



**AUSTRALIA**

# Submission by Free TV Australia

**ACMA consultation paper:**

- **Draft Five-year Spectrum Outlook 2023-2028**

May 2023

## Summary

- Free TV Australia welcomes the opportunity to respond to the Australian Communications and Media Authority (**ACMA**) on its Draft Five-year Spectrum Outlook (FYSO) 2023-28.
- Free TV Australia is the peak industry body for Australia's commercial free-to-air (**FTA**) television broadcasters.
- Our members use TV VHF and UHF spectrum to make television freely available to most Australian households. The remainder we serve via satellite Ku band spectrum as part of the VAST satellite TV service.
- Our members also depend on dedicated access to Television Outside Broadcasting (TOB) spectrum to cover events of national significance, provide critical information in times of emergency and bring Australians together to witness moments in history, life changing occasions and times of national success.
- TV broadcasters also use apparatus-licensed spectrum for a range of other activities ancillary to program-making and broadcasting.
- Since 2022, the ACMA has pursued a major program of work designed to inform future policy choices around the use of TV UHF spectrum. More recently, it has also obtained funding for work into TV signal deficiencies in the Hunter region.
- Free TV commends the ACMA's expressed ambition to work with industry in relation to potential future broadcasting planning arrangements. Proper consultation with the TV and other potentially affected industries can only improve the quality of this work.
- Earlier and more effective consultation with the TV industry about research directly relevant to its own areas of expertise should not be seen as a stakeholder management exercise, but as an opportunity to test the questions to be asked, and the methodologies for answering them, on other industry experts, improving the quality of the work. It shouldn't preclude consultation with other interested parties or fetter the ACMA's freedom to reach its own conclusions.
- Free TV has, however, detected a pattern of apparent hesitancy to engage with the TV industry on broadcasting spectrum planning issues that affect it. We have suggested three possible actions that might improve the quality and timeliness of industry consultation:
  - Seeking clearer guidance from government about the ACMA's proper role in relation to the Future of Broadcasting Working Group. The ACMA is currently only an observer of this work, but we see potentially valuable roles for ACMA in this process.
  - Obtaining greater clarity around probity issues. In relation to ACMA work that is likely to go out to tender, adherence to probity around tendering processes should not

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completely preclude prior industry consultation around issues such as the purpose and methodology of research.

- Learning from what already works. In other areas of spectrum regulation, ongoing communication between the TV industry and the ACMA is more effective, and less reticent, than has been our recent experience with broadcasting spectrum planning work.
- Australia faces weighty choices around the future use of TV spectrum. Free TV will be seeking to engage further with the ACMA about how communication might be improved, including anything we can do better from our side.

## 2. Introduction

Free TV Australia is the peak industry body for Australia's commercial free-to-air television broadcasters. We advance the interests of our members in national policy debates, position the industry for the future in technology and innovation and highlight the important contribution commercial free-to-air television makes to Australia's culture and economy.

Free TV proudly represents all of Australia's commercial free-to-air television broadcasters in metropolitan, regional and remote licence areas.



Our members are dedicated to supporting and advancing the important contribution commercial free-to-air television makes to Australia's culture and economy. Australia's commercial free-to-air broadcasters create jobs, provide trusted local news, tell Australian stories, give Australians a voice and nurture Australian talent.

Television broadcasters in Australia are the main users (with radio) of the frequency range 174-230 MHz and (with wireless microphones and other class-licensed devices) of 520-694 MHz. In addition, television broadcasting uses radiofrequency spectrum beyond what is immediately apparent to the public. While the television transmissions to antennas on residential premises are clearly the primary application there are a wide range of other uses such as:

- Terrestrial feeder links for contribution of television program material from other sources
- Terrestrial feeder links as relays from television centres to outlying transmitters
- Wireless cameras used in electronic news gathering
- Sports and special event program content from outdoor venues
- Wireless microphones for sound recording
- Contribution of television program material from overseas sources via satellite
- Satellite distribution of TV via VAST
- Two-way radiocommunications.

Accordingly Free TV takes a direct interest in ACMA work affecting the following additional spectrum bands:

- 2 GHz (1980–2010 MHz and 2170–2200 MHz);
- 2.6 GHz (2500 - 2690MHz)
- 7 GHz (7025 – 7125MHz and 7100-7425 MHz)
- Satellite Ku (11.7 – 12.7GHz)
- 13 GHz (12.75 – 13.25GHz)

## 3. Re-planning of broadcaster UHF spectrum

### 3.1 Better engagement with industry on TV UHF spectrum issues

In its treatment of the 600 MHz band, the draft FYSO identifies engagement with industry as part of its approach to potential future changes to television planning arrangements. We would support this. More effective engagement with industry on TV UHF issues has the potential to improve policy and

planning outcomes, without privileging one industry sector over another or compromising the ACMA's freedom to form its own views.

The Future of Broadcasting Working Group was established 'so that the free-to-air television sector, the government and other stakeholders can work together to address the issues facing the sector, many of which are driven by rapid technology change and the rise of the internet' (Minister Paul Fletcher). The previous Government also funded a \$7.3 million Television Research and Policy Development Program 'to provide the Government and industry with the technical and market information needed to make choices about the future of free-to-air television services in Australia.' The Program commenced in early 2022 and will operate until to mid-2024. Its stated objective was to 'provide both Government and industry with the information needed to make important decisions about the future of television in Australia.'

The ACMA obtained a substantial part of that funding. It has commissioned research into external antenna arrangements and TV receiver performance and expanded the size of its broadcasting engineering team. However, the Research and Policy Development Program has proceeded largely in isolation from the Working Group. The ACMA has attended Working Group meetings as an observer only. To date it has not contributed to the working group process over the past year other than to distribute its completed studies. It appears there is some hesitancy to engage with Free TV, commercial television broadcasters and other relevant stakeholders about TV spectrum planning issues in general.

- A TV industry attempt to engage with the ACMA about the purpose and methodology of the antenna survey work was unsuccessful.
- In December, the ACMA invited tenders for a significant piece of research into the performance of TV receivers in two scenarios relevant to future planning options for UHF TV spectrum. As TV broadcasters and infrastructure providers were concerned this useful study was otherwise unlikely to attract a tender response, Free TV took the unusual step of leading a consortium of Australian TV industry players to respond. In the spirit of collaboration with the Working Group process, Free TV and its subcontractors – of whom ABC, Seven, Nine, Ten, WIN, SCA and BAI are also members of the Working Group – priced their inputs on a cost-recovery basis. As there had been no prior discussion of the purpose or methodology of the work before the tender was published, shortcomings with its design were addressed inside the tender evaluation process via the mechanism of a 'non-compliant' tender offer. After (constructive) engagement with the ACMA's broadcasting engineering team, including significant renegotiation of both the ACMA's and Free TV's initial proposals, Free TV contracted to undertake the work in April. We look forward to the ACMA's positive consideration of sharing the results of the work, which are of vital interest to our industry as well as to government.
- Last October's Federal budget made provision for \$2.5m to establish up to three additional TV transmission sites in the Shortland electorate, with initial technical studies by ACMA into reception difficulties in the region. Previous infill transmitters in the Hunter region were installed and operated by regional commercial TV broadcaster organisation RBA Holdings, and the absence of provision for ongoing funding of the proposed Shortland electorate transmitters suggests the government saw TV broadcasters as the natural operators of these facilities as well. Yet we have learned from the government that the ACMA has already largely completed the technical studies. It appears feedback from the industry directly affected by the budget proposal will only be possible once the work is done – a missed opportunity to take advantage of TV industry experience and expertise in designing the technical studies.

We acknowledge the ACMA's expertise in broadcasting spectrum planning issues. We also respect and acknowledge the need for probity and that ultimate decisions remain the prerogative of the ACMA, but suggest that projects such as the above can only benefit from more timely and effective consultation with the broadcasting industry and other relevant stakeholders. As we wrote in response to the 2022-27 draft FYSO:

TV broadcasters have deep knowledge and extensive practical experience of terrestrial reception arrangements. Government, ACMA and the TV industry have worked constructively together in the past to better quantify and remediate domestic reception problems, notably in

relation to the Hunter region. Depending on the focus of ACMA's current proposed enquiries, TV network engineers will have well-informed views relevant to the methodology and focus of any field survey going forward.

Early consultation with the TV industry about research directly relevant to its own areas of expertise should not be seen as a stakeholder management exercise, but as an opportunity to test the questions to be asked, and the methodologies for answering them, on other industry experts, ensuring a bigger 'bang' for the research buck.

## 3.2 Areas for further work

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We offer three suggestions for more effective and productive engagement with the TV industry on broadcasting spectrum planning issues.

### 3.2.1 Seeking clearer guidance from government

A clearer articulation from government of its role in the Future of Broadcasting Working Group, including the development of any 'technology roadmap' for the TV industry, might provide firmer ground for ACMA to engage more with TV broadcasters. It will be hard to design a 'technology roadmap' for TV without the ACMA's involvement. In addition to its spectrum planning tools and expertise, the ACMA is also qualified to represent the 'empty seat' - that is, any stakeholders that are either unrepresented or which have not yet emerged. Any technology roadmap will need to address the nature and timing of any potential re-farming of TV spectrum, an issue the TV industry can hardly be expected to drive itself.

### 3.2.2 Greater clarity around probity issues

Lack of clarity around what is proper in terms of industry-regulator engagement may at times have hindered effective communication, especially where work is put out to tender. A recent example is the ACMA's decision to go to tender on TV receiver performance without prior consultation with industry. For the reasons already given, Free TV took the unusual step of leading a consortium response to the tender. In a subsequent discussion with ACMA staff, the fact of this tender offer was advanced as retrospective justification for not consulting with industry about the purpose and methodology of a previous tender. If so, then the TV industry's initiative in trying to ensure that valuable work was progressed, has only served to diminish its opportunities to consult with the ACMA about work that affects it.

While the Department has been equally proper in its expenditure of Television Research and Policy Development Program funding, this has not prevented communication between Free TV and departmental staff about the purpose and methodology of some of the research. Departmental staff have engaged constructively with Free TV's representations prior to tendering for work. While departmental staff were properly reticent about their own thinking, they were able to obtain any benefit to be had from our specialist knowledge and insights and we had the opportunity to raise issues we were concerned might otherwise be overlooked.

### 3.2.3 Learning from other areas of work

Examination of other interactions with the ACMA over the past year suggests the Authority's apparent discomfort about engaging with the TV industry is local to issues concerning UHF TV spectrum. Over the past year, Free TV has engaged with the ACMA's spectrum engineering and spectrum pricing teams over a range of issues other than TV UHF spectrum. These include:

- Technical liaison groups reviewing the technical conditions of spectrum licences;
- Broadcasting and Television Outside Broadcasting (TOB) spectrum pricing issues
- Issues of co-existence and sharing between TOB and space applications of 2 GHz spectrum

- A review of TOB in 7.2 GHz spectrum
- Development of Australian international positions at WRC-23 and APG.

In its dealings in relation to these matters, the ACMA's staff have been professional and helpful. There are considerable benefits to both sides in a functioning relationship between the regulator and the industry regulated. While the ACMA has available to it analytical tools and skills that industry sectors are not able to replicate, there are sometimes significant gaps in its detailed understanding of the ways industries use spectrum. We invite ACMA to consider whether there are lessons here for the conduct of its TV UHF work.

### 3.3 Conclusion

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We commend the ACMA's ambition to work with industry in its approach to potential future changes to television planning arrangements. As part of our follow-up to the draft FYSO, we will be seeking to meet with the ACMA to discuss how communication might be made more effective. It should go without saying that if there is anything we can do better from our side, we would be happy to discuss.