



FAIRFAX MEDIA CALLS FOR DEFEAT OF THE GOVERNMENT'S MEDIA LEGISLATION

SYDNEY, 13 September, 2006: David Kirk, Chief Executive of Fairfax Media [John Fairfax Holding Limited, ASX: FXJ] today issued the following statement on the Government's proposed media industry legislation:

"The Government's media policy package as it currently stands has become so flawed that it should be defeated by the Senate.

"A fundamental principle of the Government's media policy was to promote diversity and new services to the Australian people. This is an objective we have always supported. We have told the government consistently that our views on the reform package were dependent on the way it promoted diversity.

"The decision to permit Free To Air Television and Foxtel to have the ability to control the new mobile TV license can only increase media concentration, and will compromise the delivery of new digital services.

"Cross media legislation that is already vulnerable to the charge that these reforms will reduce competition should not permit the incumbent video media players to control the only new competitive services that will be made available.

"The fixed digital channel is still so encumbered with content restrictions that we believe there is no commercially viable business model.

"The Government's announcement yesterday therefore destroys all hope of any diversity from these licenses.

"Competition and diversity in media is essential to the robust functioning of a democracy. The Government's policies, by promoting further media concentration in the new digital world, will harm our democracy at the very moment when we should be exploiting the full potential of the digital media age.

"The Australian people deserve better than legislation that rewards entrenched old media interests, that limits competition, and undercuts the delivery of new digital media services.

"This is not about Fairfax having a specifically-advantaged position from the reforms. It is about an even-handed treatment of all media companies so as to promote diversity for the Australian people.

"Our view is that the best alternative to what has been finally produced by the Government is that all restrictions should be removed."

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Contact:
Bruce Wolpe
Director Corporate Affairs
+61 2 9282 3640

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Fairfax Media Briefing Note on Digital Media Services

Fairfax's support for the media deregulation package was premised, as we stated in our submission in April, on the twin pillars of new digital services as well as media ownership reforms. Robust new digital services are essential to counter the potential for consolidation in metro and regional markets and provide a diversity dividend from deregulation.

There were two key issues to be resolved: content and eligibility for the licenses to be awarded.

With regard to the content, the old datacasting regime failed. As Fairfax warned when it was enacted, it was fatally flawed from conception. It exists nowhere else in the world and should be retired as a policy option.

Over the last several weeks, we have done extensive technology reviews and business modeling on the two new digital channels. The best commercially viable use of that spectrum, we believe, is for digital video content to mobile phones and similar devices.

One channel could support up to 30 channels of content, including news, sports, information, music, film and video entertainment, video networking, and other similar services.

Successful trials on DVB-H technology for video to mobile phones are well underway in Europe, and the services are being provided by new video entrants.

These mobile TV and phone services would be genuinely new offerings for consumers and different in scope and scale from current mobile phone applications. A regulatory regime for content premised on protecting FTA or pay TV content is inappropriate and would defeat the viability of these new services.

With regard to who is eligible for these licenses, it is imperative, in our judgment – if in fact packages of attractive, compelling new digital services are to be offered to consumers – that this be done through robust new providers who have no conflict of interest in seeing that these new services succeed. FTA and pay TV incumbents can provide content but must not have the right to operate the license and decide what services are provided.

As a matter of public policy, all the FTAs and all the pay TV licensees should not be eligible for these new digital licenses.

The FTAs are currently barred by existing law from bidding on this spectrum. This should be continued. An FTA should not control a second block of broadcasting spectrum in its market on top of the analogue and digital spectrum they already control as well as multichannelling capacity. This is a bad precedent for television policy and will result in undue concentration.

With regard to Foxtel and its shareholders, Foxtel already controls 100 channels of video. Why should they control 30 more?

If the incumbents acquire these new digital licenses, these new services will be hedged and compromised by the incumbents to protect their program offerings on FTA and pay television, and the new services will never reach their competitive potential.

The program content of the incumbents may well be commissioned by mobile phone TV licensees for the new mobile TV and phone services – but the incumbents should not own, have a stake in or control the licenses.

We believe there will be ample bidders from infrastructure providers, content providers (including potentially Fairfax), other mobile phone companies, and potentially foreign investors, in these new licenses for new digital services.

The most sound public policy, therefore, is that the existing digital broadcasting and cable providers should not control the new spectrum.

Rules providing robust content and strict limitations on eligible bidders for spectrum licensing are essential if the Government's policies are to fulfill their stated objectives of delivering new digital services to consumers.