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Ms Jenny Brigg
Manager
Content Monitoring and Review Section
Australian Communications and Media Authority
PO Box Q500
Queen Victoria Building NSW 1230
By email: localcontentreview@acma.gov.au

Dear Ms Brigg, *Jenny*

Remaking of Local Content Licence Condition – Issues for Comment 23/2014

Free TV welcomes the opportunity to comment on the ACMA's proposal to remake the *Broadcasting Services (Additional Television Licence Condition) Notice 2007* (local content licence condition).

Free TV supports any moves to implement the government's de-regulation agenda and reduce the levels of red tape that apply to its members. We appreciate that the ACMA is taking steps to reduce broadcasters' reporting and record keeping requirements in line with this agenda.

Proposed changes

1. *Six week period for audio-visual record retention be reduced to 30 days after the end of the timing period*

Free TV supports this change.

2. *Requirement to keep records "in writing" of points counted to be removed*

This change will give licensees the flexibility to retain records that will indicate their points accumulated in any form they choose, including audio-visual format. However, given this change it is not clear why this additional record keeping requirement should be retained, as keeping an audio-visual record is required under clause 10(1) in any event. This is discussed further below.

3. *The 12 month period for compliance record retention to be reduced to 30 days after the end of the timing period*

Free TV supports this change, though notes that there appears to be no need for separate clauses regarding compliance records, as discussed below.

Duplication of requirements

If a licensee is required to make a record in audio-visual form as a result of clause 10(1) and other records are not required to be in writing, then it is not clear why clauses 10(3) and 10(4) of the local content licence condition need to be retained.

If the intention behind the change to 10(3) is to enable licensees to maintain audio-visual records in place of written records (and it is felt that this is a satisfactory means of keeping compliance records) then these clauses will duplicate one another.

If there is a concern that these records will be insufficient to determine compliance, then clause 10(4)(b) could be incorporated into clause 10(2).

A licensee may choose to retain their own written records as well, but this need not be a formal requirement.

Guidance regarding ACMA discretion

Broadcasters would benefit from some guidance from the ACMA regarding directions and requests made under clauses 10(5) and 10(6). As recognised by the ACMA in its recent report *Regional commercial television local content investigation*, broadcasters have demonstrated very high levels of compliance under the local content licence condition. This should be recognised in any consideration by the ACMA in exercising these powers.

These powers should only be used in the event of a complaint or some other evidence that indicates non-compliance by a licensee.

A regional broadcaster would generally need at least 45 days to compile records following a request by the ACMA pursuant to clause 10(6). This should be reflected either in the clause itself, or in accompanying guidance.

Exemptions

In delivering their services to the local communities, broadcasters will also provide coverage of significant events, including sporting events or events of national significance.

As part of this review of the local content licence condition, the ACMA should introduce exemptions or recognition for major sporting events such as the Olympic and Commonwealth Games and grand slam tennis tournaments if they fall within a particular timing period.

Further reforms to the points system

As indicated in our meeting with the ACMA on 17 June, Free TV is happy to explore a system to replace the complex points system in the current local content licence condition over the medium term. We look forward to continuing this discussion with the ACMA.

Contact

Thank you for this opportunity to contribute. We look forward to continuing to work with the ACMA to implement the government's de-regulatory agenda.

If you would like to discuss any of the other issues raised in this letter or the position of the commercial free-to-air broadcasters more generally, please contact me on (02) 8968 7100.

Yours sincerely,



Julie Flynn

CEO