



Senator the Hon Helen Coonan

Minister for Communications, Information Technology and the Arts
Media Release

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New Media Framework for Australia

The Australian Government will comprehensively reform the media industry in Australia to create a competitive framework that will deliver consumer choice and a competitive industry in the digital media age, the Minister for Communications, Information Technology and the Arts, Senator the Hon Helen Coonan, announced today.

“This package of reforms will allow the Australian media sector to move from the old analogue-based regime into the dynamic new world of digital content, where traditional media co-exist and compete with new delivery platforms,” Senator Coonan said.

“It is clear to the Government and to much of the industry that the media landscape is changing rapidly, and a flexible system is needed to allow media companies to adapt and prosper in the new digital environment.

“A far-sighted approach is needed to meet the needs of consumers now, and to provide the benefits of new technology into the future.

“The framework I am announcing today will open up opportunities for a range of innovative new services for consumers, while maintaining the existing services that the community already rely on and enjoy, including quality free-to-air television services.

“By allowing new entrants into the Australian media industry, the Government will encourage increased diversity and new sources of information and entertainment.

As part of the framework announced today the Government will:

- Develop a Digital Action Plan to drive the take-up of digital television services and help consumers make the transition from analogue services to the new digital environment;
- Open up two reserved digital channels for new digital services such as mobile television or new in-home services;
- Permit commercial free-to-air television stations to broadcast one standard definition multichannel from 2009, and to allow full multichannelling no later than the time of digital switchover.
- Permit a high definition multichannel by removing the simulcast requirement on high definition television programming;
- Remove the “genre” restrictions on the types of programming which can be shown on ABC and SBS multichannels;

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- Reform the anti-siphoning scheme by introducing a “use it or lose it” system for sporting events on the list to commence on 1 January 2007;
- Relax the current restrictions on cross-media ownership subject to safeguards that will ensure no fewer than five independent “voices” remain in metropolitan markets and four in regional markets, upon Proclamation on a date to be determined in 2007; and
- Legislate to retain licence conditions ensuring local content on regional television in Queensland, New South Wales and Victoria and extend them to Tasmania;
- Protect local radio content in regional markets by requiring commercial radio licensees seeking mergers in regional markets to meet minimum standards for local content including news, community service announcements and emergency warnings;
- The ACCC will ensure the competition laws are fully complied with under the general mergers provisions of the *Trade Practices Act 1974* (TPA), and ACMA will oversee safeguards to ensure diversity and local content, including ensuring transactions comply with the minimum number of media groups requirements.
- Remove the existing foreign ownership restrictions but retain the media industry as a “sensitive sector” under the Government’s Foreign Investment Policy, upon Proclamation on a date to be determined in 2007;
- Give the Australian Communications and Media Authority a range of new powers to regulate broadcasting including power to seek civil penalties and injunctions and to accept enforceable undertakings from broadcasters;

“The proposed reforms will enable existing players to make the most of emerging digital media technologies and give them the flexibility to structure their businesses to be globally competitive media companies,” Senator Coonan said.

“But it is consumers who will be the biggest winners, with access to a range of new services, potentially including several new digital channels, and even more to come in the transition to digital television.

“Today’s announcement is just the first step in reforming the media industry, with details of the Digital Action Plan to drive take-up of digital television, and the details for the allocation of the new digital channels, to be released later this year.

“Legislation to implement the new framework will be developed this year, to commence in 2007.

“The far reaching changes announced today are the product of extensive consultation with consumers and industry.

“The Government has sought to balance the views and needs of industry, consumers and other stakeholders to develop a comprehensive plan that sets the foundations for a strong media industry, ready to tackle the challenges posed by innovation and technological change in the sector.”

The key elements of the reforms are set out in the attachment.

Key Elements of the Media Reform Package

Digital Action Plan

Overseas developments, increasing digital uptake and the costs and inefficiencies of broadcasters running dual analogue and digital broadcasting services (simulcasting) mean that there is a strong imperative for Australia to move to a wholly digital television broadcasting environment in line with the timeframes being adopted by other like countries.

There is insufficient digital take-up to meet the current switchover date of 31 December 2008 in metropolitan areas.

The Australian Government is therefore committed to the development of a Digital Action Plan (DAP) to proactively drive digital take-up, to bring the current simulcast period to an end and achieve switchover. Accordingly, this date will be reset with a new switchover target to commence in 2010-2012.

The DAP will require careful planning and close collaboration and cooperation from all stakeholders. It will identify the major tasks, processes and timeframes necessary to drive digital take-up and will consider whether a dedicated new body, such as the switchover organisation created in the UK, will best facilitate the steps required to achieve switchover. The DAP is under development and will be released later in 2006.

New Services on Spare Spectrum

Consistent with encouraging the emergence of new and innovative digital services for consumers, the Government will allocate two unassigned digital channels throughout Australia for new digital services, rather than allocating this spectrum for a fourth commercial television network.

Further detail on spectrum planning, marketing and legal aspects of the allocation or auction of these channels, together with the conditions attached to the licences, is being considered by the Government and an announcement will be made as soon as possible in 2006.

These channels have the potential to deliver a range of new and innovative services to consumers, which could include up to 30 channels under some uses, and would be an opportunity for industry to expand and respond to the challenges of the digital environment.

Multichannelling

Commercial Free to Air Television

The Government will:

- legislate to enable commercial free to air television broadcasters to provide one standard definition (SDTV) multichannel from 1 January 2009;

- legislate to permit broadcasters to run one HDTV multichannel in advance of switchover, by removing the requirement that high definition television (HDTV) services must be a simulcast of analogue and standard definition digital television (SDTV) services from 1 January 2007;
- retain the current prohibition on full multichannelling by commercial broadcasters until the end of the simulcast period, subject to technical advances or unanticipated delays in achieving switchover, or other matters which may alter the balance in favour of an earlier adjustment;
- consider arrangements for the regulation of commercial multichannels prior to commencement.

Although the end of the simulcast period provides a natural point, from both a policy and practical perspective, for further changes to the digital television regulatory settings, the Government considers that there should be some new opportunities made available to broadcasters in the transition to a fully digital television broadcasting environment for those who wish to take up those opportunities.

While the Government recognises there are a range of views relating to the benefits and impacts of multichannelling, the availability of some new digital services will provide more variety for consumers and further contribute to digital take-up.

ABC and SBS

The restrictions on the types of programs permitted to be shown on national broadcaster multichannels will be removed as soon as possible upon the passage of legislation.

This will give the national broadcasters greater scope to experiment with new digital programming and services and make greater use of their valuable program archives. National broadcasters will thus be better able to serve their audiences and to provide more attractive channels which can contribute to digital uptake.

Anti-siphoning events on multichannels

During the simulcast period all free to air broadcasters will be prohibited from televising an event on the anti-siphoning list on any digital channel other than their main SDTV channel unless the event has already been shown (or is simultaneously shown) on the main SDTV channel. This is intended to ensure that listed events continue to be available to the widest possible free to air audience.

HDTV quotas

The current HDTV quota of at least 1040 programming hours per year will be retained until the end of the simulcast period. This is in recognition of the need to provide certainty for viewers and industry during the transition to digital but to provide that, after switchover, broadcasters will be permitted to choose how best to meet their audiences' needs and structure the use of their spectrum between SDTV, HDTV and multichannelling.

Anti-Siphoning Scheme

From 1 January 2007, the anti-siphoning list will incorporate a 'use it or lose it' component to remove events from the list if, based on ACMA monitoring of coverage, those events have not received adequate free to air coverage.

The scheme would identify criteria against which 'use' could be measured and, if not 'used', events could be removed from the list. Further consultation between the Government, ACMA and industry in relation to these new provisions will occur in the third quarter of 2006.

The ongoing rationale for the anti-siphoning scheme and the extent to which it is meeting its objectives will be reviewed in 2009, prior to the new list expiring on 31 December 2010 and in the context of digital switchover. This review would also consider the restriction on commercial and national broadcasters televising events on the anti-siphoning list on any new digital channel.

Commercial Television Licences

The Australian Government will legislate to transfer the decision-making power to allocate commercial television licences from the Australian Communications and Media Authority (ACMA) to the Minister for Communications, Information Technology and the Arts, consistent with its election commitment.

The Government will not allocate new commercial television licences within broadcasting services band (BSB) spectrum between the end of the moratorium on new licences on 31 December 2006 and digital switchover. The allocation of new licences will be reviewed in accordance with the Digital Action Plan prior to the end of the simulcast period.

Any applications that may be made for new free to air commercial television licences outside the BSB spectrum after the end of the moratorium will be assessed by the Minister to ensure new services are not contrary to the public interest. In the interests of not stifling the growth of new services by imposing unnecessary or burdensome constraints, any new licences in this area will be exempt from media ownership controls from the time the cross and foreign media ownership restrictions are relaxed. Further consideration will be given to whether obligations such as Australian content rules should apply to these services.

Cross Media Ownership

The cross media ownership restrictions will be relaxed to allow cross media transactions to proceed, subject to safeguards that will ensure no fewer than five independent media groups remain in metropolitan markets and four in regional markets.

The ACCC will ensure the competition laws are fully complied with under the general mergers provisions of the *Trade Practices Act 1974* (TPA), and ACMA will oversee safeguards to ensure diversity and local content, including ensuring transactions comply with the minimum number of media groups requirements.

Existing licence and reach limits, which provide that a person may control only one commercial television licence or two commercial radio licences in any licence area, and that a person may not control commercial television licences reaching an audience of more than 75 per cent of Australian population, will be retained.

A requirement will be introduced for public disclosure when a media outlet reports on the activities of a cross-held entity.

These changes will take effect on Proclamation on a date to be determined in 2007, following changes to the regulatory framework that would allow new licences for digital services to be allocated.

Regional Services Protections

Protection of regional content and diversity is a key component of the reforms.

The Government will legislate to maintain minimum levels of local content on regional commercial television in regional Queensland, regional NSW and regional Victoria. These requirements will also be extended to Tasmania to ensure minimum levels of content for matters of local significance.

In addition, the Government will legislate to introduce minimum local content levels for regional commercial radio licensees including local news, local community service announcements and local emergency warnings and, to provide a Local Content Plan for commercial radio where:

- A licensee becomes part of a cross media group;
- There is a change in the control of the licence;
- The format of the service is narrowed, or;
- The Minister directs ACMA to consider imposing local content requirements.

Under these changes, it will be a requirement for Local Content Plans to be submitted to ACMA for approval and registration.

The Minister will also have the power to direct ACMA to take specified matters into account in considering Local Content Plans for registration.

ACMA will be required to review compliance with the licence conditions and the Local Content Plans every three years.

Cross media mergers and acquisitions involving each of a commercial radio licence, a commercial television licence and an associated newspaper in the same licence area outside mainland State capitals will be required to obtain clearance from the ACCC as a condition of obtaining exemption from the cross media restrictions prior to the merger.

Foreign media ownership

Foreign media ownership restrictions will be reformed so that:

- the current media-specific foreign ownership restrictions in the Broadcasting Services Act 1992 are removed;
- the current newspaper-specific foreign ownership restrictions in the Government's Foreign Investment Policy under the Foreign Acquisitions and Takeovers Act 1975 are removed;
- the media will be retained as a 'sensitive sector' under the Foreign Investment Policy; and
- proposals by foreign interests to directly invest in the media sector, irrespective of size, will remain subject to prior approval by the Treasurer.

These changes will take effect in 2007 at the same time as the cross media ownership laws are relaxed.

ACMA Powers

The Australian Media and Communications Authority (ACMA) will be given a range of new enforcement powers to strengthen its capacity to effectively regulate the broadcasting industry.

The additional powers will include:

- The introduction of civil penalties for a range of breaches where only criminal sanctions are currently available, giving ACMA greater flexibility to address non-compliance;
- Enabling ACMA to obtain injunctions where commercial broadcasting services are being provided without an appropriate licence;
- Allowing ACMA to accept enforceable undertakings from industry in relation to its role in regulating the broadcasting, datacasting and internet content industries, and;
- Issuing infringement notices for minor breaches of the *Broadcasting Services Act* related to reporting requirements.

These reforms will enable ACMA to be more responsive, particularly when it comes to ensuring compliance with broadcasting codes of practice and licensing conditions and, will provide ACMA with a better gradation of enforcement powers.

The changes will complement and build on the recently announced review of television codes of practice for reality television and the Government's announcement in June this year that content safeguards would be extended to mobile phone and premium Internet services.

These reforms will give ACMA greater options for appropriately dealing with breaches of the *Broadcasting Services Act 1992* and the power to negotiate enforceable outcomes that will achieve better long-term compliance and bring ACMA more closely into line with other Australian regulatory bodies.