

POLICY UPDATE

October 2014

ASTRA ACTIVITY

- **De-regulatory reform**

Captioning and Australian content

On 22 October 2014, the Government introduced the *Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014* (the Bill) to Parliament.

For STV, the most significant proposed reforms relate to captioning rules where the Government has responded to ASTRA's request to improve administration and provide greater flexibility. Proposed amendments allowing annual captioning targets to be averaged across an associated group of sports channels, as well as provisions adjusting repeat obligations and reducing record-keeping requirements are particularly welcome. ASTRA is assessing opportunities for further enhancements to the proposed captioning amendments.

The Bill would also reduce costs associated with administration of the New Eligible Drama Expenditure Scheme, which sets out Australian content requirements for STV. Cost savings would be achieved by removing the current requirement to have certain compliance documents audited by an external auditor.

The Bill and explanatory information is available at:

http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5368.

Other de-regulatory reforms

Other de-regulatory initiatives relevant to the broadcasting sector were set out in the communications schedule of the *Omnibus Repeal Day (Spring 2014) Bill* (Omnibus Bill) and the *Australian Communications and Media Authority Omnibus Revocation Instrument 2014 (No.2)* (ACMA Instrument), but these did not have a specific or direct impact on STV.

The Omnibus Bill is available at:

http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5360.

The ACMA Instrument is available at: <http://www.comlaw.gov.au/Details/F2014L01373>.

Progress still to be made

The Government is yet to provide further details about reform to media ownership and control rules and anti-siphoning rules and has not announced its response to free-to-air lobbying to change retransmission arrangements.

- **Restricted Access Systems for MA 15+ and R 18+ content online** – ASTRA has participated in the second round of consultation being conducted Australian Communications and Media Authority (ACMA) on revision of the *Restricted Access Systems Declaration 2007* (RAS Declaration). Under the *Broadcasting Services Act 1992* (the BSA), all R18+ content and certain commercial MA15+ content online is prohibited or potential prohibited material unless it is behind a valid restricted access system to help prevent under-age viewing.

ASTRA welcomed a number of proposed reforms, including reductions in red-tape (such as reduced record-keeping requirements) and inclusion of general rather than specific age verification requirements for accessing R 18+ content. ASTRA proposed further amendments to ensure regulatory parity between fee-based and non-fee services in the drafting of the final instrument.

The ASTRA submission is available at:

[http://www.astra.org.au/images/pages/RAS_Declaration_Review - ASTRA submission - October 2014 FINAL.pdf](http://www.astra.org.au/images/pages/RAS_Declaration_Review_-_ASTRA_submission_-_October_2014_FINAL.pdf).

- **Documentary funding** – Screen Australia released its second draft of proposed new guidelines for documentary funding which included a number of positive developments, such as proposing increased use of grants (rather than recoupable investments) and simplified funding criteria. However, ASTRA expressed strong disappointment that Screen Australia had reversed its earlier decision to remove notional broadcaster funding splits. As a result of the reversal the ABC and SBS will continue to receive a disproportionate share (85 per cent) of the allocation for the Broadcast Program (\$9–\$10 million dollars annually).

The ASTRA submission is available at:

[http://www.astra.org.au/images/pages/ASTRA letter to Screen Australia - Documentary funding - October 2014.FINAL.pdf](http://www.astra.org.au/images/pages/ASTRA_letter_to_Screen_Australia_-_Documentary_funding_-_October_2014.FINAL.pdf).

- **Rights and Responsibilities consultation** – ASTRA is finalising its submission to the Rights and Responsibilities consultation being conducted by the Australian Human Rights Commission (AHRC). The AHRC seeks to identify initiatives that advance rights and freedoms, as well laws that impose disproportionate restrictions on rights and freedoms.

Among other things, ASTRA will note that protecting freedom of opinion and expression is critical to media organisations. Opportunities will also be identified to simplify broadcasting codes of practice where these duplicate existing laws, including those that provide anti-discrimination protections.

These issues are likely to be revisited during the Australian Law Reform Commission's (ALRC's) Freedoms Inquiry, which will assess Commonwealth laws that unreasonably encroach upon traditional rights, freedoms and privileges. The first consultation document for the ALRC Inquiry is expected in late-November 2014.

More information about the AHRC consultation is available at:

<https://www.humanrights.gov.au/rights-responsibilities-2014>.

More information about the ALRC Freedoms Inquiry is available at:

<http://www.alrc.gov.au/inquiries/freedoms>.

- **Foreign Fighters Bill** – on 3 October 2014, ASTRA joined a broad range of media organisations in expressing concern that the *Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill*

2014 (Foreign Fighters Bill) risked eroding freedom of communication and freedom of the media in disproportionate ways.

The joint media organisation submission to the Parliamentary Joint Committee on Intelligence and Security is available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/Counter-Terrorism_Legislation_Amendment_Foreign_Fighters_Bill_2014/Submissions.

All of ASTRA's publicly available submissions are on the [ASTRA website](#).

NEWS

ACMA Investigation – Channel Nine program breaches accuracy and privacy

On 24 September 2014, the ACMA announced that it had found that Queensland Television Ltd (Channel Nine) breached factual accuracy and privacy clauses of the Commercial Television Code of Practice in two segments of *A Current Affair* broadcast in 2013. The investigation concerned segments about patients obtaining medical certificates from doctors.

The ACMA found that both segments contained inaccurate factual assertions that the two doctors had issued medical certificates for non-bona fide reasons. It also found that one doctor was identifiable in the broadcast, and that the use of the recorded footage of the consultation invaded his privacy, without there being a public interest justification.

The ACMA recommended to Channel Nine that it make an on-air statement of the ACMA's findings, which Channel Nine declined to do.

More information is available at: <http://www.acma.gov.au/Industry/Broadcast/Television/TV-content-regulation/channel-nine-program-breaches-accuracy-and-privacy>.

Trans-Pacific Partnership Agreement

On 27 October 2014, the Trade and Investment Minister, Andrew Robb, provided an update on the negotiation of the Trans-Pacific Partnership (TPP) Agreement Ministerial Meeting. The Minister noted that the ministers and heads of delegation for Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam had completed a three day ministerial meeting to lay the ground work for the conclusion of the TPP Agreement negotiations.

The Government describes the TPP Agreement as one possible pathway toward realising the vision of a free trade area of the Asia-Pacific. Intellectual property is one of the issues covered by the TPP Agreement.

More information about the TPP Agreement is available at: <http://www.dfat.gov.au/fta/tpp/>.

Screen Australia Industry Growth infographic

Screen Australia has released its Australian Screen Industry infographic *Did You Know?* It details, among other things, total production and drama spends across the Australian industry. STV's *Top of the Lake* was the key production mentioned in the recognition column, where its Emmys, Golden Globes and BAFTAS nominations are noted.

The infographic is available at:

http://screenaustralia.gov.au/news_and_events/bulletins/didyouknow/default.aspx.

DISCUSSION PAPERS/REQUESTS FOR COMMENT

Competition Policy Review

On 22 September 2014, the Draft Report of the Competition Policy Review was released for comment. The review is described as the first comprehensive review of competition laws and policy in more than 20 years and is examining both the current laws and the broader competition framework.

The Draft Report is available at: <http://competitionpolicyreview.gov.au/draft-report/>. Submissions on the Draft Report are invited to be made by Monday **17 November 2014**. ASTRA will make a submission which builds on the arguments made in response to the review's Issues Paper, which are available at:

http://www.astra.org.au/images/pages/ASTRA_submission_to_the_Competition_Policy_Review_June_2014.pdf.