

## burning issue

### convergence targeted: policy battle ahead

#### jock given: the convergence review

THE FINAL REPORT OF THE CONVERGENCE REVIEW RECOMMENDS FUNDAMENTAL CHANGES TO THE REGULATION OF MEDIA ENTERPRISES IN AUSTRALIA. INSTEAD OF DIRECTING MOST OF THE REGULATION AT TV AND RADIO LICENSEES, THE REVIEW PROPOSES TO REGULATE 'CONTENT SERVICE ENTERPRISES.'

The big questions now are whether or not a vulnerable minority government a year away from an election will endorse the plan; which organisations might be covered by the definition of 'content service enterprises'; and how the complex transition from the current rules to any new ones might be managed.

A government wanting "to examine the operation of media and communications regulation in Australia and assess its effectiveness in achieving appropriate policy objectives" had many places to focus.

It could have concentrated on the 'socialisation' of media through applications like Facebook; the proliferation of media channels and the fragmentation of audience choices; or the growing power of media users.

#### **why convergence?**

It chose 'convergence,' targeting the increasingly blurred boundaries between broadcasting and telecommunications. These are the two sectors of the communications industry around which the most important legislative fences are drawn.

Convergence is not a new concept. For decades, speakers at media conferences have brought Venn diagrams to illustrate the growing overlaps between broadcasting, telecommunications, information technology, publishing, film, music and much else. When radio broadcasting was new, it seemed to be a convergence of wireless and recorded music. Early television was conceptualised as a convergence of radio and cinema. Cable TV brought together TV and telecoms.

Nor is convergence a steady, one-way drive to the sweet spot in those Venn diagrams. Anyone who has watched new enterprises, industry sectors and sub-sectors emerge to exploit opportunities in online and mobile communications might have wondered just when the 'convergence' those conference speakers promised would finally show up. When we finally got our media devices down to a laptop, a mobile phone and a TV, along came tablets, a 'fourth screen.'

#### **more than media**

And convergence is not just about media. Print, radio and TV have long looked for territory outside their own borders; other industry sectors see themselves converging with communications. Newspapers got into radio and newspaper/radio operators into television. Later, they bought sporting competitions, venues, ticketing operations, leisure resorts. In the early days of radio, department stores, equipment manufacturers, trade unions and churches set up broadcasting stations. Now, banks are muscling into Facebook.

So convergence is a hard concept and it is not the only thing going on. The early papers produced by the long-running Convergence Review spread out in many directions. They asked almost every question you could ever ask about media, many of them more than once. The final report does not try to answer them all, choosing to concentrate most of its energy on a few big topics that are profoundly affected by 'convergence.' These are spectrum management; diversity and competition; respect for community standards in media content; and finally, requirements for Australian production and local news and information.

### **spectrum management**

On spectrum management, the review recommends that spectrum for TV and radio broadcasting be allocated in the same way, for the same duration and at the same price as it is allocated for telecommunications uses like mobile telephony and broadband. To some extent this has already happened, because the large amount of 'digital dividend' spectrum that will be released for alternate uses when analogue TV is completely switched off at the end of 2013 will be re-allocated by auction and probably acquired by telecom companies for mobile broadband. The even tougher step is to shift all the spectrum which TV and radio broadcasters continue to use over to a new scheme of allocation and charging.

### **re-regulation**

On the other three major issues, the review recommends a fundamental change to the way broadcasting regulation works. Until now, diversity and competition, respect for community standards and requirements for Australian and local content have all been dealt with through conditions attached to TV and radio licences. When that scheme was put in place, commercial TV and radio stations held a uniquely significant place in the electronic media landscape. 'Convergence' and other changes mean this is no longer the case.

Having decided that diversity and competition, respect for community standards and Australian and local content all still matter, and are likely to require regulatory intervention, the Convergence Review had to come up with a structure for it that didn't depend on the most important electronic media enterprises all holding broadcasting licences.

The concept it produced is the "content service enterprise." These will focus on "large enterprises that provide professional content services to a significant number of Australians." They will continue to have their ownership scrutinised more closely than the general competition law allows, although the review proposes replacing most of the current strict cross-media limitations with a more flexible "public interest" threshold for approving mergers. They will also have to "meet community expectations about standards applicable to their content" on matters like sex, violence, accuracy and fairness in news and current affairs and "contribute in appropriate ways to the availability of Australian content."

### **content protection**

The Convergence Review thinks Australian program genres that need regulatory support in 2012 are still Australian drama, documentary and children's programs. (PwC data published as part of the report estimates that without the existing quotas, spending on children's programs would be wiped out completely, spending on adult drama would fall by 90% and on documentaries by 50%.) But "the situation may change in the future and the regulatory environment should be flexible enough to allow for this."

It wants a "uniform content scheme" under which all content service enterprises have two options: to invest a percentage of their Australian market revenue from professional television-like content in new Australian drama, documentary and children's content (the "investment option") or to contribute to a central converged content production fund (the "contribution option").

Once that scheme is in place, the review wants Australian content quotas abolished; but while the transition is occurring, it wants them changed: first, to increase the commercial TV drama sub-quota by 50% but allow it to be met by programs screened on digital multi-channels as well as main channels, and second, to require subscription TV children's and documentary channels to spend 10% of their program budgets on new Australian programs, like the movie and drama channels.

## who are the content service enterprises?

What all this might mean depends crucially on who the 'content service enterprises' are. The proposed definition is intended to catch "only the most substantial and influential entities." They will be organisations that have control of the professional content they deliver, meet a threshold of a large number of Australian users of that content (proposed to be at least 500,000 unique viewers/users per month), and meet a threshold level of revenue from supplying that professional content to Australians (proposed to be \$50 million per year).

The precise thresholds of users and revenue will be determined and periodically reviewed by the communications regulator. Rough calculations included in the report suggest the proposed thresholds are designed to preserve the status quo for now: incumbent broadcasters are caught; Google (more than enough monthly users but not enough revenue according to PwC), Telstra and Apple (not enough monthly users or revenue yet according to PwC, although according to Nielsen, iTunes had a unique monthly audience of 2.8 million as far back as June 2011).

Given the requirements imposed on "content service enterprises," a big part of the policy battle ahead will be waged by online and mobile media enterprises that have never had to deal with the regulatory apparatus that applied to TV and radio broadcasters.

They are already working hard to ensure the convergence that has taken their platforms and services so deeply and profitably into the lives of consumers does not also lead them into new kinds of public obligation.

The Convergence Review: an independent review established by the Australian Government to examine the policy and regulatory frameworks that apply to the converged media and communications landscape in Australia. March 2012, [www.dbcde.gov.au/digital\\_economy/convergence\\_review](http://www.dbcde.gov.au/digital_economy/convergence_review)

Jock Given is professor of media and communications at the Swinburne Institute for Social Research in Melbourne and a chief investigator on a research project funded by the Australian Research Council, the ABC and Screen Australia about the distribution of audiovisual fiction content. He provided consultancy advice on spectrum management to the Convergence Review.

RealTime issue #109 June-July 2012 pg. 21

© Jock Given; for permission to reproduce apply to [realtime@realtimearts.net](mailto:realtime@realtimearts.net)

[Tweet](#)

[Like](#)

[Email](#)

[Print](#)

[Back to top](#)

## Comments are open

You need to be a member to make comments.

email

password

Go!

[new members](#)

[forgot password](#)