Submission by Free TV Australia

Senate Environment and Communications Legislation Committee

Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015

15 April 2015

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EXECUTIVE SUMMARY

- Free TV Australia is strongly opposed to Schedules 1 and 2 of the *Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* (the Bill) which will allow the SBS to double its advertising in prime time and incorporate product placement in its programming. This will have a direct detrimental impact on commercial free-to-air television broadcasters and could lead to job losses and cuts to Australian content.

- Commercial broadcasters should not be required to subsidise funding cuts to a government-funded broadcaster. Free TV members pay extremely high television licence fees in addition to Australian corporate taxes. Unlike SBS, they are also subject to increasingly onerous Australian content obligations. Regional commercial television broadcasters already subsidise SBS transmission in regional areas, through the gap filler project. In 2013/4 alone, this subsidy was worth $125,000.

- At the same time the Australian broadcasting sector is facing unprecedented structural change, competition for advertising dollars and a challenging advertising market. All commercial broadcasters have undertaken rigorous cost out programs in recent years to address these market factors and SBS should not be immune from those pressures.

- Any new revenues derived by the SBS will come at the direct expense of commercial television broadcasters because the free-to-air television advertising pie is finite.

- Despite this impact, there has been minimal consultation with affected parties[1], and SBS's analysis of its revenue projections has not been released for scrutiny.

- The Regulation Impact Statement (RIS) (incorporated in the Explanatory Memorandum to the Bill) seriously underestimates the financial impact of the proposed changes on commercial free-to-air broadcasters. The RIS cites a lower four year impact figure supplied by SBS ($28.5 million), rather than the higher number suggested by the government's own efficiency report ($100 million).

- Independent modelling commissioned by Free TV, using actual SBS revenue data, has found that the likely impact on the Australian television advertising market is at least $148 million over four years. SBS's comments regarding the Free TV figures contain significant material errors, including in relation to critical issues such as fill rates, and adjustments for the FIFA World Cup.

- While the overall minutes per day on SBS will not change, the Managing Director of SBS has stated that 60-70% of their television advertising revenue is earned in prime time.[2] The RIS also states that SBS currently earns the

[1] Free TV Australia was provided with 1 week to provide feedback on the draft Regulation Impact Statement. No further consultation on this issue has occurred.

[2] Evidence of Mr Michael Ebeid to Senate Estimates (Environment and Communications Legislation Committee), Parliament of Australia, Canberra, 24 February 2015, pp 61.

majority of its advertising revenue during peak viewing times.[3] Free TV cannot understand how SBS will only achieve an additional $28.5 million over four years when this valuable prime time inventory is doubled - particularly as the Managing Director has said he intends to hire more sales staff to add firepower to SBS's selling ability.[4]

- The inevitable revenue loss to commercial FTA broadcasters will come at the expense of the Australian production sector. Only 10% of SBS's schedule is Australian programming, with 90% of SBS's schedule made up of foreign acquisitions.[5] Given this measure is intended to make up a government funding shortfall it is unlikely that SBS's proportion of foreign acquisitions versus Australian commissions will change. In contrast, Free TV broadcasters satisfy substantial Australian content obligations and spent over $1.54 billion on Australian content in 2013/4.

- The Bill will put SBS on an almost equal footing with commercial broadcasters in prime time because, unlike commercial FTAs, SBS's advertising limits do not include program promotions. If SBS broadcasts four minutes of program promotions per hour[6] it will have 84 minutes of "non-program matter" in prime time. This contrasts with 78 minutes of "non-program matter" permitted on commercial free-to-air television. This Bill effectively allows SBS to become Australia's fourth commercial broadcaster. SBS is also not subject to many of the advertising restrictions contained in the Commercial Television Industry Code of Practice.

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[3] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 5.

[4] Evidence of Mr Michael Ebeid to Senate Estimates (Environment and Communications Legislation Committee), Parliament of Australia, Canberra, 24 February 2015, pp 61.

[5] Evidence of Mr Michael Ebeid to Senate Estimates (Environment and Communications Legislation Committee), Parliament of Australia, Canberra, 24 February 2015, pp 63-64.

[6] Robin, Myriam "Ad hock: SBS have no trouble selling prime time" *Crikey* 3 March 2015

Introduction

Free TV Australia welcomes the opportunity to provide a submission to the Senate Environment and Communications Legislation Committee inquiry into the *Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* (the Bill) and its impact on the Australian broadcasting industry, in particular commercial television networks.

Free TV represents all of Australia's commercial free-to-air television broadcasters - Seven Network, Nine Network, Network Ten, WIN, Prime, Southern Cross Austereo and Imparja. At no cost to the public, our members provide fifteen channels of content across a broad range of genres, as well as rich online and mobile offerings. The value of commercial free-to-air television to the Australian public remains high. On any given day, commercial free-to-air television is watched by more than 13.5 million Australians.

Commercial free-to-air broadcasters are the major investors in Australian content, spending a record $1.54 billion in 2013/14 and employing over fifteen thousand Australians, directly and indirectly.

The changes proposed in the Bill will have a significant detrimental impact on the commercial television broadcasting sector, and a consequential negative impact on the Australian screen production sector.

The figures in the Regulation Impact Statement (RIS) (incorporated into the Bill's Explanatory Memorandum) are incorrect and grossly underestimated. This means that the true impact of the Bill has not been properly assessed. The RIS also fails to consider the consequential impact of the Bill on the Australian screen production sector.

Free TV has commissioned independent modelling on the likely impact of the changes, which demonstrates that the financial impact will be significantly higher than the figures cited in the RIS. It is also relevant to note that the analysis of the Free TV figures at page 11 of the Explanatory Memorandum contains a number of material errors.

Free TV is opposed to any increase in advertising on SBS during prime time, even if this involves moving advertising from another time of day. The SBS already receives hundreds of millions of dollars in funding from taxpayers. This should not be supplemented by additional advertising revenue (including from product placement) from an already fragmenting advertising market.

The commercial free-to-air television industry is responding to challenging and uncertain market conditions by investing in new, innovative platforms and services. Channels Seven, Nine and Ten all have catch-up services: PLUS7, 9jumpin and TENplay. Most of the Free TV broadcasters have invested heavily in the development of FreeView Plus. Broadcasters are also investing in new platforms such as streaming services in the face of new competition in this sector.

In this context, any additional competition for finite advertising revenues will have an unacceptable commercial impact on Free TV members.

Schedules 1 and 2 of the Bill should not be passed

Free TV strongly urges the Committee to recommend that Schedules 1 and 2 of the Bill not be passed.

Reasons supporting this recommendation are detailed below.

Background

The changes proposed in Schedule 1 of the Bill (advertising flexibility) were foreshadowed by the Minister for Communications in his speech on 19 November 2014.[7]

They allow SBS to double its advertising limits in prime time from five to ten minutes per hour.

Prime time (from 6.00pm until midnight) is the key revenue driver for all broadcasters, including the SBS. Around 80% of all revenue from television advertising is earned in prime time.

The changes proposed in Schedule 2 of the Bill (product placement) indicate SBS's intention to increasingly incorporate embedded marketing in its commissioned programming. Such a change is likely to result in SBS favouring programs that are of greater advertiser appeal and more suitable to advertiser integration. This is likely to result in programming which competes more directly with existing commercial broadcasters and may not be consistent with the original objectives for which SBS was established. It is also not clear what guidelines or parameters will apply to this new form of advertising in order to ensure it complies with the SBS Charter.

Advertising changes opposed in principle

Free TV broadcasters pay a licence fee of 4.5% of gross revenues on top of normal corporate taxes. They are also subject to substantial additional regulatory obligations, such as Australian content quotas and in the case of regional broadcasters, provision of local news services, which do not apply to the SBS.

In addition, regional commercial television broadcasters are already subsidising the transmission of SBS in regional areas, through the gap filler project. In 2013/4 alone, this subsidy was worth $125,000.

Commercial free-to-air broadcasters are already contributing significantly more than their competitors (including SBS).

By enabling product placement and more prime time advertising to gain additional revenues for SBS, the Government is effectively requiring commercial television broadcasters to subsidise SBS funding cuts. This amounts to a government initiated value transfer from the private sector to the Commonwealth.

For an industry that is already one of the most heavily taxed and regulated in Australia, this is an unacceptable impost and is strongly opposed in principle.

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[7] The Hon Malcolm Turnbull MP, The future of our public broadcasters, 19 November 2014.

FreeTV Australia

Submission to the Senate Environment and Communications Legislation Committee

Advertising Flexibility proposal (Schedule 1)

1. Problems with SBS revenue projections

Inconsistency

The Government's own figures on the size of the potential revenue available to the SBS as a result of the proposed changes are contradictory.

The RIS states SBS will gain additional revenue of $8 – $9 million per annum (by the fourth year).[8]

However, the Minister for Communications has previously noted that the Lewis efficiency review suggested that the SBS could raise up to $20 million per annum as a result of the changes proposed in Schedule 1 of the Bill.[9] The Lewis Report itself noted that these figures were conservative.[10]

Finally, the RIS itself notes that without any restrictions and based on audience share alone, SBS's television advertising revenue could represent up to five per cent of the total television industry airtime revenue – which amounts to $195 million per annum. This is an annual increase of around $145 million per year.[11]

The disparity between the figures used by the Government in discussing these changes raises serious questions about the adequacy of the modelling on which they are based, and highlights the lack of transparency and consultation regarding the true financial impact of the proposed changes.

Lack of transparency

The basis on which the government has accepted the SBS revenue calculations has not been made public and the modelling behind the Lewis Report figures has been redacted.

This makes it impossible for impacted parties to interrogate these figures and participate fully in an informed consultation process. It is also not clear why the government has accepted the SBS modelling over that of the Lewis Report.

Impact on commercial broadcasters grossly underestimated

To assess the impact of Schedule 1 of the Bill on the commercial free-to-air broadcasters, Free TV commissioned independent modelling by Anomaly, a specialist industry market research and intelligence company.

This modelling indicates that SBS could earn an additional $148 million over the next four years, just from the changes proposed by Schedule 1 of the Bill.[12] The Anomaly modelling is attached on a confidential basis at Appendix A.

[8] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 8
[9] The Hon Malcolm Turnbull MP, The future of our public broadcasters, 19 November 2014.
[10] Peter Lewis, ABC and SBS Efficiency Study (Lewis Report), April 2014 at page 84.
[11] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 5
[12] Material sourced and analysis provided by Anomaly, an IPG Mediabrands owned company.

This is more than a "minor impact" for commercial free-to-air television broadcasters, and is far greater than the projected additional SBS revenues of $8 to $9 million per annum (by the fourth year) cited in the RIS.[13]

The Anomaly model has been based on:

- Actual SBS revenue figures derived from Standard Media Index (SMI) data - a proprietary industry standard measurement, that captures advertising revenue sourced from major advertising agencies;
- Expected industry growth of 1.4% over the next five years in line with the PwC *Australian Entertainment and Media Outlook 2014-2018* Compound Annual Growth Rate (CAGR) forecast;
- A "fill rate" of 70%; and
- An estimated peak revenue of 80% of total revenue earned.

An adjustment was also made to account for the additional revenue that SBS gains during the FIFA World Cup.

These calculations suggest that the RIS projections have significantly undervalued the impact of these changes on the advertising market.

Selling air-time is a highly specialised business, but the basic parameters are well known and understood. Free TV is confident that the Anomaly figures represent a fair projection of the possible revenue that the SBS can derive from the proposed changes at Schedule 1 of the Bill.

The figures in the RIS also do not detail the impact of the changes on particular sub-sectors of the commercial television industry, including regional broadcasters and Imparja (which will be affected significantly if there is an increase in the amount of advertising permitted on NITV).

In particular, an erosion of advertising revenues in regional areas will impact on broadcasters' continued ability to provide local news and information services.

Free TV figures incorrectly analysed in RIS

The RIS portion of the Explanatory Memorandum to the Bill states that:

> *SBS has stated that the variance between its modelling and that conducted by Anomaly on behalf of Free TV is due to the difference in underlying assumptions.*

As the SBS modelling has not been released, it is not clear what its underlying assumptions are. However, the RIS discussion of some of the assumptions that underpin the undisclosed SBS modelling raise a number of questions that need to be interrogated further. For example, it is not clear why SBS would discount its existing ratecard by 15%.[14]

A number of assertions made in the RIS about the assumptions underlying the Anomaly/Free TV modelling are simply incorrect and indicate that the Free TV modelling has not been properly considered as part of the consultation process.[15]

[13] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 8
[14] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 11
[15] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at pages 11-12

Incorrect analysis in RIS	***Actual Anomaly modelling assumption***
"*The Anomaly modelling assumes that SBS's fill rates are currently 100% across its schedule and in all markets, which is not the case*."	The Anomaly modelling assumes a fill rate of 70% fill on peak times. At no point does it assume a fill rate of 100% on any SBS service.
"The Anomaly modelling uses a starting point in 2014 that is higher (due to the FIFA World Cup) than SBS's business as usual television advertising revenue, which compounds over time".	The Anomaly modelling recognises that the FIFA World Cup does not reflect "business as usual" and makes an adjustment to the model to account for this.

These significant material errors in the consideration of the Anomaly modelling, coupled with the questionable assumptions that appear to underpin the undisclosed SBS modelling, are indicative of a rushed process that has failed to take into account relevant stakeholder information in the consideration of the potential impacts.

2. Issues with "Fill" rates

Current SBS fill rates

Michael Ebeid has stated in two separate Senate hearings that:

> *…I think some of the numbers that have been calculated assumes that we would try and have a full 10 minutes of ads every hour in peak time. The reality in advertising is we would not be able to do that. If we just doubled our minutes in prime time from five to 10, I do not believe we would be able to fill the time at all.*[16]
>
> *The other thing that we struggle with at the moment at SBS is our fill rate. In television, if your inventory is—as we have—five minutes an hour, your fill rate can vary, obviously, during the day and night depending on demand. We are rarely ever full of our five minutes an hour, so our ability to just double that five minutes is unrealistic, particularly from day one.*[17]

However, it has been reported that in relation to SBS One, SBS fills 100% of its prime time revenue and has done so consistently over the past 6 years, based on logs kept by members of the Save Our SBS organisation.[18]

Analysis by Free TV indicates that over four years SBS could earn $28.5 million on a fill rate of just 30% of the additional available peak advertising time.

It is not known what fill rate is the basis of the figures provided to the government by SBS, as these have not been made available for scrutiny and are not detailed in the RIS.

[16] Evidence of Mr Michael Ebeid to Senate Select Committee into the Abbott Government's Budget Cuts, Parliament of Australia, Canberra, 12 December 2014, at pp 21
[17] Evidence of Mr Michael Ebeid to Senate Estimates (Environment and Communications Legislation Committee), Parliament of Australia, Canberra, 24 February 2015, pp 50
[18] Robin, Myriam "Ad hock: SBS have no trouble selling prime time" *Crikey* 3 March 2015

No rationale for increase

If the fill rates for SBS during peak viewing times are as poor as Mr Ebeid suggests, then it is not clear why the changes at Schedule 1 of the Bill should be pursued at all.

There will not be any benefit in increasing the available inventory for SBS in peak viewing times if the current available inventory is not filled to capacity. Such a move will only result in driving down prices for existing spots across the entire television advertising market.

Free TV Analysis

There have been claims that Free TV's analysis has been based on an assumption that SBS will have a 100% fill rate. This erroneous claim has been made both by Mr Ebeid in a Senate hearing[19], and is repeated in the RIS at page 11 of the Explanatory Memorandum to the Bill.[20]

As indicated above, the analysis undertaken by Anomaly does not assume a 100% fill rate. It has been based on a fill rate of 70% fill on peak times.

3. Assumptions about advertising market are inaccurate

Advertising market is finite and fragmenting

The Australian advertising market is fragmenting, placing television advertising revenues under significant pressure.

Based on experience from the introduction of multi-channelling, an increase in television advertising inventory does not result in an increase in overall TV advertising revenue. In this finite and challenged market, allowing the SBS to increase its prime time advertising inventory would trigger a shift in advertising spend from the commercial networks to the SBS.

The statement in the RIS that "it is not certain that any increase in SBS advertising spend will draw away revenue that would otherwise have gone to other commercial free-to-air broadcasters" is simply wrong.[21]

The SBS competes with commercial broadcasters for the same advertisers and audiences. A list of advertisers on the SBS (sourced from the SBS 2014 Annual Report) compared with the Nielson Adex data demonstrates that at least 85% of advertisers on the SBS also advertise on commercial free-to-air television.

The profile of the SBS viewing audience is similar to that of the commercial free-to-air TV audience, particularly when looking at the lucrative 25-54 year old demographic, which is the key buying audience for advertisers.

For FY13-14, 25-54's accounted for 46.8% of the commercial free-to-air audience and 41.1% of the SBS audience. During the World Cup Soccer event, 25-54's made up 48.8% of the SBS's audience.[22]

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[19] Evidence of Mr Michael Ebeid to Senate Select Committee into the Abbott Government's Budget Cuts, Parliament of Australia, Canberra, 12 December 2014, at page 21

[20] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 11

[21] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 9

[22] Source: OzTAM, 5 cap cities, people 25-54, FY 13-14 (01/07/13 – 30/06/14), 2014 World Cup Soccer (12/06/14 – 13/07/14), all day 2am-2am profile, based on consolidated data.

The latest PricewaterhouseCoopers analysis from the report *Australian Entertainment and Media Outlook 2014-2018* demonstrates that growth in free-to-air television advertising revenues has remained flat since 2008, and has a Compound Annual Growth Rate (CAGR) forecast of just 1.4% over the next five years, which is below CPI.[23]

It is also relevant to note that the television industry's share of the advertising market is in decline – in the 6 month period for January to June 2014, Free TV held a 26.7% share of the market, while digital/online advertising held a 37.1% share.[24]

In this environment, it is grossly misleading to suggest that either the television advertising "pie" will grow, or that the additional SBS revenue will come from a different market segment than the one in which existing broadcasters compete. Allowing the SBS to increase the amount of advertising sold in prime time can only lead to existing players receiving less of a finite revenue pool.

If SBS cuts its ratecard, as foreshadowed in the RIS, then the introduction of more "cut-price" advertising into the market will also negatively impact overall returns for commercial free-to-air broadcasters.

Further eroding the revenue of Free TV broadcasters will compromise our ability to continue investing in high quality Australian content such as news, current affairs, drama, regional content and sport, and amount to yet another tax on our revenue.

Prime time

The Explanatory Memorandum asserts that the Bill will have a "minor impact" on commercial broadcasters.

One of the reasons supporting this assertion is that the 120 minute daily advertising cap for SBS will not change.

This argument is misleading and completely fails to understand the operations of the television advertising market.

Up to 80% of all advertising revenue is earned in prime time. Currently the SBS is limited to 5 minutes of advertising per hour in prime time.

Schedule 1 of the Bill, if passed, will enable SBS to have 10 minutes of advertising per hour in prime time - double their current advertising inventory - so long as the overall daily limit of 120 minutes remains the same. It would be very easy for SBS to forego advertising minutes in viewing periods such as midnight to dawn when viewer numbers and advertising rates are very low.

Price

Any increase in advertising inventory in prime time will impact the overall market by driving down prices, as advertisers use increased supply to drive down the cost of advertising spots.

A 15% reduction in price has already been foreshadowed by SBS in the discussion on page 11 of the Explanatory Memorandum.

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[23] PricewaterhouseCoopers *Australian Entertainment & Media Outlook 2014-18*; at page 82

[24] Source: CEASA Advertising in MainMedia (NB – Free TV figure excludes SBS advertising).

No analysis is provided on how this price reduction will affect the commercial television broadcasting industry, or impact the market for Australian television advertising.

The issue of dilution value of advertising was raised with SBS before this Committee in the Supplementary Estimates hearing on 20 November 2014, where it was stated that:

> *But even if you were to* [fill all the inventory] *they are also not taking into consideration the basic laws of supply and demand, because as supply increases then the cost tends to go down. There is a value proposition there, as well, for those minutes. …*[25]

An increase in inventory coupled with a reduction in the price of available television advertising minutes is likely to drive down prices and revenues across the Australian television market.

It is particularly disruptive in a market where revenues and revenue share are already under increasing pressure.

Non-program matter

It is also noted that the 10 minute hourly cap allowed "is still well below the hourly limits imposed on the commercial broadcasters under the [Code]".

However, the RIS fails to note that the definition of 'advertising' in the *Special Broadcasting Services Act 1991* (Cth) does not include program promotions.[26] This is in contrast to the Commercial Television Industry Code which captures program promotions and other items in the definition of non-program matter.[27]

If SBS broadcasts four minutes of program promotions per hour[28] it will have 84 minutes of "non-program matter" in prime time. This contrasts with 78 minutes of "non-program matter" permitted on commercial FTAs. When this additional material is taken into account, the actual amount of advertising minutes on the SBS in prime time will closely resemble the amount of advertising on commercial television.

Share

The RIS states that the impact on commercial broadcasters will be shared equally, so the proposal is unlikely to result in a significant loss in revenue to any individual network.[29]

This is an overly simplistic consideration of the advertising market.

In particular, the RIS does not consider the impact of the proposed changes on Imparja (who will be particularly impacted if increased advertising is permitted on NITV), or regional broadcasters.

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[25] Evidence of Mr Peter Khalil, Supplementary Estimates – Environment and Communications Legislation Committee, Parliament of Australia, Canberra, at page 93

[26] Section 45(3), *Special Broadcasting Services Act 1991*.

[27] See Clause 5.4 of the Commercial Television Industry Code of Practice.

[28] Robin, Myriam "Ad hock: SBS have no trouble selling prime time" *Crikey* 3 March 2015

[29] *Explanatory Memorandum to the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015* at page 9

This approach also fails to consider variations in revenue share for metropolitan broadcasters that result from a particular broadcaster having a very strong programming slate, or a popular sporting event.

Product placement proposal (Schedule 2)

The RIS indicates that legislative change to allow product placement is to provide "clarity" on the issue.

Given the challenges currently facing the Australian broadcasting industry, Free TV is strongly opposed to any legislative change that would allow the SBS to increase advertising of any kind, including product placement.

The incorporation of product placement into SBS programming will bring the SBS further into alignment with commercial television broadcasters, making it more like a fourth commercial network. Such a change is likely to result in SBS favouring programs that are of greater advertiser appeal and more suitable to advertiser integration, which also risks compromising the SBS's Charter obligations.

A number of structural changes to the media landscape, such as the introduction of PVRs, have meant that product placement or integration is an increasingly valuable and popular form of advertising.

The financial impact of the product placement changes are very difficult to quantify, as many product integration arrangements are part of a larger complex advertising package, or reflected in a lower purchase price for commissioned content.

However, it is clear that changes proposed in Schedule 2 of the Bill will further fragment the existing market for this particular form of advertising, and impact on the market share available to the existing commercial free-to-air broadcasters.

Impact of proposed changes go beyond revenues

There are many flow-on impacts of the changes proposed in both Schedules 1 and 2 which go beyond the direct impact on commercial free-to-air broadcasters.

1. Detrimental impact on Australian screen production sector

A loss of revenue for commercial free-to-air broadcasters will undermine their major contribution to the production of expensive Australian content across a range of genres, including news, sport, drama and children's programs.

Commercial free-to-air broadcasters are subject to extensive obligations to produce Australian content, including specific requirements for first release Australian drama, documentary and children's programs. This is in addition to the 55% transmission quota for Australian content, which applies to Free TV members' primary channels.

Regional commercial television broadcasters also face an additional financial impost as a result of the licence condition that requires the delivery of local content to regional areas in parts of Australia.

The cost of meeting these obligations has increased substantially, with broadcasters now devoting approximately 79% of their total programming expenditure to Australian content.[30]

Each year Screen Australia reports that commercial broadcasters are the leading underwriters of Australian drama, contributing more than any other source to the TV drama slate.[31]

The SBS does not have any comparable obligations, despite government funding of over $267 million in 2013/14.[32]

At a Senate Estimates hearing in February 2015, Managing Director Michael Ebeid noted that **only about 10% of the SBS schedule was local Australian content,** and that that SBS was "pretty much out of drama", because Australian drama was very expensive to produce.[33]

Because this measure is only about making up a shortfall in funding from the Government, there is no reason to believe that the amount SBS spends on commissioning Australian content will change.

However, a loss of revenue to commercial broadcasters as a result of the Bill will impact on commercial broadcasters' ability to continue to fund Australian content.

This will have flow on effects to the Australian independent production industry, which relies heavily on the investment from the commercial free-to-air television sector. It could also cost jobs around the country as broadcasters are forced to reduce costs to meet revenue shortfalls.

2. SBS will become a fourth commercial network

In 2013 there was bi-partisan support for changes to the *Broadcasting Services Act 1992* to prevent the allocation of a fourth commercial television broadcasting licence.[34]

Free TV members are deeply concerned that the proposal to increase prime time advertising on the SBS equates to the introduction of a fourth commercial television broadcasting network by stealth. As noted above, the changes proposed in the Bill will see SBS broadcasting 84 minutes of non-programming matter in prime time compared to 78 minutes under the Free TV commercial Television Code of Practice.

Increased advertising, particularly integrated advertising, means that SBS will skew its programming and focus more toward mainstream programming and sports, to appeal to advertisers and sponsors. This is contrary to its Charter-defined function to "*educate and entertain all Australians*."

The SBS plays an important role in the community, but it is already government-funded. Furthermore, the hybrid model, which allows the SBS to derive advertising and sponsorship revenue, was never intended to place them on an equal footing with commercial television broadcasters. This principle should not be modified further.

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[30] Australian content expenditure figures compiled by Free TV. See: http://www.freetv.com.au/SiteMedia/W3SVC751/Uploads/Documents/RECORD_1.54_BILLION_DOLLAR_COMMITMENT_TO_FREE_AUSSIE_CONTENT.pdf

[31] See, for example, *Screen Australia Drama Report – Production of feature films and TV drama in Australia 2013/4* at page 14

[32] SBS, Annual Report 2014 at page 70.

[33] Evidence of Mr Michael Ebeid to Senate Estimates (Environment and Communications Legislation Committee), Parliament of Australia, Canberra, 24 February 2015, page 63-64.

[34] Section 37A of the *Broadcasting Services Act 1992*