



# Submission by Free TV Australia

## **Pre-Budget submission 2024-25**

The Treasury

January 2024

---

## Table of contents

<b>1. EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>2. INTRODUCTION.....</b>	<b>5</b>
<b>3. THE COMMERCIAL BROADCASTING TAX SHOULD BE ABOLISHED .....</b>	<b>7</b>
<b>3.1 THE CBT IS EXCESSIVE.....</b>	<b>7</b>
<b>3.2 PRESSURES ON BROADCASTERS .....</b>	<b>7</b>
<b>3.3 CPI INDEXATION NOT APPROPRIATE.....</b>	<b>8</b>
<b>3.4 TRANSMISSION OF TV TO ALL AUSTRALIANS EVERYWHERE IS A PUBLIC GOOD .....</b>	<b>11</b>
<b>3.5 DISPROPORTIONATE IMPACT ON REGIONAL BROADCASTERS .....</b>	<b>12</b>
<b>3.6 CBT NOT A GENUINE SPECTRUM TAX.....</b>	<b>12</b>
<b>3.7 AN “INTERIM” OBLIGATION .....</b>	<b>13</b>
<b>3.8 CBT SHOULD BE REPEALED.....</b>	<b>14</b>

## 1. Executive Summary

The *Commercial Broadcasting (Tax) Act 2017 (CBT Act)* was introduced as a 5-year interim arrangement as part of the 2017 Media Reform package. For the reasons set out in this submission, the commercial broadcasting tax (CBT) should be abolished.

As an immediate measure, CPI indexation of the CBT should be suspended pending Government action to repeal this unjustifiable tax burden.

### Excessive amount

- The CBT is significantly higher in Australia than in comparable jurisdictions. Nowhere in the world do free-to-air commercial television broadcasters pay more for licence fees than in Australia.
- As TV transmission costs continue to rise and TV revenue per capita is projected to continue to fall, the CBT becomes even more excessive.
- Broadcasters could redirect these payments to creating the Australian content they are regulated to provide, and towards maintaining broadcast infrastructure, to ensure free TV remains available to all Australians.

### Regional impact

- Regional broadcasters are disproportionately impacted by the “per transmitter” approach of the CBT. This is because regional broadcasters need many more transmitters to reach their licence areas than is required in areas with higher population density.
- While the Government’s Mid-Year Economic and Fiscal Outlook 2023-24 (**MYEFO**), committing to the Regional Transitional Support payment and adjusting the amount payable to regional broadcasters, is welcome, it is grossly insufficient. The increase to regional broadcasters is less than the CPI increases to the CBT over the past 3 years, leaving regional broadcasters worse off than when the CBT was introduced. The transitional payment does not increase over time, while the base CBT continues to do so. Regional broadcasters will progressively be in a worse position over coming years.
- The regional transitional support payments should be indexed at the same rate as the underlying CBT until such time as the tax is repealed.

### CPI indexation

- CPI indexation of the base CBT has unintended consequences on spectrum charges, compounding the excessive level of the tax. When the tax was first imposed, CPI was close to 1%. However, in the past 5 years CPI figures have increased the CBT by almost 19% including by 5.1% in 2022 and 7% in 2023. CPI is projected to again compound increase the CBT by 5% in FY 2024-25, taking the overall increase in the tax to almost 25% since it was first imposed.
- The CPI increases are inconsistent with the intention of the CBT Act to ensure stability and certainty of financial conditions for commercial television broadcasters.
- CPI indexation of apparatus licences is inconsistent with the indexation of all other similar licences administered by the Australian Communications and Media Authority (**ACMA**) and cannot be justified.
- The ACMA Spectrum Pricing Review released in July 2022 discredited CPI adjustment as a legitimate basis for adjusting the so-called “market” value of administratively priced spectrum. ACMA concluded that CPI was not a good proxy for increases in the market value of administratively allocated spectrum and has now abandoned arbitrary CPI increases and adopted a population growth mechanism to adjust all other apparatus licence fees.

### An “interim” obligation

This tax was introduced as an “interim measure” that would be reviewed within 5 years. Despite a legislative obligation to do so, this has not occurred. The time for review has expired, and the Government should now act to immediately repeal this tax burden that is out of step with comparable jurisdictions, and is unreasonable, given the changing competitive landscape and public policy benefits of a sustainable local television sector.

## 2. Introduction

Free TV Australia is the peak industry body for Australia’s commercial television 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 FTA television makes to Australia’s culture and economy.

Free TV has welcomed the Government’s introduction of the Communications Legislation Amendment (Prominence and Anti-Siphoning) Bill 2023 to implement a prominence framework and update the anti-siphoning scheme. While this legislation goes some of the way towards addressing equity and access issues for broadcasters and Australian audiences, it has an excessive transition period and omits critical components. With a view to ensuring that these frameworks are fit-for-purpose, including by enabling all Australians to access free, quality content, and the sporting moments that unite the nation, Free TV will continue to work closely with Government on these issues.

Free TV Australia is the peak industry body for Australia’s commercial television 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 FTA television makes to Australia’s culture and economy.



Australia’s commercial broadcasters create jobs, provide trusted local news, tell Australian stories, give Australians a voice and nurture Australian talent.

A report released in September 2022 by Deloitte Access Economics, Everybody Gets It: Revaluing the economic and social benefits of commercial television in Australia, highlighted that in 2021, the commercial TV industry supported over 16,000 full-time equivalent jobs and contributed a total of \$2.5 billion into the local economy. Further, advertising on commercial TV contributed \$161 billion in brand value. Commercial television reaches 16 million in an average week, with viewers watching around 3 hours per day.

Free TV members are vital to telling Australian stories to Australians, across news, information and entertainment. Free-to-air television broadcasters understand and appreciate the cultural and social dividend that is delivered through the portrayal of the breadth and depth of Australian culture on television, and Australians prefer local stories. Commercial television networks spend more than \$1.5 billion on Australian content ever year, dedicating over 85% of their content expenditure to local programming.

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. At no cost to the public, our members provide a wide array of channels across a range of genres, as well as rich online and mobile offerings.

The 2022 Deloitte Access Economics report found that while the internet is widely used in Australia, it is not universal, the quality and access varies significantly, and it is not free. At least 5.6 million (22%) Australians cannot access live streaming and video on demand (VOD).

A strong commercial broadcasting industry delivers important public policy outcomes for all Australians and is key to a healthy local production ecosystem. This in turn sustains Australian storytelling and local voices and is critical to maintaining and developing our national identity.

The commercial broadcasting tax issue outlined below is key to the ongoing viability of Free TV services, and as such, is a high priority for Free TV members.

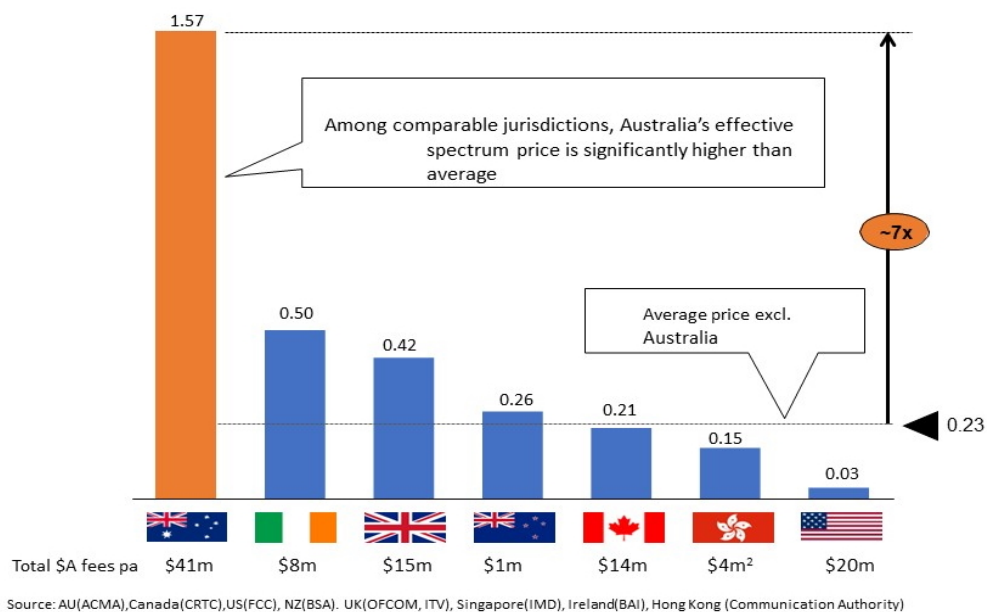
### 3. The commercial broadcasting tax should be abolished

The Commercial Broadcasting Tax (CBT) was introduced as an interim measure in 2017, that was intended to be reconsidered within 5 years. Despite a legislative obligation to do so, this has not occurred. The CBT has become an unjustifiable and unreasonable burden on commercial television broadcasters that demands immediate repeal.

#### 3.1 The CBT is excessive

The context in which the CBT was introduced recognised the challenges and financial pressures faced by broadcasters in the modern media environment, including competition and market fragmentation brought about by streaming services and other platforms, which did not, and still do not have licences or pay licence fees. However, in practice the reforms reduced, but did not do away with, taxation on the earnings of TV networks.

Australian broadcasters pay spectrum taxes that are the highest in the world, 52 times higher than the equivalent per capita charge on US broadcasters (see figure below). Nowhere else in the world do free-to-air commercial broadcasters pay more to broadcast their content.



#### 3.2 Pressures on broadcasters

In the past, it may have been appropriate to place a revenue tax on TV broadcasters (along with other regulatory impositions) as a “quid pro quo” in return for the access to a limited number of broadcasting licences in a world without competitive alternative means of distribution of TV and other media content. However, as acknowledged through the introduction of the Bill in 2017, the modern media environment has changed. It has continued to change since the introduction of the CBT.

Many of the changes have adversely affected the profitability and sustainability of commercial television broadcasters. Pressures on the viability of some regional TV services are particularly acute. Television advertising revenue has declined, advertising spend has continued to shift to digital media, while the increasing popularity of subscription video on demand (SVOD) has further reduced the audience for free-to-air TV and at the same time increased the costs of production.

These trends will be exacerbated by the imminently expected restrictions on gambling advertising and the inflationary impact of proposed SVOD Australian content quotas.

At the same time, the cost of television transmission is increasing, as transmission equipment purchased during TV digitisation reaches its end-of-life and falls due for capital refreshment. As operation maintenance costs continue to escalate, the burden falls disproportionately on regional and remote TV broadcasters. These broadcasters obtain lower per capita revenue from their audiences than their metropolitan affiliates, at the same time as transmission costs per viewer are higher, consuming a much larger share of their earnings.

The local TV industry also remains subject to extensive regulatory obligations, imposing significant additional costs, such as content obligations, extensive closed captioning requirements, political advertising licence conditions, including record-keeping requirements and election advertising blackout rules. The continuation and increase of these pressures make the CBT even less justifiable, with services at the margins of profitability and approaching a “cliff-edge”.

This would matter less if there were some prospect Australians would migrate entirely to watching TV via the internet. While the transition to free online streaming to access free-to-air television services is undoubtedly underway, as of today, however, broadcast TV continues to serve a mass audience. There is every prospect that without some, as yet-unknown external intervention, huge numbers of Australians will continue to rely on free-to-air broadcast TV for basic connectivity and “digital inclusion” into the indefinite future.

This will leave broadcasters with duplicated distribution costs for both internet and over-the-air transmission in order to reach all Australians, and the costs of spectrum tax continuing to increase at CPI each year despite reaching fewer people. This is entirely unreasonable, particularly in light of the strong public interest in maintaining a local broadcast industry.

### 3.3 CPI indexation not appropriate

CPI indexation is compounding the excessive level of the CBT. The March 2022 CPI figures required a 5.1% increase in the CBT for commercial broadcasters in 2022, which again increased in 2023 by 7.0%. If the current model continues, we expect another increase in 2024, and this is likely to again increase in 2025 under the current model.

Since the introduction of the CBT, the underlying rate has increased by almost 19% (not taking into account compounding effects). For All Groups CPI (Annual rates for March Quarters):

<b>2022-23:</b> 7.0%	<b>2019-20:</b> 2.2%
<b>2021-22:</b> 5.1%	<b>2018-19:</b> 1.3%
<b>2020-22:</b> 1.1%	<b>2017-18:</b> 1.9% <sup>1</sup>

Note that Communication Group CPI differs significantly, being lower than All Groups CPI by a large margin:

<b>2022-23:</b> 1.2%	<b>2019-20:</b> -3.4%
<b>2021-22:</b> -0.8%	<b>2018-19:</b> -4.6%

<sup>1</sup> Annual CPI in the March quarters of the years from March 2018 to March 2023.



**2020-21:** -1.9%

**2017-18:** -3.4%<sup>2</sup>

Over the same period, while CPI for All Groups CPI rose 18.6%, the Communication sector was -12.9%. Given these figures, under the Communication Group CPI rates, broadcasters should in fact have had reductions in CBT. We maintain that CPI as a tool for CBT is wholly unsuitable, however, even if it were accepted as the measure for annual increases, the only appropriate rates were those for the Communication Sector. The fact that the All Groups rates have been applied highlights the inappropriateness of the increases to the CBT over time.

When the tax was imposed in 2017, Free TV members raised concerns regarding its future escalation as well as the underlying amount. At the time CPI was consistently running at less than 2%. The second reading speech made clear that it was intended that:

*“broadcast spectrum taxes **remain stable for the next five years to provide certainty**. The government acknowledges industry's desire for certainty beyond this period. While the broader spectrum management framework may change, this government does not expect large increases in taxes for broadcast spectrum.”<sup>3</sup>*

The recent significant increases to CPI are clearly not consistent with this expectation. To the contrary, at the end of the current financial year CBT rates will have increased by **over 25%** in the period since the tax was introduced.

### Industry revenue declines

When the CBT commenced in 2017, \$40 million (with an aggregate \$43.5 million per annum determined by Cabinet) in taxes was imposed on the Free TV industry. This was, and is, a large amount of tax for broadcasters to pay, particularly in circumstances where revenues are declining, while being a comparatively small amount for Government in revenue collection.

Since 2017, broadcasters’ revenues have continued to decline, while the CBT has gone up. Contrasted with the CPI increases set out above, including the most recent indexation of 5.1% and 7.0% in the two most recent years, commercial television broadcasters’ revenues have declined, most recently, by 8% in the period June 2022 to June 2023 growing to 10% in the period December 2022 to December 2023.

CPI increases as set out above are clearly misaligned which what is fair and reasonable for broadcasters, given their significant revenue declines.

### CPI inconsistent with legislative intent

The CBT was introduced as a 5-year interim arrangement as part of a broader set of reforms contained in the 2017 Media Reform package.

As set out in the second reading of the Bill, it was intended that “broadcast spectrum taxes remain stable for the next five years to provide certainty.” Although anticipated that the “broader spectrum management framework may change”, beyond this time the Government did not expect any “large

<sup>2</sup> Annual CPI in the March quarters of the years from March 2018 to March 2023 for Communications Group.

<sup>3</sup> Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017, Commercial Broadcasting (Tax) Bill 2017 Second Reading - [https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=BillId\\_Phrase%3Ar5908%20Title%3A%22second%20reading%22%20Content%3A%22I%20move%22%7C%22and%20move%22%20Content%3A%22be%20now%20read%20a%20second%20time%22%20\(Dataset%3Ahansard%20%7C%20Dataset%3Ahansards\);r ec=1](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=BillId_Phrase%3Ar5908%20Title%3A%22second%20reading%22%20Content%3A%22I%20move%22%7C%22and%20move%22%20Content%3A%22be%20now%20read%20a%20second%20time%22%20(Dataset%3Ahansard%20%7C%20Dataset%3Ahansards);r ec=1)

increases in taxes for broadcast spectrum.” The significant CPI increases in the CBT that have been already experienced and projected to continue are clearly unintended and inconsistent with the original intention of the charge.

Free TV broadcasters agreed at the time to a package of measures, including the new \$40 million spectrum fee to be imposed on the industry, on the basis that this five-year arrangement would be reviewed.

Free TV and its members maintained that the tax was excessive at the time that it was imposed and continue to hold that view. We have consistently raised our concerns that the CBT far exceeds international benchmarks, is unwarranted and should be abolished.

### CPI is inconsistent with Industry best practice

CPI adjustment is also inconsistent with the government’s own approach to taxation of spectrum used by all (other than broadcasting) apparatus licences. Since 2017, the ACMA has systematically reviewed its approach to spectrum pricing in light of the recommendations from the Government’s spectrum pricing review. In relation to administratively-priced spectrum, a goal of the review was to consider how the ACMA’s pricing formulas could be made “responsive to the underlying value of the spectrum.”

In 2021, the ACMA consulted on a proposal to cease the CPI indexation of apparatus licence taxes and instead regularly update taxes based on annual population changes. The ACMA observed that CPI was not a good proxy for increases in the market value of administratively-allocated spectrum, as evidenced by ongoing price increases in many areas where abundant spectrum remained unused. According to the ACMA:

*“... [CPI adjustment] treats all licences equally regardless of the different demand for spectrum in different areas. This was highlighted by stakeholders in lower-density areas continuing to face increases on their licence taxes despite spectrum availability remaining high and limited or no change to the spectrum denial characteristics of their spectrum use.”<sup>4</sup>*

In its July 2022 “Outcomes of the implementation of the Spectrum Pricing Review”<sup>5</sup> the ACMA confirmed its intention to stop annual CPI updates to apparatus licence fees. Future updates will be based on population growth specific to density areas.

The ACMA’s recent work has discredited CPI adjustment as a legitimate basis for adjusting the “market” value of administratively priced spectrum. Continuing to apply a CPI adjustment to the CBT, in a time of high inflation, represents a sharp divergence in charging approach between the 2017 “interim” tax on broadcasting spectrum and the approach for other administratively-priced apparatus licences flowing from the ACMA’s spectrum pricing review.

As set out above, the CBT should be abolished immediately. At the very least, should the Government be minded to take an interim step pending the abolition of the CBT, CPI increases should be halted until its repeal takes effect.

---

<sup>4</sup>[https://www.acma.gov.au/sites/default/files/2021-10/Response%20to%20implementation%20of%20Spectrum%20Pricing%20Review%20%28part%20%29\\_consultation%20paper.docx](https://www.acma.gov.au/sites/default/files/2021-10/Response%20to%20implementation%20of%20Spectrum%20Pricing%20Review%20%28part%20%29_consultation%20paper.docx)

<sup>5</sup>[https://www.acma.gov.au/sites/default/files/2022-07/Outcomes%20paper\\_ACMA%20Spectrum%20Pricing%20Review.docx](https://www.acma.gov.au/sites/default/files/2022-07/Outcomes%20paper_ACMA%20Spectrum%20Pricing%20Review.docx)

### 3.4 Transmission of TV to all Australians everywhere is a public good

---

The amount the CBT imposed on free-to-air broadcasters needs to take into account the public benefit of broadcasting free television across the nation.

Maximisation of terrestrial TV coverage is integral to the public benefits free-to-air TV delivers and should be encouraged and safeguarded. Through its support of Viewer Access Satellite Television (VAST, which provides digital television and radio services to remote and rural areas, as well as viewers in terrestrial black spots), the Government itself makes a large financial contribution to ensuring Australians living in regional and remote areas (and “blackspots” in some metropolitan areas) enjoy commercial TV services broadly comparable to those in the metropolitan markets. The expensive infrastructure regional commercial TV broadcasters use to provide services broadly equivalent to those in the largest cities results in large measure from Government assistance during analogue TV closure. Government measures to extend commercial TV coverage, and to “equalize” service offerings between city and country, are both public policy responses to the problem that many Australians live in areas where it would not otherwise be commercially feasible to provide commercial TV services, or commercial TV services of such variety and picture quality.

The “public good” nature of universal TV coverage supports the view that spectrum value is the incorrect basis for taxation of broadcasting services using the “broadcasting services bands”. Incentives for switching off infill transmitters, and pricing out regional broadcasters from being able to provide TV services equivalent to those in metropolitan markets, would adversely and unfairly affect many Australians who rely on these services in their daily lives.

It should come as no surprise, then, that neither outcome is supported by the legislative scheme. The “broadcasting services bands” spectrum used by TV broadcasters in Australia has been designated as “primarily for broadcasting purposes” and set aside for planning under Part 3 of the *Broadcasting Services Act 1992 (BSA)*. In exercising these planning powers, the ACMA is to “promote the objects of the Act,” which relevantly include:

*“(a) to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information; ...”<sup>6</sup>*

Changes in the highest value use of broadcasting bands spectrum may be addressed, as the need arises, by the ACMA and the Minister to the extent current law allows, also, where appropriate, by changes to primary legislation, as has already occurred in relation to the 700 MHz band.

Government is the largest user of TV broadcasting spectrum, currently using or warehousing 50% including through provision of national broadcasting services, defence, air and maritime safety, meteorological and climate monitoring and national security purposes. As indicated in previous submissions to Government, including through the Media Reform Green Paper process in 2020, the commercial television industry is open to engaging with Government about the rising value of 600 MHz for alternative uses. It does not need the “incentive” of an arbitrary and unfair tax to force it to do what it is, in any case, unable to do on its own, which is to re-plan its own use of spectrum. Application to commercial TV operators of spectrum pricing approaches that actively mitigate against the maximisation of free, terrestrial TV coverage to Australians, wherever they reside, cannot be reconciled with the objects of the BSA.

---

<sup>6</sup> S 3(1)(a) of the Broadcasting Services Act 1992.

---

### 3.5 Disproportionate impact on Regional Broadcasters

---

Regional and remote broadcasters are disproportionately impacted by the “per transmitter” apparatus licence tax approach to recovering the spectrum tax. This is because of the large number of transmitters needed in regional and remote areas to reach small populations.

To ensure that the imposition of the tax did not result in regional broadcasters paying more in CBT payments than they were paying as broadcast licence fees levied as a percentage of revenue before the 2017 reforms, transitional support payments were legislated to offset the worst impacts of the new tax.

However, these so-called “transitional” support payments were due to expire entirely in 2022, presumably because by then the industry was intended to have “transitioned” to a revised spectrum fee arrangement arising from the legislatively required review that has never taken place.

The 2022 Federal Budget extended these temporary support arrangements for regional broadcasters for two years (without CPI adjustment to match the increase in the CBT itself), and they were again extended in the recent December 2023 MYEFO for a further 4 years with an increase to the rebate of 12.5%.

While the MYEFO announcement was welcome as far as it goes, the rebate does not provide meaningful relief for regional broadcasters. In fact, it does not even place regional broadcasters in the place they were when the CBT was introduced. CPI increases over the life of the tax mean that regional broadcasters are now paying more in spectrum tax than they did as broadcast licence fees prior to 2017.

Firstly, the 12.5% increase in the rebate payment does not match the 19% CPI indexation already applied since the CBT was introduced (note the 19% figure does not reflect the compounding nature of the CPI indexation so understates the true level of increase in the tax).

Secondly, while the underlying CBT continues to increase by CPI over the 4-year extension period, the transitional support payment does not. This means that the gap between the amounts paid by regional broadcasters and the transitional support payments will continue to widen.

It is worth noting that even with the transitional support payment, the CBT has previously accounted for up to 20% of the profits of some regional broadcasters, significantly impacting their ability to maintain the critical local services they provide to regional Australians.

---

### 3.6 CBT not a genuine spectrum tax

---

In essence, the CBT replaced the revenue-based broadcasting licence fee as an interim spectrum tax, locked in for 5 years. The aggregate level of the spectrum charge of \$43.5 million per annum was determined by the Minister and then levied via a tax on broadcast transmitters. The Government applied a 100% offset to this tax for a 12-month period from February 2020 (in appropriate recognition of the impacts of the COVID-19 pandemic on business), however this was not extended in 2021. Successive governments have given as their rationale for retaining the CBT that, as spectrum is a finite resource, it is government policy to charge for spectrum in order to encourage its efficient allocation and use, and reflect the benefits derived from the ACMA’s spectrum management and regulatory functions.

As we contend in this submission, the potential value of broadcasting spectrum for other users should not be a determinative consideration when setting charges for using “broadcasting services bands” spectrum set aside to promote the public policy objectives of the BSA.

Before turning to these submissions, however, it is important to make the point that the CBT is not a true spectrum tax at all. Rather, it was designed to function as a “disguised” tax on revenue or profitability, although one that was smaller than the tax on gross earnings of TV broadcasters it replaced. The fundamental objection to a “true” spectrum tax in the TV broadcasting services bands is that a sub-set of TV spectrum, the 600 MHz band, is potentially highly valuable for advanced wireless broadband and telephony. Because it propagates over shorter distances than other TV spectrum, TV broadcasters mainly use 600 MHz spectrum transmitters in regional areas and in pockets and outlying areas of most, though not all, metropolitan TV markets. By contrast, the remaining (500 MHz) UHF TV spectrum and the VHF TV spectrum bands, which are used to serve most TV viewers nation-wide, has relatively little value for other uses. In particular, the VHF spectrum, heavily used in metropolitan areas, has virtually no value for any other application.

The interim (2017) CBT formula avoided this fundamental problem, and ensured the heaviest burden would continue to fall primarily on broadcasters with the largest gross earnings, by treating VHF spectrum, UHF (500 MHz) spectrum and 600 MHz spectrum as if they had exactly the same potential value to other users. (One group of three metropolitan commercial broadcasters, in Adelaide, uses no 600 MHz spectrum whatsoever.) With the solitary exception of apparatus licences used for AM and FM radio, which are also subject to the CBT, no other apparatus-licensed spectrum is taxed in this arbitrary way. Even by treating VHF spectrum as if it has commercial value for other uses, the CBT would still have fallen far too heavily on regional TV licensees, who were less able to bear a tax on gross earnings. This is the origin of the “temporary” rebate for some regional licensees that has now been extended for a second time.

### 3.7 An “interim” obligation

The CBT was introduced on the basis that the ACMA would undertake and finalise a review of broadcasting pricing arrangements before 30 June 2022. This obligation to review was contained in section 216AA of the BSA, but a genuine review of the amount of the CBT has never been conducted.

As noted in the Explanatory Memorandum, it was anticipated that the ACMA 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”.*<sup>7</sup>

Similarly, in the second reading speech, the Minister noted that:

*“As a part of this package, the legislation **will require the Australian Communications and Media Authority after 30 June 2019 to undertake a review** and report on whether the new tax law should be repealed or amended on or before 1 July 2022. ACMA will consult on the review, enabling broadcasters to input into the development of future tax arrangements. The report would be tabled in parliament.*

*This review will be a valuable input into future spectrum taxing arrangements. In the meantime, the government’s policy is that broadcast spectrum taxes remain stable for the next five years to provide*

<sup>7</sup> Explanatory Memorandum to the Broadcasting Legislation Amendment (Broadcasting Reform) Act 2017 - [https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22legislation/ems/r5907\\_ems\\_978e8b30-1d13-4ced-bfc2-428f25095021%22](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22legislation/ems/r5907_ems_978e8b30-1d13-4ced-bfc2-428f25095021%22)

*certainty. The government acknowledges industry's desire for certainty beyond this period. While the broader spectrum management framework may change, this government does not expect large increases in taxes for broadcast spectrum.*<sup>8</sup>

The scope of ACMA's review did not cover the quantum of the tax or what its relationship should be to spectrum valuation should be, the ACMA said:

*"It should be noted that while the ACMA considers pricing methodologies as part of this consultation paper, the rate of CBT, which determines the amount of tax to be imposed, is determined by legislative instrument by the minister. The amount of tax imposed is a matter for government rather than the ACMA."*<sup>9</sup>

In particular, the review did not give proper and genuine consideration to regional impacts, global comparisons, the unclear connection between the CBT and spectrum value, or the appropriateness of CPI adjustments, and therefore did not adequately meet the legislative requirement to review whether the tax should be repealed or amended.

The time for a proper, genuine and considered review of the level of this tax has now passed. The case to abolish the tax should be considered in light of other reform processes examining policy settings that support the ongoing sustainability of trusted Australian media providers, especially those that provide public interest journalism.<sup>10</sup>

The CBT has outlived its relevance and justification. The CBT should be repealed immediately and the measure adopted in the 2024-2025 budget.

### 3.8 CBT should be repealed

In summary, it is clear that the Commercial Broadcasting Tax has outlived its intended life. It was introduced as a five year "interim" measure and is no longer justified, given international comparisons and the pressures on Australian free-to-air television broadcasters.

Transmission of a comprehensive range of commercial TV services to all Australians is a public good and, in light of this public good, taxation should not operate as a disincentive to maximise TV coverage.

As an immediate measure, CPI indexation of the CBT should be immediately suspended pending repeal. CPI increases are contrary to the intended "stable" pricing model for broadcasters and inconsistent with the Government's own pricing model for other other administratively-priced apparatus licences. In recognition of the important public policy objectives served by commercial

<sup>8</sup> Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017 Second Reading - [https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=BillId\\_Phrase%3Ar5907%20Title%3A%22second%20reading%22%20Content%3A%22%20move%22%7C%22and%20move%22%20Content%3A%22be%20now%20read%20a%20second%20time%22%20\(Dataset%3Ahansard%20%7C%20Dataset%3Ahansards\);r ec=0](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=BillId_Phrase%3Ar5907%20Title%3A%22second%20reading%22%20Content%3A%22%20move%22%7C%22and%20move%22%20Content%3A%22be%20now%20read%20a%20second%20time%22%20(Dataset%3Ahansard%20%7C%20Dataset%3Ahansards);r ec=0)

<sup>9</sup> ACMA Commercial broadcast tax review Consultation paper, December 2020 - [https://www.acma.gov.au/sites/default/files/2020-12/Commercial-broadcast-tax-review\\_Consultation-paper.docx](https://www.acma.gov.au/sites/default/files/2020-12/Commercial-broadcast-tax-review_Consultation-paper.docx)

<sup>10</sup> For example, the Government is currently considering policy settings to support public interest journalism and media diversity as part of its consultation on the News Media Assistance Program (News MAP) – more information is available at <https://www.infrastructure.gov.au/department/media/news/consultation-opens-news-media-assistance-program-news-map>.

television broadcasting services, and the increasing pressures on the advertiser-funded business model and the competitive landscape, the CBT should be repealed with immediate effect.