

**NETWORK TEN SUBMISSION TO THE JOINT SELECT COMMITTEE ON BROADCASTING LEGISLATION
ABOLITION OF THE 75% REACH RULE**

Introduction

The *Broadcasting Services Act (BSA)* currently prevents one person from controlling commercial television broadcasting licences that, in total, reach more than 75% of the population. This is known as the reach rule.

Removing the reach rule would allow metropolitan broadcasters to merge with regional affiliates to cover 100% of the population.

The fate of the reach rule is critically important in terms of media diversity and local news services in regional Australia. This is an issue of national significance. We are alarmed that this important inquiry is being rushed and that the Government thinks it can be solved in one day. People living in regional Australia deserve better.

Committee members must be aware that this needs to be properly debated and more time needs to be dedicated to the process because once the decision is made it can't be unwound and the impact will be immediate.

Critically, if the reported Nine/ Southern Cross Austereo merger goes through because the reach rule is lifted, it will be exempt from the public interest test and that would be scandalous.

Network Ten is opposed to the removal of the reach rule as part of the media reform package currently before Parliament for the reasons outlined below.

The only guaranteed outcome of abolishing the reach rule in this media reform package is an immediate reduction in diversity

At his press conference to announce the Government's media reform package, the Communications Minister, Senator Conroy, stated that the government's reforms seek to ensure no further reduction in media diversity.

And yet, the only guaranteed outcome from removing the audience reach rule – in isolation from other changes – will be less diversity.

For this reason, removal of the reach rule cannot be considered in isolation.

The Convergence Review recommended removing the 'two out of three' rule, the 'two to a market' radio licence rule and the 'one to a market' television licence rule in addition to the reach rule alongside the introduction of a public interest test and the expansion of the current 'voices' test.

This reform package does not follow that recommendation and instead only picks out two parts of it. As outlined below the new public interest regime will not even apply to any mergers that take place within six months of the removal of the reach rule.

Network Ten's position has been consistent: any change should only be done after a careful and diligent consideration of all existing diversity protection measures. Pulling one major policy lever by rushing this change through Parliament without looking at the bigger picture is not good media policy.

The importance of regional news and information services

The importance of local news to regional communities was one of the key messages from the Convergence Review's consultations around Australia. The Review recommended that commercial free-to-air television and radio broadcasters should continue to devote a specified amount of programming to material of local significance.

Successive governments have deemed it necessary to provide regulatory support for local content in regional areas to protect against the inevitable incentives for broadcast and production centralisation. This includes local content and local presence requirements for regional commercial radio.

The draft reach rule amendments do nothing to protect regional news services

The draft reach rule amendments were made available to Network Ten late on Friday 15 March.

The draft amendments only require a regional TV licensee to *inform* a merger partner of the *existence* of the current regional content rules.

The amendments do not even require merger partners to *maintain* existing regional news services.

The adequacy of the current regional content rules must be reviewed

Some regional broadcasters are meeting the current rules even though they don't have any regional newsrooms or employ any regional news reporters. For example, Southern Cross Austereo (SCA) currently does what is known as a 'rip and read' service out of Canberra to meet the local content rules. A person in SCA's Canberra headquarters writes updates based on AAP feeds and local newspaper stories and reads them live to camera with no vision.

If the reach rule is removed and we are to rely entirely on the local content requirements to protect local content then the adequacy of the existing rules must be reviewed first.

Commitments from broadcasters pushing for removal of the reach rule to maintain existing services or expand regional news are unenforceable and meaningless.

The point of mergers is to create cost efficiencies by ripping out costs. Cost savings from the reported Nine/Southern Cross merger have been estimated at between \$50 million to \$75 million.

Claims that a merged entity will spend upwards of \$15 million to open newsrooms around regional Australia and hire around 200 new regional reporters defy logic and commercial reality.

Protections for regional content in the event of mergers must be legislated in order to have any effect and must be specific

Unless undertakings around new investments in regional content are legislated and detailed in their

terms, undertakings given prior to any merger whether around new half hour bulletins, additional regional newsrooms or any other investment are unenforceable and meaningless.

The Committee must take into account the impact on other broadcasters' regional news services

Regional broadcasters may need to counter the effects of a newly created merged entity by reviewing the level of commitment to regional newsrooms and reporters. This is another reason why the reach rule cannot be abolished without a review of the existing local content rules and all of the existing regional diversity rules.

Any deal that is concluded within six months of the reach rule removal will not be subject to the proposed Public Interest Test.

Senator Conroy has stated repeatedly in the last week that anyone opposed to further concentration of media in this country should support this package.

But the only guaranteed outcome from removing the audience reach rule – in isolation from other changes – will be less diversity.

We do not think the 75% audience reach rule should be removed as part of this package as we have stated elsewhere today.

However, at the very least it should not be removed until the PIMA framework, if it passes, is established and fully operational.

At the moment, any mergers that occur within six months will not have to apply for prior approval from the Public Interest Media Advocate. They would not have to prove either no lessening of diversity or a strong public interest.

They would not have to make court enforceable undertakings to address public interest concerns (such as additional regional news commitments).

This would include deals permitted because the reach rule has been abolished.

Even though the PIMA has the power to undo any deal done during the interim period, that is a very different proposition to having to prove no lessening of diversity or prove a public interest benefit before the deal can be done in the first place.

The reality is that it would be almost impossible practically and therefore highly unlikely that the PIMA would undo a \$4 billion dollar deal months after the deal has gone through. The egg could not be unscrambled.