



**Standing Committee on Communications, Information Technology and the Arts
Inquiry into the Uptake of Digital Television in Australia**

Submission by the Community Broadcasting Association of Australia

1. Introduction

- 1.1 The Community Broadcasting Association of Australia ('CBAA') welcomes the opportunity to make a submission to this Inquiry on the rollout process for digital television. The CBAA is the peak body for community broadcasting stations, including the seven licensed community television ('CTV') stations in Melbourne, Sydney, Brisbane, Perth, Adelaide, Lismore and Mount Gambier.
- 1.2 Community television is the only free-to-air service which has not been given access to digital spectrum, despite the Government's longstanding and unequivocal commitment that such access would be provided. In a 1998 News Release, Senator Alston, then Minister for Communications, Information Technology and the Arts undertook that 'the community television sector will be guaranteed free access to the spectrum needed to broadcast one standard definition channel.'¹ While encouraged by this commitment, the community television sector is greatly disappointed that, seven years later, the government has not set in place the regulatory framework for digital community television.
- 1.3 The increasing uptake of digital television poses a great threat to the sustainability of the CTV sector for as long as community television is excluded from digital platforms. The business model developed by the sector and enshrined in the *Broadcasting Legislation Amendment Bill (No 2) 2002* (Cth) allows stations to generate revenue through sponsorship and sale-of-airtime. Community television receives no regular government funding. The CTV business model will only remain viable if community television can be accessed by the whole free-to-air television audience. With the exponential uptake of digital television rapidly decreasing the potential community television audience, the ongoing viability of the community television sector is compromised.
- 1.4 The time for digital conversion of community television has arrived. Community television stations are ready and able to make the transition. Australian consumers who purchase digital receivers should no longer lose access to this important and valuable community resource. To

¹ Richard Alston, *Minister Guarantees Support for Community Television*, News Release 131/98, 07/08/98, <http://www.richardalston.dca.gov.au> (accessed 01/02/00).

Level 3, 44-54 Botany Road, Alexandria NSW 2015
Phone (02) 9310 2999 Fax (02) 9319 4545 Email office@cbaa.org.au
Web <http://www.cbaa.org.au>

ABN 92 003 108 030

ensure diversity, localism, innovation and independence in the digital broadcasting environment, there must be immediate carriage of community television.

- 1.5 This submission sets out the government's commitment to the sector's digital transition, the widespread public support for digital community television, the urgency of the need for immediate transition given the exponential uptake and the logistics of the sector's preferred interim measure of a 'must carry' requirement on an existing digital carrier.
- 1.6 The policy positions contained herein have already been put to the Department of Communications, Information Technology and the Arts ('DCITA') in our previous submissions to the various reviews conducted by the Department into digital broadcasting issues. Our initial submission to DCITA's 'Review of the Regulatory Arrangements that Should Apply to the Digital Transmission of Community Television Broadcasting Services Bands and How Access to Spectrum Could be Provided Free of Charge' in 2002 provided a full and detailed technical and policy analysis of the possibilities for digital community television. More recently, we have made further submissions to the 2004-2005 policy reviews conducted by DCITA.²
- 1.7 As we have previously stated, and as will again be outlined in this submission, the CBAA proposes that:
- (a) the government implements its longstanding commitment to providing free spectrum for digital community television;
 - (b) HDTV quotas be abolished to free up digital capacity for multichannelling;
 - (c) a 'must carry' requirement for 24-hour, 7 day-a-week digital transmission of community television be placed on an existing digital carrier, with the costs shared amongst an existing carrier in the form of a tradeable obligation;
 - (d) public funding be provided to cover the incidental costs in the provision of program and associated materials from CTV studio facilities and links for digital transmission;
 - (e) any legislative and regulatory framework for the digital carriage of community television include sufficient provision for digital community television in rural and regional areas;
 - (f) community television continue broadcasting on analog until the switch-off date; and that
 - (g) in the long term, a full 7 MHz channel be assigned for use by community television.

2. About the Community Television Sector

- 2.1 Community television is founded upon and governed by the principles of open access, diversity, localism and independence. It has survived and strengthened over the past decade despite facing an uncertain regulatory future and receiving no regular government funding.

² See the CBAA submissions into the 'Review of the Provision of Commercial Television Broadcasting Services after 31 December 2006' (2004), the 'Review of the Broadcasting Services Bands Spectrum: Identification and Structural Efficiency' (2005) and the 'Review into High Definition Quota Arrangements' (2005).

- 2.2 In an era of increasing concentration of media ownership, community television provides much-needed diversity. Stations are owned and operated by the communities they serve. In the midst of increasing networking and syndication by commercial and national broadcasters, community television provides a platform for locally produced content focussing on local issues. Indeed, there are more local programs on all community television stations than on all the other networks combined.
- 2.3 Community television services are greatly valued by the Australian public. OzTam figures reveal that up to 3.6 Australians tune into community television every week. Moreover, the sector attracts programming from a wide range of community groups, many of whom are excluded from access to mainstream media, including ethnic and indigenous communities, youth communities, gay and lesbian communities and senior communities. Channel 31 Melbourne alone has over 1000 volunteers on its register. Many of those trained in the community television sector go on to receive paid work in the film and television industries.
- 2.4 The growing strength of the community television sector is celebrated every year at the annual Antenna awards, which recognise the innovative and entertaining contributions made by independent CTV producers across the country.
- 2.5 Community television is particularly suited to digital broadcasting. The hallmarks of digital television – with its emphasis on audience participation and interactivity – also form the basis of the audience-producer relationship that underlies community television. The community broadcasting sector has a long and proud history of technical innovation and leadership. The failure of the sector to be given access to digital television spectrum has greatly inhibited its ability to fully realise its potential.
- 2.6 Once on the digital platform, community television stations would be happy to produce regular station announcements encouraging their viewers to make the transition to and experience the benefits of digital broadcasting.

3.The Government’s Commitment to Digital Community Television

- 3.1 As stated above, the government’s commitment to digital community television is longstanding and unequivocal. In a 1998 News Release, Senator Alston, then Minister for Communications, Information Technology and the Arts stated that ‘the community television sector will be guaranteed free access to the spectrum needed to broadcast one standard definition channel.’³
- 3.2 This announcement was welcomed by the community television sector and it was expected that digital transition was imminent. To the sector’s great disappointment, this has not occurred.
- 3.3 Nevertheless, the government has continued to restate its commitment to digital community television. A new Object was inserted into the Broadcasting Services Act 1992 (Cth) (‘BSA’) in late 2000:

to ensure the maintenance and, where possible, the development of diversity, including public, community and indigenous broadcasting in the Australian broadcasting system in the transition to digital broadcasting. (BSA Part 1, 3 (1)(n))

³ Richard Alston, *Minister Guarantees Support for Community Television*, News Release 131/98, 07/08/98, <http://www.richardalston.dca.gov.au> (accessed 01/02/00).

- 3.4 The government has made frequent election commitments that the CTV sector will be provided with access to digital spectrum. In 2001, the Coalition committed to ‘ensure that community broadcasters are provided with access to spectrum for digital. Spectrum for digital community television will be made available free-of-charge.’⁴ In 2004, the Coalition stated:

*The Coalition remains committed to the inclusion of community broadcasters in the digital environment . . . We will also continue to work with the community television sector to develop an appropriate framework for the transition to digital services.*⁵

- 3.5 Previously, the government had suggested that the CTV sector might be carried free of charge by a datacaster. The Australian Broadcasting Authority (ABA) website states as follows:

Community television

The Government will assist the migration of community television to the digital environment by requiring new datacasting players to ensure spectrum access, free of charge, of a standard definition community television service as a condition of their licence.

The Government also recognises the vulnerability of the community television sector and the considerable challenges in funding its own migration to digital transmission.

*The Government will also consider, in light of its other fiscal priorities, whether revenue obtained from allocation of spectrum for commercial datacasting would enable the Government to assist community TV broadcasters in meeting the upfront costs of digital conversion.*⁶

- 3.6 The failure of a viable business model to be found for datacasting, and the resulting uncertainty of the future of datacasting, means that the government’s prior to commitment to providing a ‘must carry’ obligation on a datacaster needs to be revised.⁷ The CBAA submits that the ‘must carry’ obligation should be imposed on an existing digital carrier.

- 3.7 Furthermore, this obligation should be imposed as soon as possible. The 2002 DCITA Report into the Digital Transmission of Community Broadcasting (**‘2002 DCITA Report’**) outlined a number of options for making the transition to digital television. However, DCITA asserted that the CTV sector was not ready to make the transition at that time. It held that:

The issue, therefore, is the basis and timing of the commencement of CTV digital services. The sector’s financial stability must be improved if it is to meet the costs of digital operations. Financial stability could be assisted through the provision of greater regulatory certainty for the sector, and by improved accountability and governance arrangements, which will provide for community access while allowing the sector the freedom to raise revenue.

If financial stability can be improved, the role of CTV in a digital environment will be more easily assessed when decisions affecting the environment are being considered.

⁴ As quoted, ‘A Review of the Regulatory Arrangements that Should Apply to the Digital Transmission of Community Television Broadcasting Services Bands and How Access to Spectrum Could be Provided Free of Charge’ (June 2002).

⁵ Coalition, ‘Election 2004 Policy: Supporting Community Broadcasting’, available at http://www.liberal.org.au/default.cfm?action=plaintext_policy&id=2619 (accessed 11 July 2005)

⁶ ABA, ‘Digital TV - Content on Digital Television’; available at <http://www.aba.gov.au/broadcastserv/digital/tv/content.shtml> (accessed 24 June 2005)

⁷ See DCITA, ‘Report to Parliament: Review of the Operation of Schedule 6 of the Broadcasting Services Act 1992 (Datacasting Services) (December 2002).

Consideration of options for the digital carriage of CTV should also take into account the impact of digital transmission on audiences' access to CTV services. It may be several years before this impact can be accurately gauged in relation to the take-up rate of digital reception equipment.

- 3.8 The technical and regulatory climate has shifted markedly since the time of the 2002 DCITA Report, such that these perceived impediments to digital transition for CTV no longer exist. The two preconditions which the 2002 DCITA Report suggested were necessary for digital transition of community television are now evident: namely stability, accountability and good governance in the CTV sector through the enshrining of permanent licences, as well as a level of digital take-up by consumers which is significantly restricting audiences' access to CTV services.
- 3.9 The permanent licensing of community television (through the passage of the *Broadcasting Legislation Amendment Bill (No 2) 2002* (Cth)) has ensured that there exists considerable stability and certainty which has allowed CTV stations to enter into long-term financial arrangements. Financial support from state governments and philanthropic agencies has been secured. Permanent licensing and the greater certainty this has provided has improved accountability and governance arrangements. The additional licence conditions imposed on CTV stations by the Australian Broadcasting Authority in 2005 has imposed even stricter accountability and reporting requirements on CTV stations.
- 3.10 Furthermore, it can no longer be said that the impact of digital transmission on audiences' access to CTV services cannot be measured. As will be detailed below, the increased take-up of digital sets has significantly reduced CTV's potential audience size. This both reduces the ability of the CTV sector to attract sponsorship and financial support and restricts the access of Australian audiences to this valuable community resource.

4. Increased Digital Take-Up: The Urgency of the Case for a 'Must Carry' Requirement

- 4.1 The time for the community television transition to take place has arrived. Due to the surge in uptake of digital receivers, community television is rapidly losing access to viewers who make the transition to digital broadcasting.
- 4.2 According to Digital Broadcasting Australia (DBA)⁸, 95% of homes have at least one local digital free-to-view service available to them, and around 85% of television households have all their local digital free-to-view channels available to them. As there are 7.6 million Australian television homes this means around 6.4 million are capable of receiving all relevant local digital signals.
- 4.3 DBA provides three relevant ways of measuring current uptake of digital receivers:

Sales of digital receivers to retailers: Based on available consumer electronic industry statistics, DBA has reported sales of 777,000 free-to-view digital television receivers as at 31 March 2005 and estimates that as at 1 May around 820,000 have been sold to retailers. Such sales have been at around 40,000 per month for the last nine months.

⁸ Unless otherwise stated, all figures quoted from Digital Broadcasting Australia, Submission to House of Representatives Standing Committee on Communications, Information Technology and the Arts Digital Television Inquiry (May 2005).

Television home uptake: DBA estimates that as at 1 May 2005, home take-up or penetration, based on sales figures is 720,000 (ie 820,000 receivers sold to retailers but around 100,000 of these held in inventory), or around 11.2% of the homes in areas where all local free-to-view digital television services are available. [By July 2005, this home take-up rate had increased to 820,000, demonstrating rapid exponential growth.]⁹

Converted television sets: DBA estimates that around 5% of the total working analog television set population had been converted to digital as at 1 May 2005.

- 4.4 It is reasonable to assume that the vast majority of consumers who are purchasing set top boxes live in areas capable of receiving analog community television. These consumers can only access community television if they disconnect the set top box and reconnect the old 'RF' antenna – an arduous and complex process which consumers are understandably wary to undertake. Every consumer who purchases a digital receiver in a metropolitan market is an audience member lost to community television.
- 4.5 The increased take-up of digital television is detrimental to the community television sector. Frequent anecdotal evidence from former viewers reveals that the reason that they are no longer watching because they have lost access to Channel 31 after making the transition to a digital receiver.
- 4.6 This phenomenon impacts on the short to long term viability of the community television sector, which receives no regular government funding, by greatly reducing sponsorship and sale-of-airtime revenue potential. When permanent licences for CTV were enshrined in the *Broadcasting Legislation Amendment Bill (No 2) 2002* (Cth), the legislature established a business model which was 'intended to balance the need for ongoing financial viability of the CTV sector with the need to ensure that the sector maintains its community and not-for-profit nature.'¹⁰ To that end, CTV stations were permitted to broadcast 7 minutes of sponsorship per hour¹¹ and allowing up to 8 hours per day of air-time to be sold to profit-making entities¹²
- 4.7 However, this business model is predicated on community television being accessible by the whole free-to-air viewing audience. With 40,000 digital receivers being sold every month, and digital uptake predicted to be 43% by 2008, the potential community television audience is shrinking at a rapid rate. This logically inhibits the sector's ability to generate revenue. Unless a 'must carry' requirement for community television is imposed on digital carriers immediately, this potential decline in viewership could jeopardise the sustainability of the sector.

5. The Logistics of a 'Must Carry' Requirement

- 5.1 The CBAA maintains that the imposition of HDTV quotas has consumed valuable spectrum which could otherwise have been made available for the important and well-recognised services provided community television. HDTV quotas should be abolished in order to create for the preconditions for multichannelling by all existing digital providers.

⁹ Digital Broadcasting Australia, '920,000 free to view digital tv receivers sold to June 2005', <http://www.dba.org.au/newsletter/IB-AugSep05-full.asp#PRODUCT1>

¹⁰ House of Representatives, *Broadcasting Legislation Amendment Bill (No 2) 2002: Explanatory Memorandum* (2002).

¹¹ Item 12 of Schedule 1 of *Broadcasting Legislation Amendment Bill (No 2) 2002*; now s 9(3)(a) of Part 5 of Schedule 2 of BSA.

¹² Items 6 to 8 of Schedule 1 of *Broadcasting Legislation Amendment Bill (No 2) 2002*, now s 87A(2)-(5) of BSA.

5.2 The 2002 DCITA Report stated that:

As other digital providers, such as national and commercial television broadcasters, have access to 7MHz of spectrum, there may be sufficient spectrum to enable the carriage of a single standard definition digital channel in addition to other services. Under this option, CTV services would be provided with access to spectrum via free-to-air broadcasters' or other broadcasters' spectrum. Free-to-air broadcasters or other digital providers would be required to broadcast a minimum amount of CTV services per day, with certain timing restrictions to prevent services only being provided during low-demand times.

- 5.3 As there are no other digital broadcasters other than free-to-air providers, the CBAA submits that a 'must carry' provision should be imposed upon the free-to-air providers in the short term.
- 5.4 Further, it is vital that this 'must carry' provision be for **continuous 24-hour, 7 day a week** carriage, which is instrumental to CTV remaining financially viable in terms of generating and maintaining sponsorship. Whereas in 2002, the DCITA Report noted that no existing CTV service provided continuous service, that situation has changed dramatically. C31 Melbourne and Access 31 Perth now broadcast twenty-four hours a day, Briz31 broadcasts for nearly sixteen hours a day and C31 Adelaide broadcasts for nearly fifteen hours a day.
- 5.5 Some community television stations are ready to begin digital transmission immediately. Channel 31 Melbourne & Victoria has installed new digital presentation studios last year. It currently transmits its signal for Channel 31 and Channel 64 in Melbourne and Geelong to the digital transmission facilities but then has to convert the digital signal to analog format. Most CTV programs are already made digitally, and the rest are converted for broadcast.
- 5.6 With spare digital capacity currently available, we understand that SBS is an ideal candidate for the imposition of a 'must carry' requirement. There are various ways in which the cost of a 'must carry' requirement could be managed. As noted in the 2002 DCITA Report, a form of tradeable obligation could be developed, allowing the broadcaster with most capacity to broadcast CTV services to be paid by the other broadcasters.
- 5.7 Moreover, there are likely to be incidental costs in the provision of program and associated materials from CTV studio facilities for digital transmission; including any extra encoding and multiplex equipment necessary to effect the provision of a full time CTV digital channel at each transmitter. Given the prior commitment that '[t]he Government also recognises the vulnerability of the community television sector and the considerable challenges in funding its own migration to digital transmission', we suggest that public funding should be provided to meet these incidental costs.
- 5.8 Of course, community television broadcasters must be able to continue broadcasting until the analog switch-off date. The BSA requires that community broadcasting services can be received on commonly available equipment and made available free to the general public. The government has mandated a period of analog and digital simulcast in order to ensure that all Australians have access to free-to-air television during the transition to digital broadcasting. Denying those consumers who have not purchased digital sets the ability to receive community television would be acting against the principles of the simulcast decision.
- 5.9 The imposition of a 'must-carry' obligation for community television has been supported by SBS and the Federation of Australian Commercial Television Stations (FACTS) (now FreeTV

Australia) in their respective submissions to the DCITA Review into the Digital Transmission of Community Television.¹³

5.10 A more detailed analysis of the funding, technical and policy logistics of a 'must carry' requirement is contained in the CBAA's submission to the DCITA Review into the Digital Transmission of Community Television.

6. A Full 7MHz Channel for Digital Community Television

6.1 Although its immediate demand is for a 'must-carry' requirement on an existing digital carrier, the CBAA maintains that a full 7MHz channel should be assigned in each market for community television use. We suggest that the analog switch-off date would be an appropriate time for a full 7MHz channel to be made available to community television.

6.2 Community television should not be disadvantaged in relation to the commercial and national broadcasters by being allocated less spectrum than they currently enjoy. Without an equal allocation of spectrum, the sectoral diversity of digital television will be significantly reduced from that of the current analog environment. Moreover, community television would be relegated to a marginal and disadvantaged position within the broadcasting environment. There is no reason to deny community stations the capacity to develop digital television services in their own right using independent spectrum where this is found to be economically viable.

6.3 Community television control of digital spectrum in its own right was supported by the New South Wales government, the Western Australian government and the South Australian Association for Media Education in their respective submissions to the DCITA Review into the Digital Transmission of Community Television.¹⁴

7. Regional digital community television

7.1 As stated above, the CBAA was disappointed by the Minister's decision in 1999 to revoke the use of the sixth channel in areas other than those holding existing licences. As a result, analog community television can only exist where there is an incumbent service or where a licence is allocated on an ad hoc basis.

7.2 The CBAA remains committed to ensuring that community television is rolled out to regional areas. We frequently receive enquiries from community groups in regional areas hoping to produce content for community television who do not have access to a local open access service in their area. This is greatly disadvantageous to rural and regional Australians and severely impedes the diversity of television services to which they have access. Analog community television services should continue to be permitted to apply for licences in those areas where there is available spectrum in the short term.

7.3 International examples show that there is a need for community television in regional areas in order to disseminate local news and events, to provide job skills and to maintain community identity. Australia is possibly the only country where the majority of CTV services are in metropolitan centres.

¹³ 2002 DCITA Report, 6.

¹⁴ 2002 DCITA Report, 7.

7.4 We strongly assert that any legislative and regulatory framework for the digital carriage of community television must include sufficient provision for digital community television in rural and regional areas. Digital television policy must be applicable to all television markets and provide for differences in funding opportunities between regional and metropolitan stations in order to ensure that regional services are not disadvantaged.

8. Conclusion

8.1 Community television is ready to make the transition to digital broadcasting. Now the sector needs the appropriate regulatory framework to make digital community television a reality. This submission has canvassed other possibilities for making the transition to digital. As stated, the CBAA proposes that:

- (a) the government implements its longstanding commitment to providing free spectrum for digital community television;
- (b) HDTV quotas be abolished to free up digital capacity for multichannelling;
- (c) a 'must carry' requirement for 24-hour, 7 day-a-week digital transmission of community television be placed on existing digital carriers, with the costs shared amongst existing carriers in the form of a tradeable obligation;
- (d) public funding be provided to cover the incidental costs in the provision of program and associated materials from CTV studio facilities for digital transmission;
- (e) any legislative and regulatory framework for the digital carriage of community television include sufficient provision for digital community television in rural and regional areas;
- (f) community television continue broadcasting on analog until the switch-off date; and that
- (g) in the long term, a full 7 MHz channel be assigned for use by community television.

8.2 The CBAA calls on the government to fulfil its longstanding commitments to the community television sector. The time has arrived for community television to have the ability to fully participate in the digital broadcasting environment. This way, the increasing numbers of Australians who make the transition to digital television do not lose access to this valuable community resource. Moreover, the long term presence and viability of community television in Australia will be assured.