
Media Reform Bill: long awaited, much anticipated

3 March 2016

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In brief

On 2 March 2016 the Broadcasting Legislation Amendment (Media Reform) Bill 2016 was introduced into the Federal Parliament (the Bill) outlining substantial reform to the law relating to media ownership in Australia. The Bill has three main components:

- abolition of the 75% audience reach rule,
- abolition of the 2 out of 3 cross-media control rule, and
- introduction of a new local programming requirement for regional commercial television broadcasting licenses and abolition of the existing local programming requirements.

The Bill will need to clear the Senate before the election is called for it to take effect. It will first be referred to a Parliamentary Committee where the Labour Opposition has stated that it wishes to explore the 2 out of 3 rule, in particular, in greater detail.

In detail

The Bill abolishes the 75% audience reach rule and the 2 out of 3 cross-media control rule by removing those parts from the Broadcasting Services Act 1992 (the Act). The reach rule currently limits ownership to 75% of the population, thus preventing consolidation between the major television broadcasters and regional networks, while the 2 out of 3 rule prevents ownership of newspapers, radio and television in the same market.

The Bill also removes the current requirement for local programming that apply to the following areas: Northern and Southern New South Wales; Regional, Eastern and Western Victoria; Regional Queensland and Tasmania. These requirements are specified in detail in the Broadcasting Services (Additional Television Licence Condition) Notice 2014. The Bill also revokes the Notice. In their place, the Bill introduces a new Division 5D into the Act which provides for new local programming requirements.

The proposed Division 5D contains local content requirements similar to that under the Notice but they differ depending on whether the 'trigger point' is reached. The 'trigger point' is in effect an increase in audience reach which exceeds 75% by obtaining control of a regional commercial television broadcasting license.

The Bill proposes to increase by 25% the number of local content 'points' which must be accumulated per time period (6 weekly periods) if the 'trigger point' is reached and requires a proportion of points to be accumulated per week. The Bill provides a transition period of 6 months after the 'trigger point' is reached, during which there is no change to existing requirements. There is no change to existing requirements if the 'trigger point' is not reached.

The proposed categories of points-accumulating local content (“material of local significance”) remain largely the same. The Bill proposes one additional category: news that “depicts people, places or things in the local area”.

The proposed Bill continues to require records be kept of the local content broadcast. The Bill requires licensees to provide annual compliance reports for 2 years after the conclusion of the 6 month ‘trigger point’ transition period.

The takeaway

Even though changes to cross-media ownership have been a long time coming, the lead up to the introduction to the Bill saw mixed responses from the various media owners on the proposed reforms. From an industry point of view, the reforms are unlikely to have uniform support; illustrating a diversity of opinion and, no doubt, a perspective of vested interests.

Notwithstanding, the reforms undoubtedly modernise the Act, making it more relevant to the modern media landscape increasingly dominated by the digital/online environment. We anticipate that industry participants are likely to have already drawn up likely merger scenarios for themselves and their competitors (for example, recent media speculation on talks between Southern Cross Media and Ten Network Holdings). Whether the reforms, once enacted, do lead to a stampede of merger activity is yet to be seen. We note that any consolidation will still require merger clearance by the Australian Competition and Consumer Commission. This will lead to interesting debates as to the scope of the advertising market across the various media platforms.

Let’s talk

For a deeper discussion of how these issues might affect your business, please contact:

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