

**SUPPLEMENTARY SUBMISSION TO THE ENVIRONMENT AND COMMUNICATIONS
LEGISLATION COMMITTEE INQUIRY INTO THE MEDIA REFORM BILLS 2013**

19 March 2013

Please find below our response to the Committee's Questions on Notice.

What have been the recent trends in advertising revenue for television broadcasters?

Advertising revenue has declined over the last year for the commercial-free-to-air television networks. Gross advertising revenue declined by 3.24% for the period July – December 2012 compared to the corresponding period in 2011.

For the period 2007-2011, commercial free-to-air broadcasters' revenues have increased below CPI, and revenues have increased in only one year.

What have been the recent trends in viewer numbers for television broadcasters?

The total free-to-air audience is flat with the multi-channels attracting a portion of those viewers.

In your opinion, what has been the cause of these recent trends?

Audience fragmentation due to competition from alternative media options.

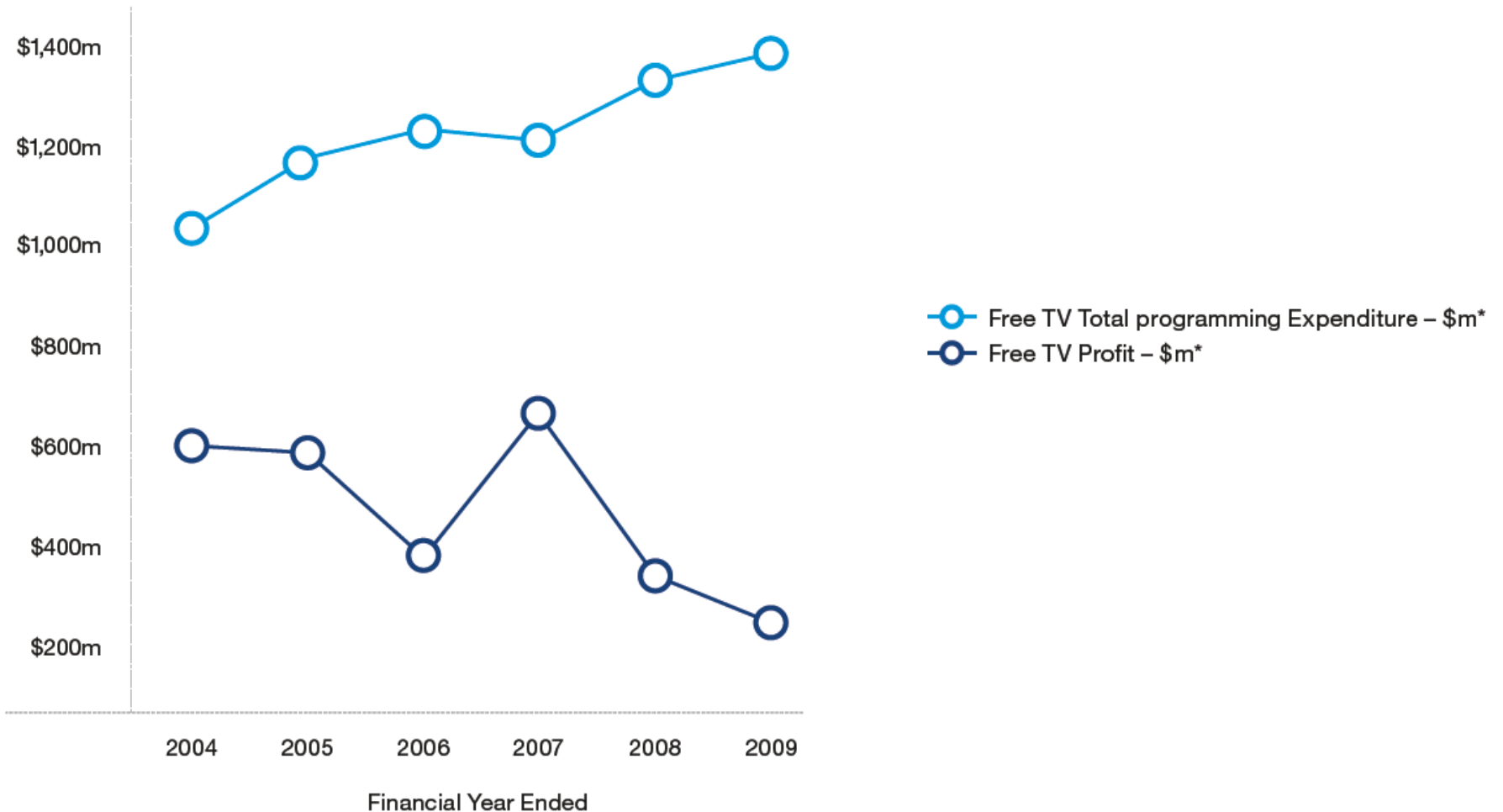
What impact have these trends, as well as the shift to multi-channels, had that justifies the proposed reforms to licence fees?

Commercial FTA networks face increasing competition from a raft of unregulated media who are not subject to substantial Australian content obligations. Advertising revenue for online has been growing with some predictions it will soon overtake Free TV's share. Yet broadcasters licence fees are significantly higher than international standards.

To assist the Committee, we have attached an international benchmarking analysis conducted by Venture Consulting which indicates that broadcast licence fees for Australia should actually be set at 1.0% of gross revenues. In reaching its conclusions, the Venture report factors in the cost of meeting content obligations, both in Australia and comparable international markets.

We have also attached a graph comparing the commercial free-to-air TV industry programming and profit trends.

Free TV Industry Programming & Profit Trends



**PLACING A VALUE ON FREE TO AIR
BROADCASTING SPECTRUM IN AUSTRALIA**



13th February 2012

VENTURE
Consulting

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Placing a Value on Free to Air Broadcasting Spectrum in Australia

1 Executive Summary

In this report Venture Consulting has:












- Examined the broadcast markets and regulatory regimes in Australia and nine other markets;
- Established a benchmark range of post-DSO 'per MHz per pop' pricing, cross-referenced against analysis of the '% of total revenue' and relative content obligations by market; and
- Recommended a target Free to Air (FTA) broadcast licence cost for Australia based upon this analysis

The benchmarking analysis shows clearly that the current Australian regime is an outlier. Even after the current rebate, it is significantly more expensive than its peers on a range of measures:

- On an 'apples for apples' per MHz/pop basis, Australia is seven times more expensive than Singapore, the next highest market;
- On a percentage of revenue basis, Australia is nearly twice as expensive as Singapore and over ten times more expensive than most other markets, Ireland being the main exception;
- At the same time, Australian FTAs are subject to a set of content obligations that are at least as onerous as those in any of the benchmarked markets.

The exhibit below summarise the benchmark analysis contained in the report.

Exhibit 1: Comparative values and recommendations¹

Country	Cents/MHz/Pop (post DSO)	Fee as % of Revenue	Content Obligations
Australia	7.19 (w/rebate) / 12.29	4.5% (w/rebate) / 9%	
NZ	0.29	0.27%	
Singapore	1.05	2.50%	
Hong Kong	0.08	0.21%	
US	0.04	0.05%	
Canada	0.32	0.55%	
UK	0.51	0.41%	
Austria	0.19	0.40%	
Ireland	0.39	1.62%	
Italy	0.05	0.15%	
Core Benchmarked Range	0.30-1.00	0.4%-1.6%	

This international price benchmarking implies that spectrum that is prescribed for use in FTA terrestrial broadcasting should be priced at between \$0.003 and \$0.01 per MHz/per pop, based on post-DSO spectrum allocations. For Australia, this would imply an appropriate target rate for Australia of between 0.2% and 0.6% of revenues.

² | Fee Information from ACMA, BAI,RSM, RTR, AGCOM, HBA, CRTC, MDA, FCC, OFCOM, CSA, company reports
Spectrum Regulators- ACMA, ComReg, IDA, Ofcom, CRTC, OFTA, ACOM, RTR, RSM, FCC

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However, this is slightly under the 0.4% to 1.6% range which is implied by the benchmarking analysis. This suggests that on a per capita basis, Australia broadcasters are slightly larger than their overseas counterparts and that a small adjustment in target rate is appropriate.

Recommendations:

Based on the benchmarking analysis contained within this report, **Venture Consulting proposes that the target broadcast licence fee costs for Australia be set at a rate of 1.0% of revenue**, which is equivalent to \$0.016 MHz/pop/pa on a post-DSO basis.

Australian FTA licensees face strong content obligations when compared to many markets. However, their obligations are comparable to a number of other markets such as the UK and Canada. Therefore, we propose that the target rate should not be adjusted further as a result of ongoing content obligations.

The Australian broadcast licence fee cost (post rebate) currently sits at 4.5% of revenue, equivalent to \$0.0719 MHz/pop/pa. Therefore a target fee of 1.0% revenue, or \$0.016 MHz/pop/pa represents a significant reduction in broadcast licence fee costs.

We suggest that the Government implement a staggered transition, starting from 4.0% in 2012 and reducing by 1.0% per annum until it reaches the target rate of 1.0%.

2 Introduction

2.1 Background

In 2011 the Department of Broadband Communications and the Digital Economy (DBCDE) launched a review of the regulation of the Australian media and telecommunications industries entitled the *Convergence Review*. The intention of the review was to examine the existing regulatory regime- built around the industry structures of television, print and radio in the late 1980s and early 1990s- in light of the changes to both media and telecommunications industries brought about through digitisation.

This process followed on from more than three years of reviews and consultations regarding the switch over to digital terrestrial television (DTT) that is due to be completed in 2013. The Digital Switch Over (DSO) policy debate has determined the nature of the spectrum restack required by DSO, the 'Digital Dividend' freed up as a result and the appropriate allocation of this spectrum.

The Convergence Review process has so far spanned more than eight months, from April 2012 through to the Interim Report released on December 15th 2011. The Convergence Review Interim Report (2011) stated that *"the current regulatory distinction between spectrum allocated for broadcasting services and spectrum allocated for other purposes is no longer useful"* and recommended that *"the government develop a common and consistent approach to the allocation and management of both broadcasting and non-broadcasting spectrum"* that would *"separate most content- related obligations of broadcast enterprises from the licence to use spectrum"*²²

This report is intended to inform the next stage of the Review: namely, on what basis, and at what level, should Free to Air (FTA) broadcast spectrum be priced?

2.2 Project Brief

Free TV Australia commissioned Venture Consulting to undertake a comprehensive benchmarking exercise of global broadcasting licence costs similar to that undertaken for DBCDE in its valuation of the 800MHz licence renewals. This report analyses and compares broadcasting licence costs across jurisdictions and compares the level of content obligations placed on different free to air broadcasters. Based on this analysis, the report recommends an appropriate FTA broadcasting licence fee for Australia. This valuation is based upon a requirement that the FTA's spectrum be used solely for broadcast services.

The report is broken down into 3 sections:

- **Valuing Broadcast Spectrum:** This section considers the main broadcasting spectrum licensing regimes in place around the globe. It reviews the role that broader public policy plays within the licensing framework;
- **Global Benchmarks:** This section analyses the amounts paid by broadcasters globally for their spectrum and / or licences to Governments and regulators. This approach is similar to that taken by DBCDE and their consultants in assessing the value of 800MHz spectrum renewals. In addition to prices paid, content obligations are also benchmarked;
- **Recommended Pricing of Broadcasting Spectrum in Australia:** This section recommends the appropriate licensing framework and spectrum pricing based upon the results of the research and analysis contained in the previous two chapters.

²² Pg. 6 Convergence Review Interim Report, DBCDE 2011

3 Valuing Broadcasting Spectrum

3.1 The Historical Basis for Licensing FTA broadcasters

Before the advent of mass market mobile communications in the late Eighties and early Nineties, there was significantly less commercial demand for spectrum; Very few mass market applications required spectrum and none offered financial returns comparable to terrestrial broadcast television. As a result the main drivers of market pricing mechanisms (scarcity, competition and utilisation value) were absent, and most markets established administrative pricing³ regimes for broadcast spectrum.

In many European markets, such as the UK and France where Public Sector Broadcasters (PSBs) are well established, Governments also raise revenue through end-user device (television or radio) licences. In fact, as the exhibit below demonstrates, very few established Western markets charge broadcasters directly for access to spectrum; Governments and regulators typically extract value through licence fees and levies.

Exhibit 2: Comparison FTA broadcasting licence regimes (2012)⁴

Country	Market Pricing of Spectrum	Broadcast License Fee/ Levy		Channel / Mux License auctions	End-user licenses
		Administrative Pricing	Set % of Revenue		
Australia			✓		
NZ	✓		✓		
Singapore			✓		✓*
Hong Kong		✓			
US		✓			
Canada	✓	✓			
UK	✓	✓			✓
Austria			✓		✓
Ireland		✓			✓
Italy			✓		✓
France				✓	✓

*prior to 2011

³ 'Administrative pricing' is used to describe regimes where price of licences or spectrum is not determined by market factors such as competition, demand or costs, but by a government body seeking a policy goal. Such schemes often may unpredictable variations in price depending on the political landscape or popular sentiment

⁴ ACMA, BAI,RSM, RTR, AGCOM, HBA, CRTC, MDA, FCC, OFCOM, CSA

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3.2 The Impact of Wireless, Digital Switchover and the Digital Dividend

In recent years, however, two developments have led Governments and regulators to re-evaluate their licensing regimes for Free to Air broadcasters:

As mobile and wireless telecommunications has grown into a mass market business, operators' demand for spectrum has risen dramatically. At the same time, Governments and regulators have pursued a policy of increasing competition, allowing new entrants into the industry. Both established operators and new entrants have managed to build sustainable and profitable businesses. Therefore, unlike the broadcasting market, all the main drivers of market based pricing regimes are present (scarcity, competition and utilisation value). In response, Governments have typically run auctions to allocate spectrum for wireless telecommunications and have generated considerable spectrum fees for their respective Treasuries.

At the same time most markets, including Australia, have been managing a process of Digital Switchover (DSO); they have been transitioning their Free to Air broadcasting industries from analogue to digital. Thanks to the increased spectral efficiency of digital broadcasting, Governments have been able to allocate broadcasters less spectrum. Thanks to its propagation characteristics, the 'Digital Dividend' spectrum that is freed up has the potential to save operators, or at least to defer, considerable investment at higher frequencies. As a result this spectrum is highly attractive to mobile operators. Most Governments have already or plan to auction this spectrum off to the highest bidders.

As Governments have seen the potential value of FTA broadcasting spectrum if it put to other uses, some have begun to ask if existing broadcasting licensing regimes need to be modified. As a result a broad policy debate has developed:

- How should broadcast spectrum be valued?
- Should broadcasters pay for spectrum on the same basis as telecoms companies?
- How do the public policy objectives of FTA broadcasting sit alongside spectrum pricing regimes?
- On what basis should licences be renewed?

Some markets have either announced or have set in motion open market processes for newly freed up broadcasting spectrum. However, in many of these markets- such as Romania, Argentina⁵ and Mexico the process has faltered as prospective bidders have withdrawn and processes have been changed or cancelled. The mechanisms for the management of channels and muxes differ globally as well. Whilst Romania, Argentina and Mexico all sought to licence channels and accompanying spectrum individually, India allows mux license holders to sub-auction channels to third parties and the French system (described in more detail below) directly licences channels, but requires them to be hosted by a licensed mux operator.

In summary, a wide range of regimes remain in place, many of which are tailored to local circumstances.

3.3 Market by Market Review

This section reviews recent broadcasting licence developments on a market by market basis. In order to put together a comprehensive benchmarking study, we reviewed and analysed a number of broadcaster licensing regimes across the Americas, Europe and Asia and compared these with Australia.

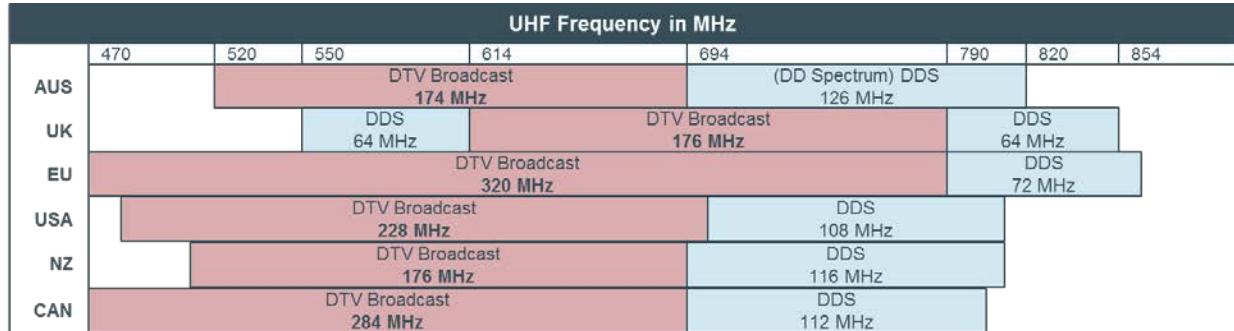
The broadcast licensing approaches have largely been carried forward from analogue television through the transition (both undertaken and continuing) to digital terrestrial television (DTT). However, in some markets,

⁵ Clarin Newspaper, accessed via: <http://www.rapidtvnews.com/index.php/2011112417368/argentine-dtt-licence-auctions-hit-trouble.html>

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the approach has changed post-DSO, for example through the auction of channel licences (which comes pre-assigned frequencies on established multiplexes).

Exhibit 3: Announced Digital Dividends⁶



3.3.1 Australia

The DSO in Australia is underway and will be completed by December 31st 2013. There is a digital dividend of 126 MHz which is due to be auctioned during 2012. Broadcasting is regulated by the Australian Communication and Media Authority (ACMA), the same regulator who manages the radio-frequency spectrum. There are three major metropolitan commercial FTA networks (with a series of regional affiliates), which each run one mux (one analogue/digital and two digital only channels each for a total of nine FTA commercial channels). There are two government funded PSBs collectively broadcasting two analogue/digital channels and four digital only channels.

Historically broadcast licence fees have been set at a flat 9% of advertising revenue. In 2010 and 2011 the broadcasters received a rebate of 16.5% and 41.5% of the Television Licence Fee⁷, effectively reducing the fee to 4.5% of revenue. Whilst the licence fee rate halved from 2009 to 2011, the dollar value of the fee itself was only reduced by 42%, owing to gains in the television advertising market during the intermediary period.

Australian Broadcasting Licenses are accompanied by Australian content quotas, which set minimum numbers of hours of Australian content both as an overall and by genre type. These quotas currently apply only to the main analogue/digital channel, not the more recent digital multichannels.

⁶ MHz pre and post DSO from Spectrum Regulators- ACMA, ComReg, IDA, Ofcom, CRTC, OFTA, ACOM, RTR, RSM, FCC

⁷ Television Licence Fees Amendment Regulations 2010 (No. 1), accessed at <http://www.comlaw.gov.au/Details/F2010L01591>

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Exhibit 4: Australian content regulations⁸

Australian content quotas	
•	Annual Transmission quota of 55% Australian programming between 6am and Midnight
•	Sub quota by genre type:
—	150 hours of adult drama
—	260 hours of children's programs- of which 32 hours must be first run children's drama
—	20 hours of documentary content

3.3.2 Canada

The Canadian Radio-television Telecommunications Commission (CRTC) regulates both broadcasters and the radio-frequency spectrum. The Canadian DSO is largely already complete, with the remaining regional transmitters scheduled to be completed by August 31st 2012, returning a dividend of 112 MHz. The Canadian Broadcasting Corporation (CBC) is the primary PSB, though there are a number of smaller provincial PSBs, particularly in provinces with a high proportion of French speakers. There are five commercial muxes in operation. Rather than being issued specific multiplex licences, the CRTC invited existing broadcasters to apply for an amendment to their existing licences to allow additional DTT services⁹.

The CRTC charges fees on both an administrative price basis and as a percentage of broadcasters' revenue. In 2003 and 2004, the Canadian Association of Broadcasters and a number of independent broadcasters filed actions in the Federal Court of Canada alleging that the Part II broadcasting licence fees set out in Section 11 of the Broadcasting Licence Fee Regulations, 1997 were invalid because they impose a tax rather than a licence fee, as authorized by the Broadcasting Act.

On 7 October 2009, the parties to the litigation announced that they had reached an out-of-court settlement by which the plaintiffs discontinued their actions. Consequently, the decision of the Federal Court of Appeal became the final judgment on this issue. The Part II licence fees were deemed to be regulatory charges, imposed in relation to a broadcaster's privilege to hold a licence. These fees are meant to recover part of the Government of Canada's substantial annual investment in the Canadian broadcasting system.

Under the settlement agreement, the CRTC developed a new, forward-looking fee regime that would be capped at \$100million per year¹⁰ and waived the \$450m¹¹ of Part II fees unpaid during 2003 – 2009 when the consultation / dispute over Part II fees was ongoing.

Canadian Broadcast licenses are accompanied by stringent Canadian content laws (known as Cancon laws) which mandate minimum numbers of hours of Canadian content.

⁸ http://www.acma.gov.au/scripts/nc.dll?WEB/STANDARD/1001/pc=PC_91809

⁹ <http://www.crtc.gc.ca/eng/archive/2010/2010-69.htm>

¹⁰ <http://www.crtc.gc.ca/eng/archive/2011/2011-658.htm> Note: The \$100m cap applies to all broadcasters, PSB, Cable and Commercial FTA. The commercial FTA component of Part II in 2011 was \$14.1m

¹¹ <http://www.cbc.ca/news/arts/tv/story/2009/10/07/broadcast-fees.html>

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Exhibit 5: Canadian content regulations¹²

Cancon requirements
<ul style="list-style-type: none">• Private television licensees generally must achieve a yearly Canadian content level of at least 60 per cent overall, measured over the course of the entire broadcast day, and at least 50 per cent between 6 p.m. and midnight.• Evaluation of Canadian content in a television program is based on the following criteria:<ul style="list-style-type: none">— whether its producer and key creative personnel are Canadian;— the amounts paid to Canadians for services provided to make the program; and— amounts spent in Canada on lab processing.• Broadcasters may also claim a 150 per cent time credit for Canadian dramas which have a full Canadian complement in key creative roles, and which meet certain scheduling criteria

3.3.3 The United States of America

The United States was one of the earliest countries to undertake DSO, with the majority of broadcasters ceasing analogue transmissions in 2009 (though a handful of low power transmitters remain). All of the four major networks (NBC, CBS, ABC, Fox) are privately owned, but there is also a non-commercial station which receives limited government funding, the PBS. Whilst not a PSB in the purest sense, its non-commercial nature makes it the most apt comparison.

The broadcast fees levied by the FCC are purely administrative in nature, based on their operating budget for the forthcoming year. The dollar amount of the fee has remained very stable over the last four years. The most notable developments in the US market surround the potential utilisation of 'white spaces': the gaps that exist in UHF bands IV and V to protect broadcast signals from interference. Discussions around the potential utilisation of white spaces for WiFi or other short range technology in an unlicensed capacity have been ongoing for a number of years, but in 2011 the FCC announced its desire to promote 'incentive auctions' as a part of the White House's Wireless Innovation and Infrastructure Initiative¹³. Whilst not yet implemented, owing to a lack of Congressional approval, the scheme is aimed to free up additional spectrum for mobile and other wireless services by rewarding broadcasters who give up some of their underutilised spectrum with a portion of the sale revenue. The FCC believes the spectrum free up under such a scheme may be worth as much as US\$30 billion dollars to the mobile industry.

Such a scheme is possible in the US primarily because broadcasting is not the primary means of delivery for FTA Television programs, with 61% of households using wired cable as their primary means of accessing FTA television¹⁴. With careful planning and some technical upgrades- in terms of both frequencies and tower locations and equipment, the volume of spectrum required to deliver DTT signals could be reduced. The

¹² <http://www.crtc.gc.ca/eng/archive/1999/PB99-97.HTM>

¹³ <http://www.fcc.gov/topic/incentive-auctions>

¹⁴ Nielsen NTI 2010

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significant costs of such work however would likely require either a very large share of the sale proceeds, or a combination of cash incentives and legislative obligations.

As the US is such a prolific producer of content the FCC has no local content laws. There are however some regulations around local news and children's programming.

Exhibit 6: US content regulations¹⁵

US content regulations	
•	Local News: Various - subject to individual licence term. As outlined by the Communication Act, TV stations have the obligation to 'provide news, public affairs, and other programming that specifically treats the important issues facing its community'
•	Full-service TV stations are required to broadcast at least three hours of children's television programming per week. Translates into approximately 156 mandatory hours per year

3.3.4 New Zealand

Broadcasting in New Zealand is regulated by the Broadcasting Commission (otherwise known as NZ On Air) and the Ministry of Economic Development (MED) who regulate the use of spectrum. New Zealand broadcasting is dominated by Television New Zealand ("TVNZ"), the government-owned national public Free to Air broadcaster. Although publicly-owned, TVNZ operates on a commercial basis under a commercial mandate under legislation relating to State-Owned Enterprises. In the Free to Air sector, minority market shares are held by TV3, Prime and the government run Maori television service, bringing the total number of operational commercial mux licences to three. New Zealand is currently undergoing the transition to digital, with DSO expected by December 2013¹⁶

New Zealand reformed its broadcasting sector in 1988 when it commercialised TVNZ, and again in 1999 when it abolished the funding of local content via a consumer licence fee, bringing the cost of producing local content production within the ambit of general taxation.

Free to Air broadcasters in New Zealand must pay two costs:

1. Spectrum acquisition costs, payable at the time the spectrum is purchased; and
2. Licence fees payable to New Zealand Broadcasting Standards Authority to cover the cost of regulating content standards.

In the last major auctions of broadcasting spectrum in 1995, a price was set at 1.5% of annual revenue. Revenue was calculated using 1991 revenue figures. For TVNZ, with 1991 revenue of NZ\$244,182,155, the annual amount payable was \$3,662,732. The government gave the broadcasters the option of capitalising this amount by paying it upfront for a 20 year licence, based on a multiple of 4.87. The one-off amount paid by TVNZ for a 20 year licence was therefore \$17,837,506, representing 7.3% of 1991's annual revenue.¹⁷

¹⁵ FCC

¹⁶ <http://www.goingdigital.co.nz/making-the-switch/coverage-areas-2/coverage-areas.html>

¹⁷ PriceWaterhouseCoopers, "The Initial Value of VHF Television Licences", prepared for NZ Ministry of Economic Development, October 2003, pp 38 – 41.

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The renewal of this spectrum is due in 2015, and will be subsumed into the digital switchover process.¹⁸ To date, digital spectrum pricing methodologies have not been released.

Since the abolition of the consumer licence fee in 1999, the publicly-owned broadcaster, Television New Zealand, has operated on a commercial model funded by advertising revenue. There is therefore no public contribution to broadcasting, other than through the production of local content, which is funded by the taxpayer through otherwise known as NZ On Air.

New Zealand broadcasting licences have no local content requirements.

3.3.5 Austria

The Austrian FTA market is marked by the total dominance of cable television in Austria, with more than 90% of Austrian households receiving cable television¹⁹. Unsurprisingly, given the very small terrestrial FTA market share, Austria has already completed DSO, with the last analogue transmitter being turned off in June 2011. As a result the largest distribution platform for FTA providers is cable where they compete with German language services from both Austria and Germany.

One of the two FTA broadcasters, ORF, is a PSB, leaving ATV as the main commercial FTA in the market. As of October 2011 ATV had a reported market share of just 5.4%²⁰.

In such market conditions the Austrian regulator, RTR, has kept the Broadcast Licence fee is low both in absolute dollar terms and as a percentage of revenue: at 0.4% of revenue, capped at €2.89million²¹. RTR places no local content conditions on Broadcast Licences.

3.3.6 France

The Conseil Supérieur de l'Audiovisuel (CSA or 'Higher Audiovisual Council') is the French media regulatory body, though it has no power over spectrum allocation, which is regulated by the Autorité de Régulation des Communications Électroniques et des Postes (ARCEP). ARCEP appoints an operator to operate and maintain facilities (towers and infrastructure) upon which CSA licenced channels and multiplexes operate. As a result FTA broadcasters in France do not pay for access to spectrum directly; rather it is one of the operating costs of TDF (the current operator) which is recouped through commercial payments. In February 2012 ARCEP launched a public consultation process on the assessment of that system²². The CSA is funded primarily through the end-user licence fees. DSO was completed in France during 2011.

The CSA received more than 30 applications for channel licences after announcing the release of 6 HD channel licences in 2011²³. The process however can't be considered a true market priced auction: whilst price is a factor in the awarding of channels it isn't the sole determinant: Many of the selection criteria are focused on the contribution of the new channel to media diversity, multi-culturalism and multi-lingual communities within France. Successful applicants subsequently have a 60 day period to negotiate the hosting of their channel on one of the two established multiplexes²⁴.

¹⁸ Ministry of Economic Development.

¹⁹ Informa 2011

²⁰ http://austriantimes.at/news/Business/2011-10-04/36676/ORF_market_share_keeps_dwindling

²¹ http://www.rtr.at/en/komp/KBericht2010/C-Report_2010.pdf

²² ARCEP press release, accessed at:

[http://www.arcep.fr/index.php?id=8571&L=1&tx_gsactualite_pi1\[uid\]=1487&tx_gsactualite_pi1\[backID\]=1&cHash=272538043c](http://www.arcep.fr/index.php?id=8571&L=1&tx_gsactualite_pi1[uid]=1487&tx_gsactualite_pi1[backID]=1&cHash=272538043c)

²³ Reuters <http://uk.reuters.com/article/2012/01/11/us-france-digital-tv-idUKTRE80A15D20120111>

²⁴ CSA Announcement accessed at: <http://www.csa.fr/Espace-juridique/Decisions-du-CSA/Appel-a-candidatures-pour-l-edition-de-services-de-television-a-vocation-nationale-diffuses-par-voie-hertzienne-terrestre-en-haute-definition>

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French local content laws are more European than specifically national, reflecting their development during EU cultural discussions²⁵.

Exhibit 7: French content regulations²⁶

Television Without Frontiers	
<ul style="list-style-type: none">• At least 60% of programming must be of European works, including 40% which must be of original French-language origin• This requirement is applicable across a 24 hour period and during primetime.• Since 1996, Canal + is subject to the same broadcasting quotas than other chains.	

3.3.7 Ireland

The Broadcasting Authority of Ireland (BAI) was established in 2009, representing the first time that public and commercial broadcasting would be regulated by a single organisation. Radio-frequency spectrum is regulated by a separate body, the Commission for Communications Regulation (known as ComReg). ComReg issues spectrum multiplex licences to the BAI (and its predecessor the BCI) from which it sub licences to broadcasters²⁷.

The primary broadcaster in Ireland, RTÉ, is a semi-state owned entity offering two analogue/digital channels and three digital only channels. The DSO in Ireland is scheduled to be completed by 24th October 2012²⁸ and will follow the European Band plan. RTÉ currently operates one multiplex, but is destined to receive a second once DSO is complete in 2012. The BAI made repeated efforts to licence a pay-TV DTT operator between 2007 and 2010, but failed to award a licence despite negotiating with multiple parties.

The state funded components of RTÉ are funded through the collection of an end-user licence fee.

The BAI is funded through an ad-hoc administrative levy from RTÉ, which is legislated to be an amount deemed necessary to provide for the ongoing function of the BAI only, including ongoing payments to ComReg for access to spectrum. The BAI's launch was funded by the 2008 Broadcast Levy surplus from the redundant Broadcasting Commission of Ireland, and as such no levy was collected²⁹. In determining the value of the 2010 and 2011 levies the BAI publically acknowledged the distinct downturn in the Irish economy following the global financial crisis and kept the 2010 and 2011 levies to under €6million. As both the media regulator and the media development body, the BAI directed a significant portion of the Broadcasting Levy to arts programs which were struggling from a lack of corporate funding during the period.

The BAI is responsible for ensuring the ongoing development of Irish film and television and as such imposes local content regulations.

²⁵ <http://www.culture.gouv.fr/culture/dglf/rapport/1999/quotas-diffusion.html>

²⁶ <http://www.culture.gouv.fr/culture/dglf/rapport/1999/quotas-diffusion.html>

²⁷ http://www.comreg.ie/_fileupload/publications/ComReg0790.pdf

²⁸ <http://www.digitaltelevision.ie/National+DTT/Digital+Switchover.htm>

²⁹ http://www.bai.ie/wordpress/wp-content/uploads/BAI_Annual-Report_2009_OnlineVersion_ENGLISH_PK1.pdf

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Exhibit 8: Irish content regulations³⁰

Irish content quotas
<ul style="list-style-type: none">• Annual Transmission quota of 51% local content

3.3.8 Italy

Italy has a unified media and telecoms regulator in Autorità per le Garanzie nelle Comunicazioni (AGCOM). Originally Italy had been scheduled to complete DSO in 2006/07 alongside the Netherlands and Sweden, but this was subsequently postponed to December 2012. FTA broadcasting in Italy is a very complex market, with 50 commercial channels operating across five muxes. AGCOM has historically charged broadcasters a minimal fee for broadcast licenses and the accompanying spectrum: the rate is currently set at 0.145% of revenue³¹.

Under the government of President Silvio Berlusconi, Italian regulator AGCOM had announced their intention to award the rights to six new HD muxes, and the accompanying spectrum, via a beauty contest. In January 2012 the new Government's Industry Minister Corrado Passera announced the suspension of the tender process for 90 days whilst the government considers an alternative approach, driven largely by the requirement for increased government revenues in a time of broad government austerity. Estimates from Mediobanca have placed the potential value of the licenses at 1-1.5 billion euros, though the value is highly contingent on the auction format and timing³².

AGCOM places no national Italian local content conditions on broadcasting licences, having abandoned them in the late 1960s³³ and instead placed diversity in public interest programming at the heart of the mission for the PSB RAI³⁴.

3.3.9 The United Kingdom

Media organisations and spectrum management in the UK are both regulated by the Office of Communications (Ofcom). The FTA landscape in the UK is characterised by a mixture of commercial and public service broadcasters: The BBC and Channel 4 are wholly government owned; ITV is a publicly listed company that owns eleven of the fifteen Channel 3 regional licences in the UK³⁵; and Channel 5 is privately held. ITV and Channel 5 are both commercial broadcasters for the purpose of broadcast licence fees.

Over the past four years Ofcom has significantly reduced the spectrum cost component of the licence fees, from more than £20m³⁶ in 2009 to only £10,000 per annum³⁷ per broadcaster today.

For the spectrum cost component, licensees pay fixed annual fee to cover the administration of Ofcom plus a Percentage of Qualifying Revenue (PQR) applied to the appropriate proportion of the licensees' advertising revenue.

³⁰ <http://www.irishstatutebook.ie/2010/en/si/0007.html>

³¹ AGCOM

³² <http://www.nasdaq.com/article/italy-suspends-tv-frequencies-procedure-for-90-days--minister-20120120-00679>

³³ <http://www.diversite-culturelle.qc.ca/fileadmin/documents/pdf/update031112section1.pdf>

³⁴ Comparative Review of Content Regulation- A McKinsey Report for the Independent Television Commission (2002)

³⁵ <http://licensing.ofcom.org.uk/tv-broadcast-licences/current-licensees/channel-3/>

³⁶ ITV Annual Report 2008-2009

³⁷ http://stakeholders.ofcom.org.uk/consultations/review_c3_c5_licences/determination

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This PQR spectrum cost is determined by the minimum required amount that incumbent would bid in a competitive auction to beat a hypothetical new entrant for their licences. The valuation of each licence is therefore based on the value of the rights and obligations associated with the licence to a hypothetical new entrant, since it is this valuation that would determine the amount that the incumbent would have to bid in order to retain the licence in a hypothetical auction.

The value of the right to broadcast on analogue however has reduced over time as competition has increased and digital switchover nears completion in October 2012³⁸. Ofcom has determined that a hypothetical new entrant would not be prepared to make financial payments as well as deliver PSB programming in return for the rights attached to the licences. As a result, the incumbent licence holders could retain their licences in a hypothetical auction for a nominal amount. Consequently, Ofcom has decided to set the financial terms at a nominal amount of £10,000 per annum for each licence.

This significant reduction reflects the reducing value of the right to analogue spectrum and the burden of public service content obligations (detailed below).

Exhibit 9: British content regulations (as applied to ITV)³⁹

British content/ production requirements	
Obligations on ITV (Channel 3) in metro areas are as follows:	
• Original Production (Total):	65%
• Original Production (Peak):	85%
• Independent Production (% of broadcast time)	25%
• Regional Production (% spend outside the M25):	35%
• News (Total):	365 hours/year
• News (Peak):	125 hours/year
• Current Affairs (Total):	43 hours/year
• Current Affairs (Peak):	35 hours/year
ITV has further regional obligations	
• Regional News (Total):	3 hours 45 mins/week
• Regional News (Peak):	2 hours 15 mins/week
• Regional Non-News (Total):	15 mins/week
• Regional Non-News (Peak):	14 mins/week

3.3.10 Hong Kong

The Hong Kong Broadcasting Authority (HBA) is the media regulator in Hong Kong, separate from the Office of the Telecommunications Authority (OFTA) which regulates access to spectrum. Presently, beyond small apparatus licences for towers and links devices, Hong Kong FTAs are not charged for access to spectrum by the OFTA.

The Hong Kong FTA market is comprised of two players: the Asia Television Company (ATV) and Television Broadcast Limited (TVB). Whilst both operators hold a multiplex license and offer digital channels, at present there is no official timetable for DSO in Hong Kong, as the OFTA and HBA are seeking to harmonise (both technology standards and frequencies) with DTT in mainland China and are therefore dependent on that market's timetable.

The HBA runs a two-part licencing regime, comprised of both fixed and variable components. The fixed fee is set at \$HKD 4.7 million for FTA broadcasters with revenues in excess of \$HKD 500,000 pa. In addition a

³⁸ http://www.digitaluk.co.uk/when_do_i_switch/northernireland

³⁹ http://stakeholders.ofcom.org.uk/consultations/review_c3_c5/licences/determination#4

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secondary variable fee is applied on the basis of broadcast program hours. Broadcasters pay HKD\$ 13,200 per hundred hours of broadcasting, up to 17,000 hours and HKD\$ 1,630 for each 100 hours thereafter⁴⁰.

With the advent of DTT in Hong Kong from 2005 there are now 11 channels across two broadcasters: ATV has five stations broadcasting 24 hours a day and one broadcasting for 22 hours a day and TVB has five stations broadcasting 24 hours a day. With no new FTA channels launching over the last four years the value of the licencing fee has remained stable at \$HKD 14.89million.

The license conditions imposed by the HBA, unlike most regimes, are not related to the origin of content. Instead they focus on the language of delivery and the public service benefit derived from the content.

Exhibit 10: Hong Kong content regulations⁴¹

Hong Kong content requirements
A television licensee must:
<ul style="list-style-type: none">Broadcast a service in the Chinese language and one other in EnglishBroadcast no less than a stipulated minimum amount of children's programmes of which a proportion must be of local production; andBroadcast programmes for schools supplied by the Government

3.3.11 Singapore

Media regulation in Singapore is the responsibility of the Media Development Authority (MDA), a separate body from the spectrum regulator the Infocom Development Authority (IDA). There is currently only one FTA operator in Singapore, MediaCorp, which operates a multiplex of three SD and one HD channels.

The television market in Singapore is comprised of 38% cable, 31% Analogue FTA, 18% IPTV and 13% DTT⁴². Singapore has committed to DSO in line with ASEAN timetables, putting a likely transition sometime between 2015 and 2020⁴³.

Whilst the percentage and dollar value of the Singaporean Broadcast Licence remained relatively constant over the period 2008-2011, the Media Development Agency (MDA)'s revenues declined significantly with the abolition of the Vehicle Radio and Television Licence scheme which was worth S\$103million in 2010⁴⁴. This had the net effect of reducing the MDA's revenues by 79%⁴⁵. The historical purpose of the Vehicle Radio and Television Licence scheme was the direct funding of Singaporean content makers and the support of Singaporean production companies working with the private sector.

The most notable aspect of the media regulation in Singapore (which applies to all forms of broadcasters, cable, FTA and IPTV) are the recent Cross Carry Content laws, which force broadcasters to share content considered 'important' by the MDA with their competitors. These laws were designed to increase access to

⁴⁰ Chapter 562A Section 3 Part 2 BROADCASTING (LICENCE FEES) REGULATION accessed at: [http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/B663E54683D9B1D5482575EF001B8D26/\\$FILE/CAP_562A_e_b5.pdf](http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/B663E54683D9B1D5482575EF001B8D26/$FILE/CAP_562A_e_b5.pdf)

⁴¹ http://www.hkba.hk/en/tv/licences/do-free_tvps.html

⁴² ScreenDigest, Singapore TV Market Summary

⁴³ <http://www.mda.gov.sg/PUBLIC/DIGITALTV/Pages/IntroductionDigitalTV.aspx>

⁴⁴ MDA 2011 Annual Report, accessed at http://www.mda.gov.sg/AboutUs/annualreport2011/Pages/pdf/MDA%20AR11_Financial_B_LR.pdf

⁴⁵ MDA 2011 Annual Report, accessed at http://www.mda.gov.sg/AboutUs/annualreport2011/Pages/pdf/MDA%20AR11_Financial_B_LR.pdf

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premium content such as sports programming which might otherwise be monopolised behind a pay wall by a Pay-TV operator. They also have the effect of reducing the value of content rights in the Singapore market as exclusivity cannot be guaranteed.

Exhibit 11: Singapore content regulations⁴⁶

Singaporean content regulations

- Broadcast Events of National Significance
- Prohibition on Hoarding Specified Programme
- Cross-Carry Content- 'important' programming available to FTA/ cable competitors
- 700 hours of content annually must be locally produced

⁴⁶ <http://www.mda.gov.sg/Licences/Pages/NicheandNationwideTVLicence.aspx>

4 Global Benchmarks

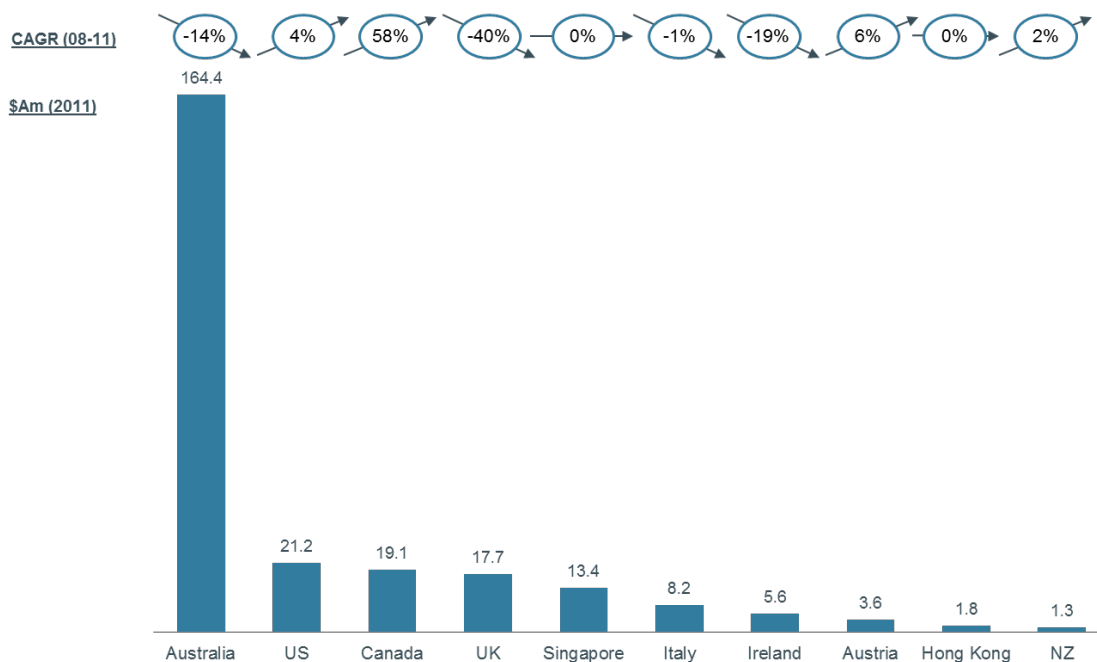
This section compares and contrasts the amount paid by FTA broadcasters in various markets across Europe, The Americas, Asia and Australasia. In order to provide a comprehensive comparison of licence costs, this report analyses licence payments in four ways:

- Absolute dollar costs;
- Payments on a per MHz / per pop basis;
- Payments as a % of revenue;
- ... and we compare these metrics to the relative level of content obligations

4.1 Comparison of Absolute Licence Fee Payments

The starting point for an ‘apples with apples’ comparison of the various broadcasting regimes is a relative assessment of the absolute amounts being paid. As the exhibit below demonstrates, there are significant variances in the total dollar amounts paid by broadcasters globally, with the notable outlier being Australia. In absolute dollar terms broadcasting licence costs in Australia are **eight times** the next highest market in the US and more than 125 times the charges levied against broadcasters in New Zealand.

Exhibit 12: 2011 Broadcast Licence Costs (\$Am) and 4 year CAGR⁴⁷

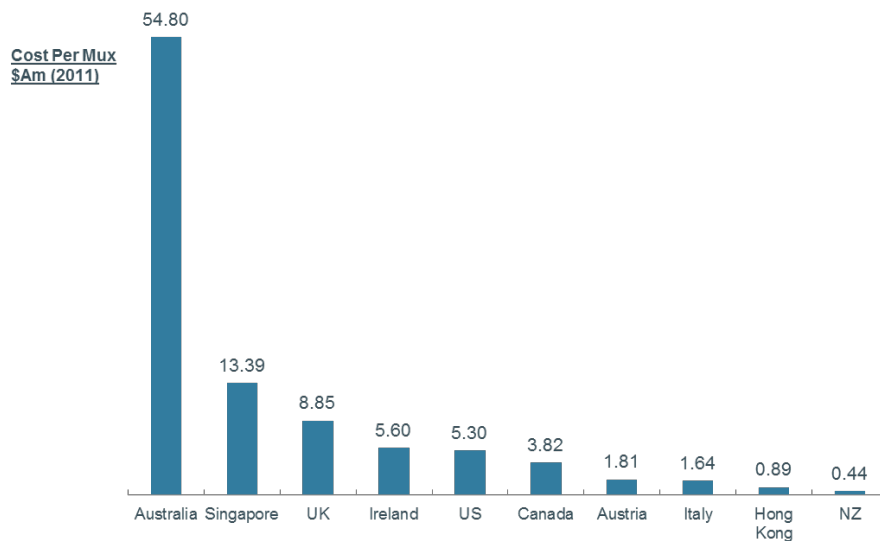


⁴⁷ Fee costs - ACMA, BAI,RSM, RTR, AGCOM, HBA, CRTC, MDA, FCC, OFCOM
Exchange rates (\$X: \$AUD) used: NZD 0.8:1, SGD 0.74:1, HKD 0.12:1, USD 1:1, CAD 1:1, GBP 1.7:1, EUR 1.23:1.
Figures are for respective national financial years

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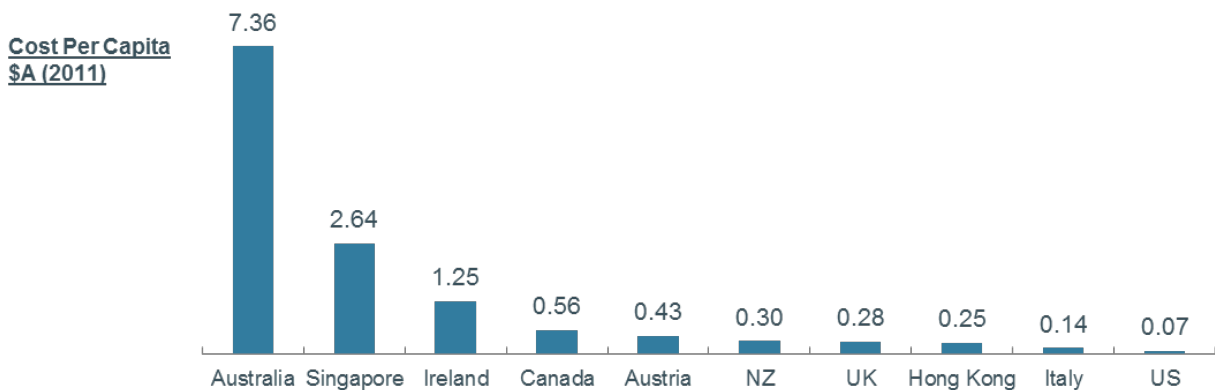
Adjusting the payments to reflect the number of multiplexes (or muxes) utilised by licence fee paying broadcasters in each market gives a perspective on the dollar impact on an individual broadcaster under the various regimes. Such a comparison shows that per mux Australia is **more than four times more expensive** than the next more expensive market (which is Singapore at \$13.4m) and more than ten times the average cost.

Exhibit 13: Implied Cost per Multiplex (A\$m)⁴⁸



Of course, these markets are of very different sizes. But, when these absolute payments are adjusted for population size, the trend remains the same. Australia, with costs in 2011 of \$7.36 per capita remains **three times as expensive** than the next most expensive markets (which is Singapore at \$2.64 per capita) and close to 100 times more expensive than the United States regime.

Exhibit 14: 2011 Broadcast Licence Costs per Capita⁴⁹



⁴⁸ Fee costs - ACMA, BAI, RSM, RTR, AGCOM, HBA, CRTC, MDA, FCC, and OFCOM. Note: In Australia, 9% is the nominal levy rate, but in 2010 and 2011 a levy rebate of 16.5% and 41.5% respectively was returned to FTA broadcasters

⁴⁹ Fee costs - ACMA, BAI, RSM, RTR, AGCOM, HBA, CRTC, MDA, FCC, and OFCOM.

Population stats: OECD

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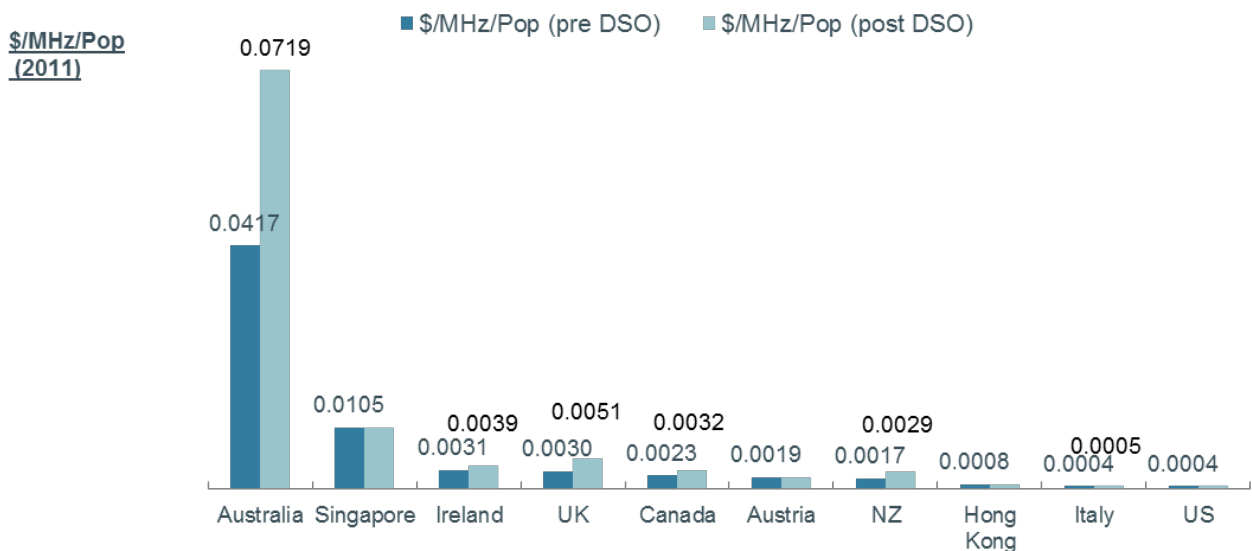
4.2 Payments Compared on a per MHz Basis

However, one further adjustment is needed. Different markets have different numbers of services and have therefore allocated different amounts of spectrum to FTA broadcasting. A true apples for apples comparison needs, therefore, to be at the per MHz level.

The exhibit below compares licences payments across the target markets on a per MHz / per capita / per annum basis. As before, we have used the 2011 licence fee payments, but since the vast majority of markets have allocated less spectrum to FTA post-DSO (thanks to the Digital Dividend), we have shown both the pre- and post-DSO spectrum allocation figures.

As before, Australia remains the outlier at \$0.04 MHz/pop/pa (pre-DSO), increasing to \$0.07 MHz/pop/pa (post-DSO). This is **seven times greater** than Singapore at \$0.01 MHz/pop/pa, the next most onerous regime on this basis and again more than 100 times more than the US. The costs in smaller markets such as Singapore and Ireland are shown to be comparatively more expensive than many of the markets with higher dollar values.

Exhibit 15: 2011 Broadcast Licence Costs \$/MHz/Pop⁵⁰



It is important to recognise that these figures are comparative; they could not be applied directly to licences. This is because they are calculated based on the amount of spectrum that the industry is utilising. For example, in Australia post-DSO the FTA broadcast spectrum allowance will be 176MHz, with approximately 102MHz being used for commercial FTA on a pro-rata basis. However, each commercial FTA has been granted only a single 7MHz multiplex. This discrepancy is due to the frequency planning needed to ensure high coverage, non-interfering multiplexes. All the analysis in this report is based upon the total pro-rated spectrum allowance fee paying broadcasters.

⁵⁰ MHz pre and post DSO from Spectrum Regulators- ACMA, ComReg, IDA, Ofcom, CRTC, OFTA, ACOM, RTR, RSM, FCC
 Singapore, Hong Kong, Austria and the US do not have a listed 'post DSO' value as Hong Kong and Singapore have not yet announced their DSO dates or digital dividend and the United States and Austria have already completed their DSOs and as such the 2011 figure stands
 Fee costs - ACMA, BAI, RSM, RTR, AGCOM, HBA, CRTC, MDA, FCC, and OFCOM.
 Population stats: OECD

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This methodology allows for the most direct comparison to the 'A\$/ MHz/pop' figures used to compare telecoms licences, such as those derived in the recent DBCDE commission report⁵¹ on the 900MHz licence renewals⁵².

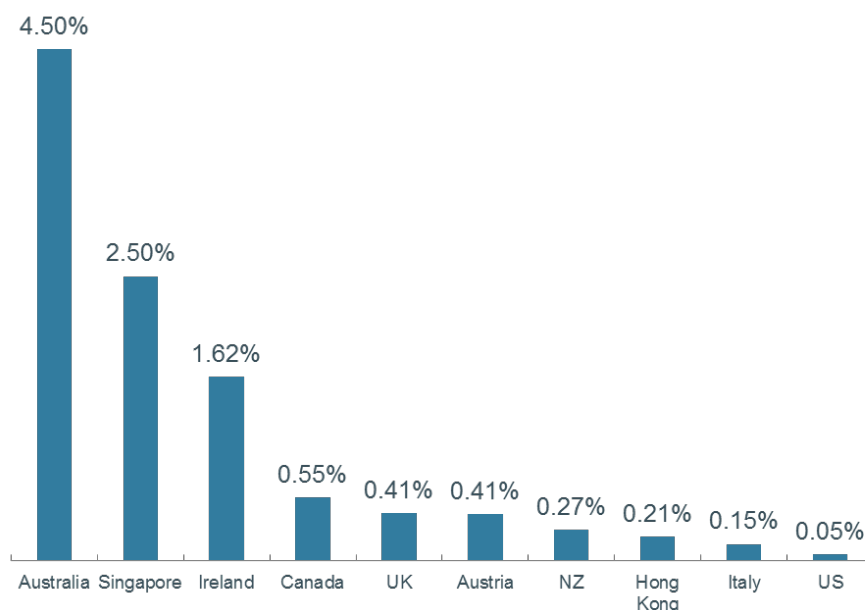
4.3 Payments Compared on a Percentage of Revenue Basis

Obviously, different broadcasters are also of different sizes in revenue terms. The exhibit below analyses the broadcast licence cost data as a percentage of revenue. We believe that this is a useful reference point as it reflects the commercial attractiveness of the FTA broadcast model in each market.

Although closer to some of its peers, Australia (at 4.5% of revenue) remains **almost twice as expensive** in licence fees terms than Singapore, the next most expensive market at 2.5% of revenues.

When looking at licence cost as a percentage of revenue it is important to distinguish the regimes which use % of revenue to determine broadcast licence costs (Australia, Singapore, New Zealand, Austria and Italy) with those regimes for which it is an outcome (Hong Kong, US, Canada, UK and Ireland)⁵³. At present, the Government of Australia clearly imposes a much higher cost for the use of public airwaves than many of its counterparts.

Exhibit 16: 2011 Broadcast Licence Costs as % of Broadcaster Revenue⁵⁴



⁵¹ Valuation of public mobile spectrum at 825-845 MHz and 870-890 MHz, Plum Consulting for the DBCDE, 15 September 2011

⁵² It should be noted that telecoms licence calculations (A\$/MHz/pop) are typically based on the licence fee paid for the entire 10 or 15 year licence period. To derive directly comparable figures, these need to be converted to per annum (A\$/MHz/pop/yr) figures

⁵³ The UK and Canada both use a percentage of revenue as one half of their fees, with further administrative fees. As this fee varies from year to year it cannot be classified as a percentage based fee

⁵⁴ Fee Information from ACMA, BAI,RSM, RTR, AGCOM, HBA, CRTIC, MDA, FCC, OFCOM, CSA
Revenue information from regulators (above) and company reports


Note: In Australia, 9% is the nominal levy rate, but in 2010 and 2011 a levy rebate of 16.5% and 41.5% respectively was returned to FTA broadcasters

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4.4 The Relative Levels of Content Obligations

As outlined in the market reviews in Section 3, broadcast licences in many countries come with obligations around local origin content and production. Whilst hard to quantify in absolute dollar terms, owing to the high number of variables and hypotheticals involved, it is important to consider these obligations alongside licence costs as in some markets their financial cost can be equal to or even in excess of the cost of licences themselves.

Exhibit 17: Comparison of Content Obligations by Market⁵⁵

Country	Content/ production obligations	Impact of content/ production obligations	
Australia	<ul style="list-style-type: none"> Annual transmission quota of 55% Australian programming between 6am and midnight Sub quota by genre type: <ul style="list-style-type: none"> Adult drama Children's Documentary 		
NZ	<ul style="list-style-type: none"> None 		
Singapore	<ul style="list-style-type: none"> Broadcast 'Events of National Significance' Prohibition on hoarding specified programmes Cross-Carry Content- 'important' programming available to FTA/ cable competitors 700 hours of content annually must be locally produced 		
Hong Kong	<ul style="list-style-type: none"> Broadcast a service in the Chinese language and one other in English Broadcast no less than a stipulated minimum amount of children's programmes of which a proportion must be of local production Broadcast programmes for schools supplied by the Government 		
US	<ul style="list-style-type: none"> Local News: various - subject to individual licence term. As outlined by the Communication Act, TV stations have the obligation to 'provide news, public affairs, and other programming that specifically treats the important issues facing its community' Full-service TV stations are required to broadcast at least three hours of children's television programming per week. Translates into approximately 156 mandatory hours per year 		
Canada	<ul style="list-style-type: none"> Annual Canadian content level of at least 60 per cent overall and at least 50 per cent between 6 p.m. and midnight. Drama production counted at 150% 		
UK	<ul style="list-style-type: none"> Original production quotas Independent production quotas Regional production quotas News and current affairs quotas 		
Austria	<ul style="list-style-type: none"> None 		
Ireland	<ul style="list-style-type: none"> Annual transmission quota of 51% local content 		
Italy	<ul style="list-style-type: none"> None 		

⁵⁵ ACMA, BAI, RSM, RTR, AGCOM, HBA, CRTS, MDA, FCC, OFCOM

5 Recommended Pricing of Broadcasting Spectrum in Australia

In order to calculate a recommended spectrum valuation for Australia, the following methodology has been employed:

1. Establish a benchmark range of post-DSO \$/MHz/pop pricing
2. Cross-reference the analysis on a '% of total revenue' basis
3. Determine a final recommendation based on any adjustments to the target pricing based upon the comparison of content obligations

The benchmark analysis undertaken suggests that the Australian regime is more expensive than its peers on a range of measures.

The full range of post-DSO broadcast licence costs on a per MHz per capita basis is from under \$0.001 MHz/pop (Italy) to \$0.719 MHz/pop (Australia post-rebate). However, when the outliers are removed, the core range is from \$0.003 MHz/pop to \$0.010 MHz/pop.

When benchmarked on a percentage of revenue basis, the full range of from 0.05% (US) to 4.5% (Australia post-rebate). When the outliers are removed, the range narrows to 0.4% to 1.6%.

Finally, from a content obligations perspective, Australia certainly has one of the most onerous regimes of any of the markets analysed.

Exhibit 18: Benchmarking of 2011 Broadcast Licence Costs by Market

Country	Cents/MHz/Pop (post DSO)	Fee as % of Revenue	Content Obligations
Australia	7.19 (w/rebate) / 12.29	4.5% (w/rebate) / 9%	
NZ	0.29	0.27%	
Singapore	1.05	2.50%	
Hong Kong	0.08	0.21%	
US	0.04	0.05%	
Canada	0.32	0.55%	
UK	0.51	0.41%	
Austria	0.19	0.40%	
Ireland	0.39	1.62%	
Italy	0.05	0.15%	
Core Benchmarked Range	0.30-1.00	0.4%-1.6%	

Based on the analysis and this methodology, international price benchmarking implies that spectrum that is limited in use to FTA terrestrial broadcasting in Australia should be priced at between \$0.003 and \$0.01 per MHz/per pop, based on post-DSO spectrum allocations. This implies an appropriate target rate for Australia of between 0.2% and 0.6% of revenues. This is slightly below the 0.4% to 1.6% range which is implied by the

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analysis. This suggests that on a per capita basis, Australia broadcasters are slightly larger than their overseas counterparts.

Recommendations:

Therefore, we propose that the target broadcast licence fee costs be set at the rate of 1.0% revenue, which is equivalent to \$0.016 MHz/pop/pa on a post-DSO basis in Australia.

Australia faces strong content obligations compared to some markets. Nevertheless, these are comparable to a number of markets (such as the UK and Canada). Therefore, we propose that the target rate should not be adjusted further as a result of content obligations.

The Australian licence fee (post rebate) currently sits at 4.5% of revenue, equivalent to \$0.0719 MHz/pop/pa. Therefore a target fee of 1% revenue, or \$0.016 MHz/ pop/pa represents a significant reduction in broadcast licence costs. We propose that the Government implements a staggered transition from 4% in 2012, reducing the licence fee rate by 1% per annum until it reaches the target rate of 1.0%.

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Contact information

Venture Consulting is Australia's leading independent telecommunications and media consultancy firm. It came into being following local management's buyout of the Sydney office of the global management consultancy Value Partners in January 2009. We are a broad-based consultancy, having worked with Australia and New Zealand's leading operators, policy makers, regulators, vendors and financiers to provide strategic, commercial, financial and technical advice. Specifically, we work across corporate and commercial strategy, financial advisory support, bid support, operational improvement and change management, policy and regulation, rights management, strategic technology decisions and strategy implementation.

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