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ABC
Australian
Broadcasting
Corporation

Manager
Legislation Section
Digital Switchover Policy and Regulation Branch
Department of Broadband, Communications and the Digital
Economy
GPO Box 2154
Canberra ACT 2601

ABC Ultimo Centre
700 Harris Street
Ultimo NSW 2007
GPO Box 9994
Sydney NSW 2001
Tel. +61 2 8333 1500
abc.net.au

**Discussion paper on the legislative framework for implementing
a digital television switch-over timetable**

Dear Madam/Sir,

The ABC welcomes the opportunity to comment on the issues raised in the Department's discussion paper on a legislative framework for implementing a digital television switch-over timetable. It has only a small number of comments to make, having previously commented the implementation of switch-over in a number of other submissions. In particular, the ABC draws your attention to its response to the 2005 discussion paper issued by the (then) Department of Communications, Information Technology and the Arts entitled "Driving Digital: A Review of the Duration of the Analog/Digital Television Simulcast Period".

The Corporation is strongly supportive of the Government's decision to set a firm date of the end of 2013 for the completion of digital switch-over and to develop a detailed timetable covering the period leading up to that point. As the ABC has previously argued, this will not only create the necessary incentives for consumers to purchase digital receiver equipment, but it will provide broadcasters and transmission service providers with the certainty they need to make effective decisions about the replacement or refurbishment of existing analog equipment.

Switch-over in geographical areas other than licence areas

The discussion paper describes the Government's intention to amend the *Broadcasting Services Act 1992* ("BSA") to allow analog switch-off to occur on the basis of geographical areas other than existing licence areas in order to accommodate the possibility of a staggered, region-by-region switch-over program. The ABC appreciates that a staggered approach may simplify a number of aspects of the switch-over process, including allowing a series of focused public information campaigns to be conducted across the country. However, region-by-region switch-over also has the potential to create certain practical difficulties.

First, to be effective, a region-by-region switch-over program will need to ensure that all households in a region that is ending analog television broadcasts will be able to receive digital services in replacement. Achieving this outcome may be difficult in and around the borders of switch-over regions if commercial licence areas and national broadcasters' coverage areas do not match, as it would

potentially result in viewers only being able to receive some of the digital television services available in their area where they were previously able to receive a full suite of analog services. The ABC's experience suggests that the public is quick to complain if their television viewing is significantly disrupted and that they will turn to broadcasters in the first instance to resolve their difficulties.

A similar potential problem exists if the coverage areas of digital channels and the analog services they are replacing do not match as a result of a transition from VHF to UHF transmission. This is the issue of "equivalent coverage," which is a required objective of the national television conversion scheme that the Australian Communication and Media Authority (ACMA) is required to formulate under paragraph 19(3)(f) of Schedule 4 of the BSA (a similar objective exists in relation to commercial broadcasters). While the scheme is meant to ensure that national broadcasters' SDTV services "should achieve the same level of coverage and potential reception quality as is achieved by the transmission of that service in analog mode in that area," there is currently no definitive measure of equivalent coverage or the way in which it will be assessed. As the ABC has previously argued, a concrete definition of equivalent coverage and a means of assessing it are necessary to ensure that Australian audiences continue to receive television services after the transition to digital.

As a participant in the Spectrum Group assisting the Digital Switchover Task Force, the ABC is confident that matters of this kind are being given due consideration. Nonetheless, it believes that amendments should be made to the BSA to ensure that in any staggered switch-over process the bodies responsible for developing the timetable and spectrum plans are obliged to ensure that all households able to receive analog services prior to switch-over are able to receive their digital equivalents after switch-over is complete.

Shortening the simulcast period in specific areas

The second set of difficulties with a region-by-region switch-over emerge from the various legislated obligations and exemptions contained in the BSA that are linked to duration of the simulcast period. These include the obligation that national broadcasters transmit 1040 hours of high-definition content each year (clause 37F of Schedule 4 of the BSA) and a reduced level of captioning obligations for multichannel services (sub-clause 38(5) of Schedule 4) until the end of the simulcast period. A staggered switch-over process would mean that these obligations and exemptions will cease to apply in some areas before others.

The ABC transmits its television services on a state-by-state basis. As a result, any requirement that affects its broadcasts to a particular region within a state will, if the regional requirement is more onerous than the requirement applying to the state as a whole, effectively become a state-wide requirement. Thus, for example, if analog services were switched off in Mildura before the rest of Victoria, the ABC would be required under current legislation to deliver an increased level of captioning on ABC2 in Mildura. However, because the ABC is not in a position to deliver break-out services to individual regions within a state, it would then need to modify the service it delivers to the whole of Victoria to ensure that it meets its obligations in Mildura. In effect, a staggered switch-over would mean that obligations linked to the duration of the simulcast are actually linked to the duration of the simulcast in the earliest region to undergo analog switch-off.

The ABC believes that this was not the intention of the original legislation and proposes that the BSA be amended so that obligations and exemptions of this kind are linked not to the duration of the simulcast period in a particular area, but instead apply until the completion of the transition from analog to digital television.

Legislative mechanisms for setting the switch-over timetable

The discussion paper seeks comments on possible mechanisms for setting the switch-over timetable, including legislation, regulation and written determination by either the Minister or ACMA. At stake in this question would appear to be the ease with which the timetable might be amended, should circumstances make it necessary to do so.

As indicated above, the ABC believes one of the key benefits of a fixed switch-over timetable is the level of certainty it provides for industry and the Australian public. In the interests of preserving that certainty, the Corporation believes that the timetable, once set, should change only in the most unusual circumstances. While this outcome would be delivered by setting the timetable through legislation, doing so would put any modification that did prove necessary at the mercy of the Parliamentary timetable and could potentially delay important changes. Accordingly, the ABC believes the timetable should be set by regulation, as this would strongly indicate an intention to implement the timetable that is developed, while allowing for the potential of timely modification if required.

In a similar fashion, the Corporation would favour the inclusion of provisions to ensure consultation on any changes to the timetable once it has been set.

Digital transition in smaller communities

While not covered in the discussion paper, the ABC believes that attention needs to be given to specific issues in relation to digital switch-over in smaller communities. In December 2006, the (then) Minister advised the Corporation that the Government was examining whether digitisation of television services in communities with populations of fewer than 500 people would be most effectively delivered by satellite, rather than terrestrial transmissions. The ABC expects to have completed installation of digital transmitters in all communities of 500 and above in early 2009, leaving 58 sites with populations of fewer than 500 people. It is the ABC's view that it is preferable to deliver digital television to these areas terrestrially, as this will ensure that audiences currently able to receive analog television will be able to receive the full suite of ABC digital services after switch-over. The Corporation seeks urgent clarification on the approach that the Government intends to take in relation to digitisation of television services in these smaller communities.

I hope these comments will be of use to the Department in its consideration of the matters raised in the discussion paper. Should you have any further questions, the contact officer in relation to this matter is Dr David Sutton, who may be contacted on (02) 8333 2429 or by email at sutton.david@abc.net.au.

Yours faithfully

Gary Dawson
Director of Communications