



**TRANSCRIPT
OF PROCEEDINGS**

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PRODUCTIVITY COMMISSION

DRAFT REPORT ON THE BROADCASTING SERVICES ACT 1992

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

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON MONDAY, 6 DECEMBER 1999, AT 10.35 AM

Continued from 10/6/99 in Melbourne

PROF SNAPE: Welcome to the draft report hearing of the Productivity Commission on broadcasting. Copies of the draft report have been available since 22 October and if anyone present has not received a copy and would like to have one, they should contact members of the commission staff who are present. The commission wishes to thank those people and organisations who have responded to the draft report either in further submissions or in arranging to appear at the hearings. The submissions are available here today for viewing and are on the Web site of the commission. These submissions and comments will help us to improve the report which will be submitted to the treasurer early in March. The timing of the release of the final report is under the control of the government.

As in the case of the earlier hearings, transcripts of these hearings will be made and should be available on the commission's Web site within three days of the relevant hearings. Copies will be sent to the relevant participants. At the end of the scheduled hearings today I shall invite any persons present to make oral presentations should they wish to do so. Now, I turn to our first participants for the day and I would ask you all three to identify yourselves for the transcription service and then whoever is going to open the bowling to do so.

MS HUGHES: Catriona Hughes, chief executive, Australian Film Finance Corporation Ltd.

MR DALTON: Kim Dalton, chief executive, Australian Film Commission.

MS IRELAND: Kim Ireland, policy adviser, Australian Film Commission.

PROF SNAPE: Thanks very much. Mr Dalton.

MR DALTON: Thank you very much for providing us with the opportunity to follow up on the submission that we put to the commission earlier. We have provided you with a document and we felt that rather than speaking to that now which inevitably will take up 15 or 20 minutes, it might be the most productive use of the time just to take questions as we're confident that you're across it and read it and it may well have sparked a number of points that you want to follow up and clarify with us.

I perhaps should say just for the record that once again this is a joint submission from the Australian Film Commission and the Australian Film Finance Corporation representing on the one hand Film Commission whose primary function is a development capacity for the film and television industry, and the Film Finance Corporation which is the primary source of federal government support to the production area of the industry.

PROF SNAPE: Good, thank you very much. We'll turn and ask some queries. There's one thing that I think I probably should mention early and that is on page 23, for example, you say:

To our knowledge with the exception of this submission, there were no calls put to the inquiry for the abolition of the Australian content regulations for commercials.

And that is carried back into a box somewhere too. I think that statement appears to misunderstand the nature of the inquiry and also - well, the nature of Productivity Commission inquiries in general. But if I could draw your attention to the terms of reference. The terms of reference which, of course, we have to follow is that:

The commission is to have regard to the Commonwealth's analytical requirements for regulation assessment, including those set out in the competition principles agreement which 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.

So the fact that someone has not or no-one perhaps has objected to something does not count at all. The onus is the other way under our terms of reference. But the onus is in there that any regulation which restricts competition must be justified for its continuation, even if no-one has in fact drawn attention to it. So I think that there was a misunderstanding in your submission on that score. You mention throughout this additional submission - co-production doesn't seem to be favoured, let me put it that way. I was wondering why this is so and it's got a couple of twists to it, I think.

We notice that, for example, in the recent data that you have been putting forward in the national production survey of the Film Commission, co-production has been extracted from Australian production, whereas co-production in the last year has increased both in hours - well, it has increased in value as a matter of fact and in hours quite substantially and that if the data had been produced on the old basis and co-production had been included with Australian production, as it was until this year, then Australian production would have increased significantly in the past year. So you've got the point that you made that Australian production has decreased only in fact as a consequence of revising the basis on which you calculated Australian production. I was wondering if you would like to comment on this.

MR DALTON: Well, I think the background is - you're quite right to point to definition - the background is definitional in terms of what constitutes an Australian program and what constitutes a co-production as we operate it presently. Again, perhaps as background, there are a number of definitions operating in regard to different purposes and the different points along the chain, I suppose, of film and television production as to what constitutes Australian and what doesn't constitute Australian. We took the view this year in developing the national production survey that it was, given the changes that were taking place to some of the economic fundamentals of the industry, important to separate out those productions which, because they are co-financed, inevitably there is a range of relationships in regard to the actual creative make-up and decision-making processes involved in the production

and distinguish that area of production from that area of production where there is 100 per cent Australian creative control.

I mean, a complicating factor - and I think again, we make that point certainly in the report that we recently put to the minister in this area that the ABA, for instance, automatically grants Australian content to any production which the Australian Film Commission grants co-production status, but although the Australian Film Commission processes applications and grants co-production status to productions, at the same time we've made it quite clear that we do not regard some of these productions as actually meeting the requirements of what we would regard to be a true and proper test about what is actually Australian content in terms of the cultural objectives that are set out that the area of Australian content is meant to meet and therefore it seemed to us quite important if we're going to portray a correct view of the complexity and the nature of the Australian industry, then we had to differentiate between the various types of production.

MR SIMSON: I think the point is, though, that this got the headlines. I mean, the effect of its change in the methodology meant that the Australian television drama program production as defined now fell by 27 per cent, but if you use the old methodology, the methodology used up until this year which included co-production, it actually increased by 11 per cent. So there was a situation three weeks ago that when the report was released with this new approach, there was sort of shock horror all over the newspapers, and yet if the same database had been used, the same methodology, it would have actually shown an 11 per cent increase.

MS HUGHES: An 11 per cent increase on what is the question, because if the programs that are showing the increase are using lower levels of Australian content, but nonetheless satisfying a definition by reason of deeming, surely it's appropriate to draw that to people's attention. For example, an official co-production under the treaty rules, it may achieve official co-production status with a minimal amount of Australian content as low as 20 per cent and sometimes 30 per cent. So if you add up the creative points in the creative points track, writer, director, the leads - four of them, head of art department, DOP, director of photography, editor, composer, if you add them all up that gives you 10 or 12 points, just depending on how you count the writer or director.

If you have an Australian program with low level of Australian content that can nonetheless satisfy the treaty, you may nonetheless have a program with very, very little manifest Australian content in it.

MR SIMSON: We're just drawing attention to the fact that a methodology was used one year and then a different methodology is being used this year which has produced a dramatically different result.

MS HUGHES: I think it's simply because of the difference in landscape and the growth in that particular area and I think when you notice a trend of such huge growth, it is appropriate to think about how you might recharacterise them.

MR SIMSON: Another point with regard to the national production survey is that it includes only independent television program production, as we understand it. It does not include programs produced by TV stations, even though this data is available. Why would that be so?

MS IRELAND: Well, in essence that's more a historical thing than anything else and in fact we intended next year that the survey would expand and cover all production.

MR SIMSON: Because it's work, isn't it? I mean, it's local content, isn't it?

MS IRELAND: Yes.

MR SIMSON: So I'm just curious as to why historically or not it would have been excluded.

MR DALTON: It is historical and it is partly that the origins of the survey in part was to track the information about the independent production sector. So I think that was the origin of the Film Commission beginning to collect this sort of data a number of years ago. It was about attempting to collect data and provide information and analysis about the independent production sector, so in that sense it's historical.

PROF SNAPE: The trouble is, I suppose, is the data is being used for purposes that go beyond that and to make or support arguments that go beyond that and that when one finds that there are changes in classification and that part of the production which would support your general point is not included etcetera it makes the figures less use than they might.

MR DALTON: Yes, I mean, obviously that is something that we need to be alert to. But I think also that in doing this particular piece of analysis each year obviously it's also quite important for us to look at the changes that are occurring in terms of the film and television industry and particularly in regard to television, the ways that programs are being financed and then how those programs and the creative mix of those programs or underlying those programs actually then relate to and become defined or otherwise according to other set of criteria and it is quite important for us to track all that sort of information and then point to trends. I mean, one of the major trends that has occurred in the industry in the past 12 months is the number of co-produced series. I mean, that is a very significant change.

Traditionally co-productions, the whole area of co-productions has related either to feature films or to short-form drama. What we have seen in the past 12 months or so is in fact a number of long-form television drama, hour series, coming in as co-productions and that has, we believe, significant implications for the industry and significant implications for what gets defined as Australian content and what doesn't.

PROF SNAPE: That must improve its marketability abroad very substantially I would assume - a co-production. It means that you've got presumably at least one, if not guaranteed, anticipated market.

MS HUGHES: You could often have a co-production structured so that its principal market might be US cable which I think that report refers to, and indeed Australia is a secondary market rather than a principal market for the programming, and that is made clear by low levels of licence fees that is paid for the material and low levels of licence fees are paid because the product does not reflect the premium of Australian content that audiences in this country are used to.

PROF SNAPE: Yes, but the point has been made to the commission by others of the great difficulty of selling Australian output abroad, and I would have thought that co-production was one of the best ways of securing at least one market abroad.

MS HUGHES: But in the way the co-production is structured, the Australian co-producer might be nothing more than a line producer to supervise the production occurring, and may have very few of the benefits that flow from exporting that program overseas. Those benefits might lie with the other co-producer who may have originated the material and developed it.

PROF SNAPE: But as he said before, it must score in points at least 20 or 30 per cent in order to - as I understood you said before - qualify as an Australian co-production.

MS HUGHES: That's a very small amount of points.

PROF SNAPE: 20 and 30 per cent, it depends what you have got 20 per cent, 30 per cent of. 20 per cent of gross national product is a lot of money. So it depends on what it's 20 per cent of.

MS HUGHES: No, I was talking about the Australian content - that the percentage points refer to the percentage participation of the high level of Australian contributors.

PROF SNAPE: I understand that, but if it's a very big production, then there are a lot of contributors, and we're going to be getting a number of those contributors, and that's going to be very good for the Australian critical mass of the industry.

MR DALTON: There's no doubt that purely - if you look at purely financial aspects of some of these co-productions, then they are contributing a great deal towards levels of expenditure and employment and in particular areas of the country, and certainly in Queensland, an area where a lot of these co-productions are taking place. Then it's quite a significant input into the local industry. I don't think anybody is denying that, but on the other hand if you look at the Australian content, and reference "Australian" to the notion of Australian content and the reasons for Australian content back to certain cultural objectives, then there is equally no doubt

that some of this co-produced co-production material does not in any sense whatsoever contribute to or even relate to those particular cultural objectives.

PROF SNAPE: Well, that may be so, but we've had two arguments coming to us on our draft report. One is about the cultural and social, and the other has been the critical mass, and while there has been a general endorsement if you like from various parts of the industry of the retention of the subquotas for the cultural and linking those specifically to the cultural and social objectives, there has also been the argument coming forward through that that is not enough; that in fact one must also have what is called industry support, in some of the submissions, in particular the overall quota and the advertising quota because they are necessary, it is argued, to maintain a critical mass in the industry, otherwise those other cultural and social that are coming through the drama quota and the children's quota and the documentary quota, there won't be an industry in order to do it. So we've been having these two arguments coming forth.

I'm trying to now concentrate on the critical mass one and say surely the co-production and the way that that encourages the industry in Australia is relevant for the critical mass, and yet in the arguments we've had saying, "Look, we have to retain those advertising quota. We won't have a critical mass without it," for example, there's been no mention in that, and no relation, no cross-reference to the fact that the co-productions are booming and that that in turn could be expected to be supplying that critical mass.

MR DALTON: That's true, but I think you began this line of questioning by reference to our national production survey, and the purpose of the national production survey is to report on and provide some analysis and information about particular sets of data. It doesn't go to - the national production survey we are not there focusing on issues about critical mass and how that underpins or doesn't underpin the production of Australian content. I mean, I don't think that the commission, in any sense, denies or walks away from the fact that this area of production is an important area of production for sections of the industry, and of course it contributes to the area of critical mass, and I think further, certainly again in the report that we provided to the minister and all our commentary on those recent figures, we certainly commented on the foreign - the quite dramatic increase in the levels of production of foreign material, and we did talk about the way that does contribute to critical mass, and contributes in quite positive respects to whole other areas of the industry.

All we've said is that you need to, in regard to those figures about co-productions, you do need to be aware in definitional terms about what constitutes what we believe fairly constitutes Australian content when it is held up and tested against the government's stated objectives, and the reasons why there is Australian content, and we believe that automatic qualification as Australian content on the part of co-productions in many cases doesn't work, and it doesn't serve those cultural objectives.

PROF SNAPE: I think you're trying to get a look-and-feel test, and yet you're not endorsing a look-and-feel test. I mean, I think no-one has said, "Let's use a look-and-feel," and yet a great deal of the sort of argument that you're just giving is saying, "We need a look-and-feel test."

MR DALTON: I think what we're saying is because the ABA has decided that if the Australian Film Commission grants co-production status, then automatically this qualifies as Australian content. We say that is a problem. That is a real problem, and the evidence is increasingly in front of us at the moment that it is a problem. Certainly the evidence is a real problem when you've got certain productions that are quite clearly - and this is not - there's no sort of judgment about any of this, but quite clearly being produced for American cable television and you have all the Australian actors speaking in American accents, but that is a problem if that ends up being qualified as Australian content. But, yes, it does contribute to critical mass and it contributes to employment and training and a whole range of areas.

MS IRELAND: There's a couple of other points about that that we probably need to just make to you. One is that the - when you referred before, Prof Snape, to us talking about a look-and-feel test but not necessarily supporting that, in a sense it's hard to get away from what the product looks at the end of the day, but we have always judged that on the basis of who has made it. In a sense we've said if Australians are making something, then it must be Australian. It must have some Australian content in. It must speak to other Australians, and that's really what we're talking about when we're talking about Australian content. The issue that we have with co-productions is that that Australian creative content can be very low and still qualify as an official co-production under our treaties with other countries.

One of the areas that we think is particularly important I suppose for determining whether something is Australian or not is whether it's really developed and originated in Australia by Australians and carried forward. So they're probably just a couple of things that we would say in respect of co-productions. The other thing about co-productions and the critical mass argument is there's no particular guarantee that that level of co-productions will remain. This is a trend that's only just begun and we certainly wanted to make that point in our national production survey because it's a big change.

PROF SNAPE: No industry works under guarantees for the future, and we cannot under our terms of reference and under our act contemplate guarantees to the future. It doesn't apply to any of the industries in which we are asked to report and in which the government is applying the competition principles.

MS HUGHES: But I think the point is if the Australian dollar goes up or some other location's currency goes down, you might well find a lot of that co-production material going elsewhere. These projects are often called runaway productions, and the classic runaway production is production that's accessing good labour but at a low exchange rate.

PROF SNAPE: Yes. We've been trying very hard in a section of this report - and I'm not quite sure if we succeeded or not - in trying to link to cultural and social objectives and the things and to target the particular instruments on the cultural and social objectives, and then to separate industry protection objectives per se, and of course industries can relocate all over the place and over the world, and not just this one as the exchange rate changes, and that in itself - the fact that the exchange rate might change if we're simply looking at the existence of the industry separate from the cultural and social aspects of it as we've tried to do, then of course we can't look at just the exchange rate on existence grounds or size of industry no more relevant to this industry than to other industries, until of course one takes in the cultural and social aspects as well which - as I say, we've attempted to address those as we've been asked to, and to clarify objectives and the appropriate policy instruments to those objectives.

MS HUGHES: Well, I guess that's why we're focusing on minimum critical mass within an environment that can support production or make that production possible without taking into account the vagaries of exchange rates.

PROF SNAPE: Right.

MR SIMSON: Just on a related issue, with regard to the creative elements test - I'm referring to page 10 of your submission to us - where you take us to task over our recommendation with regard to what we've termed and you've challenged non-creative cast, crew and production processes to be Australian, what I can't get my head around is if you've got a situation where the major creative areas are in fact being done by Australians, why would someone bother to take those other elements or bring in foreign people or resources to do those other elements? Why would the post-production for example go offshore if your writer, your director, your main creative elements are located here? What would be the economics in doing that, or for that matter some of the other so-called - and it's our term, not yours, I appreciate that - some of the other non-creative cast and crew, if your main fundamental creative tasks are being done in Australia, why would the non-creative stuff be shipped in from offshore or taken offshore to be done? Can you give examples of where this might happen? I just can't get my head around the economics of that?

MR DALTON: The area where it does happen of course is in animation because - and certain areas of Australian animation, whole sections of that do get shifted offshore because they tend to be a lot cheaper. They're labour intensive and the labour tends to be a lot cheaper.

MR SIMSON: But generally why would it make sense, because that was one of the things that was in our minds in focusing on this issue; that we were trying, as has been just mentioned, to tie what we were saying in this area to the cultural and social objectives, and - - -

MR DALTON: Well - - -

MR SIMSON: Sorry, go on.

MR DALTON: Sorry. I think I'll give two answers to that: firstly, that it's not difficult to imagine situations particularly in the area of post-production where you could shift post-production offshore, whether it be New Zealand or some of our near Asian neighbours where there will be cost benefits to be derived.

MR SIMSON: Excuse me for interrupting, but I was under the impression that the Australian post-production industry was one of the most efficient cost-efficient in not only Australasia but the Asia Pacific. I mean, there are Japanese groups having their post-production done lately and nothing else just because of the cost efficiency of our industry.

MR DALTON: I'm just saying you can imagine scenarios where that could be possible. If the Australian dollar increases in value by 15 or 20 per cent, then albeit within our own economic terms, we'll still be operating very efficiently. That's not to say that you might be able to go to another economy - eg New Zealand or whatever, and you may even be able to access all sorts of subsidy mechanisms or whatever. However, I think the point we were making - I mean, that wasn't - I'm just trying to respond to you in saying that there may well be some opportunities there, but I think that all we were trying to do was to say that in terms of developing a broader and more rounded view of what constitutes the Australian industry and what constitutes the industry which is able to meet the government's cultural objectives, then you do need to see the environment in which those key creative elements or individuals and elements work, the environment in which they exist, the environment in which they come through and are trained, and the relationships which underpin all that. That's all. We were just saying that there is a broader picture to be looked at here.

MR SIMSON: We may not be disagreeing with that. I'm just raising that the practical question - because a lot is being made about this non-creative area. I'm just raising the practical question as to the likelihood that this stuff would generally go offshore, okay. Animation may be an exception, but would generally go offshore in a situation where your main creative elements are being sourced locally.

MS HUGHES: I think that the post-production part of the form process is a highly creative part of it. I mean, the editor is a key individual in transforming the film that's being shot into the finished program, and an editor of a feature film is often these days regarded as significant to the picture as maybe the director. So I would certainly not agree that post-production is non-creative. I think the whole notion of post-production keeps the control aligned to the Australian producer and retains the team that is important from development production and completion of the program.

PROF SNAPE: At the other end I suppose one can go to the best boy, and I'm never quite sure what the best boy does, but I find it difficult - I assume that what it does is not creating to the uniquely Australian cultural and social value of production?

MS HUGHES: I think you could edit a program in such a way as to minimise its

Australian appeal and to maximise some other appeal.

PROF SNAPE: That's the editor. I'm trying to think of some of the other ones. What we said is I think - I'm not sure how far we went down that line, but if one goes down the line, one can think of an electrician that is working on it, and it's very difficult to see how an electrician is going to contribute to the objectives which we are required to look at.

MR DALTON: Sure. The best boy by the way used to be the person in the studio system who used to run around on the grids up above them and shift the lights, and for some reason or other that term sort of hung on in our present career structures, but all - - -

PROF SNAPE: But you get the point anyway.

MR DALTON: I get the point, but I think that in a way what we've done - I mean, can I respond by - this is more of an overview response I suppose, that - I mean, we felt there were some areas of your report that we strongly endorsed and we felt that you'd made a very important number - quite a number of important statements and contributions within this whole debate that's going on, but it did seem to us that to a certain extent, what you've done is isolated key elements which you - the importance of the government's cultural objectives and then key outputs from the industry which met those cultural elements, and then you looked at what were the key elements which brought about creating those outputs, and then stopped, and then said, "Well, you don't need support for the commercials, you don't need this broader creative elements test. You don't need the transmission quota."

In responding to those points, what we have tried to say is that this is a small and we believe quite fragile industry. It's also a highly interconnected industry, and if you are going to start from the point of view of the cultural objectives and the government requiring certain outputs to meet those cultural objectives, then you must look at it in totality and look at the whole. I mean, to a certain extent I accept, if you take electricians in isolation and say, "Do they need to be Australian or do they not need to be Australian in terms of meeting the government's cultural objectives?" - then I think that you can mount the argument that the fact that they're Filipino or the fact that they're brought in from England or America or whatever ends up making very little difference one way or the other as to whether this end piece of television or end feature film meets the government's cultural objectives. That's quite true. But what we've attempted to do in responding to each of these areas I suppose is to stand back and give a broader response.

MR SIMSON: The effect of that approach though is that on that sort of logic, basically everything comes in - the ads come in, the advertisements come in, you query then the co-productions. It becomes a very broad definition on the basis of what you call a highly interconnected industry that then supports the assertion that you need to look at the industry extremely broadly or quite broadly in terms of determining the contribution it makes to local content, and the question - the

questions that we started to raise in the draft report are where do you draw the line? Do you draw the line at the person that changes the light bulb or not? There's got to be some definition to this because otherwise you do have the person who changes the light bulb potentially in the creative elements test. Why doesn't a co-production contribute to critical mass? Why isn't a co-production good in terms of supporting the local industry in terms of the interconnectivity you talk of and critical mass?

In the case of the advertisements, the specific question I have with regard to that is in a globalising environment - I know it's a terrible term, but in a globalising environment, who are we or who are you as a local industry to tell a producer of goods and services that their ad, their marketing budget has got to be used, produced by Australians, when it may not be what they deem to be in their own commercial strategy. I mean, that's another example of where you draw the line.

MR DALTON: Two points. Can I just respond in this co-production area which you have brought up and we keep coming back to? I'm not quite sure how co-productions fits into - maybe you need to ask us some quite specific points and we need to come back and respond to you about the area of co-productions quite separately because it's not an area in the context of the Productivity Commission report that we've actually addressed specifically and come back to you and talked to you about the way that we think this relates to your findings. The whole area of co-productions has become an issue for concern and debate and discussion within the industry in another forum if you like, and it is about definitions of what constitutes Australian content. It's not about issues of critical mass.

I mean, I don't think at any stage has the Australian Film Commission ever suggested that we should be stopping co-productions or we don't want co-productions occurring. I don't think there's any suggestion that we've ever said that, is there?

PROF SNAPE: No, I think the point there is there have been arguments about critical mass that have been put forward with respect to the advertising and the overall quota. The fact that co-productions are booming would suggest that there is in fact a lot going on critical mass there, and those two things haven't been brought together. In your submission you're saying critical mass is going to disappear or - I'm paraphrasing. Critical mass risks being not met going below that if the advertising quota is not kept and if the overall quota is not kept, but that hasn't been related to the fact that on the other hand co-productions are going up significantly and that they may in fact be expected to provide the critical mass. So we're getting - there's no crossover of argument there.

MR DALTON: But they could replace - because of that maybe we could get rid of or we could alter regulations such that - - -

PROF SNAPE: Well, accepting your argument about a critical mass and there's a risk of dropping below it and the argument you put before us, the argument is that may occur because of the overall quota and the advertising quota. I mean, the

comeback is obvious, "Ah, yes, but this other part of the industry is booming."

MR SIMSON: I mean, to put it another way, including co-production, the value of Australian drama production including co-production was \$256 million 1997-98, and it rose 11 per cent to 284 million in 1998-99. If you take out the co-production element, it was 290 million in 1997-98, and 159 million in 98-99. So this is a significant issue in terms of the way you look at these in this discussion because it's a difference between 159 million in 1998-99 and 284 million - - -

PROF SNAPE: And if you throw the foreign production in as well - and of course that is using a lot of Australian technicians, and I take the point that it may not be using the directors, but it would be using a lot of Australian technicians who are also part of this critical mass that one talks about - then in the last year it went from 306 million to 386 million on your figures, and these are all the independent productions, if one includes the foreign as well as the co-production in there. So it wouldn't seem when one looks at that perspective that if we did have critical mass a couple of years ago, it would seem to be the critical mass that's - at least there's no risk of it falling below.

MS IRELAND: Professor, there's a couple of points that we probably should make in response to that. One is because you raised it in the context of a critical mass, a co-production in order to qualify for Australian content on Australian television does not have to be made in Australia. It only has to have minimum levels of Australian content, and it could be made elsewhere with one of our treaty partners - so in essence contributing very little to the critical mass. But the other thing I just wanted to point out in relation to the critical mass argument that you've put forward is, at present anyway, the co-productions are really just displacing Australian programming in the drama area. They don't count anywhere else. They're really just in that drama subquota.

So to the extent that they - they just wouldn't supply the same level of critical mass. It's not the same argument as we've put forward for commercials or the transmission quota, and they've provided long-term critical mass across an entire industry, whereas the increase in co-productions is a very recent development in the television area up until this point - and this probably goes back to your question as to why we've delineated those this year in our national production survey. It's a significant change to co-production activity in Australia generally, that until the last 18 months, all of that co-production activity has virtually occurred only in the feature film area, and that it's the change that's come in to television which has really increased the hours so significantly which is the issue that we've tried to pick up on in our national production survey and in our report to the minister.

MR SIMSON: The changes that are occurring - that will occur with more channels just generally - whether it be on pay or down the track or on multichannelling on free-to-air. That trend in itself would tend to push for co-productions, wouldn't it, just because of the cost factors involved a multiplicity of channels, some of them of foreign interest.

MS HUGHES: Well, yes and no. Co-productions in their appeal and the pricing mechanism for them in the local market will ultimately depend on whether they can be sold as Australian content to the local audiences. So from a network perspective, I mean, the higher levels of Australian content as I said, there's a greater premium for it, so co-productions with high levels of Australian content will be far more attractive to the networks ultimately or hopefully in terms of paying prices for them. The concern is really in those areas of low levels of Australian content when prices are far less than the full Australian content that the displacement that is occurring may not be occurring - will be occurring but at a cheaper cost price to the network. So whereas a network will pay a full cost structure for an Australian series, it may pay very, very little for a co-production if it has a large presale for example from an American cable outfit.

MR SIMSON: In that situation wouldn't it make sense for there to be a high local content? I mean, because what you're saying is the audience preference would be for - or the preference of the networks on behalf of the audience would be for a higher local content.

MS HUGHES: Given the cost of the programming the network may come to a compromise of putting on less of the expensive material and more of the cheaper material.

MR SIMSON: Co-produced stuff?

MS HUGHES: Yes.

MR SIMSON: Could I just go back to the question I raised earlier, and I apologise it was a multi-barrelled question, but I just go back to the third one of those relating to television commercials because I reckon there's a real philosophical issue here. In a globalising economic environment where you've got businesses that are marketing beyond their local boundaries, they are adopting global marketing strategies, branding, identity strategies and you've got a local production industry saying that your ads have got to be locally produced and indeed, we've had some submissions in our draft saying they should go back to 100 per cent local content which in the eyes of the seller of those goods and services could be not in the interests of their business. I mean, that's real intervention, isn't it? I mean, how do you rationalise that sort of dictum?

MR DALTON: I suppose our brief is to focus on those broader issues about the Australian film and television industry and the cultural objectives of the government and we're coming at it from that perspective rather than whatever particular concerns and cost structures multinationals might have to face, so I can't see - - -

MR SIMSON: This could be quite damaging to their business. They might perceive that it could be quite damaging to their business.

MR DALTON: I mean, there's no evidence about that. I think one of the points to

make is the rationale behind dropping the quota from 100 per cent down to 80 per cent was in fact that very reason to allow that level of flexibility for some of your multinationals and some of those companies. In the past in any case it didn't stop, I mean, it affected the cost structures of the material, there's no doubt about it that it affected the cost structures of the commercials and inevitably that flows back presumably to some degree back to the actual cost of the materials when they end up on the shelves or showrooms or whatever for consumers.

But once again, all we can do is come back to our point and say be that as it may, whatever the effects that it may have on the cost structures involving the delivery of goods to consumers, all we're saying is that the commercials production industry contributes in a variety of ways to the ability of the Australian Film and Television Industry to deliver on the Australian government cultural objectives. If the Australian government decided on the basis of your recommendation to dispense with the commercials quota and if it decided to dispense with the transmission quota and if it decided to dispense with some of these other elements, then we believe that will have a variety of effects on the ability of the industry to deliver on its cultural objectives, that's all.

MR SIMSON: I understand that but that's a pretty self-interested perspective because I'm a maker of widgets, I sell my widgets globally. I don't want to have to make a different ad in America or Australia, I want to run that same ad for widgets globally.

MS JACKA: Could I just perhaps pick up where Kim left off?

PROF SNAPE: No, I'll have to have your name and identification because we've got a fourth member at the table now.

MS JACKA: It gives me an opportunity to apologise too due to Melbourne transport problems. Marion Jacka, also with the Australian Film Commission.

PROF SNAPE: Thanks, Marion.

MS JACKA: Thank you, Prof Snape. Just to pick up and add on to what Kim said in relation to the question of whether this is putting an unfair imposition on multinational companies and as Kim said, that was precisely the issue and the impetus that led to the change in 1992 which moved to the 80 per cent requirement and that was a very extensive consideration of advertising which went to many volumes and over a quite considerable period of time. The pressure at that time was primarily coming through the AANA, the Australian Association of National Advertisers. Now, I think it seems to us when we look at the position now, because that is a very flexible requirement and the tribunal, because it was the tribunal at the time 89-90, made a number of points about that in its final report about the flexibility they'd allow.

I think the reflection that that is working for all the parties concerned is seen, as I understand it and as we've mentioned in our submission, in terms of what's been said

about advertising regulation this time around because the AANA, as we mentioned in our submission, who were the organisation which was pushing for some change to give them the required level of flexibility in 89-90 did not request in their submission to this inquiry any change in the commercials regulation and indeed, made some very strong points about support for Australian content. So on the basis of their submission I think we would say as well it is working, it has given flexibility. The multinational advertisers have found that space - yes, there's been a lot of debate and I'm sure the submissions reflected that about the impact that had on Australia - but that space has been there. If it wasn't their submission would have called for a substantial change now. The other point in terms of whether or not it's putting unrealistic impositions on multinational advertisers is they don't need to make five or six ads, they could make the ad for their multinational campaign here.

MR SIMSON: They may not want to. Why should - - -

MS JACKA: That is, to some extent, the way the advertising and particularly certain areas of the advertising industry works. The ads are being made in New Zealand or Australia or South Africa as well as the United States and so on. So it actually is something that again could benefit all parties because they could make their ads here and in some cases do.

PROF SNAPE: Yes, but we again come back to the point I was making earlier to compare it with other industries and, of course, if you make motor vehicles here, it can be said to benefit all parties, but we know that it often does not benefit - the requirement that they're all made here has not benefited consumers in the past and we've departed from that policy. But leaving that to one side, but going to a paragraph that you've got on paragraph 25 which says:

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

Does this imply that the quality of foreign advertisements is higher and that in fact there is a quality factor in this?

MR DALTON: No, I think that what that - number 1 what we've said is that the data and the research available on the affect within the television production area and how that affects other area of the industry is quite limited. The ABA's own data on this area is quite limited at the moment. So we're saying our comments are prefaced by being quite clear about that. But I think all that goes to point is that clearly the sorts of advertisements that win awards in those sorts of award context tend to be the ones with higher production values and more expensive and higher levels of creative personnel involved etcetera etcetera and all that is saying is it's not, you know, absolutely hard, empirical evidence, it's just pointing to the fact that it might be - the reason for all that could well be to do with where we're drawing out that higher end of

commercials from, that's all.

PROF SNAPE: Is there a good correlation between expenditure and award winning?

MR DALTON: There's absolutely a correlation between that. If you look at any of the - I mean, almost in any area of film and television awards, but particularly in advertisements, if you watch the international awards presentations then by and large it's the larger budget ones because they can get the production values and they can get the higher level of people working on them.

MR SIMSON: Could I just go back to Ms Jacka's point that a global company, yes, could make an ad in New Zealand or Australia if they wanted to and that ad may reflect very few elements of Australian cultural identity but it would have contributed to critical mass which you obviously think would be a plus in terms of the interconnectiveness of the industry. What's the difference between that argument with the argument that you were mentioning earlier with regards to co-production? I mean, if it's good for your industry to have a global ad made here, a foreign ad made here or an ad for the global market, why is it bad for their to be co-production here?

MS HUGHES: I don't think anyone is saying it's bad, but if we're talking about critical mass, a co-production can occur here without it assisting in the creation and maintenance of sustainable businesses. A co-production can fly in and fly out again at completion and delivery with the Australians being virtually in an employment situation rather than employer situation. So the level of co-productions may not necessarily lead to the creation of sustainable businesses that can create - by which I mean develop - and create a range of Australian programming for the commercial networks.

MR SIMSON: Fair enough, but isn't that exactly the same argument with regards to global ads? You know, fly them in, fly them out, arguably no sustainable ongoing attribute to the local industry.

MR DALTON: Once again, some of this goes to saying that you need to be careful at seeing the industry as - I don't know, too simplistically I suppose. By and large, for instance, the key creative individuals who benefit from the production of commercials in Australia and particularly high in commercials tend to be people who are involved in feature films, so the high end of feature film areas. If you look at that list of directors, for instance, that we gave you who are involved in commercials or who have been involved in commercials, then what you will find is that most of those are actually high-end commercial directors. They're not the people who are walking off the set of a high budget commercial and going straight onto the set of Neighbours.

In that sense there are segments within the industry and different groups of people benefit from different areas of activity. Can I just slip back to comment about the co-production. I think it's quite important for the record to state that at no stage have we said - has the Australian Film Commission, to my knowledge, the Film

Buyers Corporation said that co-productions are a bad thing. I mean, we fully accept that co-productions contribute to the area of critical mass. Our real concern is that co-productions may not contribute to Australian content that fulfils the stated cultural objectives of the government, although it will technically qualify as such. That is our real concern. That particular area of concern, I think, is quite outside the sorts of issues that are addressed and go to in your papers.

PROF SNAPE: Could I ask your reaction and what you think the implications would be of the recent connection between Granada and Channel 7, in Channel 7, as I understand it, were going to be outsourcing to Granada, but also under this arrangement they would be making for other channels as well and I was wondering if you had thoughts as to what the implications for this would be for the industry? It's a sort of new development in Australia.

MS HUGHES: What perspective do you mean, Prof Snape?

PROF SNAPE: Well, we have here a formal agreement between Channel 7 and a very large international company which is involved in production, very extensive production work in Britain and much of it, I think, as in the past at least when I saw a fair bit of it, been of high quality and we see quite a bit in Australia of the Granada productions too. So it's a very well regarded production house with extensive connections beyond it as well. What implications do you see to the Australian industry of this outsourcing arrangement? Do you see it as a springboard for much more work being supplied to the rest of the world? I mean, there are a whole lot of implications that you could see in this. Have you had thoughts about that - and going across in the multimedia - well, in the new converged environment as well?

MS HUGHES: There are advantages in having that international network that Grenada has because it enables the production company to get more effective international distribution and access to capital, that some of these smaller Australian companies may find difficult, but I think the main point about it is that the concept of globalisation in television is that you create local content in the individual territories in which you have your operations, and Grundys is a perfect example of that for all those years, so I think the point is that Grenada will be making genuine Australian content in the sense of Australian stories and using Australian personnel - blah blah - and those programs may, through the clout of Grenada, have good opportunities for export into a variety of the Pearson operations and foreign territories.

PROF SNAPE: So you see this as a development which there could be other similar ones which would in fact - - -

MS HUGHES: I think the Grundys one preceded it.

PROF SNAPE: Yes. I am still puzzled, I think, between the relationship between quotas, subsidies and quality; quotas and subsidies on the one hand, and quality on the other. I was reading one article recently - it was by an economist, I must confess - that was suggesting that at least in Europe the good stuff would have been made

anyway, and what happened was that the various quotas meant that the stuff which one wouldn't regard as so good, and is giving - in particular, the example of French versions of westerns or French versions of Dallas or what have you as essentially quota fillers, and the good stuff would have been produced anyway, the stuff that was important for the cultural - etcetera.

MR DALTON: Well, in your report you, I think, point to the question of just what Australian content would be made given the economic realities of running a television station in Australia in that broader global context with the availability of cheaper imported programming etcetera, but I think that the important point here is that what - and why I think our system, that mix of subsidy and quota actually works well in terms of delivering a diverse range of product to Australian audiences, that what the quota system does is to establish a competitive environment across the networks which also is one of our reasons why we don't agree with quota trading by the way, but that the three commercial networks have to meet a quota, and so that creates, if you like, and I'm cautious about using your terms, but it does create a marketplace in a sense as I understand the notion of the word, and - - -

PROF SNAPE: Demand, is that a better word?

MR DALTON: Well, yes, it creates demand, but it also creates a situation where the networks have to broadcast a certain amount of material. Clearly the imperatives are to obtain the biggest audience possible from their point of view, so they have to commission this material and put it to air, and what they want to do is actually attract the biggest audience when it does go to air, and therefore you end up with some level of diversity. You end up with some which is of higher quality than others because different channels will choose a different strategy by which they think they can obtain an audience, and so in that sense I think you do get some more expensive and higher quality product and you get some other material which is actually produced much cheaper but which still rates very well because it fulfils a certain need out there in the marketplace.

PROF SNAPE: I did hear a discussion recently on the ABC, it was between the compere of that program and Tony Brannigan, where they were discussing the very low quality - or they made reference to the very low quality of some of the quotas fillers that are shown during the day.

MS HUGHES: Yes, I was going to say Television Beyond Frontiers which is the European initiative in 1988, has led to - from Europe's perspective, the quota has worked very, very effectively. The test for that is whether or not these programs are shown in prime time as you say. So as a result of that initiative - for example, my understanding is in Germany on the networks, all programming now is pretty well German or at least European, and I think Television Beyond Frontiers has worked very, very effectively not produce quota quickies but to increase the viability of prime time viewing in the European countries.

PROF SNAPE: I suppose the biggest example we had of that was a number of

years ago when the tax deductions for film making were extremely generous for a few years, and I think the film industry itself said, "Take it away," that a whole lot of tax deductible quickies were being made, and as they said, giving the industry a bad name.

MS HUGHES: That occurred when 10BA was wound back significantly and when the marginal tax rates dropped, so in fact 10BA wasn't effective any longer under 120.20 when the marginal tax rates dropped, so I think it was a combination of - I think principally it was in recognition that that wasn't working, and the fact that government generally was shifting to direct outlays rather than indirect measures such as tax to support local industries.

PROF SNAPE: But in that sense in more money, which came through those tax deductions - - -

MS HUGHES: But they're open-ended, aren't they, and that was the other - - -

PROF SNAPE: Yes, it did not generate quality. I mean - - -

MS HUGHES: That's not true. On television, in fact - - -

PROF SNAPE: That particular one, I was saying.

MS HUGHES: 10BA was responsible for - certainly in the quality miniseries area, was absolutely responsible for the miniseries such as Dismissal, Cowra Breakout, Bodyline, all the fantastic miniseries that we associate with the 70s. In that era we had about seven miniseries per annum generated. They were very, very, very high rating, and they were absolutely flagship dramas.

MR DALTON: The key issue there was that producers were able to finance those miniseries purely on the basis of a pre-sale from a local broadcaster and that's just not possible any more because the producers did not have access to the level of subsidies which are required.

MS HUGHES: And by and large the pre-sales of the networks were paying for that material in real terms were much higher than they are today, so there was a combination of factors.

MR SIMSON: Could I just ask you, in the context of the changes that are occurring in terms of trade, the local industry and a number of the issues that you have raised today, trend issues, where you see the ABC sitting in the future in terms of its relative importance as a mainstay or bulwark in terms of local production and the furthering of the social and cultural objectives, in other words, where there is a lot of fragmentation and splintering occurring, just talk to us about where you see on a few-year time horizon, whether it's three or five, anything you like, the ABC sitting in all this?

MS HUGHES: Well, I guess the issue is budget-related for the ABC as well, but the ABC has traditionally been somewhat of a trailblazer in programming formats that

have then been picked up by the networks, and indeed, actual series that had been picked up with the network, so we would continue to expect the ABC to be innovative in its drama choices. In addition, it would have longer series that are aiming at a more commercial market in order to get some revenue back from them and to have a stable audience at a particular scheduling time, so I think both elements, stable programming, which can carry through a longer-term audience through series production, as well as innovative drama that feeds back into the television industry.

MR SIMSON: Could we just turn to the question of local content regulation in the area of new media services, not just pay, by the way, but other interactive services that you refer to, for example, on page 4 where you say:

We consider there will be need to be specific forms of content regulation relevant to the precise nature of the various new services that emerge.

Have you given thought as to how this is all going to work, how you will be able to regulate content in an interactive programming situation where broadcasting "content", Internet broadcasting content is being delivered, satellite broadcasting content - satellite Internet broadcasting is being delivered, how long is the piece of string, where do you draw the line, how are you going to regulate this? I mean, we have had a lot of stuff now. A lot of people from your industry have said, "You've got to do something about this," as it happens, but we have not had a lot of suggestion as to how it can actually be administered or managed.

MR DALTON: Assistance in how to do it?

MR SIMSON: Yes.

MR DALTON: I don't think that we're suggesting that we have the solutions to that but we're saying that in this new dawn that we're moving into, this new era of multichannelling and, you know, a whole plethora of services being delivered and the lines being blurred between broadcasting and narrowcasting and datacasting etcetera, that nonetheless one still has to come back to some of those fundamental principles and those cultural objectives and say that the broader social and cultural impact of the totality of these services will be as great, and possibly even greater, in many respects, and therefore - I mean, greater in terms that they may well be more, I don't know, impacting upon and woven into even more aspects of our life than what they are now, who knows, but that in that environment, that it's going to be important to be looking at ways and mechanisms to ensure that there continues to be some level of Australian material coming out on those services.

I mean, if you just look at pay TV, it is possible to look at different mechanisms by which you can ensure, whether it be a mixture of expenditure or looking at different ratios or programming or isolating certain services which may be quite discretely there to the niche services for Hollywood nostalgia material and therefore you accept that that should be run alongside of other services. I mean, in that environment you can look at ways in which you can suggest mechanisms. I agree it

gets much harder when you're looking at broadcasting via Internet. I have no - - -

PROF SNAPE: Could we stop at the simplest one perhaps, and let's suppose that commercials are about to multichannel, and so we just start with multichannelling. You have said that you don't agree with quota trading, but would you have any problem with one of the multichannels on hypothetically 9, having more of a children's bias or more of an Australian bias, than the other signals that they're putting out?

MR DALTON: I don't think we - - -

PROF SNAPE: Do you amalgamate it to Channel 9 as a whole or would you want a minimum amount on each of their - - -

MR DALTON: Do you mean would we say that there should be X number of children's television on each of their multichannels?

PROF SNAPE: Exactly, or would you - - -

MR DALTON: Because that's the way it works at the moment.

PROF SNAPE: Or would you be comfortable that they sort of say, "Okay, now, this one of our three channels," or whatever it is, "would have an Australian bias. This one might have a children's bias, and this one is this" - you know, etcetera.

MR DALTON: Again, I think that it's probably inevitable that that's the sort of - if you go to multichannelling, from what I understand from listening to people who are experts in broadcasting scheduling and arranging their material, then they will use multichannelling to allow to move in and out of niche programming areas, but again I think all we have said is that what you would - if they decide what they want to do is have an area on a particular time to specialise in the delivery of children's programs, then what would we be looking for? If there's going to be an expansion overall of the numbers of hours being put to air then we would be looking at some sort of mechanism to be saying, "An expansion in the availability of choice as far as Australian material is concerned for Australian audiences."

MS HUGHES: But I don't think we'd classify an Australian service as a niche market. I mean, if it's children you'd expect some Australian children in there; if it's documentary you'd expect some Australian documentary in there. You wouldn't want a distinct Australian service just delivering Australian content.

PROF SNAPE: But you may put all your documentaries on 9B or whatever they call it.

MR DALTON: Yes, absolutely. But in that context one would hope that you could see some expansion of the availability of Australian documentary within that context, that's all, and then you have to look at the mechanisms whereby you're going to measure that and deliver that output, that effect.

PROF SNAPE: So there would in fact in that regard be some tradability across the channels within one stable between 9A, B and C. You know, all the documentaries come on 9B and some of them would be Australian. You may have a much higher Australian content in general than 9C and less on 9A or whatever.

MS HUGHES: Yes, that type of thing sounds feasible.

MR DALTON: I mean, you're still looking for minimal levels but you're still also looking at a broader environment where there's 9A, B, C and there's 7A, B, C and there's 10A, B, C. If there's a system of quotas operating equally across each of those channels then that once again creates that competitive environment.

PROF SNAPE: But you're not comfortable with 9A and B - 9A, B and C transferring their obligations to 7A, B and C?

MR DALTON: No.

MS HUGHES: No.

MS IRELAND : It would decrease the choice for the audience.

PROF SNAPE: Yes. There's just a couple of minor things. On page 7 there was a figure there that I'd just like to check. In the middle of the page it's referring to Simpson and Le Mesurier. Nevertheless during 99 this company produced 160 episodes of a 30-minute series for the ABC.

MR DALTON: Sorry, what's the - - -

PROF SNAPE: Something in the Air.

MR DALTON: Something in the Air. It's a half-hour series. When it goes to air on the ABC it will go to air for half hour on Monday to Thursday. It's that format of programming.

PROF SNAPE: So 160 episodes is correct then. The other thing that surprised me somewhat - - -

MR DALTON: It goes them 40 weeks of programming.

PROF SNAPE: - - - was at the top of page 22 where you say, the end of the first paragraph - - -

MR DALTON: That's a typo. We were going to point that out to you. It should read "transmission quota would not put Australia out of step with other developed, market oriented economies." I'm sorry, we were going to point that out to you.

PROF SNAPE: Thank you. I suspected that there was something missing there.

MR DALTON: It didn't seem to fit in with the general tenor of our argument.

PROF SNAPE: It was a surprising sentence. I think we could go on for quite some time but I think we do have to finish. We are very grateful for your further submission. Of course we're rather pleased that you endorse at least some of our approach and take some comfort in that; comfort that we don't always get in inquiries in the commission. Thank you very for your participation this morning.

MR DALTON: Thank you.

PROF SNAPE: We will have a short break and hope that Fairfax arrive shortly.

PROF SNAPE: We're resuming and we welcome Fairfax. We have two representatives at the table there and we'd ask you in the normal way to introduce yourselves for the transcript.

PROF HILMER: Thank you, I'm Fred Hilmer, chief executive of John Fairfax Holdings Ltd.

MR RANEBERG: My name is Dale Raneberg, I'm a principal with the management consulting firm AT Kearney.

PROF SNAPE: Thanks very much. I think, Mr Hilmer, you're going to start the ball rolling.

PROF HILMER: Thank you chairman and Mr Simson for the opportunity to appear today. What we would like to do is take 10 or 15 minutes and give you some remarks that I think flow from the draft report and some of the discussions subsequently and then we would be pleased to have a dialogue and answer questions. As we said publicly, we welcome the draft report and the recommendations. We thought it took what was a refreshingly pro-competitive stance which is I think an area that has been characterised by oligopoly really requires. In that respect it really broke new ground. The heart of our submission that we put to you last time was that convergence in a digital world means that all communication in whatever form can be digital.

Therefore it was the availability and access to digital platforms that was really going to be critical in the 21st century. It was in that context that we proposed an ending of the cross-media and ownership issues provided that a competition regime could be brought into play to basically promote what we think are the real objectives of media policy. We at the same time signalled - and we were pleased to see it picked up - that the devil is in the detail, that the sequencing and timing of change and the way in which processes would make change occur were absolutely critical. You recognised that and you also I think called for a fairly - a carefully sequenced approach. We'll come back to that a little later, if I could, in my remarks and add some suggestions.

Basically you called for an end to cross-media limits when a number of conditions were met, firstly, an end to limitations on television stations, licences; secondly that more spectrum is made available for broadcasters which we interpreted to include datacasters as well; that foreign investment limits are repealed, which is something that we supported; fourthly, that the Trade Practices Act be reviewed and monitored in terms of its appropriateness to provide the competition that we believe that a good industry will require, so something like a wait and see approach, given that there was a phasing, you would be able to see how the Trade Practices Act played itself out. We believe that those measures, coupled with the application of an access regime to these various broad band platforms would give us the sequencing essential to deregulation and as I say we'd like to come back to one or two points on that.

Your report was hailed as pro-competitive and I think we're hopeful to see that that approach is taken to media regulation. It's somewhat amusing to us that in recent weeks we've seen widespread approval for a new entrant in the physical airways. When Branson proposed the extension of Virgin here we didn't see any lobbying by incumbent licensees. We didn't hear anything from anyone in the government other than approval that this was a good thing and we'd like to see the same principles extended to the electronics to the aether as is extended to the airways. We don't see why we can't have full competition in the skies but not in the aether above our homes. In fact we thought that if we'd renamed Fairfax, Virgin Airways, we might have even had a shot at being given a television licence.

More seriously, what I'd like to do then is come back to three issues that I think flowed from the report. The first is how the Trade Practices Act might be used and evolved to protect and promote diversity in competition; the second is just a few comments on an access regime for digital pipes, and the third, which I'll ask Mr Raneberg to comment on, is the process and economics of early spectrum release. Then I'd just like to come back and give some concluding thoughts on some immediate steps that we believe would progress this matter. So let me first turn to the use of the Trade Practices Act. I think what we proposed last time was a wait and see and I think you endorsed that, although it's something we might like to discuss. We were not keen to see a public interest test inserted into the act immediately. We wanted to see whether market definitions would not evolve in a way that would make the requirement of such a test superfluous. I think a test like that carries its own dangers.

We also would make the point to you that in the authorisation procedure that currently exists in relation to section 50 - the mergers section - the public interest test can be used to allow mergers but it can't be used to prevent them. So you'd be using public interest in a way that is really quite unfamiliar in the current competition framework. We think that as this market evolves we would like to see how market definitions evolve. If market definitions evolve in the way that recognises the economic reality of convergence, then you don't need a public interest test as a potential bar to mergers, which as I say is quite a step in terms of a competition approach.

We do think it's unlikely that concepts like the market for ideas or the market for people's scarce time can be translated effectively into a competition framework; and a competition framework, I think as you pointed out in your draft report, is really about substitutability and the impact of purchasing decisions or pricing decisions in one sector on another sector. I think at the end of the day they're concepts that will work here as convergence proceeds.

The second point I wanted to make a few comments on is the access regime for digital pipes. We noticed in section 8.7 that you talked about that. You talked about the issue of access to essential services. We note - and I think we pointed out last time - there is an access regime in section 44B of the Trade Practices Act. We think

it's quite broadly defined in that act. It certainly can cover the kinds of services that would be covered by pretty well any of the current digital delivery pipes that exist or are being contemplated, and you appeared to take a similar view as was taken with regard to the issue of defining markets which is, "Let's wait and see how that evolves." It is a new area, it's only currently being tested, but as we look at it we would put the view that we should also again see how this evolves and there seems to be adequate scope there to provide a framework that's going to encourage people to sit down and have realistic negotiations about access, because ultimately that's what it's about. You don't want to get an environment where every time you want to do a commercial transaction you're running off to a regulator.

We also would observe that access may be of less significance if spectrum is more widely available as we and others are advocating and we think there is scope then for this regime to work and to apply to cables, to satellites and even to broadcasting spectrum. These issues are all interwoven with the immediate policy question, I think the first test of a new approach to media which is around datacasting. We thought after you had really opened the invitation in your report for people to think about early release that it would be useful to actually have some hard economic data on the economics of early release and the benefits of various policy choices. To that end we commissioned Kearneys to study the cost and benefit of early release. They found a clear net economic gain if we could accelerate the transition to digital.

The other side of the equation which is not dealt with as fully in their report but I think is sort of below the surface is that a failure to release early and an insistence by the government on a constraining approach to datacasting is going to accelerate the development of alternate technologies and could have the impact of seriously devaluing spectrum were the sale to take place at a later date, because other technologies aren't just going to sit around and be kept on a shelf. So let me at this point hand over to Dale Raneberg of A.T. Kearney to just make a few comments on the basis of his report, which we've sent to you.

MR RANEBERG: Thank you very much, Mr Chairman, Mr Simson. To just add to the comment that Fred Hilmer just made about how the spectrum may devalue over time, there's also the foregone commerce. What we've got here modelled is the opportunity cost of having a simulcast period, and so there's commerce that can take place using the spectrum in the meantime.

So I want to talk about the benefits that we've calculated. These are preliminary estimates and they're for an early release of the spectrum and it's a starting point, we think. It's given us an indication that there are benefits from leasing the spectrum early and connecting everyone and that there's hence reason to go into more detail. We initiated our look at this looking at the expectation of low penetration, therefore a long simulcast. We anticipated the simulcast period would go for something beyond 10 years. So our calculations have assumed that the opportunity cost is at minimum 10 years, 10 years of using the spectrum for analog simulcast. So it's only the value of additional services during that 10-year period, not beyond. These services if they come on, of course, will have longer value.

The costs which we've used, the costs are building a digitally capable network from the first day of that 10-year period, and so the costs of course will establish infrastructure which will go on beyond the 10-year period that we've looked at the opportunity cost. I might just direct you to exhibit 9 and the submission. Exhibit 9 looked at the value of the current market capitalisation and licences as a value for the spectrum in its current use. We looked at Channel 7's market capitalisation, the book value of its licences, Channel 9's and Channel 10's and we worked out some averages. You'll note that there's a footnote on Channel 9's market capitalisation. We've only taken 55 per cent of their market cap because that's the proportion of their revenue which they derive from broadcasting, and of course their value has blown out with speculation about their future floats on online services and the float that they have had. You'll see that approximately - reasonably rough numbers, but 1.3 billion average market capitalisation and the book value of the licence is around \$1 billion.

PROF SNAPE: I think that's gone up significantly in at least one case since that data.

MR RANEBERG: That's right. In Channel 7's case that's gone up substantially.

PROF SNAPE: I think it has about doubled.

MR RANEBERG: The question then was, were these reasonable estimates for increased services using additional spectrum. We've described it in the submission but I'll just refer you to how much the licences and market capitalisation have increased over the last five years, the period during which pay TV services have been introduced into Australia; something in excess of 60 unique channels brought onto the market, and during that period of course the media sector has outpaced the all ordinaries.

We've also taken some evidence from the United States and we've shown that in exhibit 10. This is evidence of the growth in advertising revenue for television and as pay TV channels and then we've compared it to the growth in advertising revenue for free-to-air TV networks. You'll see across the bottom of that exhibit on the left-hand side the number of channels has grown from 1980, 26 channels to 1999, 69 channels. During that period we've had an annual average growth of 8 per cent, so the advertising revenue has risen from 11.5 billion to 50 billion in 1999. In the same period the free-to-air networks achieved 6 per cent annual growth. This gave us some confidence that you could actually add new services and not affect detrimentally the existing broadcasters. We haven't included it in this report, but also the fifth channel in the UK grew the advertising market in the UK as well.

Our calculations for potential value from releasing spectrum - and you'll remember from our report we weren't very aggressive in what spectrum could be released. We worked on the basis of a potential current use of 168 megahertz per region. Their own report said that that would be up to 350 megahertz per region. We worked on the basis of 168 and assumed that 75 per cent of the spectrum would be available for release on conversion to digital. Our calculations for advertising

revenue that could be generated from using that spectrum for additional services is 2.5 billion over a 10-year period, so that's the opportunity cost of using it for analog simulcast. I can take you just briefly through that calculation if you like.

PROF SNAPE: I think we've got it here. We might query it later.

MR RANEBERG: Okay. We also looked at subscription services, assuming that we'd be able to have not only traditional media and traditional types of revenue for advertising but also subscription services and online commerce and transactions. We also looked at subscriptions, and the amount we calculated for subscription services over the 10-year period was approximately 450 million. For online commerce and transactions it was 1.3 billion.

I just make a point about advertising, one last point. It's interesting that part of that 2.5 billion would be a growth in the advertising market if we follow the US trend. Part would also be a shift in the advertising mix. Perhaps it's away from sponsorships, perhaps it's away from using other types of advertising, billboards or direct mail, but it's not all incremental advertising spend. Part of it would be a shift in the mix, would be the introduction of the infotainment and advertorial type program en masse. That calculation of those three types of services - advertising, subscription, online commerce and transaction, gave us a total benefit of 4.3 billion over the 10-year period.

We also were able to get a quote for a standard definition set-top box. This is a landed quote but it's a wholesale quote, and we're assuming that with a scheme that would generate revenue and be able to distribute those boxes around Australia there would be I'm sure a better price than the retail price available. That's approximately \$300 per box. We've assumed in our calculation, because we know that a lot of Australian households have more than one TV, that for every Australian household that has two TVs they get two boxes. Beyond that no, but up to two TVs they get a box for each TV. We've also assumed that for half the boxes they'll need to be installed and we've budgeted \$100 installation - reasonably aggressive, and we'd assume that if boxes were made available readily some people would come in and install them themselves. So we've assumed that only half the boxes would need to be installed. That would cost \$100. Total cost of that roll-out of standard definition set-top boxes is 3.7 billion.

PROF SNAPE: You said \$100. \$50 you've got in paragraph 91.

MR RANEBERG: Yes, \$100 for every second box or \$50 on average for every box.

PROF SNAPE: Okay.

MR RANEBERG: So between the 4.3 benefit over the 10-year period, the opportunity cost of the simulcast period over 10 years and the cost of providing access to that spectrum, there's a difference of just over half a billion dollars. I'm

happy to answer any questions in detail about those calculations. I've got the calculations here if you'd like to look at them.

PROF HILMER: Thanks, Dale. I think we can get into this in discussion, but the 3.7 is a fairly generous approach to facilitating a conversation and there would be really a worst case figure. So we think that there are some immediate steps that can be taken to advance reform and that we would like to discuss with you in terms of the sequencing and timing. We think firstly to build on the ideas in the A.T. Kearney report, to accelerate the hand-back and freeing up of the spectrum used for analog TV is very significant, because there's so much spectrum there.

Secondly, we applaud the idea of a phased approach. I guess one idea we'd like to put on the table is: why not have an immediate end to cross-media with respect to radio, go beyond removing the restriction to two licences per area? That would have the advantage of allowing the Trade Practices Act to be immediately brought into play in terms of market definition and you could get a better sense and regulators could get a better sense of how this was going to work. We think that that's a relatively uncontroversial step in the direction that could be taken immediately. Thirdly, as we said in our submission - and we certainly did not intend it to be conditional, although you mentioned this on page 167 - you could remove the foreign ownership restrictions on media to the extent they're special to media right away.

Finally, with respect to datacasting, we note that this is an interesting and early test of media policy. There are really three issues: getting more spectrum available through such moves as the free-up, getting more access to more spectrum by new players, which we think is very pro-competitive; and doing that with the definition of datacasting that allows some viable commercial opportunities to emerge, as I think you've recognised. From our perspective what we want to see here is changes that are good for consumers in terms of cost and affordability for digital television that doesn't mandate anything in particular but lets consumers and technology suppliers, in fact let's the market, choose; that is good in terms of allowing new services to emerge; that's good for the population in general, wherever they live, bush, different areas of the cities, to get access through the best and most widely available pipe; and is good for investment, jobs and growth by really stimulating and supporting the very dynamic contribution that is already being made through media and communication.

I think that the government itself in a recent report has acknowledged that as a real spur to economic growth. We look forward to seeing how the government deals with these issues and we look forward to further discussion with you and to your final report. Thank you.

PROF SNAPE: Thanks very much for your thoughtful submission and for that very helpful exposition. We may come back to some of the details of the calculations in a moment, but on to some more general issues perhaps to start with. As you noted, we have maintained a distinction in our draft report between datacasters and broadcasters, and if no distinction were there between datacasters and broadcasters then presumably the cross-media rules and also the content requirements would apply

to datacasting or what is envisaged as datacasting. So we maintained a distinction so in fact those requirements on broadcasting services would not be attached to what is envisaged as datacasting, but subject to that constraint we said that it should be defined very liberally.

I know that there are discussions going on possibly at this moment elsewhere on this question, but would you like to go a little bit further in guiding us in this matter? One idea that I have floated in a talk afterwards was in terms of a limited amount of spectrum on any multiplex, and what we were trying to get of course in our report was something which would be not a source of litigation in this extremely litigious industry. So in saying it should be as liberal as possible we were trying to think of something that would not be litigious. How do you react then to, on a multiplex, a limitation on the amount of spectrum of so many megahertz being available and that limitation on spectrum simply being a definition of datacast, within that spectrum, be it one megahertz, one and a half megahertz or something like that, which would in itself under current technology not allow the full digital broadcasting, that in fact that would define a datacaster?

PROF HILMER: We were keen to get enough spectrum to make the pipe attractive commercially and I think a lot of us are speculating on how this is going to work but while you use the word in a liberal definition I think from our point of view we would say a liberal definition is one that allows a business to be developed, because at the end of the day we won't bid for spectrum if we don't see a business to be there. So we need sufficient scope in the definition to create business opportunities. Then we think about where will those business opportunities be for us, and they will, I think, rotate around our current areas of strength; news, current affairs and those areas of commerce, finance, employment, automobiles, homes, that are traditional strengths, where we have a lot of content, both editorial content and advertising content.

We need the ability to take those into a new format in a way that's going to be attractive to consumers. So we need an ability not just to, as I said I think last time, put lantern slides on the TV screen but to combine pictures, to combine text, to download enough data in enough speed in enough different formats that it's going to be an attractive and fast experience for consumers. I don't know if that completely answers the question but we've been concerned that we get enough spectrum to do that and if we have limited spectrum then we think that some of those commercial opportunities will be limited, but I'm not the technician to answer that in a defined technical way.

The other point I'd make is that I agree entirely with your comments with respect to process. Again, you would like to have a definition that's reasonably clear but you'd also like a process for resolving issues about the definition that was not encouraging of litigation and didn't allow game-play. We think that that is important and we would be delighted to see you progress some of the thinking on that. I don't think the answer though will be entirely in the definition. I don't think you'll ever get a definition that's absolutely clear and I understand the need for the definition in the

current environment.

PROF SNAPE: Of course the definition on bandwidth is an absolute, as I understand it, an absolutely clear definition.

PROF HILMER: As long as it's not so constraining that you end up not doing things with the technology or with the channels that you think are really going to be important. As I say, our own advice is that - given the range of services that we'd like to offer and the way these services interrelate, for example, to switch from a motoring or real estate application into a finance application, in and out of, triggered by news or current affairs or editorial content - our own view has been to date that the seven megahertz bandwidth is what we would require, the way we're thinking about it now. We could do more limited things and I guess that says it has more limited value and we have more limited interest in it.

PROF SNAPE: In Sydney, for example, under current proposals there may be only one seven megahertz band available, which, if you require seven megahertz, that means there would be one datacaster.

PROF HILMER: I think these are the very issues that cabinet has to think about as they think about varying standards and as they think about the way in which they carve up the spectrum and as the ABA presumably looks at the efficient use of the spectrum because there are varying scenarios where hopefully more than one is available.

MR SIMSON: Prof Hilmer, I'm curious as to why Fairfax would want to voluntarily limit the amount of video that you would be prepared or that you could make available in a datacasting environment. As was noted earlier, we've actually come at it from a different perspective, what we call a liberal definition of datacasting because we see that arbitrary limits of, for example, video of five, 10, whatever minutes are themselves arbitrary limits and they might be all right today, they may not be all right today, they certainly may not be all right tomorrow. So I'm just curious as to why you're coming at it from that perspective rather than proposing much more flexibility in what you can do under the banner of datacasting.

PROF HILMER: I think we're aware of the policy framework that we have to work within, which is government commitment to have a distinction between datacasting and broadcasting, not to have new licences, and then you have to make that definition work. I think the area of greatest tension in making that work has been around things like drama, comedy, live sport, and what we've been seeking is a way to put something up that we believe will allow us to do what we at this stage see is commercially attractive and make it very clear we are not seeking through any back door to go under a datacasting guise and become a broadcaster.

So we are thinking to come up with something that is feasible and would be a start in the period during which that datacasting, broadcasting definition is going to be really important. So it was really that thinking and it came from our frontline people

who are really interested in and who are working on the kinds of programming that we do and they felt that it made a very clear statement that we're not seeking to become a backdoor broadcaster, we're seeking to do something that's quite different. None of these are perfect definitions. I think we agree with you on that. To some degree it's a question of just defining terrain and defining an approach and saying you're going to do these kinds of things.

I think of the datacasting as I've seen it and seen our own mock-ups of what we do as much more like the Internet with automatic transmission and properly sprung seats and a responsive engine. As we see the way in which that's used, the types of restrictions on fresh video content - not archival, by the way, so it will be a lot of video - on the archive, but making the point we're not broadcasting, we're not seeking for you to have this thing turned on and watch the Fairfax quiz or the Fairfax show or the Fairfax sport. We're providing something that is a different kind of service and it will appeal to users who have different kinds of needs than to be solely entertained. There's no easy answer to it. As I say, it's come out of a bottoms-up look at what would be practical and what would make a relatively clean statement that we're not seeking to broadcast as broadcasters understand and are really protective of their terrain.

MR SIMSON: Has been your main concern there not the cross-media ownership one? I mean, if the cross-media ownership rule didn't apply, was not there for example, would you have fewer inhibitions about going for the doctor on datacasting in terms of becoming a broadcaster? I'm just wondering from a Fairfax perspective, why not?

PROF HILMER: It's not just cross-media, it's also the availability of spectrum. I mean, it may not be a good business decision for us to acquire a free-to-air and use the spectrum for datacasting. That may not be the highest value use, but if there were more spectrum available then we would be interested in participating in that more spectrum and going down the datacasting route, as we've signalled. So I think the issue for whether Fairfax would be interested in a world without cross-media of owning TV is a different question and we may well be and I've said that is something we would look at, but the services that are being provided is not in place of datacasting or as a way into datacasting, I think it's a genuinely different business, providing movies and entertainment and live sport and sitcom. I think it's just a different business than the business of the kind of interactive TV emerging through datacasting.

MR SIMSON: The sort of interactive TV that you're talking about or you're proposing or thinking about using in the datacasting environment, using the digital spectrum, how do you see that in a strategic sense or even a market sense alongside or by comparison to other interactive delivery mechanisms, say for example, interactive services being delivered by satellite, such as Austar is proposing to do, some of the things that Telstra is proposing to do and Optus and Excited Home and others are doing? How do you see that suite of datacasting services that you wish to offer using a digital spectrum as different to those services that others are going to

offer using different delivery mechanisms?

PROF HILMER: One of the things that makes media so much fun is its diversity of opportunity. I mean, even within print you get tremendous diversity of a magazine format, an insert format, a newspaper format, a leaflet format, and I think you're going to see content go out into many more different digital formats and there won't be exactly - I mean, they will complement each other, much in the way different print does. So if you're driving around and looking for a restaurant you may want to go into our CitySearch database via your mobile phone through WAP. That's one way in which you might use that database.

If you're sitting around at home and you're thinking about a restaurant and you're not constrained by being in your car and want the one within a kilometre of the tower that you happen to be picked up by on the mobile network then you might take a broader choice and you might mine the data differently and have different kinds of discussions and get into a bit more depth and say, "Well, I don't just want the closest one, I want a particular kind of look and feel," and it's much more a sit around and discuss process. It's just like you might want to grab a news headline, "We win Davis Cup", but then you might want to sit back and really read about the game and how close it was and what were the great shots and you might see some of those great shots and you might even like to see a replay.

We think a lot of these services are going to be complementary, you can take the format and it will be used in different ways. I think people will still use the Internet. When I'm sitting in front of my screen, half a metre from me, I'm going to do things on the Internet, I'm going to take a density of text on the Internet that I just don't think I will use when I'm sitting across a lounge room and we're using the sort of datacasting headline, high visual impact type slide format that will be used in datacasting. So I think these things are - that's one of the reasons we're attracted. What we're saying is that we've got a core of content in our company, we have terrific content. What we have to do commercially and I think what makes the market is be able to take that content onto different platforms and allow consumers to get access to it and to compete with it.

What we want to see is those barriers to us competing that way come down and others will come at us just as others say, "You've got this classified.com, we want to have a go at that through the net." Fine, we're happy to live in that world. Others will say, "We'd like to do specialised news services on the net." We say that's fine. The other point that Mr Raneberg draws my attention to is that as we get into more of these things we will have lower infrastructure costs, we'll get some economies of scope. We're interested in that as well.

PROF SNAPE: Sorry to go back to the seven megahertz, I'm sort of at the edge of my understanding here, but I'm referring to the submission that we have from NTL, they are appearing after lunch today. They say that within the seven megahertz, with current technology, there would be scope for four standard-definition television signals going out. Now, that's just under two megahertz each.

PROF HILMER: Yes.

PROF SNAPE: Now, now that's just under two megahertz each.

PROF HILMER: Yes.

PROF SNAPE: You said before that you'd require the full seven megahertz, well, that's meaning that you're going to be doing something that's more demanding than a standard definition television set - substantially more demanding than a standard definition television set.

PROF HILMER: Yes, all that we would want to have - yes, a significant amount of content coming down on different channels, whether it was a news channel or a shopping channel or - - -

PROF SNAPE: You'd want to have more than one channel?

PROF HILMER: Well, we would want to have a suite of related channels that consumers could switch between.

PROF SNAPE: I see, okay.

PROF HILMER: We wouldn't want to just broadcast news because when you look at our content base and when you look at the way this is going to work, we want to say, well, people are going to be in the news environment or in the shopping environment - weather is an important service. I don't know what others like the ABC will do.

PROF SNAPE: No, I understand now. I hadn't understood that you were wanting to put these several signals out at the same time. I thought they were going to be at different times.

PROF HILMER: I'm happy to come back to you when I check with our people, but that is my understanding.

PROF SNAPE: So it's a multichannel datacaster?

PROF HILMER: Well, it's datacasting a range of services that are interrelated and interconnected and that really give the consumer then the suite of content that we have in the most user friendly form.

PROF SNAPE: Again, I suppose what one could do on a multiplex is in fact if any one datacasting channel was being limited to say, one and a half megahertz, one in fact could get more than one so that you'd be able to do several of those things but on any one of those channels you would be limited and again, that would provide, as I

would see it, a nice restriction on what you could do on any one of those signals by limiting the amount of spectrum that was available for any one of those single spectrums and it would be very simple to monitor.

I mean, you've got that amount of spectrum, that's it. It would be not a matter that would encourage litigation. It would seem to me a very simple way of getting around the sort of problem that you described of maintaining a distinction between datacasting and broadcasting and so far I've been puzzled why potential datacasters have not embraced this idea.

PROF HILMER: Let me come back to you on it. I'm happy to talk about it further without people and I'll come back with a note or if you'd like to talk further I'd be happy to do that.

MR SIMSON: Can I just clarify the Fairfax position with regard simulcasting standard definition and high definition. That's what's mentioned in - in that situation do you advocate high definition being mandated, albeit at whatever proportion of programming that that would be or do you see, as we advocated in our draft report, high definition being an option in addition to standard?

PROF HILMER: We could live with either. I think that's what we're seeking, that we could live with either. One of the issues is what does high mean?

MR SIMSON: Or how much?

PROF HILMER: Yes, well, how many - what density of signal and what standard is high. There is some scope in that but we think that on that issue we would like to see what we would call a moderate high and that it would be then - if it were mandated to be simulcast for a period, as I say, we could live with that. This is all part of a transition but what we don't want to see is people locked in. We don't particularly want to see the government making the technology choice - making the call with video recording it's going to be a beta world when the rest of the world goes to VHS. I think that would be the worst outcome to get.

PROF SNAPE: The access regime to stay for the moment with these big questions before we go to the calculations, if we have a number of platforms available, there's the Internet, various types of broadcasting, various ways in which broadcasting can be undertaken, you've got subscription, subscription coming through channel but also in other ways as well. So you've got a whole range - then you've got datacasting as well, if you've got a whole range of roads, pipes as you call them, doesn't the access question for any one of them then become rather redundant? If you have a multiplicity of ways of delivering your message, why do you then need access on one of those roads when there are half a dozen roads that take you to the same place?

PROF HILMER: I think, Prof Snape, we did address that in part in our first submission which was raising the issue of ownership of the roads. If all of the roads were owned by the same two or three or one person or one person had a dominant

ownership position in the roads, then you might have a concern because it might look like there were three roads but there was only one tollgate into those roads. The second issue, and you'd have to see how this evolved, was the interchangeability, the substitutability of those roads. If it turns out one of the roads is really the winner, that is the road that gets you into most of the households at relatively low cost and that road were really blocked off, it's sort of cold comfort to say, well, you can get into 5 per cent of Australia at high cost. So you would have to look at the reality of competition. So it's the ownership and the substitutability and take up of the roads that is critical. We think again there's a bit of wait and see needed here but there should be a willingness to use these because this whole area is evolving quickly.

MR SIMSON: Again, before we get into the detail of the Kearney report, but just generally how do you propose to fund or how do you believe the conversion process should be funded from analog to standard/high definition quickly so that the opportunity cost is minimised that you've calculated in this report. It seems to be just left hanging. Who is going to pay the piper on this given that the political, as we've discussed many times - the politics of this is that while there's some - one marginal electorate out there with half a dozen key electors who still want their analog and haven't bought a 50 or 100 dollar set top box, that you've got a problem.

PROF HILMER: We didn't ask Kearney to address that and we didn't seek to address it because I think it's a policy issue. But the first question is is there benefit greater than cost, so have you got the funds to play with? Now, in the worst case - I mean, you could say, well how would the Kearney study lead you to fund it? Well, you'd buy everybody a box and if you've got two homes you get two boxes.

MR SIMSON: Who'd buy the boxes though?

PROF HILMER: The government would buy the box and the government would be half a billion dollars ahead because it's got the benefit of early release of all the spectrum, so it's got something to auction that it didn't have.

MR SIMSON: It's ahead in a GDP sense, isn't it?

PROF HILMER: Well, it's ahead in its own revenue sense because this is the incremental value of the early release, so it's ahead in an economic sense.

PROF SNAPE: So essentially what you've calculated here is a net profit?

PROF HILMER: A net profit. Now, that's an absolute worse case because if you or I were doing this as a policy exercise, we would say there's a vast majority of the population who don't require and ought not have subsidy and would have changed over anyway. So of the whatever it is, 3.7 billion, some portion of that you wouldn't find and then you might say, well, you can either do it on a means-tested basis or on whatever varying basis you want to do to say for those people who can't afford the box and who are about to move into a dark screen era, "Here comes your box."

But that was the whole idea, that there's enough in this to actually take an aggressive stance in getting a box into every set and that was a smart thing to do in terms of the national accounts. There was more economic gain than cost and that's ignoring all of the additional costs that - sorry, the additional benefits of the commerce by-products of having this happen.

PROF SNAPE: Perhaps if we go to the details, and as I understand the calculation and follow it through, it's essentially seeing what the profit would be. You've calculated the additional revenue that you see or at least the revenue which would be attributable to this and then you've made an assessment of the cost and so you're saying it would be profitable for someone to do this or some enterprise to do this - enterprises - and in fact it would be profitable for that enterprise to pay the \$100 or \$50 per household to install the boxes and to pay for the boxes. What you've done is essentially show it would be privately profitable.

Alternatively, just to follow the discussion just a moment ago if the government in selling the spectrum could in fact get to itself all this additional profit or this revenue, then the government could do it itself, but it would be a clever government that was able to get for itself all this additional profit. But if we then go from that profit, whether it be profit for the government or profit for the enterprises, it seems to me that if one is making the calculation that way for it and trying to look at it from society's point of view just on that profit, then one in fact should take account of the reduced profits elsewhere, if that is the way in which one is going about it. But in fact the calculation doesn't take account of the produced profits elsewhere.

You did mention that some of the advertising revenue was diverted, that it wasn't all new advertising revenue, that it was a diversion and so if one is adopting the methodology that you have here of additional revenue minus additional cost, but trying to look at it from society's point of view and saying, "This is the gain to society from having it," then one should have taken account of the reduced revenue and the reduced profit elsewhere.

PROF HILMER: We didn't go into the second order on any of the calculations. So, for example, the services providing advertising support to the broadcasters we didn't look at what they might make either so none of the second order effects were taken into account. Now, I'm not sure what the advertising mixed shift was exactly in the United States, we only know that there was a partial shift in advertising mix, but we know that the advertising market over that period for broadcasters grew an extraordinary amount, \$40 billion.

PROF SNAPE: Yes, I'd like to come back to that in a moment. I mean, an alternative methodology - and this might get slightly technical, but not much - would in fact be to try and estimate the additional consumer benefit from it all rather than an additional profit - the additional consumer benefit, in which case one would be in fact trying to estimate the additional consumer surplus which was attributable to the introduction of these new services. Now, that's the normal way, I think, of making a calculation of the gains to society from a new product. You've already got gas, let us

suppose and you've got gas available at a particular price to consumers. You're now going to introduce electricity and what you calculate is the additional - at a certain price you calculate the consumer's surplus, the consumer's benefit that's attributable to that and you don't just focus on was it profitable. If you're looking at that sort of major change you're going to try and say what is the net addition, particularly when a policy is involved to allow this new product, what is the additional consumer surplus etcetera.

Now, that is another methodology and perhaps a more conventional economic methodology for going about calculating this cost that is gained from this new service - no, but you haven't done it.

PROF HILMER: But what we did do, we used as a reference - we work independently but with NECG with Prof Henry Ergas and had him kick the tyres, as it were, on our own calculations and compare them to some calculations of his own. Now, you see on the letter, that's part of the appendix, to the report that he used methodology focusing solely on social costs and benefits as you described and came up with a similar number.

MR SIMSON: Just for comparative purposes, one of the, if not the major argument that has been put to this inquiry from the incumbents, if I could call them that, against more competition is the fragmentation that would occur, they say, in the advertising market specifically in revenues. In other words, that the cake could not sustain more players. This is a critical assumption on which there has frankly been a dearth of analysis. It's basically looking at an historical trend and saying, "This may or may not continue and therefore if another one comes in it's divided and we've lost 20 or 25 per cent of our revenues or whatever."

What you're doing here, it seems to me, is challenging that are you not? You've approached it for somewhat of a different reason in the way you've done the analysis but overall what you're saying is that the impact of the digital era, if I could put it very generally, will result in substantially increased revenues from a number of sources advertising online and subscriptions that mean, if I'm reading this correctly, there will be a substantial increase in the total revenue pie that is available to medial players in this particular space. Is that a fair summary?

MR RANEBERG: That is correct.

PROF SNAPE: Looking then at exhibit 10 that you referred to before, where you have got that US television advertising revenue growing between 1980 and 1999 at compound 8 per cent, I think, and at the bottom you note that there has been an increase in the number of channels from 26 to 69, do you know of any study which has tried to unpack that and to in fact find what - or try to discover, put it just in that form, try to discover what increase in that revenue could be attributable to the increase in the channels per se rather than to other factors?

MR RANEBERG: No, I don't, and I don't know whether all the value accrued to a

small group or whether it was evenly spread. I only know this to be the overall trend. What do know though in Australia is that, looking to the graph on the right, that same page, that the experience in Australia is not dissimilar to the experience of free-to-air networks in the US. They have had very strong growth in advertising.

PROF SNAPE: We know it has gone up but the question is, when one confronts the argument, that at any point of time there is a "fixed pie", what would the increase in the number of channels do to that?

PROF HILMER: Could I comment on that, because I think it's just a flawed analogy, "fixed pie". I mean, what you have in a business is if you look at what the material costs in a business of 20, 30 per cent, then the rest of the cost of a business has to do with design and consummation of a sale, inducement that goes into getting that sale to occur, the accounting for the sale, and the ongoing relationship and servicing of the customers. Now, we draw a line in that expenditure and we say, "There's a pie and it's advertising and it's putting a picture on a screen or putting an advertisement into a newspaper, and that's the lion's share of what we define as the pie." But what this technology does is it changes where the boundaries of the pie are very dramatically. We see that already in our Internet businesses and I think that's why you see - I am not saying for a minute they're right, but it's why you see the kind of valuations you do of the whole Internet world.

What we're really doing is changing the way in which value is added above the production, and sometimes even in the production cycle through the just in time type opportunities that this technology makes available. So to say there's a pie and the pie gets broken up just misses the whole point because what we're dealing with is a fairly radical change to the whole process by which you create, make and sell products. To just pick one part of the sell part, the ad part, and say, "That's it, that's the game," misses the whole point, which is why you have got to have competition because that's how incumbents always look at industries.

PROF SNAPE: Be that as it may, we have been getting many, many - - -

PROF HILMER: I am trying to give you a helpful comment on why that's so flawed.

PROF SNAPE: Thank you.

MR SIMSON: So your view would be that the reasons that you have mentioned and the analysis that's contained in this paper, that there is scope for more players in the provision of broadcasting services profitably.

MR RANEBERG: That's right, and we point to the pay TV networks. A lot of them are turning a profit at the moment but if we believe what we read about Austar they will be by the end of the year. It depends of course how you record that but as I said before, if we look at the market capitalisation, if we look at the value of the broadcasting services in Australia, 60 new channels have been introduced, and it

hasn't affected them. If you look at the growth in the value of the broadcasters it has just continued to increase and there's no blip on their growth.

MR SIMSON: In your professional judgment if there were to be introduced, for example, a fourth commercial free to air, what would you see as the ramifications?

MR RANEBERG: As I said before, we can only go by reference points. I'm using reference points of the UK with the fifth channel, using the experience in the US. We believe that there is scope for more services. Studies in Australia have been inconclusive in Canberra and in Perth when new channels have been introduced but experience now in the market suggests also that perhaps with these new services being more sophisticated because the services that they're offering aren't that similar to what has been available in the past. It's not - - -

MR SIMSON: This is a big problem, isn't it, because potentially the assumption as to the pie as underpinned or is underpinning much of the policy development, the policy that is emerging as it relates to the digital environment, right down to the discussion we were having earlier about what should be datacasting and how it can't be a broadcaster and so on and so forth.

MR RANEBERG: There's another element which we probably should tip into the discussion which is a recent paper put out by the National Office for Information Economy which predicts a net impact on national output of 2.7 per cent from economist activity, so it's another thing which we haven't included in our calculations has been the spin-off and multiplier effects of this type of activity in our local marketplace, not only in broadcasting, but of course in the other types of services, transaction, commercial services, that they could deploy through this network.

MR SIMSON: You also refer in your paper at paragraph 97 to the lower costs, operating costs, for the free to air broadcasters from avoiding simulcast of analogue, but of course that's not the way they see it, is it? I mean, they focus very much on the costs associated with the introduction of digital broadcasting rather than the savings from the ending of the simulcast.

MR RANEBERG: I guess all I can say to that is correct, but are you asking me if I'm surprised at that, because I'm not.

PROF SNAPE: Just referring back to paragraph 83 which was the paragraph that you offered to elucidate before, 83.

MR RANEBERG: What page would that be on?

MR SIMSON: Page 18.

MR RANEBERG: Which particular paragraph?

PROF SNAPE: I'm sorry - - -

MR RANEBERG: Sorry, we haven't numbered them.

PROF SNAPE: Okay. It's the paragraph:

Assuming that the spectrum allocated for analogue television could be released by the provision of new services 10 years early.

On our pages it's following exhibit 10. It's the second paragraph after exhibit 10.

MR RANEBERG: Right.

PROF SNAPE: That's in fact the paragraph that you stopped at yourself and said, "Would you like an elucidation?"

MR RANEBERG: Sure. I can take you through that calculation if you would like.

PROF SNAPE: Just briefly.

MR RANEBERG: Sure. We have assumed the same growth rate of 8 per cent per annum. We have assumed that the bulk of the growth would happen in the first few years.

PROF SNAPE: The 8 per cent comes from?

MR RANEBERG: From the experience of the United States.

PROF SNAPE: Okay. So you have simply taken the compound from the US of 8 per cent for over the 20-year period?

MR RANEBERG: That's right.

PROF SNAPE: And said that's what will happen, okay?

MR RANEBERG: That's right.

PROF SNAPE: Okay.

MR RANEBERG: We have used an estimation of cash flow based on EBITDA from the ABA broadcasting financial results which they publish. It's approximately 20 per cent for EBIT and a fixed amount for depreciation not on cash items, so we have taken the broadcaster's level of cash flow generation. It's not profitability in a strict sense but actually cash flow. We have used a 9 per cent discount rate.

PROF SNAPE: Yes.

MR SIMSON: Could I just go back to your comments earlier, Prof Hilmer, with regard to what we had to say about the Trade Practices Act and what we saw as the need in the draft report for a special test. You indicated that you would prefer to - I think you used the term "feel the way", or feel your way or - - -

PROF HILMER: Wait and see.

MR SIMSON: Wait and see. You may have intimated that in fact that's what we recommended, but we did not recommend that. Could you explain how the economic test and the market tests of the Trade Practices Act deal with the sort of issues that we raised in our draft report to do with the media, to do with issues relating to cross business interests of media proprietors, the reporting of those, to do with issues relating to pressure that may be put on journalists or editors to do things, to write and report things in particular ways because it seems that you have not shifted your view that you expressed at the original hearing to us that at the end of the day you believe that the consumer will make a choice.

I think the way you put it, if I can summarise it, when you appeared before us last, that if a paper - I think it was in the context of the metaphor or the analogy of the casino analogy, that if a paper is reporting something in a biased way, that people will stop buying the papers, and clearly we see things as being a little bit more complex or complicated in that, but could you perhaps revisit that issue because it's one in which clearly we don't agree.

PROF HILMER: I think there are two separate questions. The first is the question of market test, what is a market, so when you look at an acquisition and you ask, "Does it substantially lessen competition in a market," you have to ask yourself, "What is the market?" The current interpretation of the Trade Practices Act, as the commission sees it, I think is accurately stated in your report. I have no issue with that but at the moment there's a tendency to see markets relatively narrowly in terms of media. On the other hand, the definition of markets in Trade Practices environments is not exactly static. These are like changing the constitution. I mean, they're circumstantial judgments based on a lot of economic analysis, and the commission hasn't really had to deal with any of these things in Australia in any significant way because they have been taken out of their hands because of cross-media and the general type regulation of the media and an unwillingness to allow competition law to do its thing.

I think last time I said to you, and we still see that in our own business, that we are certainly seeing, as we either decide what prices we believe are appropriate, that is, what prices we can set, or how hard we promote or where we see we have opportunity. When we look at markets we're increasingly looking at all of the media markets. We aren't just saying, "Well, we can price our newspaper advertising in absolute isolation." We think that there will be a merging understanding among both, you know, regulators, and I think there already is among buyers, that these markets are in fact quite tightly linked, and there may be more sensible ways to aggregate the markets around sectors such as financial services where people can say, "Will I go on

a magazine, will I go on TV, will I go on the web site, will I go direct mail?"

In fact we're seeing increasing substitutability between even what is below the line and above the line which was always considered to be very separate areas. So I think we're saying, given that what we're doing is walking down a road of gradual change, don't rush in and again pre-empt normal competition analysis in this area. Let's take a "wait and see" approach and let the commission actually have to get its mind around a real case rather than try to guess how it might move into these areas, particularly with all the changes going on. The second issue that you raise is these issues of cross-business interest and pressure on journalists. I haven't really changed my view on that because I haven't heard anything that would cause me to do so. I mean, as I think I said to you last time, we don't live in a perfect world and you can't legislate perfection, and I do think that at the end of the day if there are aspects of the world you don't like, you ask, "What are the forces that are going to cause those aspects of the world to change?"

You can either say, "Well, that can be done by a regulator somewhere or it will be done by consumers exercising reasonably informed choices." So I think the dialogue we had last time about the casino or whatever - you know, maybe the first time you get away with it and the second time you don't, and people start to say, "This isn't right," and the third time you start to lose credibility. I don't know how quickly those things occur but I do think they occur more quickly than we often give the consumer credit for in terms of things like pressure on journalists. I mean, the world that we're arguing for which is a world characterised by more competition where change is done in a way that new entrants are allowed to emerge, is an area where those who put the pressure on journalists won't have the best journalists, and if you don't have the best journalists you won't have the best media outlet. If you don't have the best media outlet you won't have the best business. So I think they are to me the healthy mechanisms whereby these things are adjusted in real time but, you know, there's no perfection. In every area, whether it's a regulatory area or a market-based area, there is always going to be anomalies and imperfections.

MR SIMSON: Maybe. I mean, in a fully converged environment, to use that phrase, it may be that the competitive forces that you have just described or so described, would make it very difficult for some of the bad things that could occur to occur, which would put pressure on journalists and so on and so forth, and so that in the context of a transition to a fully converged environment, certainly we were raising the question as to whether you basically just punt it. I mean, that in the absence of a fully converged environment, that it's worth the risk to diversity and related issues that, as you pointed out, regulations such as cross-media have tried to mitigate against, as to whether you punt it, or whether in fact there is a role for a test along the lines that we were proposing, albeit not fleshed out, that we were hoping that Fairfax amongst others might have provided some assistance on, given your particular place in the media, so that as you put it you can wait and see. We can wait and see that the fully converged environment does produce all those checks and balances that would mean that the sort of naughtiness that we're concerned about, and others are concerned about, and upon which we received a lot of evidence, would not occur.

PROF HILMER: I think if I come back to your report, you said there were a number of conditions you would like to see met before you would recommend the full abolition of cross-media. One is number of television station limitations repealed. Well, it will be interesting to see how that plays out. Secondly, more spectrum made available for new broadcasters including datacasters. Well, again, you could watch that occur and see whether those concerns that were raised by others who appeared before you, and at this stage all of these concerns are speculation.

MR SIMSON: Hypothetical.

PROF HILMER: Yes, whether those concerns were actually being borne out in that environment. You had foreign investment limits repealed and you could see what that would do, so it seemed to us that as this market is being created, presumably one of your recommendations would be that somebody observe it and look for these things. If these things that you were worried about occur then you might say, "Before we go to final stage 4 we'll put in a public interest test in reverse into section 50," which is, you can deny a merger if you think it's against the public interest.

MR SIMSON: You just switch the onus in other words. Is that essentially what it is?

PROF HILMER: At the moment the commission has no right to prohibit a merger on the ground of public interest, so you would presumably give it the right.

MR SIMSON: That's right.

PROF HILMER: To approve a merger that's substantially less in competition, if it's in favour of the public interest it has that right, you would give it the right to prohibit a merger that did not substantially lessen competition if it was against the public interest, but that really does worry me. That to me is a last resort because public interest is quite difficult to define and it tends to be a lot of - it's not that it tends to be non-economic, it often tends to be bad economics and very costly to communities.

MR SIMSON: So what you're saying is let those three things happen, foreign investment, more competition, digital services, and as we said, at the end of that then see before you, or at the time that you're looking at the cross-media - - -

PROF HILMER: At the time you're about to push that last button you might revisit this issue and see whether you're satisfied how it has worked and who the players are today and how they've begun to stake out and exert their positions.

PROF SNAPE: Yes, whereas we in fact have got there, have put the fourth one in, and then review it to see whether it can be taken off, is our - - -

PROF HILMER: My concern is you put the fourth one in, you won't see a lot of thinking about market, because everyone will play the public interest game. We won't

get competition regulation. We'll get public interest regulation done by a body that really isn't expert in it. So I would say focus that body on developing its competition expertise and only bring in public interest if and when you're convinced that'll fail.

PROF SNAPE: The risk then of course - I mean, it's making that assessment. It's then throwing it open. The problem then is unscrambling the egg if it in fact has broken badly.

PROF HILMER: You haven't unscrambled it till you press the last button.

PROF SNAPE: Yes.

PROF HILMER: You haven't scrambled it, sorry. You haven't - - -

PROF SNAPE: Yes, but that's - let's get onto the analogy since I introduced it. The point was that we're saying that if you're making a judgment you're looking at that market, you think it's okay and so you then make the last step. If you find out you're wrong, that in fact it has all been gobbled up by two or three major players, then you've got a Microsoft type problem or a TNT type problem and then you have to try and go - which I don't think has ever been done in Australia and I don't think at the moment there is provision for doing it under the Trade Practices Act, in fact, to break up, to insist on diversitude. Whereas we are saying, "Okay, be a bit more cautious," and have that public interest test in until you've then decided that it's not necessary.

PROF HILMER: Yes, and my counter argument to that, chairman, is that the move to two players can't really occur till you remove cross-media and so you're not going to push that button until you see what the landscape looks like with more spectrum and more players. So you have time. You don't have to make that call and, you know, our other sort of idea that we put on the table was: and if you relax the radio right of way you'd actually start developing the competition regulators' skills in market definition. So you'd have more confidence as to how this would work.

MR SIMSON: Could I just revisit the question I asked earlier, because you've put on the table an economic case for a fast conversion and you've put on the table some pricing associated with the set-top boxes etcetera. But you haven't put there the policy solution as to making it happen, so that we're not sitting around in 10 or 12 years and still having an interminable debate about why we're still simulcasting analog. I mean, if you guys were running the government what would you do? I mean, is the economic case so pervasive here that you would go out and subsidise the set-top boxes for Australians so that the conversion happened. What would you do?

PROF HILMER: I think if you gave Fairfax all the spectrum we would give an undertaking to the government to get a set-top box into every home one way or another.

MR SIMSON: What do you mean, "all the spectrum"?

PROF HILMER: All of the spectrum freed up by the analog. We'll take care of it for you.

MR SIMSON: And you'll bundle the newspapers at the same time.

PROF HILMER: Not a problem, it's not a problem. I think we have a lot of bankers lining up to finance us and I think it would be a great economic decision for everybody. But you see, to some degree, Stuart, it's not a fair question because we're not really in the policy-making role.

MR SIMSON: Well, that's debatable. But we are trying to get to the nub of this. I mean, this is fine in theory, okay? You've put on the table the economic case. But what should government do if it was to embrace your numbers here, in addition to the issue of simulcasting HDT and SDTV and those incentives to the consumer to make the switch? What should it do to clear that analog spectrum quickly so that the opportunity is not lost any longer than it needs to be?

PROF HILMER: Let me respond to it, because this whole debate was occurring in the absence of fact. I think you've started to bring some economic analysis and framework and we tried to bring some fact on social benefits and costs done, albeit from the profit or cash flow, using a cash flow methodology. I think these are really important policy decisions and those facts have to be on the table. That's what we were trying to do here. What it says to us is if you had to spend money to mop up the analog quickly you should, because the worst case of mopping it up quickly is paid for and we don't think it will be anything like that. So if you're saying, "What should we do?" well, if I were the government I would do it with incentives for a while and for some cut-off, which I can't define because I just haven't - neither of us and we didn't ask Kearney to do this.

We didn't look at the social data, save for some segments who say they clearly can't afford this. Where there are people on a pension or assistance we'll give them a box or we'll give them a voucher to get a box - and I'd mop it up quickly and leave nobody in the dark who couldn't afford a box under some reasonably liberal definitions of afford. That's what we would do, broadly.

PROF SNAPE: Thank you very much. Yes, well, that has been very helpful, as your initial submission was very helpful too, and this is - and for your oral elaboration of it too, which has been very stimulating. As we did before, I think we've had a very useful discussion of the issues and we thank you both very much for that and for the time that you've taken to do it all and effort. We will now adjourn for lunch. We are running a little late. Is NTL here? It's not here; that's good. So we hope they're not here for a little while. I think we probably need at least half an hour for lunch and we shall attempt to get back perhaps around about 10 to 2 or slightly after. So thank you very much.

(Luncheon adjournment)

PROF SNAPE: We will resume our hearing now and we welcome NTL Australia. For the benefit of the transcript we would ask you both to identify yourselves so the voices can be recognised.

MR BENNIE: Yes, thank you very much. My name is Tom Bennie, managing director of NTL Australia.

MR MORTON: My name is Clive Morton. I'm broadcast services director, NTL Australia.

PROF SNAPE: Thanks very much. Who is going to lead off to speak to the submission - and thank you for your submission.

MR BENNIE: I will, just by way of introduction, cover off with a few introductory remarks. I will perhaps just start by reminding everyone who NTL Australia are. NTL is the new owner of the National Transmission Network, the NTN, which was privatised by the Commonwealth government back in March-April of this year. We acquired the business, or we started running the business, actually from 1 May 1999. NTL is a complete communications company. It's listed on the NASDAQ exchange in New York but the vast majority of its activities, certainly prior to the acquisition of Australia, were centred in the United Kingdom. NTL has been at the heart and at the cutting edge of developing digital broadcasting technology.

The NTN in Australia consists of some 561 sites, the vast majority of which are located in regional areas. Our principal customers are currently the ABC and SBS for whom NTL currently provides a fully outsourced broadcast transmission service for those two organisations under a contract which was part of the privatisation process. The transition to the digital age presents a number of major opportunities for NTL and for the infrastructure which we own in terms of new users and new services. It's fair to say that we support the general thrust of the commission's draft report in the age of digital transmission, broadcasting licensing and spectrum allocation.

We have noted a considerable amount of confusion in the current public debates relating to the digital conversion process; in particular high definition television format versus standard definition television format. Given our experience in the UK where, shall we say, we've now been running two national digital television networks for over a year now - and I've just recently launched a national DAB radio network - digital radio network - we believe we're well placed to comment on these issues.

In our submission to the commission we have reiterated some important issues outlined earlier this year. One is the importance of efficient management and allocation of spectrum; the strong linkage between the establishment of appropriate technical standards and the successful introduction of the new digital technologies in Australia. In a policy or regulatory sense it is important that datacasting be given the opportunity to thrive and grow. Datacasting potentially represents a revolution in the provision of information content to Australia but particularly to regional and rural Australia.

NTL believes that the introduction of high definition television in Australia, certainly in a political sense, is a settled issue and, really, for this reason we have not sought to canvass an SD - standard definition - only outcome. However, in this context we strongly support the simultaneous transmission of high definition television and standard definition television within the same multiplex as both technically feasible and highly desirable in a public policy sense. This would involve a simulcast of HD - of high definition format - either in a format known as 720p or 576p, a standard definition format and potentially also datacasting services on a single seven-megahertz block of spectrum. Our international experience accords with the commission's research into digital television receiver pricing. Receiver specification does not represent any fatal flaw to the HD and SD simulcast model. That is that the technical quality of a high definition format transmitted in 720p or 576p would not be noticeably degraded from that transmitted at the highest HD standard, ie 1080i.

Turning to spectrum issues, NTL has been involved in pioneering theoretical work and practical testing in conjunction with the Australian Broadcasting Authority, which we believe has validated the application of long-range single-frequency networks in the Australian context. If implemented, this will significantly enhance the efficiency of digital spectrum allocation, facilitating in the introduction of a greater number of datacasting services in major metropolitan areas.

In its draft report the commission correctly identifies the emergence of multiplex operators as a significant new player in the transmission chain. This is an area of great interest to NTL, particularly given that within the United Kingdom we play a similar role already, and proposals have been developed by NTL and tabled to an earlier inquiry by the Australian Communications Authority specifically in relation to future regulation of datacasting in that respect.

A final point before I'll close these introductory remarks: NTL supports an open and a transparent process for the allocation of spectrum to community broadcasters. Thank you.

PROF SNAPE: Thank you very much for a very helpful submission and in helping us unscramble the simultaneous high definition/standard definition question. Just one elementary question: if it's progressive or interface - - -

MR BENNIE: Interlaced.

PROF SNAPE: Interlaced, rather - if you are putting a progressive high definition signal, would the standard definition also have to be progressive?

MR BENNIE: I don't believe so, no. Clive, do you want to answer?

PROF SNAPE: So there is no technical problem.

MR MORTON: No, there is no technical problem with mixing formats within the

same channel.

PROF SNAPE: I would say that's probably a very elementary technical question.

MR BENNIE: They're usually the most difficult ones.

PROF SNAPE: And it's when you come at it from a non-technical point of view that you make mistakes. You are fairly confident now about the success of the single-frequency networking? Here you say you tested it in Canberra, in the Canberra region. That gives you a high degree of confidence for the Sydney area, I suppose, where it is most important?

MR BENNIE: Yes, we ran the tests in Canberra. We established the main transmitting site at a transmitting station known as Black Mountain and the satellite site at a site calling Browning Hill which is near Yass. We ran the tests over approximately a two-month period and, really boiling down the conclusions to be drawn from that piece of work, SFNs behave as theory would predict them to behave, so there isn't some unknown mechanism at play that we're not aware of and the theoretical considerations appear to be borne out in practice. So that's point 1.

Point 2 is that, provided you are using up-to-date propagation modelling tools, which certainly NTL possesses, as does the Australian Broadcasting Authority, then you can predict the behaviour of the SFNs. The importance of that, what that means then, is you can actually use what I'll call standard service planning techniques to plan a service based on the use of SFNs. I guess the third crucial point that emerged was that it is important that receivers are properly specified in order to operate optimally in an SFN environment.

PROF SNAPE: What do you mean by "specified"?

MR BENNIE: When operating in a single-frequency network environment it's actually very similar to operating in a situation where you would be receiving multipath transmissions - in analog terms what we call "ghosting" - so the receiver has to be able to discriminate between signals it receives at slightly different times. Our experience has shown that some manufacturers' receivers behave much better under those conditions than others, but our research also indicates that there is no cost penalty associated with one receiver to the other. It's just ensuring that the manufacturer, during the designing and construction and implementation phase, is aware that is a function the receiver has to deal with.

PROF SNAPE: That is a bigger problem when they're at a greater distance, presumably, from each other? Well, it's the speed of light you're working on, isn't it?

MR BENNIE: It is.

MR MORTON: Within the DVB spec, then there is a certain what they call timing provision whereby echoes or reflections are not greatly delayed from the main wanted

signal. They're already catered for and that is a resilience of the standard that has been chosen in Europe and here in Australia. What we tested in the Canberra region was actually extending that zone into what's called a wide area and then looking at the technical requirements to manage the service pockets without undue interference in what they call the mush load in between the two. I think the important thing is that by setting the standard which was recently confirmed at a Standards Australia meeting about two weeks ago - by making receivers SFN capable, then that greatly enhances the resilience against multipath ghosting reception. There are further chip sets that have been recently developed which we look forward to testing in the coming weeks but I think the market forces naturally will enhance those performance criteria.

MR SIMSON: So how much spectrum would become available if a single-frequency network regime were implemented?

MR MORTON: If you take it to its extreme, provided you have a national network that carries the same program material throughout the day with no regional variation, then it is extreme. You could have one channel per service within a country or beyond that. If you then enter into break-out programming with regional variation, then the SFN has to be contained by that geographical boundary.

MR BENNIE: If I could add to that, Clive, again I guess what you're saying is in an abstract ideal sense you could actually have as many services as you had seven-megahertz blocks of spectrum available.

MR MORTON: Yes.

MR BENNIE: But we don't have that sheet of paper to start with. Clearly we've got analog services to maintain and simulcast and there are licensed areas that are part of the regulatory structure and, given that the SFN - one of the restraints of an SFN is that it must broadcast the same content where you are using the SFN. Our studies show that for the Sydney metropolitan area and the Central Coast area which was the area that was causing greatest difficulty in releasing additional spectrum - they reveal that using SFNs you could achieve, in addition to the simulcasting of the five existing free-to-air services - introduce a further five services.

PROF SNAPE: That is very helpful.

MR SIMSON: Just going to table - - -

PROF SNAPE: I am sorry, it was just that I had marked that paragraph. That's what you are saying in the paragraph in the middle of page 6, is it:

Following the trials, NTL has investigated and NTL is satisfied the use of SFNs will deliver five unassigned channels with little significant impact and overall less impact than -

is that - - -

MR BENNIE: That's correct.

PROF SNAPE: That's what - yes.

MR BENNIE: Yes.

PROF SNAPE: Yes, I had marked that for elaboration. Sorry to interrupt.

MR SIMSON: That's all right. On page 3 of your submission, what are you assuming in that table there as to the amount of high definition programming that would be mandated? If I go to HDTV, 576, 810; HDTV gives you one; SDTV gives you two, but doesn't SDTV too - doesn't that depend on how much of the programming is mandated as high? If it's only 5 per cent, clearly you've got much more - - -

MR MORTON: What we're saying in the table is that at a time when you're actually carrying high definition programs - - -

MR SIMSON: Okay, at the time, yes.

MR MORTON: If we're in the five services - - -

MR SIMSON: Yes - no, I understand, yes.

MR MORTON: - - - environment.

MR SIMSON: Okay. Now, the other thing is - - -

MR BENNIE: Excuse me, but there is an important point there, which is: even if a program is not to be produced in high definition format, unless there was a population of receivers out there that are capable of decoding the standard definition signals, then you would have to transmit it in - you would have to up-convert it and transmit it in high definition format.

MR SIMSON: Say that again.

MR MORTON: The receivers will have to be capable of receiving both the high definition format and the standard definition format.

PROF SNAPE: In order to get high definition?

MR MORTON: No, you could have a high definition only receiver with no SD output. Technically that's feasible.

PROF SNAPE: Is that right?

MR MORTON: Albeit my understanding is that the boxes are likely to be produced as multistandard anyway. The chip set that's been developed will cater for that.

PROF SNAPE: I was thinking that a standard definition set would not receive a high definition set but a high definition set would always receive the standard definition set.

MR BENNIE: That's correct, yes.

PROF SNAPE: That's correct?

MR BENNIE: That is correct, yes.

MR SIMSON: When you talk about "opportunistic datacasting" in this table, what do you mean by that?

MR MORTON: What we mean is that statistically the number of bits that you need to allocate are determined by the program contents. If you've got a lot of still material, for example, then there's not very much movement in the picture and therefore the bits required to render a good picture are fairly low. So you've got a lot of instantaneously available bits. Clearly if you've got something like fast-moving sport, then there will be a higher bit rate during the action, so the opportunistic really is sort of frame by frame, if you like, on technical terms, that for some milliseconds you'll be able to transmit a lot of data. Whilst there's movement there won't be much available. So you can take an average but, as I say, it will be a variable output rate.

MR SIMSON: I think the last time you spoke with us, Mr Bennie, you indicated that - I hope I'm not confusing you with somebody else - that the standard definition picture was not that inferior to a high definition picture under normal viewing circumstances. Why are you recommending that there should be simultaneous broadcasting of both high and standard rather than, as we suggested in the draft, standard plus optional high as opposed to mandating high?

MR BENNIE: Just turning back to my introductory remarks, I guess I'm reflecting our view that the mandating of a high definition transmission format appears to be a settled issue in a political sense.

MR SIMSON: So you're making an assumption there.

MR BENNIE: Yes.

PROF SNAPE: But if you had started from a clear table you would have gone the way we've gone.

MR BENNIE: Yes.

MR SIMSON: I think another point that you made when you originally chatted with us was a view with regard to multichannelling, and the extent to which your observations of, in particular, the US market was that that was a service that consumers were pretty keen on. Could you give us an update there.

MR BENNIE: In relation to the UK market in particular.

MR SIMSON: It was the UK market?

MR BENNIE: Yes.

MR SIMSON: Okay. Could you give us an update there as to the types of digital services that are in demand or where the trends are in the context of what we've been looking at?

MR BENNIE: To the best of my understanding, I believe that in terms of the take-up of the technology, to start with - if I understand things correctly there are something like 400,000 subscribers to the terrestrial digital services which are a multichannel terrestrial service providing on average 20, 25 services. There are probably about one and a half million subscribers to the digital satellite services, both of which have really only been in operation for about a year. The terrestrial net was launched last November and the satellite services slightly before that.

So there were two penetrations of, as I say, about 2 million households out of a total population of 22 million households in a year. So I think the first point to make is that that's not too bad in terms of the first introduction of the new technology and a take-up rate, and I guess it would equate in the Australian context to about 700,000 households converting to digital in the first year.

The form in the UK up till now has been largely multichannel broadcast output, simulcasting of the existing analog services and then the introduction of new broadcasting services. But what I think we're just beginning to see is the start of some of the new media services where you would be able to access banking services, Internet services, travel services, and be able to undertake transactions off those services using the new digital technology.

MR SIMSON: To your knowledge is Australia the other country which is going to prohibit in the first instance, with the exception of the ABC probably and SBS, multichannelling?

MR BENNIE: I don't know of any other country where that decision has been taken.

MR MORTON: In other users of the DVB standard, because they are not transmitting HD, they have not chosen the HD format, then almost by virtue, say, if they are going to be efficient users of the spectrum, they must therefore carry more than one program service.

MR SIMSON: Because they do not need the spectrum for the super high definition picture.

MR MORTON: That's right.

MR SIMSON: Because otherwise why would you do it?

MR MORTON: Exactly.

PROF SNAPE: Well, the spectrum is there for either multichannelling or datacasting or better picture.

MR MORTON: That's right. The UK multiplexes actually carry a mixture of the two. Certainly the BBC multiplex and the Channel 3/4 multiplex, both of which simulcast the existing analog programs, both are carrying a sort of enhanced teletext or datacasting service which, as Tom has explained, also has an interactive component as well.

PROF SNAPE: Could I ask about the multiplex operation. You've got a lot of experience in the UK with that, and you've given us a helpful diagram here in your submission about some comments - and then on page 8 about the licensing and so on, and you seem to be happy with the licensing model advocated in the draft report. How would you envisage a multiplex - and you'd envisage yourselves as a multiplex operator, I guess - how would you see the management of the access to the multiplexes by broadcasters or content providers?

MR MORTON: They could be through a commercial relationship. There are two factors. There is the content licensing and how that may be regulated, and then there is also the spectrum licensing, and really trying to have a balance whereby there wouldn't necessarily be total domination of the seven megahertz by one operator.

PROF SNAPE: You would in fact try to ensure that yourself if you were the multiplex operator, would you?

MR MORTON: That is one possibility of a number of options. Certainly in the United Kingdom with the third multiplex - NTL actually has a one-third equity share in there and there is a mixture of simulcast interactive services and new content providers.

MR BENNIE: Yes, I think this is where the amount of spectrum that is actually available is important in determining what would be an appropriate policy for its regulation. If there was only one channel available in Sydney, then you could well postulate you would need a different mechanism for controlling access to that spectrum than you would if there were five or six available.

PROF SNAPE: But you wouldn't necessarily see that you, as the hypothetical

multiplex operator in that, would in fact ensure there was enough competitive access to it to yourself. You might see that there was a policy question necessary - - -

MR BENNIE: If you were the only one, then I can see that that raises a different set of issues than if you are one multiplex operator in competition with five or six others.

PROF SNAPE: Yes. But I mean if you weren't a content provider or a spectrum owner yourself, you were just simply the multiplex operator, then you wouldn't want to be taken to the cleaners by a monopoly in the spectrum ownership or in the content provider, presumably.

MR BENNIE: Absolutely not. I think under those circumstances if we were providing a multiplex service to a spectrum owner, and we concluded the terms under which we would provide that service, it would be set out by contract. So I guess we would have to sit down and agree with them the terms under which we would supply that service to them.

MR SIMSON: Just to summarise, going back to the table on page 3, if the government went for HDTV standard for example of 576, just try and visualise for us or verbalise for us how much spectrum would be available for datacasting under that scenario?

MR BENNIE: I guess if one is postulating that the government will mandate HDTV and mandate a standard definition simulcast, then - - -

MR SIMSON: Yes, sure, that's what I'm postulating. I'm working off your table.

MR BENNIE: Then I guess you're saying somewhere between - well, the 576p would take between eight and 10 and an SD between four and six. So somewhere between 12 and 16 megabits would be allocated to the transmission of the broadcast services and the balance, ie between eight and four megabits, would be available for datacasting services.

MR SIMSON: What does that represent?

PROF SNAPE: It represents somewhere between two and a half and one megahertz.

MR MORTON: No, I think it's more than that.

MR BENNIE: I mean, in terms of its equivalent back in the frequency domain?

MR SIMSON: Yes.

PROF SNAPE: Yes.

MR BENNIE: I think it's more than that. I mean, eight is virtually half the multiplex.

PROF SNAPE: It's 40 per cent of the multiplex.

MR BENNIE: 40 per cent of the multiplex, yes.

PROF SNAPE: So if you've got eight, that's 40 per cent, and then you've shoved another four onto that, so you're up to about 60 per cent of the multiplex.

MR MORTON: There's between 60 and 75 per cent, roughly speaking, allocated to the simulcast element.

MR BENNIE: Yes, 25 to 40 per cent would be available for data or additional services, be they broadcasting or datacasting.

PROF SNAPE: Again, we try to keep this model fairly simplistic, but at those times when there isn't very much picture movement, then there would be an instantaneous bit availability for additional services.

MR BENNIE: Sure. We have a diagram actually that tries to illustrate the various options. It may be helpful if I handed that in as a piece of supplementary information.

PROF SNAPE: Thank you. I've just got the picture of - you know, as you're operating all of this and you've allocated various things to fill it all up and you're saying, "For heaven's sakes, Stuart, don't move too much, you've only got - - -"

MR SIMSON: The swing is going to go back.

MR BENNIE: Well, you can use statistical - - -

MR MORTON: There are two ways of actually allocating the bandwidth. There's one which is called the fixed partition and you can liken that to the marked lanes on a motorway that says, "This is your allocation. Regardless of how much you need you cannot transgress the upper limit," and that would then give you a fixed boundary of available bits for your datacasting. The other scenario, as Tom highlighted, is statistical multiplexing where you only actually take the bits you need for that particular picture or activity for that moment in time, which is very much a more efficient way of coding the services. Again that's something that we've got experience of from the allocation of bits on the third multiplex in the UK. So certainly with multichannelling programming you can get 10 to 20 per cent coding efficiency in terms of the bit rate allocation.

PROF SNAPE: We will incorporate this into a submission, if that is okay, so it's available generally.

MR BENNIE: By all means. Thank you.

PROF SNAPE: I wonder if you could say a little about digital radio. There's not a great deal of our draft report devoted to digital radio, and I was wondering if you could just speak as to how you view it and how you see the future development of it. You've involved in it in the UK, I believe.

MR BENNIE: Yes, we are.

PROF SNAPE: We've sort of got a little bit of a gap on that, I think.

MR BENNIE: I think probably everyone to an extent is in the same position in that we're focused on the television debate and I think some of these discussions have yet to be run on the radio side of things. I would start by saying that we absolutely believe that the future is digital, for television certainly, and it will be for radio, although it may take a little bit longer to materialise and mature in radio than it probably will do in the television debate.

PROF SNAPE: Do you envisage digital radios becoming the size of the tiny little analog radios that people carry around, or is there a problem with that?

MR BENNIE: No, I think they will ultimately. I mean, there are all sorts of things being talked about. If you envisage sometime in the future that mobile phone manufacturers might incorporate a digital radio receiver into the mobile phone as well, and your phone could become a radio and a data receiver using the broadcast spectrum as one way of increasing the bandwidth available for downloading data to the phones, that's just one way - - -

PROF SNAPE: There's no technical problem with that?

MR BENNIE: There's no technical problem really in doing that.

PROF SNAPE: But it's not with us yet, is it?

MR BENNIE: No, it's not.

PROF SNAPE: I mean, digital radios are still very cumbersome relative to the analogs.

MR BENNIE: At the moment they're really only being manufactured as quite expensive high-fidelity pieces of equipment or car radios. It has to be said that not many of them are being manufactured at all, so the business model that's required in order to really drive the transition to the digital format has taken a bit longer to mature and develop on the radio side of things.

If I just move on, the launch two or three weeks ago of Digital One in the UK we believe is potentially very significant because again to my knowledge it's the first

time a truly commercial service has been launched using the DAB technology. Previously there have been a number of organisations using or who have built and operate DAB networks, and again I preface this by saying to my knowledge they've all been sort of national/state broadcasters - the BBC, for instance, in the UK - and none of them have really promoted or pushed the capabilities of those networks for delivering new services to consumers, to try and stimulate the demand for receivers. Digital One, on the other hand, as a truly privately funded commercial entity has to make the business succeed to be viable, so it potentially could be a turning point in the development of the industry.

PROF SNAPE: For digital television we have the public policy perspective of the potential to free up huge amounts of spectrum. There's not the same imperative on digital radio, is there?

MR MORTON: The problem is the spectrum available. The television broadcasters really will take the bulk of it all. That's their expectation. Clearly given the sort of geographic spread of Australia, then the VHF spectrum obviously goes further, you need less infill, it's less affected by topography. The allocation for digital radio in Australia and quite a few parts of Europe is at L-band about 1500 megahertz, and clearly the number of transmitters required is much greater than would be the case if either band 3 or band 2 spectrum was available. The UK has the advantage that when it closed down its L405 line black-and-white services in the mid-80s a lot of that spectrum hadn't been allocated for other purposes, so when DAB came along then it was still available.

PROF SNAPE: Just to pursue that, you think it's rather unfortunate in Australia that the L-band has been allocated for digital radio.

MR MORTON: Certainly given the geographic spread, you know, obviously with band 1 frequencies for television, they travel a considerable distance. For digital radio network out into regional and rural Australia, you're talking a significantly greater number of transmitters and obviously the infrastructure cost that goes with it.

PROF SNAPE: You did make some reference to this in the earlier submission, but if you have more detail on this I think it would be useful for us if you could make a further supplementary to fill in some more data on that one, if you could, please.

MR MORTON: Will do.

PROF SNAPE: For universal service obligation to broadcasting, you're a cable operator elsewhere, but would you like to comment on alternative modes of delivery to fulfil universal service obligation. At the moment it's pretty well expected that the free-to-air broadcasters will in fact cover the whole territory where there would be television or the licence area that they have got with their transmission, whether it be on radio or on television. Is there scope that you have investigated for using alternative mechanisms for infill of places that might not be covered or it might not be more economic to do it with some other transmission mechanism?

MR BENNIE: Just for my own clarity, professor, is the question directed towards the obligation to replicate analog coverage - equivalent coverage?

PROF SNAPE: Yes.

MR BENNIE: Because my understanding is there's no USO on broadcasting services.

PROF SNAPE: I think there isn't but, nevertheless, within a licence area there is an expectation that the broadcaster will cover the whole licence area. We saw that reflected I think recently in the Sydney draft decision on radio.

MR MORTON: Again if you're looking at infills within an existing coverage boundary, taking Sydney as a good example of that, then this is where the benefit of the single frequency network comes in, because you can actually put a lot of very low-power gap-fillers in really wherever you need them, and certainly speaking to some European transmission service providers the expectations in Germany are that in some of the major city areas there could actually be over 40 linked SFN translators, transmitters, to actually provide those necessary gaps. The difficulty arises when you get beyond the sort of major coverage region and you're actually out into the rural parts of Australia, and it's a matter of being able to get the signal into those remote areas in the first place to then retransmit it on further, so you have to have an incoming parent, as we call it, for retransmission, and then it depends on the geographic diversity of that community. If they're all fairly closely located together, then a small gap-filler will suffice. If they're spread over thousands of square kilometres then you really have to revert to alternative techniques.

PROF SNAPE: Yes.

MR MORTON: The expectation for distribution, certainly for some of the national broadcasters, is to go for a satellite feed arrangement and, depending upon the modulation standard, you could then use that as a direct-to-home service, as currently exists in the analog environment. So, I mean, as long as the right decisions are made early on, then those provisions can be made so that the remote viewer has the appropriate decoder.

PROF SNAPE: Well, thank you very much. It's very helpful. I'm being given a question, I think. Yes. The question that my memory is being jolted on was the question of the transmission cost of high definition versus standard definition, especially for regional broadcasters.

MR MORTON: In terms of the transmission element, it is no different inasmuch as you're actually conveying that RF seven-megahertz channel. The difference is at the production end, the studio end, where the broadcaster has to purchase the appropriate number of decoders, will have to buy in material that's already in an HD format or, alternatively, convert up from a standard definition format into what they call

up-converting.

PROF SNAPE: So if I was a broadcaster say out of, I don't know, some part of Queensland, and I'm part of a network and I'm taking my signal from somewhere else and it's a high definition signal coming into me, then for me transmitting into my region it's not going to cost any more to send that signal on in high definition than in standard definition.

MR MORTON: It will depend on how much local insert you want to add. The moment you start to add your own either local source material - you know, program plus ads - then there is obviously a sort of mixing process so that there's a cost there. But in terms of the pure pass-through, it's essentially a seven-megahertz RF pipe and it doesn't really matter how the data is encoded within that pipe in the DVB format, whether it's high definition or low definition. You're just passing those 90 megabits through to the end person.

PROF SNAPE: Thank you very much. We thank you for your very helpful submission and the previous one that you gave us, too, and for that discussion which has clarified a lot of things for us. Thank you very much.

MR MORTON: Thank you.

MR BENNIE: Thank you.

PROF SNAPE: Thank you. I think you know our processes and we will ask you both, if you would, to identify yourselves for the transcript and then, Mrs Smith, you will speak to your submission.

MRS SMITH: Thank you. Marion Smith, convener of the social issues committee of the Presbyterian Women's Association.

MS PORTER: Jennifer Porter, part of the committee of the same body.

PROF SNAPE: Good.

MRS SMITH: I think you're aware that our main concern is the content of these broadcasting services which are available to all the community. We haven't attempted to go into any of the technical details but we're very concerned. The acceptance of the views of the new systems will be dependent upon the price at which it's introduced. Perhaps the market will dictate this better than any limits of time set. However, the economic problems relating to efficient provision of broadcasting services should not be sufficient to reduce the need to consider the public good. That's on page 89 of your paper.

Television especially is very influential and should be responsible according to legislated standards. Removal of the controls on foreign ownership makes foreign control almost inevitable. The experience with free trade, notwithstanding its advantages, is that the big players disregard any rules if it suits them. Likewise, the cross-media rules are useful to reduce the power of our own media owners. Expanding these rules to cover all media would bring more diversity, we feel. It may also bring down the price of entry, allowing Australian investors to reply. All the mass media should be subject to these controls so that no one interest can take over many outlets.

The production of film in Australia by foreign producers, largely America, is very high. There's a lot of money spent on that, while the amount that is invested in Australian things is static, according to reports of the Screen Directors Association, and their projections for more competition are not likely to be realised, we feel. Finance is needed for the Australian film-makers, or some form of assistance or tax break. The recommendations of the recent Producers Association conference should at least be considered. A free market is only that while the competitors are evenly matched.

If we have more channels, it doesn't necessarily mean more diversity. I think that was pretty well covered in your own discussion paper. It depends upon many things. In the interests of our own self-esteem, we should support the Australian film and television production capacity. It should be a national priority, like heritage. Relying on competition has decimated other industries. Already the film and television industry is under stress. We may be able to buy shoes forever from other countries but we cannot have Australian films and talent produced elsewhere. If there is little opportunity to produce films in Australia with Australian direction, we will

have no artists or technicians with this capacity.

Free-to-air television is very influential, especially with the young. A report on American children recently could very well apply to Australian children. I have a copy of it here. Among a group eight years of age and over, two-thirds said that TV was usually on during meals at home, and almost that many said their parents had no rules about watching TV. Not all parents are aware of the impact of television. In every home with children, even when children's programs are finished, they will see other programs and advertising. The standard of morality displayed in prime time programs is not conducive to understanding stable relationships. Sex is not an inevitable and acceptable pastime for teenagers.

Young people should be informed in these programs that it's okay to say no not only to drugs but to casual sex. These prime-time youth programs are real to those who watch, more real than any ads. I believe the government is planning to do lots of things, trying to teach children not to behave in a destructive manner with drugs, etcetera. But these programs are teaching them different things.

The cash for comment issue has been interesting. Our community involvement with older people shows that the radio is a very large source of their company through the day, and we have formed the impression that those who listen to talkback radio are often more agitated by the information gained.

We believe this contributes to depression and unnecessary worry. One subject which has caused alarm and despondency for our elderly people is safety. Many have become prisoners in their own homes because they are frightened, and yet Australia is a very safe place to live. People are being continually worried by controversy. Many topics are carried out of proportion by a caller's lack of knowledge of the subject under discussion as well as the presenter's own bias; whether it's paid bias or just political bias, it doesn't matter.

Journalists of all varieties have become opinion leaders. The continual polls of public opinion are dependent on questions asked. We've all seen Yes, Minister - no wonder the polls have been so wrong of late. An interview of police on the accident at Granville just in the last few days was a classic; the commentator offered to speculate when the policeman would not. News should be reporting the facts. Perhaps this is because there is so much time allotted for news and opinion programs and the competition between the stations to be the first or most sensational is another pressure. Guesswork is not news.

We believe complaints cannot perform the whole task of monitoring the observance of codes. We still believe it is essential for a program of random monitoring of all the broadcasting providers so that a standard of conduct and content may be established and not continually pushed to what can be got away with. If the ABA had viewed Sex in the City at the outset it may have given warning about the content and either modified or stopped it. The delays in complaint allow the whole thing to continue unrestricted for some time.

We are seeing in the community the breakdown of social cohesion in a significant section of the population who seem to feel that good manners and moderate speech are old-fashioned or prissy. This can be traced, we believe, to popular programs and comedy aimed at young adults. These have gradually undermined personal standards. It seems that in order to be entertaining the characters in series behave in a most irresponsible manner leading the inexperienced to think that everyone does this. Morality is demonstrably a social necessity if the present chaos in personal relationships, community health and neglect of children is to be reduced. Too often we see characters screaming abuse at each other, either parents, friends, workmates or superiors. Much adolescent problem behaviour is modelled on the characters in programs they watch. The community or parental abuse are blamed for youth's problems. The government is supposed to fix it. It's no wonder so many young people are depressed and wanting to escape with drugs if they think life is as it is on TV or film.

Endless murder investigations and even serial murders are served up as entertainment that is not art or culture. The news alone is depressing. This has been made into infotainment. Good news is remarkable when it occurs. News reports are in our homes at mealtimes and early evening when the young people are all around. Later times should be used for recounting serious crime, let alone the grisly details each time the case is mentioned for the next year or two, or for pictures of the latest crime or tragedy in America. Why are robberies always "daring"? They are criminal.

Advertising certainly has a cultural impact and quotas for Australian advertising should be upheld. Surely in the interests of our own self-esteem the Australian film and television production capacity should be a national priority. We gained the impression that the commission believes it has no brief to support employment. Competition policy applied in many areas has led to failure of whole industries, unfair competition from countries with lower wages or costs or because, like the US, they can afford to sustain a loss to gain a market share. The competition provided by milk deregulation was promoted to gain cheaper milk - the producer's price fell; the consumer's price rose. The supermarkets must have the balance. Quotas are worthless to these producers and they are going out of business, and that was a very efficient industry, very well run. Unnecessary and destructive social policy was for no benefit to consumers.

Freedom of expression is mentioned. It seems to us that freedom of expression is already too free. The impact of 2JJJ over the last, what, 10 years is evident in the sort of language which is common usage now; words not so long ago unmentionable are now broadcast without apology. Words are important in framing attitudes and it seems young people with bad attitudes have reduced prospects as a result. It was reported in the Herald that an MP had used four-letter words to attack Dr Boston. The next day the MP replied in a letter to the editor and explained that he was merely demonstrating to the director the type of abuse that teachers are subjected to in our schools. Teachers must find it as offensive as I do and yet we have responsible people saying, "The f-word is fine. It's no worse than any other. It's just another word," but

it creates very great personal difficulties when it's used the way the young people are tending to now.

Codes of practice and classification have been formulated with much consultation already. I've been told that we don't have censorship in Australia. Censorship has never been removed by parliament; it's been removed by administrative direction over many years. We have a classification system and there is a system for removing things, but nobody seems to use it very much and when they do there are all sorts of complaint. You might think this is not connected with the present investigation but it is as far as we're concerned.

PROF SNAPE: By that do you mean the ABA investigation or - - -

MRS SMITH: The Classification Board - - -

PROF SNAPE: The Classification Board investigation, sorry.

MRS SMITH: - - - is responsible for censorship. They don't call it censorship now, they call it classification, but we do have censorship. But the trouble is they put people in charge of it that don't believe in any censorship and it becomes a joke. We have things like this report of a new film, Summer of Sam. Just from that report it's disgusting and it shouldn't be allowed. If we buy these films from America then we are only helping to further that sort of thing. So freedom of expression, if we put that into legislation, as was suggested in the report, the discussion paper, is going to make it almost impossible for the Classification Board to do anything, or anyone else, the ABA, to do anything about whatever is produced to put on television.

We heard the QC acting for John Laws say that the codes meant nothing and were not enforceable. He said they should be drawn up by a lawyer because they're hopeless. This may be only his opinion, but it seems that they are not very effective, in our view. Perhaps lawyers would be better than the linguistics experts employed to advise when the codes were formed. Whatever the community standards are, they should apply to all media, not just radio and television. The fact that there are not great numbers using some services does not mean that the standards should not be in place, because the signs are that the use of all these other services will only increase.

The direction being taken by the diverse media outlets shows that many are more like video and television than anything else. Computer games are developing and the games available for children to play are conditioning them to be able to shoot on sight any time they may happen to have a gun in their hand. I watched my own grandchildren with a computer game their father had given them to watch. It was James Bond and they came round corridors and you had to shoot them off, bump them off, and they're lying about, dead bodies everywhere, and the kids thought this was fun. I gave them a lecture after a while and said, "That's dreadful." I couldn't do anything, I'm not their parent, but later on they said, "Nanna, we're not going to watch that any more." They must have listened. But this is not just happening to my grandchildren, this is happening right across the board.

The tendency of computer games to be increasingly violent or even criminal is flagged by this small part in the Sydney Morning Herald on 26 November:

Rio de Janeiro: Ronald Biggs and a fellow Great Train robber, Bruce Reynolds, have signed on as design consultants with a British company that plans to develop video and computer games based on their criminal exploits.

Truly, we really are very silly to have games like that. It seems to us there should be one standard for all mass media, particularly with the emergence of interactive games. Young people are modelling behaviour all the time on the lifestyle that appeals to their particular inclination. I've got an article here from our national magazine which is very interesting. Lieutenant Colonel Dave Grossman is an expert on the psychology of killing. He is a retired US army officer and - - -

PROF SNAPE: I think you submitted that earlier on, did you?

MRS SMITH: No, I didn't, because I've just received it I think.

PROF SNAPE: I think someone submitted it to us earlier on.

MRS SMITH: Maybe someone else has seen it and submitted it.

PROF SNAPE: Yes, I think another participant submitted it to us.

MRS SMITH: I've only just received it, because I photocopied it the other night. Many children are allowed to watch the videos, and the effects on society are obvious. Apparently it takes about 15 years for society to show the increase in violence once television has been introduced.

PROF SNAPE: Marion, we have got that one as a submission on our records already.

MRS SMITH: Have you?

PROF SNAPE: Yes.

MRS SMITH: I hope someone has read it, but I'd like to differ - - -

PROF SNAPE: If I had not read it I wouldn't have remembered it.

MRS SMITH: You would have remembered it, that's right, but by that I mean someone takes note. But I differ with his finding at the end. At the end of that thing he says it's up to the parents. My problem is I can tell my children, I can tell my grandchildren, but what about other people's children? They have to associate with them. They have to go to school with them, and in that Jonesboro massacre which that gentleman was discussing in his book, because he came from Jonesboro, it was

other children in that school that got killed and they were the good children. He actually asked beforehand whether they were Christian or not before he shot them. Now, that's a real problem. That's a real worry to me, because we're not just affecting our own children, we need to think of everybody else's children, which is why I'm here in the first place.

Children do have access to violent movies when their own parents are foolish enough to have them for entertainment, and children do gain access when they go to other children's homes. We believe that whatever form the media takes and however it is organised the content is the most important aspect for the future of our communities.

However a man or woman thinks in their hearts, so will they be, and if we turn our minds to whatever is true, whatever is noble, whatever is right, whatever is pure, whatever is lovely, whatever is admirable, if anything is excellent or praiseworthy, think about such things and the God of peace will be with you.

If we want peace in our communities we have to turn away from enjoying violence. I've got a cutting here which is not new, but I thought it was worth showing. It's a piece from the Sydney Morning Herald in 1997 by Catherine Lumby, who is an academic in media studies at Macquarie University, or she was then, and she tells about *Scream*, another one of those terrible movies, and it seems that they think because the audience laughs they know that it's only a film, that it's all right. But it's not and we can be as academic as we like, but we're desensitising our population or enough of our population who are silly enough to watch it. I hope that the content of these things will be considered as important as all the technical possibilities.

PROF SNAPE: Thank you very much, Mrs Smith. We have indeed tried to address those issues and we made a number of recommendations which were influenced by a number of the submissions we had, including your own, and while I'm sure we haven't gone as far as you would like us to, I think we have tried to take account of your submissions.

MRS SMITH: I appreciate that. I think I put at the end of my written submissions that I agree with the things that you've considered and I appreciate the fact that you have tried to deal with it. But it seems, unless we have the fortitude to say, "No, we're not going to allow these things to be shown in our country" - all right, people are going to work out how to get them and some people are going to get them through, but in our media, where they are classified and they should be controlled, we must try and control them. Just because we can't do all of it - we need to do something.

PROF SNAPE: Thank you very much for your submission and for your comments there.

MRS SMITH: Thank you very much for listening to me.

PROF SNAPE: In a moment we will have the Federation of Parents and Citizens,
New South Wales.

PROF SNAPE: Now we have the Federation of Parents and Citizens, New South Wales. I don't think we've got a written submission at this stage, have we?

MR MOLESWORTH: The original written submission, and there's a one and a half page letter, which you should have, which addresses some of our comments.

MR SIMSON: When did you send it in?

MR MOLESWORTH: That was faxed on Friday, I believe.

PROF SNAPE: The fax on Friday doesn't seem to have arrived. Unfortunately, we don't have it with us.

MR MOLESWORTH: There's a copy here, if you would like it.

PROF SNAPE: We'll get it, but would you like to read it and then make other comments on it.

MR MOLESWORTH: It might be just as well if you have this on your records and we make some comments to it.

MR SIMSON: Yes, we can read it later.

PROF SNAPE: Yes, whichever way you'd like to play that. But first of course, as usual, if you would both introduce yourselves and the position that you hold, for the transcript, thank you.

MS BAKER: My name is Beverly Baker. I'm the president of the Federation of P and C Associations.

MR MOLESWORTH: Rodney Molesworth, publicity officer for the Federation of P and C Associations of New South Wales.

MS BAKER: We had indicated that Damien Anderson would be accompanying us, but unfortunately, he has been taken ill with some horrid stomach wog, so he is an apology for today.

PROF SNAPE: He thought that preferable to coming here?

MS BAKER: Well, I did actually; I decided he could keep his germs to himself.

PROF SNAPE: Okay. I'm being encouraged to keep my voice up, but also again if you could just speak up, because it's not in fact an amplification, it's simply for the transcript and this is a fairly long and deep room. Ms Baker, who is going to speak then?

MS BAKER: I'm going to ask Rodney to speak at this point in time. I'll just interject.

PROF SNAPE: Thank you, good.

MR MOLESWORTH: It's nice to be asked to keep your voice up instead of down, which is the usual instruction.

PROF SNAPE: Depending on how it goes, I might ask you the opposite.

MR MOLESWORTH: I must say it gives us great pleasure to have something that we can comment favourably on. We're referring of course to the maintenance of the cultural and social objectives regulation, subject of course to monitoring, which of course we have no objection to either, except that it's our view that the level of regulation - particularly in relation to children's television - is at its minimum, and we certainly are anticipating that the public consultation which is also referred to in detail in the report is going to take place around any attempt to water down those regulations. It's also some pleasure to us to note that there was a considerable amount of effort given to the area of complaints and recommendations, that there be some greater degree of enforcement available in relation to complaints.

The situation at the moment is that the only requirement on a broadcaster - well, under the Commercial Television Code of Practice anyway - is to make a response, which is just clearly insufficient. It's not actually in our experience to have concerns over complaints about television, but we've had a number of complaints about the print media and the situation there remains, in our view, completely unsatisfactory about dealing with complaints. We would certainly like to see at least the capacity for action to be taken against the licences of licence holders in respect of complaints and also to have procedures whereby the complaints can be properly dealt with. The current situation under the Television Code of Practice is totally unsatisfactory, but the situation for complaints in the print media provides no better model.

We are currently involved in a number of complaints against one print media outlet and the Press Council is giving us five minutes to deal with what amounts to essentially 15 complaints which took eight pages to list in the briefest possible form. This is clearly not a complaints mechanism which is going to be satisfactory under any circumstances. There need to be procedures to enable complaints to be properly dealt with before some kind of tribunal and for recommendations to be made for sanctions to ensure compliance.

PROF SNAPE: You realise that we are not looking at the print media.

MR MOLESWORTH: Yes. I was merely saying that the example provided by the print media is not one which we would support either. Even so, the print media is currently stronger than the code of practice which gives no requirement on the operator except to write a letter in response, which is totally unsatisfactory.

We would like to address the question of foreign ownership, which we believe is not as simple or as easy to deal with as the report seems to imply. Certainly, a lot of what the report says is incontrovertible. There is no direct link between Australianness and looking after the public interest of Australia and, in fact, we have plenty of examples to the contrary and we understand that. We don't imagine that regulation of foreign ownership, or the lack of it, is going to have any immediate or great effect on the public interest in relation to the Australian public.

However, there are a number of aspects which we feel make it unsafe to simply abandon the foreign ownership rules. The first of these is the tendency to have concentrations of ownership within Australia being extended to having concentrations of ownership across the world. The lack of diversity in the mass media is something which can have just as serious consequences worldwide as it does within a single market such as Australia. We don't think that this is adequately addressed in the report.

The other thing which is referred to in the report, but doesn't seem to have resulted in any recommendations is the understanding that a media conglomerate that deals with news tends to integrate its news services in such a way as to make them more efficient, in terms of costs, but necessarily to make them very much the same. Within Australia, this is already creating problems, with regional viewers and listeners complaining that national and statewide news services are ignoring their local interests. The idea that this should happen worldwide, so that in fact the American view of foreign affairs is the only view which is available in, for example, some of the free-to-air television across the world, is an extraordinary danger in terms of cultural diversity across the world and, of course, is an immediate danger to Australian culture.

We feel that this is a reason for not rushing into removing the regulations on foreign ownership. The question of Australian culture ought to be able to be dealt with by regulations in relation to local content and to other methods of addressing what is actually seen on television and heard on the radio, but at the moment we have no practical evidence to show that this is going to continue to happen.

Regulation of foreign ownership does not, of course, guarantee that those things will happen. However, we feel that a period of time at least to implement some of the other recommendations in the report and to see whether or not we are in fact more adequately addressing the question of the public interest in the media before abandoning foreign ownership regulations, would be our suggestion; that it is not yet timely to simply abandon those regulations. We realise that if, say, some huge foreign corporation takes a very large stake in Australian television and it subsequently turns out to be not in the public interest, it's going to be extremely difficult to reverse that, whereas taking it a little bit more slowly might leave us in a position to make a better decision in a couple of years' time.

In the area of cross-media ownership, we remain unconvinced that these rules are not necessary. We can certainly see that there are some problems in the way in

which they are operating, but we certainly do not take the view that because we've had two glasses of water and we're still thirsty, we necessarily need to stop drinking. There are other ways of going about dealing with the question of diversity of views and of the general question of what is presented to a mass audience other than completely abandoning the cross-media rules. The other thing which I think is extremely important is that in areas where there are no such things, what we are seeing is a concentration of a very large section of that particular medium in the hands of one or two players and a very large degree of diversity in the remaining very small section.

It seems to us this falls between two stools. In other words, we still have the same problems with a very small number of players being in control of what information is available in that medium and we have the other problem of the diversity actually catering to very very small groups. One of the things which is not dealt with in the report is that there is actually a positive aspect to having lack of diversity, and that is cultural unity. Having a very large number of outlets available that are dealing with, if you like, fringe views, can in fact actually leave ourselves with the situation where we don't have a cohesive society, because there are a large number of people who are only receiving their information from a narrow view of the world and then the other part of the medium is being presented in a very narrow way from a very restricted point of view by a couple of players.

The example that I refer to is, for example, the magazine sector, where we have over three-quarters, I believe, of the area in the control of two players and the remainder - you can get a magazine on any aspect of sex and violence and anything else that you like and we are actually having the situation where we are neither having cultural cohesion, nor are we having cultural diversity.

It's our view that regulation to ensure that large players present a diversity of views, and large players are restricted from their own views and their own commercial interests - and I am glad to see that in the report the reality of media corporations having other commercial interests which they will necessarily promote, or fail to draw the attention of rivals to, in their production of news and so forth, is there. But we need both the regulation of the content and of the capacity to complain and so forth, to try and do something about the very large players that control so much of public opinion. Some of that is in here but we believe that the ownership question remains important.

As well as that, we have to deal with the question of - we simply cannot rely on having a huge array of splinter media corporations providing for tiny, sectional interests without giving some concern to the question of social cohesion overall. The question of deregulation needs to be addressed. There are a number of ways of approaching social problems that result from concentrations of power, whether in the media or any other area. It is, in our view, wrong to place too much emphasis on the capacity of market forces to achieve this, because we can see in practice in the media that market forces simply do not lead to either diversity or to quality.

We think that the maintenance of regulation and not abandoning the idea of regulation - and I am very pleased to note that the report does not simply make a blanket recommendation against regulation - is something that needs to be maintained. The media is a particular industry. It's not one where we can simply refer to market forces and hope that the consumer will be fully informed and will make appropriate decisions. The very information on which the consumer is to make decisions is actually controlled by these particular producers, and so it's important that the public interest be protected by our democratic processes. These organisations are enormously powerful, sometimes regarded as more powerful than governments, yet they are outside democratic control, and in many cases they are outside any kind of community expression of dissatisfaction at all.

The other example which is I think extremely pertinent here is that in the 70s we had a situation where the public interest was incredibly badly served by the availability of radio services at that time. It was not until the government intervened by allowing Double J - later Triple J - to appear on the scene that Australian content actually was able to compete with foreign content. We had two major record companies who had such an influence over the then radio operators that only their product was played on the radio. Local bands could not get any airplay at all and, what's more, they had no way of making it known where their live venues were.

The sudden application of taxpayers' money to the provision of an extra radio operator meant that local bands in the first place had the capacity to advertise where they were playing and to build up an audience that way, and also local bands did have airplay as a matter of public policy on a public radio station. The monopoly of the two transnational record companies was broken. The capacity of local record companies to arise and compete was enhanced. There was no subsidy or protection given particularly to those operators. What was actually available was a break in the monopoly available to two record companies via the radio stations which were there.

This is an example of how market forces were failing to provide what both the public interest and the interest of consumers and the interests of local industry - and where intervention by government made an enormous difference which maintains up until today in relation to the record industry as well as to the listening industry. This is simply an example of the fact that we cannot rely on any one view of how we should meet the public interest, whether that public interest is in relation to producers in the field or in relation to consumers.

So overall, our view is this: the cross-media rules are capable of being examined and are capable of being changed, but we do not believe that there is an argument for their abandonment. We believe that the area is too important and that the power created is too much to allow the opinions of people to be influenced by a small number of operators. The fact that there are a larger number of operators overall, but that together control a very small proportion of the market, such as the situation with magazines, is in a sense diversity, but it's not effective diversity, because if 90 per cent of the people get 90 per cent of their opinions from two operators and 10 per cent of people get their opinions from a multiplicity of minor operators, this is

still not sufficient diversity for the purpose which we are achieving, and that is that everybody has a right to say what they think, and that nobody is forced to receive somebody else's interpretation, particularly of news and current affairs.

We support the retention, particularly, of regulation in relation to children's television but also in relation to the social and cultural objectives, and we support the community consultation around all aspects of any changes in relation to this area, and we support effective complaints procedures. All of these things are in draft now. These things may be implemented in this form, or in a different form, but whatever is implemented there is a need for constant revisiting to see whether or not these things are in fact any more effective in achieving the public interest in relation to, particularly, information delivery in this society. So we certainly hope that this is not the last inquiry and it's not the last opportunity for organisations such as ours to address such an inquiry about the public interest in relation to information delivery.

PROF SNAPE: Thank you very much. Ms Baker, do you wish to add to that?

MS BAKER: Just to emphasise the need for the regulation. Regulations are not necessarily limiting. They are protecting, in our view. With the emergence of the new technologies, the different ways of information delivery, the regulations need to ensure that people are not subjected to brainwashing; that they actually do have a range of views and a range of information so that they can effectively make up their own minds, rather than having their information packaged down one particular line and so there is no alternative opinion.

Now, we have seen this consistently through our history, and we only have to cast our mind back: barely after the election of John Howard we had an attack on dole bludgers - as we reintroduced the language. None of the television media put the side of those people on welfare forward. The Paxton case was a classic case of total character assassination, and is one that still sits in the minds of people as they refer to young people on the dole. Now, that is domination of the view for a particular purpose. The particular purpose was - is that the particular owners believed that we pay too much on welfare so therefore we're not getting tax relief.

Now, whether that is true or not is open for public scrutiny, except via the media there was no public scrutiny. You actually had to go elsewhere, in obscure places, to find information that may well have balanced your view. With the emerging technologies, with the different sorts of ways of delivering information, with all of the electronic things that are coming on line, the importance to make sure that those things are not left in the hands of a few so the views of a few are spread out as if they were the views of many, and are made to look as if the wide public opinion is thus, when the wide public opinion is actually resting with one or two rather than the wide public opinion resting with the millions - and that is something that regulation will do, and can do, and we believe must do, because if you wish to see the demonstration of the lack of that regulation, you only go back to Hitler's Germany to discover what you can do to a society when information flow is filtered through the windows and the views of a vested group.

We would appeal to you to make sure that in this country we are never left at the whim and fancy of a few multimillionaires as they play with the political structures and the lives and the emotions of the people of the country.

PROF SNAPE: Yes. Thank you very much. I think of course in the 30s it was, in Germany, in fact filtered through the government rather than the multinationals - - -

MS BAKER: Not a lot of difference.

PROF SNAPE: - - - and it was in fact the regulators who in fact filtered everything else out. That I think in fact indicates the tension in here, and some of the tensions that we have tried to address between the freedom of competition and regulation. There is probably no greater suppression and diversity of views when it is in fact all being controlled by a single regulator.

MS BAKER: That is probably why we would support tribunal regulation where there is a wide group that comes together to determine what those regulations are to protect - - -

PROF SNAPE: Well, it is a question of who appoints the tribunal, of course.

MS BAKER: Look, of course it is. Of course it is. But it is still an important protection that we offer in a democracy.

PROF SNAPE: Yes. And I am saying there's the balance between these things.

MS BAKER: It is - but the notion that competition will actually approve this and we will gain it is alien to us. We watch as competitors. Competitors imitate one another and in fact drop the variety down to a limited few, because that has demonstrated popularity in one place, and then they seek to wipe out all competition and have that as being the only model. Competition in that way is not helpful for us.

PROF SNAPE: Okay. Again I think you have possibly illustrated another tension in that at one point you were indicating the desirability of having cultural unity, and yet one wants to have diversity as well. That is another tension. I should mention that we did not throw the cross-media rules out. Of course what we were suggesting was an adaptation of them in an emerging environment, and what we had was the special additional media-specific public interest test as one of the conditions for in fact removing the present cross-media rules. It was a package. In fact, part of that package, as you might recall, was the insertion in the Trade Practices Act of a media-specific public interest test which - because it would be media-specific - would in fact extend beyond the current definitions of what are in the Broadcasting Act.

So to characterise that as throwing out the cross-media rules I think is not an accurate representation of what we have there. It was in fact to repeal, when all those conditions were satisfied, the existing cross-media rules, and one of the elements of

that replacement of course was a media-specific public interest test within the Trade Practices Act, which was going well beyond what is currently in the Trade Practices Act, to be administered by the ACCC or by the ABA or by some other media-specific body. We are quite careful on that point. I might also say that when you mentioned very early on that there should be evaluations for the children's content and for Australian children's content quotas, that they should be evaluated in the future against the objectives, and of course that revaluation - we perhaps could have been more explicit in the sentence - could result in an increase or a decrease.

MR MOLESWORTH: It could, and I think my comment was that we'd certainly be extremely interested in such an evaluation, and we'd be extremely concerned if it was suggested that it were a watering down. To address the point about the Trade Practices Act, I am aware what it says here in my beautiful yellow highlighting:

Significant media acquisitions would not be permitted unless it could be demonstrated that the merger acquisitions were not contrary to the public interest.

We're not satisfied that such a generalist approach under the Trade Practices Act would be even as effective as the current cross-media rules, which are not completely effective and do not necessarily meet the concerns that they were meant to meet. We think that a complete re-examination of the problems that are created by concentrations of ownership in all areas of the media needs to be made, and the problems that exist now and might exist after the removal of those rules needs to be dealt with in more detail.

We believe that just simply significant media acquisitions, unless they were not contrary to the public interest - there's no suggestion that they would be in fact in the public interest; in other words, any change can take place unless it can be shown that it's contrary to the public interest - we believe this is an insufficient method of addressing the problems that are created by rapidly concentrating ownership across markets of various media, and of course the new media as well comes into that. It's our view that it's not sufficient.

PROF SNAPE: The onus can be either way in that test. The onus could be either on that you'd have to demonstrate that it was in the public interest or the onus could be the other way and we want to presume it one way or the other. I would have to go back and see our exact words, but I think what we implied there is that the onus would have to be on to show it was in the public interest.

MR MOLESWORTH: I think the onus is to demonstrate that it was not contrary to public interest. That's what it says here. But I think that's probably a minor point. The point that I'm making is that concentrations of ownership do create problems, and we feel that they need to be addressed more fully than the recommendations of the report.

PROF SNAPE: Thank you very much for those additional comments, which are

very valuable, and we will try to chase up that page and a half that somehow got lost in the fax machine, I think.

MR MOLESWORTH: We can actually leave this one.

PROF SNAPE: Okay, the staff will collect that. We thank you very much for that and for your contribution; for your earlier contribution as well, which we greatly appreciated. We have next Dr Paul Jones. We might break for 10 minutes.

PROF SNAPE: We welcome Dr Paul Jones. Thank you very much for your two submissions. In fact we have had submission number 143 which arrived earlier on. You didn't make an oral presentation at that stage. I think this is the first time we've seen you in person.

DR JONES: That's right.

PROF SNAPE: And now we've got your submission on the draft report and we thank you very much for this, and if you'd like to identify yourself for the tape and then speak to your submission.

DR JONES: Thank you. Paul Jones, school of sociology, University of New South Wales. I haven't prepared a long introductory talk because I thought I'd given you quite a lot of stuff already. Maybe I should speak to the expertise question first. I have been teaching and researching in the area of sociology in the media for 13 years. I've got publications and teaching records in the area, and my interests are those of a sociologist, I suppose. I'm certainly not a legal expert, given some of the things I'm mentioning in my latest submission, but I've had a long-standing interest in what I'd call the normative ambiguities surrounding concepts such as diversity and editorial freedom and the kinds of questions that are raised as a result of those ambiguities such as the ones you are very familiar with from your inquiry - of whether we're speaking of a diversity of owners or a diversity of information sources and who enjoys the fruits of editorial freedom; questions that were raised in the last two sessions.

What I have always felt is that what tends to drop out particularly in those discussions is often journalistic practices and the norms that journalists work within, and the fact that opinion and information, particularly in broadcasting more than in print, tend to be mediated by journalistic conventions and practices. So I was particularly pleased to see those issues getting a strong hearing in this inquiry. The other way that connects I suppose are my criticisms in my initial submission about the objectives of the act. They have always struck me as rather vague on particularly these points and, given the other meanings of diversity that were also explored in the last session, I think it's always been a problem to specify what kinds of senses of diversity relating to journalism and what I'd call informed citizenship could be placed within the objectives.

My other interest - and again this is the interest of a sociologist rather than a detailed expert - has been the way in which the British regulatory system seems to resolve these issues by a mix of structural and content regulation. More recently I've taken a strong interest in how the literature on freedom of speech provides not so much a clarification of these issues but a common language; that those concerned with making policy and those concerned with the kinds of normative questions I've been raising might be able to speak to each other. So this is why I was so pleased to see draft recommendation 10.1, but I've raised some concerns I have with it in my latest submission. That's my semi-expertise introduction. I could go on and speak directly to this submission, if you wish.

PROF SNAPE: We have read it, of course, but if you would just like to highlight.

DR JONES: Okay. My main concern I suppose was that the invocation of the implied freedom seems to be fairly negative in nature, that free speech literature divides up between so-called negative and positive positions. If I've read your introduction correctly to chapter 10, it's a kind of balancing exercise against regulation - onerous burdens on freedom of communication, if you like - and what I was a little concerned about was the way in which this seems to conflict with the later recommendation in the same chapter for the introduction of a program standard for journalistic programming. I was concerned that there might be a perceived contradiction between introducing the negative freedom and also recommending in the other draft recommendation a standard for journalistic practice, broadcast journalistic practice.

What I tried to introduce in the submission was a justification for speaking about such program standards as a form of positive regulation. The kind of thing I was trying to avoid was the American situation where such standards are avoided at all costs because of the first amendment obligations, and if you look at the Federal Communications Commission manual for instance it opens with a disclaimer that any kind of such standards would possibly be introduced. So I invoked in my latest submission research on the European tradition, one which sees broadcast standard regulation for journalism as a positive step in advocating free speech.

But it is a particular understanding of free speech. Again I suppose it speaks to some of the issues that arose in the last session. At work here is the ideal of informed citizenship and I guess the best articulation of it I've seen in the Australian context was Sir Anthony Mason's address to a conference organised by the Communications Law Centre in 96 during the Mansfield inquiry into the ABC. The contrast I'm trying to draw is that which would say negative freedom is freedom from all forms of government intervention of any kind - the freedom of the press, as we usually understand it - and one which tends to see the means of communication as comments and that regulation of that means the communication is justified as a means of providing the necessary forms of content which enable citizens to become informed on issues of the day.

I like Mason's articulation of what I understand to be the positive position, if I can quickly read that out:

Good government requires that the people are entitled to the provision by government of relevant information, to informed commentary, to the benefit of continuing discussion and debate on public affairs and to the impact that that discussion and debate have on the decision-making processes of government. In other words we should aspire to the ideal of a deliberative democracy.

PROF SNAPE: That sounded like the charter of the Productivity Commission, which is all about transparency.

DR JONES: I believe so, yes, which is why I assume these issues have been raised to successfully, because they haven't been raised as successfully in many previous inquiries. There was considerable confusion around the previous cross-media inquiry for instance about these very issues. So that's why I tried to fill out a bit more your draft recommendation 10.1. I might have gone too far, but I was concerned that in that formulation the positive content, the justification for the program standard be there. This is on pages 6 and 7 of my later submission.

PROF SNAPE: Yes.

DR JONES: That was the rationale behind that kind of reformulation which might seem a little prescriptive, but I hope it's in the spirit of both 10.1 and 10.4, if I've got the numbers correctly.

PROF SNAPE: Yes.

DR JONES: I think Mason's comment points to another problem which is that we need both clearly sources of diverse opinion and reliable factual information, and I think you can only articulate that accurately if you speak to the different broadcast journalistic forms in which citizens receive this information. So I'm not particularly advocating a rights of personal access model which the High Court judgments have definitely excluded, it seems. I'm simply relying on the model of an informed citizen who wants to receive as much of the appropriate kinds of information to which he or she is entitled. That was the first half, but I can speak to the second as well, if you wish.

PROF SNAPE: Okay.

DR JONES: My other concern, as I said, was the lessons of the British in this area and again, to address some issues that came up in the last session, I think it's important to distinguish between diversity of opinion in this case and diversity of information sources. There was a lot of discussion in the transcripts between yourselves and, as I recollect, Graeme Turner and Terry Flew about the relationship between hotelling's effect and the provision of broadcast news. In my original submission I provided a citation from a text which tries to spell out in some detail the role of hotelling's effect in broadcast television, and I suggested in that submission that one of the problems is that it's hard to envisage a situation in which the addition of more services would necessarily solve the problem of hotelling's effect in broadcast news, as it might perhaps if we had more newspapers in the case of print, partly because of restrictions of time, the tendency towards what Graeme Turner I think accurately called tabloidisation based on his comparative research. He's closely tied, I suggested, to the economic phenomenon of hotelling's effect.

This is why the British model has always intrigued me. They tried very hard in the case of Channel 3, the channel that's shared amongst 13 to 15 licence holders, to separate licence holding and news provision and program provision in such a way that there wasn't head-to-head competition of the kind we know from the three-network

model in Australia and the USA. I've always been intrigued by the possible relevance of the British model of regulation of Channel 3 in particular to the Australian commercial case, and in the case of news what I've mentioned in both my submissions is the peculiar phenomenon of ITN news which has a kind of de facto monopoly of provision of daily news services to Channels 3, 4 and 5 in Britain, free-to-air channels.

I was suggesting that might be a very relevant context in which to place your discussion of the public interest test in chapter 8, that there are these other structural and content initiatives the British have undertaken, which they take as a given when they talk about their public interest test in the material you took from the Department of Culture and Sport. The public interest test tends to assume, on my reading, this unusual form of avoidance of hotelling's effect in program provision but especially in news provision. It seems there's an assumption by the British that you're not going to get much diversity if you have head-to-head competition between commercial news services, and that's certainly my impression of the evidence of the occasional exercises I get my students to do - the evidence of programs like Media Watch. There does seem to be a remarkable convergence of news values between the three commercial networks in Australia.

If you're looking for diversity of news values in Australia, you tend to look to the diversity that results from the difference between the two public service broadcasters and then against all the commercials put together. I think that's where you find the diversity of information sources. So in that case you could make a case, I think, that three commercial news services is a kind of wasteful triplication of resources. This seems to be the assumption behind the British system. So I was suggesting that be taken into account when you're thinking about the kinds of innovations that might support the introduction of a standard.

So I've suggested in both my submissions that perhaps, if a fuller embrace of the British system was undertaken, you might also include the disincentives as well as the incentives the British have for their program standards. Their program standards are very detailed and go way beyond complaints procedures, which tends to be the way in which they've been invoked in chapter 10. They also include financial penalties. What I'm suggesting is maybe there might be some possibility of recommending, in a gentle way, that outsourcing of commercial television news, as the ABC has been obliged to outsource its drama production, might be a good model to work with.

PROF SNAPE: Thanks very much for that and for the two quotes. Certainly I think we will contemplate the wording that we have in recommendation 10.1. I read it the other day; I looked at it again. I won't tell you my comment. I think the wording could be improved to convey the idea of what we're about there rather better. If I contemplate the US for a moment and think of, "Now, where has there been a new source, an independent source of news commentary in the US?" I think of CNN. Hotelling didn't apply there. That's of course on a different medium but of course the news services - when there's a new war breaking out somewhere their news service is picked up by everyone else around the world and so it would seem to me that in the commercial world, which is very much that commercial - in the commercial

world you can in fact get an independent news which is different from the others - different focus, very different in the American sense as being so internationally oriented. In that case the fourth ice-cream seller on the beach did not locate beside the other three.

DR JONES: To meet the informed citizens criterion that I was talking about - sorry, an American consumer. An American consumer would have to turn to PBS though, rather than CNN for the kinds of - - -

PROF SNAPE: To the fifth one, if you like, and we had the PBS in there already, of course, before CNN but it is quite differentiated from PBS as well.

DR JONES: Conceded.

MR SIMSON: Looking at the wording in the original draft recommendation and in the report of 10.1 and the revised wording that you've got here today, I'm just wondering the extent to which this is something that's going to have a practical effect. You know, we can all have warm and fuzzy feelings, and a lot of regulation like this has warm and fuzzy stuff, but have you given thought as to whether it should go beyond the warm and fuzzy in terms of capturing the thrust of what you're saying, for example on page 7 of your submission in those bullet points at the top, in more precise or specific codes of practice, etcetera?

DR JONES: Yes. I take that as a given, sorry. I'm not sure what the best relationship is between objectives and sections of an act and codes of practice, but the British one has sections of the 1990 Broadcasting Act which speaks in something like this language - section 6 of the British act - which requires the ITC and the Radio Authority to develop codes that shall do these tasks. The actual codes, when you look them up, are extraordinarily detailed; at least the same level of detail as the ABC provides for its editorial guidelines.

MR SIMSON: And in this context you'd be suggesting that the codes and standards should be sharpened more closely to reflect specifically what you're saying here?

DR JONES: Yes. The British system has remarkably detailed advice, right down to details like if one is using archive material of interviews it must be subtitled in such a way that it's revealed to the audience that what they're watching is archive material and they aren't given a false impression that this is a current view of the person being sourced, for instance. As has been lots of publicity recently, there's quite detailed advice about sponsorship of personal commentary programs - direct relevance to the cash for comment inquiry. Those have been discussed quite a bit in the debate here, that editorial control of such programs must be strongly kept in the hands of the licensee, if a program is sponsored. That kind of detail is there in the radio and television codes in Britain. They run to several pages in each case.

MR SIMSON: To what extent do you believe an approach such as the one that you're advocating would be a sufficient foil, for want of a better term, to the concerns

that we had in our draft report where we recommended that there should be a specific media public interest test in the removal of cross-media ownership, because a number of the issues that we're trying to get at there, or issues that were concerning us there, are fairly similar to the sorts of issues that are concerning you here. Arguably you needn't do it twice; you need only regulate and account for and carry through once. Just talk to us a bit about the British experience and the extent to which it is something that is respected, that the industry players do or do not take notice of; the extent to which it has teeth or doesn't have teeth, and so on.

DR JONES: The whole idea, as I understand it, of the regulation by program standard and the structural relations between ITN, as having the monopoly provision to the Channel 3, 4 and 5 networks - the whole idea of that combination of structural and content regulation was to encourage the commercial broadcasters to emulate the standards of the BBC. There's a general consensus I think amongst all commentators that the ITN journalists somehow have managed to maintain a level of journalism which is directly comparable, if not better in quality terms, meeting these kinds of criteria.

This is only anecdotal but I've also been told that Sky Television has been drawn into this ethos as well and meets these criteria quite adequately. The British experience is one where they believe they removed hotelling's effect, as I described it before subject to your comments earlier, but they required a combination of what they call positive quality requirements for programs across the whole board but I'm speaking of only journalism today, plus a form of disincentive. I've included examples in both my submissions of disincentives where programs that have been found to fail the codes - the licensees have been fined, including satellite broadcasters. The most recent one, only last month, was a satellite broadcaster who was apparently broadcasting programs on behalf of the Mujaheddin, so this was a very one-dimensional view of Iran that was being broadcast so they were fined 20,000 pounds for not meeting the diversity of opinion criteria.

The combination is one that tries to provide positive goals which have to be met. There are regular audits - another issue that has come up in your recommendations. There are regular audits of a triennial nature for the news provider where they have to meet certain performance criteria which again speak to these kinds of norms. As I said, there are the financial disincentives as well and, as always, the possibility of a licence holder losing their licence. So is that the kind of thing you wanted?

MR SIMSON: Yes.

PROF SNAPE: Could I ask you - it's referring to your earlier submission actually but your latest one is very much in the same spirit - and it's where you are referring to a case for progressively outsourcing free-to-air commercial television journalism. What you're saying there is a really independent source.

DR JONES: Yes.

PROF SNAPE: Thinking in the Australian context, I was trying to think: independent of whom? If it's independent of broadcasters, then the first name that comes into your mind as a supplier is Mr Murdoch.

DR JONES: Good point. That's a possibility. As I said, Murdoch's Sky TV apparently produces quality journalism in the UK, so maybe it shouldn't be such a worry. What I actually had in mind was this possibly being an incentive as well as a disincentive because the rhetoric in all these discussions around questions of influence tends to assume that proprietors of commercial television networks may or actually have intervened in news production, or - this came up briefly in Graeme Turner's submission I think - may be in a position of influence to actually employ their current affairs services as a means of speaking. It's not so uncommon to see some of the proprietors suddenly appearing on their own current affairs programs in the evenings.

PROF SNAPE: If I can perhaps just jump in a little bit there, what is of concern there is that someone with an interest in the news service will seek to influence that news service.

DR JONES: Yes.

PROF SNAPE: That might be the owner of a network and that's what you're concerned about here and you're wanting to do that, but it could equally be the owner of a news service. The non-media interests to which we refer can apply equally to the independent supplier of news as it does to the owner of a channel. The problem is not the owner of the channel but who is owning the news service?

DR JONES: Conceded.

PROF SNAPE: So independence of the broadcaster doesn't solve that problem. It just shifts it into the next room.

DR JONES: My argument for the incentive, if I could finish that part, was that it might be of appeal to existing proprietors because it would remove all accusations of influence if they weren't actually producing news in-house. The British solve this problem by requiring - well, I think solve it by requiring no more than 20 per cent holdings by an owner and any investor in ITN; it's got a spread of shares - so something like the model that was initially there for the Independent newspaper in Britain. Whether that actually overcomes the problem you've raised I don't know. At the time I wrote that - something I also submitted to the cross-media inquiry - I was thinking too that the public service broadcasters might want a bit as well and have extra news services.

PROF SNAPE: In Australia?

DR JONES: Yes.

PROF SNAPE: You mean the ABC and the SBS.

DR JONES: Yes.

PROF SNAPE: Not the community programs.

DR JONES: I was thinking particularly of the ones with an established reputation.

PROF SNAPE: Yes, well, I think that you've given us quite a bit to chew on there, and the two submissions.

DR JONES: That's good.

PROF SNAPE: We will re-examine how our various parts fit together there and think about the positive - etcetera, etcetera - aspects to which you're referring. Thank you very much.

DR JONES: Pleasure.

PROF SNAPE: We'll say thanks very much to Dr Jones and we may be having another one. We'll just break for a couple of minutes.

PROF SNAPE: Thanks very much for coming in. We'll resume the hearings now and our usual practice is if you could identify yourself separately because everything is transcribed and it gets the voices on the transcription service.

MR McKERLIE: Sure.

PROF SNAPE: So if you could identify yourselves and your company.

MR McKERLIE: Okay.

PROF SNAPE: Thank you.

MR McKERLIE: My name's Jim McKerlie and I'm the principal of McKerlie Consulting. We are, as of very recently, now part of KPMG worldwide. McKerlie Consulting is a specialist telecommunications media and e-business practice. We have operated in those industries since 1993 and prior to that I was a managing partner at Deloitte. Our practice - - -

PROF SNAPE: Just a minute. We'll get the other voice and then if you could continue with that.

MR McKERLIE: Sure.

MR FLAVEL: My name is Greg Flavel. I'm a director at McKerlie Consulting.

PROF SNAPE: Thanks very much.

MR McKERLIE: I don't know whether you need any more intro than that, do you?

PROF SNAPE: I think that's probably right.

MR McKERLIE: Perhaps if I could just say that the functional skills of the practice are strategic skills, financial skills and engineering skills, technical skills and we have worked in the digital broadcasting area for as long as it's been around as a concept.

PROF SNAPE: Thanks very much. I don't know whether you've had the opportunity to look at the draft report.

MR McKERLIE: No, we haven't received a copy of it yet.

PROF SNAPE: Well, I can certainly arrange for that. We've been facing some technical questions there and when we wrote the draft report we were uncertain about the capacity of the seven-megahertz band to carry both high definition and a standard definition signal simultaneously. We're now assured that, particularly if the high definition is not 1080 but in fact was 760 progressive, there would be space for a simulcast standard definition signal. Your understanding is consistent with that, I

trust?

MR FLAVEL: Yes. In fact I'm just looking at the table you gave us and - - -

PROF SNAPE: That's a table in NTL's submission.

MR FLAVEL: Certainly the first three lines of that table are very consistent with what our understanding is of the technology - the 1080i, the 720p and the 576p are capable, as far as we understand it, of carrying that amount of standard definition and high definition channels that NTL have allocated in that table. So we'd agree with that.

PROF SNAPE: Good. And there's no problem with broadcasting a progressive signal and an interlaced signal - say a progressive high definition signal and an interlaced standard signal on the same seven megahertz to the receivers?

MR FLAVEL: I guess we're not detailed technical engineers but in all our work we've never heard anything to the contrary.

PROF SNAPE: Okay.

MR FLAVEL: That's the way we understand it and certainly our experience with some broadcasters, particularly the SBS, is that that's exactly what they're planning to do.

PROF SNAPE: In mandating a high definition signal, particularly in regional areas, the costs of relaying that around the country - would that be greater than for standard definition?

MR FLAVEL: That's an interesting question because it really depends on the nature of how you structure it. Theoretically, as that table shows there, you could fit three to four standard definition signals into the same amount of spectrum and transmission capacity as one high definition channel. So theoretically, if all the broadcasters agree to share an allocation of spectrum and some transmission infrastructure, then they could theoretically - it would be about a third the cost or 25 per cent of the cost on a per channel basis.

PROF SNAPE: So they'd all fit on one multiplex, in other words.

MR FLAVEL: That's right.

PROF SNAPE: So that's where the saving would occur.

MR FLAVEL: That's right, potentially. The broadcasters would have to agree to multiplex and come to some arrangement as to how that was all commercially handled.

PROF SNAPE: But you'd only then be getting one signal from each network if you were to be multiplexing in that way. Let us suppose that three of them or four of them were on the same multiplex. Then there would only be room for a single transmission from each; they couldn't multichannel, could they?

MR FLAVEL: Each transmitter site could theoretically broadcast three or four channels from a single transmitter and then it doesn't really matter whether that's one broadcaster multichannelling those three or four channels or it's three or four separate broadcasters with a single channel.

PROF SNAPE: It would be one or the other.

MR FLAVEL: Yes, one or the other.

PROF SNAPE: Have you looked at the feasibility of single frequency networks? Again we were getting comment from NTL that the tests that they have been running show that it looked as if it was feasible. Have you been getting any independent feed into that?

MR FLAVEL: None other than what I've seen NTL present, actually.

PROF SNAPE: So it's nothing independent.

MR FLAVEL: No.

MR SIMSON: We've had the opportunity of looking at different levels of definition and have been challenged to pick the difference as you go up and down the scale watching an identical piece of footage. What's your view on this to the quite ordinary viewer of standard definition 720i and 1080i - just going up from standard up the scale - as to, dare I say, the need for it or the likely demand that there would be from viewers?

MR McKERLIE: Let me give one answer. If you were to ask my mother, sitting in her lounge room, would she detect a difference, the answer is, "Probably not", because there are so many other factors which affect the quality of the signal. There is a very good chance that her TV antenna is not pointed at exactly the right direction; that the connections on the set aren't accurate. Our experience - and that involves many years of working with what was the NTA - is that people at home tended not to get optimal television reception because of a whole range of factors. Those factors won't be affected if the signal is a HDTV signal or a standard definition television signal, so I think from a consumer's point of view we suspect, at home, there is not going to be a terribly significant improvement in the reception because of these other factors that come into play and, if you lined them up in a laboratory and tested them, my engineering colleague might have a view on your ability to see the difference.

MR SIMSON: But I thought the standard definition signal, for example, did remove ghosting that you get on an analog signal.

MR FLAVEL: Yes, I think that's right. I mean, to answer your question, I have never seen them all alongside each other. I mean, it is a bit like listening to a CD one day and then listening to another one in a year's time and saying, "Was that the same quality as a year ago?" Until you actually saw them compared to each other - I mean, I thought all of them looked like a pretty good signal as far as I'm concerned.

PROF SNAPE: But you haven't seen 1080i.

MR FLAVEL: No, I haven't.

PROF SNAPE: With surround sound.

MR FLAVEL: No. I wasn't at Canberra that day.

PROF SNAPE: No-one has seen it. It doesn't exist, so far as we know. They gave an approximation to it.

MR FLAVEL: Yes.

MR SIMSON: Again going back to that NTL submission this morning, you agree with the calculations which have been done there in terms of the different levels of definition, thereby making available more or less as the case might be, spectrum for datacasting. Those sums make sense to you?

MR FLAVEL: Just let me check them. Yes, I mean, they seem consistent with my understanding.

MR SIMSON: In the draft report we also make the point that the government's mandate in Dolby digital in addition to MP2 for ordinary household consumers - and this is another Australian first, as I think we commented in the draft report - could you just comment on whether that is a sensible thing to do or not?

MR FLAVEL: It's not an issue we have looked at extensively. I guess, as consultants in the industries - and we work for a lot of broadcasters for the Department of Communications, etcetera, so we have been around and I guess we haven't, in a technical sense, had a look at that but certainly haven't heard too many comments, if you like, that it is not an appropriate position to take. That is very rarely heard, in my experience, in the industry - anyone even mention the issue.

PROF SNAPE: Would you think it would add much to the costs, having Dolby AC3?

MR FLAVEL: I don't believe significant costs.

MR McKERLIE: No. I think given the fact that it is such a readily available

technology I doubt if it has a huge incremental cost.

PROF SNAPE: Both at the transmission and the reception ends?

MR McKERLIE: Certainly at the reception end it wouldn't make a lot of difference, I think, but - - -

MR SIMSON: The transmission end?

MR FLAVEL: No, I don't believe in the transmission at all.

PROF SNAPE: No.

MR FLAVEL: It may be in the actual capture and recording - there may be a difference in costs.

MR SIMSON: What does it do to the actual broadcaster's costs if the government were to simultaneously mandate standard definition and some form of high definition in terms of the equipment they need to do - - -

MR FLAVEL: That would very much depend on how you declare that. If the broadcasters continue to - and I understand that most of the commercial broadcasters and the ABC are saying that they're going to use 1080i. If that is the case, then the whole seven megahertz of spectrum and full capacity of the transmission network is taken up, so if you were also to tell them that they also have to broadcast standard definition with that HDTV standard of 1080i, then you would almost be looking at doubling the costs because they would all have to roll out a duplicate set of infrastructure, if you like.

MR SIMSON: But that is not the case, for example, with 720?

MR FLAVEL: No, that's right, because, as that table says, you can actually have one high definition channel and one standard definition channel.

MR SIMSON: Just hypothetically, if the government were to go with standard definition and say 720p, what would be your judgment as to the response from consumers on the information which is available at his stage as to the cost of the set-top box that would be required to make that happen?

MR McKERLIE: What would the reaction from the consumers be?

MR SIMSON: Yes. I mean, how quickly are consumers likely to invest in the set-top box so they can get at least either a standard digital signal in addition to what would be for the - there is in fact two simulcasts going on. There are two digital simulcasts plus the analog - it is getting all very confusing. What do you think the direction from the marketplace would be?

MR McKERLIE: I think that is right - it is getting very confusing. We believe that the response will be more cautious and more conservative than some of the broadcasters and the others are predicting with respect to take-up of those things.

MR SIMSON: They are actually having two options - two digital options - on the table; that is, standard and a higher definition option - whatever they settled on. You're saying that could completely confuse the consumer, who would then be trying to understand what I've got at the moment - which is analog - and then opposed to two digital options in addition to that.

MR McKERLIE: Yes. I don't think there has been an overwhelming amount of research that provides a compelling argument that consumers want high definition television in any event.

MR SIMSON: Are you talking standard definition - - -

MR McKERLIE: Either.

MR SIMSON: Either.

MR McKERLIE: I mean, for the full experience they go to the cinema. People sit at home and have their television on while they iron or they talk to each other while they have meals. If you look at the behaviour of people with television, quality of signal has never been a paramount feature in the decision of a person to consume television as a form of entertainment.

MR SIMSON: Do you have any studies or evidence to support that statement?

MR McKERLIE: I think if you look at the competition that occurred in the UK in the pay television market where the inferior technical product actually won over the superior technical product before the two businesses merged, it is an example where in fact the programming itself and the cost and the speed to market had more influence than the technical quality of the service.

MR SIMSON: What about the opportunity though for datacasting and other interactive services. It is not just a question of picture any more. It is a question of other services which would entice people to invest in a set-top box. What is your gut feel on that?

MR McKERLIE: The gut feel on that is that the television holds a certain cultural space in the lounge room and it is for sitting down on the lounge and watching television and being entertained. Interactivity and information-type activity tends to be done through the PC, which has been an information device and it is interactive by nature. The Internet, World Wide Web, are interactive things where you go seek information, and I don't think anyone has demonstrated comprehensively which of the two vehicles - or pieces of equipment - will actually end up providing those services but, historically, as we all know, people sit in front of a television and watch it and

people sit in front of a PC and work it. If you look at the trends amongst young users who have no technophobia and are comfortable with - - -

MR SIMSON: With PC literacy.

MR McKERLIE: They are PC literate. They tool a video down on their PC and their PCs are in their bedrooms - not televisions - and that is where their head is at. I think the argument that interactivity is going to be an outrageous success from a television set is one that is yet to be proved.

PROF SNAPE: Multichannelling?

MR McKERLIE: Multichannelling gives you more choice. I mean, these days I think consumers who have pay television do not differentiate between pay television and free-to-air services. They simply surf across 36 channels. Four happen to be - five happen to be - free-to-air. The others are paid. Multichannelling gives the person who is sitting on their lounge, who is being a lounge lizard, being entertained, more choice, and even if multichannels are used to provide a different starting time for the same program it gives them greater choice and value and they will use that.

MR SIMSON: So that could be a driver, couldn't it?

MR McKERLIE: That would absolutely be a driver. Multichannelling is definitely going to be a driver.

MR SIMSON: It will be but not early in this country. It will be for the ABC and SBS - - -

MR McKERLIE: Yes.

MR SIMSON: - - - but not for some years under the current policy framework will that be available to free-to-air.

MR McKERLIE: No, that's right.

MR SIMSON: To the non-ABC/SBS free-to-air, yes.

MR McKERLIE: Yes.

MR SIMSON: The commercial free-to-air.

MR McKERLIE: That's right, but I think if one was to survey why people subscribe to Foxtel it is because it gives them a variety, even though it is the same old television services and it might be reruns of Seinfeld and all the rest of it, the fact is that it gives them a variety of choice and they will sacrifice quality of service and a whole range of things for that because, if you want that high quality surround sound,

you know, experience, people go to the cinema. I mean, cinema attendances have grown significantly in the last 10 years notwithstanding the arrival of pay television and a variety of other services.

PROF SNAPE: Fairfax have given us a submission and spoke to it this morning, in which they have calculated - attempted to calculate - the benefit in terms of additional revenue that would come from the new interactive services and minus the costs and also the additional advertising revenue that would be generated from the new services provided through the digital medium and are suggesting that the profit is there. The revenue stream would be such, according to them, that they could in fact give away the standard definition set-top boxes and install them and still make a profit. Have you done any market surveys or have you got a view about such calculations?

MR McKERLIE: I will let Greg talk to it in a minute but we have looked extensively at interactive television and the likely uptake and how revenue will be driven out of interactive services. I think that is an area where there is a high degree of uncertainty and if somebody gets it right the magnitude of the market is substantial. There is no doubt that if somebody gets it right there are big revenues there. I don't think they are going to be additional advertising revenues. They will be taken from other media. There might be assimilation of the overall advertising market but it's not as if it is going to create something brand new. It is going to put a lot of pressure on people who are in the market already, who are fighting for that advertising dollar.

PROF SNAPE: You don't see that it would generate significant additional advertising revenue by targeting particular markets?

MR McKERLIE: I don't think it can. I mean, in the sort of the ecosystem that we work in there is X amount of value and the advertisers will spend their budget over the most appropriate and attractive medium which will give them the best return, so if something comes along and it is called "interactive television" or "high definition service" and they think they are going to get more bang for their buck there they will spend their money there but they might pull it off other places they were spending their advertising.

PROF SNAPE: But it's likely to increase the total television revenue?

MR McKERLIE: Advertising revenue, yes, at the expense of something else, but certainly it would do that.

PROF SNAPE: And in terms of e-commerce - getting a proportion of the revenue of e-commerce?

MR McKERLIE: It will provide the opportunity for someone to clip the ticket of every transaction that occurs and even if that is point 1 of a point, then you know that could be a very valuable and valid revenue flow, without doubt. I mean, there is no question about that.

PROF SNAPE: If they get it right you reckon it could be done?

MR McKERLIE: Yes, but how to get it right is the question that almost every business in the world is asking themselves as they go from a physical channel to this - the business world we are moving towards.

PROF SNAPE: That's right.

MR McKERLIE: There is no doubt there is a huge future in that environment. Whether the most appropriate way to play in it is the way Fairfax is promoting - or others - the market is yet to decide.

MR SIMSON: Can I just make one other comment? You did make the point about providing set-top boxes for nought.

MR McKERLIE: Yes. That is a market strategy. We have looked at a number of wannabe broadcasters through interactive television and inevitably a barrier to their success is the cost of a set-top box, and some of them just put it down as part of their start-up cost - to give those away to get a certain amount of penetration.

PROF SNAPE: That is a standard definition set-top box?

MR McKERLIE: Yes.

MR SIMSON: Have you done work with other conversion schemes in other countries? You mentioned, of course, earlier the UK experience and America.

MR McKERLIE: Yes. Not so much America; New Zealand, South Africa, some parts of Europe.

MR SIMSON: What would you say would be the two or three critical success factors in getting people to convert to digital?

MR McKERLIE: I don't know that that many people around the world have yet converted to digital, to say that there's a track record one can look at and say there are some lessons to be learned from real-life experience. There are some risks. I mean, people draw analogies in going from analog phones to digital phones and all that sort of stuff and, whilst there are some weaknesses in that, my judgment - and it's a personal judgment based on a professional view of the world, I think - is that unless you can demonstrate some additional functionality, unless you can demonstrate a lowering of costs, unless the person's existing apparatus has just died and needs to be replaced, unless there is some compelling reason, people will actually stay with the technology that they've got.

I was the person responsible for writing out the life of the analog phone in the Telecom legislation and, in retrospect, we just assumed because digital mobile phones had arrived, the whole world would see the better functionality and all the advantages,

services, all that sort of stuff, and in fact it wasn't; it was basic old dial tone and people still wanted their analog services and I think it's the same with television. We could introduce digital television and probably half the country wouldn't buy one until their existing sets just expired. So unless it demonstrates some functionality, lower cost or there's some real benefit that can't be provided by an alternative product - like, perhaps, a PC that gives you all the interactivity - then I suspect the uptake of these services may not be as front-ended as some of the models are predicted.

PROF SNAPE: Have you looked at digital radio as well?

MR McKERLIE: Yes, we've looked at digital radio in South Africa, DAB.

PROF SNAPE: One of the big advantages of digital television, it seems, is the freeing up of spectrum.

MR McKERLIE: Yes.

PROF SNAPE: Particularly if single frequency works properly, but the same imperative wouldn't seem to apply to digital radio, because it's not absorbing as great an amount of spectrum.

MR McKERLIE: Yes.

PROF SNAPE: So it doesn't really have the same driver to it, does it?

MR McKERLIE: No, I think the - and Greg might have a view on the spectrum efficiency of DAB, but from a market perspective, every time I've seen people present arguments for it, it's been a quality of sound issue and that's what they've relied on, a far superior sound. The continuity of sound issue has been the main driver for people wanting to go down the DAB route.

PROF SNAPE: What happens if you go under a bridge? Do you still get it?

MR McKERLIE: In the demonstration I saw, someone went through a long tunnel and it was pretty good, but demonstrations and real life are sometimes close, sometimes not.

PROF SNAPE: Yes, but there are no obvious deficiencies?

MR McKERLIE: No.

MR FLAVEL: The other point I might mention about spectrum with radio as well, I wouldn't take it as read that there is no spectrum shortage in radio. I understand actually that it's more difficult in radio to convert to digital, because of the shortage of spectrum, than it is in television, just because of the nature of spectrum planning in this country and what was allocated for radio.

PROF SNAPE: That's a licensing or a planning problem rather than anything else.

MR FLAVEL: That's right, yes. There are a lot of analog radio stations that would like to get on air and are potentially going to be taken off, particularly community radio, in the not too distant future, so there is a shortage of spectrum in the radio area.

PROF SNAPE: But is the digital radio much more efficient in its use of the spectrum.

MR FLAVEL: Sure, it is. But any time you've got a simulcast period, you've actually got a lack of efficiency. In radio, the transition period could be 20 years.

PROF SNAPE: Yes, because of cars, apart from anything else.

MR FLAVEL: Yes.

MR McKERLIE: Again, if it's just background noise while you're ironing, people won't pay more to get basically the same functionality.

MR FLAVEL: An average household has seven or eight radios, so it takes a long time to throw them all out.

MR SIMSON: Thanks very much.

PROF SNAPE: Yes, I think that's been very helpful to us and thank you very much for coming in. We'll make sure that you get a copy of the draft report and if you're flicking through that and you find that we've gone off the rails, I trust you will tell us.

MR McKERLIE: Indeed.

PROF SNAPE: Thanks very much. We'll close this afternoon's proceedings. I normally ask if there is anyone present who would like to make a statement, but in view of the attendance at the moment, I assume that that opportunity won't be taken up. We will resume at 9 o'clock tomorrow morning. Thank you very much.

AT 4.56 PM THE INQUIRY WAS ADJOURNED UNTIL
TUESDAY, 7 DECEMBER 1999

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NTL AUSTRALIA: TOM BENNIE CLIVE MORTON	1031-1044
PRESBYTERIAN WOMEN'S ASSOCIATION, NSW: MARION SMITH JENNIFER PORTER	1045-1051
FEDERATION OF PARENTS AND CITIZENS, NSW: BEVERLY BAKER RODNEY MOLESWORTH	1052-1060
PAUL JONES, UNIVERSITY OF NSW	1061-1068
McKERLIE CONSULTING: JIM McKERLIE GREG FLAVEL	1069-1079