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To Whom It May Concern,

### **Regulator Performance Framework**

Thank you for your correspondence of 3 September 2014, regarding the Draft Regulator Performance Framework (**the Framework**).

Free TV Australia (Free TV) represents all of Australia's commercial free-to-air television broadcasters. At no cost to the public, our members provide fifteen channels of content across a broad range of genres, as well as rich online and mobile offerings. The value of commercial free-to-air television to the Australian public remains high. On any given day, free-to-air television is watched by more than 14 million Australians.

Free TV supports both the Government's deregulation agenda and the general approach outlined in the Framework, and is pleased that the final Framework will be published as part of 2014 Spring Repeal Day, with a view to commencement of the first assessment period on 1 July 2015.

#### **1. The Framework**

Free TV agrees that implementation of the Framework should:

- facilitate performance assessment;
- ensure accountability
- be transparent
- be flexible
- be cost-effective; and
- complement, rather than duplicate other processes.

As indicated in Free TV's previous submission,<sup>1</sup> to measure and report on regulator performance, the Framework should:

- include concrete accountability mechanisms which are tailored to the particular regulator, and provide incentives for regulators to minimise the costs they impose on business;
- require audit plans and reports, as well as information about how regulatory activities are conducted, to be made public on the regulator's website and performance measures to provide data and metrics to demonstrate how the relevant measures have been achieved;
- be developed in consultation with business, industry groups and others stakeholders and require regulators to approach their functions in a consultative manner; and
- promote a consistent regulatory approach.

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<sup>1</sup> Free TV submission to PM&C on the Regulator Performance Assessment Framework, 6 May 2014.

Free TV strongly supports the development of implementation guidance issued by the Department of the Prime Minister and Cabinet (**PM&C**), to provide practical advice to assist with implementation of the Framework and to ensure that the Framework and the assessment processes that it facilitates are appropriately tailored to the relevant regulator.

## **2. Application of the Framework**

As indicated in Free TV's previous submission, the Australian Communications and Media Authority (**the ACMA**) (or any future communications regulator) should be subject to the Framework.

The key piece of legislation regulating broadcasters, the *Broadcasting Services Act 1992 (BSA)*, is outdated and complex, and does not place concrete accountability requirements on the ACMA as the regulator. Similarly, the *Australian Communications and Media Authority Act 2005* contains only minimal requirements in relation to reporting.<sup>2</sup> It does not provide for any mechanism to measure the regulator's performance, either in relation to administrative efficiency or in relation to compliance costs on regulated entities.

Currently, the BSA and associated Codes and Standards impose a disproportionate level of regulation on broadcasters compared to platforms which deliver content over the Internet or by mobile telephony, and this in turn subjects broadcasters to significant legal, financial, administrative and resourcing constraints when compared with competing platforms.

It is important that the Framework, and any associated implementation guidance notes and tailored accountability mechanisms, promote the need for regulations in the communications sector to be as minimal, simple and consistent as possible.

## **Contact**

Thank you for the opportunity to provide feedback on the Framework. We look forward to working co-operatively with the Office of Deregulation to develop the final Framework and to reduce the regulatory and administrative burdens on our members.

Yours sincerely



**Julie Flynn**  
**CEO**

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<sup>2</sup> The ACMA Act, ss 56 and 57.