SENATE ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS COMMITTEE

Inquiry into Broadcasting Services Amendment (Media Ownership) Bill 2006 and related Bills

SUBMISSION BY

SEVEN NETWORK LIMITED

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EXECUTIVE SUMMARY

Digital Television Bill

- Commercial television broadcasters should be permitted to provide unrestricted Standard Definition multichannel services from 1 January 2007, consistent with the position for ABC and SBS.

- This would significantly contribute to digital takeup, provide more choice for consumers and would also increase competition in the media sector to balance greater consolidation and the monopoly position of pay TV.

- Delaying multichannelling until 2009 and limiting it to one channel would place organisations like Seven at a competitive disadvantage with consolidated operations and new services on the digital spectrum.

- HD multichannelling is multichannelling for the rich. It should not be prevented but broadcasters and consumers should not be limited to HD for their new services. This does not serve the interests of consumers or of competition in the media sector.

- The proposal for minimal levels of regulation on multichannels is welcome. This should extend to a moratorium on licence fees, as applied to other new services such as pay TV.

- Broadcasters should be permitted to broadcast listed sports on their multichannels, increasing the amount of free sport available to **all** viewers.

- If this is not permitted, then the current provisions should be widened to permit broadcast of listed sports when they have been on any other commercial or national broadcaster or on pay TV.

- Broadcasters should also be able to acquire listed sports for broadcast on multichannels after they have been delisted, consistent with the position for pay TV.

- Commercial television licences granted for services other than on the Broadcasting Services bands should only be permitted where this is in the public interest and following a public review consistent with the approach for new licences on the BSB.

- Any exemption from program standards, content requirements and licence fees should be considered as part of that review, rather than granting an up-front exemption from these rules.

New Digital Services Discussion paper

- Commercial free-to-air and pay TV operators should be treated equally in relation to both Channel A and Channel B. That is, if a person in a position to control a commercial FTA cannot bid for a licence, a person in a position to control a subscription television licence should be similarly precluded.

- Similarly, if a commercial FTA cannot provide in-home services on Channel B, pay TV providers should be similarly precluded.

- The services required to be provided on Channel A should include making provision for a digital community television service.

- Channel B should be restricted to out of home or mobile services only.

Media Ownership Bill

- Seven strongly supports removal of foreign ownership rules.

- Any changes to cross media rules must adequately protect diversity and take into account the monopoly position of pay TV.

- If cross media rules are to be lifted, the resulting consolidation of ownership should be balanced by other mechanisms aimed at improving competition in the wider media sector such as the immediate introduction of SD multichannelling.

Licence Fees Bill

- The current proposal to aggregate revenues from multichannel services with revenues from the main service effectively places a charge of 9% of gross revenue on these emerging and fragile new services.

- Multichannel services will be difficult to establish and to become viable on the new DTT platform which currently reaches only 17% of Australian homes.

- The only source of revenue for new multichannel services will be advertising. These services will need to be sustainable on a stand-alone basis for broadcasters to be able to maintain them. Therefore they should also be regulated on a stand-alone basis, particularly in relation to licence fees.

- Revenues from multichannel services should be quarantined and no licence fees payable. This position should be reviewed in light of the sustainability of these new services at digital switchover.

- This would be similar to regulatory protection given to other new services to allow them to become established, such as pay TV. Despite the fact that pay TV now has revenues of close to $2 billion, it still pays no licence fees whatsoever and has extremely minimal levels of regulation.

SEVEN NETWORK SUBMISSION

1 Broadcasting Legislation Amendment (Digital Television) Bill 2006

1.1 SD Multichannelling should be permitted from 1 January 2007

The *Broadcasting Legislation Amendment (Digital Television) Bill 2006* (the Digital Television Bill) permits commercial television broadcasters to:

- Provide an HDTV multichannel from 1 January 2007; and
- Provide a single SD multichannel from 1 January 2009.

The Seven Network believes that commercial broadcasters should be permitted to provide unrestricted SD multichannel services from 1 January 2007. This would be is consistent with the position of ABC and SBS once the Digital Television Bill is passed.

Multichannelling will provide consumers with free content. As acknowledged in the Explanatory Memorandum to the Bill, additional content would also assist to drive digital takeup in Australia. The kind of new services we could expect to see on digital terrestrial multichannel services would be similar to those on the Freeview platform in the UK, as shown in **Attachment 1**.

Multichannelling also offers important benefits to the community. Specifically, it would significantly favour those in regional areas (where alternative entertainment facilities are limited) or Australians unable to afford the ongoing costs of Pay TV, thereby diminishing the ‘digital divide’. It will also provide opportunities to businesses (notably SMEs) traditionally unable to afford access to mainstream television advertising.

Five key arguments support this position:

- *The current digital television framework is not working. Consumer interest in digital television is low and will not allow for analog switch off in a reasonable period of time.*

Current digital terrestrial television penetration is around 17% after almost six years of operation. By comparison, penetration in the UK exceeds 72.5%[1]. The difference can be largely attributed to the introduction of the Freeview multichannel service in the UK in October 2002 which has driven consumer purchases of DTT equipment.

In addition, more than two thirds of Australian homes have two or more television sets[2] and there are also a wide range of other analog reception devices such as VCRs and DVD recorders currently in use. To achieve digital switchover, it will not be enough to work on the basis of one digital television receiver per home. It will also be necessary to convert many of these televisions and other reception devices to digital before Australia can reasonably be in a position to implement analog switch-off.

[1] Ofcom “The Communications Market: Digital Progress Report, Digital TV Q1 2006”
[2] Source OzTAM Universe Estimates

In the UK, Ofcom has estimated that although household penetration is at 72.5%, only 40% of total television sets are digital, since most households have more than one TV and in the majority only the main set has been converted.[3]

At current rates of take-up, digital switchover would take decades rather than years. The legislation must ensure a consumer led approach to addressing the digital divide and that consumer demand drives the adoption of services.

- *There is strong consumer demand for DTT multichannel services in Australia*

Tasmania has been traditionally served by two commercial TV stations. In January 2004 a third, Tasmanian Digital Television (TDT) began transmission in Hobart as Australia's first digital-only commercial TV station. The opportunity to view an additional channel has prompted around 40% of Hobart households to purchase digital equipment in the last two years[4].

In other words, the rate of digital take-up has been more than twice the national average in only half the time.

The simple fact is that consumers need a reason to purchase a set top box. The current digital framework fails to provide consumers with a sufficiently compelling proposition to make the switch to digital terrestrial services. Market driven strategies will clearly play a decisive role in achieving digital switchover. Australian take-up rates will remain low until the rules are relaxed to allow broadcasters to offer additional services.

- *International experience demonstrates that content choice is a key driver for consumers and will significantly contribute to digital conversion*

Australian digital television take-up rates compare very poorly with the situation in the United Kingdom. Freeview, the free digital terrestrial multichannel service, was launched in October 2002. In June 2006, Ofcom reported that 72.5% of UK households had adopted digital TV. After only 4 years of operation, a total of 11.8 million Freeview set top boxes and integrated televisions have been sold in the UK – about 10 times the number in Australia over a six year period[5].

- *The policy rationale for the prohibition on multichannelling no longer exists*

The rationale for the prohibition on provision of multichannel services by commercial broadcasters was to protect “the fledgling subscription television industry.”[6]

The Government announced that this decision would be reviewed “having regard to developments in the pay TV industry”.[7]

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[3] Ofcom Switchover Progress Report Q2 2006, page 2
[4] Source: AGB Nielsen Media Research
[5] Source: Ofcom “The Communications Market: Digital Progress Report, Digital TV Q1 2006” The UK market has about 25.2 million households or around three times the number in Australia.
[6] Media Release “Digital – A New Era in Television Broadcasting”, Senator the Hon Richard Alston 24 March 1998. A similar quote was contained in the Explanatory Memorandum Television Broadcasting Services (Digital Conversion) Bill 1998, page 16 , in which it was stated that the Government’s reason for the prohibition on multichannelling by commercial television broadcasters was “to ensure that the developing pay TV sector is not unfairly disadvantaged by digital conversion of existing commercial and national television broadcasters.”

The Australian pay TV industry has undergone significant development and growth since that time. It is no longer a fledgling industry in need of protection having undergone total consolidation, digitisation and both revenue and subscriber growth:

- Pay TV has become a monopoly industry with a single content provider – Foxtel. Foxtel also controls almost all the available pay TV transponder capacity in Australia on the Optus C1 satellite.
- Foxtel has been valued by analysts at $3.2 billion, more than any free-to-air network[8]
- Pay TV has almost 2 million subscribers and Foxtel has more than 1.1 million subscribers
- Pay TV generates revenues of almost $2 billion annually - more than any commercial TV network. Foxtel has achieved profitability well ahead of schedule and individual pay TV channel operators such as Fox Sports generate profits of around $140m per annum[9].
- Foxtel claims it will "soon streak past the free-to-air networks in terms of profitability."[10]
- Foxtel has digitised and is ahead of schedule to break even on this investment and to achieve full digital conversion of subscribers
- Telstra and Optus have been permitted to bundle pay TV with telecommunications offerings

Since 2000, four separate reports conducted by Government agencies have strongly recommended the introduction of multichannelling by commercial broadcasters:

- Productivity Commission Broadcasting Inquiry Report, March 2000
- Australian Consumer and Competition Commission, Report on Emerging Market Structures in the Communications Sector, June 2003
- House of Representatives Standing Committee on Communications, Information Technology and the Arts, Report "Digital Television: Who's Buying It?", February 2006
- The Allen Consulting Group report on The Removal of Restrictions on Digital Multichannelling by Commercial Television Broadcasters, September 2004 (commissioned by DCITA as part of the 2004 statutory review of multichannelling)

Attachment 2 sets out the findings of these reports in relation to multichannelling in greater detail. Multichannelling was also advocated by the former Minister for Communications, Senator Richard Alston and by all relevant Departments in a submission to cabinet in 2001.

After 11 years, pay TV is a far cry from the industry that was supposedly so in need of protection in 1998. The justification given for the prohibition on multichannelling no longer exists.

[7] Digital Broadcasting – Questions and Answers (attachment to Media Release "Digital – A New Era in Television Broadcasting" 24 March 1998)
[8] UBS Investment Research "Publishing and Broadcasting Limited – Foxtel reports full year profit" 10 August 2006
[9] "After dropping footy, Foxtel is still after AFL", Australian Financial Review, 28 August 2006, page 49
[10] "Show and Foxtel", The Bulletin and Newsweek, 12 September 2006, page 52

- *Multichannelling will provide a strong competitive balance to consolidation in the media sector*

The arguments put forward by opponents of multichannelling generally ignore the fact that fragmentation is already occurring. New digital technologies are increasingly competing for viewers' attention. Pay TV, DVDs, the Internet and computer games are changing the way people use their time and their television sets consequently reducing free-to-air viewing. In coming years, technologies such as PVRs are likely to exacerbate this trend and challenge the traditional broadcasting model even further.

Faced with these trends, traditional free-to-air broadcasters need a strategy to answer the challenges they present. The ACCC considered this issue in its Emerging Market Structures report and concluded that "any benefits from maintaining the status quo may be lessened over time. The restriction on FTA multichannelling may actually prevent the FTA operators from responding to new sources of competition."[11]

Multichannelling offers the potential to retain viewers across a number of channels on the DTT platform as well as to target alternative revenue streams. In fact, the rise in ITV revenues across its various multichannels and Channel 4's decision to remove both E4 and Film 4 from subscription platforms and place them exclusively on the Freeview platform strongly suggests there is a vibrant potential advertising market for multichannel services. The rise in pay TV and internet advertising similarly indicate a strong interest from advertisers in the opportunities offered by niche and targeted advertising.

It is clear that the result of lifting cross media ownership rules is that there will be greater consolidation in the media sector. Combined with greater competition in a fragmenting market, this will make it more difficult for independent media outlets to effectively compete and for there to be diverse sources of both fact and opinion. It is important that media policy provides a mechanism for independent Australian operations to compete with consolidated groups such as those controlled by PBL and News Limited. Multichannelling is an essential element to achieve this.

1.2 HDTV multichannel proposal

There is little consumer interest in HDTV. HDTV equipment is at least three times as expensive as SDTV equipment and often more. Less than one third of all digital receivers sold in Australia are HDTV capable, or less than 5% of all Australian homes. A recent ACMA study indicates that the number of HD receivers actually connected to HD capable devices could be as low as 2% of all digital homes.[12]

The Digital Television Bill allows for commercial broadcasters to provide an HDTV multichannel from 1 January 2007. While we do not oppose different content being provided in HDTV, Seven cannot understand why new multichannel services would be limited to HD services rather than SD services that can be received by all new digital television receivers.

[11] ACCC Report on Emerging Market Structures, June 2003, p84

[12] "Digital Media in Australian Homes", ACMA, November 2005, page 23. The study also found that HD was poorly understood, with approximately 25% of DTT adopter households uncertain of their household's HD capability.

In essence this policy amounts to “multichannelling for the rich” and should be widened to permit all new multichannels from 1 January 2007 to be provided in SD.

Digital television policy should be consumer focused and aimed at stimulating take-up in order to achieve digital switchover. This proposal is not. High definition equipment is significantly more expensive than standard definition equipment.

A high definition set top box costs at least three times as much as a standard definition set top box and in many cases considerably more than that. Prices listed on the Digital Broadcasting Australia website for HD digital television receivers range from $299 to $1,874, compared with SD receivers starting from $99. SD receivers are commonly advertised for prices as low as $78 or are given away free of charge along with the purchase of a new widescreen television set. Similar differences in price exist between HD and SD capable screens.

Permitting multichannelling as an HDTV service rather than an SDTV service will benefit only those consumers able to afford equipment significantly more expensive than would be available if the content was available on SDTV.

Consumers with SDTV equipment would be denied the benefits delivered by the provision of additional content by commercial television multichannels or would be forced to pay prices three times greater for digital television equipment to receive them.

The business case for an HDTV multichannel is also significantly more difficult, given that the service would only reach about 5% of Australian homes, on current HDTV takeup figures.

This is both inequitable and counter-productive to encouraging digital take-up.

The ABC and SBS already provide some limited multichannel content and the Government is proposing to relax the content restrictions on these services. It is not clear what purpose would be served in permitting some additional channels to be delivered on the base SD platform for the service and limiting new commercial television services to essentially a different premium platform. This cannot be in the interests of consumers, broadcasters or the Government in their efforts to achieve digital switchover. The only beneficiary to a continuance of the current situation would be those industry players seeking to stifle competition in free-to-air or pay television, notably the Packer and Murdoch interests.

Seven welcomes the Government’s proposal to allow some multichannelling by commercial broadcasters. However, in order for this proposal to be in any way workable, the channels must be delivered in SDTV format and not limited to the expensive and exclusive HDTV platform. The provisions of the legislation allowing for a single SD multichannelling from 1 January 2009 should be amended to bring the date forward to 1 January 2007 and to allow an unrestricted number of channels, in line with the proposals for ABC and SBS.

1.3 Anti-siphoning list and multichannelling

The Digital Television Bill currently provides that sports listed on the anti-siphoning list may not be broadcast on multichannels, unless the relevant broadcaster has first transmitted the sport on their main service.

The consumer benefit in this policy is far from clear. The anti-siphoning list exists to prevent important sporting events being acquired exclusively by pay TV and therefore forcing Australians to pay to watch them.

Free-to-air broadcasters are sometimes criticised for not showing enough of the sports contained on the list. The fact is that broadcasters only acquire those rights that they can use. However, free broadcasters would be able to show much more of these events if they were able to offer additional services. In this way it would be possible to satisfy the requirements of sports lovers as well as other viewers who demand alternative content like drama or news.

And these additional sports would be available free of charge. The only expense would be the one-off cost of a set top box available for under $100. When compared with an average cost of $90 per month if the sports are acquired by pay TV, the benefits for viewers are clear.

This would also drive the adoption of digital television equipment. . The only argument against sport on multichannels is to protect the financial interests of the monopoly Pay TV industry.

If the Committee does not recommend the ability to show listed sports on multichannels, Seven would strongly urge that the current provisions relating to listed sports should be amended to place FTA multichannels in the same position as pay TV operators. Currently the Bill provides that a free broadcaster can only play a sport on a multichannel if it has already been shown on its own main channel. This provision should be extended to permit a listed sport to be broadcast on a multichannel if it has been shown on the main channel of ABC or SBS or any other commercial broadcaster **<u>or</u>** if it has already been broadcast on pay TV.

Also, if an event is acquired after it has been delisted, then just as the anti-siphoning rules would not preclude pay TV from acquiring the event, they should not apply to FTA multichannels.

1.4 Regulation of multichannel services

Seven welcomes the proposal to impose only minimal levels of regulation on new multichannel services.

In order to establish commercially viable multichannel services they must not be stifled from the outset with unreasonable regulatory burdens. Multichannel services must provide efficient investment options for free-to-air broadcasters and consequently should be subject only to minimal regulatory requirements, particularly in relation to content.

A similar approach was taken with pay TV services in the '90s. It is only relatively recently that pay TV has been subject to any level of mandatory Australian content rules.

These apply only to drama channels and require a modest 10% of total programming expenditure to be spent on Australian content each year. Pay TV is also subject to much more lenient classification requirements and does not pay any licence fees.

The imposition of Australian content requirements from the outset is likely to act as a disincentive to broadcasters commencing multichannel services by creating financial and operational obligations that would not be sustainable in a start-up business. A heavy regulatory burden would ensure the failure of the DTT model and all that it may be capable of delivering to viewers and the production industry over time.

These considerations apply equally to the issue of licence fees. At present it is proposed to require all revenue derived from new multichannel services to be bundled with existing revenue earned by free-to-air broadcasters. In essence, broadcasters will be forced to pay 9% of gross revenue earned on these emerging services.

In Seven's view, revenues on these new channels should be quarantined from revenues earned on the main channel. To be sustainable, each of these new channels will need to be capable of earning sufficient revenue to justify the cost of the additional content. Until such time as the platform has proved viable, no licence fees should be payable on revenue from these channels. This would be consistent with the lighter regulatory approach taken for other new services such as pay TV on its introduction. Indeed pay TV pays no licence fees even today. The position could be reviewed at the conclusion of the simulcast period.

1.5 Captioning

The drafting of these requirements should make it clear that captioning of programs on a multichannel is only required if the program was shown on the main channel and was captioned when it was so shown.

At the moment the drafting says that captioning would be required if the program was shown on the main channel and the licensee provided a captioning service when the program was previously transmitted. However, while a broadcaster may be providing a captioning service on the main channel, the regulatory obligations do not currently require all programs to be captioned. The captioning requirement for any multichannel should be limited to those programs that have previously been transmitted with captioning, and not extend to all programs that were transmitted at a time when captioning services are provided.

This could be achieved by including the words "for that program" in clause 85 of the Digital Television Bill, in the Special rule outlined in proposed new clause 38(9)(d).

1.6 The HDTV quota

It is not clear why the HDTV quota has been retained until analog switch-off. HDTV has clearly failed to drive the take-up of digital television.

Some free-to-air broadcasters continue to believe HDTV is of interest to consumers and say they will provide it in any event. Broadcasters who continue to believe that HDTV is a consumer driver should not be prevented from providing HDTV services. However, HDTV should not be a mandatory.

Maintaining the HDTV quota is simply a way of limiting the amount of multichannel content that can be provided by FTA broadcasters, as it uses a significant amount of spectrum. The quota should be deleted from the legislation.

Broadcasters should be permitted to decide whether to provide HDTV or multichannel services. The market will determine which of these service offerings win out. Ultimately it is consumers who will benefit from increased choice.

2 New Digital Services Discussion paper

2.1 Channel A

The Minister has proposed that Channel A should be auctioned to allow provision of in-home services. Free-to-air broadcasters are the only players currently precluded from bidding for this spectrum, although both commercial television and pay television services are not permitted.

Both Pay TV and free-to-air TV should be be treated in exactly the same manner in relation to the two new digital channels. In particular, if a person in a position to control a commercial television licence is not permitted to control the licence for Channel A, then this proposition should apply equally to persons in a position to control a subscription television licence.

As the proposal currently stands, persons in a position to control pay TV in Australia, such as News Limited and Telstra, would be permitted to bid for the spectrum. This is despite the fact that these parties already have significant interests in an existing television service, Foxtel, as well as dominant positions in the newspaper and telecommunications sectors.

The Minister has stated that these new services will not be permitted to provide commercial television services (or pay television services). However, free "narrowcast" services will be permitted. The Broadcasting Services Act contains little guidance about what can be provided on a narrowcast service. The only rules that exist now require the services to be targeted to special interest groups or provide programs of limited appeal.

The Government is committed to not introducing a fourth commercial television provider at this time. We are unclear about what services will be permitted on Channel A and believe it is essential that the rules for these new services should be clearly defined in legislation to ensure they are not de-facto broadcasting services. Further, services should require prior approval by the regulator, including a public consultation process, before being permitted to commence.

2.2 Channel B

Seven supports the Government proposal to permit free-to-air broadcasters to bid for Channel B. The Channel is intended to provide new services that are not similar to existing broadcasting services. There is no reason that existing players should be excluded from participating in these new business areas.

The Channel B licence should be restricted to mobile or out of home usage. As with channel A, any subscription television licence holders should be treated in exactly the same manner as commercial television licensees.. This would include that if free-to-air broadcasters are prevented from offering in-home services on the new spectrum, pay TV providers should be similarly prevented.

These services will drive the take up of new digital hardware and open up content delivery to Australians by new and innovative means.

3 Broadcasting Services Amendment (Media Ownership) Bill 2006

3.1 Foreign Ownership Rules should be Relaxed

The Seven Network supports the removal of foreign investment restrictions on commercial television and subscription broadcasting licences.

In Seven's view, the repeal of these restrictions would improve access to capital, increase the pool of potential media owners and act as a safeguard on media concentration. It allows scope for the entry of additional media players or for support for existing operations that might otherwise become the target of merger proposals.

These rules should be lifted at the earliest possible opportunity regardless of whether cross media relaxation is similarly supported.

3.2 Cross media rules

Cross media rules have traditionally sought to regulate the media sectors of greatest influence. In general, diversity of ownership and opinion have served to create a healthy media sector. These rules have to some degree been bypassed with the creation of a monopoly Pay TV company and close co-operation between traditionally competing interests through that shareholding.

Any changes to cross media rules and associated changes to media regulation more generally must ensure that diversity of ownership and opinion. They must also ensure that smaller media players are able to effectively compete with larger entities and thus are sustainable in the longer term.

In particular, the growing influence of pay TV must be recognised in the overall regulatory mix. The Foxtel partners should not be permitted to extend the monopoly enshrined in this sector as a result of the Foxtel/Optus content supply agreement (CSA).

For this reason, we believe that if the cross media rules are to be lifted as proposed in the Media Ownership Bill, it is essential to permit existing commercial broadcasters to diversify their businesses through provision of multichannelling. As discussed above, multichannelling is an effective strategy to respond to a fragmenting media environment and also to enable independent free-to-air broadcasters to maintain a competitive position against newly consolidated operations.

Multichannelling will contribute to diverse sources of fact and opinion in an environment where we could expect to see a reduced number of players.

The *Trade Practices Act* does not contain adequate powers to ensure diversity is maintained in any particular media sector. There are insufficient avenues for appropriate intervention in media mergers, as was demonstrated in the approval of the CSA. It is not able to adequately take into account the vertical and horizontal integration evident in the pay TV and other media markets, or indeed existing relationships between competitors and their effect on neighbouring and related markets.

The proposed “voices” test is not an adequate protection for diversity in the media sector. This test would equate an operator the size of PBL with an outlet such as 2KY. Clearly a more sophisticated mechanism is required.

We are concerned with the role of the competition regulator in assessing the mergers and the fact they will not undertake a public interest test in their determination.

Proposals to relax cross media rules should be considered further to ensure they do not result in excessive concentration or an uneven playing field and to ensure they are adequately balanced by other mechanisms to preserve diversity.

4 Television Licence Fees Amendment Bill 2006

The Licence Fees Bill proposes that revenue derived from multichannel services should be aggregated with revenue from the primary services of a broadcaster and the same licence fee payed on both.

In effect, this will impose an immediate 9% of gross revenue charge on fledgling new multichannel services.

In order to be viable, multichannel services will need time to establish themselves in an extremely competitive environment. The only source of revenue for these new services will be advertising revenue. They will need to be operated on a fully costed and stand alone basis if they are to survive. Unless these new channels are sustainable on their own terms over a reasonable period of time, broadcasters will not be able to justify the cost of providing them. It is only reasonable that these new services are therefore also regulated on a stand-alone basis. A moratorium on licence fees payable by these new services should be introduced until digital switchover, at which point this position should be reconsidered.

Similar considerations have governed the launch of new services in a number of cases, in particular the regulatory and competition protection given to pay TV since 1995 under the *Broadcasting Services Act* and exemption from competition laws. Indeed, despite its recent claims that it will soon be more profitable than any free-to-air broadcaster[13], Foxtel remains exempt from payment of any licence fee whatsoever and continues to enjoy almost no content regulation such as Australian or children’s content requirements.

The Government has also provided medium term protection in other cases to enable new service types to become established, for example the Optus/Telstra duopoly, introduction of GSM and CDMA, precluding Telstra from bidding for wireless broadband spectrum and the digital radio moratorium.

On this basis, multichannel services should not be required to pay licence fees until such time as these services and the digital television platform have been established as successful and robust.

[13] ”Show and Foxtel” Bulletin with Newsweek, 12 September 2006, page 52

ATTACHMENTS

Attachment 1 **Freeview Channel Line-up**

Attachment 2 **Findings of Government Reports on Multichannelling**

Freeview

your channel guide...

entertainment...

BBC ONE	Channel 1
BBC TWO	Channel 2
itv 1	Channel 3
4	Channel 4
five	Channel 5
itv 2	Channel 6
BBC THREE	Channel 7
BBC FOUR	Channel 9
itv 3	Channel 10
SKY three	Channel 11
uktv HISTORY	Channel 12
MORE	Channel 13
MORE +1	Channel 31
E4	Channel 14
abc1	Channel 15
ftn FULL ON ENTERTAINMENT	Channel 20
itv 4	Channel 30
E4+1	Channel 32
mm	Channel 35
Quiz Call	Channel 37
BBC i	Channel 105
yoo play	Channel 106

lifestyle...

QVC	Channel 16
uktv BRIGHT IDEAS	Channel 19
ideal WORLD	Channel 22
bid tv	Channel 23
price-drop tv	Channel 24
community channel	Channel 87
teachers'tv	Channel 88

children's...

CBBC	Channel 70
CBeebies BBC	Channel 71
CiTV	Channel 75

music...

the hits	Channel 18
TMF THE MUSIC FACTORY	Channel 21

news...

BBC NEWS 24	Channel 80
BBC PARLIAMENT	Channel 81
SKY NEWS	Channel 82
SKY SPORTS NEWS	Channel 83
teletext	Channel 100

+ FREEVIEW are adding channels all the time...

So to ensure you are receiving the full service please rescan your equipment. Your manufacturer can confirm whether your digital box/TV rescans automatically. If yours doesn't, you need to press "Menu" on your remote control and follow the on-screen instructions or those printed in your manual. A typical sequence is:

1. Press MENU on your remote control
2. From the Menu options, select the 'Tuning Menu'
3. Select 'Auto Setup' or 'Update' to rescan your digital TV

regional coverage...

BBC 2W (Wales) — **Channel 2**
Peak time programming every weeknight from Wales about Wales and for Wales.

S4C Digital (Wales) — **Channel 4**
A lively, dynamic channel dedicated to Wales and all things Welsh, with over 80 hours of Welsh language programmes every week.

S4C2 (Wales) — **Channel 86**
Uninterrupted coverage of the Wales Assembly from the Government chamber at Cardiff Bay.

BBC Two Digital (Northern Ireland) — **Channel 2**
Weekday peak time programmes offering local viewers an unexpected view of the familiar.

TeleG (Scotland) — **Channel 8**
Daily Gaelic language service for viewers in Scotland.

Attachment 2 – Findings of Government Reports Recommending Multichannelling

Productivity Commission Broadcasting Inquiry Report, March 2000

> "Regulatory restrictions on …multichannelling…will be costly to Australian consumers and businesses alike. They will delay consumer adoption of digital technology and deprive businesses of opportunities to develop new products and services for the world as well as Australian markets."[14]
>
> "The Commission recommends that Australia's digital television conversion scheme be modified immediately to:
> - permit but no longer mandate, high definition transmission; and
> - minimise regulatory restraints on new digital services, including…multichannelling."[15]

Australian Consumer and Competition Commission, Report on Emerging Market Structures in the Communications Sector, June 2003

> "…the competitive impact of [multichannelling] would be likely to be relatively limited in the short term, given the small number of digital television receivers at present. This, however, also highlights a further potential benefit:that multichannelling may encourage the take-up of digital receivers and and transition towards full digital terrestrial services."[16]
>
> "…any benefit flowing from maintaining the status quo may be lessened over time. The restriction on FTA multichannelling may actually prevent the FTA operators from responding to new sources of competition."[17]
>
> "The Commission is skeptical of the need for the extent of the restrictions currently placed on multi-channelling. No persuasive evidence has been presented to date to indicate that removing the prohibition on multi-channelling would harm the FTA sector. The easing of the restrictions on multi-channelling would provide FTA operators with the ability to offer new services to consumers and has the potential to provide a wider range of services to consumers."[18]

House of Representatives Standing Committee on Communications, Information Technology and the Arts, Report "Digital Television: Who's Buying It?", February 2006

> "…it is essential that multichannelling is available prior to analogue switch-off in order to drive digital take-up and demonstrate the potential of DTV. The Committee concludes that all multichannelling restrictions should be lifted by 2008."[19]

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[14] Productivity Commission Broadcasting Inquiry Report, Report no 11, 3 March 2000, page 15

[15] Ibid, page 18

[16] ACCC Report to Senator Alston, Minister for Communications, Information Technology and the Arts, on Emerging Market Structures in the Communications Sector, June 2003, page 82.

[17] Ibid, page 84

[18] Ibid, page 85

[19] "Digital Television – Who's Buying It?", Inquiry into the uptake of Digital Television in Australia, House of Representatives Standing Committee on Communications, Information Technology and the Arts, February 2006

__The Allen Consulting Group report on The Removal of Restrictions on Digital Multichannelling by Commercial Television Broadcasters, September 2004 (commissioned by DCITA as part of the 2004 statutory review of multichannelling)__

> "Making additional channels available through multichannelling would be expected to provide an additional incentive for households to invest in a digital receiver, and so increase the rate of digital television adoption."[20]
>
> "Some concern has been expressed about the quality of television in a multichannel environment. We consider such concern to be largely unfounded for a number of reasons:
> - it is unlikely that the provision of new channels by existing broadcasters would lead to intensive price competition of a destructive nature;
> - evidence suggests that existing channels will have an incentive to continue investing in high quality programs so as to ensure that they do not lose their mass appeal and consequent advertising premiums;
> - to some degree, quality for existing or "main channels" is maintained through local content criteria;
> - quality expands to the degree that consumer preferences are better satisfied by the provision of a wider range of choice thorugh programs on the new channels; and
> - even if quality decreases somewhat on the existing "main" channels, the extra consumer welfare generated by the new channels is likely to offset the quality loss."[21]

[20] The Allen Consulting Group, "The Removal of Restrictions on Digital Multichannelling by Commercial Television Broadcasters", Report to the Department of Communications, Information Technology and the Arts, September 2004, page viii
[21] ibid, page vi