

Advocacy Report

October 2016

ASTRA ACTIVITY

- **Media reform** – The Senate Committee considering the reintroduced media reform Bill conducted hearings on 24 October and called witnesses from free-to-air metropolitan and regional broadcasters. ASTRA was not called to appear, but did provide a submission to the inquiry. A copy of the ASTRA submission is available [here](#).

Questioning of witnesses related to the financial state of the industry, regional local content production, licence fees and broader reform questions.

The inquiry is due to report 7 November, leaving time for the Bill to be debated further in the November and December Parliamentary sittings (depending on Government priorities).

On licence fees, a Bill has been introduced to make permanent the 25% cut to FTA licence fees that the Government announced in the 2016 Budget. FTAs have expressed their dissatisfaction with the extent of this cut and are stridently demanding licence fees be abolished. Coverage [here](#). The Bill's progress through Parliament was delayed by other Government priorities, however there is pressure to pass the Bill in 2016 so that radio broadcasters can avoid paying another year's licence fees without the 25% reduction.

The Government's public line on these issues has been to note that a review of spectrum pricing is ongoing, however the Government will be facing sustained pressure from the FTAs on this issue. ASTRA continues to advocate for the importance of market based pricing of spectrum and offsetting reform.

- **Gambling advertising** – The reporting date for the Senate Inquiry into Senator Xenophon's gambling advertising Bill (see previous Advocacy Updates for details of the Bill) has been pushed back from October to 6 December.

ASTRA, together with representatives from Fox Sports and Foxtel attended a consultation concerning the implementation of the findings of the Illegal Offshore Wagering Review. One of the recommendations of the review related to standards for the advertising of legal gambling services. The Department of Social Services (which is conducting the review) asked for feedback from broadcasters on which aspects of existing state and federal regulatory schemes should be included in any new, harmonised framework. Submissions are due 4 November.

- **Captioning** – ASTRA continues to explore stakeholder support for its legislative reform proposals on captioning, conducting further briefings with Media Access Australia. We understand the Department has briefed the Minister on ASTRA's proposed changes

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

- **Copyright** – There is yet to be a decision in the Foxtel site-blocking proceedings. Detailed coverage of the dispute is available [here](#). The final report of the Productivity Commission’s inquiry into Australia’s intellectual property arrangements has been provided to Government. The Government has 25 sitting days in which to publicly release the report, which could mean the report is released before the end of sittings for 2016.

There have been no further developments on the Government’s Bill to extend ‘safe harbour’ provisions. Due to a divergence of views within ASTRA, members have been conducting their own advocacy on this issue.

- **Codes of Practice** – ASTRA will be briefing the Legal and Policy Committee on proposed changes to the Codes in early November, with proposals going to the Board in late November. With the Board’s consent, ASTRA would then proceed to drafting a proposed Code, based on the recommendations approved by the Board.
- **Proposed changes to the AANA Code of Ethics** – The AANA Board has approved a change to its Codes of Ethics to require advertising material to be distinguishable as such to the relevant audience. The AANA has shared a draft practice note and guidance note relating to its proposed Code change to address distinguishable advertising. ASTRA is consulting with members on the materials but retains concerns about the necessity and uncertain impact of the proposed Code change.
- **Spectrum** – The ACMA has announced that the remaining unsold parts of the Digital Dividend spectrum will go to auction. The 30 MHz of unsold 700 MHz spectrum will go to auction early next year. The band is valued for LTE 4G mobile services. The ACMA is consulting on draft allocation instruments, which describe the product being offered and the rules and procedures that will govern the auction process. Further information is available [here](#). Vodafone, TPG, Optus, and Telstra are reported as having expressed interest in bidding for the spectrum. Coverage available [here](#).
- All of ASTRA’s publicly available submissions are on the [ASTRA website](#).

NEWS

ACMA Investigations

On 28 September, the ACMA found no breach of the ABC’s Code of Practice in relation to the program Q&A. The ACMA received a complaint alleging the presenter interjected, contradicted and undermined Pauline Hanson’s answers throughout the program. The ACMA investigated for a possible breach of the ABC’s impartiality standards. The ACMA noted in its findings that on contentious matters of political debate, viewers expect presenters to be questioning and at times sceptical in their engagement with guests. Further, that it is possible, indeed useful, for an interviewer or presenter to adopt a strong contrarian stance without this necessarily amounting to a lack of impartiality. The ACMA found that Ms Hanson was given the opportunity to convey her views on key matters of contention. The ABC also noted that the ABC’s statistics indicate that Ms Hanson’s contribution amounted to 36% of discussion time. When she was interrupted by the audience and other panel members, the host motioned with his hand and body language to give her an opportunity to articulate her views and complete her response. In light of these factors, the ACMA was satisfied that the program demonstrated a balance that followed the weight of evidence, fair

treatment, open mindedness and an opportunity for principal relevant perspectives on matters of contention to be expressed.

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 in September.

The ASB dismissed a complaint regarding a commercial for toiletries. The advertisement features a woman washing her hair in a pool in the jungle. A group of tribesmen are featured nearby and one tribesman provides the narration, speaking of the virtues of the product. The complaints were that the woman was washing out hair products in a pristine rainforest environment and that the depiction of the tribesmen was racist. The Board found that the depiction on the tribesmen was not negative or demeaning and that there was a humorous undertone to the ad.

The ASB also dismissed a complaint regarding a travel services website. The ad features a family putting together a holiday by using a tablet to swipe the family into various holiday-related locations and scenarios. The complaint was that the ad depicted the mother as being in charge in a way that made it seem the father's interests don't count. The Board noted the family are presented as a solid family unit throughout the advertisement and considered that there is no suggestion that the dad is thought any less of because he is not the person doing the research and booking for the holiday. The Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender.

The ASB also dismissed a complaint regarding an ad for a bank-sponsored junior football competition. The ad depicts a series of children playing AFL. They are dressed to look like well-known adult AFL players and are shown displaying the signature moves of these players. The complaint was that the ad depicted some of the children with tattoos (which reflect the tattoos of the adult players the children were representing). The Board noted that the tattoos were made using make-up and that it would be clear to most reasonable members of the community that this was the case.

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

DISCUSSION PAPERS/REQUESTS FOR COMMENT

The ACMA has released the 2016 update to its *Five Year Spectrum Outlook*. The Outlook identifies key areas of expected demand in spectrum usage and sets out the ACMA workplan on these issues. ASTRA is considering a response. The paper is available [here](#).

The ACMA has also released a discussion paper regarding spectrum for 5G mobile services. The paper looks at spectrum bands adjacent to the C-Band and as such, ASTRA is considering a response. The paper is available [here](#).