

December 29, 1999

Professor Richard Snape
Broadcasting Review
Productivity Commission
Locked Bag 2
Collins Street East
Melbourne Vic 8003

Dear Professor Snape,

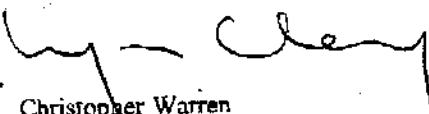
Re: Broadcasting Review

The Alliance thanks you and the Commission for the opportunity to appear at the Public Hearings on 9 December, and, as requested during the hearings now makes further submission on the following matters:

1. The manner in which a media specific public interest test might be developed in relation to the Productivity Commission's proposed changes to the cross media rules
2. The social and cultural imperative for "non-creative personnel and production processes" to be Australian nationals or residents
3. The Australian Screen Editors' survey of membership
4. Further comment on the recommendations set out at Chapter 10 of the Draft Report, in particular in respect of:
 - complaints handling
 - ethical standards, and
 - comment on the evidence given by Jock Given before the Commission

Our submission is attached.

Yours sincerely,

per 
Christopher Warren
Federal Secretary



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The Alliance results from
or amalgamation of the
Australian Theatrical and
Amusement Employees
Association, the Australian
Journalists Association and
Actors Equity of Australia.

SUPPLEMENTARY SUBMISSION
BY
THE MEDIA ENTERTAINMENT AND ARTS ALLIANCE
TO THE
PRODUCTIVITY COMMISSION
REVIEW OF BROADCASTING LEGISLATION

DECEMBER 1999

Public Interest Test

As was pointed out in our previous submission and in our comments to the Inquiry, the Alliance is sceptical about the ability of a public interest test to achieve diversity.

We remain of the view that the cross media rules have the over-riding benefit of actually working.

However, if a public interest test were to be introduced it should be applied broadly and recognise the interaction of media, entertainment and sport.

The onus should be on the company to establish that any takeover is not contrary to the public interest.

Matters to be considered as part of the public interest would include:

- strengthening Australian culture,
- commitment to localism within Australia,
- protection and creation of employment,
- no net reduction in competition,
- no net reduction in media outlets, and
- no net reduction in major companies operating in the media.

Any public interest test would also need to address the growth of new media and the fact that in Australia to date these new media are dominated by existing media players. If this were to continue and the new media were to become as dominant as existing media, such as print or television, steps would need to be taken to require companies to establish why it was not in the public interest to compel divestment.

Finally, consideration of the application of the test by the ACCC should be through public hearings, at least for major applications.

Assistance should also be able to be provided to public interest groups to seek review of any ACCC decision in the courts. Without such a step, the costs of legal review along with the potential for damages effectively means that ACCC decisions would only be reviewable by cashed up corporations, not the community.

The Creative Elements Test

The Alliance notes that the Commission has appreciated the complex nature of film and television production.

As noted in our November submission to the Commission, most if not all positions on a production require a degree of creativity in order that the work be undertaken effectively to contribute to one complete cohesive production, the realisation of the director's vision and interpretation of the script created within the framework determined by the producer.

The Alliance notes the Commission's analogy with a university, in particular the creativity of the gardener and the Vice Chancellor and the relationship between the two.

We make the following comments.

If the university gardener is incompetent and the garden wilts and dies, the loss is a pleasant environment. The work of the Vice Chancellor and academic staff and the student body can however continue unabated. The gardener's contribution is an enhancement of the environment in which the core work is undertaken. The gardener's

work is of itself not central to the activities of the university, rather it is a much appreciated adjunct.

In the case of a production team, the same is not the case. Any member of the crew has the potential to not simply enhance the overall but to ruin it. The focus puller who does not pull focus correctly can destroy the day's filming. The clapper loader who does not exercise due judgement when changing magazines can destroy the day's work. The results of a continuity person who does not exercise their responsibilities with due judgement can be a sequence that cannot be cut together. Such results are ruinous - the carefully judged performance captured in a moment is lost and must be recreated not only by the director and the lead performers but by everyone on the production.

Further, the gardener at the university is not able to progress up the ladder of his career to become one day the Vice Chancellor, without making a career change from gardening to academia and undertaking the prerequisite tertiary education.

The same is not true with film production. The runner of today may be the producer of tomorrow. It was the case with Lynda House (producer *Muriel's Wedding*) and Steve Knapman (producer *Wildside*). Both were able to progress from runner to producer in a career path the rungs of which comprised working as a production secretary and production manager in the case of Lynda House and as an assistant and as a location manager in the case of Steve Knapman. It is common practice for the starting point for Directors of Photography to be employment as clapper loaders, subsequently as focus pullers and then as camera operators.

As can be seen at Attachment 1, many producers and directors progress "through the ranks". These career path options are essential if Australia is to continue to nurture and develop the next generation of key creative practitioners.

Australian Screen Editors' Survey of Membership

Australian Screen Editors (ASE) was formed in 1995 to promote, improve and protect the role of the editor as an essential and significant contributor to all screen productions. It is dedicated to the pursuit and recognition of excellence in the arts, sciences and technology of motion picture film and televisual post production. The ASE conducted a survey of members in November 1999. The results are at Attachment 2.

Complaints handling and ethical standards

It is difficult to comment on the effectiveness or otherwise of the current Broadcasting Services Act until we see the results of the current inquiry into Sydney station 2UE.

However, the recommendations at 10.3 should be broadly adopted. They would make it simpler for complaints to be made by members of the public who are the group most likely to be put off by the current procedures.

We particularly support the obligation for corrections - or indeed clarifications - to be given on-air. We agree about the need for these to be in or around the time of the error or matter the subject of the complaint.

We note that Mr Given of the Communications Law Centre in his evidence commented on the circumstances that may arise when the regulator and the broadcaster disagree about the interpretation of a set of events. While we share these concerns, we do not believe they are so common as to be worth adapting regulations to accommodate, particularly given the control by the broadcaster over everything else they do or do not broadcast.

Attachment 1

		Most acclaimed credits as Column 2 designation	Selected career credits in chronological order
Scott Hicks	Director	<i>Shine</i> <i>Snow Falling on Cedars</i>	Runner: <i>The Last Wave</i> ; 3rd Assistant Director: <i>Money Movers</i> ; 2nd Assistant Director: <i>Harvest of Hate</i> ; 1st Assistant Director: <i>The Club</i> ; Director: <i>Freedom, Sebastian and the Sparrow</i>
Matt Carroll	Producer	<i>Sunday Too Far Away</i> <i>Storm Boy</i> <i>Breaker Morant</i> Executive Producer <i>Network Ten</i> <i>The True Believers</i> (TV m/s)	Assistant director: <i>Skippy</i> (TV series), <i>Spyforce</i> (TV series); <i>The Intruders</i> ; Production Manager: <i>Private Collection</i> Producer: <i>The Club</i> , <i>The Plumber</i> (telemovie) <i>Frankie's House</i> (TV m/s); <i>Barlow and Chambers</i> (TV m/s); <i>Diana and Me</i> ; <i>Farscape</i> (TV series)
Hal McElroy	Producer	<i>Blue Fin</i> <i>The Sum of Us</i> <i>Blue Healers</i> (TV series) <i>Water Rats</i> (TV series)	Advertising and radio. Production assistant at the Commonwealth Film Unit. Assistant Director: <i>Age of Consent</i> , <i>Flash Point</i> ; Production Manager: <i>Sunstruck</i> , <i>Don Quixote</i> ; Assistant Director: <i>Alvin Purple</i> , <i>Man From Hong Kong</i> , <i>Caddie</i> Co-Producer: <i>The Cars that Ate Paris</i> ; <i>Picnic At Hanging Rock</i> Producer: <i>The Last Wave</i>
Jim McElroy	Producer	<i>The Year of Living Dangerously</i> <i>Traps</i> <i>Mr Reliable</i>	Worked his way up to become a floor manager on television programs; 2nd assistant director: <i>Wake in Fright</i> amongst others
Lynda House	Producer	<i>Muriel's Wedding</i> <i>Proof</i>	Researcher for television production company; runner: <i>The Year of Living Dangerously</i> ; post-production coordinator: <i>Careful He Might Hear You</i> ; production co-ordinator: Malcolm; production manager: <i>Dogs in Space</i> , <i>Ricki and Pete</i> Associate Producer: <i>Death in Brunswick</i> Producer: <i>River Street</i> , <i>The Missing</i>
Andrew Mason	Producer	<i>The Matrix</i> <i>Dark City</i>	Assistant editor; visual effects technician, production manager, then visual effects supervisor, Atlab Australia, film laboratory
Alex Proyas	Director	<i>The Crow</i> <i>Dark City</i>	Graduate AFTRS; directed rock clips and then commercials prior to directing <i>The Crow</i>
Russell Mulcahy	Director	<i>Razorback</i> <i>Highlander</i> <i>Highlander II</i>	Directing <i>Countdown</i> for ABC TV, directing rock clips, prior to <i>Razorback</i>
Phillip Noyce	Director	<i>Newsfront</i> <i>Dead Calm</i> <i>Patriot Games</i> <i>Clear and Present Danger</i>	2 nd Assistant Director, <i>Let the Balloon Go</i> 1st Assistant Director, <i>The Golden Cage</i>

Attachment 2

Australian Screen Editors Survey on the state of Editors and Editing facilities:

The survey covered both freelance and staff editors and assistant editors working in feature films, documentary and television. It is representative of currently qualified editors and Assistants.

9% of those surveyed were considering leaving the industry due to difficulties experienced in attaining work over the last year, even though they had previously worked on high profile productions and were well qualified to do their jobs. There is not the number of films being produced to support them. There is no room for new people to enter the industry.

A representative range of facilities was surveyed, covering the large facilities that provide services to the major local and offshore productions, along with those that service television series, documentaries, corporates and commercials. Medium and very small independent facilities were also represented.

For editors the main concerns are:

- reduced Government funding for local productions,
- stagnation in wages, the erosion of work conditions,
- reduced schedules and budgets leading to more work being required in less time and for less money,
- lack of training opportunities for assistants and editors, and
- increasing expectations that they provide their services for free, or for deferred wages, due to the unrealistically low budgets of many productions.

For facilities the main concerns are:

- the false image of a booming Australian film industry,
- the local postproduction sector is severely affected by decline of local product and shrinking government funding,
- unfair competition with Fox Studios which can access payroll subsidy, and
- intense competition is driving rates down to unsustainable levels while facilities struggle to maintain and upgrade extremely expensive technology.

Survey Snapshot

Editors:

56% of editors and assistants surveyed had less work this year than last year.

9% of editors and assistants surveyed had no work at all in the last year.

64% of editors surveyed expect the amount of work to decrease again in the next year.

39% of editors work had shifted "down" from what they had done the previous year, eg from features to documentary, from television series to corporate production.

9% were considering, or had made the decision, to leave the industry.

30% expected to be working between 31 and 40 weeks next year, while 27% were

unsure as to what work they would receive.

18% were hopeful of higher wages.

Facilities:

88% of facilities surveyed had less work this year than last year.

75% of facilities expect to have a decrease in business next year.

37% had a shift "down" from what they had done the previous year, eg from features and documentary to corporate productions, from television drama to corporates and low budget TVC's.

25% expected a greater return next year.