

Advocacy Report

April 2016

ASTRA ACTIVITY

- **Media reform** – On 2 March 2016, the Government introduced the Broadcasting Legislation Amendment (Media Reform) Bill 2016 into the Senate, to implement reforms to media ownership laws. The Bill was immediately referred to the Senate Environment and Communications Committee for inquiry and report by 12 May 2015. ASTRA made a submission to the inquiry which drew attention to the need for broader, principles-based reform. ASTRA representatives appeared before a hearing of the Committee on 31 March. ASTRA's submission is available [here](#). A second hearing was held on 29 April 2016.

The Prime Minister's announcement that a double dissolution election will likely be called for 2 July, means it is all but impossible that the Bill will be considered by this Parliament. Under Parliamentary rules, the Prime Minister must call a double dissolution election by 11 May. Parliament is not able to consider the Bill until the Committee has reported. The date for reporting is 12 May, one day after the likely dissolution of Parliament. Once Parliament is dissolved, all Bills lapse.

If the Government is returned at the election, it is open to them to reintroduce the Bill immediately, depending on their legislative priorities.

In related developments, free-to-air broadcasters have stepped up pressure for licence fee cuts, pushing for a decision in the upcoming Budget. Some reports indicated the networks were planning an aggressive public campaign, however this has not eventuated.

Coverage is available [here](#) and [here](#).

Captioning – ASTRA continues to explore stakeholder support for its legislative reform proposals on captioning, conducting a briefing for key advocacy group the Australian Communications Consumer Action Network. A briefing has also been offered to the Australian Foundation of Disability Organisations, who have been active in captioning debates in the past.

This is in addition to earlier consultations with Media Access Australia, Deafness Forum and Deaf Australia. ASTRA has also been active in Canberra on these issues.

In terms of next steps, ASTRA will continue to build stakeholder consensus and refine the proposals, with the objective being that the proposals get picked up by the government for legislation following the election.

For details of ASTRA's proposals, see the [February Advocacy Report](#). The ASTRA submission is available [here](#).

- **Spectrum** – On 9 March 2016 the Minister released a consultation paper outlining proposals for reform of spectrum management rules. The reforms are aligned with those previously put forward and which ASTRA supports. The reforms would greatly simplify the system for regulating spectrum, would wind back the role of the Minister and would facilitate greater efficiency in spectrum use.

However, the paper also includes proposals relating to broadcasting spectrum which would continue the 'special deal' mentality for free-to-air broadcasters. Under the proposals, free-to-air broadcasters would benefit from additional certainty of access to spectrum, as well as the ability to share, trade or lease spectrum.

It is not clear from the paper what the interaction is between these proposals and the Digital Television Review (containing proposals on how free-to-air use spectrum) and the ongoing review of spectrum pricing and free-to-air licence fees.

ASTRA is preparing a submission which highlights these and other concerns.

The consultation paper is available [here](#). The ASTRA submission is due 6 May 2016.

- **Copyright** – No further developments have been reported regarding the court action launched by Foxtel and Village Roadshow to block pirating websites in Australia, with parties continuing to negotiate on how best to implement a block. For further background, see the [March Advocacy Report](#).

Coverage is available [here](#).

There are no further updates on the draft Code of Practice for a Copyright Notice Scheme since the last Advocacy Report.

The report of the Productivity Commission's inquiry into Australia's intellectual property arrangements is expected to be released shortly.

On 25 April, [Forbes reported](#) on the results of a study into online piracy, commissioned by Creative Content Australia. The study showed that Australians' access to legal online content sources exceeded use of pirate sites for the first time. This is largely considered to be due to the rising popularity of subscription video on demand services Netflix, Stan and Presto.

Australian content – In local content developments overseas, the Canadian government has launched a review on how to "strengthen the creation, discovery and export of Canadian content in a digital world." Canada's local content requirements were reduced under the previous Conservative government and this review aims to assess how Canadian content can survive the large scale changes in the media environment brought on by disruptive online services.

ASTRA will monitor the review and assess any issues which have resonance in the Australian context.

Codes of Practice – ASTRA has been conducting multiple training sessions addressing the subscription television Codes of Practice, with over 70 attendees to date from across the ASTRA membership. Additional sessions are planned for May. Please contact ASTRA for further information.

On Friday 15 April, Commercial Radio Australia (CRA) announced it has commenced a review of its Codes of Practice. Similar to the approach taken by Free TV, CRA have released a Code which is a complete re-write, rather than simply seeking incremental changes to the drafting of the existing Code. ASTRA will monitor the progress of CRA's review in light of the requirement that ASTRA commence a review of its Codes by the end of the year.

All of ASTRA's publicly available submissions are on the [ASTRA website](#).

NEWS

ACMA Investigation – 7.30 (ABC1)

On 18 March 2016, the ACMA dismissed a complaint alleging that a segment on the launch of a renewable energy utility company contained inaccuracies and lacked impartiality.

The complaint was that statements that the company was selling power “off grid and on the cheap” falsely implied the product was cheap. The complaint also alleged that the statement “Australia's first 100 per cent renewable energy utility company” was untrue, with at least 3 other companies offering the same product.

The ACMA considered that some of the statements were predictions, rather than statements of fact, and therefore excluded from accuracy requirements.

The ACMA also found that the statements regarding the company being the only one of its type were accurate, as the other companies mentioned by the complainant were slightly different in nature.

Further information is available [here](#).

ACMA Investigation – *Balls of Steel Australia* (Go!)

On 8 April 2016, the ACMA dismissed a complaint that the program *Balls of Steel Australia* was in breach of the provisions prohibiting program matter which provokes dislike, contempt or ridicule on the grounds of sexual preference.

The program included which involved the presenter auditioning several men for a new television show that, unbeknownst to the men, was a fictional gay reality television show. The audition process included the men describing the physical attributes that they prefer in a partner, simulating sex with a footrest (pouf), modelling ‘sponsor’s’ clothing, dancing with a blow up male doll and kissing a man.

The ACMA found that there was no explicit or implied condemnation of gay people or homosexuality. While it did include some content that some viewers may have considered to be in poor taste, such as sexual innuendo and play on words, there was nothing in the segment that appealed to viewers to treat gay people with dislike, contempt or ridicule based on their sexual preference.

Further information is available [here](#).

Advertising Standards Bureau findings – ASTRA receives updates from the Advertising Standards Bureau (ASB) when it issues final case reports where complaints about an advertisement have been considered. The ASB issued three reports since the last Advocacy Report.

The ASB dismissed a complaint regarding an advertisement for a cruise package. The complaint was that the depiction of a couple dressed as a horse and equestrian rider was

unacceptable in the time slot shown (the implication being the couple were engaged in fetishist role play). The ASB noted that while the couple is engaging in a form of role play, and that there is some mild sexual innuendo, the couple in the advertisement is not shown to engage in any explicit sexual behaviour. The ASB found that it treated sex and sexuality with sensitivity to the relevant audience of the program in which the ad appeared.

The ASB also dismissed a complaint regarding an advertisement for maltesers. The advertisement features two couples watching television. The men have fallen asleep and the women place the men in an embrace on the lounge. One man kisses the other man without either of them waking. The complaints were that the ad was homophobic for deriving humour from intimacy between two men. The ASB noted the advertisement is a humorous and depicted a light-hearted practical joke. The Board considered that the joke was not a derogatory sentiment toward homosexual men and did not depict material which discriminates against or vilifies a person on account of sexual preference.

The ASB also dismissed a complaint regarding an advertisement for Ultratune, which depicts two women calling on Ultratune's roadside assistance service to rescue them when their car falls from a cliff edge. The complaints were that the ad depicts women as stupid, ditzy and in need of saving by men. Complaints were also that the ad relies on stereotypical images of women as bad drivers and wearing skimpy clothes (unnecessary sexualisation of women). The Board considered that the clothes worn by the women were not inappropriate for women who were going out. The Board also found the emphasis was not on the women's appearance but on the rescue and whilst their appearance may be considered sexy to some viewers or exaggerated to others, this is not of itself vilifying or discriminatory.

Copies of ASB Case Reports are available to ASTRA members on request.

DISCUSSION PAPERS/REQUESTS FOR COMMENT

As noted earlier in this Report, the Department of Communications and the Arts is currently consulting on proposals for reform of spectrum management rules.