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COMMUNICATIONS OUTLOOK 1999

BROADCASTING: Regulatory Issues

Country: AUSTRALIA

Date completed: 1 June 1998

The attached questionnaire was undertaken in preparation for the biennial OECD Communications Outlook. The responses provided by Member countries on broadcasting regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on telecommunication regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

Broadcasting market status (Questions 1- 3)

1. Please provide details of the broadcasting and cable television infrastructure provision in your country.

Infrastructure provision for following service	Number of licensed operators (1998)	Number of privately owned companies¹	Number of public service organisations²
Terrestrial TV (National coverage³)	5	3	2
Terrestrial TV (Local coverage⁴ only)	50*	50***	0
Terrestrial radio (National coverage)	6	4	2
Terrestrial radio (Local coverage only)	296**	294****	2
Cable television service⁵	4*****	4*****	0
Analogue direct broadcast satellite (DBS) service	5*****	3*****	2*****
Digital DBS service	*****	*****	*****

* Comprises 42 commercial television operators and 8 community television operators.

** Comprises 144 commercial radio operators, 150 community radio operators and 2 national radio operators.

*** Comprises 42 privately owned commercial television companies and 8 community television companies.

**** Comprises 144 commercial radio companies and 150 community radio companies.

***** Pay television licences do not specify the transmission media. There are 4 different operators who deliver their services via cable. There are no restrictions on the number of cable operators that can operate in any geographical area.

***** There are 1557 subscription broadcasting licences on issue. Some of these are used by digital DBS broadcasters, others by analogue microwave (MDS) broadcasters, others by cable operators, while some are not in use at all.

***** These analogue services are in the process of converting to digital transmission during the course of 1998.

¹ Defined as private sector companies holding one or more licences for service provision.

² Including state-owned corporations or institutions holding one or more licences for service provision.

³ A service with national coverage is defined as a service by a group of television or radio stations distributing a majority of the same programming, that are licensed on a national or regional basis but collectively provide nation-wide coverage. Affiliated companies of the nation-wide broadcast network are included in this category. If new operators have been licensed to provide national coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁴ A service with local coverage is defined as a service by a group of television or radio stations that are licensed on a national or regional basis but distribute the programming in the local area only. If new operators have been licensed to provide local coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁵ Please indicate if more than one organisation is permitted to own and operate cable television infrastructure in the same area.

2. Please provide details for the major public / private terrestrial TV broadcasting companies in your country. They include state and privately owned organisations providing broadcasting services with national coverage.

Name of public / private terrestrial TV broadcasting companies	Ownership Status (1998) (e.g. state-run / state owned / privately owned)	Do they own transmissions infrastructures? If not, please indicate the name of company which provides transmission infrastructures.
Seven Network	Privately owned	Yes
Nine Network	Privately owned	Yes
Ten Network	Privately owned	Yes
Australian Broadcasting Corporation (ABC)	State owned	No. National Transmission Agency
Special Broadcasting Service (SBS)	State owned	No. National Transmission Agency

3. What was the price of cable television service for a subscriber in the largest city of your country on 1st January 1998? Basic service corresponds to the least expensive option to a customer and premium service the most expensive option. (Local currency, current prices)

Cable Television services	Basic service			Premium service	
	Connection	Monthly subscription fees	Number of cable channels included in the basic option (excluding free services)	Monthly subscription fees	Number of cable channels included in the premium option (excluding free services)
(Please indicate the name of operator) Foxtel*	\$29.95	\$42.95	28	\$71.80	35
(National average, if available)	Not available	Not available	Not available	Not available	Not available

* This is the intermediate choice of the 3 pay TV operators who offer a service in Sydney.

Broadcasting Regulatory Framework (Questions 4 - 9)

4. Which organisation(s) administer the following services (carriage and content) in your country and what are their main responsibilities? Please mention agencies dealing with spectrum allocation and management, and providing licences.

Please provide details:

a. Terrestrial broadcasting service (see below)

b. Cable Television service (see below)

c. Direct broadcast satellite (DBS) service (see below)

The Australian Broadcasting Authority (ABA) is responsible for determining, varying and revoking program standards; imposing, varying or revoking licence conditions; determining or varying planning priorities, frequency allotment plans or licence area plans; collecting fees in respect of licences; monitoring compliance with program standards and codes of practice; and reporting to the Minister for Communications, the Information Economy and the Arts on the operation of the *Broadcasting Services Act 1992* (BSA).

The National Transmission Agency acts as a facilities manager on behalf of the Minister and is responsible for planning, establishing, operating and maintaining transmission facilities used primarily to broadcast and radio and television services of the ABC and SBS; providing some transmission facilities to accommodate commercial and community broadcasters and radiocommunications operators; and advising the Minister on matters relating to developing and consolidating the Commonwealth's network of transmission facilities.

The Australian Communications Authority (ACA), which merged Australia's telecommunications regulatory authority, Austel, with the Spectrum Management Agency, is responsible for managing the radiofrequency spectrum, administering the licensing of carriers, and administering consumer and technical issues relating to telecommunications.

However, in remote areas of Australia, free-to-air broadcasting services are delivered by satellite. Terrestrial retransmission facilities have been established in most communities, but some 12,000 consumers have purchased equipment for direct-to-home reception of the satellite signal. These remote area broadcasting services (RABS) comprise the national (public) broadcasting services operated by the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS), and a remote commercial television service (RCTS) in three of the four remote zones. The RCTS are regulated in the same manner as other commercial television broadcasting services. The RCTS licences were allocated by the then regulatory Authority in the mid-1980's, following the assessment of competitive applications on the basis of which proposed services best met the needs of remote Australia.

5. **Please provide a description of significant recent policy changes affecting the provision of broadcasting services, as well as any draft laws, or regulatory proposals to be implemented in 1998.**

Please provide details:

On 10 March 1998, the Government announced that amendments would be made to the BSA and the *Copyright Act 1968* under which pay TV operators will have to reach agreement with the free to air broadcasters in order to retransmit their services.

In April 1998, the Government announced the outcome of the review of Australian content on subscription television. The Government decided that licensees who provide a service devoted predominantly to drama programs will continue to be subject to a requirement that at least 10% of annual program expenditure in relation to such services must be spent on new Australian drama programs. The Government also identified that the existing requirement has not been enforceable, and announced that amendments to the BSA will be introduced, to make the Australian content requirement for subscription television broadcasting licensees effective and enforceable.

The Government announced its policy framework for the introduction of digital terrestrial television and radio broadcasting on 24 March 1998. Bills to give effect to the Government's decisions on digital terrestrial television broadcasting were introduced into Parliament on 8 April 1998.

6. **How is broadcasting defined in your country's regulatory framework? In addition, please specify public service obligations stipulated in broadcasting regulations.**

Definition of broadcasting:

Under the BSA a broadcasting service is one that delivers television or radio programs to persons having equipment appropriate for receiving that service, whether the delivery uses the radiofrequency spectrum, cable, optical fibre, satellite or any other means or a combination of those means, but does not include:

- (a) a service (including a teletext service) that provides no more than data, or no more than text (with or without associated still images); or
- (b) a service that makes programs available on demand on a point-to-point basis, including a dial-up service; or
- (c) a service, or a class of services, that the Minister determines, by notice in the Gazette, not to fall within this definition.

Public service obligations:

Broadcasters are obliged to provide an adequate and comprehensive service, and to comply with codes of practice on program standards which are administered by the ABA.

7. Are there ‘must-carry’ rules? For example, are cable television or satellite operators required by regulation to provide capacity for certain services? If yes, please elaborate on the reasons.

No

8. Are there any local content requirements for broadcasters and cable television operators in your country in terms of the level of domestically produced content which must be broadcast, the amount of turn-over which must be allocated to domestic production or other criteria? Yes/No

	If Yes, please provide local content specification and where applies.
Terrestrial Television service	Section 122(2) of the <i>Broadcasting Services Act 1992</i> requires the Australian Broadcasting Authority to make standards relating to children’s programs and Australian content of programs for commercial free-to-air television licensees. The requirements of the standards are: - an annual transmission quota requiring that 55% of programs broadcast between 6am and midnight be Australian -minimum amounts of first release Australian drama; -at least 10 hours of first release Australian documentary per year -at least 130 hours of Australian preschool programs per year - at least 260 hours of children’s programs per year of which 50% must be Australian; at least 32 hours must be first-release Australian children’s drama; and at least 8 hours must be repeat Australian children’s drama .
Cable Television service	Subscription television broadcasting licensees (regardless of delivery format, whether cable, satellite or MDS) who provide a service devoted predominantly to drama programs are subject to a requirement that at least 10% of annual program expenditure in relation to such services must be spent on new Australian drama programs.
DBS service	The five analogue DBS services have the same content requirements as their terrestrial counterparts. The digital DBS services are subscription services, and thus have the same requirements as cable television services, detailed above.

9. Are there any limitations on share ratio, number of stations, or other ownership restrictions on entities investing in service providers of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.

If yes, please provide details:

Yes.

The following ownership and control provisions apply under the BSA:

Foreign ownership rules

Foreign control of commercial television broadcasting licences is prohibited. Aggregate foreign company interests in a licence must not exceed 20%. Not more than 20% of the directors of a commercial television broadcasting licensee may be foreign persons.

A foreign person is restricted to 20% company interest in any subscription television licence, and foreigners are restricted to 35% in aggregate of subscription television licences.

There are no foreign ownership restrictions applicable to commercial radio stations.

Cross media rules

The BSA provides that a person is not permitted to control:

(a) a commercial television broadcasting licence and a commercial radio broadcasting licence that have the same licence area;

(b) a commercial television broadcasting licence and a newspaper that is associated with the licence area of that licence; or

(c) a commercial radio broadcasting licence and a newspaper that is associated with the licence area of the licence.

- A person who has company interests exceeding 15% in a company is regarded under the BSA as being in a position to exercise control of the company.
- The BSA requires the ABA, in consultation with the ACCC, to monitor the cross media ownership of subscription television broadcasting licences.
- The ABA must report any concerns that the objects of the Act are being undermined to the Minister for him to table before the Parliament within 15 sitting days.

The BSA recognises the complexities of defining control and provides the ABA with guidance in reaching a conclusion as to whether a person is in a position to exercise control or not.

Television

A person must not be in a position to exercise control of commercial television broadcasting licences whose combined licence area populations exceed 75% of the population of Australia.

Radio

A person must not be in a position to exercise control of more than 2 commercial radio broadcasting licences in the same licence area.

Cross-ownership and cross sector provision (Questions 10 - 14)

10. Are there any restrictions on terrestrial broadcasting companies from directly providing the cable television infrastructures and services in your country? On the other hand, are there any restrictions on cable television operators from directly providing the terrestrial broadcasting companies in your country?

If yes, please provide details:

- a. Restrictions on terrestrial broadcasting companies providing the cable television infrastructures
No
- b. Restrictions on terrestrial broadcasting companies providing the cable television services
No
- c. Restrictions on cable television operators providing the terrestrial broadcasting
No

11. Please specify any restrictions on cable television operators and terrestrial broadcasting companies investing (including merging and acquiring shares) in companies that provide other infrastructures or services.

Please provide details:

Yes.

See question 9.

12. Are there any restrictions or limitations on foreign investment regarding services of terrestrial broadcasting , cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions. Yes/No

If yes, please provide details:

Yes.

See question 9.

13. Are there any regulations restricting cross media ownership (e.g. broadcast television, radio, newspapers) for infrastructure and services in the same geographical market. Yes/No

If yes please provide details:

Yes.

See question 9.

14. What kind of methods are adopted by regulatory authorities in order to measure market shares in broadcasting market? If the measure used is “audience rates”, please describe the methodology used.

Description of market share measurement:

In Australia, a private company, funded by the three commercial television networks, conducts regular surveys of television audience share according to regions. Households surveyed are spread across the postcodes in each region and chosen by random telephone number generation, then asked if they want to participate. Certain criteria must be met to ensure a representative sample of the population across different groups. These criteria include household size, the number of televisions per household, and whether the principal grocery buyer is working or not. The ratings information collected by the company is subscribed to by advertising agents, production houses, and stockbroking companies as well as the networks.

Regular radio audience surveys are carried out by private companies and provide such information as age ranges of audience, preferred stations and listening times. The ratings information collected by the companies is subscribed to similarly to television ratings information.

Please provide methodology for measuring audience rates:

The private company conducting surveys of television audiences uses people meters which are boxes with buttons (depending on the size of the household) attached to television sets. Whenever a person comes into the room and the television is on, they press their button and indicate that they are watching. If they leave, even for a short break, they must log off. They must reconfirm their presence every 70 minutes or

whenever the channel is changed. These conditions apply to all members of the household, including visitors (who use extra buttons).

Survey forms are used to ascertain radio ratings.

Convergence (Questions 15 - 18)

15. Under the communication regulation existing in your country how would services provided over the Internet, which some have likened to broadcasting services (e.g. audio and video services transmitted over the Internet) be defined and treated?

Please provide details:

16. Would a video on demand service be treated differently in terms of regulations, by the transmission methods (for example, PSTN, cable or satellite)?

Please provide details:

17. Under the communication regulation existing in your country how would conditional access services, such as in digital DBS services, be treated?

Please provide details:

Digital DBS services are predominantly subscription television and radio services, and are regulated in the same manner as other subscription services in Part 7 of the BSA.

18. Please detail plans for digital broadcasting and cable television services.

	Number of Licences to be granted	Expected Number of New Channel Capacity	Expected Date of Service Commencement
Terrestrial TV service	No new commercial broadcasting licences will be issued in areas which already have three licences until after 2008, subject to a review in 2005. Each current commercial and national broadcaster will be allocated an additional transmitter licence to enable them to commence digital broadcasting while maintaining their current analog services.	Multi-channel commercial broadcasting services will be prohibited. A review will be conducted by 2001 into whether any types of programs provided by national broadcasters will be exempted from this prohibition. However, broadcasters will be allowed to use spare transmission capacity to provide datacasting services	Broadcasters will be required to commence transmission of their digital broadcasting service on 1 January 2001 in metropolitan areas and from that date in regional areas so that all areas have digital services by 2004.
Terrestrial Radio service			
Direct Broadcast Satellite service	Please see note 1 below.		
Cable Television service	Please see note 2 below.		
Additional information and comments			

Note 1: The subscription DBS services are digital. The 5 commercial and national DBS services mentioned in the response to question 1 are in the process of changing over to digital during the course of 1998.

Note 2: Currently analogue. Change to digital is entirely a matter for the broadcasters.