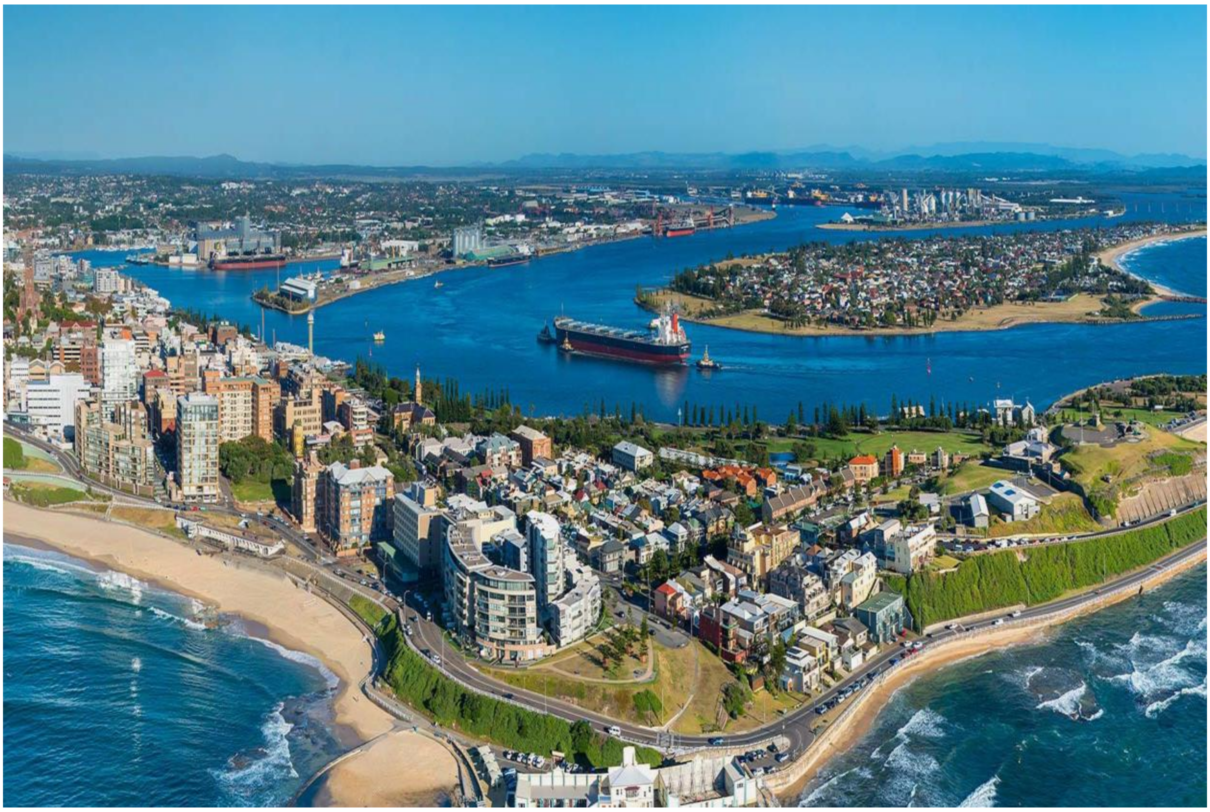
MEDIA REFORM GREEN PAPER
Modernising television regulation in Australia

May 2021



Newcastle NSW

Submission by Prime Media Group, Southern Cross Austereo, WIN Network

1. Executive Summary

Submission overview

- Prime Media Group (**Prime**), Southern Cross Austereo (**SCA**) and WIN Network (**WIN**) are independent, regional, commercial television broadcasters (collectively referred to as **Regional Broadcasters**) who welcome the opportunity to engage with the Government to modernise television regulation in Australia.

- Regional Broadcasters are pleased that the Australian Government's "Media Reform Green Paper: Modernising television regulation in Australia" (the **Green Paper**) begins the conversation about modernising television regulation through significant multi-year investment in regional transmission infrastructure. However, Regional Broadcasters consider that the Green Paper does not address some of the most pressing issues facing the free-to-air (**FTA**) sector and the reform agenda should be extended to create a sustainable regional television broadcast industry that will utilize its transmission infrastructure for the benefit of Australian regional communities.

- Prime, SCA and WIN are all members of Free TV Australia (**Free TV**) and support the submission being made by Free TV in response to the Green Paper insofar as it relates to spectrum allocation and terrestrial television. There are, however, significant issues that arise from the Green Paper that are specific to Regional Broadcasters, which will be outlined in this submission.

- Regional Broadcasters are committed to working constructively with the Government to ensure that the proposed generational investment in regional communications infrastructure will result in a modernised and sustainable regional FTA television industry. A modernised and sustainable regional FTA television industry must be an equitable one whereby regional viewers will continue to receive the same FTA television services as metropolitan viewers and where Regional Broadcasters can continue to provide high rating, quality, regional news reported by regional-based journalists who are engaged in their local communities.

Terrestrial FTA television remains vital to regional communities

- Terrestrial FTA television is an essential service, with Regional Broadcasters providing local news and community information services to millions of Australians living in regional Australia. Impartial, trusted and accurate local news and community information services form part of the fabric of regional Australia. Regional Broadcasters are committed to telling the stories of regional Australians, informing and uniting communities, ensuring accountability and supporting the cultural identity of regional Australia.

- While the advent of digital platforms has materially altered the media landscape, there continues to be a heavy reliance on terrestrial FTA television. This is particularly the case for those Australians living in regional areas, who do not have access to alternative viewing platforms, either due to poor or unreliable internet services[1] and/or because they do not use paid or subscription services.[2] Indeed, a recent study by Deloitte found that 95% of

[1] RMIT University and Swinburne University of Technology, Measuring Australia's Digital Divide: The Australian Digital Inclusion Index, (report commissioned for Telstra, 2019).

[2] 6.4 million Australians do not use paid or subscription television services per Deloitte Access Economics, 'Everybody Gets It: The Economics and Social Benefits of Commercial Television in Australia', 2020.

Australians believe losing terrestrial FTA television would have negative social and financial implications for society.[3]

- In order to achieve the Government's stated public policy outcomes and to ensure that FTA services in regional Australia are not withdrawn, a workable and mutually agreed roadmap must be devised to secure the future of terrestrial FTA television in regional Australia.

Implications of the Green Paper proposal

- The Green Paper is predicated on the notion that investing tens of millions of dollars in new technology to create shared multiplexes within a relatively short timeframe will optimise the use of spectrum, to provide a digital dividend. However, Regional Broadcasters have already heavily invested in compression technology, using a combination of MPEG-2 and MPEG-4 technology to optimise spectrum usage. As a consequence, the compression benefits of shared multiplexes as proposed will not be significant and will adversely impact service offerings in regional Australia.

- Should the Green Paper proposal for new technology and shared multiplexes proceed, then television services will need to be restacked to broadcast within the reduced spectrum allocation. The Green Paper proposal for a 3-transmitter / 3-shared multiplex model using MPEG-4 encoding and DVB-T transmission has been interpreted differently across the industry. However, there is broad consensus that this model will not support the suite of services currently offered on FTA television and will result in a reduction of the number and/or quality of services. This will be to the detriment of television broadcasters and viewers alike, will compromise public policy goals, and does not provide a sustainable path for FTA television into the future. Any reduction in the number of commercial television channels, combined with the incremental loss of FTA viewers, will accelerate the decline of Regional Broadcasters due to the loss of advertising revenue.

- Preliminary industry consultation around alternative proposals includes models where Regional Broadcasters potentially have access to a fewer number of shared multiplexes than metropolitan broadcasters as a consequence of the metropolitan broadcasters' primary channels utilizing Very High Frequency (**VHF**) spectrum. Any of these models are unacceptable to Regional Broadcasters as they will have significant consequences, including:

    - Regional Broadcasters will have no alternative but to reduce the number of commercial television channels broadcast to regional Australia compared to in metropolitan cities; and

    - Regional viewers will not be able to access the same FTA television programming as metropolitan viewers. There is likely to be a reduction in regional viewers as a result of a portion of television receivers not being compatible with MPEG-4 and shared multiplex technology.

- The Green Paper proposal centres on a 3-transmitter / 3-shared multiplex model using MPEG-4 encoding and DVB-T transmission. However, international experience suggests that broadcasters and television receiver manufacturers are already beginning to adopt the DVB-T2 transmission standard and HEVC encoding technology which will most likely supersede MPEG-4 and DVB-T transmission during the proposed roll out period identified in the Green Paper.

[3] Deloitte Access Economics, 'Everybody Gets It: The Economics and Social Benefits of Commercial Television in Australia', 2020.

- Alternative technology options proposed in the Green Paper, such as satellite and IP delivery, carry unacceptable continuity of service risks as not all regional licence areas have reliable internet services, which will be to the detriment of regional advertisers and viewers. This is inconsistent with the Government's intended public policy outcomes of free, ubiquitous and accessible television for *all* Australians.

- The Green Paper lacks transparency around how the investment and roll out of shared multiplexes will be funded. Regional Broadcasters have a vastly different transmission infrastructure to metropolitan broadcasters, with approximately 17x the number of transmitters per million people[4] in regional and remote licence areas and therefore materially higher per capita transmission costs.

- It follows that the costs associated with any re-stack or technology shifts are likely to disproportionately lie with Regional Broadcasters. Regional Broadcasters have also made significant investments to maintain their current transmission infrastructure, and do not have surplus capital to fund a one-off generational change in transmission and encoding infrastructure. Furthermore, the Green Paper has not considered the additional telecommunications linking costs required to distribute the shared multiplex signals from their aggregation point to transmission sites. As demonstrated in the 2010 spectrum restack program, Regional Broadcasters will need the Government to fund a one-off generational change in transmission and encoding infrastructure and the ongoing incremental telecommunications distribution costs.

- The Green Paper proposes a timetable of less than five years for the restack planning and implementation. However, there is significant technical analysis required to ensure that television services continue uninterrupted using the restacked spectrum, particularly in regional licence areas that overlap with, and are immediately adjacent to, metropolitan licence areas. As demonstrated by the 700MHz digital spectrum restack program in 2010, a spectrum restack of this magnitude will require the Australian Communications and Media Authority (**ACMA**) and all commercial and national broadcasters to engage in a multi-year planning exercise, followed by a multi-year roll out of shared multiplex infrastructure and equipment. At first glance, the multi-year delay may appear unwarranted; however, independent analysis conducted by Competition Economists Group as commissioned by and detailed in Free TV's submission, suggests that if a spectrum auction is conducted too early, this is likely to considerably reduce any spectrum dividend and could result in a discount of 50-70%.[5]

Creating a viable future for Regional Broadcasters

- In order to modernise the regulatory and operating environment for Regional Broadcasters and to enable them to continue to provide vital and locally relevant news, information, entertainment and advertising that supports thousands of regional businesses, Regional Broadcasters must be allowed the opportunity to merge in order to create a financially sustainable operating model. In the United States, the Federal Communications Commission (**FCC**) has sought to overhaul media ownership laws to keep pace with the modern media landscape and to facilitate mergers between local broadcasters. Paving the way for a possible merged entity involving part or all of the assets of the Regional Broadcasters in Australia may also serve to overcome some of the economic and infrastructure challenges in the Green Paper.

[4] Inform*ITV*, Number of transmitters per million people (figures are for commercial broadcasters only), 2019.
[5] Competition Economists Group, 'Value of 600MHz spectrum band', 2021.

- As outlined in this submission, there are far-reaching implications for Regional Broadcasters if the current spectrum allocation is reduced. The significant investment required to roll out transmission and encoding infrastructure far outweighs the deregulatory benefit proposed in the Green Paper – that is, the proposed commercial broadcasting tax relief and no multichannel transmission quotas.

- Before any consideration can be given to a multiplex sharing arrangement or alternatives such as the DVB-T2 transmission standard and HEVC encoding technology, Regional Broadcasters need to be assured of their ability to remain viable and sustainable, which will require financial and regulatory commitments from the Government, including:

    - Modernisation of the Broadcasting Services Act (**BSA**) to remove the 'voices' test and amend the 'one-to-a-market' rule so that Regional Broadcasters have the ability to merge, subject only to general competition law oversight;

    - A guaranteed share of the gross proceeds from the sale of spectrum, together with an annual payment to cover the financial losses incurred from the incremental distribution costs and the cost of producing local news and community information;

    - Full funding by the Government of the one-off generational change in transmission and encoding infrastructure;

    - Modernisation of the BSA to ensure Regional Broadcasters can compete fairly with streaming platforms and websites, including the permanent repeal of the commercial broadcast tax and the relief as outlined in the Green Paper from multichannel content quotas; and

    - Allowing Regional Broadcasters to hand back loss-making s38B broadcast licences to the Government with the Government to pay all exit costs for these licences.

2. Introduction

Regional television is an essential service

2.1. Prime, SCA and WIN welcome the opportunity to jointly respond to the Green Paper. We represent some of the largest and most diverse regional media businesses in Australia.

2.2. Collectively, Regional Broadcasters:

- provide a FTA television service to close to 9 million people or approximately 36% of Australia's population each week – regional Australia's licence area audience is as large as Sydney and Melbourne combined, and larger than Brisbane, Adelaide and Perth combined;

- employ around 2,100 people in regional Australia, including a large number of journalists and news staff;

- deliver over 10,000 hours of free-to-air content each month – 24 hours a day;

- deliver 700 hours of local news bulletins, news updates, weather updates and community service announcements each month;

- provide accessible and effective advertising for thousands of regional businesses; and

- as part of our combined 700 hours of local news production, provide over $40 million in free airtime to promote local charities and community services each year.

2.3. Local news and community information services are critical to the millions of Australians living outside capital cities, with Regional Broadcasters providing an essential service that informs, enriches and unites regional communities as well as promoting informed public debate. These services should not be the sole preserve of the national broadcasters. Indeed, the ACCC's Digital Platforms Inquiry Final Report (the **DPI Report**) recognised the importance of the availability of a wide range of high quality news and journalism and the resultant benefits to Australian society and a healthy, functioning democracy.[6]

Regional Broadcasters must remain viable

2.4. As the Government is aware, the costs to regional television businesses to produce local news, weather and community information programming far outweigh the financial benefits. The advent of digital platforms and streaming services has seen a dramatic decline in advertising revenue for Regional Broadcasters, while operating costs remain high. Local news programming is loss-leading due to the fact it is relatively expensive to produce and typically does not attract premium advertising. There are no incentives at present for Regional Broadcasters to produce local news programming and other community and information services beyond the compliance requirements in the BSA.

2.5. While Regional Broadcasters appreciate the opportunity to engage with the Government, the proposed significant investment in regional transmission infrastructure will not, by itself, modernise the Australian media landscape. The Green Paper does not address the most pressing regulatory amendments required to modernise the media industry – primarily, the now-obsolete media diversity provisions in the BSA – which is to the particular detriment of Regional Broadcasters, who continue to experience significant cost pressures and declining audiences, revenue and profitability.

3. The Future of Regional Television

Regional broadcasters at a critical point

3.1. Terrestrial FTA television remains fundamental to millions of Australians, especially those living in regional Australia. While there is no doubt that audience viewing behaviours have shifted in recent times, terrestrially delivered television will continue to be an important part of the Australian media landscape well into the next decade. This is especially so in regional Australia, where internet services in many places are not as accessible, reliable or affordable as terrestrial FTA television.[7]

3.2. As noted in the DPI Report, a study conducted by ACMA in 2017 found that those living in regional Australia prefer consuming their local news via traditional media formats, with the most trusted source being commercial television.[8] With that in mind, Regional Broadcasters firmly believe that regional Australians deserve continued free, ubiquitous, high quality

[6] ACCC's Digital Platforms Inquiry Final Report, June 2019.
[7] RMIT University and Swinburne University of Technology, Measuring Australia's Digital Divide: The Australian Digital Inclusion Index, (report commissioned for Telstra, 2019).
[8] Ibid.

commercial television services on par with the services provided in metropolitan areas and any plan for modernising television in Australia must have this at the forefront of its public policy principles.

3.3. It has been well documented, and indeed each of the Regional Broadcasters making this submission has on multiple occasions conveyed to Government, that regional commercial television in Australia has a precarious future. Urgent action is required from the Government to preserve the viability of Regional Broadcasters. Regional Broadcasters face enormous challenges as individual companies, including:

- Substantial fixed distribution, transmission and encoding costs under long-term contracts, across an expansive transmission infrastructure that is 17x the size of metropolitan broadcasters[9];

- Significant and ongoing revenue and audience declines which are exacerbated by an outdated and inadequate regulatory framework;

- High affiliate fees paid to metropolitan broadcasters which account for up to 40-50% of Regional Broadcasters' gross advertising revenue; and

- No access to Broadcast Video-on-Demand (**BVOD**) or streaming rights to mitigate declining revenue by monetising digital content.

3.4. In this submission, some of the above challenges can be alleviated if Australia's media legislation and regulations are modernised to account for the realities and pressures of the current media environment. Regional Broadcasters have struggled to remain profitable in an increasingly digital world, where even metropolitan program suppliers are able to take a share of our regional audiences via streaming and BVOD services in regional television licence areas, diluting our advertising revenues and devaluing our broadcasting licences. This is in addition to international streaming services (as well as local streaming services, such as Stan), that are not required to comply with the stringent and outdated regulatory regime that commercial television broadcasters are subject to.

3.5. The irreversible shift to online content delivery, and the number of such digital services available to those consumers with reliable internet services in regional areas, highlights the need to modernise the BSA's media ownership and diversity provisions, specifically to amend the 'voices test' and remove the 'one-to-a-market' rule, which are no longer fit for the purpose of regulating media diversity in Australia.

Declining revenue, audience and profitability

3.6. The proliferation of digital services and the closure of many regional newspapers, combined with the limited ability of Regional Broadcasters to adapt to the changed environment, means the question must be asked: "who will provide local news services to regional Australia if the current providers fail financially?" The Green Paper acknowledges this very real possibility, linking a failure of Government to act with continued diminished revenue and the potential collapse of some television broadcasters.[10] Many television news rooms

[9] Inform*ITV*, 2019.
[10] Australian Government, "Media Reform Green Paper" November 2020.

have already closed[11] and it is anticipated that many more will be forced to do so in the future. The statistics speak for themselves.

Regional Television Audience Declines – 4 Aggregated (East Coast) Markets		
Period	**Total Audience[12]**	**Aggregate % Decline**
01/07/2014 - 30/06/2015	1,436,950	-
01/07/2015 - 30/06/2016	1,355,322	-5.5%
01/07/2016 - 30/06/2017	1,262,751	-12.0%
01/07/2017 - 30/06/2018	1,184,648	-17.4%
01/07/2018 - 30/06/2019	1,087,558	- 24.2%
01/07/2019 – 30/06/2020	1,065,243	-25.8%

4 Aggregated (East Coast) Markets Revenue Decline 2014 - 2020[13]			
Period	**Total Ad Rev - $M**	**Annual Percentage Decline**	**Aggregate % Decline**
01/07/2014 - 30/06/2015	688.4	-	-
01/07/2015 - 30/06/2016	646.3	-6.1%	-6.1%
01/07/2016 - 30/06/2017	622.3	-3.7%	-9.6%
01/07/2017 - 30/06/2018	599.7	-3.6%	-12.9%
01/07/2018 - 30/06/2019	572.8	-4.5%	-16.8%
01/07/2019 – 30/06/2020	486.2	-15.1%	-29.4%

Commitment to regional Australia

3.7. Despite the ongoing challenges faced by Regional Broadcasters, we have been, and will continue to be, "vocal about the future sustainability of [our] businesses."[14] Regional Broadcasters are committed to ensuring that all Australians, and particularly those living in regional Australia, retain access to quality, independent and locally relevant news and weather information services and affordable and effective advertising for their local businesses. But we can only operate within our financial means.

[11] Australian Newsroom Mapping Project, www.anmp.piji.com.au.
[12] Source: Regional TAM Data / 4 aggregated markets / S-S 0600-24000 / Total FTA (excl. spill) / consolidated data.
[13] Source: KPMG Industry data / 4 aggregated markets (excludes Mildura) / excludes contra.
[14] Australian Government, "Media Reform Green Paper" November 2020.

3.8. The DPI Report explored the impacts of digital platforms and the closure of newspapers and newsrooms on the production (or under-production) of public interest journalism.[15] It highlighted the serious implications for news reporting and journalism as a consequence of changes to the media business model, particularly in relation to decreased advertising revenue and the flow-on effects to both "operational expenditure and employment of editorial staff.[16] Conversely, digital news businesses have low barriers to entry, do not produce local news, do not employ journalists in regional Australia and are not bound by the strict licence requirements that Regional Broadcasters are subject to.

3.9. Of particular concern in relation to the proliferation of online news services, and the related closure of regional newspapers and newsrooms and reduction in local journalists, are the risks around consumers obtaining their news from digital platforms.[17] These include the emergence of 'fake news', the spread of disinformation and misinformation and the concepts of 'filter bubbles', 'echo chambers' and 'news deserts'. The DPI Report highlights these as emerging issues.[18] For Regional Broadcasters, the notion that some regional communities may be forced into 'news deserts' where they no longer have access to independent, credible and quality local media, demonstrates the fundamental flaws of the current regulatory regime.

3.10. Those living in regional Australia should not be disadvantaged for doing so. Regional communities rely on, and should continue to be provided with, factual, high quality local news and information sources, produced by qualified journalists who live in the communities they work in.

4. How Will the Green Paper Proposal Impact Regional Broadcasters?

Regional broadcasters vs. metropolitan broadcasters

4.1. The Green Paper proposal does not recognise the differences between metropolitan and Regional Broadcasters and underestimates the negative impacts of shared multiplexes on Regional Broadcasters. These include:

- Substantial costs to transition and upgrade technology and infrastructure, with such costs to be disproportionately borne by regional broadcasters; and

- Ongoing and potentially increased transmission, distribution and infrastructure costs that are disproportionately high considering the size of the audiences and advertising revenue available to Regional Broadcasters compared to metropolitan broadcasters.

4.2. As a result of industry consultation, there are a number of different interpretations across the industry as to how a shared multiplex model might operate in practice. Some suggestions have included different models which could see metropolitan broadcasters have access to a greater number of multiplexes than Regional Broadcasters. We are strongly opposed to any such models as they would result in a raft of disadvantages for

[15] ACCC's Digital Platforms Inquiry Final Report, June 2019.
[16] Ibid.
[17] 'Report on the conduct of the 2019 federal election and matters related thereto', December 2020.
[18] ACCC's Digital Platforms Inquiry Final Report, June 2019.

Regional Broadcasters, including:

- Reduced television channel offerings, with a loss of content resulting in a loss of advertising revenue; and

- Reduced accessibility and potentially increased interference issues, causing a loss of audience and resulting in a loss of advertising revenue.

4.3. For context, the regional commercial television networks were formed in the late 1980s as a result of the Government's policy of regional aggregation and equalisation, whereby television services provided to regional viewers were required to be equivalent to metropolitan viewers. At that time, the Hawke Government's aim was to provide all Australians with access to a variety of free, high quality commercial television services. The advent of new digital technologies, particularly online streamed services, has completely altered the media landscape, leaving regional television broadcasters with reduced revenue opportunities, diluted markets and declining audiences. Additionally, the economics of the regional television market make it impossible for Regional Broadcasters to acquire independent content rights, including digital content rights. Meanwhile, transmission costs, licence and spectrum fees remain high and regulatory requirements are unchanged.

4.4. While the Green Paper broadly mentions the additional difficulties facing Regional Broadcasters, the proposal for shared multiplexes as outlined does not take into account the nuances of the transmission, encoding and distribution infrastructure of Regional Broadcasters and does not acknowledge the differences between regional and metropolitan broadcasters. Under the Green Paper proposal, or any other alternative proposal for shared multiplexes, Regional Broadcasters will be more negatively impacted than metropolitan broadcasters due to the sheer volume and geographic spread of Regional Broadcasters' transmission infrastructure.

4.5. In addition to an expansive transmission infrastructure, Regional Broadcasters have a far greater reliance on Ultra High Frequency (**UHF**) spectrum than metropolitan broadcasters. Metropolitan broadcasters service the majority of their audience using Very High Frequency (**VHF**) spectrum and supplement under-served areas using UHF spectrum. Regional Broadcasters, however, utilise VHF spectrum in a small number of markets and rely exclusively on UHF spectrum in most licence areas. Therefore, any changes to UHF spectrum use will have more significant consequences for Regional Broadcasters and viewers. This must be factored into any discussion around a new spectrum regime.

4.6. Metropolitan television broadcasters predominantly create or acquire content with a limited need to focus on geographic distribution of that content. Conversely, Regional Broadcasters are principally distributors of content produced by metropolitan broadcasters, which they transmit across a far-reaching and complex geographic area. Prime, SCA and WIN have historically rebroadcast metropolitan television services for the commercial networks, Seven, Nine and Ten under long term program supply agreements to their respective licence areas. Regional Broadcasters purchase channels under their respective program supply agreements, not individual programming and do not have the purchasing power to buy programming direct from overseas networks, produce Australian drama content or produce or buy individual sports rights. Regional Broadcasters do not (and cannot) own the rights to digitally stream or BVOD content licensed from metropolitan broadcasters under their respective program supply agreements.

4.7. Regional Broadcasters currently utilise all available spectrum, typically broadcasting:

- One high definition primary channel;
- One standard definition primary channel;
- Three standard definition secondary channels; and
- One or two datacasting channels.

Unlike metropolitan broadcasters, Regional Broadcasters have segmented their licence areas into sub-markets. The sub-markets were created in response to demands from local viewers for localised news services and local advertising. Sub-market splits provide enhanced commercial returns, but add to the complexity of Regional Broadcasters' infrastructure and spectrum allocation. Each Regional Broadcaster has different sub-market boundaries and these boundaries have no alignment with the national broadcaster's state-based programming. Therefore, the creation of shared multiplexes will add further complexity and costs to both regional and national broadcasters.

In addition, and unlike metropolitan broadcasters, Regional Broadcasters rely on an expansive network of transmission towers to broadcast in regional and rural Australia. The network has expanded the parent and child site infrastructure that has existed for several decades, with some sites pre-dating aggregation. This complex network is supplemented by the VAST safety-net service for viewers in regional and metropolitan 'black spot' areas.

Regional Broadcasters and shared multiplexes

4.8. Having regard for the above, the Green Paper proposal to adopt shared multiplexes to broadcast terrestrial television services is far more challenging for Regional Broadcasters and risks detrimentally impacting regional viewers. In particular, given Regional Broadcasters currently fully utilise all available spectrum, exclusively adopting MPEG-4 encoding with the DVB-T transmission standard, will not offset the loss of spectrum as currently proposed. As a consequence, any reduction in spectrum will result in a reduction in television channel services available to regional viewers. Any reduction in the number of television channels broadcast, or the number of sub-markets, will only serve to further compound the decline in regional audiences and regional advertising revenues.

4.9. Additionally, the introduction of shared multiplexes will not meaningfully reduce the cost of transmission for Regional Broadcasters and is unlikely to realise any meaningful cost savings to offset the loss of advertising revenues from a reduction in channels, including sub-markets, or the costs associated with aggregation and distribution. The regional transmission tower network has been developed over the past several decades to provide the widest possible coverage in regional areas to enable Regional Broadcasters to comply with broadcast legislation. Shared multiplexes will not reduce the number of transmission sites in regional Australia, which are regarded as a fixed cost of regional television broadcast operations under contracts that extend for up to 15 years.

4.10. Adoption of shared multiplexes in a way that would see Regional Broadcasters operating on fewer multiplexes than metropolitan broadcasters may also limit the ability of Regional

Broadcasters to introduce new channels in the future, in order to align with metropolitan broadcasters. If, for example, one of our metropolitan program suppliers launches a new multichannel, the Regional Broadcaster may not have the capacity to take that channel if there is insufficient spectrum. This will end the Government's long-standing policy of regional equalisation whereby regional viewers have access to the same FTA Australian content as metropolitan viewers. Regional viewers will instead be forced to pay for Australian content by sourcing Australian programming via streamed internet services, whereas metropolitan viewers will be able to watch free of charge on their FTA television service.

4.11. As noted in paragraph 4.7, an MPEG-4 / DVB-T technology combination will not offset the loss of spectrum in a 3-channel / 3-shared multiplex model as currently proposed. Industry has been collectively exploring alternative models that may deliver sufficient capacity for broadcasters now and into the future, and deliver an acceptable spectrum dividend to the Government. One alternative involves re-configuring the remaining UHF spectrum below 610MHz into three x 4-channel blocks utilising DVB-T2 transmission and HEVC encoding technology. This model offers some potential benefits such as wide-area Single Frequency Networks (**SFNs**). However, it must be made clear that such a model will require a wholesale re-plan of frequency allocations, will almost certainly increase co-channel interference into broadcaster child sites and for some viewers (as was the case in the Illawarra and Hunter regions following the 2010 restack) and, ultimately, may not be possible at all if Regional Broadcaster sub-markets are to be preserved. Some co-channel interference affecting Regional Broadcasters' child sites may be mitigatable through the use of telecommunications links, however the ongoing cost of these may be prohibitive. A significant feasibility study and industry collaboration is required before the viability and practicality of this model can be determined.

4.12. The proposed timeline to roll out shared multiplexes to regional transmission towers does not factor in key considerations, particularly the large number of transmission towers in regional Australia; the parent/child relationship between sites; Regional Broadcasters' reliance on UHF spectrum; and the additional sub-markets that Regional Broadcasters rely upon to optimise advertising revenue. We have also identified a number of other, significant technical aspects that would need to be addressed to ensure:

- No loss of coverage for existing audiences;
- No loss of audience due to television receivers being incompatible with shared multiplex transmission;
- No loss of audience due to co-channel interference as a result of losing access to spectrum, or interference from new Long Term Evolution (**LTE**) services operating in adjacent spectrum above 610MHz – particularly in regional areas where the wanted/unwanted signal level ratios will be less favourable to Regional Broadcasters;
- The continued efficient operation of parent/child transmission site relationships, or funding for and implementation of, alternative input mechanisms such as

telecommunications links;

- The necessary infrastructure and network connectivity to create shared multiplexes from five broadcasters' services is designed, funded and in place;
- Any disparities between broadcasters such as sub-market boundaries and transmission antenna patterns are identified, and changes are agreed on and implemented;
- There is sufficient time and funding to overbuild existing telecommunications networks to carry the shared multiplexes; and
- If a migration to newer technologies is contemplated, then similar to the switch from analogue to digital transmission services, sufficient time is allowed for consumers to upgrade their television receivers during a simulcast period.

Many of these and similar issues were considered during the 700MHz digital dividend spectrum restack program in 2010. The program was implemented over a long period of time and involved extensive consultation with and the co-operation of ACMA, all metropolitan, regional and national broadcasters. The current timeline should be reviewed for the significant planning required to benefit from the lessons learnt from the digital restack program.

5. Responses to Green Paper Consultation Questions

5.1. Given the considerable cost pressures already faced by the regional television industry, it is difficult to contemplate the proposals outlined in the Green Paper without a clear understanding of how any transition to a new spectrum regime will be funded.
While the Green Paper suggests the Government might make "a contribution to these costs….from the proceeds of the spectrum auction"[19], according to the timeline proposed in the Green Paper, the restack planning and implementation would both commence prior to the spectrum auction, meaning any contribution to the transition costs would be funded in arrears. Regional Broadcasters are not in a position to fund the costs to move to a new technology platform.

5.2. Preliminary estimates of the costs involved in transitioning to shared multiplexes indicate that the cost to Regional Broadcasters would be substantial and abolition of the commercial broadcasting tax and relaxation of content requirements for multichannels will not be at all sufficient to incentivise Regional Broadcasters to take up the proposal set forth in the Green Paper.[20] If Regional Broadcasters are to consider a move to a new multiplex sharing system, they will require additional financial and regulatory guarantees from the Government, as further detailed below.

5.3. In calculating whether the deregulatory benefit on offer in the Green Paper is sufficient for Regional Broadcasters, it is imperative that this calculation considers the loss of advertising revenues if Regional Broadcasters are required to drop channels as a result of reduced

[19] Australian Government, "Media Reform Green Paper" November 2020.
[20] Ibid.

spectrum allocation. Consideration must also be given to Regional Broadcasters' inability to take on additional television channels if and when they are offered by their metropolitan program suppliers as well as a lack of the optionality Regional Broadcasters will have to create their own unique channels in the future.

5.4. Regional Broadcasters are also concerned about a number of the short and long-term implications of the Government's Green Paper proposal, including:

- **Public Policy**: A potential reduction in services for regional Australians and therefore a failure to adequately achieve the public policy outcomes set out in the Green Paper;

- **No Sustainability**: A lack of future-proofing for the whole broadcast industry, especially Regional Broadcasters, who will incur significant costs, disruption and loss of services to complete transition to a technology platform that is already outdated and which inhibits future growth opportunities. The Government should instead be looking at a path to transition the broadcast industry to a more sustainable, future-forward technology platform such as the DVB-T2 transmission standard with HEVC encoding technology; and

- **Timing:** Due to the far-reaching impacts of the proposals outlined in the Green Paper, more time is required for the Government and broadcast industry to consider, design and implement a new spectrum and licence framework that will achieve the Government's public policy objectives.

5.5. As already noted in paragraphs 4.1-4.6 above, metropolitan broadcasters do not necessarily face the same challenges as Regional Broadcasters. The technology, infrastructure and transmission of Regional Broadcasters are far more geographically complex than metropolitan broadcasters. Regional Broadcasters have an expansive number of transmission sites – 1482 transmitters – compared to metropolitan broadcasters who have 189 transmitters.[21]

PING Trust

5.6. As has been previously submitted, Regional Broadcasters do not believe that funding for the production of public interest news should be linked to a Government grant program. Regional media businesses appreciated the financial support provided by the Government in response to the COVID-19 pandemic; however, this level of targeted funding will not sustain local news services into the future. We do not believe the PING Trust is an appropriate device and it does not provide a viable or sustainable solution to the financial issues facing Regional Broadcasters. Regional Broadcasters do not want to be reliant on Government funding via a process of continually applying and re-applying for grant monies that will come with restrictions on how it can be spent, without consideration of commercial returns.

Taking into account the timeline proposed in the Green Paper, the PING Trust would not be available until after the proposed spectrum auction. While the Green Paper estimates this to be in 2025, Free TV has calculated that this is likely to be closer to 2030. In either case,

[21] Inform*ITV*, 2019.

the PING Trust will only become available several years too late to address the current concerns facing regional television broadcasters. In our view, the PING Trust must therefore be reconsidered.

By our estimates, given the historic rate of decline of Regional Broadcaster revenues, there may be no locally produced news bulletins in regional Australia beyond the minimum requirements set out in the BSA resulting in a reduction in media diversity by 2025. Therefore, the optimal outcome to ensure local news continues beyond that date, is to urgently modernise the regulations so they are relevant to the current media environment and take account of market circumstances; rather than a program such as the PING Trust that avoids the necessary reforms and causes Regional Broadcasters to be dependent on the public purse.

6. Ensuring Sustainability for Regional Broadcasters: Modernising the BSA

Consolidation of Regional Broadcasters

6.1. We believe an important step towards overcoming the ongoing decline of regional broadcast media lies in regulatory reform for regional media businesses, enabling Regional Broadcasters the ability to merge some or all of their businesses. In order for a merger of regional media businesses to take place, amendments to the BSA would need to be made, including:

- Removal of the 'one-licence-to-a-market' rule found in section 53 of the BSA, which currently prohibits a person being in a position to control more than one commercial television broadcasting licence in a licence area;
- Removal of the directorship limit in section 55 of the BSA which supports the 'one-licence-to-a-market' rule; and
- Amendments to the 'voices test' found in section 61AG and 61AH of the BSA to allow for a statutory exemption from the operation of the voices test specifically to account for the possibility of a merged regional entity.

In considering the operation of the voices test, it should be noted that approximately 98% of the content carried by regional television broadcasters originates with the three metropolitan networks. Seven, Nine and Ten's news services and public affairs programming form part of the programs broadcast by Prime, SCA and WIN under the terms of program supply agreements providing a plurality of voices when combined with local news which would continue to be provided by any merged or consolidated regional entity.

International Comparison

6.2. Australia is not the only country facing an altered media landscape due to the advent of digital platforms and streaming services. In the United States, the Federal Communications Commission (**FCC**) has sought to overhaul media ownership laws to keep pace with the modern media landscape and to facilitate mergers between local broadcasters. In a speech in December 2020, the then-outgoing Chairman of the FCC, Ajit Pai, said:

"The problem is a fundamental refusal to grapple with today's marketplace: what the service market is, who the competitors are, and the like. When assessing competition, some in Washington are so obsessed with the numerator, so to speak—the size of a particular company, for instance—that they've completely ignored the explosion of the denominator—the full range of alternatives in media today, many of which didn't exist a few years ago.

When determining a particular company's market share, a candid assessment of the denominator should include far more than just broadcast networks or cable channels. From any perspective (economic, legal, or policy), it should include any kinds of media consumption that consumers consider to be substitutes. That could be television. It could be radio. It could be cable. It could be streaming. It could be social media. It could be gaming. It could be still something else. The touchstone of that denominator should be "what content do people choose today?" not "what content did people choose in 1975 or 1992, and how can we artificially constrict our inquiry today to match that?"[22]

An article from January 2021 analysing Ajit Pai's tenure as Chairman of FCC, further noted that:

"A regulatory regime that prohibits traditional local-media outlets from forging efficient joint ventures or from obtaining the scale necessary to compete with those [internet media] *platforms does not further competition. Even if such a rule might temporarily result in more media outlets, eventually it would result in* no *media outlets, other than the large online platforms… [O]utdated government regulation imposes artificial constraints on the ability of local media to adopt the organizational structures necessary to compete. Removing those constraints may not prove a magic bullet that saves local broadcasters and newspapers, but allowing the rules to remain absolutely ensures their demise."*[23]

6.3. The FCC conducted a public interest analysis in relation to relaxation of US ownership rules and found that the rules were not necessary to "promote competition, localism and viewpoint diversity."[24] In April 2021, after an earlier determination by the FCC that the media ownership rules were obsolete and no longer served the public interest,[25] the US Supreme Court unanimously ruled that the FCC could relax limits on the ownership of local television and radio stations, paving the way for local businesses to merge to achieve the scale necessary to compete in the modern media landscape.

6.4. It is our view that a consolidated regional media entity will be better placed to meet the current and future challenges in the media sector, while ensuring regional communities continue to receive valuable and relevant news and information services. A United States study conducted in 2020 looked at the impact of consolidation of local television stations on

[22] "Remarks of FCC Chairman Ajit Pai to the Media Institute" December 15, 2020, https://docs.fcc.gov/public/attachments/DOC-368777A1.pdf
[23] Manne, Geoffrey, "Ajit Pai Brought the FCC's Media Ownership Rules Into the Modern Age" 26 January 2021, https://truthonthemarket.com/tag/media/
[24] Federal Communications Commission vs Promentheus Radio Project, Supreme Court of the United States, No. 19-1231.
[25] Order on Reconsideration and Notice of Proposed Rulemaking, Federal Communications Commission, Washington D.C. 20554, FCC-CIRC1711-06.

local news production and found that there was "significant support for broadcasters' claims that FCC ownership deregulation will lead to more local news programming."[26]

Benefits of Consolidation

6.5. Facilitating the option for Regional Broadcasters to merge all or some of their businesses via amendments to the BSA would alleviate some of the financial and sustainability issues they presently face as individual companies. A consolidated entity would also be more likely to have the financial capacity to manage some of the technical and infrastructure challenges posed by shared multiplexes.

6.6. In our submission, the following represents some of the benefits of a consolidated regional entity approach to shared multiplexes:

- A consolidated business would be more likely to have a single playout facility which moves service aggregation 'up-stream' resulting in lower carriage costs to an aggregation point and potentially allow for easier creation of shared multiplexes;

- Sub-market areas would be more likely to align and therefore made less complicated in a shared multiplex system;

- A consolidated entity would more likely have the scale required to own and operate the aggregation, transmission and encoding infrastructure for shared multiplexes; and

- A consolidated entity would be better able to invest in and deliver new and additional content services for regional Australians.

6.7. Over the past three years, Prime, SCA and WIN have provided the Government with a commercial, in-confidence, detailed plan for how a consolidated regional media business would operate to ensure a sustainable and economically viable business model, while continuing to provide vital news and information services in all licence areas. Regional Broadcasters welcome the opportunity to discuss this proposal in more detail with Government.

7. Conclusion

As outlined above, Regional Broadcasters welcome the opportunity the Green Paper presents to engage in discussions around modernising television regulation in Australia. We have made our views clear that the current regulations do not reflect the realities of today's media landscape and do not facilitate a viable or sustainable regional FTA broadcast sector.

However, any move to a new spectrum regime will result in significant costs for Regional Broadcasters associated with infrastructure, transmission, technology and equipment upgrades. How such costs are to be covered has not been adequately addressed in the Green Paper, which makes it difficult to properly consider the Government's proposed new multiplex sharing

[26] Fratrik, Mark R, "The Impact on the Amount of News Programming From Consolidation in the Local Television Station Industry", September 23, 2020.

licensing regime. Additionally, we have identified a number of concerns around the impact of a restack on service offerings, which will be disproportionately borne by viewers living in regional areas of Australia, and which will further compound Regional Broadcasters' declining revenue and audiences.

Regional Broadcasters submit that the following needs to be undertaken to modernise television regulation in Australia and to achieve the outcomes put forward in the Green Paper:

- Modernisation of the BSA:

    A. to remove the 'voices' test and amend the 'one-to-a-market' rule (and associated director limit) so that Regional Broadcasters have the ability to merge;

    B. to ensure Regional Broadcasters can compete fairly with streaming platforms and websites, including the abolition of spectrum fees and the relief as outlined in the Green Paper from multichannel content quotas; and

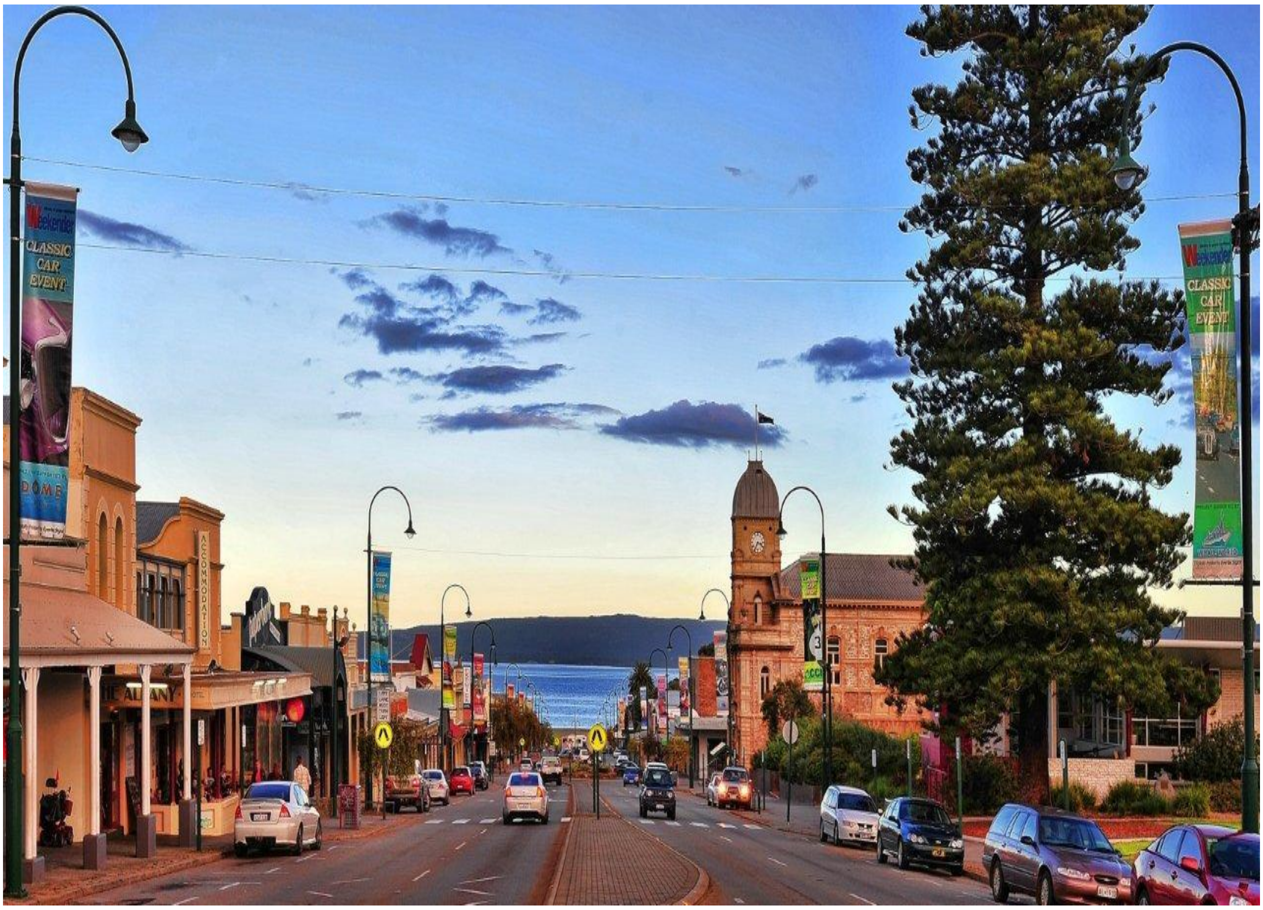
    C. to allow Regional Broadcasters to hand back loss-making section 38B licences to the Government, with the Government to pay all exit costs for these licences.

- Provide Regional Broadcasters with a guaranteed share of the gross proceeds from the sale of spectrum, together with an annual payment to cover the financial losses incurred from the incremental distribution costs and the cost to produce local news and community information;

- Full Government funding of the one-off generational change in transmission infrastructure and equipment; and

- Permanent removal of the commercial broadcast tax to align Australia with comparable international markets.

Regional Broadcasters look forward to engaging further with the Government and building on the initial conversation started by the Green Paper, to devise a workable roadmap for the modernisation of television regulation in Australia and a sustainable future for commercial broadcast television in regional Australia.



Albany WA

PRIME MEDIA GROUP

SCA

WIN NETWORK