



Australian Government



**Meeting the Digital Challenge
Reforming Australia's Media in the Digital Age**

Discussion Paper on Media Reform Options

**Submission to the Department of Communications
Information Technology and the Arts**

April 2006

1. Introduction

The Australian Film Commission (AFC) is an Australian Government agency, operating as part of the Commonwealth Film Program to ensure the creation, availability and preservation of Australian screen content. The AFC enriches Australia's national identity by fostering an internationally competitive audiovisual production industry, making Australia's audiovisual content and culture available to all, and developing and preserving a national collection of sound and moving image.

The AFC has a key role to play in the development of a vibrant audiovisual industry in Australia capable of producing a diverse range of quality products for Australian and international audiences.

The AFC has previously made submissions to the series of digital television reviews conducted according to Schedule 4 of the *Broadcasting Services Act 1992*.¹ The AFC's main area of concern in the reviews is the creation and availability of Australian content. The AFC is concerned that arrangements for digital television conversion take account of the underlying cultural objectives of content regulation and that Australian programming is not disadvantaged in relation to foreign programming.

The AFC believes that decisions made regarding the broadcasting system and the encouragement of digital television uptake must consider both the cultural importance and the popularity of Australian content.

2. Meeting the Public interest

Australia has now embarked upon the revolution in communication that is being facilitated by the developments in digital technology that affect all forms of media. The challenge for the Government and for Australia is to ensure that we maximise all the potential social, cultural and economic benefits that can be created by this revolution. It is of vital public interest that we have in place the appropriate policy settings that will not only encourage a communications market place that is open, fair and competitive, but one which:

- provides consumers with access to as wide as possible range of services to meet the diversity of needs and interests in the community; and
- provides consumers with reliable and comprehensive information that will assist them to participate fully in the life of the community; and
- encourages high levels of investment in the creation of Australian content to meet the needs of the Australian public, giving vibrant expression to our culture and enhancing the economic value of Australian creative industries at home and abroad.

¹ These submissions are available at:
<http://www.afc.gov.au/policyandresearch/policy/broadcasting.aspx>

The AFC believes that key to the successful promotion of digital television uptake is prioritising the needs and interests of the Australian audience. Television is society's most important provider of information on matters of public interest. It contributes to community cohesion and plays a direct role in the development of a vibrant sense of national identity, providing an outlet to reflect the diversity of cultural expression within Australia.

The broadcasting of Australian content is essential to this process. Access to minimum levels of Australian content by Australian audiences is therefore a fundamental tenet of our television system.

The broadcasting spectrum is a public asset. In return for access to these assets and the resultant ability to run a secure and profitable business, licence holders have certain obligations placed on them by Government, including providing minimum levels of Australian content.

Australian adult and children's drama and documentaries are the most expensive form of television production. With a population of just 20 million, Australia does not have the market from which broadcasters can recover the costs of producing local content. An Australian series costs between \$390,000 per hour (if shot on tape) to over \$550,000 (if shot on film or HD) to produce, over \$480,000 per hour for children's drama. This compares to a multitude of US series made for at least \$1.45 million per hour available to Australian broadcasters at a mere \$30,000 to \$95,000 per hour.²

This market failure has been a part of the Australian broadcast environment since its inception. Australian content, which is clearly uneconomic for broadcasters to fully fund, has instead been supported by government through the imposition of regulatory obligations, in return for a guaranteed monopoly of public spectrum. This situation will not be alleviated with the addition of new broadcasting services, and indeed could be worsened.

As the pressure to reduce or cap expenditure on all broadcasting services is constant, without continued support and regulation on new services, the overall presence of Australian content will decline.

Australian audiences presently have access to guaranteed minimum levels of Australian content on the existing range of television services as a direct result of Government regulatory and funding intervention. All proposed changes to Australia's television system, especially those which will increase the range of broadcasting services, will require a continued commitment and articulated strategy from Government. Further regulatory and funding commitments will be necessary to ensure the maintenance of minimum levels of Australian content on existing and on new services.

² AFC research

3. Falling levels of Australian content

Australian content remains extremely popular with Australian audiences as is clear from recent examples of ratings for Australian programming.³

Nevertheless, the AFC notes over the last decade the amount of foreign programming on Australian free to air and subscription television has increased dramatically possibly due to the introduction of subscription television.⁴ An indicator of this is the rising deficit in Australia's audiovisual trade. Since 1992/93 the value of imported television has increased from \$240 million to \$489 million in 2002/03.

The production of Australian TV drama programs – telemovies, mini-series, series and serials – grew significantly during the 1990s, with the production value of new Australian-originated drama reaching \$350 million in 2000/01. This included both Australian originated programming and co-productions. However, over the past four years the total value of production has been falling, reaching a low of \$218 million in 2004/05.⁵ This decline in production is reflected in the decline in hours of Australian drama being produced from a high of 848 hours in 2000/01 to 607 hours in 2004/05.

The overall level of Australian content is 59 per cent on the commercial networks but in 2004 they broadcast approximately 460 hours of new Australian adult drama, well down on the annual average between 1993 and 2004 of 602 hours.⁶

This compares to an average level of 57.4 per cent local content broadcast in Europe in 2002 *excluding* the transmission time given to news and sports, the vast majority of which is locally sourced and produced. The Australian content level includes news and sports.⁷

Networks continue to spend more money on foreign drama programming than they do on first run Australian drama. In 2003/04 the percentage of total program expenditure by commercial broadcasters spent on foreign drama

³ Channel 10's *Mary Bryant* was the most watched program on the night it screened in mid-2005 with 1.6 million viewers. *The Alice* screening on Nine Network was the most watched telemovie of 2004. The mini-series *Jessica* was the 3rd highest rating drama program the week it screened on Network Ten and won its timeslot against Sunday night US and UK films. When *Looking for Alibrandi* screened in 2003 on Network Nine it rated higher than *Gladiator*. Long-running Australian drama series also continue to rate highly with *Kath and Kim* the most watched comedy series in 2003, 2004 and 2005. *McLeod's Daughters*, *Home and Away*, *Blue Heelers* and *All Saints* all consistently rate in the top drama titles.

⁴ Imports, particularly from the US, began to rise in 1997/98 and jumped significantly in 1998/99, possibly due to the take-off of pay television in Australia.

⁵ *National survey of feature film and TV drama production 2004/05*

⁶ Some of this change can be attributed to the changes in the Australian content regulation.

⁷ The Audiovisual, Media and Internet Unite, Directorate-General Information Society, EU, *Impact study of Measures (Community and National) concerning the promotion of distribution and production of TV programmes provided for under Article 25(a) of the TV without frontiers directive*, May 2005

programming was 23 per cent, while the percentage spent on Australian children's and adult drama was 12 per cent.

The situation for Australian content is worse on the ABC, where the level of Australian content has declined dramatically and is well below that required by the commercial broadcasters.

On the ABC the level of Australian content has declined from around 58 per cent of total hours broadcast in the 1990s to 49.3 per cent in 2003/04 and 52 per cent in 2004/05. A large part of this decline has been due to the decline in Australian drama on the ABC from 4 per cent to 2 per cent as well as education programming dropping from 9 to 2 per cent.

First run hours of drama for adults in prime time has dropped from 82 hours in 2001/02 to 3 hours in 2004/05. In the latter year new Australian drama represented 0.14 per cent of prime time hours compared to 13 per cent of the schedule devoted to new foreign drama. Total hours of Australian drama, including repeats dropped from 387 (144 hours in prime time) in 2001/02 to 163 (48 hours in prime time) in 2004/05. Australian comedy (including comedy drama) also declined in this period from 43 hours of first run to 8 hours. Concurrently, the amount of imported drama for adults broadcast by the ABC in prime time rose from 338 to 437 hours.⁸

Given the importance of Australian content the continuing decline in the amount of new Australian drama on free to air television is of deep concern. In developing a strategy for the effective transition to digital television and the potential introduction of new services, the continued viability of domestic drama needs to be considered.

4. AFC comments on key proposals

The AFC's comments upon the key proposals presented in the discussion paper in relation to digital broadcasting are predicated on the principle that access to minimum levels of Australian content by Australian audiences is a fundamental tenet of our present television system, which must be maintained. Whatever the government ultimately determines in relation to new television services, the new system as a whole, and its component parts, must deliver to Australian audiences adequate levels of choice, quantity and diversity of Australian content. At minimum, these levels must be at least equivalent and in proportion to those which audiences currently enjoy on free-to-air television.

4.1 New Digital Services on Broadcasting Spectrum

The discussion paper proposes that on the basis that two unallocated digital channels are not used for a fourth commercial free to air network, these would

⁸ This compares to SBS which broadcast at least 8.5 hours of SBSi funded Australian drama in the 2004/05 financial year. SBSi commissioned 57 hours of drama in 04/05.

be made available to some other kind of digital television service including datacasting, subscription, narrowcasting or mobile television.

The possible introduction of new services in an environment where levels of Australian content are not increasing raises the question that if new services are to be introduced into a broadcasting system with entrenched market failure, how then can Australian audiences be guaranteed appropriate levels of Australian content?

Traditionally, the government has relied on a mixture of regulation and direct and indirect subsidy to support Australian content. Regulation has been the most significant mechanism. However, under the Australian United States Free Trade Agreement (AUSFTA) the Government now has limited ability to expand its use of regulation to guarantee Australian content.

Nevertheless, the AFC argues strongly that regulation is fundamental to meeting the objectives in the Broadcasting Services Act and should continue to be used to the extent it is still permitted under the AUSFTA, especially with respect to subscription television. The Broadcasting Services Spectrum remains a public asset.

The AFC therefore supports the option put forward in the paper for the government to consider “what, if any, obligations or restrictions should be placed on operators of these new digital services”. The AFC argues that consideration needs to be given to strategies that would maximise the creation of Australian content on these services.

Without knowing the exact nature of the new services that might emerge it is difficult to be specific about the most appropriate strategy. However, some of the options were canvassed by the AFC in its 2003 publication *Flexible Visions*.⁹ They can be seen to encompass such things as:

- levies;
- content obligations (eg quotas);
- content access regimes;
- promotion and positioning obligations;
- classification and prohibition;
- government funding.

The AFC is strongly of the view that Australian content must have a significant presence from the very beginning of all new services. However, the AFC believes that regulation alone will not be sufficient to achieve this.

It is the AFC’s view that a substantial on-going commitment will also be required by government in order to continue to fund local content and to a level that will be required in a future multiplatform television environment. The extent to which government directly supports the creation of content and

⁹ http://www.afc.gov.au/downloads/policies/flexible%20vision_final.pdf The AFC is currently updating this paper.

supplements this with indirect subsidy measures requires further debate and discussion.

One possibility is to create an Australian content production fund that could be drawn from a combination of taxes, levies and subsidy, to support Australian content on both new and existing services.

This is a matter not only of cultural importance but also of economic importance. Australia needs to have a viable and growing industry that provides Australians with relevant national content on new media and positions the country to reap the employment and investment benefits from content creation.

The Australian Communications and Media Authority (ACMA) has commenced planning in relation to the potential allocation, possible uses for and commercial interest in the datacasting spectrum. The discussion paper foresees that datacasting transmitter licensees

would potentially be able to provide services such as a range of free to air "narrowcast" channels including religious, ethnic, or home shopping channels, or subscription TV services. This is in addition to the types of services which could be currently provided under a datacasting content licence.

AFC believes that the new indigenous service would meet this criteria being a niche narrowcast service supporting the production and broadcast of indigenous news, children's and drama programs. While National Indigenous Television (NITV) – the group charged with the implementation of the new service – will build on the existing narrowcast service of Imparja's Indigenous Community Television satellite transmission and other Indigenous production infrastructure nationwide, it also intends to use a variety of other delivery platforms.

The AFC understands that the NITV committee proposes that NITV be provided with its own 7MHz digital terrestrial channel and act as a channel multiplexer to provide digital carriage of local community broadcast and datacast services as well as a range of other new and innovative services. NITV propose in the alternative that it be provided part of the spectrum to screen its service.

The AFC would also support the carriage of the NITV service upon any new multiplex service as a "must carry" obligation, be it as an open narrowcasting service, subscription television service, mobile television service or a combination of services.

On principle, the AFC supports any new service that by its very nature will include significant amounts of new Australian content, particularly in those underserved markets, including but not limited to education, children's, adult drama, documentary and the arts.

4.2. New services on other platforms

The discussion paper proposes the transfer of decision-making power for the allocation of new commercial free to air licences delivered outside the BSB spectrum from ACMA to the government. The process of such allocation is to be considered further. Services could be delivered via satellite or broadband using Internet Protocol Television (IPTV) technology or terrestrial wireless service in spectrum outside the BSB.

The AFC notes that the Minister for Communications, Information Technology and the Arts issued a determination in September of 2000 stating that the following class of services do not fall within the definition of a broadcasting service:

“a service that makes available television programs or radio programs using the Internet, other than a service that delivers television programs and radio programs using the broadcasting services bands.”

While the paper does not explicitly say that such services will continue to be deemed *not* to be broadcasting services, the AFC’s understanding is that “commercial free to air broadcast services” such as “commercial television services via satellite or broadband using Internet Protocol Television technology” will be licensed whereas “services that provide television ...over the internet” will be exempt. This interpretation appears to have been confirmed by a speech to the ABN AMRO Conference by Minister Coonan, where she advised that:¹⁰

The Government remains of the view that ordinary streamed services over the Internet – which are widely available from both local and international websites – should not be regulated as broadcasting services.

For instance, streaming of video content or movies on demand available over the Internet are not considered to be broadcasting services.

However, the Minister argues that there are services such as IPTV being developed, using similar business models to pay television, that will require licensing:

One example is the subscription TV service that operates in Hong Kong using IPTV technology, called “now Broadband TV”. For all intents and purposes it looks like any other subscription TV service – it is just delivered over a different platform.

This can be distinguished from general internet services which are delivered on demand, on a point-to-point basis - that is where individual

¹⁰ Senator the Hon Helen Coonan Minister for Communications, Information Technology and the Arts, *Address to the ABN AMRO Conference*, Sydney, 6 April 2006
http://www.minister.dcita.gov.au/media/speeches/address_to_the_abn_amro_conference

users select their own content for download or viewing over the internet.

The Minister takes a technologically neutral position when she states that:

Whether or not these services would be regulated in Australia as “broadcasting services” does not depend on the platform by which the services are delivered, but the nature of the services themselves.

ACMA, as the regulator, within the bounds of the Broadcasting Services Act, currently determines this distinction and there are no plans to change that.

Whether or not something constitutes broadcasting and requires a licence will depend on the particular circumstances of the service being offered, whether it is via IPTV, satellite, terrestrial or some other platform.

For example, if somebody wants to deliver a new subscription TV broadcasting service, regardless of what platform they choose to deliver it over, they will need the appropriate licence.

Likewise for a narrowcast service or a datacasting service or a commercial broadcasting service.

The AFC supports the Minister’s statement in this regard.

Nevertheless, the AFC believes that the regulatory ambiguity that this distinction creates, particularly with reference to the extant determination, needs to be clarified in order that there is certainty in the broadcasting and digital content industries. This certainty is of particular significance to the implementation of the Digital Content Industry Action Agenda and investment in the sector.

In relation to those new services that will be left unregulated, the likely lack of Australian content on these services remains of concern to the AFC. This is a significant issue that needs to be further considered by government.

The AFC supports the papers suggestion that further consideration be given to:

the degree of other regulation that should apply to these services (for example, local content rules), in line with the general intention set out in the Broadcasting Services Act (BSA) that different levels of regulatory controls should be applied across the range of broadcasting services according to the degree of influence of those services.

The AFC’s research on regulatory options mentioned above, pointed to a number of possible ways of regulating content delivery over IPTV and other services outside the BSB including transmission quotas; expenditure quotas;

positioning and promotion of Australian content; and 'must carry' and Australian content access regimes.

Depending upon the form of regulation, the channel provider or service provider could conceivably be the subject of regulation and in the case where content is accessed through third party content providers (via, for example, BigPond), alternative forms of regulation such as positioning and promotion can be utilised.

In addition, content may be supported through direct or indirect funding models. One option would involve the formation of an Australian content production fund. This could be funded from direct Commonwealth government funding, indirect funding through levies and taxes or a combination of both.

The AFC's view is that issues of regulation and support of content should be considered at the time of, or ideally prior to, licensing.

It is likely that there will be media interests that will advocate for less or no Australian content requirements in their proposals on the basis that regulation for Australian content should occur only when and if the new services become profitable. This has been the approach in the past with poor outcomes for Australian content. The current low levels of Australian content for audiences of subscription television are the most recent example. A decision was also taken not to impose Australian content regulation when television first began, with a result that Australian television became dominated by foreign programming in the sixties.

Failure to design a system that has incentives or support for Australian content built in from the beginning makes it much more difficult, costly and inefficient to introduce later. Consistency with existing services and fairness requires that local content regulation be introduced from the outset on new services.

4.3. Multichannelling

Commercial broadcasters

Current restrictions on commercial television broadcaster multichannelling are proposed to be removed at the end of the simulcast period allowing, but not requiring, broadcasters to offer multichannelling services. The option is left open for the Government to review this decision in the lead up to the switchover.

As a part of this lowering of restrictions the paper proposes that:

arrangements for the regulation of multichannels by commercial broadcasting, including, for example appropriate Australian content rules and captioning obligations, would be considered prior to the end

of the restrictions on commercial television broadcaster multichannelling.

The AFC supports this proposal. The AFC notes however that “in considering such arrangements, the Government would have regard to the obligations applying to *other digital services*.” The AFC recommends that “other digital services” be read as broadly as possible in order to consider the full gamut of regulatory options.

In preparing for the AFC’s original submission to the Digital Television Reviews, the AFC consulted with representatives of the free-to-air networks. The AFC found that regardless of whether a particular broadcaster is in favour of multichannelling or not, there is general agreement among the broadcasters that neither new Australian drama nor documentary would be a feature of any new channels due to the production costs. The networks in favour of multichannels are seeking to operate these channels at minimal costs – as is their commercial imperative. It is readily acknowledged that the content would be mainly inexpensive imported programs or repeats and back catalogue including Australian material.

Australian audiences reap scarce benefits from cheaply run multichannels. They are not provided with new choices or real variety. There will be no new high quality local drama and documentary and no innovation or risk taking.

Those networks that support multichannelling advocate less or no Australian content requirements in their multichannel proposals.¹¹ They maintain that funding extra channels entails a marginal business case, which would inevitably dilute their Australian content on the prime channel. In these circumstances the AFC considers it imperative that broadcasters should be obliged through regulation to devote revenue to new Australian production.

¹¹ Seven Submission to the DCITA Multichannelling Review, August 2004:

Multichannel services should only be subject to content regulation in relation to adult and illegal material. Imposing obligations of this kind from the outset would compromise the establishment of digital terrestrial multichannel services by creating unsustainable financial and operational requirements.

The imposition of Australian content requirements from the outset is likely to act as a disincentive to broadcasters commencing multichannel services by creating financial and operational obligations that would not be sustainable in a start-up business. A heavy regulatory burden would ensure the failure of the DTT model and all that it may be capable of delivering to viewers and the production industry over time, when the services are established and financially viable.

Nine Submission to the DCITA Multichannelling Review, August 2004

If multi-channelling was to be permitted it would not be appropriate to regulate the channels beyond “protection of consumers” regulation eg restrictions on tobacco advertising. Any attempt to require regulations across more programming will water down the public service benefits achieved by the regulation. Additional channels will be at best commercially marginal. Regulatory burdens would accentuate this problem. Diversity of content would be hampered by regulation. Australian content requirements and time of the day classification would be inappropriate.

The AFC is strongly of the view that Australian content regulation should be extended to multichannelled services up to the maximum level permissible under the terms of the AUSFTA. Moreover, the regulation of Australian content is now subject to the ratchet provisions of the AUSFTA meaning that whatever level is set at the beginning would be the maximum allowable.

It is also appropriate that the ACMA be required to regularly review the performance of new services with a view to imposing further subquota requirements where it finds that a new service is not meeting the aims and objectives of the broadcasting legislation.

National broadcasters

The role of the public broadcasters is becoming increasingly important in providing diversity as Australia moves into the digital age. The AFC can envisage the competitive environment leading to a situation where certain sections of the audience are underserved. In such a scenario, it is critical that well resourced public broadcasters exist, with the obligation to serve the whole of the audience, by reflecting its diversity. This necessarily involves providing high levels of Australian content in line with the social and cultural objectives of the ABC and SBS charters.

The AFC supports the move to allow the national broadcasters to provide multichannel services without the current genre restrictions. The offer of alternative content may act as one of the drivers to consumers to take up digital television. But, it is also important that high levels of Australian content be offered on these channels.

The discussion paper suggests

Increased demand and capacity for digital programming can also provide new opportunities for local Australian content producers, with multichannels providing the national broadcasters, in particular the ABC, with the ability to showcase more local content.

While the AFC supports this outcome if it can be achieved, current practice is not promising. Levels of Australian content, particularly drama, have been falling dramatically on the ABC's main channel. As mentioned above first run hours of drama for adults in prime time has dropped from 82 hours in 2001/02 to 3 hours in 2004/05. Furthermore, the programming on ABC2 relies heavily upon recycling content produced in-house by the ABC and on foreign programming. There have so far not been a lot of opportunities for new production for the ABC's digital channel and without proper resourcing by the ABC this is not likely to happen.

The AFC supports the option to remove, as soon as practicable, the genre restrictions placed on national broadcaster multichannelling. However, the AFC believes that supplementary channels must be appropriately funded by

the ABC to provide a high proportion of Australian content. A specified proportion of the ABC's appropriation should be allocated for expenditure on new Australian drama and documentary on both the ABC's primary channel and any subsequent channels and this funding should not be used for any other purpose.

4.4. HDTV Quota

The AFC notes that later this year the government proposes to develop a Digital Action Plan that will "expedite digital conversion".

However, if HDTV continues to be the primary incentive for digital conversion the AFC believes that reasonable levels of Australian programming must be provided in HDTV to ensure audiences have a choice between Australian and foreign programs.

To ensure a proper assessment of this, the AFC recommends that as part of their reporting requirements in relation to the quota, the broadcasters should be required to report on the amount and nature of Australian programming being broadcast in HDTV. Further, the AFC recommends that ACMA, in publishing its reports on compliance with the quota, also provide comparative information on the proportions of HDTV and analogue Australian content being broadcast. This analysis would allow for a proper assessment of whether sub quotas for Australian content in HDTV might be necessary in the future.

In relation to the option to remove the requirement of a simulcast, the discussion paper suggests the government is considering the removal of this requirement in order to allow the provision of alternative programming in HDTV. In effect this would potentially allow the provision of a completely different service in HDTV. The prospect of a substantially different channel raises the issue of what Australian content it would contain and how much of that content would be original material. It is not likely that either new Australian drama or documentary would be a feature of any new channels due to the costs.

The AFC also notes that the discussion paper does not address the issue of competing HD standards. The AFC understands that this remains of substantial concern to the production industry and believes that a minimum HD standard must be mandated to ensure investment certainty to the production industry.

4.5. Foreign Ownership and Cross Media transactions

The AFC notes the Government proposes to repeal the current restrictions on foreign ownership of television and newspapers as well as cross media rules. The AFC's comments and recommendations regarding the priority of Australian content in the future of the Australian digital television environment remain the same regardless of the owner and their portfolio of media interests.

4.6. Regulator's Role

Although the role of the regulator, ACMA, is mentioned in relation to the supervision of the media ownership laws the AFC believes that it is also important to highlight the key role of the regulator in researching, reporting and reviewing broadcasting and new media.

The administrative union of the broadcasting and telecommunications regulators has been achieved in ACMA. However, it is crucial to have a regulatory body with a comprehensive understanding of the broadcasting environment in order to manage emerging issues. Before the allocation of any new services under the Digital Action Plan, more needs to be undertaken to better explore and articulate the nature and operation of the Australian television market in all its dimensions

ACMA currently does limited economic research and the statistical data it collects relates to its function as the collector of licence fees. There is no substantial analysis of the kind conducted by the Independent Television Commission (ITC) in the UK in the lead up to the introduction of the Communications Act, nor of the kind conducted by the Office of Communications (OFCOM). The AFC recommends that analysis of the kind be undertaken.

The AFC wishes to stress the importance of ACMA's role in monitoring local content and in proposing appropriate changes to the Australian content regulation in line with the speed of change that characterises the broadcasting landscape. Fundamental to this vital role is the much-needed research that determines how successfully the regulations are meeting the social and cultural obligations of the Broadcasting Services Act.

The AFC believes that ACMA must play a strong role in regularly reviewing the performance of any new services developed under the digital action plan with a view to imposing requirements where it finds that a new service is not meeting the aims and objectives of the broadcasting legislation.

5. Conclusion and Recommendations

The AFC's submission is that:

- Access to minimum levels of Australian content by Australian audiences is a fundamental tenet of our television system and must be maintained.
- Whatever the government ultimately determines in relation to new television services, the new system as a whole, and its component parts, must deliver to Australian audiences adequate levels of choice, quantity and diversity of Australian content. At minimum, these levels must be at least equivalent and in proportion to those which audiences currently enjoy on free-to-air television.

- Australian content must have a significant presence from the very beginning of all new services. This may involve extending the Australian content regulations to multichannelled services up to the maximum level permissible under the terms of the AUSFTA and imposing a form of Australian content regulation upon new services. The regulation of Australian content is now subject to the ratchet provisions of the AUSFTA meaning that whatever level is set at the beginning would be the maximum allowable.
- A substantial on-going commitment by government is required to support local content and to a level that will be required in a future converged television environment.

New Digital Services on Broadcasting Spectrum

- The AFC supports the option put forward in the paper for the government to consider “what, if any, obligations or restrictions should be placed on operators of these new digital services”.
- The AFC believes that the NITV proposal that it be provided with its own 7MHz digital terrestrial channel and act as a channel multiplexer to provide digital carriage of local community broadcast and datacast services as well as a range of other new and innovative services, would be a suitably innovative use of the unallocated spectrum due to the likely high levels of new, ground-breaking Australian and local community content. The AFC would also support the carriage of the NITV service upon any new multiplex service as a “must carry” be it as an open narrowcasting service, subscription television service, mobile television service or a combination of services.

New services on other platforms

- Technological neutrality is a key principle to apply in determining the licensing and possible regulation of new services.
- The AFC supports further consideration be given to the degree of regulation that should apply to these services as well as the possibility of direct or indirect support for Australian content.

Multichannelling: Commercial broadcasters

- The AFC supports the recommendation that arrangements for the regulation of multichannels by commercial broadcasting will be considered prior to the end of the restrictions on commercial television broadcaster multichannelling.
- The AFC recommends that “other digital services” be read as broadly as possible in order to consider the full gamut of regulatory options.

Multichannelling: National broadcasters

- The AFC supports the option to remove, as soon as practicable, the genre restrictions placed on national broadcaster multichannelling. However, the AFC believes that supplementary channels need to be appropriately funded to provide a high proportion of Australian content. A specified proportion of the ABC's appropriation should be allocated for expenditure on new Australian drama and documentary on both the ABC's primary channel and any subsequent channels and this funding should not be used for any other purpose.

HDTV Quota

- If HDTV continues to be the primary incentive for digital conversion the AFC believes that reasonable levels of Australian programming must be provided in HDTV to ensure audiences have a choice between Australian and foreign programs.
- To ensure a proper assessment of this can be made the AFC recommends that as part of their reporting requirements in relation to the quota, the broadcasters should be required to report on the amount and nature of Australian programming being broadcast in HDTV. Further, the AFC recommends that ACMA in publishing its reports on compliance with the quota also provide comparative information on the proportions of HDTV and analogue Australian content being broadcast.

Foreign Ownership and Cross Media transactions

- The AFC's comments and recommendations regarding the priority of Australian content in the future of the Australian digital television environment remain the same regardless of the owner and their portfolio of media interests.

Regulator's Role

- It is imperative to have a strong regulator with the role and responsibility to progress the social and cultural outcomes relating to communications. ACMA's research role must be strengthened, enabling it to analyse and report on the operation of future services and particularly on levels of Australian content available to audiences.
- The AFC believes that ACMA must play a strong role in regularly reviewing the performance of any new services developed under the Digital Action Plan with a view to imposing requirements where it finds that a new service is not meeting the aims and objectives of the broadcasting legislation.