

5 April 2013

**SUPPLEMENTARY SUBMISSION TO JOINT SELECT COMMITTEE ON
BROADCASTING LEGISLATION**

A. REMOVAL OF THE 75% REACH RULE

As PRIME noted in the submission it tabled to the Committee on Monday 18 March 2013, PRIME believes that the 75% reach rule is a “smoke stack era” regulatory barrier and an anomaly in what has become a borderless media landscape.

We make the following additional observations in response to submissions made to date:

1. It is an existing condition of regional free-to-air television licensees in the aggregated markets of Queensland, northern and southern NSW, Victoria and Tasmania to broadcast a minimum level of material of local significance, being 45 minutes of local news per week or 90 minutes of other material of local significance per week.

Therefore, irrespective of the removal of the 75% reach rule, the licence condition would remain operative and any acquisitions or mergers in those markets that occurred as a result of the removal of the reach rule would still be subject to compliance by a new owner of the existing licence condition.

2. As a result of the affiliation arrangements between metropolitan and regional broadcasters that have been in operation for almost 30 years, the only material created, owned and broadcast by PRIME that differentiates its services from the Seven Network (our affiliation partner) is PRIME’s local news services, two children’s programs (Possum’s Club on Prime7 and Doopa’s Club on GWN7) and of course, the local advertising content.

PRIME has no specific obligation to produce local news services. Instead, we could – under the present system – produce material we deem to be of local significance in each licence area to meet the minimum quota. In spite of that, PRIME has news services that operate out of studios located in Canberra, Tamworth and Bunbury. We also have news bureaux in Lismore, Coffs Harbour, Port Macquarie, Taree, Orange, Dubbo, Albury, Wagga Wagga, Bunbury, Albany, Geraldton, Kalgoorlie, Parliament House – Sydney and Parliament House - Perth and additional update services provided by locally based journalists in Newcastle, Wollongong, Ballarat, Bendigo and Traralgon.

Delivery of local news services is important to PRIME and its audience. We continue to provide these services and have journalists located across our markets because, as previously noted in our submission to the Committee on 18 March 2013, it makes commercial sense for our business. This remains the case in spite of the fact that a plethora of news services are available through sources other than free-to-air television – such as online news websites, the ABC news services (television, radio and online) and pay television services such as Sky News that all have 100% coverage across Australia.

The reach rule has nothing to do with the fact that PRIME produces local news in excess of the minimum of 45 minutes per week under the licence condition; it is because it appeals to our audiences and we choose to respond to the needs of the market. A similar view was articulated in the submission made by the Seven Network in respect of their regional Queensland service.

In its submission to the Committee on 18 March 2013, the Seven Network also made the observation that – even with the 75% reach rule in place:

"There is not actually room for three of us. There is not room for three competing regional networks in the markets. There will only be room for first mover advantage and maybe another one."

Seven's observation is germane to the issue PRIME raised in its submission. The present regime precludes free-to-air television broadcasters from organising themselves in the most economically efficient manner on equal footing with other media operators and it fetters our capacity to meet competitive challenges in an environment where, as Professor Michael Fraser put it in his submission to the Committee, "geography and platform have collapsed".

To that point, it is important to note that the nightly news services produced by the Seven Network, Nine Network and Ten Network, out of their metropolitan hubs, are currently broadcast across Australia through the regional affiliate arrangements and by virtue of VAST, and therefore even with the 75% reach rule in place, metropolitan-based networks already have close to, if not 100% coverage of their city-based news services into regional markets.

3. Solus monopoly regional television markets began to diminish with the introduction of aggregation policy under the *Broadcasting Amendment Act 1987*. This legislation was introduced by the Hawke government to ensure that regional areas received three commercial television services through aggregation of small licence areas and under the Equalisation of Regional Commercial Television Indicative Plan. The rationale was that regional viewers should receive the same free-to-air television services as their metropolitan cousins. Below is an extract from the *Broadcasting Amendment Act 1987* which set out the objectives:

Objects of Part

"94. The objects of this Part are that -

(a) persons living in regional areas of Australia have, as soon as practicable, access to 3 commercial television services; and

(b) commercial television stations in regional areas of Australia -

(i) serve larger and commercially more viable markets; and

(ii) provide television services on a competitive basis."

The recent introduction of the VAST services further affirms this policy position to provide equal access to free-to-air television across Australia. PRIME's view is that with aggregation and regional equalisation over 15 years ago the argument for retention of the reach rule has dissipated.

PRIME's view is that the removal of the reach rule will not impact diversity when, of the 8760 hours of television that a viewer of PRIME7 could watch in a year, only about 1.7% of the content is generated locally. This situation is not a consequence of, or in any way protected by the continuation of the 75% reach rule; it is the continued commercial viability of news, coupled with the licence conditions presently operating that preserve local news and material of local significance.

B. ON-AIR REPORTING OF ACMA FINDINGS REGARDING BROADCASTING REGULATION BREACHES

There has been a proposal that there should be on-air reporting of the ACMA findings of broadcast regulation breaches. PRIME's comments are:

1. The ACMA has numerous means of reporting its findings regarding broadcasting regulation breaches that include publication on the ACMA website, distribution of media releases, press

conferences and social media, all of which it currently employs to communicate with the general public and the mainstream media.

2. News of ACMA findings is readily accessible and as recently as 4 April 2013, we have seen an example of widespread and highly visible media coverage (see for example, smh.com.au, theage.com.au and theaustralian.com.au) of a Codes breach by the Nine Network.
3. Commercial television broadcasters are already subject to a high level of regulation. We are of the view that further regulatory burdens should not be imposed without some evidence that there has been a public policy failure. We do not feel that there has been policy failure in this regard.
4. In addition to the ACMA's own communications, under the Commercial Television Industry Code of Practice, each licensee is required to broadcast 360 on-air spots per annum (across all time zones), which are closed captioned, publicise the existence of the Codes and provide information on how to obtain a copy of the Codes from Free TV. The on-air spot regarding complaints makes reference to the fact that members of general public can refer their complaints to the ACMA where they are unhappy with a broadcaster's response.
5. We are not certain what the intention of this proposal aims to achieve, and therefore respectfully submit that it is an unnecessary regulatory imposition.