



Broadcast Australia

BA Submission

Re: Broadcasting Legislation Amendment (Digital Dividend and other Measures) Bill 2011

9 March 2011

Broadcast Australia Submission

Senate Environment and Communications Legislation Committee

Re: Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011

1. Background Schedule 2 of the Bill

Broadcast Australia is the country's largest owner of radio and television terrestrial broadcasting sites and towers and is the country's largest provider of terrestrial transmission services for free-to-air radio and television broadcasters.

As such it has a deep knowledge of and interest in the digital terrestrial television transmission platform. As indicated in its evidence before the Senate Committee enquiring into the *Broadcasting Legislation Amendment (Digital Television) Bill 2010* on 16 April last year, Broadcast Australia is not opposed to the new digital free-to-air satellite service funded by Government known as VAST. However, we do not believe that current Government policy settings in respect of VAST result in the most cost effective use of the new VAST platform in the interests of some regional, and a significant proportion of remote, area free-to-air television viewers.

While BA has a self-declared interest based on its substantial ongoing investment in the digital terrestrial television network of sites, towers and equipment, we are not seeking to act as 'spoilers' in any sense in relation to this Bill or the digital switchover more broadly. We submit that sensible and cost effective development of local digital terrestrial retransmission facilities which utilise the television channels that VAST makes available in certain regional and most remote areas of Australia would best meet the public interest while not impacting on the Government's overall policy objectives concerning analog TV switch-off and digital TV switchover.

Significant parts of proposed Government policy settings contained in Schedule 2 of the *Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011* seem to be based on a view that whether a home receives digital free-to-air TV channels from the direct-to-home (DTH) VAST satellite or via a local terrestrial retransmission facility represents an equivalent outcome for the viewer. That is, as far as individual homes are concerned the DTH VAST method of TV reception is completely substitutable and the same as receiving the same TV channels services through normal free-to-air terrestrial means. Hence viewers would be agnostic regarding which method they use to receive their free-to-air TV services.

Broadcast Australia strongly disputes this notion.

Broadcast Australia submits that receiving free-to-air digital TV channels (DTH) from the VAST satellite is more costly and offers less utility and convenience to homes than local terrestrial reception of those same channels.

Further, over and above various amendments contained in the Bill, a number of procedures being implemented by DBCDE in connection with VAST and its associated Satellite Subsidy Scheme (SSS) also seem to be based on the same notion that VAST DTH reception is exactly the same as local digital terrestrial reception of TV channels. These procedures are making it difficult for current 'self-help' TV retransmission licensees (typically local councils in regional Australia) to appropriately consider whether they should upgrade these facilities to digital or recommend that their communities convert to digital TV through DTH VAST.

Before dealing specifically with various aspects on the Bill and certain procedures related to VAST this submission must first set out the reasons for Broadcast Australia's view that in a significant number of cases communities in regional and remote Australia would be better off receiving their local commercial, ABC and SBS TV channels terrestrially and not by DTH from VAST.

2. Can receiving digital free-to-air television services from VAST be a cost effective substitute for receiving those same services from a local digital terrestrial retransmission facility?

As indicated above Broadcast Australia submits that receiving free-to-air digital TV channels (DTH) from the satellite is both more costly and less convenient to homes than local terrestrial reception of those same channels.

2a) Extra cost of converting via DTH VAST satellite

VAST set-top-box (STB)

Unfortunately there is only one model of one make of digital set-top-box (STB) that is approved for use with the new VAST platform (supplied by UEC). According to evidence provided to May 2010 Senate Estimates hearings and the DBCDE website this STB, along with the requisite smart card, retails for around \$280.

An equivalent high definition (HD) digital terrestrial STB retails for between \$60 and \$80 or a minimum of \$200 less per STB.

Satellite dish required

Clearly, homes that used to receive local analog free-to-air TV channels via normal terrestrial reception means will need a satellite dish for the first time. According to the DBCDE Satellite Subsidy Scheme (SSS) RFT (17 November 2010) for Queensland throughout regional and remote Queensland this dish will vary from 85cm to 120cm in diameter. The larger the dish the more substantial the mounting installation required.

On the other hand, if existing analog terrestrial free-to-air transmission facilities are upgraded to digital, homes will generally face little or no terrestrial aerial upgrade cost.

New wall sockets and cabling required

When local terrestrial free-to-air transmissions are available many, if not most, homes in existing self-help transmission areas can use portable set-top aerials particularly for their second or third TV devices.

This allows a degree of portability for watching television around the home such as outside on a hot night, in most rooms of the house or in an outside machinery or shearing shed.

In the DTH satellite reception environment every TV set and recorder (such as VCRs or DVD recorders) will need to be connected directly to the satellite dish. This means that a wall socket directly cabled to the satellite dish needs to be installed in every room or area where free-to-air television is to be watched or recorded. Installation of these sockets and the cabling to the satellite dish required is estimated to cost around \$135 each even if it is provided during a subsidised Satellite Subsidy Scheme (SSS) home visit.

The Satellite Subsidy Scheme (SSS)

The Commonwealth has established a Scheme (the SSS) to assist homes previously served by analog self-help facilities, but where those facilities are not upgraded to digital. That is, previously self-help analog TV homes that will be required to convert to VAST in order to continue receiving free-to-air TV.

This scheme requires all homes – other than those in prescribed remote Indigenous communities – to make a co-payment for participation.

For regional and remote Queensland, the Department has indicated this co-payment would be between \$200 and \$350. For the purpose of calculations in this submission we have chosen a mid-point of \$270.

For this co-payment a home will get:

- the requisite satellite dish installed;
- one VAST STB installed; and
- one wall socket outlet

Hence for an anticipated payment of around \$270 a home will have one TV set or one recording device converted to VAST for watching or recording in one room.

All other TV sets and recorders in the home that are to be used for recording or watching free-to-air TV channels above the one converted device will need a separate VAST STB attached. Further, if they are in different rooms to the one with the SSS installed wall socket they will require extra wall sockets and cabling.

The SSS does not convert a home; it only converts one device.

Estimated average home VAST DTH uplift cost – after application of the SSS

We generally support the public submission made by the RAPAD group of central and outback Queensland Councils to ACMA in November last year as to what the likely extra cost of full home conversion to VAST might be compared with the average home achieving exactly the same level of conversion in a digital terrestrial environment.

That submission indicated that a home with 4 devices to convert (i.e. 2 TV sets and 2 recorders or 3 TV sets and one recorder, etc.) and which in the end wanted to be able to view TV in 4 rooms or locations around the home (IE needed extra wall plate sockets to enable some portability of viewing and recording of TV around the home) would face an increased cost of between \$1,000 and \$1,500 to convert to VAST – after application of the SSS – compared to the same conversion in a local digital terrestrial environment.

According to Broadcast Australia's own basic calculation, this total comes from 3 extra VAST STBs (at an additional incremental cost of \$200 each compared with their digital terrestrial alternative) + the home co-payment of around \$270 + 3 extra wall sockets at around \$135 each. A total extra cost impost of \$1,275 for each home after the SSS has been applied.

Broadcast Australia generally supports the view that the average TV home in Australia has 4 devices which have TV receivers in them e.g. TV sets and recorders. We also wish to point out that in any duo or combination of TV set and recording device that in order to be able to watch one channel and record a different one both such devices need to have a VAST STB attached. If one only has a VAST STB the viewer could only record the same channel as was already being watched at the same time.

Our views in respect of the reasonableness of this 4 TV tuner device average TV home, together with some frailties of DBCDE's 'Digital Tracker' in measuring such matters, are outlined in Attachments A.

The SSS does not apply to anything but a residential home. Hence hotels, motels, clinics, hospitals, community facilities and schools must meet the total extra cost of VAST DTH conversion.

2b) Less viewing convenience and program choice with DTH VAST satellite

Convenience of viewing is another issue where terrestrial reception is superior to its equivalent DTH VAST reception.

Portability around the home all TV markets

As already pointed out above, generally in existing self-help TV environments homes can use set-top aerials. This provides portability.

On hot evening's television can be watched outside just by moving the TV set. When guests arrive or children come home from far away schools for holidays, TV sets can be moved into different rooms and can immediately work without the need of new wall sockets and cabling.

In terrestrial reception environments complete pre-planning of where television might be watched or recorded in or around the home is not required. Terrestrial reception provides flexibility.

Program scheduling in regional TV market areas

In the regional areas of Australia there is also likely to be significant program scheduling and choice benefits for the digital terrestrial option compared with DTH satellite. For example in the regional areas of NSW, Victoria, Tasmania and South Australia, the VAST service is in one time zone. In other words, for example, the core Nine Network channel is available in one time zone only and of course can only carry one program at any one time.

This means that whether you live in:

- northern NSW and perhaps love rugby league;
- the high country of Victoria and mostly want to watch Victorian AFL teams; or
- the Spencer Gulf area of South Australia and are more interested in the Crows or Port Adelaide than the Sydney Swans or Victorian AFL teams,

the VAST DTH homes will all get rugby league at the same time on the Nine Network core channel and also all receive AFL coverage of the same game at the same time on the Seven and/or TEN Network core channels.

Hence if the Nine Network core channel on VAST chooses to provide rugby league from 7.30pm through to 11.00pm on a Friday night, then that is what you will get from the core Nine channel if you live in regional South Australia, Victoria or Tasmania rather than the general audience programs that you would normally have been used to at that time.

Similarly if you are in northern NSW you will get the AFL programs from the core channel of the Seven and Ten affiliates at prime time on Friday and Saturday nights and not the general audience programs which are normal in a local terrestrial environment.

Wherever it is possible for a local self-help facility in a regional TV market to pick up local commercial terrestrial services from another transmitter in the area, then digital terrestrial self-help facilities will provide the normal programming at the normal time.

The above programming choice issue is not relevant to satellite fed self-help environments where exactly the same program choice is available regardless of digital terrestrial or DTH VAST reception.

The other potentially significant issue in programme timing relates to local news being available on a carousel basis.

3. Remote Indigenous Communities

Recently a major Government review of Indigenous broadcasting and media was concluded under the chairmanship of Mr Neville Stevens, AO. He reported to Government on 31 December 2010.

Broadcast Australia understands that there are 147 remote Indigenous communities across Australia which currently have analog, terrestrial free-to-air TV self-help retransmission facilities largely provided by Government through what were called the BRACS and RIBS schemes.

16 of these 147 communities will be affected by current regional and remote Queensland SSS scheme tender activities and / or the imminent suggested regional Queensland analog TV switch-off date of 5 December 2011.

The digital TV conversion of these communities was one of the issues being examined by the Stevens Review.

As a result Broadcast Australia provided submissions to the Stevens Review.

In part due to the cost and convenience issues raised in section 2 above, Broadcast Australia believed that close consideration should be given to converting the majority of these 147 remote Indigenous community self-help facilities to digital.

In the remote Indigenous community situation as well as the 16 'normal' commercial, ABC and SBS digital channels to be transmitted from VAST there potentially could be a National Indigenous TV channel (NITV) on VAST and another from Indigenous Community TV (ICTV) to retransmit terrestrially. Further the original BRACS and RIBS schemes provided for these communities to inject locally produced material in local languages to the transmission facility. This way local material in local languages could be received through normal TV reception and recording devices in local homes.

In its various submissions to the Stevens Review team, Broadcast Australia indicated that on the basis of the likely Commonwealth and private home and business expenditure concerning conversion to DTH VAST that it should be possible to provide a digital terrestrial upgrade for all 16 of these communities for roughly the same or less total expenditure.

This of course however would require the contingent per home SSS payment – of \$980 per remote Indigenous home + the contingent per home contractor management fee of approximately \$70– to be redirected to assisting the establishment cost of the facility.

Broadcast Australia's concern in this area is that its proposal to convert these communities to digital terrestrial rather than DTH VAST and any Government decisions regarding the conclusions and recommendations of the Stevens Review in this area could be thwarted or undermined by early implementation of the SSS scheme in these 16 communities. We are advised that DBCDE may be intending to send letters to all homes in these communities on 20 April inviting them to participate in the SSS scheme.

It would be somewhat difficult to get communities to rethink their attitude, or for the Government to make a substantial structural decision concerning establishing digital terrestrial self-help facilities in these areas if a number of homes within them had already opted into the SSS.

Broadcast Australia understands that at least 15 of the 16 remote Indigenous communities covered by its proposal are in the remote areas of Queensland and hence analog switch-off itself is not likely to occur until well into 2013.

Broadcast Australia therefore suggests that the implementation of the SSS for at least 15 of those 16 remote Indigenous communities be delayed at least until after the Government has considered all aspects of the Stevens Review and determined across the three Departments (the Arts; DBCDE; and FAHSCIA) involved whether it would be economically and culturally

better for these communities to have their current analog self-help terrestrial transmission facilities upgraded to digital rather than being converted to DTH VAST.

Our position in respect of this is consistent with the peak remote Indigenous communications organisation, IRCA, in its public submission to ACMA on 12 November 2010.

4. Potential exemptions to rolling out Digital Terrestrial facilities included in the Bill

4a) Areas exempt from digital transmission requirement, commercial television broadcasting licensees and national broadcasters

Items 47, 50, 51 and 52 in the Bill provide for broadcasters to seek exemptions from existing legal obligations under the Act to roll out digital terrestrial facilities in certain circumstances and for the Minister to disapprove applications from the ABC or SBS to roll out digital terrestrial facilities of their own in certain circumstances.

Under these exemptions any commercial broadcaster, the ABC or SBS can request exemption from providing digital terrestrial transmission facilities within its legally binding ACMA Conversion Scheme serving communities of less than 500 population.

Further, any broadcaster can request exemption from providing digital terrestrial transmission facilities to any community – regardless of its population – which is not served now in analog terrestrial form by all relevant local free-to-air broadcasters through transmission facilities operated by them. Broadcast Australia emphasises that if some broadcaster channels are only provided through self-help facilities in analog mode today, the potential for exemption is triggered.

This means for example that a community, regardless of its population, may not have digital terrestrial transmission facilities rolled out to serve it even if the ABC and two or three local commercial entities (as the case may be) were available in analog terrestrial from broadcaster owned and controlled facilities, but the SBS was only available from self-help facilities or not at all.

Given that SBS controlled terrestrial transmitters for analog TV have only been extended to communities down to 3,000 population this latter proposed exemption could affect all communities in regional and remote Australia with populations up to 3,000.

We note these issues were covered in items 58 and 59 of the *Broadcasting Legislation Amendment (Digital Television) Bill 2010* but were withdrawn by the Government on 24 June 2010.

The current Bill is clear that these amendments provide an opportunity for broadcasters to seek exemption from their otherwise legal responsibilities to roll out digital terrestrial transmission facilities wherever they have analog terrestrial transmission facilities. However it is only the Minister who can grant such an exemption. There is no further opportunity for Parliamentary consideration.

These exemptions are clearly based on the premise that DTH VAST reception is completely substitutable and that homes would be agnostic regarding DTH VAST or digital terrestrial reception options.

However given the reality of cost and convenience differentials between the two alternative methods of reception of digital free-to-air television channels, Broadcast Australia finds it difficult to understand how it could be in the public interest for broadcasters to be even able to seek such exemptions.

Further, permitting requests for such exemptions appears quite contrary to other Government policy such as:

- Encouraging commercial regional TV licensees to upgrade analog self-help facilities to digital where the population served is 500 or greater;
- The Government providing \$34 million to remote area commercial broadcasters and regional commercial broadcasters in South Australia and Broken Hill to help roll out a full range of digital terrestrial services in those areas rather than require homes to go to VAST in order to pick up extra commercial channels; and
- The Explanatory Memorandum of the *Broadcasting Legislation Amendment (Digital Television) Bill 2010* (which established the VAST framework) indicating that it was not Government policy for VAST to rescind or reduce national or commercial free-to-air broadcaster's legal responsibilities to match their analog transmission coverage in digital.

Paragraphs 215 and 217 under item 47 on page 39 of the Explanatory Memorandum of the new Bill say that these measures (the exemptions) are in the public interest and are to "avoid viewers in the area being required to purchase both terrestrial and satellite digital reception equipment."

It is our submission that this statement is at odds with the reality of both the consumer television electronic marketplace and the public interest.

For example there are locations in Australia where the ABC television service has been provided by Government in analog terrestrial form where not all commercial or the SBS channels have been similarly provided in analog terrestrial form. In such places people have welcomed the availability of any analog terrestrial services. If necessary such homes then went to the existing satellite platform, Aurora, to receive via DTH the channels that were not available terrestrially.

Why would the same situation not apply in digital? What public interest issues have changed?

We submit that the provision by Government of digital terrestrial TV facilities for say just the ABC in a community of less than 500 and where the ABC is already available in analog represents considerable utility – not a problem – to residents in the area regardless of whether homes there pick up the companion commercial digital channels and/or the SBS by DTH from VAST . Such homes will be able to use their existing television aerial systems and many, if not most, of their current TV sets and recording devices (and all new TV sets and recording devices) to receive the 4 ABC digital terrestrial channels without any significant incremental cost.

For a TV set or recorder used to watch the ABC's four channels (e.g. in second or third viewing rooms) having, say, even just the ABC available in digital terrestrial form may save in the order of \$400 per home. This results from the occupants being able to watch the ABC's 4 digital channels anywhere in the home, machinery or shearing shed etc. without any extra expenditure.

As a result that home might potentially convert only 2 of its current devices to VAST and have only 2 or 3 VAST wall sockets rather than converting all of its current devices to VAST and requiring more wall sockets. Every extra VAST STB and wall socket combination will cost a minimum of \$400 + any new home visit for installation.

It needs to be understood that virtually all TV sets sold since 2006, and certainly 98% sold from now on have digital terrestrial tuners in them. Equally the same percentage of DVD recorders sold from now on has digital terrestrial tuners in them. Further a home which already receives terrestrial television either already has an external and/or an internal terrestrial aerial system.

The extra home cost and convenience issues trying to be cited by the Explanatory Memorandum in fact only relate to having to go to VAST for any channels. They just do not apply to any locally available digital terrestrial channels.

Together the above exemptions could result in up to 89 communities not having ABC digital terrestrial services rolled out to them where they currently have analog terrestrial ABC coverage and up to 12 communities in a similar position with the SBS. See table 1 on the following page for details.

It is noted that there is also a large number of potential commercial broadcaster exemptions that could significantly impact this estimate.

Table 1

	Exemptions likely to mean no roll out for the below number of communities	Exemptions may result in no roll out for the below number of communities
NSW		
ABC	8	6
SBS	1	4
VIC		
ABC	2	0
SBS	0	1
QLD		
ABC	27	9
SBS	0	3
ACT		
ABC	1	0
SBS	1	0
SA		
ABC	6	0
SBS	0	0
WA		
ABC	13	0
SBS	0	0
NT		
ABC	8	2
SBS	0	1
TAS		
ABC	5	2
SBS	0	1
Total ABC	70	19
Total SBS	2	10

4b) Remote commercial TV entities able to terrestrially transmit their digital channels in standard definition (SD) form only

Items 6, 38, 39, 41 and 45 of Schedule 2 of the Bill refer.

According to these Items an election can be made for a remote commercial TV licensee to terrestrially transmit its services in standard definition (SD) form only (IE no high definition – HD – commercial transmissions would occur. The original commercial HD channels would be transmitted but only in SD form).

This is really a technical inclusion so as to match the election that regional commercial broadcasters in South Australia and Broken Hill were given to this effect in the Bill which passed through the Parliament on 24 June 2010. When this aspect of that Bill was passed the Government had not announced the up to \$34 million of assistance to these regional SA, Broken Hill and remote area commercial broadcasters to assist them to roll out all SD and HD commercial channels. Hence there might have been some economic hardship reasons to give the regional South Australian and Broken Hill commercial broadcasters this option at the time of the June 2010 Bill.

Following the 9 November 2010 extra assistance announcement these new Items, together with the one which was passed into law in June 2010 are contrary to other Government policies and actions. The Minister's announcement of 9 November said that only "initially (would the commercial channels) be provided in standard definition (SD)". Clearly the potential of SD only was seen as an interim measure related to the time it may take to roll out the extra transmitters HD transmissions require.

Instead of the current related Items going ahead in Schedule 2, we submit the new Bill should rescind that part of the current BSA which provides regional commercial TV entities in regional South Australia and Broken Hill to elect to terrestrially transmit in only SD form. This is particularly the case now the Government will be providing a funding contribution to these broadcasters to roll out HD channels to these communities which was not the case when this provision was introduced.

So the appropriate question for the Committee to consider in this regard is: why should the 1.2 million viewers in homes and businesses in the remote areas and regional South Australia that have paid for HD TV sets and HD STBs potentially not have their terrestrial commercial TV channels available to them in HD form?

4c) VAST commercial channels to be available to a home in any area where a greater number of commercial TV channels are available from VAST than from the local digital terrestrial facilities

Item 37 refers.

Broadcast Australia opposes this Item in its current form.

This is just another example where the Bill assumes that whether a home receives its free-to-air TV services via DTH VAST or terrestrially is not an issue of concern for viewers.

The Item appears to be a regulatory attempt to encourage free-to-air commercial broadcasters to terrestrially roll out all available channels. In particular to provide pressure for them to do so at least 6 months before the analog switch-off date for the area.

Essentially it allows ACMA to “declare a service-deficient area” where more commercial TV channels are available from VAST than are available in local digital terrestrial form. Should this declaration be made, homes in such an area can access VAST commercial channels.

As noted elsewhere in this submission, this choice comes at significant extra cost to each home that wishes to take up the DTH option.

Broadcast Australia believes that all broadcasters should roll out digital terrestrial facilities in accordance with their Conversion Schemes and that, if necessary, Government support should be provided to assist regional and remote commercial licensees and National broadcasters to roll out extra digital terrestrial facilities where their current services are only provided in self-help analog form.

This would be consistent with the Government’s November 2010 announcement of a \$34 million funding package to certain regional and remote area commercial broadcasters to assist them to roll out a full range of commercial digital terrestrial channels.

If digital terrestrial reception of free-to-air TV services is not overwhelmingly in the viewer’s interests vis a vis DTH reception why would the Government have provided this package and why has analog terrestrial coverage been rolled out to so many remote communities when exactly the same number of TV channels was available DTH from the Aurora satellite platform?

In Broadcast Australia’s view it is overwhelmingly more convenient and less costly for viewers to receive their digital free-to-air channels terrestrially rather than via DTH.

When actually consulted the evidence is that consumers want digital terrestrial reception of all available channels and the Broadcasting Services Act ought to support this reasonable aspiration, not provide an increasing number of technical ways to have VAST DTH reception replace it.

5. Schedule 1 of the Bill (Digital Dividend)

Schedule 1 of this Bill is likely to represent the only time for Parliamentary scrutiny of the principles guiding the most important spectrum allocation for broadcasting for decades. The framework for setting the guidelines to ACMA governing the process of this reallocation and subsequent sale of freed up spectrum was withdrawn from the previous Bill by the Government on 24 June 2010. Government then issued these vital conceptual framework instructions in a Directions Instrument to ACMA on 9 July 2010. These Objectives are guiding the regulator's total planning for:

- the so called Digital Dividend spectrum to be auctioned;
- the comprehensive restacking of most current TV channel frequencies as outlined in the ACMA Discussion Paper of February 2011 titled "Clearing the Digital Dividend – Planning Objectives and principles for the restacking digital television channels";
- the future of digital radio;
- the potential for more terrestrial free-to-air TV channels, including services like NITV and community TV, and potentially new national broadcaster digital multi-channels, to exist; and
- the potential for further technology changes to yield later Digital Dividends for Australia,

and, importantly, have not been subject to any Parliamentary consideration.

Schedule 1 of this Bill represents the last opportunity for such important guidelines, which will dominate all free-to-air radio and TV broadcasting for the foreseeable future, to be considered by Parliament.

Digital Dividend Objectives

Essentially when boiled down from legal language the guidelines issued to ACMA on 9 July last year for the key Digital Dividend Objectives were:

- To clear TV from channels 52 to 69 and to do this as soon as possible after 31 December 2013 and not later than 31 December 2014;
- A maximum of 6 digital TV and 2 mandatory digital radio 7MHz channels in the 5 metro markets;
- The up to 6 digital TV and 2 mandatory digital radio 7MHz channels in the metros to be allocated frequencies between Channels 6 and 12 (so called VHF Band III);
- In regional and remote areas there is no mention of a maximum number of digital TV channels and no mention of digital radio;
- ACMA is to report on the potential use of Channel 27 for broadcasting purposes.

Hence, in our view there is:

- No certain policy Objective for a 6th digital TV frequency being planned and released for use in even the major capital cities and no mention at all for a 6th digital TV frequency in regional or remote areas; and
- No mention of any digital radio frequencies in the regional areas. It is really up to ACMA to see if such things 'fit'. Our position is that it will not be possible to extend digital radio out from metropolitan 'islands' with all of the expected national broadcaster local programming content unless there are 3 former TV frequencies allocated to digital radio in VHF spectrum.

We argued in our submission responding to an Exposure Draft of the Bill that the Directions of 9 July should be inserted into the Broadcasting Services Act via the Bill. We still believe this would be the desirable way to allow Parliament to oversight and consider such important planning principles before their implications become a "fait accompli".

The Ministerial Direction issued to ACMA is shaping the future of all free-to-air broadcasting for decades to come.

Broadcast Australia's concern

When Broadcast Australia responded to the Government's Green Paper concerning the Digital Dividend a year ago we outlined a spectrum framework for the future that we believed would guarantee at least 6 free-to-air digital TV frequencies in all areas of Australia, the provision of sufficient spectrum to allow digital radio to viably expand from the major capital cities to regional areas, and a pathway for the free to air television industry to access spectrum to deliver new services and utilise new technologies (such as 3DTV).

In our view one of the above Objectives issued to ACMA on 9 July seems to be unnecessarily prescriptive and may have the effect of either limiting the scope of digital radio content from being available in regional areas or removing the prospect of a 6th digital TV frequency in at least the major capital cities and their surrounding high population provincial centres or locking the free to air television sector into a technology cul-de-sac.

This is the Objective that specifies that all 6 free-to-air TV frequencies in metropolitan areas (IE the 5 existing commercial, ABC and SBS services plus the 'spare' so called channel A) must be planned in VHF spectrum. We contend that:

- Existing metropolitan broadcaster interests can be protected by altering this Objective such that only the 5 existing broadcaster services must be allocated VHF spectrum – and this preserves the ability for the ACMA to opine on the so-called block approach to restacking of frequencies in metropolitan markets.
- The 6th channel (Channel A) could be accommodated on UHF spectrum. This will have negligible coverage consequences for the services ultimately using this channel but would obviously require consumers to have dual VHF-UHF aerials – just as they do now (SBS and community TV are in UHF in analog).
- The VHF channel thereby vacated would effectively become the third VHF Band III channel available for digital radio, thus facilitating its viable rollout in major regional markets adjacent to Sydney, Melbourne and Brisbane. We believe there will be serious limitations on national broadcaster digital radio content in these adjacent regional markets if only 2 former TV frequencies are available for it.

We believe that these sort of major policy issues, with, for example, ramifications for regional markets, in respect of the Digital Dividend are worthy of some oversight and consideration by the Parliament.

ATTACHMENT A

How many devices requiring conversion does the average home have?

This could become a vexed issue in working through various cost benefit analyses concerning the conversion of communities via upgrading self-help analog facilities to digital or by all homes going DTH to VAST.

First it is necessary to understand that all TV sets which are used to receive and display free-to-air television have what are called receivers or tuners in them. Older television sets – say purchased prior to 2005/2006 – would generally have had only an analog tuner. Most television sets sold since 2005/2006 and probably 98% today have both analog and digital terrestrial tuners in them (i.e. a separate digital terrestrial STB does not have to be purchased for digital terrestrial reception to be possible).

All TV recording devices used to record TV channel programs from time to time or used to tune into TV channels for their connected TV set also have a tuner or receiver in them. Prior to 2006 almost invariably these devices – which include VCRs and DVD recorders – only had analog tuners. Since then gradually more digital tuners have been provided in such devices and digital terrestrial STBs with so called hard drive recording capability have entered the scene. Today probably over 95% of all DVD recorder devices sold have digital and analog tuners in them (VCRs are virtually off the market and never contained digital tuners).

It is also important to realise that anyone with a VCR, a DVD recorder or a STB with a hard drive attached to a TV set generally wishes to be able from time to time to record a different program to the one they are watching at the time.

Because of this fact if one has a VCR or a DVD recorder attached to a TV set in a VAST environment both the recorder device and the TV set will need to have their own VAST STB.

Note no recording devices or TV sets currently can be purchased which already have a VAST tuner or receiver in them. Such devices may never be produced.

Neither the Satellite Subsidy Scheme (SSS) nor its companion welfare eligibility based Household Assistance Scheme (HAS) recognise this recorder / TV set 'normal' situation. Both schemes only convert one device.

The next matter to understand is that apart from census gathered statistics, generally all figures obtained concerning the number of devices which have television tuners or receivers in them in the home are obtained over the phone utilising homes with fixed landline telephones. It is generally recognised that asking a single individual over the phone about detailed technology that exists in the home is relatively fraught with error.

For example an ACMA survey 3 years ago which compared respondents answers over the phone with later home visits found that 5% of viewers said they did not have Pay TV over the phone but were found to have it when the home was subsequently inspected.

The Digital Tracker quarterly surveys conducted by DBCDE to assist policy development in the analog switch-off digital switchover area involve telephone interviews with homes that have fixed landline telephones.

It is Broadcast Australia's view that generally the industry believed there was in the order of 2¼ TV sets per home in regional areas of Australia in 2007 through AGB Nielsen TV audience based research.

In its initial first quarter 2009 Digital Tracker survey DBCDE indicated much the same for the average TV home across Australia.

In the last two calendar years the official TV sales figures for digital TV sets from the industry reporting service GfK indicate that in the order of 5.2 million digital TV sets were purchased.

The Digital Tracker says that generally speaking when people buy a digital TV set around 75% of the TV sets 'replaced' are moved to another room in the home, given to another member of the family or, in one way or another, recycled for continued use. Only 25% are reported in the Digital Tracker as being thrown away.

Hence Broadcast Australia believes that in the order of at least 3.9 million extra digital TV sets (5.2m X 75%) have been added to Australian homes in just the last 2 years.

As a result it is our view that in the order of 2.6 to 2.7 TV sets are in the average TV home today.

As if to reflect some of the frailties of over the telephone interviews we note that some of the recent Tracker reports have actually indicated a lower average number of TV sets in homes despite these sales figures and the Tracker's reporting of the 25% only throw away rate.

On the other hand in a report to the Supply Working Group meeting of the Digital Switchover Taskforce on 24 August last year the Taskforce's then resident expert on the Tracker provided a spreadsheet which indicated that the average home in the Spencer Gulf area of South Australia had 2.76 TV sets. At the same time the same presentation said that Mt Gambier homes had only 1.57 TV sets on average. Such disparity is essentially implausible.

Broadcast Australia believes that attempting to get granular information for small areas from telephone interviews about such matters is not likely to yield consistent or reliable results. We prefer to deal with a sound home universe base and apply sound domestic retail sales figures to it.

To Broadcast Australia's knowledge DBCDE has never published the number of recorders that are in TV homes in Australia. However in the first Tracker report around May 2009 it was stated that in the order of 42% of all homes used recording devices attached to their main TV set to record TV programs.

Broadcast Australia understands that according to general industry figures in 2007 gathered via AGB Nielsen TV audience based research, the average regional television home had in the order of 1.2 VCRs (DVD recorders were not measured then separately from DVD players).

Since 2007 GfK has reported well over 2 million retail sales of recorder devices.

Accordingly Broadcast Australia believes it is reasonable to assume that the average home in Australia now has 1.4 free-to-air recorder devices (this includes VCRs, DVD recorders with or without hard drive and digital STBs with hard drives or PVRs). Our view does not take into account subscription TV PVRs such as the Foxtel IQ or the Austar Mystar device.

Hence in our view it is reasonable for broad based cost benefit policy development decisions to believe that in DTH VAST environments, outside the remote Indigenous communities (whose homes may display non typical TV set and recorder ownership patterns) that one should take into account the conversion of an average of 4 devices to DTH VAST in order for pre-existing viewing and recording functionality to be maintained and for full conversion to take place.