



Government of Bermuda

Ministry of Economic Development

Ministerial Statement

To the House of Assembly

By

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Minister of Economic Development

**INDUSTRY CONSULTATION ON A CONVERGED POLICY FOR
BROADCASTING AND AUDIOVISUAL MEDIA**

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Mr. Speaker, developments over the past decade, particularly the transition from analogue to digital technology, have affected the ways in which consumers in Bermuda and around the world access news, information and entertainment. Increasingly, consumers access audiovisual content from a variety of platforms including: free over-the-air broadcast radio or television services; subscription audiovisual services delivered by cable systems and satellite service providers; and ‘over-the-top’ services on the internet that may be accessed using fixed and mobile devices.

Mr. Speaker, in light of these changes, and as the Minister responsible for telecommunications, I have commenced a review of the Government’s existing policies and legislation relating to free-to-air broadcasting (both radio and television), many of which date back to the 1980s, which I intend to consider in the broader context of the evolving audiovisual media services sector.

Mr. Speaker, you will note that as the Minister of Economic Development, I set the policies for both broadcasting and for electronic communications. Broadcasting is defined by the Telecommunications Act 1986 as “the act of transmitting or re-transmitting radiocommunications intended for direct reception and use by any member of the public without charge.....’ Subscription audiovisual services, including cable television services, are classified as ‘electronic communication services’.

Mr. Speaker, today broadcasting services are regulated quite differently from other audiovisual media services. Broadcasting services are licensed and regulated pursuant to the Telecommunications Act 1986. By contrast, subscription audiovisual services are licensed and regulated under the Electronic Communications Act 2011.

Mr. Speaker, my review of the Government's existing policies and legislation relating to free-to-air broadcasting is, in fact, a continuation of the Telecommunications Regulatory Reform, a multi-phased initiative, which began in 2009. The global law firm formerly known as Squire Sanders & Dempsey was engaged in May 2009 as consultants to assist the Government with the first phase of the telecommunications regulatory reform initiative, which culminated in the enactment of the Regulatory Authority Act 2011 and the Electronic Communications Act 2011, and the establishment of the Regulatory Authority.

Mr. Speaker, At that time, it was considered expedient to limit the reform to electronic communications services, such as telephony and subscription audiovisual services, whilst preserving the pre-existing legal and regulatory regime applicable to the broadcasting. The expectation, however, has always been that responsibility for the regulation of the broadcasting sector would eventually be transitioned to the Regulatory Authority. The growth of convergence, which has blurred the distinctions among between electronic communications and broadcasting, necessitates creation of a converged regulatory regime that will reflect international best practices and better meet the needs of the people of Bermuda. The review also provides the opportunity to take a fresh look at many long-established policies related to audiovisual content.

Mr. Speaker, as previously mentioned, I have begun the second phase of the telecommunications regulatory reform initiative, which focuses on the modernization of the legislative and regulatory framework for broadcast communications. To this end, I have continued the contractual relationship with Squire, Sanders & Dempsey, which is now known as Squire Patton Boggs. Phase II of the Regulatory Reform Initiative will be undertaken in three stages, namely:

- Stage I – Policy and Legislative Drafting, which will lead to the issuance of a Ministerial Policy Statement on Broadcasting and Other Audiovisual Media Services, and the tabling of new legislation to implement these policies;
- Stage II – Regulatory Drafting and Consultation, which will revise regulations, many of which date back to the 1980s, to align with the new legislative regime;
- and

- Stage III – Additional Support to the Department of Telecommunications, which will enable to Department to better address other issues relevant to the audiovisual sector.

Mr. Speaker, I have begun the process by seeking input from the industry on a number of fundamental issues. Our key industry stakeholders include the providers of free broadcast television and radio services, subscription television service operators, entities that deliver content over leased cable channels and Internet-based content providers. The list of preliminary issues includes licensing policies, local content policies, programme content and advertising rules.

Mr. Speaker, Based on the input received from industry, as well as my review of best practices in other jurisdictions, and giving full consideration to the needs and concern of the people of Bermuda, I will issue a draft Ministerial Policy Statement Regarding the Regulation of Broadcasting and Other Audiovisual Media Services. At the time, I will engage the wider public by conducting a public consultation on the Policy Statement. After giving due consideration to the comments, I will issue the Policy Statement, which will provide the basis for the legislation that the Government intends to table in this House.

Thank you, Mr. Speaker.