



Australian Government

Department of Communications

Mr Jason McNamara
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
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BARTON ACT 2600

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Dear Mr McNamara

Regulation Impact Statement – final assessment second pass

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for the Special Broadcasting Service (SBS) Advertising Flexibility proposal. The regulatory burden to business, community organisations and/or individuals has been quantified and offsets have been identified and quantified using the Regulatory Burden Measurement framework. These have been agreed with your office.

I am satisfied that the RIS addresses the concerns raised in your letter of 18 March 2015. Specifically, the RIS has been updated to clarify the objectives of the proposal, consultation material and the conclusion.

The RIS now clarifies the purpose of the proposal is to allow SBS to increase its overall level of advertising revenue while also reducing its dependence on government funding.

The consultation section has also been updated with further detail regarding the differences between the SBS and Anomaly forecasts for revenue growth. Unlike the commercial broadcasters, SBS is a public broadcaster with specific Charter responsibilities to fulfil, and is subject to different advertising restrictions. SBS considers that using actual historical data specific to its organisation is a better indicator for future growth, rather than a forecast which applies to the free-to-air television industry as a whole, including broadcasters that are not subject to the same restrictions and earn over ten times the advertising revenue of SBS.

Further detail on the use of programme promotions has also been incorporated into the RIS. Programme promotions include material that publicises programmes to be broadcast on the SBS or other SBS products or services. The Free TV Australia and Save Our SBS submissions noted that promotions are not included in SBS's advertising minutes while programme promotions over

10 seconds are included in the hourly advertising limits in the Commercial Television Code of Practice, which applies to the commercial broadcasters. On these grounds, they argue SBS could provide a similar level of advertising and programme promotions to the commercial broadcasters.

However, SBS states in its submission that this assessment does not take into consideration other forms of promotional material that is not counted in the hourly advertising limits under the Commercial Television Code of Practice. SBS argues that when these additional promotions are included, programme breaks on the commercial broadcasters can often be in excess of the current limit of 13 to 16 minutes per hour.

The conclusion to the RIS has also been updated to reflect that the second option is recommended as it is the option with the highest likely net benefit.

Accordingly, I am satisfied that the RIS now meets best practice consistent with the *Australian Government Guide to Regulation*.

I submit the RIS to the Office of Best Practice Regulation for formal final assessment.

Yours sincerely



Nerida O'Loughlin
Deputy Secretary
Department of Communications

19 March 2015