



AUSTRALIAN CHILDREN'S
TELEVISION FOUNDATION

Submission to Department of Broadband, Communications and the Digital Economy 2011 Convergence Review – Framing Paper

The Australian Children's Television Foundation ('ACTF') is pleased to have the opportunity to respond to the Department of Broadband, Communications and the Digital Economy's 2011 *Convergence Review – Framing Paper* ('**Framing Paper**')

The ACTF is a national children's media production and policy hub and performs a wide range of functions in children's media: as a voice in policy matters; as a distributor of and investor in Australian children's television programs; as an instigator of new, innovative and entertaining children's media and as a developer of valuable screen resources for the education sector.

Introduction

We believe that the Framing Paper represents a sound framework for the conduct of the Convergence Review. The principles contained in the Framing Paper address the key issues facing the government, industry stakeholders and the general public when evaluating a regulatory framework most appropriate for a convergent media environment.

Our submission will discuss the Framing Paper predominantly as it relates to the production and availability of Australian children's television and screen content. Our focus is on Principle 3, but the submission also comments on other principles set out in the framework where relevant.

Principle 1: Australians should have access to a diversity of voices, views and information

We support the intent behind this principle, but believe it could be amended to emphasise the important dynamic between public broadcasters, commercial broadcasters and other platforms in ensuring that Australians have access to the most diverse range of content, voices, views and information.

We believe that ensuring a healthy level of competition in the sources of children's content is critical in ensuring quality outcomes for audiences. This is alluded to in the Framing Paper's reference to 'diversity that provides greater potential for competitive tension and innovation.'¹

The experience of children's television production is that without government regulation, commercial broadcasters would be unlikely to invest sufficient amounts to ensure quality productions. The recent launch of ABC3 has provided children with an accessible and reliable source of high quality locally produced content. However, while the success of this channel has proven once and for all that Australian child audiences love local content, the new multi-channel digital environment in which it has emerged has also provoked commercial free-to-air broadcasters to restate their continued opposition to quotas for locally produced television.²

It is clear that if free to do so, commercial free-to-air broadcasters would not invest at all in Australian children's television content.

The production of children's television cannot be left to the public broadcasters alone. Diversity of content flows from a diversity of sources of production. By offering another point of view, and competitive tension, commercial and subscription broadcasters have a valuable role to play in children's content as well as other genres.

We believe the principle could be amended to reflect the critical importance of not just diversity of voices, views and information, but also a dynamic between public and commercial broadcasters, and content on multiple platforms in whatever form they will eventually take.

Principle 2: The communications and media market should be innovative and competitive, while still ensuring outcomes in the interest of the Australian public

We support the view proposed in the Framing Paper that 'consistent with the principle of maximising competition, as far as possible the policy framework should apply consistently to like services regardless of the platform or technology used to deliver the service.'

However, we also believe that the Review Committee must recognise that television currently plays a disproportionately important function in driving local content production. This is largely due to the existing regulatory mechanisms in place, as well as the funding available for television production. However, this 'bias' towards television also reflects existing patterns of audience participation and accessibility.

We can currently only make educated guesses as to the impact of the NBN once it is fully rolled out. However, we believe that evaluating the regulatory framework must take into account the importance of existing distribution channels such as free-to-air broadcast television, while also being mindful that such matters are subject to change.

Principle 3: Australians should have access to Australian content that reflects and contributes to the development of national and cultural identity

We believe that the most critical issue facing government and viewers/consumers in a globalised convergent media landscape is guaranteeing the continued production and access to vibrant and engaging Australian content on our screens.

¹ Framing Paper, page 12.

² *No Quotas for Multi-channels: Free TV*, 3 May 2010, <http://www.ensemagazine.com.au/no-quotas-for-multi-channels-free-tv-2494>.

High speed online connections already allow individuals to easily transcend national boundaries when accessing content. Content distributed via a globalised, convergent media environment can simply bypass existing content regulation currently in place, regulations that have been formulated to shape the media environment that the government and community desire.

In the pre-convergent analog broadcasting environment, children's television was a particularly vulnerable area of programming when left to purely market forces. And yet the extent to which children's television content created under the guiding hand of regulation has enriched children's lives, and engaged with them is immeasurable.

It is therefore critical that the Convergence Review take place within a framework that prioritises mechanisms to ensure local content remains a high priority. Ensuring continued production of and access to local content is essential to guarantee the preservation and continued viability of a unique sense of local and national identity.

The emerging convergent media landscape has already transformed children's ability to access children's programs. Children have found a new home for television in the ABC's dedicated digital children's channel ABC3. Commercial free-to-air television and subscription television have seen their existing business models tested, but have also found new opportunities through digital multi-channels and their forays into the online world with internet based catch up services. A revised Children's Television Standard introduced greater flexibility for commercial free-to-air broadcasters to experiment with scheduling of children's content.

Added to this is the online delivery of content, which although all pervasive through channels such as *YouTube* or *iTunes*, has not yet established a business model that would drive and sustain the production of unique, high quality locally produced content.

We believe that in a global, multi-platform, decentralised media landscape that is driven by consumer/viewer demand, it is essential to ensure that mechanisms, incentives and regulations are in place to ensure the Australian production industry continues to deliver unique, high quality locally produced content that engages with Australian themes, subject matter and characters.

We believe that the transition to a convergent media environment represents a critical opportunity for the Government to establish a framework that encourages and supports significant levels of Australian content creation. We also believe that the development of a national broadband network will further transform the broadcasting and media environment in a way that is difficult to predict. A local production sector producing engaging content is essential to guarantee a distinctly Australian cultural identity, particularly in an increasingly globalised and online media environment.

The continued creation of high quality, distinctly Australian, live action children's drama should therefore be a high priority in the Government's strategy for a convergent media landscape.

Principle 5: Communications and media services available to Australians should reflect community standards and the views and expectations of the Australian public

We support the principle that the Australian public deserves a media landscape that reflects community standards, views and expectations.

A key community expectation is Australian content for children that reflects their voices and their communities with subject matter and themes that engage and are relevant to them, and reflects the unique Australian viewpoint of the world.

Principle 6: Australians should have access to the broadest range of content across platforms and services as possible

We support this principle on the basis that ensuring a broad range of content across platforms and services is essential to drive competition and diversity, key factors which will lead to quality outcomes for Australian child audiences.

As we have discussed above in relation to Principle 1, it is critical that Australian children not only have access to locally produced content, but a range and diversity of this content. For example, the current broadcasting environment is reliant on a range of regulations and subsidy to ensure that locally produced children's content is not left to public broadcasters such as the ABC, but that commercial networks are also required to broadcast minimum levels of content.

We believe that the inclusion of this principle ensures that the Review will give full consideration to this key concern.

Principle 8: The government should seek to maximise the overall public benefit derived from the use of spectrum assigned for the delivery of media content and communications services

We support the acknowledgement by the Convergence Review that spectrum is a valuable public resource, and that the Government should seek a fair and beneficial return for its use.

This was the underlying principle in establishing the licence fees charged to commercial free-to-air broadcasters as well as underpinning the accompanying requirement that these broadcasters also meet the Australian Content Standard.

We believe that this principle remains just as relevant in a convergent media environment.

Other policy considerations

The Framing Paper invites comment on the following additional policy considerations set out in the Review Terms of Reference:

- *The impact of legislative and regulatory frameworks outside the Minister's portfolio which may impact on issues within the scope of the review.*

Evaluating a regulatory framework for the future must also take into account the various indirect and direct funding mechanisms currently put in place to achieve the Government's policy objectives in relation to Australian content.

The impact of direct funding of local content production via Screen Australia and the ACTF, indirect funding via the ABC and SBS, as well as through the Producer Offset and Location Offset, on levels of local production cannot be underestimated. Together with content regulation, they have provided a framework that has achieved excellent outcomes for Australian audiences within an increasingly globalised industry.

The Review must therefore consider the convergent future with an awareness of the impact that these mechanisms have on the shape of the local production industry and consequently the content on local screens.

- *International approaches and Australia's international obligations.*

The matters considered during the Convergence Review will take place in the context of Australia's obligations in respect of the various bilateral and multilateral free trade agreements that have been entered into over the years. The Review must have regard to these obligations to ensure that the recommendations made during the Review are workable and provide the greatest level of flexibility for the Australian public.

For example, the 'ratchet' clauses in the US-Australia Free Trade Agreement that operate in relation to local content quotas that prevent Australia from increasing local content requirements in the event that they are ever reduced, and also imposes limits on the extent to which these quotas can be applied to new multi-channel services, must be acknowledged in any future discussion of local content quotas.

In this context, the Convergence Review Committee must ensure that its recommendations comprehensively address the issue of local content within the future media landscape, and design mechanisms that are 'future proofed' to the extent possible in the current environment. Otherwise, if the Review does not 'get it right' the first time, there may not be another opportunity to address any future shortcomings.

Further engagement

We look forward to contributing to the ongoing review process, including participating in hearings scheduled by the Review Committee for July 2011.

We also look forward to the release of the detailed Convergence Review discussion papers later this year.

Jenny Buckland
CEO

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