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Committee Secretary
Joint Select Committee on Broadcasting Legislation
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Submission to the Committee on the Abolition of the 75% Reach Rule

Please find attached Southern Cross Austereo's submission for the abolition of the 75% Reach Rule.

Yours sincerely,

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CEO
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**SOUTHERN CROSS AUSTEREO'S SUBMISSION
FOR
THE ABOLOITION OF THE 75% REACH RULE**

Case for Removing the 75% Population Reach Rule

Background

- 1 The first regional television stations in Australia commenced operation in 1961, five years after the introduction of television in metropolitan Australia in 1956.
- 2 Until 1989 most regional centres were served by a single commercial television station which “cherry picked” program content from the three major metropolitan networks, generally at low cost. These single regional television stations were highly viable.
- 3 In 1989 the Federal Government introduced a policy of regional television equalisation, usually referred to as aggregation, which resulted in a phasing in of two additional television stations in each of the regional markets where aggregation was to occur. The result of the aggregation policy was that viewers in regional areas had a choice of three television stations, whereas previously they had one.
- 4 While dramatically improving television services for regional viewers, aggregation substantially reduced the profitability of regional television stations (because three stations were serving a market which previously had only one).

Local content licence condition

- 5 In 2002 the Australian Broadcasting Authority (**ABA**) conducted an investigation into the “adequacy of local news and information programs provided by commercial television services in regional and rural Australia”. The investigation was in response to political and public concern following the cessation of some regional television news services.
- 6 As a result of the investigation the ABA introduced in April 2003 a local content licence condition for regional commercial television broadcasters in four aggregated markets – northern New South Wales, southern New South Wales, regional Victoria and regional Queensland. The local content obligations in the licence condition commenced on 1 February 2004.
- 7 The successor regulator to the ABA, the Australian Communications and Media Authority (**ACMA**), replaced the local content condition introduced by the ABA with a new licence condition which applied to five aggregated markets (Tasmania was included) and commenced on 1 January 2008. Local content is measured using a point system which accrues points for

each minute of material broadcast by a regional television station which directly relates to either the local area or licence area of the station. The local licence content condition continues to be in force.

Program content under affiliation agreements

- 8 The aggregation of regional television markets resulted in regional television stations “affiliating” with one of the three metropolitan networks. Affiliation agreements provide for the regional station to have the right to broadcast all of the programs broadcast by the metropolitan network for which the regional station pays to the metropolitan network a significant fee usually being a percentage of the regional station’s gross revenue. The regional station inserts its own advertising into the programs and may also replace metropolitan-sourced programs with its own locally-produced programs.
- 9 It is particularly important to note that the system of regional affiliation agreements with metropolitan networks provides a significant economic disincentive for the production of local programs. This is because if a regional television station produces a local program it is effectively paying twice for the program because it must also pay the metropolitan network for the program which the local program is replacing.
- 10 By way of contrast, in a situation of common ownership between a regional and metropolitan television network the affiliation system would, obviously, disappear and the combined metropolitan and regional group would be able to broadcast programs of greatest appeal to audiences in each market in which the network broadcasts. This would result in significantly more local regional television content because the current economic disincentive for the production of that content would have been removed.

The 75% population reach rule

- 11 The *Broadcasting Services Act 1992 (BSA)* continued the concept of a limit on total population reach which was in the 1942 Broadcasting Act, but increased the limit from 60% to 75% of the population of Australia.
- 12 The Explanatory Memorandum to the BSA stated that:

The limits reflect a recognition that commercial television is highly regulated, with limits on the introduction of new competition, and that the pervasiveness of the limited number of sub-services can have a significant degree of influence on community views.
- 13 Section 53(1) of the BSA provides that:

A person must not be in a position to exercise control of commercial television broadcasting licenses whose combined licence area populations exceed 75% of the population of Australia.

- 14 As has been recognised by the Convergence Review and the ACMA in particular, the current competitive framework now bears no resemblance to the situation in 1992.
- 15 There is no justification for a continuance of a population reach rule applicable to commercial television. Significantly, no such rule applies to any of the services provided by subscription television broadcasters, telecommunication companies, and internet service providers who all offer national programming without any restrictions on audience reach.
- 16 Regional broadcasters are in practice limited in their ability to participate in potentially lucrative online revenue streams from sources such as second screen technology or catch up television. This is because the programming in question is already being offered online by metropolitan television networks.
- 17 The ever expanding availability of very high speed broadband into Australian households will provide metropolitan networks being the ability to deliver programs direct to regional viewers thereby bypassing regional television stations completely. Yet the current population reach rule makes it impossible for regional television stations to respond to this challenge and is a major impediment to competition with no corresponding public benefit.

Conclusion

- 18 The Parliament should move promptly to remove the 75% population reach rule, as recommended by the Convergence Review, in order to increase competition in regional markets, increase the level of local content in those markets, and remove a rule which has been overtaken by technology and is impeding the further development of the Australian commercial television industry and its ability to properly serve Australian audiences.