



**PROVISION OF SERVICES OTHER THAN SIMULCASTING BY
FREE TO AIR BROADCASTERS ON DIGITAL SPECTRUM**

**PROVISION OF COMMERCIAL TELEVISION BROADCASTING SERVICES
AFTER 31 DECEMBER 2006**

**SUBMISSION TO THE DEPARTMENT OF COMMUNICATIONS
INFORMATION TECHNOLOGY AND THE ARTS**

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EXECUTIVE SUMMARY

The Australian Film Commission (AFC) has prepared a consolidated submission covering the topics of multichannelling and a fourth commercial network.

Access to minimum levels of Australian content by Australian audiences is a fundamental tenet of our television system.

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.

Regulation in support of Australian content should continue to be used to the extent it is still permitted under the FTA, especially with respect to subscription television. However, regulation alone will not be sufficient to ensure significant levels of local programming, especially of the more expensive genres.

A substantial on-going commitment will be required by government in order to fund local content in a future converged television environment. The AFC recommends the creation of an Australian content production fund, drawn from a combination of taxes, levies and subsidy to support Australian content on new and existing services.

Multichannelling

Australian content must have a significant presence from the very beginning of any new services. This will involve extending the Australian content regulations to multichannelled services up to the maximum level permissible under the terms of the AUSFTA.

Regardless of their stance on multichannelling, it is clear that the networks will not devote their healthy profits to new Australian programs on their additional channels, unless obliged to via regulation.

The national broadcasters must be strong players in a multichannel environment with the resources to offer a high proportion of Australian content on any subsidiary channels.

New Commercial Licence

If a fourth network is introduced then the Australian content standard must apply to this service as to all others from the beginning of operation. To tuck on regulation at a later date would be inconsistent, inequitable and lead to diminished levels of local programming across the board.

Australian Broadcasting Authority (ABA)/ Australian Communications and Media Authority (ACMA)

It is imperative to have a strong regulator with the role and responsibility to progress the social and cultural outcomes relating to communications. This

requires that the ABA/ACMA board must have significant production expertise. The ABA/ACMA's research role must be strengthened, enabling such analysis and to report on the operation of future services and particularly on levels of Australian content available to audiences.

The ABA/ACMA should 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.

1. INTRODUCTION

The Australian Film Commission (AFC) is a statutory authority which aims to enrich Australia's cultural identity by fostering an internationally competitive audiovisual industry, developing and preserving a national collection of sound and moving images, and making Australia's audiovisual heritage available to all Australians.

The AFC is Australia's premier research and policy body for the film and television production industry.

The AFC has chosen to make a consolidated submission to the Department of Communications, Information and the Arts' (DCITAs') reviews of simulcasting, multi-channeling and the potential provision of new commercial television services. Its central submission is that 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 a minimum, these levels must be at least equivalent to those which audiences currently enjoy on free-to-air television, with equivalent increases in the quantum of hours and quantum of expenditure in proportion to any increases in new services.

Australian audiences presently have access to 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. Regulatory and funding commitments will be required to ensure the maintenance of minimum levels of Australian content on existing and on new services.

2. AUSTRALIAN CONTENT – A FUNDAMENTAL POLICY PRIORITY FOR AUSTRALIA'S TELEVISION SYSTEM

Access to minimum levels of Australian content by Australian audiences is a fundamental tenet of our television system.

Why does Australian content matter?

Television has been the most significant form of mass communication since its introduction in Australia in 1956. It 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, and it is acknowledged that it is not, and will not be, met by market forces alone.

The broadcasting spectrum is a public asset. The Government has a responsibility to manage this asset to achieve desirable social and economic outcomes. 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.

Increasingly Government has seen the management of these assets as a revenue raising activity. The government earns considerable income from the sale of broadcast licences and the on-going broadcast licence fee for the use of the public spectrum. It appears that the auction process favours the highest bidder rather than the best package.

Australian adult and children's drama and documentaries are the most expensive form of television production. With a population of less than 20 million, Australia does not have the market from which broadcasters can recover the costs of producing local content. An Australian series costs on average \$392,000 per hour to produce (\$487,000 per hour of children's drama). This compares to the 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.

This market failure has been a part of the Australian broadcast environment since its inception – a fact always acknowledged by government.

Australian content, which is clearly uneconomic for broadcasters to fully fund, has instead been supported through the imposition of regulatory obligations, in return for a guaranteed monopoly of public spectrum.

The issue of culture and Australian content was thoroughly considered by the government during the process of negotiating the AUSFTA. There was widespread acknowledgement of the fundamental importance of Australian content on our television services now and into the future. Following the completion of negotiations for the AUSFTA, Ministers Williams and Kemp stated:

“The Australian government also retains its capacity to provide, or indeed to increase, its support for the Australian film and television industry through subsidies, grants, and tax incentive schemes. ... We have made it clear that the Australian Government is committed to ensuring that there is ample space for Australian voices and Australian content. And we have ensured that Australia remains free to implement the measures necessary to pursue our cultural policy objectives through film, television and new media, for the national interest.”

The Prime Minister also emphasised the importance of Australian television content and Australian culture during and after the negotiations:

I was very determined that we would protect the Australian identity. It's very precious to me and it's very important to what we think of ourselves and how we feel about ourselves and therefore it is certainly worth protecting and preserving.

I mean I am very concerned about local content, don't anybody think I want this country swamped by American material, there's a lot of American stuff on television I don't care for at all, I do want plenty of Australian and for that matter the programmes of other countries as well.¹

Nobody wants Australian content swamped by American culture. And I'm just as appalled by that thought as anybody else.²

The fundamental market failure in the funding and production of Australian drama and documentary programming inherent in the Australian broadcasting system 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 substantial continuing support and regulation on new services, the overall presence of Australian content will decline.

A fundamental outcome of any proposed changes to the existing broadcasting system must be the provision of minimum levels of Australian content to Australian audiences across all services. The issue of sustaining substantial levels of Australian content must be one of the key considerations in determining whether new services should be introduced. This will require a substantial commitment from the government.

3. FALLING LEVELS OF AUSTRALIAN CONTENT

Over the last decade, mainly as a result of the introduction of subscription television, the amount of foreign programming in the Australian television system has increased dramatically. An indicator of this is the rising deficit in Australia's audiovisual trade. Since 1994/95 the value of imported film and television has increased from \$462 million to \$727 million in 2001/02.

Australians have not experienced Australian content in the more expensive areas of drama and documentaries on subscription television anywhere near proportionate to the increase in the number of services. In 1994/95, before the introduction of subscription television, Australia produced four mini-series and 17 telemovies, but nearly a decade later in 2003/04 just one mini-series was produced and 11 telemovies.

The production of new Australian drama has been in decline for several years falling from a peak value of \$393 million in 2000/01 to \$190 million in 2003/04

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¹ 9 February, 2004 Press Conference

² 29 July, 2004, Interview With Liam Bartlett, ABC Radio, Perth

– the lowest level for 10 years. The most recent fall was due to a significant drop in the production of Australian adult TV series from 525 hours in 2002/03 to 454 hours in 2003/04 – just above the lowest annual figure for 10 years (430 hours in 1994/95).

This decline in production is reflected in the decline in broadcast hours of Australian drama. The overall level of Australian content is 59% on the commercial networks but in 2003 they broadcast 534 hours of new Australian drama, less than the annual average of the nineties of 591 hours.

The situation is worse on the ABC, where the level of Australian content has declined dramatically and is well below that imposed on the commercial broadcasters and on subscription television where levels are inadequate.

On the ABC the level of Australian content has declined from around 58% of total hours broadcast in the 1990s to 52.5% in 2002/03. A large part of this has been due to the decline in Australian drama on the ABC. First run hours of drama for adults has dropped from 83 in 2001/02 to 31 in 2002/03. Total hours, including repeats dropped from 387 to 192. Australian comedy (including comedy drama) also declined in this period from 43 hours of first run to 20 (including repeats, 51 hours dropped to 26). At the same time the amount of first release imported drama for adults broadcast by the ABC rose by nearly 30%, from 266 to 339 hours and including repeats, rose from 429 hours to 700.

The relatively late introduction to Australia of a subscription television service serves as a good model for how the market alone, or with minimal intervention, will not deliver adequate levels of Australian content.

On subscription television there are 16 predominantly drama channels across the Optus and Foxtel platforms that are subject to a requirement to allocate ten per cent of their expenditure to Australian content. However, this equates on most recent figures (Jan 2003) to a mere 5.9 per cent of total airtime being Australian in origin. This compares to an average of 59 per cent between 6am and midnight on commercial networks. In 2002/03 expenditure by the subscription TV drama channels on new eligible Australian drama programs totalled \$18 million compared with \$131 million spent by the commercial broadcasters. In addition to this, the drama channels consistently fail to spend up to their minimum obligation so that since 1999/00 the shortfall carried forward has increased from \$5.4 million to \$10.1 million. This decline in production and broadcast hours is despite the fact that Australian television drama remains extremely popular with Australian audiences.

Recent examples of Australian audiences' support for Australian programming include: *The Alice* screening on Nine Network on 1 August was the most watched movie of the year, with 1.8 million viewers on the Sunday night. *Jessica* screened on Network Ten in July and was the 3rd highest rating drama program that week and won its timeslot against Sunday night US and UK films. The audience increased on the second night from 1,569,691 on Sunday to 1,583,160 on Monday. 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 series in 2003 and *McLeod's Daughters*, *Blue Heelers* and *All Saints* all consistently rating in the top drama titles.

Despite these recent successes, declining production levels and broadcast hours demonstrate that increasingly there is less Australian drama for Australian audiences to enjoy.

4. GUARANTEEING ADEQUATE LEVELS OF AUSTRALIAN CONTENT INTO THE FUTURE

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: see Appendix B.

With its ability to regulate restricted, the government will need to rely more heavily on direct and indirect subsidy to achieve its policy goals.

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 FTA, especially with respect to subscription television. However, regulation alone is not and will not be sufficient.

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 converged television environment. The extent to which government directly supports the creation of content and 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.

There are a number of such international funding models on offer. The French Government has had such a scheme in operation since 1986; the Canadian Government since the mid-Nineties. These models are set out in more detail at Appendix A.

In this new environment, an environment of expanding services but restricted ability to regulate for content-related outcomes, the government must look to

new transparent means to assist in the provision of Australian content to Australian audiences.

Charges could be levied against a number of sources:

- Broadcast licence fees: that is, a proportion of the broadcast licence fee would be quarantined for use in a production fund on multi-channels.
- Funds raised in any proposed spectrum auction or any new licence fees imposed upon the incumbent networks for the use of multi-channel spectrum, although spectrum auction fees would however be one-off and non-on-going;
- subscription revenues (including on a pay-per-view basis): on any subscription-based multichannel;
- subscriber numbers; a levy based on subscriber numbers or a tax on each subscription;
- general network revenue;
- programming expenditure (similar to the existing Australian subscription television model).

5. NEW BROADCASTING SERVICES

In considering any new services or extensions to existing services, the Government must determine:

- the nature, range and quantum of Australian content it desires to be provided to Australian audiences on these services;
- the capacity the new or existing licencees will have to pay for this content;
- the impact the additional or new services will have on the ability of existing licencees to continue to pay for existing Australian content;
- the extent to which the Government is prepared to impose regulatory requirements on the new or additional services;
- the extent and the mechanism whereby the Government will provide direct or indirect funding towards the cost of Australian content.

It is entirely appropriate in the opinion of the AFC that all of these issues are thoroughly canvassed as part of these reviews. It is not desirable to consider in isolation the extension of existing services or the introduction of new services without considering the impact these will have on existing services. In particular, the impact on Australian content levels must be of paramount concern.

5.1 MULTICHANNELLING

The DCITA Issues Paper at page 13 states:

There would be scope for applying different rules to the 'main' (or simulcast) channel to those rules applying to the 'multichannels' (being secondary or niche channels expected to have a smaller audience base).

In preparing for this submission, the AFC consulted with representatives of the free-to-air networks. Regardless of whether they are 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 costs. The reality is that the networks in favour of multichannels are seeking to operate such channels at minimal costs. It is readily acknowledged that the content would be mainly inexpensive imported programs or repeats and back catalogue Australian programs.

The consequence of running cheap multichannels is that Australian audiences reap scarce benefits from these initiatives. They are not provided with new choices or real variety. There will be no new high quality local drama and documentary and consequently, no innovation and risk taking.

Those networks that support multichannelling advocate less or no Australian content requirements in their multichannel proposals. They maintain that funding extra channels entails a marginal business case, which would inevitably dilute their Australian content on the prime channel. From our discussions it seems clear that the healthy profits of existing networks cannot be the source of new local programming on new multichannels. The AFC insists that the broadcasters should be obliged through regulation to devote revenue to new Australian production.

This view assumes that regulation for Australian content should only occur when and if the new services become sustainable or profitable to a level acceptable to the broadcasters. There are several examples of this approach being taken in the past with poor outcomes for Australian content. The current extremely low levels of Australian content for audiences of subscription television being the most recent example. A decision was also taken not to impose Australian content regulation when television began, with a result that Australian television was so dominated by foreign programming that by the early sixties it was acknowledged that regulatory intervention was required.

The lesson from these experiences is that failure to design from the start a system that has incentives or support for Australian content makes it much more difficult, costly and inefficient to introduce later. Consistency and fairness require that local content regulation be introduced from the outset on new services.

The AFC is strongly of the view that Australian content must have a significant presence from the very beginning of all new services (including

multichannels). This will involve extending the Australian content regulations 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 Australian Broadcasting Authority (ABA) 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.

The AFC considers it crucial that the national broadcasters be strong players in a multichannel environment with the ability to populate their secondary channels with a high proportion of Australian content. This will also require a significant additional funding commitment from government.

5.2. NEW SERVICES: A NEW COMMERCIAL LICENCE

The Australian Competition and Consumer Commission (ACCC) argues that the entry of new services provides two societal benefits. The first being increased competition in the free to air market and between that market and the subscription television market – encouraging innovation and efficiency; the second is the consumer benefit of increased program diversity and choice. On the other hand some of the incumbent commercial broadcasters claim that increased competition will fragment audiences and revenue and lead to an inevitable decrease in the range and quality of programs broadcast.

These are commonly expressed views among media economists on competition and diversity in multichannel markets. There are studies that tend to prove that both views are correct and the debate remains inconclusive. As one noted media economist, Richard Van der Wurff said recently about this debate:

“...the relationship between broadcasting market structure, broadcaster conduct and diversity are complex and multidimensional. Both competition and concentration can have positive and negative consequences for diversity. Policy makers and regulators, therefore, should systematically investigate the specific consequences of intended or unintended changes in market structure for broadcaster conduct in their particular market, rather than rely on general political-economic guidelines.”³

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³ Richard Van der Wurff, 'Program choices of Multichannel Broadcasters and Diversity of Program Supply in the Netherlands', *Journal of Broadcasting and Electronic Media*, March/2004

This highlights the importance of the following two matters that the government needs to consider in the introduction of new services and new commercial licences in particular.

The first is how government can use its considerable power to set the market structure to ensure that adverse effects of competition do not arise. In television ruinous competition can occur when there are too many broadcasters attempting to compete for the same audience leading to audience fragmentation, declining revenues, declining investments in program diversity and quality and declining audiences. Consideration needs to be given to whether this might occur in the Australian television market and, if so, how it might be avoided by the way in which new services are introduced.

The second issue is that before the allocation of any new services, more research should be undertaken to better explore and articulate the nature and operation of the Australian television market in all its dimensions. The ABA 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) (eg its recent publication *The Communications Market 2004*). The AFC recommends that this form of analysis be conducted.

The Australian television system is already highly competitive by world standards. In a population of 20 million Australia has three private commercial networks compared to only two (ITV and Channel 5) in the UK with a population of over 50 million. The introduction of new commercial services therefore needs to take account of this, and not rely on competition alone to deliver or maintain the values of the system that Australians continue to prize.

Further, the likely effect of the AUSFTA is such that very careful consideration needs to be given to the mechanisms put in place to support Australian content particularly where the regulation of Australian content on commercial television services would be subject to the ratchet provisions in the agreement.

Finally, central to our submission is that it is of fundamental importance that Australian content must be considered and regulated for from the outset in the allocation of new commercial licences. If a fourth network is introduced then the Australian content standard must apply to this service as to all others from the beginning of operation.

6. THE ROLE OF THE AUSTRALIAN BROADCASTING AUTHORITY/ AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

Commenting on the proposal to merge the ABA and the Australian Communications Authority (ACA) into a single regulator – the ACMA – in

2002, the AFC expressed its concern that economic and technical regulation be given priority over social and cultural regulation.

The AFC believes that it is imperative to have a strong regulator with the role and responsibility to progress the social and cultural outcomes relating to communications. This requires that the ABA/ACMA board must have significant production expertise. Regulatory policy needs to have an appropriate balance between the social, cultural and economic dimensions of the public interest.

The AFC wishes to stress the importance of the ABA'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 ABA has a strong research record, especially for the data it has analysed on free-to-air television and the new merged organisation will play an important role in the monitoring of any new services and other outcomes of these reviews.

Appendix A: Overseas models for Television production funds

France

The French National Film Centre (Centre National de la Cinématographie (CNC)) supports television production through the Compte de soutien aux industries de programmes (COSIP) or the Audiovisual Industry Support Program started in 1986 through a tax on television broadcasting services. The AFC understands that the COSIP is currently funded through a tax on subscribers, takings from advertising on both private and public television channels, a charge on the broadcast licence fee as well as a tax on videos and DVDs. The CNC states that the “system redistributes a portion of the broadcasters’ resources to help producers located in France.”

Fiction, animated films, documentaries and magazine programmes, leisure programmes, broadcasts of live shows and music videos are all eligible. The programmes must have the financial participation (in the form of pre-buys and/or co-production) of one or more broadcasters in France. The programmes must be made, essentially, with the aid of authors, main actors and creative technicians from France or other European countries and technical set up within these same countries.

The COSIP funded 4215 hours in 2001 most of which were 2639 hours of documentary and 717 hours drama in 2001. Any producers of fiction, animation, cultural shows or documentaries whose programs have been broadcast by French television automatically receives a grant.

Canada

In response to an increasingly fragmented television environment, the Canadian government decided to start up the Canadian Television Fund (CTF) previously known as the Canadian Television and Cable Fund as a public private initiative with an annual budget of approximately C\$230 million a year. The fund is made up of two distinct but complimentary programs:

Under the Broadcasting Distribution Regulations, all licensees of cable services, Direct-to-Home (DTH) satellite distribution undertakings, and multi-point distribution systems (MDS) are required to make financial contributions to an independent production fund which will support the production of new, quality Canadian programming. Typically the contribution is expected to be a minimum of 5 per cent of annual gross revenues, of which a minimum 80 per cent must be directed to the Canadian Television Fund, and the remainder directed to one or more independently administered funds.

The fund aims to support the production and distribution of Canadian drama, children’s programming and documentary, performing arts and variety shows.

The fund is made up of two programs:

The Equity Investment Program (EIP), administered for the CTF by Telefilm Canada, a crown corporation. This program has a budget of approximately \$145 million composed of \$37 million from the Department of Canadian Heritage and approximately \$108 million from Canadian cable companies.

The Licence Fee Program (LFP), administered by the CTF, a private-sector organisation.

In announcing the creation of the fund the department of Canadian heritage posited the following rationale:

“The broadcasting system is expanding into a multi-channel universe. Without more Canadian programming on our television screens, Canadian presence will decline.

“Television production is expensive: it costs approximately \$1 million per hour to produce domestic drama compared to \$100,000 to purchase foreign productions; there is little or no revenue for children's productions.

“Television is the most potent vehicle for Canada's cultural identity. Canadians watch television an average of 23 hours per week.

“Many groups, most recently the Mandate Review (Juneau) Committee, have called for an increase of indigenous, high-quality Canadian programming.”⁴

- Under a new framework for digital subscription services, the CRTC has licensed two categories of new services: Category 1 and Category 2 services.⁵
- *Category 1 services*: are specialty services that make a strong contribution to the development, diversity and distribution of Canadian programming and are the most attractive services for early digital distribution. The CRTC's Category 1 criteria for licensing included among others: contributions to Canadian programming, including minimum commitments to exhibition (not less than 50 per cent by the end of the licence term), expenditures and original production.
- These services will have digital access privileges and genre protection to assist them to launch vibrant services during the uncertain period of digital rollout.

⁴ Coppins Launches Canada Television and Cable Production Fund, September 9, 1996, Canadian Heritage

⁵ CRTC, Public Notice CRTC 2000-6: 'Licensing framework policy for new digital pay and specialty services', <http://www.crtc.gc.ca/archive/ENG/Notices/2000/PB2000-6.htm>, accessed 12 November 2003

- To make Category 1 services available to the maximum possible number of digital subscribers, distributors who offer programming services to the public using digital technology are required to distribute all Category 1 services appropriate to their market on a digital basis. This requirement is imposed by regulation.
- *Category 2 services*: The CRTC recognised that some services were prepared to accept the risks of launching on a digital-only basis without the types of regulatory support that will be provided to Category 1 services.

The CRTC expects applicants for Category 2 licences to commit to minimum Canadian content exhibition requirements. For English- and French-language specialty services, the minimum is 35 per cent. For ethnic specialty services, it is 15 per cent. Music video services are also required to exhibit a minimum of 30 per cent Canadian music videos.

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APPENDIX B: AUSFTA Provisions

- In free to air broadcasting, Australia has grandfathered the existing free-to-air and advertising regulations – that is, existing local content regulations will remain as they are. Existing transmission quotas for local content imposed on free-to-air commercial analogue and digital (other than multichannelling) television broadcasting services shall not exceed 55 percent. Subquotas for particular program formats (eg drama, documentary) may be applied within the 55% quota. Under the FTA, these regulations will be subject to ‘ratcheting’ – that is, any unilateral liberalisation or decrease in the 55 per cent level will be immediately bound under the FTA and cannot be subsequently wound back.
- In multichannelling the government has made a decision to limit its ability to regulate for the availability of Australian content. The existing transmission and sub-quotas can now be applied to no more than two channels or 20 per cent of the total number of channels (whichever is greater). If the number of multi-channels is raised to a level where 20 per cent of channels is equal to three channels, then three channels may have local content regulations imposed upon them. Local content rules for advertising are also extended to multi-channelling and may be extended to no more than three channels made available by a provider.
- In subscription television, the government has made a decision to limit its ability to regulate for the availability of Australian content to only the use of expenditure quotas. These quotas have been capped at the following rates: 20 per cent for drama channels; and 10 per cent for documentary, children’s, educational and arts channels.