

Author name: Name suppressed

Date of submission: Wednesday, 12 February 2025

Your submission for this review:

To: The Proper Officer, IPART DECEMBER 2024 SECOND DRAFT REPORT, REVIEW OF RENTS FOR COMMUNICATION SITES ON CERTAIN CROWN LAND Free TV Australia makes the attached further comments in response to the IPARTs Revised Draft Report on rents for communications sites on certain Crown land, released in December last year. These comments are additional to those made in its submission of 28 January, which was lodged without the benefit of an article appearing in Communications Day on 10 February.

12 February 2025

Rental arrangements for communications sites on Crown Land  
Independent Pricing and Regulatory Tribunal  
PO Box K35 Haymarket Post Shop, Sydney NSW 1240

To: The Proper Officer, IPART

**DECEMBER 2024 SECOND DRAFT REPORT, REVIEW OF RENTS FOR COMMUNICATION SITES  
ON CERTAIN CROWN LAND**

Thank you for the opportunity to respond to the draft Report.

Free TV Australia makes the following further comments in response to the IPART's Revised Draft Report on rents for communications sites on certain Crown land, released in December last year. These comments are additional to those made in its submission of 28 January, which was lodged without the benefit of an article appearing in **Communications Day** on 10 February. The story, which reported industry criticisms of the NSW Government over its involvement in the current IPART review, has drawn the commercial television industry's attention to a letter from the Department of Planning, Housing and Infrastructure dated 11 November 2024, published on IPART's website.

Free TV notes the Terms of Reference of the current review, which asked IPART to recommend a fee schedule which:

- is simple and able to be easily implemented by the responsible land management agencies, and
- results in a dollars per site charge that varies by location.

IPART was also asked to update current rents to reflect commercial returns in the market, based on a statistically significant sample of a minimum of 500 data points that are representative of the geographic diversity of Crown land sites.

As a general comment, the 11 November 2024 letter can be read as a view from within the Department of Planning, Housing and Infrastructure that communication site rents should reflect the costs or revenue requirements of the NSW government agencies managing the Crown lands in question, rather than commercial market returns for comparable sites. It is hardly worth saying that consideration of government agencies' costs/revenue requirements and consideration of commercial market returns of comparable sites are liable to generate quite different benchmarks for rents. As the NSW government has directed IPART to treat commercial returns in the market as its benchmark, much of what the Department has to say in the 11 November 2024 letter should be treated as irrelevant to the IPART inquiry.

To the extent IPART considers the letter raises issues that are relevant to the terms of reference, however, Free TV makes the following additional comments:

- *The Department contends that any changes to co-user fees should be considered in future reviews. 'This would allow time for the changes in the telecommunications industry to bed down and enable the capture of the necessary information to substantiate any future changes to Co user agreements to reflect actual experiences in the market.'*

Free TV comment: whatever their validity, the generalisations relied on about changes in the telecommunications industry are not relevant to broadcasting sites, which are unaffected by telecommunications industry trends including divestment of tower infrastructure and have without exception operated in their present locations for 10 or more years. Changes in the telecommunications industry are no reason to delay restricting the levying of co-user fees at broadcasting sites. Indeed, the only current broadcasting industry trend of relevance to the present review is the decline of *per capita* advertising revenue, which is putting at risk commercially marginal TV transmission sites; industry is currently in discussions with the Federal government about assistance with the capital refreshment costs of some of these sites, following the recent closure of the unprofitable TEN-affiliated TV service in Mildura.

- *The Department contends that IPART's report does not adequately consider the costs or complexity of reviewing current co-user agreements.*

Free TV comment: This part of the Department's letter raises troubling issues for the communications sector. Free TV has to date been willing to concede that co-user charges may be appropriate, but only in circumstances where the 'footprint' of the primary licensee at the site needs to be enlarged as a result. However, the problem apparently arises that NSW land management agencies lack the data to distinguish between co-users that require an enlarged footprint, and co-users whose equipment can be installed without materially changing the 'footprint' from the landlord's point of view. Extraordinarily, this is proposed as a reason to prolong the undesirable practice of charging co-user rents for almost a decade. If the Department's principal objection to the IPART recommendation is that it would be too complex and costly to execute, a simpler approach would be to stop charging co-user rents at all sites, until and unless the land management agency is able to clarify that the co-user requires a material change to the 'footprint' of the primary user's facility. Arguably this would be consistent with IPART's term of reference referring to ease of implementation, and also good policy, as it would better align the NSW government's treatment of co-sited tenants where there is no material change to the footprint of the site with that of other state governments and the private sector.

To the extent this problem is compounded by rapid technological advancements in the telecommunications industry, Free TV reiterates that broadcasting transmission technology has not seen comparable changes.

- *The Department contends that IPART has not adequately acknowledged the financial impact to government. If the Land Management agencies were to implement the proposed recommendation to change co-user fees, the total loss of revenue could be as high as \$7.45m per annum.*

If it chooses to make this point, IPART might also adequately acknowledge that the undesirable practice of charging co-user fees is currently depriving the communications industry of an equivalent amount of revenue, including the telecommunications and commercial broadcasting industries that must operate at a profit, or with government subsidies, to continue to provide essential services to NSW residents wherever they live.

Free TV supports the reported request from AMTA, that IPART should refrain from sharing an embargoed version of the final report with the Department before its formal release.

Kind regards

██████████

████████████████████

Free TV Australia