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A Staged Approach to Media
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Introduction

The internet has changed everything.

In the media sector the winds of change have been blowing hard for at least two decades.

We saw the collapse of classified advertising revenue in newspapers – the rivers of gold flowed no more.

Social media and more recently video-on-demand services have drawn eyeballs and attention away from television – as well as competing for advertising dollars and consumer spend respectively.

In turn free-to-air television has seen steady and continuing reductions in viewership, advertising revenue and profits. The metropolitan networks are challenged; the regional ones even more so.

Yet we have a regulatory framework set out in the Broadcasting Services Act which is nearly thirty years old. It imposes extensive regulatory obligations on one part of the media sector which is under grave and increasing financial pressure, while requiring nothing of the fast growing and increasingly profitable parts of the sector.

This is a legacy of an industry structure that existed at the time the legislation was drafted, when free-to-air broadcasters were the dominant and most profitable audio-visual platform.

During this time, there were significant barriers to entry in the content market, including both regulatory barriers and the scarcity of spectrum, which underpinned the market power of commercial broadcasters and gave rise to public policy obligations in return.

As we all know, the market structure is very different today.

Today, I want to start by talking about why this is a public policy problem – and why it will get worse if we do not act.

Next, I want to talk about what we have done to tackle this problem already.

Third, I want to outline the proposed elements of a plan for the future – as set out in the green paper I am releasing today.

My core argument to you is that while we have a public policy problem created by technological change and the rise of the internet – we also have an opportunity to take advantage of that change and craft a new set of policy arrangements.

The green paper therefore sets out a possible reform pathway for the audio-visual market.

It also provides an opportunity for industry participants to provide feedback on the ideas in the green paper, as well as putting forward their own ideas for change.

The objectives of our plan are straightforward. We want to:

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

Why we have a public policy problem

The industry challenge

Let me start by outlining the challenge the television industry faces and why this is a public policy problem.

The free-to-air television business model is under serious pressure. Australians today are consuming content very differently than they were even five years ago – let alone thirty years ago when our current regulatory framework was first established.

Between 2014 and 2019, the average primetime audience for free-to-air television declined at an annual rate of six per cent.¹

Subscription video on-demand services, or SVODs, like Netflix, Stan, and Disney+, have grown quickly to become a popular way for Australians to access screen content.

At the end of June 2020, 16.3 million Australians subscribed to at least one SVOD service – an increase of 32 per cent from the previous year.²

Australians are also increasingly using third-party platforms and apps to access news, including news aggregators, social media and search engines.

In 2020, online news and social media was the main source of news for 48 per cent of Australians, greater than TV at 39 per cent.

For Gen Z, this rises to 75 per cent for online and social, and for Gen Y, 66 per cent.³

The use of news aggregator apps, such as Google News and Apple News, also continues to grow, with 13 per cent of Australians using them in 2020.⁴

¹ OzTAM. Excludes community television.

² Telsyte, '[Subscription home entertainment soars in Australia](#)', 17 August 2020.

³ University of Canberra News & Media Research Centre, Digital News Report: Australia, 2020.

⁴ University of Canberra News & Media Research Centre, Digital News Report: Australia, 2020.

The knock-on effects of these shifts are many.

The advertising revenue earned by metropolitan commercial television broadcasters declined by 35 per cent in real terms over the decade to June 2020.⁵

It is also important to recognise the particular challenges experienced by regional commercial television broadcasters, which are unable to offset their advertising losses with their own BVOD services.

To state the obvious, the increasing popularity of - and ease of accessibility to - internet-based services has eroded the profitability and audience of traditional media outlets.

What could happen if we do nothing?

If we do nothing, revenue for free-to-air television broadcasters will continue to decline and there is a risk that some providers may collapse.

The production and availability of Australian content will suffer as broadcasters face rising commercial pressures from declining advertising revenue and competition from other platforms.

The variety and quality of Australian content will shrink, leaving audiences with access to fewer Australian voices and stories.

Growing numbers of people in regional and rural Australia may have no local source of news.

Access to high quality content, media diversity, businesses, jobs and other public policy objectives – will all continue to be damaged, probably at an even greater pace.

⁵ Standard Media Index.

Over the past ten or so years, it is estimated close to 5,000 jobs across all news media have been lost.⁶ We've seen things worsen during 2020, exacerbated by the economic effects of the COVID-19 pandemic.

Seven West Media cut 50 jobs in its sales team and asked the majority of its staff to work four-day weeks, effectively a 20 per cent pay cut.⁷

News Corp announced it would temporarily cease print production runs of 60 local papers in New South Wales, Victoria, Queensland and South Australia.⁸

The same month it was reported an estimated 157 newsrooms had closed across the country in the previous 18 months.⁹

Network Ten announced it would make staff redundant and centralise its news programming in Melbourne and Sydney to cut costs.¹⁰

In the first half of 2020, Foxtel announced a series of job losses, with 270 people made redundant and 140 stood down. It is reportedly seeking to reduce its full time workforce from 2500 to under 2000 to better compete with SVOD services.¹¹

And we know that many media businesses, including SCA, Seven West Media and Prime Media Group, have been supported through this period by JobKeeper.

The regulatory policy challenge

What I have discussed is certainly a problem for the owners of free-to-air television businesses. However, for several reasons, it is also a public policy problem that could have wide-reaching consequences.

⁶ C Fisher, S Park, S Howden, J Young Lee, K McGuinness, [Australian regional journalists: what they need and how they see the future](#), News and Media Research Centre, University of Canberra, 2020.

⁷ M Mason, [Seven axes 50 sales staff in cost cutting effort](#), *Australian Financial Review*, 7 May 2020.

⁸ ABC, [News Corp to suspend 60 community newspapers across the country because of coronavirus](#), ABC, 1 April 2020.

⁹ A Meade, [More than 150 Australian newsrooms shut since January 2019 as Covid-19 deepens media crisis](#), *The Guardian*, 18 May 2020.

¹⁰ L Mayers, [Network Ten axes high-profile presenters in sweeping job cuts](#), ABC, 11 August 2020.

¹¹ Z Samios, [Foxtel axes another 70 jobs in latest restructure](#), *Sydney Morning Herald*, 30 April 2020.

First, many Australians still rely on free-to-air television. If a service was withdrawn because a broadcaster ceased to be financially viable, this would cause harm to consumers.

Older Australians, the less affluent and those in regional and remote areas are less likely to use alternatives to free-to-air television, such as subscription television and SVOD services. They would be disproportionately affected by the withdrawal of a service.

Second, our existing regulatory framework relies heavily on free-to-air television to meet a number of key public policy objectives. One such policy objective is the production and dissemination of high quality news and public interest journalism – both for items of national importance, and items of local significance such as those carried on the local news services of regional television networks.

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

Our existing framework is inconsistent, with these content obligations not applying to newer market entrants, including popular SVODs.

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

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

What we have done to tackle this problem already

Let me turn now to speak about the extensive program of work our Government has been pursuing to tackle these challenges.

In 2017, the Government passed media reforms that repealed the 75 per cent audience reach rule and the ‘two-out-of-three’ rule, providing greater flexibility for media companies to achieve scale and restructure.

These changes allowed the Nine-Fairfax merger to proceed, and would have allowed the proposed Seven West Media-Prime Media Group transaction to occur.

As part of these reforms, the Government also asked the Australian Competition and Consumer Commission to conduct an inquiry into digital platforms. The final report, released in July 2019, included 23 recommendations.

In our response to that Inquiry last December, the Morrison Government outlined our roadmap to promote competition, enhance consumer protection and support a sustainable Australian media landscape in the digital age.

This included a commitment to a staged process to reform media regulation towards an end-state of a platform-neutral regulatory framework covering both online and offline delivery of media content to Australian consumers.

The Government is also progressing the News Media Bargaining Code, which will help address the fundamental bargaining power imbalances between Australian news media businesses and Google and Facebook.

The Government is currently considering stakeholder feedback from the consultation process in developing the final code. And we have been clear that it remains the Government’s intention to introduce the Code into Parliament before the end of the year.

Earlier this year, I announced a package of measures to sustain Australian media businesses during the COVID-19 pandemic so they could continue to do their vital work of keeping the community informed. This included:

- a one year rebate of the commercial broadcasting tax, valued at \$41 million;
- the \$55 million Public Interest News Gathering (PING) program to support the production of high quality news in regional and remote areas; and

- the temporary suspension of some Australian content quotas for commercial and subscription television broadcasting licensees.

We also released an options paper prepared by Screen Australia and ACMA. And on 30 September, in response to matters raised in the options paper, I announced reforms to the regulation of Australian content on free-to-air television that will streamline and simplify the drama, documentaries and children's obligations on all free-to-air commercial television broadcasters from 1 January 2021.

I also requested subscription video on-demand services to report to ACMA on their investment in Australian content.

It is clear that the Government has not been sitting idle on this issue. But with the media industry continuing to rapidly evolve, there is more work to be done.

Planning for the Future

We could stand by and do nothing – putting our public policy objectives at risk.

Or we can get to work with industry to develop a clear plan for the future.

That is what I am proposing – and the green paper I am releasing today sets out the Morrison Government's initial pathway to reform as a basis for discussion.

Let me step through the key measures proposed in the green paper.

The Choice of Lower Cost, More Sustainable Operating Model

The first measure is to give free-to-air television businesses an option to move to a lower cost operating model offering a more sustainable future.

The Government proposes to introduce a new commercial broadcasting licence. The holder of an existing or 'traditional' licence would have the option to make a one-time transition to a new licence.

There would be no requirement to transition. If a licence holder did choose to make the transition from a traditional to a new licence, the choice would be irrevocable.

A new licence would have several features which are different from today's licences.

A new licence would allow a broadcaster to operate under a lower cost model using less radio frequency spectrum.

Today, broadcasters pay a commercial broadcasting tax. For the metropolitan networks, this totals between \$9.5 million to \$12 million per annum. In exchange, the licence holder is entitled to use a specified amount of radiofrequency spectrum - 7 MHz - to broadcast television services.

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

First, the holder of a new licence would no longer be required to pay a tax for the use of spectrum.

Second, the holder of a new licence would be required to transition to using less radiofrequency spectrum, under a multi-year process, to be initiated by Government when certain conditions were met.

Advances in technology mean that broadcasters could move to transmission arrangements which use less spectrum but which maintain their service levels at close to current levels, with a minimal impact on viewers.

This would require a multi-year industry wide process, which would be coordinated by ACMA. Once this process were completed, it would bring operating cost reductions – because using less spectrum means reduced transmission costs.

Under a new licence, free-to-air television businesses would also be relieved of certain other regulatory obligations they presently face. For example, the green paper proposes that they would no longer face Australian content obligations on their multichannels.

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

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

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

While the Government believes that the measures proposed in the green paper would help regional commercial broadcasters be more sustainable, the process I am announcing today is also an opportunity for television broadcasters – regional and metropolitan – to put forward other proposals which, in their view, would make their businesses more sustainable.

Moving to More Efficient Use of Spectrum

The next feature of the plan laid out in the green paper is to transition the free-to-air television industry to using radiofrequency spectrum more efficiently – if, and only if, industry participants choose this path in sufficient numbers.

The process would be initiated if at least two existing commercial free-to-air broadcasters elected to take up a new licence in all their metropolitan markets and at least two broadcasters in the aggregated regional markets. If this occurred, the legislation would require the ABC and SBS to make a similar transition to more efficient spectrum use.

ACMA would undertake the re-planning of free-to-air television services under the new framework, and this would be followed by a ‘restack’ of those channels.

Under the new arrangements, the signals of different broadcasters would be combined into ‘multiplexes’. Currently, each free-to-air television service broadcasts from its own dedicated multiplex transmitter; however, the planned rationalisation of spectrum would allow services to be shared across multiplexes.

For example, five services in a particular market could be consolidated and broadcast across three multiplexes. Sharing multiplexes is a more efficient way of using radiofrequency spectrum and would have little noticeable impact to viewers.

The consequence of the rationalisation would be that a considerable amount of radiofrequency spectrum would become available to be reallocated to other uses – most likely for mobile telecommunications.

The reallocation of this valuable spectrum would likely occur through a spectrum auction process that could generate significant proceeds.

A New Funding Source for regional news and Australian content

The green paper proposes that a portion of the proceeds of the auction could be allocated to capitalise specific funds that would be established to deliver outcomes for the Australian public and support the Australian media and production sectors.

Each could be established as a trust fund operating under a legislative framework and be overseen by an independent board of trustees. The first would be known as the Public Interest News Gathering Trust (PING Trust); the second as the Create Australian Screen Trust (CAST).

If broadcasters agree to share multiplexes to support the Government’s objective to use spectrum more efficiently, it is likely there would be some transition costs incurred by free-to-air television broadcasters associated with upgrading transmission equipment and technology.

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

Legislated expectations on SVOD businesses and the national broadcasters

The green paper also contains further proposals in relation to Australian screen content.

Earlier this year, the Government reviewed the current arrangements for Australian screen content, starting the process by releasing an options paper prepared by Screen Australia and ACMA.

As an initial outcome of the review, the Government has announced that it is requesting SVOD services above a certain size to report to ACMA on Australian content acquisition.

The Government now proposes to build on this decision. We are seeking comment on proposed legislative provisions that would:

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

I should add that the green paper proposes similar measures for large advertising based video-on-demand services, or AVODs, should any enter the Australian market.

These measures would contribute to a more equitable regulatory framework and would further promote and protect Australian screen content.

The Government also proposes to legislate an explicit requirement for the ABC and SBS to provide new Australian programming. Many Australians would be surprised to know that although the ABC and SBS collectively receive almost \$1.4 billion in funding from government each year, they face no formal requirement as to the amount of Australian content they show.

This recognises the key role that the national broadcasters play in the commissioning and broadcast of Australian content, and seeks to codify the expectation that they continue to fulfil this role.

Conclusion

Let me conclude by saying that the Morrison Government believes that the media sector faces very real challenges.

We think it is important to have a reform plan so the industry – and the nation – can get ahead of these issues.

The green paper I am releasing today sets out a series of proposed measures which we believe could be part of that plan.

But I am also calling on all industry stakeholders to bring forward their own views and proposals on how they think the regulatory framework should be designed for the contemporary media market.

Both metropolitan and regional broadcasters have been calling for changes – although different parts of the industry, and indeed individual companies, have different perspectives on what is needed.

But there is no disagreement that the business model of Australia's free-to-air television broadcasters is under severe strain.

As I began by saying: the internet has changed our media world. I will close by stating the obvious: doing nothing is not an option.

So I look forward to working constructively with all stakeholders over the coming months.