

Introduction

The inquiry

- 1.1 On 1 December 2015 the Standing Committee on Communications and the Arts (the committee), resolved to inquire into the importance of public and commercial broadcasting, online content and live production to rural and regional Australia, including the arts, news and other services.
- 1.2 The committee initiated this inquiry through its power to inquire into aspects of the annual reports that stand referred to it in its areas of portfolio responsibility. The following reports were used to initiate the inquiry:
 - Australian Broadcasting Corporation Annual Report 2015
 - Special Broadcasting Service Corporation Annual Report 2015
 - Australia Council for the Arts Annual Report 2014–15
 - Australian Communications and Media Authority Annual Report 2014–2015.
- 1.3 The details of the inquiry were published on the committee’s website and a media release announcing the inquiry and seeking submissions was issued on 2 December 2015.

- 1.4 Fifty-five submissions and 12 supplementary submissions were received and are listed at Appendix A. The committee held public hearings on 1 and 15 March 2016 in Canberra, 7 and 8 March 2016 in Sydney, and 22 March 2016 in Melbourne. The witnesses who appeared are listed at Appendix B. The submissions and transcripts of the public hearings are available on the committee's website at:
http://www.aph.gov.au/Parliamentary_Business/Committees/House/Communications/BroadcastingandProduction.
- 1.5 Given the inquiry's focus on services to rural and regional Australia, the committee intended to travel to regional areas to hear from people in these communities, and had developed a program of hearings that included Alice Springs, Darwin, Rockhampton, Bundaberg and regional Western Australia. However, due to advice that the election would be called early, the committee felt it was important to concentrate its efforts on reporting before the end of this Parliament. The committee regrets not being able to visit stakeholders in rural and regional areas, but believes it is important to report on the evidence received from the submitters and 59 witnesses it has already heard from at the public hearings conducted.
- 1.6 The committee's objectives for the inquiry were firstly, to undertake a health check on how well rural and regional communities are currently served in the two distinct, but important, areas of access to quality news services and arts performances, and secondly, to recommend action to address any significant gaps in delivery or where service to rural and regional Australians could be enhanced.
- 1.7 The next section of this chapter provides background information on the industry, regulatory and commercial environments in which broadcasters and arts providers are operating, and will provide some context for discussion in the following chapters.

Background on the live performing arts sector

- 1.8 Touring activity undertaken by artists and organisations from other parts of Australia to rural and regional communities is an important way of addressing the geographical barriers to people's engagement in the arts. As regional touring is a costly exercise, companies typically require some level of government funding to help assist with their regional touring and community engagement activities.

Funding arrangements

- 1.9 For the arts sector more generally, the Commonwealth Government provides support for the development of the arts through the Australia Council for the Arts (Australia Council). Some Commonwealth arts programs are managed directly by the Ministry for the Arts, while funding for others is controlled and distributed by the Australia Council. In addition, the Australia Council administers certain arts programs on behalf of the ministry.
- 1.10 In 2011-12, an independent review of the Australia Council was conducted as part of the development of a National Cultural Policy. The report of the review was released in May 2012, and made a number of recommendations regarding the Australia Council, including a revision of its purpose, governance structure and peer review process. The report also recommended an increase of funding to the Australia Council of \$21.25 million per annum, to enable the Council to fulfil its revised purpose and functions.¹
- 1.11 Most of the review recommendations were accepted by the then government, which introduced a bill to give effect to the changes. The *Australia Council Act 2013* commenced on 1 July 2013.² The then government also committed to increase funding to the Australia Council by \$75.4 million over four years, commencing from 2013-14.³
- 1.12 However, the 2014-15 Budget applied savings of \$87.1 million over four years by reducing funding to the ministry, Screen Australia and the Australia Council. Funding to the Australia Council was reduced by \$9.6 million in 2014-15, and about \$6 million per year for the three following years.⁴ In December 2014, the government announced a further \$6 million decrease in funds to the Australia Council over three years, in order to fund the establishment of a new Book Council of Australia.⁵

1 G Trainor and A James, *Review of the Australia Council: Report to the Minister for the Arts*, May 2012, p. 14, p. 22, pp. 25-26.

2 M Coombs, *Australia Council Bill 2013, Bills Digest*, Parliamentary Library, 19 June 2013, p. 3.

3 Creative Australia, *National Cultural Policy*, Appendix B - Review of the Australia Council: Australian Government response, March 2013, p. 137.

4 Australian Government, *Budget Measures 2014-15 – Part 2: Expense Measures*, <http://budget.gov.au/2014-15/content/bp2/html/bp2_expense-05.htm>, accessed 21 December 2015.

5 Australian Government, *Mid-Year Economic and Fiscal Outlook*, Appendix A, December 2014, <http://www.budget.gov.au/2014-15/content/myefo/html/11_appendix_a_expense.htm>, accessed 21 December 2015.

- 1.13 The 2015-16 Budget applied additional efficiency measures on arts agencies, including the Australia Council, and redirected a further \$110 million over the four-year forward estimates from the Australia Council to provide for:
- The establishment of the National Programme for Excellence in the Arts (NPEA), to be managed by the Ministry for the Arts.
 - The transfer to the ministry of three programs previously managed by the Australia Council (Visions Australia, Festivals Australia and the Major Festivals Initiative).
 - A \$5.3 million redirection of funds to Creative Partnerships Australia.⁶
- 1.14 On 20 November 2015, the Minister for the Arts, Senator the Hon Mitch Fifield, announced that NPEA would be replaced by a new program called Catalyst – Australian Arts and Culture Fund (Catalyst). The Minister announced that \$12 million per annum would be provided in grants through Catalyst, a reduction from the \$20 million per year proposed for NPEA. The Minister announced that the remaining \$8 million per year would be redirected to the Australia Council.⁷
- 1.15 The Australia Council describes its role as:
- ... increasing the visibility of Australia's vibrant arts and culture, and recognising the evolving way that Australians make and experience art. Our role is to support the unimagined along with the reimaged, the unknown and experimental along with the keenly anticipated. We are a champion for Australian arts both here and overseas. We invest in artistic excellence through support for all facets of the creative process, and are committed to the arts being accessible to all Australians.⁸
- 1.16 Catalyst funding is intended to complement the Australia Council, Creative Partnerships Australia and other support programs. Catalyst assists 'organisations to forge new creative and financial partnerships and stimulate innovative ways to build participation by Australians in our cultural life', including enabling access to 'high quality arts experiences in regional communities and international activities that achieve cultural
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6 Australian Government, *Budget Measures 2015-16 – Part 2: Expense Measures*, <http://www.budget.gov.au/2015-16/content/bp2/download/BP2_Expense.pdf>, accessed 21 December 2015, p. 59, p. 62.

7 Senator the Hon Mitch Fifield, *Guidelines released for new arts fund*, Media Release, 20 November 2015, p. 2.

8 Australia Council for the Arts website: <<http://www.australiacouncil.gov.au/>>, accessed 12 April 2016.

diplomacy objectives'. It gives priority to projects by small to medium organisations.⁹

Support for the arts in rural and regional communities

1.17 The Commonwealth Government supports sustainable cultural development in regional and remote communities in Australia through the Regional Arts Fund. Funding is targeted at activities that will have long-term cultural, economic and social benefits for individuals and communities by:

- developing partnerships and cultural networks
- providing artists with professional development and employment opportunities
- supporting arts and community development projects that provide local communities with the opportunity to participate in, and access cultural activities, and
- emphasising building capacity in disadvantaged, youth, very remote and/or Indigenous communities.¹⁰

1.18 The Regional Arts Fund is delivered by the peak regional arts organisations in each state, and by arts departments in the territories. The Regional Arts Fund also supports Regional Arts Australia to deliver national activities.

1.19 In 2013 Regional Arts Australia conducted a consultation with arts communities in regional and remote Australia to assess their needs, and ways to improve programs and practices. The consultation examined:

- marketing the value of the arts
- injecting life into towns
- engaging young people in realising their creative ambitions
- connecting regions by invigorating local networks
- improving support for professional artists.¹¹

9 Department of Communications and the Arts, *Catalyst Australian Arts and Culture Fund*, <<http://arts.gov.au/catalyst>>, accessed 12 April 2016.

10 Department of Communications and the Arts, *Regional Arts Fund*, <http://arts.gov.au/arts/regional_arts_fund>, accessed 21 December 2015.

11 Regional Arts Australia, *Sharpening the Arts in Regional Australia*, October 2013, p. 1.

- 1.20 The consultation found that the main barriers to people's engagement in the arts in regional communities were cost, availability and transport.¹² It reported that arts activity had been positively impacted by changes in the external environment in recent years, including improved broadband access and regional infrastructure funding. A range of external factors that had an adverse impact included the global financial crises and natural disasters such as fires, floods, tropical cyclones and drought.¹³
- 1.21 In 2014-15 the Australia Council supported engagement in the arts by rural and regional communities through the following National Regional Programs:
- The Playing Australia program provided \$6.2 million to support performing artists to reach regional and remote communities across Australia.
 - The Festivals Australia program provided \$1.5 million to support regional and remote festivals.
 - The Visions of Australia program and the Contemporary Touring initiative provided \$3.2 million to support the development and touring of public exhibitions of Australian cultural material, and contemporary visual arts and crafts exhibitions throughout Australia, with a particular focus on regional and remote areas.
 - The Contemporary Music Touring program provided \$0.4 million to support emerging and established musicians to tour regional and remote communities.¹⁴
- 1.22 The Playing Australia National Touring Status initiative was created in 2013 as part of a suite of enhancements made by the Australia Council to the National Regional Touring Programs, based on consultation with the arts sector and the Ministry for the Arts. To be eligible for National Touring Status, companies have to demonstrate a track record of national touring. The application required companies to articulate a vision, objectives and strategies for their three year touring program with a focus on how National Touring Status could be leveraged to enhance touring deliverables and audience impact over the three year period 2015 to 2017. National Touring Status grant applicants were able to apply for up to \$400,000 per annum. However, they are not eligible to submit applications

12 Regional Arts Australia, *Sharpening the Arts in Regional Australia*, October 2013, p. 3.

13 Regional Arts Australia, *Sharpening the Arts in Regional Australia*, October 2013, p. 3.

14 Australia Council for the Arts, *Annual Report 2014-15*, p. 62.

to the standard project funding rounds of Playing Australia for touring activities in 2015, 2016 or 2017.¹⁵

Sector reviews

- 1.23 Reviews of note undertaken into the major performing arts sector over the last two decades include the Nugent inquiry in 1999, leading to the implementation of the Major Performing Arts (MPA) Framework in 2001, and the 2015 National Opera Review, which is still underway.
- 1.24 In 1999 the then Minister for Communications, Information Technology and the Arts, Senator the Hon Richard Alston, requested an inquiry (the Nugent Inquiry) into Australia's subsidised major performing arts sector to examine options and recommend actions to 'ensure that Australia has a financially healthy, artistically vibrant and broadly accessible major performing arts sector'.¹⁶
- 1.25 The Nugent Inquiry final report made 96 recommendations (41 directed to governments) designed 'to stabilise the sector and reposition it to take advantage of the changes that are taking place'.¹⁷ One of the key recommendations of the Nugent Inquiry was that the government establish formal criteria for being recognised as a major performing arts company, and for assessing whether a company should retain that status.¹⁸
- 1.26 In August 2000, Australian Arts and Cultural Ministers agreed on the recommendations made by the Nugent Inquiry and a Major Performing Arts Framework was implemented in 2001. In August 2011, a revised framework, the 'National Framework for Governments' Support of the Major Performing Arts Sector' (the MPA Framework) was endorsed by Arts and Cultural Ministers, with implementation taking place from 2012.¹⁹ Under the MPA Framework:

... the Australia Council administers annual core funding to 28 MPA companies on behalf of the Australian Government and

15 Australia Council for the Arts, *Playing Australia: Regional Performing Arts Touring Fund* <<http://australiacouncil.gov.au/funding/new-grants-model/playing-australia-regional-performing-arts-touring-fund/>>, accessed 12 April 2016.

16 H Nugent, *Securing the Future: Final Report of the Major Performing Arts Inquiry*, Department of Communications, Information Technology and the Arts, 1999, p. 3.

17 H Nugent, *Securing the Future: Final Report of the Major Performing Arts Inquiry*, Department of Communications, Information Technology and the Arts, 1999, p. ix.

18 H Nugent, *Securing the Future: Final Report of the Major Performing Arts Inquiry*, Department of Communications, Information Technology and the Arts, 1999, p. ix.

19 Australian Council for the Arts, Arts Infrastructure, <<http://www.australiacouncil.gov.au/strategies-and-frameworks/arts-infrastructure/>>, accessed 12 January 2016.

state governments, at levels agreed to between federal and state arts ministers through the Meeting of Cultural Ministers forum.²⁰

- 1.27 In 2015 the National Opera Review was established by the Federal Government to 'consider the financial viability, artistic vibrancy and audience access of Australia's four opera companies that are recognised as major performing arts companies and are supported by the Federal Government'.²¹ These opera companies are Opera Australia, Opera Queensland, State Opera of South Australia and West Australian Opera.
- 1.28 The review panel has not made its final report. A lengthy discussion paper for the Review was released in September 2015, with submissions requested by 30 November 2015. The discussion paper made the following five key findings:
- Australia's Major Opera Companies make a significant contribution to Australia.
 - Governments recognise the significance of the Major Opera Companies.
 - Evolving sector dynamics present challenges to opera companies in Australia and overseas.
 - The Major Opera Companies have responded in strategic and operational ways that are understandable.
 - The Major Opera Companies' responses, while understandable, have created unintended pressure on their financial, artistic and access performance.²²

20 Australian Council for the Arts, Arts Infrastructure, <<http://www.australiacouncil.gov.au/strategies-and-frameworks/arts-infrastructure/>>, accessed 12 January 2016. Entry and exit criteria for MPA companies are listed in the MPA Framework: Australia Council for the Arts, *National Framework for Governments' Support of the Major Performing Arts Sector*, August 2011, pp. 10-11.

21 H Nugent, *National Opera Review Discussion Paper*, Department of Communications and the Arts, September 2015, p. 1.

22 H Nugent, *National Opera Review Discussion Paper*, Department of Communications and the Arts, September 2015, p. 2.

Background on the broadcasting sector

- 1.29 Australia's broadcast media landscape comprises two public broadcasters, the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service Corporation (SBS), and a range of commercial and community television and radio broadcasters.
- 1.30 The *Broadcasting Services Act 1992* (the BSA) establishes the regulatory regime for television and radio services, including digital services. Commercial broadcasting services, community broadcasting services, subscription television broadcasting services and international broadcasting services require individual licences.²³
- 1.31 The Australian Media and Communications Authority (ACMA) manages licensing matters and regulates the content of radio and television services. It also administers the ownership and control rules for broadcasting services, which are outlined later in this chapter.

Commercial broadcasters

- 1.32 Key features of commercial broadcasters, as set out in s. 14 of the BSA, include that the service:
- provides programs that, in the context of the service, appear to be intended to appeal to the general public
 - is made available free to the general public
 - is usually funded by advertising revenue
 - is operated for profit, or as part of a profit-making enterprise.
- 1.33 A 2015 Venture Consulting report found that the commercial free-to-air industry 'generates \$3.2bn per annum of economic surplus, due in large part to the fact that it is delivered to viewers for free, but also due to the surplus it creates for advertisers', and that 'broadcasters also pump \$2.8bn per annum of economic investment back into the Australian economy, underpinning large parts of the broadcasting value chain in the process'.²⁴
- 1.34 The broadcast content of commercial free-to-air television broadcasters in Australia is regulated by the Commercial Television Industry Code of Practice (the code of practice). The code of practice is designed to ensure

23 *Broadcasting Services Act 1992*, s. 12.

24 Venture Consulting, *The Value of Free TV: The contribution of commercial free-to-air television to the Australian economy*, May 2015, p. 2.

that commercial broadcasters comply with community standards, assist viewers in making informed choices about the television they watch through program classification, and provide a process for handling viewer complaints. The current code of practice came into effect on 1 December 2015.²⁵

- 1.35 Commercial radio broadcasters also have Commercial Radio Codes of Practice and Guidelines, which were developed in consultation with ACMA. These are registered with, and monitored by, ACMA.²⁶
- 1.36 ACMA undertakes investigations into matters related to broadcasting codes of practice, license conditions and program standards. While ACMA can initiate investigations and conduct investigations as directed by the Minister, most investigations undertaken are in response to complaints that have not been sufficiently resolved by the broadcaster's own complaints process. These investigations tend to be on matters that are in the public interest.²⁷

Community broadcasters

- 1.37 The community broadcasting sector is Australia's largest independent media sector, with more than 450 radio licensees and over 50 community television licensees. The sector is largely self-funded, but some funding is provided by the Department of Communications and the Arts, distributed through the Community Broadcasting Foundation. Community radio stations reach over five million Australians each week, operating in locations throughout Australia, with 41 per cent located in regional areas, 25 per in rural areas and 34 per cent in metropolitan and suburban areas.²⁸
- 1.38 Community broadcasters also play a significant role in delivering news and emergency services, and promoting the arts in rural and regional communities. They contribute to BSA objectives by:
- promoting the development of an Australian identity and reflecting cultural diversity

25 Australian Communications and Media Authority (ACMA), *Commercial Television Industry Code of Practice 2015*, p. 3.

26 See the Commercial Radio website at: <<http://www.commercialradio.com.au/legal/regulation-codes.aspx>>, accessed 12 April 2016.

27 ACMA regularly provides statistics on its investigations, see: <<http://acma.gov.au/theACMA/ACMAi/Investigation-reports/Statistics/broadcasting-statistics>>. See also ACMA, *Annual Report 2014-15*, p. 78, Table 6.

28 Community Broadcasting Foundation website, About Australian Community Broadcasting, <<http://www.cbf.com.au/sector/about-australian-community-broadcasting/>>, accessed 15 April 2016.

- promoting the availability of television programs about matters of local significance
 - ensuring diversity in broadcasting services in the transition to digital broadcasting.²⁹
- 1.39 Like their commercial counterparts, the community broadcasters are licenced under the BSA. Provisions particularly related to community television include:
- Section 15, which outlines the nature of these services as including being for community purposes, not-for-profit, and made available free to the general public.
 - Part 6 (ss. 79 to 92), which covers the procedures for issuing and renewing community broadcasting licences and the community licence conditions.
 - Schedule 2 (clause 9 and clause 2), which includes further licence conditions for community broadcasters, including the prohibition on broadcasting advertising material, encouraging community participation, and the allowed amount and placement of sponsorship announcements.
- 1.40 Community broadcasters also have codes of practice – the Community Television Broadcasting Codes of Practice and Community Radio Broadcasting Code of Practice.³⁰ Similar to the administration of commercial broadcasters, with community broadcasters ACMA is responsible for:
- allocating and renewing licenses
 - investigating complaints and taking enforcement action, where necessary
 - approving codes of practice for includes in the Register of Codes of Practice
 - monitoring compliance and developing guidelines to assist licenses, where required.³¹

29 Australian Community Television Alliance, *Community Television Broadcasting Codes of Practice*, 9 June 2011, p. 1.

30 Available on the ACMA website, *Register of broadcasting codes & schemes index*, <<http://acma.gov.au/theACMA/About/The-ACMA-story/Regulating/broadcasting-codes-schemes-index-radio-content-regulation-i-acma>>, accessed 12 April 2016.

31 Australian Community Television Alliance, *Community Television Broadcasting Codes of Practice*, 9 June 2011, pp. 1-2.

Public broadcasters

- 1.41 Australia's public broadcasters, the ABC and SBS, play a unique role by providing content to Australian audiences, including material, or in areas, that may not be covered by commercial broadcasters. The ABC charter³² directs it to offer:
- broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community
 - broadcasting programs of an educational nature.³³
- 1.42 The ABC charter also states that the ABC should 'encourage and promote the musical, dramatic and other performing arts in Australia'.³⁴
- 1.43 The SBS charter is focused on 'meeting the communications needs of Australia's multicultural society, including ethnic, Aboriginal and Torres Strait Islander communities', and encouraging understanding and acceptance across Australia's multicultural society.³⁵
- 1.44 While neither charter explicitly states that public broadcasting should include a rural or regional component, the ABC has commented that its services to regional communities are 'integral to meeting its Charter obligation to "reflect the cultural diversity of the Australian community"'.³⁶
- 1.45 The ABC's operations are covered by the *Australian Broadcasting Corporation Act 1983* (ABC Act) and the SBS is covered by the *Special Broadcasting Service Act 1991*. The regulatory regime in the Broadcasting Services Act does not apply to the national broadcasting services, unless expressly provided for in that Act.³⁷
- 1.46 While public broadcasters do not operate under the commercial television code of practice, both the ABC and the SBS have developed their own versions, which are notified to ACMA. Under s. 123 of the BSA, industry

32 See Appendix C for copies of the ABC and SBS charters.

33 *Australian Broadcasting Corporation Act 1983* (Cth), s. 6. The full charter is reproduced in Appendix C.

34 *Australian Broadcasting Corporation Act 1983* (Cth), s. 6.

35 *Special Broadcasting Service Act 1991* (Cth), s. 6. The full charter is reproduced in Appendix C.

36 Senate Environment and Communications Legislation Committee, *Inquiry into the Australian Broadcasting Corporation's commitment to reflecting and representing regional diversity, Submission 34*, p. 1.

37 The national broadcasting services comprise the ABC, SBS and the services provided under the *Parliamentary Proceedings Broadcasting Act 1946*.

groups can develop codes in consultation with ACMA, and once registered ACMA monitors the codes and deals with related unresolved complaints. However, national broadcaster codes are lodged, but not registered, with ACMA.³⁸

- 1.47 In 2014-15, the ABC's total net resourcing was over \$1.2 billion, while the SBS's total net resourcing was over \$406 million.³⁹

ABC reviews

- 1.48 There have been a number of reviews and inquiries into the operation of the ABC over recent decades, several of which covering ABC's rural and regional programming. A brief overview of selected relevant inquiries is provided in Table 1.1.

Table 1.1 Overview of selected relevant inquiries into ABC rural and regional programming

Year	Review	Key findings
1994-1995	Senate Select Committee on ABC Management and Operations Report: <i>Our ABC</i> , March 1995	23 recommendations, including that the ABC Board should reverse the current trend towards the concentration of ABC activities in Sydney
2011	Senate Environment and Communications References Committee The inquiry covered a number of programming decisions made by the ABC Report: <i>Recent ABC programming decisions</i> , October 2011	10 recommendations, including that the ABC maintains an effective capacity to internally produce quality programming across the regions in addition to news, sport and current affairs
2012-2013	Senate Environment and Communications Legislation Committee The inquiry examined the centralisation of ABC production in Sydney and Melbourne, the closure of the production unit in Perth, and the proposed closure of the Hobart production unit Report: <i>The Australian Broadcasting Corporation's commitment to reflecting and representing regional diversity</i> , March 2013	5 recommendations <ul style="list-style-type: none"> - to amend the ABC charter to provide that content across all platforms reflects regional diversity - that the ABC consult with regional stakeholders in the film and television industry in relation to ABC production, planning, production priorities and the capacity of regional Australia to produce content - that the ABC annually publish its regional content production performance for ABC television, including data on the amount invested, number of programs produced, hours of production produced and number of independent companies used

38 ACMA, *Register of broadcasting codes & schemes index*, <<http://acma.gov.au/theACMA/About/The-ACMA-story/Regulating/broadcasting-codes-schemes-index-radio-content-regulation-i-acma>>, accessed 12 April 2016

39 Australian Government, *Portfolio Budget Statements 2014-15*, Budget Related Paper No. 1.3, Communications Portfolio, pp. 55 and 119.

Year	Review	Key findings
		<ul style="list-style-type: none"> - the ABC establish a regional television production fund for production outside Sydney and Melbourne - the ABC make and publish at regular intervals its future financial commitment to investing in production outside of Sydney and Melbourne.
Source	<i>Senate Select Committee on ABC Management and Operations, Our ABC, March 1995, p. xiv; Senate Environment and Communications References Committee, Recent ABC programming decisions, October 2011, p. vii; and Senate Environment and Communications Legislation Committee, The Australian Broadcasting Corporation's commitment to reflecting and representing regional diversity, March 2013, p. 1.</i>	
1.49	Two private Senator's bills were introduced in the Senate this Parliament, aimed at making explicit the provision of rural and regional content in the ABC charter, via amendments to the ABC Act.	
1.50	In November 2014, Senator Xenophon introduced the Australian Broadcasting Corporation Amendment (Local Content) Bill 2014. The purpose of this Bill was:	
	<p style="padding-left: 40px;">... to strengthen the Australian Broadcasting Corporation's (the Corporation) Charter in relation to the production and broadcasting of content in each State and Territory, and to ensure the Corporation is representative of all parts of Australian society.⁴⁰</p>	
1.51	The Bill was referred to the Senate Environment and Communications Legislation Committee in December 2014. In its March 2015 report, the committee recommended that the Bill not be passed. However the committee also recommended that the Government establish 'a mechanism to enable the transparent and comprehensive reporting by the Australian Broadcasting Corporation against its Charter'. ⁴¹	
1.52	<p>In December 2015, Senator McKenzie introduced the Australian Broadcasting Corporation Amendment (Rural and Regional Advocacy) Bill 2015. The purpose of this Bill is to provide mechanisms that require high standards of rural and regional coverage by the ABC. This included:</p> <ul style="list-style-type: none"> ■ Defining the Corporation's mandate for its public service function for journalism in rural and regional Australia. ■ Ensuring that the ABC Board has two regional-residing members. 	

40 Australian Broadcasting Corporation Amendment (Local Content) Bill 2014, *Explanatory Memorandum*, p. 1.

41 Senate Environment and Communications Legislation Committee, *Report of the Inquiry into the Australian Broadcasting Corporation Amendment (Local Content) Bill 2014*, March 2015, p. 17.

- Establishing a Rural and Regional Advisory council to help ensure the quality and content of broadcasting in rural and regional Australia.
 - Providing a mechanism to assess and report on the quality of rural and regional services provided and the satisfaction of the Corporation's mandate towards rural and regional Australia.⁴²
- 1.53 The Bill was referred to the Senate Environment and Communications Legislation Committee in December 2015, with a reporting date of 20 June 2016.

Other services and entertainment

Subscription services

- 1.54 Subscription services are covered in s. 16 of the BSA, and relate to programs that appeal to the general public, but are only made available on payment of subscription fees. Subscription narrowcasting services are also included, with the s. 17 definition outlining that the reception of the services are intended to be limited, for example to special interest groups or limited locations and are available only by subscription. ACMA is responsible for issuing subscription television licences under ss. 93 and 96 of the BSA.⁴³

Online services

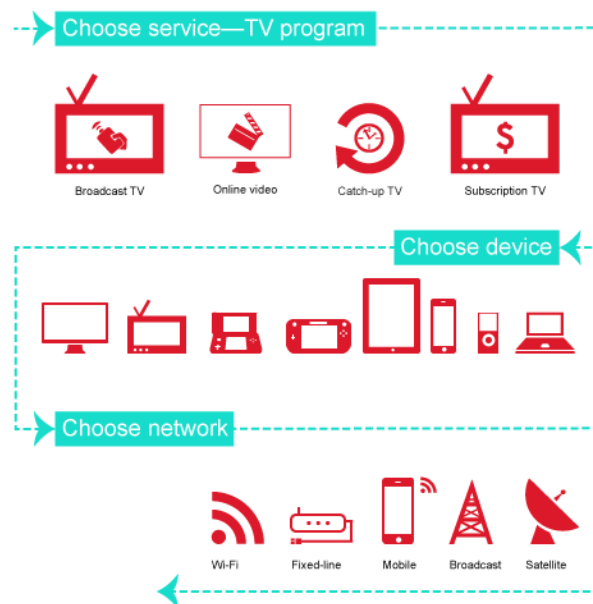
- 1.55 While broadcast television remains the main entertainment medium, Australians are increasingly using online video content.⁴⁴ Figure 1.1 illustrates the range of ways in which people are now accessing content.

42 Australian Broadcasting Corporation Amendment (Rural and Regional Advocacy) Bill 2015, *Explanatory Memorandum*, p. 1.

43 Australian Media and Communications Authority, *Subscription television broadcasting licences listings*, <<http://acma.gov.au/theACMA/subscription-television-broadcasting-licences-listings>>, accessed 12 April 2016.

44 OzTAM, *Multi Screen Report Q4 2015*, <<http://www.oztam.com.au/documents/Other/Australian%20Multi%20Screen%20Report%20Q4%202015%20FINAL.pdf>>, accessed 14 April 2016, pp. 2-3.

Figure 1.1 Methods of viewing content



Source ACMA, *Six emerging trends in media and communications*, November 2014.

- 1.56 In addition to the flexibility provided by catch-up television services offered by the free-to-air broadcasters, subscription video on demand services (also known as ‘streaming’) are also increasingly a part of Australia’s entertainment consumption landscape.⁴⁵
- 1.57 An ACMA survey found that subscription video on demand (SVOD) is becoming increasingly popular for accessing a variety of video content that can be viewed at any time. The survey did not include pay-per-view or catch-up television. ACMA found that since their introduction in 2015, there has been a rapid take up of Netflix, Presto TV and Stan. ACMA attributes this take-up to the flexibility it gives users to watch video content ‘on their own terms – at any time that suits’. Key survey findings included that from January to June 2015:
- An estimated 3.2 million adult Australians (17 per cent) watched video content via SVOD (2.2 million (12 per cent) in the last seven days at 30 June 2015.
 - Netflix (launched in March 2015) accounts for the majority of SVOD services used in Australia – an estimated 2.5 million adult Australians (14 per cent).⁴⁶

45 At June 2015, streaming services in Australia included Quickflix, Presto, Stan and Netflix.

46 ACMA, *Subscription video on demand in Australia 2015*, 16 November 2015, <<http://www.acma.gov.au/theACMA/engage-blogs/engage-blogs/Research-snapshots/Subscription-video-on-demand>>, accessed 12 April 2016.

- 1.58 Complaints about streaming services go in the first instance to the relevant internet service provider, who, depending on the nature of the complaint, may refer it to the streaming service provider. For complaints not satisfactorily resolved in this way, users can complain to the Telecommunications Industry Ombudsman.⁴⁷

Local content and rural and regional broadcasting

Local content requirements

- 1.59 Australian Bureau of Statistics figures show that 29 per cent of Australians live outside of the major cities.⁴⁸ Accordingly, it is important that news and programming is not solely metropolitan-centric, and that rural and regional areas are appropriately served with not only international, national, and capital city news, but also with regional and local content.
- 1.60 Following a 2002 investigation arising out of community concerns about news bureau closures by Southern Cross Broadcasting in Canberra, Cairns, Townsville, Darwin and Alice Springs and Prime TV's cuts to local news bulletins in Canberra, Newcastle and Wollongong, a local content licence condition was introduced for regional commercial television. All regional commercial television licensees in the five aggregated markets must broadcast 'material of local significance' that meet the following quotas:
- a minimum of 720 points per six-week period
 - a minimum requirement of 90 points per week.⁴⁹
- 1.61 The local content licence condition divides the licence areas in Regional Queensland, Northern New South Wales, Southern New South Wales and Regional Victoria into a number of local areas, reflecting the different sub-markets within those areas. The sub-markets within the regional breakdown still cover extensive areas.⁵⁰ The affected broadcasters are:

47 ACMA, Subscription video on demand in Australia 2015, 16 November 2015, <<http://www.acma.gov.au/theACMA/engage-blogs/engage-blogs/Research-snapshots/Subscription-video-on-demand>>, accessed 12 April 2016.

48 Australian Bureau of Statistics, Regional Population Growth, Australia, 2013-14, 3219.0.

49 Australian Media and Communications Authority (ACMA), *Local area*, <<http://www.acma.gov.au/Industry/Broadcast/Television/Local--regional-content/local-arealocal-content-i-acma>>, accessed 12 April 2016.

50 See Appendix D for regional coverage areas.

- Regional Queensland: Seven Queensland, Southern Cross and WIN TV
- Northern New South Wales: NBN Ltd, Prime Television and Southern Cross
- Southern New South Wales: Prime Television, Southern Cross and WIN TV
- Regional Victoria: Prime Television, Southern Cross and WIN TV
- Tasmania: Southern Cross, WIN and Tasmanian Digital Television.⁵¹

1.62 Schedule 3 of the relevant licence condition outlines what may comprise material of local significance, including:

- material dealing with people, organisations, events or issues that are of particular interest to people in the area, in a way that focuses on the interests of people in the area
- material about an individual in whom people in the area are particularly interested because of an association with the area, such as the individual having grown up, or lived, in the area
- material dealing with effects on the area of an event that occurs elsewhere
- material about a sporting event that involves a team from the area or that involves a team from a nearby area, whose principal support base includes the area, or a significant part of the area
- material about market conditions that closely affect a major business activity in the area, such as prices of a commodity in an area where that commodity is produced on a significant scale.⁵²

1.63 Under the Broadcasting Services (Regional Commercial Radio - Material of Local Significance) Licence Condition 2014, regional commercial radio licensees are also required to broadcast prescribed amounts of local content between 5 am and 8 pm each business day. The amounts are:

- 30 minutes for small licences (licences that serve licence areas with a population of less than 30,000 people)

51 ACMA, *Local areas and licensees*, <<http://www.acma.gov.au/Industry/Broadcast/Television/Local--regional-content/local-areas-and-licensees-local-regional-content-i-acma>>, accessed 12 April 2016.

52 ACMA, *Material of local significance*, <<http://www.acma.gov.au/sitecore/content/Home/Industry/Broadcast/Television/Local--regional-content/material-of-local-significance-local-regional-tv-content-i-acma>>, accessed 12 April 2016.

- three hours for all other relevant licences.⁵³
- 1.64 In June 2013, the then Minister for Broadband, Communications and the Digital Economy directed ACMA to investigate the operation and effectiveness of the regulatory arrangements under s. 43A of the BSA in accordance with the Broadcasting Services (Material of Local Significance – Regional Aggregated Commercial Television Broadcasting Licences) Direction 2013. ACMA found that s. 43A was operating effectively in the affected regional areas, with other key findings including:
- Local content is important and valued by regional Australians.
 - Regional Australians are largely satisfied with the current levels of local content available.
 - Regional Australians access local content across a wide variety of sources.
 - Television is the source most used for regional news, and is the preferred source for local news, although the audience for this is declining.
 - There are commercial incentives for some regional broadcasters to provide local content.
 - Providing local content on commercial television is a high cost activity and is not necessarily profitable in all markets.
 - Funding pressures affecting regional broadcasters are likely to continue.⁵⁴
- 1.65 A large survey was conducted as part of the investigation. For the purposes of that report the ‘local area’ was confined to the respondent’s town, as opposed to their suburb, region, city or state, and ‘regional area’ was defined as ‘an area whose television is not provided by a metropolitan licence area – Adelaide, Brisbane, Melbourne, Perth, Sydney’.⁵⁵

Media regulation and possible reform

- 1.66 In addition to specific licensing and content arrangements, there are also statutory control rules that govern the level of control that media players can have over Australian media. Part 4, Division 5A of the BSA covers media diversity matters. In relation to the restrictions on licence areas and audience reach (the ‘reach rule’):

53 Broadcasting (Hours of Local Content) Declaration No. 1 of 2007, s. 4.

54 ACMA, *Regional commercial television local content investigation*, December 2013, pp. 1-2.

55 ACMA, *Regional commercial television local content investigation*, December 2013, p. 43.

A person must not be in a position to exercise control of commercial television broadcasting licences whose total licence area population exceeds 75 per cent of the population of Australia.⁵⁶

- 1.67 The implication of the reach rule is that metropolitan television networks (including Seven West Media, Nine Entertainment Co and Ten Network Holdings) cannot gain control of regional television networks (e.g. Prime Media Group, WIN Corporation and Southern Cross Austereo), if, following the acquisition, the combined reach of the network would cover more than 75 per cent of the population.⁵⁷ ACMA figures show that the audience reach of Seven and Nine are already close to 75 per cent, with 73.81 per cent and 73.55 per cent Australian population reach. Ten follows with 66.70 per cent population reach.⁵⁸
- 1.68 Also, within a licence area, a person must not be in a position to exercise control of more than one commercial television broadcasting licences and more than two commercial radio broadcasting licences.⁵⁹ The BSA also includes similar limits on media directorships.⁶⁰
- 1.69 Restrictions on cross-media ownership (also known as the ‘two-out-of-three rule’) prevent mergers that involve ‘more than two of three regulated media platforms (commercial television, commercial radio and associated newspapers) in any commercial radio licence area’.⁶¹
- 1.70 In recent years there have been a number of concerns raised about whether the existing regulatory framework remains relevant to today’s media landscape. The Department of Communications *Media control and ownership* background paper examined the limitations of legislation encouraging media diversity. By contrasting existing media control rules with merger and acquisition activity regulated by the Australian

56 ACMA, *Statutory control rules*, < <http://www.acma.gov.au/Industry/Broadcast/Media-ownership-and-control/Ownership-and-control-rules/statutory-control-rules-media-ownership-control-acma>>, accessed 12 April 2016.

57 K Jordan and A Haynes, *Media reform back on the agenda*, Clayton Utz Insights, 3 April 2013, <http://www.claytonutz.com/publications/edition/3_april_2014/20140403/media_reform_back_on_the_agenda.page>, accessed 21 December 2015.

58 ACMA, *Statutory control rules*, < <http://www.acma.gov.au/Industry/Broadcast/Media-ownership-and-control/Ownership-and-control-rules/statutory-control-rules-media-ownership-control-acma>>, accessed 12 April 2016.

59 ACMA, *Statutory control rules*, < <http://www.acma.gov.au/Industry/Broadcast/Media-ownership-and-control/Ownership-and-control-rules/statutory-control-rules-media-ownership-control-acma>>, accessed 12 April 2016.

60 *Broadcasting Services Act 1992 (Cth)*, s. 51, s. 55, s. 109.

61 Department of Communications, *Media control and ownership*, Policy Background Paper No. 3, 2014, p. 5.

Competition and Consumer Commission, it found the following limitations of current media control rules:

- They are weighted to only three traditional forms of media (commercial television, commercial radio and certain newspapers), reflecting the views of the Parliament when the rules were enacted in 1992.
- They do not account for other sources of news and opinion including subscription television services, and other newspapers, television and radio broadcasters (including those that are community or regionally focused).
- They exclude online media.⁶²

1.71 Reviews in recent years have included the 2012 Independent inquiry into the media and media regulation (the Finkelstein review), the 2012 Convergence Review, and the 2013 Senate committee inquiry into areas of potential reform to broadcasting legislation.

1.72 The Finkelstein inquiry concluded that a system of ‘enforced self-regulation’ should be introduced, involving the establishment of an independent statutory council to supervise the enforcement of news media standards.⁶³ It also highlighted the challenges facing rural and regional media, stating that ‘there is some evidence that both regional radio and television stations and newspapers have cut back substantially on their news gathering, leaving some communities poorly served for local news’.⁶⁴

1.73 In March 2013, a Joint Select Committee was established to inquire into areas of potential reform to broadcasting legislation. The Select committee’s terms of reference focused on three possible policy changes:

- the abolition of the 75 per cent rule, particularly in relation to regional and local news
- whether ACMA should be required to examine program supply agreements for news and current affairs when determining whether a person is in control of a commercial television broadcasting service

62 Department of Communications, *Media control and ownership*, Policy Background Paper No. 3, 2014, p. 7.

63 R Finkelstein, *Report of the independent inquiry into the media and media regulation*, February 2012, p. 287.

64 R Finkelstein, *Report of the independent inquiry into the media and media regulation*, February 2012, p. 11.

- on-air reporting of ACMA findings regarding broadcasting regulation breaches.⁶⁵
- 1.74 In its June 2013 report, the Select committee supported the abolition of the reach rule and on-air reporting of ACMA findings in relation to breaches,⁶⁶ however it did not support the second proposal, that a program supply agreement alone could indicate control of a broadcaster.⁶⁷
- 1.75 Of the six bills that were introduced into the Parliament, only two passed the House of Representatives on 19 March 2013 and the Senate on 20 March 2013. These were the non-controversial Convergence Review and Other Measures Bill, which included updates for the ABC and SBS charters for digital content, and the Television Licence Fees Bill, which reduced annual commercial television licence fees. The other four bills were discharged from the Parliamentary Notice Paper on 21 March 2013.
- 1.76 In August 2015 there were renewed calls for media reform, in particular that the 75 per cent reach rule be abolished. Regional broadcasters Prime Media Group, Win Corporation, Southern Cross Austereo and Imparja Television partnered to launch the Save Our Voices campaign, which argued that:
- Local media is the voice of regional and rural Australia. But our media laws are stuck in the last century, and it's affecting the amount of local news and content regional Australians see and hear on their TV and radio every day.
- These services will continue to decline unless we update the laws to ensure a strong regional media, and a stronger voice for regional and rural Australia.⁶⁸
- 1.77 On 2 March 2016, the Government introduced the Broadcasting Legislation Amendment (Media Reform) Bill 2016, which will amend the Broadcasting Services Act to:
- abolish the 75 per cent audience reach rule
 - abolish two-out-of-three cross-media control rule

65 Joint Select Committee on Broadcasting Legislation, *Three broadcasting reform proposals*, June 2013, p. ix.

66 Joint Select Committee on Broadcasting Legislation, *Three broadcasting reform proposals*, June 2013, p. xiii.

67 Joint Select Committee on Broadcasting Legislation, *Three broadcasting reform proposals*, June 2013, p. 19.

68 Save Our Voices, 'It's our voice - join the campaign to save regional media', <<http://www.saveourvoices.com.au/>>, accessed 21 December 2015.

- provide for some additional local programming obligations for regional commercial television broadcasting licensees.⁶⁹
- 1.78 The Broadcasting Legislation Amendment (Media Reform) Bill 2016 [Provisions] was referred to the Senate Standing Committee on Environment and Communications for consideration.

Report structure

- 1.79 Chapter 2 covers access to the arts, in particular, live performance, for people in rural and regional communities. With the benefits of engagement with the arts to individuals and communities increasingly recognised, it is important that people living outside metropolitan areas should be able to access high quality productions. The chapter covers the excellent work being undertaken by performing arts groups in delivering live performances to regional locations and by the local providers, volunteers and communities in supporting these tours, and acknowledges the challenges inherent in regional touring. It also examines digital developments that have enabled further innovation in the delivery of performances and enhancing arts engagement with rural and regional Australians.
- 1.80 Chapter 3 focuses on the importance of broadcasting to rural and regional communities in Australia. It covers the important role that public, commercial and community broadcasters play in delivering news services, including the significance of local and regional content, and information during emergency situations. It examines how increasing competition in the digital space is creating opportunities for innovation in the delivery of content to rural and regional audiences, including new technologies and ways of working more efficiently with existing resources. The chapter examines the role of the ABC in rural and regional Australia as a trusted national broadcaster, and opportunities for improving the accuracy and accountability of the ABC and the services it provides to people living outside of the major cities.

69 Parliament of Australia, <http://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r5635>, accessed 12 April 2016.

