

# Free television's big month

*The digital verdict is out, and the terrestrial broadcasters are cheering. But critical decisions must now be made concerning the amount of spectrum to be released, the development of a fees regime, and what datacasting and enhanced programming services will be allowed*

It's been a good month at Willoughby. First, the decision the free-to-air broadcasters had been wanting on "cable retransmission". The government will amend legislation to require cable TV operators to get a broadcaster's permission before retransmitting its signal on a cable network. Until now, the cable operators have been carrying the broadcast signals for free and using the improved reception of them as an element in the marketing of their package of channels.

Then the big one: exclusive rights to digital terrestrial free-to-air television transmission until 2008. Not just guaranteed access to the game but a shut-out for new television competitors. FACTS' Tony Branigan called it a "sensible decision" while editorials in the newspapers run by the people who'd hoped to get a better run at the new medium themselves, thundered. Murdoch's *Australian* started the ball rolling with "Government plays favourites with TV" (March 26) and Fairfax's *Sydney Morning Herald* ran "Digital TV giveaway" (March 27).

The *Australian Financial Review (AFR)* called it "Information Age Mockery" and its Chanticleer columnist Ivor Ries described the Minister for Communications as "the ultimate political pragmatist and the media moguls' best friend" (March 25). The free TV market would be protected, which would be good for its profits, but it provided such an awful service that audiences would desert it for the greener pastures of multi-channel pay TV, which would thus also win from the decision.

A second *AFR* editorial on March 31 identified a more systemic problem: there were "no political champions in the Government, or in the Labor Opposition, for a pro-market media policy". Perhaps the *AFR* was looking for something like the metropolitan daily newspaper business, where two companies have 88 per cent of the market, or the newly deregulated telecommunications business, where the major player has 99 per cent of the local call market and about three-quarters of the international and long distance markets. Or perhaps the cable TV business, where Australia's largest two companies (the ones that dominate the newspaper and telecommunications markets) have a joint venture which is now the major player.

On the opposite page, columnist Alan Kohler was equally critical of the digital TV decision but he saw the problem differently. He asked whether the real question for 1996 had been "perhaps whether Nine and Microsoft should have been kept apart. But it's too late for that now".

## The best is yet to come

While these verdicts have already been loudly pronounced, some critical issues remain to be settled.

The amount of spectrum to be made available for "datacasting" will be examined by a Planning and Steering Committee for digital television. Its first job is "to identify broadcasting spectrum not required for digital conversion of existing free-to-air broadcasters". Engineers at 10 paces. The Committee also has to consider the implications for consumers of the development of standards and compatible equipment for digital TV, though the government says the development of those standards "is a matter for industry".

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The ACA and the ABA then have "to report on the structure of, and conditions for, the allocation of spectrum not required for the digital conversion of the free-to-airs". Lawyers at 10 paces.

Then a fees regime has to be developed under which the free-to-airs pay

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for any "datacasting" use they make of their new "digital" frequencies. The regime has to ensure "a level playing field between free-to-air and non-free-to-air datacasting providers".  
Economists at 10 paces.

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And while this is going on, the government will review "the kinds of datacasting and enhanced programming (multiview) services which should be allowed". Viewer-initiated multiple views of sporting events, such as the pit-stop view and a trackside view during a motor race, are "enhanced" services so the free-to-air can provide them. Multi-channel services are out. "Datacasting" services are in but the free-to-air have to pay to do them. "Datacasting" is all that can be done with the frequencies made available to those other than the free-to-air.

This is the real high wire act for the people drafting the legislation - not just because of the infinite variety of services which might be thought up to test the edges of the definitions but because of the policy which informs the separa-

tion - keep the free-to-air and the rest equally unhappy.

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If the definitions of "enhanced services" and "datacasting" can keep free TV out of multi-channelling and the rest of the media business out of TV for three years, it will be a miracle. But by then, this improbable piece of audiovisual dingo-fencing will have served its short-term anti-competitive purpose.

### **Too little, too late?**

A common observation of the government's decision has been that the pay TV operators, telcos, newspapers, Internet service providers and others came to the debate too late. The free-to-air had the momentum and perhaps a deal already in the bag before the campaign against them began.

More likely, the coalition which was formed to fight the "spectrum giveaway" was a large but disparate group which agreed on only one thing - that it didn't want the free-to-air to get free access to spectrum.

FACTS' wide distribution of a video of Rupert Murdoch arguing in the U.S. on behalf of his Fox Network, for precisely the "spectrum giveaway" that he was opposing in Australia, seems to have heavily wounded the credibility of pay TV operators.

Also, they came to Canberra to

try to put some lead in Kerry Packer's digital saddle bags but discovered they had a bit in their own as the architects of overhead cabling and Rugby League's catastrophe, and with business plans which require Australians to pay for stuff they are used to getting for free. Hardly the kinds of features that have marginal seat politicians hanging out for your next visit.

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### **The big numbers**

About 13 per cent of Australians subscribe to pay TV. AC Nielsen says 16 per cent of Australians used the Internet last month. But 99 per cent of Australian homes have a TV set and people watch it for an average of more than three hours a day.

In the end, it just didn't make sense - even to a government which Bill Gates says is more wired into the online world than most - to throw the industry with the really big numbers (and the people who run it) up in the air.

Finding Rupert Murdoch on the other side, for once slumming it with the little numbers, made them squirm, but the Prince of Print is sure to work out a way to look after himself.

What was that about the Dynasty of Datacasting?

**Jock Given**

## Digital TV - What the government has decided

### Free-to-air television stations

- Access to a 7Mhz frequency in the VHF/UHF band for digital transmission.
- Required to commence HDTV broadcasts on January 1, 2001 in metro areas) and progressively from January 1, 2001 in all regional areas so that all areas have services by 2004. Details of HDTV requirements to be settled.
- Not able to use capacity for multi-channel TV services, though ABC and SBS might be able to do so where programs are "non-commercial" and "in line with Charter obligations".
- Able to use capacity not needed for HDTV broadcasts for "enhanced services".
- Able to use capacity not needed for HDTV broadcasts for "datacasting". Commercial broadcasters can only do so on payment of equivalent fee to that paid by others gaining access to spectrum at auction (see below). ABC and SBS can sub-lease capacity for commercial datacasting, subject to revenue sharing with Commonwealth.
- Required to hand back the frequency previously used for analogue broadcasts at the end of the "simulcast period" - cur-

rently expected to run until December 31, 1998 but will be reviewed in 2005.

- Current prohibition on additional commercial TV licences extended to December 31, 2008. Review in 2005 to decide whether new entrants to be allowed after that.
- Australian content standard (though not childrens program standard) to apply unchanged to digital broadcasts. Also captioning of programs in prime time and for news and current affairs outside prime time, to assist viewers with hearing disabilities.

### Others

- Price-based allocation of spectrum not required for digital television transmission (will vary from place to place). Free-to-air broadcasters can't bid for this spectrum.
- Able to use capacity for "datacasting".
- Not able to use capacity for TV services until at least 2008.
- Required to provide capacity for one standard definition community television channel.

## The Big Sleeper

- *"Prior to the introduction of digital television, the Government will also review...how legislation can be amended to reflect growing convergence between broadcasting and other kinds of media and communications services". Although there is no statement mentioning the ownership and control rules in the Minister's media releases, he has indicated that the government has no plans to review the rules before the next election.*