



Response to Questions on Notice

Senate Environment and Communications Legislation Committee inquiry into the Communications Legislation Amendment (Regional Broadcasting Continuity) Bill 2024

Question:

Free TV's submission states that terrestrial television is very important to regional audiences and that the April 2024 Regional TAM Audit Report shows that for surveyed networks commercial channel audiences were up slightly year on year.

- a. Does this data show a increase for Channel 10 audiences or only for Channel 7 and Channel 9 audiences?
- b. Can this data be extrapolated to suggest similar trends in regional markets that are not measured? If so, would that suggest that Channel 10 audiences in Mildura had increased?

Response for publication:

- a. The April 2024 Regional TAM Audit Report data shows an overall viewing share increase was primarily driven by increases to viewing of Seven and Nine Network programming such as news programs, *The 1% Club* and *Australian Idol*. Popular Nine programming included *Married at First Sight*, *Lego Masters Australia v the Rest of the World*, *60 Minutes* and NRL coverage. However, viewing figures fluctuate across all networks from time to time in different survey periods driven by the particular programming available at any given time. Popular Network 10 programming includes coverage of Matildas games, *I'm A Celebrity...Get Me Out Of Here!*, *MasterChef Australia*, *Gogglebox* and *Survivor Australia*. The important point is that overall viewing in regional areas has increased and shows the enduring importance of a complete suite of terrestrial television services in regional areas.
- b. While regional audience figures vary by licence area, overall audiences for regional Victoria may act as a guide for audience trends in Mildura. Network 10's overall audience trend for regional Victoria indicates that audiences fell between the two survey periods.

Question:

Free TV's submission identifies reviewing the recently enacted anti-siphoning scheme as part of a comprehensive four step plan to place regional television broadcasting on a sustainable long-term footing.

- a. How would stapling digital simulcast rights to the broadcast rights support regional television broadcasting?
- b. Would stapling digital simulcast rights to the broadcast rights support the BVOD services of metropolitan television broadcasters?

Response for publication:

- a. Including simultaneous live IP rights in the anti-siphoning framework would support the sustainability of free-to-air broadcasting, including regional broadcasting. Sporting rights are generally purchased by metropolitan broadcasters, with sporting coverage then provided by metropolitan broadcasters to regional broadcasters through affiliation arrangements. If metropolitan broadcasters cannot acquire the total television rights (ie both terrestrial and simultaneous live IP rights), and as consumption via IP-delivered streaming services grows, the advertising revenue they can earn from broadcast audiences alone may not be sufficient to fund acquisition of any rights as they are unable to monetise the total television audience. If a growing proportion of the audience for a sporting event is not available to a broadcaster, this undermines the economics of the business. This will undermine the amount that broadcasters can pay to acquire sports rights and ultimately could jeopardise their ability to acquire the event at all.

If metropolitan broadcasters cannot afford any rights, then they will not have broadcast coverage to pass on to regional broadcasters via affiliation arrangements. Regional broadcasters would then lose this very important genre of programming and lose capacity to attract local advertisers, thereby impacting the sustainability of their businesses.

Sports rights are an essential pillar of the programming mix for commercial broadcasters, generating revenue that supports and in some cases cross subsidises the production of local news and Australian entertainment and drama programming, some of which may not be viable solely on the basis of revenue written against those programming genres.

- b. As above, including simultaneous live IP rights in the anti-siphoning scheme would support metropolitan broadcasters by ensuring they can reach their whole audience and reflect the modern way viewers access free television services. This in turn allows commercial television broadcasters, who are required under the *Broadcasting Services Act 1992* to fund their services through advertising revenue, to attract sufficient advertising revenue to fund the purchase of rights to show listed sports free to all Australians, including Australians in regional areas, as well as to fund the production of local news and Australian entertainment and drama programming.

Question:

A recent Sydney Morning Herald article by Chris Barrett, 'NRL to test broadcast rights waters as streaming loophole appears' July 19, 2024 mentions the recently passed Prominence and Anti-siphoning Bill, and quotes Free TV CEO Bridget Fair as saying "it certainly opens a door that wasn't previously open. It's a big reduction in the scope of the anti-siphoning rules."

- a. Would you please clarify: What is meant by the statement that the new laws “opens a door that wasn’t previously open”?
- b. Is the Free TV CEO suggesting that the new laws permit streaming services to acquire digital rights, when previously this was not permitted? If so, please specify how the new laws do so.
- c. Would you please clarify: What is meant by the statement that the new laws are “a big reduction in the scope of the anti-siphoning rules”?
- d. Is the Free TV CEO suggesting that the new laws reduce the scope of the anti-siphoning rules? If so, please specify how the new laws do so.

Response for publication:

- a. Ms Fair was referring to the door being open to the NRL to sell all IP rights, including both the rights to stream NRL free and stream it on paid services, to a subscription provider. The NRL could do this because the subscription provider is willing to pay a premium to acquire all rights to ensure exclusive streaming coverage, whether free, paid or a combination of both. This is because the anti-siphoning laws only require the terrestrial broadcast rights to be offered to free-to-air broadcasters before they are sold to a provider of a subscription service, not the total television rights, including free simultaneous live IP rights.

In this way, the new laws for the first time do not guarantee the free coverage of sporting events to all Australians as there is no requirement for free streaming rights to be offered or acquired. Even if free streaming rights are acquired and made available by a non-broadcast streaming platform, this is not a comprehensive free service available to all Australians. For example, Foxtel’s Kayo is available to less than 25% of Australian homes.

- b. Previously the laws did not prevent subscription streaming services from doing anything because they were not a category of service dealt with in the Act. The new laws require that the free terrestrial broadcast rights are offered to a free broadcaster before the free broadcast rights can be acquired by a subscription TV or subscription streaming provider, but they do not stop subscription services exclusively acquiring IP streaming rights, whether paid or free or a combination of both.
- c. The scope of the anti-siphoning scheme has effectively been reduced. It has been updated to reflect the introduction of subscription streaming in Australia, but it fails to guarantee free availability of sporting events on TV to all Australians. It only requires terrestrial broadcast rights to be offered, leaving the growing number of Australians who access their free TV services over the internet at risk of needing to pay significant subscription fees to access those same events. The new laws do not cover free streaming rights which are essential to providing free services to a large and growing number of Australians. The scheme was introduced when subscription television covered the field of paid subscription television providers in Australia and streaming services did not exist. It no longer covers the field of subscription providers and the rights they may acquire.
- d. See response to question 6c above.

Question:

Free TV ran a campaign to amend the scope of the Prominence and Anti-siphoning Bill to include digital BVOD rights for the anti-siphoning scheme.

- a. What platforms did the campaign run on?
- b. For how long did the campaign run?
- c. What was the total cost or market value in running the campaign?

Response for publication:

- a. The “Free Sport Is On The Line” campaign was run across broadcast and digital platforms, in print and with some outdoor and indoor media.
- b. The campaign ran for approximately one month.
- c. The total cost or market value of the campaign cannot be quantified because the majority of contributions were unquantified in-kind contributions from Free TV members.