



29 July 2003

Asa Masterman  
Digital Broadcasting and Spectrum Management  
Department of Communications, Information Technology and the Arts  
GPO Box 2154  
Canberra ACT 2601

Dear Dr Masterman

**Re: Emerging market structures in the communications sector: A report to Senator Alston, Minister for Communications, Information Technology and the Arts by the Australian Competition and Consumer Commission**

This represents the response of the AFC to the invitation to comment on the above report.

We note that the ACCC has made recommendations to the Minister around five main issues related to potentially increasing competition. The main focus of our comments is on the prospect of a further review of media regulation recommended by the ACCC in this report.

Our comments relate to our role as the primary Commonwealth agency supporting the development of Australian film, television and interactive digital content production. As a result, we have a strong interest in all measures that will assist the future development, or affect the viability, of this production.

The ACCC report deals with aspects of the current and possible future regulation of both subscription and free to air television broadcasting in Australia. Television broadcasting is essential to the future of the screen production industry. It currently creates over 80 per cent of the screen production value in Australia. Free to air television production continues to be the bulk of this value, reflecting the key role it plays in providing all Australians with a full range of content relevant to their needs and interests.

Since its inception subscription television has also become increasingly important in supporting a growing level of Australian domestic television and feature film production. There is potential for significant growth with the increase in digital television and broadband services.

Strong levels of Australian content on free to air television continues to underpin the health of the Australian production industry and deliver Australian voices and stories to Australian audiences. This has resulted from a mixture of regulation and investment by the Commonwealth. In a similar manner the subscription sector has been subject to a mixture of regulation and targeted support. More recently, and consistent with its cultural policy objectives, the Commonwealth, has provided, through the AFC and the Learning Federation, limited support for the production of broadband content.

These government programs have supported and developed creativity, through investment in origination and production of screen content for traditional and new media, and through the maintenance of a regulatory environment that encourages the broadcast of this content. It is essential that these measures continue and therefore our underlying submission is that the cultural policy objectives of the Government should underpin any regulatory changes that flow from the Minister's consideration of this report.

The AFC believes an integrated approach to an overarching policy for content creation is key. Content creation is at the core of the creative industries in Australia. The government needs to formulate a policy base supported by appropriate funding and regulatory structures to ensure Australia's active and continuing participation in the production of screen content, otherwise a very real risk exists that Australia will be marginalised in one of the fastest growing areas of the modern global economy.

The ACCC recommends that there is a strong case for bringing forward the review of the moratorium on the number of commercial free to air television licences together with an 'across-the-board' review of the regulations applying to the media sector, in particular those that have a direct impact upon competition. The AFC strongly supports the ACCC when it says:

*It is particularly important that the Commission's recommendations about the current regulations applying to the FTA and pay TV sectors not be seen as discrete or as 'either/or' options. The regulations applying to the FTA and pay TV sectors should be considered in a comprehensive manner—that is—a broad review of the regulations applying to pay TV and FTA broadcasting is necessary. It would be undesirable for further amending of the media regulatory framework to occur in a piecemeal fashion – a thorough assessment of the regulations and how they relate to each other is necessary.*

Any review of media sector regulation must take this whole-of industry approach to policy and take into account all government policy objectives, cultural as well as competition.

The Productivity Commission in its 1999 report on broadcasting also recommended a similar comprehensive review, saying:

*To ensure that the social and cultural objectives of broadcasting continue to be addressed in the future digital media environment, the Government should commission an independent, public inquiry into Australian audiovisual industry and cultural policy, to be completed by 2004.*

Apart from the 2001 Film Funding Package, there has not been a thorough review of Commonwealth assistance to the Australian screen production industry since the 1997 Gonski Report. The House of Representatives Standing Committee on Communications, Information Technology and the Arts current inquiry into “the Future Opportunities for Australia’s Film, Animation, Special Effects and Electronic Games Industries” could be a useful preparatory stage for this comprehensive examination and evaluation of a converging content creation industry.

The AFC believes that any review as proposed should fundamentally address how the allocation of both spectrum and telecommunications licenses can contribute to the future of screen content creation.

This may involve the application of new regulatory approaches that value the cost of access not just as an economic rent to the government, but on the basis of the real contribution new and existing players can make to investment in content creation. For example, the cost of access could incorporate a real dollar contribution to content creation funding.

In the AFC’s view, the ACCC report is further endorsement of the importance of communications and specifically content creation to the future of Australia. There is a pressing need to ensure that Australian audiences continue to have access to minimum levels of Australian content across all communications platforms. This is important, from a cultural perspective, to ensure that an Australian identity continues to flourish; because it fosters the ability of an informed citizenry to participate in the national democratic process and because it affects the future growth of the creative industries in this country and the economic and social well being of the nation.

Yours sincerely

Kim Dalton

Chief Executive  
Australian Film Commission