31 January 2025

The Hon Stephen Jones MP
Assistant Treasurer and Minister for Financial Services
c/o The Treasury

By email: prebudgetsubmissions@treasury.gov.au; Stephen.Jones.MP@aph.gov.au

Dear Assistant Treasurer

2025–26 Pre-Budget submission – Permanent Removal of Commercial Broadcast Tax

Free TV Australia (**Free TV**) welcomes the opportunity to provide a 2025–26 Pre-Budget submission.

The key focus of this submission is permanent abolition of the Commercial Broadcasting Tax (**CBT**), which costs the local commercial television industry an estimated $50.3 million a year. It is an unnecessary burden on the sustainability of a sector that already spends $1.67 billion a year on Australian content for the benefit of all Australians. It materially affects profitability of local commercial broadcasters, which is relevant to industry sustainability.[1]

Free TV greatly appreciated the Government's recognition of the burden of the CBT when it announced in December's Mid-Year Economic and Fiscal Outlook (**MYEFO**) 2024–25 that it would suspend the CBT for one year from 9 June 2025. As noted by the Government, this was an important step to support media sector sustainability and contribute to the provision of news for all Australians.[2] We look forward to this commitment being confirmed by legislative instrument as soon as possible.

This decision built on your important announcement earlier in December of a detailed consultation to commence a process to enact the News Bargaining Incentive (**Incentive**) to ensure global digital platforms, which will be subject to the Incentive, will support Australian journalism that delivers significant value to their platforms. That announcement appropriately recognised that digital platforms should be fairly contributing to Australian journalism given the benefits they receive from operating in Australia, and we look forward to working closely with Government on implementation of the Incentive.

Both your announcement of the Incentive, and Minister Rowland's announcement in December 2024 of the News Media Assistance Program (**News MAP**) to support local news, reflected a welcome commitment by Government to the sustainability of a local media industry. It is very important to sustain Australian journalism which plays an essential role in supporting the health of Australia's democracy by providing accountable news and information audiences can trust.

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[1] For example, Seven West Media recently publicly reported a profit margin of 3.2% for 2023–24, down from 9.8% in 2022 –23. Net income was $45.3 million. Seven West Media pays in excess of $12 million per annum for the CBT, representing more than 25% of net profits. Other examples of the impact of current market conditions include that Nine Entertainment reported a 32% decline in television earnings in 2023–24; Mildura residents recently lost their terrestrial Network Ten signal because it was no longer economic for the regional joint venture provider to sustain it; and, in August 2024, Southern Cross Austereo (**SCA**) reported TV revenue of $97.5 million, down from $106.7 million in 2022–23 and EBITDA of $13.3m, down from $18.7m in 2022–23. In 2018–19, SCA reported TV revenue of $206.5 million and EBITDA of $33.7 million.

[2] Mid-year Economic and Fiscal Outlook 2024–25, pages 29 and 287 – available at https://budget.gov.au/content/myefo/index.htm.

For the reasons set out below—and noting impending wagering advertising restrictions that are expected to take tens of millions of dollars of revenue out of the sector each year—it is now time to permanently remove the significant handbrake on the commercial television industry that the CBT has become.

Whether it be wagering advertising restrictions, or other existing or potential regulation—such as additional regulated accessibility requirements—it is extremely important that Government recognises real and material regulatory costs, and the value of public goods that commercial television broadcasters provide, when considering industry tax settings.

This submission also deals with the important issue of the sustainability of regional broadcasting, and in particular the need for support for high (and CPI-escalating) costs of maintaining regional and remote transmission infrastructure.

Regional commercial television broadcasters should be eligible for funding both under the News MAP, and in relation to transmission arrangements—to ensure ongoing equitable access to important local television services for Australians who live outside major cities. This is particularly important given purely regional broadcasters do not operate online services like their metropolitan counterparts and will therefore not benefit directly from the Incentive.

Further detail is set out at **Attachment A**. Free TV would be pleased to provide more information about that matters set out in this submission.

Yours sincerely

Bridget Fair
Chief Executive Officer

CC
The Hon Michelle Rowland MP
Minister for Communications

Attachment A

Abolition of the Commercial Broadcasting Tax

The CBT is a disguised super profits tax

The CBT is a disguised super profits tax being applied to a sector that is not earning super profits and is under increased advertising competition from digital platforms. These digital platforms do not bear the same regulatory costs as commercial television broadcasters—especially in relation to ensuring journalism is accurate, fair and impartial; and, complying with the onerous advertising restrictions that apply to broadcasters. This is important because advertising is the only source of revenue licensed commercial broadcasters are permitted by law to access. The sector is also under other significant cost pressures, including high transmission costs to ensure free services continue to be available to all Australians no matter where they live, or how much they earn.

The CBT, which is levied on transmitter licences associated with commercial broadcasting licences, was introduced in 2017 as part of regulatory reforms aimed at improving the financial health of Australia's free-to-air broadcasters.[3] While it was positioned as an 'interim' measure for up to five years, its continued existence has created an undue financial burden on the sector.

Until 2017 the fee for a broadcasting licence was calculated as a percentage of the broadcaster's advertising revenue. It was in effect a 'super profits tax', payable regardless of profitability. This fee was abolished in 2017 in recognition of the fact that broadcasting was no longer an oligopoly attracting abnormal profitability.

Broadcasters hold apparatus licences that allow them to transmit their signals at particular frequencies. Until 2017 they paid a nominal administrative fee. When the new CBT was introduced in 2017, it was constructed to ensure broadcasters paid an arbitrary amount of around $40 million per annum to Government, applied 'per transmitter'.

Although the CBT has from time to time been referred to as a spectrum tax, it has nothing to do with spectrum value. This is clear from the fact that metropolitan broadcasters largely use VHF spectrum which has no value at auction. It remains a 'super profits tax'.

Although the tax was intended to fall more heavily on metropolitan rather than regional television licensees, the larger number of transmitters required in regional areas means the tax unavoidably falls more heavily on regional broadcasters. This was acknowledged by Government with the introduction via MYEFO 2023–24 of a Regional Transitional Support payment, which adjusted payments for regional broadcasters. However, this initiative did not achieve its aim as the transitional payment did not increase over time, while the base CBT continued to do so. In addition, regional broadcasters did not recoup as part of this process the inflation-adjusted CBT payments they had made up to 2024.

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[3] The Commercial Broadcasting (Tax) Bill 2017 was described at the time of introduction as a Bill to introduce an interim tax on transmitter licences that are associated with commercial broadcasting licences—see https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5908. It was introduced with the Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017, which reformed certain ownership and control rules applying to commercial broadcasters.

Without further relief, regional broadcasters will progressively be in a worse position over coming years, and ultimately worse off than when the CBT was introduced.

International best practice

A number of international jurisdictions have recently materially adjusted their broadcasting licence fee arrangements noting the public goods that broadcasters provide, regulatory expenses they incur, and the significant changes to operating conditions with the rise and market power of major digital platforms.

A leading example is the United Kingdom (**UK**), where commercial broadcasting licences were recently reviewed and financial terms determined in March 2024.

The regulator, Ofcom, applies a combination of a percentage of the licensee's qualifying revenue (**PQR**) and an annual cash bid that increases by inflation every year. The intention is to replicate the market price the licence would attract. The financial terms are determined by reference to the amount that, in the regulator's opinion, the current licence holder would have to bid to win the licence in a competitive tender.

The value of the licence to a hypothetical new entrant would be based on the costs and benefits that arise as a direct consequence of holding the licence, such as the additional cost of programming and closed captioning (applied under regulation to programming to support accessibility for deaf and hearing-impaired viewers) or the value of regulatory supports such as anti-siphoning (relating to the acquisition of sports rights).

The valuation takes into account market uncertainties affecting the amount a new entrant would be willing to bid. This could include future trends in linear television viewing and television advertising revenue, as well as future benefits such as prominence regulation (regulation to ensure local media services are easy to find on connected televisions).

Ofcom's determination earlier this year was that a hypothetical new entrant would not be prepared to make financial payments as well as incur costs associated with public service broadcasting (**PSB**), and other licence obligations, in return for the benefits directly associated with the licences.[4] As a result, they set the financial terms for Channel 3 and Channel 5 licences as a nominal cash bid amount of **1000 pounds** and a **0% PQR**. The radiocommunications licences held by UK broadcasters are issued for an administrative fee.[5]

In making this determination, Ofcom said Channel 3 and Channel 5, which are commercial broadcasters, are an important part of the PSB system. They and playing a unique role alongside government-funded broadcasters in ensuring that the system has something for everyone.

[4] Note that in the UK the term 'public service broadcasting' (**PSB**) applies to both commercially and publicly funded broadcasting services that deliver certain public goods. Australia's licensed commercial television broadcasters are akin to PSBs in the UK. In the UK a relevant consideration is the fulfilment of the purposes of PSB at a commercially sustainable cost.

[5] For more detail see https://www.ofcom.org.uk/tv-radio-and-on-demand/public-service-broadcasting/channel-3-and-channel-5-relicensing/#:~:text=On%201%20March%202024%20we,increases%20by%20inflation%20each%20year.

Ofcom said:

> *We have determined the financial terms for each Channel 3 and Channel 5 licence, taking account of submissions from the current licensees representing their views of what valuation a new entrant would place on each licence under our methodology.*
>
> *Our conclusion is that a hypothetical new entrant would not be prepared to make financial payments as well as incur costs associated with PSB [public service broadcasting] programming and other licence obligations in return for the benefits directly associated with the licences. Our view is that, from the perspective of a hypothetical new entrant, any reasonable estimate of the value of potential benefits from prominence on connected TVs [a scheme to make local television services easy to find and access on regulated connected devices] would not change this conclusion.*
>
> *As a result, we consider that the current licence holders could retain their licences in a hypothetical auction for a nominal cash bid.*[6]

Way forward

The evolution of the commercial broadcast licence payment scheme in the UK shows that Australia has now fallen significantly behind best practice.

Like in the UK, Australia's commercial broadcasters provide public goods (free, universally available services), and carry material regulatory burdens (such as significant mandated Australian content transmission quotas and closed captioning costs). And yet Australian commercial broadcasters, notwithstanding deterioration in their financial performance and market capitalisation, pay tens of millions of dollars more than their UK counterparts in broadcasting tax in absolute terms, so disproportionately more again on a per capita basis.

Permanent removal of the CBT is now essential to ensure a fair and level playing field, especially given digital platforms, which do not face the same tax or regulatory obligations, compete with and sell advertising against commercial broadcasters.

Temporary relief should not be seen as a substitute for permanent removal given broadcasters could redirect these payments to creating the Australian content they are regulated to provide, and towards maintaining broadcast infrastructure, to ensure free television remains available to all Australians.

As the Government moves forward with its recently-announced review of broadcast spectrum bands, it must repeal this tax burden, which is no longer justifiable, given the changing competitive landscape and public policy benefits of a sustainable local television sector.

[6] See detail at https://www.ofcom.org.uk/tv-radio-and-on-demand/public-service-broadcasting/determination-of-financial-terms/.

Supporting regional commercial television broadcasting

Supporting news and current affairs

The Government's December 2024 *News Media Assistance Program—Government's role in news and journalism* paper recognised the challenges facing regional media. It said that:

> *[t]he Government recognises the need for direct funding to support the sustainability and capacity of Australian news organisations, and will work to ensure this is well-targeted'.*[7]

The paper noted that Government has already provided direct funding to support the sustainability of eligible regional news publishers, among others.

At the same time, the Government announced a package of measures to preserve the provision of local news, and support innovation and resilience for news organisations, including $99.1 million over three years from 2025–26 in grants for the news sector. Regional and remote commercial broadcasters should be eligible for this and other direct funding to support news and current affairs, noting that this is a significant cost to their businesses.[8] Free TV's members look forward to engaging with Government about this funding.

Supporting regional and remote television transmission

With audiences moving online, declining per capita advertising revenue from terrestrial television, plus fixed or rising transmission costs, holistic support for regional and remote broadcasting is required. The drop-off in regional advertising revenue is severe and regional network affiliates (purely regional broadcasters) do not have access to offsetting revenue from online services (because, unlike their metropolitan counterparts, they do not operate broadcast video on demand, or BVOD, services).

Mobile telecommunications 'blackspot' funding sees direct government assistance to support the extension of services beyond the boundary of commercial viability, especially in regional and remote areas, and similar approaches are needed to safeguard the current near-universal coverage of free-to-air television.

In particular, Government support for important capital refreshes of commercial television transmitters throughout Remote Australia (and Regional Western Australia), and at TV 'black spot' sites operated by RBA-H members in Regional Eastern Australia, is required to preserve access to free, trusted television services for hundreds of thousands of viewers. The alternative will be closure of many of these sites where the contribution to advertising revenue does not justify the cost of capital refreshment of transmission equipment.

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[7] *Government's role in news and journalism*, page 15 – available at https://www.infrastructure.gov.au/sites/default/files/documents/news-media-assistance-program-governments-role-in-news-and-journalism-december2024.pdf.
[8] In FY23, regional broadcasters spent $35 million on Australian content, $5+ million more than FY22, all on news and current affairs. For more detail see the ACMA's *Australia: Spending on commercial TV programs* report, FY23 – available at https://www.acma.gov.au/commercial-tv-program-expenditure.

Free TV and its members are working constructively with Government to establish an agreed understanding of the current state of transmission infrastructure to support consideration of these matters.