary and drama) would be available under CAST.
- The rebalancing of Australian content obligations would support the provision of Australian content across the range of services that audiences are using to access programming, delivering better outcomes for consumers and providing stability for the content production sector.

## An opportunity to present other proposals

The green paper process offers an opportunity for all broadcasters to put forward other proposals which, in their view, would make their businesses more sustainable. The Government invites industry participants and other stakeholders to put forward proposals that would contribute to the objective of a sustainable Australian broadcast television sector.

# Make your views known

The Government is seeking views from interested parties on the proposed reform agenda for Australia's media industry over the period from November 2020 to May 2021. The Department of Infrastructure, Transport, Regional Development and Communications will be accepting input as submissions.

The proposals outlined in this paper are for consultation purposes and no final decisions have been made by the Government on the reforms presented.

## Making a submission

The Department is welcoming written submissions on the specific questions raised in this paper, and other matters relevant to the reform agenda for Australia's media industry. Submissions should be received by 5:00 PM Australian Eastern Standard Time, Sunday, 23 May 2021.

Written submissions can be lodged by:

**Website:** [www.communications.gov.au/have-your-say/new-rules-new-media-landscape-modernising-television-regulation-australia](http://www.communications.gov.au/have-your-say/new-rules-new-media-landscape-modernising-television-regulation-australia)

**Post:** Content Division  
Department of Infrastructure, Transport, Regional Development and Communications  
GPO Box 2154  
CANBERRA ACT 2601

Submissions should include the respondent's name, organisation (if applicable) and contact details. Submissions with no verifiable contact details will not be considered. Questions about the submission process can be directed to [content@communications.gov.au](mailto:content@communications.gov.au).

## Publication of submissions and confidentiality

All submissions will be made publicly available by the Department unless a respondent specifically requests that its submission, or a part of its submission, be kept confidential and acceptable reasons are provided. The Department is subject to the *Freedom of Information Act 1982* and submissions may be required to be disclosed by the Department in response to requests made under that Act.

The Department reserves the right not to publish any submission, or part of a submission, which in its view contains potentially defamatory material, or for confidentiality reasons.

## Chapter one: why media matters

### Snapshot

- A vibrant media industry is essential for the economic and cultural health of the nation.
- Competitive and robust media markets generate jobs, connect local communities, underpin democratic institutions and shape our national identity.
- Digital technologies have reshaped media supply chains, revenue flows and value creation over the past decade.
- Many of these changes have been positive and include new business opportunities, efficiencies in advertising and more compelling content options for consumers.

Competitive and robust media markets are essential for a fully functioning democracy and for an engaged and informed community. These benefits accrue at an individual, local, regional and national level, and are described below in four categories.

### Employing Australians and driving economic growth

The Australian media sector is a significant segment of the domestic economy, employing approximately 90,000 Australians in 2018–19.<sup>1</sup> It generated an estimated \$47.7 billion of domestic revenue through advertising and consumer spend in 2019.<sup>2</sup> The entertainment and media sector also provides a platform for other sectors of the economy to advertise, which has a significant flow-on effect for the broader economy. For example, a 2016 report by Deloitte estimated that Australian screen content results in around 230,000 tourists visiting or staying in Australia each year, worth an estimated \$725 million in tourism expenditure.<sup>3</sup>

### Informing citizens and underpinning our democratic institutions

Access to diverse sources of high-quality information and public interest journalism is integral to the health and functioning of Australia's democratic systems. The trusted news provided by the media industry assists Australians to hold governments, public officials and corporations to account and to participate in informed public debate.

Access to a diversity of voices also provides a critical safeguard against undue influence over Australia's public discourse and democratic system, while effective competition enhances the incentive for media businesses to produce high-quality, accurate news and journalism. A strong, independent media sector, capable of producing trusted public interest journalism, is also an important countermeasure to the increasing proliferation of disinformation.

### Contributing to national identity and a sense of shared experience

Screen content that has a strong focus on Australian stories, voices and perspectives remains popular with consumers and helps to reflect Australia both to itself, and to the rest of the world. It can support cultural identity, social cohesion and points of connection between Australian citizens.

<sup>1</sup> Australian Bureau of Statistics, 2018–19, *Australian Industry*, cat. no. 8155.0.

<sup>2</sup> PwC (2020), *Global Entertainment and Media Outlook 2020-24*. This figure includes revenue generated in Australia by internationally owned entities, and does not include revenue generated by Australian entities overseas.

<sup>3</sup> Deloitte Access Economics, 2016, *What are our stories worth? Measuring the economic and cultural value of Australia's screen sector*, pg. 3.

However, due to Australia's small market, this content can be financially risky to produce, with costs often not able to be recouped in the domestic market. Radio, newspapers and the broader arts sector also play a role in articulating Australian values and stories, which help shape the cultural fabric of our society.

## Providing a voice for diverse communities and minority groups

Broadcasting services play an important role in reflecting the diversity of Australian culture.

- SBS broadcasts radio in 68 different languages, which helps to inform migrant communities of local and broader issues. Community radio services similarly provide ethnic communities with access to information relevant to their cultural background with an Australian perspective.
- National Indigenous Television (NITV) is an Australian free-to-air television channel on SBS that broadcasts programming produced largely by Indigenous Australians. First Nations-managed media services also provide access to locally relevant information services and support social and economic development.
- The Radio Reading Network represents community media serving Australians with a print disability, comprising 17 radio stations nationally and digital radio services in Melbourne, Adelaide, Perth and Brisbane.

## Chapter two: the state of the media industry

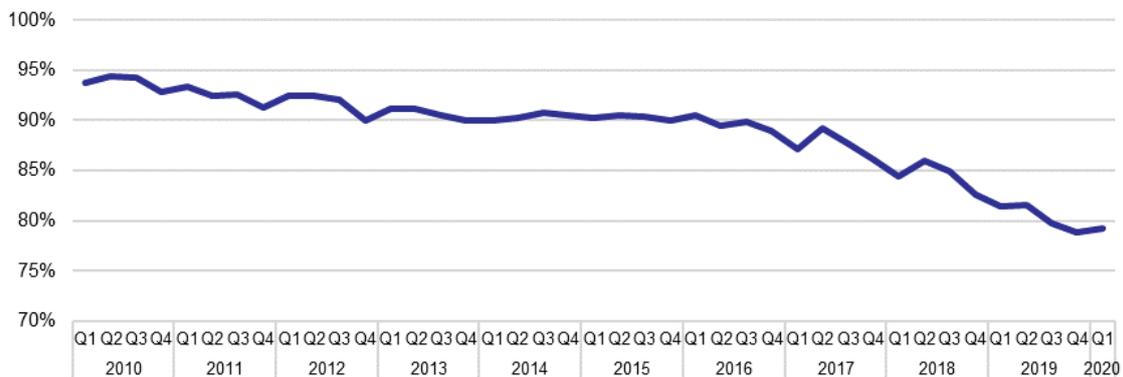
### Snapshot

- Digital disruption has fractured media business models and rendered many of our regulatory settings obsolete. Pressure has been most acute for broadcasters and publishers.
- These are the entities that—in concert with an independent content production sector—produce, commission and distribute the content from which public benefits are derived: local content; Australian programming; and public interest journalism, among others.
- With declining revenues, rising costs and burdensome regulation, the traditional media sector’s capacity to continue providing these benefits is being challenged. COVID-19 has exacerbated and accelerated these trends and reinforced the need for reform.

### Media markets are in a period of sustained and significant change

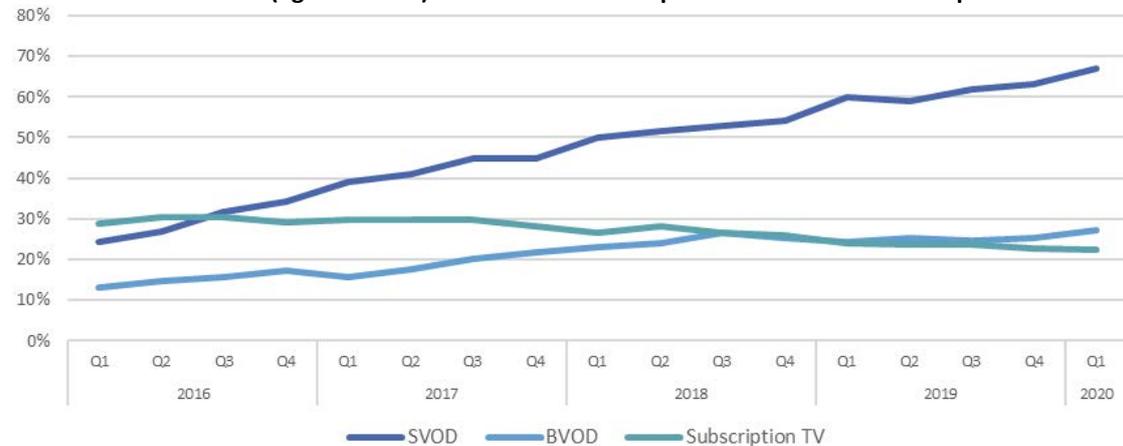
Over the past two decades there has been a fundamental shift in the way audio-visual media content is produced and consumed, with audiences shifting to online and on-demand content and away from linear consumption. These trends are highlighted in Figures 1 and 2.

**Figure 1: Percentage of Australians (aged over 14) who viewed free-to-air television over a seven day period**



Source: Roy Morgan Single Source, Australians aged 14+, January 2010—March 2020 (Rolling Quarters).

**Figure 2: Number of Australians (aged over 14) who used a content platform over a four week period**



Source: Roy Morgan Single Source, Australians aged 14+, January 2016—March 2020 (Rolling Quarters).

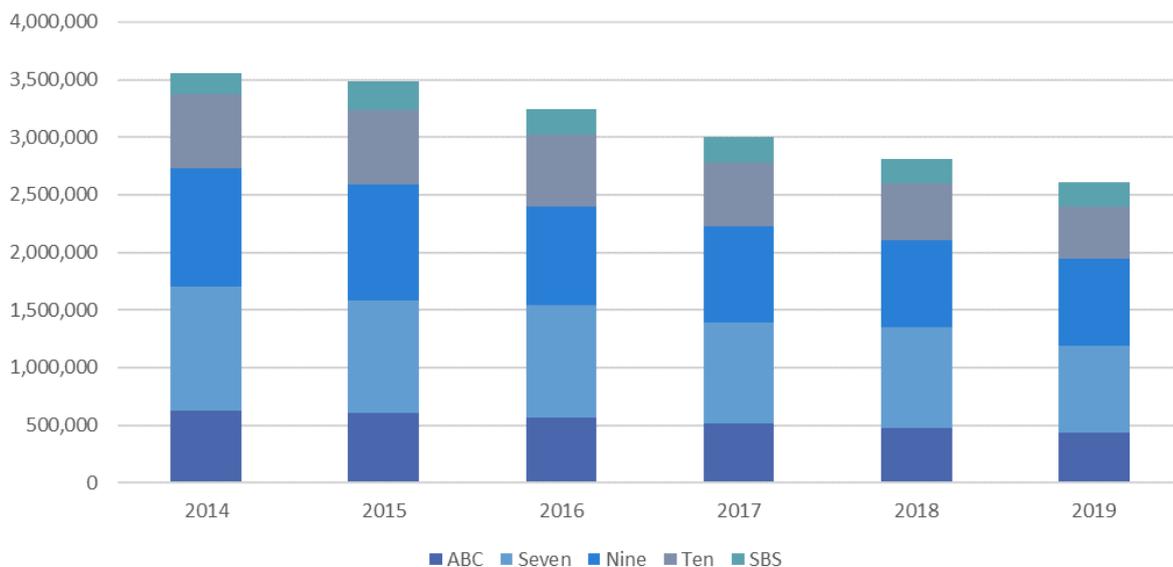
In many respects, these changes have been positive.

- SVOD services are providing viewers with more choice over the type and volume of content they consume, and when and on what devices they consume it.
- The abundance of content available online has improved access to a diverse range of news sources and content from across Australia and the world, including in regional markets.
- Global SVOD platforms have provided Australian content producers with opportunities to expand into new markets.
- Digital technology has spurred innovation and encouraged efficiency in the media sector, including the creation of new platforms, experiences and business models.

However, there have also been significant challenges that have undermined the capacity of the Australian media to deliver positive outcomes for the Australian community.

The increasing popularity of digital platforms and the growth of SVODs have eroded the profitability and audience of traditional broadcasters, impacting their ability to deliver public policy objectives. The audience for linear free-to-air television has declined at an annual rate of 6 per cent from 2014 to 2019, as highlighted in Figure 3.

**Figure 3: Free-to-air average prime time audience (including multichannels)**



Source: OzTAM 5 City Metro | Consolidated 7 | Average Audience | 1800-2230 excludes Community TV. Data copyright @ OzTAM 2020. The Data may not be reproduced, published or communicated (electronically or in hard copy) in whole or part without the prior consent of OzTAM.

The digitisation of the advertising market has significantly increased the supply of advertising inventory and created opportunities for better targeting and audience analysis on online platforms, decreasing the attractiveness of traditional media for advertisers.

A shift to digital news consumption has led to a greater volume of content available for Australians. However, the low willingness of consumers to pay for online content, and a shift in advertising revenue to online platforms, is impacting the revenue of news organisations and leading to consolidation and losses.

- Newspapers have experienced a fall in revenue from \$3.2 billion in 2015 to \$2.3 billion in 2019, predominantly due to a steep decline in advertising revenue.<sup>4</sup>
- The advertising revenue earned by metropolitan commercial television broadcasters through agency bookings has declined by 31.8 per cent over the decade to September 2020 in real terms,<sup>5</sup> and Network Ten has gone into administration twice in the past 30 years.

While television broadcasters are offering BVOD services, the advertising revenue gained from BVOD does not yet make up for the losses from their current broadcast services. Total television advertising revenue in the second half of 2019 (free-to-air, subscription and BVOD) totalled \$1.95 billion, a decline of 5.9 per cent compared to the prior corresponding period, despite an approximate 43 per cent increase in BVOD revenue.<sup>6</sup>

## While media disruption isn't new, digital media is creating unique pressures

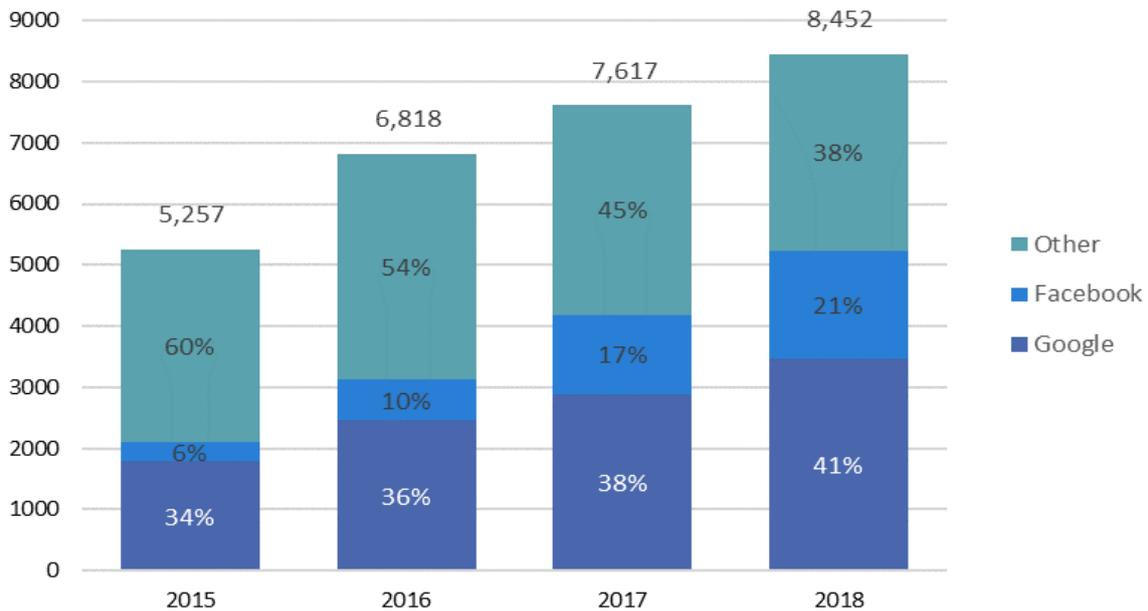
Digital disruption does not, in and of itself, justify Government intervention. Change and upheaval are a key part of a healthy economy, critical for the development and maintenance of competitive markets, fostering innovation and rewarding investment. What has been experienced over the past decade, and has challenged the achievement of public policy outcomes, has been a fundamental shift in the way 'value' is generated in media markets.

- Digital technology has lowered the costs of advertising and enabled targeting and personalisation. Online media has also significantly expanded the supply of advertising inventory, which is increasingly managed by automated ad tech services, allowing for quick and efficient transactions.
- The result has been a steep decline in advertising prices, and greater demand for targeted advertising solutions which traditional 'one-to-many' media businesses have fewer opportunities to provide. Consequently, the quantum of advertising revenue able to be earned on a given volume of impressions, particularly untargeted impressions, is now much lower, and many businesses supplying advertising opportunities now operate on much lower margins.
- While the Australian advertising market is growing, this 'value capture' has shifted from the traditional creators and aggregators of content (broadcasters and publishers) to the newer 'conduits' for accessing content and reaching those consumers: digital platforms. The growth of Google and Facebook in particular is highlighted in Figure 4.

<sup>4</sup> PwC, *Global Entertainment and Media Outlook 2020-24*.

<sup>5</sup> Standard Media Index. Real figures have been calculated using the Australian Bureau of Statistics Consumer Price Index.

<sup>6</sup> ThinkTV, *Total TV market records \$1.95 billion in advertising revenue for first half of FY2020*, 5 February 2020.

**Figure 4: Australian online advertising expenditure, 2015-18 (AUD millions)**

Source: Venture Consulting.

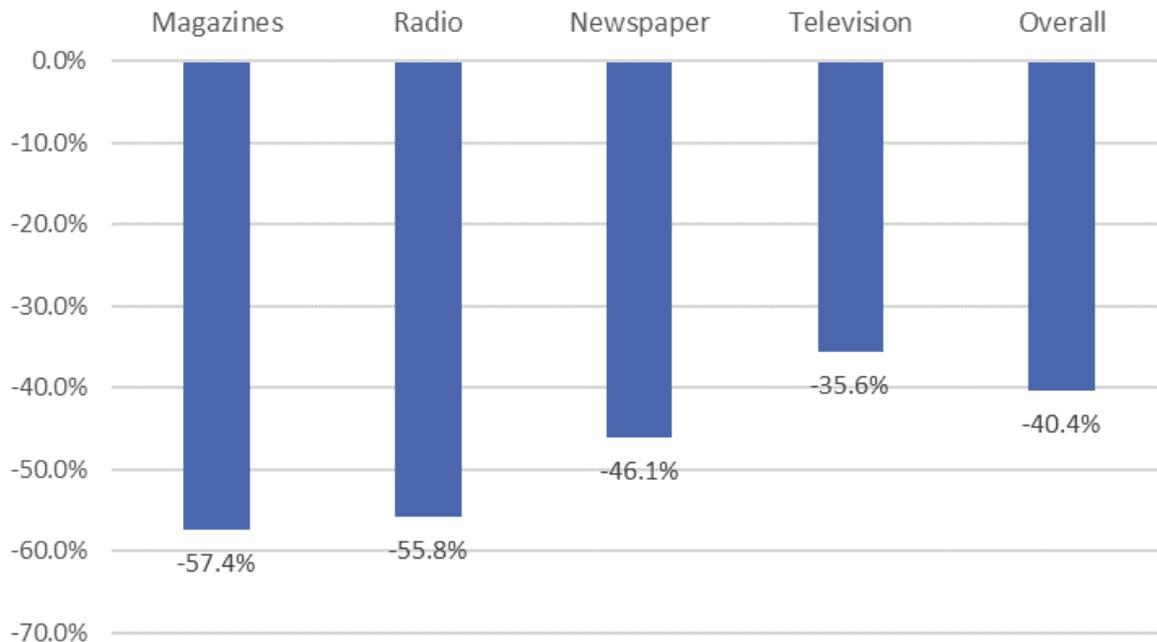
These changes represent a challenge to the sustainability of media content services under the current regulatory framework and, in turn, to the achievement of key media policy outcomes related to the provision of local Australian content and Australian (as opposed to global) public interest journalism.

As a consequence, there are two intertwined challenges that confront industry and Government.

- *An industry challenge*—over the longer term, the Australian media industry is on unsustainable financial footing. Advertising-based business models are unable to deliver the returns necessary to justify investment in many genres of media content, and few subscription-based providers of news content have been able to build businesses that are financially robust.
- *A regulatory policy challenge*—the regulatory levers that are currently used to achieve social, cultural and economic policy outcomes—diversity of voices, provision of local content (especially in regional communities), investment in Australian content—are all targeted at the existing media businesses that are the most challenged.

## These pressures have been exacerbated and accelerated by COVID-19

The economic shock resulting from the COVID-19 pandemic has further exposed the fragility of the traditional news and broadcasting sectors. Advertising revenues dropped sharply during the peak of the pandemic, as highlighted in Figure 5. Despite a lift in audiences due to isolation, the traditional media sector's heavy reliance on advertising exacerbated the revenue declines.

**Figure 5: Year-on-year change in advertising expenditure by sector, May 2020 vs. May 2019**

Source: Standard Media Index.

In response, the industry has pursued efficiencies and service reductions to try to manage the immediate fallout.

- Australian Community Media suspended its non-daily regional newspapers, ceased some print operations and stood down personnel until the end of June 2020.<sup>7</sup> Some of these changes have since been made permanent.
- On 1 April, staff at Southern Cross Austereo (SCA) were required to take a 10 per cent pay cut and a reduction in leave entitlements.<sup>8</sup> Staff have since returned to full pay.<sup>9</sup>
- On 1 April, News Corp announced it would temporarily cease production print runs of 60 local papers in New South Wales, Victoria, Queensland and South Australia.<sup>10</sup>
- On 7 May, it was reported that Seven West Media had asked the majority of its staff to work four day weeks, effectively a 20 per cent pay cut, and cut 50 jobs in its sales team.<sup>11</sup>
- Foxtel announced a series of job losses over the first half of 2020, with 200 made redundant and 140 stood down on 1 April, a further 70 made redundant on 20 April, and approximately 20 made redundant from Fox Sports News in March. It is reportedly seeking to reduce its full time workforce from 2500 to under 2000 to better compete with SVOD services.<sup>12</sup>
- In early May, BuzzFeed announced it would close its Australian operations.<sup>13</sup>

<sup>7</sup> Australian Community Media, 'Daily newspapers and agricultural titles not affected as ACM stands down four print sites, non-daily papers', *The Canberra Times*, 14 April 2020.

<sup>8</sup> H Blackiston, 'SCA rolls out pay cuts and enforced leave' *Mumbrella*, 25 March 2020.

<sup>9</sup> V Kelly, 'JobKeeper, executives' salaries and pay cuts: What you may have missed in radio's annual reports', *Radio Today*, 6 October 2020

<sup>10</sup> ABC, 'News Corp to suspend 60 community newspapers across the country because of coronavirus', *ABC*, 1 April 2020.

<sup>11</sup> M Mason, 'Seven axes 50 sales staff in cost cutting effort', *Australian Financial Review*, 7 May 2020.

<sup>12</sup> Z Samios, 'Foxtel axes another 70 jobs in latest restructure', *Sydney Morning Herald*, 30 April 2020.

<sup>13</sup> Z Samios, 'BuzzFeed to close Australian, UK news operations', *Sydney Morning Herald*, 14 May 2020.

- In May, it was estimated that 157 newsrooms had closed in the previous 18 months in Australia.<sup>14</sup>
- In August, Network Ten announced that it would make staff redundant as it centralised its news programming in Melbourne and Sydney to reduce costs.<sup>15</sup>

There have been some signs of correction in advertising markets as lockdowns and restrictions have eased. The industry-wide revenue fall of 17 per cent between August 2019 and August 2020 was an improvement compared with the equivalent May figures, which saw a decline of 40 per cent.<sup>16</sup> Nevertheless, the COVID-19-driven downturn is likely to have continuing implications for the sustainability and viability of many media businesses.

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<sup>14</sup> L Birch, 'Australian media closures spark fears important local stories will not be told', *ABC*, 21 May 2020.

<sup>15</sup> A Meade, 'Kerri-Anne Kennerley to leave Channel 10 as network announces mass job cuts', *The Guardian*, 11 August 2020.

<sup>16</sup> Standard Media Index.

# Chapter three: a new class of television broadcasting licence

## Snapshot

- A new commercial television broadcasting licence that provides a pathway for commercial television broadcasters to operate using less spectrum, lowering costs and imposing fewer regulatory obligations.
- The new licensing arrangement would be implemented by choice. Existing commercial television broadcasting licensees would be able to:
  - make a one-time, irrevocable choice to reduce their regulatory burden, provided they agree to transition to using less spectrum at a future point; or
  - continue to operate under their existing commercial television broadcasting licence, and remain subject to existing regulations.
- This arrangement has been designed to better reflect contemporary consumption habits, addressing unequal regulatory obligations.

## Proposal: a new licence for commercial broadcasters

Media reform must address the significant regulatory disparity faced by traditional media organisations when compared to their online competitors. It is unsustainable to continue to seek key policy outcomes exclusively from the part of the industry that is under the greatest financial pressure.

However, it is also important that reform seeks to maximise policy outcomes that are in the public interest. To this end, the Government is proposing to offer existing commercial television licensees a choice:

- make a one-time irrevocable choice to transition to a new commercial television broadcasting licence ('new licence'), without a commercial broadcasting tax, on the condition that the licence holder will move, at a future point, to a spectrum licensing model that involves the use of shared multiplexes;

or, alternatively

- continue to operate under their traditional licences.

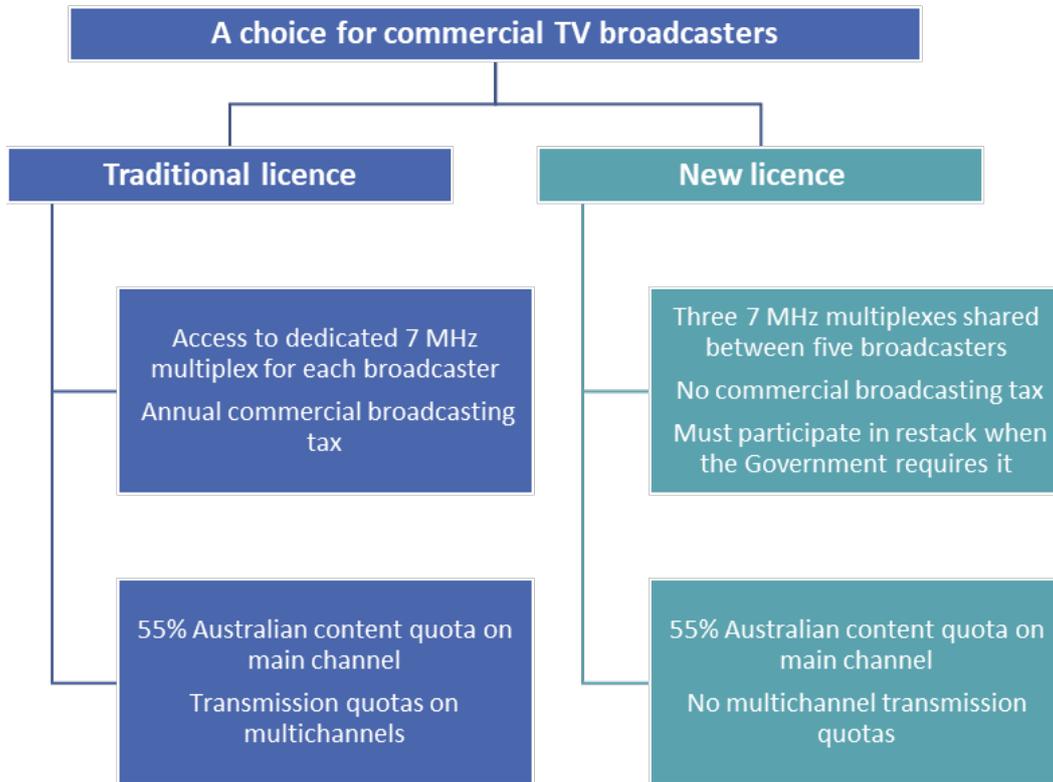
The new licence would offer a pathway to deregulation, with some existing regulatory obligations on commercial television broadcasting licensees removed:

- no commercial broadcasting tax would be charged; and
- no obligation to meet an Australian content requirement on their multichannels.

However, all commercial television broadcasting licensees would continue to be required to meet the Australian content requirements on their primary channels (55 per cent of programming between 6 am and midnight), and the new more flexible sub-quota arrangements to be introduced from 1 January 2021.

The transition to a new licence would be optional; commercial television broadcasters would not be required to shift to a shared multiplex. Commercial television broadcasters that want to operate under their existing licences would continue to be subject to the existing regulatory framework.

Figure 6: Comparison between a traditional licence and the proposed new licence.



### Commercial broadcasting tax relief would be available as soon as a new licence is chosen

Following the passage of enabling legislation, each commercial television broadcasting licence holder would be able to elect to transition its licence to a new licence by advising ACMA, in writing, of their intention to do so. Regulatory relief would be provided immediately following this nomination, including relief from the commercial broadcasting tax.

Broadcasters would be able to elect to transition at any time. However, once they made an election to take up a new licence, they would not be able to revert back. ACMA would work with affected broadcasters to optimise spectrum efficiency, which would be contingent on the number of broadcasters that opted in.

### Spectrum reform and the implementation of additional media sector supports would require two commercial television broadcasters to elect to take up a new licence in each market

Once two commercial television broadcasting licence holders have elected to transition to a new licence in each commercial television licence area, the Government would then:

- mandate that the ABC and SBS also move to a shared multiplex arrangement. This would enable broadcasters to participate in enhancing the public policy return from the revised broadcast spectrum management framework, as discussed in chapter four; and
- move to establish and implement measures to support the Australian media sector, as canvassed in chapter five, including the Create Australian Screen Trust (CAST) and the Public Interest News Gathering (PING) Trust.

For the changes to spectrum allocation and the move to shared multiplexes to be achievable, it would be necessary for at least two commercial free-to-air broadcasters to elect to transition in all their metropolitan markets. Because

metropolitan and regional spectrum licence areas adjoin each other, and therefore spectrum planning needs to be coordinated across regional and metropolitan areas, it is likely that for the changes to proceed it would also be necessary that in the aggregated regional markets at least two licensees elect to transition to a new licence.

If a sufficient number of metropolitan and regional licensees do not elect to move to a new licence and share multiplexes then the implementation of CAST, the PING Trust, and the sharing of spectrum by the national broadcasters are unlikely to be progressed.

This is because the realisation of the digital dividend is dependent on commercial free-to-air broadcasters and the national broadcasters in each licence area moving their services on to three multiplexes. If only one commercial broadcaster opts in, then there would be insufficient spectrum available to realise a digital dividend, and to allocate that spectrum via auction for other uses.

## New licences would reduce the burden on broadcasters, but would not remove all regulations

While these measures would be deregulatory, broadcasters that transition to a new licence would remain subject to a number of ‘core’ obligations:

- The majority of the standard conditions set out in Schedule 2 of the BSA would continue to apply, and licensees would operate within the licensing and planning framework applicable to all broadcasting services under Part 3 of the BSA.
- Licensees would continue to operate under a co-regulatory model for content regulation, which is based on industry codes of practice.
- The current requirements for regional commercial television broadcasting licensees to provide material of local significance would continue to apply.

This is a non-exhaustive list of the elements of the current regulatory framework that would continue to apply, however this would be further developed and refined through the consultation process.

The moratorium on the allocation of any additional commercial television broadcasting licences would continue. The Government would not allocate a fourth commercial television licence in either metropolitan or regional licence areas.

## Challenges facing regional commercial broadcasters

A diverse and competitive Australian media market is a key goal of the Government’s media reform agenda and a plurality of independent and robust news media ‘voices’ is critical to supporting informed public debate and a healthy democracy. Notwithstanding the importance of that objective, the Government recognises the particular challenges experienced by regional commercial television broadcasters.

Regional commercial broadcasters have been vocal about the future sustainability of their businesses and have made public arguments that they should be permitted to merge, with three operators consolidating into one entity in each of the regional markets where there are presently three licensees.

The Government believes that the measures proposed in this green paper would help regional commercial broadcasters be more sustainable: they would pay no commercial broadcasting tax and they could access funding towards the costs of producing their local news services. That being said, this green paper process offers an opportunity for television broadcasters—regional and metropolitan—to put forward other proposals which, in their view, would make their businesses more sustainable.

While the Government has put forward a number of proposals in this green paper, it also invites other ideas from industry participants and other stakeholders that could contribute to the objective of a sustainable Australian media sector.

## Rationale: our regulatory assumptions are outdated

The Government's proposal recognises that the current regulatory framework is outdated. The BSA is a legacy of an industry structure that existed at the time the legislation was drafted in the early 1990s.

- Free-to-air broadcasters were the dominant and most profitable audio-visual platform, and the subscription television industry had not yet emerged.
- There were significant barriers to entry in the content market, including both regulatory barriers and the scarcity of spectrum, which underpinned the market power of commercial broadcasters and gave rise to public policy obligations in return.
- The broadcasting licence framework did not contemplate, nor was it designed to deal with, the internet, and in particular, the online delivery of audio-visual content.

While still significant, terrestrial broadcasting services now exist in a far more crowded and contested market, with BVOD, SVOD and AVOD services and the digital platforms (many of them global) offering professionally-produced content and continuing to increase their presence.

## Implementation: long term reform delivering significant returns

Transitioning to the new licence framework would be complex. More detail on possible timings is provided in chapter eight. However, the potential benefits would be significant.

- The reduction in regulatory burden would enhance the sustainability of commercial broadcasting services, assisting this sector of the industry to continue to deliver key public policy outcomes, including the provision of Australian content.
- The changes to transmission arrangements would reduce the broadcasters' dependence on radiofrequency spectrum for reaching consumers while maintaining the range of services available to consumers.
- Multiplex sharing by broadcasters would enable the return of radiofrequency spectrum that could be reallocated to high value uses, such as wireless broadband.
- Multiplex sharing by broadcasters would likely reduce broadcasters' transmission costs in the long run, acknowledging that there are existing long-term commercial agreements currently in place.

### Consultation questions

- 3.1 Is the deregulatory benefit on offer sufficient to encourage commercial television broadcasters to take up this offer?
- 3.2 Are there any other features which could attach to a new licence that would assist in broadcasters transitioning to a new and more sustainable business model?
- 3.3 What elements of the existing regulatory framework should continue to apply?
- 3.4 Should the new licence arrangements be uniform for all commercial television broadcasting licensees, or should there be differences for metropolitan and regional / remote broadcasters?
- 3.5 When do you think the new licence framework should come into effect?
- 3.6 What further measures should be considered that would assist regional commercial broadcasters in remaining sustainable?

# Chapter four: promoting the public interest derived from spectrum

## Snapshot

- Spectrum is a critical input for Australia’s digital economy and our future productivity and growth.
- There is an opportunity to rationalise the spectrum currently used for television broadcasting and to realise a second digital dividend.
- A transition to more spectrally efficient broadcasting arrangements would assist free-to-air broadcasters to transition to a more sustainable business model.
- This would deliver costs savings for broadcasters in the long run, and assist them to invest in quality Australian content.

## Proposal: reshaping an industry and realising a digital dividend

Under the proposed changes, existing broadcast licensees could commit to reducing their spectrum usage and sharing multiplexes.

At present, each of the five free-to-air television services operating in any given area use their own dedicated multiplex to broadcast their main channel and multichannels.

- Each multiplex utilises a 7 MHz channel of spectrum which is used to provide all of the services of the relevant broadcaster.
- Additional 7 MHz channels are used to provide infill coverage for each broadcaster’s main service, although the content remains the same.
- Allowing for necessary planning and interference management requirements, a total of 42 MHz of Very High Frequency (VHF) and 168 MHz of UHF spectrum is currently used for television broadcasting in Australia.<sup>17</sup>

Television broadcasters that opt in to a new licence would consolidate their services on to a shared multiplex, which would reduce the overall amount of spectrum required for television broadcasting.

- The realisation of a viable digital dividend is likely to require the consolidation of the present five multiplexes on to three shared multiplexes as well as using the additional spectrum that is planned for television broadcasting but which is presently unused (except for 14 MHz in Melbourne and 7 MHz in Adelaide used for temporary community television services that are soon to transition from spectrum use).
- It is likely that a rationalisation of broadcasting spectrum would yield at least 84 MHz of UHF spectrum. This spectrum would be auctioned for other uses, such as mobile broadband.

To enable a digital dividend of 84 MHz of UHF spectrum, at least two commercial television broadcasting licence holders in each licence area would need to enter into a shared multiplex arrangement.

<sup>17</sup> Television broadcasting uses spectrum in two frequency bands known as the Very High Frequency (VHF) and Ultra High Frequency (UHF) bands. Based on the historical television standards used in Australia, the spectrum allocated for television broadcasting is divided into spectrum channels with a bandwidth of 7 MHz. Spectrum in the VHF range (174–230 MHz) is referred to as channels 6–12 and spectrum in the UHF range (526–694 MHz) as channels 28–51. The amount of VHF and UHF spectrum currently used for broadcasting includes unallocated channels.

As noted in chapter three, if two commercial television broadcasting licensees in each licence area agree to transition to a new licence, then the Government would mandate that the ABC and SBS move to the same arrangements along with the commercial broadcasters. The national broadcasters are a central part of the media ecosystem and the realisation of 84 MHz of spectrum would require the ABC and SBS to undertake the same transition in relation to spectrum use as the commercial broadcasters.

The final configuration for sharing multiplexes would be developed in close consultation with industry. There are various ways in which this could occur, depending on the number of commercial television broadcasters that opted to take up the new licence in each licence area and choices regarding technology standards and compression techniques.

## Service equivalence would be an objective but broadcasters would have flexibility in terms of the services they provide

More efficient compression techniques enable the provision of more data using less spectrum. It is expected broadcasters would be able to provide an equivalent number and picture quality of services under the new multiplexing arrangements as they do currently, if all broadcasters elect to transition to a new licence. However, broadcasters would retain the flexibility to determine the number of and content on the services that they offer, provided they adhere to the relevant regulatory requirements for the content, including in relation to consumer protection, advertising restrictions and provision of certain types of content, among other matters.

## Transition costs would be carefully considered

The process of consolidating existing television services on to three multiplexes and releasing spectrum for allocation for other purposes would have an impact on both consumers and industry. These impacts would depend on choices made with respect to the transition. Three key decisions would be the:

- number of multiplexes available for television broadcasting;
- compression techniques adopted; and
- timing for the restack and replanning of television channels.

Decisions on these issues would need to take account of key policy objectives such as minimising any consumer impact. No decisions would be made without extensive consultation, including with industry and consumer groups.

## Broadcasters would hold the multiplex transmitter licences, but they would have flexibility as to how their networks are run

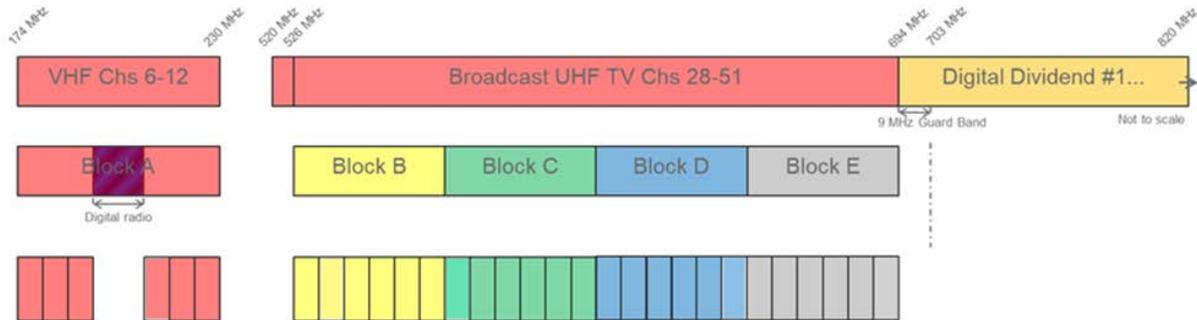
Commercial and national broadcasters would be allocated the multiplex transmitter licences on which their services will be provided. However, they would have the discretion to contract out the delivery of services as they see fit, as they presently do. This could involve the engagement of third parties to provide some or all of the distribution and transmission functions required to provide television services. There are existing contractual arrangements between broadcasters and transmission companies. These would need to be honoured, or mutually acceptable transition agreements would need to be negotiated.

## Rationale: modern broadcasting technology enables more efficient spectrum use

Spectrum is a finite and highly valuable resource. Free-to-air broadcasting was historically the primary way of reaching mass audiences with audio-visual content. Hence, a significant amount of spectrum was allocated to this purpose, reflecting the technology of the day. Extensive use of this valuable resource was reflected in the high broadcasting licence fees paid in the early 2000s: \$203 million for commercial television broadcasting licensees in 2001-02.<sup>18</sup>

The introduction of digital television in Australia provided broadcasters with the technical capacity to transmit several channels simultaneously within the same spectrum allocation that was previously used to transmit one analogue television channel. This is referred to as multichannelling, and is now used extensively by both the commercial and national broadcasters to offer additional content over their broadcast channels. The current usage arrangements for broadcasting spectrum are depicted in Figure 7.

**Figure 7: Current usage of TV broadcasting spectrum**



Australian broadcasters adopted the Digital Video Broadcasting—Terrestrial (DVB-T) transmission standard when they rolled out digital television. Commencing in 2001, using DVB-T, each 7 MHz channel has a throughput of about 23 Mbits per second, which can be divided between streams of audio and video in various combinations—for example, multiple Standard Definition (SD), High Definition (HD) TV programs and radio streams.

If broadcasters were to take up shared multiplex transmission arrangements, it could reduce their operating costs (for example, power, digital play-out and infrastructure maintenance). This would assist metropolitan and regional commercial television broadcasters to pursue a more sustainable business model for reaching consumers and enable them to invest in quality Australian content. It may also provide the national broadcasters with additional savings in their budget.

Pursuing a digital dividend in the 600 MHz band has international precedent. The favourable propagation characteristics of signals in the UHF band make it attractive to mobile network operators as a means to provide wide-area and in-building coverage across their networks.

- In the United States in 2017, 70 MHz (out of 84 MHz) of spectrum was reallocated from use by broadcasters to use for 5G mobile networks.
- In 2019, Canada auctioned 70 MHz (out of 84 MHz) of spectrum for 5G mobile services, using the same band plan to the USA.
- Mexico's forthcoming auction of the 600 MHz band will also use this band plan.

<sup>18</sup> Australian Broadcasting Authority, *Annual Report 2001-02*, pg. 45.

## Implementation: balancing transition costs with the gains from spectrum consolidation and reallocation

### Adoption of more efficient compression standards

The relative costs and impacts of transitioning to new spectrum and broadcasting arrangements would likely be minimised if broadcasters provided services using the existing DVB-T standards coupled with the MPEG-4 compression technique, which is already used by all broadcasters for a subset of their channels.

Under this arrangement, the five television networks in each relevant market could potentially be consolidated on to three multiplexes, and most household equipment and some broadcast transmission equipment would remain suitable for the reconfigured spectrum.

This would enable broadcasters to find savings in ongoing infrastructure maintenance and power costs. In this scenario, the content offering of the broadcasters on three multiplexes would remain at similar levels, although depending on how many channels they choose to operate there would be limited scope for any expansion in the number of services provided or the picture quality.

### Indicative timeframes

Subject to the outcomes of this consultation process, amending legislation would need to be drafted. If the legislation was to pass and come into force, and broadcasters were to take up the new licence, at that point, the Government, in conjunction with industry, could begin the process of developing the new channel arrangements and planning for the restack.

The choice of digital television standard and compression technique would have a significant bearing on the timing of this planning work and the overall restack timeframe. Assuming that all broadcasters elect to transition to a new licence and plan to use a combination of DVB-T and MPEG4 under the new arrangements, it may be feasible for ACMA to have completed its planning for the restack within 18 months to two years of the election by broadcasters.

While the restack process could commence at this point, it would be optimal if the spectrum auction took place at least 12 to 15 months later to provide product certainty for potential bidders. Under this scenario, consumers would be unlikely to see any impact on their television services until 2025.

For this reform process to proceed it will be necessary for:

- sufficient support for it to be indicated by industry and other stakeholders in response to this green paper and consultation process;
- legislation to be drafted and pass the Parliament; and
- a sufficient number of broadcast licence holders to elect to transition to a new licence.

If these things do not happen, it will not be possible for the Government to proceed with its proposal.

#### Consultation questions

- 4.1 Should Australia continue to operate digital television systems using the DVB-T standard and the MPEG-4 compression technique? Are there other options that should be considered?
- 4.2 How should the new multiplex transmitter licences operate? Should broadcasters be required to form a company for the purposes of holding the new multiplex licences?
- 4.3 How can the Government work with industry to minimise disruption for households during the proposed transition?

- 4.4 Is it important for free-to-air broadcasters to maintain the precise number and picture quality of channels currently offered?
- 4.5 Should the transition model prioritise the capacity for broadcasters to provide significantly more services, or services of a significantly higher audio-visual quality (such as UHD)?
- 4.6 What would the cost savings be for broadcasters? Over what period would these potential savings be realised?
- 4.7 What would be the impact on owners of transmission facilities?

## Chapter five: supporting broader media policy outcomes

### Snapshot

- This reform program would support policy initiatives that deliver value for the Australian public and enhance the sustainability of the media sector.
- Measures could include:
  - Additional support for the Australian production sector
  - Funding for news and journalism; and
  - Contribution to technology transition costs for broadcasters.

### Proposal: a portion of the proceeds from the auction of digital dividend spectrum would be set aside to support a stronger media sector and public policy outcomes

A transition to new spectrum arrangements for free-to-air television presents an opportunity to realise a second digital dividend through the auction of available spectrum. Based on previous auction results, the sale of spectrum could generate significant proceeds for Australian taxpayers.

The Government could make a percentage of the auction proceeds available, for the PING Trust and for CAST. These initiatives would deliver value for the Australian public and support the Australian media and production sectors. The Government envisages that these measures would be included in the legislation establishing the new regulatory framework for broadcast television. Although no decisions have been made about any particular measures, this chapter sets out a proposed approach and seeks comment on the proposals.

### Create Australian Screen Trust

The Government recognises that a vibrant and sustainable screen production sector generates substantial economic and cultural benefits for Australia, and it provides Australians with a sense of national identity.

Using a share of the spectrum auction proceeds, the Government could make a one-off deposit to capitalise CAST, which would:

- fund the creation and distribution of Australian content, giving additional support to the production sector; and
- be administered by Screen Australia, with recommendations for allocation of funding made to the Board of Screen Australia by the trustees of CAST, which would include people with experience across finance, business, distribution, content development, sales and acquisition sectors.

With up to ten per cent of the allocated capital available to be drawn down in any given year to support the production and distribution of documentary, drama and children's screen content, the trustees would be responsible for identifying projects to receive funding. The Government envisages that CAST would have two funding pools:

- one pool to support projects of cultural significance (that is, broadly the same criteria as are presently used by Screen Australia in determining whether to fund productions); and

- one pool to focus on making commercial investments (that is, investments where there is a prospect of commercial return).

Out of the first pool, CAST could provide either a grant (with no expectation of return) or an equity investment (which would entitle CAST to a return if the project was a financial success).

Out of the second pool, CAST could make equity investments. If CAST had made an equity investment and the investment generated a financial return, the amount returned could be retained by CAST to reinvest in future productions. Hence, to the extent that CAST made commercially successful investments, the funding pool would be sustained over a longer period than if CAST was only making grants.

## Public Interest News Gathering Trust

Public interest news journalism keeps communities informed and connected and the Government is committed to supporting a diverse and sustainable Australian news media sector, including public interest news journalism. Since April 2020, a range of measures have been announced by the Government to support the provision of news and journalism, including the \$55 million Public Interest News Gathering (PING) program and the development of the News Media Bargaining Code.

As noted in previous chapters, the Government recognises that:

- business models supporting the production of public interest journalism face significant challenges, which have been exacerbated and accelerated by the COVID-19 pandemic; and
- support of some form will be required to safeguard the ongoing provision and dissemination of journalism, particularly at a regional and local level.

As with CAST, the PING Trust could be capitalised with a portion of the proceeds from the sale of spectrum. The Trust could be administered by a dedicated PING trustee (an incorporated entity), with a board, including people with relevant industry and subject matter expertise. The board would have oversight of the Trust's operations, be responsible for funding decisions, and have regard for prevailing market conditions.

The remit of the PING Trust would include direct financing and equity investments, however the PING Trust would have no capacity to control the editorial content and the investments would be silent in terms of the operations of the supported entities.

The purpose of the PING Trust would be to provide a capital fund that could be drawn on over time for grant funding to support the provision of newspaper, radio, television and online news services in regional Australia. This focus on the needs of regional and remote areas of Australia recognises that the provision of news and journalism in these markets is particularly challenged.

Applications would be made via a competitive grant process assessed on merit and under which news media businesses would have an opportunity to seek access to funding. The PING Trust could consider applications from organisations to provide support the provision and distribution of existing public interest journalism across the television, radio, print and online media, new initiatives developed by existing businesses and new entrants into the market in regional Australia.

As the production of journalism is labour intensive, the Trust could also prioritise projects that directly employ journalists and provide opportunities for cadet journalists, and particularly those producing journalism such as court reporting and investigative journalism, rather than entertainment news or opinion journalism (where there is little evidence of market failure).

## Television technology transition

If broadcasters agree to share multiplexes to support the Government's objective to use spectrum more efficiently, it is likely there would be some costs associated with upgrading transmission equipment and technology.

The Government recognises that this is a particular challenge for the ABC, SBS and the regional commercial broadcasters, which face high transmission costs associated with serving regional and remote audiences. A contribution to these costs could be made from the proceeds of the spectrum auction.

### **Consultation questions**

- 5.1. Do you consider that revenue from the sale of spectrum could be used to support public policy initiatives for media?
- 5.2. Are there examples of best practice in providing sustainable and targeted support in other jurisdictions?

## Chapter six: harmonising Australian content obligations

### Snapshot

- The regulatory framework for Australian screen content obligations is inconsistent and distortionary, applying only to commercial and subscription television broadcasters and not to newer, popular SVODs or AVODs.
- The Government proposes that an Australian content investment obligation could be imposed on SVODs and AVODs that meet certain eligibility criteria.
- This investment obligation would protect and promote Australian content and ensure that Australians are able to view programs that enhance their understanding and experience of our national culture across all media platforms.

### Proposal: an Australian content investment obligation for SVOD and AVOD services

SVOD services have quickly grown to become one of the most popular ways for Australians to access screen content, offering audiences a wide range of international films and television programs, and the freedom to determine when to watch them. AVOD services, while less prevalent in the Australian market, have launched successfully in other territories<sup>19</sup> and are reaching large audiences and generating significant revenue.<sup>20</sup>

Despite their popularity, services operating in Australia or targeting Australian audiences are not obliged to provide Australian screen content, unlike commercial free-to-air and subscription television broadcasters. In this regard, our regulatory framework is inconsistent and unbalanced.

On 30 September 2020, the Government announced its decision to require large SVODs to report to ACMA on their investment in Australian content. The Government now proposes to build on this decision by designating an Australian content investment obligation for large SVODs and AVODs. This proposal would be expected to involve legislating the following provisions in the BSA:

- setting out a formal expectation by the Government on behalf of the Australian community as to the percentage of their Australian revenue which SVODs and AVODs are expected to invest in Australian content, in the form of commissions, co-productions and acquisitions;
- making Australian content discoverable to Australian audiences;
- requiring that SVOD and AVOD businesses report to ACMA each year about performance against those expectations; and
- providing the Minister with the power to implement formal regulatory requirements on an SVOD or AVOD service that failed to meet expenditure expectations for two consecutive years.

This proposal is intended to guarantee a minimum level of investment by these services in new Australian content and provide a more equitable regulatory framework where Australian screen content obligations apply to the wider market, rather than only to traditional broadcasters. It is consistent with the Government's stated intention to move towards an end state of harmonised regulation across content providers. It also introduces a mechanism to monitor and enforce the regulatory framework across all platforms.

<sup>19</sup> For example, Pluto TV, Peacock, Joyn and Tubi.

<sup>20</sup> 'Global AVOD Forecasts', Digital TV research, June 2020

The details of the minimum investment obligation would be informed by the consultation process for this green paper and by the reports provided by the SVODs to ACMA on their current levels of investment in Australian content. The potential application and scope of an investment obligation are set out below, although these should be considered to be indicative only and have been included to support the consultation process.

## Eligibility tests would apply the investment obligation to the large services operating in Australia

The investment obligation could apply to individual commercial SVODs and AVODs that meet a number of eligibility tests. These eligibility tests would relate to the purpose of the service, its degree of Australian presence, and the scale of the service. A number of possible tests are outlined in Table 1.

**Table 1: Potential eligibility tests for the investment obligation**

Eligibility test	Criteria
<b>Purpose of service</b>	<p>A content service whose primary purpose is to provide professionally produced scripted content delivered over the internet to Australians.</p> <ul style="list-style-type: none"> <li>Content is provided by a <b>content service</b> if the content is delivered by, or accessible to end-users using, the content service.<sup>21</sup></li> <li><b>Professionally produced content</b> is expected to capture content with higher quality production values where there is a likely involvement of a production team that may involve (but is not limited to) a writer, director, producer and/or support staff. This would differentiate professional films and television programs from home videos posted on YouTube or other social media.</li> <li><b>Scripted content</b> is content that incorporates scripted elements of character, theme and plot as part of a narrative structure.<sup>22</sup></li> </ul>
<b>Australian presence</b>	<p>An SVOD or AVOD service that offers its service in Australia for the purpose of serving Australian audiences.</p>
<b>Number of subscribers</b>	<ul style="list-style-type: none"> <li>An SVOD service that has a minimum number of paid Australian subscribers or an AVOD service has a minimum number of registered users.</li> <li>A threshold of one million subscribers would capture services with a significant number of subscribers, including popular SVODs such as Netflix and Disney+ and AVODs with one million registered users.</li> </ul>
<b>Gross Australian revenue</b>	<p>A service that accrues a minimum amount of gross revenue earned from its operations in Australia.</p> <ul style="list-style-type: none"> <li>A threshold of \$100 million per annum in Australian revenue would avoid the imposition of an unreasonable burden on start-ups and niche entrants to the market, and is expected to capture the larger and more popular SVODs and AVODs.</li> <li>Gross revenue would be limited to revenue derived from SVODs and AVODs and would exclude business functions unrelated to distribution of programming to Australian audiences.</li> <li>Revenues would include Australian subscriptions to commercial content services, total revenue from advertising sold and as well as other activities directly related to their SVOD and AVOD functions.</li> <li>Consideration would need to be given to how Australian revenue would be measured for services which bundle their offerings with other services.</li> </ul>

<sup>21</sup> See Clause 6 of Part 1 of Schedule 7 to the BSA.

<sup>22</sup> See Clause 6 of Part 2 of the Broadcasting Services (Australian Content) Standard 2016.

## Scope of the investment obligation

The investment obligation would require individual SVOD and AVOD services to invest a proportion of their gross Australian revenue in new Australian content. As a guide to a potentially appropriate level, the Government has recently announced that the expenditure requirement for subscription television broadcasting licensees and channels under the New Eligible Drama Scheme (NEDE) would be set at five per cent.

The obligation would require investment in new Australian content, but would not set any requirements for the genre of content. Service providers would have discretion to determine the genres of Australian programming that they acquired, commissioned or licensed.

As an alternative to meeting their Australian investment expectation by spending the required amount on producing or acquiring new Australian content, service providers could choose to contribute an equivalent amount of money to CAST.

## Regulatory obligations that could be triggered for those providers that fail to meet the designated level of investment

Under this proposal, the Minister would have the power to implement a formal expenditure obligation on SVOD and AVOD services that met the eligibility thresholds but did not meet their expected expenditure obligation over two consecutive years. This construction would be designed to provide SVOD and AVOD services with the opportunity to contribute to the commissioning and acquisition of Australian content, without facing any threat of regulatory sanction or penalty. However, if they fail to meet this threshold over a set period, the Minister would have the power to impose a formal regulatory obligation on the service.

## Key definitions

To the extent possible, the new investment obligation could incorporate established and understood definitions in the BSA and the *Broadcasting Services (Australian Content) Standard 2016 (ACS)*.

- A program is defined as an **'Australian program'** if it is produced under the creative control of Australians.<sup>23</sup>
- Under the NEDE scheme, a program is defined as **'new'** if the whole or a substantial part of the program has not been televised in Australia or New Zealand on a broadcasting service at any time before the expenditure is incurred. This definition could be adapted for SVOD and AVOD services to accommodate their approach to production and acquisition of Australian content.

## Exemptions

It is proposed that the obligation would not apply to an individual SVOD or BVOD owned by the holder of a broadcast licence or a subscription television licence.

## Rationale: SVOD services are popular but provide limited Australian content

The uptake of SVOD services is increasing for all households and all age groups in Australia.<sup>24</sup>

- In June 2020, Australian SVOD subscriptions totalled 16.3 million—a 32 per cent increase from the previous year.<sup>25</sup>

<sup>23</sup> *Broadcasting Services (Australian Content) Standard 2016*. Creative control is defined in Part 3 section 7 (2) of the Standard and relates to directors, writers, actors, production, post-production and other crew.

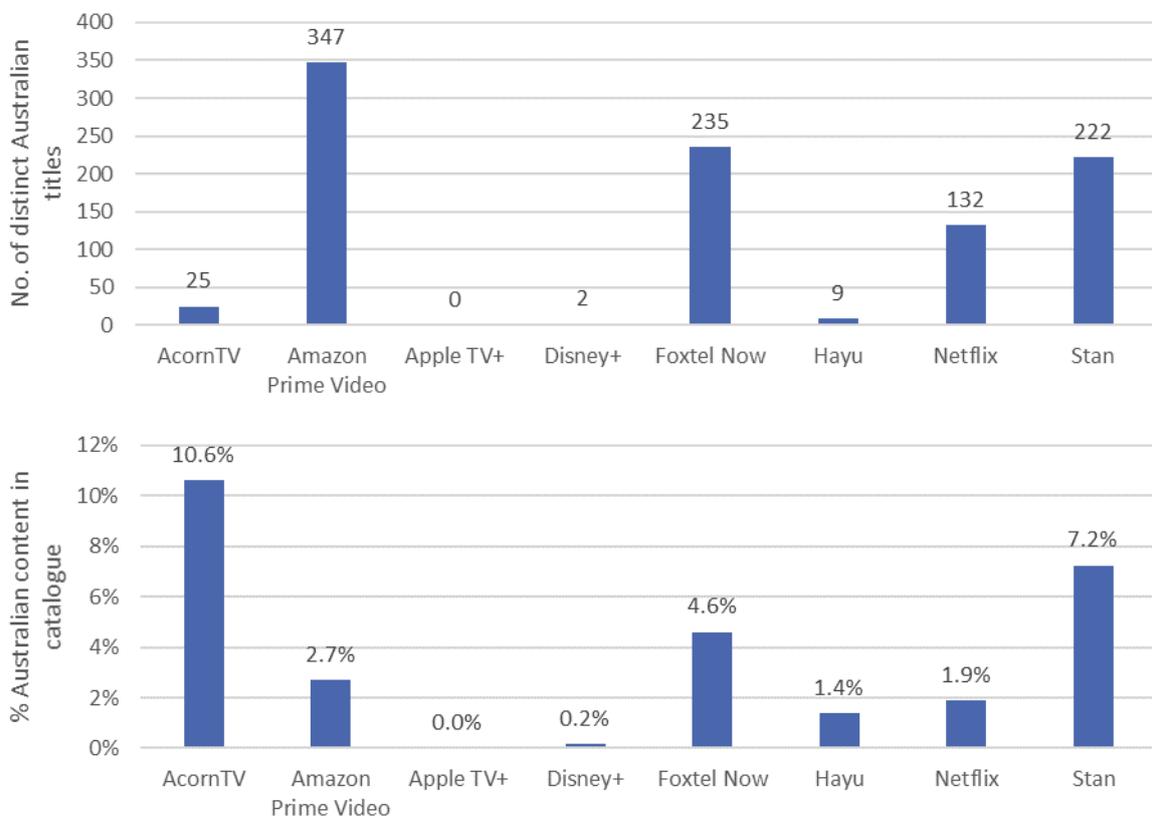
<sup>24</sup> Deloitte, *Media Consumer Survey 2018: Australian media and digital entertainment preferences—Seventh edition*, 2018.

<sup>25</sup> Telsyte, 'Media release: subscription home entertainment soars in Australia', 17 August 2020.

- Many subscriptions are used by multiple people, meaning the population reach is greater than the subscriber numbers suggest.
- 89 per cent of Australian adults who had used the internet in the six months to June 2020 watched online video content.<sup>26</sup>
- While Netflix is the most popular service, new SVOD services continue to enter the market and enjoy rapid growth.<sup>27</sup> The average number of subscriptions per household is 2.4, and the median is 2.0.<sup>28</sup>

While Australian audiences are increasingly using SVODs to access content, these online services provide relatively modest levels of Australian content as a proportion of their overall catalogues. This is shown in Figure 8 and Figure 9.

**Figures 8 and 9: Amount of Australian content on SVODs in June 2020, number of titles and percentage of catalogue titles**



Source: Ampere Analysis

Most Australian consumers value quality Australian content, and consider that SVOD services do not currently offer enough Australian content. A recent survey commissioned by the Department of Infrastructure, Transport, Regional Development and Communications found that 58 per cent of those who have a subscription to an SVOD service don't believe these services have enough Australian content.<sup>29</sup> Additionally, the Deloitte Media Consumer Survey released in

<sup>26</sup> Australian Communications and Media Authority, 'Trends in viewing and listening behaviour: ACMA consumer survey 2020', November 2020.

<sup>27</sup> Max Mason, 'Disney+ makes strong debut as streaming market continues to grow', *Australian Financial Review*, 9 March 2020.

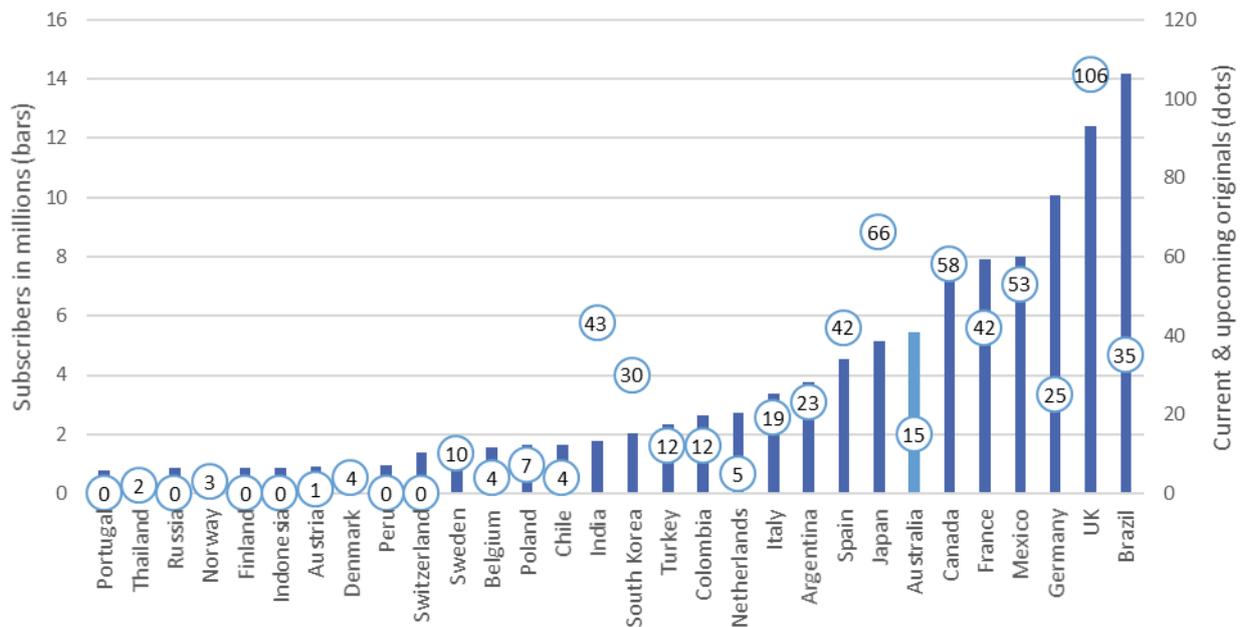
<sup>28</sup> Department of Infrastructure, Transport, Regional Development and Communications, 2020. Social Research Centre survey.

<sup>29</sup> Department of Infrastructure, Transport, Regional Development and Communications, 2020. Social Research Centre survey.

September 2020 stated that 34 per cent of respondents consider it ‘very important’ to be able to access Australian film content on SVOD services.<sup>30</sup>

A large proportion of the Australian screen content that is available on SVODs tends to be older content, and the commissioning of new Australian content by SVODs is low by international standards. As highlighted in Figure 10, although Australia is in the top 10 Netflix markets globally (in terms of overall subscriber numbers), the number of current and upcoming original local productions is much lower when compared to the other countries in this group.

**Figure 10: Top 30 Netflix markets vs current and upcoming original productions**



Source: Ampere Analysis. Subscriber data from Q2 2020, commissioning data from July 2020.

The proposal to introduce an investment obligation for SVODs was supported in a large number of submissions to the *Supporting Australian Stories on our Screens* options paper, with many stakeholders arguing that regulation should be harmonised across all platforms that provide screen content. A number of the SVOD services made submissions arguing that regulation is not necessary as they already contribute to the Australian production sector in a number of different ways, including commissioning new content, buying existing Australian content, post-production work and skills transfer to the Australian screen industry.

Australia is not alone in grappling with the challenge of safeguarding access to content with local cultural relevance in an increasingly globalised screen content distribution marketplace. Major SVODs have been subject to regulation in markets around the world.

- From September 2020, SVODs operating in the European Union were required to devote 30 per cent of their catalogue to European works.<sup>31</sup> Each member nation has some flexibility in the way that this obligation is implemented.
- France has required large SVODs to spend 16 per cent of revenue earned in France on French content creation.<sup>32</sup>

<sup>30</sup> Deloitte Media Consumer Survey 2020.

<sup>31</sup> EUR-Lex, 2020, *Guidelines pursuant to Article 13(7) of the Audiovisual Media Services Directive on the calculation of the share of European works in on-demand catalogues and on the definition of low audience and low turnover.*

<sup>32</sup> The Times, ‘France will force Netflix to spend more on Gallic shows.’ 17 January 2020.

- Germany has required Netflix and Amazon to invest in its national film board. While Netflix initially disputed the legality of this measure, its case was dismissed by the European Court of Justice, and it has since complied with the requirement.<sup>33</sup>
- The Canadian Parliament is currently considering a legislative amendment that would require SVOD services to invest in Canadian programming.<sup>34</sup>

These new obligations have not caused the affected providers to withdraw from the market, or to otherwise reduce their service offerings.

## Implementation: legislative provisions setting expectations on SVOD and AVOD services

It is proposed that the provisions establishing expectations of SVODs and AVODs would commence at the same time as the broader commencement of changes outlined in this paper. This proposal will require time to consult on the design of the obligation and prepare and establish relevant legislation and it enables the Government to consider and draw upon data from the voluntary reporting obligation, which will apply from 1 January 2021. Indicatively, the timing could mean that if an SVOD or AVOD service fails to meet the expectation, it could potentially face a formal regulatory obligation no earlier than 1 July 2024 if the Minister chose to exercise their power to impose that obligation.

### Consultation questions

- 6.1 Should the investment obligation apply to all types of SVODs, BVODs and AVODs including those that specialise in content such as sport?
- 6.2 Would a rate of investment of five per cent of Australian revenue be reasonable? Is there an alternative rate that is more appropriate?
- 6.3 Should alternative models, such as a percentage of overall programming expenditure, be considered?
- 6.4 Is the proposed revenue threshold of \$100 million reasonable?
- 6.5 Should the investment obligation be able to be fulfilled with any genre of Australian content, or genres such as drama, children's programming or documentaries?
- 6.6 Should the investment obligation be geared to commissioned content, or broadened to permit the acquisition of Australian content that would satisfy the first release requirement?
- 6.7 Should the investment obligation capture broader categories of content investment, such as pre and post-production?

<sup>33</sup> Screen Daily, 'Swiss film industry could receive cash boost from streaming platforms.' 10 August 2019.

<sup>34</sup> Parliament of Canada, House Government Bill, 3 November 2020.

## Chapter seven: enhancing the role of the national broadcasters in providing Australian content

### Snapshot

- The ABC and SBS play a significant role in commissioning and broadcasting Australian content. However, they are not explicitly required to do so, nor are they required to provide any particular level or type of Australian content.
- The Government proposes to amend legislation to establish a clear and explicit requirement for the ABC and SBS to provide new Australian programming, in line with the obligations imposed (or proposed) for other sectors of the Australian media industry.
- The Government also proposes to require the ABC and SBS to provide information about their investment in, and provision of, new Australian programming to ACMA annually, again, in line with other media organisations.
- Formalising the role of national broadcasters as key providers of Australian content, and requiring more detailed and consistent reporting on their investment in, and provision of, Australian content, could be implemented without impinging on their editorial integrity or independence. This proposal would support the provision of Australian content for Australian audiences and provide greater certainty for the Australian screen production sector.

### Proposal: Australian content commitment and reporting requirements for national broadcasters

The ABC and SBS are significant commissioners of Australian content and are also important providers of this content to audiences across the country. This is particularly the case for content that may not be commercially viable for other operators to deliver, such as children’s programming.

In its submission to the *Supporting Australian Stories on our Screens* options paper, the ABC indicated that, over the last five years, it had invested over \$200 million in Australian drama, comedy and Indigenous content, producing more than 70 hours of content per annum, and nearly \$90 million on children’s content, producing an average of 310 hours of content per annum. The ABC submission also noted that \$105 million was invested with Australia’s independent production sector in 2018–19, underpinning production budgets of \$240 million.<sup>35</sup>

In 2019–20, SBS reported that it broadcast 171 hours of locally commissioned programs which were first run on SBS and SBS VICELAND, and 59 hours of locally commissioned programs which were first run on NITV.<sup>36</sup> In that year, the amount of first run and repeat Australian content on SBS was 2,434 hours, or around 27 per cent of all content.<sup>37</sup> On NITV, the proportion was higher, with around 68 per cent of all programming being Australian.<sup>38</sup>

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<sup>35</sup> ABC submission to the *Supporting Australian Stories on our Screens* options paper, pg. 1.

<sup>36</sup> Portfolio Budget Statement, 2020, 1.1, pg. 500.

<sup>37</sup> SBS Annual Report 2018–19, pg. 134,

<sup>38</sup> SBS Annual Report 2018–19, pg. 136,

Despite this contribution and role, the national broadcasters are not subject to any explicit requirement to provide Australian content to their audiences. Instead, their respective statutes describe their responsibilities for providing programming that depicts Australian voices and perspectives in more general terms.

- Under its charter,<sup>39</sup> among other matters, the ABC is required to broadcast programs that contribute to a sense of national identity, inform and entertain, and reflect the cultural diversity of the Australian community.
- The SBS charter<sup>40</sup> requires the broadcaster to provide multilingual and multicultural broadcasting and digital media services that inform, educate and entertain all Australians and in doing so, reflect Australia's multicultural society.

Under this proposal, the *Australian Broadcasting Corporation Act 1983* (ABC Act) and the *Special Broadcasting Service Act 1991* (SBS Act) would be amended to make explicit the obligation to provide new Australian programming. There are a number of ways in which such an obligation could be constructed. A key objective would be to develop an obligation that is as consistent as possible with Australian content requirements imposed on other sectors of the industry, or are proposed, as in the case of SVOD and AVOD services. In this regard, it will be important that the regulatory frameworks supporting the availability of Australian programming are harmonised, while accommodating the differences between content providers.

## Type of content

The proposed obligation could require the ABC and SBS to provide, or invest in, new Australian programming, defined in a broad sense. This would be consistent with the obligations imposed on commercial television broadcasting licensees to broadcast 55 per cent Australian programming between 6 am and midnight. An alternative would be for the obligation on the national broadcasters to require the provision of specific genres of Australian content, such as Australian drama, children's content and documentary programming. In this regard, it would be relevant to accommodate the differing roles of the ABC and SBS, with the former having a broader remit and the latter having a primary focus on the provision of multilingual and multicultural content.

## Type of obligation

There are a number of ways in which the obligation could be structured, including a quota or broadcast requirement, as is the case with the commercial television broadcasting licensees. Alternatively, the obligation could be focused on the level of investment in Australian programming, supported with discoverability requirements to make sure that the programming is made available to as wide an audience as possible across both broadcast and online. The latter would be more aligned with the existing expenditure requirements on subscription television broadcasting licensees and channel providers, and the proposed investment requirement for SVODs.

## Key definitions

As with the proposed obligation for SVOD and AVOD services, the obligation for the ABC and SBS could incorporate established and understood definitions in the BSA and the ACS.

- A program could be defined as an 'Australian program' if it is produced under the creative control of Australians.<sup>41</sup>

<sup>39</sup> Section 6(1)(i) of the ABC Act.

<sup>40</sup> Section 6(2) of the SBS Act.

<sup>41</sup> *Broadcasting Services (Australian Content) Standard 2016*. Creative control is defined in Part 3 section 7(2) of the Standard and relates to directors, writers, actors, production, post-production and other crew.

- Under the NEDE scheme, a program is defined as ‘new’ if the whole or a substantial part of the program has not been televised in Australia or New Zealand on a broadcasting service at any time before the expenditure is incurred.

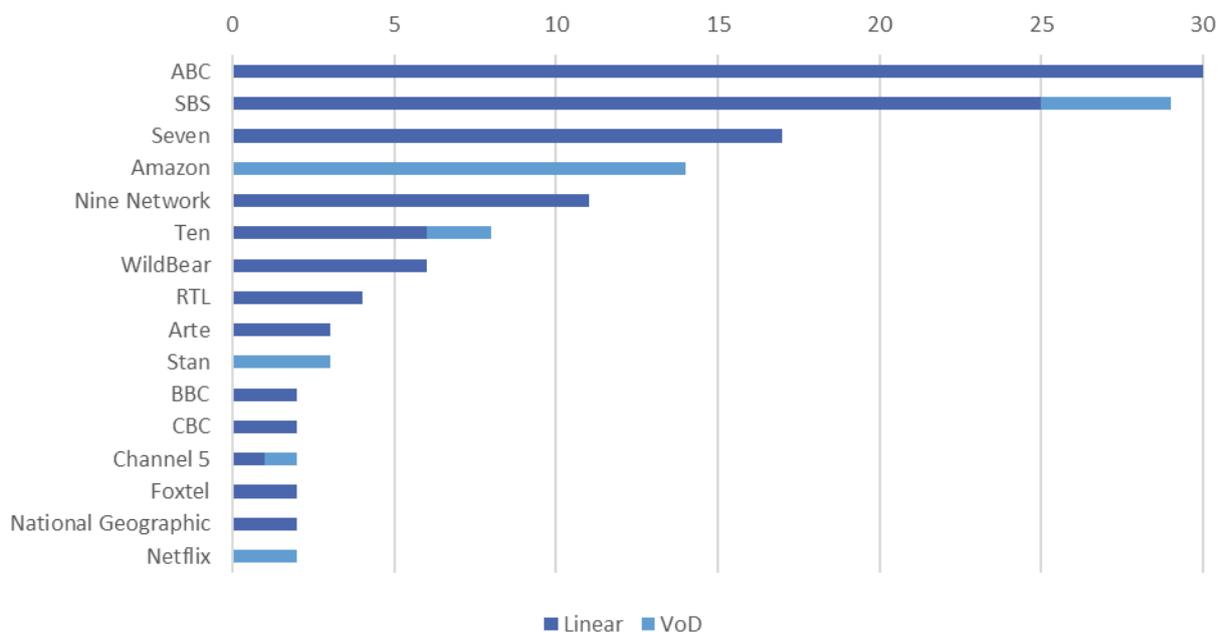
## Reporting

In addition to establishing a statutory obligation to provide Australian content, this proposal would also require the ABC and SBS to report to ACMA on the amount of Australian programming available on their services—online and broadcast—and on their levels of investment in Australian programming. To the fullest extent possible, these reporting obligations would be aligned and consistent with the reporting arrangements applicable to other sectors of the industry in relation to Australian programming.

## Impacts and outcomes

An Australian programming obligation for the national broadcasters would put a floor under the national broadcasters’ commitment to producing and screening this content, codifying what they already do. As outlined in Figure 11, the national broadcasters are significant commissioners of Australian content.

**Figure 11: Top 15 commissioners of Australian TV shows between July 2019 and June 2020**



Source: Ampere Analysis, Screen Australia Drama Report 2018–19

An obligation to provide Australian content would cement this role and provide greater certainty to the Australian production sector over time. It would also provide support for additional domestic and international co-productions, particularly when aligned with the proposed investment obligation for SVOD and AVOD services operating in Australia.

## Rationale: national broadcasters are significant commissioners of Australian content, but content obligations should apply fairly across all platforms

The *Supporting Australian Stories on our Screens* options paper canvassed a requirement for the ABC and SBS to allocate specified amounts of funding for Australian children’s programming to distribute on their services. This proposal formed part of model 3 (significant change), which received substantial support from many of those who made submissions to the options paper.

ACMA and Screen Australia considered that such a requirement could counter-balance the likely reduction in preschool and children's production by commercial free-to-air broadcasters, and support a substantial volume of children's programming continuing to be made available to audiences for free.<sup>42</sup>

As noted by Free TV in its submission to the options paper, the ABC and SBS play important roles in Australia's media landscape and in helping the Government achieve its cultural policy objectives. The ABC and SBS are well placed to deliver content that is not financially viable for commercial broadcasters, such as children's and multicultural programming. It is notable that the ABC's recently announced 'Five-Year Plan 2020-25' explicitly details its commitment to further invest in children's content and higher-cost adult dramas, as well as regional and Indigenous stories.<sup>43</sup>

In its submission to the options paper, Screen Producers Australia (SPA) noted that, in relation to the view that content requirements may impinge on the independence of the national broadcasters, minimum obligations and regulatory oversight has been applied to the BBC in the UK, and to the CBC in Canada. SPA submitted that a similar model could successfully be deployed in Australia.<sup>44</sup>

In its submission, the Media, Entertainment and Arts Alliance (MEAA) supported maintaining the overarching 55 per cent Australian programming requirement, which currently only applies to commercial television broadcasting licensees, and extending this obligation to all broadcast television services, including the ABC and SBS/NITV.<sup>45</sup> The MEAA position was supported by a number of its members who also made submissions.

The options paper also put forward an option to request the national broadcasters' Boards to report annually to Parliament their expenditure on, and hours of, Australian drama, documentary and children's content.<sup>46</sup> As the options paper noted, this would provide greater transparency about the Australian content screened, as well as acknowledging the national broadcasters' contributions to the production of Australian content.

The MEAA supported the ABC and SBS (including NITV) being subject to Australian content rules and being required to report on their performance against these standards each year.<sup>47</sup> Free TV also supported additional reporting requirements for both the ABC and SBS, given that the national broadcasters play key roles in Australia's media landscape and in helping the government achieve its cultural policy objectives.<sup>48</sup> ScreenWest supported introducing an obligation for the national broadcasters to report to Parliament on total Australian drama, documentary and children's programming expenditure and hours broadcast and/or provided online, and suggested an additional requirement that content service providers (including the national broadcasters) be required to invest a percentage of revenue into new Australian content created regionally.

In its submission to the options paper,<sup>49</sup> the ABC provided a commitment to additional voluntary disclosures. However, the ABC argued that it was not clear what benefit additional reporting would deliver to the production industry or the Government, particularly given that costs for programming can vary significantly, even within genres. The national broadcasters stated that detailed reporting is problematic as it may reveal the cost per hour for ABC and SBS programming by genre, which is commercially sensitive for both the national broadcasters and their independent production partners.

<sup>42</sup> *Supporting Australian Stories on our Screens* options paper, pg. 41.

<sup>43</sup> Free TV submission to the *Supporting Australian Stories on our Screens* options paper, pg. 37.

<sup>44</sup> SPA submission to the *Supporting Australian Stories on our Screens* options paper, pg. 22.

<sup>45</sup> MEAA submission to the *Supporting Australian Stories on our Screens* options paper, pg. 2.

<sup>46</sup> *Supporting Australian Stories on our Screens* options paper, pg. 39.

<sup>47</sup> MEAA submission to the *Supporting Australian Stories on our Screens* options paper, pg. 3.

<sup>48</sup> Free TV submission to the *Supporting Australian Stories on our Screens* options paper, pg. 36.

<sup>49</sup> ScreenWest submission to the *Supporting Australian Stories on our Screens* options paper, pg. 4.

## Implementation: Government proposes to introduce a commitment to Australian content in the charters of the national broadcasters, and require them to report annually

The Government would amend the ABC Act and the SBS Act to include provisions establishing a clear and quantifiable requirement to provide Australian programming, which would be aligned with the proposed commencement of the SVOD and AVOD services investment obligation. As noted earlier, this proposal could focus on Australian content broadly, or on particular genres such as children’s programming. It could also take the form of an investment obligation, or specify particular levels of programming to be made available. The detail of this statutory change would be developed in consultation with the national broadcasters and drawing on the views and proposals advanced as part of this consultation process.

The Government would also require the ABC and SBS to provide annual data to ACMA on their provision of new Australian content, aligned with the mandatory obligation to provide such content.

Indicatively, this would include information about the genres of Australian programming made available, and the total expenditure on Australian content by genre. As with current or proposed reporting obligations for other sectors of the Australian media industry, ACMA would publish reports outlining this information where appropriate, taking into account the commercial sensitivity of some data.

### Consultation questions

- 7.1 Is the current amount of Australian content produced and commissioned by the ABC and SBS appropriate?
- 7.2 How should a statutory obligation for the ABC and SBS to provide Australian content be constructed?
  - 7.2.1 Should this focus on the investment in Australian programming, or require the provision of certain levels of Australian programming?
  - 7.2.2 Should the obligation focus on Australian programming broadly, or target particular genres such as drama and children’s programming?
  - 7.2.3 To what extent should the obligation differ for the ABC and SBS to accommodate their differing roles and remit?
- 7.3 What impact would the imposition of a clear Australian content obligation for the ABC and SBS have on the Australian screen production industry, and the provision of Australian content more broadly?

## Chapter eight: the way forward

### Snapshot

- This proposed package of reforms would deliver benefits for consumers, businesses and Government.
- It would allow traditional media companies to capitalise on the opportunities presented by digital media markets and support the contribution of new media to Australia’s media policy objectives.
- It would amplify the cultural and economic contribution of the domestic content production sector and deliver better outcomes for audiences.
- These benefits will not be realised immediately and changes to regulatory frameworks would take time to develop and implement.

### A mutually beneficial solution

There is opportunity for a mutually beneficial outcome in further reform—benefits for the Australian public, television broadcasters, content producers, telecommunications companies and the Government. As a package, the measures proposed in this green paper would provide commercial television broadcasters with a lower cost model and reduced transmission costs.

### When would these reforms commence

The implementation of these reforms would be complex and expected to take a number of years. A proposed timeline for this package of reforms is outlined in Table 2. This timing is indicative only, and assumes that at least two commercial television broadcasters in each licence area transition to the new framework by mid-to-late 2022.

For the full benefits of this reform opportunity to be captured, it would be necessary for:

- sufficient support for it to be indicated by industry and other stakeholders in response to this green paper;
- legislation to be drafted and pass the Parliament; and
- a sufficient number of broadcast licence holders to agree to share multiplexes.

If the legislation takes effect and an insufficient number of commercial television broadcast licensees transition to a new licence, those that do make the transition would nevertheless receive the benefit of no longer paying a commercial broadcasting tax.

**Table 2: Indicative timetable for the introduction of the regulatory changes**

Step	Potential timing
<b>Implement Supporting Australian stories on our screens options paper reforms</b>	January 2021—modified content quota and changes to children’s content obligations.
	January 2021—voluntary requirement for SVOD services to report on Australian content expenditure and availability.
	July 2021—changes to drama expenditure requirements for subscription broadcasters.
<b>Finalise reform model</b>	May 2021—announcement of the final details of reforms, informed by views and feedback through consultation.
<b>Amending legislation</b>	Second half 2021—introduction of the initial tranche of enabling legislation and other amendments including the Create Australian Screen Trust and Public Interest News Gathering Trust legislation.
<b>Election and issue of new licence to broadcasters</b>	Mid-2022—assuming the commencement of the enabling legislation, broadcasters could elect, in writing to ACMA, to take up the new licence offers. From the election date, licensees would have immediate relief from commercial broadcasting taxes.
<b>Commencement of subscription video-on-demand service investment obligation and Australian programming obligations for the ABC and SBS</b>	July 2022—the obligations would commence for the 2022-23 financial year.
<b>Restack planning and restack implementation planning</b>	Mid-2022 to Mid-2024—ACMA to work with industry in planning for the new channels and the restack process over an 18 to 24 month period.
<b>Commencement of restack</b>	Mid-2024
<b>Spectrum auctions</b>	2025
<b>Investment made in Create Australian Screen Trust and Public Interest News Gathering Trust</b>	2025
<b>Completion of restack</b>	December 2025—assuming that this could be undertaken over an 18 month period.
<b>Reassignment of auctioned spectrum</b>	2026 and beyond.

### Consultation questions

- 8.1 Is the timeframe proposed in this chapter realistic?
- 8.2 Are there any particular stages that would require a greater or lesser period of time?
- 8.3 Are there particular risks and factors that need to be taken into account in terms of the timing for the transition to the new licensing and regulatory model?