



24 May 2021

**Attention:** Honourable Paul Fletcher MP

Content Division  
Department of Infrastructure, Transport, Regional Development  
and Communications  
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CANBERRA ACT 2601

**By email:** [content@communications.gov.au](mailto:content@communications.gov.au)

### **Media Reform Green Paper: Nine Entertainment Co.'s submissions in response**

This is the time for change – Nine believes that the future of our industry is strong and that there is a long and sustainable future ahead if the right decisions are made now. Nine welcomes the opportunity to work with the Government to serve the community and to ensure that our future is bright and sustainable.

Nine has given significant thought to our future - we have a plan and we have invested heavily in it. Nine believes that the provision of live linear content is vital to our society – we are committed to providing this service to our audiences now, and as part of a long-term transition to digital delivery. For the reasons outlined below – VOD is only part of the future – live linear is what our audiences watch, value and demand.

Nine strongly supports the Free TV submissions. Nine makes these submissions to highlight the key areas of importance to Nine and would be pleased to speak to the Government about them.

#### **1. Nine is committed to serving our community**

Nine is committed to:

- a. The production and sustainability of trusted Australian local, regional and national news;
  - b. The production and sustainability of Australian stories and content;
  - c. The broadcast/streaming of Australian sport;
  - d. The accessibility of the above for all Australians (including regional, elderly and low income audiences); and
  - e. The accessibility and availability of the above on Australian screens.
- (together, the **Key Public Policy Outcomes**).

The Key Public Policy Outcomes are the foundation of a free and democratic society. Delivering these outcomes, for free and in an accessible way, ensures that Australians have a voice, and that it is heard.

For 65 years we have been delivering Australian news into Australian communities – we have been breaking the stories that matter – to the people that matter – every day, multiple times a day, in almost every licence area (in the Nine licensed areas and through our regional affiliates) throughout Australia.

Broadcast news is the most trusted news in Australia – Australians rely on it – and they come to us to be informed about the issues that matter.

Nine has a long history of making iconic Australian content central to the identity of Australians – we tell Australian stories, from an Australian point of view, covering themes, challenges and events that are integral to our audience and resonate strongly with them.

Nine has long committed to the broadcast of Australian sport – major sporting events, sporting codes, sporting history – has all been available to watch, live and free throughout Australia, on the Nine Network for over 40 years.

Our industry is also vital for Australian employment and our economy. As cited in the Free TV submissions, our industry is directly responsible for:

- Contributing over \$2.3 billion per year to the economy and supporting 16,300 jobs;<sup>1</sup> and
- Investing \$1.6 billion per year in the Australian content production sector, sitting at the heart of our screen content sector and making content for local not global audiences.<sup>2</sup>

By committing to our future, the Government is also committing to the future of the Australian economy and employment in the news and entertainment industries.

Nine is committed to ensuring that our business, and our industry, can continue to deliver these vital services (which deliver the Key Public Policy Outcomes) at no cost to consumers and well into the future.

Market trends come and go – but Nine is here to stay. We want to work with the Government to ensure that our business, as well as other commercial television broadcasters, are here for the long term regardless of how our live linear content is delivered.

Our future is bright, and we want to work with the Government to ensure we can grow and take advantage of the digital opportunities in that future.

## **2. Regulatory relief**

Nine welcomes the Government's offer to develop a sustainable plan for the future.

Critical to this plan is immediate Government intervention and action on the below areas. Without this action, the commercial broadcast industry will struggle to be sustainable and vibrant. This action is required independent of the other issues raised in the Green Paper or the process of change resulting from it.

There are significant and profound consequences of failing to provide this regulatory support and reform prior to any spectrum planning and reallocation – losing the ability to compete has real consequences and will affect our industry's ability to serve the community, deliver the Key Public Policy Outcomes and remain sustainable.

Nine supports the Free TV submissions and makes the following additional comments on each of these issues.

### **a. Commercial Broadcast Tax (CBT)**

In 2017, the Government committed to reviewing the CBT in 5 years. The ACMA's recent review of the CBT looked at the methodologies used to calculate the CBT, but not the rate at which the CBT was set, so there is still work to be done on this issue.

Critical to our future is a proper review of this tax, separate and prior to, any agreed plan with respect to spectrum planning and allocation. It is highly relevant for broadcasters to know what tax they are going to be charged for the right to hold a commercial broadcasting licence. Any

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<sup>1</sup> Deloitte Access Economics, 'Everybody Gets It: The Economic and Social Benefits of Commercial Television in Australia', 2020.

<sup>2</sup> Ibid.

new licence offered by the Government needs to be considered in light of the rates set for the CBT, and any regional support package which accompanies it, recognising the increased transmission costs for regional broadcasters.

Nine supports the Free TV submissions on this point and notes that Australia's CBT is out of line with what is charged for the same right in other jurisdictions.

Nine submits that proper consideration hasn't been given to the direct and indirect value that commercial broadcasters deliver – the Key Public Policy Outcomes are critical to our future, and the long-term sustainability of the Australian news and entertainment industry.

The direct value to the Australian economy of contributing over \$2.3 billion per year and supporting 16,300 jobs, in addition to the Key Public Policy Outcomes (which are provided at no cost to consumers) shouldn't be contrasted to a short term cash injection that a possible spectrum auction could contribute at an undetermined future time.

**b. Prominence of free-to-air content**

Nine supports the Free TV submissions in relation to this issue. Prominence (for linear broadcast and linear streaming) is vital in ensuring that Australian news, stories and content is available and easily accessible for all Australians.

Nine submits that to the extent any local SVOD service, such as Stan, also delivers Australian content, it should also be assured that its content will be featured prominently, as a means of supporting local production and local stories.

**c. Net neutrality**

Nine supports the Free TV submissions in relation to this issue.

**d. Anti-siphoning list**

Nine support the Free TV submissions in relation to this issue.

**e. No obligation on SVODs**

Nine submits that there should not be any direct or indirect obligation on SVODs to create local content, as there is no market failure in relation to the delivery of local content given the existing content obligations on free to air broadcasters and the actual performance of SVOD services in providing local content.

As outlined in the Free TV submissions, Nine believes that any direct or indirect obligation would result in the following unintended and serious consequences:

- i. Sharply, and artificially, drive up the cost of content (leaving commercial broadcasters and local SVODs unable to compete with global competitors);
- ii. Decrease the diversity of content, and lose our unique Australian voice; and
- iii. Put significant pressure on production facilities – as it is, there is currently not enough production infrastructure or specialised production crew in this industry – the real effect of this is that commercial broadcasters and local SVODs won't be able to book and plan studios and crew to create Australian content.

The Australian content and production industry is significantly smaller and different to our overseas contemporaries and these unintended consequences could have a significant impact on the ability of commercial broadcasters and local SVODs to commission, produce and create Australian content and stories.



There is already a substantial quantity of Australian local content currently being created by broadcasters and local SVODs. Stan has commissioned productions with budgets totalling in the hundreds of millions, and has outlined plans to ramp up its output significantly by 2025.

Nine submits that to the extent that the Government considers that regulatory intervention is required for SVODs, a local content quota is not the right approach.

### 3. Future planning and investment

#### a. Commitment to the future

Viewing live linear content is still Australia's preferred choice – whether it be delivered by linear streaming or linear broadcast – Nine believes that the commercial television broadcast industry will have a strong and sustainable future provided the right decisions and support are provided by the Government now.

Live linear content delivery is a vital service and cannot be replaced by VOD content alone. Live linear is a necessary form of delivery of different content genres – live and local news, sport, and near to live reality content. This valuable content will never be able to be replicated through catch-up services and is why live content, delivered via a linear service is so vital to Australian audiences. As stated in the Free TV submissions:

*Live broadcast TV still makes up the largest proportion of linear viewing – 88% in July-December 2020 (vs 12% playback or on-demand).*

Nine is committed to delivering linear content to Australians regardless of recent trends which may not develop in the way, or at the pace anticipated in the Green Paper.

The fastest area of growth for commercial broadcasters is linear streaming.

Nine has invested hundreds of millions of dollars into our online presence and delivery to preserve the future of live linear content – regardless of how it is delivered. 9Now is the market leader.

Australia is a unique market and this shouldn't be underplayed or discounted – socio-economic, political and geographical factors remain relevant in how quickly any transition to full linear streaming may occur. Nine believes that this technical transition, without direct Government intervention (such as campaigns to drive awareness for Australians to upgrade their TVs, and a regulatory mandate to connected TV manufacturers to include the required technology to support DVB-T2) may mean that this process may take up to 20 years.

Notwithstanding this potentially slow consumer transition and update, the time to act and plan is now. Nine is committed to working with the Government, the commercial television broadcast industry and the national broadcasters in developing a timeline for change.

Nine supports the timeline advocated for in the Free TV submissions, and notes that the timeline should be conditional on delivery of the immediate regulatory relief requested in our submissions and the Free TV submissions.

Nine also supports the technology path and planning outlined in the Free TV submissions – Nine has already invested in upgrading to MPEG-4 and DVB-T2 and will continue to commit to the most efficient use of the spectrum available.

Whilst Nine has some regional commercial broadcasting licences, Nine acknowledges that the challenges faced by regional broadcasters and remote broadcasters are unique and that immediate action is required to assist those broadcasters to remain sustainable. Nine supports regional and remote broadcaster requests for economic aid to assist with high transmission and infrastructure



costs to ensure that the vital service they provide continues to operate without any loss to the quality or quantity of those services in those license areas.

Nine believes that Australians deserve free, accessible, and local content regardless of where they live, and that audiences in regional and remote areas should be able to enjoy the same levels of choice and quality that those in metropolitan areas enjoy.

#### **b. Competition**

Critical to the future of the commercial television broadcast industry is each broadcaster's right to make the decisions that align to its own business plan and future planning. This will ensure its future economic viability and sustainability. Different broadcasters will have different views on what is necessary to ensure the future of their business and the delivery of their own strategy. Because of this, it is imperative that any outcome proposed by Government recognises that no commercial broadcaster should be required to give up spectrum or move to a shared multiplex simply because others within a licence area have elected to do so.

Commercial broadcasters need to retain the right to shape their future and retain their ability to compete in an increasingly complex business. Our competitors are not just other commercial television broadcasters, but other news, sport and entertainment content providers.

Any action taken by the Government in relation to spectrum planning, and which results in a loss of our ability to compete, needs to be addressed appropriately. Any decrease in enterprise value needs to be appropriately compensated.

Significant consequences would include job losses and reduced support of the production and content industries. There would also be a diminished ability to invest in the creation and coverage of local and national news, Australian content and programming and live and free sport coverage.

The future of broadcast is bright, provided the right decisions are made now –Nine welcomes the opportunity to work with the Government to ensure the longevity and sustainability of the commercial television industry, to ensure that the Key Public Policy Outcomes are achieved.

Nine is committed to serving our community and to continuing to give our vibrant audiences what they rely on and demand.