

**RESPONSE TO THE
PRODUCTIVITY COMMISSION
DRAFT REPORT**

**REVIEW OF BROADCASTING
LEGISLATION**

**Australian Film Commission (AFC)
Australian Film Finance Corporation Ltd (FFC)**

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Appendix 1 -

Children's Television Regulation - International Comparison

1. Executive Summary

The two agencies welcome the opportunity to respond to the Commission's draft report. More generally, we welcome the report which provides a comprehensive, accessible description and analysis of the changing broadcasting environment.

As with our previous submissions our response deals with our primary area of interest and expertise- the content related aspects of the report.

We endorse and support the following aspects of the report:

- the acknowledgment of the key role of broadcasting and the media generally in the lives of Australians and the many public interest issues raised by the inquiry;
- the recognition of the need to encourage diversity and discourage concentration in broadcasting and media;
- its support of the need for government to "harness the power of broadcasting to achieve social, cultural and educational objectives;"
- the view that broadcasting "should reflect and develop the community's sense of identity, character and diversity;"
- the finding that the specific regulation for children's programming, drama and documentary are not onerous and should be retained. As noted in the report:

"The relatively small amount spent on local content programming suggests that the cost burden of local content quotas is not great."

(p 143); and

- the findings and recommendations on Indigenous broadcasting -

"that the needs of Indigenous broadcasters and their communities would be better served by a regulatory framework that recognises the distinctive characteristics of Indigenous media"; and

that a new licence category for Indigenous broadcasting should be created and that spectrum should be reserved for Indigenous broadcasters that provide a primary level of service to a specific audience.

1.1 Recommendations of Concern

There are however, aspects of the Commission's recommendations with which we do not agree. These include:

- the recommendation to loosen the creative elements test;
- the recommendation to remove the 55% transmission quota and the 80% Australian rule for television commercials.
- the recommendation to review the current requirement that all P programs be Australian; and
- the suggestion that the regulation of children's programming on commercial television could be relaxed given the role of the national broadcasters and pay television in this area.

We believe adoption of these recommendations would diminish the Australian character of television services, and over time do considerable damage to the achievement of the cultural objectives.

1.2 The commercials and transmission quotas and the creative elements test.

The basis of the draft report's recommendations on the transmission quota, the commercials quota, and the creative elements tests is that these are industry support measures which do not serve the cultural objectives.

We contest this view. Television commercials and the various programs, which make up most of the transmission quota, such as news and current affairs, light entertainment, and magazine type shows, are culturally significant and play a key role in giving television its Australian character.

Evidence shows it is wrong to assume there is a sufficient level of 'natural protection' to warrant the removal of regulation in these two areas.

In relation to the creative elements proposal who is going to make Australian programs if not Australians? We argue that the draft proposal would put the content standard at odds with other support measures designed to achieve the cultural objectives, eg. certification as Australian for the purpose of access to direct and indirect subsidy.

These three recommendations do not take account of the fundamental interdependence between the cultural objectives and the various sectors of the Australian production sector.

The production of feature films, television drama, documentary and children's programs depends on a critical mass of creative and technical personnel, and production and post-production facilities which serves all areas of the industry.

For audiences to have access to programs which reflect 'Australian identity, character and cultural diversity,' there needs to be viable production industry capable of making such programs.

1.3 Children's Programs

The "P" requirement is modest requiring each commercial broadcaster to screen half an hour per weekday of Australian programs for these young viewers. It is important for developmental and cultural reasons that very young children have access to at least this minimum amount of contemporary Australian programming.

The Commission has sought views on whether there could be some change in the children's program regulations applying to commercial broadcasters given the amount of children's programming on the ABC and on pay television.

For many children, commercial television with its 75% audience share, is the main source of television viewing. Currently 16% of households have pay television, and while this will increase, there will still be a significant proportion of Australian children without access to pay television.

Apart from the audience share issue, there are financial constraints on the ABC's ability to support a greatly increased amount of Australian children's programming.

Our response is that it is important that children's program requirements for free-to-air television are retained on the basis that:

- notwithstanding the opening up of new services, free-to-air television will remain the dominant delivery mechanism for television services and the only service available to all Australians;
- free-to-air broadcasters should have an ongoing obligation to program minimum levels of children's programming;
- shifting sole responsibility to the ABC and/or pay services will reduce the diversity of children's programming and limit its access for many Australian children.

<p>We urge the productivity Commission to reconsider its view on these important aspects of Australian content regulation.</p>
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1.4 Other issues

We have also commented in response to the questions regarding content regulation raised by the Commission. In summary:

- we are opposed to the **tradeable quotas proposal**. We believe it would lead to reduced amounts of Australian programming and is not appropriate for the foreseeable future.
- on the **subsidy versus quota** issue, we believe the current mix of quotas and subsidy should continue. We consider the case for reducing the obligations of broadcasters and replacing them with direct Government subsidy, has not been established.

However, as argued in our recent joint report on the production industry to the Minister for the Arts and the Centenary of Federation,¹ we believe that additional subsidy is required to support children's drama and high end adult drama, such as mini-series and telemovies, thus ensuring the cultural objectives of diversity and quality in Australian programming can be better met.

- We strongly disagree that Australian programming regulation should not apply to **pay television**. We argue that without some appropriate content regulation, the minimal presence of Australian programming on pay channels is likely to continue. We offer some suggestions as to how the local content regulation for pay could be made more effective.

1.5 The future- content regulation and convergence

The draft report raises a number of questions about content regulation in the digital environment.

We do not believe that increased channel capacity will automatically mean increased Australian programming. In our view the dilemma facing Australian programming in the analogue era will carry through to the digital one- how to ensure an Australian presence on new services, given the attraction of the large amounts of very cheap foreign (primarily American) programming.

We believe regulation will be continue to be needed to achieve the community's cultural and social objectives. We consider there will need to be specific forms of content regulation relevant to the precise nature of the various new services that emerge. There appears to be merit in the approach that is being taken in the European Union- ie. that content regulation in the digital era should build on the existing framework and develop new measures for new services.

It is not possible to put forward detailed proposals for new regulatory models at this stage because of the high degree of uncertainty that exists about the nature of the likely new services. The DOCITA Convergence

¹ Available on www.afc.gov.au/news/newsite/index.html

Review is looking at the impact of convergence on existing regulatory approaches and at possible options for the future. It should provide the opportunity to progress consideration of how the cultural objectives can be achieved in the new broadcasting environment.

2. Cultural Objectives and the Production Industry

In making the recommendations on the transmission and advertising quotas, the creative elements test and the pay television expenditure requirement, the report takes the view that these aspects of the Australian content system have no social and cultural value and are purely industry support mechanisms, and should therefore be removed.

In discussing the creative elements test the report says "that the Commission could find no case for industry assistance that is separate from—that is, not dependent on, the social or cultural contribution of the industry" (p227).

We believe this is a false dichotomy and that the two are intrinsically linked. To produce programs which reflect Australian cultural identity, it is essential to have an industry capable of producing them in sufficient quantity and to a sufficient standard.

There is a relationship between the cultural objectives of the Broadcasting Services Act and the range of mechanisms which exist through Government intervention to ensure an industry exists to deliver these outcomes. It is the totality which delivers cultural outcomes to the Commonwealth and any unbalancing of these mechanisms would affect their ultimate delivery.

This view is fundamental to our concerns about a number of the Commission's draft recommendations. The discussion in this section underpins our response on the transmission and commercials quotas, the creative elements test and the pay television content requirement.

2.1 Two sides of the Same Coin.

The Commission notes in its draft report that "the stated rationale for the Australian Content Standard is the promotion of social and cultural objectives, not assistance to the local production industry" (p 208).

While the expressed objective of the Australian Content Standard is cultural,² the understanding that a viable production industry is necessary to make the programs that achieve that cultural objectives, has always informed consideration of content regulation, and underlies the objects of the Broadcasting Services Act (the Act) and the Content Standard.

References to the cultural objects of the Act often focus solely on object 3(e): *"to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character, and cultural diversity."*

However, objects 3(b) and 3(f) are also relevant:

² "to promote the role of commercial television broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity by supporting the community's continued access to television programs produced under Australian creative control." (Part 1 Clause 4, Broadcasting Services (Australian Content) Standard.)

"to facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs," and

"to promote the provision of high quality and innovative programming by providers of broadcasting services".

The term 'broadcasting services' must encompass the production industry which provides the programs to broadcasters.

While the Content Standard and the Act make no direct reference to the link between Australian programs and a viable Australian industry, objects 3(b), (e) and (f) should be read as interdependent and mean that each licensed service should be measured against these objectives and outcomes.

The ABA recognises that "the achievement of the cultural objective relies in large measure on the development of the local content industry." ³

Put simply who will make Australian programs if not Australians? How are Australian stories to be made if there is not an Australian industry with the necessary capacity, and artistic and technical expertise to make them?

The link between the growth in the quantity and quality of Australian programs and the development of the local production industry has been considered in many of the studies of Australian film and television culture.

In her essay *How Australia Sees Itself: The Role of Commercial Television*, Gil Appleton traces the relationship between content regulation, the developing production industry, and the making of television programs, and later films, which "were recognisably Australian, translated to the screen by Australians and set within an Australian context" and which "strike a cord with Australian audiences". ⁴

The availability of Australian content and the growth of the production industry since the late sixties and early seventies, have occurred hand in hand. The interconnection between the cultural objectives and the need for a viable industry was recognised in the Gonski report, which looked at the range of Commonwealth policy instruments - including direct funding and content regulation and concluded:

"The Commonwealth provides this support in order to achieve its cultural objectives and to enrich the cultural lives of all Australians" and "... the Commonwealth does

³ ABA, *Australian Content on Pay TV*, May 1997, p31.

⁴ Gil Appleton says of the early provisions in the Broadcasting and Television Act 1942 regarding the employment of Australians in the production and presentation of television programs, "this requirement, when later combined with the imposition of quotas was a recognition of the fact that the local industry could sustain an adequate level of production only by building up its complement of skilled writers, directors, and creative technicians as well as its support infrastructure. "How *Australia Sees Itself: The Role of Commercial Television*, in ABT, *Oz Content: An Inquiry into Australian Content on Television*, Vol. 3 Sydney 1991.

*not provide assistance because of the economic impact of the industry. The Commonwealth supports the film and television industry in order to achieve its cultural objectives.*⁵

2.2 Critical Mass

The production of film and television programs is an essentially segmented process involving a wide range of interconnected inputs - from producers and production companies, directors, writers, performers, cinematographers, editors, composers and a range of technical personnel including businesses supplying production and post-production facilities and services.

Production occurs primarily on a project by project basis with producers and production companies drawing on key creative personnel, cast and crew from the pool of freelance workers and hiring equipment such as cameras, sound equipment or editing suites on an as needs basis from a limited pool of specialist businesses. Even the bigger production companies purchase these services.

In this sense, the production industry is the quintessentially outsourced industry, composed of individual specialists and corporate entities who come together for particular projects. The production process is fragmented and interdependent with bits of the process occurring in different locations over an extended period. This model has evolved from the institutional broadcaster model because of changing economics and creative requirements and represents best practice internationally.

The Australian industry is highly efficient and effective. An example is the Melbourne based production company, Beyond Simpson Le Mesurier. This company employs less than 5 full-time staff (including the two principals Roger Simpson and Roger Le Mesurier). Nevertheless, during 1999, this company produced 160 episodes of a 30 minutes series for the ABC (*Something in the Air*), 3 x 90 minute telemovies for the Nine Network (*Dogwoman*), 3 x 90 minute telemovies for the Nine Network (*Halifax fp 4*) and 44 episodes of a 60 minute series for the Nine Network (*Stingers*), in all \$44 million of production.

The cost of production and post-production facilities and services is related to the economies of scale achieved by servicing a range of clients across the whole production industry - independent producers and production companies making film and television drama, documentary, children's programs, commercials and other television programs. Without the critical mass provided by other areas of production, the cost of providing services and facilities for drama, documentary and children's programs alone would be prohibitive.

Most drama, documentary and children's programs are produced by independent producers rather than by the broadcasters themselves.⁶

⁵ Gonski Report, page 5.

The few drama programs produced directly by broadcasters still draw on the pool of freelance performers, directors, writers and others while using internal crews.⁷

Virtually all game shows, and at least 50% of comedy/variety programs and magazine/lifestyle programs are also independently produced.

There is significant cross-over of production personnel between most genres except news, current affairs and sport. While some individuals may specialise in a particular area, the broad pool of performers, directors, writers and technical staff regularly work across film, television and commercials. For example, many of the presenters of the magazine/lifestyle shows such as Ernie Dingo, Noni Hazlehurst, Di Smith, Penny Cook and Rebecca Gilling are also film and television actors.

It is this structure which gives the production industry the efficiency which has been noted by many including the Productivity Commission.

*"in Australia ...products are generally developed on a project by project basis relying on the strength of creativity and excellence of individual producers, directors, writers and productions." Gonski Report*⁸

The accompanying table shows the value of the various components of the film and television production sector.

Table 1 Components of Total Television Production (including film)

Type of programming	\$mill	% of total
Television programs		
Drama and Comedy	366	24
News and Current Affairs	278	18
Documentaries	53	3
Sport	202	13
Magazine Light Entertainment/	136	9
Other	60	4
Total TV programs (1)	1095	

⁶ The table at p 201 of the draft report shows the breakdown between independently produced and in-house productions in 1996/97. Areas primarily produced independently were drama and comedy - 88%, children's programs - 77%, documentary - 83% and other - 72%.

⁷ Current drama programs produced in-house by commercial networks are *Home and Away* and *All Saints*.

⁸ Gonski Report, p 20.

Advertisements	234	15
Feature Film	192	13
Grand Total including Feature films and commercials	1521	

Source: ABS Film and Video production 1996/97. Catalogue No 8679.0

1. An amount of \$45 million for children's productions is included in the overall \$1095 -it is shown separately 'below the line' in table 1.10. of the ABS publication. Most children's programs are either in the drama and comedy, light entertainment or 'other categories.

2. We have included film in the above table because feature films count for local content requirements on both free-to-air and pay television. The drama expenditure requirement for pay TV is primarily supporting production of feature films rather than television drama.

Networks are increasing their reliance on independently produced programming. In November, Seven announced its intention to negotiate a joint venture with the Granada Media Group to develop and produce content for the network (as well as for other networks and media). Nine and Ten have moved to outsourcing facilities (as opposed to production) from Television Media Services, and it is widely expected that outsourcing of more program production will follow. These developments mean that technical staff are also becoming increasingly freelance and working across the various areas of the production sector.

A further shift from production by television broadcasters to the independent sector can only increase the interconnectedness of the various sectors of the audio-visual industry.⁹

The production of feature films, television drama, documentary and children's programs depends on a critical mass of creative and technical personnel and production and post-production facilities.

The continued existence and viability of a diverse audio-visual production industry underpins the ability to achieve the Government's cultural objectives.

⁹ Between 1993/94 and 1996/97 there was a very noticeable shift away from production by television broadcasters to the independent sector. In 1993/94 broadcasters accounted for 65% of production costs and the independent sector 35%. By 1996/97 the position had been reversed with the independent sector accounting for 62% and television broadcasters 38%.

3. Australian Programs.

3.1 Subquotas

The existing quotas for Australian first release drama and documentaries should be retained.

We strongly endorse this recommendation.

In discussing the market for television programs the report concludes that quotas are necessary notwithstanding the popularity of Australian programs. We agree. We also agree with the Commission's observation that:

"Many Australian programs rate well (and thus supply audiences for advertisers), but they will not be preferred by broadcasters if the program costs relative to advertising revenue are higher than those for imported programs" (p.205).

3.2. Creative Elements Test

The targeting of the creative elements test for Australian programs should be improved by removing the criteria that require non-creative cast, crew and production processes to be Australian.

The report accepts that there are difficulties with a 'look and feel' test and that the presence of Australians in roles of a 'strongly creative nature' such as producers, writers, directors and leading actors is a way of ensuring an Australian perspective and identity. However it queries why production crew and the majority of the supporting cast must be Australian and says that requiring post-production to take place in Australia would appear to be "aimed at industry assistance rather than at instilling a social or cultural sense of Australianness in the final product."

We do not support this recommendation for the following reasons:

- the cultural objectives of the Broadcasting Services Act and the existence of an industry which is able to deliver these outcomes are linked; and
- there has been no call or need established for this kind of change to the creative elements test.

The recommendation suggests that it is sufficient to have the producer, writer or director and lead actors as Australian to make an Australian story. "It appears to require more Australian inputs than necessary to ensure an Australian perspective or identity in the resulting program" (p 226).

Taken to its extreme the draft recommendation could mean that all aspects of a production except the producer, writer or director and half the leads could be foreign and the production could be entirely shot and post-produced outside Australia.

Producers, writers, directors and lead actors would not exist in sufficient numbers and with sufficient expertise without a continuing infrastructure to develop and support them.

Their expertise is gained through experience and the professional development opportunities provided by working in more junior capacities in television programs and on commercials. The industry needs to provide sufficient opportunities to encourage talented people to enter it in the first place, and to stay in it given the periods of unemployment and the often very low incomes, that are an inevitable feature for most.¹⁰ Without this there will not be a continuously replenished pool of writers, actors and producers to draw on.

In Australia and internationally, the mix of key creative positions and production location and personnel is the basis for eligibility for direct support and for local content eligibility.

Division 10BA of the Income Tax Assessment Act (10BA), the gateway to direct and indirect subsidy in Australia, aims to encourage private investment in 'culturally relevant, high quality Australian film and television productions.'

To qualify a film must have significant Australian content.¹¹ Taking all factors into account it must have significant Australian control and insignificant foreign elements. FFC investment is targeted to 10BA films and certification is required.

Many countries target their support for domestic film and television production in a similar way - with creative control, production expenditure and location of production being important elements of consideration.

In respect of local content quotas, the European Union defines European works as being those with at least one producer established in a member state and mainly made by workers and authors residing in member states. Canadian content is defined by reference to those involved in making the program and the program's origin.¹²

Adoption of this recommendation would put Australia out of step with the international approach to defining the character of a program for the purposes of eligibility as local content as well as for other forms of

¹⁰ Incomes for most industry professionals are extremely low by community standards. For example a 1992/93 study conducted by David Throsby and Beverley Thompson showed the mean income of actors was \$11,000 per annum (\$12,650 in 98/99 figures). D. Throsby and B. Thompson, *But What Do you Do For A Living? A New Economic Study of Australian Artists*, Australia Council, 1994, page 24.

A recent submission by independent producers to the AFC and FFC showed many barely covering their costs and earning in the range of \$14,000 to \$30,000 a year.

¹¹ The following elements are taken into account in this assessment - creative control, subject matter, location of production and post-production, copyright ownership, company ownership, source of funds and production expenditure.

¹² ABA, *Review of the Australian Content Standard*: Discussion Paper July 1998. p30.

assistance. It would also affect the achievement of the Government's cultural objectives by undermining the competitive efficiency of the production sector to deliver these cultural outcomes.

4. Children's programs

4.1 The existing quotas for children's programs on commercial television should be maintained, but the requirement that all of the P program sub-quota must be filled with Australian programs should be reconsidered.

The children's standard requires that all of the mandatory 130 hours of pre-school programs and 50% of the 260 hours of programs for school age children be Australian. The overall children's program standard is designed to provide programs which are "informative, educational, entertaining and diverse".

While we support the overall recommendation that the quotas for children's programs be maintained, we do not support the recommendation with respect to P programs.

It is important to recognise that the Australian content aspect of the children's standards involve minimum requirements. Recognising the influence of television, they are designed to ensure that children have access to a minimum levels of Australian material.

*Children should have the opportunity to view contemporary Australian programs made for them.... Children like adults, are entitled to the diversity of ideas and information that is central to broadcasting policy.*¹³

The different requirements for P and C programs recognise the different development stages, tastes, interests and needs of the pre-school and school age children.

The P requirement applies to weekdays only and requires 30 minutes of Australian P programs between 7am and 4.30 pm Monday to Friday.¹⁴

The requirement that all P programs be Australian was introduced in the 1996 Content Standard. While virtually all P programming had been Australian when the previous review occurred, by 1996 there was some foreign P programming screening. The 1996 standard also extended the time

¹³ ABT, *Kidz TV*, An inquiry into Children's Television Standards, Sydney 1991.

¹⁴ As the draft report notes a P requirement was first established in 1980 and set at 30 minutes per weekday. There was a substantial review of the Children's standard from 1987 to 1990 culminating in a new children's standards operating from January 1, 1990. This did not increase the P requirement or set an Australian quota. The tribunal noted all P programs broadcast were Australian and advised that if this changed, it would be necessary to review the position as "The intention of the standard is that preschool children should have access to Australian programs made especially for them" ABT *Kidz TV*, 1991, Vol1. p34.

band from 8.30 am to 7 am to allow more scheduling diversity between the three commercial networks" ¹⁵

¹⁵ ABA, *Australian Content: Review of the Program Standard for Commercial Television*, Final report, September, 1995, p31.

The requirement means that the commercial sector as a whole is required to broadcast a total of 1½ hours per weekday of Australian P programs. The regulator has set P bands with a view to encouraging broadcasters to show their P programs at different times so that children can have access to the full 1½ hours (equivalent to 63 minutes per day including weekends).

The cost of providing Australian P programs is not onerous. We estimate they represent 0.7% of total programming costs with an average cost of \$7,564 per half hour.¹⁶

The Commission's proposal is motivated by a concern about the provision of quality programming for children. The report suggests that Australianness does not necessarily ensure quality and that lifting the 100% Australian requirement may improve the quality and diversity of children's programming.

There is considerable evidence that children under six years of age are the group most vulnerable to the effects of television viewing, and that the most significant part of a child's intellectual development takes place during those years.¹⁷ It is for these reasons the minimum half hour per weekday of Australian P programming is important.

Broadcasters are not prevented from screening quality imported programs for pre-school children. The costs of imported children's programming is very low ranging from \$1,000 to \$2,550 per half hour.¹⁸

4. 2 The role of the national broadcasters and subscription broadcasters in providing children's programs which meet the Government's social and cultural objectives should be further examined in the context of future digital and convergent technologies.

In the discussion of the effects of children's programming at pages 223-225, the report refers to the role of the national broadcasters in relation to children's programming, noting that the ABC broadcasts a considerable amount and the SBS very little. It also refers to comments in submissions about the lack of regulation of children's programming on pay television, the concerns of the commercial broadcasters about the current children's standards, and the popularity of children's programs on pay services.

In setting out the above recommendation at page 236 the report says "the regulation of children's programming on subscription television should be clarified" and "the role of the national broadcasters in providing children's

¹⁶ *ABA Financial Results 1997/98*. Calculated as follows - Total programming costs for the sector were \$801.1 million-the total cost of non-drama children's programs in 1997/98 was \$11.8 million. This has been divided by the total number of Australian C and P hours required- 260 X 3 networks.

¹⁷ ABT, *Kidz TV*, Volume 2, p345.

¹⁸ TV World, Price Guide 1998

television may also require re-examination, particularly if multichannelling is undertaken."

We believe it is important that children's program requirements for commercial free-to-air television are retained on the basis that:

- notwithstanding the opening up of new services, free-to-air television will remain the dominant delivery mechanism for television services and the only service available to all Australians;
- free-to-air broadcasters should have an ongoing obligation to program minimum levels of children's programming;
- shifting sole responsibility to the ABC and/or pay services will reduce the diversity of children's programming and limits its access for many Australian children.

We note that regulation for children's television is a feature of free-to-air broadcasting in many other countries. (Appendix 1 is a comparison of children's television regulation internationally prepared by the ABA).

4.2.1 The ABC & Children's Programs

Drawing on a table from the ABC's submission (based on data from AC Nielson) the draft report indicates that 1,721 hours or 26.2% of ABC programming (6 am to 12 midnight) in 1998 was devoted to children's programs.

Appendix 1 to the ABC's 1998-99 Annual Report indicates 70.5% of this programming was foreign and 29.5% was Australian.

This averages 1 hour and 24 minutes per day of Australian children's programs. Together with the C and P quotas (42 mins per day) applying to commercial television, 2 hours and 6 minutes of Australian children's programs is broadcast per day on free-to-air television.

Although the ABC broadcasts more hours (foreign and Australian combined) than the combined total of the commercial broadcasters, the commercial sector plays a crucial role in delivering local programming to Australian children.

The ABC is particularly important to the support of the more expensive forms of Australian children's drama. As the Mansfield report commented, the ABC plays an important role in delivering "Australian programming oriented towards the entertainment and development needs of children outside a commercial context".¹⁹

However, as the ABC points out it is "a comprehensive mainstream broadcaster, not a niche or supplementary broadcaster " ²⁰ a role reaffirmed by the Mansfield inquiry in 1997. To require the ABC to take most or more of the role for children's programming would push it in the direction of the latter.

¹⁹ Bob Mansfield, *The Challenge of a Better ABC*, Volume 1, p25.

²⁰ Submission no 78, p5.

The Broadcasting Services Act's objective of diversity is as relevant to children's programming as it is to adults. We consider this objective can only be met by the provision of children's programming by commercial broadcasters and pay services in addition to the national broadcasters.

We also understand the ABC's plans for multichannelling are unlikely to mean any major increase in quality children's programming. There are clear financial constraints on the ABC's ability to greatly expand its support for quality Australian children's programming given the cost of this relative to the cost of imported material.

4.2.2 Pay television and Children's programs

Our comments here are directed at Australian content and children's programming on pay television.

There are four children's channels - Nickelodeon, The Cartoon Network, The Disney Channel and Fox Kids (some of these switch to adult programming at night). These are all predominantly drama channels and thus covered by the 10% expenditure requirement on new Australian programs. The Disney Channel and Nickelodeon exceeded the 10 per cent requirement in 1997/98. The other channels fell short of the requirement.

Information is not currently available for each channel's expenditure on new Australian drama. However, it is clear that the actual amount of new Australian children's programming supported by The Disney Channel and Nickelodeon is modest. We estimate that the expenditure of each is around \$1.5 million, possibly slightly higher.²¹ This would fully support around two hours of children's drama.²² In practice, the channels often invest in partnership with distributors, free-to-air broadcasters and the FFC, with the FFC contributing most of the budget. In 1998/99 the Disney Channel and Nickelodeon contributed to three programs representing a total of nineteen and a half hours of FFC supported children's drama.

In the section on pay television we further discuss the low program costs for pay providers and the minimal amounts generated by the current expenditure requirement.

Comprehensive information on the levels of Australian programming, on pay television and whether this is new or repeat programming is not readily available. However, the industry's assessment is that there is minimal new Australian children's programming commissioned or produced by pay channels. An examination of the program schedules supports this

²¹ Total expenditure on new Australian drama by 15 channels in 1997/98 was \$8,173,504, - Disney and Nickelodeon and two non children's channels, (Arena and the Comedy Channel) accounted for 63% of this so \$5.15 million- an average of \$1.2 million each. Arena just met the 10% requirement, hence the estimate of around \$1.5 for each of the two children's channels.

²² Based on average production costs per half hour being \$370,000 - FFC *Annual Report*, 1998/99

assessment - they predominantly comprise foreign material with small levels of Australian children's programs previously screened on free-to-air television.

This raises important issues of access. The current take up rate of pay television is 16% of households.²³ This will increase, though we note at page 27 of the draft report the Commission's view that the rate of increase may now be slowing compared to the last four years.

However, it is apparent from penetration rates in other countries, that for the foreseeable future, a considerable section of the population will not have pay television.²⁴ Take up rates at present appear to be related to income as one would expect, with higher take up rates in high income households.²⁵

Free-to-air television will be the main source of Australian children's programming, for the majority of Australian children well into the future.

As the Commission acknowledges, support for Australian children's programs should not rest on notions of continued protection from competition.

While multichannelling and further uptake of pay may mean more hours of children's programs, there are no assurances this will mean significantly more Australian programs.

Diversity of programming is related to diversity of services. In the future a genuine expansion of choice should be available for children as much as for adults. This can only be achieved if children's programming is available on free-to-air services, as well as on national broadcasters and pay services.

4.2.3 Is an Australian requirement really needed?

The Commission has invited further comment at p231 on the suggestion that without the local content requirement, there may be few non-Australian programs that satisfy the C and P criteria. This arises out of comments in the submission by the Australian Children's Television Foundation (ACTF) on the availability of quality children's programs internationally.

We understand that the ACTF was not referring to C and P programs generally, but specifically to children's live action drama.

²³ This is 1,050,000 households. Bruce Elder in the Age 3/8/99, p9.

²⁴ In the US the household take up rate is 66%. It is 60% in Sweden, 31% in NZ and 30% in the UK AFR, 29/6/99, p53.

²⁵ Ivor Ries reported in the AFR that 43% of households with incomes above \$140,000 and 33% with incomes above \$100,000 are pay subscribers. AFR 7/8/99. p25.

There is a very large amount of children's programming being made internationally. A significant proportion of this would satisfy the criteria of the children's standards.

Television Business International (TBI) publishes a children's programming survey every year. In presenting the 1998 survey TBI said, "the survey indicates that the number of hours dedicated to children's programming by terrestrial services has increased over the last 12 months." The 1999 survey shows that there are over 2,500 hours of children's programs purchased by the 16 countries in the survey. The main suppliers are the US, the UK, France, Germany, Sweden, Spain, Scandinavia, Japan, Canada and Australia.

Screen Digest, the UK based media news and market research journal, has just produced a special report entitled "The Business of Children's Television". This provides detailed information on all aspects of the children's television markets, including information on 36 companies producing children's programs, and advises;

*"Children's television sells. Animation is one of the most exportable genres of programming, while pre-school phenomena like The Teletubbies shift millions of licensed products from the shelves of retailers."*²⁶

Animation has the added advantage of not being so language dependent. Very large amounts of animated children's programs are produced internationally. As an example the 1999 European Animation Catalogue has a total of 458 new titles with the vast majority aimed at children.

²⁶ Screen Digest also notes the US dominance in the market and poses the question, "Will the global market be dominated by the big four which have all but locked up the US market place."

5. Transmission Quotas

The Australian content regulations for commercial television should be simplified and better targeted to their social and cultural objectives by removing the overall quota for Australian content of 55 per cent and the Australian production quota of 80 per cent for advertising.

The Productivity Commission concludes that programs such as sports, local news, game shows and infotainment are naturally protected and "it is debatable whether all of these program types contribute to stated cultural and social objectives."

We consider it imperative that the transmission quota is retained for the following reasons:

- these programs are culturally and socially significant. The transmission quota provides broadcasting services with a fundamental feeling of Australianness;
- reliance should not be placed on market forces alone to ensure majority Australian content in overall programming. Market failure will exist for the same reasons that it exists in drama, that cheaper imported programming is widely available to replace Australian;
- the transmission quota can't be seen in isolation. It is an important factor in maintaining the critical mass required by the production industry to also support the production of drama, documentary and children's programming.

5.1 Transmission quota and Australian identity and character.

The transmission quota plays a key role in ensuring broadcasting services reflect a sense of Australian identity, character and cultural diversity, as required by object 3 (e) of the Broadcasting Services Act.

Modest levels of Australian programming exist in the subquota areas of drama, documentary and children's programming. To reiterate:

- average hours of first release programming across the three networks in 1998 were: drama - 192 hours; documentary - 21.5 hours; and children's programs - 262 hours.
- this represents an average of 1.3 hours per day or 7% of the hours between 6 am and midnight.²⁷

Therefore, the bulk of the 9.9 hours of Australian programming required (between 6am and midnight) is made up of programs other than drama, documentary and children's. This is what delivers an Australian service.

²⁷ ABA Compliance Results 1998 as published in *Trends and Issues*, No 6 August 1999.

The table on page 221 of the draft report shows programming by genre for each of the commercial networks (as well as for the ABC and SBS). While amounts vary between networks, the main genres are news, current affairs, sports, variety, comedy, information shows and specials (eg. Logie Awards, World Cup Comedy).

These programs range across prime time and non-prime time periods. For many members of the community such as older people, the unemployed and underemployed, shift workers, mothers and others at home, television watching is a significant day time activity. Under current arrangements they have access to a mix of Australian and foreign programming at these times.

The draft report refers to the stated cultural and social objectives of content regulation as including education, information, identity and diversity (p219). The programs that make up most of the transmission quota - news and current affairs, sport, entertainment and 'infotainment' programs - contribute in various ways to these goals.

The role of these programs in contributing to social and cultural objectives is significant. They deliver local identities and local voices to local audiences. All forms of programming made by Australians and dealing with various aspects of Australian life, past and present, contribute to a vibrant local culture.

There is strong audience support for news, current affairs, sport, lifestyle and light entertainment programming, indicating many Australians enjoy and are enriched by these programs.

Sport is intrinsic to any notion of Australian culture and to issues of community and national identity. Programs such as *Burke's Backyard*, *Wheel of Fortune*, *The Panel*, and *This is Your Life* allow Australians to see their lives reflected, debated and celebrated in the most popular form of mass media.

The draft report recognises television is an important part of many Australians' lives. It is a way of remaining informed, a major form of entertainment (especially for those who can't afford more expensive forms) and for many, an important source of companionship. For these reasons it is imperative to retain Australian voices, images, perspectives and concerns across all program types.

5.2 Is regulation needed?

The Commission has taken the view that such forms of programming are popular with viewers and that the market alone would provide sufficient Australian programming. The draft report refers to our initial submission when it says at page 221 that some inquiry participants "argued that Australian news and current affairs do not need assistance. They stated that although these programs can have strong social, cultural and civic benefits, they are popular and not easily substituted with imported programs".

The issue we were attempting to highlight was that the sub-quota areas were "particularly vulnerable to substitution by foreign programs". We went on to say that the relationship between costs of production and level of demand ensures some protection for the other areas which make up the bulk of the transmission quota and that it would not make sense to broadcast large amounts of foreign programming in some genres such as news and current affairs (page 8 AFC/FFC submission).

While we accept there is a level of 'natural protection' for some of these types of programs we do not consider it is so great or reliable as to warrant the abolition of the transmission quota.

It is important to understand how quotas have created a marketplace. Considered in isolation, the apparent competitiveness of the production industry is deceptive. Without quotas, most Australian production would not exist.

In support of its view that the quota is unnecessary, the Commission says that the networks exceed the transmission quota. However, only the Nine Network is in this category. Network Ten has only just met the requirements for the last three years²⁸ and the Seven Network's result for 1998 was just above the requirement at 58.16%.²⁹

When introducing the Standard (which included the increase to the transmission quota in 1998) the ABA said it "considers this to be a significant increase, and that such a level will play a valuable role in strengthening the Australian presence on television".³⁰

It is worth noting that the amount of Australian programming fell below 50% on at least some occasions in the eighties - the period when a transmission quota as such did not operate.

- In 1982/83 the overall result for the sector was 48.1% Australian content. In the subsequent two years it was around 49%.³¹
- Channel 7 had 46% Australian content in 1987/88. Ten achieved around 45% in both 1987/88 and 1988/89.³²

²⁸ In 1998 their score was 56.12%, in 1997, 50.90% and in 1996, 51.32% (the 55% quota came into effect in 1998 - prior to that the requirement was 50%.) ABA Compliance Results as summarised in Table 9.3 p221, draft report.

²⁹ In the previous two years when the quota was 50% its results were 56.16% and 58.58%.

³⁰ ABA, *Australian Content*, Final Report, Sept 1995, page 29.

³¹ AFC, *Get the Picture*, 1989, p 87.

³² ABT, *Oz Content*, Volume1,1991, page 32.

In 1990 a transmission quota was reintroduced and set at 50% "in order to achieve the minimum acceptable level of Australian programming"³³ This confirms the relevance of the transmission quota to the overall levels of Australian content.

The Commission makes the following key point, "many Australian programs rate well (and thus supply audiences for advertisers) but they will not be preferred by broadcasters if the program costs relative to advertising revenue are higher than those for imported programs. " This applies generally and not just to drama, documentary and children's programming (although the price advantage for imported programming in these genres is more acute).

Programming other than drama documentary and children's programmes represents a substantial proportion of the commercial sector's programming costs (p. 205 draft report.) Of the total \$801 million, \$315 million or 40% is spent on sport, current affairs and news, and \$127 million or 16% on Australian light entertainment.

Without the transmission quota, more expensive forms of programming will be vulnerable to replacement by cheaper imports, as has been the case in New Zealand.

Program costs for magazine and light entertainment programs range between \$75,000 and \$120,000 per hour. The cost of importing such programs is considerably cheaper with *TV World* reporting costs from \$US6,000 to \$10,000 per hour. ³⁴

New Zealand

New Zealand provides an interesting case study when considering the relevance of general transmission quotas. With no local content quotas, 24% of free-to-air programming is local. Of 11 countries surveyed for the NZ On Air commissioned report *Local Content and Diversity: Television in Ten Countries*, New Zealand had the lowest percentage of local content. ³⁵

New Zealand On Air has identified current affairs as being particularly unrepresented on New Zealand television³⁶

³³ as above, p31.

³⁴ TV World, 1998 *Guide to Programme Prices*.

³⁵ NZ on Air, *Local Content and Diversity: Television in Ten Countries*, Summary Report. June 1999, p 3. Singapore, also without local content quotas, was next lowest at 25%. All of the other countries surveyed with the exception of the US, have local content quotas and the proportion of local content ranged from 40% in the Netherlands to 90% in the USA. It is widely acknowledged that the US has not needed quotas because of the size of its national market and its historical dominance of film and television production.

³⁶ NZ on Air, *Local Content 1988*, p1.

International situation

As the Commission notes (p 204), local content regulation including overall transmission quotas, prime-time requirements and independent production quotas, is a common feature of broadcasting internationally. Retaining a transmission quota would put Australia out of step with other developed, market oriented economies.

The NZ report, *Local Content and Diversity*, makes the point that quotas are particularly important for English speaking countries like Australia which have available to them a vast range of proven imported programming, mainly from the USA and the UK.³⁷

³⁷ NZ on Air, 1999, p2.

6. Commercials Quota

The report states at page 228 :

"Since the content requirements for Australian advertising are exceeded and there are few if any spillover social or cultural benefits, there appears to be little point in retaining the advertising quota. "

"While Australian advertisements can have a social or cultural value, they are unlikely to have any additional value to viewers or the broader community which is not already captured in the price of the advertisement (and ultimately in the price of the product being advertised).

The report notes that the production industry is well established and competitive and that "no social or cultural objectives appear to be attached to this policy" (p 236).

The Commission also refers to the submission by the Communication and Media Policy Institute, which advised that administrative and compliance costs of the advertising quota for broadcasters and the regulator are 'substantial'.

To our knowledge with the exception of this submission, there were no calls put to the inquiry for the abolition of the Australian content regulations for commercials. The submission from the Australian Association of National Advertisers (AANA) did not argue for this. Indeed in their submission they strongly supported content regulation.³⁸

Important social and cultural benefits accrue to the community from the television commercials quota:

- commercials are cultural products and contribute to the overall Australianness and character of the television viewing experience; and
- the production sector for commercials substantially overlaps and is interdependent with the production sector for film and television. Total deregulation of the commercials sector will have a significant impact on the capacity of the production industry to produce Australian films and television programs.

³⁸ Submission no 168. The AANA says at page 4 "AANA endorses those aspects of the broadcasting regulation which preserves the current high quality, comprehensive, free television service with its attendant benefits for Australian culture and diversity."

6.1 The impact of Foreign Commercials

The draft report concludes that the ABA figures on the amount of foreign commercials show that regulation is not needed and the market will deliver a high proportion of Australian content.

We believe the available figures are less than helpful when assessing the impact of foreign made commercials on the Australian industry. This is because they deal only in raw numbers and overall viewing time. There are also concerns about aspects of the operation of the regulations including whether the current definition of 'Australian' could allow essentially foreign commercials to qualify.

The concern of many when the partial deregulation occurred in 1992 (permitting 20% of television commercials to be foreign), was the potential impact on the Australian commercials production industry. In particular, the issue was whether foreign commercials would encroach significantly into the big budget commercials shown in prime-time as part of major national campaigns.

6.2 Behind the Figures

ABA compliance figures indicate that foreign advertising comprised 11.2% of all advertising time for the Seven Network, 7% for the Nine Network and 11% for Network Ten.³⁹

There is no information available as to the proportion of foreign and Australian commercials in prime time and non-prime time periods.

There is also no information available on the titles of foreign commercials or on the relative value of Australian and foreign advertising. It is quite possible that while foreign advertisements do not occupy a large proportion of total screen time, they may nevertheless occupy a more significant proportion of prime time.

If information on relative value were available it would be possible to assess Australian and foreign commercials across budget ranges.

We consider without this information it is not possible to properly assess the impact of the 1992 change.

The ABA advises, based on information from FACTS CAD, that the main product areas of foreign commercials, are toys and leisure goods, motor vehicles, direct mail retailers, and cosmetics.

³⁹ The Advertising content standard is administered with the assistance of FACTS through its subsidiary Commercials Advice Pty Ltd. (CAD). Advertisements are classified as foreign or Australian by CAD. Advertising agencies submit advertisements to CAD for classification and complete a form which contains questions about compliance with TPS 23. They are also required to declare that the information they supplied to CAD is correct. CAD then forwards the results to the ABA.

The experience of the production industry is that the 1992 change has had a negative impact on Australian commercials, production and that foreign commercials primarily screen in prime time and are predominantly in the high budget range.

The following supports this assessment:

- a number of production companies have reported a significant decrease in the production of high budget (\$1 million plus) commercials and a new demand for reversioning of foreign advertisements to suit the local market.⁴⁰
- most commercials produced in Australia are in the low to medium budget ranges between \$150,000 and \$400,000. \$500,000 is now considered 'big budget' for an Australian produced commercial; and
- many of the national campaigns for transnational companies and products now use foreign commercials. Examples include Visa, Phillips, Nike, Reebok, IBM and Gillette.

While ABA compliance figures show foreign advertisements occupied on average just under 10% of advertising time per network, foreign advertisements were disproportionately represented at the 1998 Australian Writers and Art Directors awards (the major advertising awards) and winning one third of the 82 awards.⁴¹

What the compliance figures do confirm is an **increase** in the use of foreign commercials since 1992:

- there have been steady increases over the six year period on the Seven and Nine networks;
- foreign commercials rose from 5.5% in 1992 to 11.25% in 1998 on the Seven Network; and
- increased from 4.7% to 7.0% on the Nine Network. Network Ten started the period with 8.1% . Although fluctuating, this has grown to 11% in 1998.⁴²

⁴⁰ The fee involved in reversioning is likely to be around \$30,000 to \$40,000.

⁴¹ Daily Telegraph 28/11/98, p11.

⁴² ABA, *Program Content: Australian Content in Advertising*

In a 1998 essay Mervyn Smythe wrote:

*"The use of foreign TVCs continues to grow. Agencies with international clients report large reductions in local production as a result of their clients being able to import foreign commercials. Many claim that, were this is not the case, their commissioning of local production would increase by at least 50 per cent. In some cases the figure is as high as 100 per cent."*⁴³

The Commission notes that the gap between the quota and the actual amount of foreign advertising may relate to the flexibility of the test (p 218). A commercial can qualify if it is wholly made in Australia.⁴⁴ This appears to allow foreign advertisements made in Australia to be counted as Australian.

The ABA is about to conduct its first audit of television advertising in response to concerns raised over these definitional issues. This should begin the task of providing a more accurate picture of how the regulation is operating.

We strongly contest the view put by the Communication and Media Policy Institute that the administrative burden of the regulation is significant. We note no evidence is put forward in support of this claim. Television commercials are already assessed by FACTS/CAD for other reasons, political content and compliance with the FACTS Codes of Practice, particularly in relation to adherence to community standards.⁴⁵ The addition of information as to whether a commercial is Australian or foreign is just a part of this larger process.

The specific cost for the administration of the Australian content of advertising is minimal compared to the costs of buying advertising time.⁴⁶

⁴³ AFC, *Get the Picture*, 5th edition, p90.

⁴⁴ The test is an either/or one. An advertisement is Australian if it is wholly pre-produced, filmed and post-produced in Australia. The alternative test is a 'creative elements test' which means an advertisement is regarded as Australian if six out of 10 key creative positions are occupied by Australians.

⁴⁵ Section 6 of the FACTS Codes of Practice deals with advertisements. In addition there are special rules for particular advertisements under the BSA, and there is regulation under the codes and procedures of the Australian Association of National Advertisers. Box 10.1, p245, draft report.

⁴⁶ A 30 second national spot on free-to-air television costs between \$20,000 and \$50,000 - *The Australian* 10/6/99. A major national campaign would usually involve around a great number of spots.

6.3 Cultural Value of Commercials

While the Commission acknowledges a social or cultural value for Australian Commercials, there is a tendency to down play this in the report.

The impact of television advertising has been much studied. One study points to the flagship cultural role of national consumer advertising, and concludes advertising is a "unique cultural form with its own grammar and logic."⁴⁷

Cunningham discusses the specific cultural role of Australian advertising and refers to its central role in the development of "a popular audiovisual grammar of national identity during the 1970s and 1980s."

In discussing the role of national flagship advertising he concludes; *"its value as a public affirmation of certain aspects of Australian popular culture has been considerable. If a good proportion of flagship national advertising was no longer to be fashioned specifically for the Australian market, that culture would be undoubtedly diminished."*⁴⁸

Commercials occupy a significant proportion of broadcasting time. Australian commercials have played, and continue to play, a major part in giving television services an Australian look and identity.

In recognition of this ScreenSound Australia (formerly the National Film and Sound Archive) collects Australian commercials in fulfilling its role of maintaining records of enduring cultural significance.

6.4 The commercials sector and the production industry.

*..it is clear that television drama production in Australia could not have developed its present scope and depth without the industrial infrastructure of the advertising industry. Evidence for this link is widely accepted and pieces of it are often cited in film and television histories. For this reason, if for no other, deregulating television advertising would have major cultural consequences (Stuart Cunningham, Advertising and National Culture.)*⁴⁹

Apart from its own cultural contribution, the commercials sector underpins the achievement of the cultural objectives in film and television. It does this by providing an important training ground for directors, cinematographers and other creative and technical personnel and as a significant contributor to the 'critical mass' necessary for a successful Australian production industry (as discussed earlier in

⁴⁷ *Social Communication in Advertising* referred to by Stuart Cunningham in his chapter "Advertising and National Culture", in *Framing Culture: Criticism and Policy in Australia*, Allen and Unwin, 1992. Cunningham surveys the Australian and international literature in the area of cultural theory and advertising.

⁴⁸ as above, p97.

⁴⁹ as above, p72..

Section 2).

The Australian Broadcasting Tribunal recognised this role in the course of the inquiry that led to the current standard. While reiterating its view that industrial protection was not its principal goal, the Tribunal said:

"it cannot be denied that some protection will be a by-product of measures taken to ensure Australia's cultural identity".

"A substantial reduction in or removal of the current level of Australian content required in advertisements will have an impact on the industry's capacity to service and maintain the existing high quality of production on Australian television".⁵⁰

Many of Australia's famous cinematographers such as Dean Semmler, Russell Boyd and Ian Baker began working in commercials, as did director Fred Schepsi.

Examples of other prominent film and television directors who regularly work in commercials include;

Rowan Woods - *The Boys, Heartbreak High, Police Rescue*

Samantha Lang - *Twisted Tales, The Well*

Mark Joffe - *Cosi, Spotswood*

John Curran - *Praise*

Shirley Barratt - *Boys from the Bush, Police Rescue, Heartbreak High, Love Serenade*

Richard Lowenstein - *Dogs in Space, Strikebound*

Gregor Jordan - *Twisted Tales, Two Hands*

Gillian Armstrong - *My Brilliant Career, High Tide.*

Chris Noonan - *Vietnam, The Cowra Outbreak, Babe*

Commercials are an important training ground for editors and many regularly move between working on feature films, documentaries, television programs and commercials. The main editing facilities provided are sustained by commercials work, as well as television series and documentaries.

Most Australian actors will work in commercials.

We estimate at least 70% of technical staff (crew) regularly move between working in commercials and film and television projects. A recent example is the crew of *Wildside* who were seeking commercials work when the series was discontinued.

Further increases in foreign commercials would be to the detriment of the local character of our television services. We strongly urge the Productivity Commission to reconsider its recommendation on the commercials quota.

⁵⁰ ABT *Oz Content: An Inquiry into Australian Content on Commercial Television*, Volume Four, Sydney, 1992 p205.

7. The effects of quota regulation

For the Australian and children's content quotas which remain in place, the ABA should conduct regular and public evaluations against the social and cultural objectives of the content requirements.

The Commission has concluded that despite the many reviews of the content regulation "no systematic evaluation of the quota system's success in meeting the social and cultural objectives of the Act is in place."

We welcome the recommendation whilst recognising there has been considerable evaluation of the content quotas as part of reviews and pursuant to the ABA's role of developing and monitoring standards.⁵¹ The ABA has also commissioned research outside of its formal inquiry processes. For example a research report on C programs from 1979 to 1999 is currently being finalised.

The ABA recently announced a major study of the wider cultural and industry impact of the rules for Australian content to be carried out in partnership with the Australian Key Centre for Cultural and Media Policy and supported by a grant from the Australian Research Council. The study will inform the next review of the Standard in 2001.

⁵¹ For example the major reviews of the content and children's standard that took place in the mid to late eighties included the commissioning of research and publication of discussion papers on most aspects of the program standards.

8. Other Issues

8.1. Tradeable quotas

Would it be desirable to allow any broadcasting content quotas which are retained, to be traded now or in the future?

The report suggests that one way of improving the transparency and reducing the costs to broadcasters of quotas is to allow them to be traded. Quota trading could occur either between digital multichannels within each television network or between separate broadcasters.

The Commission acknowledges this could lead to a reduction in total quantity - as networks wishing to show less of a category would pay others already showing more of a category to "take the obligation off their hands".

We believe this would have significant consequences and are opposed to this proposal. Minimum levels of Australian content would automatically become maximums, reducing diversity and leading to an overall reduction in drama, documentary and children's programming.

The objects of the Broadcasting Services Act should apply equally to each licensed service. Imposing these obligations equally on all services is what delivers choice and diversity and creates a market. Without this, there is no competitive market for producers to operate in or audiences to choose from. Audiences would be denied their right to exercise their power as consumers.

Without choice, there is no marketplace.

8.2. Subsidy versus quotas

Comment is sought on ways of promoting programs designed to meet the cultural and social objectives of the Act, and in particular, the merits of subsidy versus regulation.

The Commission acknowledges that subsidies which are not tied to the requirement for presales may result in programs not being broadcast and that a shift to subsidy would move the cost from the broadcaster to the taxpayer. However, it still wishes to explore whether some new kinds of targeted subsidy arrangements could be useful.

Our view is that the current subsidy arrangements, involving support delivered through the FFC to supplement the quotas for high cost quality programming such as mini-series, children's drama and documentary, work well.

However, we consider diversity and quality in these genres is currently at some risk because of the increased difficulties of raising finance and the problems which have arisen with the increased reliance on overseas sales to find the growing gap between the cost of production and the financial contribution from domestic networks

This issue is discussed in our recent report to the Minister for the Arts and the Centenary of Federation, where we recommended an increase in the FFC appropriation to allow for:

- higher levels of FFC investment in television drama (mini-series and telemovies);
- a limited number of higher budget feature films; and
- modest increases in investment levels for children's drama and documentary series.

8.3 Pay television

The Commission is not convinced that Australian programming or other content regulation should apply to pay television.

The Commission concludes;

"the expenditure requirement is not tied to any requirement to broadcast the programs, and is therefore unlikely to address the stated social and cultural objectives of content regulation."

(p 237).

Our view is as follows:

- the principles of promoting the interests of consumers and the community's social and cultural objectives should, we believe, also apply to pay television.
- to achieve these there must be some minimal levels of Australian programming on pay services. The market has demonstrably failed to provide this, and
- to provide diversity and real consumer choice, Australian content regulation is required.

We agree there are some problems with the current system of regulation for pay television.⁵²

However, rather than abandoning content regulation for pay television because of perceived flaws in the current model, the current arrangements should be reviewed and where necessary amended and strengthened to deliver the required objectives.

The current model was developed prior to the commencement of pay services in Australia. The Broadcasting Services Act which includes the local content requirement, was passed in 1992 and pay services began in 1995.

⁵² Legislative amendments to ensure the drama obligation can be enforced are about to be tabled in Parliament.

The ABA's review took place in 1996/97 with the report delivered to the Minister in May 1997. The report concluded that, "Given the very limited experience with the current Australian drama expenditure requirement, and the start-up phase of the industry, the introduction of new long term arrangements for Australian content may be premature." The ABA recommended, amongst other things, that a further review take place three years later.⁵³

The industry is now out of its start up-phase and we believe the next review should commence as soon as possible.

The uptake of pay television has increased significantly in the last few years. The penetration rate is now one in six households or a potential audience of 3,570,000 (16%) - up from 8.5% in 1997. ⁵⁴

This rate of uptake is reported to be well above that of the United Kingdom and New Zealand at the same period.⁵⁵

Much awaited information became available this year on the extent to which pay is watched in preference to free-to-air services. The first comprehensive survey of pay-TV audiences released in August this year showed that the three pay providers had a combined share of 7.3% of the total television audience.⁵⁶

In the one million homes connected to pay, 46% of viewing time was devoted to pay channels.⁵⁷ The most popular channels are movies, sports, children's and documentaries.

It is now predicted that having incurred losses in its start-up phase, the industry is moving into a profit-making position. ⁵⁸ As the uptake continues to grow, pay television will become a more important source of entertainment and information for many Australians.

⁵³ ABA, *Australian Content on Pay TV*, Report to the Minister for Communications and the Arts, June 1997, p.20.

⁵⁴ Current figure from AFR, 7/8/99; 1997 figures from ABA (1997), p13.

⁵⁵ Darrin Farrant in the *Age* 3/8/99, p3.

⁵⁶ The other shares were as follows: Nine 29.9%, Seven 26.2%, Ten 19.5%, ABC 14.3% and SBS 2.8%. *Age* 3/8/99, p.3.

⁵⁷ As one commentator put it. "This is not to say that the networks won't be around for a long time to come, or that they won't remain profitable. In the US with 75% of households taking pay TV and \$410 billion spent on pay TV advertising, pay is still taking less than 20% of the total television advertising. Ivor Ries, in AFR 7/8/99, p25.

⁵⁸ The Business pages of the *Australian* predicted in May that by the end of this year, Austar would be the first pay TV company in Australia to post a profit. *Australian* 3/5/99, p39.

While pay television provides more choice, the choice is mainly between different kinds of foreign programming. The program guides show there is minimal Australian programming on most channels and what Australian programming is shown, is mostly repeats of programs previously shown on free-to-air television or films already exhibited theatrically.

8.3.1 Cultural objectives versus industry support

The Commission suggests the expenditure requirement for pay is primarily an industry support measure. While the support is undeniable, it is fundamentally tied to the desire and intention of the legislators to achieve a cultural objective, the making of Australian programs for Australian viewers.

As the Explanatory Memorandum made clear:

"It is intended that this licence condition will provide opportunities for the Australian production industry to provide *new material for these services that people are willing to pay to watch* (our emphasis).⁵⁹

Movies are the most popular genre on pay and accordingly the content requirements are crucial to ensuring there are at least some Australian films available to pay audiences in addition to the many foreign ones.

8.3.2 Where to for Content Regulation on Pay?

We agree with the ABA view that the form of content regulation for pay and other new services must take account of the distinct nature and programming needs of the service. However, we also believe it is timely to review the current model as well as enforcing the drama requirement

8.3.3 Would it be practicable to move to a timed based system?

As the draft report notes, local content regulation for pay services elsewhere is based on a must show model.

The indications are that the Australian drama channels do by and large show the programs supported through the expenditure requirement. There are however three 'pass through channels' - The Cartoon Network and TNT (both provided by Turner Entertainment) and broadcast by Foxtel, Optus and Austar, and Hallmark on the Foxtel platform. (A pass through channel is one provided in its entirety by an overseas program supplier without being 're-packaged' or altered for the Australian market.)

Foxtel produces two of its other channels directly - Fox and Fx, -so it is able to show programs supported through the expenditure requirement on these channels. Programming of Optus and Austar is provided by other channels providers.

⁵⁹ ABA 1997, p32.

8.3.4 Should the requirement be extended to other to non-drama channels?

We believe a local content requirement should be imposed on **documentary channels** which have changed dramatically since the ABA conducted its review of Australian content on pay television in 1996-97.⁶⁰

There are now four documentary channels and documentary is considered the fourth most popular genre on pay television. There is no content requirement for documentary channels and little new Australian documentary programming is broadcast.

There is no information readily available on the amount of Australian programming on other **non-drama channels**. While some lifestyle, music, sports and news programs are produced for pay, and previously released film and television programs are sometimes re-screened, foreign programming predominates on most channels.

8.3.5 Should the drama requirement be reviewed so as to deliver a reasonable amount of new Australian films and television programs to pay audiences?

It is clear that the requirement based on program expenditure will only achieve modest levels of local content on pay services. This is because the program expenditure of most channels is low being comprised of large amounts of repeat foreign programming which can be cheaply acquired.

In 1997/98, the total program expenditure by 15 predominantly drama channels was \$100,806,940. When the 10% requirement becomes enforceable it is estimated that this will generate around \$15million for new Australian programming.

As the ABA advised in its 1997 report, support for new Australian programs will primarily come from the movie channels where program costs are higher than on other channels. Reflecting the predominance of movies on pay, much of the expenditure to date has been by way of investment in new Australian films, with the pay channel acquiring pay transmission rights and sometimes equity in return.

At the recent session on pay television at the 1999 Screen Producers Association of Australia conference, channel providers were asked to outline their plans for fulfilling the expenditure requirement. They spoke of their interest in supporting television drama, both mini-series and also series in addition to feature films. However, given the modest levels of monies available, the 10%, once fully operating, will not generate large amounts of programming. The Foxtel representative advised that the program costs of one of their channels was around \$10 million. Therefore, \$1 million is

⁶⁰ The ABA report recommended that the expenditure requirement not be extended to documentary, given there was only one dedicated documentary pay TV channel (the Discovery channel on the Foxtel platform) at the time.

available for new Australian drama. The speakers stressed that new projects would have to be mounted in partnership with other players. The amount generated will increase modestly as program costs are chiefly related to subscriber numbers.

In our joint report to the Minister we recommended that the next review of Australian content on pay television commence next year.

There will need to be some settling in period for the newly enforceable drama requirement once the legislation is enacted. We believe the drama requirement should be closely monitored over the next two years with a view to modification if necessary to achieve reasonable levels of Australian film and television drama.

We believe therefore that attention should focus initially on documentary and other non-drama areas.

Content regulation for pay is important to the achievement of the Government's cultural objectives and should be retained and strengthened.

This process should commence as soon as possible focussing on appropriate regulation for the documentary area and an assessment of the Australian content on other non-drama channels.'

To this end the ABA should collect data on Australian programming on pay channels, and such information should be made publicly available.

The drama requirement should be closely monitored over the next two years.

9. The Future- Content regulation in the Digital Age

The Commission notes it received few submissions on the adaptation of content regulation to a digital environment and invites discussion of this at the draft report hearings.

The report also raises a number of issues relating to content regulation under the three scenarios it identifies, the legislated conversion scheme, a liberalised conversion scheme and a fully merged media environment.

We make some general submissions about content regulation in the future broadcasting environment and then address some of the specific issues raised in the draft report.

9.1 Underlying Principles

The draft report notes that traditionally, discussion of content regulation has often been couched in terms of a trade-off, with broadcasters expected to support local programming in return for the protection from competition they have received in the spectrum scarce analogue environment.

We agree that to the extent it is still considered to be the basis of content regulation, this rationale needs to be reviewed. New services will emerge, what remains unclear is when and what their precise nature will be.

What is also undeniable is that in the digital age, media and communications will become increasingly pervasive and have even more impact on our lives than in the past.

There is a continued role for regulation in the public interest in the new broadcasting and media environments.

In his book *The Death of Broadcasting?* Jock Given identifies Australian content as one of the key elements of the public interest in the digital information age.⁶¹

In setting out a number of principles for the future the Commission indicates Australia's broadcasting policy should amongst other things:

- promote the interests of consumers;
- promote the community's social and cultural objectives; and
- secure diversity of major sources of information and opinion in the market for ideas.

Having reasonable levels of Australian content on new and emerging services will be a key way of ensuring these objectives are achieved.

⁶¹ J. Given, *The Death of Broadcasting?: Media's Digital Future*, UNSW Press 1998, p69. Other elements he identifies are: universal access, diversity of structures and competition.

If one accepts the proposition that there should be reasonable levels of Australian content in the new broadcasting environment, the question then is whether the market alone will deliver this outcome in sufficient quantity and quality.

The Commission suggests at page 235 that regulation should only cover programs that are unlikely to be provided by the market.

Content on new services will comprise a mixture of entertainment and information programming. In the former category it seems likely that movies and sport will predominate as they do now on pay television, both in Australia and internationally.

The new interactive services are likely to be more data and information oriented, eg, banking, shopping and electronic program guides. There will probably be some opportunities for interactivity in entertainment programming such as games and interactive drama programs. However, commentators predict that many of us will continue to opt for more passive forms of entertainment in our leisure time, such as movies, television drama and other traditional program forms.

There are optimistic views that the digital age will create new opportunities for domestic content creators. However, there are strong indications that increased channel capacity will not of itself provide such opportunities.

9.2 Major international trends

As Gonski noted, "The convergence of technologies is being accompanied by greater vertical and horizontal integration of companies, creating increasingly dominant global communications and media companies which have considerable economic power in the industry." (Gonski, p15)

'The big seven' - Time Warner, Walt Disney, Sony, Seagram, Bertelsmann, Viacom, and News Corp - now form an extensive matrix of ownership and control internationally. Their prevailing strategy is to control both the creation of content and its distribution in as many forms as possible. It is widely acknowledged that their market dominance puts further pressure on local voices and independent, national film and television producers. The considerable attention given to audio-visual policy in the European Union in recent years has been in direct response to the growing power of these global companies.

The Hollywood Reporter recently predicted that regardless of the system adopted, digital television programming will continue to be dominated by US exports. It said:

"The proliferation of channels in the wake of digitisation is further boosting US audiovisual exports as the global demand for cheap TV content surges. Like films in

*the last decade, the overseas ancillary market may yet overtake the US domestic one in the next decade.*⁶²

⁶² Hollywood Reporter, Sept 28-October, 1999.

9.3 Growth of Secondary Usage

The current experience of pay television and digital services has been to increase secondary markets for content producers rather than creating new primary markets, with the majority of the programming being repeats of either feature films made for theatrical release or television programs made for free-to-air broadcasters.

- While this can mean some further income sources to program makers, rights to these markets are often being presold to finance the initial production costs of the program and the amounts paid for usage in secondary markets are usually small.⁶³
- Fragmentation of revenue has also been a feature of the increase in secondary market outlets (see page 34 of the initial AFC/FFC/FA submission). While producers have greater outlets for sales, the technological developments have been accompanied by the bundling of rights where (often vertically integrated) companies purchase more rights for either the same or only marginally increased rates of payment.
- Another development is that exclusivity of license is "increasingly the norm in countries where competition is developed and broadcasters (mostly pay TV) now tend to demand exclusivity or minimum holdback periods for programmes which will distinguish them from their competitors."⁶⁴

Digital broadcasting will provide consumers with greater choice. However, if this is primarily a greater choice of foreign programming, then the public interest will not be well served. With entertainment programming it seems clear that the old dilemma will carry through to the new environment - the attraction of large amounts of cheap foreign programming will be strong and regulation will be necessary to ensure an Australian presence.

At the heart of the matter is the question of whether the predicted explosion in demand for audiovisual material will be met by European productions or by imports. The danger is that the channel proliferation brought about by digital technology will lead to further market fragmentation, making it even more difficult for European producers to compete with American imports. Europe must maintain its cultural and linguistic diversity and uphold its core values in the digital age. Directorate General, The European Commission, Audio Visual Policy.

⁶³ TV World's Guide to program prices shows that the prices paid by cable and satellite broadcasters in Western Europe, the US and Australia are considerably lower than prices paid by terrestrial broadcasters. In the UK, satellite and cable services pay 30% of the prices paid by terrestrial broadcasters - in Australia the figure is 16%. In the US, drama on the free-to-air networks starts at \$750,000 per hour whereas cable licensing fees start at \$2000 per hour. (All prices are in \$US)

⁶⁴ TV World, *1998 Guide to Programming Prices*, p6.

It could be argued that there will be natural protection for other areas of programming such as datacasting, news and information services. To some extent that may be the case, but there is in our view, no surety about this.

9.4 Where to for Content Policy in the Digital Age?

A major difficulty in identifying possible models for content regulation of new services is the considerable uncertainty about what kinds of new services will unfold and how these markets will operate. Nevertheless, some assessment can be made from international comparison and discussion in Australia in the lead-up to digital television in Australia.

There is likely to be:

- continued 'mainstream' free-to-air services provided by commercial and national broadcasters;
- multichannelling by existing broadcasters allowing them to provide more specialised services alongside their main service;
- email, sports information and services such as home banking and shopping on datacasting services; and
- potential for new interactive services offering information, commercial services and entertainment programming such as pay-per-view or video on-demand.
- an expansion of pay channels as pay television goes digital.

We consider there will need to be specific forms of content regulation relevant to the precise nature of the various new services that emerge. It may be that the most appropriate form of regulation is a mix of current requirements such as expenditure or transmission requirements, or new approaches may be required.

The extensive EU consideration of regulation and convergence since the end of 1997 is worth noting.⁶⁵ At a conference held in Birmingham in April 1998 there was considerable debate about the appropriateness of the existing regulatory framework, (the TV Without Frontiers quota) in the light of convergence. The Conference recommended building on the existing framework and the creation of new regulatory categories for new services.⁶⁶

⁶⁵ This has included the issue of a *Green Paper on the Convergence of Telecommunications, Media and Information Sectors* in December 1997, followed by an extensive consultation process through 1999.

⁶⁶ *Audio Visual Policy: Next Steps*, Communication from the Commission to the European Parliament and the Council of Ministers 14/7/98)

This recommendation has subsequently been formally adopted and the European Commission has announced proposals for action will be drawn up by the end of 1999 with "content services covered either by adjustments to existing legislation, or by the introduction of new measures. It has also advised that one of the key issues emerging was the need for action "aimed at promoting premium European content."

DOCITA has just released its issues paper for the Convergence Review which is intended to provide:

- an analysis of the impact of convergence on the international industry and policy developments;
- an analysis of the issues raised by convergence for existing Australian regulatory and policy approaches; and
- options for alternative approaches to address convergence.

The review should provide the opportunity for the content issues raised by convergence, and flagged by the draft report, to be examined in some depth. The issues paper has begun this process which will need to take some time. We concur with DCITA's view that:

*"The report of the Convergence review will not provide definitive answers to all of the policy issues raised by convergence, simply because the uncertainties are so great. Convergence is a process which will continue for the next decade and perhaps longer. ..it (the Review) will map out new policy territory and provide a framework for further exploration and development."*⁶⁷

9.5 Specific Issues - Content regulation under the legislated conversion regime

One of the questions raised by the Commission was how will the mandating of HDTV will affect the Australian production industry. We would refer the Commission to our submission to the HDTV inquiry ⁶⁸, in which we argued that:

- the arrangements for HDTV should aim to ensure that Australian programs are well represented in HDTV programming;
- there should be mandatory amounts of Australian content within any requirements that are set for HDTV broadcasts; and
- programs shot on Super 16 film should be regarded as meeting the standard required for quality HDTV material. ⁶⁹ This will impact directly

⁶⁷ DATA, DOCITA newsletter, September, 1999, p4.

⁶⁸ Available at <ftp://ftp.dcita.gov.au/pub/digitaltv/hdtv/options/afc.doc>.

⁶⁹ The initial discussion paper in the HDTV inquiry suggested that only material shot on HDTV equipment or on 35 mm film should be regarded as HDTV originated. One option floated in the paper was whether there should be a mandatory requirement for HDTV originated programming as opposed to unconverted material (standard definition programming shot for example on video which is 'upconverted before being transmitted in HDTV).

on the amount of Australian programming available if a requirement is set for HDTV originated as opposed to HDTV up converted material.

APPENDIX 1- COMPARATIVE TABLE OF INTERNATIONAL CHILDREN'S TELEVISION REGULATION

	Australia	United States	United Kingdom	Canada	France	Singapore
Any there any regulations for children's television?	Yes Children's Television Standards (CTS)	Yes Children's Television Act 1990 (CTA) and amendments adopted August 1996	Yes Codes of Guidance 1990 Broadcasting Act	Yes Children's issues included in self-regulated codes relating to ethics, violence and stereotyping.	Yes Article 15 of the 1986 Broadcasting Act. Conseil supérieur de l'audiovisuel guidelines include provisions for the protection of children.	Yes The free-to-air TV Program Code has guidelines on children's programs
Who monitors them?	Australian Broadcasting Authority (ABA)	Federal Communications Commission (FCC)	Independent Television Commission (ITC)	Canadian Broadcast Standards Council (CBSC)	Conseil supérieur de l'audiovisuel (CSA)	Singapore Broadcasting Authority (SBA)
Are regulations enforced?	Yes Enforced as licence condition	Yes As part of licence renewal	Yes Enforced as licence conditions	Yes Part of licence renewal conditions.	Yes <ul style="list-style-type: none"> Cahiers des Charges (licence conditions) apply to the public channels Conventions (agreements) apply to the private channels 	Yes. Enforced as licence condition
Are there children's television programming quotas?	Yes Calculated on an annual basis: <ul style="list-style-type: none"> 260 hours of C (children's) programs including 130 hours of first release Australian C programs of which 32 hours must be drama 130 hours of Australian P programs 	Yes <ul style="list-style-type: none"> 3 hours a week of children's programming (averaged over 6 months) 	Yes <ul style="list-style-type: none"> Regional Channel 3 licensees – 12 hours a week of children's programs (including preschool) National breakfast-time Channel 3 broadcaster, GMTV – broadcaster, 4 hours 18 minutes a week of children's programs Channel 5 licensee – committed to 16 hours 40 minutes a week of children's programs Channel 4 - minimum of 33 hours a year of school programs 	No	No. However, private broadcasters must agree to broadcast a minimum number of hours of children's programming.	Yes. SBA requires and funds the 4 free-to-air channels to produce and air local children's programs in 4 languages and broadcast at least 17 hours of acquired children's programs per week.
Are children's programs pre-classified?	Yes ABA pre-classifies programs applying a 'quality' test (CTS 2)	No	No	No	Yes Programs are identified with one of five coloured classification symbols	No.

<p>Any requirements on the content of children's programs?</p>	<p>Yes Under CTS 2, programs must be:</p> <ul style="list-style-type: none"> • Child specific • Entertaining • Well-produced • Enhance understanding • Appropriate for Australian children. 	<p>Yes Programs must serve the educational and informational needs of children.</p>	<p>Yes Preschool programs must have structured educational intentions and school programs must be formalised educational programs. Licensees must show a range of entertainment, drama and information programs.</p>	<p>Yes Programs should reflect the moral and ethical standards of contemporary Canadian society and encourage pro-social behaviour and attitudes. The depiction of violence within children's programming shall not be so realistic as to threaten young children, to invite imitation, or to trivialise the effects of violent acts.</p>	<p>Yes Programs aimed at children and adolescents must 'help facilitate their entry into adult life'.</p>	<p>Yes The programs aimed towards children should be educational in nature, promote socially desirable and positive values and abide by the Program Code. Under the code there can be no violence, horror or sex in programs directed at children or scenes depicting undesirable lifestyles</p>
<p>Are there restrictions on children's advertising?</p>	<p>Yes</p> <ul style="list-style-type: none"> • No advertisements in P programs. • 5 minutes of advertising in C programs • clear presentation and content of advertisements • separation of advertisements from sponsorship announcements • restrictions on host selling and alcohol advertising 	<p>Yes</p> <ul style="list-style-type: none"> • No host selling or program length commercials. • Advertisement limits of 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays 	<p>Yes ITC Rules on Amount and Scheduling of Advertising:</p> <ul style="list-style-type: none"> • Restrict broadcast times of advertisements that may frighten or distress children or are clearly unsuitable • Restrict particular goods being advertised in or adjacent to children's programs, e.g. alcohol and slimming products. 	<p>Yes Broadcast Code of Advertising to Children includes:</p> <ul style="list-style-type: none"> • Limit of 4 minutes of commercial messages in one half-hour • No host selling • Advertisements must not directly urge children to purchase goods. • no advertisements directed to children under 13 in Quebec 	<p>Yes Advertisements cannot:</p> <ul style="list-style-type: none"> • exploit children's incredulity • incite minors to put undue pressure on parents or others to buy product • undermine children's confidence in parents/teachers. They must be distinguishable from program matter 	<p>Yes. Limit of 14 minutes of commercials per hour for all FTA channels. There are also guidelines on the content of advertisements scheduled in children's programs:</p> <ul style="list-style-type: none"> • should not result in emotional or physical harm to children, • should not promote unwholesome values and consumption of alcohol.
<p>Any rules about when children's programs have to be shown?</p>	<p>Yes Licensees must show a 30 minute C and P program every weekday in the C and P 'band'.</p>	<p>Yes Children's programs must be aired between 7am and 10pm at regularly scheduled times.</p>	<p>No</p>	<p>Canada</p>	<p>France</p>	<p>Singapore</p>

<p>Other matters</p>	<p>The CTS include rules to prevent children from viewing unsuitable material. Includes restrictions on prize giving and competitions.</p>	<p>1996 rules include public information initiatives to give parents information about children's educational programs broadcast.</p>	<p>Under the 1990 Broadcasting Act unsuitable material for children cannot be shown before 9pm. Code on Violence highlights the special care needed for the young and the vulnerable.</p>	<p>No</p>	<p>Yes Public broadcasters must broadcast children's programs at time when kids can watch</p>	<p>Yes. The broadcasters are required to broadcast children's programs at accessible time slots between 8am and 8pm.</p>
				<ul style="list-style-type: none"> • Sex-Role Portrayal Code requires sensitive role modelling • Violence Code includes provisions on the depiction of violence within children's programs 	<ul style="list-style-type: none"> • Violent and erotic films cannot be broadcast between 6am and 10.30pm • Appropriate warnings should be provided for unsuitable material • Private and public broadcasters must establish viewing committees to ensure programs comply with guidelines 	<p>SBA has a Program Advisory Committee on Children's programs which:</p> <ul style="list-style-type: none"> • provides feedback on broadcast programs both on TV and radio, • advises on the range and quality of children's programs, and • gives its views on validity of complaints received concerning children's programs.