



Pre-Budget 2020-2021
Supplementary Submission

Submission to The Treasury

August 2020

1 Executive Summary

- Free TV Australia thanks the Treasury for the opportunity to provide a supplementary submission outlining our updated priorities for the delayed 2020-2021 Commonwealth Budget.
- Free TV represents all commercial free-to-air commercial broadcasters in Australia. Collectively, these networks invest over \$1.6 billion every year to make great Australian content. In 2019, this investment supported 16,300 full-time equivalent jobs and contributed a total of \$2.3 billion into the local economy.
- For this investment and support of local employment to be sustained in the long-term, the 2020-2021 Budget needs to permanently abolish the commercial broadcasting spectrum tax, that has been waived for 12-months from February 2020.
- The permanent abolishment of the spectrum tax should also be accompanied by short term support measures for commercial broadcasters, such as guaranteed minimum Government advertising spend. This would ensure that the Government's vital public health messages are seen on the most effective advertising medium, while providing much needed financial support to an industry that has been heavily impacted by COVID-19.
- Further, the Budget must provide for the completion of the Australian content review process, and the implementation of the Government's roadmap for reform of Australia's ageing media regulatory system.
- We have welcomed the Government's *Supporting Australian Stories on our Screens* Options Paper which proposes reform of Australia's outdated content quotas and incentive framework. As part of these reforms, the 2020-2021 Budget should make provision for the equalisation of the producer offset at 40% of qualifying expenditure for both television and film content, the harmonisation of the PDV and Location Offset at 30% and the removal of the current restriction on broadcasters accessing Screen Australia funding.
- The Budget will also need to make ongoing provision for the ACCC to administer the new news media bargaining Code of Conduct, that the ACCC has been directed to develop to address bargaining power imbalances between Australian news media businesses and each of Google and Facebook.
- These matters are in addition to those set out in our original December 2019 submission, including:
 - Providing long-term funding for the Viewer Access Satellite Television (VAST) service that provides a high-quality free-to-air delivery platform to around 1.5 million Australians.
 - Maintaining a preference for multilateral solutions to the taxing of highly digitised firms, rather than unilateral approaches such as a digital services tax that risk capturing the digital offerings of Australian based media companies.
 - Ensuring that any move in the Budget to extend the Audio Description obligations recently imposed on the ABC and SBS to commercial broadcasters be accompanied by funding for both the establishment of the delivery mechanism and the ongoing operating costs.

2 Introduction

Free TV Australia is the peak industry body for Australia’s commercial free-to-air broadcasters. We advance the interests of our members in national policy debates, position the industry for the future in technology and innovation and highlight the important contribution commercial free-to-air television makes to Australia’s culture and economy.

Free TV Australia proudly represents all of Australia’s commercial free-to-air television broadcasters in metropolitan, regional and remote licence areas.



Our members are dedicated to supporting and advancing the important contribution commercial free-to-air television makes to Australia's culture and economy. Australia’s commercial free-to-air broadcasters create jobs, provide trusted local news, tell Australian stories, give Australians a voice and nurture Australian talent.

A recent report by Deloitte Access Economics “*Everybody Gets It: The economic and social benefits of commercial television in Australia*” highlighted that in 2019, the commercial TV industry supported 16,300 full-time equivalent jobs and contributed a total of \$2.3 billion into the local economy. Further, advertising on commercial TV provided an additional \$4.4 billion worth of economic benefit.

In addition to this economic analysis, Deloitte also undertook a consumer survey that highlighted the ongoing importance of the commercial TV sector to the community, including:

- 86% of people thinking that commercial television supports Australian culture
- 76% think commercial TV is more important than ever
- 95% think losing it would have an impact on society.

The commercial free-to-air broadcasting industry creates these benefits by delivering content across a wide range of genres. These include news and current affairs, sport, entertainment, lifestyle and Australian drama.

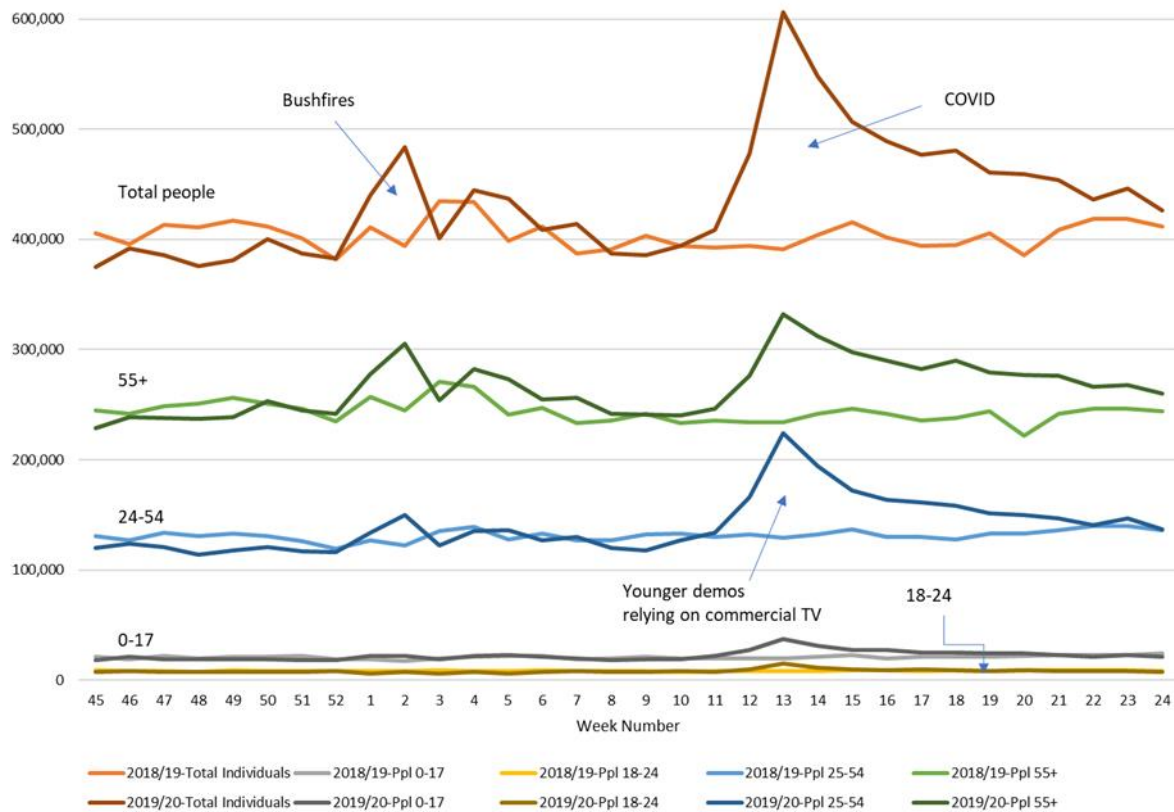
Free TV members are fully committed to the role that they play in telling Australian stories to Australians. They understand and appreciate the cultural and social dividend that is delivered through the portrayal of the breadth and depth of Australian culture on television.

Further, Free TV broadcasters also play a vital role in providing trusted news and current affairs during times of crisis, as shown by the audience response during the ongoing COVID-19 pandemic and the catastrophic bushfires of late 2019 and early 2020.

While we acknowledge that there is greater choice for video content today than at any time in our history, it times of crisis, people of all ages have turned to commercial free-to-air television as their trusted source of news.

As shown below, at the height of the COVID-19 news-cycle, average audiences in news programming across the primary services within each broadcaster’s channels in both metropolitan and regional Australia were up by over 55% on 2019 levels. Most striking in these audience patterns was the response of the audience below 55 years old, underscoring the fact that commercial free-to-air is a vital service across all age groups, including the younger generations.

NEWS GENRE 6AM-MIDNIGHT - PRIMARY CHANNELS – NATIONAL AUDIENCES



Source: OzTAM and Regional TAM | Overnight | Combined Aggregate Markets and 5CM | Typology: News/Current Affairs | S-s 0600-2400 | Audience 000s

The Budgetary measures proposed in this supplementary submission, together with our original submission, will help ensure the Australian public continues to enjoy watching a large quantity of high-quality local content free via our broadcast networks. They will also ensure our members can continue to act as the cornerstone for the local production sector – in a way that is relevant and sustainable.

Since making our December submission, we have also begun providing programming to our Pacific partner broadcasters through the Australian Government’s PacificAus TV initiative that launched in May 2020. It has been a significant success, launched on time and within budget and meeting all programming targets.

3 Supporting vital supporting television services through the COVID crisis

Free TV appreciates the actions the Government has already taken to support the commercial broadcast sector during the COVID-19 crisis. However, since the initial package of measures, the conditions being experienced by the commercial television sector have become even more challenging. We continue to see significant financial and operational impacts on our industry.

Commercial television advertising revenue has fallen between 20-35% in the first half of 2020. While the speed of decline has slowed recently, the advertising market is unlikely to recover to pre-COVID levels in the foreseeable future, particularly if we continue to experience subsequent outbreaks of the virus.

Further, the delay of key sports such as the AFL, NRL and the Olympics has had a significant impact on advertising revenues and program schedules. These effects are in addition to the impact on the production pipeline that has seen some programs postponed or cancelled to ensure the safety of cast and crew on set.

Accordingly, commercial broadcasters are seeking further measures to support jobs and services in our sector as we navigate the most challenging period since TV first began.

3.1 Spectrum fees should be abolished

Free TV submits that the commercial broadcasting tax should be abolished in the 2020-2021 budget.

In 2017, the revenue-based broadcasting licence fee was replaced with an interim spectrum tax, locked in for five-years. The aggregate level of the spectrum charge of \$43.5 million per annum was determined by Cabinet and then levied via a tax on broadcast transmitters. The Government has applied a 100% offset to this tax for a 12-month period from February 2020.

Free TV has previously expressed concerns with the basis of this tax as it does not properly reflect economic value of the spectrum, taking into account its use for free-to-air broadcasting. The amount of the spectrum charge is also high by international standards, as we expand on below.

In addition, to offset the disproportionate impact on regional broadcasters who have many more transmitters than their metro counterparts and serve much smaller populations, the charging method requires a complex system based on the power and population density of the transmitters. In some cases, regional broadcasters have received an additional rebate to ensure that they were not worse-off as a result of the 2017 removal of the broadcast licence fee and the imposition of a spectrum charge.

As an alternative to the immediate abolition of the tax, the temporary offset that is being applied should be extended until 2022, at which time the commercial broadcasting tax legislation should be repealed.

3.1.1 Consistent with harmonised approach to regulation

The Government response to the Digital Platforms Inquiry notes that it will commence a staged process to reform media regulation, towards a platform-neutral regulatory framework covering both online and offline delivery of media content to Australian consumers. Free TV considers that this needs to include reform of the spectrum charging framework.

Currently, our primary advertising competitors Google and Facebook, together with audience attention competitors like Netflix, rely on consumer funded internet connections, primarily over a taxpayer funded National Broadband Network. None of these competitors are required to pay a spectrum charge.

3.1.2 Spectrum charge out of step with international best practice

A spectrum price signal can be useful in driving the efficient use of spectrum where users are able to respond effectively to that signal. However, broadcasters are heavily constrained in how they can use the spectrum. For example, they face extensive content obligations, advertising restrictions and captioning requirements. They also have complex technical restrictions in how the spectrum can be used to protect against interference.

In addition, free-to-air broadcasting by its very nature is a public good. In the free-to-air model, broadcasters can only capture the value of providing the platform to advertisers. They cannot capture the value of the broadcast to viewers (as they, by definition, receive the content free of charge).

As a result of the restrictions on the use of broadcast spectrum and the difficulties in estimating the positive externalities associated with the provision of public good free-to-air services, applying a spectrum price for broadcasting based on the costs of managing the spectrum is the most common approach used globally. Work undertaken by CEG concluded that they had:

“not identified any jurisdiction with a comparable free-to-air broadcasting sector and content obligations, which charges for spectrum beyond fees for spectrum management.”

Given the restrictions on the use of broadcast spectrum, spectrum charges in excess of the cost of managing the spectrum only result in a wealth transfer, with no increase in spectral efficiency. Such a wealth transfer harms free-to-air broadcasters at a time when the costs of meeting our obligations are continuing to increase and advertising revenues are declining.

3.2 Further support measures

Free TV submits that the 2020-2021 Budget should include a comprehensive package of measures to support the commercial TV industry. This should include:

- **Guaranteed minimum advertising spend on commercial television.** The management of the ongoing health crisis relies on effective communication between the Government, health care professionals and the wider community. As demonstrated above, the community is turning to commercial TV as their trusted source of news during this crisis period. Accordingly, the Government should guarantee a minimum amount of advertising spending on commercial TV.

This achieves two objectives. Firstly, it ensures that the Government’s health messaging is heard by the community on the most effective advertising platform – television. Secondly, it provides the commercial TV sector with much needed cash flow, at a time when revenues have fallen by around a third.

- **Expediting the processing and payment of PDV tax offset claims.** Cash flow can also be assisted by ensuring that Government agencies expedite the processing of production incentive payments.
- **Urgently completing the Australian content review.** As explained in the next section, reforms from the Australian content review are well overdue. Provision needs to be made in the 2020-2021 budget for the implementation of these reforms, such as the 40% producer offset for television productions.

4 Australian Content and Incentives Reform

Commercial free-to-air television is the proud home of Australian content and we remain committed to local content and our role as the cornerstone of the Australian screen production industry.

However, this relies on supportive policy settings that allow us to sustainably invest in great content that is valued by today's audiences.

The Government is currently finalising the *Supporting Australian Stories on our Screens* Review. This is critical as these policy settings have been in place since the 1980s, together with the production incentive schemes that have not been significantly updated in the last decade. The outcome of this review process will need to be taken into account in the 2020-21 Budget.

In particular, production incentives need to be strengthened to ensure the success of our industry in an increasingly global content market. The reforms required that will need to be reflected in the budget include:

- Equalising the producer offset for all qualifying production expenditure (TV and film) at 40% and removing the 65-episode cap;
- Harmonising the Location Offset and PDV Offset at 30%; and
- Allowing equal access to government funding including Screen Australia funding by all producers, including free-to-air broadcasters.

Full details of the measures we are proposing, and their justification, can be found in our submission to the *Supporting Australian Stories on our Screens* Review.

5 Resourcing the ACCC to administer the news media bargaining Code

In April 2020, the Government announced that the ACCC would be charged with drafting a mandatory bargaining Code, following the unsatisfactory response by Google and Facebook to the earlier voluntary process. This is a necessary and welcome move by the Government.

This follows the acceptance by the Government of the ACCC's key findings in the Digital Platforms Inquiry that Google and Facebook enjoy significant market power in their respective markets and are unavoidable business partners for many Australian businesses, including the media. This creates a significant imbalance in the bargaining position between media businesses and the digital platforms that precludes the normal commercial negotiations that would ordinarily take place in a competitive market.

The last MYEFO provided additional funding to the ACCC to, amongst other things, undertake the role of administering and enforcing the previous voluntary Code. However, as the Government has now moved to a mandatory Code development process with a greater role for the ACCC, there may be a need for additional resources to ensure that the Code is developed and implemented as soon as is possible. Further, additional ongoing resourcing may be required to ensure robust ongoing enforcement of the Code.