

Sharon Connolly, CEO, Film Australia

Sharon Connolly is Chief Executive Officer of Film Australia Limited, a Federal Government owned company which supports production and distribution of documentaries in the national interest.

Prior to her 1997 appointment as CEO, Sharon was, for four years, an executive producer with the company. Formerly an independent filmmaker with producing, directing and writing credits to her name, she has also held various positions with the ABC and Film Victoria.

A founding director of documentary production company Yarra Bank Films, she has served on the Council of the Screen Producers Association of Australia, as Deputy Chair of the Australian Documentary Conference and on the Board of Film Victoria.

Consider this list: *RPA, Year of the Dogs, Our Century, Railway Adventures across Australia, Rats in the Ranks, Bush Mechanics, In the Shadow of the Shark, Facing the Music, Quentin, Mabo, The Human Journey* and *Cunnamulla*. These are just a few of the series and one-off documentaries that have captured audiences, ratings, attention, awards and profile in the last few years. I doubt that there are many people who could question that those programs have left their mark.

In addition to those achievements, I think that there are other indicators of documentaries' reach. One of the things we have been persistently told by surveys over the years is that Australian documentary is one of the categories of programming that Australian audiences say they want to see more of. The fact that government continues to pour public money into the production of documentaries indicates that they have some sensitivity to the number of people who believe that documentary production is important, and presumably want to see those documentaries.

In spite of the ratings, audiences, profile, awards, subsidy, and so on, the networks over the years have continued to argue, as they do in the FACTS submission, that there is no demon-

strated evidence of demand for what they call 'traditional documentary'. Just from that opening list, I conclude that there is. But one of the difficulties which documentary faces is the absence of much data to support the case that there is a demand for documentary. One of the difficulties for those of us who have made submissions to this review about documentary, is that we have had some trouble in getting reliable data on the networks' expenditure on documentary programming. On 31 January 2002, the ABA contacted many of us to say that the figures published in the discussion paper were not necessarily accurate according to the networks; and the networks were having another go at putting some figures together. I understand that these are yet to be released [since the workshop, these have been made available at: http://www.aba.gov.au/tv/content/ozcont/review_2001/pdfs/doco_exp2.pdf].

So, one of the difficulties of arguing some of the issues in relation to documentary is the absence of data relating to expenditure and indeed to other things. It is very hard to develop arguments about ratings, for example, given that the networks have never screened substantial amounts of documentary, and therefore there is an absence of data resulting from an absence of programming.

Most of you would be aware that the standard currently requires that each network broadcasts 20 hours of first-release documentary each year. In case your maths isn't great, that is less than half an hour per week. In addition, there is no pay TV expenditure requirement for documentary either.

It is worth noting the history of the documentary subquota. There was no mandatory documentary subquota until 1996, so it is only very recently that documentary has won any kind of specific regulatory requirement at all. That began at 10 hours in 1996, and was increased to 20 hours in 1999. So it is still early days for assessing the effect of those requirements. The late introduction of a mandatory subquota has obviously contributed to a situation in which there have not been large amounts of documentary produced; and we have a sector which is characterised by cottage industry-style production, using short-

form documentaries in single program formats or short series. Documentary has certainly always had the benefit of government subsidy, but it has never had the regulatory side of the equation. I think the fact that they are still being produced is further testimony to the fact that there is audience demand for them, given the lack of a regulatory requirement.

Most of the submissions dealing with documentary have recommended very similar things. Essentially, the kinds of things that the production sector, and those who represent the production sector, want to see are not particularly onerous for the networks.

We would like to see the minimum requirement raised to 26 hours per year, which is half an hour per week. That would provide some sort of solid base, and would also address some of the arguments about continuity of programming and its contribution to audience response and size.

We would certainly like to see an enhancement of the compliance monitoring and reporting requirements, so that we don't have the kind of situation that we have now, where we don't have reliable data on which to base our arguments. In terms of the data, I have not heard anybody yet argue that there has been anything other than a decline in expenditure; it seems to be the size of the decline that is an issue, as I understand it.

There are also some definitional issues about documentary that we would like to see tightened up. You will see references in most of the submissions to *Rex Hunt's Fishing Adventures*, which is classed as documentary, where the *Rex Hunt Fishing Series* is not classified as documentary. It seems to be various shades of grey (or whiting perhaps!), to us.

We don't believe that any of these proposals are particularly onerous for the networks. And I do not think that there is much of a case, given the evidence that we have been able to establish, that those requirements would not help to serve audience needs around the country.

There are many other arguments to support the position in terms of expenditure. Expenditure on documentaries is considerably less than for drama. Given the popularity of certain kinds of documentary, and on a simple basis of value for money, I don't understand why the networks are not jumping over each other to get the sort of documentary programming that the independent sector, in particular, produces. There is real

contradiction all the way along the line about the question of demand. I was interested to hear that children's documentary is something that Channel Ten might be interested in, when barely a fortnight ago I heard Richard Bean from Channel Ten say that 'documentaries just ain't their thing.' I would be delighted if Ten would like to start to build an audience by programming children's documentary, although not at the expense of children's drama.

In the end, we need sufficient stability to ensure that documentary is programmed to satisfactory levels. And we urgently need some reliable data to work from. We need reliable data so that in future we don't have to come back to the same place (as we have been for 20 years) and argue for documentary on the basis of the kind of evidence currently available, which is not necessarily always statistically reliable, and based on observation rather than accurate research.

Jonathan Shiff, Executive Producer, Jonathan M Shiff Productions

Jonathan Shiff is the founder of Jonathan M Shiff Productions, one of the world's leading producers of children's and family programming.

His credits include Thunderstone, Ocean Girl, Horace & Tina, Cybergirl and the soon to be released Pirate Islands.

Jonathan has won numerous Australian awards including the Australian Teachers of Media ATOM Award for the last 3 consecutive years for the best Children's TV Series. He has also won 2 British Academy of Film and Television (BAFTA) Awards for Best International Children's Program. Last year, Jonathan's Cybergirl series won the AFI award for Best Children's Television Drama and Jonathan was awarded a SPAA Independent Producer Award as Best Children's Producer.

Jonathan was formerly a practising solicitor and has a graduate diploma in film and television from Melbourne's Swinburne Institute of Technology. He is also presently a Director of the Australian Film Finance Corporation, which invests over \$50 million annually in Australian Film and Television.

I am not a policy maker, and I am very much a non-practicing retired and reformed lawyer, so I shy right away from being an expert on the policy envelope that we are dealing with. Instead, I come here as a filmmaker and storyteller, to talk about the reasons that we have a content standard for children's drama, and to look at the wider issues about the voice that children's drama provides to children, and the benefits of seeing stories for children, told by children, about children. Frankly, I would prefer to talk about that than some of the micro issues which often come back to 'bucks' and have little to do with the intent of the legislation, or where we are taking our country or what kinds of television we want for our children, and perhaps one day, their children.

As a filmmaker and parent, I can't underscore enough how important it is that children have a sense of worth and self-esteem. Without that, some teenage children get lost in a morass of teenage problems and suicide. The benefits of the last 20 years of C can be seen in how far we have come in bringing up a young Australia that has a voice, that can watch Aussie kids and see Aussie stories on screen. That is my point of departure.

I find this whole experience, even being here, rather surreal. I really have better things to do by being a filmmaker in a studio. In saying that, I am not meaning to complain about coming here; I am delighted to be here. I was making the point that I don't get it. I don't understand why we are attacking choice for children. I do not understand how we can talk sweepingly about children's drama programming appealing to adults, when in fact the whole system is very carefully designed – if anybody studied the CTS (Children's Television Standards) criteria, they would be left in no doubt that what we are making is programming about children, for children, driven by children, to be appreciated by children. (I do admit that there are some parts of the system that are worth visiting, which is echoed in the call for more flexibility in our submission). We spend a lot of time, as a production company, going into state schools (lately from Port Douglas to Melbourne), talking to kids and showing them roughcuts, so I find it bizarre when people make sweeping statements that children's TV is not appealing to kids, that it does not rate to kids and is about adults for adults. I just find that completely untenable.

It is also very important to look at some of the issues. I have already spoken about the issue of 290 hours of C programming, which already allow the networks to do wonderful shows like *Totally Wild*. I think that there are opportunities to be innovative, experimental and exciting, and stimulate the imagination of children, but why on earth would you want to subsume the quota of C drama, which is hanging on by its fingernails as the heart of the tapestry available to children, and deny children that choice?

I do understand that drama for children is expensive. What I don't get, frankly, is that we live in a regulatory environment mandating that networks each provide 32 hours of C drama, yet the networks only pay 15 per cent of the cost. That leaves us to find 85 per cent of the money overseas, while the network keeps approval rights over the projects from an intellectual property point of view, and then argues that they don't like the scripts that their own people have approved and encouraged.

The *Cybergirl* experience is a very misleading exercise. Jenny Buckland can provide more information about that, because she will know from the *Round the Twist* experience that some of these figures are very misleading. The FACTS submission sets out *Cybergirl's* measure of appeal to a 17-year-old audience. When I was told that *Cybergirl* was going to be put on at 6.00 p.m. I was horrified. My audience of kids, battling as they are to find us at 4.00 p.m. (when most of them are not even home, but playing sport or at school or being outside in Australian fresh air where they should be), were not going to know that we are on at 6.00 p.m. And who is going to command the TV set, if they are seven to twelve years old? I certainly never made *Cybergirl* to be measured against the 17-year-old index. Had I made it for 17 year olds, I can assure you that *Cybergirl* would not have played with quite the same dramatic choices: it probably would have been a teenage version of *Debbie Does Dallas*, for which we would have had spectacular ratings and masses of free publicity. *Cybergirl* did indeed have some promotion, although not quite as indicated in the FACTS submission, and frankly 50 per cent of the promotion occurred because I paid our publicists to help foster some of it.

I keep coming back to the same thing. It is impossible to expect a children's audience to follow a program that is lost at 4.00 p.m., or moved, or scheduled when there is something better on, or split up mid-series. The current series of *Horace & Tina*, which whopped all competition in the ratings for the last six to seven weeks, was split in programming over six and a half months between one storyline. In other words, kids were led up to an episode half-way through, and then in a cliffhanger told to come back in six months to see what happens. It is incredibly hard to build an audience under those circumstances, and incredibly misleading to then indicate that the programming by creative con-

tent should be competing for a child's attention with a massive machine like the *Simpsons*. We can get into discussions about what the *Simpsons* and *Big Brother* are about. Certainly, they would not qualify under the present requirements; and they should not do so under future requirements.

There are micro issues which I am happy to elaborate on later, about the difference between a 14 year old and a 12 year old (discussed in the FACTS submission). Those children are very different. Even though they both 'age up' and look up for aspirational programming, they have very different interests and needs. An onscreen kiss by two 16 year olds might be quite fascinating for a 14 year old, but I can assure you that it would make a 12 year old channel surf right out of there.

In closing, there are areas where I agree with Andy absolutely: that this is a fine balance between creative and financial, and there are wonderful opportunities within this envelope. Next week I will be in New York, hopefully closing a deal for *Cybergirl* to be seen by 80 million kids – the first show back on cable in American for six and a half years. I completely reject the thought that we can't work together for greater benefit.

The irony is that, as Australians we sit here as intellectual property and content providers in the English language in a tremendously powerful position, at major crossroads in this new millennium. By working together, even in the children's media (and those who have heard the word 'Pokemon' would be familiar with the awesome power that can be yielded in a children's area), Australians can be at the forefront, not at the back. I personally think that, rather than giving kids less, diversity and choice are vital. The future generation of Australian kids and their ability to participate in their stories is the real issue, not the money.

Joanne Yates, Executive Director, SPAA

Joanne Yates joined the Screen Producers Association as Executive Director in October 2002. Before that, she spent five and a half years working as an advisor for the Australian Democrats, providing policy and strategic advice on issues including broadcasting and communications. Joanne has done project work for the ABC and has a degree in sociology and a master degree in public policy.

I want to provide some context for some of the discussion, and some of the ways that SPAA has been thinking about issues to do with Australian content since the ABA released its issues paper. I draw some of that from some of the issues that Kim Dalton raised this morning. In particular, it is important to remember that the content standard is there because Parliament requires the broadcasters to provide certain cultural content, in exchange for access to the public resource of the broadcast spectrum. That is really what the standard is about: that the public gets something back in exchange for the networks having access to that public asset.

There are a couple of other contextual points. The first is that this review is taking place at a time when the government is proposing changes to the ownership and control provisions of the *Broadcasting Services Act*. We need to be mindful of the potential implications that those changes may have for the whole broadcasting regulation regime. It is very important that we preserve the cultural objectives that Parliament requires under the *Broadcasting Services Act*, no matter what the other ownership and control provisions might end up looking like.

The second point is that this review does not provide the scope for us to effectively consider any of the content requirements for subscription television. That is at a time when the market is contracting, and where we may also see a contraction in the number of channel and service offerings down the track. That may or may not occur, but is something to watch out for.

Both of those things have the potential to lessen the amount of high quality Australian drama,

and other genres of Australian programming, provided to Australian audiences. From SPAA's point of view, the standard has been an important mechanism in guaranteeing that Australian audiences receive Australian programs across a broad range of genres and, more specifically, in genres which are vulnerable, i.e. those that appear in subquotas, such as children's and documentary. The standard has also been successful in achieving, to a degree, another important objective of the *Broadcasting Services Act* that was alluded to in the first session: support for a viable independent production sector. In our submission we say that that objective should be strengthened.

The public interest component of the *Broadcasting Services Act*, which Kim Dalton discussed in the previous session, is one that we often neglect in our discussions about broadcasting and media regulation. It is about the cultural and social obligations that we have, both as producers and as networks or broadcasters, to provide Australian audiences with high quality programming. What we do is ultimately about Australian audiences, who are often forgotten or discussed only in ratings or economic terms. We have an obligation to remember that the Australian audience is a very dynamic beast: it covers a diverse range of ages, backgrounds and tastes. I think that it would suit us well to take them into consideration a little bit more effectively. My real question here is whether it is reasonable to rely only on ratings data or advertising revenue to judge the merits of the program. I would say that it is not, which is why the subquota is there. While some workshop participants may disagree, I think that that very dichotomy is the reason that we need strong and properly enforced content regulation.

On the downside, from SPAA's point of view, the standard has been less effective at guaranteeing the quality of programs and services delivered by free-to-air networks, which is part of the reason that we need to consider strengthening aspects of the standard. Television is more than merely entertainment: it is also about information; and it is also about education. Enjoyment and entertainment are important, but so

is the way that people use television as their source of information about the world.

Where do we go to from here in consideration of those questions? SPAA would like to see the introduction of a system which more effectively judges and rewards high quality Australian adult drama. Secondly, in relation to the vulnerable program genres, like children's programming, we would like to see the networks pay a more appropriate licence fee in order to meet the true costs of production. Jonathan Shiff has touched upon that already. High quality children's drama is just as costly to produce as high quality Australian drama, and yet the networks are paying only approximately 15 per cent of the total cost of production. That needs to be re-assessed. We would also recommend that the ABA regulate a guaranteed timeslot for children's programs, and encourage the networks to promote children's programming in a way that encourages them and the other members of their families to become loyal audiences. This goes back to a point that Sharon Connolly was making about documentary. If programming is absent from the schedule, how do you judge audience loyalty, and how indeed do you attract them to the programs in the first place?

Thirdly, there needs to be some amendment to the definition of documentary to ensure that audiences actually receive high quality documentary programs and that there is no slippage of infotainment style programs in their place. Sharon has already talked about *Rex Hunt*, and while we would not deny the entertainment value of the program, we certainly do not want to see it included in a documentary category. I suspect that *Rex* probably would not either. Andy McIntyre made an interesting point earlier about whether there should be a category for children's documentary. It is not the first time we have heard it, and it probably requires more discussion. There are members of the SADC (SPAA ASDA Documentary Council) at this workshop who might have questions or comments. Certainly, if that were to become an additional subquota, we would not want to see it come at the expense of any current C drama subquota.

Fourthly, there is a question about quality and how we might measure that in amending the standard. It seems to be a question that has fallen by the wayside. From our point of view, and in the way that we have constructed our own re-

sponse to the current drama points system, quality can really only be judged in terms of dollars. Production values go with that. Generally speaking, the more money spent on a program, the higher its quality. That is probably the only practical and appropriate measure of quality we have at the moment. However, we would not want to see a situation where the fact that networks are spending more on a particular program leads to a decrease in the total number of hours of adult drama. We do not see that as a reasonable trade-off, and neither would audiences see that as a reasonable trade-off either.

There has been some discussion about the difference between use of tape and film in production, and whether there should be some recognition of that in the standard. I am not really sure that we would want to go in that direction, as that technological specificity may not provide enough flexibility over time, particularly in a convergent media environment, where we are starting to see IT specialists providing content across a broad range of platforms, including the Internet and television. For example, there are some broadband channels now provided by Beyond Online for Telstra. They do not use either film or tape, but their quality could be judged in either way. That sort of experimental programming is quite exciting and may well force us, if not during this review then down the track, to examine some more fundamentals about production and broadcasting.

Another issue that has been discussed, and which is a key element in our submission, is content diversity. One of the main reasons that we have recommended the development of an independent production quota is as a way to uphold and promote the diversity of Australian television content, ensuring that audiences are provided with a range of programs gathered from a variety of sources. It is designed to promote the economic viability of the independent sector, thus bringing into legislative effect the economic imperatives in the explanatory memorandum to the *Broadcasting Services Act*.

I will just make a few points about funding. Of course, it is a key issue for the industry at the moment, with broadcasters and producers alike saying that it is becoming increasingly difficult to fund production, particularly high level production. Historically we have all relied on government funding, which has come through a variety of channels. There is no doubt that there

will not be a great deal of additional funding over time through government funding agencies or through the ABC or SBS. While we rely on public funding, and it has contributed significantly to the networks meeting their obligations under the standard, it is a finite resource and something that we need to look at.

One possibility could be to introduce some kind of hypothecated tax scheme. I do not necessarily mean that it would be paid directly by tax payers, in the way that Medicare works, but perhaps something like a hypothecated tax on cinema tickets, where a proportion of sales from cinema tickets might go back into a film production trust that could loan or grant money under certain schemes. It may be worth considering how that could be administered and how it could work.

I will finish with the following thought. Much of what we discuss assumes that the way we produce and broadcast film and television will be the same in five to ten years as it is today. I am not sure that it will be. I also suspect that the way in which we schedule programs will not be the same in five years' time as it is now, because it was different five years ago. Audience tastes for high quality will remain, but what we are already witnessing is that where audiences go to find high quality programming is changing.

That brings me to my wish list, that no matter what changing technology might bring, no matter what convergence might bring, no matter what forms of ownership and control rules may apply under the *Broadcasting Services Act* in the future, Australian audiences should be provided with a multitude of thought-provoking, challenging, high quality programs across all genres, produced by the independent production sector for all Australian audiences no matter where they are, how old they are or their taste in programming.

Discussion

Lucas Testro, ACTF: I want to come back to the issue of the scheduling of *Cybergirl*. In the last session, Andy McIntyre said that some people viewed the scheduling of *Cybergirl* at 6.00 p.m. as cynical, and Jonathan Shiff just said that he was aghast when he first heard that it had been scheduled then. I can understand that response. But it is also fair to say that, from a wider perspective, the industry would not consider scheduling of C drama programs at 6.00 p.m. cynically. In fact, we would be applauding that.

What we question is the amount of time that Channel Ten gave *Cybergirl* in that slot. The 20 years of C research which was commissioned by the ABA, the FFC and the ACTF¹ found that from the time that the C drama quota was first introduced in 1984 to 1990, 46 per cent of C drama programming was scheduled after 5.00 p.m. on weekdays. From 1990 to 1998, no C drama programming was shown after 5.00 p.m. on weekdays, and a very small percentage was shown after 5.00 p.m. on weekends. So the networks have spent a decade pulling apart any culture of family viewing of children's programming on their networks, and more specifically, in early evening timeslots. Putting a show back on, and leaving it there for eight weeks, just will not work. They are not going to build up that culture again in that time. I understand that we should be making an effort, but it needs to be given longer than eight weeks to do that.

I also want to make a comment about Andy McIntyre's citing of *Totally Wild* as a reference point to compare to C drama. This is an interesting contrast to what Jonathan Shiff was just talking about, *Horace & Tina*. *Totally Wild* has been scheduled in that same timeslot for years now, which has given it a chance to build up a loyal audience. People know that it is there. In contrast, we just heard about *Horace & Tina* being pulled off halfway through its series. The *Horace & Tina* experience is far from unique in this industry. It is just one example of the differ-

ent ways in which networks treat general C programming and C drama. Similar things could be said about the scheduling and promotion of these other programs. The fact that the FACTS submission compares C drama to programs such as *Home and Away*, *Neighbours* and *Malcolm in the Middle* really highlights the hypocrisy of making those sorts of comparisons, given the way they currently treat C drama.

Kim Dalton, AFC: I want to ask Jonathan Shiff a question. If you, Jonathan, were the scheduler for Network Ten, what would you have done with that program? Or, what would you do generally with the children's drama that you produce?

Jonathan Shiff, Jonathan M Shiff Productions: I was just smiling at the earlier comment that we should let kids make the programs; maybe we should let kids run the networks! Give the network to the kids for a day and see what happens: it might be fascinating.

In answer to your question: anywhere that kids can find it and are able to watch it. The 4.00 p.m. timeslot is really hard, because I don't think that there a lot of kids, in terms of critical mass of audience size, available at 4.00 p.m. Traditionally, Saturday evening or Sunday evening at 5.00 p.m. or 4.30 p.m. have been good times. It is about the loyalty. In fairness, there is a lot of success at the ABC and with the Seven Disney slot, because audiences recognise that they can find programming at that time.

There is one thing that I would change. The point I was trying to get across is that we sit on enormous success internationally: not on every show, but on some shows, enormous success. *Ocean Girl* was an example of that. Why not work with the network? In an age of cross media ownership and foreign ownership, why not work with the network, rather than the network coming in and saying 'let's just chuck it all overboard', like the proverbial children. Why not work with the network to build loyalty to the slot? Why not work with the network to build a brand, because that is what they are investing in? Instead of cynically approaching it as mere satisfaction of the licence, why not work clever-

¹ Kate Aisbett, *Twenty years of C: Children's television programs and regulation 1979-1999*, ABA, Sydney, 2000; Executive summary and publication details available on ABA website, at <http://www.aba.gov.au/tv/content/childtv/20years/index.htm>

erly to marry commercial and creative together, so that it is a win/win?

Mark Armstrong: That point is similar to the one Sharon was making about documentaries being one-off cottage industry productions, as opposed to finding a way to have a package, and in a slightly different way, some loyalty.

Jonathan Shiff: It has been done: *Hi-5* did it with Nine very successfully. I am always a bit staggered when people are ready to chuck the baby out with the bathwater.

Craig Collie, SBS TV: Jonathan, you said that you would schedule at 5.30 p.m. Sunday instead of 6.00 p.m. Saturday. Why is this?

Jonathan Shiff: I am not a programmer, so I don't know where I would schedule it. And frankly, I would give little attention to it, because I really trust my network. I'm really naïve, obviously, because I have been for many years hoping that the network would do what the network does best, and I continue to be an optimist that this sort of discussion would yield that result.

Craig Collie: So, why not the 6.00 p.m. timeslot?

Jonathan Shiff: Not because I don't like 6.00 p.m. I think it is great: it gets a huge audience. But the expectation cannot be that a program like *Cybergirl* will appeal to 17 year olds. If it were made for 17 year olds, I would have made it that way, but that is not what the CTS (Children's Television Standards) criteria require. The important thing here is not the timeslot, because timeslots vary according to where you move the deckchairs of the competitive programming, etc. All I am saying is that Aussie kids' drama is very, very successful. It is enjoyed by children, and is an important part of their lives. What is needed is for them to know that it is there and for it to be cross-promoted strongly. Neither of those things happens in our experience.

Craig Collie: You said that you were aghast when it was scheduled at 6.00 p.m. on Saturday.

Jonathan Shiff: Yes, because the expectation has proved to be that it would reach the wider demographic, not the one I targeted.

Mark Armstrong: Let me add a brief point. Our research group, Network Insight, spends about two-thirds of its time talking to people about telecommunications, new media, Internet

and other neighbouring areas. There is a very rapidly building consensus now that 'content', as they always call it, is about the only strategic advantage that Australia has in communications. You really can't point to any aspect of transmission, IT or even Internet-related activity where Australia is a world leader, compared with North America, Japan, Europe, South Korea and other places. That is a generalisation, but it always strikes me as strange and a comment on the silos in which we are all forced to live, that so many of the other CIT people recognise we have a powerhouse, not just in children's, but in drama, soaps and documentaries, which have a fabulous world-wide track record. They always think that 'content', the giant engine of growth, is about to swing over into multi-channel, digital, Internet and especially broadband. What a pity that there is not more business co-operation between content and carriage people.

Lucas Testro: I want to make one final point about scheduling. In the FACTS submission, the point is made that since 1990, free-to-air viewing by the five to twelve years age group has dropped by 8.3 per cent. It is interesting, as I said before, that 1990 also happens to be the year when networks stopped showing the majority of their C drama after 5.00 p.m. It is a very interesting co-incidence that at the same time as networks stopped showing programs made for children during peak children's viewing, children stopped watching free-to-air television.

Ian Robertson, Holding Redlich: I'm a lawyer, but I am here today in my capacity as a member of the ABA. I would like to raise the issue that Joanne touched on, which is about quality and price. We are obviously very interested in this, and in whether other participants think that the point that has been made about price and quality being synonymous is correct. If the ABA was going to try to give some points advantage, say, to higher quality adult drama, how should we measure that? Is it licence fees? Is it budgets? Is it how many episodes are made per week? Is it whether it is shot on film or tape? Or is it something else?

I also wanted to ask Joanne a specific question, because one aspect of her comments surprised me. I can see why SPAA would want to increase licence fees as a general proposition, but I would have thought there needs to be caution in attacking quality in Australia. I would have thought that if Australian producers can brag

about anything, it is the quality of what is produced here, which I think is, and remains, completely first class.

Joanne Yates, SPAA: I have two comments to make in response to that. The first one is I didn't mean to attack quality. What I meant to say was that we need somehow to measure quality in however we reward and value what we produce and broadcast for Australian audiences. Our submission includes a proposal designed to more adequately reflect on those issues. It involves keeping the points' system in place, but extending it and looking at budgets as a way of trying to increase the higher end productions, giving incentives for networks to look at higher end production, including telemovies, mini-series and so forth, that has been in decline in recent years.

I will also pick up on a point that Catriona Hughes made this morning, which was how to get the networks to invest more in feature productions. SPAA would see that the higher the level of investment in a particular production, the higher the likely quality of that production, by its very nature. That is not to say that you can't produce high quality programs for a lesser budget, but it has tended not to be that way.

Mark Armstrong: You were talking about incentives. Can you think of any incentives, apart from complying with a rule that is made? In the ideal world within this limited sphere, there would be an incentive for a network, where they could get some more money or a credit or recognition of some kind for going the extra mile. Is complying with the standard the only kind of incentive that SPAA has talked about? Another approach, as was done with the television production fund, is to give back some of the money that television networks pay in broadcasting licence fees. That was regarded as a big bonus, or a big favour from government. The licence fee money is an extra tax imposed on television. I think that the people who need to justify themselves are those in government who are taking the money away from the engines of growth such as audiovisual production, then spending it on economically unjustifiable rural roads and other examples we could enumerate.

Bridget Godwin, Seven Network: I wanted to address this issue about the nexus between cost and quality. Speaking from the point of view of a network which has traditionally employed what could be considered to be very efficient

production techniques with a great deal of success, we absolutely reject the idea that that nexus is absolute. In fact we have managed to break that nexus, and achieve consistently high quality programs regardless of whether they are produced on tape or film or any other particular financial measure. We think that quality has a lot more to do with the kind of resources that you put into programs, the quality of the script, the quality of the performances, the type of people you get to do your production and the amount of time you spend in development, than whether you put it on tape or film. I also wanted to respond to a point that Joanne Yates made about how we make the standard work towards producing more feature films. I think we need to be careful about what the standard is supposed to be achieving, which is delivering what audiences want. I'm not sure that people are able to say that audiences' desires for Australian feature film are not adequately satisfied at the moment; and I don't believe that it should be an end in itself that feature films ought to be produced in preference to other types of programming, which audiences may demand or enjoy more.

Nick Herd, Sandstar Films: Mark made part of the point that I was going to make, which goes back to the point that Joanne made about other mechanisms to encourage more money for production. Mark mentioned the commercial television production fund and suggested that there was a linkage between the money from that and the money that the networks pay in licence fees. One of the reasons that the government found it so easy to end the fund when it did is because there was no linkage between the money paid in broadcast licence fees and the money that the government allocated to the commercial television production fund. We have to raise this issue again, because Australia is one of the few countries in which there is no linkage between the money which government takes from broadcasters in the form of payments for access to spectrum or whatever, and the money that goes back into funding production and other cultural forms of production. We are talking here about something like \$200-220 million per year which the government takes out of the commercial television industry in licence fees. Some of that is returned in the rebate to regional television for the introduction of digital, but there is something in the order of \$150 million a year leaving the industry and not coming back anywhere near the industry for funding produc-

tion. That issue needs to be addressed again and taken up again with government.

Lynn Gailey, MEAA: I wanted to pick up on the comment about whether or not there is a direct relationship between quality and expenditure. Other than the issue of tape vs. film, the point was made that quality involves well developed programs and good performances. ‘Well developed’ axiomatically means the time and resources for the development process, which means expenditure. Good performances axiomatically mean an appropriate time for rehearsal, which in turn means expenditure. Leaving aside the tape/film argument and features, television programming across the board is incredibly cost efficient. I don’t think that there is any network that can claim greater rights over cost efficiency than any other one. But I do think that, other than the tape/film thing, it is the expenditure that drives the quality. If you are producing two hours per week, you do not have the time to develop a product that is of the same quality as if you only have to produce one hour per week.

Mark Armstrong: Do you have a preference as to how you measure the expenditure? I don’t want to be negative about the idea, but if there is one thing in life that seems to be very hard to measure, it is cost and profit, because of the creativity of the accounting profession. You can know what kind of production is expensive, but you need to find some effective way of identifying the expense.

Lynn Gailey: Scheduling is not a bad indicator. The amount of programming shot per week has stood the test of time as being a reasonable indicator.

Mark Armstrong: Funny that you should mention it because all this used to work with the prime-time drama quota of long ago. The requirement that drama be in prime time addressed the expenditure and quality issues. In prime time, nobody was going to schedule a dud program that did not have a lot of financial and creative commitment behind it. But in an increasingly multi-channel world with pay television and other alternatives, there is not necessarily a future in focusing solely on prime time.

Bridget Godwin: We agree that those things cost money but our network has consistently produced successful high-quality drama in an efficient manner and has managed to achieve

lengthy development times within its production techniques. As Judi Stack mentioned in an earlier session, we spend on average two years in development for each of the dramas that end up on screen, which I think really shows. Despite providing that time for people to rehearse and all those sort of things, we still manage to produce at a cheaper per hour cost than programs developed by other people. That may not always be the case, but in many cases it is.

Another thing that needs to be thought of in terms of what the standard is supposed to achieve, which is what audiences want, is that it is in everybody’s interests that production techniques and people costs are managed efficiently. That enables people to keep dramas on screen for longer when viewers want to see them. It means that they don’t need to be subject, to the same extent, to the funding cycles. That can be seen from the fact that Seven has a number of long running dramas on screen, including *Blue Heelers*, now in its tenth year of production, *All Saints*, now in its fifth year, and *Home and Away*, which is still going strong and is one of the strongest sellers overseas of any program. That is all because we have been able to maintain the cost of production of those programs in a way which means they can have a long life and deliver something which is a contribution to the culture of Australia. That ought to be encouraged, not discouraged.

Richard Harris, ASDA: I would tend to agree with the points that Lynn Gailey made. Bridget may know the Act better than we know it, but I vaguely remember something about quality programming for Australian audiences. It does not just say what Australians want. They basically want high quality programming, which is required by the Act. I’m not saying that we don’t do that, just that we should not pretend that quality is not mentioned as an objective in the Act, because it is specifically mentioned.

I think that there is a linkage between quality and the actual amount spent. It strikes me that the standard has for the last 10 years included specific genres. This is linked to the fact that those genres have a certain amount of money spent on them, which then relates to the points that they get from format factors. That has always been the case, and when those format factors were first calculated it was on the basis of what the licence fees were assumed to be at that time. It just happens to be the fact that those

licence fees have changed for different types of programming and there is a lot more slippage, whereas the system was much more fixed in the late 1980s and early 1990s. It also strikes me that the general message we were getting from the networks was that they wanted to be rewarded when they spent the extra money and that they wanted more flexibility, with recognition and reward when they did put more resources behind a certain program. I'm sure that SPAA and others agree that there should be some reward for the amount that a network is prepared to put behind a program in terms of making that program work. Whatever that system is – and you can talk about budgets or licence fees or whatever it is – I think that they will agree that there needs to be some recognition of the resources put behind a program.

Catriona Hughes, AFFC: I agree with both Lynn Gailey and Richard Harris. We all had a terribly short period of time in which to respond to the ABA issues paper, but our intention was to recognise where the networks expended money and to reward them by giving greater points for that. I note that Ten and Nine in their submission have embraced that as well. I would also like to add feature films because, as shown by my example of the \$30,000 licence fee, there is a very small payment and a big reward in terms of quota points for the network. I didn't talk about encouraging networks to contribute more to features, but Australia has a very poor history of network support of feature films. If you look at any country outside Australia, you will find that the networks participate at the financing stage of feature film production. The proposal from Nine and Ten, to look at a calibrated system whereby you have a scaled licence fee (i.e. the network would pay a pre-sale amount, based on box office escalators, plus a contribution to equity) is the kind of thing that we would welcome looking at. Our intention in coming up with these slightly different measures was to provide incentives for and reward the networks for spending money on Australian programming.

Judi Stack, FACTS: I will be speaking later from a FACTS' perspective but I will speak right now from the Seven Network's perspective.

I have to say that I am absolutely appalled at the standard of this discussion. We have dropped back into that same old debate about whose in-

terests are going to be served. It is in the interests of the production industry to say that the more money you spend, the better the product. That is, as we know, complete crap. The fact of the matter is that the people who are saying 'the more money you spend, the more quality you will get' are those who stand to benefit.

The Seven Network proposal to the ABA wanted to avoid the situation that is being discussed: dumping a whole lot of money into product that won't necessarily work for Australian audiences, and when it doesn't work, putting it in after 11.00 p.m. to get the points anyway. Let's be very clear here what is going on. More money does not mean better quality and it certainly does not mean that audiences are going to watch it. Earlier in this workshop, someone raised the fact that the Seven Network had a very good result. Our margins have been lower than the other networks' margins. It is arguable that that could be partially due to the fact that we have always had a greater commitment to Australian product. What we are talking about is penalising the success story and rewarding the people that fail. And quite frankly, people here are just talking about putting more money into production; they are not talking about efficiency, or whether audiences will watch or not, or whether the programs should be on in prime time or at 11.00 p.m. They are just talking about more money going into producers' pockets. I think that we have lost the plot here, because most of the people who are employed in this industry are camera operators, scriptwriters and script editors, not producers. Whether they work for the Seven Network or the Ten Network or an independent producer makes no difference to them at all, as long as they can get some continuity of employment and work on programs which they are proud of. All we are talking about is how big the cheques are and who is going to receive them, which has nothing to do with what the debate is really about.

Mark Armstrong: Judi, it is true, isn't it, that when the ABA did its big revision of the standard in the 1980s, although it didn't include licence fees paid to producers, it did decide that licence fees paid for these categories were a big factor in deciding how many points to allow under the format scheme? So, apart from what people are saying now, the scheme we have is based on thinking about how much was spent. Would you be including that in your view that it is the wrong approach?

Judi Stack: No. I think that we can split hairs. What I am saying, which I will address during the next session, is that I'm not hearing anything that is saying why the existing system is not working very well, other than that people would like more money. I like your suggestion that potentially the \$200 million per year in licence fees that we pay, as well as all of our other public imposts, could go into the independent production sector. But at the moment we have a system that has actually been working well. We have been producing much more Australian programming than the minimum quota requirement. It has been working very well for the industry as a whole, specially compared to other countries like Canada, where we always go to see what they've thought up next, a bit like Scandinavia.

Mark Armstrong: No, there is a difference. I hate to interrupt you. In the Scandinavian countries, or even the northern European countries, they have a discussion about what they want to do, then everybody gets behind it and they implement it. In Canada, they have a huge discussion about what everybody will do, they produce a number of reports and then put out a very elaborate policy. Then, often, nothing happens. They have the Australian tendency to produce mountains of policy, but very little execution.

Judi Stack: If we look at feature films, for example, a few years ago, commercial television was getting very involved in feature films, without any changes to the quota. The Nine Network has announced that they want to be involved in feature films again. There will be some cycles in respect to commercial television's involvement in types of genres and types of product. The important thing is that overall our product continues to rate well in prime time, so that we can provide a sustainable underpinning for continuity of supply, and, for a number of people in this room, continuity of employment, opportunity and challenge. I believe we have got that right now.

Children's television is another area which will be debated. But certainly right now, I can't support the idea that we should penalise programs like *Home and Away* for example, which has been there for 13 years and has provided a great training ground. It provides stability in a very cyclical business, allowing people to move between these sorts of programs and much higher risk, less reliable areas of income. That is really important. We have done very well, and

we should not forget that what we have is potentially quite fragile. Ian McGill reminded us of that this morning.

Lesley Osborne, ABA: First of all, I thought I should give some comfort on what looked for a while like being the major issue of the workshop: Rex Hunt. Since the ABA tightened the definition of documentary to exclude sporting coverage, there is less opportunity for Rex Hunt to qualify under the documentary quota. You may have noticed that when Rex Hunt went to Thailand, that was a documentary. But Rex Hunt is not there in the list in great numbers anymore, because the ABA responded to that when the issue of the definition was raised during the last review.

Mark Armstrong: Before you go on, is a cooking program a documentary?

Lesley Osborne: Not usually.

Jonathan Shiff: Which country are you cooking in?

Lesley Osborne: It would depend on what else you did on the trip. There would have to be more to it than just cooking: cooking is light entertainment.

Mark Armstrong: Whatever recognition cooking programs might qualify for, I personally hope that they don't.

Lesley Osborne: Now, without pre-empting at all any kind of outcomes, we are at the moment trawling through people's submissions and looking at the implications of various proposals. One of the issues that occurred to us was in relation to monitoring. Each year we publish lists of programs that qualify and the format factor that they achieved. If you did start categorising programs in terms of their production budgets or licence fees, then reporting on the broadcast of those programs may well involve revealing information that otherwise would have remained confidential. I am interested in getting reactions to that, particularly from SPAA, which has proposed quite an elaborate grid of categories of drama programs.

Secondly, I am looking for some views of participants here today, and perhaps Jonathan Shiff in particular, about children's programs. I understand that very early on, instead of a straight hours' quota for children's drama, children's drama came within the points' system, which would allow for some greater flexibility, in-

cluding children's telemovies or serials perhaps, as well as the drama that we have now. We included that in the issues paper in terms of the possibility for children's serials. This would allow a longer run, more time for children to get to know about a program and a chance, perhaps, for the program to build up loyalty; but there would be other consequences. So those are my two questions and I would be interested in some response please.

Joanne Yates: Directly to your question, Lesley, we imagine that the ABA would be able, in its administration of that scheme, to receive that information as commercial-in-confidence. I don't see why that would be too onerous a duty, although it may be: you would be the one doing it. I don't see that that would be a reason not to implement the whole matrix scheme if it were appealing. As Catriona Hughes rightly pointed out, when the issues paper came out, and in response to the networks' request for us to collaboratively think about ways to reward quality and budget, the agencies and associations got together to look about how we could effectively do that. We talked about our matrices and, while ours might be slightly different from the proposals of other organisations, what remains consistent between us all is our belief that the networks should be rewarded for their amount of investment in quality Australian drama. You may define 'quality' in different ways, and we would never imagine that most Australian programs on free-to-air television at the moment are not quality programs. Australia has a very proud record of broadcasting quality programs. But different genres and formats are of different quality. I don't think that anybody would argue with that proposition.

In response to a point made by Judi Stack about *Home and Away*: our scheme grandfathers *Home and Away* and *Neighbours* from any new reward system. That is precisely because they have been going for so long; it would be ridiculous to impose any new scheme on them. However, you could successfully apply the scheme to other forms of drama, maybe in a staged process. The scheme that we have come up with rewards each level of production and rewards the networks for investment. It rewards audiences, because audiences are going to receive higher quality programs, and it enables producers to provide higher quality productions precisely because they will not have to keep constantly looking for investment from a variety of sources. This isn't

about putting money into the pockets of investors; it is about appropriately investing in Australian drama.

Jonathan Shiff: In response to a point Lesley Osborne raised, I would really welcome any constructive and imaginative solutions to the funding of, and network participation in, children's series. Just for the record, unlike serials or mini-series, series are not eligible under the 10BA (film and television investment) provisions of the *Income Tax Investment Act 1936*, and therefore cannot access subsidies to raise their budgets. It is an area that is continually revisited in children's, because we often find that the legislation mandates a certain form of storytelling for children, but kids overseas don't necessarily enjoy the same form of storytelling.

I think that we should be open to new ideas. For instance, there is a global economic vacuum and opportunity in kids' movies, telemovies and feature film. I know that the ACTF submission includes an interesting new idea about rewarding telemovies as a new way of attributing points. I would love to open up something that is economically viable. It is something that does not necessarily happen a lot at the moment. It is imaginative and could be rewarded. Rather than looking at the punitive outcome, let's also look at what is a good outcome economically for both parties.

Sharon Connolly, Film Australia: Can I ask a question of Lesley Osborne? I wanted to ask about figures again. For some years now, the documentary expenditure figures have shown a downward trend, and the figures that were published in the issues paper applied to a five year period I think. Has the ABA had any thoughts, since it was realised that those figures may not be reliable, about how to ensure the accuracy of figures so that we have some basis from which to consider the issues about documentary expenditure?

Lesley Osborne: The point you make relates to the collection of broadcasting financial results, which cover a range of information. Those figures and processes are currently being audited, to help in upgrading that process. The problem that emerged in relation to the documentary figures is another wake up call, in terms of accuracy. One really has to check the cells of information at much lower levels to be more confident in the data. I would make the point that, as you would be aware, the documentary figures

that had shown a dramatic drop have been in the public domain for quite some time. It wasn't until we put them in an issues paper and it appeared as though something might hang on them that people started to question them, and the issue was brought to our attention. It is interesting that we do our best to make good information available, and yet it is not interrogated.

Sharon Connolly: I think that the production sector, and certainly Film Australia, interrogated those figures some considerable time ago. It appears to me that the networks did not interrogate them, and did not draw attention to the fact that they considered them to be unreliable, until they were published in the issues paper.

Creina Chapman, PBL: I would like to go back to this issue of different drama categories. It is a bit dangerous to concentrate on the word 'quality'. We should really be looking at a flexible industry where we can have a range of program production styles – programs that are produced in-house, programs that are produced by a combination of the network and an independent production house and programs that are purely independent – and importantly, a range of types of drama: everything from soaps to mini-series to the various forms of one-hour dramas that sit in the middle. We should not be making judgements about whether one is better than another. That is not what this is all about. The point is trying to encourage a system where we can have all of the different programs on a range of networks. It is no secret that Nine is currently looking at doing a 40-episodes a year drama, probably similar to a Seven model, but that does not mean that we will not continue to do some of our current dramas. Clearly, that is related to expenditure, but I think, as Mark Armstrong said, trying to have an expenditure model is very dangerous. It is easy to manipulate and it does not necessarily increase efficiency, as Bridget Godwin said earlier.

I don't think that we should get hung up on this issue of penalising and rewarding with the system. It is all about trying to encourage a range. That is why, in the Nine and Ten submission, we have suggested distinguishing between a 26-episodes a year drama and a 40-episodes a year drama. That fits with what Richard Harris and some of the others were talking about, that the filming basis makes a difference. The fact that there are different types of drama does not mean

that some are better or worse than others; they are just different.

Richard Harris: Firstly, I wanted to say, on behalf of my members, that we don't really care what producers get paid. Essentially my concern, and I think Lynn Gailey's concern for her members, is not that producers get paid certain licence fees, although we obviously want to have viable producers. The issue for our members is to work on the good projects, and generally those projects are the ones that have the resources to be developed and have good production values. I was going back before to the point that Mark made, that when the ABT (Australian Broadcasting Tribunal, the ABA's predecessor) decided to introduce the format factors it was because a lot of networks were saying that they weren't getting the right rewards for putting up money and taking risks. We are not saying that money necessarily guarantees great product, but that was what the networks wanted. What we were saying in terms of this review is that there should be some rewards for risk.

I am sorry that we used the word 'quality', but unfortunately it is in the Act. We are trying to take the subjectivity out of it and saying 'let's not pretend that we can sit around in a committee and say what we think is a quality program.' But the only objective measure you can use is money, whether you talk about budgets or licence fees or something else. The current standard is predicated on the basis that you spend less to make a series, more to make serial, and even more to make a telemovie or a mini-series. That is the reality. The way that the system works is that you don't have to spend it on series, serials or telemovies: there is flexibility. We are not going to say that you are bad if you broadcast one or another, but the reality is that you are going to get more points for some formats than for others.

Lynn Gailey: I wanted to touch on an aspect of the objects of the content standard that has not been discussed so far. That is to ensure that on Australian screens there is reflected some sense of national identity, character and diversity. Although this whole area is under-researched, and we are always struggling for adequate data to run any kind of argument, the area where we are seriously under-researched is the extent to which Australian diversity is represented on screens. The work that the MEAA has done, either alone or with others, over the last few years has shown

that the anglo-centric nature of Australian television of the 1980s has certainly moved a long way. The last research we did on drama, looking at the casting of lead characters in Australian drama programs, showed that there were absolutely no Asians in any sustaining roles in television. Then along came *All Saints*, so since that research was released two years ago things have shifted again. There is an amazing inadequacy of research in that area. The only thing that we have researched is drama, but in terms of representation of Australian identity across all forms of programming, the information is not there for us to make an adequate assessment across all television or to enable us to proactively look at what might be done to ensure that the objectives of the Act are being delivered.

Andy McIntyre: A comment about this notion of risk and reward that we have been talking about a lot in this discussion. It is important to recognise that some of the changes that have occurred over the last three to four years are largely beyond any of our control. The risk profiles of dramas that we may have developed three or four years ago were very, very different. Then we were a walkup start to get \$100,000 per hour from Germany, for example. Now those funding avenues have largely dried up. It is great to talk about promoting diversity within the standard; in fact, it is probably imperative at this point in time that all the networks explore different funding models. What the Seven Network does is terrific: their self-liquidating model serves their purposes very nicely. We applaud that. Nine has gone to market with their prospectus to seek public funds for the dramas they hope to develop. The Ten Network has employed more traditional methods: we have had to wear a few more soles off our shoes in the UK and at the various markets trying to go the traditional pre-sale route to fund our dramas. If we can nurture an environment that promotes all of those different models within the drama equation, the whole industry will be better served.

Mark Armstrong: Thanks. Now we come back to our panel who have to include in any final remarks the same exercise of saying, if they were in charge but could only change one thing, what it would be.

Sharon Connolly: That the inclusion of documentary in the standard be a given, and that arguments about the requisite levels of content and

expenditure be informed by reliable data provided by the networks and verified by the ABA.

Jonathan Shiff: It is hard to think of just one. Further to what Andy McIntyre was just saying, I think we have to acknowledge that in order to get diversity, in order to get what we want, whether it be children's or another genre, we have to revisit the issue of licence fees. Kids' programming is a classic example where the economic drivers have been pulled out from underneath the industry. Ideally, there would be long-form children's series and long-form children's serials, shot on film or tape, but the licence fee we are presently getting barely covers the cost of the catering.

Joanne Yates: It is really tricky. What I would like to see is a more collaborative approach between all of the sectors of the industry to achieve what we all want, which is really good programs on our televisions for all Australian audiences.

Mark Armstrong: I think that some of that collaboration has been practised before. What you do is go down to the pub with a number of key players, then you come back and all make the same submission to the regulator. I think that has been done.

Maureen Barron, GM Corporate, Southern Star Group

Maureen Barron is the General Manager, Corporate for the Southern Star Group of companies. Southern Star is an integrated film and television production and distribution group. Divisions of the company are involved in film, television and video production; sales and distribution; licensing and merchandising. Southern Star is a publicly listed company.

In October 1997 Maureen was appointed Chairman of the Australian Film Commission, the Federal Government's principal development agency for the Australian film, television and multimedia production industries. She was re-appointed to that position in 2000 for a further 3 years.

From 1995 to 1997 Maureen was the Vice President of the Screen Producers Association of Australia, the peak producers' representative body for the audiovisual production sector.

Prior to taking up her position at Southern Star, Maureen was the Business Affairs Manager from 1991 to 1995 for the Australian Film Finance Corporation Limited, the Federal Government's principal vehicle for funding Australian film and television production.

Maureen has been a member of the Australian Government's Copyright Tribunal and is currently a member of the Copyright Law Review Committee, a specialist advisory body reporting to the Australian Attorney-General on copyright law matters. During 1999 and 2000 Maureen was a member of the Western Australian Screen Industry Taskforce established by Premier Richard Court to conduct a strategic review of the film and television industry in Western Australia. She is currently a member of the Minister for Trade's WTO Advisory Group.

I have not prepared any statement here, because Mark lures people to speak at these events on the basis that you don't need to prepare anything. However, we were asked to pen some thoughts about what we would say and I paid attention, as did everybody else, to the

structure of the workshop program. In particular, this session is about common ground, points of difference and ways ahead. We have heard a lot of that already.

I should make clear the perspective that I am speaking from, which is that of Southern Star. We are a producer of television and we produce across a range of genres and formats. We make long running drama and shorter dramas (although it has been a while: the last two mini-series for Network Seven, *On the Beach* and *Do or Die*, were made and broadcast well over a year ago). We have not made a feature film for a while, but we will soon be starting production on the new series of *Big Brother* and some new children's programs and reality programs. We also sell a lot of Australian programs internationally: our own, and those from the Seven Network, Network Ten and the Nine Network, in particular Seven's *Home and Away*. So I bring to this the perspectives of an Australian producer and an Australian based distributor.

I take all of that into account when I say that the real focus, when we came to think about the Australian content standard at Southern Star and put together our submission, was the perspective of the audience. That is really what the content standard is all about: the provision of Australian content for Australian audiences. Given that we sell those programs internationally, what has been clear to us over all the years we have been selling our own and other producers' products is that the programs stack up. Provided the slots are there, there is nothing wrong with the quality. I remain convinced of that. Looking at the participation list for this workshop and hearing what has been said, I also don't think that there is anybody here who doesn't believe that we ought to have an Australian content standard and Australian content on our television screens. Maybe if that person is here, now is the time to leave or not identify yourself. So I begin with that common ground.

I want to take people back to what Ian McGill said at the start when he referred to international trade agreements. That is a very real issue. It is not one that sits in front of us every

day, but I want to underscore what he said. One can't lose sight of the fact that Australian cultural interests are not relevant to international trading partners. They might care about their own cultural interests, but I don't think that you can expect them to care about ours. I take the point that Ian made that we need to be alive to that in globalisation. I don't have a problem with globalisation or trade agreements. What I have a problem with is that we don't continue to emphasise the local.

When we were thinking about how to construct a submission that would be constructive to this inquiry, I tried to consider how we could look at the balance of interest, diversity and risk and reward. All of those things came into the balance, along with the balance of the weight of responsibility on all the participants.

I told Judi Stack that it was really good that she woke us all up. Her comments about lining pockets got me, because one of the issues that we put in our submission was the complexity of financing Australian drama. That has been an issue for us, across the board for all the dramas that we have made, including both children's and adult drama. It remains an issue, because if we are not seeking all of the licence fee from the domestic distributor, by definition we have to find the deficit. It is very difficult for us to achieve fully funded drama programs: it is not unheard of; and I am not saying that we don't do it. I'm saying that finding the deficit for programs is something that we are doing on a day to day basis. In our submission we focused on the complexities of doing that, which is very important for us. What we are not trying to do is to line our pockets in terms of raising our fees. What we are trying to do is to line our pockets in terms of finding the deficit.

The other area that I want to throw out there is the kinds of issues that we face in creating levels of incentives for diversity of drama. As I said, we spent a long time thinking about this in preparing our submission. I don't necessarily think that what we put in was the only way the standard could be tweaked or re-jigged; nor do I think that it is the best way. It was the best thing we could come up with, having looked at all the options. We share with the ABA the view that the system has been working well and want to meet the challenge of how to make it better. We focused on the for-

mat factors. I think that our submission to the previous review also looked at format factors, because we thought that was a good way of looking at risk and reward. But I have to say that that balance, which is for us about the audience, broadcasters, government and producers, has to be maintained. That was the objective that we had when we put our proposal forward.

Ian Robertson, Member, ABA, and Partner, Holding Redlich

Ian Robertson is the Sydney Managing Partner of law firm Holding Redlich and the leader of the firm's technology, entertainment and communications practice group in Sydney. He practises commercial, trade practices, intellectual property and employment law with emphasis on the film, broadcasting, advertising and publishing industries.

In addition to serving as an advisory board member of Network Insight, Ian is a part-time member of the Australian Broadcasting Authority and a board member of Ausfilm. He is also a former director of Cinemedia, and a former director and deputy chair of Film Australia Limited.

Prior to joining Holding Redlich in 1989 his career included being corporate solicitor of David Syme & Co Limited, publisher of The Age newspaper in Melbourne, and a director and senior executive of the national audio and video production and post production company, AAV Australia Pty Limited.

I am here in the capacity as a part-time board member of the ABA. I therefore need to point out that there are six other board members of the ABA, none of whom may necessarily agree with one word that I am about to say. And being a lawyer, I also reserve the right to change my mind.

As an overall comment, we put a lot of work into the review of the standard that occurred after the Project Blue Sky High Court decision in 1998² which resulted in the standard that commenced in March 1999. While nothing will ever be perfect, I think with hindsight that, to a fair extent, we got most of it pretty right. I believe that we achieved the objectives that we were endeavouring to achieve in respect of how New

Zealand would be accommodated and some other things. We said at that time that we would review the standard after two full years of operation, which is what we are doing now. We have no intention of ripping it up and starting again with a blank sheet of paper; but we are looking for useful improvements that can be made in view of current circumstances, likely future circumstances and a few things that have been learned along the way.

I have my own view of how much a regulator can achieve in this area. On paper, if you look at the Act and the reams of legal advice that have been obtained by the ABA and its predecessors over the years, the ABA has very considerable power in this area. We could do almost anything, believe it or not. And five of the seven members of the board have direct industry experience in different roles. Perhaps I should mention that: Robert Le Tet is a producer, Jane Marquard used to be a network lawyer, Michael Gordon-Smith used to run SPAA, I am an entertainment lawyer, and Malcolm Long is simply a legend! Between us, we have views from a number of different perspectives about the operation of all the content standard. Notwithstanding that expertise and knowledge (and the even greater expertise and knowledge of our officers, several of whom, headed by Lesley Osborne, are at the workshop), I believe that we should only be interfering in the commercial operations of the industry to the extent absolutely necessary. It is not our role to be price setters. It is not our role to executive produce or script edit programs, and we don't want to stifle innovation. There are certain subquotas that have been there now for some time and I expect will continue. But a great deal has happened that really has nothing to do with the ABA. There has been innovation in variety programs; I think of things like *The Panel*. The whole move, at least for a while, towards reality television was absolutely nothing to do with the ABA, and nor should it have been. It was producers, networks and others, presumably responding to audience need at the time.

² *Project Blue Sky v. Australian Broadcasting Authority* [1998] HCA 28 (28 April 1998) (*Blue Sky Case*), http://www.austlii.edu.au/au/cases/cth/high_ct/1998/28.html

I wanted to touch on two things already raised at this workshop. The point about trade agreements is certainly well made. As many of you will recall, after we released the new standard in 1999, the government amended Section 160 of the *Broadcasting Services Act* and said that, instead of the ABA having to take into account all trade treaties and agreements to which Australia was a party, we only had to take into account CER (Closer Economic Relationships with New Zealand). At that time, the then and current Minister, Senator Alston, put out a press release about that and said specifically on behalf of the Australian government that in all future trade negotiations Australian culture would be paramount. People become very nervous when the government goes into a round of trade negotiations and says something like 'everything is on the table.' But the reason any government says that is that if you go in and say 'everything is on the table except for content', the Americans come in and say 'everything is on the table except sheep' (or wool, meat, steel or whatever). The fiction is that everybody goes in with everything on the table, then each country pulls out the things that it wants to pull out. In the Australian case, like the French and a number of other countries, we say that the content standard on television is non-negotiable. Let's hope that continues. The point is nevertheless very well made.

I also wanted to address statements that there was a certain inconsistency in the way various aspects of this regulatory matrix are dealt with. It is true that there will be a review of the pay television expenditure requirements not later than the end of March 2003: the Act requires that. In that review, the Minister will consult the ABA in the same way that the ABA has been consulted about other aspects of pay television, including anti-siphoning, documentaries, whether development expenditure should be included, and so on. The ABA will again play that role. Ultimately, as with each of those issues, the decision is the Minister's and the decision will be the Minister's again. I only hope that, unlike anti-siphoning, we are given a bit more time to do it. It is probably well known that in that report, the ABA said that with more time we could have done better, because the anti-siphoning regime should be looked at in a more fundamental way.

So let's look at a few of the issues in the Australian Content Standard for Commercial Television. It would be too much of a cop out for me

to say nothing; and I'm not going to. I instead would like to indicate the way I think that a few of these issues may be moving.

In the case of adult drama, I think that there is general consensus that there has been increasing pressure on the ability of Australian production to be funded, given the problems that have occurred with deficit funding, access to offshore pre-sales and so on. That comes down squarely to the issue of whether the ABA should alter the format factors so that there are more points for higher expenditure, however that is measured. Various ways of doing that have been suggested. My personal opinion is that licence fees are a pretty good measure, but that is something we will need to continue to work on.

The other issue that is right at the fore, and obviously highly controversial, is whether the ABA should be doing something about mandating independent production. There can be no question that an independent production sector is vital to the future of the Australian industry in its broader sense. But it would be a big and unique step, and as far as I am aware without precedent, for the ABA to step in and set an independent production quota. I have a hunch we might be more likely to think about incentives: incentives for both higher budgets or higher licence fees, and incentives towards use of the independent sector. I think that that is a more likely outcome than the ABA imposing rigid quotas on the industry, but as I said before, I am only one member.

Another issue which has been much talked about is what constitutes prime time. In part, but not only, because of factors relating to New Zealand, the ABA reduced the prime time maximum back to 11.00 p.m. from midnight. We did that because we thought that, as a matter of fact, that is when prime time ends. I have never met anybody outside this particular debate who would seek to argue that prime time goes past 11.00 p.m. I have not met a television airtime salesman who would want to argue that credibly. The point becomes different when you are talking about Australian drama and Australian drama points. Although that move did result in two Australian produced series no longer going to air, I think it is fair to say that we are not displeased with the overall outcome. The issue that may require further attention, and to which I genuinely have an open mind, as I'm sure do all of my colleagues, is whether there is merit in the

point that has been made that if a one hour program starts at 10.30 p.m., it should get prime time points until 11.30 p.m. We already provide for a 'run-off' of unsuccessful series that were made for prime time but didn't work. I think we would need better arguments than have been put forward to this point to put prime time back to midnight.

The final issue in drama is whether co-productions should continue to be given an automatic window to the standard. I'm not aware of any submission that says that they shouldn't; I think ASDA has said that there may need to be a licence fee restriction. In any event, it seems unlikely that there would be any change in terms of official co-productions being a window.

I move to children's drama. Not working for a network, I have a hunch that the reason this has become such an emotive issue is that networks somewhere in their accounting departments do things called 'cost per drama point' and 'revenue per drama point'. I am sure that they do it for children's as well, and I suspect that the biggest gap between the two is in the area of children's drama. If you assume a licence fee of \$65,000 per half hour (which is currently marginally optimistic) and multiply that by 32 hours of children's drama, the cost to each of the three networks is approximately \$4 million per year. That is not substantial or significant or, I suspect the accountants would say, even material, in relation to what they spend overall on programming. Nevertheless, it has become a point of considerable contention in this review.

The ABA, I think for the first time ever, put in a minimum licence fee for children's drama as part of what I have called the New Zealand review. We did it because we were concerned at the time that there may be a flood of New Zealand children's programs into Australia, based solely on price, rather than any other competitive advantage they might have had. I think, with hindsight, we were probably wrong. Many people argued with us that the \$45,000 a half-hour would act as a cap and not a minimum. That was not the intention. We subsequently did research that suggested that it was not acting as a cap, but having said that, it is hard to ignore the vast number of submissions that say we have got this wrong. I think a fair summary of the majority of the 'production industry-oriented submissions' is that we should increase the minimum licence fee to \$150,000 per half hour or get rid of it. We

have taken a lot of note of that. It may be that the ABA should again remove itself from any specification of licence fee minimums.

The second issue is the degree of flexibility in what C drama can be. Are we being a bit restrictive in insisting that it be limited to the primary school audience? Should at least some of it be increased to allow an audience of up to 14 years of age? That remains an open question, but it is nevertheless a real one. I gather that there is some, but certainly not unanimous, support.

The third key issue is promotion. I agree with those who say that children's drama is not being properly promoted by networks. It is hard to argue anything else. The question is what the ABA should be doing about it. We have the power. But it is a power that I think we should use carefully. There is also a question of exactly what you do. Promotion can mean many things, not only on-air promotion. Certainly, I think that is something we will look at further as part of this C drama issue.

Finally regardless of what happens with the review of the content standard, I think that something will happen about the ABA's assessment of C drama. A number of people from all sides of this discussion have said that the ABA is being too prescriptive in the way it assesses C drama. Some people have said that, while they find our script edit notes very helpful, as I said before, the ABA is not an executive producer: we are not, and should not be, script editors. That is something that we are looking at as part of the process of how C drama is assessed.

Documentary has been much discussed at this workshop. The subquota was doubled to 20 hours as part of what I have called the New Zealand review. We are serious about enforcing it. I know that our officers, who have been quite polite at this workshop, are actually deeply hurt at the suggestion that we are a soft touch on this. We are serious about enforcing it in the way it is meant to be. Rex Hunt gets through in a particular genre of what he does because it is actually a documentary. However there are remaining issues there, including whether we should increase that subquota further. I would have thought that any increase is likely to be pretty minor, as would be any decrease.

The final subquota area I want to raise comes out of several submissions that said that there is not enough Australian music on Australian tele-

vision anymore, and it is something that we should be concerned about. The Australia Council has raised this, as has at least one group connected with musicians and related areas. I have some interest in this and believe that the government does as well. The government has taken a fairly strong stand about what the commercial radio industry should be doing about Australian music on Australian radio. The question though is what to do about it? It is all very well to say that the ABA should put in some sort of quota for Australian music, but what is it? Firstly, what is Australian music? Does it run from chamber music through to dance? Does it mean we should be mandating the next version of a *Countdown*-type program, or does it mean something else? It may be that it is all so difficult that the ABA would be better to keep out of it. But it is definitely an issue which is on the table for us to have a further look at.

Judi Stack, Chairman, FACTS

Judi Stack, whose television career goes back more than 20 years, is the Director, Broadcast Services for the Seven Network Limited. She is responsible for Seven's technology functions and extensive television production business – Seven Resources – as well as being the driving force behind Seven's migration to digital television.

At Seven her key achievements have been in change management and organisational re-engineering.

Judi is also the Chairman of The Federation of Commercial Television Stations (FACTS), the peak industry representation organisation. FACTS represents all 46 Australian commercial television stations.

She sits on the Boards of a number of wholly owned subsidiary companies and key joint venture businesses including TX Australia, which operates television transmission facilities in all mainland metropolitan capitals on behalf of the three commercial networks.

Her previous positions have included Chief Executive of Rail Access Corporation and Secretary of the Ministry of Transport for the country of New Zealand. She has held senior strategic general management positions in telecommunications and media including Hutchinson Telecommunications, the Nine Network, the Australian Broadcasting Corporation and Elders IXL.

Ms Stack has a Bachelor of Science (Architecture) from University of New South Wales.

I am here today speaking as the Chairman of FACTS, so you can expect me to be fairly strict in terms of our company line. However, I will be able to discuss issues in respect of Seven if there are any questions. I will identify when that actually happens.

Let me say first of all that we really welcome the opportunity to have this very open and frank dialogue with the wider production community, and the independent production community in particular. I certainly believe that commercial

television in particular, and the free-to-air television industry more widely, and the television production industry have a lot more in common than we have in terms of opposing interests, even though sometimes in fora like this, it seems the reverse. There is no question that we are very mutually interdependent and our health and the success of what we do relies on the success of our two different sectors.

I will wrap up with the FACTS' position on this whole review. It is quite clear that we have a very strong commitment to Australian content and Australian programs. The primary reason for this commitment is that our audiences really like them. Regulation is a bit like tax regulation: no matter what you create, people will find ways of getting around it if it doesn't actually work for your business. What we have seen over the last couple of decades of Australian content standards in Australia is that, overall, we have exceeded the content requirements and regulations; we have gone beyond the bounds; we have done things that we haven't had to do. That is not true of all networks, and it has varied at different times, but is true overall. We will continue to do those things because, as Bob Donoghue said, Australian cultural resilience is fantastic. The market will respond to that cultural resilience, and I think that that is where we have to ground this whole debate at the end of the day: what audiences think about these programs and whether they will work for audiences.

Certainly the commercial and public broadcasting sectors have different roles, but the best measure for the commercial television sector is community response, which is broadly measured in audience ratings. That is how we measure ourselves; that is how people measure what they want to watch and vote with their feet; and that is how we sell those spots to advertisers, so that they can help us fund more of the programs that people want to watch.

Ultimately, our message is that the market does not require fixing. There is no failure of the market for the Australian commercial television industry, insofar as the objectives of the Act are concerned, which are to deliver cultural outcomes for the Australian people. The hours of Australian programs on commercial television

have increased over the years and continuously exceeded the standard's requirements.

The objective of the Australian content standard, which Kim Dalton started the workshop off with, is principally a cultural one. Certainly, that is underpinned by a healthy independent production sector, but ultimately the reason we have market intervention at all is so that we see ourselves and understand ourselves as an Australian community on our television screens.

Clearly, Australian content is much more expensive for us as commercial television broadcasters than buying product from the US or anywhere else in the world. There is a strong nexus between our finite advertising revenues and the amount of Australian content that we can put to air. That is particularly the case with drama. Having said that, last year we spent nearly \$600 million on Australian programming. Australian programming represents 70 per cent of the total programming expenditure of commercial television stations.

Those figures are pretty impressive: we spent 70 per cent of our total programming expenditure on Australian content. It is also worth noting the conclusion from the ABA's issues paper, that over the past 10 years, the average growth in expenditure on Australian programs has more than doubled the average growth of expenditure on foreign programs.

I won't go through FACTS' submission in too much detail. It was interesting to hear Ian Robertson say that sometimes the ABA gets it wrong. In relation to Blue Sky, there was a threat that was largely, I think, generated by the independent production industry, that New Zealand programs would displace Australian programs on our television screens, and that this was going to be the most terrible thing that had ever happened to the industry and the Australian viewing audience. We are able to clearly demonstrate that that has proved to be wrong. Our view is that all of the changes made to quotas as a knee-jerk reaction to the dragon coming across the Tasman should be repealed. Certainly, we believe that there should not be any decrease or increase to the overall transmission quota or the individual subquotas, but that the increases put into place when the CER allowed the eligibility of New Zealand programs should be reversed.

A number of people have spoken about Australian drama, which is incredibly success-

ful. Creina Chapman from Nine talked about the importance of having a diverse range of different Australian drama. Australian drama is generally ranked amongst the most watched prime-time programs. Of the top five dramas for this year, two are Australian, and I am happy to say that both of those are on Seven. The strength of local drama screened in 2001 was excellent in range, quality and rating performance. The fact that we had three new dramas launched during that year, *The Secret Life of Us*, *Always Greener* and *McLeod's Daughters*, shows that the industry is maturing. We are getting to a point where we better understand what audiences want, and I hope that will allow us to do more and more drama. Certainly on the Seven Network, in 2002 we will have five Australian dramas, which is unprecedented: that has never happened before in the history of Australian television.

I spoke earlier about industry support models. Clearly, we are interdependent and rely on each other for success, but the legislation does not mandate industry support. Industry is supported in a whole range of different ways: tax, government funding and so on. We would totally oppose the introduction of an independent production quota.

We do think that there needs to be some fine tuning, as has been discussed in relation to the C drama quota. Remember that this is all about audiences. We estimate that \$67 million per annum from the industry as a whole is being spent on C drama. We think that those resources could be better utilised. In 2001, there was no commercial C drama series ranked in the top 100 programs for children in the target group, which is five to twelve years; not one. Only two of the fifteen C drama series broadcast in 2001 ranked in the top 600 programs for the target group. That puts it in perspective. We can talk about promotion and the scheduling issues (some of us have got successful slots for C drama), but we are still saying two in the top 600 in that target group. More children aged five to twelve years watch programs such as the Anzac Day March on the ABC and Nine or Seven's election coverage than all but two of the fifteen C drama series broadcast in 2001. We have to ask if this is a good use of resources, or whether we should be widening the definitions. We have proposed a range of measures for improving the operation of the C drama quota,

including broadening it. We think that there is room for some fine-tuning in that area.

Basically, our proposition in relation to this review is that the Australian commercial television industry is exceeding the expectations of Australian content regulations imposed upon it. Australian audiences are receiving a very good range and quantity of Australian content, which they enjoy, both drama and non-drama. Generally, the system is working very well; so if it isn't broke, why fix it? We believe that Australian audiences will continue to demand Australian product from us, with or without the regulations. We will continue to provide it as long as we have the economic capabilities to do so. Picking up on Kim Dalton's earlier point, we do have that economic capability at the moment, as well as providing a reasonable return to our shareholders. We would like to make sure that that position is sustainable over the longer term for the benefit of all of the players in the industry. Thanks.

Discussion

Mark Armstrong, Network Insight: I have a question for Ian Robertson, but don't want you to be bound in any way. The New Zealand review, as you have called it, was the response to particular concerns about cheap (in all senses) New Zealand content. You have said that this review is the fine-tuning review following the New Zealand review. When will we get the practical inquiry into Australian content, which can think about the emerging multi-channel environment, pay TV, digital TV and things like that? I am not even saying that the ABA should necessarily do it, but when do you see us reaching the point when the serious discussion starts about how to support Australian content in that environment?

Ian Robertson, Holding Redlich: Good question. I think the reason that this review is relatively narrowly focused (although there is no limit on what people can submit to us, as is obvious from the submissions we have received), is that there is a general consensus that the standard is actually working pretty well in terms of what it is: a free-to-air commercial television Australian content standard. In my own capacity, I wrote an article which the *Australian Financial Review* published on Melbourne Cup Day 1999, which probably meant that nobody read it. It tried to look ahead at what we are going to do when we get to a truly multi-channel world, where the Australian free-to-air networks are merely one part of a huge array of programming alternatives for Australian audiences. My own view is that that is quite a long way off. That is based on my view that the Australian free-to-air commercial television networks have a very strong position currently, and with skill, which I don't think any of them lack, they will continue to be very important players. While they continue to be important players, they will be able to afford a content standard. However, it is certain that that will change, at least to some extent, in the future. The conclusion I reached was that ultimately Australian content may become, in the longer term, the province of the public broadcasters, which may have to be better funded to provide it. I don't see how, for example, you can put an Australian content standard on television that is coming here as part of an international feed. Mercifully, I think that

some of these issues are a fair way off into the future; others may think that I am naïve about that.

Jonathan Shiff, Jonathan M Shiff Productions: It is interesting to note that when the discussion goes outside the vested interests into this very interesting world of new media and multi-channelling, we often talk as though Australians are not the source of those broadcasts. Yet plenty of Australians today have been very successful in that landscape. It is just an observation that we often consider ourselves as the receivers, rather than the broadcasters, of all the new media.

Julie Eisenberg, SBS: I just wanted to pick up on Ian Robertson's point about the role of public broadcasters in the future. I want to make a point about the role of public broadcasters today as a critical part of this whole debate. It is an unspoken part of the debate. Traditionally the public broadcasters have been the training ground where a lot of the risks were taken and where a lot of the filmmakers and script writers, who you want to use on quality productions, were trained. However, as the public broadcasting sector has been strangled, those training grounds are disappearing. If this standard is to work really well, you need a properly funded, healthy public broadcasting sector. When policy makers and government are talking about these issues, they should also be talking about how to make sure that the public sector is able to remain a force that sits alongside the commercial sector.

On the point that Judi Stack made about Australian audiences wanting Australian programs, last year, for the first time in its 20-year history, SBS TV's top rating program was a locally made in-house production, *Pizza*.

Ian Robertson: At least a couple of the submissions say that the ABA should be seeking to expand the content standard to cover the public broadcasters. We do not agree with that. We think that it is beyond what we should be doing, but I think that all this moves on the basis that they are crucially important. Probably all the workshop participants argue that in different ways and in different circumstances.

Lynn Gailey, MEAA: I am seeking clarification from Ian Robertson. Section 160(d) of the BSA was amended, from reading ‘have regard to our national treaty obligations’ to ‘have regard to the CER’. Can you please explain how co-productions, other than those co-productions that would be majority Australian co-productions, are now legally eligible, and therefore could tick off against the content standard requirements.

Ian Robertson: The 160(d) point was that there was some worry that we were going to have to start treating Japanese programs as Australian programs and nonsense like that, which was clearly untenable, so the government fixed that up. To the best of my knowledge, that section is not why co-productions obtain national treatment under the content standard; it is because separately Australia enters into treaties with other countries that say we will give local treatment to the co-productions that are made under the treaty. So, I believe that the legal basis is different. Because those treaties have been entered into, and the German one was after the most recent review of the standard, I think it is highly likely that, even if we wanted to remove co-productions as a gateway into the Australian content standard, we could not, because we would be breaching those particular treaties. However, that has nothing to do with the actual terms of the Act.

Paul Walsh, Network Ten: I wanted to make a couple of points about the late night 11.00 p.m. to midnight time band. Firstly, our commercial television industry code of practice defines prime time as extending until midnight for the purposes of the advertising restrictions on us. We can in fact screen two minutes less in that late night hour than we can during the daytime hours. The second point, included in the Ten and Nine submission, is that that until 11.30 p.m. each night there are approximately 3.5 million Australians watching television; there are approximately 1.5 million watching to 12.30 a.m. That is a trend that has increased significantly, so we are encouraged that the ABA is looking at that issue.

Nick Herd, Sandstar Films: This is really for anyone on the panel to comment on. I realise that changes to the ownership rules may not happen, but can any of you speculate on what pressures there might be on Australian content if one or more of the networks were majority foreign owned?

Ian Robertson: My own private opinion is that change is not likely any time soon. Having said that, I can’t imagine that anybody running newspapers or television in this country, albeit foreign owned, would be silly enough to start imposing programming or editorial requirements from somewhere offshore, because that would destroy their business. The content standard remains, in any event, as does the overall transmission quota of 55 per cent. I hope that I am not naïve when I think that if there were a change, and one of the Australian networks became foreign owned to a greater extent than is currently the case, I can’t imagine that anyone who is actually in the business to succeed commercially would start dictating those sorts of decisions from offshore.

Judi Stack, FACTS: I agree with Ian. Going back to my earlier remarks, Australian content makes good business sense for us. I think the marketplace works. Andy McIntyre’s earlier comments would indicate that the Ten Network, which came a bit later down the road to Damascus in Australian content than some of the rest of us, believes it works commercially and financially in every other way. So I don’t see that changing at all.

Maureen Barron, Southern Star: I don’t disagree with the other two panellists, but I would be looking for us to be confident that the ABA retains its powers and that the design and regulation of the current content standard remain in place. The level of comfort that I take would be on the basis that I have not heard of any proposals to water down any of the current regulatory structures. If there were a suggestion of that, I would be very concerned. Do you know something new?

Ian Robertson: Maybe Maureen would like to comment on this specifically from the point of view of independent production. I can foresee a scenario where, even within the current regulatory requirements, it might make business sense for there to be relationships between foreign owners and foreign production entities. What effect might that have on the ability of the industry here to develop as an Australian creator of intellectual property that is owned by Australians.

Maureen Barron: I would answer that by starting where I just finished, which was that I have not heard of any changes to weaken the current regulatory structures. The ABA’s paper

begins from the proposition that it is all working fairly well. If those structures and the creative elements test stay in place, then we would deal with competitive approaches on the basis that we were as good, if not better, than anybody else in creating, developing and producing stories that Australian audiences wanted and that we can do it in an extremely cost effective way. That is our competitive edge.

I have not spent a lot of time so far thinking about these integrated corporate structures that you are alerting us to, but I believe that it is impossible to box at shadows. I think that that would be flagged with sufficient time for us to be aware of it; and the creative elements test would work very strongly for us, because of the relationships that we have and the quality of the work that we do. It would probably raise a number of issues for us about the amount of development that we do and how we fund it, but those are much the same issues that we deal with now. Much earlier in the workshop, I think Judi or Bridget was talking about lengthy development times; those in the independent sector have a similar experience. Those costs may well come under a lot of pressure.

Ian Robertson: I have indicated that my view is that imposition of an independent production quota at the moment would be a pretty strong step. The thing about the standard is that it is something that the ABA can keep under review and amend relatively quickly. It is not nearly as difficult as changing legislation. If it were to become the case that the independent production sector in this country was truly threatened, which I don't believe is the case now, the ABA could move to address that relatively quickly. I am hoping, as with so many other things, that ultimately common sense has prevailed and the networks have behaved in a sensible manner; and I hope and expect that they will behave sensibly in relation to the level of independent vs in-house production. If the independent production industry were truly threatened, and the ABA did not move to do something about it, I imagine that the government would, although usually the government looks to us to go first in those sorts of issues.

Judi Stack: Can I add something on this issue, from the Seven perspective? In the UK, where there have been regulations about independent production vs in-house production since the early 1980s, the split of independent production

vs in-house production is roughly the same now as it is in Australia now. That regulation has not been effective; as I said earlier, people will find ways to get around regulations. In 1999-00, 14.4 per cent of Australian drama was produced in-house and 85.6 per cent was produced by independents. I don't think that we are in a crisis. I agree with Ian that we have a very healthy mix between independent and in-house production in Australia at the moment. There are genres like news, which are not outsourced anywhere in the world, and I don't think that anyone is crying out for that either. We have a very healthy balance at the moment, and I couldn't see any reason why we would change that.

Mark Armstrong: If I may offer an idea about where some of this discussion leads: strategically all sectors would be better placed if there was regular collection and distribution of accurate, consistent data about all of these trends. I am not suggesting some sort of grand inquisition, but most players have had to make a big effort to scratch together some data. The AFC does a lot; the ABA has some useful figures; and the ratings give part of the picture. It would be possible to have regular (like every six months) distribution of up-to-date figures about a whole lot of trends in financing, programming and other indicators. All of that would be aggregated and anonymised, so that it would not cause difficulty for individual players. With a tool like that, all kinds of smart strategies could become possible; not necessarily from a regulatory viewpoint, but so that people could be more strategic and start monitoring 'early weak signals' of change.

Participant: Just picking up on Nick's point about the impact were a network to be foreign owned, my suggestion is that the content standard should revisit the definition of producer. Like Judi Stack said, I think that if there is regulation, people will get around it. The way in which the term 'producer' is used in the standard is probably the first port of call for exploitation in the event we were looking at a foreign-owned network.

Ian Robertson: We have had great fun over the issue of whether production companies should be Australian-owned in order to qualify. We got a very strong submission in 1998 from several production companies, which I won't name, all essentially saying the same thing: that they had to be Australian-owned to get the points. One of

Discussion

them later rang me up and wondered if I might come and have a chat with some people from England, because it might be helpful if they were assured that this was fairly unlikely to occur. I think that these people from England then went on and bought that production company. We have not heard too much more about that approach this time around. We can keep a whole lot of things under review, but people have to be careful: sometimes short-sighted self interest is not necessarily consistent with longer term self interest.

Mark Armstrong: Finally, let me ask the discussion openers to make a wish. If you had one wish to be fulfilled, what would it be?

Ian Robertson: I have two. Firstly, that if people would like to present further information to the ABA about all of this, it doesn't stop today, and it didn't stop with the closure of submissions. We are still most willing to speak to people and receive submissions. My other is that it would be good if more people could endeavour to take an approach that tried to do something for the whole industry or the whole public interest, as opposed to just their own unique position.

Judi Stack: I hope that we can go on making television programs that people want to watch. I hope that Seven wins the ratings this year.

Maureen Barron: My thoughts come from the recent funding package that the government introduced, which was a further statement of its support for Australian content, and which showed the value in what we saw for the first time as the whole-of-industry approach. It has occurred to me in the course of looking at the issues in this standard, and thinking about where subscription television fitted into this, that a whole-of-industry approach might be quite useful when we come to look at these regulatory structures. It may sound like chaos, but my thinking was that we could draw together and synchronise the analysis of the structures at one time, as opposed to doing it piecemeal. That will not necessarily stop the need for special issues to be looked at by the ABA or other bodies or committees, but some synchronisation on key issues like Australian content would help. It would also pick up a little on Mark's suggestion about better collection of data: that would be something we could all benefit from. There might be better opportunities to work towards collecting that and putting it in a useable and meaningful form.

Table of issues and recommendations from submissions by discussion openers' organisations

This table has been prepared by the AFC and Network Insight and is based on submissions by the discussion openers' organisations to the ABA's 2001 review of the Australian content standard. The submissions are by the Australian Film Commission (AFC), Federation of Australian Commercial Television Stations (FACTS), Film Australia, Jonathan M Shiff Productions, the Premium Movie Partnership (PMP), the Seven Network, Southern Star Group Ltd, the Screen Producers Association of Australia (SPAA) and Network Ten and the Nine Network.

The document is a brief summary to highlight some issues. It is not a substitute for the full submissions, which have the context and reasoning. It would be impossible to include the full range of issues, or all views or arguments on any particular issue, in a few pages. Rather, our aim is to summarise several positions and some key themes raised in arguing for or against them.

Full versions of these, and the many other, submissions to the review, and the ABA issues paper, are available from: http://www.aba.gov.au/tv/content/ozcont/review_2001/index.htm.

Issues/Themes	Sub.	Recommendations/Positions
ADULT DRAMA		
<p>Quota level for first release adult drama</p> <ul style="list-style-type: none"> downward trend in drama hours: quality/quantity trade-off minimum requirement has been static over 12 years and consistently met Australian drama expenditure trended down over last decade; proportion of Australian program expenditure spent on Australian drama up from 96-98 to 98-00 audience appetite for local drama, as well as quality foreign drama; market forces disparity between cost of Australian and foreign drama; commercial risk commercial revenue: healthy growth over last 20 years, but faces challenges scheduling flexibility 	AFC	Increase minimum amount by 20 per cent.
	FACTS	Retain current level.
	Seven	Retain current level.
	Southern Star	Increase current score by 20 per cent over next 3 years, plus any increase resulting from recommended changes to format points.
	SPAA	Increase by 20 per cent of current actual hours broadcast over 3 years.

Table of issues and recommendations

Issues/Themes	Sub.	Recommendations/Positions
<p>Point score system – what to encourage?</p> <ul style="list-style-type: none"> • need to encourage production of some more expensive and diverse formats; current system includes some inadvertent disincentives • how to encourage diversity of formats and programs • level of licence fee • consider transparency and administrative weight of scheme • efficiency of production • danger of reduced quantity • cultural vs industry objectives • relationship between cost and quality? 	AFC	Maintain point score system, recalibrated on basis of production budgets (1 for serial; 2 for series with budget < \$400,000 per hour; 3 for series with budget > \$400,000 per hour; 4 for telemovies, mini-series and feature films).
	FACTS	Retain current system; opposed to expenditure-based factors or mechanisms.
	Seven	Retain current factors; opposed to SPAA and Ten/Nine proposals and expenditure-based mechanisms.
	Southern Star	<p>Amend format factors to:</p> <ul style="list-style-type: none"> - between 2 and 4 for one-hour series ≤ 26 episodes per year (final factor subject to further debate); - 2 (current factor) for other one-hour series; and - 4 for feature films, telemovies, mini-series (up to 8 hours) and self-contained drama < 90 minutes. <p>Increase total drama point score to compensate for any decrease in hours broadcast that would result.</p>
	SPAA	Introduce new scale to: include incentives for networks to pay fair, equitable licence fees; promote programming diversity; and support ongoing viability of independent industry. Points related to format (0.75-1.5 for serial; 1.5-3.0 for series; 2.0-5.0 for mini-series/telemovie; and 1.5-6.0 for feature film), and licence fees (lowest fee and in-house production score least; highest fee or presale score most).
<p>Flexibility – makeup provision</p> <ul style="list-style-type: none"> • production delays can cause difficulties meeting quota, with Australian programs scheduled outside ratings period to avoid breach; undermines standard by impeding access to maximum audiences; subscription TV drama quota includes makeup provision 	FACTS	Include in drama subquota a 12-month makeup provision for each annual minimum level and the overall 3 year total points.

Issues/Themes	Sub.	Recommendations/Positions
<p>Definition of drama</p> <ul style="list-style-type: none"> • requirement that drama be fully scripted may impede development of new creative formats, although most would remain fully scripted • conditional support for partially scripted programs (like <i>Wildside</i>, <i>Going Home</i>) with high production values • anomalous that scripted sketch comedy or drama segment qualifies in sketch comedy program but not another prime-time program (e.g. general entertainment or variety); current inflexibility acts as disincentive • changes would encourage cheap formats; stand-alone segments should not be accorded same status as long-form drama 	Seven	Do not expand definition to include improvisational writing methods or segments in non-drama programs.
	SPAA	Amend definition of fully-scripted Australian adult drama to allow for improvised dialogue, limited only to cases where the program has a structured story department; writers to work in advance of program production and remain engaged for entire program; actors to be engaged in program. Do not include ‘reality’ programs; ABA to formally clarify definition of a non-fully scripted drama that would qualify under revised standard.
	Ten/Nine	Amend to allow: improvisational scriptwriting methods; and sketch comedy or self-contained scripted drama segments in non-drama programs.
<p>Condition that first release drama be acquired within 3 years of completion</p> <ul style="list-style-type: none"> • no policy justification for restriction; time of acquisition does not affect whether program is ‘first release’ for audiences in licence area • concern about substitution by back-catalogue (NZ) material has not been realised • pressure imposed on pay TV 12 month window if there are delays in distribution chain to FTA TV: affects scheduling flexibility, value and viability of film and impedes acquisition of films by FTAs 	FACTS	The definition of ‘first release’ should be amended to remove all time restrictions on acquisition of programming that were introduced in previous review.
	PMP	Remove the 3 year requirement from the condition; if not, amend it to 5 years.
	Southern Star	Unaware of any concerns about the present rule, so does not recommend any change to this aspect of definition.
<p>Time band for eligible drama (apart from feature films)</p> <ul style="list-style-type: none"> • band was narrowed to 5-11 p.m. in 1999 to more closely reflect actual prime time • aim to encourage broadcast of Australian drama when most Australians watching TV • audiences: significant decline after 11 p.m.; increased audiences in 10.30-11.30 p.m. and 11.30-12.30 p.m. slots since last review • demand for serious drama in 10.30 p.m. slot • general community understanding of prime time (captioning requirement 6-10.30 p.m.) • current time band has served Australian audiences, ensuring low-rating drama with low production values does not qualify • ‘thirteen-hour rule’ supports risk-taking scheduling; removing rule would result in more conservative commissioning decisions and less diverse programming • concern about broadcast of cheap NZ drama in late slots has not been realised 	FACTS	If the current 5-11 p.m. timeband for first release Australian drama remains in place, retain the ‘thirteen hour rule’.
	Seven	Retain current 5-11 p.m. drama timeband.
	Southern Star	Retain current 5-11 p.m. drama timeband.
	SPAA	Retain current 5-11 p.m. drama timeband (no complaint about ‘13 hour rule’).
	Ten/Nine	Restore previous 5-12 p.m. timeband for first release Australian drama.

Table of issues and recommendations

Issues/Themes	Sub.	Recommendations/Positions
INDEPENDENT PRODUCTION		
<p>Need for investigation</p> <ul style="list-style-type: none"> support for independent production consistent with government cultural and industry development policies vertical integration: implications for competition 	AFC	The ABA should investigate the role of independent production and consequences of in-house production.
<p>Independent production quota</p> <ul style="list-style-type: none"> in-house production has increased, but still in minority effects on competition? benefits of independent production: quality, innovation, diversity, export, critical mass for sector benefits of in-house production: training, employment opportunities, facilities, quality, program stability industry benefits may flow only to larger production houses cultural objective vs industry support mechanism programming decisions driven by quota vs audience possible changes in foreign ownership rules overseas examples of quotas introduced in environments with most drama production in-house 	FACTS	Opposes an independent production quota (or any other expenditure-based models).
	Seven	Opposes an independent production quota.
	Southern Star	Introduce an Australian (including NZ) independent production sector quota of 50 per cent of the subquota in each of the key genres of drama, C and documentary programs, with further series of existing in-house production grandfathered if broadcast of those programs exceeds the quota.
	SPAA	Introduce an Independent Production Quota, with minimum of 75 per cent of all qualifying Australian (excludes news, current affairs and sport) content created and produced independently of any control by a broadcasting network (definitions are included in recommendation).
CHILDREN'S PROGRAMS		
<p>Quota level for first release children's drama</p> <ul style="list-style-type: none"> is current level onerous given the genre is relatively unprofitable? high cost/small audience; financing difficulties cultural objective/social obligation audience demand: relatively low ratings; but networks repeat programs in excess of quota requirements contribution of subquota to children's television and local production industry capacity of production community to meet current requirements 	AFC	Maintain current amount of drama.
	FACTS	Do not increase subquota; if subquota is not broadened in line with other FACTS' recommendations, hours should be reduced.
	Jonathan M Shiff	Maintain current level of 32 hours.
	Seven	If subquota is not broadened in line with FACTS' recommendations, reduce level to 20 hours.
	SPAA	Do not diminish the P, general C and first release C drama classifications in standard; over a 3 year period, implement a 10 per cent increase in hours of first release C drama to be broadcast in any one year.

Issues/Themes	Sub.	Recommendations/Positions
<p>Minimum licence fee for first release C drama</p> <ul style="list-style-type: none"> • progressive reduction in percentage of production budget from network licence fees • financing difficulties: increased (and large) production budgets; pressure on FFC resources • standard requires networks to broadcast subquota programs regardless of profitability • minimum licence fee acting as a maximum? • overseas investors' creative involvement • can networks recoup costs over multiple repeats in multiple markets? • increase would encourage new producers, diversity, genre exploration, quality • minimum licence fee introduced to prevent acquisition of NZ C drama series at secondary market prices: no NZ C programs broadcast since then • inappropriate for regulatory body to set minimum prices: anti-competitive 	AFC	Consider case for increase in minimum licence fee so broadcasters make greater contribution to cost of production.
	FACTS	Remove the minimum licence fee for C drama programs; if retained, it should remain at current level.
	Jonathan M Shiff	Neither the Network Licence Fee minimum of \$45,000 nor the FFC minimum of \$65,000 adequately contribute toward cost of production. This figure should be no less than \$150,000 per half-hour.
	SPAA	Increase minimum licence fee for first release C drama to \$150,000 per half hour, then adjusted annually in line with CPI increases.
<p>Promotion and scheduling</p> <ul style="list-style-type: none"> • hard to build audience loyalty to program without cross-promotion and consistent scheduling; also undermines ability of standard to achieve objective (delivering high quality programs to child audiences) • networks' ability to raise revenue from children's programs may improve with better publicity, promotion and scheduling • ABC success with reserved 4-6 p.m. time-slot • promotion and scheduling of C drama programs during prime time trialed by networks; not successful in attracting sufficient audiences • promotion airtime valuable, scarce resource; displaces advertising revenue; strict restrictions on non-program material during children's viewing 	AFC	The standard should require licensees to develop promotional strategy plans and report to ABA on their implementation; opposes concept of reducing program hour requirements on account of promotional effort.
	FACTS	Does not support mandatory on-air promotions, but recommends that up to 2 hours of the C drama quota should be able to be met by 2 hours of promotions for C drama programs, broadcast during times of peak child viewing in the early morning and late afternoon timeslots.
	SPAA	The networks should be required to: actively and effectively promote C drama and children's general programming (subject to regulation); provide consistent timeslots for C drama programs (subject to regulation); and broadcast all episodes of a series in any particular run.
<p>Advertising during C drama viewing hours</p> <ul style="list-style-type: none"> • profitability/funding of children's drama: need further research on value 	AFC	Some of the restrictions on advertising in C programs may act as a disincentive to some advertisers. The AFC would support more flexibility in this regard to assist the broadcasters.
	Jonathan M Shiff	Maintain present parameters on nature of advertising, but would support relaxation in quantity of advertising.

Table of issues and recommendations

Issues/Themes	Sub.	Recommendations/Positions
<p>Certification process for C drama</p> <ul style="list-style-type: none"> some producers have suggested ways certification process could be improved, streamlined and made more contemporary in approach to children’s interests occasional overly literal script interpretation process administratively cumbersome 	<p>FACTS</p>	<p>Supports a review of classification process for C drama projects as part of this review, as recommended in some other submissions.</p>
<p>C drama – moving genre boundaries?</p> <ul style="list-style-type: none"> Australian story-telling advances cultural objective in way reality-style and non-narrative programming doesn’t given low ratings, high resource requirements and competition in children’s entertainment, is drama best or only means of delivering cultural objectives? C drama diverts networks’ children’s programming budgets into few hours of programming, which could be better spread across range of innovative children’s productions to help networks build relationship with children 	<p>AFC</p>	<p>The AFC strongly rejects any proposal that would result in the dilution of the children’s drama requirements.</p>
	<p>FACTS</p>	<p>Broaden eligibility to an Australian ‘C drama and diversity’ subquota, to encourage networks to provide a broader range of appealing high quality Australian programs for children than is presently offered under C and C drama quotas.</p>
	<p>Jonathan M Shiff</p>	<p>Maintain focus in C drama classification on narrative storytelling.</p>
	<p>Seven</p>	<p>Supports FACTS’ proposal to expand categories of programs which can qualify to meet quota.</p>
<p>C drama – age range</p> <ul style="list-style-type: none"> change would enable broadcasters to provide greater range of appealing Australian programs to broader child audience and increase financial viability child viewers regularly watch ‘up’ 	<p>FACTS</p>	<p>Raise age limit for C drama and C programs to 14 to enable broadcasters to provide greater range of appealing Australian programs to broader child audience.</p>
	<p>Jonathan M Shiff</p>	<p>C drama should also embrace 13-14 year old children.</p>
<p>ABC children’s drama</p> <ul style="list-style-type: none"> incentive to maximise exposure of expensive C drama to child audience; 3 year condition to ensure programs remain contemporary encourage co-productions between ABC and commercial networks; additional production finance 	<p>FACTS</p>	<p>Allow C drama programs shown first on ABC to count as first release if commercial broadcast occurs within 3 years of ABC broadcast.</p>
INCREASED QUOTA FLEXIBILITY		
<p>Tradeable quotas</p> <ul style="list-style-type: none"> quotas have functioned as sensible, transparent, efficient means of promoting objects of BSA; quota tradeability would undermine this tradeability can reduce competition amongst networks and thus significantly disadvantage program suppliers the quotas must be recognised as minimum standards, not maximum 	<p>AFC</p>	<p>Allowing the networks to trade their quota obligations assumes that content obligations are maximums, not minimums. Potentially this undermines the cultural objective of increasing levels of Australian content and the domestic market for Australian content created by the standard.</p>
	<p>Southern Star</p>	<p>Opposes tradeable quotas.</p>
	<p>SPAA</p>	<p>The tradeable quota scheme should be rejected.</p>

Issues/Themes	Sub.	Recommendations/Positions
<p>Three year averaged quota and makeup provision</p> <ul style="list-style-type: none"> networks need flexibility in event that a particular production falls over (in expensive, risky program category of C drama) networks should bear responsibility for commissioning sufficient drama to meet standard 	FACTS	The C drama quota should be averaged across a three year cycle. To allow for the situation in which a project could ‘fall over’ at a late stage in the final year of the triennium, there should be a makeup provision in the following year capped at half the annual quota.
	Seven	Allow C drama quota to be averaged over three years and include makeup provision.
	SPAA	The three year averaged quota scheme should be rejected.

DOCUMENTARIES

Many organisations reserved the right to provide a supplementary submission following availability of corrected ABA data on documentaries.

<p>Availability of accurate data from ABA</p> <ul style="list-style-type: none"> ABA advised on 31.1.02 that figures showing decline in documentary expenditure by commercial networks were unreliable; revised figures were made available on ABA website in April some of points below are subject to change when revised data become available 	AFC	The ABA and the broadcasters have reported serious inaccuracies in the documentary data. Clearly this data must be correct and verifiable before meaningful analysis can be undertaken.
<p>Level of annual subquota for first release Australian documentary</p> <ul style="list-style-type: none"> subquota increased from 10 to 20 hours during previous review to accommodate NZ programs; they have not displaced Australian programs cultural value: is traditional documentary more beneficial than other (popular) factual forms? demand: rarely attract significant commercial TV audience; research showing evidence of appreciation when viewed slot: 26 hours facilitates regular ‘slot’, aiding audience awareness diversity: wildlife/travel vs social; incentives? capacity: expenditure has not grown with increased hours; previous increases easily met; network profitability 	AFC	Do not reduce existing documentary quota (subject to review when corrected information is available).
	FACTS	Restore documentary subquota to its former level of 10 hours per year.
	Film Australia	Increase subquota to 26 hours.
	Seven	Supports FACTS’ recommendation.
<p>Documentary minimum licence fee</p> <ul style="list-style-type: none"> declining expenditure: possibly related to decline in real value of licence fee payments; increasing focus on low-budget productions; increasing expenditure on lifestyle, light entertainment, reality TV 	Film Australia	Undertake a survey of the documentary licence fees paid by commercial licensees with a view to introducing a minimum licence fee condition for quota eligibility, which could weight those for which the minimum is exceeded.

Table of issues and recommendations

Issues/Themes	Sub.	Recommendations/Positions
<p>Documentary classification</p> <ul style="list-style-type: none"> • confusion over documentary expenditure and absence of comprehensive program statistics • significant number of programs declared as documentaries not included in AFC catalogues • various examples of programs that: arguably may not comply with documentary definition; and appeared too old to qualify • in the absence of definitions of ‘magazine’ and ‘infotainment’ programs, concern that these may have been included as documentaries • strong presence of factual programming in commercial television schedules • role of ABC and SBS 	AFC	The ABA needs to ensure that material classified as documentary meets the definition.
	Film Australia	Enhance compliance procedures to ensure that all programs counting towards the subquota meet the standard’s definition of a ‘documentary’ and are ‘first release’ documentary programs. In addition comprehensive compliance data should be made available to the industry on an on-going basis.
	Seven	Consider broadening definition to accommodate new production formats and changing viewer tastes in factual programming.
	SPAA	Amend the definition to read ‘documentary program means a program that is a creative treatment of actuality in narrative form other than a news or current affairs, sports coverage, magazine, infotainment, or light entertainment program’.
OFFICIAL CO-PRODUCTIONS		
<p>Maintaining the current regime</p> <ul style="list-style-type: none"> • ABA suggests that it may no longer be obliged to give automatic quota recognition to Australian official co-productions following amendment of s160(d) of BSA • treaties and agreements under which official co-productions occur would be meaningless if co-productions not counted as Australian content • co-productions provide valuable economic and creative benefits to local production sector and programs • small volume; cultural objectives not diluted 	AFC	The AFC endorses the conclusions of the DCITA Review of the Australian Official Co-Production Program (February 2001), that the program ‘delivers net economic benefits to Australia’ and that ‘Australia has reaped greater benefits from the program than its partner nations, in relation to both levels of investment and creative participation’. Treaty co-productions should continue to receive recognition in line with Australia’s obligations under the relevant treaties.
	FACTS	Official co-productions should continue to qualify under the standard, so that Australia is not placed in breach of its international treaty obligations.
	Southern Star	Official co-productions between Australia and third parties must remain eligible as Australian programs.
	SPAA	The current definition of co-productions should continue to apply.
<p>Licence fees</p> <ul style="list-style-type: none"> • official co-productions should not provide way of obtaining quota points at secondary market prices 	AFC	The ABA needs to address the potential for some treaty co-productions to be sold into the Australian market at secondary market prices; proposes that the ABA apply a minimum licence fee mechanism to treaty co-productions.
DEFINITION OF ‘AUSTRALIAN’		
<p>Ownership and control of production company</p> <ul style="list-style-type: none"> • non-Australian owned/controlled companies’ capacity to produce programs qualifying for standard • potential media foreign ownership changes: possibility of vertically integrated foreign-owned broadcaster/program producer 	AFC	To encourage continued development of an Australian owned and controlled production industry contributing to the growth of our cultural capital, add to the creative elements test a requirement that: the production company responsible for production is Australian owned and under the financial control of Australians.

Issues/Themes	Sub.	Recommendations/Positions
OVERALL TRANSMISSION QUOTA		
Level and ‘Make good’ provision <ul style="list-style-type: none"> • flexibility, in line with subscription television approach • overall quota level has worked well 	FACTS	No increase or decrease warranted.
	Seven	No increase or decrease warranted. Introduce a ‘make good’ provision in the following year to allow for any failure to meet quota requirements.
SUBSCRIPTION TELEVISION		
Australian content requirements <ul style="list-style-type: none"> • social, cultural, economic imperatives of BSA not met, through consistent underspending by drama channels and operators • further regulation required to encourage availability of choice of programs for Australian audiences • subscription TV industry maturing • subscription TV level of expenditure on Australian content 	Seven	Increase subscription TV drama expenditure requirement to 25 per cent over 3 years and introduce similar requirement for other genres, such as factual programming and general entertainment.
	Southern Star	Address underspending by drama channels. Options: remove capacity to underspend in more than any 2 consecutive years over (say) 5 years; introduce sanction for any licensee that uses flexibility, e.g. 20 per cent premium on what must be spent in following year in addition to making up the underspend. Also, mandate 50 per cent of subscription TV drama expenditure to independent sector.
	SPAA	Should regulate the number of hours of adult drama and documentary to be broadcast in any one year by subscription television services.

Notes

- SPAA recommendations on C programming are supported by Southern Star.
- Submissions by Network Ten and Nine Network and Seven Network endorse FACTS’ submission.
- Southern Star recommendations offered as a whole package. Southern Star may not support adoption of some recommendations if others are not adopted.

List of participants

Cris Abad	Network Insight	Julie Eisenberg	SBS
Linda Andersen	ntl Australia	Tracey Ferrier	AAP
Donna Andrews	Dandy Productions	Julie Flynn	FACTS
Mark Armstrong	Network Insight	Lynn Gailey	Media, Entertainment & Arts Alliance
Sarah Barns	Network Insight	Phill Gallagher	Fairfax
Maureen Barron	Southern Star	Pauline Garde	SPAA & ASDA Documentary Council
Richard Bean	Network Ten	Michael Gill	Fairfax
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Philip Bird	Film Victoria	Catherine Griff	AFC
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