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Convergence and Australian Content: The Importance of Access

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In the light of the variety of new and complex challenges to media policy and regulation, the Australian government commissioned the Convergence Review in late 2010 to assess the continuing applicability and utility of the principles and objectives that have shaped the policy framework to this point. This was an enormous task, and the committee members - chair Glen Boreham, Malcolm Long and Louise McElvogue - must be commended for their efforts to come to terms with the evolving digital media landscape and the implications for the formation and execution of media policy. The Convergence Review Final Report was released at the end of April 2012 (Convergence Review 2012). It proposed a range of options for policy change, including the creation of a new media regulator, amendments to ownership and control rules, and changing the basis of content regulation from a focus on media platforms in particular local broadcasting licence areas, to a focus on large 'content service enterprises' that by virtue of their revenue and audience reach across (potentially) a range of media platforms have 'significant influence' on public opinion and debate. In the context of a broadly deregulatory thrust, the Review identified three enduring priorities for continued media regulation: media ownership and control; content standards; and Australian content production and distribution.

Fourteen of the Final Report's thirty recommendations relate directly to the regulation of Australian and local content on screen and radio, with several of the sixteen remaining recommendations also having potential effects in these areas. While many of these recommendations relate to ensuring and supporting the *production* of professional content, the other critical component of existing Australian and local content regulation – ensuring that content is *accessible*, which depends on guarantees or incentives for *distribution* – is less prominent (Goldsmith and Thomas 2012). Whereas the Review's recommendations as they stand appear to be more directly concerned with supporting the production industry, measures to support distribution and access are fundamental to the cultural policy objectives of the legislation.

This short paper is not principally a critique of the Review and its Final Report. Rather our intention is to highlight an area where we feel there are opportunities for further discussion and research. We will focus on the question of how the accessibility and visibility of Australian and local content may be assured in the future media policy framework via a combination of regulation and incentives to encourage innovation in content distribution. We will propose additional recommendations for further policy development and research in this area.

The Convergence Review and Access to Australian and Local Content

During the course of the Convergence Review, the committee released a number of documents that indicated their thinking and approach to certain issues, and provided a framework for each of the three rounds of submissions. The Framing Paper, released in April 2011, contained a list

of eight normative principles or “considerations that will assist the committee in developing robust recommendations for government, consistent with the Terms of Reference” (Convergence Review 2011a: 12). Of these eight principles, two related directly to the availability and accessibility of Australian and local content: ‘Australians should have access to Australian content that reflects and contributes to the development of national and cultural identity’; and ‘Australians should have access to news and information of relevance to their local community’. In July, the committee released an Emerging Issues Paper, which amended and extended the original list to ten principles. The ‘access to Australian content’ principle remained unchanged. The ‘access to local content’ principle was amended to read: ‘Australians should have access to news and information of relevance to their local community, including locally generated content’. And importantly, a new principle was added: ‘Local and Australian content should be sourced from a dynamic domestic production industry’ (Convergence Review 2011b: 9).

The Final Report makes a number of recommendations that directly relate to the regulation of Australian and local content. Chief amongst these is the proposal to repeal the quotas on free-to-air television operators and the minimum expenditure obligations on subscription television channels, and to replace them with a ‘uniform content scheme’. Under the new scheme, eligible ‘content service enterprises’ would be required either to invest a percentage of total revenue from professional television-like content in the production of Australian drama, documentary or children’s content, or to contribute to a new converged content production fund. The reasoning behind this approach is consistent with the Review’s desire to propose policy options that exhibit both ‘regulatory parity’ (that is, like services will be regulated in similar ways) and ‘competitive neutrality’ (that is, regulation should not unduly advantage one enterprise or sector at the expense of another).

The Review acknowledges that it may take some time to fully implement this scheme, and so in the interim, the Final Report proposes a set of transitional arrangements. Under these arrangements, the advertising and transmission quotas for commercial free-to-air television will be retained, along with the minimum expenditure requirement on subscription drama channels. In addition, the subquotas for drama, documentary and children’s content will be increased, new Australian content shown on free-to-air digital multichannels will count towards the overall quotas, and a new minimum expenditure requirement on children’s and documentary subscription channels will be introduced. The Report also recommends imposing Australian content quotas on the main ABC and SBS television channels.

While these transitional measures extend the current quota system, the Report envisages their eventual removal and replacement with the ‘uniform content scheme’. This scheme builds on the subscription television expenditure levy, applying it to all content service enterprises of a certain scale and reach. One of the reasons for moving towards repeal of the quota system, is that such a system would not meet the imperative to balance the commitment to maintain Australian content regulation in some form with the need to treat all providers and services equally. As many submissions to the Review observed, it will be extremely difficult to impose a quota-like system on on-demand online streaming or download services.

While it is possible to accept all of these points in principle, the question of the length of the so-called transition period and a policy rationale for bringing it to an end are unanswered. Additionally, the argument for replacing content regulation – the purpose of which is to guarantee distribution and exhibition of content – with production support, significantly undermines the capacity of the regulations to achieve several of the Review’s key objectives:

- ‘Australians should have access to and opportunities for participation in a diverse mix of services, voices, views and information’;
- ‘Australians should have access to Australian content that reflects and contributes to the development of national and cultural identity’;
- ‘Australians should have access to the broadest possible range of content across platforms, services and devices’.

These aspirations all concern the visibility and accessibility of content. They reflect longstanding cultural policy objectives, which centre on the importance of Australian audiences seeing (or having the option to see) Australian material. Clearly they cannot do so unless that material is made; but that is only half of the problem.

The end of the proposed transitional period will see the removal of the quota system’s inherent guarantees that both set volumes of particular types of Australian content and a broad overall level and variety of Australian content that must be widely available to Australian audiences. That is to say, the current quota system was carefully designed in part to ensure that the cultural objective of *access to Australian content* was met. As discussed above, in its formulation of principles to guide its work, the Review appeared to recognise and endorse the importance of this objective. Obviously, in the online space, new methods and mechanisms are needed to achieve this objective, and we will discuss some of these prospects below. But quotas have proven to be remarkably effective mechanisms to ensure the availability of Australian content in linear, real-time, curated streaming services such as broadcast television.

It is possible, even likely, under the transitional regulations that some broadcast media enterprises may continue to be required to meet time- and schedule-based Australian content quotas, while others fall below the threshold and would no longer be regulated in this way. It is also possible that new or emergent ‘broadcast-like’ real-time streaming internet protocol television (IPTV) and ‘over the top’ services delivered via broadband or mobile internet could grow and surpass the revenue and reach thresholds designed for existing broadcasters.¹ Should they do so, they would then, presumably, become subject to the content quota system. While the Final Report does not consider such a prospect, it is not inconceivable, and it could in theory mean that content quotas will remain an important part of the media policy environment for some time to come.

If and when broadcast-like, real-time, curated streaming services fall below the thresholds, thus triggering the removal of the quotas, how might the *accessibility* (rather than only the production) of Australian content be assured? And how will it be possible to make it easy for viewers and users to find Australian content in online and on-demand services? Debate over how to ensure the visibility of culturally-valued content in digital distribution systems has proceeded for many years. Particular attention has been paid to the positioning of material within electronic program guides, and the question of whether certain proportions of local content should be maintained. One mechanism that is currently deployed in Canada for pay-per-view and video on demand licensees requires aggregators or service providers to ensure prescribed levels of certain content in their inventories.² Some submissions to the Review contemplated similar rules; although they appear to be designed more for certain kinds of managed, subscription-based services, than for free-to-view offerings. Any proposal of this sort would have to be introduced with care so as not to unduly inhibit smaller players or start-ups, with minimum requirements imposed subject to thresholds of revenue and subscription or use being reached.

Encouraging Innovation in Content Distribution

Simply requiring aggregators' inventories to include a minimum level of Australian content would not in itself, however, ensure that Australian content is easily findable. This may be another area where technology is developing considerably more rapidly than the policy debate. In the last decade new web technologies have emerged to manage the flood of online information more effectively, and tools for linking structured data have the potential to make finding and accessing Australian audiovisual content much easier, both on the open internet and in managed services. Aggregators above a certain size threshold should be encouraged to make 'Australian content' as searchable as possible.

Media convergence and digitisation have dramatically expanded access to the means of content production and distribution. The production costs of many forms of content have fallen, and the opportunities for sharing this content have grown. The formerly clear lines between amateur and professional content producers and distributors have blurred. And yet in its Final Report the committee expressly confined its most significant recommendations around Australian content to those forms that traditionally have been the beneficiaries of media policy and regulation: long-form drama, documentary, and children's programs. While the Report does include recommendations that may have the effect of stimulating innovative interactive content and services, in our view more could have been done to recognise that a much broader variety of forms of content, including 'pro-am' or quasi-professional content, can contribute to the development of national and local identity. While we have made it clear in the earlier part of this article that we strongly support current content regulations that preference long-form drama, documentary, and children's programs, it is equally clear that the Review's objective to support innovation needs greater attention. How can the proliferating variety of kinds of Australian and local content be supported, while also addressing the issues identified in the first part of this article, *viz* the need to secure *accessibility* as well as *production capacity*?

Policy measures to promote newer forms of content would be consistent with the cultural objectives that have underpinned long-standing government commitments to support Australian content production and innovation. Such measures would also be consistent with the Principles outlined in the Emerging Issues paper around accessibility (listed above) and with the Principle that : 'The communications and media market should be innovative and competitive, while balancing outcomes in the interest of the Australian public'.

Any measures adopted would not necessarily be inimical to the objective of fostering competition in the communication and media market; indeed incentives or other policy measures could be structured in ways that promoted both innovation and competition.

'Newer forms of content' may not only emerge from the professional production industry. Models of 'co-created content' involving professional media producers working with non-professionals such as ABC Open, or the digital storytelling initiatives in the community arts and community broadcasting sectors suggest that innovation may be as likely to come from beyond the professional industry. The report *Culture Boom: How Digital Media are Invigorating Australia*, by Boston Consulting Group for Google points to some of the ways in which amateur and pro-am content creation is blooming, with broad community benefits (Belza et al 2012; see also Flynn 2012).

In our submissions to the Convergence Review (CCI 2011a, b, c), we recommended the establishment of an Australian Content Innovation Fund, which would focus on innovations in

distribution – that is, on measures to increase the accessibility and findability of Australian content. While the Review recommended the establishment of a new Converged Content Production Fund, as its name suggests this fund would be limited to providing support for the production of a wide variety of types of Australian content. We contend that while support for production is important and necessary, without complementary support for distribution and marketing, the important objectives of ensuring the accessibility of Australian content, and also of encouraging innovation, cannot be fully realised. Our proposal for an Australian Content Innovation Fund is intended to provide incentives to aggregators, distributors and software developers to develop new applications or services that will enhance access to and finding of Australian and local content by Australian users and audiences.

Recommendations for further policy development and research

There are several ways in which large-scale Australian-based content aggregators (including CSEs) could be encouraged to make local content as visible and accessible as possible.

- As long as there are broadcast media (real-time, curated, streaming services) operating in Australia that reach substantial audiences, positive content regulation that is time and schedule-based is likely to continue to be an important mechanism for achieving the Government's cultural policy objectives. Further research would be useful to examine the prospects of such services, both in Australia and overseas; and a robust definition of the relevant audience thresholds would provide greater clarity as to the duration of the transition clear limits to the proposed transition period.
- Beyond broadcasting, grants under the Converged Content Production Fund could be reserved for applicants who can guarantee distribution and marketing of Australian and local content.
- Aggregators and distributors could also apply for funding to assist in licensing, profiling, and curating Australian content. Support could be available at the local level for services or enterprises with the capacity to ensure that local content is not only produced, but also made accessible.
- Support could also be provided for relevant technical and business-related research and development, for new tools such as navigation devices, linked and structured datasets, and for innovative services that enable Australian and local content to be more readily found and accessed.

References

Belza, Jan, Patrick Forth, James Purnell, and Paul Zwillenberg (2012) *Culture Boom: How Digital Media are Invigorating Australia*, Boston Consulting Group report for Google, March. <http://www.bcg.com/documents/file101187.pdf>, accessed 12 July 2012.

CCI (2011a) Submission to the Convergence Review by the ARC Centre of Excellence for Creative Industries and Innovation, June. http://www.dbcde.gov.au/submissions/20110610_16.48.06/86-ARC%20Centre%20for%20Excellence%20for%20Creative%20Industries%20and%20Innovation.rtf accessed 12 July 2012.

CCI (2011b) Supplementary Submission to the Convergence Review by the ARC Centre of Excellence for Creative Industries and Innovation, August.
http://www.dbcde.gov.au/data/assets/pdf_file/0004/143374/ARC_Centre_of_Excellence_for_Creative_Industries_and_Innovation_-_Supplementary_submission.pdf accessed 12 July 2012.

CCI (2011c) Third Submission to the Convergence Review by the ARC Centre of Excellence for Creative Industries and Innovation, October.
http://www.dbcde.gov.au/data/assets/pdf_file/0003/143355/CCI.pdf accessed 12 July 2012.

Convergence Review (2011a) *Framing Paper*, Canberra: DBCDE.
http://www.dbcde.gov.au/data/assets/pdf_file/0019/133903/Convergence_Review_Framing_Paper.pdf accessed 12 July 2012.

Convergence Review (2011b) *Emerging Issues Paper*, Canberra: DBCDE.
http://www.dbcde.gov.au/data/assets/pdf_file/0020/137270/Convergence_Review_Emerging_Issues_paper_PDF_707_KB.pdf accessed 12 July 2012.

Convergence Review (2012) *Final Report*, Canberra: DBCDE.
http://www.dbcde.gov.au/data/assets/pdf_file/0007/147733/Convergence_Review_Final_Report.pdf accessed 11 July 2012.

Flynn, Iarla (2012) 'The Convergence Review and Media Policy – The Missed Opportunities' *Telecommunications Journal of Australia* vol 62 no 3, pp. 47.1-47.9. Available from <http://tja.org.au>.

Goldsmith, Ben and Julian Thomas (2012) 'The Convergence Review and the Future of Australian Content Regulation' *Telecommunications Journal of Australia*, vol 62 no 3, pp. 44.1-44.12. Available from <http://tja.org.au>.

¹ IPTV services are managed by broadband suppliers and delivered typically using a closed network and often bundled with other services such as Internet access to subscribers at rates determined by the supplier. 'Over the top' or OTT services are available on the open internet, and not managed or controlled by broadband suppliers.

² See Canadian Radio-television and Telecommunications Commission Public Notice 2000-172 "Introductory statement to Decisions CRTC 2000-733 to 2000-738: Licensing of new video-on-demand and pay-per-view services", <http://www.crtc.gc.ca/eng/archive/2000/PB2000-172.htm>, accessed 11 July 2012.