



ACMAsphere

Australia's regulator for broadcasting, the internet,
 radiocommunications and telecommunications

www.acma.gov.au

Issue 15 – December 2006

Breaking down the barriers

EXTRACT FROM ACMA CHAIRMAN CHRIS CHAPMAN'S OPENING ADDRESS TO THE INFORMATION COMMUNICATIONS ENTERTAINMENT CONFERENCE, CANBERRA, 23 NOVEMBER 2006

When I came to this role in late February, with 17 years' experience in telecommunications, internet, broadcasting and regulatory affairs, I thought I was 'across' the media and communications sector in this country. But nothing had prepared me for the scope, diversity and complexity of the work I've encountered these last eight months at ACMA.

We have our man in Quoin Ridge, Tasmania, who operates the only high-frequency monitoring station in the southern hemisphere. He is responsible for investigating the causes of high frequency interference across one third of the globe.

In Western Australia, ACMA is establishing a protection zone for submarine telecommunications cables. These cables carry around 99 per cent of the country's international voice and data traffic, worth more than \$5 billion a year to the economy: they are truly national infrastructure lifelines. The protection zone also happens to be where the local rock-lobster fishing community haul their daily catch. Our staff are consulting with the fishing community and learning the fine art of distinguishing between pelagic fishing (that's 'mid-upper water') and demersal fishing (that's fishing on the seabed, for example, using pots and traps), and finding out the differences between Danish seining and purse seining, and what a squid jig is.

Back on dry land, we have a team that makes it possible for mining sites in Tom Price, Marandoo, Koolyanobbing and other places 'back of beyond' to get access to radio and TV services. We conduct the planning and grant the licences to enable the retransmission of these services to

what can be described as 'remote areas', but which are areas of massive economic importance.

High above the Earth, satellites relaying vital telecommunications information are another of ACMA's responsibilities. You've heard of satellite TV services, but even phone calls and internet data are routed through space. A team at ACMA is responsible for coordinating the use of satellite services by industry and defence, and for ensuring that there are no interference issues between Australia's satellites and those of other nations.

ACMA is responsible for managing spectrum and frequency issues at major sporting events. At the Melbourne Grand Prix this year, we were also asked to make frequencies available to the Formula One teams so they could monitor the tyre pressure, suspension setting, braking systems, wheel spin, engine performance, fuel consumption and chassis flex points of the cars as they raced around the track.

From Formula One to the family Ford. People driving Fords in certain shopping areas recently were finding that the door locks were mysteriously opening and shutting. The ACMA-busters were called in to investigate. We discovered that some pharmacies were using a new retail check-out



device, imported especially to read pharmaceutical bar codes, and that they just happened to be on the same frequency as Ford's door locks.

ACMA's presence—some of which has a public profile, most of which does not—is felt across the length and breadth of Australia, in the cities, in the country, in the remotest regions, even at the bottom of the ocean and above the Earth's atmosphere. Our work affects the lives of Australians in a multitude of situations, from helping out with the mundane and domestic, to ensuring that some of the biggest corporate deals in Australian history comply with statutory requirements.

From this kaleidoscope of Australia-wide activity, I want to focus on a few key activities we're engaged in

over the next year or so—activities which neatly illustrate the dynamics at work in meeting the many new challenges of this constantly evolving sector. ACMA will need, more than ever, to be smarter, more proactive and better able to read the commercial environment and risk-manage accordingly. At the same time, we must remain firmly committed to our principles and to the long-term view.

The government's media reforms are widely seen as the most wide-ranging changes to media legislation and policy in 15 years. ACMA has been given a central role by the government in overseeing many aspects of what promises to be a new era.

WE WANT TO HEAR FROM YOU

We welcome your comments on *ACMAsphere*.

Send your comments to:
Manager Communications
and Publishing

email: candinfo@acma.gov.au
fax: (03) 9963 6899
mail: PO Box 13112 Law Courts
Melbourne Vic 8010

ISSN 1832-8784

© Commonwealth of Australia 2006

Australian Communications and
Media Authority

ACMAsphere: 11 issues a year.

ACMAsphere is also on the
ACMA website, www.acma.gov.au
(go to ACMA > Publications >
Authority > Newsletters), where you
can subscribe to receive an email alert
each time a new issue is released.

To subscribe to *ACMAsphere*, or if you
have difficulty downloading any of the
documents referred to in this issue of
ACMAsphere, please contact ACMA:

telephone: 03 9963 6968 or
1800 226 667, email:
candinfo@acma.gov.au.

For editorial enquiries or permission
to reproduce articles, contact:
Manager Communications
and Publishing
Australian Communications and
Media Authority
PO Box 13112 Law Courts
Melbourne Vic 8010

ICE Conference

- 1** Breaking down the barriers
- 3** Ready, get set, go: a digital action plan for Australia
- 6** Anything, anywhere, anytime?
- 9** The converged business model
- 10** Moving to centre stage
- 12** Digital privacy
- 13** Digital future
- 14** Competition and media reform
- 16** Media literacy
- 16** Challenges for regulatory philosophies and models
- 17** The home entertainment hub

News

- 18** Commercial television code for reality programming to be reviewed
- 18** Availability of communications services in Australia improves
- 19** ACMA releases its first major communications industry report
- 19** ACMA to review local content obligations for regional radio
- 20** New approach to consulting communications consumers
- 20** Children's and preschool programs
- 21** Federal Court decision a warning to spammers
- 21** Fight against zombies extended
- 22** New plans for analog and digital TV in regional Victoria and southern NSW released
- 23** Do Not Call Register brochure released
- 23** 3CCC Bendigo community radio licence expires
- 23** Temporary community broadcasting licences
- 24** Licences for high-powered open narrowcasting services offered
- 25** New rules to enable higher rate broadband services
- 26** ENUM Day discusses the possibilities
- 26** Trial certificate issued for SP AusNet in Mt Beauty
- 27** Research shows rapid uptake in free-to-air digital TV
- 28** 3OCR community broadcasting licence renewed
- 28** Inaugural spectrum management conference looks forward

Matters for comment

- 29** Optional services on directory assistance number 12 23 proposed

Investigations

- 30** *Blue Heelers* promotion on STQ 7 exceeded G classification
- 30** Promotion for *The Supernatural* exceeded PG classification
- 30** *How to be a property developer* breached codes
- 31** 2UE's compliance with commercial radio standards being investigated
- 31** Internet complaints October–November 2006

Ready, get set, go digital – a digital action plan for Australia

EXTRACT FROM SPEECH BY MINISTER FOR COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS, SENATOR HELEN COONAN, TO THE INFORMATION COMMUNICATIONS ENTERTAINMENT CONFERENCE, 23 NOVEMBER 2006, CANBERRA

It has been an exciting year for ACMA. As an agency, you are at the centre of some major developments in the communications landscape, the most recent of which is the Australian Government's comprehensive reforms to the media industry. It is an interesting time to be in the world of communications as convergence reshapes our perception of industry structures and blurs the lines between what we used to think of as the distinct industries of telecommunications and media.

Industry, regulators and consumers are now involved in a complex relationship characterised by the capricious forces of market demand, constant innovation and almost unlimited choice. It is this passion for new services and improved technology that is driving the international switch to digital. Digital television is more efficient, more interactive, offers better picture and sound quality and delivers innovative new services to consumers. Across the globe, governments are considering how best to make the digital switch. For our part, the government wants to work towards a digital Australia for the many benefits it brings not only to consumers but to the broader economy—the so-called 'digital dividend'.

The switch to digital is a key element of a package of broader reforms to the Australian media landscape passed by parliament earlier this year. Australian consumers will see the emergence of a range of new digital-only services to help make the digital experience more attractive. Not only will brand new digital channels emerge but the free-to-air broadcasters—including the ABC and SBS—will be able to boost their range of services with additional digital multi-channels.

Digital is about more than just improved picture and sound quality and new channels, as the switch to digital will also deliver a significant

digital dividend to all Australians. It will bring to an end the costly simulcast period and free up valuable spectrum for better and more efficient use. In short, the digital dividend provides opportunities for even more new services and a return to taxpayers. Over the next few years, Australians will hear more and more about digital—its benefits, the new channels that will be on offer and information about Australia's transition to digital switchover, which will commence in 2010–12. The government will work closely with the broadcasting industry to ensure the transition to digital switchover is as smooth as possible and keep consumers informed every step of the way.

Digital transmissions in mainland state capital cities commenced on 1 January 2001 and have now begun in all regional television licence areas. Around 85 per cent of the Australian population has access to digital services from all their local free-to-air broadcasters. Approximately 96 per cent of the population has access to at least one free-to-air digital service and the rollout of transmitters to new areas in country Australia is continuing.

It is estimated that, at the end of September 2006, household take-up of free-to-air digital television had reached 1.8 million homes, or around 23 per cent of the Australian population. ACMA research shows take-up digital television has more



than doubled since 2005, with these estimates showing 29 per cent of Australian households had adopted free-to-air digital. Combined with digital subscription television, this figure rises to around 41 per cent of Australian households having some form of digital television. The range of digital receiver equipment is increasing, with more than 180 models currently available. At the same time, basic set-top box prices are continuing to fall. A basic set-top box now costs around \$90. And the government is investing around \$1 billion in the digital conversion of the ABC and SBS, and \$250 million to help regional commercial broadcasters convert to digital.

However, achieving digital switchover is not as simple as giving everyone a digital set-top box and calling time on the analog signal. The rollout of digital transmission needs to be completed, consumers need to be made aware of the benefits of

digital so take-up increases, technical and transmission matters need to be addressed and we need to be responsive to the many issues likely to arise along the way. That is why the government has prepared the Digital Action Plan—Ready, Get Set, Go Digital—to ensure that industry, broadcasters, manufacturers, retailers, technicians and consumer groups are working with government to make the transition to digital a smooth one. This is the biggest change to television since it went colour and while it does not mean that every Australian will have to buy a new TV, it will require informed choices and action on behalf of every Australian household with a TV. We must achieve digital switchover in a managed, responsible and practical way.

Relying on market forces alone to drive digital take-up clearly has not been enough. So, as part of the media reform package, there were

Continued page 5

BREAKING DOWN THE BARRIERS – CHAIRMAN'S ADDRESS (CONTINUED)

Here's a sample of what lies ahead for ACMA, and it will give you some idea of the scale of the undertaking:

- We need to set up a register of controlled media groups expeditiously, and are looking to do this by early next year. The register is central to managing the new ownership and control arrangements, with our timing and preparatory work recognising the commercial realities already at work in the market.
- We have been directed by the Minister to undertake a legislated review of the local content arrangements for radio and to report back by June 2007.
- ACMA's role in monitoring the free-to-air television industry's use of their sporting rights (which we were given in September 2005 in relation to anti-siphoning) has been expanded, in large part to take account of new 'use-it-or-lose-it' provisions.
- During 2007, ACMA will conduct an allocation process for two currently unassigned digital television channels, previously identified for narrowcasting services. The possibilities for their use have subsequently been broadened to include, for example, the potential for the 'B' channel to be used for mobile television.
- Partly because of this allocation process, ACMA has been asked to

existing planning and standards responsibilities. We expect that ACMA will have a significant role as the digital action plan continues to develop, and that this work will underpin many other aspects of our media-related activities.

That's not a complete list, but you'll agree, I think, that it's a large and ambitious work program. Pursuing it vigorously is critical to Australia's communications future and is integral to many aspects of the objective intended by the new legislation—a transformation of our digital media landscape. Here are some of the more significant media-related projects that we need to progress next year:

- a review of the commercial TV industry standards as they relate to reality television, following community concerns over the *Big Brother* series last year, which the Minister directed ACMA to report on by 1 April 2007—we are undertaking research and will be conducting surveys soon
 - a review of the Children's Television Standards, to be completed by the end of 2007
 - development of options for broadening digital radio and
 - assessment of a large number of community broadcasting licences.
- We have other projects that are just as large and critical to our constituency. The quintessential

The Do Not Call register project has brought into our orbit many new stakeholders and it is highlighting the growing significance of privacy-related concerns in the evolving communications landscape.

One last project I will mention is ACMA's wireless access review. Last February, we released a major spectrum planning discussion paper and held a seminar that was intended to scope the dimension of the spectrum management task raised by new wireless broadband access technologies. I hope to release a further discussion paper with some specific proposals before our inaugural spectrum management conference on 11 and 12 December in Sydney. This Radcoms Conference, to be held annually, is a new way of bringing together spectrum users, current and prospective, to meet with each other and with ACMA to share ideas on how Australia's radiofrequency spectrum should be planned as we move forward.

We have also announced that, in conjunction with Communications Alliance, we will hold an annual consumer conference. These are examples of the way ACMA is looking to re-invigorate its whole approach to stakeholder communications and consultation—to be both inclusive and pragmatic.

Of course, all this work is in addition to ACMA continuing to do its 'day job' of being efficient and effective, as well as aspiring to become a world class regulator.

Transforming ourselves into a world class regulator is a major task in itself. As we all know, one of the key reasons the government created ACMA was because it realised Australia needed a genuinely converged communications regulator to address a rapidly converging environment. One of my tasks as CEO is to shape ACMA into that fully converged organisation. It is a journey that one takes in small steps, but I mention it today because the benefits of its outcomes will be an increasingly important feature of

your future dealings with ACMA, and a task to which we will continue to devote attention and resources.

One concrete manifestation of this was the tabling in Parliament of the first ACMA Communications Report. This new report is a landmark for us in a number of ways. Its origins lie in a statutory requirement under the Telecommunications Act to report on a range of telecommunications industry developments. But ACMA has chosen to expand this into a broader and very interesting, informative and authoritative source of data and insight about where the communications industries as a whole are going. The report will evolve over the coming years, to give everyone a real sense of how the sector is changing and how ACMA itself is continuing to develop. It is our hope, our expectation, that by the time you're flicking through the pages of the 2010 Communications Report, you'll find that Australia's comms and media sector is at the forefront internationally, and that ACMA has truly come of age as a world class converged regulator.

For ACMA, this conference is a fantastic informal opportunity to listen and learn from you—our industry stakeholders, consumer groups, government policy makers, and fellow regulators—and to facilitate, collaborate. By putting on this conference, we want to lead the way in offering an intellectual and social environment for breaking down walls and bringing people together, to encourage dialogue and the lively exchange of ideas. By providing such opportunities for interaction and by nurturing collaboration, we aim to encourage the diverse range of interests and groups across the sector to understand each other and to continually review their ideas and activities within this dramatically changing, incredibly challenging communications environment.

The full text of Mr Chapman's speech is on the ACMA website at www.acma.gov.au (go to ACMA > Speeches).

'For ACMA, this conference is a fantastic informal opportunity to listen and learn from you ...'

develop some guidelines on how it will determine what an open narrowcasting service is.

- At the ACMA conference last year, the Minister announced that the government would be working towards a digital action plan to accelerate Australia's transition from analogue to digital television. The new legislation has given ACMA powers to supplement its

example is the new Do Not Call register, to be operational by no later than May next year. If experiences in the US and UK are anything to go by, we could have millions of people wanting to register their phone numbers within the first few weeks of operation. ACMA has been given a significant budget for the project and we are currently in a tender process for an operator to run the register.



READY, GET SET, GO DIGITAL – MINISTER'S ADDRESS (CONTINUED)

significant opportunities for the emergence of new digital services for Australian consumers to accelerate take-up. The government will allocate two new TV licences next year—one could enable new in-home digital services delivered over your ordinary television and the other could be used for more innovative new services that may include mobile TV.

The government has also lifted the genre restrictions on national broadcaster multi-channels. From 1 January 2007, the commercial free-to-air broadcasters will be permitted to show content on one high-definition multi-channel and they can add to that with a standard definition multi-channel from 1 January 2009. And at switchover or before, we will revisit the issue of the lifting the remaining restrictions on multi-channelling ... Over the next few years there is the likely opportunity that Australian consumers will have access to up to eight new in-home channels, up to 30 new channels on mobile TV and up to five digital multi-channels and even more from 2009. Access to these new services will assist greatly in encouraging Australians to take up digital television.

Digital switchover was originally scheduled to occur in Adelaide, Brisbane, Melbourne, Perth and Sydney on 31 December 2008 and in regional areas on either 31 March 2011 or 31 December 2011. But with a comprehensive plan for the transition to switchover and new services to entice Australian consumers to make the switch, we can have a realistic and achievable target of 2010–12, which will be a valuable incentive for broadcasters to complete digital rollout and for viewers to make the transition. The simultaneous transmission of analog and digital signals, while essential for a smooth transition to digital television, is expensive and is an inefficient use of spectrum, which could be reassigned for other services such as wireless broadband, mobile TV and digital radio.

As part of the Digital Action Plan, ACMA will be asked to report to me as soon as possible with an analysis of the technical and other factors that may influence a timetable for switchover in Australia. The government will then announce a firm timetable for digital switchover as soon as practicable next year, including consideration of whether the switchover should be done region by region, or nationally.

To coordinate our transition to digital and to implement the Digital Action Plan, a dedicated switchover body—Digital Australia—will be established at a cost of more than \$17 million over four years. Digital Australia will be based in Sydney and set up as soon as possible as a dedicated body under the auspices of my department. It will educate Australians about the benefits of digital television to help drive take-up and inform consumers about the need to convert to digital transmission as switchover approaches, identifying sections of the community that may have special needs and co-ordinate efforts to meet those needs. ACMA's current roles in regulating industry, administering digital conversion schemes and spectrum management and other technical matters will continue. Importantly, ACMA will focus on assessing digital signal coverage and will begin working on the availability and possible use of spectrum following switchover.

The success of the Digital Action Plan will also rely on close collaboration with and cooperation within the industry. The government will appoint an industry representative group to advise the government and Digital Australia in its work. We will set up the industry group as soon as possible ... I expect to make announcements about the make-up of the industry group and the senior management of Digital Australia early next year.

Many consumers may need access to detailed information about the rollout of digital services, aerial and

cabling issues, interference issues and where to go for technical support. It is therefore vital that comprehensive and extensive education campaigns for digital television be developed to increase consumer confidence and help drive digital take-up. The development of these campaigns will be a task for industry and Digital Australia.

They will be complemented by a consistent and easily-understood system of digital receiver labelling. The switch to digital does not make your analog television obsolete, but to receive television in the future [consumers] will need to buy a set-top box or a television with an in-built digital tuner. Mandatory labelling at point of sale will help consumers making their next

'Access to these services will assist in encouraging Australians to take up digital television'.

television or home entertainment purchase. ... The government's media reform legislation gives ACMA the power to oversee the development of industry codes of practice. This will enable the creation of a labelling scheme which would be a code of practice registered with ACMA. The government has previously committed to working with industry to set up a digital testing centre, to ensure that appropriate testing of digital signals and receivers takes place and consumers feel assured that their digital equipment will function effectively during its normal lifetime.

The government will provide ACMA with \$5.6 million to conduct research and monitoring tasks that will contribute to a faster and smoother transition to digital television services. ACMA will also undertake research to better understand technical impediments to digital television take-up and to investigate other issues such as improved measurement of digital

signal coverage and the performance of digital receivers. And at the end of the simulcast period, ACMA will commence work on issues associated with the return of analog spectrum.

The government has committed to working with the community television sector as it makes the transition to digital. The sector is being encouraged to explore options for a simulcast arrangement with a digital platform operator. However, should no opportunity for a simulcast arrangement materialise, prior to digital switchover, the government will consider the allocation of the Channel 31 analog channel for digital

services, with a requirement that digital community television services must be carried on that spectrum. Analog community television services would then cease and community television broadcasters would operate in digital mode.

Broadcasters, manufacturers, retailers, antennae technicians, government and television viewers all have a stake in digital conversion. The Digital Action Plan provides the framework for a managed transition and achievable timetable to digital switchover, and for the coordination and participation of all stakeholders. I can assure all Australians that no-one will be left behind as we all take part in the exciting evolution of television.

The full text of Senator Coonan's speech is on the Department of Communications, Information Technology and the Arts website at www.minister.dcita.gov.au/media#sp.

Anything, anywhere, anytime?

This annual conference started as an engineering forum more than a decade ago, under the auspices of the Australian Broadcasting Authority. During that time, the focus slowly shifted to broadcasting issues. The conference's scope was broadened this year to span telecommunications, broadcasting, radiocommunications and online content. This recognises the changing nature of the communications environment and the broader responsibilities of the new regulator.

The 2006 conference theme—Information Communications Entertainment (ICE)—highlighted that, in a digital age, information, communications and entertainment are all manifestations of the same thing: data, the essence of convergence.

ACMA staged this conference to bring people together—they converged on Canberra for two days of discussion, learning and social engagements. And what a group it was—close to 450 delegates representing industry and consumer groups, government (both Australian and overseas) and educational institutions. As Chris Chapman said in his opening address, ACMA aimed to '... encourage the diverse range of interests and groups across the sector to understand each other and to continually review their ideas and activities within this dramatically changing, incredibly challenging communications environment.'

What a difference a year makes. Last year, 13 per cent of Australian households had adopted digital TV and the problem of digital migration seemed so insurmountable that it received little focus beyond the reporting of the latest survey. This year's numbers were more heartening—now 29 per cent have adopted digital. Last year, the talk of utopian digital media convergence was breathless and apocryphal—convergence had arrived and 'watch

out old media'. This year, as Chris Chapman emphasised, was the year that convergence had (finally) arrived, and the assertion was more convincing, even something of a fait accompli.

The policy issues were immediately chiselled in sharp and uncompromising relief by Communications Minister Senator Helen Coonan when she released the 'Digital Action Plan – Ready, Get Set, Go Digital', which highlights the need for new approaches to accelerate digital adoption in Australia. The minister also announced the setting up of a new body, called Digital Australia, to accelerate the transition.

Senator Coonan emphasised that the digital dividend, in the form of freed spectrum for new services, was important because mobile services provide a critical competitive spur in Australia's highly concentrated telecommunications industry. And as new mobile platforms and standards mature, the appetite of consumers for mobile, spectrum-hungry services seems ready to enter a new phase beyond voice and SMS communications.

But are consumers really ready? The first session, 'The Converged Business Model', was introduced by ACMA Deputy Chair Lyn Maddock and moderated by Derek Francis (UBS Investment Bank). It included presentations from representatives of the ABC (Mark Scott), ninemsn



(Mark Britt), Sensis (Chris Smith) and Macquarie Radio Network (Angela Clarke). If anything, this session showed that converged business models are emerging—each of these organisations is attempting to find new ways to strengthen customer relationships in sophisticated ways suggesting that the web and mobile platforms are tools of the old media brands, rather than a threat to them.

Next up, Richard Feasey gave an overview of the world from the perspective of a global mobile carrier facing maturing markets. Vodafone is targeting 10 per cent of revenues to come from 'non-core' services such as mobile TV, advertiser supported services and by extracting revenue from landline in the next three to four years. Feasey's message for regulators was that issues around phone numbers represent thorny conceptual and practical problems in the next few years as mobile devices switch between standard mobile networks, WiFi hotspots, VoIP

services and home-based, short-range mobile systems. When we dial a number that starts with '04' in Australia, we expect certain things in terms of cost, intrusiveness and access. For landline numbers we have different expectations. Exactly what kind of phone am I using when I'm sitting in my backyard connecting direct to a home pico-cell that is plugged into my broadband modem running over ADSL? More importantly, how should this service be charged, interconnected and regulated?

Feasey emphasised that a key objective of spectrum management should be to maximise the availability of spectrum arising from digital TV migration. Mobile carriers have had to climb the spectrum staircase up into higher and higher frequencies. Using these higher frequencies demands higher capital investments per user and Feasey believes that the industry's economics are becoming marginal. This point once again underscores the importance of the



digital dividend, although it should not be presumed that mobile telephony will be the best use for the spectrum when it becomes available. The highest bidder for such spectrum will have a business plan that might include, for example, wide area wireless broadband access. Nonetheless, Feasey's point that the digital dividend will be the only substantial chunk of spectrum suitable for mobile telephony likely to come on the market for the next 20 years gives cause for pause. How will this spectrum be allocated? What bidders will be allowed or disallowed? Should some of it be unlicensed? There are many issues to decide and the sooner the services start, the sooner consumers benefit.

The 'Digital Privacy' session was introduced by ACMA Member Chris Cheah and moderated by Professor Chris Puplick AM. Privacy Commissioner Karen Curtis pointed out that we are 'leaving a trail of information like never before'. Roger Clarke, Board Member of the

Australian Privacy Foundation, pointed out that it is the 'chilling of our behaviour' that occurs, because we know we are being watched, that is the unseen cost of loss of privacy. Rob Edwards, CEO of the Australian Direct Marketing Association, argued that despite longer and bigger 'digital trails' for marketers, it is 'becoming a nightmare' to reach their customers. Falling newspaper readership and TV viewing—new generations are just not showing up for their lifetime of mass media consumption—are making life harder for the marketers rather than the proliferation of new channels making it easier, for now at least. To finish the session, Australian Law Reform Commissioner Associate Professor Les McCrimmon took the audience through the mammoth appraisal of privacy legislation currently under way.

One issue that emerged from the discussion that followed related to the increasing propensity of children and young people to publish personal information to the web, particularly

via blogs or social networking sites such as MySpace. Is this some kind of new generational openness or is it a technology-driven manifestation of children's lack of understanding of the need for privacy? Or is it simply, as one of the panellists suggested, that they're not old enough to have dark secrets?

The last session of the first day was a great closer. 'Digital Future', introduced and moderated by ACMA's Giles Tanner, featured Tom Loncar, Director, Eureka Strategic Research, who gave a forensically detailed account of the latest digital TV adoption survey. The headline jump from 13 to 29 per cent of households adopting seemed to raise the spirits of the audience. Lynley Marshall, Director of New Media and Digital Services at the ABC, nominated services as the driver of digital adoption, while Tim O'Keefe, representing the Australian Digital Suppliers Industry Forum, emphasised the gear. But the drivers of voluntary adoption were about to

take a back seat as Ross Honeywill, MD of Neo Group, presented his analysis of the digital adoption landscape. This presentation flipped the discussion away from the supply side (services and gear) and reportage of behaviour, to an analysis of the characteristics and motivations of customers. Eight million Australians are 'laggards', as he described them, and are not interested in digital television, while four million Australian are very interested and another 4.2 million will follow these leaders into digital adoption. There is a digital fault-line separating the two psychological types and different policy approaches will be required for each.

In this analysis, Honeywill is reporting about diffusion of technology. The most usual experience is that, even for very successful products, the 'adoption ceiling' is well short of 100 per cent. In the case of VCRs, for example, the peak adoption level was between 70 and 80 per cent and this is now

Continued page 8



OVERVIEW OF CONFERENCE (CONTINUED)

probably declining. As Honeywill pointed out, it doesn't matter if adoption of VCRs was less than 100 per cent, but for digital TV it does. It's not that voluntary adoption will take a long time to get us to analog switch-off. It's that voluntary adoption will never get us to 100 per cent adoption.

With analog switch off and the increasing value of the digital dividend, ACMA is preparing for the years ahead.

Graeme Samuel, Chairman of the Australian Competition and Consumer Commission (ACCC), kicked off the second day with his discussion about the partnership approach between the ACCC and ACMA. His points about the subtle, mercurial ways that markets change as technology infiltrates are now familiar to ACCC watchers. It is enough to say that, given the sophistication of his approach and his focus on section 50 of the Trade Practices Act—'no substantial lessening of competition'—the competition test on media industry players will be incisive. Graeme Samuel made it clear that the ACCC would not act on speculation but,

when something substantial happened, would be the first in the ring.

The 'Media Literacy' session, introduced by ACMA's James Shaw and moderated by ACMA Member and Australian Film Television and Radio School (AFTRS) Director, Malcolm Long, provided a fascinating and diverse set of views on this elusive but important set of issues. Mark Pesce from AFTRS painted a picture of a world in which old hierarchical, one-way media structures are flattened into a network of interacting nodes where anyone, or perhaps everyone, becomes a collector, processor and disseminator of ideas, views and content. La Trobe University's Dr Susan Turnbull made abundantly clear the role of media in determining attitudes and even the concept of self, especially in children. Myra Pincott, Past National President of the Country Woman's Association, presented the problems faced by those who are in remote areas, or are disabled or aged in trying to get access to or make sense of new media services. Mike Walsh of Screenmedia described the young

tech-media literati, who he called 'The Naturals', who intuitively navigate the media-verse and who seek self-expression, even meaning, though the creation and sharing of content in a globe-spanning virtual world—'anything, anywhere, anytime'.

The session on regulatory philosophies and models, introduced and moderated by ACMA Member Chris Cheah, brought together regulators from Hong Kong, Malaysia and New Zealand. This session showed that media policy, although replete with common themes, is very much a horses-for-courses affair. For example, local content is a non-issue in Hong Kong but a big one in Malaysia.

In his keynote speech, Steve Vamos, Managing Director of Microsoft Australia, spoke about innovation and the work place in a connected world. His message was that flexibility in organisations (both in employees and managers) is beneficial in today's workplace, but will become vital in tomorrow's.

His speech led nicely into the closing session, 'The Home Entertainment Hub', introduced by ACMA's James Shaw and convened by Bruce Meagher of the SBS, which showed that the future of media gadgets is unlikely to be dominated by one 'super digital device', but will rather be 'more of everything'. AFTRS's Gary Hayes pointed out that consumers will be not only consuming more media, but producing more, consuming in more environments—again 'anything, anywhere, anytime'. Alcatel's Geof Heydon made it clear that the world's communications infrastructure is a long way from being able to provide seamless high-bandwidth video services. If the world's households suddenly jumped from broadcast TV to IPTV, networks would grind to a halt. Simon Curry of Intel gave us a tantalising look at the new Intel Viiv product, while Matthew Purcell, The Silicon Kid from The Canberra Times, explained his role as explainer of technology and peeped into an internet-based future.

There are many road bumps on the

way to digital nirvana—skinny pipes, crowded spectrum, regulatory conundrums, copyright conflicts, privacy concerns and intransigent 'laggards', to name a few.

The most looming issue—digital migration—got bigger the more it was mentioned. Digital migration is often compared with the introduction of colour TV into Australia. But it's a much bigger set of events. The public communications exercise, especially for those inconvenient 'laggards', is a daunting task on a par with the change to decimal currency and the metric system.

In closing, Chris Chapman, referred to ACMA's two principal aims in staging the conference:

- to break down the barriers that exist within industry and encourage greater discussion on a whole range of issues, and
- to lead the way in offering an intellectual and social environment for breaking down walls and bringing people together to encourage dialogue and the lively exchange of ideas.

'The breaking down of barriers is manifestly symbolic also of convergence in the media and communications sector generally. Digitisation is inexorably dismantling the bricks and mortar of traditional distinctions and assumptions of old ways and habits,' he told the audience.

'This breaking down of barriers is symbolised in the coming together at this conference of representatives from industry, government and the community, from the various states of Australia and from overseas. Over the past two days, we have certainly been reminded yet again how quickly convergence is unfolding and how it will be an increasingly important feature of the media and communications landscape and one that we here at ACMA are closely focused on.'

This overview was prepared with the assistance of Simon Molloy of Systems Knowledge Concepts Pty Ltd.

The converged business model

The first ICE Conference session looked at how old-style media are diversifying to include other methods of earning revenue or increasing market share.

This session examined the converged business model and what it means for some of Australia's largest media players. Moderated by Derek Francis of UBS Investment Bank, the aim of the session was to discuss new business opportunities for old business with the heads of the Australian Broadcasting Corporation, Macquarie Radio Network, ninemsn and Sensis Interactive.

As one of Australia's most recognised brands, the ABC provides viewers and listeners with the technology to watch and listen to their favourite program online or download it to a portable device such as an iPod. With two million podcasts downloaded each month, ABC Managing Director Mark Scott told the conference that, according to Apple, the ABC is a world leader in providing podcast content. One example was an episode of *The Chaser*—800,000 people watched it on television in five capital cities, 200,000 watched it online and 60,000 downloaded it to an iPod.

Mark Scott firmly believes the delivery of local content and news remains one of the biggest attractions for consumers, especially in rural and regional areas, where the backyard sites linked to local radio networks have recorded the strongest online growth.

Members of the panel told the conference, businesses are already diversifying to reach consumers and ensure they remain relevant in a constantly changing business environment.

Chris Smith of Sensis Interactive talked of the diversity of his company, with products ranging from the White and Yellow pages, through to the Trading Post, whereis.com and an accommodation guide. In addition to a diversification of content, Sensis Interactive is looking at ways to

deliver content such as maps via mobile phones; providing multi channel access to customers and advertisements.

Speaking as a representative of the oldest broadcasting medium and an AM broadcaster, the chief executive of Macquarie Radio Network, Angela Clarke, told the conference there is evidence of an increasing audience, not a decline in numbers. She said traditional media companies are moving into areas that were once the domain of radio, with television and newspapers moving into platforms that provide immediate and constant information. Radio too is moving out of its traditional domain, with all Macquarie Radio Network studios fitted with cameras enabling staff to produce and broadcast quality video at a low cost. She said that radio is a complement—a lot of people listen to radio and audio while using the

internet—adding that Macquarie was the first to make news available on iTunes.

With the leading market position of any msn in any country around the

world, ninemsn chief executive Mark Britt is focused on providing great content and great services to an engaged audience. An example of a converged business model for



MARK SCOTT



ANGELA CLARKE

ninemsn is its successful Dolly virtual site, based around the success of the teenage magazine and building on new technology such as an SMS mobile club, mobile site, online messaging theme and a blog—currently the number one girls' site. The success of ninemsn is also an example of the power of technology and content coming together. In Mark's opinion, television will in time become another website on the internet.

Moving to centre stage

SPEECH BY RICHARD FEASEY, PUBLIC POLICY DIRECTOR, VODAFONE GROUP, TO INFORMATION COMMUNICATIONS ENTERTAINMENT CONFERENCE, CANBERRA, 23 NOVEMBER 2007

My task is to try to provide a global perspective on some of the key challenges facing the cellular mobile industry and those who regulate it. I'm calling this 'moving to centre stage' because I think some aspects of the regulatory architecture that we have traditionally taken for granted or allowed to be managed by technical experts at the periphery are becoming much more central to the economics of our industry as mobile moves into the heart of the convergence debate.

The first 20 years of our industry was really about access. Mobile operators developed very powerful consumer marketing machines to bring people on board a new mobile platform which many had previously considered a luxury item or business tool. Today, mobile penetration is over 100 per cent in Europe and almost 100 per cent in Australia, but it's also over 40 per cent across the world—that's over 2.5 billion connections.

We've never needed to have a USO debate about mobile. In fact, when mobile gets serious then fixed line coverage generally comes to a halt. We effectively stop fixed line networks getting into homes once mobile arrives—whether we can also succeed in removing fixed lines is something I'll discuss in a moment.

In order to get customers on board, the cost to connect to the network was very low during this period and the consumer electronics—the mobile handsets—were actually heavily subsidised by the network operators. They are today—acquisition and retention costs associated with just keeping customers connected to our platforms still dominate the basic economics of our industry. Last year, Vodafone spent around A\$75 billion just keeping and adding customers to our networks worldwide.

This feature of the industry is very important as you think about

convergence and how mobile operators will move into new markets where the consumer electronics has historically never been subsidised. Mobile operators spend around A\$250 for every new customer they acquire. Digital satellite players also understand this model and players like Sky spend around twice the mobile industry to acquire customers today. Free-to-air broadcasters spend virtually nothing. Last week, the leading commercial broadcaster in the UK, ITV, appears to be in early stage discussions about merging with NTL.

We have a powerful model for distributing consumer electronics, but the industry's performance in driving service adoption and usage has been a little less impressive. Mobile share of disposable income has increased slightly in the UK, for example, but total share of household communications spend is broadly flat and so any further growth is likely to be at the expense of other players in the communications marketplace. Growth in usage was slow because usage costs, for example, the costs of making mobile calls once connected, were perceived to be high—in part because the costs of getting customers on board was highly subsidised. That's changing and we now live in a fiercely deflationary pricing environment—the injection of 3G capacity into the market has ensured that—and consumption of



voice services is growing strongly.

As the land grab comes to an end in mature markets such as Australia then the deflationary pricing environment requires that we pursue growth in new 'non-core' markets as well as working harder to manage costs in our core business. At Vodafone we call the extension into new markets 'Mobile Plus', but under any label it involves expansion into areas like fixed broadband, mobile TV and advertising supported services, as well as a very serious attempt to displace fixed line telecoms altogether from the home. We are targeting 10 per cent of revenues from this portfolio of 'non core' services within three to four years.

These developments present some

obvious challenges for economic regulators. Bundling services together to exploit economies of scope makes it almost impossible to talk about the unit prices of an individual service. And as I emphasised earlier, in the mobile industry bundling also means the bundling the consumer devices and services together. That makes the application of anti-trust rules in areas like price squeezing or excessive pricing notoriously difficult. We all know about these kinds of problems and they have tended to get the headlines.

But there's another set of challenges too. The first concerns numbering. The forces I've outlined above mean that new 'converged'

business models are being developed which combine fixed, mobile and nomadic services in different ways. BT has launched a well-known service in the UK called Fusion (with Vodafone as the mobile provider) which allows customers to receive and make calls to their mobile when at home over a WiFi rather than a GSM network. Providers like Truephone are offering nomadic VoIP over WiFi services outside of the home, running alongside conventional mobile services.

These new services need telephone numbers so that customers can call each other. The traditional approach to numbers—at least in Europe—is pretty binary. You either get allocated ranges of mobile or a fixed numbers and everybody knows which kind of animal you are as a result. (In this sense the distinction between VoIP and non-VoIP is much less important). This matters because numbers create certain expectations: if you call a mobile number you expect to have a chance of speaking to somebody wherever they are in the country (or indeed overseas). But if you call a fixed number you don't. This also matters because numbers underpin the interconnection regime under which operators recover costs. So if British Telecom terminates a call over a fixed DSL connection and then over WiFi in the home to its mobile numbers, it gets paid as if this is a mobile call delivered by Vodafone over a wide area mobile network. Distinctions between fixed and mobile services start to break down.

How are regulators to deal with the new breed of hybrid animals? Should a provider of mobile WiFi that promises to deliver calls to customers in the 50 per cent of cases they may be near a WiFi hotspot nonetheless get mobile numbers and be paid mobile termination fees as if they are providing a wide area service offering 100 per cent coverage? Or should they get fixed numbers? Or do you have to completely redesign a

telecoms framework which relies on numbers as a basis for payments between operators. In Australia these payments amounted to around A\$4.5 billion last year, so these decisions are likely to be fundamental to the economics of some of these new businesses and to existing providers like Vodafone.

The second key challenge is spectrum, where the ACMA and Australia has a much better record than many others around the world. You confirm my strong view that spectrum cannot be left in the hands of a spectrum agency which doesn't have broader economic responsibilities. As technologies become more complex, the marketplace becomes more crowded and the visibility around technology becomes much less clear, the efficiency with which firms can exploit spectrum is going to be critical to determining the economic value we can realise from wireless platforms.

Australia has a good record here—spectrum elsewhere has been woefully under-managed both by regulators and by companies. This is too large a subject for me to cover in detail now, but some of the challenges we face in this area include:

- Spectrum for new wide area mobile applications has, with each successive generation of mobile technology—GSM, DCS, UMTS—moved to progressively higher and higher frequencies (900, 1800, 2000, 2400 MHz) with ever more marginal economics—we need to reverse this trend.
- In the near term, that means allowing existing operators to reengineer their existing spectrum—as Telstra is doing by deploying 3G mobile in its 850 MHz spectrum. We've calculated that would unlock around A\$5 billion of consumer value annually in Europe and we expect to start reusing our GSM spectrum for 3G next year.

- It also means the digital dividend—about which we will no doubt here more later at this conference—will be critical. I cannot overstate the importance of this spectrum in unlocking further value from the wireless industry. The most significant issue for the development of mobile TV in Europe by far is when and whether we can find the spectrum with the right economics.

The last challenge I want to mention briefly is the challenge of content regulation in a world where national boundaries have little meaning. There is today much debate in Europe (and in the US) about

case could be made for having them?

I think this is pretty difficult in the long term. In the short term, regulators can try to target the network providers—the people who have tangible assets invested in the ground or who depend on the government for spectrum to run their businesses—but in the longer term the distribution and content models are likely to mean that editorial control will sit elsewhere. I can't see Google wanting to extend its Chinese model to Europe. So Europeans seeking to ban tobacco advertising are likely to find it difficult. But then so are the Americans if they try to ban online gambling by British

'Australia has a good record here—spectrum elsewhere has been woefully under-managed both by regulators and by companies.'

attempts to extend the provisions of the so called 'television without frontiers directive' to digital content provided over the internet and over mobile platforms. The first point I'd make is that although Europe has had a TV without frontiers directive for over a decade, TV regulation and broadcasting markets in Europe has remained basically national and I see no sign of the frontiers moving anytime soon. TV markets are much more culturally specific than the mobile business. Like the debates around 'net neutrality' in the US, the European debate has a theological aspect to it—whether IP services should be excluded from regulation which applies to services delivered using other more conventional technologies. But it also has an important practical aspect—to what extent could the European Commission enforce some of the provisions it proposes even if a good

holidaymakers in Florida, while the British Government is promising tax breaks to promote the UK as a global hub for this kind of activity.

Suddenly, it seems, numbering, spectrum and content regulation are all driving the economics of convergence in ways we could not have anticipated. The mobile industry—in its broadest sense—is now moving fast to occupy a major position of this converging environment, both because we have compelling incentives to do so and because we can deploy sophisticated consumer electronics in vast quantities.

ACMA is ahead of many other regulators in thinking about these issues—as this conference demonstrates—particularly in the spectrum area. But even ACMA will have plenty to think about in the next few years.

Digital privacy

This conference session asked the question ‘How does the digital age have an impact on personal life?’

Introducing the Digital Privacy session, ACMA Authority Member Chris Cheah said privacy is becoming a key issue as convergence of communication and new technologies increasingly expand the dissemination of information about individuals.

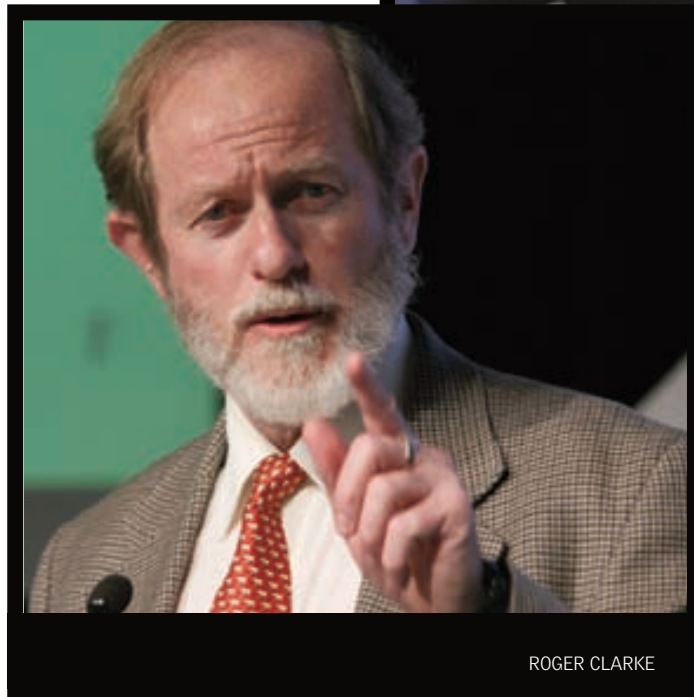
This was reinforced by Privacy Commissioner Karen Curtis. ‘Across the internet, in electronic databases, through mobile telephones, by email, credit cards, e and m commerce, and even via interaction with online maps and global positioning, we now leave a snail trail of information about ourselves like never before,’ she said.

Ms Curtis also introduced a key theme—that the younger generation has different expectations about privacy and attempts to restrict a technology that allows greater interaction than ever before. ‘It is likely that someone who grew up in a world without the internet, like me, has a different idea of privacy to someone who has grown up communicating with friends via MySpace. Different people have different privacy expectations and those expectations are strongly influenced by the rise of new technologies.’

Conceding that once our personal information is ‘out there’, it is very difficult to stem the flow and regain control, she said, ‘We might be the same people we always were, but the digital age has made it much more difficult for us to manage and control the information we choose to reveal, or sometimes inadvertently reveal about ourselves.’

Session moderator Professor Chris Puplick asked the question, ‘Will privacy issues be decided by a 55 year old in Brussels or a 19 year old in China?’

Roger Clarke, a specialist in IT and digital privacy—and principal of Xamax Consultancy—was critical of



ROGER CLARKE

current privacy protection measures and their favouring corporations over individuals. ‘The impact of technology is chilling our behaviour because we know we’re constantly being observed,’ he said, adding that current data protection laws are ‘hopeless’, tending towards the protectionism of business.

‘Australians do not like the very high level of regulation in their space. In the twenty-first century, we need substantially more than we have now. In the short term, the excitement generated by MySpace, Flickr, blogging and YouTube is over-riding privacy concerns,’ he added. ‘But despite the wishful thinking of some people in both business and government, in the medium term, the excitement will subside and the privacy concerns will surge to the fore ... and bite privacy-invasive businesses.’

Rob Edwards, CEO of the Australian Direct Marketing



KAREN CURTIS

‘multi-touch points’ to have interaction with consumers.

While ADMA is a supporter of the Do Not Call Register, he queried some of its exemptions, notably market research and fundraising. He also queried the effectiveness of anti-spam measures. ‘Are your inboxes empty as a result of this legislation? I know mine’s not. The legislation is meant to do a job but can’t live up to it and can’t keep up with the technology.’

Association, said that new technologies meant consumers can receive up to 5,000 messages a day, compared with 500 a decade ago. He said deciding how best to reach consumers was becoming a nightmare because there are a whole lot more ‘touch points’. Not only does that mean increasing media fragmentation—which Edwards saw more as an opportunity for advertisers than a hindrance—but quite a differentiation between younger and older audiences in terms of how to approach them.

ADMA, in association with the University of New South Wales, recently conducted a study of what was considered the most intrusive form of consumer privacy, with mobile phones topping the list, followed by email (spam), telemarketing, fax and direct marketing. Edwards said privacy laws need to reflect ‘intrusive tactics’ while allowing advertisers to have

Australian Law Reform Commissioner, Associate Professor Les McCrimmon, said the ALRC is attempting to address such issues as part of its Review of Privacy and had recently released an issues paper that focused on how to strengthen the Privacy Act. He said that while the Do Not Call Register and spam legislation are not specifically covered, there will be scope to examine overlaps or inconsistency with the Privacy Act of these measures. Other key issues for the review include examining specific protection measures for the online privacy of children, the different attitudes towards privacy of younger people (for which forums will be held around the country) and broadcasting standards relating to privacy for media organisations. ‘At this stage, we’re just asking questions and we call on your participation,’ said Mr McCrimmon.

Digital future

This session provided an opportunity to examine the implications of the findings of ACMA's second survey of digital television take-up.

As digital technology continues to develop rapidly, so too do the expectations and demands of consumers. Some of the industry representatives who are closely involved in the direction digital technology is taking us joined ACMA's Giles Tanner to discuss our digital future.

Findings of the research commissioned by ACMA to update its 2005 report on digital media in Australian homes was presented by Tom Loncar of Eureka Strategic Research. He revealed that 29 per cent of Australian households have adopted digital free-to-air television since its introduction in January 2001, with uptake more than doubling since mid-2005. Combined with digital subscription television, approximately 41 per cent of Australian households have some form of digital television. The research also shows that the number one factor influencing new television purchase decisions is better picture quality. Upgrading, replacing or buying a new TV was the second highest reason for digital adoption in 2006.

The ABC's Lynley Marshall talked about the exciting developments taking place on ABC2, with content focused on programs for and by regional Australians, children's television and material from the archives. For the quarter ending September 2006, ABC2 has a market reach of 225,000, with a strong link between ABC's digital and online audiences. For ABC2, compelling content is essential in attracting people to digital and encouraging them to continue watching. Interestingly, one of the drivers of digital content is children's television and as a result is a priority for the channel. Research tells us that young people and families are

switching to digital television faster. Lynley said the key issue for the ABC as a broadcaster is having sufficient and compelling content to attract viewers.



LYNLEY MARSHALL

Tim O'Keefe of Digital Business Consulting called on the industry to establish an electronic television guide. As a representative of manufacturers and suppliers, he agreed that content together with picture quality will remain a key reason for the uptake of digital television. He said broadcasters needed to provide more compelling content and said the forum would be looking for government-funded incentives, such as cash-backs, to further encourage consumers to take up the new technology. He supported the idea of education for consumers, including a labelling system identifying devices that are compatible with digital technology.

The question 'Are you a digital laggard or a digital leader?' was posed by Ross Honeywill of Neo



ROSS HONEYWILL

Australians are uninterested in digital television and unwilling to adopt it. Four million Australians are very interested in digital television and are already adopting it and another 4.2 million are digital followers and ...



TOM LONCAR

Group. His research indicated that consumer demand, not industry supply, will dictate the future of digital and he said a deeper understanding of the demand characteristics of Australian consumers is required. He said there is a digital fault line that splits Australia in two. 'Eight million

respond to the same stimuli and messages as digital leaders.' He concluded that it will be impossible to achieve analog switch-off by 2010-12 if all consumers are treated as digital equals and called for different strategies and budgets to deal with the issues faced by these groups.

Competition and media reform

EXTRACT FROM SPEECH BY GRAEME SAMUEL AO, CHAIRMAN, AUSTRALIAN COMPETITION AND CONSUMER COMMISSION, TO INFORMATION COMMUNICATIONS ENTERTAINMENT CONFERENCE, CANBERRA, 24 NOVEMBER 2006

There is no doubt that technological change has arrived, and with the pending introduction of new media ownership laws we will see some reshaping of the media as we know it ... As media owners assess the new media landscape, the arrival of the digital age and convergence and changing advertising patterns will heighten the level of uncertainty of exactly what the future might look like. In these rapidly changing times, the challenge for regulators is to ensure that the Australian public is best positioned to benefit from any developments that occur ... The new tools that have been put on the table recently can probably be best described as primarily diversity safeguards, but the competition safeguards contained in the Trade Practices Act remain in existence and will continue to play an essential role.

In relation to media mergers, there will be a five-four voices rule, which says that in metropolitan Australia, we must have at least five voices; in rural or regional Australia, there must be at least four voices. There's a two-out-of-three rule that's been implemented that restricts one company from owning radio, TV and newspaper businesses in the same market, both regionally and in the cities. They can own two of those, but not all three. These rules will ultimately be administered by ACMA, but perhaps a more important test for the ACCC will be testing proposed mergers against existing legislation contained in the Trade Practices Act that is designed to protect competition.

Competition is the driver of diversity; it promotes lower prices and the incentive for service providers to trump their competitors by striving to offer better services. Consumers are the winners, and reward those businesses that offer them the best services at the best prices ... It's a philosophy that has been successfully followed throughout our economy for more than 30 years and remains one of our

most useful and flexible tools in ensuring the best outcomes for consumers in what by global standards is a relatively small market. At its heart is section 50 of the Trade Practices Act, which prevents mergers that potentially represent a substantial lessening of competition from proceeding ... There was a 44 per cent increase in the number of mergers assessed during 2005-06 compared to the previous year, and the trend is continuing this financial year with 127 matters already considered by October 30.

You might easily pass the five-four rule; you might easily pass the two-out-of-three rule. These in themselves will be important tests that media companies will need to satisfy to gain approval of a merger, and these safeguards will be monitored by ACMA ... It is important to remember that these new hurdles are additional to existing requirements, including the need to satisfy section 50, which will be the ACCC's focus. ACMA will have its job to do in assessing any media mergers that arise, and so will the ACCC.

Companies that may once have been thought of as a newspaper or



radio station, may in the future need to be considered more as 'media companies' ... The evolution of online arms of what have traditionally been media companies confining themselves to a particular media type have made it necessary for all those involved, including regulators, to rethink some of the definitions used in the past ... With newspapers now offering video and audio content, radio and television stations offering written updates and on-demand content and all three embracing blogging, podcasting and other relatively new ways of interacting with their audiences, the evolution of these businesses is making many of our traditional tools for assessing media markets somewhat outdated.

Our focus may shift from the way information is delivered to the actual

products media companies offer ... we'll be focusing on advertising, classified or display, ... news, opinions, sport, entertainment—any range of markets that you can possibly contemplate—as well as different geographic markets ... In local regional markets, the diversity of news and information that might be available is likely to be much more concentrated at present because of the sheer size of the markets than perhaps might occur in major metropolitan cities. A merger in a regional market that further increases an already concentrated environment for news and information is likely to find it much more difficult to pass under the Trade Practices Act than potentially mergers in the major cities.

We'll be asking whether mergers might give rise to competition issues

in relation to the supply of content to consumers ... or acquiring content from content suppliers. In the past, the ACCC has regarded the media as four distinct products—free-to-air television, pay television, radio and print ... As those traditional media boundaries blur, focus may shift from the way information is delivered to the actual products ... If, as we have already noted, television stations, newspapers and radio stations begin offering content in a similar format—take video updates of selected news stories as an example—do they suddenly cease to be different? And does that mean that where in the past they may have been considered to be separate markets, does this now make them direct competitors? For a consumer, it may make little difference if they are downloading their morning update from the ninemsn, *Sydney Morning Herald* or 3AW websites.

There are three main categories the ACCC will investigate as part of its assessment of any proposed merger—the supply of advertising opportunities to advertisers; the supply of content to consumers; and the acquisition of content from content providers. Other more specific products—such as premium content; classified and display advertising; and the delivery of news, information and opinion—may also be critical when considering particular mergers. It may be that the five–four number of voices test may not be the only point at which the different opinions and points of view being offered by media players comes into consideration. That diversity of voices is a particularly pertinent concern in rural and regional areas that do not have the same number of operators as the cities. But the general framework for merger analysis will remain the same for media mergers as it is for all mergers ... the ACCC already has experience dealing with mergers and acquisitions in the media sector.

Not only in Australia as a whole, but also in regional markets, as the Act requires ... there have been

specific concerns raised about the level of media diversity in regional markets that do not enjoy the same level of choice as the larger metropolitan areas ... there are specific protections built into section 50 of the Trade Practices Act that require the ACCC to consider the impact of proposed mergers on markets in regional Australia ... The ACCC understands the importance of local content in these areas and that consumers rely heavily on local suppliers of news and information, compared to consumers in urban

'Competition in those local markets may be more vulnerable following a merger than competition in the larger cities.'

areas who have greater access to a variety of media choice ... much of the additional choice of the internet and other more global forms of communication is not always a suitable substitute for local information. Competition in those local markets may be more vulnerable following a merger than competition in the larger cities. As such, the ACCC will continue to consider implications at the local and regional level when assessing mergers proposed for those areas ...

What is perhaps even more important is the watch we keep over potentially anti-competitive behaviour. This can occur regardless of the level of ownership an individual may hold in another business. Where there is evidence that they may be attempting to harm a competitor through anti-competitive conduct, be it via a financial interest in that competitor or otherwise, the ACCC stands ready and well-equipped to respond. Questions have been raised over issues concerning recent acquisitions in the sector ... the ACCC is not oblivious to what is happening in the

market right now. We maintain a constant watch over purchases, divestitures and other arrangements and keep in regular contact with all players to determine what their motives might be ...

We also remind those players that there are certain transactions they cannot undertake without first dealing with the regulator. Most are well aware that it makes far more sense to come to us in the first instance and seek a confidential assessment of any potential concerns, rather than simply pushing

ahead with a merger or acquisition, only to find a regulatory brick wall in the way ... Where a merger is likely to raise concerns, the ACCC does not hesitate in seeking injunctions to block deals proceeding, or where they have already occurred, seeking forced divestitures or unwinding of arrangements ...

It is likely that there will be an increase of merger activity coming before us a result of the changes to the cross-media laws. This will mean both the ACCC and ACMA will be required to assess these proposed mergers at the same time, as a result of the new merger tests and the existing ones already in place. I expect that the vast majority of merger parties will wish to be sure that their merger does not raise competition concerns and will therefore seek a clearance from the ACCC. At the same time, parties will need to consider whether their proposed merger is consistent with the new cross-media laws ... the five–four independent media voices test and the prohibition on owning more than two out three types of media. To comply with these rules,

many merger parties may need to obtain an exemption from ACMA. An exemption allows a merger to proceed while requiring the merged business to divest, within a specified period, any media outlets it controls in breach of the cross-media rules.

So the ACCC may be considering a clearance request for a merger at the same time that ACMA is considering an exemption request for that merger. To ensure a process that is as seamless as possible for all parties, ACCC and ACMA officials have already begun working together to achieve this aim ... we are looking at the potential for information-sharing between the two regulators ... the ACCC may be asking merger parties to waive their right to confidentiality to allow information to flow between the ACCC and ACMA ... to significantly speed up the time required to assess proposed mergers, providing certainty for the parties involved ... ACMA and the ACCC have established a working group to identify whether any duplication of processes has arisen or whether it could happen in the future.

No one, including the government, the public or the regulator wants to see the level of competition decrease in our media sector ... change is already on our doorsteps, and ... the most successful technique for ensuring new and existing players are able to embrace new technology to expand the offerings available to their customers is to ensure we do not become trapped in old ways of thinking. By adapting our approach to keep abreast of changes in the industry we are trying to monitor, and ensuring each and every potential merger is assessed on its individual merits with protecting overall competition and choice as our goal, we will be able to do the greatest service to the Australian public as a whole.

The full text of Mr Samuel's speech is on the ACCC website at www.accc.gov.au.

Media literacy

This session looked at how people make appropriate choices in a converged communications world—what do they need to know and who is responsible for telling them?

Societies with higher levels of media literacy are better placed to reap the economic benefits of the information age, according to Malcom Long, Director of the Australian Film, Television and Radio School (AFTRS) and ACMA Authority Member, who moderated this session.

Mr Long introduced his colleague, Mark Pesce, a lecturer in interactive media at the AFTRS, who looked at changes over the last 10 years, as we have moved from a mass media culture to one where, increasingly, there is no 'centre' and is audience-driven—a micro culture, where subjectivity dominates. Initially, the internet was evangelised as the ultimate democratic medium, but is this still the case? And how do we

achieve balance—for ourselves, our children, our nation?

An educator's perspective was presented by Dr Susan Turnbull, Associate Professor of Media Studies at La Trobe University. Media literacy is now in the curriculum mainstream, no longer a soft option subject, and it is critical for all students.

Being the only consumer representative among conference speakers, according to Myra Pincott of the Country Women's Association, meant that she was acutely aware of the difficulties faced by some groups in the community in making choices in communications and media. She pointed out that for some disadvantaged groups—for example, people in rural and remote areas,

Indigenous communities, people for whom English is not the first language and people with disabilities—gaining access to services, or even to information about services, was difficult. She also mentioned the concerns people have about the dangers posed by the web, especially to children, and said forcing people to take up digital TV could have a political impact.

Mike Walsh, from Screenmedia, pointed out that the generation born since 1994, when the world wide web hit the mass market, has a different view to those born before. They see media as intrinsic to life—anything, anywhere, anytime. He said that in the past, there were 'pipes' where now there is a 'playground', and this generation does not want restrictions on its media playground.



MARK PESCE, SUE TURNBULL, MALCOLM LONG, MYRA PINCOTT AND MIKE WALSH

Challenges for regulatory philosophies and models

This session asked 'How do you regulate material that is coming in through various pipes? What are the trigger points for intervention?'

Apart from generational differences in attitudes to regulation, there are national differences in the approaches taken.

New Zealand's experience of deregulation was described by Jane Wrightson, the chief executive of the Broadcasting Standards Authority. After explaining that regulation was abolished in 1989 during a period of economic difficulties—market forces ruled—she pointed out that in spite of deregulation, the market is still dominated by a few companies, and broadband is very slow and expensive. She added that in New

Zealand, the industry strongly supports self-regulation and is tough on members who breach it.

In Hong Kong, according to Lorna Wong Lung-Shi, Commissioner for Television and Entertainment Licensing, there is a licensing regime with low entry barriers and the industry is relative free of restrictive regulation. The result is a large

number of TV channels, very fast broadband, and Hong Kong is a world leader in delivering IPTV. They are preparing to unify regulation of the entire communications sector to deal with convergence, and recognise the need for a new approach, particularly to deal with content issues in the overlap between TV and the internet.

Malaysia was one of the first countries to establish a converged regulator, according to Datuk Dr Halim Shafie, Chairman of the Malaysian Communications and Multimedia Commission, which was set up in 1998. Its broad regulatory role is similar to ACMA's. While still relatively new to self-regulation, they recognised the need for transparency, especially in processes for investigation and public consultation. The switchover to digital TV also presented a challenge for his country—perhaps they should develop a Digital Action Plan like the one developed for Australia.



JANE WRIGHTSON, DATUK DR HALIM SHAFIE, CHRIS CHEAH AND LORNA WONG LUNG-SHI

The home entertainment hub

This conference session asked the questions ‘What will win as the digital home entertainment hub? Is it a contest between the set-top box and broadband internet for delivery of programming? What about the role of games consoles, TiVo boxes and portable iPod-style devices, perhaps connected to wireless broadband via 3G or WiMAX as the primary media console for consumers? Can any one device own the consumer in a world of competing convergent devices?’

With Christmas just weeks away, the panel had plenty to discuss. The Home Entertainment Hub had plenty to discuss. What are the must-have gadgets in this technology savvy society and what will the home of digitally enabled children look like? Moderated by Bruce Meagher of SBS, the panel focused on what our living rooms and houses will look like as home entertainment technology continues to evolve.

Gary Hayes of the Australian Film Television and Radio School told attendees that two things are certain as technology improves—while the environment will change, human behaviour will not. ‘People want to be told stories, share stories, be part of a community and have an identity,’ he said. Like many of the conference panellists, he confirmed that consumers aren’t concerned with media format and how content reaches them—they just want content.

For Alcatel’s Geof Haydon, the focus was on IPTV and the inevitability of constant change for the future. He likened the change in technology to the progression from the use of horses to motor vehicles. ‘We are at a point where we are busy describing faster horses, before we understand the car of convergence ...We are very bad at describing the future set of cars and trucks,’ he said. It was staggering that 12.5 per cent of global television downloads flow into Australia. Geof predicted that by 2020 broadband speeds will be at one gigabyte per second and it still won’t be fast enough for consumer needs.

Presenting an exciting look into the future of home entertainment, Simon Curry from Intel drew the audience in as he shared the new Intel Viiv product, which is based on the concept of enabling consumers to watch what they want when they want, by watching live or on demand. He told conference that it was his belief the future of home entertainment will be in the empowerment of the consumer. The consumer of the future will have ‘access to more devices to provide more access to more content’.

Matthew Purcell, also known as The Silicon Kid from The Canberra Times, provided the view of not only a consumer of new technology, but a consumer adviser. His role requires him to stay on top of the latest technologies, providing him with the opportunity to research and trial

technology before adopted by the general public. He identified some challenges the industry faces in the steps towards adoption of digital technology. ‘Technological jargon

does not help with consumer understanding ... and consumers want technology with longevity, not dud technology.’ His vision of home entertainment in the future is where



GEOF HAYDON



BRUCE MEAGHER, MATTHEW PURCELL AND GARY HAYES

most media is delivered via the internet, with television shows downloaded from websites, enabling people to ‘watch what they want when they want’.

Commercial television code for reality programming to be reviewed

ACMA will investigate whether the *Commercial Television Industry Code of Practice* provides appropriate community safeguards for reality television programming in the free-to-air commercial television sector of the broadcasting industry.

The Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, directed ACMA to conduct this investigation after receiving ACMA's advice about an alleged incidence of sexual harassment in the *Big Brother* house, which was streamed live on the *Big Brother* website on 1 July 2006. The Minister also directed ACMA to make its final report and recommendations by 1 April 2007.

Big Brother is a reality television series broadcast by Network Ten in which participants share a house for approximately three months, with their behaviour and interactions captured by cameras twenty-four hours a day, seven days a week.

Viewers vote weekly to decide who will leave the house, from nominations by the participants, and the last person remaining wins a cash prize.

Big Brother consists of a suite of programs broadcast in various classification zones, using different portions of the footage available. As well as television content, *Big Brother* comprises other elements including a website (through which material is streamed live from the *Big Brother* house) and content delivered via mobile phones. The *Big Brother* series is broadcast 'annually' and the 2006 series was its sixth season.

ACMA will publish a discussion paper in December 2006, inviting public submissions on issues arising from its review, with a closing date no later than 1 February 2007. ACMA is also undertaking quantitative and qualitative research into community concerns about reality television programming, and is liaising directly with industry stakeholders.

The *Broadcasting Services (Commercial Television Industry Code of Practice) Direction No. 1 of 2006* was registered in June 2004. It instructs ACMA to investigate whether the code is operating to provide appropriate community safeguards for reality television programming in commercial free-to-air television. The investigation is to include whether:

- the code provides appropriate methods of classifying reality television programs
- the code provides an appropriate mechanism for ensuring that classified matter or matter which if classified would be classified at M or above is not shown at inappropriate times having regard to the likely audience
- the complaints mechanism in the code is operating effectively and in

- a timely matter in relation to reality television programming
- the code reflects community standards, taking into account the views of the community and commercial broadcasting licensees
- there is a basis for ACMA to be satisfied that the code is not operating to provide appropriate community safeguards for a matter referred to in subsection 123(2) and
- further action by ACMA or any other person is necessary.

The code specifies that all material for broadcast, other than news, current affairs and sport, should be classified. It sets out classification criteria, from G to MA, and time zones for each classification criteria throughout the viewing day.

The code is on the ACMA website at www.acma.gov.au (go to Radio & TV > Content regulation > Television > Codes & Standards > Commercial television).

Availability of communications services in Australia improves

Competition, new technology and new infrastructure deployments are helping to improve the availability of communications services across Australia, according to an ACMA report.

The report, *Communications Services Availability in Australia 2005-06*, discusses the availability of internet services, voice services, broadcast services and consumer demand for content and applications. The key findings of the report include:

- more internet service providers (ISPs) deploying ADSL networks, with 19 now actively deploying their own DSLAM infrastructure
- increased availability of ADSL2+ services, which offer significantly higher data rates—now available in more than 50 per cent of capital city exchanges
- emergence of broadband wholesalers other than Telstra
- all four mobile network operators

now providing 3G services in Adelaide, Brisbane, Canberra, Gold Coast, Melbourne, Perth and Sydney, with Telstra's 3G coverage also extending to rural and regional areas and

- Increased competition in the fixed voice market, with 118 residential VoIP service providers operating in the market, up from just 14 providers in 2004-05.

This is the second report on the availability of infrastructure and services to be released by ACMA. The first report, *Telecommunications Services Availability in Australia 2004-05*, examined the increase in the availability of communications infrastructure and services since the Regional Telecommunications Inquiry reported to the Australian Government in late 2002.

ACMA's ongoing collection and analysis of data on the availability of services and infrastructure across

Australia will be used to provide information to the Regional Telecommunications Independent Review Committee to be convened in 2008. The committee will review the adequacy of telecommunications services in regional, rural and remote Australia.

By using publicly available information and data already collected for other regulatory purposes, ACMA avoided the need to impose additional reporting burdens on the industry.

ACMA is currently working with the Australian Competition and Consumer Commission (ACCC) to produce a joint report on the availability of communications

infrastructure, which will merge the ACMA report with the ACCC's *Telecommunications Infrastructure in Australia* report. The first merged report is expected to be released in the first half of 2007.

The *Communications Services Availability in Australia 2005-06* report is on the ACMA website at www.acma.gov.au (go to Consumer > Telecommunications Services Availability).



ACMA releases its first major communications industry report

The *ACMA Communications Report 2005–06* is the first whole-of-industry report published by ACMA since it was formed in July last year. The report was released following its tabling in parliament by the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, in November 2006.

The wide-ranging report is designed to reflect ACMA's broadening regulatory responsibilities, as well as its enhanced research and reporting capabilities, providing a comprehensive survey of the Australian communications landscape for the 2005–06 year and covering all aspects of the communications, internet and broadcasting industries. It provides an assessment of performance, product and service innovation, self-regulation and customer service and identifies emerging challenges for consumers, industry and government.

In the report, industry performance in providing consumer, environmental and social benefits to the community,

as well as cultural and economic benefits to the nation, is assessed. The report found that the impact of government reforms to liberalise the telecommunications industry was that the Australian economy was \$15.2 billion larger than it would otherwise have been.

From a consumer perspective, the report examines the different types of products and services and the factors that influence the adoption of new technologies, including profiles of consumer segments and industry participants. It also includes insights into the geographic diversity of ACMA's regulated communications activities—from service availability in the most remote Indigenous communities to the protection of the nation's undersea communications cables in the waters off the Australian coast.

The ACMA Communications Report builds on the previously published telecommunications performance reports, fulfilling ACMA's reporting requirements under section 105 of the *Telecommunications Act 1997*. Under this section, ACMA

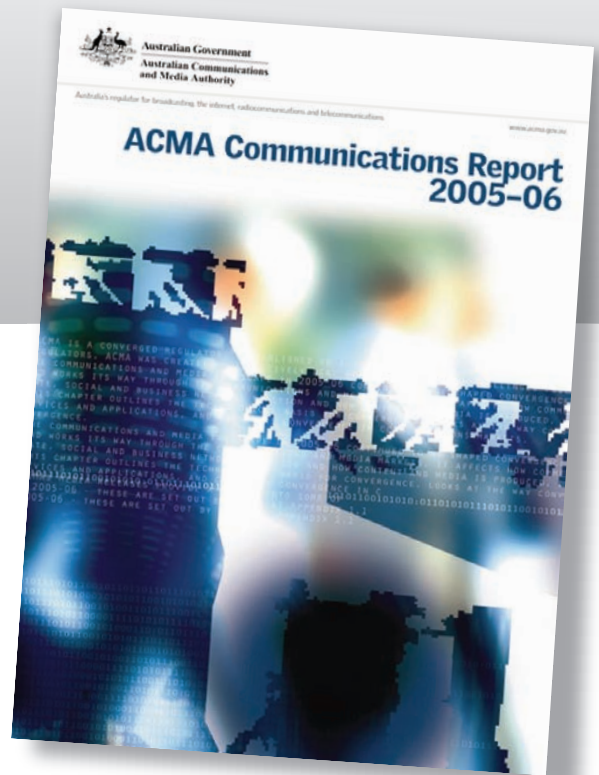
monitors and reports annually on the telecommunications industry's performance, including consumer satisfaction, consumer benefits and quality of service.

A recommendation of the January 2006 *Rethinking Regulation* report of the government's Taskforce on Reducing the Regulatory Burden on Business, was that the reporting requirements placed on industry under section 105 of the Telecommunications Act should be reviewed to ensure their continued relevance. Requests for data for 2005–06 were reviewed and substantially

rationalised as part of ACMA's response to the government's regulation reform agenda.

Data in the report is drawn from a range of sources including ACMA's own databases, information reported by industry, ACMA's research using third-party public sources and commissioned surveys and analysis. Appendixes to the report include detailed data tables as a resource for industry analysts.

The report is on the ACMA website at www.acma.gov.au/CommsReport.



ACMA to review local content obligations for regional radio

The Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, has directed ACMA to review the local content requirements in the government's media reforms and report by 30 June 2007. The obligation to broadcast a certain amount of local content per day will not take effect until after the completion of the review into the requirement.

The proposed new local content quotas for regional radio are aimed at

balancing the desire of the local community to listen to live local content with the need to ensure any mandatory requirement is not too onerous for regional radio operators.

ACMA will investigate whether the requirement to broadcast local content for 4.5 hours per business day between 6.00 am and 6.00 pm is appropriate and, if not, whether it should be adjusted or applied differently for different classes of licensees. The review will also

consider whether the requirement should include a minimum of 12.5 minutes of local news per business day.

Other obligations, such as those relating to specific numbers of local news and weather bulletins, or local presence requirements, will only come into effect following a 'trigger event' such as a merger or transfer of control. ACMA will investigate whether the definition of a trigger event may lead to unintended

consequences for regional commercial radio licensees and in particular, small or family-owned regional commercial radio licensees.

The intention of the legislation is to ensure that local content and presence requirements are imposed on licensees where there is a change or transfer of control or the formation of a new media group.

NEW APPROACH TO CONSULTING COMMUNICATIONS CONSUMERS

ACMA recently announced the membership of its new communications Consumer Consultative Forum (CCF), which will enhance the dialogue between consumer representatives, industry bodies and regulators about communications issues affecting consumers.

ACMA Chairman Chris Chapman said the forum represents a fresh approach to consumer consultation by ACMA. 'We have been greatly encouraged by the positive response from consumer and industry representatives and look forward to working together in a highly focused way on a series of emerging issues. We have selected a range of individuals with extensive experience in communications issues to represent consumers. They also have extensive links to consumers through their current and past positions.'

Mr Chapman congratulated the successful appointees and thanked those who expressed an interest in being considered, some of whom may be appointed to ACMA's Specialist Expert Resource List, which will be finalised in coming months.

'While the CCF is an important near-term focus for ACMA, there will be many opportunities for interested

parties to provide input to ACMA, including through the Specialist Expert Resource List and the annual CCF consumer conference, as well as ad hoc consultations on issues of interest,' said Mr Chapman.

The seven consumer representatives appointed to the forum after a vigorous assessment process are:

- Gordon Renouf, General Manager, Policy and Campaigns, Australian Consumers' Association
- Maureen le Blanc, Consultant, Australian Council of Social Services
- Gunela Astbrink, Policy Advisor, Australian Federation of Disability Organisations
- Rosemary Sinclair, Managing Director, Australian Telecommunications Users Group
- Teresa Corbin, Executive Director, Consumers Telecommunications Network
- Mark Needham, Policy Officer, National Farmers' Federation
- Myra Pincott, National President, Country Women's Association.

They will join three representatives from industry bodies involved in self-regulation:

- Chris Althaus, Chief Executive Officer, Australian Mobile

- Telecommunications Association
- Anne Hurley, Chief Executive Officer, Communications Alliance
- Peter Coroneos, Executive Director, Internet Industry Association.

The forum will also involve representatives of regulators and policy-makers, including Louise Sylvan, Deputy Chair of the Australian Competition and Consumer Commission, John Pinnock, the Telecommunications Industry Ombudsman, and Fay Holthuyzen, Deputy Secretary of the Department of Communications, Information Technology and the Arts. The forum will be chaired by ACMA Deputy Chair Lyn Maddock who has a strong interest in seeing the benefits of developments in the communications field flow through to consumers.

Section 59 of the *Australian Communications and Media Authority Act 2005* requires ACMA to continue to hold a consumer consultative forum to assist it to perform its functions in relation to matters affecting consumers. ACMA predecessor Austel established a Consumer Consultative Forum in 1995 and the Australian Communications Authority retained the forum to provide it with advice about telecommunications consumer

issues and as a mechanism for information dissemination.

The key elements of ACMA's new CCF are:

- a balanced membership of workable size which allows representatives of the key consumer sectors the opportunity to discuss issues with representatives of industry organisations and regulators and policy makers
- a Specialist Expert Resource List (yet to be finalised) which will allow qualified consumer representatives to be involved in more specific issues of interest and
- an annual consumer conference co-sponsored by the Communications Alliance.

The criteria used by ACMA for assessing and selecting CCF members were:

- expertise and experience in establishing links with Australian consumers
- links with organisations representing Australian consumers
- ability to identify and prioritise issues affecting the interests of Australian consumers
- ability to actively represent these views through the CCF and other ACMA consultative processes
- knowledge of and experience with regulatory processes and
- ability to provide information about regulatory issues to Australian consumers.

CHILDREN'S AND PRESCHOOL PROGRAMS PROGRAMS GRANTED CLASSIFICATION, NOVEMBER 2006

Program title	Series	Episode description	Program style	Program type	Country of origin	New/renewal	Class	Decision date	Applicant
<i>It's Academic</i>	4	IAC4/01-IAC4/65	Live Action	Light Entertainment - Competition/Game Show	Australia	New	C	6/11/2006	Seven Network (Operations) Limited
<i>It's Academic</i>	5	IAC501-IAC5/65	Live Action	Light Entertainment - Competition /Game Show	Australia	New	C	6/11/2006	Seven Network (Operations) Limited
<i>Raggs</i>	2	66-130	Live Action /Animation/ Puppetry	Light Entertainment - Variety	Australia	New	P	29/11/2006	Southern Star Entertainment Pty Ltd

Class - Classification, C - C Classification, CD - C Drama, P - P Classification, PRC - Provisional C, A classification expires five years after the date it was granted or renewed.



Federal Court decision a warning to spammers

ACMA welcomed the decision of Justice Nicholson in the Federal Court in Perth in October 2006 to award a pecuniary penalty of \$4.5 million against Clarity1 Pty Ltd and \$1 million against its managing director, Mr Wayne Mansfield, for contravening the *Spam Act 2003*. The judgement provided a strong warning to Australian spammers that contraventions of the Spam Act can result in substantial penalties being awarded against individuals and organisations.

The prosecution of Clarity1 is ACMA's first prosecution under the Spam Act. The legislation sets out penalties of up to \$1.1 million a day for repeat corporate offenders.

On 13 April 2006, Justice Nicholson found that both Clarity1 and Mr Mansfield were in breach of

the Act for both sending unsolicited commercial electronic messages, and for using harvested address lists. Among other matters, ACMA submitted to the Federal Court that Clarity1 Pty Ltd and Mr Mansfield sent out at least 231 million commercial emails in the twelve months after the Spam Act commenced in April 2004, with most of these unsolicited and in breach of the Act.

The Spam Act makes it illegal to send, or cause to be sent, unsolicited commercial electronic messages that have an Australian link—if it originates or was commissioned in Australia, or originates overseas but was sent to an address accessed in Australia. Commercial electronic messages include emails, mobile phone messages (text and multi-

media) and instant messaging. The Act also prohibits the use of address-harvesting software and harvested address lists to send spam, but does not cover voice or fax telemarketing.

More information about ACMA's anti-spam activities, including the SpamMATTERS tool, is on the ACMA website at www.spam.acma.gov.au.

Fight against zombies extended

ACMA is stepping up the fight against spam by extending its Australian internet security initiative, following completion of a successful trial. The trial began in November 2005 with six ISPs participating. ACMA is now extending the initiative to other ISPs.

The initiative operates by forwarding information about 'zombie' computers (computers that have been infected by a computer virus or other form of malware) to Australian internet service providers (ISPs). These ISPs then contact their customers to assist them to 'disinfect' their computer. Experience from the trial indicates that the vast majority of customers are unaware that their computers are infected and are grateful for assistance in making them secure.

Since the trial commenced, the *Internet Industry Spam Code Of Practice – A Code for Internet and Email Service Providers* has been registered by ACMA and came into effect on 16 July 2006. The code complements the initiative with

provisions that enable ISPs to disconnect a customer's computer if the problem is not resolved by the customer.

Zombie computers are now the major source of spam and can also be used to commit online crimes

and mount assaults on internet sites. Without effective security measures, a computer may be infected through various means, such as opening spam containing a virus or visiting websites where malicious programs are downloaded.

'always-on' characteristic of broadband services also makes insecure computers more vulnerable to infection and more capable of spam dissemination without user knowledge. The increasing take-up rate of broadband in Australia has increased the need for action against zombie computers.

The ISP participants in the Australian internet security initiative trial were OptusNet, Pacific Internet, Telstra Bigpond, Uecomm, West Australian Networks and Westnet. The following ISPs have now joined the initiative: Access Net Australia, Agile, AOL, AUSTARnet, Bekkers, Chariot, Hotkey, ihug, iinet, Internode, iPrimus, Neighborhood Cable, OzEmail, Powerup, Primusonline, Reynolds Technology, Riverland Internet, SeNet and Soul.

ACMA's work on the initiative was supported by the Department of Communications, Information Technology and the Arts, the Western Australian Internet Association and AusCERT.

Avoid becoming an accidental spammer

- Use anti-virus and other security software, and ensure this is updated regularly.
- Regularly download and install the latest security patches for their computer software and use automatic software security updates where possible.
- Use personal firewall software.
- Only open an attachment to an email where the sender and the contents of the attachment are known by the email recipient. Suspect emails should be deleted immediately. If an attachment needs to be opened, it should be checked by anti-virus software before opening.
- Use long and random passwords and change these regularly.
- Do not visit 'suspect' websites.

remotely from anywhere in the world without the computer owner knowing. Personal identity information can be obtained and zombies can infect other computers

The substantially higher bandwidth provided by broadband relative to dial-up internet services significantly increases the amount of spam that can be disseminated. The

New plans for analog and digital TV in regional Victoria and southern NSW released

New plans for analog and digital television services in areas of regional Victoria and southern New South Wales have been released. ACMA varied the licence area plans for analog television for the licence areas of Regional Victoria, and Griffith and the Murrumbidgee Irrigation Area, and varied the digital television channel plans for the Regional Victoria licence area.

The variation to the plan for analog services adds new channels, deletes channels no longer needed or operated by broadcasters and varies the technical specifications of existing national and commercial services. In conjunction with these changes, ACMA has assigned channels for digital television repeater services in central Victoria and some border areas of southern New South Wales.

In making these decisions, ACMA considers factors including the aim of spectrum efficiency in the introduction of digital channels and the need to minimise any changes that viewers will have to make. While ACMA gives the interests of viewers a high priority at all times, some changes to services will be necessary. Only minor disruption to viewers is expected as, in most cases, retuning of television sets, video cassette recorders or subscription TV set-top boxes will be all that is required.

Under the provisions of the Interference Management Scheme, broadcasters must provide public information, run education campaigns and establish telephone hotlines to deal with and provide timely advice on how to retune devices and alternative connection methods before any changes take place.

ACMA has responsibility for planning and allocating those parts of the radiofrequency spectrum used for free-to-air broadcasting services in Australia—AM and FM radio, and

VHF and UHF television spectrum (collectively, the broadcasting services bands). Planning is accompanied by wide public consultation. Much of the detailed planning of transmission facilities will be carried out by successful licence applicants themselves, within guidelines set down by ACMA.

The table lists the assignment of channels for the digital television

repeater services in the variation to the digital channel plans for Victoria Part 2: Regional Victoria.

Information about retuning a VCR or set-top box is on the ACMA website at www.acma.gov.au (go to Radio & TV > Reception & Interference > Television > Retuning your VCR or Pay TV set-top box).

The variations to the licence area plans for analog television for

Regional Victoria and Griffith and the Murrumbidgee Irrigation Area are on the ACMA website at www.acma.gov.au (go to ACMA > Publications > Broadcasting > Planning > Final licence area plans (LAPs)).

The variation to the commercial and national digital channel plan for Central Victoria and Southern New South Wales is on the ACMA website at www.acma.gov.au (go to ACMA > Publications > Broadcasting > Planning > Final digital channel plans (DCPs)).

CHANNEL ASSIGNMENTS

AREA SERVED	MODE	CHANNEL							
		ABGV	AMV	GLV	SBS	VTV	Unassigned		
Alexandra	Analog	59	65	62	68	56	-	-	
	Digital	60	64	61	67	63	38	66	
Alexandra Environs	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	31	-	-	28	-	-	-	
Balranald	Analog	ABN	AMV	BCV	SBS	VTV	Unassigned		
	Digital	39	61/52	42	-	64/55	-	-	
Bonnie Doon	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	40	37	41	-	56	38	53	
Deniliquin	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	58	67/34	64/31	55	61/28	-	-	
Eildon	Analog	ABGN	AMV	GLV	SBS	VTV	Unassigned		
	Digital	32	33	30	29	35	38	39	
Eildon Town	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	57	-	-	54	-	-	-	
Hopetoun	Analog	ABSV	AMV	BCV	SBS	VTV	Unassigned		
	Digital	56/38	62/29	32	-	65/35	-	-	
Howqua	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	57/30#	63/36	66/39	-	60/33#	-	-	
Jerilderie	Analog	ABGN	AMV	GLV	SBS	VTV	Unassigned		
	Digital	55	63	66	60	57	38	53	
Mansfield	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	50	44	41	53	47	-	-	
Seymour	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	60	64	61	67	63	57	66	
Yea	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	55	61	64	67	58	-	-	
Yea	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	53	60	63	66	57	47	50	
Yea	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	33	45	42	30	39	-	-	
Yea	Analog	ABGV	AMV	GLV	SBS	VTV	Unassigned		
	Digital	34	46	43	37	40	41	44	

service type 'drop-through (non-LAP)' included in this table for information purposes only

Do Not Call Register brochure released

ACMA is encouraging telemarketers to prepare for the introduction of the Do Not Call Register and has released a new brochure detailing the project. The brochure provides valuable information for the telemarketing industry and businesses that make telemarketing calls. It highlights key aspects of the Do Not Call Register, as well as the telemarketing and research calls standard.

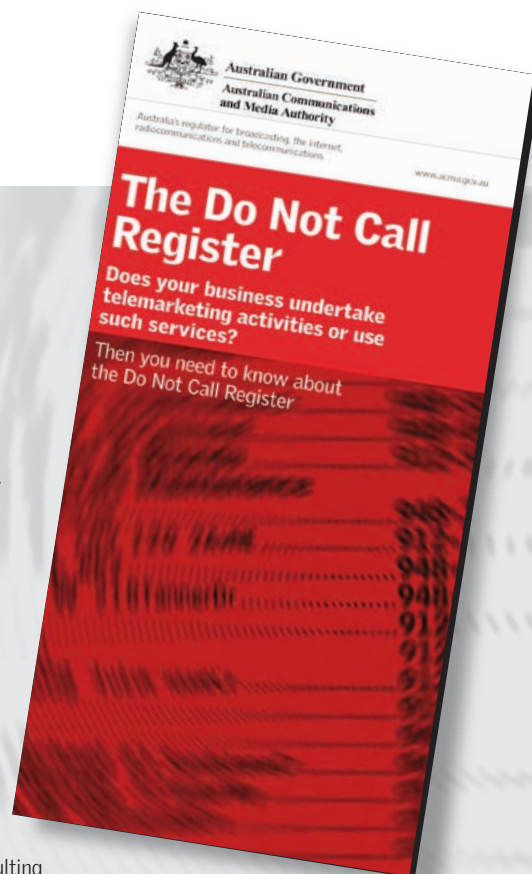
All businesses that make telemarketing calls to Australian telephone numbers need to be aware that a new system will begin operating with the launch of the Do Not Call Register no later than May 2007.

The brochure provides information about:

- the development and operation of the Do Not Call Register
- types of exemptions
- penalties for breaches of the legislation and
- the new telemarketing standard that ACMA is required to develop.

ACMA values industry feedback on the development of the Do Not Call Register and is consulting with industry at each stage in the development process. ACMA will consult industry on details of a proposed fee structure and administrative arrangements for accessing the register will follow over the coming months.

The brochure and other information about the implementation of the Do Not Call Register are on the ACMA website at www.acma.gov.au/donotcall.



3CCC Bendigo community radio licence expires

The licence for community broadcasting service 3CCC Bendigo expired on 12 November 2006 after the licensee, Goldfields Community Radio Cooperative Ltd, failed to lodge its renewal application with ACMA by the required date.

Applications to renew community broadcasting licences must be made

12 months before the licence expires, unless ACMA notifies the licensee in writing to lodge the application at an earlier date.

Goldfields Community Radio Cooperative Ltd was allocated a community radio broadcasting licence in 1982 to represent the general community in Bendigo,

Victoria. The 3CCC service operated most recently on 89.5 MHz FM.

Following numerous reminders and explanations of the consequences of non-lodgment, 3CCC finally lodged its renewal application on 13 October 2006.

ACMA has not yet decided on the long-term future use of the frequency

used by 3CCC (89.5 MHz). The frequency may be made available for a temporary community broadcasting service while its future use is further considered. 3CCC can apply for a temporary community broadcasting licence to use the frequency in the meantime.

TEMPORARY COMMUNITY BROADCASTING LICENCES ALLOCATED 25 OCTOBER-30 NOVEMBER 2006

State	Licence area	Licensee	Community served	Frequency	Start	Finish	Allocated
NSW/Vic	Upper Murray RA1	High Country Christian Broadcasters Association Inc.	Christian	94.9 MHz	7/6/06	6/6/07*	30/10/06
NSW	Young RA2	Lambing Flat Community Broadcasting Inc.	General	92.3 MHz	1/7/06	30/6/07*	31/10/06
Vic	Bendigo RA2	Goldfields Community Radio Co-operative Ltd	General	89.5 MHz	13/11/06	12/5/07	6/11/06
SA	Port Augusta RA1	Umeewarra Aboriginal Media Association Inc	Aboriginal	89.1 MHz	1/7/06	30/6/07*	7/11/06
Vic	Bendigo RA2	Strengthening Goldfields Community Radio Inc.	General	99.1 MHz	31/1/07	30/1/08	20/11/06

*licence period extended

Licences for high-powered open narrowcasting services offered

To increase the diversity of services for people in regional and remote areas, ACMA invited applications in November 2006 for 28 high-powered open narrowcasting radio services in the Australian Capital Territory, New South Wales, Queensland, South Australia and Western Australia.

A reserve price of \$4,000 was set for the Canberra licence and \$2,000 for the remaining 27 licences. Applications for the licences closed on 30 November 2006.

Licences will be issued under a price-based allocation system. Under the system, if there is more than one applicant for a licence, an auction-style licence allocation exercise will be held at which the licence is issued to the highest bidder. If there is only one application for a licence, the licence will be issued to the applicant for the reserve price, subject to certain requirements being met. If applicant does not meet the requirements, the licence will not be issued and ACMA may re-offer it.

The licences are also subject to certain rollout obligations—a licensee must provide a service within six months of being issued the licence, or within such longer period as is notified in writing by ACMA.

Open narrowcasting services are broadcasting services that are limited in some way. This can be either because they are targeted at special interest groups, or are available in limited locations (for example sporting arenas or shopping centres), or are provided during a limited period or to cover a special event, or because they provide programs of limited appeal. More than 90 per cent of currently operating narrowcasting services provide tourist or racing radio services.

For more information about the licences, contact ACMA by email to megan.wywnnik@acma.gov.au, telephone 02 6256 2827, or fax 02 6253 3277.

APPARATUS LICENCES FOR HIGH-POWERED OPEN NARROWCASTING SERVICES

State/territory	Licence area plan	Location	Frequency	TS number
ACT	Canberra	Canberra	1323 kHz	TS10014451
	Albury	Henty	94.9 MHz	TS10007983
NSW	Bourke	Brewarrina	94.5 MHz	TS10004501
		Wilcannia	96.7 MHz	TS10004344
	Deniliquin	Wakool	92.5 MHz	TS10007974
	Remote Central & Eastern Australia	Balranald	95.5 MHz	TS10004334
Qld	Charleville	Quilpie	101.3 MHz	TS10004224
	Longreach	Bedourie	101.3 MHz	TS10004215
	Remote Central & Eastern Australia	Birdsville	101.3 MHz	TS10004216
SA	Woomera	Woomera	106.5 MHz	TS10004599
	Esperance	Hopetoun	97.3 MHz	TS10000834
		Lake Grace	102.9 MHz	TS10000842
		Ravensthorpe	93.1 MHz	TS10000874
	Remote SA	Beagle Bay	102.1 MHz	TS10001464
		Carnamah	104.3 MHz	TS10005614
		Coorow	95.1 MHz	TS10002442
		Cue	99.7 MHz	TS10001034
		Fitzroy Crossing	104.5 MHz	TS10005311
		Jerramungup	101.3 MHz	TS10005528
Marble Bar		104.3 MHz	TS10000789	
WA	Remote WA	Mingenew	92.5 MHz	TS10005593
		Morawa	104.7 MHz	TS10005594
		Mullewa	104.3 MHz	TS10002477
		Pannawonica	104.5 MHz	TS10000638
		Perenjori	105.7 MHz	TS10005612
		Telfer	102.1 MHz	TS10000766
		Three Springs	97.9 MHz	TS10002493
		Wiluna	100.5 MHz	TS10001023



New rules to enable higher rate broadband services

Industry will be able to deliver higher-rate broadband services through local telephone lines known as the unconditioned local loop (ULL), following ACMA's registration of an industry code and technical standard. The new code and standard will allow extended upstream bandwidth for digital subscriber line (DSL) customer equipment to help meet the growing demand for greater access to higher rate broadband at a lower cost.

Under the new code, potential upstream speeds will increase to around 2.5 Mbit/s from the current 1.0 Mbit/s, promoting the long-term interests of consumers and diverse and innovative carriage and content services.

For example, increased upstream bandwidth could allow greater use of web hosting and file servers at business premises and improve video conferencing quality.

The new code, *ACIF C559:2006 Unconditioned Local Loop Service (ULLS) Network Deployment Rules* and the associated standard *AS/ACIF S043.2:2006 – Australian Standard*

Requirements for Customer Equipment for connection to a metallic local loop interface of a Telecommunications Network – Part 2: Broadband were developed by the Australian Communications Industry Forum (ACIF), a division of Communications Alliance, and replace previously registered instruments and codes. Registration of the code and the standard makes them enforceable by ACMA.

Anne Hurley, CEO of Communications Alliance, said that industry will be seeking to implement the latest technology as soon as practicable, and the industry code and standard ensure that as new technology is rolled out in the carrier network and as new customer equipment is deployed in people's homes, problems affecting network integrity will be kept to a minimum.

The code sets out performance requirements and deployment rules that network operators must follow when they operate systems on the ULL. The standard complements the code by specifying the technical requirements for all customer

equipment used with services supplied under the code.

The deployment of DSL services without any consideration of proximity to other DSL or digital services such as ISDN or SDH either in the same cable sheath or adjacent cable runs would be detrimental to the performance of existing services and the rollout of future broadband services. The mandatory standard for customer equipment connected to DSL services ensures that rogue technology cannot be installed that will impact on the overall integrity of carriers' networks.

The new standard includes new deployment classes for technologies such as ADSL2 with extended upstream bandwidth (ITU-T G.992.3 Annex M) and ADSL2+ with extended upstream bandwidth (ITU-T G.992.5 Annex M). The changes will mean a higher speed service for users of this new technology while ensuring a minimal impact to other services in the carriers' network.

The industry code works in conjunction with *AS/ACIF S043.2:2006*. The code was

updated in 2004–05 to include access rules for deployment of higher rate broadband services such as ADSL2, ADSL2+ and ESHDSL. These allowed faster internet browsing and access to multimedia applications such as streaming video and video conferencing.

The code was revised again this year to include new deployment classes to allow deployment of higher rate broadband technologies such as ADSL2, with extended upstream bandwidth (ITU-T G.992.3 Annex M) and ADSL2+, with extended upstream bandwidth (ITU-T G.992.5 Annex M).

To give the new standard regulatory effect, ACMA will register an amendment to the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*, which allows suppliers to label and supply customer equipment that complies with the standard.

The code and standard are on the ACMA website at www.acma.gov.au (go to Industry > Codes > Register of Codes).

ENUM Day discusses the possibilities



ACMA recently co-hosted a one-day industry forum to raise awareness of electronic number mapping (ENUM) and get people talking about the issues associated with it. ENUM is a method of mapping telephone numbers to internet addresses. How it is used in Australia will largely be determined by the applications that are developed.

The inaugural ENUM Day was held in Sydney on 15 November 2006, in partnership with AusRegistry International, Instra Corporation and AARNet. It was attended by representatives of carriage, internet and voice over internet protocol (VoIP) service providers, universities, international internet registries, and consumer and privacy advocates.

Grant Symons, ACMA's Executive Manager, Converging Services Branch, opened ENUM Day and provided a broad overview of ENUM and

the regulator's hopes for its future. Highlights of the day included presentations about the implementation of ENUM in other countries, and a live demonstration by Chris Seatory of Instra Corporation, which provided the audience with a valuable insight into the practicalities of ENUM.

ACMA's current trial of ENUM is moving into the second stage, with the inclusion of geographic and mobile numbers, and it is hoped that ENUM Day will encourage greater participation in the trial, as well as stimulating innovative ENUM applications.

All presentation slides from ENUM Day can be viewed at the ENUM website at www.enum.com.au. More information about ENUM and the Australian ENUM trial is on the ACMA website at www.acma.gov.au (go to [Phones > Numbering > ENUM](#)).

Trial certificate issued for **SP AusNet** in Mt Beauty

ACMA has authorised SP AusNet to conduct a trial of broadband services in Mount Beauty, Victoria. The trial will allow SP Australia Networks Distribution Ltd and SP Australia Networks (Transmission) Ltd (trading as SP AusNet) to determine the technical feasibility and commercial prospects of using broadband over powerline technology to supply high-

speed internet and associated services.

ACMA issued a trial certificate to SP AusNet that enables it to use its infrastructure to provide services to residential and community users without the need to hold a carrier licence or have a nominated carrier declaration in force for the infrastructure involved in the trial.

Trial certificates exempt owners of telecommunications network infrastructure from the carrier licensing requirements set out in section 42 of the *Telecommunications Act 1997*.

A trial certificate can be issued for up to six months. ACMA can issue another certificate, extending the original for another period of up to

six months, or issue a new certificate after a certificate has expired.

SP AusNet will use its own network infrastructure to supply internet related services to about 50 residential customers in Mount Beauty, Victoria. The services being supplied are high-speed internet, voice over internet protocol and video-on-demand services.

Research shows rapid uptake in free-to-air digital TV

Since its introduction in January 2001, 29 per cent of Australian households have adopted digital free-to-air TV, with uptake more than doubling since mid-2005. This means that, combined with digital subscription TV, approximately 41 per cent of Australian households have some form of digital TV.

These findings are among the top line results of ACMA's research on digital media in Australian homes, which was presented at ACMA's ICE Conference in Canberra in November 2006.

Digital reception is an increasingly important factor in new TV purchase decisions. Better picture quality remains the most important reason for adopting digital TV, while upgrading, replacing or buying a new TV was the second highest reason for digital adoption in 2006.

Research such as this will help inform and guide ACMA, the Australian Government and TV broadcasters as they encourage the Australian community to make the move from analog to digital free-to-air TV.

The survey is an update of earlier research undertaken for ACMA and published in November 2005. The latest research examines, more broadly, the type of digital media platforms being used in homes, and the drivers and inhibitors to the adoption of digital free-to-air TV.

It concluded that the main reasons for the adoption of digital free-to-air TV were improvements to picture quality, need to replace TV equipment, better reception, and extra channels. The rate of uptake

was roughly similar for capital cities and regional areas. The main reasons given by non-adopters for not being interested in digital free-to-air TV were not knowing about it, cost of equipment, and lack of interest in more TV.

ACMA is responsible for managing the conversion of TV transmissions from analog to digital mode. Legislative conversion schemes have been developed by ACMA to convert commercial and national TV broadcasting over a period of time.

Digital TV uses a standard-definition TV (SDTV) signal in a widescreen format to provide better picture quality compared with current analog services. A superior picture quality is also available from high-definition TV (HDTV), provided the viewer has a receiver and display screen capable of processing HDTV signals. To receive the benefits of digital TV, a minimum of either a digital set-top box (attached to an analog set or monitor) or an integrated digital TV set is needed.

The research consisted of a nationally representative telephone survey of 1,537 Australian households. The sample achieved a representative sample of 455 digital free-to-air TV adopters which ensured a statistically meaningful result for this subgroup. The survey was conducted in October 2006 by Eureka Strategic Research and the research report will be released early in 2007.

TABLE 1: HOUSEHOLD PENETRATION OF DIGITAL MEDIA

Digital media	Households (%)
Digital TV (i.e. digital free-to-air TV and digital subscription TV*)	41
Digital free-to-air TV	29
Subscription TV	26
Hard drive recorders	18
Internet (total)	69
Broadband internet	52
Audio visual content streamed or downloaded	25

N=1537 TV-using households

**Assumes 90 per cent of subscription TV is now digital.*

Source: ACMA Digital media in Australian homes 2006

TABLE 2: SEGMENTATION OF HOUSEHOLDS ACCORDING TO INTEREST IN ADOPTING DIGITAL FREE-TO-AIR TV

Status	Households (%)
Adopters of digital free-to-air TV	29
Interested and planning to purchase	14
Interested but not planning to purchase	7
Unsure if interested	22
Not interested in adopting	28

N=1537 TV-using households

Source: ACMA Digital media in Australian homes 2006

TABLE 3: TOP 10 DRIVERS FOR ADOPTING DIGITAL FREE-TO-AIR TV

Reason for adopting	Adopter households (%)
Better or clearer picture/picture quality	36
Upgrading/replacing/need new TV	28
Improved reception or signal	19
Extra channels/variety and choice	16
New/latest/best technology	15
Need it eventually/change-over/long-term decision	13
Larger picture (widescreen)	10
Better/better quality	7
Other's recommendation/encouragement	5
High definition	5

N=455 adopter households with digital free-to-air TV

Percentages add to more than 100 percent due to multiple responses

Source: ACMA Digital media in Australian homes 2006

TABLE 4: INHIBITORS TO ADOPTION DIGITAL FREE-TO-AIR TV (UPDATE)

Reasons for not adopting	Non-adopter households (%)
Don't know much/haven't thought about it	25
Have to buy equipment/too expensive/not value	22
Don't watch/want to watch more FTA TV	19
Currently satisfied	15
Reason not specified/DK	6
Not until need to buy new TV/do not need new TV	6
Just not interested/not important	5
Not until required/absolutely necessary/switch-off	5
Too old	4

N=865 non-adopter households with no plans to adopt

Percentages add to more than 100 percent due to multiple responses

Source: ACMA Digital media in Australian homes 2006

30CR community broadcasting licence renewed

ACMA has renewed the community broadcasting licence issued to Otway FM Community Radio Group Inc. (Otway FM) in Colac, Victoria, after the station was able to satisfy concerns raised by the Authority.

In the course of the Otway FM licence renewal process, ACMA raised several issues with the licensee. Of most concern was that the station was off air for almost 18 months and had not provided a

service to significant parts of the licence area. Membership, sponsorship and volunteer levels were all low for these reasons. During this period, a new management team at Otway FM began to address ACMA's concerns, either directly or through specific undertakings. ACMA took this into account and decided to renew the licence of the only community broadcaster in the Colac region.

ACMA will work with Otway

FM and will continue to monitor the operations of the station. ACMA expects to see significant improvement over the coming months and has informed the station that it reserves the right to take further action if it does not meet its undertakings, including imposing additional licence conditions or ultimately cancelling the licence. This decision balances ACMA's objectives of promoting the availability of a diverse range

of radio services throughout Australia and ensuring that broadcasters meet all their statutory obligations.

Community broadcasting licences are issued for five years. ACMA writes to licensees 58 weeks before the licence expires requesting an application for licence renewal, which must be submitted no later than 52 weeks before the licence expires.

Inaugural spectrum management conference looks forward

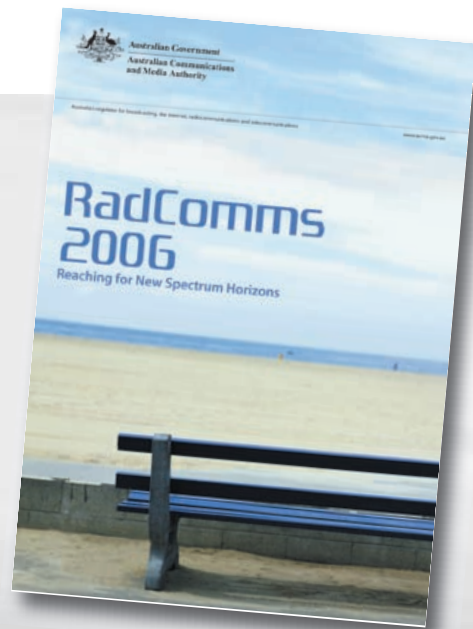
ACMA held its first annual conference on radiofrequency spectrum management, RadComms 2006, at the Australian National Maritime Museum in Sydney on 11 and 12 December. The conference focused on the future, looking at how the spectrum will be used over the next 10 to 20 years, and allowing spectrum

users, current and prospective, to meet with ACMA to share ideas on planning for future spectrum demand and use.

Conference topics included digital radio, satellite spectrum planning issues, the 'digital dividend'—television spectrum in the next decade—and municipal broadband wireless access. Each day of the

conference ended with a panel-style question and answer session.

For more information about the conference, contact ACMA by email to Christine.Allen@acma.gov.au.



Optional services on directory assistance **number 12 23** proposed

ACMA recently proposed changes to the *Telecommunications Numbering Plan 1997* to permit optional services on the free directory assistance number 12 23. Under the proposed changes, optional national and international operator call connection and operator services will be permitted on the special services number 12 23. It is envisaged that any optional services on 12 23 would be offered on a fee-for-service basis.

In ACMA's view, enhanced optional services on 12 23 have the potential to benefit consumers as long as there are appropriate safeguards in place to ensure the benefits of the current free directory assistance service are not compromised.

ACMA is proposing to introduce measures to preserve the integrity and prime availability of the existing directory assistance service on 12 23. Information about any call and connection charges should be provided to customers using 12 23 before they accept any additional service, to ensure informed consent is obtained.

Guidelines to assist carriage service providers, which will include ACMA's policy for delivery of optional services on 12 23, were also proposed.

The telephone number 12 23 is a special services number presently specified in the Numbering Plan exclusively for

directory assistance service. In addition, 12 23 is a 'shared number', which can be used by all carriage service providers (CSPs) to provide directory assistance services.

The service offered on 12 23 is the means by which CSPs meet their obligations under the *Telecommunications Act 1997* to provide directory assistance service to customers of their standard telephone services. Directory assistance service is currently not defined in the Numbering Plan. It is defined in the Telecommunications Act as services that are:

1. provided to an end-user of a standard telephone to help the end-user find the number of another end-user of a standard telephone service; and
2. provided by an operator or by means of:
 - i. an automated voice response system; or
 - ii. another technology based system.

This definition does not include optional services such as through connection. Under the existing provisions of the Numbering Plan, 12 23 must not be used except in connection with the supply of a directory assistance service. The applicable charges for directory assistance on 12 23 are limited under the Numbering Plan to a low charge amount (excluding public mobile telecommunications services), reflecting the government's

intention to maintain accessible directory assistance as a core service for users of standard telephone services.

Any service offered in addition to directory assistance service would be subject to a separate and distinct charge. An amendment to the Numbering Plan is required if optional services are to be provided on 12 23 for an additional charge, such as through connection to fixed and mobile networks.

At present, additional operator services such as through connection services are provided for on the national and international operator-connected call service associated with the number 12 34, and the operator service associated with the prefixes 124 and 125.

There are no changes proposed to the existing directory assistance service offered on 12 23. Call charges to directory assistance on 12 23 will remain subject to the low charge amount.

Under the proposed amendment, optional and international operator call connection services and operator services will be permitted on the special services number 12 23 in addition to directory assistance service. In certain circumstances, this permission will be subject to ACMA's approval of an implementation operation plan submitted by a CSP wishing to provide optional services on 12 23.

Conditional approval will apply to calls to 12 23 from services subject to the price control arrangement under Part 9 of the *Telecommunication (Consumer Protection and Service Standards) Act 1999*.

Submissions on the proposed changes closed on 18 December 2006. A discussion paper and the proposed changes to the Numbering Plan are on the ACMA website at www.acma.gov.au (go to **Phones > Numbering > Numbering Plan**).

The full reports on these investigations into potential breaches by licensees are on the ACMA website, www.acma.gov.au. Go to ACMA > Publications > Broadcasting > Investigations and then Radio operations and Television operations. The reports are arranged in order of licensee.

Blue Heelers promotion on STQ 7 exceeded G classification

ACMA found that Channel Seven Queensland Pty Ltd, the licensee of STQ Regional Queensland, breached the *Commercial Television Industry Code of Practice* by broadcasting a promotion for *Blue Heelers* that failed to comply with the restrictions in G viewing periods and the G classification requirements.

On 6 January 2006, ACMA received a complaint about a *Blue Heelers* promotion broadcast on 2 October 2005 by STQ7. The complainant alleged that the promotion contained content that was unsuitable for broadcast during family viewing periods.

ACMA determined that the licensee breached clause 3.8.3 of the code by failing to comply with the restrictions in G viewing periods with regard to violence. This clause provides that promotions in G viewing periods must not contain any form of violence to children. The code also provides that material classified G must be 'very mild in impact'. In ACMA's view, the promotion entirely concerns the discovery of the body of a murdered schoolgirl, and the cumulative impact of the visuals and the strong theme is stronger than very mild.

The Seven Network, on behalf of the

licensee, accepted the breach finding. However, because there have been a number of breaches of the program promotions provisions over the last two years, ACMA requested the Seven Network to provide appropriate assurances regarding steps it has taken to prevent the likelihood of future breaches. In response, the Seven Network has:

- reviewed its promotion classifications and scheduling procedures
- created a new internal promotion category to identify program promotions suitable for placement in

programs mainly directed to children or programs with a substantial child audience

- upgraded the procedure for assessing the classification for promotions
- introduced a computerised scheduling system that eliminates the possibility of human error in promotions scheduling and
- reminded all promotions staff of the obligations and requirements of the code.

ACMA is satisfied that the Seven Network has comprehensively addressed the compliance issues raised by the breach finding.

The investigation report is on the ACMA website at www.acma.gov.au (go to ACMA > Publications > Broadcasting > Investigations > Television operations).

Promotion for *The Supernatural* exceeded PG classification

ACMA found that Network Ten (Melbourne) Pty Ltd, the licensee of commercial television service ATV Melbourne, breached the *Commercial Television Industry Code of Practice* by broadcasting a promotion for *The Supernatural* that failed to comply with the restrictions in PG viewing periods and the PG classification requirements.

On 16 June and 10 July 2006, ACMA received two complaints about a promotion for *The Supernatural*, which was broadcast by ATV on 27 May 2006. The complainants alleged that the promotion contained content that was unsuitable for broadcast during family viewing periods.

ACMA determined that ATV breached clause 2.4 of the code by failing to

comply with the restrictions in PG viewing periods. The code states that promotions in PG viewing periods must not contain anything which has more than a mild sense of threat or menace. The code also states that material classified PG must be 'mild in impact'. In ACMA's view, the promotion, showing a child frightened by a sinister robed figure outside and in the child's bedroom, has an

impact that is greater than mild.

In response to the finding, Network Ten has undertaken to distribute ACMA's report to the relevant classifiers and promotions' producers and use the finding as an example in regular code training sessions with staff, to ensure future compliance. ACMA is satisfied that Network Ten has addressed the compliance issues raised by the breach finding.

The investigation report is on the ACMA website at www.acma.gov.au (go to ACMA > Publications > Broadcasting > Investigations > Television operations).

How to be a property developer breached codes

ACMA found that FOXTEL Cable Television Pty Limited breached the *ASTRA Codes of Practice Subscription Broadcast Television July 2003* by broadcasting a program, *How to be a property developer*, which failed to comply with the PG classification requirements for 'language'.

On 21 April 2006, ACMA received a complaint about *How to be a property developer*, an XYZnetworks program broadcast by FOXTEL's The LifeStyle Channel on 2 November 2005. The complainant alleged that the program contained coarse language that exceeded

what is permissible within the PG classification category.

ACMA determined that FOXTEL breached clause 3 of the codes by broadcasting material that was not consistent with the language requirements of the PG classification guidelines. The codes state that coarse language should be mild and infrequent, and be justified by context. In ACMA's view, the program contained moderate coarse language that was not infrequent.

ACMA notes the licensee's decision voluntarily to classify non-drama programs such as *How to be a property*

developer, in addition to the requirement under the codes to classify films and drama programs only, and commends the following undertakings by FOXTEL:

- to implement six-monthly ASTRA codes training, including training on classification obligations
- FOXTEL's Executive Director – Content, Product Development and Delivery has written to FOXTEL channel managers regarding program classifications and
- FOXTEL and XYZnetworks are to collaborate to streamline complaint-handling processes to ensure all

complaints are promptly brought to the attention of relevant parties.

ACMA acknowledges FOXTEL's sound history of compliance with the codes in the area of program classification and considers this action addresses the compliance issue raised by the investigation. ACMA will continue to monitor the licensee's performance.

The investigation report is on the ACMA website at www.acma.gov.au (go to ACMA > Publications > Broadcasting > Investigations > Television operations).

The full reports on these investigations into potential breaches by licensees are on the ACMA website, www.acma.gov.au. Go to ACMA > Publications > Broadcasting > Investigations and then Radio operations and Television operations. The reports are arranged in order of licensee.

2UE's compliance with commercial radio standards being investigated

ACMA is investigating compliance with the commercial radio standards by Radio 2UE Sydney Pty Ltd, following 2UE's notification of a breach of the Commercial Radio Disclosure Standard. 2UE wrote to ACMA indicating it had breached the standard as a result of the failure of a presenter, John Laws, to disclose a commercial agreement with Telstra during an interview with the Prime Minister on Mr Laws' program on 28 August 2006. ACMA is collecting documents relevant to the investigation and after examining these will consider what steps, if any, need to be taken.

Three program standards for commercial radio licensees were determined on 21 November 2000, following an inquiry (the so-called 'cash for comment' investigation)

that found systemic failure to ensure the effective operation of the commercial radio industry's self-regulatory codes of practice. Unlike codes of practice, compliance with standards is a condition of a broadcaster's licence. The commercial radio standards commenced operation on 15 January 2001 and were extended indefinitely in March 2003. The standards cover the establishment of compliance programs by licensees, the distinguishing of advertisements from other programs and the disclosure of commercial agreements by presenters of current affairs programs.

The disclosure standard applies to all commercial radio broadcasting licensees that broadcast current affairs programs. The key objective of

the disclosure standard is to encourage commercial radio broadcasting licensees to be responsive to the need for a fair and accurate coverage of matters of public interest. The standard requires this through the disclosure of commercial agreements that have the potential to affect the content of current affairs programs.

Licensees must provide to ACMA, within 28 days on the approved form, particulars of each commercial agreement between sponsors and presenters of current affairs programs or their associates. Licensees must also notify any changes to agreements within 14 days of the licensee being informed. The disclosure standard also obliges licensees to require presenters to disclose commercial agreements to

licensees and licensees 'must publish the register on any website operated by or on behalf of the licensee and must link the register directly to the home page of that website.' The registers must record (including on their website registers) where a licensee broadcasts a current affairs program produced or commissioned by a second licensee, the address where the second licensee's register of current commercial agreements is available for inspection.

The register of presenters' commercial agreements is on the ACMA website at www.acma.gov.au (go to Radio & TV > Content regulation > Radio > Content requirements > Commercial agreements).

Internet complaints October–November 2006

ACMA's internet complaints hotline, established under Schedule 5 to the *Broadcasting Services Act 1992*, enables Australian residents to complain to ACMA about prohibited or potentially prohibited internet content. Complaints can be registered at www.acma.gov.au/hotline. Internet content is assessed in accordance with the National Classification Code and Guidelines. The prohibited categories for Australian-hosted content are RC (Refused Classification), X 18+ (consensual sexually explicit material), and material rated R 18+ (Restricted) that is not protected by adult verification procedures. For overseas-hosted content the prohibited categories are RC and X 18+. For Australian-hosted prohibited items, ACMA issues a take-down notice to the relevant internet content host (ICH), directing the ICH not to host the content. Failure to comply may result in a maximum penalty per day of \$5,500 for an individual and \$27,500 for a corporation. For overseas-hosted prohibited or potentially prohibited items, ACMA notifies the content to the suppliers of approved filter software in accordance with the internet industry codes of practice. Under the codes, internet service providers are required to provide one or more approved filters for the use of their subscribers. In addition, if ACMA finds internet content is of a 'sufficiently serious' nature (such as child pornography), it will notify the relevant police force and/or the relevant accredited hotline overseas.

Items actioned

Classification and description of internet content ⁴	Australian-hosted items (take-down notice issued)		Overseas-hosted items (referred to makers of filters)		Total	
	Oct	Nov	Oct	Nov	Oct	Nov
X 18+ – Actual sexual activity	0	0	4	1	4	1
RC – Child – depiction	0	0	24	29	24	29
RC – Sexual fantasy – depiction	0	0	2	0	2	0
RC – Sexual violence – depiction	0	0	0	2	0	2
RC – Sexual fetish – depiction	0	0	0	1	0	1
Totals	0	0	30	33	30	33

4. Descriptions of internet content in this table are based on the National Classification Board's Guidelines for the Classification of Films and Computer Games 2005, available at <http://www.oflc.gov.au/resource.html?resource=62&filename=62.pdf>

Internet complaints

	Oct	Nov
Complaints received	51	67
Invalid complaints ¹	11	8
Investigations terminated ²	4	9
Investigations completed	32	48
Items actioned ³	30	33

1. A complaint is not investigated by ACMA if:
 - the complaint does not meet the statutory requirements under subclause 22(3) and clause 25 of Schedule 5 (eg no internet address provided; complainant not an Australian resident); or
 - the complaint falls within the meaning of subclause 26(2) of Schedule 5 (frivolous, vexatious, not made in good faith, or made for the purpose of frustrating or undermining the effective administration of the scheme); or
 - the complaint concerns matters not within the scope of Schedule 5 (eg the complaint relates to an electronic 'virus').
2. A complaint is terminated under subclause 26(4) of Schedule 5 if ACMA has insufficient information to conclude the investigation.
3. ACMA assesses each piece of internet content, such as a single web page or newsgroup posting, separately (these are referred to as 'items' of internet content). Action is taken in relation to items of internet content found to be prohibited or potentially prohibited.

2006
CANBERRA

Information
Communications
Entertainment
Conference
Hyatt Hotel
23-24 November

information communications entertainment

Papers from the Information Communications Entertainment conference are now available on the ACMA website at www.acma.gov.au (go to Latest > Events > Conference 2006) or email ACMAconference@acma.gov.au.

ACMA OFFICES

CENTRAL OFFICES

CANBERRA CENTRAL OFFICE

Purple Building, Benjamin Offices
Chan Street, Belconnen
PO Box 78
Belconnen ACT 2616
Tel: 02 6219 5555
Fax: 02 6219 5200

MELBOURNE CENTRAL OFFICE

Level 44, Melbourne Central Tower
360 Elizabeth Street, Melbourne
PO Box 13112 Law Courts
Melbourne Vic 8010
Tel: 03 9963 6800
Fax: 03 9963 6899
TTY: 03 9963 6948

SYDNEY CENTRAL OFFICE

Level 15, Tower 1 Darling Park
201 Sussex Street, Sydney
PO Box Q500
Queen Victoria Building NSW 1230
Tel: 02 9334 7700, 1800 226 667
Fax: 02 9334 7799

REGIONAL OFFICES

NEW SOUTH WALES REGION

PO Box Q500
Queen Victoria Building NSW 1230
Tel: 1300 850 115
Fax: 02 9245 4099
Email: nswro@acma.gov.au

SOUTHERN AUSTRALIA REGION

PO Box 13120 Law Courts
Melbourne Vic 8010
Tel: 1300 850 115
Fax: 03 9963 6989
Email: saro@acma.gov.au

NORTHERN AUSTRALIA REGION

PO Box 288, Red Hill Qld 4059
Tel: 1300 850 115
Fax: 07 3247 7100
Email: naro@acma.gov.au

WESTERN AUSTRALIA REGION

PO Box 3061
Perth Adelaide Terrace WA 6832
Tel: 1300 850 115
Fax: 08 9461 2100
Email: waro@acma.gov.au

www.acma.gov.au