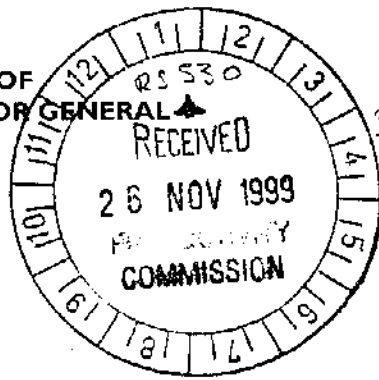


OFFICE OF  
DIRECTOR GENERAL



NEW SOUTH WALES  
DEPARTMENT OF INFORMATION  
TECHNOLOGY AND MANAGEMENT

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Office of Western Sydney  
Forestry Policy & Structural Adjustment Units

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Presiding Commissioner  
Broadcasting Inquiry  
Productivity Commission  
Locked Bag 2 Collins Street East P O  
MELBOURNE VIC 8003

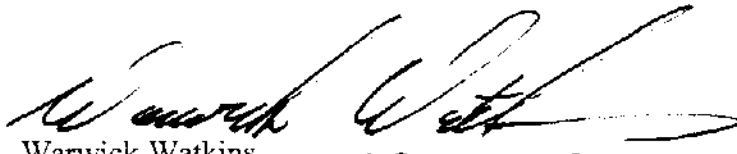
Dear Professor Snape

- [1] I am writing in response to the Productivity Commission's draft report, issued on 22 October 1999 on the findings and recommendations from your inquiry into Broadcasting.
- [2] Generally, the NSW Government does not have a view on the majority of recommendations contained in the draft report.
- [3] The Government has noted that an Australian Broadcasting Authority inquiry in 1997 recommended that no new commercial television licences be allocated where three networks were already in existence in an area.
- [4] The Government has also noted that Section 28 of the Broadcasting Services Act 1992 provides that "the Australian Broadcasting Authority must not, after June 1998, allocate any new television licences in any licence area before 31 December 2006". The Government understands that this approach by the Commonwealth has been taken as a consequence of the introduction of High Definition Television Broadcasting in January 2001 in order to smooth the transition from analog to digital broadcasting.
- [5] The report appears directed at issues related to the commercialisation of any spare broadcasting spectrum, post the introduction of digital television. Further, the report does not consider the needs of State Governments for access to spectrum, specifically for delivery of Government services.
- [6] The NSW Government does not support a process for the commercialisation of the spectrum that is based solely on the price that the market is prepared to pay. This does not take into consideration the social benefits and equity of access requirements for the use of the spectrum.

- [7] Given the limited amount of spectrum, competition purely on price is not considered appropriate, as it will limit potential providers to those that can afford the purchase price. Further, the NSW position is that the Commonwealth must ensure that decisions about spectrum allocation and use include conditions to guarantee that Commonwealth and State Governments can use datacasting to deliver online services without additional cost to government.
- [8] The Government understands that the responsibility for planning the broadcasting services bands (Draft Recommendation 4.7) already resides with the ACA, which delegates this responsibility to the ABA. However, the NSW Government has concerns about the manner in which the ACA undertakes its spectrum management role. To date, the ACA has focused on the commercial auctioning of radio spectrum as the sole determinant for the value to be derived from spectrum access. The NSW Government believes that other models for determining spectrum value could be more equitable.
- [9] A process, with State and Territory representation, is preferred where social requirements compete equally with price until the social requirements are met. In order to address the needs of Governments, the community and commercial interests, an intra-Government committee could be established to undertake the Spectrum Manager responsibilities and administer the spectrum access rights. In this way, the needs of Governments and the community could be met and any remaining capacity could be developed commercially.
- [10] Addressing the draft report recommendations, the NSW Government requests that the Commission takes note of the Government's position, specifically in relation to:
4. Draft Recommendation 4.6 *"Simplified processes for reserving sufficient spectrum for national, community and Indigenous broadcasters should be adopted. All unreserved broadcasting spectrum should be made available for commercial broadcasting uses."*
    - The requirement for spectrum access by the NSW Government should also be included in any process for reserving spectrum.
  5. Draft Recommendation 4.7 *"Responsibility for planning and licensing the broadcasting services bands of the spectrum should be transferred to the Australian Communications Authority and managed under the provisions of the Radiocommunications Act 1992."*
    - The NSW Government has concerns about the manner in which the ACA undertakes its spectrum management role. ACA has focused on auctioning of radio spectrum as the sole determinant of spectrum value. The NSW Government believes that there are other more equitable models for determining spectrum value, such as a process, with State and Territory representation, where social requirements compete equally with price until the social requirements are met.
  6. Draft Recommendation 6.2 *"Regulatory restraints on new digital services should be minimised. Datacasting should be defined liberally. Datacasting services should not be constrained by a regulatory distinction between datacasting and broadcasting."*
    - The Government supports a liberal definition of datacasting services.

- [11] I ask that the Commission takes note of the NSW Government's position which is consistent with the resolution expressed in the joint communique issued at a Leaders Forum held in Sydney in July 1999, where Premiers and Chief Ministers of all States and Territories, called on the Commonwealth to "*...ensure decisions about spectrum allocation and use include conditions to guarantee that Government will be able to make use of datacasting to deliver online services to the community without additional cost to State and Territory Governments*".
- [12] Further, at an Online Council meeting held in Alice Springs on 5 November 1999, all State and Territories ministers confirmed their strong commitment to the above resolution.
- [13] The NSW Government is committed to ensuring that the Government and the community are not disadvantaged by the introduction of digital television and datacasting. I ask that the commission supports the NSW Government's position when making its recommendations to the Commonwealth.

Yours sincerely

  
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23.11.99