



**DIGITAL ECONOMY FUTURE DIRECTIONS
CONSULTION PAPER**

**DEPARTMENT OF BROADBAND, COMMUNICATIONS
AND THE DIGITAL ECONOMY**

**SPECIAL BROADCASTING SERVICE CORPORATION
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Introduction

SBS welcomes the opportunity to provide a submission to the Government's Digital Economy Future Directions Consultation Paper.

SBS is a national broadcasting service established under the *Special Broadcasting Service Act 1991* (SBS Act). Its principal Charter function is to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians, and, in doing so, reflect Australia's multicultural society. SBS broadcasts its programming to a national television and radio audience and delivers content online on its website www.sbs.com.au.

Open access to public sector information

SBS considers that as a national broadcaster it has an important role to play in maximising the benefits and opportunities of the digital economy.

The Government's Discussion Paper *ABC and SBS: Towards a digital future* (2008) referred to national broadcasting as providing Australians with 'an important community space ... which is an essential component of our democracy' (p. 1). It identified a set of primary objectives for national broadcasting, including: 'Universality – enabling all Australians to access broadcasting services, regardless of geography or capacity to pay, to allow them to participate in society and its institutions'; and 'Localism – allowing people with similar interest to communicate and participate in local communities' (p. 5).

The Discussion Paper refers to the use by the national broadcasters of their online platforms to provide a greater range of content, both highlighting the need to consider cost factors in decisions about their use of services provided through broadband internet as well as the potential for broadband to provide local services, for language communities in SBS's case.

SBS believes that all Australians, regardless of geography, age, cultural background or language skills should have access to high quality, culturally relevant, independent public interest media to promote democracy, social inclusion and a broader sense of Australia and its place in the world.

Australian consumers now expect online services as part of their media consumption and it is imperative that the national broadcasters keep pace with these expectations. The capacity of the national broadcasters to deliver rich online content will help the Government realise the value of its investment in broadband infrastructure.

SBS considers that the national broadcasters should be prominently placed in any roadmap addressing how to maximise Australia's participation in the digital economy.

SBS has referred to the role it can play in encouraging and maintaining such participation in its submission to the Discussion Paper, and has outlined its plans in its Triennial Funding Submission 2009–2012 and in its document 'SBS's Plans for the Future'.

However these plans are contingent on an increase in Government funding.

The plans include:

- making all of SBS's content available streamed or on-demand via broadband connections and made available to mobile devices;
- producing original online material, including user generated content;

- providing more opportunity for debate and engagement through online forums;
- providing online hubs for every one of the 70+ language communities catered for by SBS services – a ‘public square’ of content, discussion and news;
- making full use of the power of new broadband opportunities for content delivery.

The creation of online language hubs, including the facilitation and moderating of user generated content, will ensure SBS can meet the objectives of universality and localism that underpin public broadcasting.

SBS also has ambitions to acquire the rights to original online content across a range of genres (e.g. sport, factual, entertainment, in-language etc) to ensure its online platform reflects the uniqueness of its broadcasting services.

The role of national broadcasters includes the need to be innovative. Innovation in content creation is part of SBS’s Charter. This is articulated in the Government’s Discussion Paper as a key objective of national broadcasting: ‘providing informative and thought-provoking content that enriches society, and encouraging creative endeavour and the development of new talent’ (p. 5).

SBS already draws on the talents and skills of the Australian independent production sector for its commissioned content and this has resulted in experimentation with different program formats including online initiatives. However, adequate funding models are required to ensure that the national public broadcasters are able to take advantage of the potential for new program formats to attract and engage audiences and fulfil the objectives of national broadcasting.

Digital confidence

SBS’s archived content represents a substantial collection of radio broadcasts in 68 different languages, locally made television productions, news and current affairs programs and productions commissioned in collaboration with the independent production sector. SBS frequently utilises its archive of content in new ways and in particular in digital applications, including the repurposing of program material for SBS websites developed around general themes e.g. the food portal.

However the potential for further use of SBS’s archived content is much broader, and includes the reissue of popular series, radio programs and documentaries online and in other new digital applications, as well as allowing SBS’s audiences to interact with such programming to a far greater degree.

SBS has plans to significantly expand its online service to include catch-up television. This service will be provided for free but may include a time-limit for downloads. This is a fairly common feature of catch-up television as evidenced by both the ABC (I-VIEW) and the BBC in the UK and sits well with the principle of universality for public broadcasting.

In the future SBS could also consider making its content available in a ‘download to own’ capacity which would attract a fee payable by the user. This is similar to selling DVDs of SBS content and users would be able to burn a copy of a show or a series to keep. The fee would be commensurate with market rates for similar content. Digital storage and play technology also creates an avenue to market content that may not have previously been considered for DVD release.

Unfortunately there are currently significant barriers to achieving greater public accessibility and reuse of SBS’s valuable archives. In summary, there are two main

issues which need to be addressed if SBS is to efficiently reuse its archive for maximum public benefit: ongoing preservation and maintenance of the archive; clearance of rights for digital reuse (see below under 'Ensuring Australia's regulatory framework enables the digital economy').

SBS lacks resources to properly preserve and curate its program records. Copyright laws do not facilitate in-house preservation activities but rather create infringement risks which, unfortunately, have resulted in some archival material being discarded rather than preserved. Many requests for reuse by third party cultural institutions or documentary makers must be refused, to the public detriment.

Ensuring Australia's regulatory framework enables the digital economy

The contractual and copyright restrictions in virtually every audio and audio-visual work mean that clearance of rights for digital reuse is extremely complex and time-consuming. In contrast to other areas of copyright licensing there is currently no collective clearance mechanism for such rights. Each rights holder must therefore be individually contacted and negotiated with, down to the last actor, image photographer and composer of each piece of incidental music. In many cases underlying rights holders cannot be traced despite every reasonable effort (the "orphan works" issue). In other cases a minor rights holder may refuse permission despite other rights holders having given the project their blessing; or a rights holder may have died or gone into bankruptcy leaving uncertainty over title.

These issues mean the resources and the legal risks involved in undertaking such clearances are prohibitive.

SBS, along with the ABC and other national cultural institutions, made submissions requesting legislative changes to address these barriers to digital reuse of archive collections in the 2005 Attorney-General's fair use inquiry (see http://www.nationalsecurity.ag.gov.au/www/agd/agd.nsf/Page/Publications_Copyright-ReviewofFairUseExemption-May2005). The Attorney-General's Department has subsequently indicated that an orphan works review is being considered.

SBS would be happy and willing to be involved in discussions on how the copyright regime could be adapted to promote digital confidence.

Conclusion

The national broadcasters have an important role to play in maximising the benefits and opportunities of the digital economy by providing Australians with rich digital content. However adequate funding models are required to ensure that the national broadcasters are able to take advantage of the potential for new program formats to attract and engage audiences and increased the use of information and communication technologies by all Australians.

In particular, SBS would like to make its archived content available to audiences for further access but faces some barriers. The main barriers to achieving greater public accessibility and reuse of its archived content are the lack of resources to deal with ongoing preservation and maintenance and contractual and copyright restrictions which mean that the clearance of rights for digital reuse of content is extremely complex, time-consuming and in some cases impossible.