



Submission to
the Standing Committee on
Communications, Information
Technology and the Arts
**Inquiry into the uptake of Digital
Television**

May 2006

Introduction

This is a submission by FOXTEL Management Pty Limited (**FOXTEL**) in response to the House of Representatives Standing Committee on Communications, Information Technology and the Arts (**CITA**) inquiry into the uptake of digital television in Australia.

Introduction to FOXTEL

FOXTEL is Australia's leading subscription television provider and the leader in digital television service innovation.

It commenced distributing its services on cable with 20 subscription channels in 1995, expanding to 31 channels and satellite distribution in 1999 and increased its offering to 45 channels in 2002 following the completion of the FOXTEL-Optus Content Supply Agreement (**CSA**)¹. FOXTEL is now available to more than 70% of Australian homes, with more than 1.1m homes currently connected to the FOXTEL service directly or by receipt of services provided on a wholesale basis to other providers such as Optus TV.

In March 2004 FOXTEL launched its FOXTEL Digital service, giving Australian viewers the choice of more than 100 digital channels and interactive services. These channels are provided by 52 different Australian and international media and communication companies, 22 of which are Australian-owned or Australian-based. Attached to this submission is the full list of ownership of each channel on the FOXTEL platform.

In the 12 months since launch, FOXTEL Digital extended its innovations by adding new channels and interactive features including additional news, sports and weather applications, as well as the FOXTEL iQ Personal Digital Recorder.

FOXTEL Digital features include:

- FOXTEL Box Office - a near-video-on-demand movie service;
- Sky News Active - offering 8 different news screens simultaneously;
- Sports Active - offering multiple camera angles, audio feeds and statistics on selected live NRL, AFL, Rugby Super 12s, tennis, NBL and cricket broadcasts;
- interactive voting;
- Weather Active - allowing viewers to personalise the weather information they receive with their remote control;
- an electronic program guide to assist viewers navigate through more than 100 channels offering information on each program such as a synopsis, commencement and finishing time of each program, program format and classification information; and
- closed captioning for the deaf and hearing impaired.

The FOXTEL iQ, launched in February 2005, is a personal digital recorder that is fully integrated with the FOXTEL Digital electronic program guide and enables subscribers to pause live television while watching FOXTEL Digital, record two shows at once while watching a previously recorded program and watch recorded programs with DVD like functionality. The FOXTEL iQ has a 160 gigabyte hard-drive capable of recording up to 60 hours of programming. Recorded shows are stored in the Planner – a feature that allows viewers to easily retrieve and play back programs they have recorded.

¹ Content Supply Agreement executed by FOXTEL Management Pty Limited, Singapore Telecommunications Limited et al on 5 March 2002.

In addition, independent channel providers are able to access the FOXTEL analogue and digital set top unit (STU) networks, and through them access the FOXTEL subscriber base independently of the FOXTEL service through FOXTEL's digital and analogue access regimes, which were accepted by the ACCC in 2003. In 2005, TVN, a thoroughbred racing channel, commenced using the FOXTEL Digital STU platform as an access seeker, demonstrating the effectiveness of the regime.

FOXTEL directly employs over 1,500 people and a further 1400 workers are indirectly engaged by FOXTEL in sales and installation services nationally.

The FOXTEL Television Centre, currently at Pyrmont in Sydney, houses television studios, broadcast operations and cable and satellite transmission facilities. FOXTEL is building a new Digital Television Campus in North Ryde, Sydney, which will be occupied by the end of 2005 and will become the hub of digital subscription television in Australia, housing a range of independent channels as well as television studios, broadcast operations and cable and satellite transmission facilities. FOXTEL recently opened a purpose built, state of the art national Customer Solutions Centre based at Moonee Ponds in Melbourne. Also in Melbourne, FOXTEL has studio facilities used primarily by the FOX Footy Channel.

FOXTEL is jointly owned by Telstra Corporation Limited (50% equity), The News Corporation Limited (25% equity) and Publishing and Broadcasting Limited (25% equity).

Executive summary

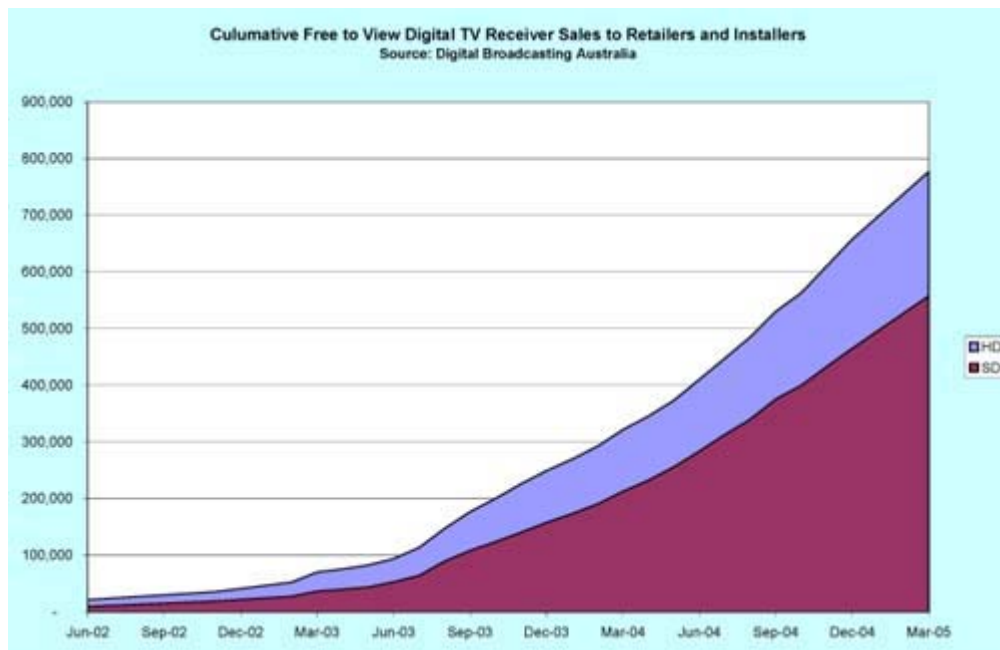
- The market for digital television in Australia is the television entertainment market that includes the national and commercial broadcasters; subscription television broadcasters and channel providers; and DVD sales and rentals.
- All these participants provide their services in digital format and competition and diversity in the provision of services to consumers is strong and growing, particularly following the launch of new subscription television digital services by FOXTEL and AUSTAR in March 2004.
- The CITA discussion paper raises the central concern that digital television take-up is slow in Australia – however, there is substantial evidence that digital television take-up by consumers is now accelerating rapidly driven by the existing investment and participants in the television entertainment market.
- While the CITA discussion paper is primarily concerned with “free-to-air” digital television take-up - which requires a digital terrestrial set-top-unit (**STU**) to be purchased by a consumer and connected to an existing television set, or an integrated digital television set to be purchased by a consumer – the take-up of digital subscription television services is a directly connected issue.

Some consumers are choosing to receive digital television by subscribing to a service such as FOXTEL, while other consumers are choosing to receive digital television by purchasing a digital terrestrial STU or integrated digital television set from a retail outlet. DVD players and software sales are stronger than ever with 51% of Australian homes watching digital television via DVD player. The net effect is a growing national pool of digital television viewers.

- In just over 12 months since March 2004, more than 1 million Australian homes have subscribed to FOXTEL and AUSTAR digital services². This equates to approximately 63% of subscription television homes becoming digital in little more than a year. In April 2005, Optus announced that it will enter digital subscription television and upgrade its cable network from analogue to digital in the second half of 2005, a move which will provide further impetus to the take-up of digital television. FOXTEL expects to convert its entire subscriber base to digital by the end of 2006, which will mean more than 1.1 million digital consumer homes from FOXTEL alone.
- In addition, the “free-to-air” terrestrial television sector, and retailers and manufacturers of digital terrestrial reception equipment including digital terrestrial STU’s and television sets, have both responded to and benefited from the consumer interest in digital television that has been stimulated by the digital subscription television launches and their follow-on initiatives including interactive service evolution.

² FOXTEL had 63% of its 998, 000 subscribers as Digital customers as at 31 March 2005. AUSTAR reported on 27 April 2005 that 74% of their customers had signed up to Digital out of a total 500,000 subscribers.

- The fact that competition from digital subscription television has galvanised the digital free-to-air terrestrial roll-out is borne out by the following Digital Broadcasting Australia (**DBA**) data. DBA has reported that “The average monthly sales of digital television receivers for the March 2005 quarter were just under 40,000 units. This compares to a monthly average of 24,000 units for the same period in 2004”³. In other words, digital receiver sales were 66% higher in the March quarter 2005 than in the March quarter 2004. This dramatic sales increase has coincided with the launch of digital subscription television. There are currently more 777,000 digital terrestrial STU’s and integrated digital television sets in Australian homes.⁴



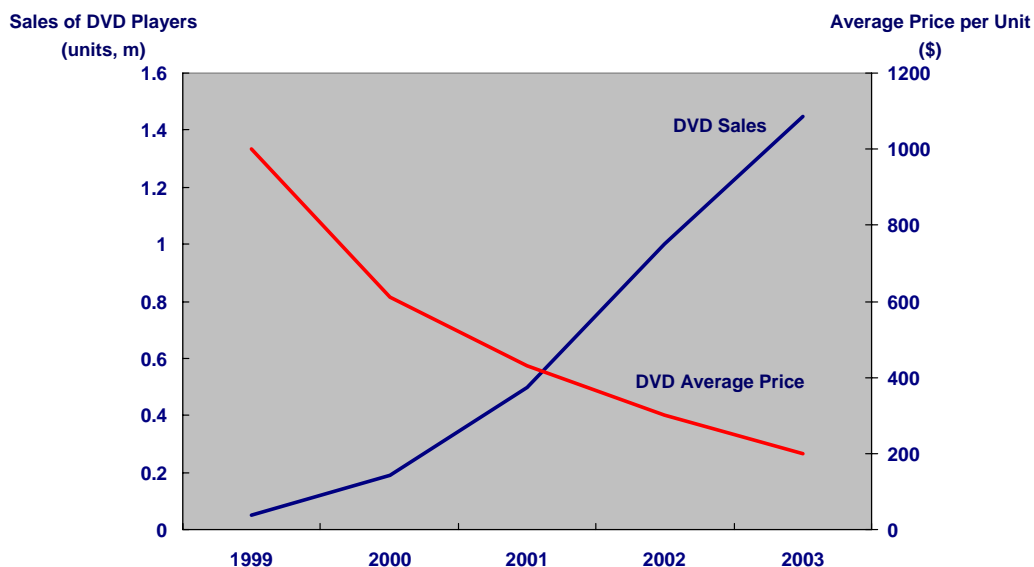
- Based on the publicly available data, the total number of homes in the Australian market receiving digital television services, either via subscription services or via terrestrial “free-to-air”, is up to approximately 1.8 million. This equates to approximately 26% of all 7 million homes in Australia, and penetration is accelerating quickly.
- In addition, the proportion of households with a DVD player has jumped from 12% in 2001 to 51% in 2003⁵.

³ Tim O’Keefe, Digital Broadcasting Australia Media Release, Free to View Digital Sales 777,000 to March 2005, 28 April 2005

⁴ Ibid

⁵ Australian Film Commission report “*Get the picture*” www.afc.gov.au/gtp/wvauver.html accessed 22 July 2004 (**AFC Report**)

DVD GROWTH



- In a similar fashion to DVD take-up above⁶, further impetus for digital terrestrial television take-up is being provided by the falling prices of digital terrestrial STUs that enable digital television to be received on any existing television set. According to DBA, current digital terrestrial standard definition STUs are priced from \$129-\$349 retail.⁷ This compares with \$A 500-700 and more at the time of launch of digital terrestrial services in January 2001.⁸
- Australian digital STU manufacturer Legend ran a \$99 STU promotion over the 2004 Christmas period and DBA quoted one retailer saying the promotion “brought customers to the stores who may (sic) would have otherwise waited to move to digital”. The retailer added that the increased awareness of digital television had flow-on benefits for other brands of STU’s and widescreen televisions.⁹

In summary

- Existing market forces are working to drive digital television take-up and consumers are being provided with more choice in their consumption of digital television services than ever before, be it free-to-air television, subscription television, or DVD.
- In order to deliver digital services, there has been substantial investment by digital television providers, with the terrestrial and subscription broadcasters investing over \$2 billion in digital conversion. The subscription television sector has invested in excess of \$1 billion in its conversion to digital, with FOXTEL alone making the largest single digital investment of any broadcaster of more than \$600 million. Optus has also recently

⁶ Ibid

⁷ DBA Website as at 5 May 2005

⁸ ASTRA submission to The Hon Richard Alston, Minister for Communications Information Technology and the Arts, on the Common Set Top Box, July 2002.

⁹ Legend media release, *Legend breaks price barrier with \$99 Digital TV Receiver Promotion*, 31 January 2005.

announced (April 2005) that it intends to upgrade its cable television network to enable it to provide FOXTEL Digital television services. In addition, the commercial and national “free-to-air” broadcasters have invested in excess of \$1 billion combined in upgrading their facilities for the broadcast of digital television.¹⁰

- Any future digital broadcasting policy should not risk destabilising this existing investment (or make any existing investment redundant) which is starting to accelerate growth in digital service take-up. In particular, the innovation and competition provided by digital subscription television from March 2004 has stimulated general consumer interest in digital television and galvanised competition from the “free-to-air” sector. However, the digital subscription television roll-out is still in its infancy and vulnerable to any regulatory destabilisation that may deter future investment and in turn harm choice and growth of services for consumers.
- Commercial network multi-channelling has been proposed by some market participants as a possible driver of digital television take-up. This type of multi-channelling if introduced would be a massive change to the current arrangements and have a far-reaching “knock-on” impact on the entire television entertainment market and the sustainability of the existing providers.
- FOXTEL's position on possible commercial network multi-channelling has been tabled in recent detailed submissions to the Department of Communications, Information Technology and the Arts, and to the Productivity Commission. Copies of these submissions are attached to this submission.
- As the ACCC and the Productivity Commission have concluded¹¹, the issue of commercial network multi-channelling is intrinsically linked to the issues of a possible 4th commercial television network and datacasting and cannot be considered in isolation from each other.
- Australia's restrictive sports broadcasting system known as the “anti-siphoning” regime is also linked to the issues of multi-channelling and the possibility of a 4th commercial network. To give the commercial networks the new advantage of multi-channelling, without first correcting the inequity of the anti-siphoning system, would only compound the destructive impacts of the system on competition from subscription television and inevitably occasion it the most severe and probably irreparable commercial harm.
- In any event, the digital investments and conversion of subscription television are still in their infancy and just over a year from their launch in March 2004, compared with the launch of digital terrestrial services in metropolitan areas in January 2001.
- Subscription television welcomes competition and only seeks equitable policy treatment for its digital investment with those investments of commercial and national television and radio.
- The commercial television networks were given a minimum period of seven years from the commencement of their digital services in January 2001 during which the Government committed to provide them with a defined period of regulatory stability to establish their

¹⁰ Julie Flynn, CTVA media release, *Networks Unite for Digital Push*, 19 June 2003

¹¹ *Productivity Commission Inquiry Report, Review of Nation Competition Policy Reforms No 33, 26 February 2005, p237*

digital conversion investment by prohibiting the issue of new commercial television licences until at least the end of 2007.

- In December 2004, the Government reaffirmed this policy principle of assisting digital investment by making a policy announcement in relation to the introduction of new digital radio services.

The Minister for Communications, Information Technology and the Arts, Senator Coonan, in a statement on 20 December 2004 said: "Digital transmission systems offer a range of potential improvements over their analog counterparts, including better audio quality and the provision of a more diverse range of new enhanced radio services. The Government has agreed to a moratorium on new Licence Area Planned (LAP) commercial digital radio licences for an initial period of five years....The moratorium recognises the important contribution incumbent commercial broadcasters will make in the digital future and provide them some stability in the early stages of the introduction of digital radio".

- As FOXTEL has stated in its previous submissions on this issue, subscription television should be given a minimum four year period from the commencement of its digital services in March 2004 to establish its digital investments before any commercial network multi-channelling is introduced. This compares with the minimum seven years of regulatory stability given to commercial television broadcasters and the five years given to commercial radio.
- Further, if commercial network multi-channelling on the terrestrial broadcasting services bands is introduced, which should not be before 2008 in any event, it should be as part of a balanced deregulation of the broadcasting services regime that includes removal of the anti-competitive sports anti-siphoning regime that is hindering the growth of sports television services for consumers.
- If the Committee concludes that all Australian households will not have converted to Digital television by the proposed analogue terrestrial switch off date of 2008 a better solution that would not undermine investment and innovation currently taking place in subscription and terrestrial digital television would be to delay terrestrial switch off for a further period of say at least another five further years.

A reform agenda for facilitating the emergence of new and innovative content and more digital broadcasting choice for consumers without harming the market forces that currently provide innovation and competition in television in Australia would be as follows:

- Before making any decision about spectrum use and allocation, the Government should decide whether or not a 4th commercial television broadcasting service should be introduced after expiration of the current moratorium. If Australia is to have a sustainable 4th commercial broadcasting service its survival will depend on a postponement of the introduction of terrestrial multi-channelling by the incumbent commercial broadcasters until the new entrant has had sufficient time to establish;
- There should be a four year period from March 2004 (the time of launch of major digital interactive subscription television services in Australia) until March 2008, during which there is no permitted "free" or "subscription" terrestrial multi-channelling by the commercial broadcasters on the digital spectrum loaned to them in 1998;

- When and if they are permitted to multi-channel, the only service the commercial broadcasters should be allowed to provide on their digital spectrum in addition to their primary simulcast service should be "free" so that all members of the public can access and benefit from it;
- The anti-competitive regulation of sports broadcasting through the "sports anti-siphoning" regime should be abolished – prior to allowing "free" terrestrial multi-channelling by the commercial broadcasters; and
- Commercial network simulcast and HDTV requirements should be retained, as complementary drivers of digital television take-up.

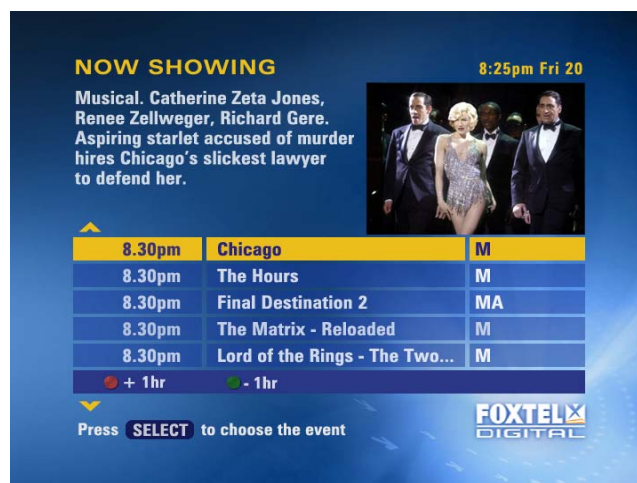
The services on FOXTEL Digital

Through the FOXTEL Digital service, FOXTEL has become the leading innovator in Australian television, providing at the time of Digital launch:

- expanded programming choice with more than 100 channels and services that provide programming covering all genres, including movies, sport, news, general entertainment, lifestyle, music and children's programming.
- the FOXTEL Digital Guide, the most comprehensive electronic program guide on Australian television. The on-screen guide (current day and the next seven days) details all programs and allied synopsis information according to time, genre or channel. It has a memory/reminder function to recall and indicate what viewers have selected in advance to watch (up to seven days in advance).



- FOXTEL Box Office, a 24-hour-day near-video-on-demand service screening a range of blockbuster movie titles each starting every 15-30 minutes.



- Sky News Active, an interactive service allowing viewers to control and choose the news they want to view from eight live video and five live text screens.



- Sports Active, an interactive sports application which enables viewers to select multiple camera angles and match replays together with game statistics, player profiles and even different audio feeds on special selected sports broadcasts.



- FOXTEL Gamesworld, offering subscriber's two games channels and 10 different games with easy to play titles and games that are more difficult.
- digital quality pictures and CD quality sound on all FOXTEL Digital services.
- widescreen and AC3 Surround Sound, FOXTEL Digital includes more than 47 channels broadcasting 16:9 widescreen content and 13 channels with enhanced surround sound.

Since the launch of FOXTEL Digital in March 2004, FOXTEL has added to these digital innovations with:

- new channels;
- interactive on-screen 'voting';
- enhanced interactive Weather Channel applications;
- additional FOXTEL Sports Active applications, extending those currently available on AFL and NRL programming to cricket, Super 12 Rugby, basketball and tennis;
- FOXTEL iQ - a Personal Digital Recorder;
- Interactive advertising; and
- programme closed captioning to assist the deaf and hearing impaired

The channels on FOXTEL Digital owned by the 52 different media and communication companies include: 10 movie services (including the interactive FOXTEL Box Office service); 7 sports channels; 5 children's channels; 6 music video channels and 30 audio music channels; 11 documentary channels; 8 lifestyle channels; 14 general entertainment channels; 2 non-English language channels (Italian and Greek); and 2 interactive games channels.

1. The market for Digital Television Services

1.1 The market

The market regulated by the digital television regime is the television entertainment market, in which commercial and national television broadcasters, subscription television operators and video and DVD retailers all compete for Australian viewers¹² and share of television use by consumers.

Suppliers of television entertainment to Australian homes include the following:

- ***national broadcasters***
 - the ABC and SBS
- ***commercial broadcasters***
 - the Seven, Nine and Ten networks and their regional affiliates
 - currently, 48 commercial television broadcasters report revenues and pay commercial television broadcasting service licence fees to the ABA
- ***subscription television***

The subscription television sector includes the following participants:

- platform operators, including FOXTEL, AUSTAR, Optus, Neighborhood Cable and TransACT (TARBS went into receivership in July 2004)
- FOXTEL service resellers, AAPT, Telstra and TransACT
- channel suppliers; on the FOXTEL Digital service alone, the channels offered are owned by 50 different media and communication companies, including 20 Australian owned or Australian based companies
- third party channels; who can obtain access to FOXTEL's analogue and digital cable system and set top units (and therefore access to FOXTEL's

¹² The fact that these service providers are competitors has been acknowledged recently by the Australian Broadcasting Authority (**ABA**), Commercial Television Australia (now known as Free TV) and the Australian Video Retailers Association (**AVRA**):

- In response to a question from the floor at the Policy Session of the ASTRA Conference held in Sydney on 7 April 2004, Lyn Maddock, then Deputy Chair of the ABA, confirmed that competition to FOXTEL comes from "everyone from DVD players and director cinema tickets to free-to-air [television]";
- Julie Flynn, CEO of Free TV Australia, said on ABC Radio National (18 May 2004) "so we are now competing against a much stronger digitised and merged FOXTEL operation in the pay TV sector. Plus there's DVD's, the Internet, computer games, all competing for people's eyeballs, people's time and for the same amount of revenue"; and
- In its April 2004 newsletter, AVRA described the commencement of the FOXTEL/AUSTAR digital service, including the FOXTEL Box Office movie channel, as "the biggest current threat to our industry since Pay-TV" and AVRA's current advertising campaign positions videos and DVDs in head-to-head competition with subscription television. A copy of the AVRA flyer titled "*Thinking of paying for digital PAY-TV?*" which was available in DVD/video stores on and around 1 July 2004 is attached as Exhibit A

entire subscriber base) under fair and transparent arrangements accepted by the ACCC¹³

At the date of this submission, there are approximately 50 members of the Australian Subscription Television and Radio Association (**ASTRA**), comprising primarily independent channel providers and platforms.

- **video and DVD retailers and rental operations**
 - 1615 video and DVD rental outlets in 2002¹⁴
 - in addition, major retail store chains sell video tapes and DVDs

All these participants provide their services in digital format and competition and diversity in the provision of services to consumers is strong and growing, particularly following the launch of new subscription television digital services by FOXTEL and AUSTAR in March 2004.

2. The uptake of Digital Television in Australia.

The CITA discussion paper raises the central concern that digital television take-up is slow in Australia – however, there is substantial evidence that digital television take-up by consumers is now accelerating rapidly driven by the existing investment and participants in the television entertainment market.

Subscription Television Digital uptake

As mentioned previously, FOXTEL Digital and AUSTAR launched their new Digital services to the market in March 2004. The services were launched with a series of publicity and advertising campaigns designed to educate and inform the public about the benefits of digital television and attracted significant media attention.

Since March 2004, in just over 12 months, more than 1 million Australian homes have subscribed to FOXTEL and AUSTAR digital services out of a total 1.66 million subscription television homes¹⁵. This equates to approximately 63% of subscription television homes becoming digital in little more than a year.

With the launch of FOXTEL iQ, a personal digital recorder, in March 2005, FOXTEL expects to build on the momentum of continued growth in Digital subscriptions. FOXTEL expects to convert its entire subscriber base to digital by the end of 2006.

In April 2005, Optus announced that it will enter digital subscription television and upgrade its cable network from analogue to digital in the second half of 2005, a move which will provide further impetus to the take-up of digital television.

¹³ Pursuant to FOXTEL's section 87B undertakings given in connection with the CSA.

¹⁴ ABS, *Video Hire Industry*, May 2001.

¹⁵ FOXTEL had 63% of its 998, 000 subscribers as Digital customers as at 31 March 2005. AUSTAR reported on 27 April 2005 that 74% of their customers had signed up to Digital out of a total 500,000 subscribers.

Through its innovation, subscription television exerts competitive pressure on other digital television providers – “free-to-air” broadcasters and DVD - and benefits Australian audiences by inspiring and driving digital innovation and enhancing competition.

Any policy decision in relation to digital television take-up would be counter-productive if it harmed subscription television and its ability to compete and drive the “free-to-air” broadcasters and DVD sector to compete in the delivery of new and improved services for consumers.

Any changes in policy governing digital television must be introduced as part of a balanced deregulation of the television broadcasting regime. In particular, the anti-competitive sports broadcasting regulation through the sports “anti-siphoning” system must be abolished first.

Free to air Terrestrial Digital Television uptake

The free-to-air terrestrial television sector, and retailers and manufactures of digital terrestrial reception equipment including digital terrestrial set-top units (STU's) and television sets, have both responded to and benefited from the consumer interest in digital television that has been stimulated by the subscription television digital launches and their follow-on initiatives including interactive service evolution.

Market information on digital terrestrial “free-to-air” broadcast television, digital subscription television (both cable and satellite) and DVD equipment sales in Australia indicates that, after a slow start in the case of digital terrestrial television in particular, existing market forces are driving conversion to digital television.

Since their first transmission in metropolitan areas in 2001, the digital terrestrial television broadcasting services of the 5 national and commercial open broadcasters are now available to approximately 80% of the Australian population. As at the end of June 2004, approximately 91% of the population has access to at least one national or commercial broadcasting service in digital mode¹⁶. Digital terrestrial services in all metropolitan areas include transmissions in HDTV format and there is already HDTV transmission of digital services in some regional areas¹⁷.

The fact that competition from digital subscription television has galvanised the digital free-to-air terrestrial roll-out is borne out by the following DBA data. At the time of launch of FOXTEL Digital there were approximately 320,000 digital receivers sold since free to air terrestrial digital services commenced in 2001.¹⁸ Following the launch of subscription Digital television services, the growth in take up of free to air terrestrial digital television service has grown markedly.

There are currently more 777,000 digital terrestrial STU's and integrated digital television sets in Australian homes.¹⁹ DBA estimates that free to view digital television is now in 12% of Australian

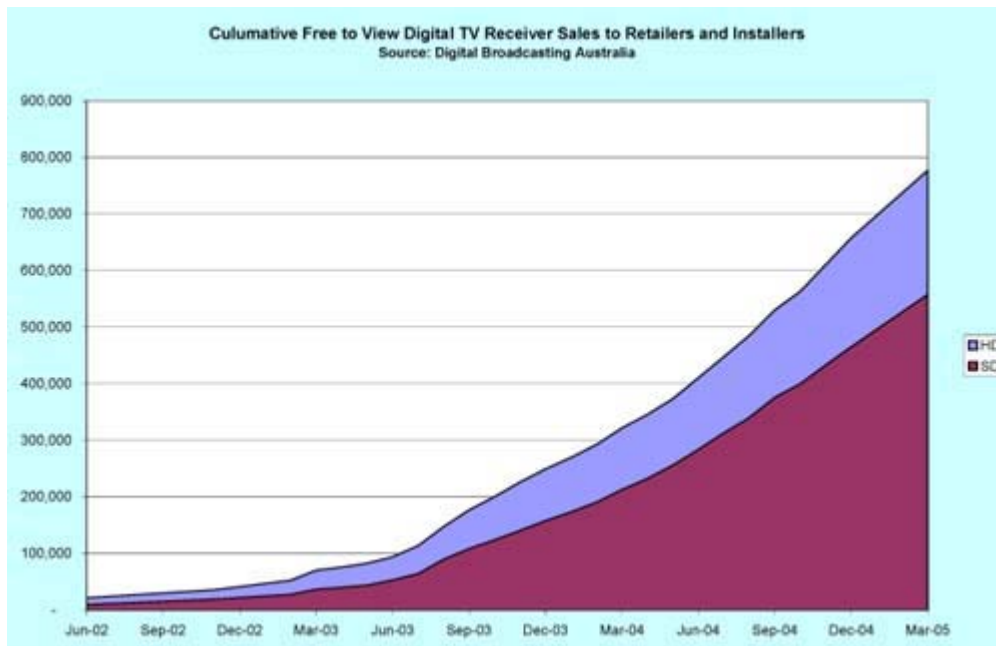
¹⁶ The Hon Daryl Williams, Opening Address to the Australian Broadcasting Authority Conference, 25 June 2004. Available at http://www.darylwilliams.dcita.gov.au/Article/0,,0_7-2_4011-4_119344,00.html

¹⁷ Ibid

¹⁸ Digital Broadcasting Australian Media Release, Digital TV sales to March 2004, 30 April 2004.

¹⁹ Ibid

homes in areas where all digital television services are available. They are confident that this growth will continue.²⁰



Total Digital television services uptake in Australia

The uptake of Digital television services in Australia is healthy and growing. Based on the publicly available data, the total number of homes in the Australian market receiving digital television services, either via subscription services or via terrestrial “free-to-air”, is approximately 1.8 million. This equates to approximately 26% of all 7 million homes in Australia, and penetration is accelerating.

Another favourable indicator of digital television take-up can be seen in the increasing take-up of widescreen television sets, digital television sets, DVD sales and rentals and DVD players:

- Australian sales of DVD films and television programmes have increased 20-fold since 1999 from 1,456,689 units in the 1999-00 financial year to 27,958,026 units in the 2002-03 financial year²¹;
- the proportion of households with a DVD player has jumped from 12% in 2001 to 51% in 2003²².
- More than 3.6 million DVD players have been sold in Australia to date, with 1.5 million units sold in the 12 months to March 2004²³; and

²⁰ Ibid

²¹ Australian Visual Software Distributors Association Limited, Available at <http://www.avsda.com.au/stats.htm>

²² Australian Film Commission report “Get the picture” www.afc.gov.au/gtp/wvauver.html accessed 22 July 2004 (**AFC Report**)

²³ Ibid

- More than 400,000 widescreen television sets have been sold to date, with 238,000 units sold in the 12 months to March 2004²⁴.

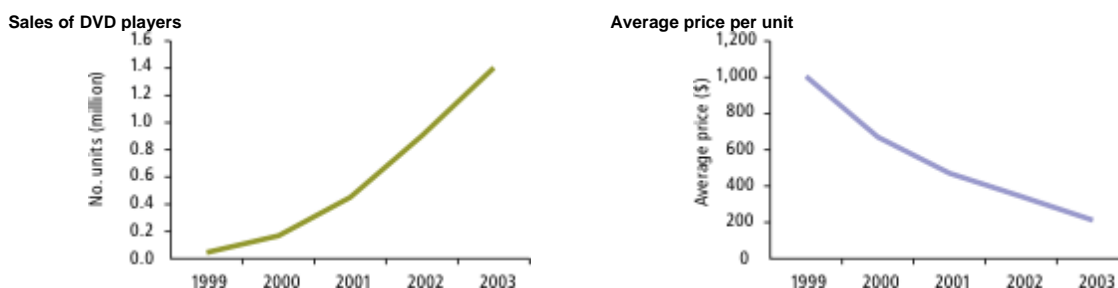
These statistics indicate that consumers are recognising the benefits of digital television and investing in the technology and services at a growing rate.

3. Other Drivers of uptake of Digital Television

Falling price of Technology

Another key driver of uptake of Digital television services in Australia is the falling price of technology – particularly DVD players, widescreen television's and digital receivers.

The graph below clearly demonstrates the correlation between the increase in DVD player sales with the falling price of the technology. The average price per player has fallen from more than \$1000 in 1999 to \$212 in 2003.



In a similar fashion to DVD take-up, further impetus for digital terrestrial television take-up is being provided by the falling prices of digital terrestrial STU's that enable digital television to be received on any existing television set.

DBA lists 26 member suppliers of digital television receivers in Australia marketing the benefits of 67 models of digital television receivers. This wide range of available digital television receivers, with competitive pricing, has provided consumers with a number of options for the transition to free to view digital television.

²⁴ Ibid

The table below lists the options:

Receiver Type	Brands	Models	RRP
SD-STB	21	30	\$129-\$349
HD-STB	15	18	\$499-\$899
SD-PVR	11	14	\$399-\$1,199
SD-DVD	2	3	\$499
SD-ITV	1	1	\$399
HD-PVR	1	1	\$1,500
		67	

According to the above table, current digital terrestrial standard definition STU's are priced from \$129-\$349 retail²⁵. This compares with A\$500-700 and more per unit at the time of launch of digital terrestrial services in January 2001.²⁶

In addition, the DBA website highlights the fact that integrated widescreen television's have "never been more affordable". They list two models of widescreen CRT televisions with integrated SD digital and analog tuners that are now available for less than \$2,000.²⁷

DBA has noted that the price reductions in widescreen television sets:

"[i]s good news for free-to-view digital television in Australia. The advantages of free-to-view television are more apparent on large widescreen televisions and screens. Sales growth of digital television receivers continued at record levels in March and April [2004], mainly on the back of strong sales of widescreen television, DVD and home theatre systems²⁸."

²⁵ Digital Broadcasting Australia Website as at 5 May 2005

²⁶ ASTRA submission to The Hon Richard Alston, Minister for Communications Information Technology and the Arts, on the Common Set Top Box, July 2002.

²⁷ Digital Broadcasting Australia Website as at 5 May 2005

²⁸ Digital Broadcasting Australia, Free to View Digital Television Information Bulletin [Jun-Jul 2004]. Available at www.dba.org.au/newsletter/IB-JunJul04-full.asp

4. Maintaining the momentum of Digital Television Services uptake

Existing market forces are working to drive digital television take-up and consumers are being provided with more choice in their consumption of digital television services than ever before, be it free-to-air television, subscription television, or DVD.

Government policy aiming to continue to drive digital television service uptake must ensure the ongoing effectiveness of these existing market forces allowing the digital television providers to establish their investments and maintaining a competitive balance between the providers.

Encouraging industry investment

In order to deliver digital services, there has been substantial investment by digital television providers, with the terrestrial and subscription broadcasters investing over \$2 billion in digital conversion.

The subscription television sector has invested in excess of \$1 billion in its conversion to digital, with FOXTEL alone making the largest single digital investment of any broadcaster of more than \$600 million. The FOXTEL \$600 million investment resulted in the full digital upgrade of its cable network and the expansion of its subscription digital satellite service. This investment also included major infrastructure developments such as the FOXTEL Digital Campus currently being built in North Ryde, Sydney, a new FOXTEL Customer Services Centre recently opened in Moonee Ponds, Melbourne.

Optus has also recently announced (April 2005) that it intends to upgrade its cable television network to allow it to provide FOXTEL Digital television services at a cost of more than \$30 million.²⁹

The commercial and national “free-to-air” broadcasters and their regional affiliates have invested in excess of \$1 billion combined in upgrading their facilities for the broadcast of digital television.³⁰

Any future digital broadcasting policy should not risk destabilising this existing investment (or making the investment redundant) which is starting to accelerate growth in digital service take-up. Such destabilisation may also deter future investment which would in turn harm choice and growth of services for consumers.

Maintaining the competitive balance to drive Digital take up

In the context of the Department of Communications, Information Technology and the Arts legislated reviews into the Digital Broadcasting regime, commercial network multi-channelling has been proposed by some market participants as a possible driver of digital television take-up. This type of multi-channelling if introduced would have a massive “knock-on” impact on the entire television entertainment market and the sustainability of the existing providers.

FOXTEL’s position on possible commercial network multi-channelling has been tabled in recent detailed submissions to the Department of Communications, Information Technology and the Arts, and to the Productivity Commission. Copies of these submissions are attached to this submission.

In summary, FOXTEL argues that any major regulatory change, such as commercial network multi-channelling, must be considered in terms of its whole-of-industry impacts. FOXTEL agrees with

²⁹ Optus and FOXTEL joint media release, *Optus to Sell FOXTEL Digital in New Subscription Drive*, 7 April 2005.

³⁰ Julie Flynn, CTVA media release, *Networks Unite for Digital Push*, 19 June 2003

the view put by the ACCC in its June 2004 *Submission to the Productivity Commission Review of National Competition Policy Arrangements (ACCC 2004 Report)* which says: "The various regulations applying to the pay TV and FTA sectors should not be considered in isolation but should be considered in the context of a comprehensive review"³¹.

Consequently, possible terrestrial multi-channelling by the commercial broadcasters cannot be considered in isolation from the other key broadcasting regulatory issues, in particular the moratorium on a 4th commercial television broadcasting licence, and the regulation of sports broadcasting through the "anti-siphoning" regime.

Existing market forces, and digital investments, will continue to build new services and drive digital take-up, as long as no further competition imbalances are imposed on the market via the isolated enabling of multi-channelling by the commercial broadcasters.

However, industry needs the equitable provision of regulatory certainty and stability by Government to support the sustainability of existing digital investments, and to give the market and investors a level of certainty in planning future investment. The digital investments and conversion of subscription television are still in their infancy and just over a year from their launch in March 2004, compared with the launch of digital terrestrial services in January 2001.

The Government and the Federal Parliament have already set a precedent for providing defined periods of regulatory certainty for digital broadcasting investment by giving the commercial broadcasters a set time to establish their digital investments by banning a 4th commercial network until at least 2007, and setting 5-year moratorium on the issue of new digital radio licences to assist incumbent operators to make their digital conversion investments.

As FOXTEL has stated in previous submissions on this issue, FOXTEL would not oppose digital terrestrial "free" multi-channelling" by the commercial broadcasters after 2008 – as long as it is introduced as part of a balanced deregulation of the television broadcasting regime. In particular, anti-competitive sports broadcasting regulation through the sports "anti-siphoning" system must be abolished first.

In terms of timing, any regulatory change in relation to "free" multi-channelling by the commercial broadcasters must give subscription television an equitable opportunity to that given to the commercial broadcasters to establish their digital investments.

The Government has consistently justified its ban on new commercial television broadcasting licences until at least 2007 on the basis that the commercial broadcasters must first have a period of time (specifically, 6 years measured from the date upon which the commercial broadcasters commenced digital transmissions in January 2001) to establish their digital investments without major regulatory change in their environment³².

FOXTEL advocates a minimum four year period from March 2004 (the date of commencement of major digital subscription television services in Australia) until March 2008, during which there is no permitted "free" terrestrial multi-channelling by the commercial broadcasters.

Some digital television service providers have advocated "subscription" terrestrial multi-channelling as a driver of digital television uptake. The commercial broadcasters were given the privileged loan

³¹ ACCC 2004 Report, p25

³² Explanatory Memorandum, *Television Broadcasting Services (Digital Conversion) Bill 1998 (Explanatory Memorandum)*, Item 1

of publicly-owned spectrum, and given legislative protection against further commercial network licences, in return for providing “free” digital television to all Australians in metropolitan, regional and rural Australia.

There would be no public benefit in enabling the transformation of the terrestrial television system from a “free” television model into a “pay” television model for the exclusive use of the existing commercial broadcasters.

The only service the commercial broadcasters should be entitled to provide on the publicly-owned terrestrial spectrum loaned to them should be “free” so that all members of the public can access and benefit from it.

Attachments

1. Legend Media Release: "*Legend breaks price barrier with \$99 Digital TV Receiver Promotion*".
2. Ownership of Channels on the FOXTEL Digital Platform



Legend breaks price barrier with \$99 Digital TV Receiver Promotion

Adelaide, South Australia - (January 31, 2005). Over the Christmas period Clive Peeters, Radio Rentals, Target, Kmart and Harris Scarfe were the first retailers to offer a \$99 set top box with the LSD2 SD-STB supplied by listed Australian electronics supplier - Legend Digital.

Legend's product manager Andrew Reeves said "Legend was not known in consumer electronics as we were traditionally a memory IT manufacturer. Therefore we needed to do something that would be very special in the market. The LSD2 is a fantastic product and by offering it to consumers [at that price] they are getting great value for money. Our hope was that by setting this price we would grow the size of the market."

Max Jenetsky, Brown Goods Buyer at Harris Scarfe, reported that the post Christmas promotion of the "magic price point" \$99 digital set top box was very successful. He told DBA, "It brought customers to the stores who may would have otherwise waited to move to digital". He added that the increased awareness of digital tv had flow on benefits for other brands of set top boxes and widescreen televisions.

Mr Reeves told DBA that the sale of the LSD2 was also successful for Kmart putting it in their top 5 fastest moving products for 2004.

Retail enquiries:

Andrew Reeves
Product Manager Legend Digital
Phone: 08 8401 9837
Email: andrewr@legend.com.au
Web Site: www.legenddigital.com



[Legend Digital TV Receiver](#) (order code: LSD2)

About LEGEND

Legend is a leading Australian electronics engineering and manufacturing company that designs, manufactures and distributes memory based products including memory modules and related computer components. Legend is globally competitive with operations extending throughout Australia, New Zealand, South Africa, Asia and Europe. Legend was established in 1989 and commenced manufacture operations in 1993. LEGEND has manufacturing facilities in Adelaide, South Australia and Johannesburg, South Africa. Legend has a broad range of clients from key global clients including Dell, Hewlett Packard, Acer and NEC to major Australian based computer assemblers including IPEX, ASI and Optima through to major merchandising chains such as Harvey Norman, Dick Smith Electronics, Kmart and Myer.

CHANNEL SHAREHOLDINGS



NGC Network Asia, LLC (100%)



Main Event Television Pty Ltd (33.3% FOXTEL, 33.3% Austar, 33.3% SingTel Optus)



Main Event Television Pty Ltd (33.3% FOXTEL, 33.3% Austar, 33.3% SingTel Optus)



Satellite Music Australia (100%) fully owned by Southern Cross Broadcasting



Discovery Communications Inc (50%) BBC Worldwide (50%)



Greek language channel. Distributed in Australia by Overlook BV

Games provided by Visionik AS



XYZnetworks Pty Ltd (a 50/50 joint venture between Austar and FOXTEL)



Aurora Television Limited (non-profit organisation)



Australian Christian Channel (non-profit organisation)



BBC Worldwide (100%)



FOXTEL, Australia



100% owned by interests associated with Michael Bloomberg



Turner Broadcasting System Asia Pacific, Inc. (100%)



Turner Broadcasting System Asia Pacific, Inc (100%)

CHANNEL SHAREHOLDINGS



XYZnetworks Pty Ltd (a 50/50 joint venture between Austar and FOXTEL)



XYZnetworks Pty Ltd (a 50/50 joint venture between Austar and FOXTEL)



Austar (100%)



A 50/50 joint venture between Dow Jones (50%), NBC (50%)



Turner Broadcasting System Asia Pacific, Inc (100%)



FOXTEL, Australia



FOXTEL, Australia



Discovery Networks (100%) XYZnetworks Pty Ltd have exclusive distribution rights to Discovery Channel in Australia



Discovery Networks (100%)



Discovery Networks (100%)



Discovery Networks (100%)



Wholly owned subsidiary of Buena Vista International Inc.



E! Entertainment Television Inc. (100%)



ESPN Inc. (100%)



EUROSPORT Société Anonyme (100%), France.

CHANNEL SHAREHOLDINGS



F.TV (BVI) Ltd (100%), France



FOXTEL, Australia



FOXTEL, Australia



FOXTEL, Australia



FOXTEL, Australia



News Corporation



News Limited (50%), PBL (50%)



News Limited (50%), PBL (50%)



FOXTEL, Australia



News Limited (50%), PBL (50%)



Crown Media International Inc.



THE HISTORY CHANNEL

FOXTEL, Australia



News Limited (50%), PBL (50%)



XYZnetworks Pty Ltd (a 50/50 joint venture between Austar and FOXTEL)



XYZnetworks Pty Ltd (a 50/50 joint venture between Austar and FOXTEL)

CHANNEL SHAREHOLDINGS



Main Event Television Pty Ltd (a Joint Venture between SingTel Optus 33.3%, Austar 33.3%, and FOXTEL 33.3%)



Games provided by Two Way TV Australia



Warner Bros (25%); MGM (25%); Disney (25%); Village Roadshow (25%)



Warner Bros (25%); MGM (25%); Disney (25%); Village Roadshow (25%)



Warner Bros (25%); MGM (25%); Disney (25%); Village Roadshow (25%)



Owned by Optus under licence from MTV Networks USA



XYZnetworks Pty Ltd (a 50/50 joint venture between Austar and FOXTEL)



National Geographic Channel Australia Pty Ltd (100%)



XYZnetworks Pty Ltd (50%), Nickelodeon Australia Inc.(50%)



XYZnetworks Pty Ltd (50%), Nickelodeon Australia Inc.(50%)



SingTel Optus (100%)



RAI Italy. Distributed in Australia by Overlook BV



Sony (20%), Universal (20%), Paramount (20%), 20th Century Fox (20%), Liberty Media (20%)



Sony (20%), Universal (20%), Paramount (20%), 20th Century Fox (20%), Liberty Media (20%)



Seven Network (33.3%), Nine Network (33.3%), BSkyB (33.3%)

CHANNEL SHAREHOLDINGS



Seven Network (33.3%), Nine Network (33.3%), BSkyB (33.3%)



Wholly-owned subsidiary of TAB Ltd



Turner Broadcasting System Asia Pacific, Inc (100%)



Sony (33.3%), Universal (33.3%), Paramount (33.3%)



TVSN. ASX listed.



FOXTEL (60%), BBC Worldwide Television (20%), Fremantle Australia (20%)



MTV Networks (100%)



FOXTEL, Australia



XYZnetworks Pty Ltd (a 50/50 joint venture between Austar and FOXTEL)



SBS (40%), Australian Radio Network Pty Ltd (30%), Australian Capital Equity (30%)