

Submission by Australian Federation Against  
Copyright Theft

To

Department of Broadband, Communications and the  
Digital Economy Discussion Paper

**Content and access:**  
**The future of program standards and  
captioning requirements on digital  
television multi-channels**

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## **AFACT SUBMISSION**

### **Content and access:**

### **The future of program standards and captioning requirements on digital television multi-channels**

#### **INTRODUCTION**

The Australian Federation Against Copyright Theft Limited (**AFACT**) appreciates the opportunity to provide a submission in response to the Australian Government's Discussion Paper entitled ***Content and access: The future of program standards and captioning requirements on digital television multi-channels (Paper)*** to assist the Government in its review under the Broadcasting Services Act 1992 (**Act**) on the operation of program standards and captioning requirements and how and to what extent they should apply to or be amended for standard and high definition multi - channel commercial television broadcasting services in the future (**Review**).

The Paper canvasses both program standards and captioning but AFACT has been selective in its response, commenting only on program standards and the potential impact of changes in the regulatory environment as this is the issue relevant to AFACT's members. AFACT's members are in the business of producing and distributing feature films, made for television films and dramatic and non-fiction television serial programming (**programs**) in Australia.

AFACT stands by to assist and participate actively in the Review process, particularly if specific instances of legislative or regulatory reform are proposed as a result of the present Paper or the Review.

We take this opportunity to commend the Government for its ongoing work in this area and for its intention to implement a more effective regulatory framework that services the interests of consumers and businesses.

#### **AFACT**

AFACT was established in 2004 to protect the film and television industry, retailers and movie fans from the adverse impact of copyright theft in Australia and to promote the interests of its members in the film and television industries in Australia. AFACT works closely with industry, government and law enforcement authorities to achieve its aims.

AFACT members represent approximately 50,000 Australians and include independent cinemas, video rental stores and film and television producers across Australia. Some of AFACT 's members are: Village Roadshow Limited; Motion Picture Association: Walt Disney Studios Motion Pictures Australia; Paramount Pictures Australia; Sony Pictures Releasing International Corporation; Twentieth Century Fox International; Universal International Films, Inc.; and Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.

## GENERAL POSITION OF AFACT

AFACT as an organisation, and its members, are committed to promoting the world's best possible creative content.

AFACT acknowledges the aim of mandatory content standards to ensure that there is a minimum level of Australian content on commercial television for consumers and to support the local production industry

AFACT also believes that Australian producers, filmmakers, distributors and broadcasters understand the needs of Australian audiences and are best positioned to meet the needs and interests of this audience.

Australian content can now compete with the best international content and Australians produce programs of the highest standard that attract significant viewership, both for dramatic and reality based programs.

Broadcasters have responded to viewers interest in local programming by commissioning a number of important drama and non-drama programming, such as **Packed To The Rafters**, **Underbelly** and **Master Chef Australia**, each of which have rated amongst the most popular programs on Australian television.

Several other locally produced programs, such as **Neighbours**, **Home and Away**, and **60 Minutes** have been in production for over twenty years and remain popular with audiences.

Broadcasters will continue to listen to consumers and provide programs of both general and niche appeal to fill the new multi-channels. However, substantial development and investment is needed to produce these new channels.

During the start-up phase of new multi-channels, which can continue for several years, there may be little, if any, additional revenue available to broadcasters to invest in quality local content above and beyond what is already required of broadcasters for their primary service. Advertising revenues, which are by far the largest source of revenue for free to air broadcasters, has been in steady decline, and with increased competition from both other traditional media sources such as subscription television and new media sources such as the Internet and mobile telephony services, it will continue to be a challenging environment for long term revenue growth.

Introducing additional quotas for multi-channels could have the unintended consequence of spreading the production dollar thin and lowering the standard of programs to meet the increased requirement for Australian content as broadcasters are unlikely to have a budgetary increase commensurate with additional content obligations.

As has been shown by **One** (Ten Network) and **ABC3** (ABC), broadcasters are likely to embrace narrower genre categories for some, if not all, of their multi-channel services. Imposing additional content obligations on each multi-channel could be problematic depending on the genre or dissuade broadcasters from creating niche genre channels.

Taking these factors into account, AFACT does not believe that there is a need for Australian content obligations to be increased beyond those that apply to the core or primary channel broadcast.

## **OPTIONS ON PROGRAM STANDARDS**

**AFACT does not believe it is necessary to impose local content quota as Australian content can compete with the best in the world, however, of the five options provided in Part Four of the Paper in relation to future treatment of program standards, AFACT supports Option 4**

AFACT agrees that, upon digital switchover, the Australian content standard be met by aggregating the total Australian content (programs and advertising) shown across all of the digital multi-channels of a commercial broadcaster, even if the content obligation itself will only apply to the primary channel.

Viewers would not be disadvantaged as they would continue to receive the same total amount of Australian content – including children's programming.

Broadcasters would not be disadvantaged as they would be able to program their digital multi-channels to benefit consumers and develop specific or niche channels for audiences looking to audience needs rather than quotas to drive the content decisions.

Producers and filmmakers would not be disadvantaged as they will have greater scope to produce different types of programs to fit broadcaster requirements, depending on the genre of each channel. In turn this would encourage new participants into the market, focusing on specific production genres (such as documentary, children's or sporting focused production houses).

The Paper suggests that this Option 4 might provide additional reporting and monitoring requirements associated with the content standard as content will be measured and reported across several channels.

AFACT does not believe this will create a burden as Option 4 is similar in operation to the Australian Drama Content requirement under the Act imposed on subscription television licensees and channel providers. Under this regime, broadcasters are not required to produce and broadcast programs for a specific channel to which the spend obligation attaches, but rather can allocate their spending requirement over any channel on the platform. With significantly less channels to manage than a subscription television platform, a reporting regime for commercial broadcasters could be implemented effectively and with relatively little additional complexity.

In comparison the reporting obligations that statutory licenses such as APRA impose are significantly more onerous but managed efficiently by subscription and commercial broadcasters alike.

In addition, AFACT supports this change to the content standard taking effect only once full digital switchover has occurred in 2013

## ISSUES FOR DISCUSSION

In summary AFACT specifically responds to the 5 questions set out on page 16 of the Paper:

1. 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? **No**
2. Should program standards start applying to all commercial broadcasters' digital multi-channels before the commencement of the phased, region-by-region switchover? **No**
3. Should the current exemptions for program standards on multi-channels continue until all of Australia has switched over to digital television? **Yes**
4. 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? **No**
5. 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? **As for Option 4.**

AFACT appreciates this opportunity to contribute to the Paper and looks forward to actively engaging with Government in the development and implementation any regulation on content standards.

**Neil Gane**  
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**AFACT**