

**Paul Fletcher**

Director

Corporate & Regulatory Affairs

26 September 2006

Ms Roxanne Le Guen  
Secretary (Media Ownership Bills Inquiry)  
Senate Environment, Communications, Information Technology and the Arts  
Legislation Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

*Via email: [ecita.sen@aph.gov.au](mailto:ecita.sen@aph.gov.au)*

Dear Ms Le Guen

Optus welcomes the opportunity to provide a submission to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee inquiry into the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related Bills.

Optus will restrict its comments on the legislation to two key issues:

1. reform of the anti-siphoning scheme by introducing a “use it or lose it” system for sporting events on the list to commence on 1 January 2007; and
2. opening up of the two reserved digital channels for new digital services such as mobile television or new in-home services.

*Optus' interest in the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related Bills*

Optus has a longstanding interest in the issues raised by the legislation. In particular, Optus is a significant participant in the subscription television sector via its Optus TV arm and is a major provider of telecommunications services in the digital broadband (including wireless, terrestrial & satellite) sector. As a significant investor in Australia's telecommunications sector, Optus is also interested in the commercial opportunities which may arise as a result of the proposed media reforms.

Optus is interested in the opportunities created by new digital technologies to stimulate new content, services and delivery platforms. One such opportunity is the decision to allocate two digital channels of spectrum in the Broadcasting Services Band (BSB) in 2007.

Optus is interested in ensuring there is a stable and equitable regime to allow commercial investment by it and other service providers.

*Previous submissions to Government*

The comments contained in this submission are consistent and reflect the views expressed by Optus in our recent responses to:

- DCITA Discussion Paper '*Meeting the Digital Challenge – Reforming Australia's Media in the Digital Age*'

In this submission Optus noted that achieving a transition from analogue to digital television should be a priority for Government and require a deliberate, well-publicised and robust plan; implementation of the Government's media reforms should not seriously undermine the delicate balance that exists between the Free To Air and subscription television sectors and upon which significant long-term investment decisions have already been based; care must be taken with definitional issues as they relate to the types of new and innovative digital services that can be deployed over BSB spectrum; and that clarity must be given as to the services which may be provided by particular categories of providers.

- ACMA Discussion Paper 2006 '*Strategies for Wireless Access Services (WAS)*'

In this submission Optus supported regulatory flexibility to facilitate the introduction and proliferation of new and innovative telecommunications services. Optus supported ACMA's initiative of freeing up spectrum for facilitating widespread and rapid deployment of wireless access services across Australia.

- ACMA Discussion Paper 2006 '*Future Use of Unassigned Television Channels*'

In this submission Optus supported the re-allocation of unassigned television channels for wireless access services and noted the significance of a stable and equitable regime in attracting commercial investment in any future channels.

Importantly, Optus highlighted the need to ensure that no single wireless access service operator obtains a monopoly in the lower frequency bands and thereby minimising the risks associated with giving an overwhelming market advantage to a wireless access service operator that will profit from the commercial advantages to be achieved by low implementation costs and better coverage over the low frequency bands.

*Optus and the views of peak industry associations*

Optus is a member of the Australian Subscription and Television Association (ASTRA) and the Australian Mobile Telecommunications Association (AMTA). Optus endorses the views expressed by both ASTRA and AMTA on these issues.

In particular, we note the recent comments by AMTA supporting the proposal to make the two unallocated digital channels available in the BSB spectrum for new digital services including the delivery of content to mobile or handheld devices using the DVB-H Standard or similar technology and calling for regulatory conditions that encourage a competitive and diverse environment.

*Reform of the anti-siphoning scheme by introducing a “use it or lose it” system*

Optus does not support the retention of the existing anti-siphoning provisions, but does support the Government’s evolutionary reform of the provisions by introducing a “use it or lose it” requirement.

However, Optus supports the calls from ASTRA and the broader community that the new procedures for the scheme should be transparent to the community and industry and provide for an effective enforcement regime and the power for negotiating sporting rights arrangements should be returned to the governing bodies of the sport.

Optus endorses the recent comments of the Football Federation Australia, the National Rugby League and the Australian Football League that better management of the anti-siphoning list will result in significant consumer benefits – more live sport on television, greater opportunities for sport codes to develop and better management of TV rights by sporting organisations.

*New digital services*

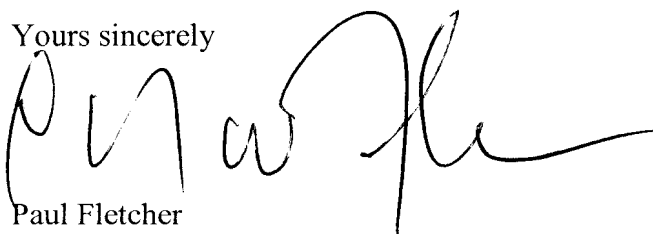
Optus welcomes the proposal to allocate the two currently unassigned digital channels of BSB spectrum nationally for new digital services for Australian consumers. We particularly welcome the Government’s recognition of the consumer benefits to be offered over the second channel (Channel B) in the form of a mobile television offering, 3G integrated mobile phone services and internet services offered via a subscription based service.

Optus is potentially interested in the possible commercial opportunities that arise from these new channels. However, we also believe that the Government should ensure the Channel B licensing scheme encourages competition. We are concerned at the risk that the party which acquires the licence may enter into an exclusive commercial arrangement with one 3G mobile operator and refuse to deal with other operators. Such a course of action could seriously harm competition in the 3G mobile telephony sector. It would in turn drastically reduce the number of new digital services, such as mobile television, that could be made available to consumers.

Optus therefore urges the Committee to recommend that the Government detail the additional measures it will pursue with the Australian Consumer and Competition Commission to ensure competition is promoted over the second channel.

If you have any additional queries or would like further information about any of the views expressed in this submission please do not hesitate to contact Dean Smith, General Manager, Government Affairs on 02 9342 8005.

Yours sincerely



Paul Fletcher