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Content Division, Department of Infrastructure, Transport, Regional Development and Communications'

**RE: SUBMISSION IN RESPONSE TO THE MEDIA REFORM GREEN
PAPER: MODERNISING TELEVISION REGULATION IN AUSTRALIA**

To whom it may concern,

Please find enclosed a short submission by Andy Nehl and Mark David Ryan in response to the *Media Reform Green Paper: Modernising Television Regulation in Australia*.

Kindest Regards

Andy and Mark

**Submission Responding to the *Media Reform Green Paper:*
*Modernising Television Regulation in Australia***

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About the Authors

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Associate Professor Mark Ryan, publishing as Mark David Ryan, is a Chief Investigator for the Digital Media Research Centre, and an academic for Film, Screen, Animation, Creative Industries Faculty, QUT. He has written extensively on the Australian screen industry, including agenda-setting research into Australian horror movie production, a policy-shaping report on Independent screen production on the Gold Coast, and he is currently investigating the career trajectories of Australia's leading web series producers. Ryan is an internationally recognised expert in screen industries, Australian cinema, and film genre research.

The **Griffith Film School** is the largest film school in Australia offering programs in Film, Animation and Games Design. The school's success is predicated on strong partnerships within screen industries and acclaimed screen practitioners – locally, nationally and globally. The Griffith Film School prides itself in the practical, hands-on teaching, Artists in Residence program, and research capabilities. The Griffith Film School staff are award winning screen practitioners and leading academics who are proud to see the school's graduates work in creative and exciting careers globally within international business of film, television, animation, games and digital screen media production. GFS alumni have received many prestigious accolades including Academy Awards, International Emmy Awards, British Academy Film Awards (BAFTA), Cannes Film Festival, Apple Game of the Year and Berlinale.

QUT's **Digital Media Research Centre (DMRC)** conducts world-leading communication, media, and law research for a flourishing digital society. One of only eleven University Research Centres established at QUT, it is one of the top Australian centres for media and communication research, areas in which QUT has achieved the highest possible rankings in the national research quality assessment exercise ERA, and it is closely linked with the School of Communication. The Centre incorporates the QUT node of the Australian Research Council (ARC) Centre of Excellence for Automated Decision-Making & Society (ADM+S) and participates in the ARC Centre of Excellence for the Digital Child.

1. EXECUTIVE SUMMARY

This submission, by a former television producer / senior academic and a leading Australian screen studies scholar, addresses and responds to key issues and consultation questions in the Green Paper and makes several recommendations.

The submission is made in the interest of supporting Australian stories on screen, growing the volume of Australian content available across all commercial (and public broadcasting) platforms providing screen content, and ultimately maintaining an innovative, vibrant and robust local screen industry.

This submission does not respond to all the specific sub-questions raised in the Green Paper, rather it addresses several key issues that are most relevant to the authors' expertise. The key recommendations of this submission, are:

- The public policy objectives outlined in **section 2** of this submission should be considered as potential guiding principles around which reform to media regulation is developed and determined.
- The new licensing arrangements for free-to-air commercial television multi-channels proposed in the Green Paper should not proceed. A new Green Paper embodying alternative approaches in this submission, and other submissions, should be developed and issued by the Department later in 2021.

Instead, the authors suggest several alternative and complementary ideas for reform:

- Establish a minimum 5-year moratorium on the sale of existing television broadcast spectrum for non-television broadcasting purposes.
- Each of the existing commercial networks, Seven, Nine and Ten, give up a multi-channel license to create "New Player" commercial licences to encourage innovation, competition and revitalisation of free-to-air television. Three "New Player" licenses with special conditions would be auctioned to the highest bidders.
- Commercial multi-channels should be required to run higher levels of repeat Australian Content to make better use of Australia's back catalogue of screen content.
- ACMA to commence planning and set a date for the introduction of 4K/UHD television broadcasting in Australia utilising the DVB-T2 and/or DVB-I standards, and ACMA to initiate a trial of DVB-I in Australia as soon as is feasible.
- Budget to be allocated for one-off government financial support for investment in technology upgrades associated with transitioning to 4K broadcasting.
- The Federal Government should reverse its decision to withdraw digital community television licenses and a new national community television license should be created.

- The proposed CAST and PING Trusts should be established.
- The ABC and SBS should retain their multi-channels and be subject to Australian Content reporting requirements.

2. PUBLIC POLICY OBJECTIVES OF MEDIA REFORM

Why investing in the future of Australian screen content and regulating the use of broadcasting spectrum is Important?

The Australian screen industry has long been sustained by government regulation and investment incentives for production, and without this support, an Australian screen industry would not exist at its current level of production. Without government support, investment in Australian content would decline dramatically and an Australian voice on domestic screens would diminish. The industry has long been supported based on market failure. Put simply, it is far cheaper to import content produced overseas than it is to produce original drama series, and often other formats, in Australia. The size of the Australian population at 25 million is too small to support viable production of screen content when US producers, for example, can recoup most of their costs in their large domestic market (a population of almost 330 million) and they can earn profits from sales overseas.

Australian cinemas and television screens have long been dominated by content produced by overseas producers. By the late 1960s, without direct investment in film and television production, an Australian feature film industry was almost non-existent, and before the introduction of the local television content quotas, drama content available on Australian screens was completely dominated by US and UK content.

Digital disruption and changing audience viewing patterns are challenging the business models of commercial broadcasters and the settings of the current regulatory system. In short, the long-term future of this system is in peril. However, while the current regulatory system has become outdated and the viewership and revenues of free-to-air television are declining, the requirements for investment in Australian content is as important as ever. The allocation and use of radio frequency spectrum have long been at the centre of government broadcasting policy and legislation with this spectrum viewed as a valuable public resource that needs to be protected and used in ways that benefit the Australian public. Until recently, Australian broadcasting policy regarding commercial free-to-air television stations has long been shaped by a *quid-pro-quo* approach in which the free-to-air television channels – Seven, Nine and Ten – have been protected from competition in return for satisfying certain policy priorities, including meeting the Australian Content Quota, among other issues.

While the authors agree that the current free-to-air digital broadcasting landscape is under financial pressure and the main broadcasters' digital multi-channels are not being used as optimally as they could be, the reservation of radio frequency spectrum for free-to-air

television broadcasting remains an immensely important public resource that needs to be carefully regulated and retained for the Australian commercial, public and community broadcasting sector. It should not be sold off for other purposes.

In our view, the use of this spectrum should be reviewed with regards to key public policy objectives, to develop a new regulatory framework for free-to-air broadcasting to better serve the needs of the Australian people. Within this context, the introduction of new competition should be considered.

2a. Key public policy objectives for underpinning a new regulatory system for the convergent screenscape

Diversity of Stories

As Australian screen stories play a key role in both reflecting and creating Australian identity and culture, it is also important that an objective of new regulatory reforms should revolve around maximising the screening of a diversity of Australian stories. Screening a broad range of stories that reflect the cultural and geographic diversity of the Australian population promotes tolerance and acceptance of cultural differences and builds national unity and social cohesion. This necessarily includes a diversity of stories told by a variety of voices reflective of both urban and regional Australia.

Diversity of Voices

Since it started in Australia in 1956, television has been a major arena for creative expression and ideas that have made a valuable contribution to the public sphere by reflecting, influencing, and shaping the nation's cultural and social attitudes. As the Australian television system transforms into a mix of broadcast and online streaming services it will continue to play a crucial role in contributing to the effective functioning of Australian democracy and society. An objective of media reform for the television system should be to maximise the inclusion of a diversity of voices available in broadcast television and subscription video on demand (SVOD) streaming services.

This diversity of voices should not just be considered within the context of public interest journalism, important though that is. It should also include a range of other television program forms that have made a significant contribution to the public sphere by giving airtime to diverse and alternative voices tackling social and political issues for over six decades. Examples from across those decades, include:

- **Dramas:** *Number 96* (Channel Ten); *A Country Practice* (Channel Seven); *Love Child* (Channel Nine); *Redfern Now* (ABC); *The Family Law* (SBS);
- **Satires and comedies:** *The Mavis Bramston Show* (Seven); *The Paul Hogan Show* (Nine); *Fast Forward/Full Frontal* (Seven); *The Chaser's War On Everything* (ABC); *Comedy Inc: The Late Shift* (Nine); *Shaun Micallef's Mad as Hell* (ABC); and *Black Comedy* (ABC).

- **Talk & Variety Shows:** *In Melbourne Tonight* (Nine); *The Graham Kennedy Show* (Nine); *The Panel* (Ten); *Denton* (Seven); *The Midday Show* (Nine); *Roy & HG's The Dream* (Seven); *Rove/Rove Live* (Nine & Ten); *The Glass House* (ABC); *Enough Rope* (ABC); *Salam Café* (Community TV Channel 31 & SBS); and *Tonightly* (ABC).

Quiz Shows: *Good News Week* (ABC & 10) and *Faboriginal* (National Indigenous Television [NITV]).

While SVOD streaming services have performed well in delivering high-quality dramas and documentaries to Australian audiences, only a minute fraction of SVODs' catalogues include Australian content, and therefore Australian stories and voices. SVOD services also rarely offer audiences traditional television genres, such as those mentioned above, common on commercial and public free-to-air television that continue to play an important role in Australian society and culture. An objective of regulation reform should also be to support and thus ensure that these forms of Australian content have an ongoing presence in the Australian television ecosystem as broadcasting and online streaming continue to converge and evolve. This objective could be achieved by adding a new sub-category, or sub-quota, to 'Other Culturally Significant' content, joining 'Drama' and 'Documentary' as priority content supported by regulation, not just for broadcast television, but also for the SVOD streaming services as well. A detailed explanation of how this proposed Other Culturally Significant sub-category of Australian content could operate can be found on pages 18-22 of our previous submission¹ in response to the Department of Infrastructure, Transport, Regional Development and Communications' *Supporting Australian stories on our screens—options paper*.

Public Interest Journalism

The drastic decline in local media, the continued shedding of jobs in journalism and investigative stories by mainstream news organisations, the centralisation of news production, and the consolidation of media ownership will have increasingly negative impacts on local communities and the functionality of Australian democracy. Supporting and enhancing local and regional news, and investigative and public interest journalism on television, SVOD services and online, should be a key objective of regulatory reform.

Future Consumer Technology

Another objective of media reform could be to ensure that the foreseeable future technological needs of Australian media consumers are planned for and that Australian audiences are not left behind and have access to the same evolving broadcast and streaming technologies as the rest of the world.

Economic Viability and Sustainability

Achieving the above media reform objectives is dependent on the underlying objective of sustaining a strong Australian screen production industry and a regulatory environment that supports the economic viability of Australian free-to-air broadcasters and SVOD streaming services to provide multiple pathways to deliver the diverse stories the industry produces for Australian audiences. This will not be achieved by maintaining the status quo in regulation; one that supports outmoded business models and guarantees existing free-to-air

players continued access to spectrum if objectives are not met. New regulation will necessarily lead to changes in the free-to-air broadcast and SVOD streaming landscape.

Free-to-air broadcast television in Australia is at a crossroads. It has the potential to wither and die, or it can adapt, reinvent itself, and flourish. Suitable regulation could help drive such a reinvention. Ensuring the economic sustainability for the future of Australian free-to-air television channels, streaming services, and online content providers is essential to ensuring the continuation of their role as a vital part of Australian culture, community, and democracy. It will also ensure that they can adapt to the convergent screenscape, and fund and screen Australian stories and air diverse voices, locally and regionally as well as nationally.

3. RESPONSE TO PROPOSED NEW CLASS OF TELEVISION BROADCASTING LICENCE

3a Overall Response

There are a range of economic, cultural, public interest, logistical, and technological considerations, as well as audience behaviours and needs, that are important in the context of supporting the future of Australian free-to-air broadcasting, streaming and online overall that are either not addressed, or not adequately addressed, in the proposed new licensing, spectrum and Australian content arrangements outlined in the Green Paper.

Consequently, we recommend that the new free-to-air licensing arrangements and sale spectrum proposed in the Green Paper should not proceed at this time. Therefore, we do not respond to the Consultation Questions that deal with proposals we recommend should not proceed.

Instead, we recommend the development of a new regulatory approach for broadcasting that addresses areas that the Green Paper does not canvass. In this submission, we discuss these suggested approaches and associated issues.

Multi-Channel Spectrum Allocation

The ABC and SBS have served the Australian public well, establishing distinctive multi-channels that cater to specific audiences. The Seven Network has done this with its 7Mate channel. Yet, while they screen different programs, the other commercial multi-channels are virtually interchangeable, consisting mostly of repeats of overseas television programs and a smattering of old movies.

With hindsight, it is now clear that the policy decision to grant all the spectrum for new free-to-air digital television multi-channels to the existing free-to-air television players, Seven, Nine and Ten, rather than open up the spectrum to a competitive bidding process to allow new players to enter the market has not worked out well for commercial broadcasters, or Australian audiences. Maintaining the triopoly of Seven, Nine, and Ten in the commercial free-to-air landscape has fostered complacency and a lack of innovation in programming for the digital multi-channels. This may have been significantly different if new entrants had

entered the market. New entrants may have experimented with programming and scheduling; moved quickly to adopt new technology; and innovated to capture audiences. In so doing, new competition could have forced existing players to rethink their own strategies. Instead, over the past two decades since the shift to digital broadcasting in Australia, the commercial networks have focussed on maintaining the primacy of their pre-existing main channels. Yet, with the occasional exceptions, they have flooded their multi-channels largely with repeat programming from overseas. This has seen their higher quality content and viewers diluted across each network's channels. From an audience perspective, a quick review of program guides indicates that the content available on the commercial multi-channels is overwhelmingly repeat content that they have already had the opportunity to watch multiple times. Arguably, a sizable portion of Australian audiences may not be devastated if some or most of the commercial multi-channels were to disappear – *how many times do you really want to watch repeats of NCIS (2003-), Ice Road Truckers (2007-2017), or old James Bond movies.*

However, the poor performance of the commercial multi-channels to date is not a good reason for permanently taking the spectrum away from free-to-air television. The spectrum is a valuable public resource that can still be used for broadcast purposes to benefit the Australian population and to achieve important public policy objectives.

The development of a new regulatory framework that addresses a range of significant policy objectives should be undertaken with regards to broadcast licenses and Australian Content regulation before the federal government reforms to the current broadcast licensing arrangements.

With regards to spectrum allocation, considering the economics of broadcasting and restacking, the impact on regional services, future audience needs, and demand for 4K and DVBi and other evolving technologies, and the bandwidth required for such, we recommend a minimum 5 year, and possibly up to a 10-year, moratorium on the sale of current broadcast spectrum or licensing it for purposes other than broadcasting. Spectrum for other purposes such as 5G mobile services, or the *Internet of Things*, should be obtained elsewhere, not at the expense of the future of free-to-air television and achieving the key objectives of media reform.

3b Response to the Green Paper Consultation Questions on the new class of License

Our response to some of the Consultation Questions has been partly addressed in our statements above. Consultation Questions such as, “*3.1 Is the deregulatory benefit on offer sufficient to encourage commercial television broadcasters to take up this offer?*” are not questions we can answer. However, we do have a number of recommendations for improving Australia's broadcast licensing regulations that do not fit neatly within the Consultation Questions, which are outlined below.

Mandated repeat Australian Content on Multi-Channels

Once an Australian television series or documentary series airs on free-to-air television it is rarely broadcast again. The Australian government's local content quotas for free-to-air

television typically focus on supporting the production of new Australian content to support the local production industry and to ensure that there is a minimum level of Australian content on local television screens. Once series, mini-series, or stand-alone programs have premiered, and in some cases at best receive a few rotations, this content largely disappears from Australian television screens, although some of this content may have received a second life on home video, and until quite recently on DVD. Nevertheless, the repeat of first-run Australian television series on the commissioning channel is not always guaranteed and the rerun of older Australian series and mini-series on both commercial free-to-air and public broadcast channels is not a major component of programming schedules or content flows.

Furthermore, as the green paper acknowledges, many Australian television audiences are migrating away from commercial free-to-air television to SVOD services such as Netflix Australia and Stan. Due to the relentless demand for new content on these services the majority of Australian content finding its way onto subscription streaming platforms are new series.

Many acclaimed Australian series receiving relatively positive audience ratings at the time of their broadcast are no longer available on commercial free-to-air television, public service broadcasting channels, and SVODs. In short, there is a massive back-catalogue of Australian content that is no longer in circulation, and much of this content is largely inaccessible for Australian audiences.

At the same time, some commercial free-to-air channels dedicate numerous broadcast hours on their secondary digital multi-channels to reruns of old and imported sitcoms and drama series.

A possible revisiting of content quota mandates to regulate or stipulate the repeat of older Australian series, serials, mini-series and so on, would ensure that more Australian content is available for Australian screens. It would also ensure that the digital multi-channels are used to screen more Australian content rather than rerun cheap imported foreign content.

Licensing agreements and copyright is often an issue impacting the circulation of older Australian screen content. Therefore, this is an issue that would require further investigation and industry consultation to ensure an appropriate regulatory system and requirement is in place to support this idea.

3c License Regulations for New Players

If some of the multi-channel broadcast spectrum is reallocated from the existing commercial networks and auctioned off to new players, the license conditions for channels operated by new players should include regulation developed to meet public policy objectives. A highly successful example of this kind of proposed model is Channel 4 in the UK, which operates as a fully commercial television channel but within regulated “public service” obligations to achieve various public policy objectives. Regulations to achieve policy objectives for this proposed category of ‘New Player’ license could be developed by ACMA and Screen Australia via a public consultation process.

Licenses for 'New Players' would be auctioned in a similar way to which new commercial radio licenses have been auctioned in the past. The spectrum will stay as a publicly owned resource, it will be the license to use it that is being auctioned, not the spectrum.

We recommend that the entirety of revenue generated by the auction of 'New Player' licenses should be reinvested in achieving the public policy objectives we have outlined, and should be split between CAST, PING, and funding to support all television broadcasters with the upgrade to 4K broadcast technology. The proportions of the allocation of this funding should be determined from further investigation and consultation.

To encourage truly innovative and truly new players, conditions to participate in the auction of licenses for new entrants to use the spectrum could include:

- A proposed program format model for any new channel to be significantly different from existing multi-channels (criteria to be developed).
- Providing the highest minimum levels of Australia Content as permitted under Annex II of the Australia-United States Free Trade Agreement of 2004.
- Companies owning, owned by, or affiliated with existing television broadcasters such as Nine, Seven, Ten, WIN, Prime, and Southern Cross Austereo should be prohibited from having shares in, or commercial and programming arrangements with, companies bidding for 'New Player' licenses. They would also be prohibited from taking over, acquiring shareholdings in, or establishing commercial and programming arrangements with, companies that successfully bid for 'New Player' licenses in the future.
- Companies owning, owned by, or affiliated with existing subscription television providers such as Foxtel (News Corp & Telstra) and Austar would be prohibited from having shares in, or commercial and programming arrangements with companies bidding for 'New Player' licenses. They would also be prohibited from taking over, acquiring shareholdings in, or establishing commercial and programming arrangements with, companies that successfully bid for 'New Player' licenses in the future.
- Companies owning, owned by, or affiliated with existing individual channels carried by Foxtel and Austar (eg MTV, SkyNews, Discovery, Max, Fox Sports, etc) would be prohibited from having shares in, or commercial and programming arrangements with, companies bidding for 'New Player' licenses. They would also be prohibited from taking over, acquiring shareholdings in, or establishing commercial and programming arrangements with companies that successfully bid for 'New Player' licenses in the future.

The commercial networks are likely to be unsupportive of losing one of their multi-channels in this process, but they may be similarly unsupportive of losing two channels under the reforms proposed in the Green Paper. An advantage to the commercial networks in giving up a multi-channel under our proposal would be that they can consolidate higher quality programming they have rights to into fewer channels, improving the quality of their offerings, and making them more attractive to audiences. They will also have reduced administrative, technical, marketing and transmission costs with less channels. They may

also benefit from the competition that new innovative players would bring to the free-to-air television landscape.

4. PUBLIC INTEREST USE OF CURRENT BROADCASTING SPECTRUM

4a Overall response

The authors of this submission do not support the proposal for a one-off sale of a large chunk of television spectrum to 5G mobile networks. As indicated above, the radio spectrum currently allocated to free-to-air broadcasting is a valued public resource that should remain as an asset for the Australian screen ecosystem. The production and distribution of Australian screen and news content plays an essential role in reflecting Australian society and culture and maintaining a robust public debate and a healthy public sphere.

However, we do believe that some of the spectrum could be used more effectively to achieve public policy objectives, and we recommend that licenses for some of the digital channels of Seven, Nine, Ten, and various shopping channels could be reallocated and auctioned to introduce new players into the system. A new system could also include spectrum allocated to Community TV channels that allow for training, and experimentation in content creation as well as the telling of local stories.

Though some commentators may argue that the types of programming and training that can be achieved via Community TV can also be achieved via YouTube, not all demographics and regional areas across Australia can access online content. Therefore, Community TV can still provide an important public good for Australian audiences and emerging screen professionals.

4b Response to the Green Paper Consultation Questions on use of Spectrum

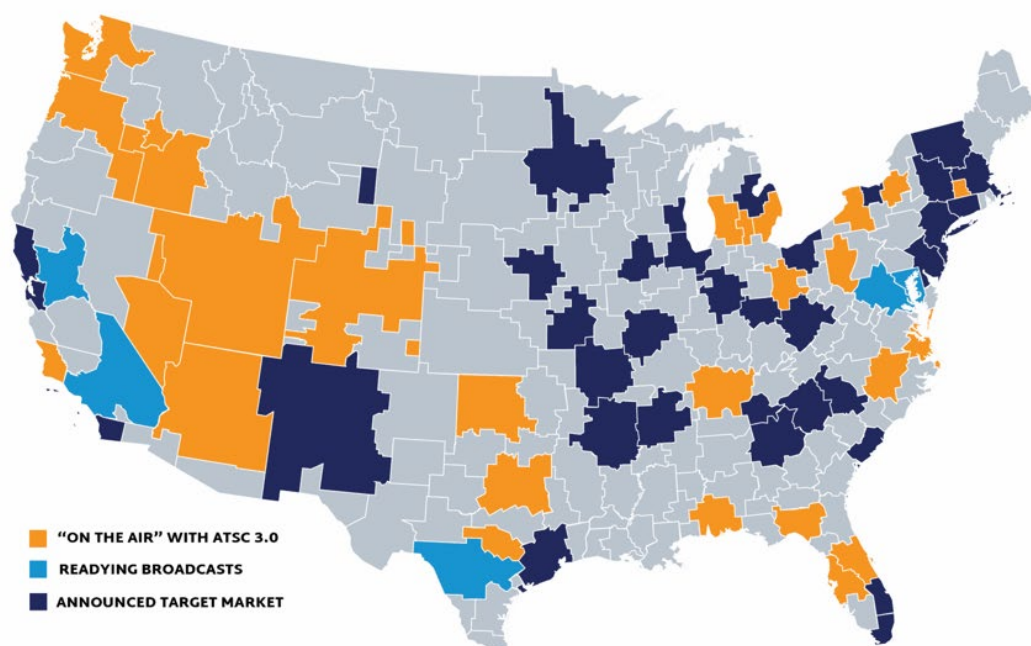
Consultation question 4.1: Should Australia continue to operate digital television systems using the DVB-T standard and the MPEG-4 compression technique? Are there other options that should be considered?

Australia should plan for a transition in free-to-air broadcast television to 4K DVB-T2 and/or IP-based DVB-I technologies to serve audience needs, and other public interest use in the future.

As of February, this year, 24 American cities such as Denver, Detroit and Phoenix have television stations 4K broadcasting underway using the ATSC 3.0 IP-based standard, with dozens more stations in markets across the United States, including Chicago, Los Angeles and New York, due to start later in the year. As indicated in the map below, up to 70% of the US population are expected to have access to 4K terrestrially broadcast television by the end of 2021.²

Map of current and target markets for 4K ASTC 3.0 deployments in the USA as at May 2021³

UNITED STATES DEPLOYMENTS



Over the past year, trials of 4K broadcasting using DVB-T2 have been underway in Spain, Austria, Poland and France.⁴ NHK has started two 4K channels in Japan and a 4K television station started broadcasting in Guangzhou in China in 2020.

4K television sets have been on sale in Australia for the last few years and are now walking out the doors of electrical stores as prices have come down. In April 2021, you could buy a large 58-inch 4K TV from ALDI for \$569.⁵ Those with 4K television are taking advantage of 4K content offered by SVOD streaming services and pay for content download services such as iTunes and Amazon.

Australian consumers want 4K and are already voting for it with their wallets.

The Green Paper's proposal for reducing available spectrum for free-to-air television will have the effect of stopping or substantially inhibiting a shift to 4K transmission. Free-to-air television has been struggling with a significant proportion of the audience shifting to SVOD streaming services such as Netflix, Stan, Amazon Prime Video, Disney+ and Apple TV+. These SVOD services already deliver a considerable quantity of 4K content, which will dramatically increase in the years ahead. Foxtel has a 4K movie channel and is screening some live sport in 4K.

Australian free-to-air television must plan on transitioning to 4K broadcasting if it is going to stay competitive with streamers and deliver audiences the UHD content they will expect like the rest of the world. Not planning for a move to 4K transmission, nor preserving the spectrum to do so, will be akin to hammering the nails into the coffin of free-to-air television in Australia.

The decision to deploy a hybrid IP-based/broadcast standard, ASTC 3.0, in the USA rather than a pure broadcast 4K standard has enormous merit for the flexibility and affordances it offers both broadcasters and audiences.

Considering our current infrastructure, the obvious choice is for Australia to move to 4K with DVB-T2. However, we recommend that ACMA seriously investigate the possibility of transitioning to 4K broadcasting using the DVB-I standard, or DVB-I phased in in combination with DVB-T2.

The capabilities that the IP-based DVB-I standard could bring to Australian broadcasters could be of considerable value in engaging audiences by offering higher quality image quality. It would also be of valuable to their economic sustainability in competing with streaming services and other online content providers.

The future ability for content to be simultaneously transmitted to mobile devices over 5G and as free-to-air television broadcasts to television sets via DVB-I offers a huge opportunity for broadcasters to converge their technologies and rebuild lost audiences.

Iran started a pilot trial of DVB-I in March of 2020⁶ and Denmark also began testing a combination of DVB-T2 and ASTC 3.0 technology last year.⁷

Given the potential advantages of DVB-I for the free-to-air broadcast television industry, we recommend that ACMA should initiate a DVB-I trial in Australia as soon as possible as part of its planning for transition to 4K broadcasting.

Retaining Spectrum for 4K Broadcasting

Given the higher bandwidths required for 4K, this is another reason why we recommend that the spectrum be retained for the Australian screen ecosystem rather than selling the spectrum for use by 5G mobile, or other purposes. While multiplexing and new compression technologies may lead to reduced bandwidth requirements to some degree, 4K will still require significantly higher bandwidth than HD transmission.

4c Alternative proposals for use of the spectrum

We have already discussed the use of the spectrum for introducing new players to the broadcast market under **section 3b** and retaining spectrum for future transitioning to 4K transmission.

Another alternative use of the spectrum that will achieve positive public policy outcomes would be to return some spectrum to Community TV.

Community Television

We believe it is in Australia's interest for the government to reverse its decision to withdraw digital Community TV licenses.

Community TV functions as fertile ground for young Australian voices to form, develop and emerge and offers considerable value to the Australian screen industry and Australian culture:

- The overwhelming majority of its airtime is by default, Australian content.
- It screens a vast diversity of Australian stories and from a far more diverse range of voices than mainstream free-to-air television and SVOD services.
- Since it started in 1993, thousands of people volunteering with Community TV stations and making Community TV content have trained in television and video production and have gone on to become screen professionals. Community TV also develops critical collaborative skills which are essential to screen production and practitioners do not learn making videos individually and putting them on YouTube.
- It offers young and emerging creative people an opportunity to experiment and innovate with the resources and support of an institutional structure that they will not experience in their bedroom with a smartphone.
- Rove, and Hamish and Andy, are two shining examples of people who developed their ideas, skills and television personas on Community TV in Melbourne and went on to make significant contributions to Australian culture.
- Community TV stations also provide volunteers training in other skills, which while not direct screen skills, are fundamental to the screen industry, such as management, marketing, publicity, submission writing and office admin skills.
- It provides a curation service, that selects community programs of a reasonable standard, offers feedback, clusters programs together, and effectively promotes them to achieve a greater profile and audience than many of them otherwise would be buried in the noise of millions of other videos on YouTube.
- Through paid sponsorship announcements it affords small businesses an opportunity to reach potential customers with inexpensive television advertising that they could never afford to pay for on commercial television.
- It supports arts in the cities it broadcasts in providing coverage of, and support for, local festivals, exhibitions, live music, plays and other performances that are rarely supported by commercial television and our national broadcasters.
- Delivering coverage of local community events and diverse cultures, it promotes harmony and social cohesion.

We recommend that the two Community TV stations still operating C31 in Melbourne and Channel 44 in Adelaide whose licenses are set to expire on June 30, 2021, should have those licenses permanently extended.

We also recommend that the government reallocate digital Community TV licenses for Brisbane, Sydney and Perth, and open license application processes in those cities as soon as possible.

Returning Community TV licenses to Brisbane Perth, Adelaide, Melbourne and Sydney, once those stations are all back in operation, would add over 30,000 hours a year of diverse Australian stories and voices to our screens – no quotas, no expenditure credits, no Producer Offsets or tax rebates required.

We further recommend that the government commence planning for making spectrum available for new national Community TV licenses that would allow communities around Australia that do not have the population base of the five major capital cities, to watch, contribute to, and have local content windows in, a national Community TV channel.

Given the range of positive public policy outcomes offered by restoring Community TV we further recommend that the government mandate that Broadcast Australia and TX Australia transmit Community TV channels in Adelaide, Brisbane, Melbourne, Perth and Sydney, and national Community TV channel when one is established, free of charge as a public service obligation.

5. SUPPORTING BROADER MEDIA POLICY OUTCOMES

5a Response to proposed Create Australian Screen Trust (CAST)

We support the establishment of a Create Screen Australia Trust to provide increased funding support to local screen producers and the production of more Australian Stories for the screen.

Under our proposal to reallocate and auction some multi-channel licenses to new players, a yet-to-be-determined percentage of this revenue would be available to CAST.

To best serve the public policy objectives we have outlined, more work needs to be undertaken to develop guidelines for how the CAST funding to content producers would be distributed and administered.

To ensure an increased diversity of stories and voices from CAST funding, CAST guidelines would ideally specify that:

- The proportion of funding available to the dozen or so largest Australian production companies would be capped allowing a substantial proportion of the funding to be distributed to projects being produced by smaller production companies.
- A significant proportion of CAST funding to also be allocated to production companies based in rural or regional areas.
- Applications for CAST funding must meet a range of diversity criteria (to be developed by Screen Australia in consultation with the industry).

5b Response to proposed Public Interest News Gathering Trust (PING)

We support the establishment of a Public Interest News Gathering Trust to provide increased funding support for investigative and local journalism.

Under our proposal to reallocate and auction some multi-channel licenses to new players, a yet to be determined percentage of this revenue would be available to the PING Trust.

To ensure an increased diversity of voices being reported by news organisations accessing PING Trust funding, PING guidelines should be developed and would ideally specify that:

- PING funding would not be available to existing large news organisations, who already have significant infrastructure and resources such as News Corp, Nine/Fairfax, Seven, Ten, ABC or SBS, rather, it would be available for smaller media companies.
- A significant proportion of PING funding allocated to news/media companies based in rural or regional areas.

6. HARMONISING AUSTRALIAN CONTENT OBLIGATIONS

The effective support of the Australian screen industry and increasing the proportion of Australian stories on screen requires harmonisation of Australian Content obligations between the free-to-air broadcasting sector and the SVOD, AVOD and BVOD services.

Our previous submission in response to the *Supporting Australian stories on our screens—options paper*, presented a detailed model for how a revenue-based system requiring SVOD services to invest in the production of Australian content could be implemented and operated.⁸

Based on this model, we recommend the consideration of this previously proposed revenue-based model for Australian Content regulation for SVODs, along with an alternative model for reforming the current quota system for free-to-air broadcasters. A link to our previous submission can be found in the References section at the end of this document.

The model in our previous submission addresses many of the issues raised in the Consultation Questions on harmonisation in the Media Reform Green Paper. Therefore, we only respond to one sub-question.

Consultation question: 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?

Australia's commercial free-to-air broadcasters invest around 75% to 80% of their programming expenditure on Australian content. If we are serious about harmonising the Australian Content obligations between broadcasters and streaming services and achieving good outcomes for our public policy objectives an investment rate of 5% of Australian revenue for SVOD services is woefully inadequate. We recommend starting at 14%, to be

reviewed after a few years of operation with a view to raising the rate higher. The reasoning behind the initial rate of 14% is presented in **section 6.2** of our previous submission⁹ in response to the *Supporting Australian stories on our screens—options paper*.

7. AUSTRALIAN CONTENT OBLIGATIONS FOR THE ABC AND SBS

We support the ABC and SBS being subject to annual Australian content reporting requirements.

We believe it is appropriate for the ABC to be subject to the same minimum Australian content requirements as commercial free-to-air broadcasters, but this would be dependent upon the ABC being adequately resourced by the government to be able to meet such Australian content requirements. Any entrenchment of Australian Content requirements in the ABC's Act would need to be matched by similar legislative requirements on the Federal Treasurer to appropriately fund the ABC when handing down the Government's annual budget.

Given SBS's Charter in relation to multicultural programming there would be ground for this not applying to SBS, but we would not make a recommendation with regards to SBS until undertaking further research. Similarly, any entrenchment of such a requirement in SBS's Act would require a legislative guarantee of adequate funding.

With regards to the Green Paper's proposals for repurposing broadcast spectrum, we recommend that the ABC and SBS should retain all of their current digital multi-channels as these channels have been functioning well in achieving the public policy objectives we outlined at the beginning of this submission.

8. RECOMMENDATIONS

In consideration of the proposals detailed in the Media Reform Green Paper, and developing our responses to the questions it raises, we have arrived at a number of recommendations presented in this submission.

Our recommendations for maximising support for Australian stories on screen and developing a sustainable future for broadcasters as they adapt and evolve in the convergent screenscape are as follows:

Recommendations

1. The reform of current broadcasting regulations and harmonisation of Australian Content obligations should be developed and determined in accordance with the public policy objectives outlined in **section 2** of this submission.
2. In accordance with the public policy objectives of increasing Australian stories and a diversity of voices on screen, we recommend adding a new Australian Content sub-category, or sub-quota, called 'Other Culturally Significant' to join 'Drama' and

‘Documentary’ content as required by regulation. This would apply not only to broadcast free-to-air television but also the SVOD streaming services as well. This proposed new Australian content sub-category is discussed in more detail above in **section 2a** of this submission.

3. The new licensing arrangements for free-to-air commercial television multi-channels and plan for a Digital Dividend from the sale of spectrum proposed in the Media Reform Green Paper should not proceed at this point in time. These proposals do not serve these public policy objectives well, and the spectrum will be needed for the future transition to 4K broadcasting.
4. Instead, we recommend the development of a new regulatory approach for free-to-air broadcasting based on the approaches we are proposing in the submission that better serves public policy objectives and addresses areas that the Media Reform Green Paper does not canvass. A new Green Paper embodying these alternative approaches could be issued by the Department in the future.
5. While the commercial multi-channels have been underperforming and the future of terrestrial free-to-air broadcasting currently appears uncertain, with reformed regulation, innovation from new players, the increased economic contribution of BVOD services, and the promise of more engaging broadcast technologies such as DVB-I in the near future, there is the potential for a resurgence in free-to-air broadcasting in the converged screenscape. To facilitate this resurgence, we recommend a minimum 5-year moratorium on the sale of existing television broadcast spectrum for non-television broadcasting purposes.
6. In the interest of increasing and promoting more Australian stories on screen, to the degree permissible under Annex II of the Australia-United States Free Trade Agreement of 2004, the Federal Government should mandate the repeat of higher levels of Australian Content on Multi-Channels, discussed in detail in **section 3b** of this submission.
7. Each of the existing commercial networks, Seven Nine and Ten, should give up a multi-channel license to introduce “New Players” into the space, and to encourage innovation, competition and the revitalisation of free-to-air television. Three “New Player” licenses would be auctioned to the highest bidders.
8. Conditions of the “New Player” licenses and eligibility to bid for “New Player” licenses in auctions should be developed in accordance with proposed guidelines discussed above in **section 3c**.
9. The funds raised by the auction of “New Player” licenses would be allocated variously to the CAST and PING Trust funds proposed by the Green Paper and to partly fund the one-off investment in new transmission and broadcast hardware required for the future conversion to 4K broadcasting.

10. ACMA should commence planning and set a date for the introduction of 4K/UHD television broadcasting in Australia utilising the DVB-T2 and/or DVB-I standards.
11. Considering the potential advantages to commercial free-to-air broadcasters and the ABC and SBS, ACMA should initiate a trial of DVB-I in Australia as soon as it is feasible.
12. The Federal Government should plan and budget for the allocation of one-off government financial support for the free-to-air commercial broadcasters, ABC and SBS to assist with the investment in new hardware and technological costs involved in the conversion to 4K broadcasting.
13. The Federal Government should reverse its decision to withdraw digital community television licenses. The licenses for C31 in Melbourne and Channel 44 in Adelaide should be renewed as permanent licenses when the current temporary extension expires on 30th June 2021. Applications for Community TV licenses in Brisbane, Sydney and Perth should be called for by ACMA as soon as is administratively practicable.
14. Applications for a new National Community Television Licence to operate a National Community Television Channel across Australia with local content windows in rural and regional areas should be called for by ACMA as soon as is administratively practicable.
15. Spectrum for a new National Community Television Channel, and if needed for the relaunch of Community TV channels in Brisbane, Sydney and Perth, would be made available by revoking the licenses of one or more of the existing digital shopping channels.
16. To ensure the economic viability of Community Television and the public policy outcomes it delivers, the Federal Government should mandate that Broadcast Australia and TX Australia transmit Community TV channels in Adelaide, Brisbane, Melbourne, Perth and Sydney, and the proposed new National Community TV Channel free of charge as a public service obligation.
17. We support and recommend the establishment of the CAST and PING Trust funds proposed by the Media Reform Green Paper.
18. To ensure an increased diversity of stories and voices from CAST funding, CAST guidelines should be developed to specify that the proportion of funding available to the dozen or so largest Australian production companies would be capped, allowing a substantial proportion of the funding to be distributed to projects being produced by smaller production companies.
19. A significant proportion of CAST funding should be allocated to production companies based in rural or regional areas.

20. Applications for CAST funding must meet a range of diversity criteria (to be developed by Screen Australia in consultation with the industry).
21. To ensure an increased diversity of voices being reported by news organisations accessing PING Trust funding, PING guidelines should be developed that would specify that PING funding would not be available to existing large news organisations who already have significant infrastructure and resources such as News Corp, Nine/Fairfax, Seven, Ten, ABC or SBS. Rather, it would be made available for smaller media companies.
22. A significant proportion of PING funding should be allocated to news/media companies based in rural or regional areas.
23. As part of harmonising Australian Content regulation, SVOD streaming services should be subject to a revenue-based model requiring them to invest in the production of Australian content.
24. We recommend that the initial rate for investment in Australian Content for SVOD services should be set at 14%, with the potential for it to be raised higher.
25. We also recommend the introduction of an alternative model of Australia Content regulation for commercial free-to-air broadcasters where the current Quota system would be replaced with an Expenditure-based model. This is discussed in detail in our previous submission⁷ responding to the *Supporting Australian stories on our screens—options paper* in 2020. A link to our previous submission can be found in the References section at the end of this document.
26. We recommend the ABC and SBS be subject to the same annual Australian content reporting requirements as commercial free-to-air broadcasters are.
27. We recommend that the ABC be subject to the same minimum Australian Content requirements as commercial free-to-air broadcasters, but only if ABC is adequately resourced to produce and acquire such a level of Australian content.
28. Given SBS’s Charter in relation to multicultural programming, a level of minimum Australian Content requirements could be considered for SBS, but this would need further research to determine what an appropriate level would be. Similarly, any entrenchment of such content requirement in SBS would require a legislative guarantee of adequate funding.
29. The ABC and SBS should retain all their current digital multi-channels as these channels have been functioning well in achieving the public policy objectives we outlined at the beginning of this submission.
30. The funds raised by the auction of licenses to new broadcast television players should be allocated variously to the CAST and PING funds proposed by the Green

Paper and to partly fund the one-off investment in new transmission and broadcast hardware required for the future conversion to 4K broadcasting.

9. REFERENCES

1. Nehl, Andy, FitzSimons, Trish, Hegedus, Peter, Keys, Wendy, Ryan, Mark, Hart, Phoebe, et al. (2020) [*Submission from Griffith Film School and Film, Screen, Animation, QUT, responding to the Supporting Australian stories on our screens: Options Paper.*](#) Griffith Film School, Griffith University, pp. 18-22. This reference is referred to as the GFS-QUT Submission in subsequent references in this submission.
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