



**media, entertainment & arts alliance**  
the people who inform and entertain

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**Media, Entertainment & Arts Alliance  
Submission to Department of Broadband,  
Communications and the Digital Economy**

**Re: Content and Access: The future of  
program standards and captioning  
requirements on digital multi-channels  
Discussion Paper**

**January 2010**

**The Media, Entertainment & Arts Alliance**

The Media, Entertainment & Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, dancers, symphony orchestra musicians, freelance musicians and film, television and performing arts technicians.

## Introduction

The Media, Entertainment and Arts Alliance (the Alliance) welcomes the opportunity to provide the following comments to the Department of Broadband, Communications, and the Digital Economy regarding its Discussion Paper titled *Content and Access: The Future of program standards and captioning requirements on digital multi-channels*.

The Alliance however wishes to note up front that the time period for which stakeholders have been provided with to make comments is manifestly inadequate for such a critical issue. The Review itself was announced on the 4 December 2009 and submissions are due on December 31. This provided stakeholders with (accounting for Christmas holidays) a mere 13 and a half business days to make a submission on what is essentially the future of local content in Australia.

The Alliance can only take this to mean that the government's position with regard to the Multi-channel Review is set – something that is further confirmed by the Minister's statement at the recent SPAA conference. While not definitive, it is clear that the Minister's position leans towards a do-nothing approach. The Alliance takes issue with this and what seems to be essentially a fait accompli process.

This submission is divided into two parts. The first provides the significant historical and current context in which this review takes place. Government support for Australian content in broadcasting through regulation has been in place for close to 50 years. This review of multi-channelling however is a major crossroads for the future of Australian content and needs to be acknowledged as such.

Part two details the Alliance's response and recommendations to the Department's options for applying program standards to digital television multi-channels.

## Executive Summary

The Alliance reminds the Government that free to air (FTA) commercial broadcasters have been provided with access to public spectrum, which remains a highly valuable resource both in terms of the commercial opportunities it enables and the social cohesion it promotes.

Currently the free to air multi-channels are screening minimal levels of Australian content. The Alliance has undertaken an analysis of content on the multi-channels and found that Go! had 3.2 percent local content, SevenTwo, 15.1 per cent and One HD 14.3 per cent between the hours of 6am and 12 midnight. This is abysmal.

Free to air television broadcasters have received, at no additional cost, the benefit of public spectrum access allowing them to multi-channel with consequent commercial benefits. Our organisations believe that it continues to be reasonable to impose social and cultural responsibilities on commercial free to air broadcasters for this access.

We call on the Australian Government to restate its continuing commitment to ensuring the delivery of Australian content on free to air digital television *including* the digital multi-channels.

The Alliance believes a comprehensive, thoroughgoing review of the broadcasting environment with respect to Australian content needs to be conducted as a priority.

The Alliance recommends that the Australian Government restate its commitment to ensuring the delivery of Australian content on free to air digital television including the multi-channels and the necessity and importance of Government regulatory mechanisms in delivering this.

The Alliance recommends that the Australian Government ensure the delivery of Australian content on free to air digital television multi-channels via some form of regulatory or direct or indirect intervention, from the start of multi-channelling.

In the alternative and recognising the Government's intention to delay applying any programming standards upon the free to air digital television multi-channels, the Alliance recommends that at a minimum that the Government state its intention to ensure that Australian content will be delivered on free to air digital multi-channels via Government intervention at the next review following switchover.

The Alliance does not support Option 1 on the basis that it will lead to the dilution and marginalisation of Australian content.

The Alliance broadly supports Option number 2 including bringing forward the date at which exemptions for program standards and captioning requirements end.

The Australian Content Standard transmission quota of 55 per cent Australian programming should be applied to all commercial broadcasters on their first multi-channel and then extended to any further new multi-channels to the extent possible under the Australian US Free Trade agreement.

The Television Program Standard for Australian Content in Advertising requiring at least 80 per cent of advertising time broadcast each year by commercial television licensees between the hours of 6.00am and midnight is used for Australian-produced advertisements should be applied to all commercial broadcasters on their first multi-channel and then extended to any further new multi-channels to the extent possible under the Australian US Free Trade agreement.

The Alliance acknowledges the difficulties with regard to imposing particular genre sub-quotas. To this end the Alliance believes that alternative mechanisms must be developed, including incentives, production funds or a limited tradeable quota scheme.

The Alliance does not support allowing commercial free to air broadcasters to develop multi-channels that exclude or preclude Australian content.

That monitoring and reporting of the local content levels on the multi-channels be immediately implements to the same extent as the core channel.

The Alliance does not support Option 3 on the basis that the inherent market failure extant in the broadcasting industry will lead to the design of multi-channels that preclude Australian content.

The Alliance does not support Option 4 on the basis that it will lead to the dilution and marginalisation of Australian content.

The Alliance is open to the development of a tradeable quota scheme within the following parameters:

- That in addition to the 55 per cent Australian Content and 80 per cent Advertising Content Standards applying, the program standard sub-quotas be applied to every Networks' first channel and every other channel up to the maximum amount allowed under the AUSFTA;
- That trading in these subquotas be confined to the secondary (non-core multi-channels);
- That the current obligations continue to be placed upon the free to air core channel with no trading of subquotas;

That it be confined to the commercial broadcasters multi-channels ie public broadcaster multi-channels are not involved

The Alliance recommends that further options be explored and considered in order to ensure the ongoing viability and availability of Australian Content. This could include:

- Incentives in the form of a specific licence rebate for new multi-channel subquota programming (and potentially subscription television channels for above obligation programming);
- A multi-channel programming fund;

A production expenditure requirement similar to subscription television

Furthermore the Alliance has joined with the rest of the Australian screen industry including:

- The Australian Directors Guild;
- The Australian Cinematographers Society;
- The Australian Guild of Screen Composers;
- The Australian Screen Editors Guild;
- The Australian Writers Guild; and
- The Screen Producers Association of Australia

to put forward a joint position with regards to this Discussion Paper. This position is largely reflective of the position the Alliance has put in this paper and is at **Appendix A**.

## **Part 1**

### **The current Australian broadcasting context**

This Review is taking place at a time of significant change in the broadcast environment both technologically and structurally.

The Government is currently implementing the digital switchover plan which would see final analogue to digital switchover by 2013 – a process that begins in July of next year. The Government is further reviewing the anti-siphoning regime, the so called digital dividend and the Commercial Television Industry Code of Practice has just been reviewed with significant changes implemented.

Most significantly though, the Australian government has announced the establishment of a company that will build and operate a wholesale only, open access National Broadband Network providing fibre optic to the home and workplace, supplemented with the next generation wireless and satellite technologies to deliver superfast broadband services. The National Broadband Network will impact significantly upon the media landscape as the NBN will allow IPTV and other TV-like services to be introduced on a broad scale. This has the potential to undermine the commercial viability and centrality of the free to air networks that have had a long standing oligopolistic influence over the market due to the natural restrictions of spectrum based licensing. The Alliance's submission on this is at **Appendix B**.

Combined with the competitive impact of an ascendant subscription television market<sup>1</sup>, as well as changing media habits of the Australian population, the business model for commercial free to air television will change significantly over the coming years.

While the Alliance believes a comprehensive, thoroughgoing review of Australian content needs to be conducted as a priority, the Alliance here simply points to this changing and volatile environment as the context in which local content regulations for multi-channelling needs to be considered in this Review.

### ***Rationale for regulating multi-channels***

In summary , the Alliance puts forward the following reasons for regulating the free to air digital multi-channels:

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<sup>1</sup> This is evidenced by the fact that subscription TV was the number one source of TV across Australia in October 2009 with subscription television channels representing 21.8 per cent of all metropolitan viewing between 6am and midnight, 21.2 per cent of all regional viewing and 57.2 per cent of all viewing in subscription TV homes. ASTRA, "Subscription TV is Number One Across Australia", 4 October 2009

- free to air broadcasting including its extended footprint via the multi-channels remains the most pervasive and influential mass media and for the majority of Australians is the most significant form of cultural activity;
- broadcasting services including the multi-channels continue to have a critical community building role in reflecting a sense of Australian identity, character and cultural diversity;
- free to air television broadcasters have received at no additional cost the benefit of access to spectrum that allows them to multi-channel (with the consequent commercial benefits of advertising revenue), it is therefore reasonable to impose some social and cultural responsibilities.

Furthermore, if the Government were to decide not to regulate multi-channels for Australian content purposes this would:

- provide a significant unfair advantage to free to air multi-channels over the subscription television industry;
- at best maintain current levels of Australian content available but more than likely dilute and marginalise Australian content within a growing universe of broadcast channels filled with foreign (mainly US) content; and at worst actually work to decrease the level of Australian content;
- allow free to air commercial broadcasters a free ride to profit from a valuable public good; and
- derogate the Government's responsibilities in ensuring the ongoing viability of Australian culture.

The Alliance discusses these points below.

### **The Australian Content Standard**

The Australian Content Standard ensures that there is 55 per cent Australian content including a minimum level of first release Australian drama, children's drama, documentary and programs for children. In addition to this there is an 80 per cent Australian content standard for television advertising (TPS-23) on free-to-air commercial television (excluding public service announcements, political advertising and promotional advertising for overseas films and performing arts events).

Local content quotas were introduced in 1961, with a specific quota for Australian drama introduced in 1966. Since that time the overall levels of Australian content to be broadcast have gradually increased in line with the capacity of the broadcasters to commission, produce and broadcast Australian content.

Local content quotas have been supported by every Government since to ensure that Australia's culture is represented on our screens and to encourage creative expression. It has been a long established public interest obligation of privately owned broadcasters in return for continued spectrum access and protection from competition.

The underlying principles of the standards were listed by the Australian Film Commission (now Screen Australia) in 2002<sup>2</sup> as follows:

- *“mass media, and television in particular, are extremely pervasive and influential and for the majority of Australians are the most significant form of cultural activity;*
- *Australians should have available a diverse range of broadcasting services offering entertainment, education and information;*
- *broadcasting services have a role in reflecting a sense of Australian identity, character and cultural diversity;*
- *in our society television has important social and cultural roles and cannot be seen as a purely economic activity;*
- *as television broadcasters receive the benefit of access to spectrum (with the consequent commercial benefits of advertising revenue), it is reasonable to impose some social and cultural responsibilities.”*

The Explanatory Memorandum to the Broadcasting Services Act 1992 (the BSA) refers to the underlying policy for Australian content regulation as follows:

*“The rationale for this provision is that it is widely accepted that television is a powerful medium with the potential to influence public opinion and that television has a role to play in promoting Australians' cultural identity.”*

In relation to the Standard, the Memorandum also states:

*“...it is intended that commercial television broadcasters broadcast Australian programming which reflects the multi-cultural nature of Australia's population, promotes Australian culture and identity and facilitates the development of the local production industry.”*

The words used in the Memorandum express a close connection with the BSA objectives:

*(b) “facilitat[ing] the development of a broadcasting industry that is efficient, competitive and responsive to audience needs; and*

*(e) promot[ing] the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity.*

Generally speaking though, every developed nation including the US regulates the broadcasting space for outcomes that are socially valuable for that society. As Professor Eli M Noam argues in “TV or not TV: Three Screens, One Regulation”<sup>3</sup>

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<sup>2</sup> Australian Film Commission, Review of the Australian Content Standard Submission to the Australian Broadcasting Authority, February 2002,  
[http://www.afc.gov.au/downloads/policies/aba\\_sub\\_feb02.pdf](http://www.afc.gov.au/downloads/policies/aba_sub_feb02.pdf)

*“Each society wants to facilitate the creation of distribution of "merit" programs, while preventing or reducing "non-merit" programs. The former are perceived to contribute positively to societal goals while the latter detract from it. What constitutes merit is contextual to the particular country, and will vary greatly. Each society has its concerns, problems, issues, traditions, priorities. Americans worry about sex more than do the French, who in turn are more concerned about their linguistic purity and cultural role. Swedes fret about violence. Germans, burdened by their past, are sensitive about racist incitement. Many Italians worry over Silvio Berlusconi and his combined media and political role. Canada is concerned about a weakening of its national identity and of bilingualism. China protects party control.*

*Spectrum scarcity, and the consequent need to allocate frequencies by a license to which conditions and regulations were attached, provided the nexus and rationale. But scarcity is not an essential condition for pursuing these goals. None of the societal objectives will vanish just because television signals travel over digital pipes rather than analog airwaves. It seems unlikely that societies will simply give up on their societal priorities just because the video information now takes a different path or is encoded in different way. Instead, they will simply adjust the tools to the new environment.*

*It is therefore unlikely that societies will leave TV alone, whether analog, digital, or IP; whether over the air, over cable, or over IP networks, or whether there is a bottleneck or not.*

*In countries with a democratic political system and a mixed economy, the goals of TV regulation are generally:*

- *Change the market based-balance of "merit" and "non-merit" content, in order to benefit, in particular:*
  - *Children & education*
  - *Social harmony*
  - *National culture*
  - *National media producers*
- *Assure a vibrant democracy through diversity of:*
  - *Content*
  - *Sources*

*In the Canadian context, special aspects of these issues include:  
Modifying the market balance of US vs. Canadian content and ownership  
Maintaining a balance in the content for and by the two major language groups.”*

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<sup>3</sup> Eli M. Noam “TV or Not TV: Three Screens, One Regulation?” Columbia University, July 11, 2008, <http://www.crtc.gc.ca/eng/media/noam2008.htm>

In the Australian context, similar goals are sought to be achieved, as described above, through current regimes of regulation. These continue to be updated as technology progresses.

## **Television Program Standard for Australian Content in Advertising**

With respect to the Television Program Standard for Australian Content in Advertising the regulations were introduced in 1955 when action to restrict the importation of television advertisements, except for training purposes, was made under customs regulations. These were lifted in 1960 but the Postmaster General regulations were introduced under the Broadcasting and Television Act that prevented their importation. The Australian Broadcasting Control Board then announced that up to 20 per cent of overseas content could be used in advertisements as long as the material was of places, events sounds or personalities not available in Australia.

These rules were challenged in the Federal Court with the outcome being that the Minister for Communications introducing legislation to ensure that the Australian Broadcasting Tribunal should have clear powers to set both qualitative and quantitative broadcasting standards leading to TPS 20 in 1986.

Television commercials were included in the original Australian content standard, which was introduced for cultural and industrial objectives. During the 1992 Inquiry into Australian Content on Commercial Television by the Australian Broadcasting Tribunal, the Department of the Arts, Sport, the Environment, Tourism and Territories made a submission to this review that stated that

*“The submitter [The Department] believes the current [television commercial] standard should be maintained. [The Department] submits that the overriding justification for continuing with current standards is for cultural reasons. The very nature of advertising is to promote and project attitudes and values. It is important that these remain overwhelmingly Australian.”*

It goes on to list the other economic reasons for the standard including that it:

*“provides work and creative opportunities for production industry (sic); [and] helps to sustain an infrastructure necessary to ensure Australian presence on screen.”*

The other government agencies – the AFC and the AFTRS agreed with this position.

## **The Australian Content Standards and multi-channelling**

Multi-channelling refers to:

*“the simultaneous broadcast of multiple digital television program streams within one allocation of terrestrial broadcast spectrum. The more economical use of spectrum made possible by broadcasting in digital mode theoretically allows FTA terrestrial television broadcasters to provide two or more digital channels with a 7 MHz spectrum allocation<sup>4</sup>”*

In the transition from analogue to digital the free to air broadcasters were provided with 7 MHz of spectrum free of upfront charge. In return they were required to simulcast their existing service in analog and digital format for eight years, after which they will have to return the equivalent of their loaned spectrum to the Commonwealth. In 2006, the commercial free to air broadcasters were subsequently allowed to provide one standard definition multi-channel from 1 January 2009, thereby extended their licensing of the spectrum. It was during this review that the current review of local content requirements was proposed.

Multi-channelling is essentially the extension of the three traditional commercial free to air channels with additional free to air channels. It is likely therefore that free to air networks will maintain their traditional central position within the television landscape. This is due largely to its essentially free to the household status (albeit paid for through the imposition of advertising time and interruptions to the viewer). Subscription television with its essentially pay to view nature will always be a discretionary spend for Australian audiences.

Therefore free to air broadcasting (including its extended footprint over multi-channels) will remain the most pervasive and influential mass media and for the majority of Australians is the most significant form of cultural activity for the foreseeable future.

In this way the rationale for regulating multi-channels is essentially the same as it has been for the traditional core channels since these broadcasting services will continue to have a role in reflecting a sense of Australian identity, character and cultural diversity.

This role as argued above emerges from the free to air networks access to the valuable public resource of spectrum. This is the same spectrum that now allows via technological development the broadcasting of more than one channel. As pointed out above free to air television broadcasters have received (at no additional cost) the benefit of access to spectrum that allows them to multi-channel (with the consequent commercial benefits of advertising revenue). It is therefore reasonable to impose some social and cultural responsibilities.

The Alliance does of course acknowledge that the introduction of multi-channelling will have a number of potential consequences including increasing the expenses of the free to air networks through the need to fill a greater number of greater competition. However the Alliance counters that the multi-channels also create

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<sup>4</sup> Department of Communications, Information Technology and the Arts, Provision of Services other than simulcasting by free to air broadcasters on digital Spectrum, page 8

greater revenue streams through competing in the same niche multi-channel space as subscription television.

However, without additional regulations to ensure the presence and delivery of Australian content on the multi-channels this will dilute the availability and presence of Australian content within the Australian media landscape.

Multi-channelling was originally prohibited by commercial broadcasters to

*“balance the interests of the commercial and national broadcasting sector, the pay TV sector, and other communications sectors and other communications sectors. At the time ... FTA multi-channelling was regarded as a source of potential unfair competition for the developing pay TV sector, which had only been operational in Australia for three years.”*

The decision however was made by government to allow multi-channelling on the basis that:

*“new opportunities [should] be made available to broadcasters in the transition to a fully digital television broadcasting environment for those who wish to take up the opportunities... While the Government recognises there are a range of views relating to the benefits and impacts of multi-channelling, the availability of some new digital services will provide more variety for consumers and further contribute to digital take-up.”<sup>5</sup>*

In the Departmental Report that was the basis for the Minister’s decision, it stated that

*“Clearly the competitive influence of the FTA industry on the subscription broadcast industry is significantly increased if existing FTA broadcasters are allowed to provide subscription services. However the degree to which this additional competition manifests itself in practice will be heavily influenced by:*

- *The local content laws that apply to new channels and*
- *The scope of the anti-siphoning lists and their application to the new digital channels.”*

This was acknowledgment by the Government that free to air broadcasters being able to multi-channel will increase competition between FTA broadcasters and subscription television and the new free channels will act as a disincentive to subscribe to pay television. This can only be exacerbated if there are no regulations placed upon FTA multi-channels.

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<sup>5</sup> Senator The Hon Helen Coon, Minister for Communications, Information Technology and the Arts, Media Release, “New Media Framework for Australia”, 13 July 2006

## Unfair advantage over the subscription television industry

The Discussion Paper poses the issue that if standards were applied to all multi-channels this would restrict the programming that digital multi-channels could show, potentially limiting their attractiveness to advertisers and audiences. The example used is a dedicated foreign movie channel.

The key problem here is that allowing incumbent free to air broadcasters to compete in a space traditionally taken by the subscription television industry will provide a significant unfair advantage over the subscription television industry and potentially decreasing the level of Australian content available. The reason for this is as follows.

Consider the circumstances where there are no content obligations on free to air niche multi-channels (essentially Option One in the Discussion Paper). These unencumbered multi-channels will for all intents and purposes compete in similar niche market segments that the subscription television industry already broadcasts. However, subscription drama channels have a 10 per cent local content expenditure requirement. This places the free to air multi-channel sector at a significant cost advantage over the subscription television industry. This has the potential of undermining the subscription television business model. For example, if a free to air commercial broadcaster were to compete in the adult drama space against a Showcase or HBO-like subscription channel – the level of subscriptions could potentially fall, decreasing program expenditure on the subscription channels and therefore decreasing the amount that has to be spent by the subscription channels on local content under the expenditure requirement standard.

Therefore there is a potential (and the Alliance would argue that this is a highly likely scenario) that by not placing any obligations on the free-to-air multi-channels that not only will the level of Australian content on free to air broadcaster remain static (and proportionally fall) it will also decrease the amount of Australian content (both in expenditure terms and hours) on subscription television.

In addition to the basic unfairness in regulating one channel and allowing another to be left unregulated, this would be an unacceptable outcome. And yet it is clearly not an unrealistic one.

Already the Nine Network's Go! is achieving strong ratings with a 5.6 per cent share of the market – enough to achieve the highest rating single program across the multi-channel and subscription television sector.<sup>6</sup> The screening of the US comedy series *The Big Bang Theory* on *GO!*, attracted an average 230,000 viewers across all demographics at 7.30pm one Sunday night in August 2009, making it the highest rating program in the survey year-to-date across the subscription TV and multi-channel platform, excluding sports events, in the 5 City Metro market. This result

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<sup>6</sup> Go!, Media Release, "Go!, Australia's newest free-to-air television channel is the most successful multi-channel ever to launch, breaking records in all markets," 24 August, 2009

surpassed the result of FOX8's flagship *Australia's Next Top Model Live Finale*, which averaged 185,000 earlier in 2009.

The Alliance is mindful of the nascent state of the multi-channel industry, yet the above results demonstrate that Australian audiences have been quick to adapt to the new multi-channel regime (possibly through a combination of digital switchover dynamics and publicity and subscription television experience) and is delivering strong results for the free to air broadcasters.

Nine Network CEO, Mr David Gyngell, said:

*"This is a terrific result for GO! and for free-to-air television. Viewers have embraced the channel and what it has to offer, and to be recording this sort of outcome within a couple of weeks of our soft launch is very good news for Australian television and the PBL Media Group."*

With this, the Alliance strongly believes that local content obligations must be placed upon the multi-channel from the very beginning.

The drama channels on subscription television were obliged to spend 10 per cent of its programming expenditure on Australian local content from the establishment of subscription television in Australia (albeit not enforceable and with patchy compliance until the legislation was amended in 1997). While the Alliance still believes that such requirements remain too low and should be increased to the maximum allowed under the Australia US Free Trade Agreement (including obligations on documentary, arts and children's channels), the subscription television drama channels have matured to a level that has produced some of the most critically acclaimed and popular Australian drama including *Tangle*, *Love My Way* and *Satisfaction*.

In the free to air space, as mentioned above, commercial free to air television first commenced in 1956 with local content regulations not being introduced until 1961. These were introduced because of the overwhelming predominance of US and UK programming. In 1956 there was no Australian television industry. The local content regulations established a vibrant and culturally relevant industry that survives and flourishes today. The first five years of Australian free to air television did not produce any local content of note. With no local content rules on multi-channels it is clear the same will occur now. In fact as detailed below there is as low as 3.2 percent local content on one multi-channel (Go!).

Public spectrum is a public good. The licensing of this public good yield the Australian Government \$271.1 million in 2006/07 with expenditure in the sector of over \$3.3 billion and a record profit of \$654.2 million. The public spectrum is clearly an ongoing viable and valuable commodity.

The Alliance believes that given that the free to air sector has been provided the additional space to screen more channels essentially for the same amount as

screening the one channel, that local content obligations should be placed upon the multi-channels and the sector can clearly afford to meet these.

Not to do so would be to allow free to air commercial broadcasters a free ride to profit from this valuable public good. Inaction in this instance will be a clear derogation of the Government's responsibilities in ensuring the ongoing viability of Australian culture.

**Recommendations:**

**The Alliance believes a comprehensive, thoroughgoing review of the broadcasting environment with respect to Australian content needs to be conducted as a priority.**

**The Alliance recommends that the Australian Government restate its commitment to ensuring the delivery of Australian content on free to air digital television including the multi-channels and the necessity and importance of Government regulatory mechanisms in delivering this.**

**The Alliance recommends that the Australian Government ensure the delivery of Australian content on free to air digital television multi-channels via some form of regulatory or direct or indirect intervention, from the start of multi-channelling.**

**In the alternative and recognising the Government's intention to delay applying any programming standards upon the free to air digital television multi-channels, the Alliance recommends that at a minimum that the Government state its intention to ensure that Australian content will be delivered on free to air digital multi-channels via Government intervention at the next review following switchover.**

## Part 2

### **Options for applying program standards and captioning requirements to digital television multi-channels**

The Alliance addresses the five options proposed by the DBCDE below. The Alliance believes that the Government should not be restricted to the options described below but take a broader more inclusive approach with alternative models to ensure that new Australian local content is screened and promoted by the free to air multi-channelling environment.

#### **Option 1: Specify that one digital multi-channel must continue to meet all program standards**

This option is essentially the do-nothing approach and would be most favoured by the free to air industry and it seems the Government.

The Alliance does not and cannot support this approach.

To do so would be to dilute and marginalise the presence of Australian content on free to air television. Firstly the amount of hours of Australian content as a proportion of free to air hours available will fall significantly. In the case of the networks screening channels with only US content, this will mean that 55 per cent local content could potentially be decreased to 27.5 per cent local content and potentially lower if there is more than one multi-channel. Australian content will essentially be lost amongst the glut of foreign product available in the free to air space. This will decrease the prominence of Australian content and will likely lead to decreased ratings for, and viability of, Australian content for the networks.

The Government must stand up and acknowledge the importance of Australian local content and ensure that it remains a prominent and growing feature of the Australian television environment. Not to do so would be a derogation of a responsibility that every government for the past 50 years has accepted and supported.

**Recommendation:**

**The Alliance does not support Option 1 on the basis that it will lead to the dilution and marginalisation of Australian content.**

## Option 2: Bring forward the date at which exemptions for program standards and captioning requirements end

The Alliance supports bringing forward the date at which exemptions for program standards end and as a principle the Government must support their application to the maximum extent allowed under the Australia US Free Trade Agreement.

It is clear that a large amount of the programming on the multi-channels is already, and will continue to be, drawn from US material largely held by the free to air broadcasters – largely through package studio deals. These deals provide them with large numbers of US dramas, comedies and other material in order to gain access to the most successful material. To this extent there is a large amount of new foreign material on the multi-channels. There is however little Australian product – be it repeat or new. Indeed the Alliance understands that there is no new Australian content on the multi-channels outside of some news and sports programming on One HD.

The Alliance has analysed the content appearing on the three commercial multi-channels Go!, Seven Two and One HD for the week between Monday 4 January 2010 and Sunday 10 January 2010. This analysis found minimal levels of Australian content, made up mostly of repeat material.

Nine Network's Go! Channel featured six hours of Australian content in the 168 hours (seven times 24 hours) of programming which was made up of three episodes of the somewhat ironically titled game show *Wipeout Australia*. For the hours of 6am and midnight Go! featured 4 hours of *Wipeout Australia* reaching a mere **3.2 per cent Australian content**. None of this is new content.

Go! is made up almost exclusively of US comedies, dramas, reality series, lifestyle programs, children's television and movies including *I dream of Jeannie*, *Bewitched*, *The Partridge Family*, *Gossip Girl*, *The Hills*, *TMZ*, *Fringe*, *Weeds*, *The Wire*, *Survivor*, *The Bachelor*, *The Bachelorette*, *Hell's Kitchen*, *Kitchen Nightmares*, *CSI*, *Seinfeld* and *Curb Your Enthusiasm*.

The Seven Network's 7two featured close to 49 hours of largely repeat Australian shows in the 168 hours (seven times 24 hours) of programming. During this week the multi-channel screened the following repeat Australian content:

- *Sons and Daughters*;
- *Home and Away*;
- *Mother and Son*;
- *The Mole*;
- *Headland*;
- *Harry's Practice*
- *Mercurios Menu*
- *In the Bush with Malcolm Douglas*.

- *The Outdoor Room with Jamie Durie.*

However it needs to be noted that this was largely made up of almost 27 hours of repeat screenings of AFL football between the hours of 1am and 6 am in the morning.

Therefore for the hours of 6am and midnight SevenTwo featured 19 hours of Australian content or **15.1 per cent**. None of this was new content.

On Network Ten's One HD the network boasts that its sports channel shows a mix of Australian sports including AFL, Swimming, Netball, Cricket, Golf, rally driving and foreign sports programs including Cricket, Formula 1, MotoGP, NASCAR, Drag Racing, Golf, US Basketball, US baseball, NFL and other fringe sports including Paintball.

However, examining the schedule for the week from 4 January 2009 to 10 January 2010, few if any of the Australian sports were available on the schedule. In total over the seven times 24 hours the channel featured 24 hours and 10 mins of Australian content. However, for the hours of 6am and midnight One HD only featured 18 hours of Australian content or **14.3 per cent**. The Alliance suspects that much of this content is repeat material but come of this by its very nature as sport will be new to television.

This brief analysis is strongly indicative of appallingly low levels of Australian content.

At a minimum the Alliance believes that the following should occur.

- Immediately implement monitoring and reporting of the local content levels on the multi-channels to the same extent as the core channel.
- That the *Broadcasting Services (Australian Content) Standard 2005 (ACS)* be imposed requiring all commercial television licensees to broadcast an annual minimum transmission quota of 55 per cent Australian programming between 6.00 am and midnight on their first multi-channel and then extended to any further new multi-channels to the extent possible under the Australian US Free Trade agreement.
- That the *Television Program Standard for Australian Content in Advertising* be imposed requiring that at least 80 per cent of advertising time broadcast each year by commercial television licensees between the hours of 6.00 am and midnight is used for Australian-produced advertisements.

With respect to advertising the Alliance notes that the Free TV Code of Practice Review following a recent review now allows an increased level of screening of "Non-Program Matter" (ie Advertising) from the standard 13 minutes to 15 and 16 minutes.<sup>7</sup> While the Alliance acknowledges that revenues will be low at the

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<sup>7</sup> *Code of Practice, Appendix 6, 5.3 Hourly Limits*

beginning such an increase will provide a significant boost to the possible advertising moving into the future. The Alliance therefore expects the TPS for Australian content in Advertising of 80 per cent to apply as a quid pro quo.

The Alliance however recognises and acknowledges that the current state of the program standard subquotas (including drama, documentary and childrens) are not necessarily appropriate nor wholly practical for the free to air multi-channels. To this end the Alliance believes that additional mechanisms must be developed to underpin certain specific genre sub-quotas. These could include the possibility of incentives, production funds or a limited tradeable quota scheme, described further below.

The Discussion Paper refers to three possible problems with Option 2.

The first is that it will bring “additional cost and administrative burdens for commercial broadcaster”, the second is that “it may also discourage commercial broadcasters from providing certain types of program content or even establishing new digital multi-channels” and thirdly that “the option could prove difficult in the time available.”

Addressing the first issue, all regulation brings additional cost and administrative burdens. This is a small price to pay for access to a valuable public resource. Further Government regulation seeks to create local content dividends – again the additional cost and administrative burdens are a small price to pay for this. Finally, the FACTS Code has, as described above extended the amount of advertising allowed on these channels, whereby providing for a potential increase in advertising revenue – this should be in part directed to supporting a business model that includes regulation.

On the second issue, the Alliance does not accept that the free to air broadcasters should be allowed to create channels that by definition or by creation exclude the possibility for Australian content to be screened. The ACMA already places restrictions on the types of channels allowed on subscription television, for example, rules relating to gaming or adult channels. By definition the local content standards for nearly the past 50 years have ensured that certain types of content have been and have not been screened on the commercial broadcasters. The Alliance merely argues that the same should be done for the free to air multi-channels. The Alliance again points out that the free to air licencees have access to an extraordinarily valuable and profitable public asset and good and regulations regarding the type of channels that they cannot develop should as a minimum be imposed.

With regard to the practicalities of the implementation of this option, the Alliance would like to point out that free to air multi-channelling has been on the cards for over a decade now. If an effective deadline can be imposed upon the audience to switchover to digital then a deadline can be imposed upon the networks..

**Recommendation:**

**The Alliance broadly supports Option number 2 including bringing forward the date at which exemptions for program standards and captioning requirements end.**

**The Australian Content Standard transmission quota of 55 per cent Australian programming should be applied to all commercial broadcasters on their first multi-channel and then extended to any further new multi-channels to the extent possible under the Australian US Free Trade agreement.**

**The Television Program Standard for Australian Content in Advertising requiring at least 80 per cent of advertising time broadcast each year by commercial television licensees between the hours of 6.00am and midnight is used for Australian-produced advertisements should be applied to all commercial broadcasters on their first multi-channel and then extended to any further new multi-channels to the extent possible under the Australian US Free Trade agreement.**

**The Alliance acknowledges the difficulties with regard to imposing particular genre sub-quotas. To this end the Alliance believes that alternative mechanisms must be developed, including incentives, production funds or a limited tradeable quota scheme.**

**The Alliance does not support allowing commercial free to air broadcasters to develop multi-channels that exclude or preclude Australian content.**

**That monitoring and reporting of the local content levels on the multi-channels be immediately implements to the same extent as the core channel.**

### **Option 3: Allowing broadcasters to apply for exemption from program standards for particular multi-channels**

The Alliance cannot support this option on the basis that the inherent market failure extant in the broadcasting industry will lead to the design and creation of multi-channels that preclude Australian content.

All commercial broadcasters will seek to spend the least they need to for the highest ratings. This is the nature of commercial broadcasters and, indeed, capitalism. Imported material from the US and UK (drama, comedy, documentaries etc) remains far cheaper to buy than material produced inhouse or sourced from independent production companies. An hour of television drama made in the United States can be produced for anywhere between \$1 million and \$10 million an hour and recoup its full costs and achieve a profit in its home market. It can then be sold to Australia for

anywhere between \$30,000 and \$50,000 per hour. Conversely, an hour of Australian television drama currently costs approximately \$313,000 per hour.<sup>8</sup>

This basic economic reality will mean that any regime placed upon the broadcasters will lead to strategies to minimise expenditure. If a system is put into place whereby broadcasters need to apply for an exemption to the rules, they will simply design a channel that will avoid such obligations. For example, they will simply develop a foreign movie channel (made up of only US films) or a 'foreign' drama channel (made up of only US dramas) or a foreign reality channel (made up of only US reality programs).

The Alliance therefore cannot support allowing commercial FTA broadcasters to develop, as an initial service, multi-channels that inherently preclude Australian content.

**Recommendation:**

**The Alliance does not support Option 3 on the basis that the inherent market failure extant in the broadcasting industry will lead to the design of multi-channels that preclude Australian content.**

**Option 4: Aggregate all programming shown across all digital television multi-channels**

The Alliance cannot support this option for the same reasons it cannot support Option 1. Option 4 as proposed would similarly dilute the Australian content available to the audience and essentially enable broadcasters to marginalise Australian content. This option will also lead to decrease in overall levels of Australian content and impact upon the viability of local content.

**Recommendation:**

**The Alliance does not support Option 4 on the basis that it will lead to the dilution and marginalisation of Australian content.**

**Option 5: Introduce a tradable obligations scheme**

The Alliance has traditionally not supported the introduction of a tradeable quota scheme. This is mainly because a trading scheme would reduce diversity of output, marginalise particular genres to broadcasting ghettos, undermine policy rationales for the different requirements and turn minimum content levels into maximums.

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<sup>8</sup> Screen Australia, *National Drama of Feature Film and TV Drama, 2008/09*, p9

However, given the new context in which the multi-channel environment will compete, one in which niche programming will dominate, the Alliance would be open to the development of a tradeable quota scheme within the following parameters:

- That in addition to the 55 per cent Australian Content and 80 per cent Advertising Content Standards applying, the the program standard sub-quotas be applied to every Networks' first channel and every other channel up to the maximum amount allowed under the AUSFTA;
- That trading in these subquotas be confined to the secondary (non-core multi-channels);
- That the current obligations continue to be placed upon the free to air core channel with no trading of subquotas;
- That it be confined to the commercial broadcasters multi-channels ie public broadcaster multi-channels are not involved.

Diversity and marginalisation of content remains of great concern to the Alliance and we would not support the trading of the core channels responsibilities.

Diversity would also be maintained by quarantining the trading scheme to the commercial broadcasters.

#### **Recommendation**

**The Alliance is open to the development of a tradeable quota scheme within the following parameters:**

- **That in addition to the 55 per cent Australian Content and 80 per cent Advertising Content Standards applying, the program standard sub-quotas be applied to every Networks' first channel and every other channel up to the maximum amount allowed under the AUSFTA;**
- **That trading in these subquotas be confined to the secondary (non-core multi-channels);**
- **That the current obligations continue to be placed upon the free to air core channel with no trading of subquotas;**
- **That it be confined to the commercial broadcasters multi-channels ie public broadcaster multi-channels are not involved.**

#### **Further options**

The Alliance believes that rather than solely providing prohibitions and obligations upon commercial broadcasters, incentives are potentially required to promote Australian content in the new multi-channel environment. As argued above, any regime that is put in place, the commercial broadcasters will seek to either avoid the

obligation by, for example, developing niche channels that specifically avoid Australian programming, or will not engage in multi-channelling at all.

By using a carrot rather than a stick approach, greater cultural outcomes could be produced.

### **Multi-channel Television Rebate proposal**

The Alliance puts forward the idea of a *Multi-channel Television Rebate*. The rebate would work as follows:

Free to air broadcasters would be provided with the ability to reduce their licence fees proportionate to the amount spent on new Australian (in-house and/or independently produced) programming to be screened exclusively on their multi-channels up to a capped amount.

The rebate could be theoretically 100 per cent (for every dollar spent on new Australian programming their licence fee is reduced by one dollar) or it could be set at a lower percentage say 75 per cent (for every \$1, the licence fee is reduced by 75 cents) or even lower, 50 per cent or 40 per cent.

The aim of the rebate would be to make the creation of new local content affordable enough to compete cost-wise with the importing of essentially dumped US content on to commercial multi-channels.

New local content would be quarantined to areas of particular cultural importance or market failure, ie those areas already identified as such under the ACS and AUSFTA: drama, documentary, childrens programming, and arts programming. The rebate would act as an incentive to produce new Australian programming that is relevant to the niche channel that the broadcaster chooses to develop – be it drama, documentary, children’s lifestyle, generalist or any other format other than those areas where there is no demonstrated market failure ie sport or news.

The rebate would work separately to the 20 per cent TV production offset which would be confined to the main channel, whose local content obligation would remain the same.

The cost to government could be capped at a particular level such as half or quarter of their licence fee, to the level of programming created by the existing sub-quotas or at any other set figure level of the Government’s choosing.

The proposed rebate would be of significant benefit to the free to air broadcasters in that while its expenditure remains the same (if the rebate is 100 per cent) or increased slightly (at lower levels), the fees that would normally be paid in licences (and hence lost to consolidated revenue) would actually work to benefit them in producing saleable local content. The licence fees would also be working to support

the Government's stated cultural objectives and have important outcomes for Australian audiences.

The proposed rebate would be of significant benefit to the Australian production industry too as it will increase levels of production and assist the development and sustainability of the industry against the potential onslaught of foreign material via IPTV, the NBN and a multi-channel universe.

However, most importantly, the proposed rebate would benefit Australian audiences as it would increase levels of Australian content available.

The threats to acceptance of such a scheme would come from largely from Government (the Finance and Tax Departments) and the Subscription Television industry.

The Government has long argued against the hypothecating of licensees fees to a particular area. Governments are perpetually guarding against the removal of sources of income. The Government would also argue that it should not subsidise something that may yet have a business model emerge.

With regards to the first point the Government needs to face the fact that with the impact of the new technology, new regulatory models to ensure that Australian content is made available at levels previously enjoyed need to be considered in order that Australian audiences and Australian culture are not swamped by the deluge of cheap foreign content. We are at a critical juncture in the evolution of the media and television industry with serious issues that will impact on Australia's sovereignty, democracy and culture. Creative solutions need to be engaged and considered. Changing times will require reconsideration of old funding models. Hypothecating is one area that needs serious reconsideration.

The Australian Government earned \$271.1 million in television licence fees in 2006-07. The Alliance argues that the money earned from the licensing of public spectrum for cultural and social reasons, should be put towards supporting Australian culture and society into the future.

With regards to the emergence of business models, the believes that the long standing, long acknowledged market failure inherent in the broadcasting industry can only be exacerbated in the multi-channel environment with the undermining of past business models. It is clear cheap programming will be sought and the cheapest is foreign programming. As demonstrated by past experience, broadcasters did not create Australian programs until obligated to do so by Government regulations, and have always only delivered the minimum required under the law.

The Subscription Television industry would not support the rebate as it would provide a significant boost to the multi-channels in competition to themselves. The proposal could therefore be tweaked to include the subscription channels to access an amount of funding under the same terms and capped at a set figure for

productions that are over and above their 10 per cent expenditure requirement level. If this was to be done, the Alliance would argue then the need for the expenditure requirement to be increased to 20 per cent for drama and the other genres to be introduced as foreseen under the Australia US Free Trade Agreement.

### **Multi-channel content fund**

The Alliance raises the possibility of introducing a scheme similar to the Commercial Television Production Fund (CTPF). This scheme was established in 1995-96 under an agreement with the Department of Communication and the Arts (DoCA). The AFC managed the Fund for three years.

The aim of the Fund was to support the creation of programs and libraries of copyright owned by Australians. The CTPF financed adult drama and documentary programs with pre-sales to the Seven, Nine or Ten network, as well as children's feature films and television projects.

Although projects financed by the CTPF did not count towards a network's quota requirements, the Fund resulted in a substantial increase in the level of Australian programming broadcast on free-to-air commercial television.

The total number of projects funded were 36, representing 78 hours of new television programming. This amounted to an investment of \$53.5 million in Australian television projects with total production budgets of \$73 million; 99.9 per cent of the CTPF's program funds were invested in projects by independent producers providing a significant boost for domestic production by increasing the opportunities for independent producers, writers, directors, technical crew and actors. Content produced included *Adrenalin Junkies/Medivac*, *State Coroner*, *Good Guys Bad Guys* and *Murder Call*.

The Alliance believes that a fund similar to this could be designed to assist in the development of new local content for the free to air multi-channels. Revenue could be drawn again from licence fees or consolidated revenue.

### **Production expenditure requirement**

Under the *Broadcasting Services Act 1992 (BSA)*, subscription television licensees that broadcast drama channels, and drama channel package providers, have been required since July 1999 to spend at least 10 per cent of their total program expenditure on new Australian drama and make up any shortfall in subsequent financial years. This has led to, for example, expenditure on new eligible Australian drama programs (including both TV drama and features) by channel providers and subscription TV licensees for the 18 subscription TV drama channels totalling \$20.06 million in 2007/08.

This scheme focussing on production expenditure, as opposed to an Australian Content Standard, was introduced acknowledging the inherent difficulties in imposing subquotas and the standard across the suite of channels being delivered. The low level was also an acknowledgment of the start up nature of the business.

The Alliance believes that one possibility to ensure that there are levels of Australian content would be to shape a similar requirement upon the free to air multi-channels given that they will be competing against subscription channels subject to such a requirement.

The Alliance however foresees a number of issues that could arise.

Firstly, the Alliance is of the view that the Government must explicitly shape the free to air sector in such a way that it prioritises and nurtures this sector due to its community and nation building qualities. Allowing the free to air sector with access to a valuable public resource to compete directly against subscription television with only equivalent production expenditure requirements may have the potential of undermining this prioritisation.

The Alliance would therefore expect higher levels of Australian content which a production expenditure requirement may not ensure.

Further the Alliance would have doubts about that the Networks could delineate their expenditure in such a way that would enable an expenditure requirement to run smoothly. Indeed the structure of package deals and other contracts common in the free to air environment may allow shifting of costs to the advantage of the network to avoid any obligations.

The Alliance however puts forward this option for consideration, given they currently are competing against similar subscription channels, merely to make the point that these channels are competing on an unequal playing field – that is one channel is regulated with regards to its production expenditure and the other is not.

**Recommendation:**

**The Alliance recommends that further options be explored and considered in order to ensure the ongoing viability and availability of Australian Content. This could include:**

- **Incentives in the form of a specific licence rebate for new multi-channel subquota programming (and potentially subscription television channels for above obligation programming);**
- **A multi-channel programming fund;**
- **A production expenditure requirement similar to subscription television.**

## Issues for discussion

While the Alliance has already answered the questions posed here, it repeats these answers here for ease of reference.

- **Should the distinction of a 'core' commercial television service remain for the purposes of meeting the requirements in the Australian content and children's television standards?**

The Alliance strongly argues for the need to maintain the distinction between core commercial television service and secondary commercial multi-channels.

The Alliance recommends that one goal in regulating the future broadcasting environment is to foster the free to air sector as the central community builder, bringing together the disparate cultures, peoples and audiences in Australia, and reflecting Australia's identity, character and cultural diversity.

The free to air broadcasters have access to an important public good and the reality is that despite the introduction of the NBN and the rise of subscription television, free-to-air television will for some time to come remain the central form of television broadcasting in Australia, occupying the lion's share of the Australian viewership.

The central channel is one of the key distinctions free to air broadcasters have to the subscription channels. If they were allowed to simply become a suite of niche channels they would simply become a copy of subscription broadcasters.

The Alliance believes that the free to air networks enjoy a privileged and traditional primacy in the broadcasting environment and their importance in supporting and promoting Australia's cultural identity should be acknowledged and maintained. The Alliance believes that this must be done by maintaining the central primacy of the core channels and ensuring their continued primacy in the future through regulations over the NBN (including must carry rules discussed below) and that IPTV and TV-like services be similarly regulated over the NBN.

- **Should program standards start applying to all commercial broadcasters' digital multi-channels before the commencement of the phased, region-by-region switchover?**

As noted above, the Alliance believes that regulations should be imposed from the very beginning of multi-channelling. Whether this is defined as the beginning of the switchover period 30 June 2010 or the final date of switchover, the 31 December 2013 is debatable, however the Alliance would argue that it should be the former.

- **Should the current exemptions for program standards on multi-channels continue until all of Australia has switched over to digital television?**

The Alliance believes that local content obligations must be placed upon the multi-channels from the very beginning of their service.

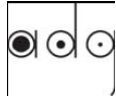
- **Should commercial broadcasters have the opportunity to fulfil the requirements for program standards through some form of a tradable obligation scheme? If so, what criteria would apply to such a scheme?**

The Alliance supports a limited tradeable quota scheme with the following parameters:

- That in addition to the 55 per cent Australian Content and 80 per cent Advertising Content Standards applying, the program standard sub-quotas be applied to every Networks' first channel and every other channel up to the maximum amount allowed under the AUSFTA;
  - That trading in these subquotas be confined to the secondary (non-core multi-channels);
  - That the current obligations continue to be placed upon the free to air core channel with no trading of subquotas;
  - That it be confined to the commercial broadcasters multi-channels ie public broadcaster multi-channels are not involved.
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- **What arrangements and standards should apply to digital channels after final switchover in 2013? Should broadcasters have the option to apply for exemption for one or more channels? What criteria should apply to the issuing of exemptions? Should some other modification exist for exemptions for commercial multi-channels? If so what?**

The Alliance does not support an exemptions regime.

## Appendix A



australian screen editors



media, entertainment & arts alliance  
the people who inform and entertain



Screen  
Producers  
Association  
of Australia

**Australian Directors Guild; Australian Cinematographers Society;  
Australian Guild of Screen Composers; Australian Screen Editors Guild;  
Australian Writers Guild; Media, Entertainment & Arts Alliance; and  
Screen Producers Association of Australia  
Submission to Department of Broadband, Communications and the  
Digital Economy**

**Content and Access: The future of program standards and captioning  
requirements on digital multi-channels Discussion Paper  
24 December 2009**

The Australian Directors Guild, Australian Cinematographers Society, Australian Guild of Screen Composers, Australian Screen Editors Guild, Australian Writers Guild, Media, Entertainment & Arts Alliance, the Screen Producers Association of Australia wish to put forward the following joint position with regards to the Department of Broadband, Communications and the Digital Economy's *The future of program standards and captioning requirements on digital multi-channels Discussion Paper*.

Our organisations remind the Government that free to air (FTA) commercial broadcasters have been provided with access to public spectrum, which remains a highly valuable resource both in terms of the commercial opportunities it enables and the social cohesion it promotes.

Free to air television broadcasters have received, at no additional cost, the benefit of public spectrum access allowing them to multi-channel with consequent commercial benefits. Our organisations believe that it continues to be reasonable to impose social and cultural responsibilities on commercial free to air broadcasters for this access.

We call on the Australian Government to restate its continuing commitment to ensuring the delivery of Australian content on free to air digital television *including* the digital multi-channels.

Furthermore our organisations recommend that the Australian Government ensure the delivery of Australian content on free to air digital television multi-channels via some form of regulatory, direct or indirect intervention, from the very beginning of multi-channelling.

With respect to the options put forward in the discussion paper, we make the following recommendations:

**Option 1: Specify that one digital multi-channel must continue to meet all program standards**

Our organisations do not support Option 1 on the basis that it will lead to the dilution and marginalisation of Australian content.

**Option 2: Bring forward the date at which exemptions for program standards and captioning requirements end**

We support bringing forward the date at which exemptions for program standards end.

We recommend that the Australian Content Standard transmission quota of 55 per cent Australian programming should be applied to all commercial broadcasters on their first multi-channel and then extended to any further new multi-channels to the extent possible under the Australian US Free Trade agreement.

We further recommend that the Television Program Standard for Australian Content in Advertising be applied to all commercial broadcasters on their first multi-channel and then extended to any further new multi-channels to the extent possible under the Australian US Free Trade agreement.

Our organisations acknowledge the challenges with imposing particular genre sub-quotas in a multi-channel environment. To this end we recommend additional mechanisms must be developed to underpin certain specific genre sub-quotas. These could include the possibility of a limited tradeable quota scheme, described further below.

We do not support allowing commercial FTA broadcasters to develop, as an initial service, multi-channels that inherently preclude Australian content ie creating a foreign drama or movie channel.

**Option 3: Allowing broadcasters to apply for exemption from program standards for particular multi-channels**

We do not support Option 3 on the basis that the FTAs have been provided with privileged access to additional multi-channel capacity by the Australian people. The

Government should ensure that in return, the FTAs do not contribute to the diminution of Australian culture by allowing any exemptions from the Australian Content Standard across the full digital transmission environment. Australian culture is not protected by language or tariff from more powerful English speaking economies making it even more vital to ensure the expression of the Australian experience through Australian programs is maintained across the broadcast environment. While measures such as tradable quotas allow for re-allocation of content to build niche services, exemptions simply reduce the ratio of Australian content to foreign content. While the discussion paper notes Australian content rates highly and finds an audience it should also be noted that broadcasters rarely if ever provide more content than that required under the quota system. The simple market relationship of supply and demand continues to fail in this environment due to the market power of the United States in being able to effectively dump programs into the Australian market at a fraction of their real cost.

Further, as can be evidenced by the speed at which the new digital channel GO! has outstripped SBS in television audience ratings, substantial additional advertising revenue is now streaming into the FTA to support channels with very low cost programming. Given the FTAs are an established brand who now enjoy privileged access to spectrum and ongoing profitability, there should be no barrier to the application of the Australian content standard across all channels on an FTA network.

#### **Option 4: Aggregate all programming shown across all digital television multi-channels**

For the same reasons as articulated for Option 3, we do not support Option 4 on the basis that it will lead to the dilution and marginalisation of Australian content.

#### **Option 5: Introduce a tradable obligations scheme**

Given the increased opportunity for the development of niche programming in a multi-channel environment, our organisations are open to the development of a tradeable quota scheme within the following parameters:

- That, in addition to the 55 per cent Australian Content and 80 per cent Advertising Content Standards applying, the sub-quotas be applied to every Networks' first channel and every other channel up to the maximum amount allowed under the AUSFTA;
- That trading in these subquotas be confined to the secondary (non-core multi-channels);
- That the current obligations continue to be placed upon the free to air core channel with no trading of subquotas;
- That any trading scheme be confined to the commercial broadcasters multi-channels ie public broadcaster multi-channels are not involved.

## **About us:**

### **Australian Directors Guild**

The Australian Directors Guild is the industry association representing the interests of film, television and digital media directors, documentary makers, animators, assistant directors and independent producers throughout Australia. ADG has 600 members nationally.

ADG works to promote excellence in screen direction, to encourage communication and collaboration between directors and others in the industry, and to provide professional support for its members. ADG is proud to represent the key creative elements of the Australian independent production sector, and maintains its high profile in a cultural and policy role by addressing issues affecting the industry from a broad perspective

### **Australian Cinematographers Society**

The Australian Cinematographers Society is a not-for-profit company, limited by guarantee, that was formed in 1958 for the purposes providing a forum for cinematographer to further develop their skills through mutual cooperation

### **Australian Guild of Screen Composers**

The AGSC's principle objectives and aims are to represent the interests of Australian screen composers by developing and promoting employment opportunities, undertaking educational initiatives and increasing their profile amongst the industry.

### **Australian Screen Editors Guild**

The Australian Screen Editors Guild (ASE) is a cultural, professional and educational organisation, dedicated to the pursuit and recognition of excellence in the arts, sciences and technology of motion picture film and television post production. It aims to promote, improve and protect the role of editor as an essential and significant contributor to all screen productions.

The ASE is a national organisation formed in 1996. It has members across Australia as well as overseas. The Guild is an association of professional screen editors and assistants working in a wide range of disciplines including: Feature Films, Documentary, Television Drama, Commercials, Corporate Video, Education and Training, Sound Editing, Negative Matching, Pos Conforming, Music Video, Multimedia.

### **Australian Writers Guild**

The AWG is the professional association for all performance writers, that is, writers for film, television, radio, theatre, video and multi media. The AWG was established in 1962 and is recognised throughout the industry in Australia as being the voice of performance writers.

### **The Media, Entertainment & Arts Alliance**

The Media, Entertainment & Arts Alliance is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its

membership includes journalists, artists, photographers, performers, dancers, symphony orchestra musicians, freelance musicians and film, television and performing arts technicians.

### **Screen Producers Association of Australia**

SPAA is the industry body that represents Australian independent film and television producers on all issues affecting the business and creative aspects of screen production.

SPAA members include television, feature film, animation, documentary, TV commercial and interactive media production companies as well as services and facilities providers such as post-production, finance, distribution and legal companies



**media, entertainment & arts alliance**  
the people who inform and entertain

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## **Media, Entertainment & Arts Alliance**

**submission to the**

**Department of Broadband, Communications and  
the Digital Economy**

**National Broadband Network: Regulatory Reform  
for the 21<sup>st</sup> Century Broadband  
Discussion Paper, June 2009**

**October 2009**

### **The Media, Entertainment & Arts Alliance**

The Media, Entertainment & Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, dancers, symphony orchestra musicians, freelance musicians and film, television and performing arts technicians.

## Background

The Media, Entertainment & Arts Alliance welcomes the opportunity to provide comment upon the Department of Broadband, Communications and the Digital Economy's discussion paper regarding the National Broadband Network.

In 2007, the Australian government announced the establishment of a company that will build and operate a wholesale only, open access National Broadband Network providing fibre optic to the home and workplace, supplemented with the next generation wireless and satellite technologies to delivery superfast broadband services.

The National Broadband Network will impact significantly upon the media landscape as the NBN will allow IPTV and other TV-like services to be introduced on a broad scale. This has the potential to undermine the commercial viability and centrality of the free to air networks that have had a long standing oligopolistic influence over the market due to the natural restrictions of spectrum based licensing.

Combined with the competitive impact of an ascendant subscription television market and the introduction of multi-channelling, as well as changing media habits of the Australian population, the business model for commercial free to air television will change significantly over the coming years.

One significant part of the current broadcasting model that needs to be considered amongst these impacts is the Australian Content Standard and other direct and indirect measures to support the creation of Australian content.<sup>9</sup> The introduction of the NBN will impact significantly upon the effectiveness and impact of this regulatory regime to support the presence of Australian content and needs to be considered as a matter of priority.

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<sup>9</sup> The Commonwealth has established a number of measures that support the creation of Australian audiovisual content. These include:

- Direct subsidy through the Screen Australia and the Australian Children's Television Foundation;
- Indirect support through taxation concessions for investment in feature films, television miniseries and documentaries which includes –
  - The Producer Offset;
  - The Location Offset;
  - The PDV Offset.
- Australian content rules under the Broadcasting Services Act for free-to-air commercial television, advertising and subscription television;
- International marketing support via AusFilm;
- Regulation of temporary entry of foreign actors and crew under immigration regulations;
- International co-production treaties and MOU arrangements;
- Rules governing foreign ownership of media;
- Funding of national broadcasters – ABC, SBS and NITV;
- Direct support for training through the Australian Film, Television and Radio School; and
- Support for preservation of Australia's audiovisual culture through the National Film and Sound Archive.

These measures are supplemented by initiatives undertaken by the various state governments.

The Alliance notes that the Discussion Paper states that the “Government ... intends to consider in 2011 whether to look again at its overall approach to regulation in a convergent environment.”

The Alliance believes regulatory implications are critical and must be considered up front before the introduction of the NBN

### ***The Australian Content Standard***

The Australian Content Standard ensures that there is 55 per cent Australian content including a minimum level of first release Australian drama, children’s drama, documentary and programs for children. In addition to this there is an 80 per cent Australian content standard for television advertising (TPS-23) on free-to-air commercial television (excluding public service announcements, political advertising and promotional advertising for overseas films and performing arts events).

Local content quotas were introduced in 1960, with a specific quota for Australian drama introduced in 1966. Since that time the overall levels of Australian content to be broadcast have gradually increased in line with the capacity of the broadcasters to commission, produce and broadcast Australian content.

Local content quotas have been supported by every Government since to ensure that Australia’s culture is represented on our screens and to encourage creative expression. It has been a long established public interest obligation of privately owned broadcasters in return for continued spectrum access and protection from competition.

The underlying principles of the standards were listed by the Australian Film Commission (now Screen Australia) in 2002<sup>10</sup> as follows:

- *“mass media, and television in particular, are extremely pervasive and influential and for the majority of Australians are the most significant form of cultural activity;*
- *Australians should have available a diverse range of broadcasting services offering entertainment, education and information;*
- *broadcasting services have a role in reflecting a sense of Australian identity, character and cultural diversity;*
- *in our society television has important social and cultural roles and cannot be seen as a purely economic activity;*

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<sup>10</sup> Australian Film Commission, Review of the Australian Content Standard Submission to the Australian Broadcasting Authority, February 2002, [http://www.afc.gov.au/downloads/policies/aba\\_sub\\_feb02.pdf](http://www.afc.gov.au/downloads/policies/aba_sub_feb02.pdf)

- *as television broadcasters receive the benefit of access to spectrum (with the consequent commercial benefits of advertising revenue), it is reasonable to impose some social and cultural responsibilities."*

The Explanatory Memorandum to the Broadcasting Services Act 1992 (the BSA) refers to the underlying policy for Australian content regulation as follows:

*"The rationale for this provision is that it is widely accepted that television is a powerful medium with the potential to influence public opinion and that television has a role to play in promoting Australians' cultural identity."*

In relation to the Standard, the Memorandum also states:

*"...it is intended that commercial television broadcasters broadcast Australian programming which reflects the multi-cultural nature of Australia's population, promotes Australian culture and identity and facilitates the development of the local production industry."*

The words used in the Memorandum express a close connection with the BSA objectives:

*(b) "facilitat[ing] the development of a broadcasting industry that is efficient, competitive and responsive to audience needs; and*

*(e) promot[ing] the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity.*

### ***National Broadband Network and ensuring a presence for Australian content***

The introduction of the National Broadband Network has the potential to:

- undermine the commercial viability of the free to air networks;
- allow the introduction of unregulated IPTV broadcasting;
- dilute the availability and presence of Australian content within the Australian media landscape;
- remove the scarcity inherent in a broadcasting system based upon spectrum and its licensing; and
- be used by free-to-air networks to argue for a decrease in regulatory requirements including local content regulation and the Australian Content Standard.

The Alliance argues that while scarcity has been one basis of content regulation, it has never been the central reason. As outlined above it has been regulated on the basis that "television is a powerful medium with the potential to influence public opinion and that television has a role to play in promoting Australians' cultural identity". This does not disappear with the emergence of the NBN.

As Professor Eli M Noam argues in “TV or not TV: Three Screens, One Regulation”<sup>11</sup>

*“Each society wants to facilitate the creation of distribution of “merit” programs, while preventing or reducing “non-merit” programs. The former are perceived to contribute positively to societal goals while the latter detract from it. What constitutes merit is contextual to the particular country, and will vary greatly. Each society has its concerns, problems, issues, traditions, priorities. Americans worry about sex more than do the French, who in turn are more concerned about their linguistic purity and cultural role. Swedes fret about violence. Germans, burdened by their past, are sensitive about racist incitement. Many Italians worry over Silvio Berlusconi and his combined media and political role. Canada is concerned about a weakening of its national identity and of bilingualism. China protects party control.*

*Spectrum scarcity, and the consequent need to allocate frequencies by a license to which conditions and regulations were attached, provided the nexus and rationale. But scarcity is not an essential condition for pursuing these goals. None of the societal objectives will vanish just because television signals travel over digital pipes rather than analog airwaves. It seems unlikely that societies will simply give up on their societal priorities just because the video information now takes a different path or is encoded in different way. Instead, they will simply adjust the tools to the new environment. It is therefore unlikely that societies will leave TV alone, whether analog, digital, or IP; whether over the air, over cable, or over IP networks, or whether there is a bottleneck or not.*

*In countries with a democratic political system and a mixed economy, the goals of TV regulation are generally:*

- *Change the market based-balance of “merit” and “non-merit” content, in order to benefit, in particular:*
  - *Children & education*
  - *Social harmony*
  - *National culture*
  - *National media producers*
- *Assure a vibrant democracy through diversity of:*
  - *Content*
  - *Sources*

*In the Canadian context, special aspects of these issues include:  
Modifying the market balance of US vs. Canadian content and ownership  
Maintaining a balance in the content for and by the two major language groups.”*

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<sup>11</sup> Eli M. Noam “TV or Not TV: Three Screens, One Regulation?” Columbia University, July 11, 2008, <http://www.crtc.gc.ca/eng/media/noam2008.htm>

In the Australian context, similar goals are sought to be achieved through current regimes of regulation.

The reality is that free-to-air television (along with an ascendant subscription television sector) will for some time to come remain the central form of television broadcasting in Australia, occupying the lion's share of the Australian viewership.

With the introduction of the National Broadband Network there is the potential that some time in the future this form of delivery may become the central form of content delivery.

In such a landscape, Australian's should continue to have available a diverse range of broadcasting services offering entertainment, education and information and that must necessarily include Australian content. This continued availability of Australian content must also be ensured through measures that support a sustainable local industry.

The Alliance believes that far from undermining the case for continuing to regulate free-to-air networks, it is in the public interest that regulations continue to be imposed upon free-to-air networks. Their traditional primacy and importance in supporting and promoting Australia's cultural identity should be acknowledged and maintained through regulations over the NBN (including must carry rules discussed below) and that IPTV and TV-like services be similarly regulated over the NBN.

The Alliance argues that in an environment where IPTV via the NBN is the major source of media influence over the Australian public, it is essential that the Government play a strong role in promoting Australia's cultural identity via this medium. All the same arguments for regulation remain relevant and are all the more powerful in a media landscape that threatens to deluge Australia with foreign material. The Alliance agrees with Free TV Australia's submission that to not regulate these areas would be anomalous and unfair.

Currently the broadcasting regulatory framework does not apply to television-like services delivered over IP networks due to the Determination under paragraph (c) of the definition of "broadcasting service" (No 1 of 2000) by the then Communications Minister Alston. This means that content and classification regulations are unable to be imposed upon IPTV or TV like services distributed via the NBN.

The Alliance recommends rescinding the 2000 Ministerial determination as it currently stands ensuring that television/broadcasting-like services distributed over the NBN will be able to be regulated for local content and classification purposes. This would also be compatible with Australia's obligations under the Australia US FTA.

The Alliance believes that this must be implemented in order to ensure that the regulatory control that the Government has over television be maintained into the future.

Furthermore the Alliance notes that the Australian taxpayer will be the major investor and will be supporting the construction and development of the NBN. This will in turn enable the delivery of IPTV and other Internet services to the benefit of commercial operators into the future. The Alliance believes that the Australian taxpayer and the Australia government must demand a cultural dividend from this capital injection. Content regulation therefore must be imposed upon those companies reaping the commercial reward of access to the NBN and the open availability of content from around the world.

The development of the NBN at Australian taxpayer expense will result in an undermining of the current regulatory tools that ensure Australians have access to Australian content culture, faces, voices and stories. To ensure that Australians in the future will have access to the same levels of Australian content that have been enjoyed since the 1960s it is essential that the NBN be subject to regulation.

ABC TV Head of Television, Kim Dalton, outlined a number of options for regulating television-like content services over the Internet in a speech in June 2008.<sup>12</sup> In Canada they are examining the following options:

- *local content regulation of broadband Internet content, i.e., for linear or non-linear audio-visual content made available on the Internet;*
- *including new media or multiple platform distribution in the promises of performance or other licence-backed obligations;*
- *applying diversity of programming genres regulation to broadband Internet content;*
- *including new platforms more explicitly in the proposed terms of trade agreements between broadcasters and producers as requested of broadcasters in preparation for the forthcoming TV license renewals;*
- *developing terms of trade between the portals, ISPs and content developers, possibly through exemption regulations;*
- *increasing existing new media funding to a level approaching traditional broadcast production funding;*
- *making the promotion of Australian new media content a Australian broadcaster regulatory obligation.*

Canada is also examining ways to fund local Canadian content based upon a surcharge on ISPs that is similar to the one already in place with regards to cable and satellite TV providers as well as through a spectrum trust fund.

On the spectrum trust fund the Alliance agrees with Kim Williams of Foxtel when he says that “we must ensure that the digital dividend is not lost.”<sup>13</sup> With analogue spectrum expected to be returned in 2013, the sale revenue, should be saved in a special trust fund to enable future Australian content production.

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<sup>12</sup> <http://www.abc.net.au/tv/transcripts/s2287893.htm>

<sup>13</sup> <http://www.mcn.com.au/Upload/FileStore/Master/media/1995-document.pdf>

The UK regulator, Ofcom, in its recently published Second Public Service Broadcasting Review observed that the emerging digital broadcasting and media system would not be able to deliver existing levels and diversity of UK content and that new forms of funding would be required. Some of Ofcom's recommendations, similar to Canada's, were direct public funding from hypothecated proceeds from spectrum auctions or spectrum charges, access to spectrum at below market prices and a wide range of industry levies.

The Alliance supports these options being instituted.

With regards to specific regulatory options already put forward to this NBN review, the Alliance makes the following comments.

#### *Charter*

The ABC states the following with regards to a Charter for the NBN company:

*"It's enabling legislation should specify a series of objectives, possibly in the form of a charter, that will shape the company's actions. They should include specific obligations to maximise public benefit, provide broadband services at the least cost and to ensure the universal availability of the network to all Australians.*

*"These objectives should continue to apply to the company as public-service obligations if the Government sells down the public's stake in the company, as it is proposing to do. Precedents for public-service requirements being imposed on a commercial organisation exist in a number of sectors; they include the telecommunications Universal Service Obligation and the licence conditions that apply to the various forms of broadcasting services under the Broadcasting Services Act 1992."<sup>14</sup>*

The Alliance supports the ABC's call for the NBN company to be legislatively obliged to operate in a fashion that best reflects the interests of the Australian public via a charter.

#### *Must carry rules*

The Alliance recommends the introduction of must carry rules on the NBN company. These should include obligations to carry publicly-funded broadcasters be they Government services, ABC TV, radio and new media services, SBS TV, radio and new media services and National Indigenous Television and other publicly funded television, radio and internet services, and community television and radio services.

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<sup>14</sup> ABC, Legislative Framework for the National Broadband Network Company, <http://tinyurl.com/ygoskfw>

*“[P]ublicly funded content and services carried over the NBN, including those of the ABC, should be available freely to the Australian people. This principle of free carriage of publicly-funded content should be included in the public-interest objectives of the NBN company and the company should be legislatively obliged to devise an effective mechanism for implementing it.*

*One possible mechanism of this kind might be for the NBN company to construct a list of IP addresses for Government Department, Commonwealth Authorities and Companies Act companies and other similar agencies and deliver content from those addresses at no cost to ISPs accessing the NBN. As such carriage of public content would represent a cost saving to ISPs, they would in turn be contractually or legislatively obliged to pass that saving on to end-users of broadband services, including not counting content of this type when calculating end-users’ data allowances or caps.”<sup>15</sup>*

The Alliance would argue that this needs to be taken one step further and include carriage of broadcasting services that are subject to the Australian Content Standard. In this way the Alliance would support the must carry rules proposed by Free TV Australia:

*“A regime similar to that existing for US cable providers should be introduced, which allows broadcasters to either negotiate for provision of their broadcast signal or elect to participate in a ‘must carry’ scheme. Broadband has the potential to become an important connection to the home and broadcasters should not be prevented from accessing homes where IPTV may become the primary means of access. Similarly, when the NBN is rolled-out, rules should be introduced to prevent the removal of free to air aerial connections when the home is connected to the network.”<sup>16</sup>*

The Alliance believes that must-carry obligations must be placed upon the NBN to ensure that continued access to current broadcasting continues.

For clarity’s sake the Alliance does not wish to make government supported content for example Screen Australia or Producer Offset supported productions available under any open access Public Sector Information regime.

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<sup>15</sup> ABC, Legislative Framework for the National Broadband Network Company, <http://tinyurl.com/ygoskfw>

<sup>16</sup> Submission by Free TV Australia Limited, Department of Broadband, Communications and the Digital Economy National Broadband Network: Regulatory Reform for 21st Century Broadband, Discussion Paper, 3 June 2009  
[http://www.freetv.com.au/media/Submissions/2009-0009\\_SUB\\_NBN\\_Discussion\\_Paper\\_June\\_2009.pdf](http://www.freetv.com.au/media/Submissions/2009-0009_SUB_NBN_Discussion_Paper_June_2009.pdf)

## Appendix C

### Analysis of Content for Free to Air Multi-channels 4 January 2010 – 10 January 2010

Go!			Go!		
Monday 4 January 2010			Tuesday 5 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	My Gym Partners a monkey	US	6:00	My Gym Partners a monkey	US
6:30	Chowder	US	6:30	Chowder	US
7:00	Squirrel Boy	US	7:00	Squirrel Boy	US
7:30	Camp Lazio	US	7:30	Camp Lazio	US
8:00	Pinky and the Brain	US	8:00	Pinky and the Brain	US
8:30	The flintstones	US	8:30	The flintstones	US
9:00	The jetsons	US	9:00	The jetsons	US
9:30	I dream of jeannie	US	9:30	I dream of jeannie	US
10:00	Bewitched	US	10:00	Bewitched	US
10:30	Ent Tonight	US	10:30	Ent Tonight	US
11:00	TMZ	US	11:00	TMZ	US
11:30	The Partridge Family	US	11:30	The Partridge Family	US
12:00	Frasier	US	12:00	Frasier	US
12:30	Seinfeld	US	12:30	Seinfeld	US
13:00	Wipeout Australia	Aus	13:00	The Hills	US
14:00			14:00	Charlies Angels	US
15:00	Just Shoot Me	US	15:00	Just Shoot Me	US
15:30	The Nanny	US	15:30	The Nanny	US
16:00	Camp Lazio	US	16:00	Camp Lazio	US
16:30	Pinky and the Brain	US	16:30	Pinky and the Brain	US
17:00	I dream of jeannie	US	17:00	I dream of jeannie	US
17:30	Bewitched	US	17:30	Bewitched	US
18:00	The flintstones	US	18:00	The flintstones	US
18:30	The jetsons	US	18:30	The jetsons	US
19:00	Ent Tonight	US	19:00	Ent Tonight	US
19:30	Frasier	US	19:30	Frasier	US
20:00	Seinfeld	US	20:00	Seinfeld	US
20:30	The Vampire Diaries	US	20:30	The Bachelor	US
21:30	Nip/Tuck	US	21:30	Tool Academy	US
22:30	Dante's Cove	US	22:30	The Bachelorette	US
23:30	Frasier	US	23:30		
0:00	Seinfeld	US	0:00		
0:30	TMZ	US	0:30	TMZ	US
0:45			0:45		
1:00	The Vampire Diaries	US	1:00	The Bachelor	US
2:00	Nip/Tuck	US	2:00	The Bachelorette	US
3:00	Dante's Cove	US	3:00		
4:00	Just Shoot Me	US	4:00	Just Shoot Me	US
4:30	TMZ	US	4:30	TMZ	US
5:00	The Partridge Family	US	5:00	The Partridge Family	US
5:30	The flintstones	US	5:30	The flintstones	US

## Appendix C

Go!			Go!		
Wednesday 6 January 2010			Thursday 7 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	My Gym Partners a monkey	US	6:00	My Gym Partners a monkey	US
6:30	Chowder	US	6:30	Chowder	US
7:00	Squirrel Boy	US	7:00	Squirrel Boy	US
7:30	Camp Lazio	US	7:30	Camp Lazio	US
8:00	Pinky and the Brain	US	8:00	Pinky and the Brain	US
8:30	The flintstones	US	8:30	The flintstones	US
9:00	The jetsons	US	9:00	The jetsons	US
9:30	I dream of jeannie	US	9:30	I dream of jeannie	US
10:00	Bewitched	US	10:00	Bewitched	US
10:30	Ent Tonight	US	10:30	Ent Tonight	US
11:00	TMZ	US	11:00	TMZ	US
11:30	The Partridge Family	US	11:30	The Partridge Family	US
12:00	Frasier	US	12:00	Frasier	US
12:30	Seinfeld	US	12:30	Seinfeld	US
13:00	The Bachelorette	US	13:00	The Bachelor	US
14:00			14:00	Charlies Angels	US
15:00	Just Shoot Me	US	15:00	Just Shoot Me	US
15:30	The Nanny	US	15:30	The Nanny	US
16:00	Camp Lazio	US	16:00	Camp Lazio	US
16:30	Pinky and the Brain	US	16:30	Pinky and the Brain	US
17:00	I dream of jeannie	US	17:00	I dream of jeannie	US
17:30	Bewitched	US	17:30	Bewitched	US
18:00	The flintstones	US	18:00	The flintstones	US
18:30	The jetsons	US	18:30	The jetsons	US
19:00	Ent Tonight	US	19:00	Ent Tonight	US
19:30	Frasier	US	19:30	Frasier	US
20:00	Seinfeld	US	20:00	Seinfeld	US
20:30	Fringe	US	20:30	Side Order of Life	US
21:30	New Amsterdam	US	21:30	Gossip Girls	US
22:30	Nightmares and Dreamscapes	US	22:30	The Hills	US
23:00			23:00		
23:30	Frasier	US	23:30	Frasier	US
0:00	Seinfeld	US	0:00	Seinfeld	US
0:30	TMZ	US	0:30	TMZ	US
1:00	Fringe	US	1:00	Side Order of Life	US
2:00	New Amsterdam	US	2:00	Gossip Girls	US
3:00	Nightmares and Dreamscapes	US	3:00	The Hills	US
4:00	Just Shoot Me	US	4:00	Just Shoot Me	US
4:30	TMZ	US	4:30	TMZ	US
5:00	The Partridge Family	US	5:00	The Partridge Family	US
5:30	The flintstones	US	5:30	The flintstones	US

## Appendix C

Go!			Go!		
Friday 8 January 2010			Saturday 9 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	My Gym Partners a monkey	US	6:00	Thunderbirds	UK
6:30	Chowder	US	6:30		
7:00	Squirrel Boy	US	7:00	Hi Hi Puffy Ami Yumi	US
7:30	Camp Lazio	US	7:30	Foster's Home for Imaginary Friends	US
8:00	Pinky and the Brain	US	8:00	Squirrel Boy	US
8:30	The flintstones	US	8:30	My Gym Partners a monkey	US
9:00	The jetsons	US	9:00	Marine Boy	Japan
9:30	I dream of jeannie	US	9:30		
10:00	Bewitched	US	10:00	Josie and the Pussycats	US
10:30	Ent Tonight	US	10:30	Shaggy and Scooby Doo Get a Clue	US
11:00	TMZ	US	11:00	The Jetsons	US
11:30	The Partridge Family	US	11:30		
12:00	Frasier	US	12:00	The Flintstones	US
12:30	Seinfeld	US	12:30		
13:00	The hills		13:00	Get Smart	US
13:30			13:30		
14:00	Charlies Angels		14:00	Seinfeld	US
15:00	Just Shoot Me	US	15:00	Frasier	US
15:30	The Nanny	US	15:30		
16:00	Camp Lazio	US	16:00	Hogan's Heroes	US
16:30	Pinky and the Brain	US	16:30		
17:00	I dream of jeannie	US	17:00	Green Acres	US
17:30	Bewitched	US	17:30	The nanny	US
18:00	The flintstones	US	18:00		
18:30	The jetsons	US	18:30	Get Smart	US
19:00	Ent Tonight	US	19:00		
19:30	Frasier	US	19:30	Hogan's Heroes	US
20:00	Seinfeld	US	20:00		
20:30	Blackadder	UK	20:30	Seinfeld	US
21:30	Daredevil	US	21:30	Father of the Pride	US
22:00			22:00	South Park	US
22:30			22:30	Reno 911	US
23:00			23:00	That'll be the Day	UK
23:30	Frasier	US	23:30		
0:00	Seinfeld	US	0:00		
0:30	TMZ	US	0:30		
0:45			0:45	Stardust	UK
1:00	Blackadder	UK	1:00		
2:00	Soldier's Girl	US/Canada	2:00		
3:00			3:00	Get Smart	US
3:30			3:30	Hogan's Heroes	US
4:00	Just Shoot Me	US	4:00		
4:30	TMZ	US	4:30	Reno 911	US
5:00	The Partridge Family	US	5:00	The Jetsons	US
5:30	The flintstones	US	5:30	Marine Boy	Japanese

## Appendix C

<b>Go!</b>		
<b>Sunday 10 January 2010</b>		
<b>Time</b>	<b>Title</b>	<b>Origin</b>
6:00	Chowder	US
6:30	Squirrel Boy	US
7:00	Thunderbirds	UK
7:30	Camp Lazlo	US
8:00	Loonatics	US
8:30	Tom and Jerry Tales	US
9:00	The Grim Adventures of Bill and Mandy	US
9:30	Ben 10	US
10:00	The Batman	US
10:30	Legion of Super Heroes	US
11:00	Class of 3000	US
11:30	The Partridge Family	US
12:00	Charlie's Angels	US
13:00	Marine Boy	Japan
13:30	Josie and the Pussycats	US
14:00	Scooby Doo, Where are you	US
15:00	The Jetsons	US
16:00	Flintstones	US
17:00	Green Acres	US
18:00	The Nanny	US
18:30	<b>Wipeout Australia</b>	Australia
20:30	South Park	US
21:30	Curb Your Enthusiasm	US
22:00	Weeds	US
22:30	Dave	US
0:30	<b>Wipeout Australia</b>	Australia
1:30	South Park	US
2:30	Curb Your ENthusiasm	US
3:30	Weeds	US
4:00	Charlie's Angels	US
4:30	The Jetsons	US
5:00	The Flintstones	US

## Appendix C

SevenTwo			SevenTwo		
Monday 4 January 2010			Tuesday 5 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	Ying Yang Yo	US	6:00	Ying Yang Yo	US
6:25	Digimon	Japan	6:25	Digimon	Japan
6:50	Combo Ninos	Fr	6:50	Combo Ninos	Fr
7:15	Mickey Mouse	US	7:15	Mickey Mouse	US
7:40	Avenger Penguins	UK	7:40	Avenger Penguins	UK
8:05	Count Duckula	UK	8:05	Count Duckula	UK
8:30	Power Rangers operation Overdrive	US	8:30	Power Rangers operation Overdrive	US
9:00	<b>Sons and Daughters</b>	Aus	9:00	<b>Sons and Daughters</b>	Aus
9:30	<b>Home and Away: Early Years</b>	Aus	9:30	<b>Home and Away: Early Years</b>	Aus
10:00	Murder She Wrote	US	10:00	Murder She Wrote	US
11:00	Magnum	US	11:00	Magnum	US
12:00	<b>Headlead</b>	<b>Aus</b>	12:00	<b>Headlead</b>	<b>Aus</b>
13:00	Heartbeat	UK	13:00	Heartbeat	UK
14:00	Shortland St	NZ	14:00	Shortland St	NZ
14:30	Coronation St	UK	14:30	Coronation St	UK
15:00	Emmerdale	UK	15:00	Emmerdale	UK
15:30	Martha Stewart	US	15:30	Martha Stewart	US
16:30	Rick Steins Food Heroes	UK	16:30	Essence of Emeril	US
17:00	The Hair Bikers Cookbook	UK	17:00		
17:10			17:10	The People's Cookbook	UK
17:30	Coastal Kitchen	UK	17:30		
18:00	Jay Leno	US	18:00	Jay Leno	US
19:00	<b>Mother and Son</b>	Aus	19:00	<b>Mother and Son</b>	Aus
19:30	Heartbeat	UK	19:30	Ugly Betty	US
20:30	Gavin & Stacey	UK	20:30	Reaper	US
21:00	Not Going Out	UK	21:00		
21:30	Movie: Judge John deed	UK	21:30	The Unit	US
22:30			22:30	Strikeforce	US
22:50			22:50	Most Shocking	US
23:15	Magnum PI	US	23:15		
23:40			23:40	Movie Monster	US
0:10	Movie: The Saint mees the Tiger	UK	0:10		
1:30	<b>AFL Flashback</b>	Aus	1:30		
1:40			1:40	<b>AFL</b>	AUs
3:45	<b>AFL Flashback</b>	Aus	3:45	<b>AFL</b>	Aus

## Appendix C

SevenTwo			SevenTwo		
Wednesday 6 January 2010			Thursday 7 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	Ying Yang Yo	US	6:00	Ying Yang Yo	US
6:25	Digimon	Japan	6:25	Digimon	Japan
6:50	Combo Ninos	Fr	6:50	Combo Ninos	Fr
7:15	Mickey Mouse	US	7:15	Mickey Mouse	US
7:40	Avenger Penguins	UK	7:40	Avenger Penguins	UK
8:05	Count Duckula	UK	8:05	Count Duckula	UK
8:30	Power Rangers operation Overdrive	US	8:30	Power Rangers operation Overdrive	US
9:00	<b>Sons and Daughters</b>	Aus	9:00	<b>Sons and Daughters</b>	Aus
9:30	<b>Home and Away: Early Years</b>	Aus	9:30	<b>Home and Away: Early Years</b>	Aus
10:00	Murder She Wrote	US	10:00	Murder She Wrote	US
11:00	Magnum	US	11:00	Magnum	US
12:00	<b>Headlead</b>	<b>Aus</b>	12:00	<b>Headlead</b>	<b>Aus</b>
13:00	Heartbeat	UK	13:00	Heartbeat	UK
14:00	Shortland St	NZ	14:00	Shortland St	NZ
14:30	Coronation St	UK	14:30	Coronation St	UK
15:00	Emmerdale	UK	15:00	Emmerdale	UK
15:30	Martha Stewart	US	15:30	Martha Stewart	US
16:30	The Naked Chef	UK	16:30	Gary Rhodes Cookery Year	UK
17:00	Antonio Carluccio's Italian Feast	UK	17:00	Simply Baking	UK
17:30	Friends for dinner	UK	17:30	Wild Harvest	UK
18:00	Jay Leno	US	18:00	Jay Leno	US
19:00	<b>Mother and Son</b>	Aus	19:00	<b>Mother and Son</b>	Aus
19:30	American Gladiators	US	19:30	Fifth Gear	UK
20:30	Miniseries: Tin Man	US	20:30	Stargate	US
21:30	The Unit	US	21:30	Shark	US
22:30	What about Brian	US	22:30		
23:00			23:00	Strikeforce	US
23:15	Magnum PI	US	23:15		
23:30			23:30	Monster Garage	US
0:10	Hunt the man down	US	0:10		
0:30			0:30	The Woman on Pier 13	US
1:15	The Mole	Aus	1:15		
1:45			1:45	<b>AFL</b>	Aus
2:00	<b>Home Shopping</b>	<b>(Ad)</b>	2:00		
3:45			3:45	<b>AFL</b>	Aus
4:00	<b>The Body Specialists</b>	<b>(Ad)</b>	4:00		
4:30	<b>Medical Rookies</b>	<b>Aus</b>	4:30		
5:00	The Wind in the Willows	UK	5:00		

## Appendix C

SevenTwo			SevenTwo		
Friday 8 January 2010			Saturday 9 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	Ying Yang Yo	US	6:00	AFL	Aus
6:25	Digimon	Japan	6:25		
6:50	Combo Ninos	Fr	6:50	AFL	Aus
7:15	Mickey Mouse	US	7:15		
7:40	Avenger Penguins	UK	7:40	AFL	Aus
8:05	Count Duckula	UK	8:05		
8:30	Power Rangers operation Overdrive	US	8:30	Harry's Practice	Aus
9:00	Sons and Daughters	Aus	9:00	Leyland Brothers	Aus
9:30	Home and Away: Early Years	Aus	9:30		
10:00	Murder She Wrote	US	10:00	Ladies and the Champ	
11:00	Magnum	US	11:00		
11:40			11:40	Inspector Gadget 2	US
12:00	Headlead	Aus	12:00		
13:00	Heartbeat	UK	13:00		
13:15			13:15	Cocoon	US
14:00	Shortland St	NZ	14:00		
14:30	Coronation St	UK	14:30		
15:00	Emmerdale	UK	15:00		
15:20			15:20	South Pacific	US
15:30	Martha Stewart	US	15:30		
16:30	Gary Rhodes Cookery Year	UK	16:30		
17:00	Ainsley's Big Cook out	UK	17:00		
17:30	Tamasin's Weekends	UK	17:30		
18:00	Jay Leno	US	18:00	Benny Hill	UK
18:30			18:30	Cirque Du Soleil	Can
19:00	Mother and Son	Aus	19:00		
19:30	Airline USA	US	19:30	In the Bush with Malcolm Douglas	Aus
20:00			20:00		
20:30	Best Dish	UK	20:30	The Outdoor room with Jamie Durie	AUs
21:00			21:00	Mercurio's Menu	AUS
21:30	Escape to the Country	UK	21:30	60 Minute Makeover	UK
22:30	Human Body	US	22:30	How not to decorate	UK
23:00	Cheaters	US	23:00		
23:30			23:30	Monster House	US
0:20	The Saint in London	UK	0:20		
0:30			0:30	Room for Improvement	UK
1:00			1:00	AFL	Aus
1:40	AFL	AUs	1:40		
3:45	AFL	Aus	3:45	AFL	Aus

## Appendix C

<b>SevenTwo</b>		
<b>Sunday 10 January 2010</b>		
<b>Time</b>	<b>Title</b>	<b>Origin</b>
6:00	<b>AFL</b>	<b>Aus</b>
8:30	Wind in the Willows	UK
8:55	Danger Mouse	UK
9:20	Mickey Mouse Club house	US
9:45	Victor and Hugo: Bunglers in Crime	UK
10:10	Count Duckula	UK
10:35	Flipper	
11:30	Power Ranger	US
12:00	<b>Harry's Practice</b>	<b>Aus</b>
12:30	George of the Jungle 2	US
14:15	Max Keeble's Big Move	US
15:50	Juggernaught	uk
18:00	Disorderly Conduct Caught on Tape	us
19:00	The Love Bug 3	US
21:00	Sideways	US
23:30	Dragon Fly	US
1:30	<b>AFL</b>	<b>Aus</b>
3:45	<b>AFL</b>	<b>AUs</b>

## Appendix C

OneHD			OneHD		
Monday 4 January 2010			Tuesday 5 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	Fishing Australian Championships	Aus	6:00	Fishing Australian Championships	Aus
7:00	Motor Racing Goodwood Festival of Speed	UK	7:00	I Fish	Aus
7:30			7:30	Transworld Sport	UK
8:00	NFL Game Day	US	8:00		
8:15	NFL	US	8:15		
8:30			8:30	America's Game	US
8:55	Gridiron	US	8:55		
9:30			9:30	Gridiron	US
11:25	Sports Unlimited	UK	11:25		
12:00			12:00	Gridiron	US
12:20	Gridiron	US	12:20		
15:30			15:30	Drive	US
15:45	NFL Game Day	US	15:45		
16:00			16:00	Omnisport	UK
16:30	Next Wave	Aus	16:30	Beach Volleyball	US
17:00	Pat Callinan's 4x4 Adventures	Aus	17:00	Surfing	US
18:00	Slamball	US	18:00	Slamball	US
18:30	Pro Bullriding	US	18:30	Pro Bull Riding	US
19:30	The Magic of the FA Cup	UK	19:30	Golf WGC CA	US
20:30			20:30	Golf Skins Challenge Aus v NZ	Aus
21:00	FA Classics	UK	21:00		
21:30	Sports Tonight	Aus	21:30	Sports Tonight	Aus
22:00	The Magic of the FA Cup	UK	22:00	Johnny Lewis Boxing Classics	Aus
23:00	Gridiron	US	23:00	Gridiron	US
1:30	Sports Tonight	Aus	1:30	Sports Tonight	Aus
1:45	TNA Xplosion	US	1:45	Poker Star	Aus
2:40	Omnisport	UK	2:40		
			2:45	Omnisport	UK
3:10	Serie A	It	3:10		
			3:15	Sports Unlimited	UK
3:40	Basketball College	US	3:40		
			4:10	Raceworld	Eur
			5:05	Motor Racing Sprintcars	Aus
5:30	World Heli Challenge	Aus/NZ	5:30		

## Appendix C

OneHD			OneHD		
Wednesday 6 January 2010			Thursday 7 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	Serie A	It	6:00	Pat Callinan's 4x4 Adventures	Aus
6:30	NFL Game Day	US	6:30		
7:00	Gridiron	US	7:00	Gridiron	US
9:30	Gridiron	US	9:30	Gridiron	US
12:00	Tennis ATP Champions Tour	US	12:00	Netball	Aus
12:30	Aus Super Cross	Aus	12:30		
13:30	TNA Xplosion	US	13:30		
14:00			14:00	World Heli Challenge	Aus/NZ
14:30	NBA	US	14:30	Motorracing Goodwind	UK
15:30			15:30	Tennis	US
16:00			16:00	Omnisport	UK
16:30			16:30	Beach Volleyball	US
17:00	Surfing	US	17:00	Surfing	US
18:00	Slamball	US	18:00	Slamball	US
18:30	Cricket Champions League	Non-Aus	18:30	Pro Bull Riding	US
19:30			19:30	Drive	US
20:00			20:00	Tread BMX	US
20:30			20:30	NTNA Xplosion	US
21:30	Sports Tonight	Aus	21:30	Sports Tonight	Aus
22:00	Real NBA	US	22:00	UFC Wired	US
22:30	NBA	US	22:30		
23:00			23:00	Boxing A2Z	Non-Aus
0:00			0:00	Sports Tonight	Aus
			0:15	Surfing	US
0:40	Sports Tonight	Aus	0:40		
0:55	Serie A	It	0:55		
1:15			1:15	Serie A	It
			2:25	Supercross	Aus
2:55	Omnisport	UK	2:55		
3:10	Triathlon	Non-Aus	3:10		
3:15			3:15	Omnisport	UK
3:45			3:45	Triathlon	Non_aus
5:05	Motor Racing Sprintcars	Aus	5:05		

## Appendix C

OneHD			OneHD		
Friday 8 January 2010			Saturday 9 January 2010		
Time	Title	Origin	Time	Title	Origin
6:00	Serie A	It	6:00	Gridiron	US
			6:45	Gridiron	US
8:00	Serie A	It	8:00		
9:00	Transworld Sport	UK	9:00		
			9:10	Gridiron	US
10:00	NBA	US	10:00		
			11:35	Mecum Auto Auction	US
12:00	NCAA	US	12:00		
12:30			12:30	<b>Aus Fishing Championship</b>	<b>Aus</b>
13:30			13:30	<b>Escape with ET</b>	<b>Aus</b>
14:00	<b>World Heli Challenge</b>	<b>Aus/NZ</b>	14:00	<b>Pat Callinan's 4x4 Adventures</b>	<b>Aus</b>
14:30	Omnisport	UK	14:30		
15:00	Golf: The Royal Trophy	Eur	15:00	Golf: The Royal Trophy	Non-Aus
20:00	Real NBA	US	20:00	<b>AFL</b>	<b>Aus</b>
20:30	NBA Draft	US	20:30		
21:30	<b>Sports Tonight</b>	<b>Aus</b>	21:30		
22:00	Sports Soup	US	22:00	<b>Poker Star</b>	<b>Aus</b>
22:30	America's Game	US	22:30		
23:00			23:00	UFC Wired	US
23:30	Gridiron	US	23:30		
0:00			0:00	TNA Xplosion	US
1:00			1:00	Sports Soup	US
1:55	Gridiron	US	1:55		
2:00			2:00	<b>Golf Skins Aus v NZ</b>	<b>Aus</b>
3:00			3:00	Surfing	US
4:00			4:00	NCAA	US
4:20	Gridiron	US	4:20		

## Appendix C

<b>OneHD</b>		
<b>Sunday 10 January 2010</b>		
<b>Time</b>	<b>Title</b>	<b>Origin</b>
6:00	Omnisport	UK
6:30	Serie A	It
7:30	Transworld	Eur
8:30	Gridiron	US
12:00	Gridiron	US
12:30	Powerboats Class 1 World Championship	US
13:00	<b>I Fish</b>	<b>AUs</b>
13:30	Drive	US
14:00	Tennis ATP Champions Tour	Non- Aus
14:30	Omnisport	UK
15:00	Golf: Royal Trophy Day	Non- Aus
20:00	<b>Australian Supercross</b>	<b>Aus</b>
21:00	Motorcycling MotoGP Classics	Non- Aus
22:00	Motor Racing Goodwood Revival 2009	UK
23:00	Drift	US
23:30	Sports Soup	US
0:00	TNA Xplosion	US
1:00	BMX Mega Tour	US
2:00	Tread BMX	US
2:30	Omni sport	UK
3:00	Gridiron	US
5:30	NCAA	US