



AUSTRALIA

# Submission by Free TV Australia

## Media diversity in Australia

December 2020

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## 1. Executive Summary

- Free TV welcomes the opportunity to provide a submission to the Senate Environment and Communications References Committee Inquiry into the state of media diversity, independence and reliability in Australia.
- Free TV strongly agrees with the view that public interest journalism has a significant positive impact on informed public debate. As the Australian Competition and Consumer Commission (ACCC) concluded in the Final Report from its ground breaking Digital Platforms Inquiry, the availability of a wide range of high quality news and journalism provides significant benefits to Australian society and is important for the healthy functioning of democracy.<sup>1</sup>
- The most important action the Australian Government can take to support public interest journalism, and media diversity, independence and reliability, is to ensure that the media regulatory framework supports strong and sustainable local media companies so that commercial free-to-air broadcasters can continue to produce the high-quality journalism that Australians demand.
- The Australian Government has already taken important steps in this regard. These include:
  - support provided for Australian media businesses during the COVID-19 pandemic
  - the move to implement reforms from the consultation on the Government’s *“Supporting Australian stories on our screens”* option paper; and
  - the recent introduction of the Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020 (**Bill**).
- The Bill was introduced to Parliament on 9 December 2020 and has been sent to a Parliamentary Committee for further consultation. Free TV and its members will engage fully in that consultation process to ensure that the Bill is fit for purpose and will achieve its intended aims. The critical importance of an effective Code is highlighted in the many submissions that Free TV has made to the consultation processes for its development and implementation and is summarised in the 23 November 2020 Joint Statement on News Media Bargaining Code, which is at Appendix A of this submission.
- Although the Code is important, it is not the only regulatory reform that is needed in relation to the broadcasting sector, and the regulation of content more broadly in Australia. Other reforms, including those outlined in this submission, are also critical elements of a sustainable regulatory framework for news media, and are particularly important for regional broadcasters who do not have a significant digital presence.
- In this submission we highlight additional key actions which we think will be critical to supporting Australia’s media companies to continue to provide high quality news and public interest journalism into the future, namely:
  - Spectrum pricing reform in line with international best practice
  - Reform of outdated advertising restrictions which do not apply to any other platform
  - Dealing with the emerging issue of connected TVs and prominence
  - Addressing a number of other important reforms to ensure that Australia’s regulatory framework is platform neutral and supports public interest journalism; and

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<sup>1</sup> As referred to at page 280 of the Final Report from the Digital Platforms Inquiry.

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- Direct support.
  - Media companies have been significantly impacted by the effects of the COVID-19 pandemic; Free TV strongly encourages Government to move forward with the reforms outlined in this submission as soon as practicable.
  - We note the Government's has recently also issued a Green Paper entitled '*Modernising television regulation in Australia*'. While we will actively engage in the separate consultation process for that Green Paper, it should not delay the timing of the reforms proposed in this submission.

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## 2. Introduction

### 2.1 About Free TV Australia

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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, economy and democracy. Australia’s commercial free-to-air broadcasters create jobs, provide impartial and accurate 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 invested \$1.6 billion in Australian content, 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 television industry creates these benefits by delivering content across a wide range of genres, including news and current affairs, sport, entertainment, lifestyle and Australian drama to all Australians, for free.

Nowhere is the evidence of our value to the community more obvious than in our commitment to high quality public interest journalism. Our members cover events of national significance, provide critical information in times of emergency and bring Australians together to witness moments in history, life changing occasions and times of national success.

### 2.2 A trusted source of news

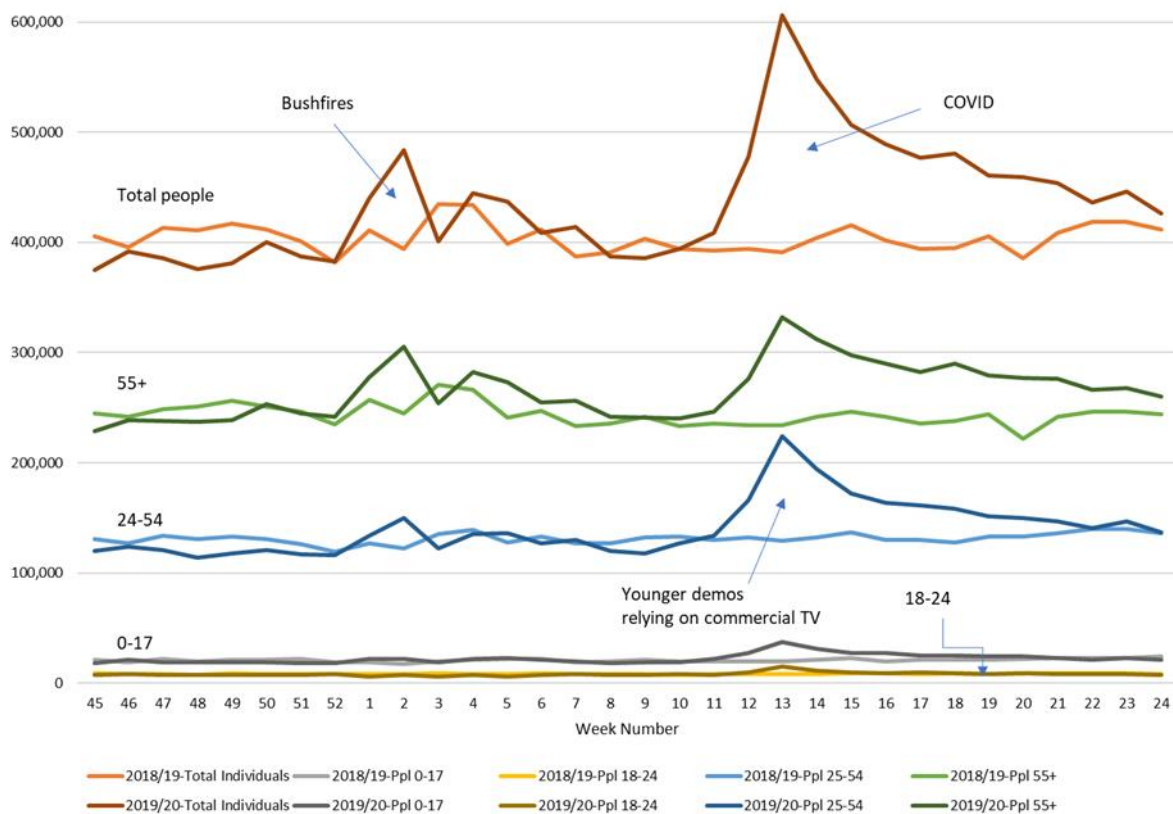
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Commercial TV invests significantly in news, and local journalistic content production is a very important part of our businesses. Free TV members broadcast high quality, accurate and impartial news services into every State and Territory in Australia and produce news of specific local significance in around 40 separate markets. We employ hundreds of journalists and support staff to create this volume of news and current affairs content.

Commercial free-to-air television services are watched by 17 million Australians each week.<sup>2</sup> They are critical 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.

During the COVID-19 pandemic, Australians relied on our news and current affairs programs more than ever before to make sure they got the facts they needed to understand the implications for their health, their families and for the country.

*Audiences of all ages turn to Free TV news sources as their trusted source of news*



Source: News Genre 6am-midnight - Primary Channels – National Audiences | OzTAM and Regional TAM | Overnight | Combined Aggregate Markets and 5CM | Typology: News/Current Affairs | S-s 0600-2400 | Audience 000s

As shown above, 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.

This again demonstrates why it is so important that the media regulatory framework promotes a strong and sustainable commercial broadcasting industry that enables us to continue delivering these services – it is critical to the ongoing production of quality public interest journalism and news content.

<sup>2</sup> Source: Everybody gets it: The economic and social benefits of commercial television in Australia, Deloitte Access Economics 2020.

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## 2.3 Quality of news programs

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Free TV's members are subject to the Commercial Television Industry Code of Practice, which was developed following public consultation and consultation with the communications sector regulator, the Australian Communications and Media Authority (**ACMA**). The ACMA also monitors compliance by our members with that Code.

The Code provides a number of important safeguards to ensure broadcasting services produce news and current affairs programs that meet the community standards that Australians expect, that is, that they are of high quality, impartial and accurate. In particular, the Code requires broadcasters, in broadcasting news or current affairs, to:

- present material facts accurately and ensure that viewpoints included in the relevant program are not materially misrepresented (clause 3.3)
- present news fairly and impartially and to clearly distinguish the reporting of factual material from commentary and analysis (clause 3.4); and
- disclose commercial arrangements when featuring third party products or services in current affairs, infotainment and documentary programs (clause 4).

The evidence demonstrates the commitment of commercial TV broadcasters to compliance with these requirements of the Code. During the period 1 July 2015 to early 2020, during which time Australia's commercial television broadcasters produced countless hours of news and current affairs programs, the ACMA found:

- only one instance of a breach of the impartiality provisions by a commercial television licensee; and
- no instances of breaches of the disclosure requirements.

In addition, our regional members (along with regional radio) have a regulatory obligation, imposed under broadcasting legislation, to provide local regional news, which ensures the available of trusted news of local significance, throughout Australia. The ACMA's most recent survey in regional Australia found that, "Regional Australians use, prefer and trust commercial free-to-air TV and the local print newspaper as a source of local news more than any other media".<sup>3</sup>

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<sup>3</sup> ACMA, Local content in regional Australia 2017 Report, 9.

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### 3. Spectrum pricing

#### 3.1 Ongoing challenging conditions for commercial broadcasters

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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 sporadic 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 of Free TV members. 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.

#### 3.2 Abolition of spectrum taxes

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In light of the ongoing challenges faced by the commercial television broadcasting sector, Free TV submits, as we have in other fora, that spectrum fees, which are simply a form of tax on the commercial broadcasting sector are abolished. This tax does not properly reflect the economic value of the spectrum, taking into account its use for free-to-air broadcasting and is out of step with international standards, as we expand on below.

In addition, the taxing arrangement is unnecessarily complex, which is inconsistent with the Government's policy objective of removing unnecessary red tape. To offset the disproportionate impact on regional broadcasters who have many more transmitters than their metropolitan 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 the spectrum taxes.

Removing spectrum taxes would assist broadcasters to invest more in the production of quality news and other Australian content and to modernise their technologies and delivery platforms. This will encourage Australians to continue to engage with the content produced by broadcasters.

##### 3.2.1 Necessary for platform neutral regulatory framework

Currently, our primary advertising competitors Google and Facebook, together with large scale international audience attention competitors like Netflix, rely on consumer funded internet connections, primarily over the taxpayer funded National Broadband Network. None of these competitors is required to pay a spectrum tax; in fact, many of those competitors pay little tax in Australia of any kind. Implementation of a platform neutral regulatory framework therefore requires that this tax is removed.

##### 3.2.2 Out of step with international best practice

It is undeniable that the spectrum taxes imposed on Australian free-to-air broadcasters are 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 may use 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 and broadcasters' use of spectrum is linked to a range of regulatory obligations targeted at meeting certain social policy goals. 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. This is not the approach adopted in Australia. Work undertaken by CEG concluded that they had:

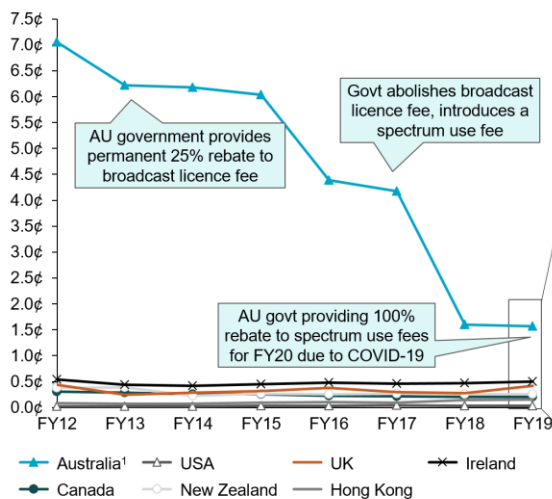
*“not identified any jurisdiction with a comparable free-to-air broadcasting sector and content obligations, which charges for spectrum beyond fees for spectrum management.”<sup>4</sup>*

The fact that the different approach taken in Australia means that commercial free-to-air broadcasters pay significantly more than our international counterparts is demonstrated by the following:

**Total broadcaster fees, by country**

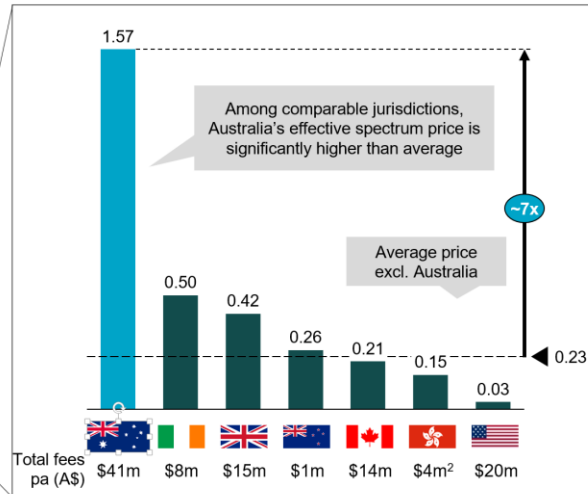
FY12-19, A¢ per MHz per capita

Includes spectrum use fees and/or licence fees to enable broadcast comparison over time



**Total broadcaster fees, by country**

FY19, A¢ per MHz per capita



Source: AU(ACMA), Canada(CRTC), US(FCC), NZ(BSA). UK(OFCOM, ITV), Singapore(IMD), Ireland(BAI), Hong Kong (Communication Authority).<sup>5</sup>

<sup>4</sup> CEG, International approaches to pricing for broadcast spectrum, Memo to Free TV, p1

<sup>5</sup> Note: (1) Due to delay in fee collection, ACMA consolidated both the FY18 and 19 licence fees into the FY19 statement. Used the FY20 licence fee (A\$41m) across FY18-FY19 as same methodology used for fee calculation (2) HK license fee calculated by estimating program hours by broadcaster and adding annual fee.

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### 3.2.3 Review of spectrum pricing must occur before 1 July 2022

Section 216AA of the Broadcasting Services Act 1992 (Cth) (**BSA**) requires that after 30 June 2019, the ACMA must conduct a review of whether the Commercial Broadcasting (Tax) Act 2017 (Cth) should be repealed or amended on or before 1 July 2022. The ACMA is required to give the Minister a report of the review before 1 July 2021.

This section was introduced into the BSA by the Broadcasting Legislation Amendment (Broadcasting Reform) Act 2017. The Explanatory Memorandum for that Act provides that the proposed review under s 216AA “will help ensure that taxation arrangements (and any future replacement spectrum use charging pricing arrangement) remain appropriate and consistent with the broader review of spectrum pricing currently underway by Government”. It is critical that this review occurs as required under the BSA so that the issues Free TV has raised in this, and previous, submissions may be fully addressed.

The Government’s recent Green Paper has put forward a proposal that broadcasters who move to a new form of licence, which would require the broadcaster to transition to using less spectrum, would not be required to continue to pay the current spectrum tax. There are significant public policy reasons why free-to-air broadcasters should not be required to pay the spectrum tax, as outlined above. Free TV submits that this important issue needs to be addressed and should not be conditioned on broadcasters agreeing to a spectrum re-allocation. Free TV will provide further comment on this proposal as part of the Green Paper consultation.

## 4. Emerging issue: connected TVs and TV aggregation devices

### 4.1 Prominence is important in ensuring accessibility

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Free TV has previously submitted to the ACCC's Digital Platform Services Inquiry 2020-2025 on the need to legislate to protect the prominence of apps in app marketplaces on connected TVs and TV aggregation devices, where the apps provide content of strategic, social and cultural benefit to Australians.<sup>6</sup>

Free-to-air television is required under the BSA to provide a range of social and cultural benefits through our programming. As the Minister for Communications, Cyber Safety and the Arts recently noted:<sup>7</sup>

*We need Australian stories on our screens. It's important to Australia's cultural identity ... That is why, for decades, there have been rules requiring commercial television networks to show specified amounts of Australian drama, documentaries and children's content.*

In the past, when Australians accessed content by accessing traditional linear broadcasts directly through their televisions, no issues of discoverability arose. But that is no longer the case. Given the evolution in the way Australians access content – increasingly through connected TVs and TV aggregation devices – regulation is needed to ensure that Australian content is easily discoverable on those mediums.

Free TV submits that regulation should impose a requirement for a given level of prominence free of charge for apps in app marketplaces on connected TVs and TV aggregation devices where the provider of the app has a legislative obligation to make Australian content available, such as those that deliver video content that is regulated under a free-to-air TV broadcasting licence issued under the BSA, as well as in the case of the apps made available by the two national broadcasters, the ABC and SBS. There is precedent for adopting a legislative approach to address difficulties in discoverability in at least 3 other comparable jurisdictions – United Kingdom, Canada and Germany.<sup>8</sup>

Without action to mandate such a given level of prominence, there is a real risk that a winner-takes all approach to prominence could lead to deals between equipment manufacturers and other global video platform providers that have far greater capacity to enter into preferential deals, at the expense of local content providers. The end result will be that the Government's policies for ensuring that Australian content is produced and made available will not be achieved – as that content will not be discovered and viewed by Australians.

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<sup>6</sup> This submission is available here

<https://www.accc.gov.au/system/files/Free%20TV%20Australia%20%2816%20October%202020%29.pdf>.

<sup>7</sup> Available here: <https://minister.infrastructure.gov.au/fletcher/opinion-piece/safeguarding-australiancontent-world-changing-viewership>

<sup>8</sup> Detailed analysis of the approach taken in these jurisdictions is set out in Free TV's submission to the Digital Platform Services Inquiry 2020-2025 at pages 13-14, available here

<https://www.accc.gov.au/system/files/Free%20TV%20Australia%20%2816%20October%202020%29.pdf>.

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## 5. Other important reforms for a platform-neutral regulatory framework

A key finding of the ACCC's Digital Platforms Inquiry was that platform neutral regulation is required to promote competition, thereby providing benefits for Australian consumers and the economy. In its response to the findings of the ACCC the Government recognised the need for reform of media regulation to achieve an end state platform-neutral regulatory framework.<sup>9</sup> The following set out other key areas of reform to support a robust platform neutral regulatory framework for the media sector:

### 5.1 Election and political advertising laws

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Existing election advertising blackout rules that apply only to broadcasters should be repealed. These rules are irrelevant in circumstances where voters can, and do, readily access election advertising online. The only purpose they serve is to transfer advertising revenues from broadcasters to digital platforms, as those rules do not apply to digital platforms.

The rules in relation to tagging of political matter should also be consistent across platforms. The existing political matter licence condition that applies only to broadcasters should be removed from the BSA. Broadcasters should be regulated in the same way as other platforms under the Commonwealth Electoral Act 1918 (Cth) (**Electoral Act**) in relation to electoral matter.

#### 5.1.1 Current blackout regulation is outdated and should be repealed

Under section 3A of Schedule 2 to the BSA, broadcasters are prohibited from broadcasting an election advertisement during the period commencing on midnight on the Wednesday before polling day in a licence area where an election to a Parliament will be held and ending on the close of polling on election day.

These rules were passed by the Parliament in 1992, prior to widespread internet access in Australia. They apply only to free-to-air and pay television and radio; however, they do not apply to any other form of electronic media. In other words, the ban does not apply to online or mobile advertising.

In today's media landscape, these rules are no longer effective or relevant, and unfairly disadvantage commercial broadcasters. On commencement of the blackout period, political parties simply transfer their advertising from television to other digital media platforms that are not regulated, including via Facebook videos, targeted text messages, and through digital news media sites and other social media.

In its final report on the conduct of the 2016 federal election, the Joint Standing Committee on Electoral Matters noted that 'a matter for future consideration by this Committee is the issue of political advertising blackouts during election periods. The current rules lack consistency, and favour by default, rather than design, online media platforms over more traditional media formats'.<sup>10</sup> Free TV submits that Australia is well past the time when the blackout rules should be re-considered and these should be repealed as soon as practicable.

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<sup>9</sup> This is referred to at page 9 of the Government's response, which is available here: <https://treasury.gov.au/sites/default/files/2019-12/Government-Response-p2019-41708.pdf>

<sup>10</sup> JSCEM, Report on the conduct of the 2016 federal election and matters related thereto, Chair's Foreword at x and xi.

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### 5.1.2 Political matter tagging regulations must be platform neutral

Broadcasters are subject to an additional requirement to ‘tag’ political matter under Schedule 2 of the BSA. This requirement is a licence condition and can attract serious penalties for breach, including suspension or cancellation of a broadcaster’s broadcasting licence. As with the election blackout rules, the continuation of this onerous requirement is shifting advertising revenue away from broadcasters to online platforms where the same rules do not apply.

The requirement under Schedule 2 is that all advertisements which contain ‘political matter’ at any time (not just during election periods), must end with a spoken announcement containing specific required particulars in the form of words or images that sets out the name and city of the authorising person.

‘Political matter’ is defined very broadly in the BSA to mean ‘any political matter, including the policy launch of a political party’. The ACMA’s Political Matter Guidelines<sup>11</sup> provide only limited guidance to broadcasters, as these simply list the matters that the ACMA will have regard to in determining whether matter is political or not.

The broad (and uncertain) scope of the obligation, and the fact that it applies only to broadcasters is, unsurprisingly, having a negative financial impact on commercial free-to-air broadcasters. Advertisers are being deterred from advertising on platforms where they are required to give up advertising time or space to “required particulars” which detract from or change the message they are trying to deliver to audiences.

The Electoral Act requirements already require tagging of communications that:

- are intended or likely to affect voting in a federal election or referendum; or
- contain an express or implicit comment on the election or referendum, a political party or candidates, or an issue that is before electors in connection with an election or referendum.

This regime should apply consistently across all platforms, political parties and influencers seeking to use or communicate political messages to voters. There is no reason for broadcasters to be governed by an additional set of rules.

## 5.2 Other advertising reforms

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Consistent regulation in relation to advertising must be supplemented by other regulatory measures on related issues, as recommended by the ACCC in its Final Report for the Digital Platforms Inquiry:

### 5.2.1 Platform neutral advertising restrictions

Free TV recommends that the Government should issue a statement of policy intent that requires that all advertising restrictions going forward must be platform neutral. Further, the statement of policy intent should outline a process for reviewing all existing advertising restrictions on free-to-air television with a view to removing those that are inconsistent or go beyond the restrictions that apply to other platforms.

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<sup>11</sup> Which are available here: <https://www.acma.gov.au/publications/2019-08/guide/political-and-election-matter-guidelines>

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### 5.2.2 Disinformation Code of Conduct

A code of conduct for digital platforms with oversight from an independent regulator such as the ACMA is required to govern the handling of complaints about disinformation (inaccurate information created and spread with the intent to cause harm) in relation to news and journalism, or content presented as news and journalism, on their services. We note that such a draft code has been developed by DIGI. In Free TV's view, the code should incorporate the minimum requirements identified in the ACMA's position paper as necessary for it to function effectively and achieve its intended purpose.

### 5.2.3 Digital Platforms Ombudsman

Free TV supports the establishment of a digital platforms ombudsman, which would have the power to investigate complaints, including in relation to fake material or scams, and to require take down of this content. The Government announced that it would develop a pilot external dispute resolution scheme in consultation with major digital platforms, consumer groups and relevant government agencies and that it would assess the development and rollout of the pilot scheme over the course of 2020, along with any parallel improvements in associated internal dispute resolution processes. The outcomes of the pilot scheme are to inform consideration of whether to establish a Digital Platforms Ombudsman to resolve complaints and disputes between digital platforms and the individual consumers and small businesses using their services. Free TV continues to be supportive of this process. Although we understand that this has been delayed in 2020 as a consequence of the COVID-19 pandemic, we would urge the Government to move forward in this area in 2021.

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## 5.3 Reform of laws that inhibit public interest journalism

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Free TV together with Australia's Right to Know coalition of media organisations has, over a long period of time, advocated for reform to address secrecy and national security laws which unnecessarily impact public interest journalism, the current unworkable freedom of information (**FOI**) regime and defamation laws that undermine and impede traditional media's ability to report on matters of public interest. The following reforms are required to address these issues:

- The right to contest the application for warrants and use of compulsory document production powers for journalists and media organisations
- Greater protections for public sector whistle-blowers
- A new regime that limits which documents can be classified as secret
- A properly functioning FOI regime that removes barriers to accessing information
- Exemptions for journalists from laws that would put them in jail for doing their jobs, including security laws enacted over the last eight years; and
- Further reform to defamation law, including completion of the Stage 2 review by the Defamation Working Party established by the Council of Attorneys-General that will consider amendments to address the responsibilities and liability of digital platforms for defamatory content published online.

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## 5.4 Remove double handling of offence provisions

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Free TV recommends the immediate amendment or deletion of section 7(1)(h) of Schedule 2 to the BSA to remove the double handling where the communications regulator acts as a second enforcement body for offence provisions that exist under every Act, or any law of a State or Territory. In 2015, the High Court held that the ACMA, an administrative body, had correctly exercised its authority in forming an opinion about whether a broadcaster had committed a criminal offence in the absence of any determination by a criminal court.<sup>12</sup> In fact, the matter was never pursued in a criminal court. This judgement meant that the ACMA may make such a determination regardless of whether a criminal court subsequently finds that no criminal offence has been committed, or where a police investigation is not pursued because there is insufficient evidence to establish that there is any case to answer. This is not an appropriate role for an administrative body such as the ACMA to undertake.

## 5.5 Code registration process to be consistent across broadcasters

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Commercial free-to-air television content is regulated under the Free TV Code. That Code is developed by Free TV in consultation with the public and must be registered with the ACMA. Before registering the Free TV Code, the ACMA must be satisfied that it provides appropriate community safeguards for the matters it covers; is endorsed by a majority of commercial television stations; and members of the public were given adequate opportunity to comment. Significant penalties apply for non-compliance. However, despite also offering a free-to-air television broadcasting service, the regulatory model that the ABC and SBS operate under only requires them to notify the ACMA of their Codes of Practice. The Free TV Code development process should be aligned with that of the national free-to-air broadcasters to avoid inequitable regulatory outcomes.

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<sup>12</sup> ACMA v Today FM (Sydney) Pty Ltd [2015] HCA 7.

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## 6. Direct support

Free TV's members invest significantly in news and local journalistic content, producing high quality, accurate and impartial news services watched by millions of Australians each week. The free-to-air sector's employment of high calibre, award winning investigative journalists plays a key role in providing important checks and balances on our political and legal processes by facilitating transparency and accountability. From matters such as challenging non-publication orders, reporting on court cases and investigating instances of alleged corruption, Australians rely on us to be their eyes and ears. In doing so, our journalism plays a crucial role in a healthy functioning democracy, at a national, state and local level.

An excellent example of the role our members play in the provision of local news is the 2019/2020 bushfire crisis. Our members provided local news coverage during the bushfire crisis, travelling to and reporting from localised fire emergencies across New South Wales, Queensland, Victoria and Tasmania. In some case they were the first on the scene, and broadcast emergency warning crawls and the standard emergency warning signals (SEWS) notices in relevant regional markets throughout the crisis.

The significant reliance that Australians place on commercial TV news, including local news, is important context in considering the policy prescriptions for the ongoing urgently needed financial support for production and distribution of news content.

### 6.1 Local and regional news

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In its Final Report from the Digital Platforms Inquiry, the ACCC recommended to the Government that grants are provided for local journalism, which is a vital service. The problem that this solution was designed to address is twofold:

- Declines in public interest journalism in areas such as local government and courts, health and science reporting; and
- A sustained decline in local and regional news coverage more broadly.

Ongoing support was seen by the ACCC as necessary given that there is not a readily apparent market solution to incentivise the production of this content, notwithstanding its importance.

The Government supported this recommendation from the ACCC in principle. In fact, prior to the release of the Final Report from the Digital Platforms Inquiry, the Government had already provided a level of support through the Regional and Small Publishers Innovation Package that commenced in 2018.

As part of the package of relief provided to Australian media companies in response to the COVID-19 pandemic, some funding from the Regional and Small Publishers Jobs and Innovation Package was reallocated, and new funding was also allocated, to the Public Interest News Gathering (**PING**) program to support regional broadcasters and publishers to maintain or increase their production and distribution of public interest journalism in regional Australia during COVID-19. In addition, as part of that relief package, the Government brought forward the release of \$5 million from the Regional and Small Publishers Innovation Fund. Those funding initiatives were supported by our members.

However, this direct funding will not be available on an ongoing basis and, in any event, was not available to all media companies that provide much needed local and regional news coverage. In our



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view, direct funding that supports the production of local television news services on an ongoing basis is required.

## 6.2 Ongoing funding

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Free TV will provide comments separately on the Government's recently released Green Paper for Modernising television regulation in Australia, which makes suggestions about the provision of additional funding to create a PING Trust and an investment vehicle to be known as CAST (noting CAST would not be available for funding local journalism). Nonetheless, two initial points should be made in relation to those direct funding proposals.

First, the proposals are contingent on at least some of our members agreeing to transition to new spectrum arrangements. The issues faced in relation to the production of local and regional news coverage, and the causes of that underproduction, are unrelated to spectrum usage by the free-to-air broadcasters and it is not appropriate that this pressing issue is linked to changes in spectrum usage.

Secondly, the PING Trust and CAST would not be established until the Government had received revenue from the proposed spectrum auction. The spectrum auction will not occur until 2025. This is far too late to address this pressing concern, as the funding is needed now.

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A. Mandatory bargaining code: An opportunity too important to miss