

SBS SUBMISSION

Review of the Australian Communications and Media Authority

Introduction

SBS appreciates the opportunity to respond to the Government's review of the Australian Communications and Media Authority (the ACMA).

SBS is a national broadcasting service established under the *Special Broadcasting Service Act 1991* (SBS Act). Its principal function is to provide multilingual and multicultural radio, television and digital media services that inform, educate and entertain all Australians, and, in doing so, reflect and promote Australia's multicultural society (SBS Charter). SBS is subject to specific accountability mechanisms under the SBS Act as well as in respect of its role as an independent statutory authority (such as accountability to Parliament).

The SBS Act imposes a number of important obligations on SBS which ensure it acts in the public interest in providing universal access to a diversity of voices, views and information which contribute to the maintenance of Australia as an inclusive and socially cohesive democratic society. The duties of the SBS Board include ensuring that SBS maintains its independence and integrity, acts transparently in respect of its programming policies including through the development of codes of practice, presents accurate and balanced news and information, is responsive to community needs and opinions on matters relevant to its Charter, has an appropriate complaints-handling system, and operates efficiently and cost effectively. This regulatory framework reinforces SBS's role as an independent, impartial, credible, responsible and valuable voice in the media landscape.¹

As a media and communications service, SBS is also subject to other levels of regulation under the regulatory regime which applies to these services, including oversight by the ACMA in areas such as complaints about SBS content made under the SBS Codes of Practice, closed captioning obligations, and spectrum management.²

Regulation in the Australian communications market and the role of the regulator

SBS notes the fast changing nature of the environment which the ACMA is required to regulate and manage. A number of recent inquiries have examined options to reform regulation of the media and

¹ s. 10 SBS Act

² Including: *Broadcasting Services Act 1992* (BSA); *Radiocommunications Act 1992*.

communications industry in this context and SBS has provided submissions to these reviews,³ but to date these inquiries have not resulted in any major changes to the relevant legislation. SBS suggests that this review consider previous submissions made by SBS to those reviews (provided under separate cover). The future role of the communications regulator will depend on the Government's approach to these matters, which will require broader considerations than the focus of this review.

The ACMA and the Government have also produced a number of policy papers on regulation which indicate support for a more flexible approach to regulation in the current environment of digital disruption, convergence and globalisation, including a commitment to reducing the regulatory burden on industry.⁴ SBS considers these studies provide appropriate guidance on the approach the Government should take to regulation.

The communications sector plays a unique role in society, contributing to the maintenance of a robust democracy through the provision of a diverse range of services providing access to news and commentary, education, entertainment and sports content, and valuable modes of engagement. This unique role is recognised through the existing policy objectives set out in current regulation.⁵ The Government has acknowledged the value of regulating in accordance with enduring public policy objectives that have stood the test of time and which recognise the unique nature of the sector.⁶ There is a strong public interest in managing the communications market to ensure that those mechanisms which support a well-functioning democratic society remain in place.

The regulator's role should be focussed on managing the structure of the market and access to spectrum and oversight of a more flexible and adaptive regulatory framework to meet these goals. This is likely to require a combination of regulatory approaches, as is currently the case, but these will need to be flexible and adaptable.

³ Convergence Review Committee *Convergence Review: Final Report* (2012); Finkelstein, The Hon. R QC *Report of the Independent Inquiry into the Media and Media Regulation* (2012); ALRC *Classification—Content Regulation and Convergent Media: Final Report* (2012)

⁴ ACMA: *Enduring concepts: Communications and media in Australia* (2011); *Broken Concepts: A 2013 update on the Australian communications legislative landscape* (2013); *Optimal conditions for effective self- and co-regulatory arrangements: Occasional paper* (2015); Department of Communications: *Deregulation in the Communications Portfolio – Policy Background Paper No. 1* (2013); *Regulating harms in the Australian communications sector – Policy Background Paper No. 2* (2014)

⁵ Including: BSA, SBS Act, *Australian Broadcasting Corporation Act 1983*, *Australian Communications and Media Authority Act 2005*, *Radiocommunications Act 1992*, *Classification (Publication, Films and Computer Games) Act 1995*

⁶ Department of Communications *Deregulation in the Communications Portfolio – Policy Background Paper No. 1* (2013) 6

In respect of economic regulation, the unique characteristics of the communications market support the case for an independent sector-specific regulator, as long as the regulator is suitably equipped to manage the economic and competition components.

SBS suggests that softer regulation is more appropriate for managing content standards, with some form of independent oversight to address community standards, which could be through education and awareness.⁷ This approach is already in place to an extent, with online content subject to less regulation than television and radio services under the BSA,⁸ and the print media subject to self-regulation.

⁷ Department of Communications *Regulating harms in the Australian communications sector – Policy Background Paper No. 2* (2014) 23

Enduring harms paper – attachment A.

⁸ Schedules 5, 7 BSA