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Ms Kirsti Haipola
Director, Copyright
Department of Communications and the Arts
GPO Box 2154
CANBERRA ACT 2601

By email: Copyright.Regulations@communications.gov.au

Dear Ms Haipola,

Consultation on Copyright Regulations

Free TV thanks the Department for the opportunity to comment on the Department's Consultation Paper, *Remaking of the Copyright Regulations 1969 and the Copyright Tribunal (Procedure) Regulations 1969 (Consultation Paper)*.

Free TV represents Australia's commercial free-to-air television broadcasters. At no cost to the public, our members provide a variety of channels of content across a broad range of genres, in addition to a range of 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 an average of 13 million Australians.

We note that you have indicated that the Department is not seeking views on whether substantive policy changes should be made to the provisions in the exposure drafts and accordingly our comments are limited to the issues raised in the Consultation Paper.

The Consultation Paper seeks our views on whether the proposed new section 18, which sets out the prescribed requirements for an industry code to which condition 2 of item 1 of the table in subsection 116AH(1) of the *Copyright Act 1968* applies, is appropriate. The proposed section 18 effectively replicates the current regulation 20B.

Free TV notes that regulation 20B (replicated in section 18) provides for a process to develop an industry code setting out technical measures to 'protect and identify copyright material', which has never been developed. Accordingly, carriers and carriage service providers (CSPs) have not put any such technical measures in place. Consequently, contrary to the intention of the legislation and associated regulations, the current process is not effective in imposing positive obligations on CSPs to identify and eliminate infringing material on their networks and is therefore unlikely to result in a relevant industry code being developed.

In order to ensure that the regulations are effective, consideration should be given to the development of a mechanism by which Government can facilitate industry to reach consensus on a code of conduct, so that the safe harbour scheme results in concrete obligations being imposed on CSPs in exchange for access to it.

Contact

If you have any queries or wish to discuss any of the matters raised in this letter, please contact either Sarah Waladan or myself on (02) 8968 7100.

Yours sincerely



Pam Longstaff
Acting CEO
Free TV Australia