

## Content and quality

- 4.1 This chapter largely deals with diametrically opposed views concerning the main drivers for DTV take-up in Australia.
- 4.2 Many submissions to the inquiry claimed that multichannelling will be the primary driver for DTV take-up, while other submissions claimed that HDTV broadcasting will drive take-up. This chapter reviews current policy on multichannelling and HDTV, and considers policy options beyond analogue switch-off.
- 4.3 This chapter also looks at datacasting and problems associated with DTV reception.

### **Multichannelling**

- 4.4 Opinion on whether restrictions on multichannelling in Australia should be lifted is deeply divided. This section of the Chapter gives an overview of multichannel services in Australia, and outlines the arguments for and against the lifting of free-to-air multichannelling restrictions, and the possibility of subscription multichannelling by commercial networks.
- 4.5 Following this review of the evidence received regarding options to change the multichannelling restrictions, the Committee sets out its conclusions and recommendations.
- 4.6 Several submissions refer to the UK's Freeview platform in their arguments. A brief outline of this service is also provided.
- 4.7 Currently, there is a prohibition in Australia on multichannelling by commercial television broadcasters and limits on multichannelling by national broadcasters. DCITA explained that this was designed to

minimise the initial impact of new digital free-to-air services on the subscription television sector.<sup>1</sup> DCITA has conducted a review examining whether restrictions on multichannelling should be modified; however it has yet to report to Parliament.<sup>2</sup>

## Multichannel services

### ABC

4.8 The ABC stated that Australia's first digital terrestrial multichannel service, ABC Kids, was launched in August 2001, followed in November 2001 by a second multichannel service, Fly.<sup>3</sup>

4.9 The ABC claimed that ABC Kids extends its commitment to children's broadcasting, and offers entertaining, engaging and commercial free programming from 6am until 6pm daily.<sup>4</sup>

4.10 The ABC's annual report for 2001-2002 provided further details on ABC Kids:

Programming is divided into age zones for children from pre-school age until early teens with a strong mix of local and overseas programming including *Playschool*, *Bob The Builder*, *Bananas in Panamas*, *Tracey McBean*, *Old Tom*, and *The Saddle Club*. The children's digital channel is run in conjunction with programming on the main television service. The digital channel enables the ABC to offer high quality children's programming across the day.<sup>5</sup>

4.11 The digital youth channel, Fly, offers information, music, animation and entertainment for a teenage and youth audience. The ABC's annual report for 2001-2002 explained:

*Fly* is an innovative service made by young Australian producers and animators using new consumer DVD and PC technology to provide information and lifestyle content for young people. It deals with technology, environment, fashion, music, work, careers, school, health and relationships, with high levels of animation using the work of emerging artists from various genres.<sup>6</sup>

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1 DCITA, *submission no. 66*, p. 3.

2 DCITA, *submission no. 66*, pp. 15-16.

3 ABC, *submission no. 45*, p. 1.

4 ABC, *Annual Report 2001-2002*, p. 57.

5 ABC, *Annual Report 2001-2002*, p. 57.

6 ABC, *Annual Report 2001-2002*, p. 57.

- 4.12 The ABC explained that the ABC Kids and Fly multichannel services, launched with non-recurrent funding, closed in June 2003, as the broadcaster was unsuccessful in its application for additional funding.<sup>7</sup>
- 4.13 The ABC explained that, in August 2004, the ABC Board approved a proposal and an associated business case for the establishment of a new digital channel, ABC2:<sup>8</sup>
- The Board determined that the ABC should participate actively in the digital media environment despite its funding constraints. ABC2 launched in March 2005 as a less costly operation than its predecessors as a result of its format and use of digital automation systems and processes. The Corporation has identified a sustainable basis of funding for the channel.<sup>9</sup>
- 4.14 The ABC's website discussed the content of ABC2, stating that it is showcasing new documentaries and performance pieces that have never been shown on Australian television.<sup>10</sup>
- 4.15 ABC2 features:
- ... a broad range of new and time-shifted ABC programming – children's, regional, arts, public policy, social commentary, international news, music and information ... young families will enjoy its daytime focus on *ABC Kids*, bridging the gap between 10 am and 3 pm every weekday with pre-school viewing, and a "Rollercoaster" hour for older kids between 6 pm and 7 pm ... there's new content too, created exclusively for ABC2 and the complementary ABC Broadband channel. This is mostly short, interstitial content -- animations, music videos and kids' education programs, plus a series of short pieces featuring stories from around the country ... there's a focus on music as well – some from the ABC's extensive archives and the Studio 22 catalogue, as well as a series of high profile names in concert, never seen before on the ABC.<sup>11</sup>

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7 ABC, *submission no. 45*, p. 1.

8 ABC, *submission no. 45*, p. 1.

9 ABC, *submission no. 45*, p. 1.

10 [www.abc.net.au/tv/abc2/faqs.htm](http://www.abc.net.au/tv/abc2/faqs.htm), accessed 28 November 2005.

11 [www.abc.net.au/tv/abc2/about.htm](http://www.abc.net.au/tv/abc2/about.htm), accessed 28 November 2005.

## SBS

- 4.16 SBS now provides six services on DTV, including two digital only multichannels and rebroadcasts of its two radio services, in addition to a range of enhanced and interactive content.<sup>12</sup>
- 4.17 Since 2001, SBS has been broadcasting in digital a simulcast of its main channel. It also commenced broadcasts of its two radio services on digital television, delivering programs in 68 languages.<sup>13</sup>
- 4.18 Since 2002, SBS has broadcast the digital-only World News Channel:
- This multichannel broadcasts language news services from 17 countries in 16 languages, 24 hours per day. This was developed as a trial, low cost service. As a result, the morning programming largely duplicates the programs available on the main-channel WorldWatch program and updates them throughout the day. Since its launch, SBS has used its research and development partnerships with technology companies to add some automated features, including weather and text news headlines with pictures. The news and data service aggregates content that is produced for the SBS website database and reproduces it in a visual format for television. Customised technology has been developed to enable this service to operate efficiently and inexpensively.<sup>14</sup>
- 4.19 Since 2002, SBS has also broadcast the digital-only SBS Essential, an electronic information guide for SBS programs. It contains:
- ... information about SBS programs, short news items and weather information. It has also been used as the channel on which enhancements to main channel programming are provided. An example was the UEFA Champions League Soccer finals in April 2004 where viewers were able to watch the match on the main channel and then switch to SBS Essential to view a loop of highlights and additional data on the match.<sup>15</sup>
- 4.20 SBS claimed that it has been developing innovative but low cost digital features, enhancements and interactive services for its digital services in active partnerships with technology companies.<sup>16</sup>

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12 SBS, *submission no. 62*, p. 2.

13 SBS, *submission no. 62*, p. 3.

14 SBS, *submission no. 62*, p. 3.

15 SBS, *submission no. 62*, p. 3.

16 SBS, *submission no. 62*, p. 3.

- 4.21 SBS stated that it is working on projects for future enhancements including:
- Adding multimedia to the World News Channel through the production of a video feature that takes top stories from World News programs and provides English subtitled text, allowing all Australians access to other countries' news perspectives;
  - Adding repackaged SBS-produced English language international news grabs developed for the web to the multichannel;
  - Further enhancing SBS Essential with extended previews of SBS programs and repackaged video broadband material;
  - Interactive television enhancements, including development on interactive sports applications for The World Game soccer program; and
  - Interactive SBS radio program guides.<sup>17</sup>

### International multichannelling models – UK Freeview service

- 4.22 Several submissions to this inquiry discussed the UK's Freeview platform as an example or model of a DTV service that could be replicated in Australia. Some submissions indicated that the model is a useful driver for DTV take-up, while some submissions dismissed its usefulness because of the inability to directly compare the Australian and UK television markets.
- 4.23 The Nine Network explained that Freeview is a hybrid free and subscription multichannelling service, which has been a significant driver for the take-up of digital in the United Kingdom.<sup>18</sup>
- 4.24 DCITA discussed the Freeview platform and the role the British Broadcasting Corporation (BBC) plays in operating the service:

The BBC has played an import role in the development of digital terrestrial television in the UK. It is one of three shareholders in Freeview, the UK's digital terrestrial television (DTT) platform. The BBC's services occupy two multiplexes on Freeview. On these multiplexes the BBC provides a digital version of both its analogue television channels, BBC1 and BBC2, as well as six more digital-only television channels (two channels for children, a youth channel, an arts/culture oriented channel, a news channel and a parliamentary channel), and an interactive channel. Eleven BBC

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17 SBS, *submission no. 62*, p. 4.

18 Nine Network, *submission no. 59*, p. 8.

digital radio services are also available on Freeview. The BBC's digital television services are also available on digital pay TV platforms and are broadcast unencrypted to satellite viewers without a pay TV subscription. Some of these digital-only services are very popular and are likely to have contributed a great deal to digital takeup in the UK.<sup>19</sup>

- 4.25 The Seven Network also discussed the Freeview platform and its value in driving take-up of DTV:

The UK has the strongest uptake of digital television in the world. The Freeview digital television service is now in almost 5 million UK homes. Freeview has achieved 19% penetration in only 2 1/2 years since its launch. By contrast, penetration in Australia is only around 9%, 4 1/2 years after launch of digital terrestrial television.<sup>20</sup>

- 4.26 In its review on multi-channelling, DCITA raised the question of whether the Freeview DTV platform may be a workable model for Australia.<sup>21</sup>

- 4.27 The Nine Network explained that the difference in television markets makes it difficult to use Freeview as a model for DTV services in Australia:

However, due to the very different nature of broadcasting in the UK and Australia it is difficult to draw direct comparisons between the introduction of digital television in the two countries and difficult to view the high take-up of Freeview as a guide to the potential success of free to air multi-channelling in Australia.<sup>22</sup>

- 4.28 The Nine Network also discussed funding models for both countries:

The funding model for television is very different in the United Kingdom with a television licence fee paid by all citizens resulting in very high levels of public funding to the sector, a relatively small number of advertiser based broadcasters and a very strong subscription television sector. In contrast Australia has lower levels of public funding, a relatively higher number of commercial broadcasters and a weaker subscription sector.<sup>23</sup>

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19 DCITA, *submission no. 66*, p. 11.

20 Seven Network, *submission no. 49*, p. 2.

21 DCITA, 'Provision of services other than simulcasting by free-to-air broadcasters on digital spectrum', Issues paper, May 2004.

22 Nine Network, *submission no. 59*, p. 8.

23 Nine Network, *submission no. 59*, p. 8.

4.29 FOXTEL also discussed the difference between the Australian and UK television markets:

The different characteristics of the UK television market are integral to the existence of the Freeview model. The unique market forces and characteristics that enable Freeview (principally the financial and content leadership of the publicly funded BBC) do not exist in Australia ... The Freeview model appears incapable of being adopted by the commercial broadcasters in Australia to promote digital conversion and, without a massive increase in funding, neither of the public broadcasters the ABC nor SBS are in a position to develop a Freeview-like platform from which to promote digital take-up in Australia.<sup>24</sup>

4.30 Network Ten explained that, given the fundamental differences in the structure and size of the respective markets, comparisons between Australia, the UK and the US are limited.<sup>25</sup>

4.31 Network Ten stated that:

... claims that the UK's Freeview service could be replicated in Australia are highly misleading. Freeview operates in a market three times the size of Australia's and is not "free" to viewers. It is driven almost entirely by the BBC, which is funded by the Television Licence Fee of £126.50 (\$305 AUD) paid by every television set owner every year.<sup>26</sup>

4.32 Network Ten also stated:

The BBC has used its scale and large chunks of its vast £2.8 billion budget to create new programming and run extensive marketing campaigns on Freeview. However, even with this level of support, less than 5% of the Freeview audience watches the BBC's digital-only channels and BBC Three and Four have been found to be poor value for money which do little to connect the BBC with viewers or drive digital takeup.<sup>27</sup>

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24 FOXTEL, *submission no. 55, attachment 1*, pp. 39-40.

25 Network Ten, *submission no. 60*, p. 3.

26 Network Ten, *submission no. 60*, p. 3.

27 Network Ten, *submission no. 60*, p. 3.

4.33 The Seven Network stated that Australia cannot simply replicate the Freeview service:

... which relies heavily on BBC content and the BBC's high funding base as well as a higher population base for advertiser funded channels.<sup>28</sup>

4.34 The Seven Network added that:

Our [DTV] platform must be tailored to Australian market conditions and is only sustainable if advertiser funded models are supplemented by subscription services to ensure long term viability.<sup>29</sup>

## Arguments for multichannelling in Australia

4.35 The Seven Network was the only commercial network to advocate multichannelling. A number of other submissions also suggested multichannelling was a key driver to the take-up of DTV in Australia. Both SBS and ABC favoured lifting restrictions on multichannelling.

### Multichannelling as a driver for take-up

4.36 The Seven Network claimed that the single most effective driver to encourage take-up of DTV in Australia would be to permit commercial broadcasters to provide multichannel services.<sup>30</sup>

4.37 The Seven Network claimed that the primary reason for the low take-up of DTV in Australia is the lack of a clear value proposition for consumers, and that multichannelling is an essential consumer driver to ensure the successful transition from analogue to digital.<sup>31</sup>

4.38 The Seven Network stated that Australia is the only major DTV market that has not implemented multichannel services as part of its DTV platform. The network also claimed that there is strong consumer demand for multichannel services.<sup>32</sup>

4.39 In 2004, the Seven Network commissioned research from Crosby Textor<sup>33</sup> to ascertain the attitudes of Australian consumers towards multichannel

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28 Seven Network, *submission no. 49*, p. 8.

29 Seven Network, *submission no. 49*, p. 8.

30 Seven Network, *submission no. 49*, p. 2.

31 Seven Network, *submission no. 49*, p. 2.

32 Seven Network, *submission no. 49*, p. 2.

33 [www.crosbytextor.com.au/profile\\_who.htm](http://www.crosbytextor.com.au/profile_who.htm).



services. The Seven Network claimed that the results showed an overwhelming interest in greater choice and diversity of services.

4.40 The Seven Network's submission outlined the key findings of the research:

- Free to air television is highly valued particularly for Australian content and first run programming;
- 57% of viewers think there is not enough variety on free-to-air television;
- 81% of people are aware of the transition from analog to digital broadcasting but very few understand what digital can deliver outside of better pictures and sound. Consequently, most saw no hurry to adopt digital television;
- 58% of people are not currently aware of the potential for multichannelling services on the terrestrial platform;
- 86% of people support introduction of multichannelling;
- 91% of people support free multichannelling;
- 59% of people say they would pay something to receive multichannel services; and
- More content and greater choice is the most compelling reason to support multichannelling.<sup>34</sup>

4.41 The Committee noted that the Seven Network did not provide any details or documentation regarding the conduct of the survey.

4.42 The ABC believes that the key to encouraging consumer interest in the take-up of DTV is to provide audiences with greater choice through additional services and new content that is interesting and engaging.<sup>35</sup>

4.43 The ABC explained:

Evidence from overseas supports the proposition that greater program choice is as significant a factor, if not more significant, than image quality in encouraging consumers to purchase digital television equipment. Europe has little or no HDTV broadcasting. Instead, take-up has been most significantly influenced by increased choice.<sup>36</sup>

4.44 The ABC also discussed the Freeview model as a driver for DTV take-up:

The rapid growth of the Freeview multichannel service, which provides audiences with access to more than 30 channels, has demonstrated a public appetite for increased viewing options. In

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34 Seven Network, *submission no. 49*, p. 6.

35 ABC, *submission no. 45*, p. 2.

36 ABC, *submission no. 45*, p. 2.

the two-and-a-half years since its October 2002 launch, Freeview's audience has grown to 4.59 million UK homes. An analysis of the UK's progress towards digital switchover by the communications regulator, Ofcom, identified increasing channel choices and low cost receiver units as key reasons for Freeview's success.<sup>37</sup>

4.45 The ABC claimed that consumer response to additional DTV services demonstrates that a similar appetite for greater viewer choice exists in the free-to-air market in Australia.<sup>38</sup>

4.46 The ABC discussed an Australian example:

... recent evidence from Tasmania suggests that the introduction of an additional digital-only commercial station, Tasmanian Digital Television, into the Hobart market has resulted in a significantly higher take-up rate for digital television than elsewhere in the country.<sup>39</sup>

4.47 The ABC explained its role in stimulating DTV take-up, and the need to develop multichannel services:

The Corporation is uniquely placed to create an environment that will stimulate consumer interest and mitigate consumer risk. However, the ABC needs the ability to strengthen and enhance existing multichannel services with original content and to develop new multichannel services. In so doing the ABC can also clear the way for further investment by industry.<sup>40</sup>

4.48 When asked if the ability to multichannel would be enough to drive digital take-up, the ABC stated:

I think that innovative, attractive and comprehensive services being offered by the public broadcasters would certainly be an added incentive for take-up of digital services in the immediate future ... the more content and choice which is available to audiences, the greater the incentive.<sup>41</sup>

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37 ABC, *submission no. 45*, p. 3.

38 ABC, *submission no. 45*, p. 3.

39 ABC, *submission no. 45*, p. 3.

40 ABC, *submission no. 45*, p. 4.

41 ABC, *transcript of evidence 22 June 2005*, p. 26.

4.49 SBS also claimed that extra content and services are needed to make digital distinctive and necessary as a consumer purchase.<sup>42</sup> SBS added:

The experience in international markets demonstrates that new and interesting digital-only content and services are needed to drive consumer uptake. This should include distinctive and innovative multichannels that offer extra viewer choice and address unmet audience demand. Public broadcasting is well placed to provide attractive viewing choices that significantly drive uptake.<sup>43</sup>

4.50 SBS discussed its development of multichannel services:

SBS treats the development of extra services seriously. Our core planning processes include regularly looking at the types of extra programming we can put on the spectrum, and we regularly trial and model new services. This is all about using digital to make our charter content deeper, richer and more compelling. We look forward to the day when the resource base of the organisation can fully accommodate our digital vision.<sup>44</sup>

4.51 Broadcast Australia is firmly of the view that multichannelling is a critical element in the take-up of DTV.<sup>45</sup> Broadcast Australia believes that provision of additional flexibility to broadcasters in relation to multichannelling could be a significant factor in motivating consumers to move from analogue to digital.<sup>46</sup>

4.52 The Northern Territory (NT) Government is also of the opinion that the major impediment to DTV take-up appears to be the lack of a value proposition for the consumer:

The Australian Government policies relating to simulcasting and multichannelling by commercial broadcasters and the lack of a datacasting service appears to have diluted any value proposition to the consumer by failing to offer choice and an easily distinguishable superior product from the one that they currently use.<sup>47</sup>

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42 SBS, *submission no. 62*, p. 2.

43 SBS, *submission no. 62*, p. 2.

44 SBS, *transcript of evidence 22 June 2005*, p. 29.

45 Broadcast Australia, *submission no. 41*, p. 4.

46 Broadcast Australia, *submission no. 41*, p. 4.

47 NT Government, *submission no. 27*, p. 1.

- 4.53 Sony is firmly of the view that take-up of digital television is driven by consumer choice, in particular the ability to access a wide range of digital programming.<sup>48</sup>
- 4.54 Sony stated that access to digital content is a key driver of take-up, particularly given the example of the successful UK DTV market, but is severely limited under the current Australian policy setting.<sup>49</sup>
- 4.55 Sony believes that there is significant content available for additional channels:
- Firstly, the entire suite of programs, which presently appear on the free-to-view network schedules, could be retransmitted or repackaged to appear on multichannels. Secondly, there are many hours of programs from multiple sources not otherwise committed, which could appear on multichannels. Such sources are both locally and internationally based, and cross the entire range of program material, i.e. news, sport, feature films and episodic television programs.<sup>50</sup>
- 4.56 Sony believes that multichannelling provides an opportunity for broadcasters to develop new programming, marketing and advertising business models, which will benefit consumers and the broadcasters.<sup>51</sup>

## Restrictions

- 4.57 Many submissions to the inquiry raised the issue of multichannelling restrictions. Some suggested that current restrictions on multichannelling for commercial networks could be lifted. Others argued for greater flexibility in the content restrictions that apply to the ABC and SBS multichannelling. Comments were also received in relation to enhanced programming restrictions.

### Lift multichannelling restrictions

- 4.58 The Seven Network strongly supports the removal of the current restrictions on multichannelling. The Seven Network believes that the reasons for the existing restrictions on multichannelling are no longer valid:

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48 Sony, *submission no. 67*, p. 7.

49 Sony, *submission no. 67*, p. 3.

50 Sony, *submission no. 67*, p. 7.

51 Sony, *submission no. 67*, p. 8.

The rationale for prohibition of multichannelling services in 1998 to protect the “fledgling pay television industry” is no longer relevant. The pay TV sector has undergone significant growth and restructure since that time, with over 1.5 million subscribers, generating revenues in excess of \$1.2 billion per annum and having become a monopoly industry. The policy justification for the prohibition of multichannel services no longer exists.<sup>52</sup>

- 4.59 In its evidence to the Committee, the Seven Network further described the situation regarding the protection of the subscription television industry, and the review of multichannelling restrictions:

When multichannelling was considered in 1998 and again in 2000 ... the decision about multichannelling was about the state of the subscription television industry at that time. The state of the subscription television industry has changed absolutely and totally since that time, so the justification for banning multichannelling in 1998 and 2000 really no longer applies and there is no reason to continue with that policy. The reason that a review of multichannel services was set in the legislation for the current year was precisely to examine whether that justification continued to exist, and it does not.<sup>53</sup>

- 4.60 SBS also explained that consolidation of the subscription television sector in recent years has created a market where it complements and co-exists with free-to-air television and restrictions are no longer sustainable.<sup>54</sup>

- 4.61 Broadcast Australia believes that:

... there should be no restrictions imposed on the number of multichannels to be provided by FTA broadcasters except to the extent imposed by technical quality and ongoing compliance with the minimum requirements for HDTV ...

- 4.62 The Western Australian (WA) Government stated that it supports the position that broadcasters should be able to multichannel, and that this should be based on their assessment of costs and benefits. The WA Government also stated that multichannelling should not be restricted to the subscription television platform.<sup>55</sup>

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52 Seven Network, *submission no. 49*, p. 2.

53 Seven Network, *transcript of evidence 1 September 2005*, p. 11.

54 SBS, *submission no. 62*, p. 7.

55 WA Government, *submission no. 89*, p. 7.

- 4.63 Sony believes it is desirable to remove current restrictions on multichannelling so that broadcasters can make their own commercial judgments and consumers can have the opportunity to access more digital programming.<sup>56</sup>
- 4.64 UTSPS stated that multichannelling restrictions should be lifted in readiness for the 2008 Beijing Olympic Games:
- Events such as Olympic Games, tennis tournaments and soccer tournaments need to be fully leveraged by broadcasters who have licences to a full spectrum channel ... networks have a fairly unusual opportunity to deliver an integrated multichannel package, live to the viewer, and promote it as such. If restrictions were lifted to allow for this, Australians would be given unparalleled value in their free and accessible coverage of sports.<sup>57</sup>

#### Restrictions on national broadcasters

- 4.65 The ABC stated that the most straightforward way to achieve greater DTV take-up would be to allow broadcasters the flexibility to design and deliver content and services that are appealing to audiences.<sup>58</sup> The ABC claimed that the current restrictions on broadcasters simply do not give the industry the flexibility it needs to develop the content that audiences are seeking.<sup>59</sup>
- 4.66 The ABC explained that its ability to offer multichannel services is currently constrained by the genre restrictions applying to the content of national broadcaster multichannels, under subclause 5A(2) of Schedule 4 of the BSA.<sup>60</sup>
- 4.67 The ABC's submission outlined a number of consequences of these restrictions:
- they prevent the ABC from utilising much of its existing archive material and time shifting current material from the ABC main channel;
  - they prevent the ABC from exploiting its particular strengths and program expertise in areas such as national news, national current affairs, drama, comedy, sport and entertainment; and
  - by restricting the scope of multichannel services to a list of specific genres, they undermine one of the main benefits of

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56 Sony, *submission no. 67*, p. 3.

57 UTSPS, *submission no. 32*, p. 3.

58 ABC, *submission no. 45*, p. 13.

59 ABC, *submission no. 45*, p. 13.

60 ABC, *submission no. 45*, p. 6.

digital television to audiences, namely the provision of greater choice and diversity of programs and services.<sup>61</sup>

- 4.68 The ABC stated that many of its programs that cannot be broadcast would be popular with audiences and could be provided cost-effectively. The genre restrictions remove this affordable programming option and therefore present a direct financial impediment to providing multichannel services.<sup>62</sup>
- 4.69 The ABC is currently inhibited in its ability to transmit national news and current affairs programming on a multichannel service – although the list of permissible genres includes regional news and current affairs and international news.<sup>63</sup> It is also prevented from rebroadcasting older, landmark Australian drama programs and from making the most effective use of the vast resource that is in the ABC archives.<sup>64</sup>
- 4.70 The ABC has already received requests from audience members for ABC2 to carry currently prohibited programs, such as archival Australian drama series, sports, and a daily news program.<sup>65</sup>
- 4.71 The ABC proposed that these genre restrictions be lifted to allow national broadcasters to provide the Australian public with greater access to the full range of publicly funded programs.<sup>66</sup>
- 4.72 SBS also believes that multichannelling genre restrictions on the national broadcasters should be immediately lifted or substantially relaxed, adding that the market should be given the maximum ability to find the best models for delivering new free-to-air services.<sup>67</sup>
- 4.73 SBS stated:
- SBS has consistently supported relaxation of content restrictions on both public broadcaster multichannelling and believes that it would be appropriate and positive for the whole industry.<sup>68</sup>
- 4.74 SBS also stated that national broadcasters should be funded to develop innovative digital services through their multichannelling capacity.<sup>69</sup>

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61 ABC, *submission no. 45*, p. 6.

62 ABC, *submission no. 45*, p. 6.

63 ABC, *submission no. 45*, p. 6.

64 ABC, *submission no. 45*, p. 7.

65 ABC, *submission no. 45*, p. 7.

66 ABC, *submission no. 45*, p. 6.

67 SBS, *submission no. 62*, p. 7.

68 SBS, *transcript of evidence 22 June 2005*, p. 29.

69 SBS, *submission no. 62*, p. 8.

- 4.75 The Australian Film Commission (AFC) stated that, with regard to the current genre restrictions, there needs to be a more flexible environment to prompt innovative digital programming. Constraints on the broadcasters translate into constraints on innovative content.<sup>70</sup>
- 4.76 UTSPS also supports the easing of genre restrictions on the ABC and SBS.<sup>71</sup> UTSPS claimed that:
- ABC and SBS have the ability to provide the greatest promotion of digital free-to-air terrestrial in Australia, while simultaneously presenting a minimal threat to all commercial broadcasters in the free-to-air and subscription industries.<sup>72</sup>
- 4.77 UTSPS made the following recommendations:
- allow the ABC to screen any programming it has produced;
  - allow the ABC to rebroadcast all its radio networks on DTV, each of which reduces the available television picture quality by one per cent;
  - allow SBS to include the English language news services of its overseas partners, from whom SBS already broadcasts the foreign language versions;
  - allow SBS to include any self-produced news services with an overseas focus;
  - expressly allow the ABC to screen sport and comedy; and
  - allow SBS to provide its viewers the maximum benefit from its World Cup football rights.<sup>73</sup>
- 4.78 Broadcast Australia is of the view that multichannelling content should not be unduly constrained by artificial genre rules and should be a choice for the individual broadcaster. Broadcast Australia added that there does not appear to be any strong public policy reason to support the more restrictive treatment of national broadcasters on this issue.<sup>74</sup>
- 4.79 Broadcast Australia also stated that any new policy should provide the ability for broadcasters to transmit third-party content on their multi-

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70 AFC, *submission no. 54*, p. 5.

71 UTSPS, *submission no. 32*, p. 4.

72 UTSPS, *submission no. 32*, p. 4.

73 UTSPS, *submission no. 32*, p. 4.

74 Broadcast Australia, *submission no. 41*, p. 12.



channels as is currently available to the subscription television sector and datacasters.<sup>75</sup>

#### Enhanced program restrictions

- 4.80 In its submission the ABC discussed restrictions on providing enhanced program material as part of a DTV service.
- 4.81 The ABC explained that under subclause 19(14) of Schedule 4 of the BSA, broadcasters are permitted to provide digital program enhancements, such as additional camera angles and user-selectable score information for a sporting event.<sup>76</sup>
- 4.82 However, while such enhanced programming would provide a further point of difference between digital and analogue television, it is subject to significant restrictions.<sup>77</sup>
- 4.83 The ABC claimed that the legislation was framed at a time when there was little understanding in the industry, whether in Australia or overseas, of the kinds of interactivity that would actually appeal to viewers. To date, Australian broadcasters have provided relatively few program enhancements.<sup>78</sup>
- 4.84 The ABC explained the key restrictions:
- In accordance with paragraph 19(14)(i) of Schedule 4, program enhancements must be “closely and directly linked to the subject matter of the primary program”. This prevents general channel enhancements, such as news headlines or weather information that viewers can elect to bring up or dismiss from their screens when they choose. Such channel enhancements can then only be provided under the restrictive datacasting provisions in Schedule 6 of the Act. Given the limitations placed on the bandwidth for additional services by the existing “triplecast” requirements, it is likely that such enhancements would be small interactive items transmitted in parallel to broadcast television channels.
  - Program enhancements must be simultaneous with the primary program, which prevents the option of complementary information following a program. Research from BBC Interactive TV shows that many enhancements are more

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75 Broadcast Australia, *submission no. 41*, p. 12.

76 ABC, *submission no. 45*, p. 6.

77 ABC, *submission no. 45*, p. 6.

78 ABC, *submission no. 45*, p. 6.

appropriately shown after the program, when they do not distract audiences from the main narrative.<sup>79</sup>

- 4.85 The ABC recommended that the enhanced program restrictions should be lifted to allow broadcasters to provide interactive programs, which will appeal to audiences and encourage digital take-up.<sup>80</sup>

### Multichannel promotion by networks

- 4.86 UTSPS stated that networks should be encouraged to cross-promote their multichannel services further, which will assist in driving DTV take-up.<sup>81</sup> UTSPS explained:

For promotional purposes of an emerging technology, there is a large inherent advantage to having one network operating two or more channels; we have this fairly rare advantage in Australia but it is not being used.<sup>82</sup>

- 4.87 UTSPS discussed the BBC's use of cross-promotion:

When BBC launched a second channel in the 1960s, they immediately started promoting the programming of one channel on the other ... [the BBC has] reused this technique for the launch of their digital channels ... this has also provided the convenience to all viewers on all channels of promoting the programming on the main channel(s).<sup>83</sup>

- 4.88 UTSPS recommended that the ABC should be asked to mix all their program lineups with names and times of programs from both channels (ABCTV and ABC2), and SBS should be asked to do the same for SBS1 and SBS2.<sup>84</sup>
- 4.89 UTSPS analysed promotion currently undertaken by the national broadcasters:

The current situation is absurd, with both networks seemingly avoiding any mention of their new services for fear of complexity, or dilution of the perceived quality of their original service; shows

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79 ABC, *submission no. 45*, p. 6.

80 ABC, *submission no. 45*, p. 6.

81 UTSPS, *submission no. 32*, p. 4.

82 UTSPS, *submission no. 32*, p. 4.

83 UTSPS, *submission no. 32*, p. 4.

84 UTSPS, *submission no. 32*, p. 4.

from ABCTV repeated on ABC2 are promoted as such, only on ABC2.<sup>85</sup>

4.90 UTSPS explained that:

... when the viewer sees a lineup of shows “coming up tonight”, and is informed of both channels at once, this will immediately promote digital TV uptake, and simultaneously answer the viewers’ curiosity of “what is on there”. Ironically, ABC’s website works like this right now.<sup>86</sup>

4.91 The ABC website’s FAQ provides a basic answer as to why there is little promotion of ABC2 on main ABC service:

ABC2’s tight budget prevents us from producing detailed promotions for all programs, although more general information about viewing times is being broadcast. Detailed information about each program, including a synopsis, is available on ABC2’s online schedule, including links to program web sites as appropriate.<sup>87</sup>

4.92 The Committee is concerned that the networks, in particular the national broadcasters that have multichannel services, are not doing enough to promote the additional DTV services currently available.

4.93 The Committee noted that FOXTEL promotes on its analogue channels material that is broadcast on its digital-only service.

4.94 The Committee suggests that the national broadcasters should do considerably more to promote their digital services, including running programming details of DTV services on their analogue broadcasts.

## Arguments against multichannelling in Australia

4.95 A number of submissions were opposed to any changes to the multichannelling restrictions. These included the commercial networks such as WIN, the Nine Network, Network Ten, and representatives from the subscription television sector.

4.96 It was suggested that lifting restrictions on multichannelling could lead to a decline in programming quality as well as imposing additional costs on networks. Issues were also raised regarding impacts on the subscription television sector.

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85 UTSPS, *submission no. 32*, p. 4.

86 UTSPS, *submission no. 32*, p. 4.

87 [www.abc.net.au/tv/abc2/faqs.htm](http://www.abc.net.au/tv/abc2/faqs.htm), accessed 28 November 2005.

## Decline in quality and increase in costs

- 4.97 The Nine Network believes that introducing more channels will lead to the fragmentation of the existing free-to-air audience.<sup>88</sup>
- 4.98 At face value, more television programs delivered for free would appear to be attractive to viewers and would therefore assist the take-up of digital services. However the Nine Network believes the quantity of programs may increase but the quality will decrease.<sup>89</sup>
- 4.99 The Nine Network believes that, with limited or no additional advertising revenue to fund new channels, and without significantly detracting from existing expenditure, broadcasters will have limited resources to produce new product or purchase programming of a reasonable quality.<sup>90</sup>
- 4.100 The Nine Network also claimed that new channels would contain very little if any newly produced programming, adding that financial constraints would mean any programs that were newly produced would be limited to very inexpensive programming, for example chat/talk shows.<sup>91</sup>
- 4.101 The Nine Network believes that this situation is not dissimilar to subscription channels in Australia, which produce very few original programs.<sup>92</sup>
- 4.102 The Nine Network explained its finding that multichannelling is not in the network's best interests:

If we create more channels on top of the channels that we are creating now ... we see no basis on which the advertising dollar that comes into the network would increase. It is important to note that, as a mature industry, we are not going to gain more viewers, because we have the whole of the population anyway, minus a very small proportion ... so, without seeing the advertising power growing in any way - even if we take the cheapest channel we could possibly think of, we would need to take revenue from our main channel to apply to that second channel ... - there will be a decrease in quality across the board. That will necessarily mean that the quality of the program, particularly expensive programs

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88 Nine Network, *submission no. 59*, p. 7.

89 Nine Network, *submission no. 59*, p. 7.

90 Nine Network, *submission no. 59*, p. 7.

91 Nine Network, *submission no. 59*, p. 7.

92 Nine Network, *submission no. 59*, p. 7.

we are producing like drama, will decrease with respect to the amount of money that we spend on it.<sup>93</sup>

4.103 Network Ten believes the introduction of free-to-air multichannelling will threaten the quality of the current system without delivering any discernable consumer benefit.<sup>94</sup>

4.104 Network Ten believes that:

While free-to-air multichannelling offers a superficial promise of more diversity and choice, in reality viewers are likely to be faced with less.<sup>95</sup>

4.105 Network Ten elaborated:

Free-to-air multichannelling is likely to result in dispersal of the current quantity of high-quality, first-run content across more channels, increasing the costs for broadcasters and fragmenting audiences without any offsetting lift in revenue. This would impact negatively on diversity, as networks would be less able to invest in high cost programming such as domestic and international news, quality Australian drama, and documentaries.<sup>96</sup>

4.106 Network Ten explained that broadcasters will be forced to cut local programming investment because advertising revenue is drawn away from supporting content on the primary channel and used to fund new digital services.<sup>97</sup>

4.107 Network Ten added that meeting the costs of programming content for two or three additional channels without any additional revenue and without impacting on the primary channel is not a realistic proposition for a commercial free-to-air broadcaster.<sup>98</sup>

4.108 Network Ten added that:

Discretionary spend on expensive Australian programming, particularly high quality drama and some sports telecasts, would be in jeopardy. There is no doubt that it is becoming increasingly

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93 Nine Network, *transcript of evidence 28 June 2005*, pp. 15-16.

94 Network Ten, *submission no. 60*, p. 3.

95 Network Ten, *submission no. 60*, p. 3.

96 Network Ten, *submission no. 60*, p. 3.

97 Network Ten, *submission no. 60*, p. 18.

98 Network Ten, *submission no. 60*, p. 18.

difficult to finance high-end Australian drama, and free-to-air multichannelling would only exacerbate those difficulties.<sup>99</sup>

4.109 Network Ten discussed the comparison between Australian and overseas DTV markets:

It is also not legitimate to claim that, as in the UK and the US, free-to-air multichannelling will be attractive to advertisers wishing to reach highly targeted 'niche' audiences because the vastly different sizes of those markets makes comparisons with Australia meaningless.<sup>100</sup>

4.110 Network Ten provided evidence regarding multichannelling, advertising revenue and program quality:

We are sitting here saying that we do not think that multichannelling makes any sense. Yet I am a broadcaster and on another test somebody could say to you, 'But don't you want to put out one, two, three or four channels?' The problem is that I cannot afford to. I cannot afford the content. The advertising pie does not grow, because we are restricted to just advertising. You will actually reduce the quality and the content that we are giving to Australian people.<sup>101</sup>

4.111 Network Ten added:

At the moment the free-to-air networks, by definition, have one revenue source: advertising. If we put on an extra channel tomorrow, I do not think the advertising pay is going to grow by one dollar. So the extra costs of the content start to eat away the profitability of the industry. So, yes, you have more choice but, effectively, who is paying for it? If you multiply that by hundreds of channels, some of them might be cheap channels; some of them might be expensive channels. It is a subject of argument.<sup>102</sup>

4.112 SCB does not support the introduction of multichannelling and does not believe that it would drive digital penetration:

Among other things, we consider that multichannelling will fragment the free-to-air television market, resulting in a decline in overall quality of programs. A fragmentation would make the medium less attractive to advertisers and multichannelling would

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99 Network Ten, *submission no. 60*, p. 19.

100 Network Ten, *submission no. 60*, p. 19.

101 Network Ten, *transcript of evidence 28 June 2005*, p. 7.

102 Network Ten, *transcript of evidence 28 June 2005*, p. 10.

increase programming costs beyond our financial capacity in regional markets. We believe multichannelling is likely to strengthen competing and emerging media, such as Pay TV, IPTV, the internet and DVDs, at the expense of free-to-air television.<sup>103</sup>

4.113 In discussions concerning multichannelling and its likely impact on regional broadcasting, SCB stated:

One [issue] is affordability for us to pay for programs because the networks, as generous as they are, will not give them to us, so we have to pay for them. There is no additional revenue. The markets we appeal to are quite small. Whilst there are a large number in the regional market, each market is quite small. Putting extra services in to those markets and then expecting to get some sort of revenue that will support the programs that are being provided is not realistic and it will not happen, so the cost will be significant for us and will not be affordable.<sup>104</sup>

4.114 When asked about the opportunities for smaller businesses to be able to advertise on multichannels SCB added:

... I do not believe there are any extra dollars for television. Any sizeable business in a regional market is already buying TV and they are buying it on a cost per thousand basis. If they have to buy a number of channels, it will still be based on the same cost per thousand.<sup>105</sup>

4.115 WIN discussed the decisions it made concerning multichannelling and HD services:

Multichannelling, therefore, for regional broadcasters would mean that it would be necessary to rebuild our network infrastructure to have the capability to deliver such services – a financially impossible task, having invested heavily in HD to comply with the legislation ... we therefore delivered HD on the basis that Australia was locked into HD and that commercial broadcasters would not have the ability to multichannel under the legislation.<sup>106</sup>

4.116 WIN also explained the possible impacts that multichannelling would have on its operations:

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103 SCB, *transcript of evidence 1 September 2005*, pp. 16-17.

104 SCB, *transcript of evidence 1 September 2005*, p. 19.

105 SCB, *transcript of evidence 1 September 2005*, p. 20.

106 WIN, *transcript of evidence 1 September 2005*, p. 27.

In WIN's case, where we have 24 markets in operation, we have presentation and commercial play-out facilities at a number of key locations around the country. We would have to triple those to provide an asynchronous play-out for that multi-channel event. So, taking the worst case scenario, if we were to take high definition down, for instance, or turn it off, and replace that with two standard definition multichannel services – which I believe is possible, and we have to compete with our competitors, so if they decide to do it, we have to do it – we would have to then triple our presentation facilities and our play-out service systems.<sup>107</sup>

- 4.117 WIN commented that multichannelling will cause technical and infrastructure costs to treble:

...due to the presentation systems themselves and the server systems that we all have to use now to play our commercials. All that infrastructure – the technical aspects – would triple in size. The other important aspect is that the people part of it would also treble under the requirement. We will have to have people to drive this system. Every channel requires everything from scheduling people right through to operations and presentation systems to get down to that grassroots level. There would be a huge number of people required to facilitate this.<sup>108</sup>

- 4.118 When the Committee suggested that multichannelling would open up advertising to local small businesses, WIN explained:

I think what we have to understand is that for regional broadcasters the national advertising dollar share is approximately 22 per cent of the national spend. The remainder is local advertising dollars, so it is the local greengrocer, dress shop and hairdresser or whatever that are funding us. We split our markets, as you know, because of the local licence conditions and whatever, so we have all these separate feeds to the markets. It does not matter how many channels we have; we only have a certain population in our broadcast split, and we only have so many greengrocers and so on who will fund that.<sup>109</sup>

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107 WIN, *transcript of evidence 1 September 2005*, p. 30.

108 WIN, *transcript of evidence 1 September 2005*, p. 32.

109 WIN, *transcript of evidence 1 September 2005*, p. 30.



- 4.119 Movies Online Ltd stated that the free-to-air broadcasters should not be permitted to utilise digital bandwidth for multichannelling, claiming that the spectrum allocated to them was to be used to broadcast HD services:

The current extent of multichannelling is to enable free-to-air broadcasters to fill 7Mhz bandwidth to enable the broadcasting of standard definition TV and the same program to be broadcast simultaneously in HDTV.<sup>110</sup>

- 4.120 Movie Online Ltd stated that free-to-air television broadcasters do not need to multichannel their services to provide diversity of program content.<sup>111</sup>

- 4.121 Movies Online Ltd added:

... we submit that great diversity of television content currently available to the Australian consumer demonstrates that there is no requirement for free-to-air television broadcasters to provide a greater diversity of programming than already delivered on analogue. For example, pay/subscription television/multichannels and the advent of IPTV utilising either cable or wireless will provide greater diversity for consumers.<sup>112</sup>

- 4.122 Mr Steve Mercer, a private individual, raised further points concerning the introduction of multichannelling and its impact on program quality. Mr Mercer claimed that:

... competition under a multichannelling policy would require the three commercial networks to double or triple their content to populate new channels (this assumes that Network Seven would multichannel and that the other commercial broadcasters would be forced to quickly follow to maintain market share).<sup>113</sup>

- 4.123 Mr Mercer added that content quality may become poor:

It is hard to see how quality of content can be maintained under a free for all scenario. For example, we could see a proliferation of 24 [hour] shopping channels or regional 'info-bulletins'. I think that many viewers would not watch multichannels with poor content. It would certainly boost DTV uptake in the short term, but would

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110 Movies Online Ltd, *submission no. 43*, p. 3.

111 Movies Online Ltd, *submission no. 43*, p. 3.

112 Movies Online Ltd, *submission no. 43*, p. 3.

113 Mr Steve Mercer, *submission no. 39*, p. 4.

not necessarily result in an increased viewing audience and corresponding revenue.<sup>114</sup>

- 4.124 Mr Mercer believes that production of Australian content will also be negatively impacted:

The need to increase content may result in a squeeze in local production costs ... while this could result in more jobs in the short term, it may not be sustainable into the future. For example, if an Australian audience, used to generally high quality local content, is increasingly turned off by lower quality content, they may desert such programming and be driven elsewhere to find quality viewing ...<sup>115</sup>

- 4.125 Mr Mercer added that:

Ultimately, it may be more cost effective for networks hungry for programming to regionalise local productions (to meet any mandated requirements) and source higher quality material from overseas. This would erode the Australian production industry over time.<sup>116</sup>

### Subscription television sector

- 4.126 Some of those opposed to lifting restrictions on multichannelling cited the impact of any immediate free-to-air multichannelling on the subscription television sector.

- 4.127 ASTRA believes that a moratorium against multichannelling on the existing commercial television broadcasters should remain until at least 2008, allowing the subscription television sector a fair period to consolidate the investments that have recently been made in new digital services.<sup>117</sup>

- 4.128 ASTRA stated that:

This is consistent with the protection given by Government to the commercial broadcasters for their digital conversion by way of the moratorium on additional commercial television licences until at least 2007. Through this moratorium, the existing commercial

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114 Mr Steve Mercer, *submission no. 39*, p. 4.

115 Mr Steve Mercer, *submission no. 39*, p. 4.

116 Mr Steve Mercer, *submission no. 39*, p. 4.

117 ASTRA, *submission no. 50*, p. 2.

networks were given at least 6 years of protection from the time of the commencement of their digital services in January 2001.<sup>118</sup>

4.129 ASTRA claimed that if free-to-air multichannelling were allowed, then:

... it needs to be a phased-in approach so that it provides some certainty for our investment – we suggest until at least 2008. In terms of protection, the free-to-air networks were given at least six years and commercial radio have been given at least five years for their conversion to digital.<sup>119</sup>

4.130 ASTRA explained further:

We need certainty for our investment because we did not get any incentives to convert to digital. That was a decision that we made. We thought it was important to move forward with digital, so we did not get the other incentives about converting our business to digital. All we are asking for is that certainty. We are saying: not until 2008. So if you are going to introduce it, phase it in ...<sup>120</sup>

4.131 ASTRA discussed the impact of free-to-air multichannelling:

Allowing free-to-air multi-channelling by the existing, protected commercial networks would be to effectively give new commercial television licences to those companies only – and they would use their first-mover advantage to lock up and hoard available programming (as they continue to do with sport using the anti-siphoning regime) and corner additional advertising revenue.<sup>121</sup>

4.132 FOXTEL claimed that the issue of commercial network multichannelling is intrinsically linked to the issues of a possible fourth commercial television network and datacasting and cannot be considered in isolation from each other.<sup>122</sup>

4.133 FOXTEL explained:

Australia's restrictive sports broadcasting system known as the "anti-siphoning" regime is also linked to the issues of multi-channelling and the possibility of a 4th commercial network. To give the commercial networks the new advantage of multi-channelling, without first correcting the inequity of the anti-siphoning system, would only compound the destructive impacts

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118 ASTRA, *submission no. 50*, p. 2.

119 ASTRA, *transcript of evidence 22 June 2005*, p. 2.

120 ASTRA, *transcript of evidence 22 June 2005*, p. 5.

121 ASTRA, *submission no. 50, attachment 1*, p. 2.

122 FOXTEL, *submission no. 55*, p. 8.

of the system on competition from subscription television and inevitably occasion it the most severe and probably irreparable commercial harm.<sup>123</sup>

4.134 FOXTEL believes that there is a public benefit in avoiding the introduction of commercial free-to-air multichannelling until it can be introduced at a time that does not have a detrimental effect on innovation and competition in the television entertainment market.<sup>124</sup>

4.135 FOXTEL also believes that the anti-competitive regulation of sports broadcasting through the sports ‘anti-siphoning’ regime should be abolished prior to allowing multichannelling by the commercial broadcasters.<sup>125</sup>

4.136 FOXTEL made the following recommendations to the inquiry:

- Subscription television should be given a minimum four year period from the commencement of its digital services in March 2004 to establish its digital investments before any commercial network multichannelling is introduced. This compares with the minium [sic] seven years of regulatory stability given to commercial television broadcasters and the five years given to commercial radio.<sup>126</sup>
- Further, if commercial network multi-channelling on the terrestrial broadcasting services bands is introduced, which should not be before 2008 in any event, it should be as part of a balanced deregulation of the broadcasting services regime that includes removal of the anti-competitive sports anti-siphoning regime that is hindering the growth of sports television services for consumers.<sup>127</sup>

## Subscription multichannelling

4.137 A further option canvassed related to commercial networks being permitted to offer subscription multichannelling.

4.138 The Seven Network believes that a successful multichannel DTV platform will require multiple revenue streams, both advertising and subscription based.<sup>128</sup>

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123 FOXTEL, *submission no. 55*, p. 8.

124 FOXTEL, *submission no. 55*, pp. 9-10.

125 FOXTEL, *submission no. 55*, p. 10.

126 FOXTEL, *submission no. 55*, p. 9.

127 FOXTEL, *submission no. 55*, p. 9.

128 Seven Network, *submission no. 49*, p. 7.

- 4.139 The Seven Network explained that this is particularly the case in Australia, where the market is small and niche channels have a greater reliance on multiple revenue streams to be sustainable.<sup>129</sup>
- 4.140 The Seven Network discussed figures recently released by the UK's OfCom, indicating that the balance of television industry finance is shifting, and that subscription revenue has now overtaken advertising to become the largest single source of revenues for the television industry in the UK.<sup>130</sup>
- 4.141 The Seven Network recognises that multichannelling's ability to grow the advertising pie or to lead to a significant redistribution of advertising dollars to television is likely to be limited, particularly given the small size of the Australian market.<sup>131</sup>
- 4.142 The Seven Network recognised that the UK's Freeview model may not work in Australia:
- Australia cannot simply replicate the Freeview service which relies heavily on BBC content and the BBC's high funding base as well as a higher population base for advertiser funded channels. Our DTT platform must be tailored to Australian market conditions and is only sustainable if advertiser funded models are supplemented by subscription services to ensure long term viability.<sup>132</sup>
- 4.143 During discussions concerning advertising and the introduction of free and subscription multichannels, the Seven Network stated:
- I think you would need both. I think there is room for increasing the pie for advertising dollars. Also, there is an increasing interest from advertising clients in purchasing opportunities to buy both mass and niche propositions. We can see that through, for instance, the growth in advertising on pay TV, which I think in past years has grown by something between 30 per cent and 40 per cent per year. Over \$100 million is now going into pay TV advertising ... that it is indicative of an interest by advertisers in being able to buy niche propositions as well as, obviously, a continuing strong interest in buying mass propositions. We believe there is some room to grow advertising for both freeware and pay

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129 Seven Network, *submission no. 49*, p. 7.

130 Seven Network, *submission no. 49*, p. 7.

131 Seven Network, *submission no. 49*, p. 7.

132 Seven Network, *submission no. 49*, p. 8.

in terms of selling to advertisers different proposition than are currently available to them.<sup>133</sup>

- 4.144 Network Ten supports subscription multichannelling for existing commercial broadcasters, explaining that:

Allowing subscription multichannelling in the broadcasting services band (BSB) is the only way to introduce quality programming and competition without downgrading current free-to-air services. A new digital terrestrial subscription platform will drive digital television and provide real diversity at a low cost to the 70 per cent of Australians who either cannot afford or do not want FOXTEL's digital service.<sup>134</sup>

- 4.145 Network Ten discussed the free-to-air network's opinions on subscription multichannelling:

There have been a lot of differences, as I understand it, from all three free-to-air networks on multichannelling, but even the Seven Network have said in their submission that free-to-air multichannelling without subscription is uneconomical. We have always been of that view, as are, I believe, Nine.<sup>135</sup>

- 4.146 The Nine Network stated that:

... commercial television licensees should not be permitted to use the digital terrestrial spectrum to run a different type of service (i.e. subscription services) using the spectrum that has been allocated for a specific purpose, namely a commercial television broadcasting service.<sup>136</sup>

- 4.147 However, the Nine Network, in its submission, stated that:

... it is not difficult to assume that free to air multi-channels without funding from subscriptions would struggle to even meet pay television's level of production.<sup>137</sup>

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133 Seven Network, *transcript of evidence 1 September 2005*, p. 3.

134 Network Ten, *submission no. 60*, p. 3.

135 Network Ten, *transcript of evidence 28 June 2005*, p. 10.

136 Nine Network, *submission no. 59*, p. 9.

137 Nine Network, *submission no. 59*, p. 7.

- 4.148 ASTRA believes that there should not be any subscription multichannelling on terrestrial services.<sup>138</sup> ASTRA explained its position:

We think it is a very poor public decision to allow commercial networks to exploit that public spectrum, which is loaned to them, for a service that the public must then pay for. We consider that consumers are benefiting from growing digital services, which are providing choice, diversity and innovation, with most people choosing to access those services through their digital set-top boxes and remote control.<sup>139</sup>

- 4.149 ASTRA discussed subscription multichannelling and competition in the television industry:

The Government should not assist the commercial networks to continue to use regulation to suppress the threat of competitive entry. Their position is one entirely formed from self preservation without any thought to benefits to consumers created by competition and real choice. The Seven Network has proposed that multichannelling while initially free should be operated under a subscription basis after 2007. Network Ten has only recently indicated its interest in being able to multichannel but only on the basis that it too can operate such services on a subscription basis and that only the incumbent terrestrial broadcasters be allowed to do so. In other words, Network Ten wants to exclude any new entrants to competition and charge for public spectrum.<sup>140</sup>

- 4.150 FOXTEL also believes that any multichannel services by commercial broadcasters should be free:

When and if they are permitted to multi-channel, the only service the commercial broadcasters should be allowed to provide on their digital spectrum in addition to their primary simulcast service should be "free" so that all members of the public can access and benefit from it.<sup>141</sup>

- 4.151 Broadcast Australia believes that multichannelling should be free-to-air and not subscription based which would subvert the objective of new services in the free-to-air environment.<sup>142</sup>

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138 ASTRA, *transcript of evidence* 22 June 2005, p. 2.

139 ASTRA, *transcript of evidence* 22 June 2005, p. 2.

140 ASTRA, *submission no. 50, attachment 1*, p. 3.

141 FOXTEL, *submission no. 55*, p. 10.

142 Broadcast Australia, *submission no. 41*, p. 12.

## Committee comment

- 4.152 The Committee acknowledges the commitment made to the subscription television sector regarding the maintenance of multichannelling restrictions on commercial broadcasters until 2008. The Committee also considers that a variety of content and services, such as multichannelling can offer, is critical to driving DTV take-up.
- 4.153 Accordingly, it is essential that multichannelling is available prior to analogue switch-off in order to drive take-up and demonstrate the potential of DTV. The Committee concludes that all multichannelling restrictions should be lifted by 2008.
- 4.154 The Committee recommends lifting the multichannel programming restrictions on the ABC and SBS as soon as possible and no later than 1 January 2007. Currently a substantial investment has been made by these networks to establish digital channels, yet the programming restrictions severely hamper their viability. The restrictions also prevent utilisation of much of the archived ABC and SBS material.
- 4.155 The Committee's recommendation to lift multichannelling restrictions for commercial networks by 2008 honours the commitment made to the subscription television sector, and also will assist in driving DTV take-up prior to the 2010 analogue switch-off.

### Recommendation 3

**The Committee recommends that the Australian Government remove the programming restrictions on multichannelling for national free-to-air networks as soon as possible and no later than 1 January 2007.**

### Recommendation 4

**The Committee recommends that the Australian Government remove all restrictions on multichannelling for commercial free-to-air networks on 1 January 2008.**



- 4.156 Two of the free-to-air networks argued that they should be permitted to offer subscription multichannelling services.
- 4.157 The Committee considers that this is contrary to the framework on which Australian television is based. Licences and spectrum provided to free-to-air networks is for free-to-air television; networks must make their own multichannelling decisions within those commercial parameters.

### Recommendation 5

**The Committee recommends that the Australian Government maintain the prohibition on free-to-air networks offering subscription multichannelling.**

## High Definition television

- 4.158 A number of submissions to the inquiry claimed that enhanced image quality, through HDTV, is a primary driver for DTV take-up. This section of the chapter reviews current HD quotas, the arguments for and against maintaining or increasing the quotas, and the HD standards used in Australia. The section concludes with Committee comments and recommendations concerning HD quotas in the future.

## HD requirements

- 4.159 DCITA explained that broadcasters are required to provide a simulcast of analogue services and digital SDTV, and a minimum amount of HDTV.<sup>143</sup>
- 4.160 DCITA outlined the technical details concerning the use of spectrum loaned to each existing commercial and national broadcaster:

7 MHz of spectrum enables a broadcaster operating in digital mode to transmit data at a rate of up to around 23 megabits per second [Mbps]. An SDTV service typically requires 4 to 8 Mbps. An HDTV version of that service requires between about 8 and 19 Mbps depending on content, quality requirements and scanning parameters. Associated sound and service information data to operate the service requires around 1 to 2 Mbps. Broadcasters have

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143 DCITA, *submission no. 66*, p. 3.

considerable technical flexibility to manage data within their channel.<sup>144</sup>

4.161 DCITA also outlined the details concerning the requirement to transmit HD services:

... a requirement that broadcasters fill an HDTV quota of 1 040 hours per calendar year (an average of around 20 hours per week), commencing July 2003 in state capitals. Commercial broadcasters are required to fill their quotas by transmitting 'true' HDTV programming whereas national broadcasters can fill their similar HDTV quota with 'upconverted' material.<sup>145</sup>

4.162 DCITA explained the difference between 'true' and 'upconverted' HD material:

- 'true' material is produced using HDTV cameras, or derived from 35 mm film, and is referred to as HDTV-originated or 'native' material; and
- 'upconverted' material is produced in analogue or SDTV format and converted or enhanced using various techniques before it is transmitted as an HDTV product.<sup>146</sup>

4.163 The ACMA explained that commercial broadcasters may count no more than 15 per cent of non-HD archival material in a program towards the quota.<sup>147</sup>

4.164 Free TV Australia explained that commercial regional broadcasters commenced HD broadcasts for most of their audiences on 1 April 2005. Commercial regional broadcasters are mandated to start HD broadcasts two years after the simulcast date for their area. The remaining areas will commence HD broadcasts by the end of 2005, except in regional WA where no conversion scheme yet exists.<sup>148</sup>

4.165 Free TV Australia claimed that the ABA announced in mid-2004 that all broadcasters had met and exceeded their quota requirements for their broadcasts of HD programming.<sup>149</sup>

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144 DCITA, *submission no. 66*, p. 3.

145 DCITA, *submission no. 66*, p. 3.

146 DCITA, *submission no. 66*, p. 3.

147 [www.acma.gov.au/ACMAINTER.131258:STANDARD:1009599804:pc=PC\\_100034](http://www.acma.gov.au/ACMAINTER.131258:STANDARD:1009599804:pc=PC_100034), accessed 28 November 2005.

148 Free TV Australia, *submission no. 31*, p. 8.

149 Free TV Australia, *submission no. 31*, p. 8.

- 4.166 Free TV Australia provided some data from the DBA's survey of the week ending 20 February 2005, which found that the three commercial networks combined transmitted the following HD programming in the metropolitan markets:
- Drama Series and Movies – 53.5 Hours;
  - Light Entertainment – 33.5 hours; and
  - News and Current Affairs – 27.5 Hours.<sup>150</sup>
- 4.167 Free TV Australia explained that this total of 123 hours of HD transmitted by the networks was more than double the average of 60 hours per week (for three networks) required under the quota.<sup>151</sup>
- 4.168 The Nine Network provided details on the programs it transmitted in HD in 2004:
- Nine transmitted a wide range of programming in originated high definition with a number of movies, entire programs and portions of programs which also contained non high definition external footage (e.g. A Current Affair and Sunday). Other programs transmitted in HD include:
- Australia's Funniest Home Videos;
  - Mornings with Kerri-Anne;
  - Business Sunday;
  - Smallville;
  - CSI;
  - The Agency;
  - Diagnosis Murder;
  - ER;
  - The Footy Show (NRL);
  - Gilmore Girls;
  - The West Wing;
  - Today; and
  - McLeod's Daughters.<sup>152</sup>

## Arguments for HD broadcasting

- 4.169 The enhanced image quality available through HDTV was cited by some submissions as a key driver for DTV take-up. It was argued that HDTV

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150 Free TV Australia, *submission no. 31*, p. 8.

151 Free TV Australia, *submission no. 31*, p. 8.

152 Nine Network, *submission no. 59*, pp. 3-4.

would continue to accelerate DTV take-up, as HDTV production increases and the cost of HDTV reception equipment decreases. It was suggested that HD quotas should remain or be increased.

### HD as a driver for DTV take-up

- 4.170 Both Network Ten and the Nine Network support the growth of HD production and broadcasting, and are opposed to multichannelling as it may compete with the provision of HD services.
- 4.171 Network Ten believes that HDTV is critical to drive take-up of DTV, particularly as HD receiver and display devices become cheaper and more HD programming becomes available.<sup>153</sup>
- 4.172 Network Ten stated that DBA figures show that one in four set-top boxes sold is an HD box, which is evidence that the envisaged market for higher quality pictures both exists and is growing.<sup>154</sup>
- 4.173 Network Ten claimed that take-up of HD has been held back by the lack of programming and affordable HD receivers and displays:
- ... however we have now reached the tipping point: there is a much greater variety of HD programming being produced and consumer equipment is becoming affordable. In the near future, all major events will be available in HD. It has already been announced that the 2006 World Cup Soccer in Germany and the 2008 Olympics in China will be produced in HD - these events will showcase HD and drive the uptake of digital TV in Australia.
- 4.174 Network Ten noted the announcement that the 2006 World Cup Soccer in Germany and the 2008 Olympics in China will be produced in HD, and claimed that these events will showcase HD and drive the take-up of DTV in Australia.<sup>155</sup>
- 4.175 The Nine Network believes the superior quality of HD is increasingly driving HD production, transmission and sales of equipment around the world and that the Australian experience is reflecting this trend.<sup>156</sup>
- 4.176 The Nine Network stated that all free-to-air broadcasters are meeting or exceeding their HD quota, with the number of hours continuing to

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153 Network Ten, *submission no. 60*, p. 2.

154 Network Ten, *submission no. 60*, p. 11.

155 Network Ten, *submission no. 60*, p. 11.

156 Nine Network, *submission no. 59*, p. 3.

increase as HD production increases and more programming from overseas is made in HD.<sup>157</sup>

- 4.177 The Nine Network discussed a recent European survey which found that 24 per cent of the surveyed group ranked HDTV as the most important factor in deciding whether to switch to digital. Only 10 per cent of the surveyed group cited services such as video on demand and digital video recorders as the most important factors driving take up of DTV.<sup>158</sup>
- 4.178 The Nine Network explained that HD production and consumer take-up have increased considerably in the US in recent years, with all networks transmitting a large number of programs in HD. Sixty per cent of the prime time line up of the US's NBC and ABC are now HD programs and it is estimated that, by 2006, 30 per cent of all programming on the networks will be HD.<sup>159</sup>
- 4.179 When asked about the possibility of increasing the HD quota, the Nine Network stated that it will happen naturally anyway, and is naturally increasing now.<sup>160</sup>
- 4.180 The Nine Network further discussed the increase in HD production and transmission:
- I think we will see a snowballing effect as the world, particularly Europe, comes on board. A lot of our cultural programming comes from European based sources. They are very strong now in Europe about HD production. They are having troubles, as Nick alluded to earlier, about transmitting it in England terrestrially because they have locked up their spectrum so much with the multichannelling approach. But there is no doubt that the production there is all going high definition ... whenever the Nine Network puts in new studios or production facilities, they are high definition. There is no real economic reason not to go high definition in those new facilities.<sup>161</sup>
- 4.181 FOXTEL stated that HDTV has emerged as the principal driver of conversion to digital television in the US. FOXTEL's submission to DCITA's multichannelling review described the significance of HDTV to

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157 Nine Network, *submission no. 59*, p. 3.

158 Nine Network, *submission no. 59*, p. 4.

159 Nine Network, *submission no. 59*, p. 4.

160 Nine Network, *transcript of evidence 28 June 2005*, p. 15.

161 Nine Network, *transcript of evidence 28 June 2005*, p. 15.

DTV take-up in the US and claimed that the example supports the logic that HDTV quota requirements in Australia should be maintained.<sup>162</sup>

4.182 FOXTEL recommended that the Australian Government take note of the growth and increased significance of HDTV in the US and other DTV markets when considering any change to the HDTV requirement.<sup>163</sup>

4.183 FOXTEL briefly discussed the increase in HDTV productions in Australia, and availability of other HDTV programs. FOXTEL explained that a number of Australian television drama series are currently produced in HDTV format (e.g. Home & Away, All Saints and McLeod's Daughters).<sup>164</sup>

4.184 FOXTEL added that the increased availability and declining cost of HDTV programming, particularly from the US, will give the commercial broadcasters greater access to HDTV programming and greater opportunity to promote it as a driver of DTV take-up.<sup>165</sup>

### Maintaining or increasing HDTV quotas

4.185 ASTRA outlined its support for maintaining HD quotas, referring to the initial negotiations between broadcasters and the Australian Government and the conditions for the loan of spectrum:

When the issue was first considered in 1997 and 1998, Commercial TV broadcasters successfully argued that they should each be given a 7 MHz channel, to broadcast digital terrestrial television.<sup>166</sup>

4.186 ASTRA stated that the broadcasters' argument was based on the notion that the spectrum should be used for HD broadcasts which would be the driver for the take-up of DTV.<sup>167</sup>

4.187 ASTRA disagreed with this approach believing it to be:

... a defensive strategy to prevent the opportunity for others to access the spectrum for digital terrestrial broadcasting, on-line services and other emerging communications – and having the effect of sacrificing opportunities to promote diversity in the communications sector and provide substantial government revenue.<sup>168</sup>

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162 FOXTEL, *submission no. 55, attachment 1*, p. 34.

163 FOXTEL, *submission no. 55, attachment 1*, p. 74.

164 FOXTEL, *submission no. 55, attachment 1*, p. 34.

165 FOXTEL, *submission no. 55, attachment 1*, p. 34.

166 ASTRA, *submission no. 50*, p. 3.

167 ASTRA, *submission no. 50*, p. 3.

168 ASTRA, *submission no. 50*, p. 3.

4.188 ASTRA added:

The express and implied commitments regarding the provision of HDTV which the commercial television broadcasters made to Government were the basis on which the digital television framework agreed to and passed by Parliament and on which the valuable slab of 7MHz of spectrum was granted to incumbent broadcasters. The spectrum was not provided for the delivery of non-HDTV multi-channel services.<sup>169</sup>

4.189 Sony claimed it has supported the Australian Government's policy to introduce DTV to Australia, and to mandate HDTV.<sup>170</sup>

4.190 Sony stated that consumers have been moving towards larger screens and flat display technology, which provide higher picture quality. Sony added that the rapid take-up of DVD technology worldwide is a clear market indication of the demand for high quality sound and vision, with DTV and in particular HDTV being the consumer's logical next step.<sup>171</sup>

4.191 Sony believes mandating of HD is significant in light of its increasing success overseas:

We are now seeing the inevitable global move towards HD television broadcasting and an array of HD consumer products ... this move, globally and in Australia, is clearly driven by the consumer's demand for the highest quality of sound and vision, and replicates the success of DVD equipment.<sup>172</sup>

4.192 Sony believes that an inhibitor to encouraging consumer acceptance of DTV is that there is insufficient HD content being broadcast in Australia.<sup>173</sup>

4.193 However Sony claimed that, globally, production of HD content is increasing with many television programs and films already being shot in HD format, and this trend will only increase. Sony believes that Australian broadcasters can now source significant HDTV content.<sup>174</sup>

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169 ASTRA, *submission no. 50*, p. 3.

170 Sony, *submission no. 67*, p. 1.

171 Sony, *submission no. 67*, p. 1.

172 Sony, *submission no. 67*, p. 1.

173 Sony, *submission no. 67*, p. 8.

174 Sony, *submission no. 67*, p. 8.

4.194 Sony is of the opinion that more consumers will be attracted to purchase HD equipment if the networks broadcast increasing levels of HD programming.<sup>175</sup>

4.195 Sony believes that the Australian Government must retain, and even strengthen, its commitment to HD programming in order to encourage DTV take-up:

Sony strongly supports the continuation of the HD content quota, and believes there is merit in increasing the HD broadcasting requirements. This will encourage the networks to provide consumers with more choice of HD programming and will further support the Government's policy of digital conversion.<sup>176</sup>

4.196 Sony is also of the opinion that the HD quota should be revised to require the broadcast of a minimum percentage of locally produced HD programming, similar to the analogue local content requirement.<sup>177</sup>

4.197 Sony further explained:

This initiative would help to boost the local HD production industry as currently there is little non-studio based local HD production broadcast. As a result, consumers are deprived of appealing, Australian HD content such as major sports events, which is demonstrably a driver of TV sales, and drama. Sony believes that this is another obstacle to driving take-up of DTV.

4.198 Sony stated that Australia must also build its local HD production expertise in order to continue to be competitive on the world market in television and film production. Sony believes an HD local content requirement and local HD production would help position Australia to be a regional HD production centre and exporter of content.<sup>178</sup>

4.199 The ACT Government stated that more consumer choice would be achieved in the Australian DTV regime through expanded HD broadcasting. The ACT Government recommended that the annual quota for the broadcast of HD programs should be increased.<sup>179</sup>

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175 Sony, *submission no. 67*, p. 8.

176 Sony, *submission no. 67*, p. 8.

177 Sony, *submission no. 67*, p. 8.

178 Sony, *submission no. 67*, p. 8.

179 ACT Government, *submission no. 72*, pp. 2-3.



- 4.200 LG is also of the opinion that the HD content transmission quota of 1 040 hours per annum is too low and does not place a real requirement on content providers to develop further HD offerings for DTV.<sup>180</sup>
- 4.201 Samsung supports the continuation of the HD content transmission quota and believes there is potential to increase it. Samsung suggested that increasing the quota will:
- ... act as a driver for increased production of HD local content and consumers uptake, given the enhanced broadcast experience it offers.<sup>181</sup>
- 4.202 Broadcast Australia commented that:
- ... the HD conversion model selected by Australia is ultimately going to prove the correct choice for consumers and also provide a unique differentiator for the FTA platform (i.e. compared to pay TV).<sup>182</sup>
- 4.203 Broadcast Australia explained that:
- ... the success of DVD technology (including HD-DVD products) and its high uptake within Australia has set a de-facto standard in the minds of many consumers for quality in a digital television context.<sup>183</sup>
- 4.204 Broadcast Australia strongly supports the current requirement for free-to-air broadcasters to provide a minimum of 20 hours of HD content per week. Broadcast Australia added:
- This requirement reflects the cornerstone position of HD in Australia's digital conversion process and provides the certainty within the industry and marketplace (broadcasters, consumers and manufacturers) necessary to facilitate investment.<sup>184</sup>
- 4.205 UTSPS suggested that the HD quota be amended to include 100 hours of sport per year. UTSPS claimed that:
- HD sports are a large driver of HDTV in the USA. Sports provide compelling content for the casual observer who may be considering the uptake of digital TV ... a token quota, with a

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180 LG, *submission no. 77*, p. 3.

181 Samsung, *submission no. 87*, p. 4.

182 Broadcast Australia, *submission no. 41*, p. 11.

183 Broadcast Australia, *submission no. 41*, p. 11.

184 Broadcast Australia, *submission no. 41*, p. 11.

generous lead-time, will kick-start the HD outside-broadcast industry in this country.<sup>185</sup>

## Arguments against HD broadcasting

4.206 Those opposed to mandated HD quotas argued that it restricts broadcasters', and hence consumers', choices. Several submissions disputed HDTV as a driver for DTV take-up.

4.207 ITRI discussed the digital policy framework and claimed that the policy's key drivers, such as HD, are seen as providing the least incentive for the take-up of DTV. ITRI explained that drivers inhibited by the policy, such as multichannelling, are believed by the industry to be the drivers that consumers will respond best to.<sup>186</sup>

4.208 ITRI added:

This highlights the degree to which even those in the industry itself see a discrepancy between the services they provide and those they believe consumers are most interested in.<sup>187</sup>

4.209 The ABC does not believe that HDTV is a major driver in the take-up of DTV in Australia. The ABC claimed that this is supported by evidence from Europe, the most mature digital television market in the world, which has little or no HDTV broadcasting.<sup>188</sup>

4.210 The ABC stated that the requirement to simulcast HD and SD versions of programs for a certain number of hours each year significantly reduces the bandwidth available for broadcasters to use for additional content services, such as multichannels or interactive content.<sup>189</sup>

4.211 The ABC claimed that simulcasting two versions also restricts the quality of the HD output itself:

The difficulty of mode switching and dynamically allocating bandwidth means that the bandwidth allocated to the ABC's HD channel (channel 20) is dedicated on a permanent basis and is therefore not available for other services at any time. Although the HDTV quota only applies for a fixed number of hours each year,

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185 UTSPS, *submission no. 32*, p. 2.

186 ITRI, *submission no. 46*, p. 12.

187 ITRI, *submission no. 46*, p. 12.

188 ABC, *submission no. 45*, p. 2.

189 ABC, *submission no. 45*, p. 9.

its effect is a permanent one and out of proportion to the level of the community's interest in HDTV.<sup>190</sup>

4.212 The ABC considers that transmitting in both HD and SD is a wasteful use of spectrum:

If the need to transmit both signals could be reduced to one, some of this wastage would be eliminated. Currently, HD receivers are able to decode both SD and HD signals and convert their output for display on both SD and HD television screens. By comparison, SD receivers need only have the ability to decode SD signals, with the result that there is an ongoing practical requirement for all HD programming to be simulcast in SD mode.<sup>191</sup>

4.213 The ABC recommended that the standards for digital receivers be revisited so that all boxes are required to decode both SD and HD signals, thus eliminating the need for simulcasting in the longer term.<sup>192</sup>

4.214 The Seven Network stated that HD has a place in the DTV mix but should not be mandated. The Seven Network believes the existing HDTV quota requirements should be lifted.<sup>193</sup>

4.215 The Seven Network added:

HDTV and multichannelling can co-exist. However mandated HDTV requirements will impact on the ability of broadcasters to provide commercially viable multichannel services. The amount of spectrum required to provide HD services will preclude simultaneous provision of multichannel services.<sup>194</sup>

4.216 The CBAA maintains that:

... the imposition of HDTV quotas has consumed valuable spectrum which could otherwise have been made available for the important and well-recognised services provided community television.<sup>195</sup>

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190 ABC, *submission no. 45*, p. 9.

191 ABC, *submission no. 45*, p. 9.

192 ABC, *submission no. 45*, p. 10.

193 Seven Network, *submission no. 49*, p. 11.

194 Seven Network, *submission no. 49*, p. 11.

195 CBAA, *submission no. 84*, p. 6.

- 4.217 CBAA believes HDTV quotas should be abolished in order to free up digital spectrum for multichannelling by all existing digital providers.<sup>196</sup>

## High Definition standards

- 4.218 In addition to the issue of HD quotas, several submissions to the inquiry discussed the different HD transmission standards.
- 4.219 Mr Nigel Pearson, a private individual, stated that HD should look better than SD, and that consumers will not buy HDTV equipment if there is no improvement.<sup>197</sup>
- 4.220 Mr Pearson added that:
- ... half of the networks implement the minimal 576p standard for HD, which results in an image that shows no improvement. In fact, there have been recent examples where the HD channel has looked *\_worse\_* than the same network's SD channel.<sup>198</sup>
- 4.221 The ACMA website outlines the difference between SD and the different HD standards. The picture resolution for SD in Australia is 576 horizontal lines interlaced<sup>199</sup> (576i).<sup>200</sup> The picture resolution for HD in Australia is any of the following:
- 576 horizontal lines progressive<sup>201</sup> (576p);
  - 720 horizontal lines progressive (720p); and
  - 1080 horizontal lines interlaced (1080i).<sup>202</sup>
- 4.222 DBA provided more information on the SDTV format in use in Australia, detailing that it is:

196 CBAA, *submission no. 84*, p. 6.

197 Mr Nigel Pearson, *submission no. 25*, p. 2.

198 Mr Nigel Pearson, *submission no. 25*, p. 2.

199 Interlaced: a method of displaying images on a raster-scanned display device, such as a cathode ray tube, in which the display alternates between drawing the even-numbered lines and the odd-numbered lines of each frame.  
en.wikipedia.org/wiki/Interlaced, accessed 30 November 2005.

200 www.acma.gov.au/ACMAINTER.131258:STANDARD:1009599804:pc=PC\_91870#hdtv, accessed 30 November 2005.

201 Progressive scan: a method for displaying, storing or transmitting moving images in which the lines of each frame are drawn in sequence. Advantages include: subjectively increased vertical resolution, no flickering of narrow horizontal patterns, simpler video processing equipment, easier compression.  
en.wikipedia.org/wiki/Progressive\_scan, accessed 30 November 2005.

202 www.acma.gov.au/ACMAINTER.131258:STANDARD:1009599804:pc=PC\_91870#hdtv, accessed 30 November 2005.

- 576i;
- supported by all broadcasters;
- Data Rate: 5-7 Mbps;
- Active lines x pixels: 576 x 720; and
- Vertical frequency: 50Hz interlaced.<sup>203</sup>

4.223 In comparison, HDTV formats in use in Australia consist of:

- 576p;
  - ⇒ supported by ABC, SBS, Seven, Prime;
  - ⇒ data rate: 10-13 Mbps;
  - ⇒ active lines x pixels: 576 x 720; and
  - ⇒ vertical frequency 50Hz progressive.
- 1080i;
  - ⇒ supported by Nine, Ten, WIN, NBN, SCB, Tas Digital;
  - ⇒ data rate 13-15 Mbps;
  - ⇒ active lines x pixels: 1080 x 1440; and
  - ⇒ vertical frequency 50Hz interlaced.<sup>204</sup>

4.224 A broadcaster is able to transmit around 23 megabits per second (Mbps) in its seven MHz allocation.<sup>205</sup> With a data rate of 10-13 Mbps for 576p HD, broadcasters may be able to transmit an HD signal and more than one SD signal. With a data rate of 13-15 Mbps for 1080i HD, broadcasters may only be able to transmit an HD signal and only one SD signal.

4.225 Mr Alastair Wylie, a private individual, claimed that the Seven Network and SBS HD broadcasts using 576p resulted in a poorer quality picture than the 576i SD broadcasts. Mr Wylie added:

To term 576p broadcasts as HD is really a misrepresentation since the picture quality is inferior to 576i SD. For those, who like me bought HD capable equipment based on a promise from the government there has been a let down. The general public are being denied the possibility of the high quality output of true HD broadcasts if 576p remains a "High Definition" standard in name only especially with prices of HD capable equipment continually falling.<sup>206</sup>

4.226 Mr Alex Mayo, a private individual, believes that HD should be mandated to be broadcasts of 720p and above:

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203 [www.dba.org.au/index.asp?sectionID=15](http://www.dba.org.au/index.asp?sectionID=15), accessed 30 November 2005.

204 [www.dba.org.au/index.asp?sectionID=15](http://www.dba.org.au/index.asp?sectionID=15), accessed 30 November 2005.

205 DCITA, *submission no. 66*, p. 3.

206 Mr Alastair Wylie, *submission no. 38*, p. 1.

Currently the government classes 576p as HD. Australia is the only country to consider 576p to be HD. This should be changed to bring Australia into line with international practice.<sup>207</sup>

4.227 UTSPS claimed that:

... standards in Europe, Japan, China and Britain do not recognise 576p as “high definition” for the purposes of industrial classification and marketing. USA and Canada, which have an equivalent called 480p, also do not classify this as “high definition”. 576p and 480p are recognised as “enhanced definition” in every country other than Australia.<sup>208</sup>

4.228 UTSPS stated that 576p is far too similar to the maximum quality of 576i (SDTV).<sup>209</sup> UTSPS recommended that the Australian minimum standard of HDTV be redefined to 720p:

720p offers all of the benefits of 576p, but with over twice the potential image quality. The current classification comes about as a pure function of the equipment capabilities: 576p is a format unsupported by SDTV hardware, and is therefore classified as HDTV.<sup>210</sup>

4.229 UTSPS suggested that:

... because of the effects of multichannelling on compression quality, it may be wise to allow 576p for any broadcaster that has already received dispensation to use upconverted material under the HD quota – but only during times of upconversion. 576p is an ideal format for the purposes of upconversion from 576i.<sup>211</sup>

4.230 Mr Nigel Pearson stated that upconverted source material should not ever be counted as HD for the purposes of a network’s HD quota. Mr Pearson added:

Ideally, the network would change the watermark they transmit over the material to indicate to the consumer that what they are watching is not real HD material.<sup>212</sup>

4.231 Mr Steve Mercer explained that the ABC and SBS are allowed to transmit SD ‘upconverted’ to 576p or 1080i to meet their mandated quotas.<sup>213</sup>

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207 Mr Alex Mayo, *submission no. 70*, p. 2.

208 UTSPS, *submission no. 32*, p. 5.

209 UTSPS, *submission no. 32*, p. 5.

210 UTSPS, *submission no. 32*, p. 5.

211 UTSPS, *submission no. 32*, p. 5.

212 Mr Nigel Pearson, *submission no. 25*, p. 2.

4.232 Mr Mercer recommended that the current definition of what constitutes HDTV should:

... be reviewed and tightened to ensure that only native 576p and 1080i transmissions qualify and that converted programming meets certain defined minimum standards. In particular, I think that HD programming must meet certain minimum 'bit rate' quantum to qualify. This is to ensure that networks do not destroy the quality benefits of HD programming by excessive compression in the signal or cheap and nasty conversions.<sup>214</sup>

4.233 The Committee notes the confusion around the current standards and does not necessarily endorse the HD standard that has been determined. However, the Committee considers that the primary issue is consumer understanding at point of sale. This is discussed further in relation to product labelling in Chapter 5.

### Services determined by market choice

4.234 Several submissions, while expressing an opinion on multichannelling or HDTV quotas, also advocated consumer choice as paramount to directing the particular make-up of Australian broadcasting. Market forces, it was suggested, will in time determine demand for HDTV and multichannelling services.

4.235 ITRI explained that the broadcasters' decision to multichannel or broadcast HD should be based on what consumers want:

Rather than engage in a debate about what the best driver might be, the best approach (given that spectrum has already been allocated for high definition) is to allow market forces to decide ... the best approach for consumers, it would appear, would be one maximising flexibility – so that broadcasters and datacasters were free to compete using a variety of drivers to test which ones consumers respond to best.<sup>215</sup>

4.236 The Seven Network agreed:

The service mix should be dictated by market forces and consumer demand. This will deliver a diverse and sustainable service mix

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213 Mr Steve Mercer, *submission no. 39*, p. 7.

214 Mr Steve Mercer, *submission no. 39*, p. 7.

215 ITRI, *submission no. 46*, p. 12.

that operates in the best interests of consumers ... HDTV quota obligations should be removed from the legislation. It should be left to the discretion of broadcasters to provide HDTV or multichannel programming in response to consumer demand.<sup>216</sup>

4.237 The ACCC also discussed competition and the ability of consumers to choose:

... when we are talking multichannelling we are not talking about mandating it; we are talking about allowing it. Again, we come back to how people seek to compete. The people putting that point of view to you are equally putting a point of view to you that says, 'We want to compete in relation to high definition.' The commission's point of view would be that that is a legitimate commercial choice, of course, but that Australian consumers should have the ability to make the choice between those seeking to compete on bases other than the quality of the signal delivered to them.<sup>217</sup>

4.238 The ACCC added:

Of course, we have one of the free-to-air's advocating multichannelling, so that immediately brings forward the obvious proposition that there is more than one business case being advanced here. I guess the commission's proposition, therefore, is that the market should be the ultimate determinant of which is the better commercial choice.<sup>218</sup>

4.239 When asked if networks would consider providing particular services if consumers demanded them, the Seven Network stated:

The driver would be seeing what consumers chose to purchase at the retail level and therefore their ability to attract advertisers to a greater number of eyeballs. If people are saying, 'Okay, we are really interested in getting all the new channels' - and we will see that through what people buy and through their viewing habits - ultimately people will follow what consumers are telling them they want. Alternatively, if it turns out that people do not really watch these multichannel services and that really they are flocking to HD services in droves, presumably most broadcasters will read

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216 Seven Network, *submission no. 49*, p. 11.

217 ACCC, *transcript of evidence 10 August 2005*, p. 5.

218 ACCC, *transcript of evidence 10 August 2005*, p. 5.



the writing on the wall and say, 'We're going to do what consumers demand that we do.'<sup>219</sup>

- 4.240 The ACA believes consumers should be able to choose, and that networks should be given the opportunity to provide what consumers want:

We think it is for the consumer to decide whether they want high-definition television and for the market – businesses – to persuade people that they want high-definition television by producing the products consumers want to see. In that way, we would make space for multichannelling. Mainly for the purpose of attracting users but also to promote diversity in the media, the ABC and SBS should be permitted, and given the necessary funding, to explore opportunities in multichannelling and other ways of supporting innovation in television products.<sup>220</sup>

- 4.241 Broadcast Australia believes decisions on the amount of multichannelling and the HDTV standard to be transmitted should be left to the individual broadcaster, who is best-placed to determine the optimal programming line-up they wish to offer to viewers. Broadcast Australia added:

The possibilities that arise for consumer innovation are substantial and highly desirable – staggering/time shifting of key programming, simultaneous broadcasting of live events, 'channels' targeted for particular audience segments etc.<sup>221</sup>

- 4.242 Sony also believes that:

... broadcasters should be able to determine their own use for the 7MHz of spectrum allocated for digital transmission purposes based on their commercial judgements.<sup>222</sup>

## Committee comment

- 4.243 The Committee is aware of concerns raised regarding the definition of HD broadcasting. However the Committee is satisfied that the standards applied for DTV broadcasting in Australia are appropriate for broadcasters.
- 4.244 The Committee agrees that HD broadcasting, as well as multichannelling, will drive take-up amongst certain sectors of the population. Therefore,

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219 Seven Network, *transcript of evidence 1 September 2005*, p. 10.

220 ACA, *transcript of evidence 7 September 2005*, pp. 17-18.

221 Broadcast Australia, *submission no. 41*, pp. 11-12.

222 Sony, *submission no. 67*, p. 7.

the Committee is of the opinion that the HD quota should remain in place, at least until analogue switch-off has taken place.

- 4.245 The Committee believes that maintaining HD quotas up to and until shortly after analogue switch-off will ensure that Australian consumers have access to both SD and HD broadcasting, and that choice exists in the marketplace.
- 4.246 The Committee is of the opinion that existing HD quotas should remain in place until 2011. This will be three years after restrictions on multichannelling are lifted, and 12 months after the Committee's recommended date for analogue switch-off.
- 4.247 A review before 1 January 2011 should determine if HD quotas are removed or reduced, and if a free market approach is appropriate at that time.
- 4.248 The Committee is also aware that emerging compression technologies may radically change the capacity of networks to broadcast more channels in HD through the more efficient use of their allocated seven MHz of spectrum. This should be taken into account in the 2011 review, so that networks make commercial decisions on the use of future compression technologies and transmissions in their allocated spectrum, rather than seek further spectrum allocations.

### **Recommendation 6**

**The Committee recommends that the Australian Government maintain the current minimum High Definition broadcasting quota for free-to-air networks until 1 January 2011.**

### **Recommendation 7**

**The Committee recommends that, prior to 1 January 2011, the Australian Government undertake a review to determine whether current High Definition quotas for free-to-air networks should be removed, increased or decreased.**

## Datacasting

- 4.249 Datacasting is a further variation on the content able to be provided by digital services.
- 4.250 Datacasting is the broadcasting of data over a wide area via radio waves. It most often refers to supplemental information sent by television stations along with DTV. Datacasting often provides news, weather, traffic, stock market, and other information which may or may not relate to the programs it is carried with. It may also be interactive, such as gaming, shopping, or education applications.<sup>223</sup>
- 4.251 The NSW Government believes that datacasting has the potential to open a new stream of content and services for the public.<sup>224</sup>
- 4.252 The ACT Government stated that:
- Data casting offers the potential for new types of services to be provided to consumers; such new services could include a range of government based information and services, business information, lifestyle, etc.<sup>225</sup>
- 4.253 Broadcast Australia has established and funded a datacasting trial in Sydney called Digital Forty Four. The trial service provides a mixture of datacasting programming including:
- The first industry-based free-to-air video programme guide;
  - Federal Parliament – seven simultaneous live audio channels;
  - NSW Government – health information, water restrictions, traffic conditions, etcetera;
  - News, Weather and Sport headlines (provided by ABC);
  - Home shopping;
  - Sports betting odds (this section of the trial completed December 2004);
  - Financial markets round-up; and
  - Religious instruction/education channel.<sup>226</sup>

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223 [en.wikipedia.org/wiki/Datacasting](http://en.wikipedia.org/wiki/Datacasting), accessed 30 November 2005.

224 NSW Government, *submission no. 83*, p. 6.

225 ACT Government, *submission no. 72*, p. 6.

226 Broadcast Australia, *submission no. 41*, p. 8.

4.254 Broadcast Australia explained that Phase 1 of the trial provided information via traditional 'one-way' broadcasting. Broadcast Australia explained that Phase 2 of the trial will introduce interactive (iTV) content, which will:

... significantly improve the attractiveness of datacasting to the viewer by allowing for the viewer to "self select" information via an interactive process. iTV will allow the consumer to interface with the television set by using menus to select those topics of interest ... BA believes that the move to iTV in datacasting will substantially enhance the value of the datacasting service to the viewing public.<sup>227</sup>

4.255 Many submissions to the inquiry were concerned that regulations regarding datacasting are too limiting, lowering the value of the service it is able to provide.

4.256 ITRI believes that the single area where the Australian Government's digital policy has most visibly failed has been in the inability to effectively introduce datacasting in Australia's DTV landscape. ITRI added:

The failure of the datacasting auctions was a clear indictment, reflecting the market's rejection of the specific model of datacasting put forth by the Government.<sup>228</sup>

4.257 ITRI further explained its view on datacasting policy:

... we would assert that, taken in isolation (independent of the rest of Australia's digital policy), it is the single worst digital policy implemented in any national digital transition strategy globally. The idea that a legal standard could possibly be based on subjective differentiation between 'informative' and 'entertaining' content is nothing short of ridiculous.<sup>229</sup>

4.258 ITRI commented that a subjective standard which tries to differentiate between entertaining and informative content has:

... actually cast a negative shadow across what datacasting means to people in the Australian market, and that has chilled investment in that sector.<sup>230</sup>

4.259 ITRI suggested that if datacasting restrictions were relaxed the possibilities around datacasting then can be quite exciting.<sup>231</sup>

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227 Broadcast Australia, *submission no. 41*, p. 8.

228 ITRI, *submission no. 46*, p. 4.

229 ITRI, *submission no. 46*, p. 4.

230 ITRI, *transcript of evidence 2 September 2005*, pp. 3-4.

4.260 ACA clarified its view on datacasting:

We are not objecting to datacasting; we are objecting to the requirement that there be space allocated to it. Let people use the spectrum for what they can. Let market innovation decide whether it is something that consumers want.<sup>232</sup>

4.261 The ACA recommended that the notion of datacasting should be removed from the legislative framework.<sup>233</sup>

4.262 The ACA is concerned that:

... the impetus to control disruptive technologies will extend to broadband Internet as it matures and to mobile and other wireless data services as their capacity expands. If the dead hand of datacasting is applied to these, then we face a well-chilled technological future.<sup>234</sup>

4.263 The ABC believes that the drafting of datacasting regulations was primarily informed by a desire to prevent datacasting services from becoming de facto broadcasting services, rather than any study of audience needs and interests.<sup>235</sup>

4.264 The ABC added that the kinds of services envisaged in the legislation bear little resemblance to the types of interactive television services that audiences today are likely to want and use.<sup>236</sup>

4.265 The ABC stated that the datacasting provisions that apply to free-to-air services impose heavy restrictions on the kinds of general interactive services the ABC and other datacasters can provide.<sup>237</sup>

4.266 The ABC explained that:

In particular, datacasting services are essentially prohibited from carrying video content in most genres, and are severely restricted in the duration of video material that can be carried in the few, primarily news-related genres, that they are permitted to carry. As a result, datacasters will be forced to design its free-to-air interactive services to fit into the very tightly-defined framework

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231 ITRI, *transcript of evidence 2 September 2005*, pp. 3-4.

232 ACA, *transcript of evidence 7 September 2005*, p. 18.

233 ACA, *submission no. 47*, p. 3.

234 ACA, *submission no. 47*, p. 3.

235 ABC, *submission no. 45*, p. 7.

236 ABC, *submission no. 45*, p. 7.

237 ABC, *submission no. 45*, p. 7.

set out in the legislation rather than to fit audience needs and interests.<sup>238</sup>

4.267 The ABC discussed research from overseas that shows that it is important for broadcasters to take a flexible approach to interactivity and to respond to changing audience consumption patterns:

... the BBC has found that, while some of its early interactive initiatives were effective, others were not; some applications worked only with particular genres or audience types. Determining the types of application that will prove relevant to particular audiences is a matter of experimentation, which requires flexibility. The BBC has ultimately responded to audience needs by concentrating on developing those applications which seem to be most appealing in each case ...<sup>239</sup>

4.268 The ABC added that the Australian industry does not have this flexibility because of the artificial restrictions imposed by the datacasting provisions.<sup>240</sup>

4.269 The ABC believes that:

If the separate category of stand-alone datacasting services was eliminated, much of the rationale for the current restrictions on datacasting services would no longer apply. Such a relaxation of the datacasting restrictions would allow broadcasters to experiment fully with interactive services to determine the type of service that will appeal to the Australian viewing public and in the process contribute to digital uptake.<sup>241</sup>

4.270 In its evidence to the Committee, the ABC stated:

To date, no commercial entity has shown any interest in taking out a datacasting licence and trying to operate a stand-alone datacasting service. We can only presume that there is a not a commercial case for that at this stage, that no-one has found a way to make it work. If the stand-alone category does not seem to work and no-one is prepared to take it up, then it makes sense to roll it back and reclaim the spectrum for something else.<sup>242</sup>

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238 ABC, *submission no. 45*, p. 7.

239 ABC, *submission no. 45*, pp. 7-8.

240 ABC, *submission no. 45*, p. 8.

241 ABC, *submission no. 45*, p. 8.

242 ABC, *transcript of evidence 22 June 2005*, p. 20.

- 4.271 The ABC recommended that the category of stand-alone datacasting services that are not linked to a broadcasting service should be eliminated, and that datacasting restrictions should be lifted to allow the ABC and other broadcasters to provide interactive services related to broadcast content in a flexible and responsive way that best meets audience needs.<sup>243</sup>
- 4.272 The ACT Government believes that datacasting licences should be provided at nominal or no cost to state/territory governments for the operation of government and public information and services.<sup>244</sup>
- 4.273 The ACT Government stated that datacasting is currently constrained under the genre restrictions, and that the removal of existing datacasting restrictions on broadcasters could substantially increase the choice for consumers.<sup>245</sup>
- 4.274 The ACT Government added that removal of restrictions could:
- ... either be effected separately for the existing data casting provisions or in the context of removal of existing multi-channelling restrictions.<sup>246</sup>

## Datacasting allocations

- 4.275 Broadcast Australia stated that there are two national channels that have been identified by the ACMA (in its Digital Channel Planning process) for digital datacasting services, which are currently almost totally unutilised.<sup>247</sup>
- 4.276 Broadcast Australia supports the permanent allocation, on a merit basis, of these two digital-only channels, for datacasting and, potentially, other innovative broadcasting-related services.<sup>248</sup>
- 4.277 The ACA believes that despite the current lack of interest in datacasting, the national digital channels allocated to datacasting should remain assigned to this purpose. The ACA added:

We think it would be close to criminal vandalism to break-up and auction-off portions of national network spectrum currently designated for datacasting. If the Government of the day deems it appropriate to maintain a prohibition on using this spectrum for

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243 ABC, *submission no. 45*, p. 8.

244 ACT Government, *submission no. 72*, p. 5.

245 ACT Government, *submission no. 72*, p. 6.

246 ACT Government, *submission no. 72*, p. 6.

247 Broadcast Australia, *submission no. 41*, p. 9.

248 Broadcast Australia, *submission no. 41*, p. 9.

DTV broadcasting-proper, the opportunity for a successor Government to take a different path with a critical national resource must be preserved.<sup>249</sup>

4.278 The ACT Government recommended that digital spectrum reallocation and its availability for governments to use for core datacasting purposes be further considered.<sup>250</sup>

4.279 The Seven Network believes that the two 7MHz channels of spectrum previously reserved for the provision of datacasting services in each capital city should be allocated for the purpose of multichannelling to allow for future growth in the platform.<sup>251</sup>

4.280 Network Ten provided the following opinion on datacasting:

I have always believed, from the moment datacasting was talked about, it was yesterday's technology – if it ever was today's. With the internet and everything else, most people around the world outside of discussions here do not even know what we mean when we talk about datacasting. It is something we somehow invented and I do not even understand. I am completely dismissive of datacasting.<sup>252</sup>

4.281 Network Ten suggested that the unused channels can be used for a DTV subscription platform:

The only way to bring about increased choice and diversity for consumers, and drive digital TV take-up while creating real competition in the broadcasting market, is to allocate the two spare spectrum blocks for the establishment of a new digital terrestrial subscription platform.<sup>253</sup>

4.282 Network Ten elaborated:

Allocation methods and an equitable payment scheme for the distribution and use of this spectrum for subscription multichannelling should be explored. However, in order to ensure diversity and competition, Ten considers that participation in a new terrestrial subscription platform should be restricted to new entrants in the subscription market.<sup>254</sup>

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249 ACA, *submission no. 47*, p. 4.

250 ACT Government, *submission no. 72*, p. 6.

251 Seven Network, *submission no. 49*, p. 2.

252 Network Ten, *transcript of evidence 28 June 2005*, p. 5.

253 Network Ten, *submission no. 60*, p. 21.

254 Network Ten, *submission no. 60*, p. 22.



- 4.283 The ABC explained that the ACMA has allocated two channels for exclusive datacasting services throughout Australia, however:
- ... to date these channels in most areas have not been utilised. It would appear that the industry's lack of enthusiasm for datacasting is directly attributable to the restrictions on the scope of datacasting services imposed in Schedule 6 of the BSA.<sup>255</sup>
- 4.284 The ABC believes that the decision to retain two unused datacasting channels in all metropolitan and regional areas cannot be regarded as an efficient use of broadcasting services bands spectrum.<sup>256</sup>
- 4.285 The ABC argued that it would be more appropriate for these channels to be reallocated as additional DTV channels to eliminate or reduce spectrum congestion issues in particular markets.<sup>257</sup>
- 4.286 CBAA stated that the Australian Government had suggested that the community television sector might be carried free of charge by a datacaster.<sup>258</sup> CBAA referred to a statement on the former ABA website:
- The Government will assist the migration of community television to the digital environment by requiring new datacasting players to ensure spectrum access, free of charge, of a standard definition community television service as a condition of their licence.<sup>259</sup>
- 4.287 CBAA claimed that the failure of a viable business model to be found for datacasting, and the resulting uncertainty of the future of datacasting, means that the Australian Government's prior commitment to providing a 'must carry' obligation on a datacaster needs to be revised.<sup>260</sup>
- 4.288 CBAA submitted that the 'must carry' obligation should be imposed on an existing digital carrier.<sup>261</sup>
- 4.289 Free TV Australia stated that its broadcasters are opposed to the introduction of a new commercial television licence in the Australian market, and that it supports the existing datacasting rules as the most effective mechanism to ensure that a datacasting licence does not become a de facto or 'back door' broadcasting licence.<sup>262</sup>

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255 ABC, *submission no. 45*, p. 8.

256 ABC, *submission no. 45*, p. 8.

257 ABC, *submission no. 45*, p. 8.

258 CBAA, *submission no. 84*, p. 4.

259 CBAA, *submission no. 84*, p. 4.

260 CBAA, *submission no. 84*, p. 4.

261 CBAA, *submission no. 84*, p. 4.

262 Free TV Australia, *submission no. 31*, p. 1.

- 4.290 Free TV Australia believes that the current datacasting rules are an effective means of clearly distinguishing datacasting services from broadcasting services, particularly in the absence of any alternative suggested approaches.<sup>263</sup>
- 4.291 Free TV's position on the datacasting rules is based on the current law that no new licences will be introduced before the end of 2006:
- If the Government maintains the policy that there should not be new licences then datacasting still has to be defined differently to broadcasting to achieve that policy objective. It follows that any relaxation of the datacasting genre provisions would be inconsistent with such an outcome.<sup>264</sup>
- 4.292 ASTRA is also of the opinion that the provision of additional services would equate to commercial television licence holders commencing 'back door' multichannelling, meaning that:
- ... the datacasting licence allocation was and is in fact a de facto allocation for new commercial television or subscription television licences.<sup>265</sup>
- 4.293 ASTRA strongly objects to the use of datacasting transmitter licences for anything other than that for which the licences were originally intended, that is:
- to provide the maximum opportunity for new and innovative services; and
  - to use datacasting as a means of driving digital penetration as an adjunct to the digital services being offered by commercial, national and subscription television broadcasters.<sup>266</sup>

## Committee comment

- 4.294 The Committee notes the concerns raised in submissions regarding datacasting issues. It is the Committee's conclusion that a broadcaster's decision to use a portion of its spectrum allocation for datacasting or other purposes should be a commercial one based on market demand.
- 4.295 The Committee recognises that current datacasting restrictions are effective in preventing de facto broadcasting. However, the Committee

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263 Free TV Australia, *submission no. 31*, p. 12.

264 Free TV Australia, *submission no. 31*, p. 12.

265 ASTRA, *submission no. 50, attachment 2*, p. 9.

266 ASTRA, *submission no. 50, attachment 2*, p. 9.

also appreciates that a consequence of these restrictions is a limitation on the services that can be provided.

- 4.296 The Committee is of the opinion that current datacasting restrictions should be reconsidered and lifted by at least 1 January 2008 when all multichannelling restrictions are lifted. The Committee notes that internet access through home computers and television screens is also superseding the role of datacasting.

### **Recommendation 8**

**The Committee recommends that the Australian Government reconsider current restrictions on datacasting with a view to lifting restrictions on 1 January 2008.**

