

10 June 2011

Convergence Review Secretariat
DBCDE
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Via email

Thank you for the opportunity to comment on the Convergence Review Framing Paper.

Social Inclusion and Accessibility

We welcome the overarching proposition in the Foreword to the Paper which states that “any person or entity in Australia should be free to communicate with any other person or entity”.

A fundamental principle that logically follows from this proposition is that inclusion and accessibility considerations must underpin the policy framework.

The United Nations Convention on the Rights of Persons with Disabilities, the Australian Government’s Social Inclusion Agenda and the National Disability Strategy can be used as guiding documents for this Convergence Review.

For example, the first listed priority area for action in Australia’s National Disability Strategy is:

Inclusive and accessible communities—the physical environment including public transport; parks, buildings and housing; ***digital information and communications technologies***; civic life including social, sporting, recreational and cultural life.

In accordance with this, ACCAN argues there should be two guiding Principles under “consumer and citizen rights” as follows:

Australians should have access to the broadest range of telecommunications devices and broadest range of content across platforms and services as possible.

The broadest range of devices, services and content should be accessible to people with disabilities.

Other policy issues raised by convergence

Telecommunications Industry Ombudsman

There will need to be consideration given to the consumer protection framework which currently prevails. In telecommunications/media areas, responsibility is split between general state and federal consumer affairs agencies and the sector-specific Telecommunications

Industry Ombudsman which has a tight remit for dealing with consumer issues regarding phone and internet connections and services.

As more types of services start to be delivered over high-speed broadband, there will need to be some consideration given to whether the TIO's remit should be widened to include consumer complaints regarding those services, or if not, how the consumer protection framework might work best in an environment where many different services will acquire a telecommunications dimension because of the way they are delivered.

Co-regulation

Both the Broadcasting Services Act and the Telecommunications Act contain co-regulatory schemes that have been in place since the 1990s. There is ample evidence that the co-regulatory schemes established by these pieces of legislation have not performed well,¹ with the important exception of where technical and industry operational matters are concerned.

Ultimately the values and high level principles in this Framing Paper will need to be translated into recommendations for policies with specific enforceability and implementation mechanisms.

ACCAN submits that lack of enforcement is the chief weakness that is common right across our present arrangements as created by the BSA and the Tel Act – whether it relates to content on commercial radio and TV, or telco customer service.

This Review should be looking at what changes need to be made to create a more active and pre-emptive regulator with stronger powers and a stronger enforcement culture that will rely less on industry codes which have weak accountability mechanisms. The time has come for a model of regulation that involves more than doing the minimum necessary to avoid a public outcry.

This Review is a suitable forum for considering the new types of more specific powers that should be conferred on a regulator, and new rules for how a regulator should work.

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¹ See for example, ACCAN Submission to the ACMA “Reconnecting the Customer” Inquiry, 2010.