

Rob Clough
42 Ethel Street
East Brunswick
Victoria 3057

The General Manager
Digital Broadcasting and Spectrum Management
Department of Communications, Information Technology and the Arts
GPO Box 2154
Canberra ACT 2601
Email: trishbarnes@dcita.gov.au

17 April 2006

Submission on Digital Action Plan – a consumer perspective

Dear Sir / Madam,

I am responding to the paper issued by the Department in March 2006 titled *MEETING THE DIGITAL CHALLENGE – Reforming Australia’s media in the digital age* (“the Paper”). I am not associated with any organisation in the media, but am interested in the outcomes as a consumer.

PART 1: A ROADMAP TO DIGITAL CONVERSION

Digital Action Plan

The concept of a Digital Action Plan is commendable, as the experience to date in adopting digital television has not been as desired.

In developing the Digital Action Plan it is worth considering the approach adopted by the Commonwealth Government to introduce the last major media change – FM radio. At that time, the Government introduced new commercial services (EON-FM, FOX-FM), new Government stations (Classic FM, JJJ) and new community services (3MBS, 3RRR) in Melbourne. The wide variety of different services offered provided a strong encouragement for listeners to consider the new medium and this was subsequently supported by the conversions of AM stations to FM (3TT, 3KZ). In other words, new content drove the adoption of FM radio.

In contrast the Paper provides little encouragement for viewers to switch to digital television and in particular has ruled out the two main methods of increasing content:

- Licensing a new operator
- Permitting multichannelling

Without strong encouragement to convert, there is a fairly significant risk that at the end of the transition period there will be over 10% of the population still relying on analogue television. This would place the government of the day in a dilemma:

- If it provides free digital set-top boxes to those still relying on analogue, a portion of the electorate who paid for a set-top box will probably take ballot-box revenge. This option also has the added downside that if consumers get wind of the fact that the Government will provide a free set-top box on switch-off, they are hardly likely to buy their own!
- If there is switch off the analogue signal with no free set-top boxes (thereby forcing the purchase of set-top boxes), it would not be hard to develop a political campaign around having to pay for so called “free” television that has been free for over fifty years. Once again the potential ballot-box revenge could be high.

Therefore the Digital Action Plan needs to specifically provide encouragement for take-up through increasing the digital content. The current offering on ABC2 is simply not enough and the experience in Tasmania suggests that a commercial offering is part of the solution.

Obviously existing broadcasters are reluctant to give up revenue streams that an independent fourth network would obtain and the adoption of multichannelling may dilute the presence of existing broadcasters as mainstream broadcasters. Consequently, existing FTA broadcasters are reluctant to change the status quo. It is therefore proposed that the “Tasmanian solution” be adopted in the mainland state capitals, whereby a new fourth digital only network is jointly established by the incumbent commercial FTAs in each mainland state capital. This should be more acceptable to existing commercial FTA broadcasters as the profits derived from the new network will be returned as dividends to the incumbents. To differentiate its offerings, it may be that the commercial networks decide to position this fourth network in a manner similar to Channel 4 in the UK – thereby creating increased media diversity. However ultimately this is the broadcaster’s decision. To ensure that “Channel 4” is introduced, the commercial FTA broadcasters should be given a use or lose it condition on the Channel 4 licence.

This compromise Channel 4 offering should also be supplemented by conversion of community broadcasters to digital with full signal strength. As the quality and strength of their analogue signals tends to be poor, for many this will be a new offering. Consistent with the introduction of FM we would then have new government services (ABC2), new commercial services (Channel 4?) and expanded community services offerings (C31) – the variety of services that launched FM radio.

It is not proposed that the fourth network be expanded into regional and rural areas during the transition period because the financial returns in regional and rural areas are lower and they face increased costs for operating dual transmission towers. Instead the introduction of a fourth network will transfer negotiating power back to regional broadcasters thereby providing such stations with additional revenues to fund local programming. It was through the use of monopoly power in the pre-aggregation environment that regional and rural stations were able to fund local programming. With aggregation, the negotiating power (and profits) dropped which made the reduction of local content the natural consequence of aggregation.

In terms of the Digital Action Plan, there are two other measures that the Government may wish to consider:

- All televisions sold after 1 July 2006 should be digitally enabled (they may also have analogue so people can connect analogue devices such as VCRs)
- A “Government” set-top box with only 2, 7, 9, 10 and SBS be developed in the event that a free set-top box is to be provided when the analogue is switched off. This continues to provide encouragement for users to buy their own set-top box, as it will have access to the additional content.

PART 2 – ENABLING A DIGITAL ENVIRONMENT

2.1 NEW SERVICES ON SPARE SPECTRUM AND OTHER PLATFORMS

Fourth network moratorium

As discussed above, in each mainland capital, a fourth licence should be issued to a joint venture between existing commercial FTA licensees. No equivalent licences should be issued in regional or rural areas until the end of the transition period. This is because of the greater costs (through multiple transmission towers) and reduced revenue (due to market size) faced by regional and rural broadcasters.

New digital services on broadcasting spectrum

As discussed above, free conversion of community telecasters (eg C31) should be provided. In terms of other services, the general principle should be that the Government sets policy, whereas ACMA implements policy. In accordance with this principle:

- ACMA recommends to the Commonwealth Government that consideration should be given to issuing additional licences based on periodic updating of Licence Area Plans and changes in technology
- The Commonwealth Government determines whether additional licences should be allocated, licensee criteria and licence allocation process
- ACMA assesses suitability of potential licensees and oversees the allocation process

New services on other platforms

The platform of delivery should not affect the regulation of broadcasting. Therefore the process identified above should be followed for services delivered on other platforms.

2.2 EXPANDING SERVICES FOR EXISTING FTA BROADCASTERS

Consequences of analogue switchover

The review of the digital television regime should occur one year prior to the end of the proposed end of the simulcast regime. This provides greater an opportunity to refine the regime immediately prior to the end of several requirements (such as termination of minimum HD broadcast hours).

Multichannelling

As discussed above, multichannelling by commercial FTA and community broadcasters should be prohibited with the exception that for sporting events where a broadcaster should have the option to multichannel. For example, the ability to watch an AFL match from several angles is an enticement that could attract new viewers to digital. To encourage increased take-up of digital television, multichannel prohibitions on national broadcasters should be abolished, with the exception of sport. Until such time as digital take-up exceeds 90% of the population in each licence area, any sports included on the anti-siphoning list must be broadcast or simulcast on an analogue channel. This will also effectively prohibit the proposed joint venture fourth network from broadcasting sport from the anti-siphoning list during the transition period.

High Definition television

The preferred option seems reasonable.

Anti-Siphoning

The major issue for the anti-siphoning list is that the public's focus on sporting events change over time and the actions of broadcasters reflect the public interest. However, there is currently no mechanism for review of the anti-siphoning list. The Paper's preferred option similarly does not address this issue, but rather adopts a use or lose it approach. As an alternative, the proposed six-monthly review by ACMA should occur but with the objective of updating the anti-siphoning list. As a result as events are taken off, new events are nominated – this should ensure that that the list reflects the current sports of interest to the public.

2.3 MEDIA OWNERSHIP AND CONTROL

Foreign ownership

The French approach of limiting foreign investors to 20%, unless the overseas jurisdiction permits foreign investment should be adopted in Australia. This is because it encourages overseas jurisdictions to provide investment opportunities to Australian media organisations. Otherwise we provide a unilateral deregulation of Australian markets without any equivalent action by major trading partners.

Cross-media transactions

In order to provide for the operation of a joint venture fourth network – media companies should be permitted to control one television licence (ie over 50% voting interest) and have significant influence (ie between 15% and 50% voting interest) in additional television licence for the same licence area. For rural areas (eg Renmark), two television licences can be owned by one broadcaster. The existing rules relating to radio licences and audience reach should be retained.

With regards to the preferred option on cross-media rules, radio stations should be removed from the calculation. This is because radio stations are typically not a major source of media diversity (as the majority of radio stations are music broadcasters). Such an approach is also consistent with the Government's current policy with regards to foreign ownership – whereby radio licences are not subject to the same restrictions as newspapers and television licences. Consequently, the number of media owners for each area should be modified as follows:

- mainland state capital: 4 owners
- regional areas: 3 owners
- rural areas: 2 owners

The inclusion of rural is consistent with the separate treatment of such markets for licensing purposes and the difficulty of achieving viable financial returns in such markets.

Regional services protections

The preferred option seems reasonable.

Regulators role

The preferred option seems reasonable.

Timing

The timing of the media ownership and reforms is not relevant to the digital transition period and therefore the reforms should be implemented as soon as relevant legislation has been enacted.

GENERAL

This submission has been prepared without reference to any other submissions, so hopefully it has some comments and suggestions that are of use in developing a Digital Action Plan. If you require further elaboration on any of the content, please do not hesitate to contact me.

Yours faithfully,

Rob Clough