



**TRANSCRIPT
OF PROCEEDINGS**

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PRODUCTIVITY COMMISSION

INQUIRY INTO THE BROADCASTING SERVICES ACT 1992

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

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON MONDAY, 24 MAY 1999, AT 9.08 AM

Continued from 20/5/99 in Brisbane

PROF SNAPE: Welcome to this the first day of the public hearings in Sydney for the inquiry into broadcasting conducted by the Productivity Commission. The hearings commenced in Brisbane last Thursday. The terms of the inquiry are specified in the terms of reference sent to the commission by the Commonwealth Treasurer. Copies of the terms of reference are available on the table just outside the entrance.

The inquiry encompasses all aspects of broadcasting covered by the Broadcasting Services Act 1992, its subsequent amendments and associated legislation. It covers free to air television and radio, pay television and radio, community and indigenous broadcasting, datacasting, narrowcasting, digital conversion, and some aspects of the Internet. Regulation of content - for example, Australian content and children's content - ownership and foreign investment are all embraced, but the legislation setting up the ABC and SBS is not.

The commission has to give particular attention to the requirements of the competition principles agreement. This specifies that any legislation 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. The terms of reference give emphasis to social and cultural considerations, as well as to economic; to the effects of technical convergence, to cultural diversity, plurality of opinion and fair and accurate coverage of matters of national and local significance, to respecting community standards and to protecting children.

The public hearings provide the opportunity for interested parties to make oral presentations. Generally this is in the form of speaking to their written submissions. They provide an opportunity for the commission to seek clarifications and to pursue with participants matters of particular interest to the commission. Transcripts are made of the hearings and are normally available on the commission's Web site within three days of the relevant hearing. Transcripts are sent to the relevant participants. At the end of the scheduled hearings for today I shall invite any persons present to make oral presentations, should they wish to do so.

Now I turn to the Screen Producers Association of Australia, and we have three representatives from the association and we welcome them, and I'd ask each of you to identify yourselves separately for the transcription service, and I'm not sure who's going to open the bowling, but whoever is - Nick - then to speak to the submission. Thank you.

MR HERD: Thank you, Prof Snape. My name is Nick Herd. I'm the executive director of the Screen Producers Association of Australia.

MS PECOTIC: My name is Adrienne Pecotic. I'm a television councillor with the Screen Producers Association of Australia, and general manager of Grundy Television.

MR ROUSE: I'm David Rouse. I'm vice-president of SPAA, the Screen Producers Association, and also managing director of Crawford Productions.

PROF SNAPE: Thank you. Yes, Nick.

MR HERD: Thank you, professor. I'll start by making an opening statement. In the course of this inquiry the commission will listen to many arguments about the current regulatory environment, and how it should be changed, that are clearly driven by self-interest. Let me start then by stating our interest in these proceedings. We argue from the point of view of those engaged in the creation of Australian content for Australian television. The programs we produce are central to making television in this country Australian. We are creators of content and owners of copyright. It is upon our contributions and the myriad of creative participants we engage that the future of the content industry depends.

Australia has one of the world's most efficient and competitive independent television and film production industries. It's a dynamic cultural industry with both a national and an international focus. It plays an important part in the life of the nation, projects a powerful image of Australia to the world, and is an important source of export revenue for the nation. Its strength and its contribution to the wealth of the nation lies in the ownership and control of the copyrights created by Australians. The efficiency and competitiveness of the production industry not only allows for the diversity of ideas and talent that helps the broadcasting system deliver on its objectives, but is a foundation of the content-driven service industry of the future. Anything that reduces our ability as a sector to invest in and develop new ideas, new talent and new forms of content can only hamper our ability to grow.

However, while we are confident of our ability to exploit the benefits of new media, we remain sceptical of those who argue that the environment has already changed so fundamentally that regulation is no longer relevant. It is our strong submission that the current structures of television and the regulatory framework in which it exists have been effective in delivering significant cultural, social and economic outcomes for Australia. The challenge facing the government in moving to the digital age is how to preserve those outcomes while ensuring that the new technologies for delivery of content can also participate in promoting these outcomes. We do not feel that this regulation is becoming less important with the development of new technologies, and we submit that the regulatory framework has the potential to be responsive to change.

In our view, the public interest objectives set out in the Broadcasting Services Act cannot be achieved through market forces alone. The role of the BSA is to ensure a broadcasting sector that balances the objectives of competition policy with the achievement of the public interest obligations of broadcasters. Technological developments that have brought about increases in band width and other advantages of digitisation have increased the number of delivery channels available to consumers, yet the number of gateways these delivery channels represent have not increased to the extent that it is impossible to gain some form of monopoly control.

Technology brings with it new means of restricting access through such things as encryption systems and proprietary software. For example, the development of pay TV and the Internet in Australia do not suggest a diminished need for intervention by government to promote competition and ensure public interest objectives are met. We have extensive cross-media ownership of pay TV by established broadcasting, newspaper and telecommunication interests, along with vertical integration of both service and delivery systems in this sector. It has also recently been shown that all the popular Australian youth sites on the Internet, as well as the only Australian news channel on pay TV, are owned by traditional media groups.

It therefore remains as difficult as ever for a new and independent media player to gain access to this market, and established groups extend their control over the media gateways. We believe strongly that the regulation of Australian content must remain in place for both free to air and subscription television. The effect of strong Australian content regulation cannot be overestimated. Australian content regulation, in conjunction with a matrix of other support measures, such as direct funding by government, concessional tax arrangements for investment and production, and the support given to training and skills development, help the establishment and development of a strong independent production sector in Australia.

Regulation for Australian content achieves social, cultural and economic goals, while costing the government nothing. It has ensured that there is a high level of Australian programming shown on Australian television, strengthening the industry and subsequently allowing Australian programs to be sold internationally. This success overseas should not be a reason to become complacent, as generally Australian programs could not be made at all without the support of Australian commercial broadcasters. We reject suggestions that removing subquotas or introducing a broad expenditure requirement for both free to air and pay TV would achieve the same social and cultural outcomes as the current system.

Programs such as children's drama, telemovies and mini series and documentaries, which meet audience demand but are expensive to produce, would most likely suffer disproportionately in such an environment. Although some Australian drama receives government investment, replacing the current Australian content standard with a system of subsidies would not only be an expensive exercise for government but would move the responsibility for meeting public interest objectives substantially from the private to the public sector. Government investment to date has been targeted to produce cultural and production industry development outcomes in areas of market failure, not to subsidise the legitimate obligations of broadcasters to support the production and broadcast of Australian content.

There is a significant difference in the market power of broadcasters and independent producers. Australian productions must gain the majority of their costs from the Australian market, but are being prevented by the unequal bargaining power of broadcasters. This has led to artificial restraints on program licence fees paid by the networks and a shift in the burden of compliance away from broadcasters towards

the independent sector. Independent producers are struggling to find the production budgets for programs designed to meet the cultural obligations of broadcasters. Increased levels of deficit financing of productions are making productions more difficult to manage and threaten the longer term viability of independent producers.

To the extent that existing broadcasting networks are allowed to vertically integrate further into production and distribution, there is likely to be a reduction in the competitiveness of the entire broadcasting sector and a contraction of the existing market for independent production. With broadcasters taking on a wider role in production, becoming increasingly involved in or seeking to control distribution and limiting the ability of independent producers to exploit the rights in the intellectual property they create, this stifles competition and reduces the diversity sought in the Broadcasting Services Act.

The significant imbalance in the market power between broadcasters and producers creates a confusion between the public interest obligations of broadcasters and their commercial activities in areas such as program production and distribution. The trend for broadcasters to increase levels of in-house production, to seek greater creative control and to demand an increased share in copyright and distribution returns, all without increased levels of investment, are driven by their commercial decisions and do not derive from the cost of complying with their public interest obligations.

The increased dependence of producers upon deficit financing is making the production of drama programs increasingly unprofitable and risky. Should independent producers stop making these programs or go out of business, the level of competition in the industry will be significantly reduced and the diversity of productions will be reduced. If the present trend continues, we can see only barriers to entry for independent production increasing and the value of the content we create being eroded. The independent production sector generates competitive pressures which enhance the efficiency and dynamism of the entire broadcasting industry.

To ensure that these advantages are not lost, we will require a policy emphasis that supports the role of independent local producers. In our view, independent producers must have a greater degree of control over the exploitation of the intellectual property they create. The market power of the broadcasters should be limited to ensure there is a fair competition between the independent sector and the broadcasters; that both the rights acquired and the ability of broadcasters to control distribution should fairly equate with the level of risk they assume, and that there needs to be a mandated level of independent production commissioned by the broadcasters. Thank you.

PROF SNAPE: Thanks very much, Mr Herd. There are a number of tensions, I think, to which you were alluding, but just a bit on data for a moment: is the trend to in-house or independent supply? I thought for example in some recent actions of Channel 9 in the sport area they were indicating that they were going to be buying things in which previously they were doing themselves, but perhaps you could tell me

how the trend is going.

MR HERD: The trend has mainly been in the area of drama production for our members. Sports production hasn't been an area traditionally which independent producers have done a lot in. The Nine Network has cancelled some of its sports programming, but we haven't yet seen them approach the independent sector to commission sports programming from the independent sector.

PROF SNAPE: So you're very heavily representative of drama, are you, rather than, say, sports or news production?

MS PECOTIC: Sports and news production has not traditionally been sourced out of the independent production sector; in other words, the three commercial networks have traditionally produced their own news service, current affairs programs, sports telecasting, the majority of that. They've also done a lot of their own documentary production. Therefore the members of the Screen Producers Association have not traditionally operated in those areas. They've normally produced light entertainment programming, television commercials, television drama. Those are the major areas that the members of the Screen Producers Association represent.

That's where Grundy Television, Crawfords, Southern Star, Artist Services - comedy programming - they're the areas that the networks have traditionally gone out to the marketplace to source from outside and where, due to the enormous flexibility of television producers - you can be a television producer; all you need is basically your mind, your suitcase. There's no barrier to entry in the sense that, if you have an idea and you have the skills and know-how, you can put together a team of people to produce a television program if you have a buyer. So we represent members from single person employers all the way through to major companies such as the Grundy organisation.

PROF SNAPE: So you don't represent, for example, an independent supplier of news services?

MR HERD: No, we don't - - -

MS PECOTIC: I'm not aware of any of our members doing that, no.

PROF SNAPE: And the producers that would be involved in that.

MS PECOTIC: No, they would be employees of the networks.

PROF SNAPE: Well, I said "independent".

MS PECOTIC: Independent? I'm not conscious of any independent television news producers that we represent.

PROF SNAPE: What about sports? No sports? I mean, if you look at the AFL,

you can say that they're not producing that in-house.

MS PECOTIC: No, they're not producing the sport itself. In terms of the coverage of it, I think Beyond and Beckers have done some live broadcasts in the past.

MR ROUSE: Since Broadcom was introduced some time ago, it's basically been controlled by the Seven Network in-house, as far as AFL football goes.

PROF SNAPE: Why, in terms of the objectives of the act, is drama more important than news? For Australian influence, etcetera?

MR HERD: I don't think we're necessarily arguing that drama is more important than news. News obviously plays a pretty essential part in the broadcasting landscape. It's important for the community to have access to news and information. What we're arguing is that, in terms of drama, the way in which drama provides an opportunity for Australians to see themselves on the screen, to explore the nature of our culture, our nation, in a way that allows us to understand ourselves better - I mean, there was a well-known Australian writer, Tony Morphet, who said some years ago, "If we aren't able to dream our own dreams, then we may as well pack up and go to California," and that's what we're talking about in terms of the importance of drama. It plays a central role in the creation of Australians' image of ourselves, as well as being an important source of creation of intellectual property, and also in terms of business opportunities being more likely to be exported than, say, news or information programming.

PROF SNAPE: I wonder if I could just clear up a matter of data. At the top of page 8 of your submission, I have a little trouble reconciling that with the table on the following page. At the top of page 8, you refer to year 1992-3, which actually is not in the table, but if you take the first year of the table there and compare it with the last few years - and I'm referring to the first row - you find that in fact the commercial network program expenditure has increased - that is, whether you compare it with 96-97 or 97-98, whereas in the first sentence on page 8, you say that if you take 92-3 as the first year, you've got a decline of 12.6 per cent. Now, for those two things to be consistent, there must have been an enormous decline between 92-3 and 93-4.

MR HERD: I think that that is in fact the case, Prof Snape.

PROF SNAPE: In which case, what happened in 93-4? If that's so, we're not talking about a trend in recent years, where it's gone up, it's just a decline in recent years. We must be talking about a very substantial decline from 92-3 to 93-4, which must have some specific explanation. But there is an apparent inconsistency between the text and the table. I'd like some elaboration of that and if you could tell us, if the top of the page is correct, then why there was such a fall between 92-3 and 93-4, because that's where all the action happened - if it happened - to support your sentence.

MR HERD: Can we take that on notice and get back to you with that information?

MR SIMSON: Just as a subsidiary question, irrespective of what happened between 92-93 and 93-94, just looking at the difference between 96-97 and 97-98, there has been a significant increase in expenditure on drama, both in dollar terms and as a share. Is that correct?

MS PECOTIC: Are you talking the difference between the 549.5 and 566.2?

MR SIMSON: I'm looking at the top line of the table.

PROF SNAPE: The difference between 73.8 and 82.3.

MR SIMSON: Yes. And as a percentage it's risen also.

PROF SNAPE: Again, it doesn't support what's in the text.

MR HERD: You will see, though, over the course of that table that there have been rises and falls in the level of drama expenditure. What we're talking about is a longer-term trend over that period.

MS McEWEN: Melissa McEwen, from the Screen Producers Association. You'll also notice on that table, though, that there was a commensurate increase in the amount of foreign drama purchased as well as Australian drama.

PROF SNAPE: Yes, I see that. But here we're talking about the expenditure on Australian drama as such and the table of course supports the propositions in the text that the expenditure on foreign drama has increased too. Anyway, we'll leave that with you for some clarification.

MR HERD: Certainly.

MR SIMSON: Could I just cast your minds forward say five years to say 2005, and get a picture from you as to how your market is going to look, because your submission talks about significant change that's going to occur in that period. We have a number of submissions from various groups that are speculating, forecasting, the continuing fast uptake of pay television services, maybe to 35, 40 per cent of households. Your own submission refers to the capacity or the propensity of that particular sector - that's the pay sector - to purchase local drama. We see in the faxed submission that we've received a reference - page 43, bottom of the page:

High drama quotas do not help stations evolve the drama formats that are likely to work in an environment of growing competition from pay TV, except in period of rapid revenue growth and/or high profitability.

I'd just be interested to know, you're arguing for continuance of some existing arrangements - I'm referring specifically to the quota area and we're talking drama at this particular point. I'm just wondering how sustainable that's going to be on a four to five-year outlook from an economic perspective. My question is the extent to

which we look at the trends that you're referring to - and some of the other people who are making submissions to us are referring to - and whether that's the right framework that's going to, in any event, deliver the outcome that you want.

MS PECOTIC: Assuming that the outcome that is wanted - to neutralise it for a moment - is the continuance of Australian drama programming on Australian free to air television? Is that the assumption?

MR SIMSON: You're advocating continuance of the existing arrangements, at least, and some other things, but at least continuance of the existing arrangements. Looking at those arrangements in the context of what the television economy may look like on a four to five-year perspective, how sustainable, how tenable, are those existing arrangements going to be anyway? How viable are they going to be?

MR HERD: I think one way of looking of it might be to look at how the television market in the United States has evolved, where they've had pay television for a much longer period of time. It has evolved, and it has certainly eroded the viewership of the free to air networks in the United States, but it hasn't eroded their advertising base to the extent that they're unable to afford original programming. At the same time as pay television grew, it has been able to afford to commission more original programming. So in terms of the difference between free to air and pay, as it increases subscriber numbers we expect that it's going to be able to afford to commission new programming, but perhaps not to the same extent as free to air.

MS PECOTIC: I think the substantial difference between pay television in Australia and pay or cable television in the United States is the amount of market that is available. Here, if you look at the numbers of people that are available to pay television and then segment that between the various pay television stations, the way they operate and the way they can achieve - as much as I'm aware of it - the pool of funding available to them is much more severely fragmented than it is to the free to air networks. Free to air networks at least continue to have the entirety of the Australian population as its base for revenue raising marketing through advertising.

Therefore, if you're looking at high-cost television programming such as Australian television drama, then you would presume, based on that simple analysis, that the free to air networks are going to be able to be more able to afford high-cost programming than the pay TV networks would be able to, based on the amount of people available to them. I suppose that's one of the reasons why we argue that it is important - albeit anti-competitive - part of the regulation that the number of free to air networks is not increased, because we can see, for the same reasons as that analysis describes, that in order to have a market that sustains the sort of public policy objectives as having Australian cultural product - expensive product such as Australian drama - on television, you have to have somebody who is able to afford it.

In terms of the economic analysis that's available in the various submissions, the free to air networks are in a position to be able to afford Australian drama, whereas if their particular market was opened more to competition, it would fragment and we

would be suffering more of a problem in having to raise the amount of money that already has to be raised to fund Australian drama.

MR SIMSON: That's a difference point, which is an interesting one, and we can come back to that in a second. But we seem to be looking at, prospectively, a reduction in audience share for the free to air networks of maybe 20 percentage points over a five-year time-frame. I mean, they seem to be indicating as much in some of their own submissions to us. Now, is that going to increase or decrease their capacity to pay for drama?

MS PECOTIC: I depends on what other avenues are available to them in the efficiency of the operation of their business, I would assume, and all of the television networks at the moment are looking at different ways of operating their businesses and different ways of appealing to advertisers in their revenue generation. I'm not in that business, so I can't answer that question for you.

MR SIMSON: Do you take comfort from some of the recent decisions that are being made operationally by the free to airs and the way they run their business in terms of what that might mean or what that might be saying in terms of their willingness or their propensity to purchase, for example, drama in the next few years?

MR ROUSE: I think you've got to look at something like the United States, whereby I think free to air in the USA is down to 60 per cent of the audience. They're still the biggest ball game in town. They're still being able to afford to pay for high-cost drama. They're also increasing profitability-wise over the last 10 years and I can't see why that wouldn't change as far as the free to airs go here. There's no reason why they shouldn't continue. They're three public organisations that are very much there because of their shareholders and they will certainly drive their profitability harder and harder, even though these regulations stay in place.

MS McEWEN: It's also important to note that with the introduction of simultaneous broadcasting by digital and analog, it may actually bring on a new revenue stream for the networks, because under the changes to the Broadcasting Services Act, through the Digital Conversion Bill, while they're required to broadcast the two streams of programming simultaneously, there is one area in which they're allowed differences and that is in advertising. It may be that they're able to use the second digital stream for creative approaches to advertising, particularly because they'll have a market who are viewing the digital programs who are specifically techno-literate, early adopters, probably people in higher socioeconomic groups. So it may be that some advertisers see that as a particularly useful marketing niche and that way the networks may find they have an additional stream from this, rather than a decrease in the streams.

MR SIMSON: Indeed, to support the thrust of what you're saying there, they have indicated in the submissions that they would be looking at new revenue streams from multichannelling, perhaps even some pay-for-subscription services through multichannel when the laws allow.

MS McEWEN: And datacasting, if they get the opportunity.

PROF SNAPE: On the same lines that Stuart has been pursuing, though not so much into the future as now, there is a tension, I think, between various arguments - and it's not to say they're wrong, because one has to find a balance between them, but on the one hand, you're opposing the increase in the number of free to airs because you're thinking in terms of a fixed pool of advertising and that would be spread over fewer and fewer channels, etcetera, but on the other hand you're saying that licence fees for your productions have been driven down by the economic power of the free to airs. Now, if there were more free to airs, the existing ones wouldn't have the same market power, there would be more competition and so the licence fees would be bid up.

MS PECOTIC: If we had a larger market, yes. If we were in a much larger marketplace then we would perhaps have that luxury. I think the tension we have is that we understand the Australian marketplace is a very small one and there is not a great amount of money available - you know, it's a finite amount of money. We're not talking about, for example, the US market. Australian production and Australian programming does not have any access to the United States market so there is a limited amount of market and because of the cost of not specifically Australian programming, but any local programming - in other words, the local country has to pay the majority of the cost of the local content.

For that reason, while we appreciate that to have three instead of four, five or 10 players may on the face of it mean that the balance of power is against the production sector - which it is - and we have argued that - it hasn't led to the market tensions that we suffer at the moment where licence fees are held down and the producer has taken on the sort of lion's share of the burden of financing Australian programming by opening up the international marketplace for that programming. At the same time what we're saying is if you introduce one or two or 10 players the amount of money that they will have available to fund will not offset the terms that they're likely to offer to producers.

PROF SNAPE: Can I turn the argument upside down and say would you be better off with only two free to airs? After all, then they would be able to afford much better productions.

MR ROUSE: We aren't in that sort of situation so I think it's very difficult to ascertain where we would be as far as that is concerned.

MS McEWEN: Obviously the market power would be even more concentrated, so unless there was some kind of alleviation of that through some regulatory system or some other method, inevitably independent producers wouldn't be better off, but the shareholders of those networks would be.

PROF SNAPE: So three is just right?

MS PECOTIC: Three is what we're working with.

MR SIMSON: Could you just then reflect on the New Zealand situation where, according to Can West in their submission to us, quoting page 6 of their submission:

Liberalisation of ownership restrictions has resulted in an increase on free to air from 2012 hours in 1988 to 6296 hours in 1998.

They are referring there particularly to increases in information documentary and news programming and, of course, there have been a couple of new free to airs opened up in New Zealand. Could you just comment on the contrast between what has happened here, what has happened there and the response you have just given to Prof Snape on possible increase in free to air licences here?

MS PECOTIC: I can comment anecdotally from my particular experience both on the New Zealand marketplace and probably another more specific example, which is along the lines you're talking about, and that is the introduction of Channel 5 into the United Kingdom. From the producer's point of view, both in the UK market and in the New Zealand marketplace, in terms of programs commissioned from independent producers and particularly programs commissioned from independent producers that are expensive - which are some forms of light entertainment programming and other forms of drama programming - those types of programming in the New Zealand marketplace have not increased, as far as I'm aware, in the time that is being described.

The experience that we have had operating in the New Zealand marketplace is that we have had a similar trend in New Zealand as we've had in Australia, and that is the three principal free to air - or the four channels but operated by two companies, TV3, TV4, TVNZ1 and 2 - have been offering lower prices, lower licence fees, even to the extent where they basically have a specific amount that they will pay per half-hour and if you approach them with a television program they say, "I'm sorry, if you can't make it for" - whatever it is, \$30,000 a half-hour or whatever the price is that they have - "we're not interested, thank you very much." That's been a very strong trend in the New Zealand marketplace in the last three to four years that we have directly experienced. Prior to that we were producing extensively in the New Zealand marketplace when there was only TVNZ1 and 2, and then TV3. So that is what has actually happened to us irrespective of what statistics you put on it.

In terms of the United Kingdom example, which I have some experience of through our associated production companies, because the Grundy Organisation operates through Pearson in many countries in the world, what happened with the introduction of Channel 5 - and it has been operating for a little over 12 months now, I think, in the United Kingdom - the immediate reaction is to think, "Fantastic, there's a new channel and it will be buy, buy, buy, so that it can compete with the other stations." What actually happens is that that - and I think this would be the case with any start-up operation - it is under enormous budgetary pressure, having incurred the

cost of start-up, and so when it comes to its programming, our direct experience was that once again it had very little money to spend on programming.

It would, generally speaking, buy a couple of high profile numbers and then, in terms of local content - because we were involved through our Grundy UK in pitching for programming to Channel 5 - once again, lowest common denominator, "What can you give us? Can you give us the cheapest possible serial you can possibly give us? We'd be interested in that." So in terms of your public policy outcomes of getting quality programming or diversity on the air, the economics of a new channel does not, in my direct experience, foster more money to spend on programming or more support of local programming costs. The cheapest way to get a new channel up is to put on - as is the case which you can observe on pay television - foreign programming, off-the-shelf programming and as much of it as you can possibly buy in as cheaply as you possibly can.

That is the paradigm that the local production industry is struggling with and that's why we have the view that, whatever you do, don't go to four. If you went back to two, we'd probably say, if that was seriously a government objective, we already have a market power problem. You need to regulate the terms of trade so that if you went back to two or if you had three commercial operators - the terms of trade that are offered must still preserve the diversity, they must preserve the quality of programming, they must continue to regulate the public policy outcomes. Otherwise market forces have the reverse effect: the cheapest possible programming and as much of it as possible, other than the spiked rating drivers of the networks, which they will continue to spend money on. We're not thinking that Water Rats is necessarily threatened right now or that major Hollywood productions are threatened, but the balance that underpins the industry that allows us to continue, the bread and butter production, will go.

MR ROUSE: The other thing as far as New Zealand is concerned is that I understand that they are now starting to discuss whether they should bring in an actual quota system because the current system is not functioning in the way they would like.

MR SIMSON: For drama?

MR ROUSE: Yes.

PROF SNAPE: Who is discussing that?

MR ROUSE: New Zealand.

PROF SNAPE: Who in New Zealand?

MS McEWEN: The New Zealand Labor Party, and there is also an extensive number of community groups.

MR HERD: The reality - what they're reacting to - is that the overall level of New Zealand content on New Zealand television is about 16 per cent. You're looking at a market in population terms roughly the same size as the population of Sydney to support four networks that are totally dependent on advertising revenue. It is a different broadcasting structure there. Television New Zealand, even though it's a state-owned business enterprise, has to return a profit to the New Zealand government each year and it's funded entirely by advertising.

MR SIMSON: May I just ask you to comment on the sentence I read earlier from the fact submission page 43 where it says:

High drama quotas do not help stations evolve the drama formats that are likely to work in an environment of growing competition from pay TV.

What do you think they're trying to say there?

MS PECOTIC: I'm not sure in the sense that regulation as it currently exists does not prevent the networks from purchasing and programming any form of Australian drama they want to go and look for. They are restricted if they don't want to pay for it. In other words, the type of Australian drama programming that is subsidised, for which subsidy is available, is limited. It's limited through the Film Finance Corporation to telemovies - one of telemovies, not pilots - and mini-series and children's drama. I don't think I've forgotten anything there. So assuming that the networks are seeking that type of product which is heavily subsidised by the Australian government, they can select that. If they're looking at serial drama, series drama, sitcoms, any other type of drama that is available, you have a very healthy Australian industry that is ready and willing to produce that for them, provided that it can be funded.

What we've described in our paper is that the trend over the last 10 years where that sort of drama has largely been funded by the independent production community finding markets overseas to subsidise the amount that's available from free to air networks in their licence fees and their investment components, and the amount that can be subsidised by the limited amount of government subsidy that is available. So I cannot see any reason why the networks would make that statement other than to say - assuming that we, the networks, are not prepared to pay the full cost of Australian drama - regulation is not helpful to us.

MR HERD: I think the other thing to note about the way in which the current system works is this reference to high drama quotas. There is a degree of flexibility in the current standard that allows the broadcasters to choose between different types of drama format so that they don't all have to program the same type of drama. Also the actual amount of drama required of them overall in terms of the standard has remained substantially the same for the last decade.

MR ROUSE: The other things is that in reality the largest cost of a network is programming so when push comes to shove as far as trying to return maximum

amounts for their shareholders, the first thing that they look to reduce is the programming cost. By doing that, if there were no regulations as far as Australian drama was concerned - as it is more expensive than any other form of drama - I believe that would be the first to suffer.

PROF SNAPE: I suppose one has to look not just at the costs, but the effect upon the demand and if you are trying to get your profits up you just don't slash your costs; you look at the effect of what you're slashing on your revenue. This idea that you automatically get driven to the bottom in terms of quality as soon as you have to start trying to increase your profits doesn't seem to me all that convincing, unless one takes account of what its effect on the other side is. If there is a strong demand for Australian drama or a strong demand for anything which is generating the advertising revenue and allowing you to charge more for the limited amount of time that is available, then you don't go slashing that out. In fact, you look at the two sides of the equation, but you - as many other people in their submissions - have looked at only one side.

MR ROUSE: But, having a look at both sides, the thing is that if you didn't have an Australian quota we wouldn't have the drama we have today, because you wouldn't sit on a Blue Healers rating 12s and 13s for a year to try and get that drama up. Now it's doing 30 and that's great. So the current programs that are rating exceptionally well, yes, they'll stay for the next few years because the return per rating on that, as far as the advertising dollar they can drive against those, is certainly quite attractive. Once they start to fade - and all dramas do, there isn't a drama that's been on air since the conception of television - then the networks will look at alternatives because they can get a show like a million dollar quiz up at very little cost compared to drama, and it does a 30 straightaway. So what will happen over time is that our Australian drama will fade and they won't be prepared to put in the money to get new Australian drama up and rating like we have it today.

MS PECOTIC: It's also a direct comparison between the ratings that you can obtain by programming foreign programming. For example, Friends is a most obvious example, or ER. That is foreign programming that you buy in at a much lower cost than it costs you to produce local drama. It still rates extremely highly and given no other choice the Australian public is going watch high quality foreign drama at a much lower cost and still achieve ratings revenue, than if they were delivered high quality, high rating Australian drama at a much higher cost to the business.

PROF SNAPE: At the moment they are required, of course, to show a certain amount of Australian drama.

MS PECOTIC: Yes.

PROF SNAPE: And so that's fixed, they have to do it.

MS PECOTIC: Yes.

MR ROUSE: Sure.

PROF SNAPE: The fixture is in terms of times shown. They can then choose whether they get high quality, if they pay a lot for it, or they pay - go and say, "Give us the cheapest thing".

MS PECOTIC: Yes, and there are programs with both scales represented on them.

PROF SNAPE: Cheap and nasty - that they can. Why, at the moment, are they not saying, "Give us the cheapest that you can get and give us the nasty ones now"? Because on your argument they would make more profit than if they did, but it wouldn't affect their revenues. They have to show it anyway, so let's go for the cheapest you can get.

MR ROUSE: There is a scale, though, as you would well realise: under the Australian content you get a multiple factor of 1 for a serial, you get a multiple factor of 2 for a series, so what we perceive is that as a quality increases so does the multiple factor which allows them to be able to pay a little bit more for licence fees, and a 3.2 for many series and telemovies - so there is a scale within that which - - -

PROF SNAPE: But why, within each of those categories, are they not saying, "Give us the cheapest and dirtiest that you can do because all we're interested in is filling our quota. We're not interested in quality"?

MS PECOTIC: I think there are two reasons for that: one is that the networks between themselves are very competitive and the second is that this drama programming quota is required to be in prime time. Therefore, if they have to program Australian drama and they're required by the quota to program it in prime time - and that is the time where the three networks are most competitive between each other for advertising revenue - if they all or if even one of them or some of them went for the cheapest possible low quality Australian product, then they're leaving open the opportunity for the other network to obtain a higher quality, higher rating Australian product and therefore corner the ratings revenue on that particular occasion.

PROF SNAPE: So a fourth channel would then give you more competition and, on the argument you just said, they would in fact be trying to compete the people away from the others and they'd go to a higher quality and - - -

MS McEWEN: The other point about quality at the moment is that the networks are getting a bargain deal. The amount that they are paying for programs like Water Rats is not very high, but that's the kind of program that the independent producer wants to make because they can also sell it overseas. And because there is such an increasing reliance on deficit financing and financing and sales into foreign markets, independent producers have an eye on - I mean, they want to stay in business. They're not going to be fully funded for the cost of production by a network, therefore they need to make sure that that product is going to appeal elsewhere.

Therefore, the networks are actually getting a bargain at the moment because they're getting programs that are high quality at much cheaper rates because the independent producer is taking on a lot of that cost burden by selling that program overseas in a way that 10 to 15 to 20 years ago they didn't actually need to. And this is why the networks are still able to program high quality programs, because they're not paying the full costs of production, because they're not paying what is being paid in America for ER, for example, where in the domestic market the full cost of production is returned, therefore they can afford to sell it for a bargain basement price in Australia, where the differentials between the costs of Australian drama and foreign programming of similar quality are huge.

The thing is that the networks will still continue to have quality drama programming because they can afford it because they're getting a bargain because of their market power which allows them to pressure independent producers to accept prices which are well below what the actual cost of production is.

MR SIMSON: And yet the effect of the forecast increase in audience reach of pay in the next few years would be at least equivalent, would it not, to the introduction of a new free to air licence?

MR ROUSE: I would tend to debate that, but - - -

MR SIMSON: Well, I would put it to you that we're going to see an increase in audience reach for pay in terms of penetration of households say from 15 per cent to say 35 or 45 per cent - whoever you talk about - and if you then equate penetration to reach, I am just asking the question whether basically 20 or 25 percentage points might be about equivalent to a new free to air station anyway in terms of the competition in that marketplace that's going to occur over the next few years.

MR HERD: Yes, but with pay you are not talking about introducing a single new commercial network. I don't know what the actual number of channels on air now is, but - - -

MS PECOTIC: It would be at least 15 businesses.

MR HERD: - - - it's about - you know, we're approaching nearly 40 or 50 channels. The other thing, too, about the way in which pay television structures its business is that it is pay television, it has to depend substantially on getting people to pay for receipt of the services, rather than upon advertising. Although there is advertising on pay television at the moment, the kind of advertising that is attracted to it is not of the same order as is attracted to commercial television, because commercial television is about aggregating large audiences around programming that appeals to the greatest number of people at any one time, or the greatest number of people in a very substantial demographic, whereas what pay TV offers people is the ability to find niche programming that appeals to a small number of people, or the convenience of watching repeat programming at a time that suits them.

MR SIMSON: But as time goes on, would people be prepared, do you believe, to pay, on pay television or on subscription television, for locally produced drama?

MR HERD: As time goes on, if you look at again the example of the United States where, as that industry has developed and its subscription base has grown to a sufficient size, it has been able to commission new American drama as the driver of subscriptions. We anticipate that that will occur in this market as well. We're looking to pay television to be commissioning new Australian drama, and that's exactly why the expenditure requirement is there upon them to commission new Australian drama, and that they will be looking to use that as a subscription driver for them to distinguish themselves within the pay environment.

MR ROUSE: And if that wasn't there, I don't believe - to answer your question - that they would commission drama unless they had to.

MR SIMSON: But if Australian drama is so good, accepted, why won't people pay for it?

MR ROUSE: Because with Australian drama, with the amount of money you would have to put in as far as a pay TV operator is concerned - you know, Australian drama builds and you have to get the audience to get to like the characters within the drama and so forth, and with the amount of money that the pay TV operators would need to put in to achieve those outcomes, they wouldn't put the money up.

MR HERD: I don't think we're saying that Australians wouldn't pay for it, what we're saying is that - to answer your earlier question - into the foreseeable future we see the bulk of investment in new Australian drama coming from the free to air networks, not from the pay area.

MR SIMSON: May I just return to the earlier discussion you were having with Prof Snape about the terms of trade in your industry, and refer you specifically to page 16 of your submission, and I will quote:

Should the trend in both licence fee levels and overseas markets continue, it will become unviable for independent producers to make drama programs.

That is a categorical statement about your terms of trade.

MS PECOTIC: Yes.

MR SIMSON: So it seems we have got two separate debates going on here. We have got the debates about quotas and what's good and the Broadcasting Services Act, and we have also got what's happening out here in the real world in your marketplace in terms of your relationships with the people whom you supply and their companies. There are several things happening in that latter marketplace and, according to your submission, if those trends continue - and we have heard nothing

today to say they won't - it will become unviable for independent producers to make drama programs.

MS PECOTIC: What we're saying there is that in terms of regulation we have a basic system that we believe is working up to a point. This is the point at which it stops working. To go back to Prof Snape's example of a fourth commercial network, if you brought in a fourth commercial network, if you then put an additional clause into the Australian content regulation that not only required all four of them to put on quota product but to, for example, pay the cost of that product, then that would overcome this particular problem that's happening at the moment where the networks are reducing amounts or statting amounts for programming, the cost of that programming is increasing, and the producer is taking on the burden of funding the gap, if you want to use that term.

MR SIMSON: Precisely, but that fourth network, just talking hypothetically, might treat you more favourably than what's been occurring in recent years where a combination of your licence fee, the export commitment that you're required to make, the way the networks are in effect equity investing into your programming - - -

MS PECOTIC: Can I answer that - - -

MR SIMSON: Yes.

MS PECOTIC: - - - because the real world is the only place I can answer that from, because we are talking some theory, some regulation, and the real world. In the real world in the pay television market in Australia, which has been operating now for some time, we have not seen that happen; we have not seen pay television operators come to the independent production sector and say, "We would like to pay you for Australian drama." What we've seen is them not even meet the regulation that was put in by the government.

In the New Zealand market, as I described before, we did not see that happen. When the amount of television broadcasters increased, they did not correspondingly go, "Terrific, let's go and pay more money for more local content." In the UK where we had a similar and very recent example of Channel 5, exactly the same thing. In the real world, while it sounds great in theory and we'd love it to happen, it just does not happen. The networks do not come to us and compete together to say, "We'll pay double what you paid for Neighbours this week." They don't do it.

MS McEWEN: Believe me, if we thought it would happen we would be advocating - - -

MS PECOTIC: We would be arguing for a fourth channel as hard as we could.

MS McEWEN: Absolutely.

MR ROUSE: The other thing is, if you look at history with the aggregated markets

where most of regional Australia went from one to three stations, what has happened there is that the local services such as news and local programs have just gone; a lot have gone.

PROF SNAPE: There has been some migration of programs from one channel to another, has there not?

MR ROUSE: Very little.

PROF SNAPE: Neighbours, where did it start?

MR ROUSE: Yes, there was Neighbours.

PROF SNAPE: So it was competed away.

MS PECOTIC: Can I give you the example of Neighbours, because it's from our particular company. Neighbours was cancelled by the Seven Network when it was first put on air. In terms of the anecdotal examples that we've told you about, serial drama, which requires a long time to bed in an audience - at that particular time the Seven Network decided that it was not performing well enough, they were not going to pay the costs of continuing to - for whatever legitimate reasons they had, and I have no problem with that, but they cancelled the program. It was the first time in Australian history that any program had been moved from one station to another. We then sold Neighbours to the Ten Network, who got behind it with promotions and gave it a longer run and it developed an audience and it became an extremely loyal - and very popular program, in fact one of the most popular historically speaking in Australian television drama - and the world.

What then happened was that the terms of trade between all four networks introduced contractual terms that prevented that from happening. What happened was that the networks then introduced terms that said if they want to on-sell a program to anyone else, they have a right to, but that the producer is embargoed from doing that in the future. So that is a specific example of the market power of the networks, and of their particular response to that particular situation. Litigation was threatened at the time against the producer, who was not in breach of contract - the program had been cancelled - from selling it on to the other commercial networks.

So you should be aware that between the commercial networks there is intense competition, but in terms of between the networks and the producers there is an extremely strong market power between the networks that operates to the - well, the producer is prevented from having a similar example as Neighbours because of the contractual terms that the producers are then forced to inherit. That's simply an exercise of market power.

PROF SNAPE: Has there been any comparison or do you have any view about the quality of the drama which is produced by the independents as against in-house? I mean, you've got the argument here in support of independents and you are

requiring or asking for some special treatment of the independents. Is that related to royalties and copyright and such matters? Has there been any comparison of the quality of in-house versus independent productions?

MR ROUSE: It's more I think the actual operation of the ideas. I think if you look at an All Saints, which is produced in-house, compared to a similar range show such as Stingers, which is an independent production, the actual quality between the two - except one is produced on film and one is produced on tape, I don't think you could really "squash". But don't forget that although something is actually produced internally, they certainly outsource to the independent sector to help them produce those shows as far as the creativity and writers is concerned, and where the intellectual property comes from.

PROF SNAPE: But you're asking, I think, for the whole thing to be done independently rather than in-house, are you not?

MS PECOTIC: No, what we have asked for I think is a quota, and once again it is - - -

PROF SNAPE: Yes, that's what I meant, a quota for the independents.

MS McEWEN: Yes, not for the whole - - -

MS PECOTIC: The reasoning for that from our point of view in terms of an industry and economic analysis is to say that if a trend develops or goes to the point where the networks vertically integrate and produce their own drama and all of their own programming - I mean, news and current affairs is something that's already done. A large proportion of light entertainment such as infotainment programming is already done in-house. What our concern is, is that the critical mass, if you like, of programming available to the independent producers will be reduced to such an extent that the independent production sector would not survive; you would not be able to have companies such as Southern Star, Beyond, Beckers, Grundys, Crawfords, operating in a marketplace where the majority of their revenue was taken away because they couldn't produce that programming.

PROF SNAPE: I understand that. Your argument, however, was not that that would mean there was a lower quality production.

MS PECOTIC: No.

MS McEWEN: It's more to diversity, I think. I mean, one of the objectives of the Broadcasting Services Act at present is about diversity of programming and diversity of things, and if everything was produced in-house under the same creative control, that would go some way inevitably to reducing diversity, because they would use similar writers, they'd use similar directors, and it would tend to remove that diversity.

MR SIMSON: But at the end of the day someone has got to pay for all this, don't

they. I mean, if what you're talking about is in effect quotas within quotas - independent production quotas to ensure that a chunk of drama is produced outside of the in-house facilities and operations of the networks, in a situation where the networks are already complaining - rightly or wrongly - about the existing arrangements - I mean, we talk about tensions and when you look at the terms of trade that you're operating under - what I have been trying to search for this morning is some fix as to where all this is going.

I mean, even if the status quo were retained, for argument's sake, even if there were no more free to airs in the next five years, which is what the law says anyway, at the moment, and even if the production quotas were - the content, drama quotas and others were to say - but what's actually happening out around there in the economy in which you operate that is colliding with these regulations - that's just going to make the things untenable, and I'm still actually quite unclear as to, on a four or five-year time-frame, how tenable continuing existing arrangements is from the perspective of a number of your members - not necessarily everybody but a number of your members - and also from the perspective of the networks.

MS PECOTIC: I suppose the issue there is the straightout argument about profitability and the network's argument about to what extent profitability changes, increases or what happens to it over the next five years in the converging marketplace. I guess we have reached the point in the production sector of facing profitability problems much earlier than they have impacted upon the networks. Our concern is in looking at not only our own economic marketplace and how we continue to operate efficiently in it, but also about how the government continues to achieve cultural and public policy objectives in having programming of this nature on Australian television.

One of the arguments, for example, is about increasing subsidy, and from the point of view of many of the companies that have been incredibly commercially successful over a period of time, if you look at and you analyse the product that they have exploited it has generally not been subsidy product. The view would be that subsidy - in a similar way as you were asking the difference between the quality of Home and Away and the quality of Neighbours - quality-wise in our current marketplace, which is very much influenced by independent production, there is very little quality difference. I would argue that there was no quality difference between those programs in terms of their qualities of production, their scripting, their casting.

All of those programs draw people out of the marketplace or draw people out of the independent freelance community if you like. The concerns are, if you take the ABC as an example - and I'm not introducing it in a controversial context, but if you look at the inefficiencies that happen where a small micro-marketplace, if you call that the ABC, has operated under a subsidy arrangement, effectively government funded, where it produced virtually all of its programming in-house, what happened was that it became very inefficient in terms of how it produced its programming.

Within the independent production sector, which is very closely interrelated to the networks, because they do not produce all their drama programming in-house, it

has meant that the Australian marketplace is one of the most efficient producers of television in the world. That's why Grundy Television itself was able so successfully to export Australian television production know-how throughout the world and create such a big business out of it. It was because we were so good at producing television in the cheapest possible way.

Our concerns about things like vertical integration are that that, economically speaking, doesn't lead to efficiency, it doesn't lead to diversity, it leads to the opposite direction, and that in terms of the competitive analysis that we believe is your brief, we believe that the independent production sector requires supporting in an Australian marketplace that has such economic threats to it so that it can preserve the efficiency of local production and the diversity and the voice of many different players that end up on Australian television where everyone can watch it. They're the sort of dynamics that we're struggling to deal with and it really is a struggle at the moment in terms of the economic factors.

MR SIMSON: If the government were to change the rules on foreign ownership with regard to the television broadcasting sector what would be the impact, in your view, on your business?

MR HERD: I think we would be concerned about changes in the foreign ownership rules because what we can see developing would be a greater relationship between domestic networks and larger international businesses that are both producers and distributors of content. In a lot of the conventional discussion about this it seems to be imagined that if foreign ownership rules were relaxed then News Ltd would be the beneficiary and it would buy one of the existing networks, but there's nothing to suggest that that might be the outcome.

MR SIMSON: That would require another change as well, as a cross-medium - - -

MR HERD: Yes, but you might end up, for example, with one of the American networks such as ABC buying one of the networks which is owned by the Disney Corporation. Then you would have a large multinational producer and distributor of programming owning a commercial network in Australia. What we would see in that situation is it becoming even more difficult for us to sell product in that marketplace rather than less.

PROF SNAPE: You wouldn't see that the opposite might happen as well - that is, while there would be links from abroad to Australia, there would also be better links from Australia to abroad - so that they may be more inclined in fact to take Australian product and put it on elsewhere?

MS PECOTIC: There is no barrier at the moment to a company such as Disney purchasing Australian product, doing distribution deals on Australian product and acquiring Australian product, which it has done in a small way for the family channel, for example. That would be one of the marketplaces that independent producers go to to distribute their product.

PROF SNAPE: Yes, but what I was saying is that if you have improved the linkage - which was the argument you used, in fact - for more of their foreign stuff to come into Australia - and you're saying essentially by them owning it that improved the linkage and so more came in that way.

MS PECOTIC: Yes.

PROF SNAPE: I'm saying, what's wrong with turning the argument around and saying that would improve the linkage the other way as well?

MS PECOTIC: Well, there's two actual problems with that. One is that the American marketplace is the most homogenous marketplace in the world. Disney is one of the principal companies within the industry in that marketplace, and to date there are virtually no Australian programs that have been shown unaltered, undubbed, into the American marketplace, including Neighbours, which is the most successful export that Australia has. It is simply a marketplace that wants to watch American product. So the other problem is the market imbalance.

I mean, Disney is an enormous company that produces the most enormous amount of programming and television programming throughout the world, in particular in America, and feature films, so to imagine that the very small amount of product in Australia could have an impact on Disney or could then suddenly have a market in the US where the local population is resistant to any foreign programming is something that just doesn't happen in our particular market. It would be nice if it did, but unfortunately it has not been the case.

What is more likely to happen in direct economic terms is that any major producer of programming that buys into a network will look at creating efficiencies between its existing business and the local business. Our concern would be that Disney, for example, and ABC would look at Australia as a way of getting a cheap outlet for its, you know, excess programming. That way it would cut costs out of the local production, make it a more efficient business and deliver benefits to the bottom line, unless in introducing the foreign ownership you then double the regulation again, and this is not something that is particularly attractive.

MR HERD: You've also got to remember that we can't see those foreign companies coming here in order to establish Australian-owned businesses where Australians own and exploit the copyright. They would certainly be using Australia as a location for program production as happens at the moment, but I mean that's just using Australia as a location, taking the benefit of the experience of our talented crews.

MS PECOTIC: It's a cheap place to make American programs.

MR HERD: But in terms of building up businesses of the kind that we in the independent sector represent, where Australians own and control copyrights and gain the benefit from the intellectual property that's created here, there's no incentive for a

foreign company to be doing that.

MR SIMSON: Can West owns 57.5 per cent of Network Ten and a 15 per cent voting interest. In their submission to us Can West says:

The turnaround at Network Ten not only protected existing jobs, but also promoted the development of a vibrant, independent production industry which benefited from increasing outsourcing of local programming -

and it goes on. Do you disagree with that?

MR ROUSE: Increasing outsourcing? I wouldn't say that would be totally correct as far as drama is concerned.

MR SIMSON: But was Can West good or bad for Network Ten? Has it been good or bad for Network Ten?

MR ROUSE: It was good for Network Ten in that Ten was operating with huge losses and there was a saviour that came in at the time when a financial injection was required.

MR SIMSON: And has Ten acted in the spirit of the content regulations? Has it been a good or bad corporate citizen from your perspective or from the perspective of your members?

MR ROUSE: They do what they have to do as far as their content is concerned and that's as far as I believe Ten will go.

MR HERD: They won't do any more than the minimum required of them.

MS McEWEN: I think Ten is the channel that only just makes its quota minimums.

PROF SNAPE: Yes, but they're still in existence.

MR ROUSE: Yes, they are.

PROF SNAPE: Which looked - - -

MS McEWEN: But that's a debatable point - - -

MR ROUSE: In some doubt a number of years ago. If they weren't the White Knight I'm sure there would have been someone else that certainly would have stepped in.

MR SIMSON: Just talking about Network Ten and its audience, its "younger audience", could you just comment on that audience and demand for local drama as a

programming trend?

MR ROUSE: There's no doubt that the hardest demographics for drama is the 16 to 24 age group. Mind you, it's hard to get 16 to 24s on any form of television because they're too busy doing other things. So as far as the 16 to 24, 16 to 30 demographics are concerned, it is hard to attract them as far as drama is concerned, although the trend has been with shows such as Good Guys Bad Guys, Neighbours, Home and Away. Those sorts of programs do tend to lean towards the younger demographics as far as that is concerned, but in general it is difficult to attract the younger audience.

PROF SNAPE: We have been asking you many things. Thank you very much for your responses. We noted on page 16 that you foreshadowed a confidential submission of some data and proportion of the total cost of production which network's investment represents. I don't think we have yet, but we look forward to receiving that. Thank you very much for putting your position and being tolerant of our questions.

MR ROUSE: Thank you very much.

MR HERD: Thank you.

PROF SNAPE: We'll break for just a moment and then as we change places we've next got the Federation of Parents and Citizens.

PROF SNAPE: We resume our hearings after the break for morning tea and we're pleased to welcome the Federation of Parents and Citizens with three representatives, and I'd ask each of you to separately identify yourselves for the transcription service and to state your position with the federation.

MR MOLESWORTH: Rodney Molesworth, publicity officer.

MS BAKER: Beverley Baker, president.

MR ANDERSON: Damien Anderson, research officer.

PROF SNAPE: Thank you very much. Ms Baker, are you to open the bowling?

MS BAKER: Yes, I am. Thank you very much for the opportunity to talk to you today. The Federation of P and C is a voluntary organisation that has an affiliate base of around 2150 public schools. The parents in these schools come together each year at an annual conference and that annual conference determines the policy for the organisation. The policy is directed, and you'll read in our preamble of the philosophical underpinnings of the Federation of P and C, that every child can learn and that governments must provide an education system open to all which is free so that young people, our future, have an opportunity to be educated at the highest quality and not be dependent on their parents' ability to pay.

Public schools cater for the educational needs of over 70 per cent of the nation's young and therefore we believe that the voice of the parents who support those children is extremely important. For the last 15 years federation has been arguing for very defined regulation of children's media so that children are able to grow, to develop, to learn, to have as their entertainment the things that are important to them. The current act has actually delivered us the things that we had been asking for. It has meant that the quality of programs for children in specified viewing times have met the requirements of parents and the requirements of children, and have ensured that the cultural heritage of our Australian children is preserved in the things that they are viewing and that they are able to grow and develop.

We believe that that regulation is absolutely vital and we believe that without it the programs would have been of an extremely different nature than they are, and that our children may well have been subjected to mindless entertainment rather than some of the very powerful and explorative programs that they have at their disposal. Our presentation here today is to look at the whole area of regulation and deregulation, to have a look at the whole area of information and the importance of information in the developing lives of our young.

As I said, our organisation is completely focused on the development of the nation's young and, in particular, the students of New South Wales, so that the regulation, we believe, must remain, and a deregulated market would simply not serve the needs of those young. The market must be regulated in terms of quality, in terms of access and in terms of information, so that access is again not dependent on the

background from which you come but completely dependent on what is provided free to air and free through transmission. At this point I would hand over to Rodney Molesworth.

PROF SNAPE: Thank you very much.

MR MOLESWORTH: Thank you. In opening I would like to say that while the main thrust of our submission is to do with children and the information and entertainment which is available to them, there are some other aspects which are important to us. We were alarmed, I must say, to note that the Productivity Commission was going to be conducting this inquiry in view of a number of things, including the decisions that it has come to in the past and its immediate forebears, and we were quite alarmed in fact that the word "productivity" is at the centre of an inquiry into the availability of information throughout our community.

It seems to us that the central point is not the production or the efficient production or in fact anything to do with that, it is to do with the ability of the community to draw itself together and to receive a variety of information which is of high quality and which is available to all. It seems that the theory and practice of competition in our society has got very little relevance to the availability of high quality information; in fact, it very often works against it. It is going to be very strongly our submission that information has very little to do with the production of other goods and services. It is in fact the very basis of what it means to be Australian and it is the very basis on which people make all sorts of decisions about their lives, including their electoral decisions.

We would argue, and will be arguing, that it is an area of production in which the rules of competition have little relevance. Where they do operate in an unfettered manner they work against the availability of high quality information and that it has very little in common with the production of other goods and services. We are certainly arguing for a maintenance of regulation in relation to what programs and information is available to children.

We're also concerned about the lack of availability of opportunities for groups other than large corporations to have their views heard. What we feel in relation to the reporting of news, for example, is that even when our views are reproduced they are not our entire views and they are those parts of our views which happen to fit in with what is there. We are concerned about the concentration of ownership in the media and we are concerned that that concentration occurs in the hands of a very small group which are drawn from a very small part of our society. We are concerned at the increasing concentration of ownership. We are concerned about the non-contestability of the major organs of the mass media and we are concerned that those areas which were supposed to be more contestable, such as regional radio, are subject to an increasing concentration of ownership.

All of these things matter a lot to voluntary organisations. It appears to us that voluntary organisations and their position in our society are being rapidly downgraded

from a position where they were highly respected and where they were listened to, to being in fact competitors with the private sector. We are concerned that this is reflected in the way in which we are regarded in the media and we are concerned at the lack of availability of opportunities for the opinions of organisations such as ours to be heard. We have seen in the past government monopolies being required to use the equipment and infrastructure that they have to deliver competitive neutrality to new entrants. We would certainly like to see the same thing applied to private corporations in relation to those, such as our organisation and many, many others, to ensure that our voice has an equal chance to be heard with those very powerful corporations.

MR ANDERSON: As far as we can see and looking at the terms of reference before this inquiry, there are three questions in relation to the effect of deregulation of broadcasting services, or the potential deregulation of broadcasting services, that we would hope that the commission considers. The first is, will the provision of more services in competition with each other improve the quality of those services in what we would consider to be the delivery of important social objectives that are described in the Broadcasting Services Act 1992?

Secondly, we would ask the commission to consider whether fierce and unregulated competition between broadcasters will deliver desirable diversity, both in content and in terms of ownership of commercial broadcasting services and, finally, to consider whether deregulation of broadcasting services will deliver greater competition in the long term or reduce competition in the long term, given the predilection for acquisition of companies by other competing companies in relation to their competition.

In terms of the protection of children's interests we acknowledge that regulation put in place in terms of delivery of children's television programming is an expensive undertaking for commercial broadcasters and that the rules are very restrictive in terms of the content that commercial broadcasters are able to screen during children's television program periods. We assert however that those regulations are indispensable given the vulnerability of children and the responsibility of the entire community, including commercial broadcasters, to at least contribute to the development of the next generation of Australians.

PROF SNAPE: Thank you very much. Just to comment on the Productivity Commission: the commission of course has been asked to undertake this review and the review came under the requirements of the Commonwealth government's legislative review schedule that it was under the competition principles agreement between the federal and the state governments, but the terms of reference combined with our own act are what set the terms of what we are required to examine and they very clearly specify in the terms of reference that diversity is important and we are required to be balancing the cultural-social as well as the economic dimensions of it. I think that the issues paper which has been put out would indicate that we are taking those matters very seriously.

I might say that another inquiry that the commission has got at the moment is on gambling, and of course the social, if not the cultural, issues are extremely important, as well as some economic ones. What the commission is I think doing here and has done in many of its other inquiries and in its previous manifestations, is aiming at looking at the government's objectives and suggesting means by which the government may pursue those objectives and comparing different ways, and that is what we are asked to do here: to be giving options. We are not of course in the business of setting objectives. We are considering the objectives which are stated and the objectives are stated in the terms of reference and in the Broadcasting Act.

We have been asked in the terms of reference to clarify the objectives of the legislation and that of course is an interesting task. Sometimes the objectives that have been stated may of course be at cross-purposes. I am not saying that they are in this case but it is not unusual for governments to have some legislated objectives which may be at cross-purposes with each other. So amongst other things we will be looking at whether there is any such cross-purpose thing to clarify the objectives, but we are not of course in the business of setting government's objectives. We are in fact in the business of trying to advise on means to achieve them.

I thought for a moment when you were speaking about views known you were referring to the commission and that is why I turned to you suddenly, but I realised what you were talking about then was the media, and of course that is one of the things that we are concerned about in this inquiry - about the diversity - and we are asked to be looking at the diversity of sources of information and the way that they are reflected.

This inquiry process of course is a very public process and all the submissions are in the public domain, unless there are commercial-in-confidence matters in them, so everyone's position can be known. We have been making quite a big effort to make it known that this inquiry is in process and to invite citizens and citizens' groups, such as your own to make presentations, and the presentations of such groups and individuals are taken just as seriously as the presentations of the major media people. At the end of the process we make recommendations and there will be a great deal more information in the public domain, known to the public. It is then of course up to the government to make its decisions. I thought I might just mention that as process since there seemed to be some concern about it.

MR SIMSON: Can I just ask a question please from your submission. You point out in the introduction in fact at the bottom of page 2:

Broadcasting regulation should ensure that the entire Australian population has reasonable access to high quality broadcast services that cater to a wide range of interest by conveying a variety of views and ideas.

Later on on pages 5 and 6 you have some fairly harsh things to say about what you see as the content that is currently being made available. Would you just focus for a moment on news information and comment and opinion - not drama - in the television

area. Could you give us your views as to the quality, the standard, whether it is getting better or getting worse.

MS BAKER: I guess it is hard to draw a quality balance like that but what we do know is that the television media tends to portray young people in a very negative light. The language that they use to describe them, the actions that they have attributed to them; the focus on a very small group of people who are in difficulty for a range of reasons is depicted as being the teenage population, or young people, or kids today, and the negative connotations of that is to create in the minds of the viewing public a fear and a concern that parents aren't doing their job and aren't as good as they used to be - which is complete nonsense - and that our youth are out of control and are running wild and that we need stronger and more rigid legislation to control them.

If you map stories that have run you will see that that is an underlying theme and it is a theme that is picked up in a public arena and then it is a theme that is then picked up by politicians and then it comes back with such acts and things on government policy that actively interfere with the parenting role by putting in legislation and regulations and controls on parents on something that has actually been manufactured. I mean, if we go right back a couple of years we will remember the Paxtons - the young people who were unemployed who had been offered jobs - and the whole hype that was around that. When you unpack that, when you actually pull that back to reality, the story was a myth. The children were set up. But the population believed that young people were a mob of bludgers who just needed it to get tougher to make them work.

That is being replicated in decision after decision of governments who are getting tough on the most disadvantaged within our community. That is being driven by a media that is targeting those, using it as a highlight to attack it, to show, "This is a problem. Let's fix it", rather than really giving the information about what the real problems are, where the real problems sit. That information is really difficult to get. Then when you get it, it is impossible to get it into a broadbased public arena because in a two-second grab on a television you don't have the chance to develop it. When somebody gets up and says, "Kids are bad" and you say, "Well, actually they're not" and "here and here and here", you've got two seconds.

You don't have the time to develop the argument, whereas the simple statement that kids are out of control and bad is there, in people's minds, going into their brains, and then they are starting to look at that stylised behaviour of young people. Kids with hats on backwards or baggy pants, or standing around in groups or a way of walking is then stylised as being, "Oh, yes, that is a dangerous group of people." I believe that is directly attributable to the way the media has handled any of the cases where young people have got themselves into strife.

MR SIMSON: Is this something that is getting better or worse?

MS BAKER: It is getting worse. It is actually getting worse.

PROF SNAPE: Just on that point, could you comment on radio, because your focus has been on television. I suppose there are two things here: one is what is being broadcast on radio to the children, and secondly, as you were just talking about, what sort of images are being portrayed on radio? Is radio more influential or television more influential in forming people's opinions about children?

MR MOLESWORTH: If I could respond to that, all forms of mass media are extremely powerful in comparison with the next available piece of information, which might be from a person quite close to the person hearing. If you want to have some kind of hierarchy, certainly television is far above the others, and then radio and print seem to be around about the same. But it doesn't really matter which is more powerful because with very little variation the same rules apply, and those rules are that you have to get the ratings and you get the ratings not by putting high quality complex arguments which will help people make correct decisions about the things that are going on around them, but something which will create an immediate psychological response which lasts a certain length of time and then allows the recipient to relax.

Just to give another example, there was a very, very high profile conference on crime prevention which was organised by the New South Wales parliament. It was attended by high profile speakers from overseas and from Australia. The speakers included the attorney-general and the shadow attorney-general. The overwhelming result of the research which was presented at that conference was that crime prevention was essentially a matter of social support for at-risk children and their families, and that "get tough" policies often were causes of crime, and that incarceration, except for serious repeat offenders, had no effect on the prevalence of crime.

Yet within two months both major parties went into an election campaign in which they totally contradicted everything which the attorney-general and the shadow attorney-general had said at that conference about their acceptance of those views because the climate had been created throughout the media that any government which sought power, which did not intend to get tough on offenders, particularly young offenders, did not have any credibility. This is the power of the media over public opinion, and what we are seeing is governments responding to views which are held in the community which are the direct result of what has been said in the media. This is a case of where commercial realities work against social realities and is an appropriate area for regulation.

PROF SNAPE: What I am driving at is, if in your opinion this is occurring, does it not mean that the existing regulatory arrangement that you seem to be defending is not working?

MR MOLESWORTH: Well, it is certainly an indication that the abandonment of regulation would definitely lead to more of the same and much worse. One of the few areas that is protected is the area of young children in television, and we are very

concerned at the prospect that that may be seen as commercially not viable and reduced. Certainly it is a cost to producers, to media corporations, and it's a cost which we think they should bear in the same way that for people who produce paper, part of the cost of that is to deal with the pollution which comes from that. If you produce information, part of the cost is providing appropriate information and supplying high-quality information.

PROF SNAPE: Would you extend that to radio?

MR MOLESWORTH: We would certainly extend that to radio because one of the main areas - - -

PROF SNAPE: Do you see the same restrictions on radio, or the same requirements on radio that exist on television?

MR ANDERSON: It depends on what you're talking about. Obviously you can't regulate for people to be creative. You can't legislate that there will be a variety of viewpoints because these things change from day to day and from time to time. I think the point that Stuart was making about radio and about television is that they are both influential broadcasting services - and they're influential precisely because they are delivered to passive recipients - very often people aren't listening to them, they're getting on with other things in their lives, and sometimes some very important things are happening with the radio or the television on in the background in many people's lives. For that reason there needs to be some regulation.

Whether it's appropriate for broadcasters of radio services to be obliged to provide dedicated children's programming is a different point, and I've got to tell you it's one that we haven't considered. By and large we are satisfied that radio services don't necessarily require that level of regulation provided that the programming is generally suitable for children in periods when children are most likely to be listening, to be participating in that medium.

PROF SNAPE: Is it? Because I am now looking at the other aspect of what has been existing, and we have had a number of citizens' groups making complaints or criticisms of what is being put out on radio.

MR ANDERSON: In terms of talking broadcast services, it's important - although it's not the only consideration to look at what children like to listen to. Do children like to listen to adults getting angry over the radio? I don't think so. They would probably much prefer to listen to some music that was of their liking or something more suitable. There remains, because of the lower cost of entry into those services, more diversity in the delivery of broadcasting services. For example, someone can listen to elevator music on one radio station or a reasonably hard-boiled variety of rock and roll on another radio station. There is more diversity in radio than there is in free to air television, and there is probably more diversity in pay television than there is in free to air television, but the fact is, in terms of its influence, free to air television we would say is probably more influential than either of those services.

MR SIMSON: And you don't believe that any deregulation in that sector - for example, the entry of another free to air station - may increase competition in terms of diversity of news, information, comment and opinion, given that you are quite critical of what you're seeing at the moment?

MR MOLESWORTH: What we see at the moment in free to air television is a terrifying sameness. There is more diversity in radio but in television you find them actually copying their news format, and they copy their quiz format; they copy everything because in fact what competition is actually doing is leading to a convergence, not a diversity at all. The entry of one other player couldn't possibly make any significant difference to that. What we were talking about is something which allows a very wide variety of views, so perhaps the majority of views would reflect the majority opinion but there would be a significant minority. There's no significant minority in free to air television with two, three, four, five or six suppliers.

In comparing television and radio there is a possibility that diversity can - which is probably not in the foreseeable future going to be available in free to air television - ensure that it is available in areas where there is a lower entry cost, such as radio. But the past has shown a rapid convergence of ownership and control over markets in the area of radio. We're not looking at the existing regulations being sufficient to provide that diversity, even diversity across regions, let alone in the same market, by the existing level of regulation.

The other thing about radio - just returning to your other question - is that one of the most influential areas of radio is talk-back radio, which is absolutely of the one kind throughout. There is no diversity whatsoever. There are certain formulae responses to certain things that occur in society, and those are repeated over and over and over again. They're highly influential, both on governments and on public opinion. It's an area of great concern to us. I mean, we talk in terms of government by talk-back radio. We have actually seen ministers make policy decisions whilst on the phone to talk-back radio hosts. It really is a very terrifying situation in relation to our democracy, and something which needs urgent attention in some way.

MR SIMSON: I'm just having some difficulty reconciling your assessment of the position as it exists at the moment and then your belief that the status quo in terms of regulation is the desirable position - I mean, based on my understanding of what you say - - -

MR ANDERSON: I don't think our position is the status quo. The status quo is that there are certain indispensable social objectives that need to be maintained in terms of any regulatory regime in relation to broadcasting, and we've outlined two of those indispensable social objectives. We are not experts in the area of broadcasting. There are plenty of other people that are. But the point is we are a community organisation with a fairly significant representational basis in this state, and what we are saying to the commission is that there is a certain bottom line that our constituency expects us to defend, and that's what we're doing in this hearing.

PROF SNAPE: That's fair. I understand that.

MR MOLESWORTH: I'm sorry, just to amplify that, it is very much in our policy, and has been for a quarter of a century, that regulation is necessary in the public interest. What that regulation might be will change as all the circumstances surrounding the delivery of information change, and we wouldn't claim to be experts on that. We certainly concede that the current regulatory environment is not sufficient to produce the kind of quality and diversity which we would support, but it's certainly not our view from that that a lower level of regulation would be better. A better targeted, a more effective and better enforced system of regulation is more in line with what we see to be required.

PROF SNAPE: I think what you're looking for is appropriate regulation.

MR MOLESWORTH: We are - appropriate, effective and enforceable regulation in the identified areas of community interest which are not served by the profit motive.

MS BAKER: That is quite demonstrable in the children's area, which has been the focus of our organisation for a long time in this particular area. But that regulation has ensured that young people have actually a space in viewing television where they are ad-free, so that the conflict of values that parents are consistently faced with - there is a period where they know that their children are safe to sit in front of the television unsupervised, if you like. For parents that's a huge gift, because they are not always standing beside their children sorting out the rubbish from the real.

There is an opportunity for the kids to explore in an imaginative way, which is the way that children make sense of their worlds - something that is actually contained, that even the leads into it must protect and the leads after it must protect. That half hour of ad-free time is only tiny, but it's a tiny time where children are actually respected for being children, for having a vivid imagination, for not being old enough to sort out the fact that if you buy this particular kind of lolly you'll be popular versus let's have fun and dance around and have a good time with the show. Kids are not expected to make those instant decisions which are adult decisions.

We have fought long and hard for the regulations around children's television. We are very pleased with what we have got so far. We're not saying that we don't believe there should be more, but we are very pleased with what we've have now. We know that there is enormous cost to the commercial providers and, as Damien said, it is part of the social responsibility. There's a very old adage that says the parents have the children and the village raises them. We expect all of the members of our village to help us raise our children and to preserve their ability to explore and play, because play is the work of children.

The stories that they are given, the high-quality programs that we have ensured be maintained - and the flow from that, the employment that is generated, the creativity, the artistic things that are developed because that regulation is in place

which forces people to make money - to actually put something back - we feel that is absolutely essential in this area and we would hate to see that deregulated to the point where programs can just be packaged and dropped in with no concern or consideration; not even any assessment as to whether or not they are changing the way a child views the world by interfering with the process and the interaction with parents. We would hate to see those regulations watered down in any way, and we believe that there are other areas in which we need to target as a society to decide whether or not where we have gone is producing what we want, which is an articulate, highly-educated, informed and mobile workforce.

PROF SNAPE: Do you have any data on the numbers listening or viewing?

MR ANDERSON: Not that we've produced, but we've access from other groups such as the Communications Law Centre.

MS BAKER: It's not the nature of our organisation.

PROF SNAPE: Do you have any association or relationship with the Children's Television Foundation?

MR ANDERSON: We are members of Young Media Australia.

MS BAKER: Yes.

PROF SNAPE: That's a very clear expression of the concern and your views on this, and we thank you very much for it. We've read the submission as well and listened to you, and if you have further thoughts that you would like to put before us, particularly perhaps after the draft report which will come out, if you think we've got it wrong, then we'd expect you to tell us so. But we hope we don't. Thank you very much.

MS BAKER: Thank you.

MR MOLESWORTH: Thank you for the opportunity, and may I say that we really do appreciate the opportunity to express our views because, as I say, it is sometimes difficult for us to achieve that, and the kind of inquiry that this is - we make a point of attending every relevant Senate inquiry and every other inquiry that there is, simply because we lack other outlets, and we do appreciate the opportunity.

PROF SNAPE: Thank you very much.

PROF SNAPE: We now turn to NTL Australia. The submission has come in fairly late but, nevertheless, we've been able to read it. It was a rough weekend actually. I'll ask Mr Bennie to identify himself for the tape, and his position with NTL, and then speak to his submission. Thank you.

MR BENNIE: Thank you very much. My name is Tom Bennie. I'm the managing director of NTL Australia. I'd like to thank you first of all for allowing us the opportunity - as you say, it was rather late in the day for us to make the submission and to come along and share some thoughts on that submission with you this morning. What I intend to do, if that meets with your requirements, is really just to go through a few opening remarks about NTL Australia and who we are and what we do in other parts of the world, and why we're interested in acquiring an asset here in Australia; to talk really about the principal objectives that we've set out in our submission, and then I guess really leave the time then available for questions and answers. So if that's acceptable, that's the route I'll follow.

PROF SNAPE: Yes, that's fine.

MR BENNIE: Perhaps I'll start by outlining who NTL are on a global basis. NTL is a US-owned company, although certainly prior to its acquisition of the national transmission network here in Australia it was almost entirely a UK-based operation, and in the UK NTL is a full-range supplier of telecommunications and broadcasting services. NTL itself was formed from the privatisation of what was the engineering division of the Independent Broadcasting Authority in the UK. The Independent Broadcasting Authority was the regulator who licensed commercial television and radio in the UK and also provided the national transmission network for the distribution of those signals.

Under the 1990 Broadcasting Act that arrangement was altered, and the business of regulation was moved to two new regulatory authorities, namely the Independent Television Commission and the Radio Authority, and the business that had been the engineering arm of IBA was privatised to become NTL. So NTL owns and operates the national transmission network for commercial television and radio within the UK. In 1996 the company was acquired by its American parent, Cable Tel who'd been investing heavily in the UK cable industry, and subsequently the whole business was renamed NTL. I guess at this time NTL is one of the three major cable, telephony and television providers in the UK; there's NTL, along with Cable and Wireless and TeleWest, who effectively provide local distribution within the UK, and with the broadcasting networks provide the national transmission services for commercial radio and TV.

We're listed on the NASDAQ exchange in New York, and market capitalisation is up to \$14 billion. As a company we have a heritage in broadcasting that dates back to the mid-50s, and more recently have been deeply involved in the transition of the analog services from analog to digital. As a company we were instrumental, I guess, in the formation of what is now DVB and our engineers did some of the pioneering work on the compression systems that are necessary to make digital television a

reality, and indeed in developing the COFDM modulation systems that are chosen in the UK and now in Australia.

In the UK we operate two national multiplexes. A multiplex is a band of frequencies in the UK - eight megahertz; in Australia it would be seven megahertz. We operate two of those on a national basis. In the UK we operate a multichannel system to provide a plethora of choice for the users, and indeed for one of the multiplexes we actually are a shareholder in the entity that owns the multiplex licence. In addition to the terrestrial broadcasting systems, we will be later this year launching digital services via cable networks, so that within the UK then one will be able to receive the new digital services via satellite cable or over the terrestrial systems.

Perhaps a few words about what is the national transmission network in Australia: the NTN is the only national broadcasting infrastructure. There are alternatives, particularly in the metropolitan areas, but when one moves into rural and regional Australia, then generally the NTN is the only broadcasting infrastructure, and currently it's delivering the analog services - that's both radio and television - for the ABC and the SBS. It also provides a vital access service for commercial broadcasters and for telecommunications operators.

The NTN privatisation was seen by NTL as a major opportunity for us to expand our core business in broadcasting on an international basis and, with Australia's own transition to digital, it was certainly an area where we felt we had something to offer and could be a player in creating a new opportunity for Australia. So consequently we were very interested to pursue it and obviously delighted when we were subsequently successful in acquiring the NTN. We believe the NTN has quite a unique role to play in delivery of these new services for Australia, particularly in the regional and rural areas.

Once again we thank you for the opportunity to make a submission. It's been quite a rush for us to put the submission together because in fact we actually only acquired the NTN three weeks ago so our agenda has been rather full, as you can imagine, transitioning that business and making sure that we're doing everything we need to do to build a successful future. However, we felt it was important to at least get a short submission in that tried to summarise two of the key points from our perspective, and we've certainly limited our comments to areas that we feel we have some knowledge that we can share which is really on the technological side and, indeed, as to how the services are being developed within the UK.

There are two main thrusts to our submission. One is that certainly from our own interests - and I would like to think certainly from a public policy interest - as far as possible we would like to see the introduction of more services rather than less services. To us there are two fundamental issues that will act either as enablers or disablers of that outcome, and one is the amount of spectrum that can be made available for the transmission of these services. I don't intend at this stage to go into any great detail on the conversion schemes that have been developed, but clearly I'm more than happy to comment on that. But if there's not enough spectrum available,

then clearly there won't be the range of services on offer to provide choice and there won't be the opportunity for new players to enter the industry to create perhaps an industry structure that would be required from a public policy interest. So that's one issue.

The other issue that goes to the heart of this is, for these new services to be viable - I mean, clearly our interest lies in there being a viable industry in both broadcasting and datacasting in both television and radio, and the viability of certainly the new services is a matter of opinion currently, but one of the major issues in determining their viability will be the ease and the value for money of consumers buying reception equipment to receive the new services. So the second string to our submission is really pointing out that, when standards are being developed for the transmission and reception of the services in Australia, one needs to be very mindful that the cost of the receiving infrastructure will be a major issue in the speed with which these services are taken up, and therefore the overall viability of new business. Thank you.

PROF SNAPE: Thank you very much. It's in fact a short but very interesting submission, and I know I have and I'm sure Mr Simson has got a number of questions for you on it. You do talk about the availability of spectrum and you talk about the way that we've gone into it. As you say, "Australia is pursuing a significantly more restricted model than either the UK or the US," and I think what you are saying there is the way we're going into it is in fact tying up a great deal of spectrum for a very long time. That's right, is it? Would you like to elaborate?

MR BENNIE: Sure. Maybe not exactly that point - I think the comments that you've picked out there are referring to the model that's been chosen for the digital conversion scheme.

PROF SNAPE: That's correct. It's on page 5 that I'm - - -

MR BENNIE: In the UK we've taken a multichannel model and in the US it is an HDTV model, although there's some discussion now within the industry as to what transmission format will actually be required. The constraining factors within the Australian model are twofold fundamentally, as I see it: one is the choice to go for a high definition format as opposed to a multichannel format, and secondly, the requirements placed on the ABA to plan services or plan the new digital services to achieve equivalent coverage with the existing analog services, and by virtue of those two approaches it leads you down a path of spectrum utilisation. Whereas if one had started from a different point, then there's every possibility that far more spectrum could have been made available for the introduction of new services.

PROF SNAPE: Leaving the high definition part of that on one side and just concentrating on the mode by which it has been introduced and the requirement that analog continue for a number of years - in capital cities until 2008, if I recall correctly - - -

MR BENNIE: At least that.

PROF SNAPE: - - - at least then in tandem. Now, my understanding is that it's the analog system that is very very demanding of spectrum, in the sense that there has to be, for example in Sydney, a lot more towers for filling in what would otherwise be black holes for retransmission, which would not be nearly as demanding - there would be nearly as many problems under the digital as there are under the existing analog system, and so preserving that transition period for at least 2008 in fact ties up a great deal of spectrum that could otherwise be freed up. Am I right?

MR BENNIE: That's correct, yes.

PROF SNAPE: And I think that, as you are pointing out, the cost of sets, the cost to people so they can receive digital is going to affect the time that they take it up. One would be able, however, to receive a standard digital signal on an analog set with a set-top box converter.

MR BENNIE: Correct, yes.

PROF SNAPE: But if the prices for new equipment are what is expected, then it's likely that when we come to 2008 industry will say, if there are not enough digital sets out there, and if we will be depriving three-quarters of the population of television, including the poorest parts of the population and the elderly, if we in fact don't continue to broadcast in analog, "We want an extension of that time to continue broadcasting in analog for all those good reasons," and that will then tie up all the system for that extended period. Whereas if in fact another path was chosen so that it became unnecessary to continue analog, then there would be no spectrum shortage.

MR BENNIE: I guess there's always the comment that there will always be a spectrum shortage, because it's a finite resource that can only be used so many times, but I think that you're correct to the extent that there will be a great deal more spectrum available under the scenario you've presented than less. Certainly all those issues are highly interrelated. The simulcast period is clearly required in order to allow consumers to transition from one mode of reception to a new mode of reception.

PROF SNAPE: Why is it required, when all that is necessary to receive a digital signal on an existing analog set is a very basic set-top box? So why is it required that the analog be continued to be broadcast for all that period?

MR BENNIE: I guess perhaps the statement that it's required is inaccurate. Clearly, there will be a cost for consumers to purchase equipment to receive the digital transmissions.

PROF SNAPE: How much would the most basic box cost that would be required to convert digital signal so it could be received by an analog set, if you're ordering 3 million of them?

MR BENNIE: All I can say is that in the UK the proposition is that someone can convert to digital for 199 pounds, so \$500.

PROF SNAPE: What does that box contain? Is that a more sophisticated box than a simple conversion box?

MR BENNIE: No, that's a standard multichannel digital reception box that will output a standard definition signal to your existing analog TV receiver.

PROF SNAPE: Are the prices of those coming down significantly?

MR BENNIE: We would expect so, yes, as volumes drive the price down. Clearly the commercial proposition in the UK determines that the operator provider of the new services will subsidise the introduction of those boxes in order to increase the penetration of their services within the market.

PROF SNAPE: That is the crucial thing, isn't it. I mean, once one has got every analog set able to receive a digital signal, then the whole argument for the preservation of that spectrum for the continuation of analog television disappears.

MR BENNIE: Absolutely. If existing analog receivers can receive the digital transmissions, then self-evidently there's no need to maintain the analog transmission, so the cost of reception is a crucial factor.

MR SIMSON: Could I just turn to page 5 of your submission, where you make the point that in the UK - and I think the US also - the overriding marketing message is more channels, more choice, through basically multichannelling, and yet under the proposed arrangements in Australia, multichannelling is basically locked out with the exception of the ABS, the ABC and SBS, until at least midway through the next decade, and we're going for, initially, datacasting. Your submission says, "In neither market has datacasting yet been offered as a core marketing proposition." Why?

MR BENNIE: You're talking about the very start of a new methodology for delivering these services and it's going to take an amount of time for the appropriate applications and commercial opportunities to be developed and refined and offered to the marketplace.

MR SIMSON: So we're basically locking out the bit that we know people want - this is the multichannelling - for a period of five or six years?

MR BENNIE: You're certainly locking out that option. To put the balance in the argument, the balance in the argument would be the HD proposition is one that the consumers would wish to avail themselves of and that's certainly a valid - - -

MR SIMSON: What was that last one?

MR BENNIE: I'm sure there will be many others who are presented to you with the proposition that in their view high definition is a feature and benefit that consumers are willing to pay for and that may be the case. That's unproven at this stage, just as the development of the new data systems is unproven. What is known is that offering a proposition to customers of more channels, more choice, is a proposition that they want.

MR SIMSON: Something they want, whereas datacasting is still to be proven.

MR BENNIE: Absolutely.

MR SIMSON: And because of cost, the consumer demand for HD TV is likely to be slow.

MR BENNIE: Absolutely.

MR SIMSON: In the UK, you refer in your submission on page 6 to:

By late 1999, a suite of terrestrial interactive services is due to be accessible to the UK consumer.

Could we just talk a little bit more about those, if you can, as to what sort of services. Just be a little more descriptive as to what we're talking about here, please.

MR BENNIE: Sure. Some of these services are already running, mainly in conjunction with the cable networks, rather than the terrestrial transmission networks, but for instance, NTL itself provides a sort of Web TV and Internet TV service, where we provide the customer with a box to connect his TV set and telephone line and can access Internet services through the TV set, for instance, so that's one level of service, although that's not truly interactive in the way that's envisaged here. By later this year, when we've launched our digital cable services, we will be offering a suite of applications which will include the usual sort of application that's talked about, things like banking services, retail services where, in conjunction with some program material, one could actually listen to a CD or view a video, look at clothes and then actually move through to a purchasing decision via interactive services on the network.

MR SIMSON: On the digital network?

MR BENNIE: On the digital network, yes.

MR SIMSON: You also make the point that initially, and certainly in the medium term, it's possible that the delivery by the DTTB spectrum to PCs will be a more significant opportunity than delivery to television. My first question on that is do you need a set-top box on your PC? How does it actually get to the PC? Do you need a set-top box with a PC?

MR BENNIE: Yes, you will need to have a data output from your set-top box, in effect, that could connect to your PC. It's highly likely - depending on volumes, of course - that manufacturers will develop cards that can just plug into your PC, in the same way as at the moment you can get TV and Teletext reception through PCs by inserting a card into the back of the PC, so it's highly likely that there will be an application where you can just insert a card in your PC and plug it into your antenna output and access the data services that way. The alternative would be to have a port on a set-top box that was a data port.

MR SIMSON: But your point is that, certainly over the medium term, it's likely these datacasting services are likely to be used more by the PC in the home than by the TV set.

MR BENNIE: It's because we're really at the beginnings of the development of this new industry and some of the research that we've done would indicate that in the early days, that's certainly the more likely way that the services would be introduced, where they are databased services between existing PC users, rather than transitioning to the model that everyone envisaged in five or 10 years time, where those services truly converge within the TV set.

MR SIMSON: Doesn't that raise a further question about the model or the approach, in that if over the medium term datacasting is going to be used by a lot of people on their PC, as far as the TV and digital TV, that will only be used by people who want to get the better reception, because they're not going to be able to get multichannelling except on the ABC and SBS.

PROF SNAPE: Perhaps.

MR SIMSON: Perhaps. So that all you've achieved over a five or six-year time-frame on the current approach is most people receiving datacasting over PCs.

MR BENNIE: Yes, I guess that's a conclusion from that line. The existing operators are also allowed to provide a certain limited amount of datacasting in conjunction with the program material, of course.

MR SIMSON: I accept that. But from a consumer's perspective, they could need to then access some of that datacasting from a set-top box. For the datacasting services being provided by the free to airs, they'd need a set-top box to access that on their TV.

MR BENNIE: Sure.

MR SIMSON: If they want to use their PC, they're going to need some other output box, as you put it.

MR BENNIE: Yes, a card to put in your PC, sure.

MR SIMSON: So we're talking from a consumer's perspective - and moreover, they can't have access to multichannelling, under current policy approach.

MR BENNIE: Indeed.

PROF SNAPE: On page 9, you say:

There is a real possibility that an unduly conservative definition of datacasting runs the risk of effectively stifling the development of the new medium before it is established.

MR BENNIE: Yes.

PROF SNAPE: There are some people in some of our other submissions who are fairly sceptical as to whether it will take off very much anyway, but would you like to elaborate?

MR BENNIE: Yes. I accept it's a very general comment and it is offered in that way and it goes back to the comment I made earlier, that we are talking about the start and growth of a new industry. This hasn't been done in this way before, so it's to be proven exactly how these new services will develop and grow into a viable and productive business for Australia in the future. The comment is offered in the sense that if you try and put too many constraints as to how this new medium will be used and developed, then you're more likely rather than less likely, I think, to constrain its growth and development.

PROF SNAPE: And at the other end, the free to airs are worried, of course, that it will become de facto free to air.

MR BENNIE: Sure. But our belief is that what we're actually talking about here is creating a new industry which will actually grow the market, rather than being seen as a kind of win-lose situation. I think there's every possibility that the two businesses can actually co-exist.

PROF SNAPE: So you're thinking less restraint upon the datacasters than the free to airs may in fact be in everyone's interest?

MR BENNIE: Yes. I have to confess I have not had the opportunity to research in depth the positions that all the legitimately interested parties have on this. I really just offer the comment that says, well, if one starts with a new industry in this way, by placing quite onerous constraints around what it is and isn't able to do, then you're more likely rather than less likely to constrain its potential. In some ways it could be likened to how the Internet, the Web, has developed over the last five or six years. Ten years ago if we'd been sat here talking about that, it would have been very difficult to predict just what services would have been available through that new medium, how they would develop and, if we placed tight constraints over how it may or may not have been used, I guess it would be more likely rather than less likely that

it won't have developed in the way that it has.

MR SIMSON: Yes. The interesting situation perhaps we have is that on the one hand there's a constraint that's being imposed on the free to airs in terms of multichannelling - - -

MR BENNIE: Sure.

MR SIMSON: - - - because of the interest of other groups such as the pay television and other operators which may not, according to your submission, be in the best interests of consumers if overseas experience in terms of "more channels, more markets" is the way that things are going. On the other hand, on the datacasting side the concern of the free to airs is that, as Richard just says, they could become de facto television, so we've potentially got two losers, haven't we?

MR BENNIE: Or everyone's a winner, I guess. It depends on your model of how the market is likely to develop.

MR SIMSON: But in terms of everybody, how could everybody be a winner in that scenario when you're looking at a five-year time horizon, where clearly things are going to be introduced more slowly and in a more constrained way than what you're indicating from your submission overseas consumers are in other markets demanding?

MR BENNIE: I accept that.

PROF SNAPE: How much high definition do you think we're likely to get in the foreseeable future?

MR BENNIE: I would find it very difficult to answer that question. There obviously is source material available now that can be used for high definition transmission, feature films particularly, but other than that there really isn't that much material available in high definition format that's available for use. Again, it's a moot point as to exactly how much will actually be produced in HD format and the additional cost of producing an HDT format that will determine whether that happens.

PROF SNAPE: Apart from the films, movies, which predominantly are shown on pay TV these days, not free to air - free to airs have moved away quite a bit from showing movies - and so what you would be seeing is perhaps that they switch back to showing movies because that's all that's available in high definition.

MR BENNIE: I can't comment on that. The core issue there is the proposition that HD format is a killer marketing application, if you like, and that's unproven, just as the datacasting is unproven. My only comment on it, drawn from a UK experience, that may be instructive in that is that when direct broadcast satellite services were being introduced into the UK there were effectively two competing systems. One was a system known as MAC, which offered the prospect of far higher quality transmission, certainly enhanced definition if not high definition, competing against - which were

basically the power based services off a telecommunications satellite, and certainly in that scenario the customers chose the more choice and the content available from the lower definition services rather than pay for the high definition services. So that's my only direct experience where consumers have been presented with a choice between choice and high definition, and content and choice certainly won on that occasion.

PROF SNAPE: They went for low technical quality and high availability.

MR BENNIE: Yes.

MR SIMSON: Could I just ask another technical question with regard to set-top boxes. If I'm a subscriber to Foxtel cable and I have a set-top box, what needs to happen to that set-top box for me then to achieve the basic digital conversion to an analog receiver - the basic set-top box that was being discussed earlier - or do I need two set-top boxes?

MR BENNIE: Ideally it should be possible through the DVB suite of standards, which are compatible across satellite, terrestrial and cable, to offer the consumer one box which can decode all transmission media. I have to confess I just don't know enough about the specific - I mean, you mentioned a particular provider, Foxtel. I couldn't tell you - - -

PROF SNAPE: Or Optus. I mean, I don't mind, but I'm trying to get a fix on potentially how many set-top boxes consumers might have to buy.

MR BENNIE: Sure. I mean, that's a major issue if they have to go and buy a proprietary box to receive a particular service. But certainly the core proposition under the DVB family of services was that they should be compatible across the delivery platforms and therefore a consumer would only have to buy one receiver or one set-top box.

PROF SNAPE: At the moment of course they're not, are they? You need a separate box for Optus from Foxtel, and indeed you don't own it anyway, they do.

MR BENNIE: Sure, yes, but I don't know about the specifics of that to pass any comment.

MR SIMSON: With regard to the allocation of spectrum, you've espoused the principal that you'd like to work there. Could you talk more specifically about what you'd like done. If Richard Alston rang you up, what would you say to him should happen with regard to spectrum allocation to achieve the objectives that you've mentioned in your submission?

MR BENNIE: I'm sorry to keep saying this, but I have to come back to the length of time we've had really available to go into this in great depth, so it's difficult for me to come up with very specific comments. Having had an opportunity to look at the ABA's digital channel plans that were published recently, we will be responding to

those in more depth. I guess we would need to sit down with the ABA and understand some of their initial parameters that they have decided upon for the planning of the digital services. It's things like the protection ratios that they are working with and, as I said earlier, the other sort of key issue in that is the requirement that is laid upon the ABA to plan services to achieve - I can't remember the exact words of the act, but it basically puts an obligation on the digital services to replicate the coverage of the analog services.

Depending on how one chooses to define compliance with that obligation can have an enormous impact on your ability to plan and manage the spectrum efficiently. Coverage planning services are - I'm trying to pick my words carefully to explain this. In an engineering sense they're an exact science but in layman's terms they're somewhat inexact because they're based on statistical measures of probability of achieving a certain outcome. If you're required to effectively guarantee a particular outcome then you really have to err on the most conservative side all the way down the line in order to get close to that, and even then you can't actually guarantee it.

The one thing I could guarantee is that no matter what we do in simulcast in the digital services, there will still be some individuals who can receive the analog service but can't receive the digital service. That's an inevitable outcome of the processes underlying how radio wave propagation operates. It seems to me that one of the starting conditions is the issue here, which is that the services ought to be planned in order to deliver services to an equivalence with the analog services. How that equivalence is defined needs to be very carefully considered. It could be that provided the services are available to in excess of 95 per cent of the consumers who currently receive analog services, then that would be deemed to be compliant with the need to match the analog service and that could then free the ABA to perhaps take a somewhat different approach in how these services are planned and managed.

PROF SNAPE: And for those who are missing out, there's always the possibility I guess of laying cable there to - - -

MR BENNIE: It only affects the very furthest reaches of the transmission system.

PROF SNAPE: I see.

MR BENNIE: You're usually out in the most rural areas.

PROF SNAPE: So you're looking at satellite rather than - - -

MR BENNIE: Yes, certainly you'd be looking at satellite as an alternative, almost certainly not cable. The other issue is whether the use of a technique known as single frequency networks would be viable, which can make highly efficient use of the spectrum. That's an area where we would want to sit down and work with the ABA and others in order to determine whether those techniques would be suitable for application within Australia. It's an area where we have certain technical expertise and skills that we can bring, to be able to do some tests and trials, and we would want

to do that over the next two or three months.

MR SIMSON: I was interested in your comment with regard to the advertising market. This is on page 6:

It is reasonable to expect that datacasting advertising revenue will be closely tied into existing television advertising, potentially providing broadcasters with an advantage.

That clearly would also be the case with multichannelling obviously.

MR BENNIE: Yes.

MR SIMSON: In fact, more so.

MR BENNIE: Yes, more so. It's just how we see the new business developing initially. I think because existing broadcast channels are with us now and we understand the dynamics there, then it's easier to see how some of these new services could be introduced in conjunction with or as an extension to a broadcast channel than as a purely stand-alone service.

MR SIMSON: Just to clarify a point, there is no spectrum availability issue with regard to multichannelling, is there? Once that is allocated, if it is allocated along the lines that the government is proposing or has currently proposed, multichannelling does not require any adjustment to that?

MR BENNIE: No. When we talk about allocating a channel we are talking about allocating the basic building block, which is a block of radio frequency channels in the radio spectrum. Once they're allocated for a particular transmission path, they can then be used either to provide a suite of services under the so-called multichannelling - ie, you can combine a number of services together into that one transmission path - or, if you need all of that bandwidth in order to transmit the fine detail required for a high definition service, then you use more of that bandwidth to transmit one service.

MR SIMSON: But in terms of the spectrum that it's currently proposed be allocated to the free to airs, there would be enough, if it was so decreed, to be able to fulfil both those objectives from day one?

MR BENNIE: I think the answer to your question is yes. The channel plan is based on the amount of RF spectrum that's available to transmit a block of frequencies. Now, whether that block is used to transmit one service or five services under a multichannelling doesn't matter really.

PROF SNAPE: But if you're transmitting something in high definition which has got a lot of action in it you may need the whole seven megahertz, and for that in high definition, then you can't multichannel at the same time obviously.

MR BENNIE: No, you can't.

MR SIMSON: Could a consumer receive multichannelling programs with a basic set-top box converter or would that require a more elaborate set-top box?

MR BENNIE: The basic set-top boxes that are available in the UK receive multichannelling. That's the basis of the DVB system. It allows you to do that.

PROF SNAPE: I wonder if I could put a couple of points about the conversion. I'll read you a couple of things. One is from another submission - Mr Stuart Fist's submission, number 18. He says:

The only real directly attributable costs for the television stations associated with the government's digital decision come from this stupid high definition idea, and few knowledgeable people in the business really believe it will be implemented anyway. Most people I know are reasonable confident that not long before or after the launch date, commonsense will prevail and either this government will be forced to dump the restriction or an alternate government will.

That's one quotation. I now come to your quotation from your own submission:

As it stands, the timetable for the introduction of DTTB to Australia's metropolitan areas is scheduled for January 2001. In relation to its component of the digital conversion process - that is, transmission as opposed to studio facilities - NTL Australia believes that this timetable is achievable. However, NTL Australia also has a strong view that the public policy interest in achieving the most efficient allocation of spectrum, using the most advanced management practices, is greater than achieving a particular date for the commencement of DTTB and it is probably too early to determine whether or not both of these objectives can be attained simultaneously.

I wonder if you would like to - - -

MR BENNIE: To elaborate on that?

PROF SNAPE: Elaborate that in light of Mr Fist's comment also. We ought to leave out the adjectives from Mr Fist's comment perhaps!

MR BENNIE: Yes, I've certainly heard comments or sentiments similar to Mr Fist's being expressed. As I say, that whole issue around whether HD TV will be a killer application or whether multiple choice would be a better one is unproven. The comment that we've submitted regarding the implementation date and, effectively, efficient spectrum management and standard setting for a viable industry is that clearly under the digital legislation those dates have been established as to when the new systems should be operational, and in itself we believe that's a good thing. However, it's probably, in our view, more important that Australia gets the right outcome in

terms of the number of services that can be made available from this scarce national resource called the radio spectrum, and that the fundamentals for a long-term viable broadcasting/datacasting business are established, than it is to hit a particular date.

I'm not advocating at all that the date should wallow and slip and disappear into the distance - far from it. I guess perhaps our comments come from the fact that we've not been here that long, we have therefore not had an opportunity to make our contribution in partnership with the ABA and others in terms of how new techniques and practices could be brought to bear on the planning of the new services, to understand if all of those avenues have been explored to the fullest extent. Because, if they haven't, then I guess our comments would be, "Well, that's probably the wrong way around." It's probably much more important that Australia is convinced that it's making the most efficient use of the spectrum and that it's choosing the right implementation standards, than it is to rush forward and hit a particular date.

I guess the point I'm making is that I'm not sure yet that those judgments have been made because we generally don't know. It's quite possible that they have and there isn't a problem, but we don't know. I guess if it was the case that the ABA said, "Well, we need two or three months in order to fully evaluate some of the inputs that we received to our channel plan to establish that they're viable," and as a consequence the date of launch was to slip by a couple of months, well, from our perspective I guess we'd say that that really isn't a problem because the number of receivers that is going to be out there on day one is virtually zero. So that's really the spirit in which that comment is offered.

PROF SNAPE: Thank you. That's been very helpful, and we thank you very much for that stimulating submission. Should you, on reflection - since you, as you say, haven't been doing it very long - think that you might wish to add anything, then please feel free to do so in the next few months.

MR BENNIE: Thank you.

PROF SNAPE: Also, of course, there will be a draft report out, due in late September, early October that you may wish to respond to as well. But, as I say, in the interim if you feel you would like to add to it, then we'd be most grateful.

MR BENNIE: Thank you and again, thank you for the opportunity. It has been a very succinct presentation because of the time that we've had available and we thank you for the opportunity. Just by way of a closing remark, we are really excited to be part of the Australian industry and look forward to playing our role in working with the government and ABA and the industry in order to create a successful business. So thank you.

PROF SNAPE: Thank you very much.

PROF SNAPE: We now welcome really really BIG productions. I must say I was a little apprehensive that we were going to get a really, really big submission. We've got some of those, but fortunately it was very much to the point and we thank you for that - - -

MR MUSCATELLO: No worries at all.

PROF SNAPE: - - - in terms of our crowded spectrum. We welcome Mr Philip Muscatello, but I'd ask you, if you would speak to the microphone to introduce yourself. It's for the transcript service. It's not an amplification to the room, but if you would introduce yourself and your position to that, and then speak to your submission.

MR MUSCATELLO: Good morning, my name is Phil Muscatello from really really BIG productions here in Sydney. First of all, a couple of bits of housekeeping I should get out of the way. First of all, to apologise, Prof Snape for not getting your name right on the original submission.

PROF SNAPE: I'm accustomed to that.

MR MUSCATELLO: No, I shouldn't trust the cut and paste method.

PROF SNAPE: I must say it's a more innocent rendition of Snape than many are.

MR MUSCATELLO: I think you can imagine with Muscatello, sir, the same sort of thing applies. The other thing is I should point out that even though I am a radio representative on the board of ASTRA, today I'm representing my own views and not any views that can be ascribed to the Australian Satellite Television and Radio Association.

As my submission points out, what I would like to do is try and demonstrate where there is pent-up demand for radio frequency spectrum in this country and especially in Sydney, and specifically as regards to radio. At the moment most people are aware of the broadcast services band where most AM and FM services are carried, but not so many people know that there are various other transmission methods which get services out to the general public. I have put them down here in no particular order, and I will be adding another one as well, which I forgot to put in.

First of all, this came out of the 1992 Broadcast Services Act - a new category of service called the low powered open narrowcast service was begun. These are one-watt services that operate on the lower edge of the band. They're all over Australia. You might recognise them from the signs that you see in small country towns saying, "Tune into AD8 for tourist information." But in practice the kind of services being offered by this are covering a whole range of areas. Apart from tourist information there are business services, there is music, dance, country, small business radio, community languages as well. Not a lot of people are aware of this unless they're particularly targeted by this kind of service.

The main problem as far as competition goes with this kind of service is that in certain markets if a commercial station makes a complaint about the program format of this narrowcast station - even though it's only operating at one watt and shouldn't be seen as being any threat at all - the ABA comes down quite hard on the provider of this narrowcast service in response to complaints by the commercial broadcasters. This is a theme that I'm going to be coming back to with each of these kind of services: that apart from the fact that these have got quite severe technical restraints the ABA is taking a very conservative view about the kind of program format that can be provided on these services and further encumbering the possibility of providing a competitive service that can provide competition in particular markets.

The next section I'll talk about is high powered narrowcast - which is not in my submission - these are just some further ideas. At the moment in the licence area plans that are coming around the country, high powered narrowcast services are being allocated in various markets.

PROF SNAPE: What strength?

MR MUSCATELLO: It depends on the market and it depends on the technical constraints, but they range between 200 watts to four 10-kilowatt services. The constraints that these have are first of all, the licence is only a five-year licence. There is a sunset clause in the licence. After the five years the licence goes back to be reauctioned. Obviously this is a problem in that anyone providing a service is bound to make the money back within five years' time, and so any idea of providing a service has got to recoup the money in the original investment in that particular time - which is a pretty severe constraint when you have got to experiment obviously - and when you're providing a radio service these things have got to change and you've got to hone the service down to what is going to particularly work.

Then, again, these high powered narrowcasters - this hasn't been tested yet - but if a commercial broadcaster or community broadcaster makes a complaint then again the same sort of restrictions can be applied by the ABA depending on how they view the narrowcast regulations as reiterated in the act. One thing I'd say about the guidelines for the Narrowcast and Broadcast Services Act is that there is a series of guidelines that are separated by the word "or," not "and". A narrowcast service can be restricted by way of limited power or a limited programming format or targeting one specific interest group and so forth.

The way the ABA interprets this section of the act is like that word "or" isn't "and". So that even if you've got a service which is struggling to get out on one watt, the ABA says, "Well, apart from that you've also got to have a very, very restricted programming format, because the way we interpret the act is that this was originally envisioned as being information radio, or stadium radio, but nothing else that could cause any heartburn for any other service providers."

Just a little bit more briefly: the other areas which aren't actually covered under

the Broadcast Services Act - we've got the 150-meg services. These are particular services where a section of the radio frequency spectrum was handed out to service providers. You need a special receiver to pick these kind of services up. You just can't put it up on your regular radio. They broadcast in very poor quality. There is only a three-kilohertz bandwidth which is like telephone quality. They only have very low power. You need a special receiver and at the moment there is on this service - I think there are three Greek services, there are Arabic services, there are Hindu services - the kinds of services that were originally seen as non-commercial operations but are running under this kind of restricted environment as commercial operations.

Then there is also the upper edge of the AM band, 1611 to 1720 kilohertz. Again, these are low powered services, 400 watts, but 400 watts in AM does quite easily cover most of say the Sydney metropolitan region as an example. I believe Sid Mehri was in earlier on today. Sid Mehri is operating on 1638 an Arabic service here in Sydney. Then there are the FM subcarriers and there's a couple of services around the country, BBC World Service - again there's a special receiver needed to pick this up, and again a low power kind of service and again a low bandwidth so there's again technical restrictions.

What I hope to demonstrate today is that these services give us some kind of picture of where broadcasting can go in the future, because this is where the demand for new service providers is coming from, where the demand for radio frequency spectrum from new service providers is coming from, and therefore I'm positing that this is the kind of service that new service providers would like to provide. There are two areas that we want to concentrate on. One is new analog services as identified and allocated by the licence allocation - sorry, the frequency allocation plans and the LAPS. Then there's digital.

At the moment the digital migration debate for existing broadcasters is not leaving a lot of room for new players to come into the market. The existing commercial and public broadcasters would like to have large sections of the radio frequency spectrum in the large channel allocation, obviously because they want to provide very high-quality services and also get into multi-channelling if possible. The effect of this is that it doesn't leave a lot of room for new players. Some of the people that I talk to and myself are very distressed that there's not going to be a lot of room for new entrants in the digital environment, and we'd like to be able to point out that there are services that would like to get into digital. These are the kind of services that are possible, and perhaps we can make sure that the digital planning process takes into account new entrants because obviously as well new entrants don't have any peak industry body to represent them. So ASTRA in a way and myself are becoming by default representatives of new entrants into the digital environment.

It was interesting hearing the NTL representative beforehand because that's one of the positions that ASTRA and FANNS before it have taken; that is that someone like NTL or Telstra should be providing the means of transmission for all the new services rather than the traditional model where the providers of the service also provide the means of transmission. The reason we would like that is because we see

that in an open commercial environment access to the channel space and access to the bandwidth and access to the radio frequency spectrum would be much easier to gain from a player like NTL or Telstra that do not have transmission requirements of their own that they have to keep in mind.

With the analog planning that is going on at the moment, there are two issues there that I'm concerned with. One is that I'm not absolutely convinced that the ABA is identifying all the channel space that's available in all the markets for new services, and therefore in a lot of markets where I'd say there would be maybe two or three channels available, they're only allocating one as a narrowcast channel. I would like that to be looked at as a way of providing access for more service providers.

The other thing at the moment is that the auction process for high-powered narrowcast licences means that there's a \$500 registration fee for every licence that you would like to bid on. Recently last week there were about 10 or 15 licences which were auctioned off, and unless you had the wherewithal to gamble \$500 for each of these licences to register before you could even bid at the auction, it means that a lot of these licences went without any kind of competition at all. Without that \$500 impost for each registration I'm sure there would be a lot more competition, and the ABA would be able to make a bit more money out of this for the government as well.

PROF SNAPE: What sort of prices did they sell for?

MR MUSCATELLO: A lot of them went for the reserve which was \$4000, which obviously meant there were no other bidders because of this kind of constraint. The next couple of points are pretty much housekeeping kind of things that - really personal opinions. Again I do want to stress that this is not ASTRA representation here; these are my own personal opinions. I think it's important that because of these services that I've talked about before, that programming the community and SBS radio are part of, maybe need to be looked at a bit further in the new environment because there are commercial viable operations there providing services that one originally would say were the domain of community radio or SBS radio, especially the single-language ethnic channels. There are a lot of these single-language ethnic channels being provided 24 hours a day with advertiser support, and without any need for government money to keep them afloat.

Band 2 clearance: the problem with Sydney is that we don't have enough radio frequency spectrum. Part of the problem is that Channel 3 in Newcastle has an exclusion zone around it, and hasn't moved to UHF, which has been planned for many years. I would ask again why is Channel 3 in Newcastle not made to move to UHF and also to be able to allow more spectrum availability in the FM spectrum here in Sydney. Then digital planning, my last point that I come up with here: I just feel that we should be looking really seriously at the allocation of bandwidth for services that don't allow for new entrants. Some sort of rationalisation of the spectrum allocation for migration to new services should be looked at so that new service providers can come in under a narrowcast format.

PROF SNAPE: Stuart?

MR SIMSON: I take it what you're saying here is that there's a great opportunity with the radio spectrum - if we just take that as a general point, and you've identified a number of barriers or obstacles as to what you see is the efficient use of that spectrum. Just identify for us what you'd like to see changed. We don't have to elucidate on it but what are the main things that are not being done in your mind that would more efficiently from a consumer's perspective - - -

MR MUSCATELLO: From a consumer's perspective.

MR SIMSON: Yes, absolutely.

MR MUSCATELLO: Well, from a consumer's perspective, if you want to get a 24-hour channel specifically targeted for you - say if your mother language is Cantonese, the only way you can pick that up now is by having a service that is limited in its quality, limited in its reception so that you have to have a special receiver to pick it up, as in the case of the 150-meg players who are the main operators in this. You can't get that. Even though there is a service provider out there willing to provide this service and you as a consumer and there is an audience for a lot of these kind of services, you can't get that without these particular technical constraints.

MR SIMSON: So what you're saying is there's a lot of stuff out there that people can't listen to.

MR MUSCATELLO: Yes.

MR SIMSON: But the issue surely, from the perspective of the commercial radio interests, is that they pay fees and licences to - - -

MR MUSCATELLO: Yes, they pay a lot of money for that.

MR SIMSON: Exactly. I mean, how long is a piece of string?

MR MUSCATELLO: I'm not saying that narrowcasters can't pay a lot of money either for their frequency as well. In the planning that the ABA is looking at, I would suggest - the problem for the ABA is to actually define what a narrowcast format is. The ABA gives opinions on the kind of format that you can use. It's inconsistent between markets. In some markets a dance music format is perfectly acceptable to the ABA and in other markets it's not; same thing with country music and so forth.

PROF SNAPE: Why the difference between markets? Do you know?

MR MUSCATELLO: I don't know.

MR SIMSON: From the ABA's perspective it's the difference between narrowcast services and some community radio services that are not necessarily narrowcast.

MR MUSCATELLO: Yes, that's right. That's why I'd be suggesting as well that especially for high-powered narrowcast when we come to Sydney - I mean, it's not so much an issue in regional areas but in Sydney, if they are going to allocate narrowcast licences, the ABA is going to have to say what is the kind of service that's going to be provided by the narrowcast service. I think it might be incumbent now on the ABA to actually define certain formats which they would automatically regard as narrowcast services, rather than at the moment it is a very amorphous interpretation of the act.

MR SIMSON: As you pointed out earlier, it's a bit of this, it's a bit of that, but it's also an issue of power. What was the other one you mentioned? There were three or four variables.

MR MUSCATELLO: Geographical location.

MR SIMSON: Yes.

MR MUSCATELLO: Specifically targeted to a geographical location that is specifically targeted to a certain market or constrained by power. So that's in the analog. One of the things that I'd personally like to see is that the ABA, when they're allocating high-powered narrowcast frequencies, is that they actually say, "Okay, we're going to say dance music is a narrowcast format. We're going to say that country music is a narrowcast format" - whatever. I'm really not concerned about what these formats are but I would like them to be able to specifically say what is going to be defined as a narrowcast format, and also that that be subject to review on a yearly, two-yearly basis, because what is going to be narrowcast is obviously going to change. Dance music at the moment you can define as narrowcast because no other operator is providing it, but in two years' time maybe it's Chinese country and western music that is going to be suddenly another format that is not being played. So I'd say that any definitions that the ABA come up with have to be reviewed over a number of years so it can be a dynamic process of defining what these narrowcast formats can be.

The other thing that I'm asking for as well, from a consumer point of view, is that when the digital planning takes place, that new entrants be provided for in the planning process. On a personal basis I would like to - as a 40-something consumer of radio, there's no music station in Sydney that caters for my particular taste.

MR SIMSON: What do you mean in your sentence when you say, "Digital planners should look at an overall drop in bit rates"?

MR MUSCATELLO: That's a possibility. At the moment what they're looking at is everyone who has an AM or an FM licence at the moment in commercial, public and community, should automatically migrate to digital and get a digital throughput of 256 kilobits per second, which is the rate in the Eureka standard which has been set

for CD-quality broadcasting, and it also provides for multi-channelling to be achieved at the same time. If 256 kilobits per second is going to be provided to every service across the board, it doesn't provide a lot of room for new services, so what I'm suggesting is that maybe a lower bit rate should be reviewed, especially considering the sound quality. Going to 192 is not going to be a huge drop in quality, and it also allows for new services to be provided for.

PROF SNAPE: I think Mr Simson has been covering the areas that I would have, so we'll leave it at that. Thanks very much for that very helpful submission.

MR MUSCATELLO: Thanks very much.

PROF SNAPE: We'll now adjourn for lunch and resume afterwards at 1.45 pm when we will have the Community Broadcasting Association first, and then the Federation of Australian Commercial TV Stations. Thank you.

(Luncheon adjournment)

PROF SNAPE: Let's resume our hearings after our lunch and we welcome the Community Broadcasting Association of Australia with two representatives and we would ask each of you to identify yourselves separately for the transcription service, if you could, please.

MR THOMPSON: Michael Thompson. I am the general manager of the Community Broadcasting Association of Australia.

MR MELVILLE: Barry Melville, policy adviser, Community Broadcasting Association of Australia.

PROF SNAPE: Thanks very much. We have a very helpful submission from you and we thank you for that. Who is going to speak to it?

MR THOMPSON: Perhaps if I start and Barry can add something as we go along. I guess our basic position is that we are reasonably happy with the way things are and we - it is probably a dangerous thing to say these days - are very keen to retain a section of the Broadcasting Services Act which defines clearly and sets aside community broadcasting and the community broadcasting sector from the other commercial and national sectors. We're not so worried about the national sector because that's quite clearly defined by the fact that the government fully funds it, but obviously in this period when government funding is falling and, particularly in our case, falling in terms of the number of stations being licensed in our sector during such a time when there's also increasing licences, commercial licences, narrowcasting licences, and also community licences, all expected to feed off the private sector teat, I suppose you could say, our real concern is that our members and our stations would be dramatically affected by changes which would increase those pressures and in which there would be no lay-off to take account of the nature of community broadcasting.

We have said in our submission that it takes quite a long time to establish a community station. It is not a case of an entrepreneur coming in and having the money and getting a licence, buying a licence through the current process by which he can purchase one, and then going out and buying in all of the things that are needed, the people and the capital and so on. It is mostly a case of small community groups getting together and working slowly towards a position where they are able to broadcast full-time and, in the past, that has often meant that in developing the close connections with the community they have been able to rely on all kinds of resources to get things going.

We have mentioned, I think, in the old days the local Telecom technician would help build the transmitter; the local council would provide a building or a place for the studios, which would be at peppercorn rent, the local university might provide somewhere, especially if they're on a hill, to put the transmitter, and there would be all kinds of community inputs of that kind. Also from the government in those days, too, often community stations could go on national transmitters on a peppercorn basis.

We know that all of that has changed over the last 15 to 20 years and we're in the commercial world with everybody else but, essentially, our services are not commercial services in that sense, and the fact that they're not, really provides a great benefit to the community because, whatever else is happening in broadcasting - I'm talking mainly about radio; my colleague Barry Melville will talk about television in a minute - in our view localism, diversity, Australian content, all of those kinds of things, are under stress.

Localism, as we pointed out - and I think everybody knows - is very much under strain because it is much cheaper if you have got a commercial service to download your programming off a satellite, and if you have to have a nod towards localism then you have a couple of local windows - maybe the breakfast show, maybe something else - and you have a central newsroom in the large city and you run your services as economically as possible. By doing that you save an awful lot of money but you don't get to serve the local community in the way that our stations do and it doesn't matter how many licences there are in any particular market, particularly in rural and provincial areas, all cutting each other's throats, there is still a level at which that kind of broadcasting can't do the job as far as we're concerned.

Most of the interest groups that broadcast on community stations are not an economically viable market and are not attractive to commercial services, whether they be broadcasting or narrowcasting services and yet, as we can see from the upsurge of resistance and some anger from the bush about the way things have been going - but a sense of social cohesion in communities is very important and it is something that people resent greatly when government services and even private services like the banks are wound down.

In a case of community broadcasting, that licence must be held within the community; it must be owned and controlled and operated within that community, and the people involved are the broadcasters as well as the listeners, so it does retain a very strong local focus. It is also not under great pressure to get ratings, although increasingly they also have to seek out sponsorship, but it does allow small interest programs - programs with a small number of people with those interests - to go on air and we say that the many interest groups within the community who do get access on these stations comprise the whole community, in general. I think I have seen an argument somewhere in one of the submissions that community broadcasting should be called "special interest broadcasting" and isn't in fact representative of the community, or doesn't serve the community as a whole, and I think that is something that we would take issue with.

We believe community broadcasting over the last quarter of a century - it's developed, it's been protected by legislation and by the government. In the case of Aboriginal, ethnic and print-handicapped broadcasting there are quite significant government funds. I have got the figures there in the submission and I won't read them out; you have got them there. But in the case of general community broadcasting, where there is a dramatic increase in the number of licences - at the moment it's mainly temporary licences but most of them will get permanent licences -

there is virtually no government funding now if you are talking about the amount of money per station.

We would like to see that turn around. We know it is not a popular thing these days but we think it is important for society - for Australia's society - and for the government that there be a vibrant and effective community broadcasting sector and the legislation, the way it stands with the ABA there looking after broadcasting and being in a position to decide on what frequencies go to what sectors, and then to hold a beauty contest in the case of community broadcasting, we think that that is effective and we certainly wouldn't want to see it downgraded or removed. Perhaps I will stop there because I get wound up and go on for some time. Do you want a quick word, Barry, about television?

MR MELVILLE: Yes. I just wanted to give a little bit of broad context first about - just deriving from our submission - that we wanted to leave the firm impression in the commission's mind that the real value, the overall value, of community broadcasting is far greater than the net financial worth of the sector; that the existence of the sector, which is unique in its particular manifestation in the world is very important in that it embodies diversity, and that is both in terms of structural diversity in a broadcasting system and diversity of content. There are considerable training benefits in fostering a healthy community broadcasting sector, training in terms of generalised development of young people in media careers but also the benefits are derived by both the government and the commercial sectors of broadcasting in terms of the training we provide.

Viability has been and remains the central challenge for community broadcasting, radio and television. At this point we are most interested in replicating and building on the strengths of community radio by achieving permanent licensing for community television and we want to ensure that there is a cost-effective and equitable transition of the emerging community television sector onto digital platforms. The details are in the submission, I guess, but just to recap for the record, there have been eight transmittal licences issued since 94 for community television and five services have been operating in Brisbane, Lismore, Sydney, Melbourne and Adelaide. Two are about to start - one in Bendigo and one in Perth - and we would like to see obviously a slow build from this base as digital platforms become available and a growing recognition that community television, as well as community radio, are valuable in social and economic terms. Thank you.

PROF SNAPE: Thanks very much. Could I ask, do you have any measures of the audience?

MR THOMPSON: There is a measure of sorts. There has been a long-standing problem in the sector that we haven't had access to the McNair ratings and there is a particular reason for that: in quite a few cities those ratings are the actual property of the commercial broadcasters of FARB. I am not sure exactly who owns them. I think FARB, but certainly the commercial broadcasters, and they have been quite keen in the past to retain those ratings for themselves. Essentially, they are not available to

community broadcasting. The best we have been able to do is that we have an arrangement with Roy Morgans in Melbourne and they do a study - I think there are between 50 and 60 thousand people a year that are interviewed around Australia and it is a pretty rough figure. It works out at about between 8 and 9 hundred thousand people a week listen to community radio from the figures that they give us.

PROF SNAPE: That's in Australia or in Melbourne?

MR THOMPSON: That's in Australia. The rider, however, is that they probably would pick up very little of the ethnic broadcasting because those people wouldn't speak English and if they don't, we understand that they go to the next house, or if it's a phone survey they survey somebody who does speak English. It certainly wouldn't pick up any of the Aboriginal broadcasters either. Also in the provincial areas where community broadcasting is quite strong, some of the sample sizes in particular markets are very small. So there was a survey done, it would be getting close to a decade ago, by the Community Broadcasting Foundation which is our funding body. It came to a general view that around 2 million people a week dipped in and out of some community radio service. So I guess all we can say is that somewhere between 800,000 and 2 million. We're very short on accurate figures however.

PROF SNAPE: Thank you. We had a submission from the Indigenous Broadcasting Association, NIMAA, in Brisbane last week which was a very interesting one where they were saying that their interests were rather different from the rest of the community broadcasting and that they thought there should be special provision under the act for them, another category, that was separate from the general community broadcasting provisions. Do you support that position?

MR THOMPSON: Well, essentially they have always felt, I think, that they should have a separate SBS-type organisation for themselves. NIMAA, their national organisation, is a much broader based organisation. It does have the indigenous licensees as members. It also has Aboriginal film-makers. It has a commercial Aboriginal service, the commercial television service out of Alice Springs. It has, as members, also staff of ABC and SBS. So it's basically an Aboriginal organisation or an indigenous organisation and essentially its position, as far as I understand it, is that in the same way the government has recognised ethnic broadcasting and has set up a statutory authority for that purpose, they should recognise Aboriginal and indigenous broadcasting. Maybe not have a statutory authority but have a part of the act specific to them.

I think there are some areas that you can see where that's necessary. For example, there is a clause I think in the act that covers BRAC stations, the remote stations which take a lot of material from commercial and national as well as community services off the satellite and they have ads in them. If we take commercial programs off the satellite with ads in them, our stations would immediately be in contravention of the act. I think there's some provision that that's not the case. So there are certainly specific reasons why you might either have a separate authority for indigenous broadcasting or you may have some clauses within the act which are

different.

PROF SNAPE: You would be comfortable with that?

MR THOMPSON: Yes, absolutely.

MR SIMSON: On page 5 of your submission you comment on localism and diversity. Could you give us your assessment as to the trends you're seeing in the provision of news information and comment by commercial radio?

MR THOMPSON: Well, we're outside commercial radio. I guess all we see and hear about are the results of it and there's no question that over the last decade there has been enormous fall-off in the number of people employed certainly in country and provincial commercial stations, and local newsrooms have shrunk dramatically. The exact size and effect of that of course is something that other people would tell you about, but I guess the only results of that we find is in the increase in demand for our services. We established a couple of years ago our own satellite-delivered radio news service which is very effective, taken by over 50 of our stations, which is operated out of the universities of Newcastle and Charles Sturt and the two community radio stations based on those campuses.

We've made a point of it, because at a time when there are fewer and fewer news services available to stations so it's all coming out of pretty much one or two sources, the people within our sector have been able to put together a news service. It's largely student-run. They have professional editors and experts to guide them but it's done basically using the students at the university.

MR SIMSON: So it's basically your own syndicated service?

MR THOMPSON: Yes, and it's of very high quality.

PROF SNAPE: Is it comment on news, or are they actually out there chasing up the news?

MR THOMPSON: Yes, it's a straight news service the way any other - like the ABC news service or the AAP. It's not a comment - we have a separate current affairs program called Undercurrents which I guess is a kind of poor man's AM and PM really.

MR SIMSON: Now, some of your members would be restrained from being able to air that programming, wouldn't they not, under their licensing agreements with the ABA? In other words, their narrowcast is sufficiently narrow or sufficiently so defined that they would not be able to take news content, or can any community radio station take news content?

MR THOMPSON: No, community radio is not narrowcasted. Community radio - - -

MR SIMSON: No, I appreciate that. So any community - - -

MR THOMPSON: Any community station could, and we would encourage them to do so, take that service, yes.

PROF SNAPE: Do they pay for it?

MR THOMPSON: They pay for it. There's a subsidy from the CBF to an amount of around \$70,000 a year, and the stations pay an extra amount to keep it going.

MR SIMSON: On page 13 of your submission you refer to the Community Access Network. This is in the context of convergence and how it might impact on broadcasting policy. You also refer to:

The community broadcasting database, an on-line project which will maximise access to and sharing of statistical data and, where published, information program content.

Can you just explain a little bit more to us about that, please.

MR THOMPSON: Yes, in 1996, as part of its election campaign, the current government put forward a couple of projects which they said that, were they to come to office, they would fund. They came to office and they have funded them. The essential additional amount of money that has come to the sector has been an additional million dollars a year for ethnic programs and this money of half a million a year for three years, which in the current budget has been pushed out for another three, is to fund these two projects. They're really the same thing but the Community Access Network, the first one mentioned, involved the distribution of computers and the capacity to get onto the Internet. So they also subsidised the people to go and sign up with an ISP provider.

The community broadcasting database is the second part of that project, which is the content. So we're working towards providing a database. One part of it will be a numerical database which will help us with information about the extent of the sector and will help us to lobby government because we'll have more clear information about things like how many people are employed by the stations, how many volunteers and all of that kind of that. But in addition to that, the funding of this database will provide content for stations. That will be located on the Web page of this particular project and connected to the CBAA Web page. It's a way that the government has provided for us to keep up with the future.

It's something we want them to do when we go digital, to make sure stations can afford to go digital, but it's essentially also to increase the station's capacity to operate on their own and to operate as small business, if you like, and to be self-sufficient. There are very many of them out there that are very poor and most of them had no computers at all. I'm talking about the smaller ones in the country. So

they now have a computer, they're funded to get onto the Net and there will be material for them to download and to use to make their stations better broadcasters and better small business.

MR SIMSON: Could I turn to page 19 of your submission where you comment on the reservation of spectrum for digital for your members - the top of page 19. What do you understand to be the current position with regard to this?

MR THOMPSON: I'll get Barry to talk about television in a minute, but in radio, we've been part of the decision-making process. We have stated from the beginning in the committees where these things are worked out that a community station anywhere must have the equivalent frequency capacity that a commercial or national station does. We're holding the line on that. There's been a bit of pressure recently, I've noticed, where people are saying, "Well, you don't need as much," but we've held the line on that and it's very important, because it does mean that when we go to digital - one of the big drawbacks of community broadcasting is that most stations can only afford very low-powered transmitters, so their signal is often lost amongst other signals in the area or can only be heard within the confines of a town.

In theory, if we have the money to be able to go on the multiplexes with everybody else and we have the capacity to have a similar signal, then we should be in a much better position, an equivalent position, and we're trying to hold the line and make sure that's what happens.

MR SIMSON: And the funding of your conversion to digital?

MR THOMPSON: We haven't got a penny yet. We've been doing all of the things one has to do. As I mentioned in this submission, we tried to get a few per cent of the price of the sale of the NTA. We had the Democrats and Labor supporting that; it didn't happen. At the moment, I believe some of our people are talking to Senator Harradine in the hope there might be a bit fall off the sale of Telstra. These are the kinds of things we have to do these days, because governments nowadays, instead of increasing the basic funding, the basic grant, tend to have these social bonuses and things like that we have to chase, so we're hopeful. You never know, Senator Harradine might do somebody some good yet.

MR MELVILLE: Just with respect to television, Mr Simson, it's yet to be determined in the sense that these matters are subject to review, but the ABA has recently released digital channel plans for 11 markets across the country. I mentioned before that there have been five community TV services operating on a trial basis. In markets where those five have been operating, the ABA has assume that the analog six channel will remain available for analog use; otherwise, primarily the system is planned to accommodate five full bandwidth analog channels and up to eight digital channels, both for television co-channelling and for stand-alone datacasting.

What the government has provided in black-letter law and in respect to the future of community TV is provision for consideration of - bearing in mind there

could be up to three stand-alone datacaster licences in each market, we're assuming from what's written that the first one of those will have, if you like, a must-carry requirement to provide a standard definition channel for community television, so a small part of the bandwidth made available for an independent digital datacaster will come with the condition that they devote a small amount of spectrum to free carriage of a digital community service. That's a free provision. We don't know too much about the economics or the funding arrangements for the future of community TV either.

PROF SNAPE: We've heard in the Brisbane hearings from one community radio broadcaster who was having a bit of trouble with a narrowcaster or vice versa. Is that a common experience?

MR THOMPSON: Yes, I'm constantly having to deal with complaints from our members because those low-powered narrowcasters have got - in theory, they've got a low-powered licence. It's not really a licence, but in effect it's as if they had a licence. I won't go into that, but they've also got to have some kind of limit; if it's not a limit on power, then it has to be a limit on the kind of programming or it could be a special event or something, but there has been a tendency for people to pick those licences up very cheaply - I think they were issued initially for \$29 a year - and to turn them into full-blown radio stations. I know FARB has been very unhappy about it and we have lots of our members complaining and we talked to the ABA and we've had a couple of successes with the ABA, where they found against the narrowcaster and slapped them on the wrist, but I think as soon as their back is turned, they go away.

I'm not sure whether this was a kind of urban myth or not, but there was an ethnic one we had a lot of complaints about here in Sydney, one of the narrowcasters and there was some limit to how high their antenna could be and the story I heard, whether it's true or not, was it was like a Hills hoist and when they were in trouble, they would wind it down and when the authority went away and there was no fuss any more, they'd wind it up like a Hills hoist, but the answer to that is yes.

PROF SNAPE: Is there any solution or is this just going to be endemic with the problem of defining categories?

MR THOMPSON: I'd have to say that I think the whole idea of narrowcasting and legislating for it in the way that they did, you could see enormous problems right from the beginning in the unclear way - and I think for the first five years the ABA scratched its head and tried to work out what to do with that category of licensing. I think there is an intrinsic problem with the concept of trying to keep people confined. Let's just take an example. There were two things that happened on the Gold Coast, which made our people very unhappy. One narrowcaster bought himself a pile of transmitters, five or six, and he put one on every hill and he linked them all up, so although he was confined to very low power for each one, when you added them altogether, he could cover the Gold Coast.

Then he said he ran country music and so our people complained and said, "Well, country music is a mainstream service that a commercial or community service would do." I think, in fact, he said he was running Christian country music, but whatever it was, when the ABA looked at it, I think they found it too hard and, if I remember rightly, they didn't give us that one. They said for a particular market, country music could be narrowcasting, but for another market it mightn't be, and that in itself boggles the mind, if you think about it, so there are problems with narrowcasting, no doubt about it.

PROF SNAPE: I think possibly the most successful that we've heard anyway of a narrowcasting network, could be the Racing Radio. Has that caused you any problem?

MR THOMPSON: No, and we're happy that they should do it. I don't think any of our stations want to cover the races and the ABC doesn't, so if they were all racing stations, we'd be very happy.

PROF SNAPE: On the other hand, in Melbourne, on Television 31 in Melbourne, as I understand, the community broadcasting there, in fact, was broadcasting the trots and no longer does, because of Racing Radio, so there you've in fact had what must have been a good money-spinner for the community television station taken away from you by the racing television or whatever it was - Racing Radio?

MR MELVILLE: Yes, well, it's certainly true. To date, a large amount of the revenue in the Melbourne market has been derived from the direct sponsorship of racing interests. Some of that has been syphoned off onto pay TV services and some on radio, but I guess the challenge is there and we very firmly believe that the future of community broadcasting, whether it be radio or television, is in having a broad and diversified sponsorship base. There have been particular problems associated with having too many eggs in one basket, in one sense. Just to get to the subtext of your question perhaps, there is no inherent problem with having racing broadcast on community; it doesn't contravene the licence. In fact, there is a community radio licensee in Canberra that dedicates an awful amount of its schedule to racing broadcasts, so it's not intrinsically a problem, but it's a problem in the sense that it can narrow the community of interest somewhat if it is just racing.

PROF SNAPE: I suppose the problem really is that when you find a nice source of revenue, you're likely to lose it.

MR THOMPSON: Well, yes. I think that's why in the submission here, I talked about this concept which was popular in the 80s, and which I think really should still apply, and that is that community broadcasting should be funded equally from three sources: a third the government; a third from fundraising, such as membership and radio forums and that kind of thing; and a third from what in effect is advertising. We were very happy with that and we'd be very happy if that remained the case, but nowadays, increasingly our stations are relying for almost all of their income on advertising. Now, there are a number of stations, the MBS stations and Triple R in

Melbourne that aren't in that category, but if you look - particularly in the country - that's what happening and it's something which we can't see any solution to, except that the government turn around and see what value the sector has and increase the amount that comes from them. I'm not holding my breath.

PROF SNAPE: But you do suggest, I think, that the amount of minutes be increased?

MR THOMPSON: No, we didn't.

PROF SNAPE: But the government.

MR THOMPSON: Well, the act is going to be amended this year to increase it from four minutes to five.

PROF SNAPE: Are you comfortable with that?

MR THOMPSON: Yes, we're comfortable with it. We can't see that it will do much for many of our radio members, but it might help in television.

PROF SNAPE: At the bottom of page 5, in talking of funding, you've mentioned 1 and a half million grant over three years for the establishment of an Australian music channel for satellite and on-line distribution. Could you enlarge on that, please.

MR THOMPSON: Yes. It was one of those gifts that came from heaven completely unexpectedly. It was a result of the government, in May 98, passing a law which affected the import of music. It allowed for parallel imports and it was against a lot of voices within the Australian music industry. There was a \$10 million amount the government put aside as a quid pro quo for that. 5.3 million of that, I think, went to the Australia Council to promote Australian music and 1.5 million, which is half a million over three years, came to the community broadcasting sector and I think it was a recognition of the enormous contribution we do make to Australian music. People often see the promotion of Australian music as something Triple J has been very successful at and we would go along with that, but in community broadcasting, all kinds of Australian music is supported, music that doesn't appear on Triple J or on the ABC stations or the commercial stations; all kind of genres, if you like.

The government, I think, appreciates that, because there is pressure for support of the local industry and this was an idea which is yet to be developed, which would provide a lot of our community stations that are very poor and that have very few CDs and aren't able to keep up financially with the latest Australian music. They will be able to get that music off the satellite or off a Web page and that will improve their capacity to broadcast Australian music.

PROF SNAPE: Do you get many complaints about the content of that music? And what happens to complaints? You mentioned Triple J and we seem to have got a number of submissions that have made comment on some of the content of Triple J,

but what about - - -

MR THOMPSON: I don't think so. I have spoken to the management in smaller country stations who are very quick to ring us, to call us at the CBAA if they think we're playing inappropriate music, and they certainly have nasty things to say about Triple J. I guess we understand that we have a very large rural and regional sector and some quite conservative stations and conservative people, and we don't run much stuff which is highly controversial. I don't know whether that's a good thing or a bad thing, but we don't have a lot of complaints, no.

PROF SNAPE: Innovative without being controversial.

MR THOMPSON: Well, yes, okay.

PROF SNAPE: On the bottom of 16, where you're talking about, "Does the current policy framework provide adequately for the use of different technologies" - etcetera - "including regional and remote areas?" and you talk at the bottom of that page of some problems with commercial free to air's challenging pay TV operators' right to retransmit without payment, and evidence of customer equipment installations "resulting in either all the FTAs being bypassed on a customer's tuner or, most commonly, the local community television service being excluded." Is this something which affects the community TV and radio, particularly?

MR MELVILLE: No, it's specifically about community television, and I guess it's a very brief reference to the fact that there's a struggle to have community television recognised as part of the free to air sector, and it's certainly true to say there have been tensions between the commercial free to air television industry and the pay television industry carried on cable. This is just a brief allusion to some of the problems. You have the problem with cable installations of set-top boxes in some cases completely bypassing tuning in the available community television service - is the key thing. The mention of the challenge of the commercial television industry to the pay TV industry's right to retransmit their channels is like the context of a review that's going on this year that we'd like to - we put in submissions last year to a Senate committee inquiry, and there's a review going now that we'll have to submit to, to make sure that in the new regime which is being set up, which we understand to be a regime based on consent; that cable system operators must seek the consent of free to air television channel providers to retransmit their channels. It doesn't work very well for us if the consent of community TV providers is not sought. It doesn't provide any guarantees, in other words. We could still get tuned out of the consumers' reception equipment.

PROF SNAPE: So at the moment are your channels in the capital cities carried on pay TV?

MR MELVILLE: In some markets yes, in some markets no. In Melbourne, for example, Channel 31 has been retransmitted on the Optus system. The Channel 31 service in Sydney is not carried on any cable system.

PROF SNAPE: You would like them to be, obviously.

MR MELVILLE: Yes, particularly since we're limited by funds and we're limited by terrestrial reach. Any assistance in reaching the licence service area would be very useful.

PROF SNAPE: Okay. I think that exhausts my questions, and thank you very much for your help. It's been a very helpful submission. It's very good to hear from the community sector and the way that you've been doing it. Maybe I've got one more question and that is there is special provision for BRACS to take down signal from the commercial stations and be retransmitting it. Would other community stations wish to do the same thing?

MR THOMPSON: Quite a few of them would like to take the commercial news service because - not quite a few, but a number of them have sought to or take commercial news services. I think they feel that some of their audiences prefer the ambulance chasing service to the national. Ours is more national, I suppose, and I suspect that some of them also would probably take some formatted music from commercial services, but we're hoping to keep them attracted to our service, which is a more catholic one.

PROF SNAPE: So it's not a big deal for you.

MR THOMPSON: It would be a big deal if they all went and took them. Our service is very economical for our members, and commercial services cost quite a bit more and they're all pretty poor, so I guess that answers that.

PROF SNAPE: But as I understand it the BRACS services don't have to pay for it.

MR THOMPSON: No. Virtually all Aboriginal broadcasting is very heavily government funded, and BRACS is certainly fully government funded.

PROF SNAPE: So you wouldn't be seeking the same ability to take it without paying?

MR THOMPSON: No, we want them to take the satellite service from us.

PROF SNAPE: Thank you very much. That's been very helpful. Next is the Federation of Australian Commercial TV Stations. Maybe we'll have a short break and resume at about quarter to 3. Thank you.

PROF SNAPE: Welcome back after afternoon tea and we're now pleased to welcome the Federation of Australian Commercial Television Stations. We've got a line-up of quite a few stations here and I'd ask, if you would, that each of you would individually introduce yourselves for the transcription service because they need to be able to identify voices.

MR McALPINE: I'll start if you like, professor. John McAlpine, CEO of Ten and chairman of FACTS.

MR BRANIGAN: Tony Branigan, general manager of FACTS.

MR DRAFFIN: Garry Draffin, chief executive of Telecasters Australia and representing regional broadcasters today.

MR LECKIE: David Leckie, CEO of the Nine Network and deputy chairman of FACTS.

MR MANNING: Peter Manning, director of corporate affairs and planning from Seven.

PROF SNAPE: Thank you very much for that. I'm not sure who is going to open up.

MR McALPINE: Professor, I've got that privilege, if I may.

PROF SNAPE: Thank you.

MR McALPINE: We have provided a comprehensive submission to the inquiry. In this brief presentation I don't want to restate detail that we've already provided. However, it may be useful to summarise how we see the industry and the regulatory structure surrounding it.

Commercial free to air television provides universally available services that are free of charge to consumers and that are tailored to a local or regional audience. Australians spend hours each day watching television and more than four-fifths of this time is spent watching commercial services. As a result, commercial free to air television is far and away the main source of information and entertainment for Australians. It is the most assessed and influential form of popular cultural expression in Australia today. It is not surprising that Australians feel strongly about something which is so much part of their lives. It is their television and they let us know in no uncertain terms if they don't like what we are doing with their television.

This is why regulatory changes that affect television are so sensitive. It is not the fear of television proprietors but the fear of the electorate that makes politicians tread carefully when they contemplate changes to broadcast legislation. That is why there is bipartisan support for the anti-siphoning rules. No politician wants to be

branded as responsible for pay TV getting exclusive rights to the Melbourne Cup or the AFL grand final. The same acute awareness of how the electorate feels about free to air television lies behind last year's digital conversation legislation. Once again this was essentially bipartisan. Its key concern is to get existing free to air services across a difficult and risky transition period in a way that doesn't result in disaggregated services for viewers.

That concern explains parliament's decision on the loan of spectrum. It explains the extensive mandatory elements in the legislation, the extended simulcast period and the commitment to financial support for regional services. Free to air television is seen by the community and its political leaders to be highly important. However, it is not overfed or an indulged sacred cow. Commercial television is highly competitive and efficient by any standard. It has been required by legislation to become even more competitive over the last 10 years with regional television aggregation and the introduction of a range of competing subscription and other services. The digital conversion legislation has added digital datacasters to the range of competition that commercial television faces.

In a much larger market all of this and much more could come about without government having to give much thought to the impact on the service that free to air television provides. The limited size of our Australian market sets limits to what we can do and it means that major changes to the market can have exaggerated impact on the kind of service that we can provide. Many of the submissions you have received have assured you that the content creation is not a problem. The market will invariably look after it in any conceivable circumstances. They may be right for all sorts of low cost content but they are wrong about quality television programs.

At the moment the market works well in that viewer demand for local programs results in stations producing or commissioning a wide range of local programs. There is a cut-off point about which local programs are uneconomic unless there is an extensive foreign funding or government investment, but that cut-off point is quite high. It is high because of the way the market is structured. That structure is set by the regulatory limits on the number of commercial services in the main market. Any major change in the market structure will profoundly influence what commercial television networks can afford to produce and what local commercial stations can provide in the way of local service. This means that any consideration of new commercial services has to weigh the benefits of more competition and choice on the one hand against the cost to the industry's capacity to fund programs and a range of other community benefits.

One of these benefits is the extensive rural transmission networks that could not be fully justified in terms of the revenue they return. This choice I opposed is not an easy one for a society that believes in the benefits of competition but it also places tremendous value on television services which have a local presence and a very strong Australian identity. If the community opts for more competition but still wants a commercial television service with a local presence and high levels of Australian programming, we will have to work out how to fund these very expensive benefits in

some other way.

What I've outlined should not be taken as a plea for permanent protection behind cosy regulatory barriers. There is nothing cosy about this industry. We are accustomed to relentless competition within the industry and competition with a growing range of aggressive external competitors. We are not a static industry which sees the future as a gently unfolding repetition of the past. Indeed, we see this industry as being on the cusp of more radical change than we've experienced since 1956. What we do and how we do it will change dramatically over the next 10 years.

In closing, I would say we want to be able to lead this change without sacrificing the range of benefits we now provide to viewers. How successfully we can do this will depend as much on regulatory decisions as it will on our undoubted ability to battle it out in the marketplace. Thank you, sir.

PROF SNAPE: Thank you very much. Would others like to come in at this stage or leave it up to us?

MR McALPINE: No, I think we will follow up to your questions.

PROF SNAPE: Thank you very much for that introduction. I wonder if you could just tell us what a television licence is worth these days, please?

MR McALPINE: What it's worth? It varies, I guess, by market capitalisation, professor. I think the figure for most five city markets is in the order of \$2 billion.

PROF SNAPE: \$2 billion?

MR BRANIGAN: It's across five markets.

MR McALPINE: That's five cap cities, yes.

PROF SNAPE: For the five cap cities. That's even with what you describe as a super tax?

MR McALPINE: That's the market capitalisation not the profitability.

PROF SNAPE: Yes, but it's what the licences are worth even given the taxation which is upon you.

MR McALPINE: That's correct.

PROF SNAPE: So they're very very valuable assets.

MR McALPINE: I'd agree with that.

PROF SNAPE: That value would seem to be continuing, in a sense being protected over the next half a dozen years or so. Is that correct?

MR McALPINE: We don't quite see it that way, professor. I mean, "protected" is an interesting comment. We've been asked to introduce high definition television to this country, which is a first for any country under legislation, and the cost of that at this stage, for introduction - if my colleagues wish to correct me - I understand it's in the vicinity of \$900 million to be phased in over the next few years. So, yes, there's certainly - in terms of cost that's arising. I'm not sure that there's protection there when you consider outside of just pure digital but the competitive landscape is changing dramatically.

PROF SNAPE: Yes, but nevertheless the market value of the licences reflect the expectation that this is going to continue to be a very - these are very valuable assets to be holding over the next few years and that value is, in a sense, being insulated by the transition arrangements.

MR McALPINE: It's probably helped in that scenario by not having another competitor come into the market, yes, but I think to get back to the point on digital, without free to air supporting a digital role, it's hard to imagine that this country would experience digital or high definition without the support of the free to air network.

MR SIMSON: With pay television currently hitting approximately 15 per cent of households and some of your submissions, both individually and collectively, indicate that over the next four or five years that will increase to say 35 per cent of households. Could you paint a picture for us of how the free to air sector is going to look in five years hence, for example. Do you anticipate it continuing to be as profitable as it is today with that sort of audience diminution that you'd expect to occur?

MR McALPINE: Five years down the track in this business is a tough one. We're struggling trying to forecast for July, but I'll try and have a look at that picture. The end result in terms of where free to air will sit in five years - I think it will still be a very strong and profitable media. Why I say that, I guess, is if you use the US as an example, currently in the US the networks there have about 53 per cent of the audience available and they still write a major part of the available commercial television dollars. Even though pay has I think 33 per cent, they still have a very strong hold on the advertiser's dollar in that marketplace over and above the total reach that they've got. So one has to assume the reason for that is that they still deliver an audience to the mass market. In their own right, they are still a very valuable property for advertisers.

MR SIMSON: Could you talk a little bit about how you would see the programming shifting over that period. Maybe we're seeing some of it at the moment but I'd like to hear from you first-hand as to how you'd see the nature of programming changing over the next few years.

MR McALPINE: I suspect that the Australian component will only grow. It is a very popular part of any network's program format and I can't see that, with or without regulation, that the Australian content in all shapes and sizes won't continue to grow. They are the most popular programs on television and, in a competitive environment, I would imagine that where we currently sit in terms of prime time programming, that would become more Australianised than it is now. That's just my view. Maybe someone else has a comment on that.

MR SIMSON: Is that a comment particularly on drama?

MR McALPINE: I think all segments. I don't see particularly why it would be one. It may be drama because it certainly shows that the audiences like the Blue Heelers and the Water Rats of the world, but I think all genres of Australian content will grow.

MR SIMSON: On page 43 of your submission you say that:

High drama quotas do not help stations evolve the drama formats that are likely to work in an environment of growing competition from pay TV.

Could you just explain to me what that means?

MR BRANIGAN: I think, Mr Simson, what we're saying in that whole section is that quotas nowadays force a range of inefficiencies on stations. They force each station basically to do the same thing to compete for limited resources in the same range of drama programs. They force stations first-off to look for a successful long-running high-volume drama. That incidentally is something that's worked very well both in viewing terms and in export terms for much of the last decade and a half, but you have to wonder if it's something that's going to work in future. Certainly in terms of exports there are signs that the market for long-format Australian drama seems to be drying up. Again no-one has successfully launched a long-format drama locally for quite some years now - back to the very late 1980s. So it's difficult.

The requirement to meet quite a high annual level for drama does mean that dramas not infrequently go to air before they should. They're not properly developed when they go into production, so the price is paid in terms of quality, in terms of viewing appeal sometimes. In other words, across the board it imposes certainly a spur, but a spur that's often probably misplaced and results in resources being ploughed into drama, and a particular kind of drama that should go in, in an ideal world into other kinds of drama and ought, in some cases, go into other kinds of programs.

MR SIMSON: I'm just wondering how tenable the quota arrangement is in the situation where - I take on board, of course, what Mr McAlpine has just told us - but whereby the terms of trade between yourselves and the independent producers are already under some tension, if I could put it that way - we had SPAA here this

morning - where you are going to face some diminution of audience over the next four or five years. Listening to the representatives of SPAA, things are getting tougher, they're not getting easier and I'm sure you'll say the same thing - whether the quota arrangement for drama is simply, from an economic perspective, a business perspective, sustainable if you cast your eye at four or five years' time.

MR McALPINE: I think you've got to look at the whole section of free to air. I think where we are trying to get with this conversation is that it's horses for courses to a certain extent and if I may - on Ten's behalf, outside of FACTS - just say that it doesn't always suit Ten in the environment where we aim for an under-40 audience that it is easy for us to get away a prime time drama that with all intents, to make it worthwhile, has to garner a better audience than purely an under-39 audience. It can't survive economically in that light. So Tony's point is that the quota makes us all do the same thing and doesn't allow us to do something different without still applying our quota. That's the instance for Ten and there may be others, but we are just saying the quota generally can be best managed by the stations because they know what the market wants to watch. They know what our viewers want.

MR MANNING: I don't think anyone is trying to say that there is a slackening off in the commitment to Australian drama. What we're trying to do is to get to that point more easily and profitably, and having the restrictions within the quota makes it more difficult and more uniform. Even given the SPAA points and given actually an even more dangerous problem, which is the difficulty of exporting excellent Australian drama product at the moment as a result of American arrangements with European countries and others, it's increasingly difficult to get a return on excellent drama material. To have, on top of that, complicated rules - when certainly at Seven we're committed as a result of 30 years of commitment to Australian drama - to have those on top of it does make it more difficult. The commitment is there but we want to be able to do it, and I think that's the FACTS submission, as flexibly as we can.

PROF SNAPE: Are you moving towards or in the future do you see yourselves moving towards doing a drama in-house or through independents?

MR MANNING: As much as possible through independents, but that's the transition we're going through at the moment, and combining with independents and using our creative - a combination of both I suppose is the answer.

PROF SNAPE: That was meant to be a general question.

MR McALPINE: From a FACTS perspective I think it is fair to say that most of the creative process is sourced externally.

PROF SNAPE: Is this the development in the future - it will be more that way?

MR McALPINE: I think within a network you've only got so much talent and there is no doubt that the independent community provides us with that talent which we don't have on staff. I mean, a drama - whether it be Water Rats or other product -

requires a lot of writers, a lot of skills that television networks don't fundamentally have. So I would think, as a general comment, that the outsourcing creatively will continue.

PROF SNAPE: But with the networks taking equity and copyright.

MR McALPINE: I think every deal is different, within those arrangements with the independent producers. They all are structured quite differently but, yes, the stations obviously take equity by way of a licence fee.

PROF SNAPE: And that will be the development, the trend? I noticed a couple of nods from other channels.

MR MANNING: Certainly from Seven's point of view that's true.

MR LECKIE: Actually not from Nine's point of view. I think we've got a slightly - well, all three of us have a different set-up and a different way of doing business. Yes, we outsource all our drama but I'd like to think we will be able to produce the majority of Australian programs - remembering that well over 60 per cent of our output is Australian-made, and we basically make the vast majority of that. As I say, outside of drama and quiz programs, we basically make the rest ourselves, so we don't want to change that model.

MR SIMSON: Realistically, is the pay television sector going to be able to afford to make drama on a four to five-year time scale on the sort of drama that you people show on your channels?

MR MANNING: It depends on what regulatory regime the commission and the government requires of television. At the moment the regime is quite high for us, and I think one of the points that we're trying to make is: is this a level playing field?

MR SIMSON: I understand the difference in that yours is quota driven and theirs is expenditure driven, but even putting that to one side - and I'm thinking about the capacity of that particular industry sector to pay, to afford the sort of drama that you're - - -

MR BRANIGAN: I doubt it very much, and I think the reason for that is - even if we assume that five or six years down the track they are at the 40 per cent penetration level that's been mentioned - and that doesn't of course mean 40 per cent of viewing or anything like it - it probably equates to something like 10 to, at the most, 12 or 13 per cent of viewing, because most people who have pay TV still spend the bulk of their time watching free to air services.

Of course, the viewing of pay television is split between heaps of channels so the revenue that is available to any one channel isn't all that great. Certainly the revenue that is available for high-cost product isn't all that great so it makes perfect sense to source as much material as possible from other markets where it's made,

particularly American markets. So my guess would be that there will be some growing involvement in local drama production by pay TV but very little independent production of drama. The recent change to the Australian content rules that applied to commercial television allowed for the first time for, so to speak, co-produced pay TV and free to air TV drama, and that will presumably result in some production, but I wouldn't imagine that it's going to be significant. You're looking at a very small number of hours a year, would be my guess.

PROF SNAPE: We hear that there's a great deal of competition amongst the channels for good Australian drama, that Australian drama is - you're required to show it. But we've had a number of people, a number of submissions say that it's a very good quality on a world scale but then they've said, "If there was another channel the quality would be driven down. It would suddenly be a race to the bottom." Now, why is it that with three that race to the bottom has not occurred, while it would magically occur if there were four?

MR BRANIGAN: Can I say I don't think it would be a race to the bottom. I think what we've suggested at a number of points in our submission is that if the revenue market were to be split another way, or several more ways, that the ceiling of expensive production would certainly come down somewhat. We've listed at one point in our submission a number of program types that we believe would be unlikely to survive a significant change in the economic environment of that kind.

PROF SNAPE: But that's only looking at the cost side and not the revenue side, and presumably your choice is decided by considering both of those.

MR BRANIGAN: Indeed, it certainly is, so we're not suggesting by any means that if there's a choice between very good high-quality Australian drama and cartoons - we're suggesting that there is a range of programs, not just drama, which at the moment can just be justified on this combination of ratings and revenue, the calculus that stations are continually making as to whether something is justified. But a substantial change in the market would mean that they can no longer justify them, they can no longer get the returns locally that would make it worthwhile, except as an occasional loss leader. That same thing has happened in the past.

PROF SNAPE: We've also been told that the licence fees are being pushed down - this is the argument from SPAA, I might say - that the licence fees are being pushed down and meanwhile of course we have the valuation of the stations, of the licences - as you indicated, they're still very, very valuable assets to have - which indicates something about expected profitability. Is it not the possibility that if there was a fourth competitor in there that in fact the competition would be such that for good-quality Australian drama, it would in fact - to attract the audience to those channels - push the quality up and/or the licence fees up?

MR McALPINE: My attitude to that is that it goes the other way, professor. I mean, in the competitive environment we are in there is a ceiling on what you will pay for producing an Australian drama. If, at the end of the day, all you've got is a bunch

of loss leaders in revenue terms then one has to say that the discussions with the producers is not going to be all that pleasant. It's not going to go up, it's going to come down. Just on your point with the licence fees going up, that's not pressure from free to air television in this country, that is simply a fact that the offshore market that was available for this product, in Europe especially, has declined. So the mixture of how we will end up costing these dramas is changing but we continue to have conversations with the SPAA members on that issue.

PROF SNAPE: So if there were only two free to air channels instead of three, the licence fees would be higher and the quality of Australian drama would be higher?

MR BRANIGAN: Arguably.

PROF SNAPE: Arguably?

MR BRANIGAN: Arguably it would be, in that presumably there would be perhaps a little less revenue in the market than there is now, perhaps considerably less. I would imagine that the regulatory demands, amongst other things on stations, would be considerably higher.

PROF SNAPE: No, I leave the regulation aside. I'm just thinking about the competition and the - you are basically arguing that if there was a fourth there would be hardly any more revenue coming in, you'd just be cutting the same cake four ways instead of three, so presumably you're saying that if there were two, you'd be cutting the cake in two instead of three and it wouldn't have any deleterious effect upon the revenues unless there is some asymmetry in there that I'd like to hear about - if there is.

MR McALPINE: But supply and demand - - -

PROF SNAPE: So you'd have as much revenue and you'd be able to pay the licence fees and you'd be competing the quality up.

MR LECKIE: No, I don't think that's right. I think we should say a couple of things, professor. I mean, you say we're a very valuable asset - we are - but we're also all public companies and we're very responsible to our shareholders. No shareholders are going to keep paying our share price if our profits decline at all, let alone dramatically. What we've been doing - my network, all three networks have been doing over the last three to five years, is scaling back to quite a considerable degree. We're not doing this for fun, we're doing it because the competition for eyeballs has already exploded. Only three to three and a half years ago there wasn't paid television. We've now got 59 channels, or whatever it is, and 56 take advertising. The Internet now is a major factor in our lives and a year ago it wasn't even there. So we've got huge competition already upon us, let alone what is about to come around the corner.

Anyone who is in the television business can tell you we haven't been through -

well, can tell you that the revenue market is not going to jump because you put a new competitor in. There is no way known that is going to happen. That's why we've sought protection, to try to scale up, to try to get this business in great shape, so that when inevitably the explosion of competitors even increases to what it is now, we'll be ready to fight it, because at the moment we're going to really struggle. If there was any increase in competitors right now you would see this business in terrible shape.

Getting to your point, let's not just talk about drama. I think we're getting a bit hung up on that. I think the quality of drama would suffer, yes, when we cut back our costs, but it is all programs. It's not just one sector, it's not just one genre, it's not just drama - all programs. This network has had to scale back dramatically its daytime, its sporting programs. We look in other areas and Seven is doing the same, Ten did it three or four years ago. Already a lot of programming has been cut back because we just could not afford to do it. This is an ongoing process; it has just started.

MR SIMSON: What do you believe will happen to the advertising cake on a four to five-year time horizon?

MR LECKIE: I wish I knew, Stuart. 20 per cent up every year would be terrific to me.

MR McALPINE: Tough. I don't know. I mean, the way it's heading now all I could suggest - the last five years after inflation it has gone up 4 and a half per cent and indications are now that - - -

PROF SNAPE: Per annum?

MR McALPINE: As an average, yes, per annum. Indications are now that we will struggle to sustain that sort of growth.

MR SIMSON: Is that one of the reasons why you - all of you in one way or another - are tightening your belts?

MR LECKIE: Of course it is. We've got to manage our businesses better. If we're going to have a future, a real future, we're going to have to manage our businesses better than ever before. As I said before, it's been a fine balance not just this year, not in the next five years - it's been a fine balance for quite a while. We don't have a cosy relationship here, we have a lot of demands upon us and that's going to get much tougher.

MR McALPINE: It's interesting - sorry, if I may, just on that question. Tony has just given me a chart which is interesting. The average annual ad revenue growth from 94 to 98 for television was 4.4 - I was out a point; metro dailies, 4.8; all dailies, 6.5; magazines, 12.2 and radio, 2.6. So it's not as though we can see any exponential growth there.

PROF SNAPE: I wonder if we could turn to the conversion to digital and ask what

you see as the take-up - or I'll put it another way. How much high definition television will you be broadcasting in the early years of it?

MR BRANIGAN: Professor, as I understand it, there's a commitment by all of the metropolitan stations that will be going to air in early 2001 to provide as much high definition transmission as they can from day one. We don't know at this point how much genuine high definition program material there will be. There may be more than seemed likely a few months ago coming out of the United States as a result of some recent announcements there, but even if there are only relatively modest amounts all stations will be broadcasting quite a deal of high definition by using equipment that can up-convert standard definition material to something that approaches quite closely high definition material, so there will be daily high definition broadcasts, probably totalling quite a few hours, from the very first day.

We see that as absolutely essential to provide the impetus for set sales. I think set manufacturers do, too. Both we and the set manufacturers I think consider that the American experience to date - and it is still very early days there - has underlined that you have to have many hours of high definition television a day if you are going to successfully sell what initially will be expensive high definition sets.

PROF SNAPE: Then how long do you expect that you would want to continue simulcasting? I notice on page 32 you say:

The simulcast period may be extended by legislation if parliament concludes that the uptake of digital receivers is not yet sufficient -

the "not yet sufficient" refers to after the compulsory period, of course.

MR BRANIGAN: Yes.

PROF SNAPE: Which is what? 1 January 2007 I think it ceases?

MR BRANIGAN: Yes.

PROF SNAPE: Yes -

for broadcasters to turn off analog transmitters and return one of their channels to the government.

You are I think foreshadowing there that you may very well be going to the government in 2004 or 5 and saying, "Extend the period."

MR BRANIGAN: I think we are foreshadowing as much as anything else that we may well be keen to end the period about then but that there may be great pressure on us from parliamentarians to continue the simulcast period until every last little old lady has a digital set. I think there will be some creative tension towards the end between broadcasters who want to turn off the equipment and local members who were

concerned that some of their constituents may not yet have digital receivers.

PROF SNAPE: Why would you want to stop?

MR BRANIGAN: The reason we explain in the next sentence, professor. It is very expensive to maintain two complete sets of transmission equipment.

PROF SNAPE: But, on the other hand, while you're still transmitting, you still retain all the analog spectrum which means no-one else can have it.

MR BRANIGAN: It is an expensive way of continuing to keep out competitors - particularly since it seems highly likely that we will have competitors who look very like broadcasters by that point, in any case.

MR McALPINE: I think another point, professor, also is that there are two issues at stake here. One is the community; what sort of penetration will we have in the home by a prescribed date - whatever that is - and we're all guessing. We don't really know. The other issue is there is an incentive for the stations to help the promotion of the take-up of sets in the market, simply because we have a position that, as broadcasters, it is costing us between 30 and 40 million dollars per annum to run the two services. So while we have got community interests at heart in terms of penetration, in the economics of it it is going to cost us 30 to 40 million dollars a year to run both signals.

PROF SNAPE: Yes. Does that mean that it would have been better for your perspective if in fact you could have found a way as soon as digital was introduced to stop transmitting in analog?

MR McALPINE: The only problem with that theory is that there will be no sets in the marketplace. I mean, analog sets can only receive a digital signal by way of a set top conversion.

PROF SNAPE: Yes.

MR McALPINE: I don't know whether anyone has got any more accurate figures than I have but I understand that it will be around the 6 to 8 hundred dollar mark, if not higher, for the box. I wouldn't expect that at a given stage that will give us total penetration like we have got now.

PROF SNAPE: I gather that the cost of the box depends upon what the box is.

MR McALPINE: Correct.

PROF SNAPE: But if one was going for the most basic box that could convert digital to analog to the existing sets and that if everyone had one of those in 2001 you would be happy to stop and give back all the old spectrum?

MR BRANIGAN: That's effectively what happened with colour television, of course. Fortunately, colour television was backwards compatible. We could stop broadcasting in black and white but it didn't disadvantage people who only had black and white sets, but unfortunately there is no analog, so to speak, for digital.

PROF SNAPE: Except insofar, as I said, if everyone had a basic box that was able to do that then you would be in the situation - the happy situation, because you were describing how expensive it was to continue - of being able to then just broadcast in digital and give all that analog spectrum back.

MR BRANIGAN: Unfortunately, professor, the problem is not just a matter of being a basic box but a question of a box that is able to do something beyond the very basic functions. The reason we think that is important is - well, we know it is important from past experience with limited upgrades. What we are looking at - and I think we have tried to explain this in the course of our submission - is a system that is going to work for the next 30 years or so, and that is probably an underestimate of how long we will be living with the digital system we are moving to.

We believe that 10 years down the track the expectations of the digital system will be very high; that people will expect high definition television; they will expect surround sound; they will expect datacasting; they will expect a whole range of things that no service provides for them at the moment or can provide for them. To get to that point we need to make sure that we don't encourage people to purchase underspecified equipment that simply will go to black when anything more ambitious than a standard definition signal is broadcast, because we intend to broadcast in high definition from day one. We don't want to find that half our market is made up of decoders that simply cannot receive a high definition signal.

It's certainly not in our interests and I don't think it is in viewers' interests to be encouraging them to buy underspecified receiving equipment like that, so we take the view that we have got to keep our gaze firmly on the medium term while we are doing the detailed planning and living in the short term.

MR SIMSON: Because it is said by some of the other people in submissions to us that this is merely a ploy to basically protect - to hoard - the spectrum, for want of a better term, over this period and therefore protect your position. I mean, the point is made that initially high definition television sets are going to be pretty expensive; from day one there's virtually none in the marketplace; that the sort of set-top box that you are looking at as opposed to a basic box - whatever that might be, and we have had quotes in these hearings that a basic box could be as little as 250, 300 dollars - that, if you like, you are over-specifying to protect your position.

MR DRAFFIN: If I can just make a comment on behalf of regional viewers about that proposed solution, it may well be within the powers that be that you could impose that sort of situation on a metropolitan market and oblige people to go out and buy equipment to receive television or not receive it at all, but you simply couldn't do it in regional Australia. We have a four-year period in which we are required to

bring in digital television. We will need every single day of those four years to roll out the thousands of kilometres of microwave length, hundreds of transmitters and translators, to bring digital television to rural Australia. You turn off the analog on 1 January 2001 and you will deprive the rest of Australia of a service because you couldn't physically deliver digital that quickly across the rest of the market.

PROF SNAPE: It's not feasible that you're broadcasting in digital within the capital cities and that is converted to broadcast in analog in the regional areas?

MR DRAFFIN: So the metropolitan markets are allowed to have digital television and the rural markets aren't?

PROF SNAPE: That is the way it is already because you are telling us that already - I mean, that is no different from what is foreshadowed, that the metropolitan areas are required to have digital in 2001 and the rural areas aren't required to have it for some time thereafter, so we have already got that dual system. It's no worse.

MR DRAFFIN: It is because you were proposing, as I understood it, that analog would be turned off in 2001. You are now saying that the metropolitan broadcasters would be obliged to keep analog going for four years because, of course, they provide regional broadcasters with their signal.

PROF SNAPE: No, I was asking whether it could be converted from digital to analog at the point of the regional broadcasters.

MR DRAFFIN: I would like to take some advice on that but I would suspect no.

PROF SNAPE: I mean, you're going to be converting the digital to the analog in the cities to be able to put the two out simultaneously, so it would seem to be a small step to broadcasting in digital in the capitals and doing that conversion - which you're going to have to do in the capital cities anyway - at the point of the regionals, and putting it out in analog there, but you said you might want to take that on notice. It's no different, as I see it.

MR MANNING: Do you mean the regional areas would get the metropolitan signal?

PROF SNAPE: No, I am saying that the regional areas would receive the signal in digital and convert it to analog for broadcasting by the regional stations, so just as under the current proposals if you are broadcasting something which is basically in digital in 2001 and you are required also to broadcast it in analog, you have to convert it from digital to analog to broadcast it in that other form. All I am saying is - and what I was suggesting there - that you broadcast in digital in the capital cities and that in the regional areas it is converted over this interim period to broadcast in analog there, and it is exactly what you would be doing in the capital cities anyway.

MR BRANIGAN: Professor, can I say that it seems to us that a lot of people

underestimate the likely appeal of high definition television. We don't believe that high definition television, by itself, will be the answer to getting people to buy digital television sets. We think it will be extremely important getting people into electrical retailers; a lot of them may in fact leave without an HDTV set; they may buy something lower specified but it will be important from day one and increasingly important as the years go by. We believe that the ideal strategy would be to allow broadcasters to offer high definition plus some multichannelling, plus datacasting. For all sorts of essentially political reasons, that hasn't been allowed us. The reason we would have liked that is that we simply don't know what the ideal mixture will be but we are very confident that high definition television will be a very important part of that mixture and that there will be large numbers of high definition sets sold at a relatively early part of the simulcast period path.

I must say I hadn't seen until the last week or so the suggestion that it was all a blind; that it was just a clever way of holding onto spectrum. I think the reality is as simple as it appears to anyone who reflects a little while: we have to go to digital; we have no choice. It is a long-term transition; unfortunately, there is no quick way of doing it. Viewers are not going to buy cheap, low-specified boxes unless they can see some real benefits in doing that. Datacasting I would doubt very much offers that benefit. Multichannelling may. Again, I doubt that. I think that it has to be a combination of several important elements and, in terms of marketing the whole digital transition, I think that HDTV is going to be absolutely essential.

PROF SNAPE: I take those points. But what I was trying to address was the problem that you alluded to before in 2005 with the politicians who say because a certain number of people who are not wealthy or people who are old and do not find it easy to make the transition - the very point that you were alluding to before - which could result in an extension of the transition period and incurring the costs which you alluded to of having to do both, which was 30 million or whatever - per channel or in total?

MR McALPINE: Per year.

MR BRANIGAN: In total, across the whole commercial industry.

PROF SNAPE: Across the whole thing per year - that that problem would be cured if everyone had access in 2001 to an absolutely basic box that did nothing more than converted the digital signal into analogue and therefore made them no worse off than they were before and got rid of the problem, got around the problems that you were alluding to before - the problem that in 2005 they'll say, "Not yet." You could solve that in 2001. Then I take your point about a lot of people and the industry would want extra features. I'm saying there is a basic box so that no-one is any worse off. If people then wish to get the more sophisticated boxes and to get all the other aspects that you're talking about, or to buy a more expensive set to get the whole box and dice, then they can do so. They've got that option. But what you've done is to make everyone have the possibility of being no worse off than they were, without closing off any of the options for being better off.

MR BRANIGAN: Professor, as I think a number of people have pointed out, that would only work if broadcasters were obliged to broadcast both in standard definition and high definition. That way the population of people who simply had the standard definition box would continue to get a service when broadcasters were providing a high definition service.

PROF SNAPE: Are you telling me that with a standard box you wouldn't be able to receive a high definition signal?

MR BRANIGAN: Exactly right.

PROF SNAPE: Well, the box wouldn't have to be upgraded very much, I think, to be able to do that. I mean you wouldn't get a high definition thing on your set; you'd still get a picture that was comparable to the existing analogue picture, but again they'd be no worse off.

MR BRANIGAN: There are two kinds of boxes for standard definition reception, professor. The first can only receive a standard definition signal, and that is the kind that's being sold in the United Kingdom at the moment. If a broadcaster puts out a high definition transmission, that box won't see anything intelligible, it will just provide static on your screen. A more expensive box will convert a high definition signal or a standard definition signal into something that an analogue set can understand. Those boxes are somewhat more expensive than the basic box you've talked about; not hugely so, but certainly - - -

PROF SNAPE: How much more?

MR BRANIGAN: The sort of quotes I've heard from manufacturers are about \$US250, which translates into at least, I would imagine, \$A500, probably more, initially. I would guess that they're probably at least 30 per cent more, maybe 40 per cent more, than the basic box in the very early stages, but I also suspect that the cost difference will even out very quickly. It's worth remembering that we're not going to be alone in broadcasting in high definition television using the DVB standard. For starters, of course, there are the American satellite broadcasters, direct broadcasters, who have a very rapidly growing market and who are already beginning to provide high definition television using the DVB system. So in other words they will be kick-starting the market for these sorts of set-top boxes.

PROF SNAPE: Is DVB satellite the same as DVB terrestrial?

MR BRANIGAN: It involves the same basic construction so, yes, essentially it is. It's broadly interoperable, so a set that's initially designed for direct broadcasting satellite use could be very readily adapted, if it needed adaptation at all, for terrestrial use.

MR SIMSON: Mr Branigan, could I just take you back to your earlier comments

with regard to multichannelling, because we had a submission this morning from NTL Australia, who are the new operators for the national transmission network, and they said that, in the case of the UK at least, consumers are going for digital terrestrial television broadcasting because it provides more channels, more choice - in other words, multichannelling. They made a similar observation in the case of the US, and they also said that, "In neither market has datacasting yet been offered as a core marketing proposition," and indeed cast some doubt as to the uptake of it and certainly the revenue potential of that service on a short to medium-term basis. Under the proposed regime, or the legislative regime as it sits, you can't multichannel before 2005. Are we not losing five years of more channels, more choice, under the proposed regime?

MR BRANIGAN: It's very hard to say. Perhaps the first point to make is that no-one knows what's going to work in the United States because the United States hasn't seriously begun digital broadcasting yet. They're still in what amounts to a late experimental stage with a lot of prototype sets out in the market, or a small number of prototype sets - probably about 30,000 or so. I think three or four weeks ago the prospects for high definition television in the United States were looking so-so, but some announcements recently suggest that there will be quite a lot of high definition television on air from later this year, and with the full launch of digital television in November this year.

I think the assessments of what will work in the United States are likely to change quite significantly over the next 12 months. I think we'll have a much better fix on it come next March - a significant date. In the UK - again it's hard to say - they've sold perhaps 200,000 set-top boxes. It's a market, it's worth noting, which has a lot less free to air choice than Australia does, so any increase in choice I guess is likely to be particularly welcome there.

MR SIMSON: But if you could hypothetically multichannel from 2001, would you? What would you do? What sort of scale of importance would you place on this?

MR BRANIGAN: This is for my colleagues to answer, but I think a general point to make is that there are some obvious limitations to multichannelling in a situation where you have a very limited audience. That's where you have very low penetration of digital sets. Free to air multichannelling, supported by advertising, may well have the effect of dividing a tiny audience by four or eight or 12 and creating invisible audiences.

MR SIMSON: What, working against the phenomenon that Mr McAlpine referred to earlier in terms of at least keeping 60 per cent of the market in five years' time for advertisers?

MR BRANIGAN: Yes, indeed.

MR SIMSON: I thought from the thrust of your submission, what you were saying earlier was that you would prefer to have multichannelling sooner rather than later,

because in your submission you refer to that as another revenue stream.

MR BRANIGAN: I think that's right, but I must say I personally - -and again I defer to the operators here - haven't seen much practical scope for advertiser-supported multichannelling in the very early years of digital, simply because it really depends on some unique or some rareish situations. Having some alternative attractive programming available, and standing a very good chance of increasing your overall audience by splitting your channel into two or more services, really means you have to be pretty confident that you can pinch audience from other people.

MR LECKIE: Speaking as an old salesman, the more you fragment a market the harder it is, and right now looking forward into the future, by having even more services, as I've said before, would to me be detrimental to our main business rather than a plus.

MR SIMSON: Mr Leckie, would you also include datacasting in that comment, or that context?

MR LECKIE: Yes. We've said already that if we do get involved in that, obviously we would use that as a subscription service. It's not a business that's going to be, I think, a big business. On the other hand, who knows what's going to happen in the future.

MR SIMSON: But you can be involved in that from 2001, though, datacasting?

MR LECKIE: Yes.

MR McALPINE: Only on the limited capacity we've got on our spectrum, which is very small.

MR SIMSON: What you've got "left over"?

MR McALPINE: That's it, yes.

MR SIMSON: And you're indicating that you're proposing from 2001 to charge that service as a pay subscription service.

MR LECKIE: We're still debating what we're going to do. I'm not saying we're going to be doing anything at this stage.

MR McALPINE: Because there's been no testing in that process of datacasting, we're not sure what's going to be left, if anything, on our broadcast spectrum. I don't know if there's a business attached to what is our current broadcast spectrum allocation. I doubt it very much. I think that side of the equation will be used more for enhancing our television picture rather than a stand-alone business.

PROF SNAPE: Somewhere in this - what Stuart was alluding to - which I can't turn

up just for the moment, you do refer to getting a revenue stream from the multichannelling - - -

MR SIMSON: Page 33 of your submission.

PROF SNAPE: - - - which would seem to me that you're foreshadowing that part of the free to air spectrum allocation would be used for subscription service.

MR BRANIGAN: I don't think we'd want to rule that out long term. That may well be something that broadcasters look to considerably down the track. But like any business they naturally want to broaden their revenue sources, particularly with a fairly static advertising pie. We may need as operating companies to look to other sources of revenue and, indeed, that may be an essential part of maintaining a fully-featured free to air service. It may need a degree of subsidy from other revenue sources.

MR SIMSON: Mr Leckie in particular made the point about potential fragmentation of your advertising audience in the context of multichannelling, and therefore it's probably something you want to do quickly, or whatever. But isn't multichannelling a benefit of this new technology? Shouldn't consumers have access to multichannelling, whether you provide it or somebody else? If the government says, "Well, if you guys won't provide it because it will fragment your audience, give us back some spectrum and we'll get somebody else to do it" - I mean multichannelling is surely a consumer benefit of this new technology.

MR BRANIGAN: They haven't really given us a choice to say, "No thanks, we won't use it." The decision was made very early on that broadcasters would not be permitted to multichannel, and the decision was made to protect Foxtel and Optus - - -

MR SIMSON: But you're saying you wouldn't want to do it because it would fragment your audience.

MR BRANIGAN: No, I'm saying there are limits on how much sense it makes to run advertiser-supported multichannelling in the early years of digital when you have tiny audiences. As Mr Murdoch memorably put it, speaking in the United States, "There's not going to be an audience anyhow, and dividing it by four makes absolutely no sense." He was talking about his own digital service in the United States of course.

MR MANNING: Can I make the point that certainly from Seven's point of view - and I suspect from all of our points of view - no-one wants to reject multichannelling or datacasting or any of the new media technologies, but they're at the edge of the main game so far as we're concerned. We're in commercial free to air television, and our bottom lines are stretched at the moment, and no-one sees them as being very unstretched over the next few years. It's a mature advertising market, we don't think we're going to have the growth of the 1960s and 1970s, and what we've got to

protect is the transition.

Nowhere in the world have we had a situation where a government has said, "On that date you will go to HDTV." It hasn't happened in the United States, it didn't happen in the UK, and we have to spend \$900 million to stick by a government intervention. As a result of government intervention we expect to be able to do the transition reasonably economically in a stable kind of way. I think that's a reasonable demand.

PROF SNAPE: I understand the costs which you have to incur - I think I do - and I understand the quid pro quo that's there - - -

MR MANNING: That's right, it's a quid pro quo.

PROF SNAPE: - - - the quid pro quo that's there - but I still come back to where I started: that after all of that, the licences still have a value on your balance sheets of I think it was between 2 and 3 billion dollars.

MR MANNING: That's absolutely correct, but can I support what David Leckie was saying recently which is that's true, but it's in a market situation, whereas there is fierce competition between the current players and there is a lid on the revenue that's available to those players, and no-one in the industry can see that lid as being taken off at the moment. So while it's true that the market price of the spectrum is a seductive thing to many players, it's also true that the entry cost into this new era of digital television is absolutely huge to the current players.

So there is really a trade-off there and I suppose having had a government intervention to say, "This is what you will do with your business, which is you will introduce digital television on a particular date" - I suppose the reasonable quid pro quo is that before the tidal wave of competition which rightly will occur down the track occurs, we have a chance as a result of the government intervention to make our businesses as profitable and as efficient as they can be in the new era.

MR SIMSON: What happens after 2005 where I think there is the option for a further free to air licence? It's five years away, not a long time. How is that factored into the business scenario that you've just put forward there?

MR MANNING: It's well and truly factored in. I mean clearly at that point we would be ready to take on competition. I think that's accepted.

MR SIMSON: I'm sorry, I don't quite follow this, because why would you be more ready in 2005 to take on competition when pay television will, on forecasts, have at least doubled, perhaps quadrupled household penetration and to at least something approaching that in audience reach. Other new media, in particular the Internet, can only be also biting into media consumption, plus anything else that's around. Why, from a business perspective, are you going to be any better off? Won't you be worse off in 2005 or 2006 to take on a new free to air competitor?

MR MANNING: We will have by then managed the transition in digital terms, number one. Number two, I'm not sure now whether I'm speaking for Seven or for FACTS but I think for both - I think the feeling - - -

PROF SNAPE: I'm sure your colleagues will tell you if you're not.

MR MANNING: Yes, that's right, I'm sure they will. I think the feeling is that it will not be an equal-equal split, that you won't get a situation where simply because this is a new pay TV partner they take suddenly a fifth of the market.

MR SIMSON: No, I accept that.

MR MANNING: It hasn't happened anywhere else in the world. It's much more likely that the free to air broadcasters will continue to have a very major proportion of the market and the pay TV operators will split a smaller proportion of the market. So there are some guidelines as to how it might work out and, you know, taking that into account I think we're all working out business cases that will allow us to do it. But certainly not if, in the short period, there's also yet another operator. I think what is certainly agreed amongst us is that current programming would suffer.

MR SIMSON: I'm just trying to pit this into Mr McAlpine's opening scenario of your business outlet in terms of prospective per annum advertising growth, what's likely to happen in terms of audience reach where perhaps you've got 60 or 65 per cent - maybe a little bit more than that, maybe a little bit less - compared with something substantially, significantly higher now. Are you going to be in any more fit shape, given those sort of trends, to take on a new free to air colleague into FACTS than is the case today?

MR MANNING: Well, I agree with John's figures. I think what's going to happen is that we are going to have to become more efficient over that period in running the businesses that we do, but not proportionately more efficient because it won't split proportionately.

MR McALPINE: I think there is also a point to add to that, and that is simply that a competitor coming into the market now would telecast only in digital. I can't see how the government would allocate an analogue spectrum to a new competitor. So you're going to have a new competitor who doesn't have the scenario of simulcasting. He gets a free run at the new technology that we've got to implement. It doesn't happen without free to air. So a phasing-in period to allow competition, if that's in fact what the government decrees at the time, is probably more equitable than opening the gates now saying, "Well, free to air, as it exists, does all the hard work," and let someone else come in and ride on the back of that in a couple of years' time.

PROF SNAPE: If they're in telecoms I guess they do give a leg-up to the new competitors.

MR McALPINE: Some of them.

MR BRANIGAN: That's normally against a single, monopoly provider, whereas here you have three hardly monopoly providers.

PROF SNAPE: Yes.

MR SIMSON: Just on the issue of timing of a fourth free to air, is it your understanding of what has been said by government that a new operator could start from 2005 or is that when the matter is considered as to whether one should start, in which case presumably one couldn't start, on that scenario, for several years or most - - -

MR McALPINE: It's a consideration in 2005 only.

MR SIMSON: So really on the sort of lead times that you'd need to crank up a new free to air station, that may not occur until 2008, 2009 realistically.

MR BRANIGAN: Mr Simson, the actual date is not before 1 January 2007.

MR SIMSON: Sorry, okay.

MR BRANIGAN: And there is no prior inquiry. I think there was foreshadowed in an early phase of the legislation.

MR SIMSON: So it's considered in 2007?

PROF SNAPE: Not before.

MR BRANIGAN: No, the embargo is lifted as of 1 January 2007. There is no requirement for the government to consider it again. So the legislation now provides for an embargo to 1 January 2007, after which date the ABA is presumably free to issue more licences.

MR SIMSON: Good. Thank you.

PROF SNAPE: Anti-siphoning, which is a very, very complicated system - it's a very, very long list of things that are protected including all Australian international netball matches, whether they be against a national team or a local team, a tremendously exclusive list I think, and of course there are a number of others who are not too keen on that arrangement. Have you contemplated other ways of meeting that same objective? Presumably the government's objective here is to ensure that the popular sports continue to be available on free to air television. Would an approach where neither free to air nor pay television were able to have exclusive rights satisfy that same objective? If not, why not?

MR LECKIE: Can I put my salesman's hat back on. If the exclusivity was taken out of the argument for free to air and so therefore we would not be able to purchase a major event exclusively, we would have to share a simulcast time or whatever it is with pay television. That would very much diminish our prospects of getting top sponsorship dollar, remembering that free to air television is entirely different from pay. We're both different businesses. We're funded from advertising. Virtually 99 per cent of our revenue comes from advertising. With pay television, by far the majority of their income will come from their subscriber base. So that without question would be an impost against us and would make it most difficult for us to continue to pay large rights for sporting events.

PROF SNAPE: On the other hand, the sporting event that was selling these rights would now be able to tap into two markets, whereas at the moment they can only tap into one. While free to air might not be able to pay them as much they would now also be able to get the rights also from pay television as well. So while I understand your ability to pay may be reduced, the seller might nevertheless be able to get just as much or indeed even more.

MR LECKIE: No, but the point you're missing is that's not how it's working at the moment. The public is getting far more sport than he or she ever had before with the advent of pay television. Whilst having the World Cup that's currently on at the moment, Channel 9 has the exclusive rights to all the major Australian games. Foxtel has the rights to all the other games. So if you want to subscribe to Foxtel, you'll see much more cricket than you would ever have perhaps seen before, so I would submit to you that the siphoning rules are working extremely well. In fact three ABA reports have shown that there has not been a breach and have shown that it has been to the benefit of the public not to the detriment.

PROF SNAPE: In fact for the World Cup you in fact, as free to airs, have the rights to them, so pay television can only broadcast them if in fact you have already acquired the rights. Have I got it correct?

MR LECKIE: No, that's not correct. In fact in that particular instance the rights were bought by Fox Sports and then were on sale to the Nine Network.

PROF SNAPE: Could you describe the process to me. I know it's a complicated process and I'm not quite around it but each World Cup one day cricket match is in fact on the list for anti-siphoning, is it not?

MR LECKIE: I would say involving the Australian team, yes.

PROF SNAPE: Well, that's not - - -

MR LECKIE: In fact, we said to Foxtel that games like - - -

PROF SNAPE: That's not what it says on my list, but perhaps my list is not correct.

MR LECKIE: Well, it should be every game against Australia.

PROF SNAPE: It says "each World Cup one day cricket match".

MR LECKIE: Yes, it's each World Cup featuring Australia. But what we did, just to keep going on how the rules I think are working well - we clearly realised Australia v Scotland or Australia v Bangladesh was not exactly prime time material for us, so we were happy in our negotiations with Fox Sports to allow Foxtel to do that, and in fact we've also agreed to share the telecast of the second semifinal not including the Australian team - if they in fact get to the semifinals which is appearing very doubtful.

MR SIMSON: Mr Leckie, there's the issue of the exclusivity but there have also been complaints about the actual process and the regulation that's involved in you determining, (1) whether you wish to purchase a particular sport, and (2) the time and process that's involved in giving a pay television operator the opportunity to get that sport.

MR LECKIE: Yes, well, again I just want to say that I think how the rules were proposed are still working well. I mean the West Indies-Australia cricket, because none of us were prepared to pay the price, went to pay television, so again the Australian public got something they didn't have before. The Pakistan-Australian cricket series last year, again all free to air said we didn't want to have it so it's gone to a pay operator. I think it's working very well. It's increasing and complementing the sporting coverage since pay television came on, it's not subtracting from it, and I wouldn't have thought anybody on either side of politics, or anybody in the public domain, would agree that we would have to pay for major events that we've always seen for free. I think that would be preposterous.

PROF SNAPE: I think that the process has been criticised by some parties - that because the ball is fully in your court you can in fact delay decisions for a very long time and not give an answer, and the process gets extended so that when a decision is finally made and the minister takes it off the list or you come to an arrangement or whatever it is, that there isn't then sufficient time to promote it on the pay TV's - - -

MR LECKIE: I'm not aware of an instance where it has become that big a problem.

PROF SNAPE: I think your pay TV colleagues might have some instances, but I'll leave that to them.

MR SIMSON: May I turn to another subject which is the one that's commented on at page 48 of your submission, which is the retransmission of free to air signals. You make the point that legislation is going to be introduced that will regulate the carriage of these signals which to date has been solely at the election of cable operators. ASTRA, in their submission on page 17, obviously takes issue with this because it says:

The opportunity to retransmit greatly benefits consumers not only in the

convenience with which they can switch from subscription channels to free to air and vice versa, but also in the improved signal quality of free to air reception.

As a consumer this is convenient. Why are you taking objection to this?

MR BRANIGAN: We're taking objection to it for a very simple reason, that we have absolutely no say over whether it's carried, how it's carried, whether it ceases to be carried, what the quality of the carriage is, where the signal ends up on the 39 or 50 channels. We take the simple view that it's our signal and we should have the ultimate say over whether it's carried or not. Now, I think we all recognise that for a lot of consumers there are benefits in having the free to air signals as part of a pay package. Particularly if you have full reception, you may think it's great. We don't cavil with that. I think most broadcasters would see themselves reaching some sort of a, hopefully, harmonious business decision with pay TV in the not too distant future over carriage of free to air signals.

MR SIMSON: So they would need to pay you for it?

MR BRANIGAN: Not necessarily. I mean there needs to be some sort of arrangement. Some broadcasters may be happy to have long-term assured carriage as payment. Others may want something more. But at the very least I think broadcasters would want assurances as to signal quality and reliability, because that has been a recurrent problem for broadcasters that the - - -

MR SIMSON: Can I just interrupt. I'll just go through this one by one with you, because we're talking here cable or satellite. Why would the signal quality be worse than getting it as a normal free to air signal?

MR BRANIGAN: It is sometimes worse, and what's more, sometimes the signal drops out, something goes wrong with the equipment whereby they download the free to air signal. So consumers lose their free to air signal and naturally blame the free to air broadcaster. It doesn't happen but it has happened often enough to underline this as a problem that needs to be resolved in any negotiations. Channel placement - all sorts of things that become important in the medium term because pay TV, particularly cable, is a very important electronic gateway.

MR SIMSON: But the major operators I've seen, particularly Optus and Foxtel, have Seven, Nine and Ten in the right spots.

MR BRANIGAN: Indeed they do at the moment but there's no guarantee. If it's purely at their election then that will always be so.

MR SIMSON: But isn't this giving you more audience than you otherwise might get?

MR BRANIGAN: There may be very few people who physically can't get any

signal at the moment, but you're probably looking at schools in maybe the low hundreds across a market like Sydney. So it's tiny.

MR SIMSON: I suppose it bides both ways. But if I'm able to access off my Foxtel connection your free to air signals, I might go to your free to air signal, otherwise it's going to be a pain having to do the adjustment.

MR BRANIGAN: But let me say, if you look at it in terms of who it has benefited over the last three years, clearly it has benefited Foxtel and Optus Vision to be able to include free to air signals in their marketing package. I don't think that free to airs have got equivalent benefits at all.

PROF SNAPE: On page 45 in the context of children's programming, you say then:

Preferable options would seem to be a direct subsidy for establishment of an all-industry funding mechanism.

Would you apply that same principle to other forms of content that you were required to carry? In other words, rather than content rules defined in hours, would you apply the same principle as here of direct subsidy to the production of it?

MR MANNING: Well, I would certainly prefer not to have government subsidy as the way of making commercial television work. I mean, it ought to be the market and it ought to be that Australians like their Australian drama, which they do. What we've got a problem with is that the regulations in children's television don't ensure that children watch the programs. I think the disconnection between the two is so broad that we need to reinvent it. But maybe there is a special case to be made for children's television as against any other. I suspect there is.

PROF SNAPE: I wasn't seeing that as a subsidy for free to air television, I was seeing that as a subsidy for Australian content in some form.

MR MANNING: Yes.

PROF SNAPE: If there are various objectives which are specified in the act and which are part of our terms of reference we are endeavouring to take into account, and the Australian cultural identity, etcetera, and if indeed the marketplace itself does not generate the sufficient meeting of that government objective - and of course content rules is one way. Another way is directly to fund and to subsidise the forms of content which you feel, or the government feels, is desirable to be carried. Children's is one of them at the moment and of course the drama and the other Australian content is another.

MR MANNING: I think our position would be that you can't make an analogical jump from children's to adult drama. A tweaking of the Australian drama regulations would enable us all to be flexible and probably more profitable and keep high quality, but a fund so far as children's is concerned might work. I don't think anyone wants to

go down the New Zealand model, if that's the subtext of your question.

PROF SNAPE: I wasn't hanging it on any peg.

MR MANNING: I don't think the children's is a model for a broader thesis.

MR SIMSON: Could I just shift the discussion to programming relating to news, news information, comment and opinion. I'd be interested to have an assessment from you as to the extent to which you see your news marketplace as quite a different marketplace to the newspaper marketplace. Could somebody perhaps comment on the extent to which you do or do not see them as competitors?

MR MANNING: Do you mean in advertising returns, Stuart?

MR SIMSON: No, I'm thinking initially in the context of the consumer's time. I mean, the extent to which you see yourselves competing against one another - it may be radio - but certainly overwhelming competing against one another as opposed to newspapers and what they offer obviously in the area of news information and opinion. To what extent are they different markets? To what extent are you in competition?

MR MANNING: I think they're very different markets. I mean, certainly Seven would see itself competing with Nine overwhelmingly. Probably less so at the moment. I mean, Ten has made its own position out at 5 o'clock very successfully and very clear, but we would be competing with each other. I would list it as one of the examples of fierce competition actually, as was mentioned at the beginning, I think, of this submission. The news 6.00 to 7.00 hour which is so crucially important for the whole night is an example of fierce competition between the newses right around the states. All of them are local, and then the current affairs programs. There is fierce competition in drama and all sorts of things, but certainly at that 6.00 to 7.00 hour, it's as good as you're going to get anywhere in the world, I think.

MR LECKIE: Stuart, I only want to say that newspapers is definitely a completely different marketplace to television. We are competing in TV, we're not competing against newspapers or magazines.

MR SIMSON: So from the diversity perspective in terms of news comment and information, a change in the cross-media rules would not be relevant then in terms of the way that you'd look at your news information and comment businesses if any of you happened to acquire a newspaper link.

MR McALPINE: I think one of the issues there, whether you're talking editorial or commercial, is we do compete against other forms of media for revenue. If there's a revenue strategy that best suits one of the media we will compete to try and get a piece of that pie. I think in a commercial sense we do compete with newspaper; we compete with them for the advertising.

MR SIMSON: No, my question was actually coming from an editorial perspective.

MR McALPINE: In an editorial sense I think they're slightly different.

PROF SNAPE: I'm interested to hear that you said that there is competition for advertising, so in the advertising market you are in the same market.

MR McALPINE: Correct.

PROF SNAPE: Is that the way it was seen with the ACCC?

MR McALPINE: No, it wasn't.

PROF SNAPE: I thought the argument before the ACCC was that they were in fact segmented markets.

MR McALPINE: Whose argument, I'm sorry? Television's market?

PROF SNAPE: I forget which part of the media was putting the argument but it was coming from the media, some part of the media.

MR McALPINE: Yes, I'm not sure that was free to air's submission. I mean, my view and the ACCC view I don't think has been particularly well accepted from our point of view. I mean, I think if there is a revenue pie in the equation all media competes for it. I think if any media sat back and said, "Because there's been an allocation for Holden to newspapers, it is a different vehicle in terms of eyeballs than television budget." Why wouldn't we say, "You shouldn't spend anything in newspapers and the 20 per cent you've given them, you should put it all in television because here's a good reason"?

MR SIMSON: And that's about to split, isn't it, Mr McAlpine, at the moment? I think about 80 per cent of the national advertiser dollar does in fact go to television?

MR McALPINE: My argument is that that's not enough, Stuart.

MR SIMSON: I'm sure that's so. So really in terms of a commercial discussion as opposed to an editorial discussion, the debate is really only over that 20 per cent, isn't it, because - - -

MR LECKIE: Stuart, sorry, it's 54 per cent of national advertising revenue that goes to television, it's not 80 per cent. And 36 per cent of all advertising goes to television. Far more goes to newspapers.

MR SIMSON: But not in national advertising.

MR LECKIE: No, national is 54 in total.

MR SIMSON: Yes, but in national 80 per cent goes to television.

MR LECKIE: No, it's not. It's 54.

MR SIMSON: 54, is it?

MR LECKIE: Or 55 - around that figure.

MR SIMSON: Okay.

PROF SNAPE: Back to markets - but this time if one might call it the market for influence, and I raise that because in the act, as well as in our terms of reference - but in the act it says:

The parliament intends the different levels of regulatory control be applied across the range of broadcasting services according to the degree of influence that different types of broadcasting services are able to exert in shaping community views in Australia.

The basis of the regulation is that where television is in fact the form of broadcasting which has the greatest influence on influencing views or forming views, shaping community views, that's why it's subject to the greatest regulation. Do you accept that?

MR BRANIGAN: I think there are some problems with it, professor. And they're really of two kinds. The first is, I think, implicit and that is it's really news and current affairs that are important in shaping community views. So any medium which has large amounts of news and current affairs is going to permanently end up on the highly regulated end of the spectrum. So you could conceivably have a situation where other media such as pay television for instance - which predominantly are not news and current affairs, but which across the whole range of program services they offer might well over time have quite a profound influence on community views and attitudes - might continue to be assessed as far less influential than a relatively small free to air television station.

I think the other problem - and I think it's more in the nature of a mechanical one and again goes to pay television at least in its cable television form - is that the act doesn't see pay television operators, it simply sees a multiplicity of channels. There's no way of aggregating those channels, as they are in fact commercially aggregated to see them as a single operation. So that's, as I say, a more mechanical problem, that the act was drafted before anyone had any clear idea of what shape pay television would take in this country. So we think the whole influence thing is worth thinking long and hard about, that it is perhaps too focused through news and current affairs, and certainly as it plays out practically it needs to take account of important commercial realities like pay TV.

PROF SNAPE: Perhaps to come at that from another way is: do you think that some radio stations, which are much more lightly regulated than you are, might have more influence - or some programs on them might have more influence on shaping community views in Australia than you? Secondly, is this an appropriate basis on which to be formulating regulatory control?

MR McALPINE: I think there are divergent views around the table on cross-media and foreign, so - - -

PROF SNAPE: That wasn't what I was really getting at. I realise that there are the - - -

MR McALPINE: The influence factor is getting close. I think you have to accept that in terms of influence what is underscored in this market is radio. There is little doubt that there are some very strong morning and afternoon talkback shows that would influence this market as strongly in some instances as a current affairs program in prime time on one of the networks. So the influence factor, I think, is open for some discussion.

PROF SNAPE: How comfortable are you with it being, if you like, the cornerstone of the differential regulation across media? I'm not just talking about foreign. I realise there are different views and it comes out in your individual submissions regarding foreign ownership and cross-media. I was thinking of content, for example.

MR McALPINE: I think we might take that on notice, professor, if we could.

MR SIMSON: On page 15 you say that news ratings are being affected by pay TV and this erosion may accelerate once news services such as datacasters arrive, and we've seen cutting and trimming in recent times of some news programming on television. Again on a medium-term time frame, what is going to happen here? What do you see happening to your news and current affairs programming in terms of quantity and in terms of type, diversity - those sorts of issues, please?

MR LECKIE: Well, in the Nine Network's case, we're absolutely committed to news and current affairs, but as I said before, free to air business going forward is going to have to be managed very very well. This network does not shirk from its commitment and certainly it will not in the foreseeable future.

MR MANNING: Yes, similarly with Seven. We're committed to news and current affairs in the long term. At the moment, we're scaling back as a result of cuts in the advertising dollar that's available, but there's a long-term commitment there and, as I said before, we're competing well and truly in the 6.00 to 7.00 market and as we restructure, we'll make further commitments ahead.

MR McALPINE: Just for the record, so that we're all there, Ten has a strong commitment to news as well.

MR SIMSON: Thank you, Mr McAlpine.

PROF SNAPE: And the regionals as well, I suppose.

MR DRAFFIN: Of course.

PROF SNAPE: Why is it so important for networks to own the stations? I mean, networks don't own all the stations, obviously, and in Nine's submission and PBL's submission, in one part, they refer to the arrangements that they have with stations that are not owned by them, but which are carrying their programming, and the impression one gets from reading that is that it's no big deal, that, okay, they're able to deal with those other stations and they, of course, are able to transact with them and what the networks are putting together is good quality stuff, then people will buy it and they'll be able to negotiate that with them. Why is it so important to own the actual transmitting stations? Newspapers don't own all their printing presses and some of them may not own any these days and that's where the distribution gets done, and in the United States, there are different ways, as I understand it, of skinning that cat, where the advertising is in fact incorporated much more into the network program and the stations then transact on that basis with that. Now, why is it so important in Australia, apparently, that the stations are owned by the networks - or is it?

MR McALPINE: I think different networks have different views. Seven and Ten have chosen to own five cap cities, Nine has a franchise that they're happy to own three. I think it's economics. If at the end of the day, Nine can glean something for their program rights out of two small markets, it's better than owning them. If that's their judgment, then I think it's economics rather than anything else.

PROF SNAPE: So it's not crucial, it's not something which is in the Australian market that makes it that you really do want to own all your major stations that you're networking to?

MR BRANIGAN: Not necessarily all of them, professor, but I think the fact that it's so much a smaller market than the United States, for instance, means that the major stations are inevitably part of the production process, that you don't have production over there and the program assembly and advertising sales here and individual stations as distributors of that program-cum-advertising package over there. A station like Channel 9 in Sydney, for instance, has strong elements of all of those. There's the Hollywood element, the studio, the production element, there's the program compilation advertising sales side of it and there's also the local outlet side; so it's compressing three elements that are quite separate in much larger markets into one entity, and the same, I think, goes almost necessarily for a Melbourne station, because those two markets are so important to generating most of the revenue and most of the production for Australian commercial television.

PROF SNAPE: But you could contract with them if they were independently owned.

MR BRANIGAN: I guess it's possible. It would involve disaggregating a number of features which have functioned very smoothly aggregated over the years.

PROF SNAPE: I'm trying to understand the economics of this. Earlier, we heard that there was perhaps a bit of disintegration, vertical disintegration, going with outsourcing various factors like sports and some others, and Channel 9, I think, are moving more to outsourcing some of that than doing it all in-house and you were referring to drama and that being outsourced, etcetera. Now, there may be some vertical disintegration going on there. I'm trying to understand the economics of it, that where is vertical integration important; is it important in going right through to owning the stations; if so, why, etcetera?

MR BRANIGAN: I think a lot of people who have been around the industry for a while have vivid memories of what used to happen 15 years or so back when, generally speaking, there was separate ownership of Sydney stations and Melbourne stations and, indeed, most of the other metropolitan stations and the process of reaching agreement, of getting funding for programs was a very tortuous one and often it was far less than often - well, I think earlier today Neighbours was mentioned as a success story for Australian drama and one instance of a program that jumped networks. The main reason it jumped networks was that it was made in Melbourne for the Seven Network and the owners of the Sydney Seven preferred their own programming.

At all sorts of practical levels, people ran up against all sorts of difficulties in negotiating expensive important projects through a network that was made up of lots of members, all of them with their own local interests. I think that was a powerful motivation for seeking at least ownership of Sydney and Melbourne stations, if not more.

MR MANNING: Never unleash Sydney-Melbourne rivalry, professor.

PROF SNAPE: No. I'd just like to have one final one. A number of submissions, as you would expect, have referred to complaints and the handling of complaints and I wonder if you would tell us how complaints are handled and to what extent do you carry corrections when there is a mistake, and how.

MR BRANIGAN: As you'd be aware, professor, from our submission, we've had a code of practice for quite a few years now. It was recently redrafted and released. It centres, you might say, on the whole complaints handling process. This has become a station responsibility over the last five or six years, rather than something that's handled by a distant government agency and I think it has been an important responsibility for stations to have to answer for what viewers might regard as their mistakes. It's something that every station is required to do. It's quite time-consuming. It's something that has worked surprisingly well, I think, over the years. It involves the ABA as a sort of final court of appeal if viewers are not happy with the sort of response they get from stations.

PROF SNAPE: If I was reported on one of your news services tonight as being involved in a brawl and named and I rang you up and said, "That wasn't me, that was Stuart," would the station carry a correction, on the news service the following day, the same news service?

MR McALPINE: I think, depending on the circumstances and the attached legal advice, you'd proceed accordingly, but it would be unlikely to have a withdrawal on air.

PROF SNAPE: Do you regard that as satisfactory to my reputation?

MR McALPINE: We'd hate to sully that, sir, but at this stage, I think the process has been fairly well documented and I was unaware that the amount of complaints that weren't handled well was extremely high. Are you suggesting, professor, that it's not handled exceptionally well?

PROF SNAPE: I'm merely saying that we've got a number of submissions, as you would expect, that have made the point.

MR McALPINE: I think the networks have a view that they handle it with the greatest discretion. There is the occasional mistake made, but at this stage, there are no plans made to offer apology on air.

MR BRANIGAN: I think, professor, the main stumbling block there - and it's something that we've looked at very closely over the years, most recently in the course of redrafting our code of practice, is the legal one; that legal advice is often very strongly against offering any on-air apology if there's a legal action on foot.

MR SIMSON: The newspapers do it all the time.

MR BRANIGAN: Yes, well, often years after the event, not the next day.

MR SIMSON: No. Certainly the broadsheets - all the newspapers, and very quickly, seem to be much more prepared to say, "We were wrong."

MR BRANIGAN: I think stations do on occasions, but normally the legal advice is very strongly against it.

PROF SNAPE: Thank you very much for that. I assume you don't, but if you would like to make any concluding statements, feel free to do so.

MR McALPINE: We had nothing planned, professor.

PROF SNAPE: Good. In that case, thank you very much. Before concluding, just as I said at the beginning of the day that at the conclusion of today's hearings, I would

invite any persons present to make oral presentations, should they wish to do so. Does anyone present wish to do so? No? It's like an auction. In that case, I will bring down the gavel and say, "Sold," and thank you very very much for your participation and for your very helpful submission and discussions. We draw today's hearings to a conclusion. We will be resuming at 9 o'clock tomorrow morning. We do have one additional participant tomorrow. We're starting with Network Ten and then we have Ramin Communications, who will be in following Ten and before Prime, and that wasn't on the schedule. Thank you very much.

AT 4.38 PM THE INQUIRY WAS ADJOURNED UNTIL
TUESDAY, 25 MAY 1999

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