



**TRANSCRIPT  
OF PROCEEDINGS**

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**PRODUCTIVITY COMMISSION**

**DRAFT REPORT ON THE BROADCASTING SERVICES ACT 1992**

**PROF R.H. SNAPE, Presiding Commissioner**  
**MR S. SIMSON, Assistant Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT BRISBANE ON FRIDAY, 17 DECEMBER 1999, AT 8.32 AM**

**Continued from 14/12/99 in Melbourne**

**PROF SNAPE:** We welcome you to this, the only day of hearings in Brisbane, on the draft report of the Productivity Commission on broadcasting. We have previously held hearings in Sydney and Melbourne and so we are resuming them today in Brisbane. Copies of the draft report have been available since 22 October and if anyone present has not received a copy and would like to have one they should contact members of the commission staff who are present. The commission wishes to thank those people and organisations who have responded to the draft report, either in further submissions or in arranging to appear at the hearings. The submissions are available here today for viewing and on the Web site of the commission; that is, the submissions on the draft report are here today. The earlier submissions are available on the Web site only.

These submissions and comments will help us to improve the report which will be submitted to the treasurer early in March. The timing and release of the final report is under the control of the government. As in the case of the earlier hearings, transcripts of these hearings will be made available and should be available on the commission's Web site within three days of the relevant hearing. Copies will be sent to the relevant participants. At the end of the scheduled hearings today I shall invite any persons present to make oral presentations should they wish to do so. I now turn to the first participants for the day and welcome them.

We are having today together the National Indigenous Media Association of Australia and the Aboriginal and Torres Strait Islander Commission. We thank you very much for your submissions, both the earlier ones and on the draft report and, as we noted in the draft report, the earlier submission of ATSIC arrived just a bit late for us to incorporate it fully or reasonably into the draft report but we noted that and so in one sense it's the first time you are speaking to the previous one, as well as to this one. We thank you for those submissions and for coming and our procedure will be that I think we will first have NIMAA to make a presentation. We then may have a few questions. We will then turn to ATSIC for their presentation and we will then engage in discussion with both groups. I think it might be best if we get all the voices on the tape to start off with for the transcription service and so if each participant who is going to speak could in fact state their name and who they are representing for the transcription services, please.

**MR REMEDIO:** Thank you, Prof Snape and Commissioner Stuart Simson. Jim Remedio from the National Indigenous Media Association. I'm the chairperson.

**MR PYNE:** I'm Gerry Pyne from the National Indigenous Radio Service, part of the NIMAA membership.

**MR WESTERWAY:** Peter Westerway, consultant for ATSIC.

**MR SADLO:** It's Lothar Sadlo. I'm the acting assistant general manager of ATSIC's culture, legal aid and family policy branch, and my colleague without a microphone - - -

**PROF SNAPE:** He will have to have his voice on the tape for the transcript.

**MR HARRIS:** Greg Harris from ATSIC.

**PROF SNAPE:** Mr Remedio, are you kicking it off?

**MR REMEDIO:** Yes. Thank you once again, Prof Snape and Commissioner Stuart Simson and staff. Thank you for the opportunity to appear before the commission today. My name is Jim Remedio and this is my second appearance before the commission as chairperson of the National Indigenous Media Association of Australia. NIMAA is pleased to jointly appear here today with the Aboriginal and Torres Strait Islander Commission, ATSIC. Peter Westerway was engaged by ATSIC as a consultant to prepare ATSIC's submission to the Productivity Commission.

NIMAA supports ATSIC's submission. Peter Westerway will speak in more detail later about ATSIC's submission and provide you with a more detailed plan and specific costings on the proposed establishment of a national indigenous broadcasting service for radio and TV. NIMAA greatly appreciates this opportunity to present its case at the public hearings in Brisbane, especially given that the NIMAA secretariat office is located here in Brisbane. As you know, NIMAA appeared before the Productivity Commission in May this year and raised a number of issues in an oral presentation to the commission which we believe are of major importance with the indigenous media sector, as well as the broader Australian community

NIMAA has also had the opportunity to forward a formal submission to the Productivity Commission which essentially reflects the wishes of indigenous media organisations throughout Australia to establish a statutory body, Indigenous Communications Australia, ICA. NIMAA proposes to establish the ICA and welcomes the opportunity to put forward our plans to the Productivity Commission to take to the federal government in this review process. We also have information from the Aboriginal and Torres Strait Islander Commission, the Australian Key Centre for Culture and Media Policy at Ripley University, Queensland, the Western Australia Media Association of Australia, WAAMA, Imparja Television and various other reports, etcetera, such as the digital dreaming report.

I am proposing to speak today about the bigger picture. NIMAA has had the benefit of reading the Productivity Commission's draft report. The draft report makes some general recommendations about indigenous broadcasting - I refer to chapter 5 of the draft report. However, it is clear from reading the draft report that these recommendations have perhaps been understated. NIMAA request that the Productivity Commission make the following recommendations to government: that the existing legislation be amended to incorporate an additional broadcasting category specifically for indigenous broadcasting services; that the federal government establish a clear policy framework backed by sufficient resources to enable a quality culturally appropriate indigenous broadcasting service to be fully developed and implemented; that an indigenous statutory body be established, Indigenous Communications

Australia.

In accordance with the terms of reference of the commission's review the commission is required to focus particular attention on balancing social, cultural and economic dimensions for the public interest as against a background of existing legislation which seeks to protect certain social and cultural values, including promoting a sense of Australian identity, character and cultural diversity. Draft recommendation 5.2 specifically states that a new licence for indigenous broadcasters should be created with appropriate conditions relating to advertising. Recommendation 5.2 is supported.

It is NIMAA's position that as an entrance step there be an inclusion of the words "indigenous national broadcasting service" - need to be included under Part II of the Broadcasting Services Act 1992, section 13. The draft report needs to include a specific recommendation supporting the establishment of Indigenous Communications Australia. We ask that this reference be specifically included in the commission's final report. At a recent meeting at Hamilton Downs in the Northern Territory indigenous media representatives from various sectors which NIMAA represents were briefed about the Productivity Commission's report and the government's review process. Our members fully support NIMAA's efforts to continue to lobby the government for the establishment of the ICA.

Alongside our proposal to establish the ICA NIMAA supports the establishment of a national broadcaster television service specifically designated for indigenous media on a similar footing to the ABC and SBS, a national indigenous broadcasting service. Under the existing legislation there is currently provision for national broadcasting services ABC and SBS, which are both supported by their own acts of parliament. NIMAA would also like to table a video called Bush Mechanics, which recently won an AFI, Australian Film Industry, award. The video was produced as part of a national indigenous documentary fund series, which is managed by NIMAA. The video is a good example of the types of inroads which have been forged in respect of indigenous media and cultural diversity in Australian society over the past decade.

At the first hearing I spoke about community broadcasting and the importance of local programming as a voice or media outlet for indigenous people. I also spoke about the significance of the indigenous broadcasting sector as an educator, educating the broader Australian community about indigenous people, our culture and our heritage. Prof Snape, commissioner, it is also my belief that this country needs to move into the next century with a proper commitment to indigenous people. You would also be aware of major developments over the past decade in this country, including the recognition of native title rights, acknowledgment of injustices suffered by stolen generations, to name but two examples of our history.

We can never be fully compensated for the loss of land, language, culture and in many cases the breakdown of indigenous society, our communities and our families. Indeed it is a difficult part of Australia's history that we will all still be grappling with

for generations to come. The establishment of the ICA is a very real and acceptable form of redress which is necessary to address past injustices. The establishment of the ICA should be a genuine act to ensure that indigenous people have the right to media representation and communications and that we have the right to be given not just access to but the right to determine through our own mediums how our stories are told, by whom they are written and produced and how we are represented or portrayed to the world.

Through better communication links the public will have greater access to indigenous culture, our stories, our people and history. We believe that the establishment of the ICA would greatly assist this country's process of reconciliation and public awareness. A national television service would assist in the ongoing education process for all Australians, as well as the international community in educating and informing people about indigenous issues and by breaking down myths about indigenous people and our culture. NIMAA has been given a great opportunity with the staging of the Olympic Games in Sydney next year to represent indigenous media and coordinate indigenous media coverage involved in the Games events and related cultural ceremonies.

This is an opportunity for indigenous people to have a voice on an international level and to represent our culture to the world. We believe this is an important event not only for our communities but that will be a significant sustainable interest in indigenous culture for the next decade as a result of international interest in indigenous culture. The establishment of indigenous communications would greatly assist the distribution of information about indigenous Australia overseas and ensure an accurate portrayal of indigenous culture internationally. NIMAA urges the federal government to make the commitment which is at least equal to that of the level of commitment the previous governments have shown to the ethnic and multicultural community with the establishment of a Special Broadcasting Service, SBS, between 1974 and 1990.

There is no doubt that the establishment of SBS and the promotion of multicultural media has greatly contributed to the understanding and appreciation of ethnic communities in Australia, yet some 25 years later indigenous people do not have a national television service. We still encounter negative and stereotyped views about indigenous issues in mainstream Australia. Arguably, giving other broadcasters such as the SBS or ABC more infrastructure and resources will not fix the problem because the priorities are still measured by a proportionate yardstick on a different agenda. Given that the SBS charter is specifically designed to cater for ethnic programming, indigenous priorities on the SBS and also ABC are secondary or are often a component of a multicultural national Australian agenda.

Indeed the Productivity Commission in its draft report notes the SBS for example is hampered by a lack of regional infrastructure in regard to indigenous programming. It goes on to say that the ABC and the SBS to some degree share the responsibility of educating the broader community about indigenous issues. Indeed, given that their charters are specific for ethnic programming with a mainstream

content indigenous issues are secondary or are often a component of a multicultural or broader national agenda.

Our submission is about the ownership of indigenous media by indigenous people and not purely representational or proportionate programming. Indigenous TV is about making indigenous programs and indigenous issues are a primary focus and that is precisely NIMAA's charter and potentially that of the ICA. It should be noted that in remote areas spectrum is available whereas in developed areas there is a need to make special provision for indigenous services where spectrum is not readily available.

One option which was mentioned in our written submission is the option of piggybacking and utilising the multichannelling facility of national broadcasters such as the ABC or SBS. NIMAA has given preliminary consideration to options of multichannelling with the ABC. It is NIMAA's view that there is no guarantee that standard definition television will be mandated following this review process and it is NIMAA's concern that with the inclusion of HDTV indigenous media may miss out on being able to broadcast due to limited spectrum. Preference may be given to utilising existing indigenous networks where it is practically possible to do so.

Our preferred option is to establish Indigenous Communications Australia and a national indigenous broadcasting service as an additional national broadcasting service. NIMAA has some concern about the present classification of indigenous broadcasters under the existing broadcasting legislation as community broadcasters. For many reasons a classification is inappropriate and has hindered the development of the indigenous broadcasting sector. There is a need to provide a primary level of service to specific audiences in accordance with the licence allocation process recommended in chapter 4, Economic Use.

Whilst this recommendation is important, regard is still given to demographics: the number of licence applications in the area, the number of existing services, the demand for new services, neighbouring interest, technology developments and other such matters. It is NIMAA's contention that in every existing service area there should be spectrum made available for at least one indigenous broadcasting service.

The other point I wish to raise is regarding the recommendation 403 which states that spectrum should be reserved for indigenous broadcasters that provide a primary service to a specific audience. For example, NIMAA fully supports the establishment of a full-time indigenous radio service in Sydney and Melbourne. NIMAA is currently lobbying on behalf of Koori Radio Sydney, gathering the information for the establishment of such a service. NIMAA supports recommendation 403 as it applies to both television and radio without the limitations regarding primary services. Commissioners, I would like to point out NIMAA's view - the establishment of the ICA not as a competing interest but as a supplementary service for the benefit of the Australian community as a whole.

This issues which are at the heart of our submission need to be consistently

considered in the context of a whole range of relevant issues and chapters of the draft report, and NIMAA supports the recommendation as a significant step in the right direction. Finally I would like to thank the Productivity Commission for the opportunity to appear here today and for allowing NIMAA to put forward its case. I would also like to thank ATSIC for its support with its document. Thanks very much.

**PROF SNAPE:** Thanks very much, Mr Remedio. Also from NIMAA we have - no, no-one else from NIMAA. Is that right?

**MR .....**: Gerard is here as well.

**PROF SNAPE:** Would you like to speak at this stage or later?

**MR PYNE:** No, I'm not here to speak specifically, just to help with the questioning process if necessary.

**PROF SNAPE:** Thank you very much. Thanks very much for that, Mr Remedio. I suppose that where we referred to primary service, this may be a question that might be more appropriate later but I'll start on it now and see if we come back to it.

**MR REMEDIO:** Yes. Well, ATSIC have got a view on that the same as ours, I think.

**PROF SNAPE:** ATSIC? Well, let me leave that until later and perhaps we will get back to that. Do you want any clarification at this stage?

**MR SIMSON:** No, I'll wait.

**PROF SNAPE:** I think in that case it's probably best if we go straight to the ATSIC submission because the nature of the questions that I have are more general than specific.

**MR SADLO:** Thank you, Prof Snape and Commissioner Simson. On behalf of ATSIC thank you for the opportunity to appear at today's hearing to clarify and elaborate on aspects of ATSIC's submission to this inquiry. In essence we're here to support NIMAA and their proposal, and we are of one view. ATSIC has noted the commission's draft report and welcomed the general thrusts of the recommendations in that report.

Our submission in September made six recommendations to this commission which in summary proposes the establishment of a statutory authority whose charter in our view would be to provide an indigenous broadcasting service and that service would have a dual core commitment to (1) offer indigenous people a primary electronic communication service, and (2) inform the broader Australian community about our indigenous people and their culture. ATSIC appreciates NIMAA's aspirations but nevertheless realistic proposals in the broadcasting arena may be outside the terms of reference of this inquiry.

We believe, however, that your final report to government, who have publicly stated their commitment to reconciliation, could provide an important catalyst to government to give serious consideration to NIMAA and our proposal for an indigenous broadcasting service. Our proposal for a primary and culturally appropriate communication service are more than aspirational aims however, as ATSIC believes and suggests that such a service is a fundamental human right. Our belief is not based on any rhetoric of disadvantage but rather is based on article 19 of the 1948 UN Universal Declaration of Human Rights, which states:

Everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinion without interference, and to seek, receive and impart information and ideas through any media regardless of frontiers.

ATSIC therefore acknowledges and commends the Productivity Commission on its draft recommendation 10.1, the wording of which embodies the principles of freedom of expression and the objectives of the Broadcasting Services Act. We believe that the expansion of spectrum capacity as a result of the dawning advancement in technology into digital broadcasting will perhaps remove some of the technical impediments that have previously prevailed in regard to the establishment of an integrated indigenous broadcasting service.

Our proposal for such a service should, however, not only be seen as indigenous aspirations in electronic communication but any further policy analysis should be seen as a window of opportunity to achieve six objectives: (1) a vehicle to more effectively assist the government to convey its policy and programs to indigenous people, particularly those people in remote and regional Australia; (2) to enhance the mutual understanding of a variety of cultural values thus progressing the government and the indigenous people's commitment to reconciliation; (3) a vehicle to maintain and enhance indigenous culture that contributes so richly to Australia's socio-economic wellbeing; (4) the portrayal domestically and internationally of a positive image of Australia's first people; (5) increase permanent employment and training opportunities for indigenous people in the growing media and communication industry; finally, increase economic opportunity through the export of indigenous media products.

In conclusion, Prof Snape and Commissioner Simson, ATSIC foresees that a very positive proposal to this inquiry could fail on the basis of financial and funding barriers, particularly in the climate of economic rationalism. ATSIC, however, is optimistic that the new millennium may see a greater emphasis being placed by the broader electorate and governments of all persuasions on the development and growth of our country's social assets. ATSIC therefore is of the view that possible financial and funding barriers are not insurmountable. We only need to look at the recent Canadian experience as to how to provide a secure funding base for an indigenous broadcasting service. We're happy to expand on that point after the presentation.

In conclusion, chairman, ATSIC is happy to answer any further questions that you may have in regard to our submission. I may have a need to defer to my



colleague Mr Harris or our consultant Mr Westerway should such questions be more of a technical or detailed nature. Thank you again for your time this morning.

**PROF SNAPE:** Thanks, Mr Sadlo, and is there anything that Mr Westerway or Harris wish to add at this stage?

**MR WESTERWAY:** Only in question and answer, thank you, chairman.

**PROF SNAPE:** Good. Thank you very much for those two presentations. They have been very helpful to us and I found it very helpful also in the second ATSIC submission to have the options so clearly set out there, which made things very easy to digest. We note that in the NIMAA presentation the question of primary service was picked up and you're right, I think, to pick that up and to notice its significance because I think the question is what is a primary service. In the back of our minds in writing that, I think there was a distinction probably between urban and in the bush. Also there was the question of other ethnic groups, and in the bush, to use shorthand, it was fairly easy to see there was a special need and a primary service.

I think it was less clear to us for urban indigenous people, that there was such a large distinction between indigenous people and say the Arabic community or other ethnic communities which would perhaps be often not speaking English or with problems of expressing themselves in English, with English not being the primary language, and in some cases a very inferior use and not full command of the English language and therefore depending on communication in their own language. In that case it would seem to us, in writing it, that there may not have been a big distinction between urban indigenous people and other ethnic groups. In that sense it was thought to be perhaps not a primary service in those areas but they were depending upon other media as well, and supplementing from their own, as distinct from in the bush where, in the way you have spoken in your earlier presentation, it is very much geared, I think, to remote areas and the needs of remote areas. So that was the distinction.

There is also, of course, the question of spectrum scarcity which under the current arrangements, and of course if our recommendations were to be implemented - the whole set of recommendations, and it's very much a package - if they were all to be implemented, then we could see spectrum being freed up rapidly, and the question of spectrum scarcity in the urban areas would not be the problem that it is at the moment. So it did seem to be a problem of reserving a section of the spectrum for indigenous broadcasting, where in the urban areas and combined with that primary aspect that I was just referring to before, that's why the distinction was made. I wonder if you would like to comment on that, please.

**MR REMEDIO:** I guess everyone would like to comment on this, and they probably will, but the way we see primary services, we're providing a primary service to BRACS areas, remote areas and remote homesteads. There is a primary service that we're not delivering within large rural and capital city areas because of those reasons, the spectrum or not being able to get on there. But I think if you look at the

latest statistics, in the major area you will see that there is a great population within south-eastern Australia that is not represented anywhere in terms of media. I think in Sydney alone there are 37,000 indigenous people above the age of four. In Brisbane it's somewhere around the 30,000 amount of people.

So if you look at that demographic alone and try to compare that to say an ethnic or Arabic community, the Arabic station, for example, would be serviced by a community language station of two in Sydney and the same in Melbourne. So they have some sort of primary service in terms of language problems.

**PROF SNAPE:** They are commercial stations, however.

**MR REMEDIO:** No, they're community radio stations.

**PROF SNAPE:** They're community radio stations.

**MR REMEDIO:** Yes, not commercial. They suffer the same as us because of commercial - as well. So if you just look at the commercial - - -

**PROF SNAPE:** I think there is a commercial Arabic station too, as well.

**MR WESTERWAY:** It's open narrowcast, not a broadcast.

**PROF SNAPE:** Yes, which operates off that.

**MR WESTERWAY:** Not a broadcast.

**PROF SNAPE:** A narrowcast off that.

**MR REMEDIO:** Yes, off the back of that. It's just not fair to deliver a service - it's a primary service in Adelaide - to indigenous people through WAAMA, and say in Darwin also delivering a service now, and in Townsville and Brisbane, and not deliver a service to where the bulk of indigenous people in the country are living. In terms of the language maintenance alone for those people, if they could pick up on some of the language and some of the cultural aspects from their country, for which we will deliver a national service, they may get interested in returning home some day, so in some way we may be able to stop the decline in the people staying on communities and maybe get them interested in returning home at some point rather than have this big drift to the city. The problem for government becomes less because there is less support required within major or capital cities.

So we're saying they deserve a primary service through things like, you know, immunisation programs and in terms of education programs that are readily available to them that they would not normally get over an existing service that's there. So there is a strong argument to deliver such a service to these major rural and capital city areas.

**PROF SNAPE:** I think the point that we're focusing on there is the point of reservation of spectrum. The Arabic service - it's another station but of course it's only one of many. We're not meaning to pick on them, we're just using it for illustrative purposes - spectrum has not been allocated before then. As far as the community stations are concerned, they have gone along and asked for spectrum and then fronted up in what is popularly called the beauty contest against the other contestants for it, or gone as part of a multilanguage group, or got some space on a community service, and in a narrowcasting area or in the off-band, they have gone off and got it. It hasn't been reserved for them, but once again they've just got the spectrum. The point of distinction here is the reservation of spectrum in those areas, in the urban areas, when if spectrum were to be reserved for indigenous service, then we can imagine many other ethnic groups with large concentrations in the urban area might say, "What about us? We want spectrum reserved for us as well."

**MR REMEDIO:** They would say that, wouldn't they - to coin a phrase - "Why not us?" but again I think what ATSI are arguing here, too, is from the social benefits side of things, too, and that we have a right in terms of different conventions; that we see it as kind of an obligation to provide some kind of spectrum.

**MR SADLO:** If I may add a point to Mr Remedio there. Prof Snape, if you regard the indigenous broadcasting issue - I hate to use jargon - from a holistic perspective and if you take our statistical profile of indigenous population, broadly speaking one-third live in the major urban centres, the capital cities, one-third live in the larger regional centres - the Dubbos and the like - and the other third live in the bush, in the remote areas. I suppose what NIMAA and we are saying is, "Let's have a look at the indigenous broadcasting issue holistically."

If we go back to our third of the population in the major urban centres, one of the critical problems there is the degradation of culture, the degradation of language of Aboriginal population in the urban areas. They suffer an enormous comparative imprisonment rate. I could contend that most of the Aboriginal people who get locked up or who have adverse contact with the criminal justice system are from an urban environment rather than from a bush environment, and therefore in our view it is important also to provide a primary service to our clientele living in those urban areas. I take your point about the reservation of the spectrum capacity.

**MR SIMSON:** Can I just ask what research you have which would indicate that indigenous Australians living in urban areas would want to watch a specialist indigenous broadcasting service; that they would prefer to watch that over any of the other offerings that are available on commercial television or the ABC?

**MR WESTERWAY:** Not television, because there isn't any. But Radio 4 Triple A in the city that you're sitting in has an audience of 100,000 - they're not all indigenous; about 70 per cent are non-indigenous - because they play a particular brand of programming. They play sport, they play country and western music, they play things which appeal to white Australians as well as black Australians. But I think the issue that's been raised in this draft recommendation is perhaps a bit of a red herring

because we're talking as though the condition of spectrum scarcity will continue. It won't. In 2001, when you get to multichannelling and a digital system, there will be plenty of technical capacity to produce an indigenous service like many other services in the cities and the towns.

**MR SIMSON:** It's only, Mr Westerway, within the orbit of the ABC and SBS. The commercials under current policy will be banned from multichannelling for some time.

**MR WESTERWAY:** Under current policy. But what I'm saying is that there is no technical problem. There's no technical problem with scarcity of spectrum, there's no technical problem with cable. You can in either case produce an indigenous channel. We're only talking delivery systems and spectrum scarcity won't be the problem.

**MR SIMSON:** If we're broadening it away from a discussion about the digital broadcasting spectrum into delivery mechanisms such as cable for example or Austar satellite service or any of the other multitude of new delivery systems coming along, that however does raise, I would have thought from the perspective of many of your stakeholders in urban areas, an affordability issue, certainly on a medium term time-frame. I would have thought that the affordability of pay television as we know it is going to be pretty tough. We also noted the attitude of the pay operators is not to put on more channels. The attitude of the pay operators is pretty much to sit where they are, and we also know that the existing owners of access to pay are not being very generous in terms of approaches from anyone, whether it be Mr Stokes or anyone else, to try and gain access to their cable licences.

I certainly concur with what you're saying, that this problem in terms of a spectrum supply context should at some stage solve itself. It may not solve itself as quickly as you're indicating, but on a sort of a four, five, whatever - less than 10-year time-frame - the digital revolution or the digital phenomenon should be able to accommodate the needs of people or groups who you represent. That's supposed to be one of the great benefits of the digital spectrum. Now, the issue that we've raised in this report is the best way of facilitating that. On a short-term time-frame, on the basis of the policy that the government appears to have endorsed in terms of the doublecast - triplecast as it's sometimes called, and there's been absolutely no indication of any relaxation of multichannelling, contrary unfortunately to our recommendation in our draft report - there's not going to be much spectrum available.

We take on board some of the options that you've raised there, and perhaps it would be useful if you could talk to those in terms of trying to get some practical resolution. There seem to be two issues. Firstly, as Prof Snape has mapped, to what extent should this be a universal service in a geographic sense - issue number 1; issue number 2 is, who's going to carry it for you? Where are you going to get the spectrum. It's not as if there's going to be spare spectrum sitting out there outside of the orbit of the commercials or outside of the orbit of the ABC or SBS on a short to medium-term time-frame - I don't think.

**MR WESTERWAY:** The first question is about the rights of individuals to this

freedom of expression which lies behind all of our reasoning in this. The person who's living in the central desert and speaks Warlpiri rather than English has a need for a primary service which we all acknowledge and the government itself has acknowledged it. It has underfunded it, but it's acknowledged it. Now, that Warlpiri man comes down to Sydney. He doesn't have any less need for the primary service because English is still his third or fourth language. He's still having great difficulty functioning in a host community which is why, as Lothar has said, so much of the indigenous population ends up in gaol in urban centres.

The need doesn't diminish. The need is different than it was when he was living in the central desert, but it's still there, and you have to cater for it. I'm saying about the effect of the spectrum scarcity, but while we appreciate the recommendation and it's useful, there isn't in fact a problem about spectrum scarcity in the remote areas, so there doesn't really have to be a reservation of spectrum. You can find it. The problem is about delivery systems in the regional centres and the cities, and that will be solved without anything that this commission or anybody else needs to do simply by the amount of delivery system which is available within the decade.

**PROF SNAPE:** I think the technology is there. Whether the government policy - - -

**MR WESTERWAY:** Precisely.

**PROF SNAPE:** - - - permits it is quite another matter, as we are seeing every day.

**MR WESTERWAY:** Yes. That's why in fact what we should be talking about are channels, not spectrum. It's channels on any sort of delivery system, whether it's wires in the ground or optical fibre, or whether it's satellite distribution. There is already a television signal up there from Imparja Television which covers the whole of Australia. It's only a matter of how you retransmit it in the cities.

**MR SIMSON:** You would have thought that the sort of service that you're advocating would be very well suited to a multichannel environment.

**MR WESTERWAY:** Exactly. It's a niche service they call it. It's exactly like the national - - -

**MR SIMSON:** A niche, perhaps a fairly large niche, but it is a niche service. So you've got two issues then. One is the spectrum issue and getting spectrum or piggybacking with the ABC or someone - we can discuss those various options in a moment. The other issue is actually funding the creation of the content. As we sit here today, and just focusing on the content creation end, program creation end, how close are you to having a basket of content that you feel happy enough to broadcast by any television broadcast, moving picture medium, into urban cities?

**MR WESTERWAY:** If we're talking about radio?

**MR SIMSON:** No, I'm talking television.

**MR WESTERWAY:** Imparja has a complete basket of delivery. Most of the content, as it is in all television services, will be of general interest. But they spend about 40 per cent of their production budget on indigenous programming.

**PROF SNAPE:** They carry a lot of Channel 9, don't they?

**MR WESTERWAY:** They cherry-pick from both Channel 9 and Channel 10.

**PROF SNAPE:** So that means they're not generating a full service of their own.

**MR WESTERWAY:** You couldn't possibly do 100 per cent indigenous content, any more than you could do 100 per cent Australian content. There's no such channel.

**MR SIMSON:** That indigenous content that's been created - excuse my ignorance because I haven't watched Imparja - would that be of general enough interest to indigenous people living in urban areas?

**MR REMEDIO:** I'll give an example of that, of people watching it, or of interest. I attended a meeting of the Telstra consultative committee in Sydney two weeks ago, and there was a delegation there from the Isolated Parents Association, which is a very big lobby group to the government. They supported Imparja Television simply because it has good programming. The fact that there was indigenous content on that channel was good. They saw that as being in the country that they live in, and quite watchable, quite educational and quite good programming for the children.

**PROF SNAPE:** That wasn't a specially indigenous group - the Isolated Parents?

**MR REMEDIO:** No, it's not a specifically indigenous group of people. So as interest for the general community - I think the question was what interest does the general community have - I think by that single group alone it says that it would be acceptable to all Australians.

**MR SIMSON:** If we just spoke hypothetically, let's say optimistically - perhaps very optimistically - that a channel did become available in the digital spectrum earlier rather than later, how much more content would need to be created over and above the indigenous-related programming that's been created by Imparja to put up a pretty respectable service and how many hours a day would that represent that you'd have "in the can" from what you're currently doing?

**MR WESTERWAY:** You couldn't possibly produce a 24 hour a day channel, and you wouldn't want to.

**MR SIMSON:** No, that's fair enough. You wouldn't want to do that.

**MR WESTERWAY:** And you couldn't replicate the Channel 9 and Channel 10 material because that's already the commercial property of those people.

**MR SIMSON:** No. I'm just focusing on the - - -

**MR WESTERWAY:** It would be the sort of thing that you'd start off with an hour or two a day, I would think, and then gradually build up as the material developed. Television is extremely cost and capital intensive, so that nobody is going to produce a full indigenous service going every hour of the day.

**MR SIMSON:** And you're not advocating that?

**MR WESTERWAY:** No, you couldn't possibly - - -

**MR SIMSON:** So what you're looking for is a carrier for, to start with, a niche amount of programming hours that over time could develop. But it could be to start with quite a small number of hours.

**MR WESTERWAY:** Can I take you back to radio?

**MR SIMSON:** Yes.

**MR WESTERWAY:** It's really very important not to be fixated on television because it's in radio that you can in fact be immediately effective and where the material is already there and where we could provide a 24 hour a day service. The National Indigenous Radio Service already has a mix of programming which goes out to authorised decoders in remote areas and which can perfectly well be picked up and retransmitted in capital cities and regional cities, and that can be done by multichannelling in the same way that television can.

**MR SIMSON:** That's on the digital radio spectrum?

**MR WESTERWAY:** Yes.

**PROF SNAPE:** Digital radio is probably quite a long way off, so can we concentrate on analog radio?

**MR WESTERWAY:** It's quite a long way off in the sense that you'll have to wait until you've got a DRV standard.

**MR SIMSON:** So we're talking some years?

**MR WESTERWAY:** But, again, you'll have it within the decade.

**PROF SNAPE:** There's a lot of debate about that.

**MR WESTERWAY:** Australia won't be able to resist. It will happen in North America and Japan and Europe.

**PROF SNAPE:** Well, it may. We've had this discussion with other parties where we've been trying to say, "What's digital radio?" and that tends to be the future, and frankly there tends to be a lot of hand-waving at that stage and emphasis on the stock of car radios which are all analog and are never going to be digital - the current stock certainly isn't, and the digital car - etcetera. So there's going to be simulcasting at least. Even if you're right, that digital radio does start in the next 10 years, analog radio is going to continue for a very long time because of the stock problem. And there isn't the same scarcity problem or it's not as intense in the radio spectrum as it is in the television, of course.

**MR WESTERWAY:** That's true, and we had very much the same discussions with the manufacturers and the broadcasters about FM, and they said all the same sorts of things. It was driven, in fact, by the world market for FM rather than by the Australian market.

**PROF SNAPE:** Yes. Well, they've still got AM as well as FM, of course.

**MR WESTERWAY:** Yes.

**MR SIMSON:** Unless I'm reading this incorrectly, though, your options in your paper relate to television, don't they?

**MR WESTERWAY:** No. They relate to everything. Radio can be carried on the multichannel signal very very easily. It's only a very small part of the band compared to television.

**PROF SNAPE:** I didn't realise that it was referring to radio as well as - - -

**MR WESTERWAY:** Yes. Radio is a tiny bit of the band - - -

**PROF SNAPE:** But if we're looking at analog radio as well as - because, as I say, I think digital radio is probably a fair way off and certainly analog is going to be with us for a long time. You were speaking about radio. Could you continue to do that?

**MR WESTERWAY:** Well, if you're talking analog radio only, you're limited by the spectrum wherever there is a spectrum limitation. Where there isn't, it should be possible to have an indigenous station. For instance, at present 4 Triple A Brisbane, the one I spoke of, which is a very successful station, had to compete with a Christian broadcaster and an educational broadcaster and a consortium of universities to get its licence. It was extremely difficult for it. It couldn't prove that it had as much money, it couldn't prove that it had as much expertise, and the only reason it got the licence was need. It was extremely successful.

You have only one licence going in Sydney and one licence going in Melbourne



in the forthcoming licence hearings, and they're going to have to compete with every other community broadcasting aspirant for that licence, so that again if you believe, as we do, that indigenous people have a very special need which should be recognised in the Broadcasting Act, something should be done about reserving spectrum space for that purpose.

**MR SIMSON:** And that's a general statement that relates to the here and now?

**MR WESTERWAY:** Yes.

**MR SIMSON:** And relates to the future?

**MR WESTERWAY:** Indeed, yes.

**MR SIMSON:** Okay. In terms of the future, clearly the digital introduction or the DRB will present an opportunity. We're hopeful, to use your time-frame, within 10 years on the television front the spectrum will be free through a variety of things happening as well. Could we turn to your options - - -

**PROF SNAPE:** Just before we do that, is the context of what you were saying there really in community radio, that they'd have to be competing against the other aspirants there?

**MR WESTERWAY:** Yes.

**PROF SNAPE:** What about narrowcasting? It would seem to me that you might be able to be able to make a narrowcasting case in the capital cities.

**MR WESTERWAY:** We could do that now. In the technical sense we could do it now. The problem is that any narrowcaster by definition is only received by that special audience, and we see indigenous broadcasting as having the general - the second purpose of indigenous broadcasting is to build that economic and cultural bridge between Australians, between indigenous and non-indigenous Australia. If you have narrowcasting you cut that right out. You don't have that possibility.

**PROF SNAPE:** I suppose you may and you may not. It all depends who switches on, and it could be targeted on a particular audience, as narrowcasting is intended to be. That doesn't mean that other people can't receive it.

**MR WESTERWAY:** No, but if I take you to the Canadian example, what they have done there is to make it part of the basic channel service, the basic pay service, so that it's available to all Canadians and they are in fact paying for it. There's a 15 cents a month levy on every Canadian who takes a cable or a direct-to-home satellite-delivered service.

**PROF SNAPE:** Well, the paying for it is a separate question.

**MR WESTERWAY:** Yes.

**PROF SNAPE:** I was just trying to look at the feasibility of the spectrum at the moment. But the narrowcasting doesn't appeal to you?

**MR WESTERWAY:** Well, you have to have special receivers and you have to pay a subscription. Remember these are the most disadvantaged, lowest on the socio-economic pecking order of people in Australia that you're talking about.

**PROF SNAPE:** Well, there's open narrowcasting as well as closed, and when I go down to the beach I can switch on and find out what's happening in that area - - -

**MR WESTERWAY:** You still have to go off-band. You have to get a special receiver.

**PROF SNAPE:** Not on some of the tourist radio type ones you don't.

**MR WESTERWAY:** Well, I don't know what bands you happen to be listening to, but they're usually off broadcast band.

**PROF SNAPE:** It's an FM band 88, I think.

**MR .....:** Usually very low power though when you - - -

**PROF SNAPE:** Yes, the low power is the problem, I think.

**MR WESTERWAY:** Yes, but that's very different. I'm sorry, I take your point. That's defined as a narrowcaster because it is very localised in broadcasting and so it's targeting the audience. What you're talking about with narrowcasting for indigenous people is that the special nature of it is the indigenous character of the service.

**PROF SNAPE:** But if we take racing radio, for example, which is basically narrowcast, and they have got a number of narrowcast licences throughout the country and are covering a great deal of the country - I can't tell you exactly how much, but there are a lot of these narrowcasting services linked to a specialised audience - that is, those who want the races - and they've been able to find a way through these regulations and so on. Now, admittedly, narrowcasting licences have a problem if they're five years, and we have a lot of grizzle about that - comment about that - and we responded to it in the draft report, as you might have seen - but wouldn't indigenous radio be able to use that same technique?

**MR PYNE:** Can I just come in there for a second. In the metropolitan markets like Melbourne and Sydney, the racing community is catered for by commercial licensees that choose to provide a racing service because it's profitable to them. In both Melbourne and Sydney the ethnic communities are catered for by two free-to-air channels available through Radio 4 Ethnic Broadcasting through SBS, and in each of those markets there's also a full-time ethnic community broadcasting licence already

allocated, so you've got a choice in the main urban populated centres of Australia in Melbourne and Sydney of three full-time ethnic radio channels.

Everybody in the community has access to them by means of their normal radio receivers, AM and FM. They also have access to a range of community services that cover everything from general community services, like specialist music formats, spoken word formats, etcetera, and they also have access to a temporary community television service and also a full-time SBS broadcasting television service. Now, in both of those markets, with that full range of services available, indigenous broadcasting, indigenous people, still have no full-time access to either radio or television, and we're simply saying that in an urban area where you've already got a whole range of say - let's look at the community broadcasting as an example.

In Melbourne and Sydney there are already a number of full-time community broadcasting services. There is very limited spectrum available for additional services, and indigenous broadcasters have to go up against, in some cases, over 10 other groups aspiring to meet those limited frequencies. We're saying that in those areas particularly there is a very real need for indigenous broadcasters to be given special consideration to that limited spectrum that's still available.

**MR SIMSON:** In Sydney and Melbourne what's the current situation with indigenous radio broadcasting?

**MR WESTERWAY:** There is an open narrowcaster in Sydney but that's exactly the point. It's the Gadical information service - - -

**MR SIMSON:** Sorry?

**MR WESTERWAY:** Gadical information service. It's a closed system which you need special equipment to receive, and its audience is very limited. If you contrast that with Brisbane where it's an open licence - community licence, but it's an open licence - there's an audience of a hundred thousand able to receive it on ordinary radio.

**MR SIMSON:** And in Melbourne?

**MR WESTERWAY:** Melbourne - there is none. There are aspirants, but not a broadcasting service.

**PROF SNAPE:** A relatively small community - compared with Brisbane and Sydney, it's a relatively smaller community.

**MR WESTERWAY:** It is.

**MR SIMSON:** Perth and Adelaide?

**MR REMEDIO:** Adelaide, no.

**MR WESTERWAY:** In Perth there is one.

**MR REMEDIO:** All they do is a one-hour program on 5UV.

**MR WESTERWAY:** Perth has an indigenous station, the Western Australian Aboriginal Media Association, but the thing about narrowcasting, it's not just pointing a signal at Redfern in the Sydney area. Well, okay, you pick up a few people but, like I said earlier, the population in the ATSI area there is some 37,000 and it's broadly spread across the whole Sydney/Western suburbs area of the place.

**MR SIMSON:** This philosophy and concept that we're talking about today is clearly not a new one. It's one that you would have rolled up to governments I'm sure many times over a long period. What have been the principal obstacles in your mind, apart from spectrum issues, in failing to get the access, whether it be in radio or television - just talking specifically radio here, in some of these other cities?

**MR WESTERWAY:** I don't think it has ever been put to government before.

**MR SIMSON:** You haven't put to government the special needs type philosophy that you've espoused in your submissions to us?

**MR WESTERWAY:** Not the full-blown philosophy. What has been put forward is of course the remote area stations, the BRAC system.

**MR SIMSON:** No, we accept that, and you've made progress there, but in terms of indigenous Australians in urban areas and the whole service - the holistic service, as you put it - this is relatively new thinking, is it?

**MR REMEDIO:** I suppose we haven't put a full-blown submission up to them as such in that way. We have approached various ministers of different governments to enact their powers under the Broadcasting Act, which is to do this and that, and we've been refused on both those occasions to both those governments and so - - -

**MR SIMSON:** I'm just trying to understand here. Is your argument now moving or becoming more embracing of urban areas, more so than it has been in the past in terms of what you'd like to see for broadcasting for indigenous Australians? Perhaps the focus has been in the past primarily on the remote areas - - -

**MR PYNE:** Not just for indigenous Australians. That's a very important point. It's for non-indigenous Australians too, especially in those large urban population centres.

**PROF SNAPE:** I take that point, yes. Mr Sadlo, do you wish to add something?

**MR SADLO:** No, I'm right.

**MR PYNE:** Can I just add one more point there. The limitation as it is at the moment seems to be mainly centred around the classification that we have to go under under the current environment with the community broadcasting legislation or the current legislation classifying indigenous broadcasters as community broadcasters, because that makes us have to compete in that so-called beauty contest along with everybody else in the community as well.

**PROF SNAPE:** Well, our draft recommendation was to be a separate indigenous licence, as you see, and one of the points is that you say, "That's fine, but we want to go further." Perhaps we could come up to that in just a moment and ask about the carriage of the signal, and here I suppose we should again distinguish radio and television, and in the digital age I suppose we can be talking about both, but while we're in the analog with radio it is a distinct, separate question, because the capacity isn't there in the same way. But focusing perhaps on television for the moment, you've had discussions with the ABC about carrying a signal on a multiplex and the ABC have indicated I think they don't have the capacity in their plans to do so, and have told us so. What about the SBS? Are you have similar discussions with the SBS?

**MR REMEDIO:** We plan to. We plan to, I think, sometime in early January.

**MR HARRIS:** We had an arrangement to speak to SBS but we weren't able to get all of the parties together before Christmas, so we have a tentative meeting with SBS in the second half of January.

**PROF SNAPE:** It's perhaps a bit premature, then, but it would seem to me that - and this overlaps I think with the question of separate licence or additional national service, which is what you're advocating, or the third option is that it might be a specific responsibility of the SBS, if one is thinking about those options, and perhaps we should have put them in different order, and separate licence is what we've got in our draft report. Perhaps we then could go to a specific responsibility of say the SBS because in some ways it would seem to mesh with the ethnic thrust of it, but as a specific additional responsibility, in which case it may be that the SBS would naturally carry it as part of a multiplexing operation on television, or the third one is as an additional national service and then we would have to address the question of the carriage as well. There are two things going in together there I think. Could we address the specific additional responsibility of SBS.

**MR WESTERWAY:** It would be perfectly possible. It's not within your terms of reference I think though. You're not reviewing the SBS Act.

**PROF SNAPE:** No.

**MR WESTERWAY:** But it would be possible to modify the SBS Act to make it a specific responsibility.

**PROF SNAPE:** Yes. I think it is something that we could make a comment upon,

as one was looking at options for it.

**MR WESTERWAY:** Yes.

**MR SIMSON:** Have you had discussions with the SBS in an analog environment about putting up an hour of programming a day from Imparja or whatever over SBS?

**MR WESTERWAY:** SBS already do indigenous programming but, like the ABC, what they do is broadcasting about indigenous affairs to other Australians. They don't do a primary service to indigenous Australians. They don't broadcast in language. They don't see that as their role.

**PROF SNAPE:** That's the reason why I'm saying "the specific responsibility of SBS" in fact to do the sorts of things which you are talking about.

**MR PYNE:** Maybe that specific responsibility could be catered out of them providing a channel for access for the indigenous broadcasting service.

**PROF SNAPE:** The channel is sort of one aspect of it but then the larger question is: would it be better to have a separate indigenous broadcasting service as a separate entity or would it be better to have a specific responsibility on the SBS for indigenous broadcasting?

**MR PYNE:** Yes.

**PROF SNAPE:** You do set out a number of advantages and disadvantages and, very helpfully, advantages and disadvantages of alternative approaches. I don't think you've quite addressed this one, and one could see that there would be less feeling of ownership perhaps if it were attached and that's why I say it's specific and that a way would have to be found. On the other hand, if we were trying to market your product abroad for example, or even within Australia, there might be significant advantages of having it matched to SBS so that in fact the general management of SBS in looking for marketing in various parts of the world would in fact be able to carry your product as well.

**MR PYNE:** Yes.

**PROF SNAPE:** So if one is going down those advantages/disadvantages list which you have there, they're the two that occurred to us in thinking about it. Would you like to go further?

**MR REMEDIO:** The SBS program at the moment on ICAM goes to some 36 countries, so that's an indication, if you're looking at more options in quality programming into overseas countries. But why can't there be both? Why do we have to say, "Well, okay, let's just look at this within SBS", because there are all sorts of issues that come up if your partner or - or put the obligation on SBS. There are people in the outerlying areas like the bush who will get less of a go, if you like. It

will be more of a capital city orientated programming process, all swisho and all up-to-date graphics and all that sort of thing, and there will be only a certain amount of people who will take advantage of that type of programming or technology, and it will not necessarily always be indigenous who are doing it. It's not always an indigenous person. It may be a black face up-front on ICAM and a few nice pictures, but there's very little training that's going into building up the indigenous economy as such.

**PROF SNAPE:** We're thinking ahead into a multichannelling environment there, Mr Remedio, and if one thinks of an illustration here of what the ABC has been putting on as a demonstration around the country of what they would like to do with multichannelling, certainly one of the channels that they have been talking about would not be swisho. It was in fact to be a regional answer: regional news for the Gippsland area. It wouldn't be six cameras and lights and everything else. It would be a camera on the shoulder of the person doing the interviewing and the lighting and everything else.

**MR REMEDIO:** Yes.

**PROF SNAPE:** Those possibilities are there with the multichannelling environment, so I think one needn't think in terms of the primary SBS channel all the time but in fact subsidiary ones.

**MR SIMSON:** Have you also given consideration to datacasting as opposed to or in addition to multichannelling as a means of disseminating information to the audiences you're seeking to reach?

**MR WESTERWAY:** But the people that you're talking about are not literate in English - in the bush. I don't think datacasting really - that's a tax based service, tax and number based.

**MR SIMSON:** Not necessarily at all. In fact this is what the big debate is about at the moment with the government, the extent to which you can be a video based service. The Fairfaxes and the News Corps and the OzEmails of the world wanted in effect a de facto broadcasting service, which is defined as different to multichannelling in that datacasting is defined in terms of the way you actually receive the content - more of an on-demand type - on request.

**MR WESTERWAY:** None of us know of course how they will define datacasting, but it's pretty clear that the government is heading towards a restrictive definition which tries to prevent it looking like conventional television, no matter how that's gone about.

**MR SIMSON:** I'm just asking as to whether you had attempted to join any of the parties, the groups, that are seeking room on the multiplexes for datacasting space, because that is going to be happening. I mean, there's going to be room for datacasting space.

**MR REMEDIO:** No, we haven't as such, but one of our partners in an accounting firm has made some approaches to one of the major companies to look at some additional space there. We haven't bothered to look at datacasting simply because we're still trying to build a radio service. I mean, most of this discussion has been centred around the TV, and the paper has been around TV, and we're just getting wrapped up in this whole HDTV debate and where we're going to sit within that spectrum if you like. Now datacasting has come on the agenda and we're still trying to get a radio service into Sydney or one into Melbourne. We're saying the basic thing is here to put some changes in this act and let's try and fix that first.

**MR SIMSON:** As far as getting that fixed on radio, it's got to be fixed on analog for the foreseeable future. In terms of the spectrum availability, doesn't that really mean that something is going to have to be taken away from somebody else to facilitate that? This is a technical question.

**MR PYNE:** The act was designed to be technically neutral anyway. We shouldn't perhaps get too bogged down in the technical issues as such. We're looking at the legislation here and the legislation should be irrespective of the delivery method, whether it's datacasting or whether it's digital radio or whether it's analog radio. I think our objective here is to have the need for an indigenous broadcasting service recognised not only within the indigenous community but within the mainstream community as well.

**PROF SNAPE:** We've got that point, but nevertheless under the analog radio system and under the current way in which that spectrum is being allocated, there is a shortage of spectrum, which we can see by the excess numbers of applicants to use that spectrum. That's where we get into the problem of: if you reserve it for indigenous radio, someone else is not getting it.

**MR REMEDIO:** I'd debate against that, simply on what's been said earlier about there are enough of these other avenues for the population in those centres and, like I said, 36,000 people in Sydney are not getting a service basically. They may have a service on the commercial station that they can tune into - any number of services that people can tune into - but they can't tune into one that lets them know how the situation is out of some remote area where they come from or where their family is, or even basic things about funerals or anything like that, that are so dear to our mob. I think with all this, there are enough stations for everybody else there. The Prime Minister always talks about the fair and decent thing to do, and there's a fair and decent thing to do in the case of Sydney and Melbourne and some of those larger areas, and I think the will has to be there to do it.

**MR SIMSON:** In terms of your broad agenda with government in terms of all those issues that you're pressing with them, where does broadcasting sit as a priority with them as opposed to the other areas where you're seeking a greater level of support, whether it be in services or anything else?



**MR REMEDIO:** I think we're now seeing that this primary level of service is very important in the social outcomes of our people. I think it's a very very important one for the government to look at their program on all sorts of common issues and education issues and primary care issues across the country. That's why we have ATSI here today, because they can see that this is a way for the government to deliver their program.

**MR SADLO:** Could I just add a point there as to where broadcasting sits as a priority in the government's agenda. I suppose I can't speak for the government - - -

**MR SIMSON:** No, I was asking you in terms of your agenda with the government, not in terms of the government's agenda.

**MR SADLO:** Yes. We have certainly briefed our minister on this particular proposal and our minister has referred it on to Senator Alston. We all know how the people at Treasury play the game, and Finance, in relation to new policy proposals. You just need to pick up the newspaper in relation to East Timor. I digress. We certainly included this broadcasting proposal on our new policy propositions to government for next financial year. I suspect it won't get very far in relation to that, but it doesn't mean that we're not going to have another go in the following year. Priorities in relation to Aboriginal affairs tend to change with changes of respective ministers.

**MR SIMSON:** That's why I'm not asking the question from the perspective of government. I'm asking it from the perspective of yourselves, as to how important this is. In terms of all the priorities you've got with government, where does this rate?

**MR HARRIS:** Can I respond to that? One of the last acts of the outgoing board was to pass a decision endorsing - - -

**PROF SNAPE:** The board of ATSI?

**MR HARRIS:** Of the board of ATSI, yes - was to pass a decision endorsing the direction that the administrative arm was moving in in the submissions to the Productivity Commission. It's been an extremely high priority of this board and the previous board, in part because broadcasting is recognised as being central to Aboriginal people. Housing programs are expensive and they're important, land rights is of central importance, but a lot of the commissioners, reflecting the needs of the Aboriginal community, say broadcasting language and culture are us. If we don't have that, we are nothing. Reflecting that, the previous board in one of its last acts endorsed the submissions and this direction, and we had hoped to get re-endorsement for this direction, this priority, very early on in the term of the new board.

**PROF SNAPE:** Thank you. That's a very helpful answer.

**MR WESTERWAY:** Can I just take up the point you made a little earlier to lead into this discussion. I think it's very important. What's being said is, it should be a

special responsibility. We're saying make it a special responsibility of the broadcasting system to produce such a service for indigenous people. If you care to do so, by all means go a step further and seek to make it a special responsibility of a statutory body. Our own argument is that there should be a special statutory body to do it. But the important thing is that government acknowledges formally in legislation that there is a responsibility, because one of the problems ATSIIC will always have is, while that's not explicit in the legislation there will be arguments with Treasury about priorities.

**PROF SNAPE:** I think probably we had implicitly gone to that by suggesting an indigenous broadcasting licence, but I think that what you're suggesting is to go further, to explicitly say that it is a responsibility.

**MR WESTERWAY:** Yes.

**PROF SNAPE:** Because I think it's probably implicit in our view. But Imparja as a commercial broadcaster - how would it fit within an indigenous broadcasting service?

**MR WESTERWAY:** We've talked to them, but not in great detail yet because, as Mr Remedio pointed out, radio has been the primary focus for what we're doing.

**PROF SNAPE:** You also have a commercial radio station, do you not?

**MR WESTERWAY:** There is one in Carnarvon, but that's the only one. Yes. They're almost all community stations.

**PROF SNAPE:** Yes, right.

**MR WESTERWAY:** One is an open narrowcaster, one runs a little tourist radio service - one of the sort you were describing. But Imparja is interested in being the central hub for any indigenous television service - national services.

**PROF SNAPE:** Is that generally acceptable? If we thought of winding the clock back a long time and say, "Let us suppose we had a commercial radio station like in the early days" - I'm not talking indigenous, I'm talking just general, I am going back decades. If you had a commercial radio station and you're now saying you're going to have a national radio station - that is, an ABC - and the commercial radio station says, "Well, we're going to be the centre of this national broadcasting service," I don't think that would have been very warmly received.

**MR WESTERWAY:** No, but Imparja is a very peculiar kind of commercial television station. It isn't a commercial station in the sense that you normally mean it at all. They were given that licence as part of the device for coping with the remote commercial television service. That is their primary charter. They in fact exist with considerable subsidy delivered through ATSIIC, I think, in order to deliver their national beam.

**PROF SNAPE:** They get subsidies from ATSIC?

**MR WESTERWAY:** Yes.

**PROF SNAPE:** So there is enough homogeneity of view in the indigenous communities that in fact it would be workable to have a single, indigenous broadcasting service.

**MR WESTERWAY:** Nobody can answer that without going into consultation, which we're in the process of doing, of course. But Imparja wants to do it. They have already experimented with multichannelling. They've already broadcast a second channel which was wholly indigenous in content. They're very interested in the proposition. Jim can answer better than I can for the communities.

**MR REMEDIO:** It probably touched on a few sensitive issues but we haven't taken the next step to go into a line of consultations with anybody at this stage, simply because we're a long way from that. But they could carry and they do have provision to carry national signal. You'd need different sorts of equipment, of course, set-top boxes and all sorts of things. So we're simply saying that it would be better with one of the other multichannels that do have the transmitters spread across the country, but mostly from a rational point of view we are - - -

**PROF SNAPE:** But that's the carriage of the signal - - -

**MR REMEDIO:** That's the carriage, yes.

**PROF SNAPE:** - - - rather than the organisation. I'm looking at the organisation.

**MR REMEDIO:** Yes, the organisation. I don't think that would be a problem for anybody, if the organisation was Imparja that delivered up all the programmings, that did the whole deal, you know, simply from the carriage point of view in getting the signal. That's all we're interested in from our point of view. We've got a special mandate to make this happen for everybody, if you like, and if they step up with their hand up to say, "Yes, we can do this," at the end of the day, provide the 24-hour programming that we need, yes, it would be a way.

**MR HARRIS:** Imparja is a member of NIMAA and at the recent annual general meeting of NIMAA Imparja endorsed this proposal along with all of the other NIMAA members.

**PROF SNAPE:** I'm just trying to think how it wouldn't work in practice down the track. I mean, one can see that one might endorse it. To endorse it one has to think of how things might evolve over time, as different views come in, and to allow a structure in which different views, etcetera, might be able to be accommodated or shown.

**MR WESTERWAY:** In the Canadian example they were running a northern

television service and what they were asked to do by the CRTC - the equivalent of the broadcasting authority here - was to broaden their charter. So they had to bring people from other indigenous communities into the management of the system, and they had to bring product which was relevant to other indigenous people. You'd expect the same sort of thing to happen if Imparja was built into a future system.

**PROF SNAPE:** What you were just implying then - if one applied it to the ABC - was you would say the ABC would have to do what the ABA told them, which they don't, at the moment.

**MR WESTERWAY:** No, I wasn't confusing that with the ABA. You were saying if Imparja was producing the product. We're not talking here about the statutory arrangements.

**PROF SNAPE:** I wonder if I could pick up a specific point in the ATSIC submission, the latest submission. It's on employment on page 8. It's to do with the training and providing career paths and training and related matters. I had a problem here, I suppose, as to why these things couldn't be done already. That is, why couldn't ATSIC say, "All right, we're going to have a career path in broadcasting. We will establish that there will be a wage. We're not going to have it as volunteers"? It doesn't seem to me that any legislation was required here at all. It is not necessary for an industrial relations authority to specify that there will be a minimum wage for broadcasting. It just would mean that ATSIC would say, "Okay, let's have a career path in this. We will employ people to do this or we will in fact provide the funding to someone else to employ people to do these things." We establish all the things that you've got here in training policies; everything else that you've got here didn't require any decision, I think, from government at all - or any legislation.

**MR WESTERWAY:** I think that's probably true, chairman, but what we're doing here - this is one of the several heads of ATSIC policy that we're addressing, the employment implications of such a structure, and in fact ATSIC for the last several years has been putting substantial funds into upgrading the previous BRAC stations in a technical sense. They could upgrade them in a staffing and training and technical backing sense as well, as long as they have the funds to do it.

**PROF SNAPE:** If I can quote exactly - and most of the sentence is in bold so obviously it's important. It's in the middle of the page:

However, it favours a whole of organisation approach under which indigenous people are trained for employment in the rapidly changing media environment under the same terms offered to mainstream media trainees -

etcetera. This then, since this is a submission from ATSIC, is really ATSIC talking to itself, isn't it?

**MR WESTERWAY:** It's ATSIC saying what its attitudes are, yes.

**PROF SNAPE:** But this doesn't need any recommendation from us except that ATSIIC says that it should be doing such-and-such and we think ATSIIC should be doing such-and-such. It's a very unusual part of a submission if it's an organisation saying what it thinks it, itself, should be doing.

**MR HARRIS:** Can I respond to that? Your observation is quite accurate. There have been a lot of developments very rapidly in the thinking of NIMAA and ATSIIC as the opportunity to present submissions to you has arisen. As our thinking has crystallised, we can see that this concept of an indigenous broadcasting service offers other opportunities arising from what already exists.

**PROF SNAPE:** If I may, these recommendations - and I take the way that you're explaining it - but these views here do not require the establishment of an indigenous broadcasting service.

**MR HARRIS:** No, they don't. The creation of this concept in a practical way helps us to focus our minds on the things that we can do to contribute to the success of an indigenous broadcasting service, in providing a service. A supplementary benefit is the building of a career opportunity and employment stream for indigenous people. So it's a supplementary benefit.

**PROF SNAPE:** Yes, though it's not a necessary - but you don't need the indigenous broadcasting service as an organisation to achieve these objectives.

**MR .....:** It would make it a lot easier to achieve.

**PROF SNAPE:** Why?

**MR .....:** Because as it currently stands at the moment, unfortunately there is somewhat of a stigma attached to community broadcasting which makes it much more difficult to attract outside funding to properly fund things like employment strategies and so forth.

**PROF SNAPE:** So this is a funding matter. If one establishes a broadcasting service one can get explicit funding for it.

**MR .....:** It's not primarily a funding matter, but I believe that would be one of the positive outcomes of having such a service.

**MR WESTERWAY:** I think it's important to say, chairman, that that second paper is not a recommendation to you. It's the rationale. We're trying to explain ATSIIC's thinking and our thinking, of course, encompasses what we're doing currently as well as what we intend to do in the future - - -

**PROF SNAPE:** Okay.

**MR WESTERWAY:** - - - irrespective of government decisions. It's a philosophical

basis for the position.

**PROF SNAPE:** Thank you.

**MR SADLO:** We take your point, Prof Snape. We often talk to ourselves.

**PROF SNAPE:** That's all right. I was just reading it and I thought - well, you know what I thought.

**MR SADLO:** Some people talk out loud; it helps to crystallise their thinking.

**PROF SNAPE:** Yes. The commission does sometimes, too, and then we find it quoted in the paper as a proposal, rather than just floating an idea for response. That happened to me in the Age this week. I wonder if you do have any more to add on what I was floating before with you; that is, a specific responsibility within the general SBS structure versus a separate indigenous broadcasting organisation really. By "specific within SBS" I don't mean Arabic, French, Hindu and indigenous. I mean indigenous and other ethnic so that it would have a very high profile within it.

**MR SADLO:** I wanted to respond earlier on that point, Prof Snape. I think one of the disadvantages of that particular suggestion would be not only a perception on the dilution of ownership and control by an indigenous broadcaster but perhaps the perception too - we're lumped in again with somebody else. It's basically a dilution of ownership issue that would concern us. However, on the other side of the fence, in other program areas and other initiatives and in the commercial sector, we've got no problems with joint venturing per se.

We recognise - and in some of our industry initiatives we do need external expertise and partnerships. What you're suggesting could be feasible but we would be concerned about the perceptions of dilution of ownership. Jim, did you want to add to that?

**MR REMEDIO:** Yes. I would have difficulty standing up at AGMs and people saying we sort of sold out to SBS and that we weren't looking after the training, etcetera, and needs of indigenous people. I could kick along with that. I could say yes, but it would probably be irresponsible of me to sit here and say the SBS model would be - attachment to SBS would be a good one - simply because of the marginalisation and the perception that even though you have - you know, your qualities there are good and saying, "indigenous and others", so it has turned around a bit - but we would have a difficulty. It would be better for us just to rent a channel off them basically, so that we were in a free market and we were receiving funds from somewhere, and we would rent your channel and we're put on four hours a day until we are good enough in our organisation to be able to do that.

**PROF SNAPE:** Okay. I've got you at the annual meeting, where you're having to do it, and you're getting attacked in the way that you just said it, but then you also are saying, "We are drawing upon the SBS expertise for training and all the really

professional expertise that has been built up in the SBS and we're training our people so that they're in a much higher standard of training, and we are exporting our product now to 65 countries because SBS is carrying it with their network and the network they have built up basically of importing things for their whole framework. They are now able to use that same network to be exporting it. So we're finding that Australian indigenous programs are now being broadcast in Canada and France, etcetera, and so that's your defence. Now, how does one - - -

**MR REMEDIO:** Yes, that would be a good one as long as I could say, "Yes, and we are represented on the board of SBS by a production person, this person or that person," so that it equalised out across it, so there was some - you know, that people could see that we were adequately represented, not marginalised in some way.

**PROF SNAPE:** So if you've got all of that, how do you come down after you've got all of that?

**MR SADLO:** Prof Snape, if I can just comment on that. If you look at the people sitting in front of you now, ATSIC being an independent - well, being a statutory authority, not necessarily an arm of government per se, we've got no problems as an independent authority engaging the necessary expertise, Mr Westerway, and I would imagine that an indigenous broadcasting service would also have the forethought and the capacity to engage independent expertise if and when required. It wouldn't necessarily have to be linked to SBS to facilitate that.

**PROF SNAPE:** Yes, I get the point, although day-to-day relationships can often help. It's often good just to be able to go and knock on the door next-door rather than to ring up.

**MR SADLO:** I can see that.

**MR WESTERWAY:** I think the point Mr Remedio was making though is that it might be much more saleable in the indigenous communities if it was a contractual relationship with SBS where they were supplying services of the kind that they can supply but we were masters of our own house, rather than if we were seen as bundled in with the rest of the communities.

**PROF SNAPE:** If you have any more thoughts on that, I think - and I know the process of reviewing your thoughts through it can be probably a fairly lengthy one at times, whereas we don't have a lengthy time ahead of us - but if you do have any further thoughts on that or other issues we'd be very grateful, but we would have to get them very quickly. Well, you saw the problem last time with the ATSIC submission - we couldn't in fact get it into the draft report. Our final report is due on 3 March and I don't think that we can really take anything after very early in February.

**MR REMEDIO:** We may have some discussions around the last point about - we can do it perhaps with some joint paper or some position to you.

**PROF SNAPE:** You will be speaking to SBS in any case early in January.

**MR REMEDIO:** 17 January I think we've got a meeting with SBS.

**PROF SNAPE:** Thanks very much. That's been very helpful and you've been a great help to us throughout, both parties who are here, and we thank you for today's presentation which has elucidated many things. One of the things that I think struck home to us is that often when we thought you were talking television you were in fact talking both radio and television, and we'll take note of that in our thinking. Thank you all very much and we'll now have a short break for a moment or two.

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**PROF SNAPE:** We welcome Mr J.E. Stewart and I ask you, Mr Stewart, if you would identify yourself for the transcription service, please.

**MR STEWART:** Jim Stewart. I'm a resident of Brisbane. I don't what else you need to know about me.

**PROF SNAPE:** The point is that we need your voice for the person who does the transcription, so they can separate you from me and from Mr Simson when the voices come on thereafter. Would you like to speak to your submission, please.

**MR STEWART:** There were two submissions. The first one was prompted I guess just by the fact that you'd asked for feedback on it, not that I'm a great supporter of broadcasting. Like most people, I do see the primary sports which get broadcast from time to time and certainly the family takes a pretty close interest in them, and I was completely oblivious of the provisions to stop - - -

**PROF SNAPE:** The anti-siphoning provisions.

**MR STEWART:** The anti-siphoning provisions, yes, until I read about it and I guess I was a bit surprised that it did exist, and of course I read the background to it and tried to understand it. I guess the question that arose in my mind is how is it that these people who have the rights to broadcast are able to restrict broadcasting to the normal free-to-air, and I guess it's really something which is not a matter for broadcasting. In my mind it was more a matter of - as I think I said in my submission - why would the people who are actually running those sporting occasions want to alienate the people who support them by refusing free-to-air broadcasters the right to broadcast? I guess there's also a more technical thing: is it legally proper for them to be able to do that? There are anticompetitive things that are supposed to exist, and yet from what I understand of it it was simply saying that the pay TV people have appeared to buy off the suppliers of the sporting events by paying them enough money so that nobody else can get to it.

Now, as I say, I don't have a strong interest in it other than just the curious circumstances reflected there, and then I went on to think, well, maybe the solution would be easier found if people who are closer to the events were given more opportunity to participate in the sorts of things that you're running, and that's what led me to put the two things together - an inquiry and broadcasting - and why isn't broadcasting a more real part of the whole inquiry process. I'm not saying that as a criticism, because obviously you're just following the procedure which would normally be followed, but I was interested to know whether broadcasting has been considered in a more direct fashion that has been used so far.

**PROF SNAPE:** I suppose just to explain the procedure, the process is that the people who own the broadcast rights to certain events, which would be the people who are putting on the event normally, sell the rights and as a general principle they would be able to sell those rights exclusively to one broadcaster or to another broadcaster. That is, they could sell them to Channel 9 and Channel 9 would say,

"Well, we'll pay \$50 million provided you don't sell it also to Channel 7." Obviously it's worth more to Channel 9 if Channel 7 doesn't - - -

**MR STEWART:** I understand that.

**PROF SNAPE:** Similarly on the pay television - say, "We'll pay you \$60 million so long as we have exclusive rights to it," and the question is what is the best way to go in this matter? The government has legislated that a number of sports events, the rights should effectively be with the free-to-air because that has 97 per cent coverage, and many people don't like the test match being available only to the 16 per cent of the population who have pay television.

**MR STEWART:** Yes, I understand that's what they're doing. I guess what I'm saying is why would that have to come under special broadcasting anti-siphoning laws rather than just anticompetitive practices, which is obviously what it is? It's designed to suppress the competition and allow the new pay-to-air, pay TV people to get advantages which they don't actually have.

**PROF SNAPE:** I think under the Trade Practices Act, as I understand it, it doesn't exclude a contract for a particular item which says, "That is an exclusive contract for a particular item." If they try to say, "You can only have this if you also take many other things," then that might run into trouble, but under the Trade Practices Act it isn't. You're I think saying that in this area the Trade Practices Act itself should be amended.

**MR STEWART:** I don't know. All I'm saying is this strikes me - in fact, the submission I made was along the lines that the people who have got the most direct interest in it are the people who run the sport, the competitors and the people involved in the sporting activities and the people who want to support it and obviously want to see it broadcast. So I would have thought there would be some feedback mechanisms where their supporters could go and say, "Hang on. We don't want our thing taken off free TV. What the hell are you doing? Just because you're getting millions of dollars, what are you going to do with it all?" Of course they're going to pay it for themselves and everybody else, and maybe there was - as I say, that's where broadcasting itself could make those issues better understood by the broadcast receivers, and I think I made the point - if you got some sporting broadcasters to get that debate going on the normal sporting TV programs I'm sure you'd get some interesting feedback and it probably wouldn't be along the lines that the government has been going for the last few years.

**PROF SNAPE:** That's very true. Commercial enterprises, however, have to get the dollar.

**MR STEWART:** But the people who support these things aren't supporting them because they're trying to support a commercial enterprise. They're supporting them because it's a sport which traditionally people have wanted to be able to enjoy in the way they've always enjoyed it. I'm sure this goes way beyond the debate we're having,

but what the anti-siphoning laws are doing, from what I understand, is really in a very heavy-handed way and a very - what I've read from your own draft submission, is it really does effectively give uneven advantages to those who get these anti-siphoning laws on, because once you get your particular thing protected by anti-siphoning it means you've got benefits that mean - you understand what I'm getting at.

So all I'm saying is it does seem rather clumsy and, from what I can see - I don't know whether you've had better information than I have, but it seems to me as if it hasn't really achieved the sort of things that the people were probably pushing for when it first started, unless the people pushing for - - -

**PROF SNAPE:** I think you might want to read on the Web site the submission from the AFL which came in the other day.

**MR STEWART:** I saw their thing that was in the newspaper recently. I presume it's the same thing.

**PROF SNAPE:** The full submission you'll find on our Web site and also the discussion that we had, the transcript will also be on the Web site. They were pointing out that a third of their revenue, a third of the total revenue of the AFL comes from the broadcast rights.

**MR STEWART:** That doesn't surprise me. I'm sure that there are other sporting events where it's an even higher percentage, because they have a big gate-taking compared to a lot of other sport.

**PROF SNAPE:** I think you've made your point clear in the submission.

**MR STEWART:** Yes, the point was really how much more can broadcasting as such be used to sort of resolve - and certainly make an issue which is very much in the interests of the public who receive broadcasts - that they have an understanding of why it is that some things get broadcast the way they do and not other ways, and if they had a chance to understand it and respond I'm sure that that would be a useful feedback. I realise it's probably not very practical in the time-frame that this inquiry is going on, but I think it's something that should be borne in mind for future things.

**PROF SNAPE:** Okay, thank you very much.

**MR STEWART:** That was the first one.

**PROF SNAPE:** Yes.

**MR STEWART:** The second one is the more - what should I say? I call it more important, and I don't know whether you wanted to start with any questions or whether you wanted - - -

**PROF SNAPE:** No, if you would just like to speak briefly to it. You've got a number of headings. You've got The Identification of Social and Economic Problems, The Value of Broadcasting, Informed Democracy. I think we in fact took that point up quite heavily.

**MR STEWART:** In your - - -

**PROF SNAPE:** In the draft report.

**MR STEWART:** Yes, I think there was something about "to promote public interest". Now, were you - 10.1, the recommendation, or was there more?

**PROF SNAPE:** No, it's much more I think, "informed democracy". I think you'll find it in essentially chapter 8, because really the whole ownership of control business was centred around the importance of an informed democracy and diversity of sources.

**MR STEWART:** Yes, we agree on that. I think the question is how do you ensure that debate or that public information gets into the broadcasting area? All I know from my experience - and it's only because I had time to go and dig things out rather than get them put on the TV, where most people get their public information from - is that there's a lot of important information which doesn't get broadcast, and I don't particularly want to bring up an example here, but I've certainly made examples available to people in the broadcasting area and they still continue to not want to know about it.

**PROF SNAPE:** That's the essence I think of why we were recommending what we saw as paths which would ensure that there was a diversity of sources, and in this we have experienced with our draft report a great deal of difference in the extent to which it was reported across differing media. It wasn't too hard to map that difference in reporting to the interests of various parties, and so that was the essence of the reasons why we've gone for diversity of ownership and tried to make recommendations that would ensure that there would be a continuation, and indeed an extension, of the diversity of ownership and control.

**MR STEWART:** I understand. I think most people would understand the importance of that. What I'm saying is that with the level of diversity we already have, and even having a national broadcaster with a specific purpose to make sure that things which might not get picked up by the more commercial-oriented things do get broadcast, there are still very important matters I'm saying get suppressed. Obviously the evidence for suppression is pretty difficult to say. All you can say is it is brought to the people's attention over and over again and they just don't broadcast it, and I'm sure that these are issues which are important; obviously people like John Hewson think they're important.

I don't think there's a simple solution to it in terms of - the government can mandate that certain things must be broadcast. In fact, the truth is a lot of things

which people would like to hear, the government wouldn't like them to hear. I'm sure that's - - -

**PROF SNAPE:** The government does mandate that certain things get published. That's why it has its own Government Gazette.

**MR STEWART:** Yes, but of course probably the gazette, when that term was invented, was the most widely read or widely used means of public information, but since then things have moved on, and if they do get covered in broadcasting and the government is not so keen to get them broadcast, they will get broadcast in a way which generally is pretty unlikely to attract attention and so on. Let's face it, it's human nature; people want to suppress things wherever they are, and diversity is certainly the best way to ensure that some people will be broadcasting, and hopefully if it becomes important enough, other ones will pick up on it.

But I think one of the concerns I have is that because the Commonwealth government, as against say all the other governments, has this control of broadcasting, it's matters which the Commonwealth government is likely to suppress which will get suppressed, whereas matters concerning say a state government won't get suppressed. I don't know whether there's any way that can be brought to bear, but I think from my knowledge anyway it's far more likely that things which are embarrassing to state governments will get published, especially on the ABC; far less likely that things embarrassing to the Commonwealth government will get published on the ABC - they might get it out on the other ones - and that's where - - -

**PROF SNAPE:** I'm not quite sure that governments over the past 20 years would agree with you on that.

**MR STEWART:** I'm not asking governments to agree. It's the public that needs to know these things.

**PROF SNAPE:** The ABC seems to be abused by whichever government is around.

**MR STEWART:** That's a separate thing, and I agree that they need to have independence. The question is how are they accountable for that independence, and I think that's something which is difficult when ultimately they're accountable to the government.

**PROF SNAPE:** I think your points are taken.

**MR STEWART:** Yes.

**PROF SNAPE:** Thank you very much.

**MR STEWART:** I won't discuss any examples but I have, as I said, tried to attract broadcasters to this inquiry and I'll be following up with them and I might let you know of how that goes later.

**PROF SNAPE:** Thank you very much. We'll now break for a few minutes and resume at 10.45 with the University of Southern Queensland.

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**PROF SNAPE:** We will resume our inquiry now. We welcome the University of Southern Queensland and we would ask the representative from the University of Southern Queensland to identify himself for the transcript and then to speak to the submission, please.

**MR TANZER:** Thank you, professor. My name is Steve Tanzer. I'm the registrar and secretary to council at the University of Southern Queensland in Toowoomba - that's where we base our main campus - and I'm here representing the vice-chancellor, who has been making statements about digital broadcasting in general and some of the regulations and standards that appear to be gaining favour in particular.

**PROF SNAPE:** Thank you. Would you like to speak to the submission?

**MR TANZER:** Certainly. Firstly, let me congratulate the Productivity Commission on what I found to be a well-argued draft report, particularly chapter 6 which deals with the road to digital television. I guess our greatest fear is that whilst that represents a fairly rational analysis of the issue, we are faced with a political decision and we have concerns about how that is being panned out at the moment. Where you have an industry that has very strong existing players with entrenched positions - and that goes beyond the representations made by FACTS for instance to also the regulators themselves, the competing media interests who are looking for access, be they Fairfax, News or whoever - what tends to get lost in such a debate is the fact that this technology can in fact have far-reaching benefits for people generally.

We are wanting to inject into the debate at least the interests of educators in Australia. Obviously we are coming from a higher education viewpoint but really it's about education from the cradle to the grave in the best senses of life-long learning. What, I guess, worries us mostly is not so much the legislation that was brought down last year but the reviews that have arisen out of that legislation, and particularly some of the positions taken and whether in fact they are gaining favour with the government.

The first is the 1080i standard, and it is a complex issue. One is that 1080i is going to be very hungry on spectrum, it is also going to require a level of equipment which most people do not possess and, we would contend, have little chance, particularly students, of possessing in the near term, even in the medium term. Just from my reading of matters and trying to find out whether in fact you can purchase one of these high definition television sets, I haven't seen one under \$12,000, and I haven't seen one in this country. So I'm not sure where that leads.

The other thing, by taking a lot of the spectrum of course is that it restricts access for other players in the use of that spectrum and that's something that worries us because we believe that educators such as the University of Southern Queensland have a very genuine need to have access to that spectrum, as do other educators and training providers, and we worry that either we're limited to a few choices, if you like, in how we can get the material broadcast in that spectrum or indeed we're locked out altogether. Interestingly, the Australian Vice-Chancellors Committee has also not

been silent of late and they are also trying to provide some extra elements to the debate. I was interested to see that the president of the AVCC in a recent newspaper article actually went back to the Broadcasting Services Act 1992, saying that it set out to promote a diverse range of radio and television services covering entertainment, education and information. Yes, we have got entertainment. Yes, we have information. We seem to be sadly lacking on the education.

What also appears to be becoming apparent is that if certain positions do hold sway, education may indeed end up being broadcast as it is in some respects today on the ABC, and ridiculous hours of the day. So there may be a position put that HDTV on the 1080i standard is great for prime-time viewing television but not for education and education can have the midnight to dawn shift, neither of which is an acceptable path to go, I believe, for many Australians. So there is that side.

We are concerned that if there are limitations to existing players at high standards, then what you will get is more of the same. You may get sharper pictures - in fact you will get sharper pictures for those who can receive them. You will also get better audio for those that have the appropriate equipment. But a lot of people who don't want to turn their lounge rooms into home theatres won't get much benefit at all except for maybe the lack of ghosting or snowing in some of the programming. Those sorts of things can actually be fixed up using the existing technologies if people have the will. So obviously there's a question there as to whether people are really that interested in this wide-screen cinema-quality TV.

The second part goes to definitions of datacasting. I don't know whether you want me to pause at 1080i and talk about the standard or keep going.

**PROF SNAPE:** Well, keep going on and we will come back.

**MR TANZER:** There appears to be a fear, I guess, by existing broadcasters that datacasting will allow de facto broadcasting, particularly from major media companies not currently involved in broadcasting but involved in other media. We have got a whole range of things from restrictions on bandwidth usage to indications that you can't have any more than 10 minutes of continuous video in a segment to particular genres of programming, none of which make any sense if you think about delivering education using this medium. It could be that somewhere down the track we move to not just 1080i but something more open in terms of standards which, after all, is the way most of the world is going but I fear that you may have a Rolls Royce and a Volkswagen but there will be absolutely no fuel to run the Volkswagen even though it's more efficient, more effective, and does the job for many people. So that does concern us and we need to, I believe, put forward a case that if there need to be these protections for datacasting versus broadcasting, then at least there needs to be some recognition of the role educators will play now and into the next century, and either some exemptions provided from those restrictions or some other way around it. So they're the two main issues.

I think the other issue is universities are actually going to prepare people, as will



schools, as will TAFE, for the information economy, which is a term that gets bandied around probably too often, but nevertheless if people are to be able to contribute to society in the next century they are going to need to be prepared to do that and educators are going to have a large role in preparing people for that.

**PROF SNAPE:** Thanks very much. I think what you said is very much on the same wavelength as our draft recommendations. You, however, see a need for explicit attention to education in them and particularly if there are second-best decisions, from our perspective, being taken. We appreciate that. Is the University of Southern Queensland part of the open learning consortium? It isn't, is it?

**MR TANZER:** No, we are no longer a part of the open learning consortium. We were in the early days for a few years.

**PROF SNAPE:** You were.

**MR TANZER:** Just a little bit about the place, for those who don't know. The University of Southern Queensland, whilst based in Toowoomba, teaches 19,000 students in some 52 countries around the world, including Australia. We have one of the largest offshore populations of students studying at distance in their own countries. We're acknowledged, I believe, as being up there as leaders in terms of the use of flexible learning and delivery technologies, and we have been recently recognised as such by the International Council for Open and Distance Education. We took off two prizes there. We took off the prize for excellence in being a dual mode university in the world and also the prize for the individual who has had the most to contribute to open and distance education - Prof Jim Taylor who runs our distance education centre.

It comes to another chapter in your report on convergence. Indeed we see convergence being expressed by households having a black box, for want of a better term, but a receiver which is capable of receiving digital transmissions, be they coming to you across radio broadcasting spectrums, be they coming via cable, be they on the telephone line or whatever, and that from there you will be able to plug in most of your existing household appliances, and you will be able to choose what you want in terms of programming; where you want it in terms of which household appliance you want it to come out of, and that could be a PC, it could be a television set, it could be a fax line, it could be your printer, it could be your hi-fi system, it could be anything - and also when you wish to receive those signals. Not only that, but different members of the family will be able to receive different parts of that at different times out of different equipment. So that's where we see the sort of convergence going into the future. Now, we could be wrong.

**MR SIMSON:** Would you mind if I just interrupt for one second because I was just wondering - in your submission you emphasise the importance of interactive learning in terms of your own strategy with regard to the university. Can you talk about convergence in the context of what you are actually doing at the university and how, for example, what we have said in our draft report and the decisions that the

government takes on digital broadcasting could actually impact on your business strategy with regard to distance learning?

**MR TANZER:** I will talk about the big one first of all which is the export business. Education in other parts of the world basically requires that you use technology. We have got a hell of a lot of print that we print and send to people in different parts of the world, but we also have an incredible amount of content and interaction now being facilitated by the Internet. We also have teletutorials, learning circles, agency agreements, whereby basically - what is happening I don't believe has changed a hell of a lot in many respects. You need to be able to facilitate teacher-to-learner interaction, learner-to-learner interaction or group interaction amongst learners being facilitated, if you like, by a lecturer or a tutor. You need to facilitate interactions between lecturers in faculty and so-called heads of departments and others who have a better grasp on research into specific disciplines, and indeed technology enables you to do that, and it enables you to do that without necessarily having to have people in situ.

If, for instance, Australia was to go down a 10 ADI HDTV standard and it was thought to be by the educators still a viable way of getting the basic materials which have to go to every student to every student in an efficient way, into their homes, and then we wanted to use that same material in Europe, in the UK to teach students there, we would have to duplicate our production facilities basically because their sets would not be capable of taking HDTV standard.

**PROF SNAPE:** You'd only have to convert the signal down to a lower standard, though.

**MR TANZER:** We would, but that's an extra step.

**PROF SNAPE:** Yes, but it's not a new production thing. It's just putting it in one end of a machine and taking it out the other, isn't it?

**MR TANZER:** I don't think it's as simple as that. You may be right. But when you've got material which is either in the form of broadcast lecturers or some broadcast video or some sort of simulation or something else, it may be that the production process has to be totally different.

**MR SIMSON:** You mentioned also the Vice-Chancellors Committee and the interest they're taking in this debate. Has the education sector via for example the Vice-Chancellors Committee expressed a request for example datacasting capacity or any spectrum to be reserved for your interests?

**MR TANZER:** I think we'd like to go there. I guess in some respects we're not quite sure about how to play this game. What we have been doing at the University of Southern Queensland has been to be in contact with the minister since May 1988 in terms of wishing to appear and have discussions with him, inviting him to the campus to see what is possible. One thing which we found very difficult from our position in

Toowoomba is actually to explain these things on paper or explain them in words. When you actually experience what's going on, particularly with Internet delivery of education, it just becomes apparent. It's a lot clearer when you can actually see it.

**MR SIMSON:** Are you delivering video based learning over the Internet - video learning?

**MR TANZER:** We've produced some segments of video. It's a matter of looking at the total learning experience. Everything is based on pedagogy; it's not based on technology.

**MR SIMSON:** Based on what?

**MR TANZER:** Pedagogy, which is the language of learning, if you like. It's based on how people learn things. So what we do is we structure our material through modules and teams, and each module leads to the next module in terms of knowledge. It's a bit like schooling.

**MR SIMSON:** I appreciate - - -

**MR TANZER:** But there can be videos within that.

**MR SIMSON:** I'm just asking whether you're actually sending video over the Internet at the moment.

**MR TANZER:** We do have video over the Internet, yes.

**MR SIMSON:** Are you using video over the Internet over just ordinary copper wire Internet, or do you only use it when you're going via high-speed network?

**MR TANZER:** No. We're not going to change our mechanism in terms of what needs to be taught and the best tools to teach it, dependent on whether you've got copper wire coming into your home or something else. So it will perform not as well for somebody who has copper wire. But then again there are quite big leaps and bounds being taken on that side of it as well. Certainly the interactions of chat groups, discussion groups, email - those sorts of things - have been used for quite some time. Computer simulations, project based assessments in terms of getting people together from around the world to work on a single project are also enabled through those sorts of things.

We have, for instance, electronic whiteboards embedded within our Internet teaching environment, so within discussion groups people can actually on their computer show things on whiteboards which are displayed to everybody else who happens to be in that group, and those sorts of things. What we're concerned about is that, whilst all of those sorts of things are converging, really with a teaching emphasis being overlaid, there is great opportunity for digital broadcasting in some of this to get the core material that needs to go to every student to every student in an efficient

way.

**MR SIMSON:** I appreciate that, but I'm trying to get to a greater level of detail. How do you want to do that? What do you want the government to do or how do you want policy to be set to be able to facilitate that?

**MR TANZER:** Basically in the current debate we can see not a great deal of point in going beyond SDTV. We can see that there is great advantage to be had with compressed digital signals and thereby freeing up spectrum for other uses. We can see that there's a great deal of advantage in enabling multichannelling, so they're the sorts of things which we would like to see, simply because of the amount and variety of the material that we'll be able to broadcast. The second thing is, we also see ourselves as being aspiring datacasters, and we're worried that by regulation or definition we'll be ruled out of being able to do that effectively.

**MR SIMSON:** You're not at any datacasting table at this point?

**MR TANZER:** We're not at a datacasting table.

**MR SIMSON:** You're not part of a consortium or anything like that?

**MR TANZER:** No.

**MR SIMSON:** Okay.

**MR TANZER:** You see, part of the problem is they're coming up with datacasting trial transmissions into the new year, and we have no idea of how to access that. We have no way of meeting the costs at the front end, even the trial costs. We have no way of meeting the transmission requirements, and so we would have to come in on the coat-tails of somebody who was willing to do that.

**PROF SNAPE:** Did you make submissions to the review groups that have been going on?

**MR TANZER:** The only submission we have made, apart from directly to the minister - because basically we're asking both ministers, the minister for education and the minister for communications and the arts for their advice in these matters - was to the Senate committee back in May 1998.

**PROF SNAPE:** Well, it's those review groups that were going on on standards that it might have been an idea to make representations to.

**MR TANZER:** We've certainly been watching the submissions that have gone forward, but we have not made a submission as such to those.

**PROF SNAPE:** Obviously you found the open learning consortium not compatible or not suiting your interests?

**MR TANZER:** I think part of the problem with open TV is that it was a technology driving teaching rather than the other way around. We've been very careful to go the other way.

**PROF SNAPE:** Yes. As a contributor to that, I think that's true, when carrying it very early in the morning, yes.

**MR TANZER:** I don't believe open TV has been successful in any country really in the world. Part of that is driven by the fact that you only have in the current broadcasting environment a way of getting one program element to a TV set at specific time-slots, and those time-slots are pretty much at times when people don't really want to be up and watching TVs anyway.

**PROF SNAPE:** You need a VCR. That's what I think everyone who does it has.

**MR TANZER:** They probably do. But if you were to move into this regime where you have the capability of one channel being split 16 ways and various other things, you've got a totally different ballpark to play in.

**PROF SNAPE:** It has been more the individual universities that have been driving, lobbying, rather than the AVCC as a whole, is it?

**MR TANZER:** The AVCC has written to Minister Alston and there has been the odd media article. But we really haven't entered the debate. We were hoping, I guess, that the debate might move along and, indeed, in this forum it appears to have but it doesn't seem to be moving along in other forums. In terms of my study and background, I study political decision-making, and it's not surprising that it hasn't been done either in an industry where you've got such strong existing players.

**PROF SNAPE:** I think that's very clear, your position and the submission from the vice-chancellor and we thank him and we thank you for it. I was asked a little while ago, "Have any universities made a submission?" and the answer at that time was, "No." So we thank you that you've broken the ice - as a university. University individuals have made submissions, but as a university you're the first person.

**MR TANZER:** It interests us - and maybe we're at fault here for not making a direct submission to a number of the reviews - but we did believe that by stating quite clearly in letters to the minister what our concerns were, then those would be somehow taken on board. We have had a reply only last week from the minister to a letter we sent in September, which basically goes into the 10 ADI standard and very little else.

**MR SIMSON:** I think you've just answered your own question.

**PROF SNAPE:** Yes. Thank you very much, and we'll now move on to WOW FM.

**PROF SNAPE:** We now welcome WOW FM from whom we have now had two submissions and we thank you for them. We would ask the representative to identify himself for the transcript and then speak to the submission. Thank you.

**MR ANDERSON:** My name is Dale Parker Anderson. I own WOW FM which is an open narrowcast radio network based in North Queensland; our studios are located in Surfers Paradise. First of all, I would like to congratulate the commission on its draft report. We're on the same wavelength with regard to the commission's recommendation. The reason I'm here today basically, first of all, is to say to the commission how important it is for people like myself who have invested in open narrowcast licences to be able to secure those licences after five years. As it is, the Australian Broadcasting Authority made the licences available. Unlike commercial licences, narrowcast licences, once the five years is up, it will either come up to auction or something will happen.

We have invested around \$100,000 to get our station up and running, and we have no ownership whatsoever, so in five years' time everything can be taken away from us and it's very important to us that we have some type of tenure to know that we have access to that frequency after five years. So that is the reason I'm here. I've read your recommendation and obviously that is something that you guys are looking at, and I'm just here to say that I agree with what you're recommending.

The other area that I feel the commission should look at is - WOW FM is aimed at the gay community in Queensland. We have made a lot of reports and submissions to the Australian Broadcasting Authority to get open narrowcast services available in the planning process in all the regional cities in Queensland. What has happened - an example - in Toowoomba the ABA made three narrowcast services available and two commercial licences available. RG Capital, who we're up against in North Queensland, went along and purchased every licence in Toowoomba, a city of 80,000 people. RG Capital now own five radio stations. They own the city's two commercial stations, they own the city's three narrowcast licences. We're not talking little one-watt licences, these are licences that go out 50 kilometres; they're high-powered narrowcast services.

**PROF SNAPE:** What wattage are they?

**MR ANDERSON:** I think one is one kilowatt, and the rest are about 30 to 40 wattage, so they are about a 25 to 30-kilometre radius. The problem I have - I have spoken with RG Capital and RG are not operating in the spirit of the law. They have not broken any laws but they have purchased these licences and they are not going to operate on them. When you buy a licence from the ABA you purchase your licence and then there's a clause that says you have six months to get that licence up and running. If you read between the lines, you purchase your licence to get your narrowcast station up and running, and it does not take effect until you lodge the licence with the ACA which is a completely different thing to the ABA. So you can purchase your licence in January and sit on it for five years until you actually give it to the ACA, and then once the ACA issues you with the licence, you have your six

months to get it up and running. I would like to see the Productivity Commission make a ruling on that because what is happening - - -

**PROF SNAPE:** We can't make rulings, we make recommendations.

**MR ANDERSON:** - - - a recommendation - in Toowoomba is that we were heavily involved in a planning process. Reece Holroyd who is the CEO of RG Capital - and RG Capital is one of the country's largest broadcasters - they have, I think he said, 27 commercial stations from Hobart up to Cairns. He said the reason they're doing what they're doing is to keep people like myself out of the market. He said you can buy a narrowcast licence for anything from \$4000 to \$80,000. To a company like RG Capital he said, "That is pie in the sky for us if it means locking people like you out of the market because what you are doing is destabilising the market." For example, our licence in Townsville cost \$4000. His licence in Townsville cost \$800,000. We can offer our ads a lot cheaper than he can, and he said from a business point of view that is what they're doing.

Up until recently narrowcasters have mainly been sold to TABs because the ABA, when they were doing the planning, they started in remote regional services. So big commercial stations like RG Capital aren't interested in places like Emerald or Roma or Dubbo or Wagga. But when you are starting to get into major regional centres like Port Macquarie, Townsville, Cairns, Newcastle, the big commercial networks are starting to freeze people like ourselves out for the simple reason, to keep us off the air. I think the commission should make a recommendation; either (a) say that if you have narrowcast licences in a particular city you can't operate a commercial licence and vice versa, because there are no rules with narrowcast licences. RG Capital - we have made submissions to purchase licences here in Brisbane and in Surfers Paradise where we're based, and he said, "If the ABA made 15 narrowcast licences available, I'll buy the lot." If you look at the last two auction dates that the ABA had come up, RG Capital had bought the whole lot of them.

**MR SIMSON:** What does the ABA say about this? Presumably you have raised it with them.

**MR ANDERSON:** Yes, I have raised it with them. I've raised it with the members of parliament. The ABA said, "What RG Capital have done is not in the spirit of the law and we can't enforce it" - they're not there to enforce it. They are not breaking any laws but it's something to do with parliament. All they said is to write to the minister of communications, which I have done, who referred me to this Productivity Commission.

**MR SIMSON:** The minister referred you to us?

**MR ANDERSON:** Well, the member for Toowoomba who said, "Look, there is a Productivity Commission. Write to them," which I did, and they've got back to me.

**PROF SNAPE:** Okay. The question of "use it or lose it" has been raised quite a bit

and you're not the only person to have made this point about the narrowcastings being locked up in this way. One of our draft recommendations was a separation of a broadcast licence from a spectrum licence, as you probably noted, which would get around perhaps the problem that you are referring to of the ABA and the ACA, depending on how that was implemented. Could I ask you, when you said you have invested 100,000 for the station, and you said you would lose all of that, what does the 100,000 go into?

**MR ANDERSON:** Basically in the cost of transmitters, studios. What we're trying to do is set up a network so we're not only broadcasting in Townsville, we have got licences in Mackay, that kind of thing. So in five years' time all our licences will come back up for auction.

**PROF SNAPE:** Yes.

**MR ANDERSON:** We purchased our licences. The guy from RG Capital said to me, "You have got in the back door." He said, "I honestly didn't think that a station with your format" - and we are aimed at the gay community but we are playing the latest dance music. We have nightclub advertisers. He said, "I honestly don't feel that your format would" - to him, a narrowcast format was for horseracing or something so unpopular that you couldn't - - -

**PROF SNAPE:** He underestimated you.

**MR ANDERSON:** Yes.

**PROF SNAPE:** If I could just come to the investment. I can understand what you paid for the licence would all go, but the rest of what you described sounded to me as if someone else was going to broadcast. If so, provided they were going to broadcast and if they acquired the licence they would probably want to acquire the various facilities that you've got - that is, transmitter, studio and all of that, so you would still have quite a lot of saleable asset so long as - and I think I know what you're going to say - but so long as they were going to broadcast. If they were buying it up just to lock it up, obviously it wouldn't be saleable, or it wouldn't be as saleable. Presumably the transmission equipment - there's a second-hand market for that.

**MR ANDERSON:** Yes. If our licence and our studio were broadcast in the same city we could, but what's happening is that we are in Surfers Paradise and we're sending our signal up to Townsville, which is about the same distance from Surfers Paradise to Melbourne. So it's a long way up the street.

**PROF SNAPE:** How do you send?

**MR ANDERSON:** Through the Internet and then it goes through to the transmitter through a data - like an ISDM line. So somebody can come along in Townsville, which will be RG Capital, and they will pay whatever it takes to keep us off the market. The last licence in Cairns went for \$134,000 to RG Capital, and because we



narrowcast we don't have the money available to us because we are restricted in our audience, we are restricted to the type of target market for our commercials. We don't have \$130,000 to pay for our licence in 2003.

**PROF SNAPE:** You have developed a niche market there to the gay community, and that would seem to me to be, to some extent, a specialised niche market and you have been able to develop advertising into that.

**MR ANDERSON:** It's a fact.

**PROF SNAPE:** Those advertisers would still want to target the gay community. So even if RG Capital did buy it why wouldn't they continue to target that community and continue to narrowcast?

**MR ANDERSON:** I don't know. The gay community is a community that isn't very liked. The only other type of narrowcast service would be tourism or country music or something like that.

**PROF SNAPE:** But my point is that you're making enough of a go of it to be a threat to them, so that means there's a market there which they could tap into, and if they don't want to go under their usual name they can go under another name. But it's a market. Why wouldn't they want to continue that market if it's a good market? They find it's a threat.

**MR ANDERSON:** I think they are being so aggressive. Regardless of what your market is, whether it's country music or a station directed at Vietnamese people or whatever it is, the threat is - from them - our advertising - well, you can come to us and put an ad on for \$600 and that will give you like six months' worth of ads. They charge \$70 for one 30-second ad. He said, "You are destabilising the market because you are bringing" - people are saying, "Well, why can I go to 98.9 and take out six months' worth of advertising for \$600 when I can come to CFM that covers the same area and you charge \$70?"

**PROF SNAPE:** I understand that. But you're making a commercial proposition of it. Is it a commercially viable business?

**MR ANDERSON:** It is, but the reason they are doing it to us is, if they own the station then all the advertising would go up. So they are trying to control how much money people are paying for advertising.

**PROF SNAPE:** I would suggest maybe you should be raising your advertising rates if there is scope to raise the rates in targeting the gay community.

**MR ANDERSON:** Well, there's not. Yes.

**MR SIMSON:** Can I just understand. You're broadcasting out of one studio, in this case on the Gold Coast.

**MR ANDERSON:** Yes.

**MR SIMSON:** The signal is going via the Internet?

**MR ANDERSON:** Via an ISDM.

**MR SIMSON:** An ISDM line.

**MR ANDERSON:** Yes.

**MR SIMSON:** Is it Internet or ISDM?

**MR ANDERSON:** ISDM.

**MR SIMSON:** So it's not Internet?

**MR ANDERSON:** No.

**MR SIMSON:** Okay.

**MR ANDERSON:** We have done it very cheaply. We have a computer based at our transmitter site in Townsville. We've got, for example, another one based in Mackay and then we just update all the advertising. All the music and everything is based in the computer up there and then we just update the advertisers - - -

**MR SIMSON:** You have no news.

**MR ANDERSON:** No news, no talking.

**MR SIMSON:** It's just a music package - a doughnut package into which you put the ads.

**MR ANDERSON:** Yes, basically.

**MR SIMSON:** How many outlets do you have?

**MR ANDERSON:** We've only got the two but we have been involved in the planning process for Toowoomba, for Cairns, for Rockhampton, and RG Capital since then have not been part - - -

**MR SIMSON:** Okay, I understand that. What about other parts of Australia? Are you looking outside of - - -

**MR ANDERSON:** Yes, Brisbane, Sydney, everywhere.

**MR SIMSON:** So basically the only cost of doing this for you is an ISDM line, a computer at the other end, and presumably someone to sit there, and someone to sell local ads for you.

**MR ANDERSON:** Yes.

**MR SIMSON:** That's your - and in terms of expanding your network.

**MR ANDERSON:** Yes.

**MR SIMSON:** Okay. Are you also intending to Internet broadcast?

**MR ANDERSON:** Yes.

**MR SIMSON:** Where are you up to on that?

**MR ANDERSON:** Probably within two months it will be on the Internet.

**MR SIMSON:** And that will be obviously global.

**MR ANDERSON:** Yes.

**MR SIMSON:** What is the commercial proposition there? What is the business model there?

**MR ANDERSON:** Basically it's just a service that we're offering people that can't pick up the frequency.

**MR SIMSON:** You're going to put ads on it?

**MR ANDERSON:** Yes. We would run what you can hear on your radio into the Internet.

**MR SIMSON:** Okay.

**MR ANDERSON:** So it will be as an Internet radio.

**MR SIMSON:** What do you know about your ratings?

**MR ANDERSON:** That's something that we haven't looked at.

**MR SIMSON:** So you don't know who listens to you?

**MR ANDERSON:** No.

**MR SIMSON:** Or how many people listen to you.

**MR ANDERSON:** No. We're not going in there as a commercial operator, we're going in there as a narrowcaster. You know, anything that we are saying on air is to do with the gay community, so it has got nothing to do with anyone else. It's just our advertisers are restaurants, tourist information things, and that is biting into CFM and RG Capital's market. They are very aggressive and they have said if those licences come up they will control it.

**MR SIMSON:** Yes, we've heard that. Okay.

**MR ANDERSON:** So basically that is all I was here to say.

**PROF SNAPE:** Good. You put that very clearly and we understand the problem. Just to reiterate, it is a viable commercial proposition. You're getting a viable rate of return on your outlay?

**MR ANDERSON:** Yes. I think another option is if the commission can't recommend separating the two of them, then they may as well not have narrowcast licences and just make them all commercial, and that's another area. But that would automatically take people like myself out of the market because there's no way we could afford a commercial licence whereas up until now a narrowcast purchase could be purchased for \$4000.

**MR SIMSON:** Okay, thank you.

**PROF SNAPE:** Thank you very much, Mr Parker Anderson.

**PROF SNAPE:** We now welcome Mr Terry Flew from the school of media and journalism, Queensland University of Technology. Also, thank you for organising the venue.

**MR FLEW:** Thank you.

**PROF SNAPE:** We have two submissions from Mr Flew, one was prior to the draft report, the other one is on the draft report. We welcome you and if you would now identify yourself for the transcription service, and speak to your submission, please.

**MR FLEW:** My name is Terry Flew. I am director of the Centre for Media Policy and Practice, which is a centre associated with the school of media and journalism at the Queensland University of Technology. The centre is a part of the Australian Key Centre for Cultural and Media Policy which you will have presenters from this afternoon. But I'm presenting this submission in a separate capacity and would like to begin by thanking the commissioners for making the decision to come to Brisbane and for providing me with the opportunity to present again to these hearings. I hope that they will find, from submissions they've heard so far today and from submissions later today, that there is certainly intellectual capital to be found residing outside of the Sydney-Canberra-Melbourne boomerang.

In coming here today, and in this inquiry generally, I have found myself asking a simple question: as someone with a background where I was taught at an early age that the Productivity Commission and its ilk were the evil bearers of economic rationalism and so-called voodoo economics, why do I find myself in agreement with so much that is in the commission's draft report into broadcasting? Which has led me to a second question which is: why does so much of the production sector who, as I argue in my submission, have fared very poorly from the arrangements which have prevailed in the 1990s, seem so keen to defend the status quo or to extend it by bringing forth new forms of quota to emerge in broadcasting sectors where they seem particularly unlikely to be effective?

I think that the commission's draft report has provided a very welcome rethinking of many of the premises that have informed broadcasting policy in Australia. I've drawn attention there to a quote from Hugh Stretton, one of Australia's leading social democratic thinkers, who argues the case for the Left to value the market essentially, arguing that, as I quote:

Private enterprise and market exchange give mixed economies a great deal of their efficiency, inventiveness and consumer sovereignty whenever they work as they should, especially when they work without generating undue inner qualities of wealth and power. Left thinkers should value them as highly as any privatiser does, indeed more highly. The Left has such necessary tasks for government and so much to lose from inefficient or oppressive bureaucracy that it should economise bureaucracy every way that it can.

In my supplementary submission to the inquiry I've sought to do two things.

First of all I've sought to provide further evidence that illustrates the extent to which the current arrangements that the commission's draft report terms "the quid pro quo approach" and which I term, following Seven's submission, "the social contract", are not working for the production industry across the board, and have worked less and less for the sector during the 1990s as the broadcast networks have become more and more profitable.

Secondly, and addressing the question, "Is there an alternative?" I've developed a case study of how the Commercial Television Production Fund, developed in 1995 as part of the Keating Labor government's creative nation cultural policy package, operated as a way of considering how a subsidiary based approach to supporting local production and local cultural objectives may work in practice. I also briefly consider how the New Zealand On Air scheme has worked to provide some basis for comparison.

In doing this, I've sought to make a couple of qualifying observations. I'm not recommending the abolition of local content quotas in the areas of drama, children's programming or documentary. One important contribution I think the commission has made to thinking about media regulation in Australia is the concept of contestable markets that was developed in the context of the cross-media rules. I think that distinguishes itself from previous analyses in recognising that deregulation does not, in itself, produce more competitive markets. There is rather a need to create the conditions that allow new entrants to enter the marketplace, and that that should proceed prior to removing regulatory imposts upon existing players.

As a result I would envisage, to some degree, a hybrid quota plus subsidy system being in operation for some time, at least until the market had changed to such an extent that any particular sector of broadcasting was no longer the natural recipient of monopoly profits. By that time, however, I believe what we consider to be broadcasting will have been dramatically transformed by continuous technological and economic change. The analogy I would draw there is with the area of telecommunications. If we were try and think back to 1989 and think about what telecommunications looked like and think now to 1999 and the variety of elements of telecommunications there's simply no comparison. The arrangements that prevailed in 1989, of Telecom as it was then being a monopoly provider, no longer make any sense in the current environment. I believe we will be heading towards a similar situation, so I'm trying to think through what would be ways of meeting cultural policy objectives in broadcasting in, say, 2009. What I described as the social contract was defined by the Seven Network as:

A trade-off between the social, cultural and economic objectives of the government and the commercial objectives of licensees.

In other words, protective barriers to the entry of new competitors was, in a sense, exchanged for the meeting of policy objectives, particularly in the areas of Australian content and children's programming. My finding, as was the commission's finding, was that while the quotas are being met without much difficulty, the benefits

to local producers from such quotas have diminished throughout the 1990s which has unquestionably also been a highly profitable period for the commercial broadcasters. I quote in my submission figures that suggest that licence fees, or the fees paid to producers, range now from 45 per cent budget for series drama to as low as 20 per cent or 25 per cent for miniseries and telemovies, as low as 15 per cent for children's programming and 10 per cent for children's animation. It's pointed out that this is considerably below the sorts of licence fees being paid in countries like the United States and Britain.

I also note, in that submission, a recent letter published in the industry magazine *Encore* by 150 so-called angry writers who accuse television drama producers of paying static rates for scripts for most of the 1990s to the point where these writers have, as they say, "now arrived at the point where our work has become so undermined, undervalued and underpaid that some of the most experienced of us are considering abandoning the industry".

**PROF SNAPE:** Are there really 550 writers for television in the country?

**MR FLEW:** It was 150 signed the letter.

**PROF SNAPE:** I thought you said 550.

**MR FLEW:** 150. Whether they're all writing for television, you never know with the - - -

**PROF SNAPE:** Even so, 150 does seem a large number.

**MR FLEW:** It does, and I think it's another indicator of dissatisfaction across the board. We cannot say this is the result of low profitability in the commercial sector as you've pointed out. Also, the costs of realising current regulatory requirements are in no way commensurate to the value added to licences through protection from competition. My colleague Harvey May will later in the day discuss the finding of a preliminary survey which people in the school of media and journalism - myself, Harvey May and Christine Asperjun have undertaken into the representation of cultural diversity on Australian commercial TV.

I'll make one preliminary observation and that is that a volume quota such as the local content quota is always going to be a particularly blunt instrument with which to try and realise a policy objective like cultural diversity. A subsidy mechanism by contrast, which rewards program-makers on the basis of some sort of points system, is always going to be a more cost-effective and better targeted approach to realising that particular policy goal.

I've quoted figures in my presentation about the Commercial Television Production Fund. Simply, my observation is that it seems to have delivered considerable bang for the buck in terms of its various policy objectives, that it's performance was improving over time, it generated new content in targeted areas such

as drama, children's programming and documentary. It did this in a cost-effective manner, and levered new investment in local productions, some of which were successfully exported, some of which attracted strong ratings and some of which received awards and critical acclaim. I think part of the problem with that fund was its name, which suggested that it was a slush fund for the commercial networks.

**PROF SNAPE:** I think you're the first person out of, what, about 250 submissions so far who has had a good word to say for it.

**MR FLEW:** Right. I think my findings found that it levered \$2.50 of private funding for every dollar of public funding, that it generated directly 81 hours of content over three years and, indirectly, if the programs were picked up as spin-offs generated 267 hours of programming. My calculations would suggest that abolishing that fund had a far greater impact upon local production than, say, a quota allowing New Zealand programming under the Project Blue Sky case is likely to ever have on the local production sector.

**PROF SNAPE:** That has had virtually no impact so far I think.

**MR FLEW:** Yes, and I believe it's unlikely to have a substantial impact. But it has become something of a flagship/symbolic issue, and if someone is saying, "Good work for the fund," then so be it. I believe that any future scheme with equivalent goals of course needs not only a different name but a different operational basis. I think there are useful lessons to be learnt from the New Zealand On Air model in terms of the types of projects it supports. I would endorse the comments that were made by the speaker from the University of Southern Queensland about the importance of developments like datacasting, their potential importance for the educational area.

The absence from the education sector from these debates, I think is explained in part by the fact that historically the provider of educational programming has been the ABC. The ABC has of course had its own issues to deal with. It has never been an area of much interest to the commercial broadcasters. I note that Foxtel is now moving into the education area and it could well be one of those areas where there's a sense of there being an aspirant that hasn't emerged. But I would quote here the president and the CEO of the US Corporation for Public Broadcasting, Robert T. Koonrod who, in placing educational programming much at the centre of the future of the PBS in the US, the public broadcasting service, made the comment that, "The technology has finally caught up with our mission."

So, to conclude, in relation to the broadcasting draft report and the question asked on page 238 of how to adapt content regulation to the future broadcasting environment, I would hope that my submission has contributed two answers to that question: first to develop a cost-effective subsidy based scheme for local cultural production with specific social and cultural policy objectives along the lines of the CTPF that complements the current quota based approach and, to the extent that other regulatory changes generate a more contestable market in broadcasting, gradually displaces it.



Secondly, to make the programs develop through such a fund, which may be called a creative production fund or a cultural production fund or some other name, available to all broadcasting sectors on a contestable basis, with the aim of developing a programming slate that articulated to the distinctive goals and objectives of the various broadcasting sectors and provided a diverse range of locally produced broadcast programming to a culturally diverse Australian audience, which could also contribute to Australia's audiovisual exports.

**PROF SNAPE:** Thanks very much, Mr Flew. I'll just address the Commercial Television and Production Fund for a moment. Suppose we've got a bucket of money to give to it. How would you make a judgment between giving that bucket of money to a replacement for that fund - for the Commercial Television Production Fund - versus giving it to the ABC, remembering that the ABC is probably going into a multichannelling environment?

**MR FLEW:** Yes, it's a good question. I would say first of all that there is an extent to which many doors, arrangements, already work in the sector, so for instance if you looked at how many documentaries are funded through the AFC accords there are ways in which a co-funding arrangement exists on the basis of being able to place a program with a broadcaster, in many cases that being the ABC. Certainly I would think it's very important that the ABC received that funding and whether on balance - if there was that choice to be made, possibly there is an argument for the funding going to the ABC, but, that said, I think there is also an issue about how you will generate local content which reaches wide audiences and which also meets particular cultural policy objectives, and I think that issue will become more important rather than less as we develop more broadcasters.

**PROF SNAPE:** I'm trying to think along the lines or explore or encourage you to explore, I should say, along the lines which was advocated by Steve Vizard in his talk on the day on which our draft report came out, do you recall? It was the Andrew Olle talk - - -

**MR FLEW:** Yes.

**PROF SNAPE:** - - - in which he was saying that we hadn't given enough attention in this draft report to the future and to the convergent environment. We had asked for other people to do it. One reason we didn't give very much attention to it is that at that stage we hadn't had one submission on it. Now we have had a few ideas, but in that talk Mr Vizard said that he thought that in the convergent environment when we can pull it off satellites, we can get it through the Internet and we're getting it every other way, that we would in fact have to depend upon the ABC, and went further in fact, that the ABC should be the vehicle for Australian content.

**MR FLEW:** There's something that worries me about that, and the issue was raised in relation to children's programming and the idea that say you would replace children's programming quotas with designating the ABC to be the provider of

children's programming, and that is the problem of there being - - -

**PROF SNAPE:** Remembering of course the multichannel - - -

**MR FLEW:** Sure. No, but it's not an issue of the number of channels but an issue of the number of buyers and what those buyers - - -

**PROF SNAPE:** Well, the reason I said remembering it's multichannel and that you may in fact have specialist children's channelling and it's not necessarily driving something else off.

**MR FLEW:** Certainly, so you have Nickelodeon and other services. Yes, I would have a concern with - I do have a concern with the idea of the national broadcaster being designated to be the sole provider of a certain type of programming, whether that be local programming or children's programming.

**PROF SNAPE:** Could I recast your sentence there. It wasn't that they should be designated as the sole provider. It was that the requirements be solely on the ABC.

**MR FLEW:** The local content - - -

**PROF SNAPE:** Any other channel could also broadcast Australian, just that it wouldn't be required to.

**MR FLEW:** It wouldn't be obligated to do that. I think there are dangers in that. I think that one positive consequence of the quotas on the commercial broadcasters as they've operated is that it's generated relatively low-cost, high-volume, reasonable quality exportable popular programming. I don't think those objectives are going to be necessarily met solely through the ABC, that it has different imperatives involved in its production.

**PROF SNAPE:** What you're indicating there is a fault of the way they go about their business, that implicit in that was that they weren't being as cost-effective as they could be.

**MR FLEW:** It's partly cost-effectiveness but it's also partly the type of program produced, that the ABC doesn't have the same imperatives to reach as large an audience share as the commercial broadcasters, who have proved to have quite a good - you know, variable but, on balance, a good track record in Australia in producing low-cost volume.

**PROF SNAPE:** Mr Vizard of course pointed out SeaChange.

**MR FLEW:** Yes, certainly. Yes, that's right.

**MR SIMSON:** In the conversion environment where you're talking here about perhaps making more use of a subsidy-type mechanism, what do you then see as the

balance between that and quotas? Would you see it as preferable or for the quotas to be ultimately done away with?

**MR FLEW:** I think ultimately that probably will happen but I think it is a question of the market becoming more contestable.

**MR SIMSON:** And that's because the quotas become less efficient in delivering on the cultural and social objectives for the reasons that we've discussed.

**MR FLEW:** Yes.

**MR SIMSON:** At the moment, as you point out in your paper, the cost of the quotas in effect is borne by the broadcasters.

**MR FLEW:** Yes.

**MR SIMSON:** That's not the case in subsidies, where, as you point out in your paper, it's borne by the taxpayer.

**MR FLEW:** Yes.

**MR SIMSON:** To move to subsidy then I take it a necessary precondition in your mind would be that that particular quid has been removed; in other words, there's more contestability for broadcasters.

**MR FLEW:** Absolutely.

**MR SIMSON:** So perhaps it's not as reasonable to ask them to support regimes or in fact it's just not possible - they're just not doing it because they can't afford to or whatever.

**MR FLEW:** Yes. If I could take an example that has been widely debated, and that is the transmission quota: I think the commission has been right to point out that the transmission quota is less and less a justifiable mechanism. I had a look before coming at what were the outside-of-prime-time local programs that were on, and there wasn't much. I thought of renaming it the Bert Newton quota because Bert seems to be the primary beneficiary of it. The area of non-prime-time TV is the area where pay TV is making the biggest inroads upon the broadcasting audience. That's fairly clear, that in pay households, viewing of pay is about 70, 80 per cent in the non-prime-time periods, and that's very understandable and a trend you would expect to continue, and there are more options. So in that sense I think asking the question of whether the quotas should be better targeted at the prime-time programming because that reaches the widest audience is I think a quite legitimate observation.

**MR SIMSON:** The subquotas aren't targeted so much at the prime-time break, are they?

**MR FLEW:** The drama is, and implicitly I would think the documentary quota probably is, in that most local documentary runs in prime-time slots.

**MR SIMSON:** Of course a lot of the news and so on is in the prime-time slot - - -

**MR FLEW:** Of course, yes.

**MR SIMSON:** - - - and that's not subject to a subquota.

**MR FLEW:** No, as are game shows.

**MR SIMSON:** Is another reason that you're interested in subsidies - to what extent is it because of the fragmenting that's going to occur in terms of delivery mechanisms? I'm perhaps asking a dorothy dix question here, but to what extent do you believe that alternative delivery mechanisms, the Internet and so on - it's just going to become extremely difficult to police or regulate content quotas? We've already seen the difficulty in doing it on pay TV.

**MR FLEW:** Yes.

**MR SIMSON:** Could you comment on that?

**MR FLEW:** I think that's absolutely right. I don't think the drama quota for pay is ever really going to realise its objectives and I don't agree with the idea of extending that quota into areas like documentary on pay. And I think in that situation in some ways it's equivalent to the situation you face with the film industry, even without the technological changes. About 4 per cent of what audiences view in Australia are Australian films. We had never gone down a path of trying to legislate that theatres show a certain amount of Australian production. Rather, we've aimed to support local productions that we think will reach an audience, and so I think that those are the mechanisms where - those are the better ways in which you're going to get local content outside of the free-to-air broadcasting sector, and I think that is a legitimate cultural policy objective, and I think that over time, depending upon a whole range of decisions about how contestable the market becomes - over time it will become an increasingly important way of getting it on the free-to-air.

**MR SIMSON:** We actually had a fair body of evidence or submissions, both verbal and written, at our Sydney and Melbourne hearings about the changes that are occurring in the structure of the media industry globally, and how more players may not actually be increasing the diversity of content - structural imperfections, if you could put it that way.

**MR FLEW:** Sure.

**MR SIMSON:** Could you comment on that.

**MR FLEW:** I think that's right and I think perhaps that returns to the earlier point,

that the value of national broadcasters increasingly becomes that of achieving those diversity objectives. That said, I think it is possible to link local cultural diversity objectives to mainstream programming through some form of a subsidy mechanism or some form of an incentive mechanism for recognising cultural diversity. My colleague Harvey May will comment more on this this afternoon, but we've been attempting to some degree to try and track what are some of the implications for casting of the development of co-productions, and they're not necessarily negative ones in terms of cultural diversity. For instance, there could be more opportunities for indigenous actors in co-productions because there's a lot of interest outside of Australia in indigenous perspectives.

**MR SIMSON:** That's interesting because we again got quite a bit from the local production this week, the so-called independent production industry, a fair bit of criticism or questioning of the value of co-productions in terms of both the cultural and social objectives, raising the issue as to whether the content should count for local production, expressions of concern as to a trend that could be negative.

**MR FLEW:** Yes. I read some of the transcripts from the Web from Sydney and elsewhere of some of the debate. I guess I'd probably disagree. I found it difficult to reconcile the criticisms of co-productions with the argument to maintain a transmission quota. I found those two arguments very difficult to reconcile. I think that certainly - I mean - - -

**PROF SNAPE:** Of the advertising quota?

**MR FLEW:** Yes, I wouldn't want to comment on the advertising quota because it's just not an industry I understand particularly well, but certainly the transmission quota - - -

**MR SIMSON:** In the context of the co-productions?

**MR FLEW:** Yes.

**MR SIMSON:** I just didn't quite catch that link that you made between co-productions and the 55 per cent transmission quota.

**MR FLEW:** It seemed that the argument for the transmission quota was the critical mass argument, as it was put. Yet even if you wanted to question the extent to which co-production is realised, Australian - - -

**MR SIMSON:** You think they would still be adding a critical mass, wouldn't you?

**MR FLEW:** A job is a job in those - - -

**MR SIMSON:** You actually raised a minute or so ago a more interesting and more targeted point, and that is that you think that your examination perhaps indicates that there can be cultural and social benefits in the co-productions, quite apart from any

critical mass benefit.

**MR FLEW:** I think you can. I think local production that appears on pay television in Australia, for example, is largely going to be driven by co-production logic. But I think at the same time there is going - programs are not made with no consideration of their potential audience and their potential target markets. I think there is scope for co-productions which are going to broadcast in Australia to be addressing Australian cultural policy issues. I don't think, just as we would know most people would no longer argue that the nationality of the owner is a necessary determinant of the cultural content of what's on their network - I don't think that co-productions necessarily ignore the local context, that they become ersatz transatlantic or transpacific sort of phenomena. I think they can be linked to local - - -

**MR SIMSON:** In terms of ensuring in a subsidy situation that the programming more often than not gets to air - as we see, we have problems with some of the other subsidy schemes that operate around the world with that.

**MR FLEW:** Yes.

**MR SIMSON:** Do you believe you get around that by actually having part of a licence fee contributed by the broadcaster? Is your argument there under your formulae which you've got in your paper that so long as the broadcaster is contributing a significant proportion of the licence fee - - -

**MR FLEW:** Yes, and I think we have models of that. I mean, the AFC has for some time successfully operated the accord system in the documentary area, where the AFC agrees to commit to funding the balance of a production if they can get - I believe it's a minimum of 25 per cent of that funding from a broadcaster. It doesn't stipulate which type of broadcaster. It's very often - as is the case with documentary - the ABC, but it's also quite often commercial broadcasters. That, in a sense, locks in a guarantee that the program will be broadcast in order for it to be funded.

**PROF SNAPE:** Have you given any thought to the possibility of linking the subsidy to the number of people who watch it, or to an estimate of the number of people who watch it?

**MR FLEW:** Yes. I think that would be an indicator, but I think any subsidy, you would want to have multiple objectives and you would want to have a diverse slate.

**PROF SNAPE:** Let me just come back to explain that; we gave a very short floating of that idea in the draft report. If one is saying that the benefit, the social and cultural benefits which are going to be justifying the subsidy anyway, the justification for any subsidy or any quota is going to be greater the more people who watch it - - -

**MR FLEW:** Yes.

**PROF SNAPE:** - - - then simple economic logic says link the subsidy to the number

of people who are going to be watching it.

**MR FLEW:** Yes, I think it reminds me of the old debate about the ABC in some ways; that evidence that money on the ABC is well spent is provided by it having audiences for its programs, but at the same time part of the reason why the ABC exists is to run programs that won't attract a wide audience. I think you would want that to be a performance measure and you would want it to be more of a performance measure for certain types of programming. But I think at the same time you would recognise that it would be appropriate to support productions that may not attract a wide audience, but which may have particular value to particular sections of the community, or which may meet particular objectives. I mean, the example of educational programming is never going to reach particularly wide audiences but it's not without value.

**PROF SNAPE:** I think the thing is divided into categories perhaps and say, okay, drama, you will get \$10 for everyone who watches it, whereas if it's a game show hypothetically - - -

**MR FLEW:** I don't think you'd fund game shows, but - - -

**PROF SNAPE:** I'm just trying to find a hypothetical at the other end of the spectrum.

**MR FLEW:** Yes, sure.

**PROF SNAPE:** Or a documentary.

**MR FLEW:** Okay, yes.

**PROF SNAPE:** You say you get \$5 for every one who watches it.

**MR FLEW:** Let's say someone put up a project, say a documentary on the experience of Vietnamese people who have come to Australia. That may not attract a huge audience but it's obviously of particular value to that community and the project may be a worthwhile one in its own way. So you'd probably want different measures of the value of that project to, say, the value of commissioning a continuous - you know, a series drama that was to broadcast on the Nine Network.

**PROF SNAPE:** Yes, but let us suppose that you have got that program. Now, is it going to be more valuable to the community if 100 people watch it - or less value if 100 watch it, than if 10,000 watch it? It would be hard to say that it wouldn't be more valuable if 10,000 watched it, than 100 watched it. So why shouldn't one link the subsidy - which after all is going to be their rationale for it as the social and cultural benefit coming from it - why shouldn't one link it to the number of people watching it? Presuming one can measure it.

**MR FLEW:** I'm reminded of long-standing debates between the romantics and the

utilitarians on precisely those kinds of ways of measuring value.

**PROF SNAPE:** No, in this case I was taking the same program and so I wasn't in fact saying that it is opera versus hard rock. I'm taking the same program and so you've got the specification of the program there and so surely it's of more benefit if 10,000 watch it than 100.

**MR FLEW:** Yes, it is, if it was a program that was in a popular genre. Yes, absolutely.

**PROF SNAPE:** Not a particular genre. I'm taking the same program.

**MR FLEW:** Yes, you would want to link it. No question.

**PROF SNAPE:** So does that then lead one to try and think of making the subsidy - linking it to the number of people who are switching on to it?

**MR FLEW:** In genres and formats that were designated to be popular.

**PROF SNAPE:** Within designated genres and formats.

**MR FLEW:** Yes, I think it would.

**MR SIMSON:** Could I just go to the questioning of our recommendations with regard to the spreading of the broadcast licence and the spectrum licence.

**MR FLEW:** Yes.

**MR SIMSON:** Firstly, you might like just to explain what you see as the problem, but as you've put it in your submission, can't you get around that by attaching conditions to the broadcast licence?

**MR FLEW:** Yes. I wouldn't claim to be the world's greatest authority on spectrum. It's kind of one of those things I've always known is there, but I think I had a concern that the conditions attached to licences could disappear altogether.

**PROF SNAPE:** Which licences?

**MR FLEW:** A licence to broadcast.

**PROF SNAPE:** We've nowhere suggested that.

**MR FLEW:** No, sure.

**PROF SNAPE:** What we've said is that in fact the spectrum is the thing that's in short supply. We have nowhere said and certainly have not meant to imply that there



wouldn't or couldn't be conditions attached to broadcasting - - -

**MR FLEW:** The licence to broadcast, yes.

**PROF SNAPE:** - - - just as there are conditions attached to the licence for you to drive a car.

**MR FLEW:** Yes.

**PROF SNAPE:** That in fact is quite separate from your ownership of the car.

**MR FLEW:** Sure.

**PROF SNAPE:** That's I think the analogy that we are looking at here. If you go over .05 then you lose your licence and similarly, if you went over, you could lose your broadcast licence - if you do naughty things - but you would not necessarily lose the property right to the spectrum.

**MR FLEW:** Sure, so there is an attempt to unbundle, if you like, the range of - - -

**PROF SNAPE:** Absolutely. Then you could in fact lease to another person, who got a broadcasting licence, or who was allocated the licence that you had to broadcast, to broadcast on the spectrum that you owned or for which you had a property right and, in fact, they would pay you for the use of that. So there would be a separation of those two.

**MR FLEW:** You could. I guess I wonder how much in reality there will in fact be a tradable rights regime in spectrum. Will there be a wish to own spectrum that could then be resold to others to broadcast?

**PROF SNAPE:** That is along the lines of our thinking expressed in that chapter and the draft recommendations.

**MR FLEW:** Yes, I realise that. At this stage I'm a bit doubtful that that is really going to develop. I mean, I would be concerned - what we've just heard about people in effect buying spectrum space in certain regions and then choosing not to broadcast.

**PROF SNAPE:** Again, one is going to attach conditions if that is judged to be a problem. One of the conditions that one could attach is a use or lose condition. We have got some discussion of that, but that's another condition which, if that were to be a problem, one could attach as a condition to the spectrum licence in this case.

**MR FLEW:** Yes, it certainly could. It certainly is obviously a problem that would need to be looked at, were there to be a move towards more of a tradable rights regime in spectrum.

**PROF SNAPE:** The analogy with land, I think, is quite useful here in that land can be viewed as a community resource, the property rights in land can be allocated in various ways - in some places they have freehold and in other places they have leasehold. You've got conditions on what you can use the land for or can't use it for in particular places.

**MR FLEW:** Yes, sure.

**PROF SNAPE:** In some cases - in Canberra at one stage, and I'm not sure if they still do - if you got a property right it was conditional that you had to build on it within a certain period.

**MR FLEW:** And you had to plant a tree out the front, didn't you?

**PROF SNAPE:** I think they even gave you a tree to plant.

**MR FLEW:** Okay, yes.

**PROF SNAPE:** So if you think of that as an analogy, it takes you quite a long way in thinking - you could then sell the land and separate - etcetera.

**MR FLEW:** I think that's a useful clarification. In my comments on that I drew upon a study of the US experience by Tom Streeter in his book, *Selling the Air*. His observation was that in a lot of instances that had historically been tied to reducing the conditions upon broadcast licensees; it had been tied to what was described by a former chair of the Federal Communications Commission as the toaster with pictures argument concerning television. I guess I had some concern about whether a tradable rights regime in spectrum could lead in itself to a dilution upon the community expectations upon the responsibilities of broadcasters.

**PROF SNAPE:** Yes, I read that and noted it and that's a point that I marked in your submission. I thought there you were going very much down the path of "you've got this scarce resource so you've got the obligation to do things" argument.

**MR FLEW:** I don't think the obligation stems from the scarce resource as such. I think it stems as much from the publicness of the resource and how it's used. I think there are, rightly or wrongly, community expectations about broadcasting which are of a different order of magnitude to, say, expectations about the use of equivalent spectrum in the telecommunications field.

**PROF SNAPE:** Do the same expectations apply to pay television?

**MR FLEW:** That has been a matter of contention in the policy field. Certainly some committees have argued that they shouldn't, some have argued that they should. So if you look at the debate surrounding whether the laws governing R-rated material on free-to-air television should apply to the pay area, there's been debate there. I don't believe personally they should, and my understanding is that that's a majority

viewpoint in Australia. But there are certainly those who believe that it should.

**MR SIMSON:** Can I take you to the table, if you don't mind, on page 13.

**MR FLEW:** Yes.

**MR SIMSON:** This is the analysis of the Australian Commercial Television Production Fund for the period 1997-98. What this is showing, if I'm reading it correctly, is that if we look at the total period, the total three-year period, there were 81 and a half hours of content produced, there was \$51 million of production fund moneys expended in a total budget of 74.5 million.

**MR FLEW:** Yes.

**MR SIMSON:** So what that shows is that every hour costs almost a million dollars.

**MR FLEW:** Well, about 650,000.

**MR SIMSON:** You've got 81 hours and almost \$75 million of budget.

**MR FLEW:** No. Well, total.

**MR SIMSON:** That's the total budget.

**MR FLEW:** Sorry, I was just referring to the public funds. Yes.

**MR SIMSON:** Okay. Fair enough. My next point - you're quite right - is that the production fund proportion of that, as you point out, is about 60 per cent.

**MR FLEW:** Yes.

**MR SIMSON:** Is that not a lot of money per hour?

**PROF SNAPE:** That's more than we've been told about on any Australian production.

**MR SIMSON:** So I just wonder the extent to which this puts a question mark against the efficacy, perhaps because it's in the Australian market, the size of the Australian market. I just ask you the question: why is that, superficially, so expensive per hour?

**MR FLEW:** I'd have to have a look at that compared to other types of production.

**MR SIMSON:** Because if we're going to go a subsidy route - and this is indicative of the sort of bangs you get for your bucks - it's going to cost hundreds of millions of dollars to produce the subsidy - in subsidy equivalent terms to produce what we're

getting for quotas at the present time, obviously.

**MR FLEW:** Certainly in an area like - - -

**MR SIMSON:** Hundreds and hundreds of millions of dollars.

**MR FLEW:** I think part of the reason is that these were not, for the most part, serial dramas, okay. They were often one-off telemovies, pilots, documentaries, and so there's difficulty in contrasting the cost of serial dramas which are the backbone of the quota based system and which are low cost.

**MR SIMSON:** Well, relatively.

**MR FLEW:** Relatively low cost and done very efficiently.

**MR SIMSON:** We've had prices perhaps as low as - I'm shooting from memory here, but around about \$250,000, perhaps in some cases. In the case of one it was almost as high as \$500,000, certainly over \$400,000.

**MR FLEW:** For a continuous serial drama?

**MR SIMSON:** Yes, but nothing like the sort of figures we're seeing here. So what that says is that, okay, we're talking about slightly different genre or program type.

**MR FLEW:** Yes.

**MR SIMSON:** But what that says here is that if you're going to take the subsidy route you'd have to be pretty careful about what you're subsidizing and how you're contemplating spending your taxpayers' dollars.

**MR FLEW:** Yes, certainly. There's a figure I included on the next page that indicates that if you took programs that were spin-offs, so this fund funded, say, the pilot episode of programs like Murder Call and Good Guys Bad Guys and those were subsequently picked up as dramas by the Nine Network, the cost of running those as continuous series dramas was less than the subsequent pilot. So I provide a figure over the page that indicates, if you take these projects as a whole, 134.5 million produced 267.5 hours of content, so that becomes something closer to half a million per hour, which sounds closer to the average than the figures you've quoted there, quoted on the page before. So it probably comes down in part to the type of program that was funded.

**MR SIMSON:** Just so I'm clear on this, you're saying that notwithstanding the termination of the fund, there were ongoing production activities related to the seed activities of the fund.

**MR FLEW:** Yes.

**MR SIMSON:** So as one-offs you get a distorted picture. Is that what you're arguing?

**MR FLEW:** Yes, that's right. So the cost of the subsequent hour of producing Good Guys Bad Guys or Murder Call was less than the cost of the original pilot.

**MR SIMSON:** Because you've done your templates and stuff, yes.

**MR FLEW:** That's right. And looking at the types of programs that were supported, 12 of the 38 were adult drama telemovies, a relatively expensive genre. Three were miniseries, again a relatively expensive genre. I mean it would be something I'd have to look at more closely, but it could well be related to the type of program that was supported.

**MR SIMSON:** Do you advocate some form of regulation of local content on new media - Internet and so on?

**MR FLEW:** No, I don't, because I cannot for the life of me conceive of how it would work. What I would advocate would be - and this returns right to where we were at the start - strong backing for things that are on the Internet that contribute to overall cultural policy objectives. One that stands out is ABC's Online service, a non-commercial publicly funded service that does do some important things. I cannot for the life of me conceive of how you'd set any sort of quota on the Internet or anything else.

**PROF SNAPE:** I've just got one more, I think. At the bottom of page 10 you've got that:

These new outlets, such as pay services, will however accentuate rather than alleviate the market failures that have led to content regulations for social and cultural policy objectives

**MR FLEW:** Yes.

**PROF SNAPE:**

And they will provide profitable niche services rather than comprehensive broadcast services.

Of course one market failure - and we've been fairly careful not to use that term in the draft report, as a matter of fact, but for shorthand let's call it that.

**MR FLEW:** Sure.

**PROF SNAPE:** That we've referred to is that niche services would not be provided under a free-to-air system.

**MR FLEW:** Sure, yes.

**PROF SNAPE:** And of course it's under the pay system that you are able to address it. So in that sense one is in fact reducing the number of - the effect anyway of the market failures related to - - -

**MR FLEW:** By meeting those niche - yes.

**MR SIMSON:** Just by them occurring.

**PROF SNAPE:** Yes, by it being done.

**MR FLEW:** Sure. I think pay TV has been an underresearched area, and I think that the dynamics of how pay is interacting with the local production industry are worthy of a lot more examination than they've had so far. A very interesting case in point here is the area of children's programming, and one of the reasons why that's interesting is that it is children who are the group more than any other that is migrating to the pay environment. I think it's about twice the level for five to 12s of pay watchers as adults, and anyone with kids in that age group provides you with plenty of anecdotal back-up for this.

The pay network - again, there's anecdotal information that the pay services are investing in Australian companies. I don't know if you've had groups like ASTRA talking to you about children's and so on, but companies like Nickelodeon are investing in production in Australia.

**PROF SNAPE:** In production in Australia? I'm not sure that we've been told that before.

**MR SIMSON:** We certainly haven't been told that.

**MR FLEW:** That's my anecdotal understanding - that they're doing more investment in Australia than is acknowledged.

**PROF SNAPE:** That's interesting. If you've got more data on that, we'd be very grateful because, as far as I can recall, that's something which hasn't been mentioned to us.

**MR FLEW:** Yes. It may be worth following it up with ASTRA or representatives of the sector, but that's my understanding anyway. But they're investing in very different type of product. It's a co-production model.

**PROF SNAPE:** Of children's programs?

**MR FLEW:** Yes. It's designed for multiple markets and, yes, I think that we need to be researching and paying a lot more attention to that, and I'll take on board your points there and try and find out more information on that.

**PROF SNAPE:** If you could, please. Thank you very much. I'm glad I raised that last question because, as I said, that turned up something that as far as we can recall we have not been told before, so we'd be grateful for that. Thank you very much for your submissions and your interest in the inquiry.

**MR FLEW:** Thank you very much.

**PROF SNAPE:** And it's been very helpful.

**MR SIMSON:** Thanks for your time.

**PROF SNAPE:** We now turn to Best FM. Mr Ward, if you would like to come forward and we apologise that we've kept you a little bit beyond the hour.

**MR WARD:** I apologise that I was late in arriving.

**PROF SNAPE:** We were running slightly ahead, and so we thought we would progress with the hearing. I think you know how we operate. You gave us a submission before - no, you didn't. This is your first submission in fact.

**MR WARD:** Yes, it is. I gave a submission but I've not spoken to hearings.

**PROF SNAPE:** Good. We thank you very much for your submission which I'm just trying to turn up - here we are - which we have read, and we'd invite you first of all to identify yourself and then to speak to your submission, please.

**MR WARD:** My name is Philip Charles Ward. I'm the managing director of BEST FM Pty Ltd, which is involved in narrowcast radio and my submission relates to the radio industry and the radio industry alone. Since the early days of commercial radio - since commercial radio first became successful and viable - it's largely been regarded as a closed shop and the innovations in radio, innovations in the various broadcasting acts, seem largely to have been designed to preserve that closed shop. Rather than to increase competition they seem to be designed to reduce it. In the 70s we had the concept of community radio being allowed on the dial and rather than increase the competition for commercial broadcasters, what it did is in fact reduce the competition because it meant the spectrum was being taken up by a form of radio that basically didn't reach very many people.

We had an innovation with the present Broadcasting Services Act when it introduced narrowcast. The limitations on narrowcast were quite strong and they also meant the spectrum was being taken up. It was being taken up in a way that was not a competitor to those who ran the closed shop, at least so it was thought. In the time since narrowcasting licences were introduced into Australia, there has been a radical change in automation system and how automation can be done and how radio can be presented, so that it can be produced locally for individual stations at an extremely low cost, and as a result of that we have suddenly narrowcast stations broadcasting with one watt, which is not even significant compared to the power coming out of a light bulb, causing severe difficulty in some places for their competitor commercial stations broadcasting with 5000 watts.

As a result, at least two of the commercial radio organisations have taken it on as their task to buy all the narrowcast licences in the areas that compete with them, not because they value the narrowcast licences but because, to quote one of the managing directors of a large radio company, "They cause us too many problems if they're in other people's hands." So that if we can take those narrowcast licences out of their hands, we will pay \$100,000 for a narrowcast licence, not because we want to but because we don't want anyone else to have it.



**MR SIMSON:** And the trouble is the commercial value? The trouble is the commercial trouble they're perceived to possibly cause?

**MR WARD:** Yes, a narrowcast licence may go out and sell advertising - - -

**MR SIMSON:** Yes, we heard an example of that earlier.

**MR WARD:** - - - for a dollar a pop.

**MR SIMSON:** Yes. There's no technical problem they're causing, though, is there?

**MR WARD:** No - well, they may cause technical problems but so can a commercial radio station or any CB radio can cause technical problems.

**MR SIMSON:** Climbing over somebody's frequency?

**MR WARD:** I beg your pardon?

**MR SIMSON:** Climbing over somebody else's frequency.

**MR WARD:** Climbing over someone else's frequency. I did that myself the other day by mistake.

**MR SIMSON:** Sorry, go on. I didn't mean to interrupt you.

**MR WARD:** No, please interrupt. I appreciate that. The technical problem we had was in fact we just turned a one-watt station on air and we blotted out the local council's two-way radio. In fact it was their problem, not ours. They had some form of amplifier on their antenna and we were coming straight down the throat of them and they were amplifying us.

**PROF SNAPE:** Yes, I've been in a church in which the local taxi going past came over the organ.

**MR WARD:** Yes, I've had the same experience. What I'm submitting - I was very impressed, if I can say so, with your approach of saying, "The spectrum has value. Let us treat the spectrum as a valuable commodity and have it used at its true value," and I don't see that community radio does that and I don't see that narrowcasting does that, and I say that from experience as an owner of narrowcast licences and formerly the president of a community radio station organisation.

The unkindest way of describing narrowcast is that it becomes something for the unemployed - sorry, the unkindest way of describing community radio is it becomes - - -

**PROF SNAPE:** I was going to comment. It's usually the charge of the community

radio rather than the narrowcasters, yes.

**MR WARD:** Yes, and so we have people who come in and do an air shift, 9.00 till 11.00 in the morning, and that time of shift usually is only available to unemployed people because the other people are out working during that time of the day. The valuable spectrum is used up and there is no real return to the community in the sense that people are listening or that it is giving a return to the government on the spectrum. One of my submissions was that the community radio stations, while run as not for profit, they should be under the same regime, the same rules. They may be run by not-for-profit organisations but have the same rules governing them as for commercial and for narrowcast, and this way they can generate funds which would allow them to employ these unemployed people. There's no reason why not.

I've spent the last three weeks in Queensland's oldest country town, a town called Gayndah. I was not there on radio business, but it has one community radio station that is basically the only radio in town. They're on the fringes of other commercial stations but right at the fringes. And Gayndah was no different. Even though it was the only radio service available in the town, the only people there were schoolkids coming in to do their thing or unemployed people.

**MR SIMSON:** But you're not saying it wasn't supplying a service? I mean, given it's the only show in town - - -

**MR WARD:** And it's still not getting the people. It's pretty rugged, isn't it?

**MR SIMSON:** It's not getting the what?

**MR WARD:** It's still not getting the audiences, even though it's the only show in town.

**MR SIMSON:** How do you know that?

**MR WARD:** Anecdotal evidence. I'm sorry. There are no ratings surveys done in Gayndah, population 3000. A ratings survey generally costs about 100,000 to produce, but anecdotal evidence is that it doesn't reach the people.

The terms of reference as I understand it are that we are to work out ways of increasing competition and yet we have gone into an era of reducing competition as radio stations' management can own multiple stations far beyond that which was previously allowed, and the result does not appear to have - it has reduced the localness of radio, so that you can listen to a radio station here in Queensland called CFM and you can hear the same commercial radio station right along the coast, and it's not doing anything local and perhaps that's quite good, but radio can be produced at such low cost these days that you can produce local radio. It's possible with a modern automation system to run a radio station 24 hours a day, seven days a week, with one announcer and still run a full local news service.

Narrowcast in Australia has largely been done with one-watt radio stations. Again this seems to be a way of devaluing the spectrum. Taking the town of Gayndah, there is a one-watt licence available in Gayndah, which is not on air, but if it was on air it would cover the town itself and it would not cover the surrounding countryside. That same frequency could be available at say 50 watts. It would cover not just the town, it would cover the whole area, and it wouldn't cause any further interference because it's so far away from anything else that it would just be simply providing a service for Gayndah and the feeder rural population. We devalue the spectrum by having such low restrictions on the power of those radio stations.

It is possible, as I mentioned, with radio - and please feel free, I'm very happy to - - -

**PROF SNAPE:** I think we have to progress fairly quickly.

**MR WARD:** Yes, I'm doing so. It is possible run a radio station with one person and one announcer or two people, to serve a country area. In Kingaroy this is being done with a radio station that's a 50-watt radio station and it runs on two people. It generates sufficient funds for its owner. I was very impressed by your concept to allow available frequencies allocated to commercial radio, and I see that as being a good and viable proposition. However, basically I feel that there needs to be some restriction so it's not just gobbled up by the three or four major firms that currently govern the radio, because innovation doesn't come from overseas ownership. Overseas ownership just says, "Well, this is what's working overseas. Just modify this for Australia."

Innovation doesn't come largely from large businesses. Innovation tends to come from the little guy out there working and creating something that works, and then the innovation comes from below and moves up, rather than coming from above and working down. You can set up a 100-watt radio station, automated, for \$20,000, broadcast to your community, be running interviews with the mayor, the community can be hearing rather than be relaying a radio station coming from a capital city.

**PROF SNAPE:** We note that you have referred to your Smart Sound computer program.

**MR WARD:** And there are many others, both Australian and overseas. The introduction of narrowcast led almost immediately to two Australian-produced computer programs that can do the job, and there are American programs and I presume there are others coming from other countries as well.

**PROF SNAPE:** Thank you.

**MR WARD:** I have a concern about self-regulation. The media does not just reflect the moral fibre of the country. To some extent it creates the moral fibre of the country. Self-regulation simply means that we can go as low as we like because so is our competitor and while we might be a good and clean and moral station during the

day, at night we will just drop our standards and do what we like. This seems to be an intrinsic problem and I don't quite know what the solution is. Self-regulation does not seem to be a working proposition but I don't know what to replace it with.

**PROF SNAPE:** In our last chapter we in fact made a number of suggestions and proposals in that regard, of tightening up the response, the complaints mechanism for example, but I think we have to work fairly quickly now.

**MR WARD:** Yes. You suggested the possibility of separation between the broadcast licence and the ownership of the spectrum. How that would concern me is that if an operator went in, leasing someone else's spectrum and did a particularly good job of it, then the price they pay for their spectrum is increased, because they have done a good job, and it seems to me that it's better that while, yes, the value of broadcasting should be attributed to a value of the spectrum, it should not be that somebody else is the pedlar of the spectrum. I would feel that the government is the one that does this and the person involved then either makes the spectrum successful - they've paid their money, they either make it successful or they don't, but they're not working effectively for someone else who owns the spectrum and then because I've made a success of it then the amount I pay for my piece of spectrum in the particular area I am is doubled or trebled.

**PROF SNAPE:** Thank you. Well, thank you very much for those comments and thank you for your submission.

**MR WARD:** Thank you.

**PROF SNAPE:** I think we teased you out on a few points on the way through, and we thank you very much for it.

**MR SIMSON:** Thanks for coming along.

(Luncheon adjournment)

**PROF SNAPE:** We resume our hearings and welcome the Key Centre for Cultural and Media Studies. We have four representatives from the key centre and we would ask you each to introduce yourselves for the benefit of the transcription service, please.

**PROF O'REGAN:** I'm Tom O'Regan and I'm the director of the Australian Key Centre for Cultural and Media Policy. There's a naming problem, Prof Snape.

**PROF SNAPE:** Did I not get it right?

**MR O'REGAN:** It's not Cultural and Media Studies but Cultural and Media Policy.

**PROF SNAPE:** I'm sorry, I read it off the wrong sheet. Australian Key Centre for Cultural and Media Policy, yes.

**DR BROWN:** I'm Allan Brown. I'm a senior lecturer in economics at Griffith University, and an associate with the Australian Key Centre for Cultural and Media Policy.

**MS ROBINSON:** I'm Cathy Robinson. I'm the chair of the national advisory committee of the Key Centre for Cultural and Media Policy and I'm an adjunct professor at Queensland University of Technology in the school of media and journalism.

**PROF CUNNINGHAM:** I'm Stuart Cunningham. I'm the head of the school of media and journalism here at QUT and a deputy director of the key centre.

**PROF SNAPE:** Thank you very much for that. Thank you for your very thoughtful submission on the draft report. You've got a number of things there to address, so who is going to speak to it?

**PROF O'REGAN:** I'll make some general remarks, Prof Snape. First of all, thank you, chairman and Mr Simson, for the opportunity to appear today. We welcome the draft report and recommendations and acknowledge the important work by the Productivity Commission in its report. We also want to apologise for the page numbering error on our contents page of the submission, and we hope it hasn't caused you any problems.

We acknowledge in our submission the importance of the Productivity Commission's recommendations in broadcasting licences, spectrum allocation, and on the mandating of high definition television. We feel that the work on competition and spectrum is a major step forward. Having said that, we have a number of concerns stemming from the draft report. The first of these is that the commission has suggested deregulation on the assumption that it will bring in more players. We don't think it will, so therefore we recommend the maintenance of regulation, particularly clear and unambiguous cross-media ownership regulations.

Secondly, we feel that there is an opportunity, in fact an historical opportunity, for the commission to clarify the inadequately rationalised basis for the cultural objectives delivered through advertising, pay TV and radio. Thirdly, we feel that the commission needs to take account of what we see as neglected areas in the report relating to the national broadcaster and pay television. For us, the question or the issue is that you're proposing a set of arrangements that fundamentally change the broadcasting equation. We feel that we haven't the analysis and detail of key practices of the industry to hand to inform such change. We also feel that in this session our expertise should be concentrated on the matters that we've dealt with in our submission, and that other people might be able to more appropriately address some of the other issues.

**PROF SNAPE:** In other words, the points of disagreement rather than agreement?

**PROF O'REGAN:** Yes.

**PROF SNAPE:** Would you like to speak further?

**PROF O'REGAN:** I mean I can call on the different people involved to say something, or the commissioners might want to ask questions.

**PROF SNAPE:** We'll go to that then. First of all you said "assumption of bringing in new players". In areas, of course, it was contestability rather than necessarily new players coming in that we should, perhaps, indicate. Often it is the ability of the new players to come in, whether they actually do or do not, which is important in constraining what people can do. So I think that in many parts that you might have thought "new players", one should perhaps bear in mind contestability, whether the new players come in or not. That applies in some areas of it, particularly perhaps in what might be called the economic areas rather than the social and cultural areas. It's just something, I think, to bear in mind in it, as one reads it.

**MR SIMSON:** In particular with reference to the change that you refer to in your remarks on cross-media ownership. We did not make the change on the assumption that it will bring in new players. In fact we had it around exactly the other way. We made a recommendation with regard to a change to the cross-media rules following the entry of new players. We were not saying, "Bring in new players," and hope that that would encourage diversity, be conducive to reductions of influence, etcetera. This is a very important point. I mean, that recommendation with regard to cross-media was very carefully couched. There were three - and in fact, when you look at one of the preconditions, four - preconditions before we said there would be a change in the cross-media rules. We were not saying, "Change the regulation. Bring in new players and let's punt." So it's very important that people don't misunderstand what we said there.

**DR BROWN:** Mr Simson, it was my interpretation of that draft recommendation, at point 4, that if you did these things, if you removed the regulatory barriers, if you opened up foreign investment and if you have a public interest test, then necessarily

new players would come in. I do mention in our submission that on page 137 of the draft report you talk in terms of a significant number of new players. So we see that as being implicit in your analysis and in your recommendations.

**MR SIMSON:** No, what was said earlier in the opening remarks was that we recommended, and I took a note of this, deregulation on the assumption it will bring in new players. What we have said quite precisely is that we did not assume that. We said that a certain number of things had to happen. Not assume. A certain number of preconditions had to be met before we would be prepared to go along with deregulation of cross-media ownership.

**PROF CUNNINGHAM:** What you've done in 8.4 is increased the grounds for contestability. But as the chair has already indicated, that doesn't guarantee new players. So 8.4 is about increasing contestability, but it doesn't guarantee new players.

**MR SIMSON:** That was just the point that the chair made with reference to that. The first dot point is, "Removal of regularity barriers to entry in broadcasting." I mean, doesn't that mean new players?

**PROF CUNNINGHAM:** It increases the possibility but it doesn't guarantee new players.

**DR BROWN:** Our whole point is that you can make the market more contestable, but new players may not come in. So it follows from your recommendation 8.4, make the market more contestable and then abolish cross-media ownership. So you may be - - -

**PROF SNAPE:** That was not correct. What we said - that's the last sentence on page 10. We do say "permitting multichannelling and cross-media ownership". Now, the very important qualification we had there was in fact the media test in the Trade Practices Act. We had a specific media public interest test in the Trade Practices Act, which would have to be legislated and in fact then judgments, according to the criteria, which were in fact incorporated into that public interest test. Provided the other things in the Trade Practices Act were satisfied, that would in fact be the basis on whether cross-media ownership would be allowed or not. It is very far from saying, "Abolish, just abolish, the rules on cross-media ownership." It was highly conditioned, as you would see from that recommendation, apart from the other conditions, on the introduction of that public interest test into the Trade Practices Act.

**MR SIMSON:** Can I just try and approach this part of the discussion perhaps a little bit more positively and ask you - we've been damned by a thousand cuts in this submission, which is fair enough. But it would be very interesting hearing from you, as authorities, as to under what conditions, under what circumstances, what scenario, can you see the potential to remove, relax, change regulation in the Australian broadcasting industry or sector in the context of a converging media environment which, after all, was a key part of our terms of reference. I take it you're not

suggesting that life is standing still either, in terms of what's happening out there, that the sort of economic forces that are affecting our sector are now quite different to those that were 10 years ago in terms of the digital revolution.

I mean it's not clear to me from reading your submission as to what actually would move the status quo for you, that would encourage you to actually say that times are changing. In the case of cross-media we've put, as the chairman has said, a highly conditional recommendation there. You're concerned at that. In what circumstance would you be prepared to look at a change, or countenance a change, in the cross-media ownership rule?

**DR BROWN:** I think the crucial matter here is timing and sequencing. My feeling is that you do these things in sequence. If you're heading towards an abolition of cross-media ownership restrictions, okay. Firstly, remove the regulatory barriers to enter into broadcasting, together with the availability, making more spectrum available. If new players then come in then you have a larger number of operators. You have an increase in diversity of owners and that may come about with a relaxation of the foreign investment restrictions. All I'm saying is when you've got the new players in, that creates the circumstances and environment for abolishing your cross-media restrictions.

**PROF SNAPE:** The way I see that is precisely - precisely - what we have said. We, in fact, said we have got this sequence that the removal of the regulatory barriers, together with the availability of spectrum, abolition of restrictions on foreign investments, amendment to the Trade Practices Act to provide a media-specific public interest test which would have to be legislated of course, to apply to mergers and acquisitions, to address the very problems that we specify in that chapter - which are very much the same things that you are addressing here - and we then said, "Then the cross-media rules should be removed." After that we then say, "That is, the existing cross-media rules should be removed."

We then say in the chapter that down the track, if there are new entrants - after one has evaluated with the full conversion to the digital and all those other things there - the necessity, after all of that, to retain the media-specific public interest test should be assessed. When one sees how the industry has evolved it may ultimately be necessary, or may not be necessary to keep that media-specific test in there. If we have got a very careful - and this part was very carefully written, and you'll notice even the care with which the recommendation was written - it said, "Only after this, this, this and this then the cross-media rules should be removed" - because we saw that with a converging technology and with the existing cross-media rules anchored in existing technologies - and for example not having anything to do with what Telstra might acquire - not covered at the moment. And so with changing technologies becoming obsolete, making this rule perhaps backward-looking rather than forward-looking, we were trying to see how the objectives which we specify in the chapter, which seem to me very much the same objectives that you've got in your submission - how can they be addressed in this conversion technology?



We also, of course, noted that the existing rules prevent mergers amongst the little as well as the big. In some cases it might be desirable that there are mergers amongst the little across media so that they can, in fact, challenge the big. But the current rules prevent that as much as they do the mergers among the big. So we're trying, as we explained, very carefully trying to look forward out of the existing technologies, out of the past to address exactly the same objectives which you have specified in here, and this is our way of doing it. We don't see any alternative ways suggested by you of how to do it. We don't see why, with the very careful sequencing that we've got here, it doesn't meet the objectives that you want.

**DR BROWN:** Prof Snape, I'm reassured by what you are saying, but from a literal reading of your draft recommendation I can imagine parliament on one vote, on one sitting abolishing foreign investment restrictions, removing regulatory barriers, putting a no public interest test into the Trade Practices Act. Having done all of that, on the same day - okay, we've done all that, we've satisfied the Productivity Commission's prerequisite, now we'll abolish cross-media rules. There's nothing in the draft recommendation 8.4, I suggest, that says it's a necessary prerequisite for new players to come in.

**MR SIMSON:** I suggest that we can spend the small amount of time that we have available for this on this particular recommendation. I suggest you actually read the chapter also from which that recommendation is extracted, which I assume you've done, to understand the context in which that recommendation sits.

Could I come at this from another way, because reading your submission it seems to me that you're strongly endorsing the position of FACTS - the Federation of Australian Commercial Television Stations - in terms of their key economic argument on the advertising market. FACTS's argument against deregulation - indeed competition in a number of forms, increased competition in a number of forms - is the potential to fragment the advertising dollar. It's the fixed cake argument. They argue that would then affect deleteriously local content, employment, etcetera, and therefore just don't go along with a number of the points that we've raised. I notice that is a theme which recurs in a number of points in your submission. Also it's raised in the context of multichannelling in terms of the effect on the advertising market.

I'm just wondering then, from an economic perspective - I mean, on your scenario do you want to have another free-to-air in this country? Do you want to have deregulation, or do you believe that we've basically reached the limit of what the advertising market can withstand?

**DR BROWN:** No, we support your analysis and recommendations in terms of removing regulatory barriers. We also support your discussion in the report where you're saying why should the broadcasting industry have what used to be called a financial viability test in relation to determining the number of players? We believe the number of commercial broadcasting operators should be determined by what the market will bear, so we're at one with you on that.

**MR SIMSON:** May I just say that didn't come through to me in reading your submission - that statement of economic principle. In fact, as I indicated a second ago, almost the opposite has come through: that you believe, as you say on page 9 - page 10 - that because of the fixed cake it's going to be difficult in your mind to have a new entrant, a new player and/or multichannelling without having a deleterious effect on local content, etcetera.

**DR BROWN:** Let me try to clarify what our approach was on this. I'm not necessarily looking at next year or the year after that. Looking at a situation where digitalisation has come in, one of the major consequences of digitalisation - one of the major benefits of it - is to create the opportunity for a greatly increased number of free-to-air channels. Once you have that, you're going to have a fragmentation of the audience, okay? So if you've got so many viewers now watching three commercial networks, you're going to have a much smaller audience per program when you go into a digitalisation environment, whether it's going to be nine channels or 16 channels, or somewhere in between.

So the simple point that we're making here is audiences will fragment. The fixed cost of programs, or the cost of programs per audience member will therefore increase. So the per channel profitability of commercial free-to-air television is going to be subject to a profit squeeze.

**MR SIMSON:** So that gives rise to your statement at the bottom of page 10 - this is your statement - that:

The set of arrangements which is most likely to lead to increased media ownership concentration is that recommended by the commission in its draft report, namely, permitting multichannelling and cross-media ownership.

We've already discussed the cross-media ownership. But in the context of multichannelling, again I'm just a little bit lost or confused as to the message you're giving to us. What I take out of that last statement you've just said to us is that, whether it's through multichannelling or new players coming in, you'll see a fragmentation of the advertising dollar, lower profitability, and that can be deleterious in terms of concentration effects. I just want to be clear as to where you actually sit on this; whether you're in favour of deregulation - that is in terms of the number of owners and in terms of more services - or you're not because you believe there's a fixed cake or a near-fixed cake and the economic effect of that would be deleterious to our local content producers, diversity of content, and so on.

**DR BROWN:** Mr Simson, we didn't go as far as to say what we were in favour of, what we're not in favour of.

**MR SIMSON:** You see, that's where I'm a little bit confused, because it's not clear for me where you actually stand on a number of these things.

**DR BROWN:** Okay. The point that I wanted to emphasise is that we don't think

the issue of multichannelling has been given as much attention as it could have been, within the context of ownership. If you have multichannelling, if multichannelling is allowed, by definition you will have a smaller number of individual free-to-air television companies. If multichannelling is not allowed, then you will have a greater number. So multichannelling has got absolutely fundamental implications for ownership and control, and all we're saying is, let's have a look at that. Let's look at the different possibilities. Let's tie the multichannelling question to ownership, to diversity of ownership, to the cross-media regulations. Let's look at it in that light and let's look at the different possibilities.

**PROF SNAPE:** Could I ask you then to think a little bit about radio for a moment as a parallel, and we have in both Melbourne and Sydney multiple ownership - that is two ownerships of radio stations by the same owner. Now, what they do is to focus on segments of the audience. That is, if I own two radio stations, I don't get them competing against each other; I in fact segment the market and concentrate one on one part of the market and one on another part of the market, and so in fact one gets greater diversity of programming, as you acknowledge there. But it also means that I'm targeting people better for advertisers.

Now, are those two stations worth more when they're separate, under separate ownership, or when they're under the one ownership? I think the argument is they're worth more when they're under the one ownership than under the separate ownership, and it's because of the targeting of the advertising. If they weren't worth more under one ownership, then the price of buying the second one would have been beyond what they'd be prepared to pay for it, and so they're worth obviously - and the market shows - that they're worth more under one ownership than they would have been under separate ownerships. That comes because they're targeting a wider audience and they're in fact focusing, so the advertisers are finding it a better deal because of the targeted audience.

Now, the analogy there is for multichannelling on television. So if you've got Channel 9, A, B and C multichannelling, then you've got two effects working. One is the effect that you've been describing - that there may be some fragmentation of the audience - but also you've got, importantly, there a better targeting of audience. And so, Nine, A and B and C - if that's the way it goes - would in fact be targeting separate audiences. Very much we've heard from the advertising people these days, they're looking for targeted audiences. It's becoming much more sophisticated in terms of what they want and they're targeting, looking for targeted audiences. So when they're going out, and able because of the multichannelling, to target particular audiences, you in fact can get a greater advertising dollar out of it, as has been shown with the radios.

Now, that part of it you don't address. You address simply the fragmentation, as I read it. You don't address the gains that they can get from the advertising dollar and their earning capacity, and therefore their ability to support programming, programming that is targeted on those particular audiences, and so you've got that force going as well. But so far as I read it, you don't address that second point.

**DR BROWN:** Professor, I think with the issue of digitalisation, multichannelling, that you've got advantages and disadvantages, and you've outlined some of the potential advantages in terms of advertising. What we're saying in our submission is that the commission in its final report, and ultimately the government, has to make a decision as to what balance they want to have in terms of an economic advantage, including with advertising as you've mentioned, as against an advantage in terms of a greater diversity of ownership. So our purpose wasn't to go into each of these points, except to emphasise and to underline that there is a trade-off.

**PROF SNAPE:** Yes. We make that very very clear in the relevant chapter, that there are these two aspects of it, and we make very clear - and it's written very clearly - that on the one hand common ownership could provide greater diversity of programming for the reasons that I've just been suggesting, but it will not tend to provide greater diversity of ideas, etcetera, in the market, and we make that very clear. But just on the multichannelling aspect of it, which we were just talking about, we do have these two factors operating, and it was not just that it was going to be good for the dollar that I suggested, but it would also mean that with one network having more than one channel, that in fact it's likely that there would be greater diversity of programming - not necessarily diversity of ideas, but diversity of programming - just as it is occurring on the radio where the radio stations are under multiple ownership.

**DR BROWN:** Look, I'd neither agree or disagree with you on that. I don't think you can take a jump purely from radio to television because of the different production costs, and that analysis about greater diversity with common ownership is based on an analysis of a very restricted television market, with three or four channels. I'm not denying that it may apply in a digital scenario with nine, 10, 16 channels, but I'd be a bit hesitant to draw direct analogies from commercial radio and transplant that and say the same thing would necessarily happen in television.

**PROF SNAPE:** I take your cost point, but as a matter of just logic, if I'm running Nine, A and B, I'm not going to have them competing against each other.

**DR BROWN:** I agree with that. But Seven, A and B would not necessarily have different types of programs. They may duplicate Nine, A and B.

**PROF SNAPE:** That's right. But at the moment you've got one Nine, you've got one Seven and you've got one Ten. That's three more or less competing things, but we know that Ten segments a bit, so it's two and a half competing things, if you like, in that way. If you go then where you've got each of them multichannelling, then you're going to have more - it would be an incredible analysis that suggested that you wouldn't have more diversity in that case than the current.

**DR BROWN:** I just don't think we know about these things. We're in a completely new territory.

**MR SIMSON:** But how do we find out? In America the one individual service that's being grasped at by consumers is multichannels. The experience so far in America of digital broadcasting is that consumers want, and they like, more channels. The one outcome or output of the digital spectrum as opposed to the analog spectrum is that you can have more channels, multichannels. On page 10 you use the phrase "permitting multichannelling". I mean, if we don't permit multichannelling what advantage are we getting out of the digital spectrum? What are we getting out of it?

**DR BROWN:** Mr Simson, there may be a slight difficulty here with terminology. When I'm using the term "multichannelling" I mean the one owner being responsible for a multiple number of channels.

**MR SIMSON:** That's one scenario but there are a whole range of scenarios that can lead to multiple channels.

**DR BROWN:** Certainly we're not suggesting that full advantage not be taken of digitalisation in terms of its ability to provide a greater number of channels. That's the furthest thing from our intention.

**MR SIMSON:** Fair enough. At what point then would you, if you are running the government - if you were Senator Alston - put up your hand and say that a free-to-air network would be allowed? Australian consumers would be able to experience more than one channel from one network operator? What's your recommendation to us on this?

**DR BROWN:** Well, we haven't made a recommendation specifically on that. What we have gone as far as saying is there are implications in the multichannelling decision for cross-media ownership for diversity of players. That's as far as we're going and what we're saying is that trade-off needs to be thoroughly assessed and discussed.

**MR SIMSON:** How do you assess it? You use the terms "look at", "assess", "discuss". We are in a situation where from the year 2001 some digital spectrum will be available under the new regime. What is your road, your set of tests, your route, your process, to allowing Australian consumers to be able to experience some of the products - some of the by-products at least of the digital spectrum - without locking up the process in a series of reviews for years to come, whether it be on multichannelling and how that might impact on cross-media or some - we've tried to actually come at this in a systematic - in a staged way? You don't think that's good enough, which is fair enough, and it's very important that we hear from people in these draft hearings as to what their solutions are. What we need are solutions to put in our final report, not, if you like, a series of statements. So what can you say to help us then?

**DR BROWN:** I'm not in a position at this stage to work through the ramifications and come up with a set of recommendations but let me emphasise that in terms of multichannelling, if the decision is in accordance with your draft report - allow the existing networks to provide three or four separate channels of programming. What

we're suggesting is if you do that, that decision may prevent the other advantage of digitalisation; that is, the opportunity to allow new players to come into the industry. So our point is the multichannelling decision has fundamental implications for the ability of digitalisation to create the space for new players.

**MR SIMSON:** Let's assume what you have said is right in terms of your economic scenario or your market scenario. You then give a greater credence or a greater tick or a bigger tick to having another, for example, new player come in than allowing the networks to run multichannels, or the ABC or SBS for that matter.

**DR BROWN:** If you wanted to maximise the number of new players you would pass legislation to say the existing players can transmit one individual signal. That occupies three of the channels. We have now got another six or seven or eight, whatever it is, new channels available for that many new players subject to the same restriction.

**PROF SNAPE:** That would create greater diversity of ownership.

**DR BROWN:** Yes.

**PROF SNAPE:** Would it create greater diversity of programming?

**DR BROWN:** Well, Prof Snape, can I just repeat, there's a trade-off here between - - -

**PROF SNAPE:** No, I am trying to say what is the trade? I said I agree that it would mean that there would be less diversity of ownership. My question was would it mean that there was less diversity of programming?

**DR BROWN:** I don't know that.

**PROF SNAPE:** What's your guess? And your experience and your economic analysis - you know, think of hotelling again. When do you get the whole beach covered? When you have got a lot of players in or else you've got the ice-cream sellers under the same ownership.

**DR BROWN:** My guess is that any reduction or any diminished diversity would be relatively minor weighed against a greater benefit of a greater number of players.

**MR SIMSON:** Could you help us on page 5 where you say:

The centre takes the view that a great deal more work needs to be undertaken on the subject of how it is possible to facilitate audience access to local programming in a digitised television system such as the commission imagines before any recommendations about regulatory arrangements in support of such an outcome are settled.

Once again could you please give us the centre's view on this as to what your position is on this issue.

**MS ROBINSON:** Mr Simson, I think the centre's concerns around this question related to the recommendation on the one hand to maintain the current subquotas for drama and children's, for example, and on the other hand a set of recommendations that fundamentally changed the television system in Australia and the impact that that's likely to have on the capacity to finance local production. It seemed to us that there was something of a disjunction between recommendation on the one hand for significant systemic change and recommendation on the other hand for the retention of the current set of subquotas that occupy in a three-network analog environment.

While we accept that the Productivity Commission accepts that there are cultural and social bases for the regulation of Australian content, our concern goes to the extent to which it is sensible to simply transpose current sets of regulations which exist in one system onto another system and assume that they're going to deliver the outcome. We have got a set of concerns that they won't. We're not in a position to say exactly what will go wrong and how it might not work but some of the questions that one might ask oneself is, is it possible with changes in operation and therefore sources of revenue to continue financing production in the way that it is at the moment? Is it in fact desirable to do that? What kind of role would the national broadcasters play in that sort of environment and do we want the national broadcasters to become the repository for the responsibility of delivering Australian content or do we want them to play a different kind of role in the system that actually sees Australian content exist across the system rather than locate it in one aspect of the system?

**PROF SNAPE:** They were the questions in fact which we proposed ourselves, and we were hoping that the experts in this field would provide the answers and not give us the questions back - or some suggestions. At the end of chapter 9, where we have got a section "Adapting content regulation to the digital broadcasting environment" we in fact address exactly the sort of things that you're talking about. But we had hoped that the key centre would have been amongst the people that would start giving us real suggestions for the future and, as I say, not just giving our questions back to us.

**MR SIMSON:** The issue on page 7 with regard to the ABC, we did raise - and you're quite correct in saying in your submission to us that we raised it in a fairly fleeting way. We did in fact raise the issue of the role of the ABC in a converging environment and its potential possibly to play a larger role possibly in audiovisual cultural policy, but do you know that we basically didn't get a submission on that whole issue in our initial hearings? Even the ABC basically sort of passed over it in a fairly discursive way. In the subsequent submissions we've had on our draft report there's been very little on it. There's been a speech by Mr Steve Vizard, the Andrew Olle Lecture, which has not in fact been made as a submission to us, but just in terms of a piece of material in the public domain which probably gets as close as anything to it - so again, it would have been very helpful to us for a group such as yourselves to

have actually helped us with some of these issues, instead of saying, "It seems curious for the Productivity Commission to assume the same."

We're not assuming anything. The purpose of the draft report was to make draft recommendations and, in a number of cases, as the chairman has said, encourage people to actually come forward with solutions. It's just unfortunate - and you're not alone in this - that major academic institutions in this country have come along to us in many cases and basically, as the professor has said, played the questions back to us. It doesn't help us very much in putting our final report together.

**MS ROBINSON:** Mr Simson, I'm sorry if you thought we were being unhelpful. That was not our intention at all. But I think there is a question of size and scope here. The Productivity Commission had a reference that was to pay attention to these kinds of questions and in respect of the ABC in particular it came in a long line of references that addressed territory that the ABC occupied. It seemed to us strange that the Productivity Commission in fact had not seen fit to speculate because, in fact, that's what we would all be doing in respect of these matters - speculating.

Nobody is better informed than anybody else, because we're talking about an environment that is yet to emerge, rather than one with which we have any significant degree of experience, either here or internationally. The commission itself, set up as it was to examine this territory, might have chosen to in fact speculate around these kinds of matters.

**MR SIMSON:** We did.

**PROF SNAPE:** You will find a number of speculations at the end of that chapter.

**MS ROBINSON:** In respect of the ABC, with due respect, the commission actually makes the point that it is taken as given, the continued role of the national broadcasters, and you say yourselves that many of the commission's recommendations in this report are premised on the national broadcasters continuing their current role in broadcasting.

**MR SIMSON:** May I say the ABC was not part of our terms of reference, nor was the SBS.

**MS ROBINSON:** I understand that, Mr Simson, but nevertheless they're part of the system that you have a reference to examine.

**PROF SNAPE:** And that's why we made that explicit assumption that in fact they would continue in their existing role for many of our recommendations and analysis, because in terms of diversity for example and looking at the sort of thing that Dr Brown has analysed in terms of market failure, etcetera, of a broadcasting system and the types of broadcasters, we're saying that the type of broadcaster represented by the ABC and the SBS we assume are going to continue. That meets particular objectives there, and so we built our other assumptions and analysis around the



assumption that they would continue. But it was not in our terms of reference to be discussing a way that the ABC or the SBS could be reconstituted for example, nor I think to go into any detail about what tasks they might fulfil in the future rather than the past. So the assumption was that they would continue.

**MS ROBINSON:** Forgive me, Prof Snape, I hadn't actually meant to indicate that the commission ought to be going to questions of detail on this matter. The reference, it seems to me, is a matter for interpretation and I respect the fact that you've chosen to interpret it in the way that you have. I, however, on behalf of the centre am putting forward a different view, which tries to suggest that one possibility in interpreting the reference is to make some broad comments about what kind of role the ABC and SBS might play in a digital multichannel environment.

**PROF SNAPE:** Yes.

**MS ROBINSON:** Because it seems to me that at least as a matter of speculation the question ought to be asked about whether they should continue to play the kind of role that they play in the analog environment where there are three commercial broadcasters that, as you say, deliver two and a half bits of the same, and a half a bit of something slightly different. It seems to me that if we accept the case that you make about multichannelling and delivering a diversity of programs if not ideas, then if the argument for national broadcasters is about audience reach and delivering diversity within a closed system, it seems to me that we ought to at least, as a matter of policy, be asking whether that is something that we will need in a multichannel environment.

If we do decide as a matter of cultural and social principle and policy that it is something that we need, how it might deliver that in light of what other kinds of things we might be able to say about what's delivered on other programming, on other of the multichannels - it seems, for example, possible to say that the SBS remit of delivering multicultural programming is something that might possibly be taken up as a matter of commerce, if one is looking in a multichannel environment. That doesn't necessarily say that we don't then have SBS, but it might mean that we might have SBS in a different kind of way.

We say we have the ABC as a source of independent, if you will, news and current affairs and as a place for the kind of drama that is not necessarily likely from commercial networks to deliver audiences to advertisers in a way that creates the revenue stream that the broadcasters need. But under a different kind of scenario maybe the ABC doesn't need to play that kind of role; it could play a different kind of role, and I suppose our point is simply that it is worth asking these questions, given that Mr Mansfield did not, and given that the debate about the digital conversion plan actually didn't ask those kinds of questions, but rather asked a set of questions about how the Commonwealth might or might not, and to what extent, finance the national broadcasters into a multichannel environment.

**PROF SNAPE:** I think we're into difficult territory for us here. You can well

imagine the response if we made any significant recommendations about the ABC and the SBS - the response that that would get not only from the government, but from the community, who would say, "We didn't know this is an inquiry into the ABC and SBS. If it were then you should have told us. If it were you should have asked for submissions." You can imagine just how many people would say, "We would have made a submission to you, had we known that you were talking about the ABC and the SBS." So we have to be very careful, I think, of going into that territory.

But could I ask you perhaps to give some response to the proposals that Steve Vizard did put forward in his Andrew Olle Lecture, which came out on the same day that we released the draft report where he said that in the fully convergent environment that we were talking about, when people are getting it off the satellites from everywhere, where they are getting it through the Internet from everywhere, and it's a fully converged environment, that it would be in fact - I forget his exact words - but it would not be achieving very much to have Australian content requirements on the free-to-air and, indeed, it would be unenforceable on a whole lot of the other sources from which things were coming, and so he proposed that the ABC in fact should essentially be the Australian content channel. Or if that is not satisfactory, what other solutions are there to meet the objectives which are currently being met through the quotas in this fully converged environment? That's what we're asking for.

**MS ROBINSON:** I think the assumption that it's not going to be possible to enforce at least across some broadcasting activity a set of requirements about how users of domestic broadcast licences might behave is not a particularly helpful or sensible one. It also seems to me that the question of Australian content is a much too important question to be, if you like, siphoned off into one section of the system. I don't think the argument has ever been made that the national broadcaster's job is to be the sole repository of delivering Australian content to Australian audiences, and it seems to me that - - -

**PROF SNAPE:** Not the sole repository. I don't think that was it. It was that the requirement would be on the ABC. It would be quite open to other people to have Australian content, too, of course.

**PROF CUNNINGHAM:** The assumption that Steve Vizard made and that a lot of commentators make, that in a fully converged environment - I don't think we'll ever have a fully converged environment. That's the first thing I think we need to establish. There'll always be hierarchies of media outlets, there'll always be some dominant media outlets. There's no conceivable scenario, even where there's 60 or 160 channels, that there won't be dominant players. In the most converged or the most developed multichannel environments that we know in the world - that's particularly in the large metro areas in the US and Canada, where you have access to 70, 80, 90 channels through conventional cable - it is still the case that there are a small number of major players, dominant players; most of them the free-to-air that come over the cable.

So there will always be a reason, we believe, why Australian content - the

cultural objectives of the government can be delivered through regulatory obligations on those dominant players. It's a continuum with the present that we see in the future, rather than some radical difference that completely reshapes our thinking about these matters. ABC and SBS, to deliver Steve Vizard's vision, would have to overcome the major political obstacle that both of them, but particularly the ABC, has been facing for the last 20 years, and that is that its base funding has been declining relative to the entire broadcasting cake, and because it is delivered - and I'd like to say this because this is the positive thing to say about Vizard's vision - the ABC and SBS should become more focused repositories of independent ideas in the marketplace, in the expanding marketplace of ideas, as they have done and do do now.

But the idea that they would be funded to become the prime carriers of the Commonwealth's cultural objectives in broadcasting content is politically inconceivable in the current and the last 15 to 20 years. Since the Fraser razor gang in the early 80s, the ABC has been under the gun precisely because it has delivered on the independence of ideas part of the diversity issue. So I think that Vizard's argument is a little bit beholden to the techno-determinist arguments that say, "In the future everything will be different, and therefore let's just wipe the slate clean," and in proposing the ABC and SBS as this repository he is proposing, to our way of thinking, politically unsustainable kinds of deliverables to a minority audience, not to the broad spectrum of the Australian audience.

**PROF SNAPE:** As he pointed out in the address, as far as Sea Change was concerned, it was not the minority audience - - -

**PROF CUNNINGHAM:** Sea Change is the great exception that proves the rule.

**MS ROBINSON:** Exactly.

**MR SIMSON:** Could I take you to page 12 of your submission, please - this is the fourth paragraph - where you say:

It would be an appropriate response from the commission, and within its terms of reference, to clarify the nature of the social and cultural objectives of the act where it has found them inadequate or unclear.

Could you help us, please? Where do you believe the social and cultural objectives of the act are inadequate or unclear?

**PROF CUNNINGHAM:** Thank you very much for that. This is the part that I authored and I can speak to this, and I'll try to be as positive and helpful as possible in your process of moving from draft to final report. I think that in arguing this, we're trying to say that there is an opportunity here to clarify cultural objectives that have been inadequately put in legislation and regulation to this date. The regulations for advertising content need clarification, we believe, rather than deregulation; similarly with the transmission quota and similarly with the pay television regulations. You quite correctly point to the inadequacy in some cases of these existing regulations, the

way that the regulations for advertising are a non sequitur. You point to those, I think, quite correctly.

Equally, you point to the fact that the pay TV regulations, because it doesn't include a requirement to broadcast, hardly can fulfil cultural objectives. And you're right to point to those points. In doing this section of the submission I've tried to say that there is a basis for the cultural objectives being delivered by advertising regulation per se, rather than simply as a contribution to critical mass for the drama and other high-end production industry. Advertising has a cultural value in its own right. I don't have a phrase here, but I could write a phrase that would be a preamble to TPS21, I think it is, that would clarify that better.

**PROF SNAPE:** It might be, but if I could just stop on that for a moment. I think in addressing advertising the quota is more than fulfilled, as we know - it's not in fact a binding quota, and it can of course be argued that was a safety net, even though one was above it, it was a safety net, but it's not binding. I think it's fairly clear that the great bulk of advertising would still be very much focused to the Australian market and it would, presumably, be Australian made or Australian adapted, at least, without any regulations. That's market driven, and one can assume that would be so. We see that that applies for example into newspaper advertising - there are no regulations that that has to be Australian made or Australian oriented or anything else - and it is intended - that's just the market driven.

I take your point, if I may, that there will be cultural and social things associated with it. I suppose what one is concerned about here is, is that already being captured by the market? You're saying that it's not necessarily so. But more importantly I think, if one is arguing this, one has to say, "What about at the margin?" because that's all we're going to be talking about. A lot of it is going to be automatically done in Australia and targeted to Australia. Is there at the margin any extra that would be induced by the regulation - any extra that's induced by the regulation? Are the cultural and social externalities spill-overs from that extra bit? Are they going to be significant? That's what we're talking about.

**PROF CUNNINGHAM:** Implicit in this argument is that the higher production, the higher cost, national brand and national image advertising that's networked around the country on commercial television, that's typically seen in prime time, that typically occupies slots which are the most expensive to buy, by product - commercial product, commercial advertising product that is the most expensive to make - typically that those are the kinds of advertisements that carry some of the most important cultural value.

Those are the advertising campaigns that tend to promote what's called national image or national brand image advertising. It's not direct retail advertising that's promoting Bi-Lo specials this week, that kind of advertising. It's more the image advertising that is promoting an image of a product, and these are the kinds of ads that carry the greatest kinds of cultural value because they're the ones that are picking up on indices of national consciousness and pride, for instance, and in that chapter

that we appended to our submission from my book Framing Culture, I give a number of examples of those, and the influence of advertising on television drama and other forms and the influence of television drama on advertising is a crossover at a cultural level, not at a critical mass level, but at a cultural level that I'm trying to establish in that particular argument.

So the point about "at the margin" is that while there is not a definitive study that has been made recently on the impact of the 1992 partial deregulation of television advertising, nevertheless the evidence that we've got, particularly from the 1995 study by Mervyn Smythe which the AFC commissioned, showed that a very rapid impact on the higher production end of television advertising was apparent even after three years. That, we are making the assumption, has continued on, and there is some evidence to suggest that. There hasn't been a definitive study done on it but, in the absence of the research that conclusively shows this, we're submitting that there is a need to clarify the cultural value of advertising before it's assumed that complete deregulation would in no way impact the government's cultural objectives.

**PROF SNAPE:** And our terms of reference are rather the other way, as you would have noticed, that in fact the onus from our terms of reference - and the terms of reference are what we are bound by - specifies that any legislation - and I might interpolate "regulation" there, because that's the thrust of it - which restricts competition should be retained only if the benefits to the community as a whole outweigh the costs and if the objectives can be met only through restricting competition.

**PROF CUNNINGHAM:** Yes.

**PROF SNAPE:** In other words, the onus has to be on the retention, not on the removal.

**PROF CUNNINGHAM:** I suppose I was also wanting to draw your attention to the other part of the terms of reference which say that you must balance the social and cultural objectives of the public interest with any changes that you would recommend, and it would seem to me that the loss of this style of advertising, the Australian content of this style of advertising, which goes all around the country, which is that which is typically seen in prime time and therefore it has a sort of parallel with the subquotas which you recommend the retention of, it is further erosion based on the assumption that in 1995 in three years there had been a significant erosion of Australian production in this area, that it's gone on - we're making the assumption that that erosion has gone on. If it was to go on further, there would be significant cost to the community - cultural cost to the community - that could justify a different form of recommendation than the one that you've come up with.

**PROF SNAPE:** Yes, we take that point. It's a pity that there isn't more substantial research on this. We have heard the anecdotes, which you will have heard as well.

**PROF CUNNINGHAM:** Yes.

**PROF SNAPE:** And we see that in the aggregate statistics there is a very small change - very little change over time. We haven't looked at the exemptions that were given prior to 92, but there were exemptions and so it's not a matter of comparing it with 100 per cent prior to 92, and I don't know that I've seen figures on actually what was the figure prior to 92.

**PROF CUNNINGHAM:** But you have looked at the 95 study of Smythe?

**PROF SNAPE:** We've seen the 95 study, yes.

**PROF CUNNINGHAM:** It records a fairly dramatic drop in the overall production of commercials in Australia, particularly the higher end commercials, which are the most contestable, of course, and can be made elsewhere by multinationals seeking multinational branding campaigns.

**PROF SNAPE:** And of course it's the way round as well, that occasionally - and I know it is only occasionally - we get in fact one that is globalised made in Australia.

**PROF CUNNINGHAM:** Yes.

**PROF SNAPE:** And we thrust our culture of jumping on a surfboard, out of a plane, onto the rest of the world.

**MR SIMSON:** What if an Australian business - it doesn't even have to be an Australian business, but what if marketers of goods and services on television in Australia don't want to use local people to make their ads? They might have global ads that rightly or wrongly underscore that - they don't see any benefit or they don't wish to have Australians involved in. Do you not see or is there not any potential clash here, if you like, between what business in a "globalising" environment might see as being in its interests, as to how it wants to spend its marketing dollar in creating advertising product as opposed to insisting that the overwhelming majority of ads must be Australian-made?

**PROF CUNNINGHAM:** Well, it's exactly the same argument that is made about why do you make commercial television broadcasters show Australian drama, documentary and children's.

**MR SIMSON:** In that case it's a bit different because that's the great universe of quid pro quos. The Australian networks are protected, they are limited in number. They also have a series of other props. As we point out in the report, the interesting thing about this whole industry is it does rest on a sequence of quid pro quos. If I'm a business person wanting to market my product with ads, I'm not part of that quid pro quo party. I'm not at the table, unfortunately. There's nothing in it for me. I'm not getting any offset for being instructed, directed by regulation that I have to have my ad made in Australia.

**PROF CUNNINGHAM:** But who's being regulated here? The networks are being regulated to deliver the current television advertising quota.

**MR SIMSON:** Yes, I'm just a poor person trying to sell my products in the marketplace.

**PROF CUNNINGHAM:** Well, the people who are being regulated are not the advertisers but the commercial broadcasters. They are part of the quid pro quo and they're the ones who are subject to TPS21.

**MR SIMSON:** I'm just trying to draw attention to some of the implications of regulations in terms of their potential impact on other players in the economy. Could I just take you back, though, to point 12, this sentence that I read with regard to - - -

**PROF CUNNINGHAM:** Perhaps if I could just say that - - -

**MR SIMSON:** Yes, sure.

**PROF CUNNINGHAM:** - - - the ultimate quid pro quo here is that parliament cultural objectives imply that you do get into these kind - there is perhaps a quid pro quo right at that level, that is to distort the market to the extent that to deliver those cultural objectives is considered a part of Australian public policy that's been accepted - - -

**PROF SNAPE:** Well, it needn't be so. In many areas of life, as we've pointed out, there are requirements put upon manufacturers, industries, that curtail their ability to do what they might otherwise do, and there are safety regulations, there are health regulations, there are standards which are put on in a whole number of areas, and so the industry operates under those constraints and it's not necessarily that there has to be anything given back to them for those constraints. They're the rules. So be it.

**PROF CUNNINGHAM:** I suppose in that case quid pro quo may not be the right term. The cultural objectives are there and they're the rules.

**PROF SNAPE:** That's right, so why give anything back for it.

**MR SIMSON:** Could I just go back to this issue though of trying to clarify the nature of the social and cultural objectives because you've focused on one aspect of that which is the advertising aspect, but, as I know you agree, there are many other aspects or dimensions to the social and cultural objectives where - - -

**PROF SNAPE:** It's page 12. This is the paragraph before 5.1.

**MR SIMSON:** There are many other aspects or dimensions to this apart from advertising which we would appreciate clarification on, so that we can bring some greater clarity to them.

**PROF CUNNINGHAM:** I've emphasised three areas, advertising, pay TV and the transmission quota. Each of these - the same general argument, of clarification of social and cultural objectives where you found them inadequate, rather than moving to eliminate the current regulations, would seem to be appropriate, particularly in the light - as the previous paragraph there points out - that you've moved to strengthen the public interest in indigenous broadcasting recommendations and community broadcasting recommendations, and have sought similarly to intervene in social and cultural outcomes around the online regulations in section 10. So that there is ample precedent in your recommendations for seeking to clarify and strengthen the social and cultural dimensions of the public interest.

I'm suggesting that that could be extended into these three areas where clarification is needed - pay TV, drama, expenditure requirement where you've said it's patently inadequate that there is no requirement that they be broadcast, and therefore they cannot possibly be seen as having a cultural dimension if you can simply shelve them, and with transmission you've said that there are no real cultural and social objectives that seem to be fulfilled by the transmission quota. I've tried to suggest that there are some very key cultural and social objectives that the transmission quota delivers around access issues for portions of the audience whose interests are not met by the prime-time subquota and also in terms of diversity of programming.

To no longer provide Australian content guarantees, if you like, or underwriting could potentially impact a range of diverse programming formats that are not found on prime-time television. So you may quite rightly say, "Well, write me them. Write me the clarified regulations," and I'd be happy to do that, to have a go at that, but I thought it was important to establish that prima facie there's a case for doing this rather than recommending deregulation in the area.

**PROF SNAPE:** Yes, I think that we were - insofar as we were concentrating on the subquotas we were concentrating on the nature of the subquotas rather than the times at which they were broadcast. So it may be that we should give perhaps some more attention to times of broadcasting in the way that you mentioned, but it was on - we could see, as you say, that they were in the nature of them, of those quotas, addressing social and cultural matters of the identify of Australianness, etcetera, which people have drawn attention to.

Pay television is a difficult one I think, as it does on the one hand give a scope through the number of channels there for particular niches of the market to be targeted, and niches which may not have been met - demands which may not have been met otherwise, and so to the extent that it is valued niches which are being targeted, the need to mandate it else those - you know, the meeting of those niches elsewhere is reduced. On the other hand, we're always conscious that there are 97 per cent of homes which have got free-to-air and 16 per cent approximately have got pay.

**PROF CUNNINGHAM:** Can I make just one comment on that. You've stressed



that you're comfortable with the subquota remaining because they focus on a particular style of programming - that is, drama, documentary and children's. But drama is what is targeted in the pay TV expenditure requirements. So it would seem to me to be logical that if your reason for saying the subquotas should stay is because the cultural objectives are much more transparently delivered through focusing on a style of program or a genre of programming, why not drama on pay TV?

**MR SIMSON:** So I take it the logic of your argument then is why not drama on the Internet for example, or any other new media? Pay TV is just but one of a number of new media that are emerging. Would you also advocate drama quotas on the Internet?

**PROF CUNNINGHAM:** There is no drama on the Internet yet because there is no bandwidth capacity to carry full motion video.

**MR SIMSON:** That's not correct. I mean, there are sites on the Internet that carry drama content. Some of it, as you say, is text, some of it is moving picture.

**PROF CUNNINGHAM:** And it's video streaming basically at this point in time.

**MR SIMSON:** And we know that within one year, perhaps 18 months, most Australian homes will have access to at least one alternative option for high-speed access. What we are trying to understand here in addressing this issue of enforceability and regulation of the subquotas as it related to - and drama specifically is related to pay TV - is: in a converging environment where do we draw the line? How are we going to manage this? How are we going to regulate it? As it has turned out, the pay TV one is more difficult to regulate than the free-to-air one. One is time based, the other one is expenditure based.

The issue that we were trying to grapple with there was in a converging environment - which is part of our terms of reference - how do we manage local content regulation? So the question I'm throwing back to you is what can you say to us about - for example, in the case of Internet broadcasting, datacasting, any of these new technologies which are now upon us - whether you'd advocate that drama quotas, drama expenditure regulations should also carry into those areas.

**PROF CUNNINGHAM:** If you accept the argument that drama has a special privileged place in delivering cultural objectives because it is a form where creativity and the Australian character, landscape and history come together in a privileged way - that is, through storytelling that tells our story and our character and nature and history back to ourselves - if you accept that argument, then there is a basis on which you could look at forms of support for drama being carried in a range of media formats, because usually it's so difficult to deliver those kinds of cultural objectives in purely market terms. You've accepted that argument with relation to free-to-air and by extrapolation you could extend it through appropriate forms of either expenditure or time based regulation into other formats. They're very nascent at the moment.

As you say, Internet drama - there are some vestigial kind of elements and in five years' time we may see how that emerges, and it may be appropriate to consider a form of regulatory support for it, such as an expenditure form of the sort that nevertheless retains a requirement to broadcast or to distribute or exhibit, which is the current major problem with the expenditure rules for pay TV.

**PROF SNAPE:** I think we'll have to watch the clock a little bit. In fact, we have to watch it rather carefully at this stage and draw to a conclusion pretty quickly. You do make mention - I forget where it is at the moment, I can't find where it is at the moment - of the influence and addressing influence more explicitly. A history of this is rather interesting. Well, it's perhaps interesting to us - it's probably not of interest to anyone else - as to how we came upon it.

As you probably know, when we came into it, we had influences as something that we were addressing as such very strongly, and we in fact then started to unpack it and realised that one was influence which we have got as essentially the subject of chapter 8, and the other is influence of the subject of chapter 9. It is therefore implicit - one is the ownership and control aspects, the market for ideas, etcetera, and the difference between a market for advertising and a market for influence of people, influencing from a political point of view, or if you like, a democratic point of view. So that's where that went. The other one, which seemed to be quite a separate category was the influence in terms of the content. That's what has happened to influence. It seemed to us, when we went into it, that it was much better to unpack it in that way. So influence is there, of course, but it is unpacked in those two streams.

**PROF CUNNINGHAM:** Yes, I certainly accept that. I think the main thing we wanted to draw to your attention was the second part of that influence section, in our submission on influence. That is, you've got in your terms of reference an investigation of whether this degree of influence issue that's in the Broadcasting Services Act does need to be reconsidered. We've suggested that perhaps with radio it has become very clear, with the cash for comment process this year, that radio is of potentially significantly more influence in the marketplace of ideas than television.

**PROF SNAPE:** In fact in our first round of hearings we put that proposition to many people even before the cash for comment thing broke.

**PROF CUNNINGHAM:** Yes.

**PROF SNAPE:** It was part of that sort of exploration of influence - an illustration we gave in the early hearings was the headlines for example in British newspapers, two words on the front page, "Clobber Slobber," which were perhaps as influential as any Times editorial. It was going in that sort of direction that we realised and we decided implicitly, we haven't made in explicit, but in fact just basing things on degree of influence, as a general concept, is not a very helpful way of going about it. That's why we have unpacked it in this way.

**PROF CUNNINGHAM:** Yes.

**PROF SNAPE:** I think probably we should call a halt there. We're very grateful for your submission and if, after this toing and froing and questioning, you feel that you would like to add to or give us more guidance on some of the issues that we were discussing, then we would be very grateful for it. The only constraint is that we would be very grateful if we get it very soon, because we have to deliver our final report right at the beginning of March - 3 March - which means that anything we get after very early in February is too late, because obviously we can't recast things as we're just drawing everything in together. You can probably appreciate the size of the report. and the complexity of it, where things are all interconnected, and that is really one of the characteristics that you drew attention to in your comments.

But of course everything is interconnected. You adjust one thing at one point and you're likely to unplug several other things through it. We had a few anxious moments with the draft report on that matter I will say and confess, but I think we survived, but we don't want to be in that situation in the final report, so we do need it right at the beginning by the beginning of February. So thank you very much for your help.

**PROF CUNNINGHAM:** Thank you.

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**PROF SNAPE:** We shall then be going on now to the Australia Trade and Shipping Radio FM88 Springwood. Mr Shaw, isn't it?

**MR SHAW:** That's right.

**PROF SNAPE:** We welcome the Australia Trade and Shipping Radio FM88 Springwood. Mr Shaw, if you would just like to identify yourself and your position, first of all, for the transcript.

**MR SHAW:** Good afternoon, gentlemen. My name is Jeffrey Shaw and I represent a group of companies, the parent company is Celestial Industries. For the submission it's Australian Trade and Shipping and the Radio FM88 Springwood and Radio FM88 Browns Plains now.

**PROF SNAPE:** Okay, we've got your new submission here and we thank you for it. Would you like to speak to it, please?

**MR SHAW:** The first concern was that with the emergence of the narrowcaster spectrum, since the review of 1992, the number of licences issued is a total of 1560. It's my understanding - I feel that with the emergence of this spectrum, with the last four and a half years of turmoil, it would be very handy to have someone from the narrowcast spectrum on the actual ABA board, on the make-up which - as you can see from the transcript I've put forward there not one of them has an FM88, FM87.6, or whatever, narrowcast spectrum licence. So it would be handy to have someone from our field of diversity on the ABA to offer another form of opinion. Whether that's put forward to the governor-general or put through to the minister of communications at the time - I'm just putting my hand up to suggest that we could get another point of view.

**PROF SNAPE:** Right.

**MR SHAW:** That's number 1. Number 2 is the fact that the narrowcast spectrum in urban environments work on one watt. The power output is less than desirable. It doesn't reach our targeted audience. I also feel that whilst we pay a fee to the public purse the community stations are not doing so and it seems to be that it's the community radio stations who are bearing the full brunt of the codes and conditions of the ABA - because they know it extremely well - against the narrowcasters. I feel that what I would suggest is either the community radio stations pay a licensing fee per watt, the same as narrowcasters or, alternatively, narrowcasters get an increase in the output so that their signals can get around the bricks, the steel, the wood, the concrete as, at this stage, that's where the signals are not going, so our market is somewhat limited to a two-kilometre radius, even less than that, and for vehicles, cars.

It's a problem with narrowcasters in the sense that it's like a mobile phone: you've got to be in a direct signal strength area or move to that area. So whilst the federal government can say, "Yes, we've opened up the diversity of the spectrum," the actual nuts and bolts, as in the signals, are not there. I feel at this stage the

community radio stations could provide moneys to the public purse by paying the same amount of dollars, which is \$34 per watt, to the narrowcasters. They could pay exactly the same, or alternatively the narrowcasters could be upped in their wattage so they can actually target the actual market they're looking for.

In our case we're targeting the terrace market as part of our blend with Australian Trade and Shipping. Our whole game plan is to promote Australia to the world through our shipping companies, through our trading companies, through the Web site and through our radio stations. So our forefront really is to promote Australia, which is doing extremely well except for the low output.

A third concern is the complaint mechanisms with the ABA and the CBA's role in that. We've had two major ongoing disputes that have actually gone for over 22 months, each one of them; they've been quite long and drawn out. It's a waste of time for the ABA to make these inquiries. Basically the CBA concern, put forward by their general manager, was written in a publication to its members which read, "How to dob in a narrowcaster." It was really full-on, and it was actually designed, I believe, to preserve the income streams against the narrowcasters.

The first complaint really took us by storm, because it was supported by the local federal member of parliament who was the minister for the Department of Administrative Services until he was sacked. He was a former member and a broadcaster on that local community station. So we felt that complaint really got a long way only because of that influence, and as a result of that I find it rather unpalatable that we trained over 150 local people in our radio station with age groups ranging from 13 to 17. My thrust here was that we actually felt that we were targeting special interest groups, because under the Broadcasting Act for narrowcasters that's what it says, you can target special interest groups. So what we had was a group of various people of all ages coming in and doing a show, whether it was 15 minutes, 30 minutes, half an hour or four hours, and the content and style of the radio station program changed.

That's what we felt was part of the act. There was no sort of mechanism that the narrowcasters, because we're all pioneers, knew which way to go, how to approach the ABA. The ABA came back and said that under their interpretation we were not targeting special interest groups, but rather we were broad appeal and not limited appeal. I find that rather unpalatable because (a) the signal strength is just not there and, secondly, we weren't targeting special interest groups. So I went on to actually say that we were threatened with fines of \$5000 a day and we had to turn the radio station off.

We got a fair amount of support both in the major papers and TV stations. We got a verbal back from the ABA to say we could continue broadcasting, but we also got a verbal to say that we were going to be made an example of, to create a legal precedent, so that all the other narrowcasters could follow suit. We in fact went off the airwaves - much to my demise - because we actually build a business from scratch and got all these people involved. I felt that under the Broadcasting Act - there's

section E, for any other reason - and the ABA didn't even use that one for any other reason. I felt that was rather unpalatable as well. As a result 43 local people were out of work and that was quite detrimental on the local community. Logan City - I've given you some figures there - the unemployment rates for kids is something akin to 40 per cent. It's really high. Are you based in Sydney or Melbourne?

**PROF SNAPE:** Melbourne.

**MR SHAW:** I'm just trying to think of a low socioeconomic group in Melbourne where, you know, you've got this high unemployment. That's the effects we had in Logan City. The mums who have been out of work are by far the best operators. So whilst I find that they didn't use their discretionary power, the ABA does use its discretionary power when it comes to the TAB licensed operators who have three commercial licences, AM Brisbane, Sydney, Melbourne, and their program content is considered to be special interest group and yet they're actually broadcasting simultaneously from their commercial radio station licences. They're actually buying up all the narrowcast licences. I find that's they use their discretionary power, but for us, who are having a go at starting something, they don't.

The last time I came and saw you was on a Thursday. On the Friday, the next day at 10 to 5 I got a 30-page fax from the ABA to say that we were now a commercial radio station and we had to get off the air within a fortnight or change our program. Yet the point of the thrust was that they received no other complaint from the local community group and the tape given to them was not of our radio station because we were off the air, but it was from another station. So the inquiry went on for some time. I felt that when I came here I was really under the inquisition here and when I put my submission in - originally, it was under commercial and confidence, and Jenny came back and gave me the first page of your act and said, you know, "If you like you can make it open."

So we reviewed our application here and put this new submission in because we felt that what we said last time was used against us and that's why we got this 30-page fax at 10 to 5. You know, it wasn't very palatable. Anyway, they said that now we're a commercial radio station. I can't fathom that out, but they've gone to a lot of narrowcasters and told them now that, "You have to be off the air or we'll fine you \$250,000 a day for breach of the Broadcasting Act as a commercial radio station."

There's quite a lot of money there and if you're having a go at doing something and you get - what we did to overcome that, we looked up and saw that the ABA is actually the judge, jury and executioner. You can actually get an opinion and pay them to get an opinion and then they leave you alone. We found that they set a precedent. They said that country music had been tried by - we found that they classified country music to be tried by commercial radio stations and deemed to be proven unsuccessful; therefore it's not in the territory of a commercial radio station. So we switched our radio station. So many times we've gone and changed to suit their will.

We've got our radio station running country music because they've given an opinion that country music is not for their commercial radio station licence, and yet our game plan is to promote Australia through all of our activities of our history of Australia, the music of Australia - the whole box and dice - and yet for one watt - I'm not quite sure what the ABA is trying to do here, because at the time - it's just caused such a ripple through the narrowcasting network that a number of people who have got licences, who have heard about what happened to me and a few of the other stations, are not putting them on the line and now there's an inquiry by the ACA to say there are a number of people who allegedly are hoarding their licences. So we find we're in the target, no matter which way you go. If you try and have a go, you're having a go; if you get up there, then they slap you down.

**PROF SNAPE:** I think the latter is there have been accusations that some commercial radio stations which have been buying up narrowcasting licences to keep the narrowcasters off the air. That was a point or a position which was put to us earlier in the day by a narrowcaster; that in fact some of the commercial stations have been buying up and hoarding them to keep the narrowcast competition off the air.

**MR SHAW:** The gentleman who has got the narrowcast at Dubbo - he's got Western Plains - he got to the point he had to go to the Trade Practices Commission for an unfair case against his station. It was the local commercial radio station. It's quite rampant that when you're having a new pioneering industry, and I feel at this stage there's no-one there with the resources to sort of say, "Excuse me, these people are doing something for your local geographical area," and hence my first comment that I feel it would be appropriate to have someone on the ABA, on the board, to bring that to their attention and not be herded off in one corner.

The other issue that has been brought to us, which is not stated here, is concerning the digital broadcasting spectrum, and it says that narrowcasters cannot get into the marketplace for five years.

**PROF SNAPE:** I think that digital radio, so far as we can see, is going to be a fair way down the track. We have been asking for submissions from people as to when they think digital radio may come in, and there's a great deal of vagueness. I think what is fairly certain is that even when it comes in, that there will probably be a fairly long period of simulcast in analog continuing and because of the stock of all the car radios apart from anything else. So we have not had a great deal of guidance, should I say, as to when the digital would be coming in.

**MR SHAW:** Right. The other issue relates to my export business, trade business, and the shipping businesses and this Radio Australia in the short-wave spectrum and Cox Peninsula and the closure of the short-wave services. Our business structure, our shipping, is all international. We can see an opportunity for our business to promote what we're doing now and taking it further into the short wave where our agents overseas can inform the local people how to tune in and start to find out a bit more about the history of Australia, products of Australia, all our inventions and the shipping services that can deliver the goods. That's what we've got set up. What

proposals are there for applications to go to short wave, because at this stage of the point it seems that everything's just put on hold, it's a big stop sign?

**PROF SNAPE:** We've not heard any - I think we've had virtually no submissions on the short-wave question. We have had one which is concerned with an international broadcast from a religious group that wishes to use the short-wave band, and they were telling us that legislation has recently, very recently, been introduced into parliament that is setting some guidelines for that matter.

**MR SHAW:** Right, because we'd be interested in that particular stretch, I think.

**PROF SNAPE:** I think it might be, from your perspective, an idea to have a look at what legislation has been introduced recently, and I think we can give you the name of the people who made this submission for a religious broadcaster recently, if you like to write to us.

**MR SHAW:** Okay.

**PROF SNAPE:** I think that's probably the best way to do it.

**MR SHAW:** Thank you very much, ladies and gentlemen.

**PROF SNAPE:** Thank you very much for that, Mr Shaw, and we'll now adjourn for afternoon tea for a short break and start again at 3.30. Thank you.

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**PROF SNAPE:** We welcome Mr Harvey May from the school of media and journalism of Queensland University of Technology. Mr May, I think you know how we operate. Would you like to identify yourself for the transcript and then speak to your submission, please.

**MR MAY:** Thank you. My name is Harvey May. I'm a doctoral student in the school of media and journalism at the Queensland University of Technology. I do thank the Productivity Commission for providing the opportunity to once again address it.

My supplementary submission has two concerns and both are specifically to do with this notion of cultural diversity in commercial television drama programming. However, I also want to speak a little about something that was mentioned in an earlier appearance by Terry Flew regarding the Commercial Television Production Fund, and I'll come to that later.

The first of my two concerns are about casting and cultural diversity, and could I just ask that the commission members not refer to actual numbers that are in the appendix regarding the research currently taken out.

**PROF SNAPE:** The appendix is commercial-in-confidence - - -

**MR MAY:** It is.

**PROF SNAPE:** - - - and we shall ensure that the information in there is kept confidential.

**MR MAY:** I'd appreciate that.

**PROF SNAPE:** That doesn't mean that we couldn't refer in general terms to it.

**MR MAY:** That's correct. That's what I'll be doing, yes.

**PROF SNAPE:** As long as it's not the actual numbers which occur in the table - is that what you wish?

**MR MAY:** That's correct.

**PROF SNAPE:** Okay.

**MR MAY:** Thank you for that.

**PROF SNAPE:** Good.

**MR MAY:** Okay. So casting and cultural diversity: in the draft report on page 226 the commission questions the creative elements test requirement that the majority of

supporting cast in drama, that is, 75 per cent, be Australian. I put forward in my submission that it is important for this component to remain in order for actors from culturally diverse backgrounds to be visible on our drama programs. This position is reliant upon accepting that it is important that promotion of cultural diversity is present in commercial programming.

The performance of a role in fictional programming is, I realise, very complex and difficult to define. However, I would say that performance is somewhat different in the production of a program as compared to the component like say the production of a car part or a panel for a car, because I know there have been some comparisons between the manufacturing of a program compared to the manufacturing of some other product, so I just thought I'd mention that.

It's true you could substitute, for example, in acting a Croatian Australian with a French Algerian to play the role of a refugee in a mini-series about the settlement of immigrants to Australia. However, I think you'd have trouble in the believability stakes, and it also goes against current casting practice. I also pointed out in my submission that gaining a supporting role is an essential and important step to getting a lead role, especially for actors from culturally diverse backgrounds. However, I guess all of this hinges on accepting that Australia retains the idea of productive diversity and that is to ensure that multicultural populations are given the opportunity to contribute their skills to our society, cultural, social or economic.

The second issue is draft recommendation 9.4. I am very pleased the commission has recommended with respect to the content quotas that the ABA conduct evaluations against social and cultural objectives of the content requirements, and my submission sets out some ways that this might be done. So before I go on to the CTPF points, perhaps you would like to question me about my submission.

**PROF SNAPE:** Without disclosing the figures which are in your table, I thought it was rather interesting that the percentage participation of NESB2 and indigenous was greater than the representation in the general population.

**MR MAY:** That's very true. Let me just speak to that for the record: that NESB2 are the second generation immigrants, that is, one of their parents or both parents were born in a non-English-speaking country. That table does indicate that these people have really done quite well as far as getting ongoing roles in drama. I would like to just point out also that there is one reason that there is that little increase or that the 1999 survey indicates that they are greater than what is in the general population. The survey sample size is pretty small, statistically speaking, and so any minor participation rate change does affect the actual rate.

**PROF SNAPE:** Yes.

**MR MAY:** However, they are quite close, but I'd imagine you'd understand that our interest is the fact that the NESB1 - that is, actors born overseas who have become Australian - are very poorly represented in the acting profession.

**PROF SNAPE:** We noticed that too.

**MR MAY:** It's interesting that this results in our television programs having no actor with an accent and also interesting that some very significant parts of our community are completely invisible in our drama programming, and I put it to the commission and generally that this is not the promotion of cultural diversity, that this is a measure - an industry measure, if you like an industrial and employment practice measure which has been quantitatively measured - showing that there is a lack of cultural diversity on programming.

**PROF SNAPE:** We take the point that you've made here, and perhaps you'd like to go on to the next.

**MR MAY:** Yes, the evaluative measures. Yes, I do note in my submission that you have perhaps suggested that the ABA could carry out some form of evaluative initiative, and because something you can measure quantitatively are casts and their family background or their ethnicity, I felt it perhaps pertinent that you could do triennial monitoring of this, that the ABA could carry this task out as a way to benchmark how this is progressing. This is something that's had a long history. The United States have actually been carrying out something like this for more than 20 years. So there's a possibility.

**PROF SNAPE:** I suppose a problem with that is that it's measuring input and not output.

**MR MAY:** What do you mean by that?

**PROF SNAPE:** Well, if one is looking at meeting the cultural and social objectives then one is trying therefore to be talking about what is produced and what is therefore received by people via broadcast, and that is the output of the production. If one is instead measuring the diversity of the performance one is measuring the diversity of the inputs, not the diversity of the output.

**MR MAY:** I think you're correct.

**PROF SNAPE:** So that measure seemed to me to be rather imperfect on those grounds.

**MR MAY:** That's why I suggest my second measure - - -

**PROF SNAPE:** Yes, I thought you might have.

**MR MAY:** - - - and that is, finally, some very comprehensive research be taken out amongst audiences, amongst consumers, because I think I've read a lot of argument that's based on these social and cultural objectives, be it from the production industry, be it from the guilds, that you must have Australian programming to satisfy these

social and cultural objectives, and one of those is 3E, as you know, Australian identity, character and cultural diversity. However, we still don't really know - I think from the research that I know of in my studies - there still has not been very comprehensive research done as to whether or to what degree audiences - and we're talking audiences from culturally diverse non-English-speaking backgrounds which make up one quarter of this country's population - what their opinions are about this as consumers. So that's something else I think I'm strongly recommending.

**PROF SNAPE:** Okay.

**MR SIMSON:** Who would you suggest does that, because this whole issue of evaluation in this context and other contexts is a matter that we did raise in the report, and it seemed to us that the evaluation process is at best ad hoc, whether it be by the ABA or anyone else. Every so often there is a review. But in terms of ongoing evaluation, stakes in the sand, it's a pretty hit-and-miss or imperfect process.

**MR MAY:** It is ad hoc. The ABA have one significant research undertaken this decade. They are currently in the process of processing a few questions that were put on a survey that the immigration people deal with and again, it's just ad hoc. They thought - well, my understanding would be, let's try and ask our immigrant population what they think of commercial television and the media in general. So I agree with you, a more consistent, regular form of research be undertaken.

Is the ABA the right body to do it? I can't answer that because it seems whenever a political issue comes up, the ABA suddenly, like ants to the nest, become obsessed with the one issue because this is the hot topic - whether it be John Laws or sex on the screens or whatever. You know, it needs a real commitment, a long-term commitment. I can't answer whether the ABA's - - -

**MR SIMSON:** Okay.

**MR MAY:** Anything else?

**PROF SNAPE:** No, I think what you've put in your submission is very clear, thank you, and your exposition of it. I think that's it.

**MR MAY:** I would like to make one more comment, for those who read the transcript: we had Terry Flew here before talking of a system where you would subsidise - user subsidy to meet the social and cultural objectives. He mentioned the CTPF, the Commercial Television Production Fund, and I forget whether it was the professor or yourself brought up the fact that it seemed that it was quite expensive, that the dollar value was out of whack with the usual 300 to half a million dollars per hour that they put forward.

Let me say that CTPF programs were indeed one-off movies, miniseries and pilots. Miniseries now cost between 1 and 2 million dollars per hour. If you look at *The Day of the Roses*, they staged a major train crash. You won't get that in *Blue*

Heelers which is about, I suppose, 300 or 400 thousand dollars an hour. Murder Call and Good Guys Bad Guys went on to become series. Why were their costs so great? The set-up costs in a pilot include the purchasing of cars and props, costumes, the building of major sets, insurance and admin costs, and the initial employment costs for development. So I just thought I'd tell you that's why the CTPF seems on paper to be - - -

**PROF SNAPE:** That's very useful. It helps put it in context.

**MR MAY:** Okay.

**PROF SNAPE:** Thanks very much that. I was just having a chat in the break with Mr Flew about that and, as he said, how many train crashes do you see in Neighbours?

**MR MAY:** Which itself costs 200,000 an hour.

**PROF SNAPE:** To which I said I hope it wasn't endogenous; that is, that the makers of the other one were saying, "We've got \$100,000, how many train crashes can we have?" That, I suspect, was the fear - that sometimes it might be endogenous; that they work up from the budget. Thank you very much. I am sure it wasn't in this case. Thanks very much, Mr May.

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**PROF SNAPE:** We welcome now Dr George Blair-West and his submission - to speak - and we'll ask him to identify himself for the transcript and then to speak to his submission. Thank you.

**DR BLAIR-WEST:** Yes, my name is George Blair-West. I am a member of the Queensland Friends of the ABC Committee and my interest in this issue is obviously the inquiry was requesting submissions on broadcasting in general - I think it was specifically excluding the ABC and SBS from its deliberations, but I was interested in the issue of broadcasting in terms of its social impact. I'm a general practitioner and it certainly appears that the media plays a large part in some of the lives of some of the patients I see.

My submission in the earlier part of the year was based on largely - or motivated or activated perhaps by a piece in Time magazine which stated that children under two should not watch any television. I thought that rather encapsulated in some ways what I had been wondering about for some time in terms of broadcasting. Whilst it appears to have - I'm sure it has a very positive effect in certain ways - used in certain ways - it can also have a very negative effect and I was interested in pursuing that and the opportunity to address the question through the Productivity Commission's inquiry into broadcasting seemed to be appropriate.

I was startled to read that no child under two, according to the American Paediatric Association, should watch television at all and I would wonder what percentage of children under two do in fact get baby-minded by television.

**PROF SNAPE:** I might comment that one of the significant things that has been missing from any data given to this commission is any data on the numbers of any children that watch television.

**DR BLAIR-WEST:** Yes, I have got something in regard to that, something put out through the American Academy of Paediatrics. I think that's its proper term, rather than Paediatrician. It did quote - or their advice was backing up that comment. I notice Time magazine was a little derogatory in the sense that they felt - there was a sort of tone in the intro to the article about "What would paediatricians know about the media?" But they pointed out in something I was looking at recently that the number of hours, four hours per day, is the average duration that the average child in America spends watching television. I don't know that it would necessarily be any different here. Then they expanded on some of those perhaps effects of that, talking about medical conditions of obesity, lack of physical activity, exposure to crime, 8000 murders on television by the time a child finishes grade school - I'm not quite sure if that's the beginning of high school or whatever, but it certainly was a lot of exposure. Children using violence - children may learn that it is okay to use violence to handle - or associated with aggressive behaviour; exposure to sexuality perhaps at a premature age, and the piece about the under twos was:

Children of all ages are constantly learning new things. The first two years of life are especially important in the growth and development of your child's brain.

During this time children need good positive interaction with other children and adults. Too much television can negatively affect early brain development. This is especially true of younger ages when learning to talk and play with others is so important. Until more research is done about the effects of television on very young children, the American Academy of Paediatrics - AAP - does not recommend television for children under two or younger. For older children the academy recommends no more than one to two hours per day of education or non-violent programs.

**MR SIMSON:** Dr Blair-West, so we don't lose the importance of what you're telling us, can you tell us which part of our terms of reference this relates to; what you're actually recommending that we should be doing in our final report?

**DR BLAIR-WEST:** Right.

**MR SIMSON:** Is it to do with the codes and compliance area, for example; to do with the standards area? Is it to do with specifically the ABC, which is not part of our terms of reference?

**DR BLAIR-WEST:** Of course. No. In this regard my initial submission - I think the initial submission request approach was, does the objectives of the Broadcasting Services Act adequately describe the social, cultural and economic problems which broadcasting legislation should address? In this regard I wish to particularly comment on objective 1, to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information. My concern is there is not sufficient research being undertaken in this area of child development and I'm not sure there has been much in this country, and that when the objectives of the Broadcasting Services Act were written, there was no clear recognition of this research need.

That is perhaps my basic tenet. It is not sufficient, I believe, that interested medical researchers should question and investigate the influence of children's television in an ad hoc way in view of the major impact television has on the community, and especially as the impressionable child psyche - research and recommendations to the public as consumers of the media products should be a clear objective of the Productivity Commission and the Broadcasting Services Act. So I guess I do think there was a suggestion in the initial paper I received from the Productivity Commission to address the Broadcasting Services Act and I didn't find in that anything that seemed to apply to my concerns. I don't think research is an element of that. Is that true? It's not a built-in element of the Broadcasting Services Act?

**MR SIMSON:** No.

**PROF SNAPE:** No, though research is undertaken by the ABA - the Australian Broadcasting Authority - and funded by it. But I think the point you're making is well taken. There are many areas in which there could be a lot more research being

undertaken, and I think you have put your finger on one of those areas here.

**DR BLAIR-WEST:** I don't know that it's presumptuous on my part, but solutions were the sort of stuff that I also got, and they're listed. They're probably fairly obvious. But this was again from the United States, which I sometimes think in many ways is the forerunner of what we in this country are to expect. It's a bigger test tube. We're a smaller test tube, a little bit further back in the time scale of the experiment that's being conducted. Their solution, again from the American Academy of Paediatrics, is increased not decreased funding for public television. I think that's the Public Broadcasting Service they're talking about.

**PROF SNAPE:** Yes.

**DR BLAIR-WEST:** Which I understand in America receives sponsorship and does take some advertisements.

**PROF SNAPE:** Yes.

**DR BLAIR-WEST:** The United States is unique in the industrialised world in spending only \$1.09 per capita for public broadcasting. I think our figures work out roughly 500 million in Australia on the ABC and 18 million people. It works out at about \$40 per head, something like the United Kingdom expenditure. Creating a year 2002 National Institutes of Mental Health report on children, adolescents and the media: in America it's 15 years since any such exercise was embarked upon. Stricter regulation of advertising that targets children or adolescents; increased regulation of educational television by the Federal Communications Commission and the Internet by the Federal Trade Commission - I believe we have been attempting to do something with the Internet in Australia in terms of pornography - and media advocacy. A strategic effort designed to use mass media to advance a social or public policy initiative - so the debates focus public attention on health issues:

Media advocacy efforts would expose unethical industry practices rather than try to improve individuals' unhealthy behaviours. Ratings, V-chips, school based media literacy programs, increased parental scrutiny can only accomplish so much. There is no substitute for an immediate and significant decrease in the easy violence, the casual unprotected sex and the frequent smoking and drinking currently being beamed at American children and adolescents. Children and teenagers comprise a captive audience for entertainment producers, but they also represent the next and only source of adults in American society. As such they deserve far better than what they are being exposed to now.

I thought the American Paediatric Association would be peopled by a whole variety of doctors, some of whom would be very happy to accept the laissez-faire attitude of survival of the most wealthy, the survival of the most entrepreneurial and not necessarily take this fairly strong attitude in support of children, but I was impressed to see that.



**PROF SNAPE:** You've noted perhaps that in our draft report we did in fact pick up the key sentence of your submission. I'm not quite sure if you noticed.

**DR BLAIR-WEST:** Yes.

**PROF SNAPE:** Which is on page 238 of the draft report, where we actually quote you from it, and it is immediately prior to our draft recommendation 9.4 and leads to it:

That 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.

So in a sense you've had an influence already on the draft recommendations, and I think that if what you're reading from or drawing from, from the American Paediatric Association, you might care to give a copy of that to the staff present so that we can take it on board, rather than run through it.

**DR BLAIR-WEST:** Sure, yes.

**PROF SNAPE:** I think you've made the point very clearly there. As I say, we have in fact taken it up in part in our draft report, and I wondered - it may be more efficient - if there's anything extra you wish to add, then to go to that, please.

**DR BLAIR-WEST:** I often wonder about proper research and proper funding for it, and I understand that is always a problem with paying the bills for top-class research, and I would wonder - it's probably late in the day for this one, but the gifting of the digital spectrum to the commercial interests in Australia, I have always believed was a mistake and it could well have been as I think broadcasting licences are paid for. Perhaps that change there into digital broadcasting would have been an opportunity to extract a fee and the money may have been available for this sort of thing. But, again, I'm not sure whether that is your brief particularly.

**PROF SNAPE:** We have made some comments around that area in general. We have taken as given that gifting but we have made a number of comments about the way in which licences should be allocated and the revenue collected from them.

**DR BLAIR-WEST:** There have been recommendations on that ground. Just some general comments: it's surely very ironical that television, an invention of the latter half of the 20th century that has influenced our lives so much and produced such great opportunities for advertisers, artists, program makers, may be a key instrument in terms of threat to that society unless it is managed sensibly. Do we use the media or does the media use us? This seems to me to be the question. Is there a role for the Productivity Commission to be involved in these important questions? Is our nation's productivity likely to be changed in a positive way if the proper positioning of the media in our society is achieved? Have we the will and the public institutions in place to effect positive changes in the influence of the media in our society? I think the

media has got its own momentum and I think that it's seen as an institution which is part of business and I think it's crucial that it has this influence effect which, I think, to see it as a milch cow for - - -

**PROF SNAPE:** We did give considerable attention in chapters 8 and 9 to the influence aspects of it, and I think that maybe, when you have another look at the draft report, if you have further comment on that you could give us another submission on it, but we did address that at quite length.

**DR BLAIR-WEST:** Yes. Essentially I just feel that research and instigating the results of that research into the Australian broadcasting scene seems to be a critical area. That would be, I guess, my simple - - -

**PROF SNAPE:** Thank you very much indeed. As you say, you got a mention in the draft report.

**DR BLAIR-WEST:** I'll get that page reference.

**PROF SNAPE:** If you haven't got a copy of the draft report - - -

**DR BLAIR-WEST:** Yes, I have got it.

**PROF SNAPE:** You have got it? All right. It's page 238. It can go on your CV.

**DR BLAIR-WEST:** Good. Thanks very much.

**PROF SNAPE:** Thank you very much Dr Blair-West.

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**PROF SNAPE:** We welcome the key centre for Ethics, Law Justice and Governance, Griffith University, and we would be grateful if the representatives of the key centre would identify separately for the transcript Thank you.

**PROF SAMPFORD:** Prof Charles Sampford.

**MS ADAIR:** I'm Dallas Adair, research assistant with the key centre.

**PROF O'REGAN:** Tom O'Regan. I'm an associate of this key centre.

**PROF SNAPE:** Thank you. Prof Sampford, are you going to speak to your submission?

**PROF SAMPFORD:** If I may, yes.

**PROF SNAPE:** Good, thank you.

**PROF SAMPFORD:** Our interests have been in applied ethics and the building of ethics into a variety of institutions. We won't claim to be experts on building ethics into media institutions, our expertise has been in relation to lawyers and legal institutions, to public sector ethics. Our work has been acknowledged internationally by the OECD and the American Office of Government Ethics. We have also done work on the incorporation of ethics into large corporations and also small businesses. I am not going to speak as a great expert on media but on the process by which ethics and governance can be built into institutions.

I want to start off by saying that media ethics is intrinsically difficult because it lies at the interface between, if you like, two areas of great importance to liberal democracies. I think there are two things that people believe of liberal democracy; one is democracy and the other is the importance of the market. Media have a terribly important and crucial role in the formation of public opinion and hence have a critical role as part of democracy, but also most of them are commercial organisations and therefore very active players in the market. In a sense the greatest problem and why it is always an ongoing problem - it's not something that can be either dismissed or it can be easily resolved - is because media institutions are in both: the democracy in the market at the same time or simultaneously.

The greatest problem of course with those institutions at the interface between democracy and the market is that these two great principles have different bases of counting: we believe in democracy in the idea of one vote, one value. The market force is also democratic but has a different counting principle: it's \$1, one value. The key problem of course is to ensure that those who do well in the market and have lots of dollars do not manage to convert that into extra votes.

I think that anywhere in society in which these two areas interact causes great problems: political advertising and the regulation of political advertising; it comes in access to government influence and, in particular, it comes into media ethics. The

cash for comments was just one example of how the media is involved in both, and how people - there is a concern of course to ensure that in acting within the market their roles in the market does not somehow overwhelm and damage our democracy. Because the media are inevitably part of both, it's the key contributor to our democracy through the formation of public opinion, and it's a key part of market institutions, it will always be a problem. So I think we need to look at it in terms of not solving it but managing it. That's the first part.

**PROF SNAPE:** In the first page of your submission you say, "It primarily addresses the issues that are raised in chapter 10." I might say that also what you have been talking about forms a large part of chapter 8 where we are in fact addressing throughout there the question of ownership and control, and the matters addressed in chapter 8 are very much along the line that you have just been indicating. I know that throughout your submission you refer quite a bit to the issues paper rather than the draft report but I think that you might, if you haven't had a thorough look at chapter 8, want to have a look at chapter 8 and just see how far in that chapter we have been addressing some of the questions to which you're referring as well as the suggestions about regulation which we go into in chapter 10.

**PROF SAMPFORD:** That's fine. Of course we'd like to treat this as a preliminary submission, and that in putting forward some ideas and getting some tough questioning back we may be able to produce something more comprehensive later on.

**PROF SNAPE:** Well, later on isn't very much later. Our final report is due on 3 March, and it means that we really have to have anything of any significance at all in by early February - - -

**PROF SAMPFORD:** That's fine.

**PROF SNAPE:** - - - otherwise we can't get it in. Very early February, I might say.

**PROF SAMPFORD:** No, that's fine. Could I just respond to one thing. In terms of the ownership and control, one of the views I have in fact is that the way in which we have tried to manage - one of the ways in which its access to the institutions - which involve the formation of public opinion - has been by talking about diverse media ownership, and to some extent I think this can only partially address it because in the sense that you've still got owners, people who are not typical of the whole society, who have that role and I think that it's summed up - Lord Beaverbrook once was asked why he bought the Times and he gave a single answer - you know, because it wasn't very profitable. His answer was, "Power," by which he meant political power. And I think the interesting thing is that that was thought a legitimate response then.

**PROF SNAPE:** That's really the sort of thing that we are addressing in chapter 8.

**PROF SAMPFORD:** Yes, and I want to just say on this thing that I think diversity of media ownership isn't necessarily the issue. In fact if you actually get the ethical

regulation right, if you say that media organisations must address this fact, that they are on the interchange between the two and have realistic and defensible and effective mechanisms to actually ensure that to the extent that they are operating within the formation of public opinion, they can segregate the commercial concerns, then ownership is actually less of a problem.

Cross-media ownership, foreign ownership and so forth is not so much the problem, and I don't think - in a sense the problem is not solved even by diverse ownership. I think one of the reasons for this, by the way, is that when press first started, people often had this image of freedom of the press. In the 17th century anybody in the middle class could print a pamphlet, it didn't cost very much, and this was a way of access, but as the technology developed and as there tended to be concentrations, not so much of ownership but actually concentration of readership and the flow of information, this became more controlled, and so I think a lot of people have this idealistic sort of image of the 17th century, when in fact you're dealing with very strong organisations, and the position in the market is what gives them great strength. But this is why I say it's intrinsically difficult, and my answer actually is to say get the governments and ethics and integrity systems right and the ownership is less important.

**MR SIMSON:** You're saying some very interesting things but I'd just like to flesh this out a bit, if we could.

**PROF SAMPFORD:** Please.

**MR SIMSON:** You've kindly offered perhaps to give us some more in writing. Let's talk about how a code of ethics could be developed for the media industry. Let's just talk through some of the bullet points you've got under 4.9 of your submission, particularly the first two bullet points: a general code and company-specific codes as interpretations of that code.

**PROF SAMPFORD:** Yes.

**MR SIMSON:** Just give us some examples of the sort of things we're talking about. You can do it by example to a Fairfax or a Murdoch or anyone you like. Just help us get some flesh around these sorts of things.

**PROF SAMPFORD:** Certainly. This is modelled, by the way, quite largely on the model for public sector efforts in Queensland that have been developed, and the idea is that you should get - could I say, with codes, I think an important point is that we don't see codes as the answer by themselves. There's a lot of tendency that people switch between legal regulation and ethical standards set, and neither by themselves is sufficient. What you actually need to do is ethical standard setting, legal regulation to support it and institutional design to support both of those, because a lot of these problems are not so much individual problems and the solutions certainly aren't individual solutions. What you need is to recognise the temptations and dilemmas that are faced by individuals within media institutions and then try to structure the ethics,

the laws and the institutional structures so as to eliminate and/or limit as much as possible those temptations and dilemmas.

**MR SIMSON:** Just so I'm clear on this, how do standards and codes as they currently reside within the Broadcasting Services Act relate to a code of ethics? Do they sit alongside a code of ethics? Are they props to the code of ethics? Are they tools that help deliver the code of ethics? What's the relationship between the standards and codes of compliance as they reside in the BSA and the codes of ethics that you're advocating?

**PROF SAMPFORD:** What I'm actually advocating is that the industry as a whole, through bodies that are broadly representative, should ask the very important question, and that is how do we justify media institutions to the rest of the community. That, if you like, is a justification of what it is that makes a media industry a good media and why it is in fact that any privileges that are given by the community to these institution - why in fact they're justified. These actually give a set of values and they're very broad and the values that the media should provide - - -

**MR SIMSON:** So they're the same as a set of corporate values?

**PROF SAMPFORD:** Yes, like a highly normative mission statement, although - - -

**MR SIMSON:** The mission and values that a corporation might have.

**PROF SAMPFORD:** Yes, but, of course, this is the media as a whole and they think through those values, and then the important thing is to actually get very broad statements of values, and I'd say values at this point are endorsed by some external body, but these are very general and in fact they're too general to be enforceable for non-performance. But another important part of our approach to ethics is that ethics is partly aspirational and partly disciplinary and it's very important to separate out the two.

**MR SIMSON:** And what you're saying is that at this point the media industry has really not dealt with the aspirational part?

**PROF SAMPFORD:** Not as an industry. I think individuals might, but not as an industry, and the industry - - -

**MR SIMSON:** Some companies, such as a Fairfax, for example, which I do know has values - from values are turned standards of conduct, behaviour. You've referred to the AJA or the MEAA. That's only part of that. The actual newspaper within Fairfax have their own codes or values or practice that sit alongside even the MEAA ones, but at the industry level it hasn't happened, has it?

**PROF SAMPFORD:** Yes, and I think they need in a sense things setting out what it is to be a good corporate citizen within the media - in fact, what is good about the media as a whole and then have a very general set of values, and then the thing is that

you also have a duty on each media organisation to develop a specific - not just a code of ethics - a code of ethics and a set of practices which include things like not just complaints procedures but, even more, advice procedures, because one thing I say in all areas of ethics is that prior advice is better than subsequent investigation. It's very important that they actually have structures so that if people are in doubt they can go along and get advice and if there are problems they might go to an ethics committee and so forth beforehand, rather than afterwards, and it's actually much better for the organisations and it's much better because you can raise the standard of behaviour much more. Once you're in investigation you've got a lot of legal rules.

**PROF SNAPE:** Yes. That's pretty hard to do, as the scoop comes in and you've got a deadline an hour ahead, isn't it?

**PROF SAMPFORD:** That's a good question.

**MR SIMSON:** You know, the headless man and topless bar type syndrome.

**PROF SAMPFORD:** Yes. In ethics regimes - and I'm talking about an ethics regime which involves codes, laws - one of the important things is there's ethical training which becomes awareness of an ethical issue, so they recognise when it comes up and they have processes that develop it, and this is one reason why the institutional ethics regime has to be developed for particular industries and particular corporations, because if there's an issue like that, the timing is an issue, then it's very important they have a means for dealing with that. It's not good enough to say, "We don't have time to deal with ethics."

**MR SIMSON:** I'm sorry about pushing you along on this but we're short of time and we want to get as much out of it as we can.

**PROF SAMPFORD:** No, that's fine. Of course.

**MR SIMSON:** Some of the cynics would say in the media industry - and, if you like, I'll put it round the other way. Some of the strong supporters of the existing cross-media ownership rules really believe you do need a blunt axe to ensure the ends that those rules are meant to produce. Those sort of people would say, "You sign off a beautiful set of ethics for the industry. Okay, you might even get the companies to then come in underneath with their vertical codes and practices and individual values, but at the end of the day, given" - and I won't mention names - "some of the individuals who could be running a newspaper, it's not going to help us. They're still going to run the show, they're still going to call the shots." How do you address those sorts of concerns? How do you have such a rigorous sign-off bunch of media ethics at an industry-wide level and then at the level of the individual firm that really would cause people to take them seriously?

**PROF SAMPFORD:** Well, I'd like to switch it the other way round. If someone wants a licence - - -

**MR SIMSON:** But they've all got licences.

**PROF SAMPFORD:** But how long does a licence run for?

**MR SIMSON:** You're not going to close down their newspapers. Nobody's going to close down their newspapers.

**PROF SAMPFORD:** A licence is not in perpetuity, and what I would say is that as a general principle if anybody is licensed, then if there's benefit they expect from government, whether it comes to a right to own something which is licensed or to own the licence itself or in cross-media ownership, in that case I think those who are involved in government and the citizens whose democracy it is are entitled to say, "Well, here is a problem. How are you going to deal with it? Give us a convincing system which is going to say you aren't going to use this licence to push your own commercial interests or to push your own political preferences." In a sense I'm reversing the onus of proof. This is a problem. The organisation has got to say how they're going to prevent this: "What corporate government structures are you going to establish so that you can actually segregate out your market activities from your role in the formation of public opinion? If you don't, you'll lose the licence and your shareholders will sue you."

**MR SIMSON:** Fair enough, but those questions are asked every second day of the week of newspaper proprietors and they say, "Look, there's not a problem here. The editors do their own thing, we don't interfere and we don't tell the journalists not to write nasty things about the companies that I happen to own over here."

**PROF SAMPFORD:** Yes, but in a sense this is a question of saying, "You have got potential conflict of interest. Show us how you are going to protect it." In a sense this is actually something quite normal throughout corporate governments in avoiding conflict of interests. One of the things within the media is that because media can be so powerful the conflicts of interests tend to be ignored rather than concentrated on. But if there's a conflict of interest the basic principle is, "How are you going to deal with it? If you can't deal with that conflict of interest then you can't have both interests." That's what you say. That's what any member of any board of any corporation must say to a fellow board member. That's a matter of principles of corporate governments.

This is something that should be backed up. In a sense, the thing is that if you actually seek to push the media corporation in which you have shares, in a certain direction to back up your other interests, then you are endangering your licence. If you do so, then in that case the other directors actually have a duty to ensure that doesn't happen because then they might be sued by the other shareholders for endangering their licence.

**MR SIMSON:** I understand the concept of licence to operate as it relates to a resource company. But if an oil spill does something terrible with regards to the environment it endangers its licence to operate, potentially endangers shareholder



value. In the case of a media company the licence to operate can be tangible in the case of a television licence but virtually intangible in the case of a newspaper because basically anyone can almost start a newspaper and they don't need airwaves or licences to pursue that.

The issue then of licence to operate, and these issues of conflict of interest, become much murkier, much greyer. So my question is - because I am interested in this concept of an ethical code that could sit across the media industry. It's something that we haven't actually pursued in any great depth. But to take this further we've got to get our heads around the practical implementation of this.

**MS ADAIR:** Could I just very quickly draw your attention to point 4.14. It just briefly deals with the concept of an ethics commissioner and it mentions towards the end of the point, "The commissioner is available to offer prior advice," etcetera. "An official who substantially complies with the commissioner's advice is accorded conditional protection against liability," which is, I think, quite an interesting point in terms of how an ethics commissioner would operate and the kind of role that ethics commissioner would have in the whole system.

**PROF SNAPE:** Maybe I can give you an example of the sort of problems, or one aspect of the sort of problems to which Mr Simson is alluding. We came out with a draft report which had a whole lot of draft recommendations in it. We came out with it in October. That was reported rather differently in different media organisations. In one set of media organisations it gave a great deal of prominence to it and to the draft recommendations. We got a really good run. In another media organisation it was completely ignored - completely - with one very small exception. Completely ignored. Let's suppose I'm the ethics commissioner, or whatever: how can you deal with that? How can you deal with it in this situation where one set of media reported it very fully, endorsed the recommendations, gave tremendous coverage to it, but in another organisation the recommendations didn't suit and it completely ignored it?

**PROF SAMPFORD:** I think the integrity commissioner would be raising these - the integrity commissioner has principally a sort of role of developing debate and giving prior advice if there are actually complaints. That's the sort of thing that I think that part of the system should involve, complaints regime. In the sense there's a question of complaint there - - -

**PROF SNAPE:** How can you complain because something has not been recorded?

**PROF SAMPFORD:** In a sense the thing is just actually put in those terms, "Why is it? Why is this organisation - - -"

**PROF SNAPE:** And you know what the reply is, "We didn't think it newsworthy."

**PROF SAMPFORD:** But the thing is that in a sense everybody knows that the fact - the way you describe it there - is quite clear and it's strange that it's a whole group of media. It's not just one newspaper reporting it and another newspaper not. It's

actually statistically significant that there is differential treatment. But in a sense, the thing is what I - - -

**PROF SNAPE:** You might argue that one went over the board, who should have been rapped over the knuckles and said, "You shouldn't have reported it as much as that," and the other one, "You should have reported it more."

**MS ADAIR:** I suppose this comes, doesn't it, with diversity of views and diversity of - - -

**PROF SNAPE:** That's why we were going for diversity of views. It averaged out in a sense. We're talking about neither doing anything wrong, in a sense, yet you could see very clearly reflected the particular interests in the way it was treated. But in another ethical sense they hadn't done anything wrong.

**PROF SAMPFORD:** But actually in fact if anybody in there allowed the market interests of the owners to actually reflect the editorial comment, either because of direct action or because or because of a chilling effect, then in that case that's actually a clear case of, and I'll call it, a conflict of interest. I want to put it as a moral principle here. This is why I actually think a lot of it is actually about building up professional ethics of those within the media and supporting it. If somebody owns a hospital there are professional doctors working within it, and the idea that the diagnosis of a doctor, professional doctor, would be affected because of the views of the owner of the hospital, let alone his other commercial interests - it would be absolutely anathema to us. We would be shocked.

**PROF SNAPE:** Yes, that's an easy case.

**PROF SAMPFORD:** No, but this is another easy case when it comes to the views of what's newsworthy and what the response of a journalist should be. This should be a matter of the professionalism of those involved. It should be no more the right of the owner of a newspaper to determine the views expressed by the journalists as it is the right of the owner of the hospital to determine the diagnoses of the doctors.

**MR SIMSON:** Hang on, that's an interesting point. Let's take a private hospital, a for-profit hospital, and in Victoria a number of the public hospitals are now effectively for profit but we won't get involved in that - the amount of time that somebody can spend in the hospital having had a particular ailment, for example. There are ways in which influence can be brought to bear on the professionals, within even a hospital, by the proprietor of the hospital that may not be deemed to be in the best interests of some of the professionals practising within that hospital. You know, like how long you can stay there and it's not that clear-cut, is it, to suggest that there is not proprietorial influence brought to bear in even influencing medical care?

In newspapers and in television and radio it just happens to be easier to do, because it is murkier and it gets into areas - which were discussed in the report - of mind-sets of editors. It's even a negative issue where a reporter will not write about a

story or something that relates to his or her proprietor's other commercial interests. So it's almost a negative pledge-type situation.

**PROF SAMPFORD:** I'm aware of the complexity of both examples actually. I have had quite an interesting exchange with David Solomon about this when I first put this view some years ago. Of course the hospital analogy is interesting both ways, but I did emphasise diagnosis. Now, actually treatment in hospitals - there are two things about treatment. Firstly there are the things that does - - -

**MR SIMSON:** That's what Prof Snape was talking about. He was saying a report wasn't treated the same way by different media organisations. I'm sure reporters of both organisations could have diagnosed similarly, but in terms of the treatment of it, it's quite different.

**PROF SAMPFORD:** In a sense what I say is they both involve collective action, in a sense that neither the journalists diagnose - when I say "diagnose" that's his views on that issue.

**MR SIMSON:** Yes, talkback radio.

**PROF SAMPFORD:** Yes. The thing is that it requires, if you like, an organisational response to both the diagnosis of the journalist and the diagnosis of the doctor. I think there is a difference here in that the extent of professionalism is much stronger in hospitals. In a sense these are very important issues which are discussed by these committees and they are seen as an essential part of a good hospital in that they recognise these kinds of problems. If there are limited resources it's not sort of the manager who says, "Well, I actually prefer to treat these kinds of people and certainly not because of their other interests; you know. I'm actually related to so-and-so, so actually look after these people. Look after people of my colour or religion," or whatever, but it's recognised as an important issue which is the subject of ethical discussion.

In a sense I would then say, looking into the media, that the media organisation must set up a structure. It recognises the problem, it aims to professionalise those individuals who are involved in the process of the formation of public opinion, and it has an institutional ethics committee which considers these issues. That's the institutional response and this needs to be backed up in any way that can be done by the law. A part of your answer is how you deal with different responses. A lot of the problem in ethics is of course because we look at the disciplinary side of ethics, about not observing the minimum standards, we tend to look at sort of punishments.

The other thing that I think is terribly important, I have realised in recent years, is we have got to look to rewards. We want to say to people, "Here's the highest standards to which you should aspire in your profession." That's the aspirational standards. There's the disciplinary code, the disciplinary level is the level below which you could get punished. We want to move as many people as high up the aspirational scale as possible and it is very important you design rewards for those who are close

to the aspirational than lower.

Maybe this is a question - especially when it comes to licences and so forth - that an organisation which demonstrates its capacity to deal with this inherent conflict is actually a better organisation to have new licences. In fact I think often what happens is that those actually who threaten to behave badly get their media interests supported but I think what we need to do is have a very conscious effort to reward those who have better structures. Let's face it, if the community is concerned about this interaction between democracy and the market and prevent - you talked about environmental spills, well, maybe market spills into democracy. If we are concerned about preventing that, we want to encourage those organisations which actually deal with it seriously - the effect of it.

**MR SIMSON:** No, I didn't think anything of that. What we would value is any further advice you can provide which will help us in a practical sense rather than just coming up with some woolly recommendation in the final report, or even discussion in the final report - something that we - - -

**PROF SNAPE:** We are the ones who are going to be woolly, I might say.

**MR SIMSON:** Precisely. Something that could help us so the people would actually understand what we - - -

**MS ADAIR:** Could I just very quickly add something. You're raising all these points, which of course you have to do, but I put it to you, what would have happened in Queensland if there hadn't been an investigation and an attempt to improve the ethics? Just because it's hard it doesn't mean to say you don't do something about it.

**MR SIMSON:** No, we're not saying that at all.

**PROF SNAPE:** You're the experts in the area.

**MR SIMSON:** Yes, you're the experts.

**MS ADAIR:** This is what we say - - -

**PROF SNAPE:** Tell us how to do it.

**MS ADAIR:** This is what we are doing in Queensland, that there is now an ethics commissioner.

**MR SIMSON:** Try and relate it as much as you can to the media.

**MS ADAIR:** This provides, I think, a good example. Okay, it was a really difficult area but there is now an ethics commissioner.

**PROF SNAPE:** Yes, I understand.

**MS ADAIR:** And he has built a structure around it.

**PROF SAMPFORD:** We have actually had one workshop on this already, and I think in a sense we are sort of setting principles. If the principles seem to be of interest, then I think we will try and work through, especially with the other key centres, some detailed proposals of how you - in a sense, because the principles I've been talking about - the same for all institutionalised ethics now we will want to provide that by early February with some detailed recommendations on how that might be fleshed out.

**PROF SNAPE:** By "early February" you mean the first few days of February.

**MS ADAIR:** Yes.

**PROF SAMPFORD:** Yes.

**PROF SNAPE:** I mean we just can't cope with things - - -

**PROF SAMPFORD:** No, I understand that completely.

**PROF SNAPE:** - - - in the size of the report and the fact, as I was saying before, it is all interconnected and we can't - - -

**PROF SAMPFORD:** You have got to wrap your mind around a lot of things.

**PROF SNAPE:** It's a great risk of introducing something late into the report because the whole thing is interconnected.

**PROF SAMPFORD:** Yes.

**MS ADAIR:** Could you be slightly more specific? Would you like us to deal specifically with 4.9?

**PROF SNAPE:** That's the area in which we would - yes, thank you.

**MR SIMSON:** Media specific. Not generally specific about Queensland but media specific.

**MS ADAIR:** Media specific and point 4.9. So an ethics commissioner, how it would be established, where, etcetera.

**PROF SNAPE:** Yes, please, for the media.

**PROF SAMPFORD:** Yes, absolutely.

**PROF SNAPE:** We're talking about broadcasting.

**PROF SAMPFORD:** Yes.

**PROF SNAPE:** There are some constitutional problems in the press of course so we would focus on - - -

**MR SIMSON:** Don't let that hold you back.

**PROF SAMPFORD:** I will certainly address that. I won't give you any angst on that basis.

**PROF SNAPE:** Thank you. Could I just maybe be slightly mischievous in my last comment, please.

**PROF SAMPFORD:** Please.

**PROF SNAPE:** I was rather surprised by the mission statement of the key centre where you said it is to "consider the challenges to liberal democratic values posed by globalisation". I was very surprised by the word "challenges" rather than "effects on" because I would have thought that in much of the world at the moment in the last few years, the globalisation in much of the world has in fact been furthering liberal democratic values dramatically in the opening up of societies to the gaze of the rest of the world. We don't have to go too far away from Australia to be getting some examples of that, and the way in which societies are being transformed in what the governments can do and get away with, but by the process of opening up, particularly in the area of media, where what is known about what is happening in parts of the world today is dramatically different from 20 years ago. What governments can do to their citizens as a consequence is dramatically different from even 20 years ago.

So I would have thought that globalisation, when you think of it in that context, is in fact furthering what one would call liberal democratic values in much of the world. I can see what you're saying when you say, "challenges" but I was very surprised that you confined it to "challenges" rather than "effects upon".

**PROF SAMPFORD:** In effect in the longer version of the mission - that's a one-sentence thing but in the longer version we emphasise that there are dangers and opportunities. The reason why I used "challenges" is that liberal democratic values were created in and for strong sovereign states. The globalisation of course, in weakening strong sovereign states, is actually challenging the context in which they operated. But in fact I make this very point - I will send you the article if you like where I outline this further - that in fact there are dangers but in fact there are opportunities for liberal democratic values to be what they are supposed to be, values for all human beings, as opposed to merely values for the citizens or the states from which they are proposed. So I don't think you would find any surprise.

**PROF SNAPE:** 1930s Germany was a strong sovereign state.

**PROF SAMPFORD:** If you read more you wouldn't - I think you've probably missed the - - -

**PROF SNAPE:** I only read what was presented here and it was the word "challenge" that really challenged me.

**PROF SAMPFORD:** Challenges, okay.

**PROF SNAPE:** With that little intervention which was obiter dicta, as you say, it made an impression upon me. Thank you very much for your presentation today.

**PROF SNAPE:** I will extend the invitation which I said I would extend at the beginning of the proceedings today, and that is if anyone present wishes to make an oral statement at this juncture, then they are invited to do so. Do you wish to?

**MR STEWART:** Yes, please.

**PROF SNAPE:** I think we have to get your voice on the microphone, please. We will just shift the microphone and if Mr Stewart would like to identify himself again for the transcript. We don't engage in debate.

**MR STEWART:** No, I am just wanting to follow on from something that I just overheard.

**PROF SNAPE:** Would you identify yourself again, Mr Stewart, because almost certainly it will be a different transcriber than earlier in the day.

**MR STEWART:** It's Jim Stewart of Brisbane. I've just come back, having been here earlier in the morning, and I was very interested to hear the issues which I've been grappling with in my rather brief submission which we discussed briefly this morning. They've obviously been considered much more academically by the last people, and the debate or the discussion which I overheard was, to me, encouraging.

I wasn't aware to the extent that has been recognised, but it's good to see that it is, and I'm more than happy to perhaps discuss or put these people further - the common interest we have in what I call the suppression. You have heard yourself how different media - well, it might not be suppression; it might illegitimate news that they don't see as worthy in competition with the other news. But I'm particularly concerned about stuff which any person concerned about the democratic process and the need for public knowledge of key democratic systems - is not suppressed. I think that's very much part of the agenda of the last speakers and I would like to - as I said, I had a specific case in mind and I still have it and I might try and discuss that and - - -

**PROF SNAPE:** We will leave it up to you to pursue that with the key centre, Mr Stewart. Thank you very much. Is there anyone else who wishes to make a statement at this juncture, or to contribute? If not, then thank you, participants, very much for your participation. Now we close the hearings on the draft report, this being our last day. Thank all the participants very much.

AT 5 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY



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