

11 January 2017

The Hon Michael McCormack MP
Minister for Small Business
Parliament House
CANBERRA ACT 2600

Dear Minister

The Australian Subscription Television and Radio Association (ASTRA) welcomes the opportunity to make a submission to the 2017 Budget.

ASTRA is the peak industry body for subscription media in Australia. ASTRA was formed in September 1997 when industry associations representing subscription (multichannel) television and radio platforms, narrowcasters and program providers came together to represent the new era in competition and consumer choice. ASTRA's membership includes the major subscription TV operators, as well as over 20 independently owned and operated entities that provide programming to these platforms, including Australian-based representatives of international media companies, small domestic channel groups and community-based organisations.

In 2016, one third of Australians subscribe, along with millions more who watch subscription content in public venues. Every week more than 1000 hours of first-run locally produced content is broadcast, as well as the best international content.

In addition to its cultural contributions, the subscription television industry makes substantial economic contributions. In 2015/16 ASTRA members invested more than \$893 million in local content production, added \$2 billion to the economy, and created jobs for 8340 Australians.

Regulatory priorities in the media sector

Media Reform

Recommendation: The Government should pursue a package of deregulatory measures designed to ensure all media operators can compete freely in the new media environment. This should include reform to the archaic anti-siphoning rules and a review of all regulatory privileges enjoyed by free-to-air (FTA) broadcasters.

ASTRA supports deregulation of the media industry, and agrees with the Government that changes in technology and consumer behaviour are quickly rendering existing media regulation redundant.¹

However, ASTRA does not support the kind of selective, operator-specific deregulation which was attempted in 2016, as it will entrench the competitive advantages enjoyed by FTA television networks, thus skewing investment towards the oldest business models and least innovative

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<http://www.mitchfield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1104/MEDIA-RELEASE--Modernising-Australian-media-laws.aspx>

technology in broadcasting. This narrow approach will dampen innovation, diminish diversity and deny to Australia the jobs and growth that can be unleashed if reform is applied to the entire industry in an operator-neutral way.

The same upheavals in the competitive landscape and the same financial pressures cited by the Government as driving the 2016 reform measures apply equally to the subscription TV industry. Subscription TV faces the same pressure on advertising revenue and fragmentation of audiences as FTA broadcasters, and has to compete with the same largely unregulated overseas competitors, but faces the added challenge of price pressure from other subscription providers.

Whilst we are not opposed in principle to the reforms pursued in 2016, ASTRA believes the Government should pursue a whole-of-industry deregulatory agenda which enables all, rather than some, Australian broadcasters to continue growing, investing and creating jobs in the face of challenges represented by largely unregulated offshore entrants.

For so long as significant regulatory advantages continue to accrue to FTA broadcasters alone, it is impossible to argue that a truly deregulatory approach is being taken. True media reform requires comprehensive and balanced deregulation that equips all, rather than some, local broadcasters to compete on equal terms with unregulated offshore media companies.

It will not be sufficient to merely hand out more, generous tax cuts to the FTA broadcasters, which, including this year, have already cost the taxpayer over a billion dollars in net present value terms.

Recent actions by FTA broadcasters and online companies have seen the public policy behind the anti-siphoning scheme fatally undermined and its anti-competitive effect intensified towards local subscription television broadcasters.

Globally, digital platforms are buying up premium sports rights. In the US Twitter recently won one NFL match per round, while in Australia Optus won English Premier League rights. Amazon, with its vast resources is also rumoured to be in the market for a range of rights. It is only a matter of time before the rights to premium domestic sport in Australia are siphoned behind a paywall. The anti-siphoning scheme only applies to subscription television, and thus could not prevent this outcome.

In fact, the scheme only protects the FTA networks' right to bid unchallenged for events. No law prevents them charging for content, as the Seven Network recently demonstrated with its 2016 Rio Olympics app and its 2017 Australian Open tennis app.

We understand the Government's media reform agenda is based around reforming laws which are relics of the pre-internet era ('75% reach', '2 out of 3' rules), and which are international outliers (FTA licence fees). Like the reach and ownership rules, the anti-siphoning rules pre-date the internet and are hopelessly out of date. Similarly, the anti-siphoning scheme remains the most draconian in the world. Reform of the anti-siphoning scheme is ideally suited to the Government's 2017 reform agenda.

Spectrum Reform

Recommendation: Ensure efficient use of the public spectrum used by FTA broadcasters and ensure it is priced appropriately by using market-based mechanisms to set licence fees.

In 2015, the Department of Communications conducted a consultation addressing possible migration of FTA broadcasting to more efficient transmission and coding technologies. ASTRA supports a facilitated migration to the more spectrally efficient MPEG-4 standard, which would allow existing FTA services to be transmitted using far less spectrum.

ASTRA has conducted an analysis which demonstrates that at least 84 MHz, and up to 112 MHz of spectrum could be recouped following a migration to MPEG-4 and a transition to a multiplex model of arranging broadcast signals.²

Spectrum is a scarce and valuable public asset and hence any efficiencies should be pursued and any excess spectrum recouped by the Government. In order to maximise the return to the taxpayer, that spectrum should be reallocated through competitive auction. ASTRA has commissioned independent research which concluded this spectrum holds an opportunity cost of up to \$1 billion.

The Government must ensure it is getting the right return on the public spectrum currently leased to the FTA broadcasters and must ensure that spectrum is being used efficiently.

The spectrum that FTA broadcasters continue to use must also be priced in a manner which properly reflects its value and ensures an appropriate return to the tax payer. ASTRA firmly believes that spectrum for commercial activities should be subject to price-based allocation processes, particularly where commercial entities that use spectrum for the delivery of their services are in direct competition. Spectrum should not be allocated to particular commercial entities or industry sectors on terms that give those entities or industry sectors a competitive advantage.

Market-based pricing of spectrum for commercial use is more likely to encourage the most efficient use of spectrum to provide the services that consumers of media and communications services want. Conversely, exclusive use of spectrum for commercial activities allocated by means other than market-based mechanisms may not necessarily provide the same incentive for efficient spectrum use.

Further information regarding ASTRA's views on spectrum management is available on the ASTRA website.³

Stimulating investment in the local creative industries

Recommendation: Increase the rate of tax offset for Australian television production (currently 20%) so that it is on par with that available for Australian film production (40%).

The subscription television industry is a strong supporter of the local production sector. As noted above, in 2015-16 the subscription television industry invested a record \$893 million in Australian screen content (including drama and other genres). \$6.5 billion has been invested over 10 years. Our industry stands ready to invest even further and a key part of that will be ensuring funding support rules encourage investment, creative risk-taking and innovation.

Targeted reform to Australian content support measures, to strengthen investment and create local jobs, can be undertaken with minimal impact on the budget bottom line. More than \$103 million in economic activity would be created if the tax offset for Australian television production (20% of local expenditure) was equalised with the film industry offset (40%). Such a move would also create 360 new local jobs.

Further information on ASTRA's position on local content investment incentives is available on the ASTRA website.⁴

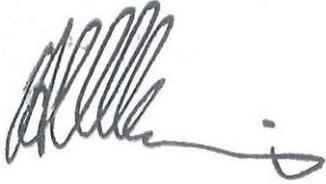
² ASTRA Submission to the Australian Government's Digital Television Regulation Consultation Paper, p 6
http://astra.org.au/images/pages/ASTRA_Submission_-_Digital_Television_Regulation_Final_020415.pdf

³ <http://astra.org.au/advocacy/spectrum>

⁴ <http://astra.org.au/advocacy/australian-content-production>

Thank you again for the opportunity to submit to the 2017 Budget. If you have any queries in relation to the above, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Maiden', with a stylized flourish at the end.

Andrew Maiden
CEO