



**TRANSCRIPT  
OF PROCEEDINGS**

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**PRODUCTIVITY COMMISSION**

**INQUIRY INTO THE BROADCASTING SERVICES ACT 1992**

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

**TRANSCRIPT OF PROCEEDINGS**

**AT MELBOURNE ON WEDNESDAY, 9 JUNE 1999, AT 9.02 AM**

**Continued from 8/6/99**

**PROF SNAPE:** Let's resume the hearings in Melbourne. We welcome you to the hearings today which is the third day of the hearings in Melbourne. The terms of reference for the inquiry are available near the door, this is the issues paper if anyone hasn't seen it. As you can see, the proceedings are transcribed and the transcripts are normally available about three days after the relevant hearing on the commission's web site. They're also available in hard copy and we send hard copy to the relevant participants for the hearings that they have been involved in. At the end of today's hearings I shall ask if anyone present would like to make an oral presentation. So first up we welcome the Australian Press Council, we have two representatives, and I would invite them to identify themselves separately for the purpose of the transcription tape, and then I would invite Prof Pearce, I think, who is going to open the bowling, and to speak to the submission.

**PROF PEARCE:** Thank you, Prof Snape. I am Prof Dennis Pearce and I am the chairman of the Press Council.

**PROF LEE:** Mr Chairman, Prof Lee, H.P. Lee. I am a public member of the Australian Press Council.

**PROF SNAPE:** Thank you. Prof Pearce?

**PROF PEARCE:** Thank you, Prof Snape, and we appreciate this opportunity to be able to speak on this significant topic. We have prepared a written submission which has been presented to the commission. Can I say that that submission does represent a long-term view of the Press Council, and is presenting a view that the council reached some years ago on this general question of cross-media ownership. The council, as you would be aware, is concerned only with the print media and therefore we have confined the remarks that have been made in the submission to issues insofar as they relate to the print media. I appreciate that your inquiry goes well beyond that dimension but the council does not feel it appropriate that it should express views on matters more generally dealt with by the reference but should confine itself only to those issues that do seem to relate to the position of the print media.

The council is a rather curious body. As I think you would be aware, and you would have seen the composition of the council from the attachment to the submission, it must be said to obtain general consensus of view from a body of that kind is not easy. I should equally say that we come with the authority to present the submission but our mandate does not really extend very much more than to speak to the matters that are raised there. So I do hope that you will bear that in mind when posing questions to us. In very brief terms the principle underlying the paper is the perceived need of the council that press freedom must be protected, and that there should be every effort made to ensure that there are not limits imposed on the capacity of the print media to express a wide range of views. Coupled with that, we see as the primary purpose of any media constraint that it nonetheless allow for multiple voices to present a diversity of views on a diversity of matters, bearing in mind all the time that the commercial viability of those outlets has to be sustained and recognised. We're not so naive in our thinking that we would be saying that freedom has to be there at all cost. We recognise that newspapers

will have to still be commercially viable if they are to prosper and bring matters to the attention of the community.

The main thrust of our submission is that the present cross-media rules are a crude method for achieving this diversity of outlet that we think is appropriate. The main thrust of our argument is in paragraphs 6.6 and 6.7 of the submission where we indicate that we think that there has to be a recognition of the massive technological change that is occurring in the presentation of media views, and that to ignore that and concentrate purely on questions of ownership is too simplistic a way of achieving that diversity of voice that we suggest is the appropriate aim of media control laws. So we see the better method of achieving that outcome as what might be called directed competition law tests, and we set those out in the recommendations (a) and (b) that are there in the submission, which suggest that the ACCC should become the major body concerned with this question; that issues of media ownership should be judged by an application of the broad competition law, but that the test of the operation of that law should be constrained by an array of factors which are what we set out in the submission.

The one issue that I think I would like to draw particular attention to is that it has been a matter of major concern to the council, is that which is encompassed in recommendation (c). That is this issue of the takeover of a newspaper where there are only two in the town. We have seen the loss of the evening newspaper in Perth and in Adelaide because the acquisition of that second newspaper by the owner of the other newspaper has not been permitted under the present competition rules, and that has resulted in the actual loss of that paper. We think that that is a false application of competition law because quite simply two newspapers, albeit it owned by the one outlet, are better than one newspaper owned by the one outlet in bringing a diversity of views to the attention of those particular markets.

We conclude our submission by suggesting that foreign investment should follow the same pattern as that which we propose in relation to the domestic ownership laws, and we end with a somewhat faint plea for a matter to be at least in the public arena, although it is obviously not a matter for the commission, and that is that there should be legal protection or legal recognition of freedom of the press and freedom of expression as part of the Australian constitutional regime. They're the matters that are covered. We would be glad to answer questions that the commission wishes to put but I do have to say the limit of our ability to go beyond the submission is not great. Thank you.

**PROF SNAPE:** Thanks very much, Prof Pearce. We recognise the limit. We might try to tease to you take that hat off and put on another hat from time to time, and you can make up your mind whether you do so or not. I might say that we're very pleased that Prof David Flint, when speaking for the ABA, in fact managed to take that hat off and put another one on from time to time, and so we had some very helpful discussions in that way, but we will perhaps try that in a little while. Thank you very much for the submission. I think that you have achieved one first as far as this hearing is concerned.

I think it's the first time that anyone has suggested that we actually recommend a change in the constitution. I thought that it was a somewhat bold view but nonetheless there is no reason why you shouldn't seize the opportunity when it's there. From time to time it has been suggested that the government doesn't implement too many of its recommendations. I think in recent times, that's not so, that the government has in fact implemented a lot of recommendations, but if we were to try recommending a constitution and changing the constitution - - -

**PROF PEARCE:** It might be a little hard.

**PROF SNAPE:** Thank you anyway. What I would like to tease out rather more with you, and I think is quite within the domain that you were defining, and that is the question of the market, the definition of the market and the way that that may be measured. You were suggesting or recommending that the Trade Practices Act be the main instrument, and with the ACCC no doubt implementing it, for defining or for dealing with the competition and the diversity issue. You speak there that in that context it should be the broad media market that is relevant, and so you're saying, "Take a broad view." You then consider what measure of concentration should be applied in implementing or in deciding whether there should be mergers etcetera, etcetera. First of all I would like to know how you are defining, how you would intend to define that broad media market. Then secondly, if we can come to the next one, it's the question of measurement within that, but firstly, the definition.

**PROF PEARCE:** It isn't an easy exercise and we recognise that. What we would be suggesting is that there should be a broad brush approach to the definition of market that should look not just at newspapers, television, radio, as the scope of the market, but that there should be a view taken that the media concept is moving into a whole new world, particularly with the availability of material and a diversity of opportunity on the Internet. We are of the view that even the present approach to the measurement or the market fails to take account of standard outlets like magazines, so what we were suggesting is that one should look right across the board and look at all the outlets from which people would gain the information that might be thought to influence their broad thinking.

**PROF SNAPE:** So you are basing it on a degree of influence which of course is part of the Broadcasting Act as it stands.

**PROF PEARCE:** That's right.

**PROF SNAPE:** Some people have challenged whether that is a good basis, whether that is such a nebulous concept that it provides a reasonable basis. But the wording, as you would know, is the degree of influence that different types of, in this case, broadcasting services are able to exert in shaping community views in Australia. But, fairly obviously, insofar as the act goes on to cross-media rules, they in fact are meaning more than just broadcasting in that.

**PROF PEARCE:** Yes, that's right.

**PROF SNAPE:** Nevertheless you would adhere to that concept of degree of influence?

**PROF PEARCE:** That's the Press Council view, yes, that you take that as your base measure. The issue that I suppose one has always to confront here is why we're bothering to do this at all, because the media is primarily an entertainment media. If one looks at the use and the way in which radio and television are used by the public, it's used primarily for entertainment purposes. We would see the newspapers as probably the major source of information, but we'll come back to that in a moment when we begin to look at the narrower view of what might be regarded as a market. But we think that the starting point should be to look right across the board at all those places from which persons will be influenced in their thinking by material that's made available to them.

**PROF SNAPE:** On the other hand, I think the Broadcasting Act itself in placing greater controls on free-to-air television than it does on the print media would be implying that free-to-air television has a greater degree of influence than the print media. That would follow from the statement that this is the foundation stone of the act essentially, that that is the basis for discriminating between various forms of media.

**PROF PEARCE:** I think there's an historical base to that of course, that the print media was never controlled, and the new media, now dating back some 75 years or more, has always been controlled. So I think there's an element of historical underpinning to the controls that have come through there on both radio and television broadcasting.

**PROF SNAPE:** Does the media in the context that you're using it here extends to the Internet?

**PROF PEARCE:** Yes, it would.

**PROF SNAPE:** And datacasting?

**PROF PEARCE:** Yes.

**PROF SNAPE:** Narrowcasting?

**PROF PEARCE:** I think we're saying that you look at places from which people get information.

**PROF SNAPE:** But not over the back fence?

**PROF PEARCE:** We would not want to get into the control of that.

**PROF SNAPE:** So obviously we want to put some boundaries to it somewhere but

one doesn't include books, I assume.

**PROF PEARCE:** I assume not, no. You're quite right.

**PROF SNAPE:** So one has to put some boundaries there somewhere, and I think if one understands it correct, that you put a boundary say between newspapers and books.

**PROF PEARCE:** I'll ask Prof Lee, because he's been on the council longer than I have, but we have always placed a boundary between newspapers and books but we have embraced magazines, for example.

**PROF LEE:** Or journals which come at more regular intervals, I think.

**PROF SNAPE:** So you may, for example, have a weekly journal but not an academic journal?

**PROF LEE:** We have entertained complaints before in respect of I think reviews of books in scholarly journals.

**PROF SNAPE:** But in this definition of the market that you've got here, that you're feeling for here, you presumably wouldn't have scholarly journals within that definition?

**PROF PEARCE:** I wouldn't have. I doubt if the Press Council has ever given a lot of thought to that, but I would think it would try to draw a line at material that was made generally available to the public and generally used by the public at large, so it would pick up the ethnic press, which has never had a mention and - - -

**PROF SNAPE:** And regional newspapers?

**PROF PEARCE:** And certainly regional news, yes.

**PROF SNAPE:** And newspapers that come in from abroad?

**PROF PEARCE:** To the extent that we get them, yes, I suppose that must be right, because we would include magazines that come in from abroad.

**PROF SNAPE:** And the Internet that comes from - - -

**PROF PEARCE:** Of course.

**PROF SNAPE:** Then we come to the measure that is suggested here as the consumers' actual use of the various media, which worries me a little bit, I think. You've obviously thought of this, but if you take let us say the Sun in the United Kingdom, which claims itself to be very influential in forming people's views - and I

suspect often it does so with just a headline, like Clobber Sloba and various other ones that have referred to the government of the day or an opposition party of the day which they're not supporting. I suspect that most people that read the Sun spend very little time reading that particular page, and yet that page probably has a - they claim it has a great deal of influence. So where do we get to?

**PROF PEARCE:** It is undoubtedly very difficult to get that sort of measure, and we've tried to give a range of items and matters that would be taken into account by a body that was concerned with these sort of takeover questions. I suppose we've come from opposition where we think that ownership is too crude a measure and then we've tried to grapple with what might be other ways of trying to determine how influence might occur. Whether or not there are tests that can be evolved to try to measure this sort of influence, we're not sure, but we do think that the regulating body should be trying to evolve this type of approach, in other words, some degree of sophistication in its measurement rather than just simply saying, "If News Ltd owned 50 per cent of the newspapers then they have 50 per cent of the influence."

**PROF SNAPE:** We're required by our terms of reference to be giving options in various dimensions, and so we are interested in pursuing this as one of the matters in which I think we would be expected to giving some options as well as making a recommendation, but to explore various options. Do you have evidence from other countries or examples from other countries as to how this is addressed?

**PROF PEARCE:** I'm not aware of them. The answer is no, we don't have examples, I'm sorry to say.

**PROF SNAPE:** Does the Press Council have a secretariat?

**PROF PEARCE:** A very small one.

**PROF SNAPE:** So it wouldn't be a source of information on this?

**PROF PEARCE:** I can ask it to make that sort of inquiry but it is not a source that I think is going to be as effective as yours, quite frankly.

**PROF SNAPE:** Okay, thank you. You speak about the council proposed a share of voice concept.

**PROF PEARCE:** Yes.

**PROF SNAPE:** If there are background papers and papers setting out the analysis of that that you have, that also would be very useful.

**PROF PEARCE:** Yes, the council was at that time relying on the tentative moves, I think they were, that were taken in Britain, which struck the council at the time as being attractive. The council now notes that that approach was abandoned as presumably too hard, and I think that was the reason for its abandonment. I think that the council view

would be that, because something has been looked at in the past and thought at that time to be too hard shouldn't mean that it should not be looked at afresh.

**MR SIMSON:** Prof Pearce, I understand where you're coming from in terms of looking at media consumption and asking yourself how people actually consume media and therefore the extent to which a merger could have influence in the real world of how consumers use media. Is that a fair summary of that particular point?

**PROF PEARCE:** Yes.

**MR SIMSON:** So you'd be interested in the extent to which someone who read say the Fairfax papers also watched commercial television?

**PROF PEARCE:** I think that's part of the way in which it developed, yes.

**MR SIMSON:** Those sorts of equations?

**PROF PEARCE:** That's right.

**MR SIMSON:** Or alternatively the extent to which somebody who watched Channel 9 also listened to 3AW if there was an interest in Southern Cross and Channel 9 getting together, those sorts of issues?

**PROF PEARCE:** I'm not sure that we got as far down the track as that degree of precision. What we were trying to do was to suggest, as I said before, don't just look at ownership, look at where people do get their views from across the spectrum of the media.

**MR SIMSON:** Okay. I'd appreciate some reaction to what I'm about to say. I'll just throw up to you some points that various participants have made to us over the last couple of weeks that could perhaps supplement or complement the approach that you're taking. There is the media consumption one, the point that you're emphasising in terms of how people consume media. There is, as we've just discussed, the nature of the media proposed to be merged. Is it an influential talk-back radio network and a TV network?

**PROF PEARCE:** Yes, I think that's significant.

**MR SIMSON:** That sort of issue?

**PROF PEARCE:** Yes.

**MR SIMSON:** The issue has been raised of looking at other non-media interests that people who might be proposing to merge might have, and that's from the perspective of any difficulty that might cause in the journalist working for those organisations writing about them.

**PROF PEARCE:** What do you mean by - sorry, I won't - - -

**MR SIMSON:** I won't be specific about this, because it's not fair to be, so I won't give an example, but let's say an owner of a TV station owned a major manufacturing or mining interest that was consistently in the news, and the constraint that may or may not in the journalist's mind, in the editor's mind, be in being able to report fairly on that in that proprietor's paper, and that proprietor is then proposing - say the proprietor owned newspapers, for example, it doesn't really matter - to take over another media; in other words, the extent to which we're dealing with a pure media enterprise as opposed to an enterprise that's not a pure media enterprise, one that has other business interests?

**PROF PEARCE:** I think the council has only thought in terms of pure media enterprise. I don't think it has taken a line that any of this material, any of these directions that we're proposing, should go to other areas of interest of the media proprietor.

**MR SIMSON:** Okay. Another issue that's been raised by participants is the extent to which a media enterprise has a mix of both traditional media - newspapers, TV, radio, for example - and the extent that proprietor has or is building other related media interests in new media, with pay TV, Internet, maybe a bit of mobile telephony, who knows.

**PROF PEARCE:** Yes, we would have thought that was relevant.

**MR SIMSON:** So that's relevant. Prof Pearce, the regional operators, for example, some of the regional media, has expressed concern that in a cross-media change in a regional area they're more susceptible to concentration that might occur, because if a local TV operator took out the local newspaper and, I suppose to keep the analogy going, also took out the local radio station, some of the participants from the regional media have expressed that might be a larger concern in that sort of regional marketplace than a city, for example.

**PROF PEARCE:** Yes, I think that's true but only up to a point. The way in which the media now runs in Australia, that notion of blocking off little corners and saying there is a very distinct regional market that isn't serviced by the general market, I think is being a little unrealistic. But it's a valid point that one should have in mind, but I wouldn't have weighed it unduly heavily, because we are an Australian country rather than a group of tiny regional markets.

**MR SIMSON:** In aggregate, and this is why I was seeking a reaction, I would be interested in the extent to which these sorts of issues, and I'm sure there are many others, but these sorts of issues that have been flagged with us by participants, could in your mind complement or supplement the media consumption, and this is not your word but my word, test, that you're proposing here, in helping flesh out a view from a regulator as to whether a proposed merger was good or bad.

**PROF PEARCE:** I'm in complete agreement with what you're saying, or the council is. While we were putting forward some matters that ought to be taken into account, we were not seeing those as being exclusive, that they were the sorts of things that we thought were relevant, but the broad principle is still the same, the need to maintain the diversity voice.

**PROF SNAPE:** You do mention geographic also in relation to markets. One thing that has come up in quite a few submissions is the importance and decrease in localism. Is the Press Council concerned with the retention of what has been called localism? It goes a little bit against what you were just saying about the national networking, the Australian market.

**PROF PEARCE:** Yes. I think when we referred to geographical market here in this paper we have tended to think of it on a state-by-state basis. I don't know whether the council has addressed its mind to the fine point of regionalisation, the real localisation question, whereas if the Bathurst Advertiser and the television station and the radio station are all owned by the one place, that that limits the amount of information that's coming to that local area. The interesting issue that I have observed from the regional newspaper press is that they make it quite clear that to obtain sales they have to stay away from reporting on national matters of interest, that the matters of interest that sell their newspapers, are essentially completely localised issues, and so I am inclined to think that the market will be driven by what people will pay to buy their local newspaper as against their state newspaper, which will be local reporting rather than generalised matters.

**MR SIMSON:** Of course, in many cases those local papers are in competition with metropolitan newspapers.

**PROF PEARCE:** They're in competition, but only to the extent that if they try to emulate the major newspapers they're dead.

**MR SIMSON:** They're dead in the water.

**PROF PEARCE:** They're dead, that's right. They have to find a market for themselves.

**MR SIMSON:** Prof Pearce, could I just test on you another item that perhaps could be added to that list we were discussing a couple of minutes ago of issues that might need be put on the table if you're trying to scope out a framework or a bunch of tests that you might want to look at in a cross-media context. It's this thorny issue of editorial independence. I could just observe that we had Prof Flint wearing his non-ABA at our hearing a week or so ago who argued that in fact the power of the journalist was increasing, and indeed, the power of the journalist is stronger now and is actually increasing arguably - and these are my summary of his words, not his exact words - at the expense of the editor. I will just quote you from an article that was published in The Australian:

The great autonomy and standing journalists enjoy today are exacerbated by the almost universal use of by-lines, the journalists photographed with the by-line, the interview of a journalist by another journalist, and the journalist shown against the background of some serious institution -

and so on to give authority to themselves. Now, do you think editorial independence, and I would be interested for you to talk about that, what you think that might mean in a moment. Let's go question by question. Could you talk about what editorial independence means in your mind?

**PROF PEARCE:** Could I just consult my colleague?

**PROF SNAPE:** Yes.

**PROF PEARCE:** I wanted to make sure that I was not about to express a council view when there was a different view that was part of the council.

**PROF SNAPE:** This is editorial independence, is it?

**PROF PEARCE:** This is totally editorial independence. I'm taking words from my journalist member. I think the council's view of editorial independence is that the editor has the final say on what appears in his newspaper, and I think that the view that the council holds is that an editor nowadays has to be aware of commercial reality; that he's there to sell a newspaper, and that he can't - he or she, I'm sorry, there are very few female editors - he or she cannot ignore the fact that the market will drive to some extent the content. I think that the council's view is that the owner should not drive the editorial views of the newspaper, but that the money will undoubtedly drive the editorial views of the editor, simply because a newspaper is a commercial enterprise, and one can take as grand a view as one likes, but the bottom line is the newspaper has to stay coming out, and that the editor's judgment as to what should be said will be coloured by what he can sell.

**MR SIMSON:** So your exposition of editorial independence, how could that be added to that list of items that we were discussing earlier in a practical sense, do you think, if you thought editorial independence was important to whether or not a merger should go ahead?

**PROF LEE:** I mean, it's a very difficult question you're posing to us. In terms of the practical implementation of safeguarding editorial independence. My own perception would be that, in having seen the operation of the council, there's a certain degree in which journalists recognise the importance of integrity in terms of the profession. At the end of the day, I mean, the reputation of the paper and its ability to sell itself, also depends upon the public perception of the way in which it is operated with a certain degree of professionalism, so if one were to talk in terms of the safeguarding of a total independence, it may well be that the burden will have to fall back upon the operators within the industry to create their own mechanism for

maintaining the editorial independence, but as a council itself, we support the notion that really the editors should operate fully independent of the views or the particular ideology of the owners, but that is in the ideal world, and the question as to how far you can reach the ideal world will depend upon the mechanisms which the newspapers themselves and the operators are prepared to create within the organisation.

**MR SIMSON:** Do you think, however, that today where the world is becoming arguably generally a little bit more accountable, that the point that you have just made that the community if you like would come down or would react adversely if it perceived that a media was not acting independently, do you believe that's more so today given that in other words that checks is perhaps stronger today than it might have been, I don't know, some decades ago, because of the diversity of the media that we have or the extent to which the media is watching the media, if I could put it that way?

**PROF LEE:** I think it will boil down to two factors. I mean, your proposition, I suppose it will be seen in the context of the nature of the society it operates in. To put it in more specific terms, within the context of a society in a developing country then the notion of maintaining the highest degree of professionalism, would have to give way to the sort of influence exerted by the government or institution, the sort of requirements which operate such as insisting on the need to obtain a licence to run the newspaper, but in the context of the sort of democratic society which we are in in Australia, then apart from the sort of external mechanisms in terms of public outcry, if there is a perception of failure to maintain the highest degree of professionalism, I think the Australian public is one where it's already fairly mature in terms of the democracy which is operating, and in terms of a public which is very highly educated, so there is that ability on the part of the members of the public to perceive whether a newspaper is in fact a propaganda piece of journalism or whether it is operating with a fair degree of integrity. So I think that not only the in-built mechanisms but also the general sort of attitude of the public towards the viewing of the operation of the newspaper.

**PROF SNAPE:** I think Prof Flint in his comments was talking about a trend and I think that he was arguing that as compared perhaps with some time, some decades ago, unspecified time in the past, that the media today was more independent in the past in two levels. One was that editors were more independent of their owners and had more discretion than perhaps they might have in the past with respect to their owners. Secondly, that journalists had more independence also, so that perhaps we should not be as concerned about cross-media laws etcetera as we have been in the past. I am paraphrasing what I think he said. Do you see just partly to repeat, but to focus it, do you see that trend and do you see that independence at those two levels, the editorial of the owner, and the journalist from both?

**PROF PEARCE:** I think they are issues of perception, and you would have to test them perhaps with some editors and some journalists who had a long-term experience. I don't think that formally the council could give you a definitive statement on that line. I think what is relevant in that issue is the greater use of the by-line which in a

sense pushes a degree of accountability across to the journalist where there is simply total anonymity as there was in the past, and you just got a series of news items that presumably were ascribed to the newspaper itself, there was I think, a greater likelihood of an editor and perhaps an owner through an editor being able to influence outcome, but if a person's name is going to appear next to the item then they are going to, one assumes, feel obliged to accept a degree of responsibility for what is being written there. I suspect that that's largely driving Prof Flint's illusion to the increased power of the journalist and the break that occurs then between the capacity of the owner to influence the journalist on the subject matter of what is written.

**MR SIMSON:** Another item, another element that's being raised, is the limit to the number of media organisations available for journalists to work with, and you run out of options after a relatively short period. And so that notwithstanding all the matters that we've discussed so far here today, I'd be interested in your view as to the extent to which a journalist may or may not feel pressured or constrained in what he or she does, because there are just not a lot of other jobs to go to, and I suppose that's particularly in the context of working with an employer who may have other non-media business interests. This is a relatively small country after all and so one of the arguments that has been put for the cross-media rules as they stand is just having numbers of different people owning different bits of media does at least provide some diversity of job options, if I could put it that way.

**PROF PEARCE:** It's all highly speculative stuff, it seems to me. Most everybody who's employed feels responsible to their boss in some way or another and you don't expect to be able to keep your employment if you go around taking views that are strongly opposed to those of your employer. But that doesn't mean that you have to do exactly what your employer tells you down to the finest degree and so I wouldn't have thought that a journalist was in a terribly different position from many members of the community in that respect.

**PROF SNAPE:** Are they closer to academics or are they closer to waiters?

**PROF PEARCE:** I would hate to equate journalists to academics, but in terms of their independence they're undoubtedly closer to academics than they are to waiters.

**MR SIMSON:** Could I just take you back, professor, to page 6 of your submission and I just want to check that I've got your proposition right. It's the second-last paragraph, page 6. What's you're saying is that the amount of time that people have got to consume media is limited and so that you're saying here that with the advent of multi-channelling and so on that the licensing of new television and radio stations will allow a wider degree of choice. That's because while there's fragmentation individuals have got - the time spent does not increase, the time spent doing does not increase, so there's actually more diversity to the media consumer, the viewer in this case or the listener.

**PROF PEARCE:** Yes.

**MR SIMSON:** Is that right?

**PROF PEARCE:** That's what we're saying, yes.

**MR SIMSON:** So that you say that, "Therefore further technological developments could mean substantial increases in competition and also in plurality and diversity." It has been put to us by some participants that if there were a fourth free-to-air network licensed in Australia - and I appreciate you're talking here on behalf of the Press Council, not FACTS or anyone else, but nonetheless I just want to test this proposition with you - that because of the nature of that market in terms of the dollars, the value of that market, that in fact the quality of what you get as a consumer, the quality of the content could depreciate, in other words, could be reduced, because there's, basically it's argued, the same pot of advertising dollars; a fourth one means just splitting it again.

I'm just wondering if you could talk of that. It's perhaps not a million miles away from the issue of another newspaper coming into a marketplace. I'm just wondering the extent to which you may wish to qualify or not that approach with the issue of having a need to relate that to the economic value of a market.

**PROF PEARCE:** I think that what we were focusing our mind on there was the diversity that's come particularly through the Internet, that this has provided a whole new avenue of viewpoints that wasn't there before but that people are not going to add Internet viewing onto, on top of what they might do in terms of television or newspaper reading. They're going to use it as part of another source in the overall time that they allocated or are able to allocate to gathering of information.

**MR SIMSON:** You believe that the Internet is adding to the diversity of - I'll be specific in my question - news, information, comment and opinion?

**PROF PEARCE:** I think so. I mean, I'm not an Internet surfer so I'm trying to gain the information from what I hear rather than what I am able to say, yes, I have viewed. The thing that in a sense I have found interesting is that we get the occasional complaint from persons which do stem from the access to an Internet site, which is then either misreported in the newspaper or has led on to further material that has made it across to a newspaper. But it has been clear that people have been using the Internet as a base for their information, which has then flowed across into newspaper reading. On occasions that has been an entirely different sort of news source than anything they would have got from their daily newspapers or their television round.

**MR SIMSON:** Does the Press Council actually adjudicate now on complaints arising from the Internet sites of publishers?

**PROF PEARCE:** We are debating whether we should take them at the moment and so - - -

**MR SIMSON:** Where else would they go, with respect?

**PROF PEARCE:** Well, that's right. It's partly for that reason that we're debating whether we should take them, yes.

**MR SIMSON:** It's a very important issue, isn't it, because - - -

**PROF PEARCE:** I think it's a very important issue that the Press Council has got to grapple with.

**MR SIMSON:** Because it doesn't just relate to the - it relates to the Internet at the moment but it could relate to a Fairfax for example doing a pay TV channel, a 24-hour news channel, right, so that as the media, the traditional media, pushes into new media accountability, processing of a community concern, complaints, errors, all these sort of issues are important, are they not?

**PROF PEARCE:** I agree with you and I think that, as I say, it's a matter that the Press Council has got to confront. I suspect that there has been some reluctance to move quickly into the area because while we have cheerfully embraced all new directions for print media that there has been a worry that if we took the same view in relation to Internet news sites we'd just simply be overwhelmed with material. It's a different thing from looking at a Fairfax Internet site as distinct from news sites at large. So we would be faced with drawing lines there which we don't presently draw in relation to the print media.

**PROF SNAPE:** You do the pornographic magazines then?

**PROF PEARCE:** If we got a complaint about them, yes, we would.

**MR SIMSON:** So just to make the link then, that if you were to argue that the cross-media ownership rules should be changed with the sort of test that you proposed and perhaps complemented with some of the issues we were discussing earlier, some of the other checks that you could put on top of it, would you not need to have a body such as the Press Council also expand its orbit into those other areas? I mean, that would be quite a legitimate request from the community, would it not?

**PROF PEARCE:** I think it would, yes.

**MR SIMSON:** Because otherwise you'd be on the one hand as a council saying, "So long as you pass these tests you can go off and buy a TV or radio station." The community may argue that actually increases the need for community accountability in the absence of - if you're doing away with the existing cross-media ownership rule.

**PROF PEARCE:** That is my personal view. It's not a view that the council has yet reached and I think that should just go on the record in those terms.

**PROF SNAPE:** We have had a lot of complaints about complaints mechanisms in

broadcasting, not so much I might say with respect to the press. In fact I'm not sure if we've had any with respect to the press. But we've had several with respect to other media, particularly broadcasting, and I wondered if you could reflect upon the complaints mechanism which you have and how you handle it, whether you think that it is working satisfactorily, whether you feel that the public feels it's working satisfactorily, and whether there are lessons in there for the other media.

**PROF PEARCE:** I think that the lesson that is there, if I can start at the end, is to create a system that is very straightforward, that what you don't want is a mechanism that requires you to go through a number of steps before you can get to the complaints point, the independent complaints point, and while we would normally tell people to go first to the newspaper that they were complaining about, we don't allow a long time lapse to occur for the newspaper to respond and we permit people to come to us as soon as they have had an indication that the newspaper itself is not going to take up their - not going to respond to their complaint. So what I think is the great advantage of the Press Council is its relative informality and its speed of operation.

It is a curious body because of course it is industry funded and it has relatively limited powers in that the most it can do is to condemn a newspaper by way of a written statement to that effect and that is coupled with the understanding that the newspaper will publish that adjudication. I am not sure that that mechanism is immediately translatable to other media, to broadcast media, but it has always seemed to me that the mechanism that is used in the broadcast media seems to be much more cumbersome and makes it much harder for somebody who's affected by what has occurred to get the matter resolved quickly and easily.

**PROF SNAPE:** Why wouldn't it be possible to make the corrections in the same way that it is in the print media?

**PROF PEARCE:** If it were only a broadcast I suppose of an adjudication, which is the equivalent of what we were doing, it ought to be able to be done fairly quickly. The curiosity is that the more power you give the regulator the more difficult it is for the member of the public to get something through the system easily and quickly. If you give a right of the body concerned to require an apology to fine or do all those other sorts of penal impositions, then of course the media is more likely to fight it. What looks to some extent a relatively innocuous form of adjudication or sanction does lend itself to relatively rapid carrying through of the activity with a minimal degree of resistance from the newspapers, but not a total degree of resistance I can assure you. But at least they're prepared to play along with it more readily than if they're being driven to make a positive statement that they were wrong, to frame an apology or what have you.

In terms of satisfaction there was a survey of complaints undertaken by the council about three years ago and it resulted in a fairly high level of satisfaction. I was agreeably surprised when I read it. Around about 65 per cent of people said that if they had a problem they'd come back to us and I think that's probably the only real

test of whether they're satisfied or not. People who lose, people who have a matter found against them, are obviously not going to be satisfied. But when you look overall at the question, "Would you go through the process again?" I think that's a reasonable sort of a measure of satisfaction and a fairly high proportion of people said yes, they would.

**MR SIMSON:** Just refresh my memory here. Do the members of the Press Council actually sign up that they must publish those reports of the adjudications?

**PROF PEARCE:** It is the understanding on which they become members of the council.

**MR SIMSON:** So it is actually stated in the document they sign? It's referred to in the document they sign?

**PROF PEARCE:** I'm not sure it's as formal as that. That's why I said an understanding. It's not just an understanding that they are expected to comply with the adjudications of the council. To a large degree and I can't think of significant matters where a newspaper has not complied with adverse adjudications of the council. In other words they have published the adverse adjudication ruling against it in the newspaper.

**MR SIMSON:** It would be useful I think if you just for public records very, very briefly sketch the origins of the council as to how it came into being.

**PROF PEARCE:** I will do my best and HP may be able to add something, but it began in 1972, I think in response to a suggestion that was being mooted by the government that there would be a government appointed body set up - - -

**MR SIMSON:** This is the new Whitlam government presumably?

**PROF PEARCE:** Yes, exactly - set up to deal with complaints against the press, against the print media I should say and that led the newspaper owners to agree that there should be such a body in existence which would hear complaints. There has been a body of that kind in the UK, but the Press Council here has been given the extended role of dealing broadly with matters of freedom of the press that are of interest to the press, so it's not solely a complaints body.

**MR SIMSON:** Thank you. Would you like to talk about your constitutional recommendation?

**PROF PEARCE:** I don't really think that I should inflict that on the Productivity Commission.

**MR SIMSON:** Except that you talk about guaranteeing freedom of speech and of

the press. Maybe from a more practical realistic perspective you may like to talk about how that could be embodied in other ways.

**PROF LEE:** Perhaps I will take this opportunity. It may be like the voice crying in the wilderness, but the council has consistently maintained that the most effective form of ensuring freedom of speech and of the press in a democratic society is the ultimate constitutionalisation of that particular freedom. As it operates at the moment in Australia, we operate in the common law system where virtually you can do anything until the government enacts a law. In that sort of context the particular government of the day, if it is unhappy with the operation of the press, can introduce insidious forms of restriction.

So this has been happening in recent times in the High Court and the High Court itself has recognised the importance of freedom of speech and communication within a democratic society. I think in the absence of that constitutionalisation of the guarantee, the High Court has moved on its own by using its notion of implication and so we have seen the High Court in a number of cases, the Nationwide case, the Australian Capital Television case, where the High Court itself, according to some, has plucked from the air, but according to others has been able to justify it on the basis of traditional methods of interpretation, that the notion of a representative government in the form of representing democracy, gives rise to this implied freedom of political communication.

But in my view that particular freedom, whilst it has got some merits about it, is of a fairly restrictive nature. The council has consistently maintained that at the end of the day what is really required is a broader protection of freedom of speech and of the press in a more broadly formulated sort of provision within the constitutional framework. I think that would be one of the better and ultimate safeguards I think for the press and for the freedom of speech in Australia.

**PROF SNAPE:** Have the courts in the United Kingdom gone further than the courts in Australia?

**PROF LEE:** No, I think the remarkable thing about the trend in Australia is that the freedom which is guaranteed is not part of the common law fabric which can be reversed by the government's action in parliament. It is now through its implication regarded as part of the constitutional fabric which means that if the government of the day wants to go against or sort of intrude upon that particular freedom, it virtually has to go through the complex mechanism of amending the constitution under section 128 of the constitutional framework. It means you have to a referendum and all that.

**PROF SNAPE:** Amending the constitution is something that is not actually written in the constitution.

**PROF LEE:** That's right, it's a remarkable situation of trying to amend something which is not written expressly in the constitution. To that extent I think

the High Court has I think made quite a progressive move in the direction of freedom of speech and communication generally, but not sufficient in my view I think. You need to go further than that by a broad formulation within the framework.

**MR SIMSON:** Does the Press Council - and you may wish to speak individually on this - do you have a view as to what you see as the role of the newspapers today in providing news, information, opinion and comment, compared with the trends that some are seeing in the electronic media? It has been put to us sensationalism, violence, set pieces and other words - therefore the responsibility as you might see it of the newspapers, increasing responsibility, with a heightened responsibility of newspapers in providing the news information and comment when some parts of electronic media may in fact be going sideways or backwards as some see it in providing that service, that information service. You mentioned earlier for example, right at the start, that you saw TV as entertainment. I just remind you of that.

**PROF PEARCE:** Yes, I did indeed say that. I don't think the council has a view on this that I'm aware of, so this is very much my own personal view. Yes, I think that the newspapers are assuming a greater role of perhaps presentation of the more serious element on the information spectrum. That said of course, I am really referring there to the daily newspaper fare. There is an increasing and vaster number of magazines which I think are emulating the television pattern so that you are seeing I suspect a diversity coming in between the newspaper which is in the main the purveyor of serious news and the magazine, which is moving more and more steadily into the total entertainment world and there has been a marked diminution in the number - as I think it can be said - a diminution in the number of "serious" magazines, magazines that are in as it were direct competition with newspapers for the purveying of news.

But in a sense there has almost been a bounce back from that with the growing trend for there to be an insert magazine now into a newspaper, so that the weekend newspapers are almost all carrying a magazine that is in direct competition with the broad magazine market. They are interesting trends.

**MR SIMSON:** It is interesting that when we spoke with the commercial free-to-air operators, most agreed or argued that they really saw their market space differently to that of newspapers.

**PROF SNAPE:** Can I revert to complaints for just a moment and a couple of specific aspects. Do you have a hotline?

**PROF PEARCE:** A hotline to the - - -

**PROF SNAPE:** To the Press Council for complaints, so that when someone picks up the paper in the morning and is offended by what's on page 3, they can ring in?

**PROF PEARCE:** They can ring the Press Council. The Press Council will then tell them if they have that sort of concern to ring the newspaper.

**PROF SNAPE:** So do you take phone complaints?

**PROF PEARCE:** Yes. We take phone complaints at the initial level and the pattern then is for the secretariat to give an indication as to how the person concerned may pursue their complaint with the newspaper and on occasions if it is a matter that is directed to the person concerned personally, we take third party complaints. You don't have to be the person that is immediately affected by the news item. But if you are indeed affected by the news item and the person affected looks as though they don't have the capacity to pursue the issue themselves, then we will intervene and our secretariat will try to mediate an outcome with the newspaper. That happens in 40 per cent of the complaints we get.

**PROF SNAPE:** I think you are probably thinking in terms of misrepresentation or something like that?

**PROF PEARCE:** Yes, that's right.

**PROF SNAPE:** A number of the complaints that we have got, a number of the points that have been made to us by some of the submissions refers perhaps to sex and violence and its portrayal on the media, the electronic media. If you had complaints about the portrayal of sex and violence, for example photographs, lurid descriptions which were found offensive not to the person photographed, but to someone else and they rang in to complain about it, how would you treat that?

**PROF PEARCE:** We would direct them to the newspaper to start with, either a newspaper hotline or tell them to write a letter to the newspaper expressing their view. We would say, "If you are not satisfied with the treatment that you receive from the newspaper, then you are free to return to us," and then we would require a written complaint to be lodged.

**PROF SNAPE:** This is part of the complaint that has been made to us, that it has been said by a couple of groups that the bulk of the community is not that literate and is not that accustomed to writing such matters. I suppose if they are reading the newspaper they can read, but not necessarily if they are watching television of course. The point was that this literacy, lack of literacy was a barrier to making effective complaints.

**PROF PEARCE:** I think that is always a valid point to raise. The reason we move to the requirement that a complaint be in writing is that we treat the complaint, I think it could be said formally, in that it is then transmitted to the newspaper, the newspaper is given an opportunity to respond and that response is sent to the person concerned. So there is an exchange of views between the parties. That moves to the point where the issues are dealt with formally by the council. I think at that point it is reasonable that it go beyond simply a phone call type intervention and a phone call exchange. We try to resolve the matter at that phone call level at the first point of call, but if the person is sufficiently upset to want to pursue the matter beyond that point, then we do

think it is appropriate that they go to writing.

**PROF SNAPE:** Would you see it as appropriate for there to be one complaints department or one complaint avenue if you like, for all the media?

**PROF PEARCE:** We would be concerned by that if it meant that the understandings of the differences of the forms of media were lost. I can see advantage in there being one council. In some places overseas there is a media council as distinct from a press council, and the media council does receive complaints about all avenues of distribution of information. The Press Council has resisted that. The places where it happens overseas have almost always been government -established councils and as you might expect the Press Council is totally opposed to a government-funded body being established to hear complaints from the print media. If it were possible to create an industry-funded body that dealt with all complaints well and good, I don't think the Press Council would object to that, but the chances of that occurring I think are quite slim.

**PROF SNAPE:** But I suppose one can perhaps separate the creation from the funding, at least conceptually. It might be a legislated body and yet funded by the industry like some of the marketing authorities, but with the technological convergence that's going on these days would you see that that may become an inevitable path? You were talking about the demarcation problems you had before.

**PROF PEARCE:** Yes. Indeed, if the position does emerge that the Internet becomes a primary source of news, and primary source of persons gaining information, then the whole issue I think would have to be looked at afresh.

**PROF SNAPE:** Thank you.

**MR SIMSON:** Could I take you to page 12 of your submission. It talks a little bit about the foreign investment suggestion, particularly down the bottom of the page where you say:

It will be in the council's view advantages in applying the same public benefit test -  
which you explained earlier as to what you meant by that:

to both mergers and foreign investment proposals.

Could you just talk a little bit about that in the context of the earlier discussion we had about tests and checks in a merger sense as to the appropriateness or how you see the relevance of that same set of tests also in a foreign investment orbit?

**PROF PEARCE:** They mightn't be exactly the same tests but what we were directing our comments to there was the general notion that foreign investment shouldn't be recoiled from as being inherently wrong, that it should be tested in the

same way as one looks at mergers on the domestic scene, and ask the question, "Is this beneficial?" in effect. If it's beneficial in the sense of providing voices and outlets then it should not be objected to.

**MR SIMSON:** I suppose intellectually, to support your argument, the sort of items that we were discussing earlier that could be important in this area, in the area of mergers, should equally apply to a foreign person as well, proposing to purchase a media asset in Australia. Why should any of those tests or checks be any less relevant to a foreign person than to an Australian person?

**PROF PEARCE:** That was our starting point, yes.

**MR SIMSON:** So it's an interesting proposition.

**PROF SNAPE:** I think I have reached the end of my list, and I think Stuart has too, so we thank you very, very much, for your submission which is very helpful, and we realise the constraints that you were on in representing the council. I think we managed a couple of times to get you to put on another hat.

**PROF PEARCE:** You did indeed.

**PROF SNAPE:** And with both sets of hats we're very grateful for your comments, your submission and your comments. Thanks very much.

**PROF PEARCE:** Thanks very much. It was a very interesting discussion.

**PROF SNAPE:** We have next got the National Ethnic and Multicultural Broadcasters Council and Community Radio Federation 3CR. We might, I think, take a break now. Would it inconvenience you if we had a 20-minute break now and then resumed, or a 15-minute break?

**MR FRANCIS:** Yes, that's fine.

**PROF SNAPE:** Good. In that case we will take a morning tea break now for 15 minutes or so. There is morning tea available on the other side of the door. Thank you.

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**PROF SNAPE:** Welcome as we resume the hearings and we have with us the National Ethnic and Multicultural Broadcaster's Council together with Community Radio Federation 3CR. We have two submissions, one each from those two organisations; number 37 and 63 are the two submissions. We thank you for coming and now if you would identify yourselves each separately for the purposes of the transcription.

**MR FRANCIS:** Just a quick correction to start off with: there's actually three organisations represented including 3ZZZ, but Nick will introduce himself.

**PROF SNAPE:** Thank you.

**MR FRANCIS:** My name is Bruce Francis. I'm the executive officer of the National Ethnic and Multicultural Broadcaster's Council.

**MR BASTOW:** My name is Nick Bastow. I'm the station manager of 3ZZZ which is also the Ethnic Public Broadcasting Association of Victoria.

**MS McARTHUR:** My name is Jan McArthur and I'm the station manager of 3CR which is the call sign under which Community Radio Federation operates.

**PROF SNAPE:** Thank you very much. We'd now ask whoever is going to open the bowling to speak to the submission or submissions.

**MR FRANCIS:** I think I'm the opening bowler. The organisation I represent is the National Ethnic and Multicultural Broadcaster's Council. It represents ethnic community broadcasters across Australia of which there are around about between 900 and 1000 programming groups who broadcast in excess of 1500 hours of locally produced programming each week in 90 languages. This occurs on 78 community radio stations and four community TV stations. Of the 78 radio stations, five are in fact designated full-time ethnic community broadcasters and they are situated in Brisbane, Sydney, Melbourne, Adelaide and Perth. The rest of the 74 stations do varying hours of broadcasting, depending on what communities are in that licence area and what people are actually available to broadcast.

The important thing about ethnic community broadcasting - well, it's a number of very important things. One is that it's actually a voice for the community to actually put forward and produce their own radio programs which provides information and services to their communities, so that broadcasters are not just individuals who are employees of an organisation. They in fact are members of communities, members of community organisations, and have an interaction with their communities and a responsiveness to their communities. In terms of broadcasting, ethnic community broadcasting provides information, very important and essential information about issues like settlement for new migrants, government and community services and people's rights and responsibilities as citizens of this nation.

Importantly it also provides news, it provides cultural maintenance and

development, it provides language maintenance and it builds a sense of community amongst communities. I don't think it can be underestimated, the importance in terms of a multicultural nation, of having a sense of community that's developed and nurtured, and ethnic community broadcasting is essential for that. What you will see is that the people who broadcast range from very large communities to very small communities, to very old, established communities, to quite newly arrived communities.

The other important aspect of ethnic community broadcasting is in fact its relationship to multiculturalism and the part it plays in the development of successful, harmonious multiculturalism. If you look at a community broadcasting station with ethnic community broadcasting it is in fact probably one of the best examples of multiculturalism in practice taking place on an everyday basis with people from varied cultural, social and ethnic backgrounds working together to produce radio for their communities and for the Australian society. I guess what's really important about ethnic community broadcasting is its local nature, so it's actually able to respond to the local concerns and the local community, which also leads into the area of actually developing and promoting and airing Australian culture in its many and varied forms.

So I guess community broadcasting as a whole is a very powerful force for localism and local production. It's also an incredibly alive area of training and skills development. I think the development of the sort of skills that go along with broadcasting are very essential skills in this day and age for actually making one's way in any employment sphere. But also it's extraordinarily important for the community itself and for the development of our community. Our sector has in excess of 3000 volunteers who each week come and broadcast. If you actually look at the total number of people involved in broadcasting it's about 20 per cent of the workforce, paid and unpaid, and that's a huge number of people who give up time and energy to actually provide services to their community. I think it's very important to stress that in fact without regulation under the act that community broadcasting would not exist. It wouldn't exist because with purely market-driven economics, the licences that are available - and we've heard of the shortage of licences that are available - would not be allocated to community broadcasting.

Now, I think some of the other benefits of ethnic community broadcasting, apart from the obvious skill development one, is in the settlement area, in building communities as I've said, in understanding and allowing ethnic communities to actually understand both the media and the society that they live in and to participate in that society. I think there are more increasingly also benefits recognised in terms of the language and cultural maintenance and development function of community broadcasting and its importance in a globalised economic environment. That I guess is the thrust of who we are and the enormous diversity that we bring to broadcasting, that I think if you look worldwide is actually completely unmatched and unparalleled.

At our national conference last year for instance we had a number of overseas guests who came including the programmer from Radio MultiKulti in Germany, which is in fact the first multicultural radio station established in Europe. It broadcasts in

something like 15 languages on a mixture between the SBS and community broadcasting model. So what we have here in terms of diversity is quite unparalleled and we think it's absolutely essential that it's protected and allowed to develop and grow.

That brings me to the issue of new technology and I think in terms of our sector and the growth of our sector the essential aspect of new technology is obviously access to digital broadcasting. It has been a given in our community and at this point in the planning process for digital broadcasting that all broadcasters, radio broadcasters, will have equal access to the digital spectrum. We strongly support that as a principle and any shying away from that principle would see a corresponding loss of diversity in the media. The issue's going broader I guess, as broadcasters we are established because it was plain in the 60s and 70s that the community didn't have a voice in the media and we set about to provide that voice for the community in all its dimensions and ramifications.

In that sense, I think we still aren't considered a major player of the stature of the Murdoch or Packer empires. But we still do play an exceedingly important part in it. What I guess concerns us, because we have an interest not just in our own field but in the broader broadcasting environment, is that movement towards concentration of ownership and lack of choice in the broadcast media has continued at an alarming rate and we think that it's now time to actually ensure an increasing diversity of media ownership. We think it's time to insist on more local production and more development of our cultural and artistic industries and to not allow I guess the new technologies to become the new province of the giants of broadcasting.

We see the online technologies as still relatively new. They're not universally available, they're not used universally, and we think at this stage it's very important that those who are established in the broadcasting industry as big players don't get a controlling influence in that new area. I think it's important for us to state that the bigger the player the more ability that player has to increase its size and to limit competition. I guess this ties into the argument about the degrees of influence, as stated in the Productivity Commission's discussion paper and we wholeheartedly endorse the concept of degrees of influence. Any attempt, in our view, to downplay that is running up against a fairly stark reality that most people in our community get their sources of information and their understanding about their society from a fairly limited number of sources.

I guess to finish my general remarks, our sector is a very growing sector. It's estimated in the next three or four years our sector will have doubled in size. There are a lot of aspirants out there trying to fill particular niches or voids in the broadcasting environment and I guess it's important for us to restate that without a proper regulatory framework then that development of a very vibrant community sector will not continue to take place.

**PROF SNAPE:** Thanks very much, Mr Francis. Shall we proceed with asking questions or does anyone else want to make an introductory statement?

**MS McARTHUR:** Should we all present our cases and then - - -

**PROF SNAPE:** Yes, go ahead.

**MR BASTOW:** Maybe I can provide just some detail. As the station manager of 3ZZZ, which is the largest ethnic commission broadcaster in Melbourne and one of the five full-time stations from around Australia, I can just perhaps give you some sense of what actually occurs at the station and where we see our role in the broadcasting industry. We broadcast around 130 hours of ethnic language programming per week and we do it in around 60 languages. That obviously services some of the very big language groups in Melbourne, languages like Turkish and Arabic and Greek, also I think, interestingly, some of the smaller and particularly newer language communities from South-East Asia and, more interestingly, more recently from North Africa.

Our station, like all ethnic community broadcasters, is built fundamentally on volunteerism. We have around 350 weekly volunteer broadcasters and I think to that extent it's a very demonstrable achievement of multiculturalism that these are people giving up their time, coming to the station each week to serve their own communities, and I suppose in that sense in that they're serving their own communities they're also serving a much broader Australian community. As Bruce has outlined, the nature of the programming that goes on is a function really of the needs of the community because the community's needs are tied very closely to what the broadcasters are doing. That can range obviously in terms of newer communities, in terms of very basic settlement information, services provided by government, business, those sorts of things, the very cornerstone I guess of newly arrived communities, refugee communities into things like community development where they may move into discussion of, say, health issues, communities that have been established slightly longer and will then move into areas like language and culture development and obviously through that whole process, they're also supporting essentially their community activities and providing promotion and recognition for the sorts of things that are going on.

I think the other important thing to recognise is that our broadcasters are actually selected or elected by the community and they therefore fundamentally represent the community. It probably represents a difference between the service that we offer and the service that something like SBS offers, in terms of ethnic broadcasting, in that our broadcasters are selected by elected committees. So to that extent, they do provide genuine representation of the community you are discussing.

The other important point I guess about our organisation is that we're fundamentally a democratic organisation and that the station is owned and run by an elected board of directors from all members, and again I think it's another good example of a very practical, very diverse multiculturalism in practice. We have a 16-member council and you have councillors representing a wide range of groups, the very big ones, the very small ones. It's that again I guess which is a sense of the

communities coming together and serving a common purpose.

The other issue that faces us daily as an ethnic community broadcaster is that the demand for our services is huge. It's perhaps not widely recognised that within ethnic community broadcasting, and radio particularly, the amount of air time that's available simply in no way reflects the demand that's actually there in the communities. We do 60 languages, and if you broadly accept that between 6 am and midnight, 18 hours a day, seven days a week, there's about 130 hours of broadcast time available, neglecting the midnight to dawn stuff, you're talking about two hours per language group as an average. Clearly, simply in terms of, say, Turkish, Arabic or Greek broadcasting in a city like Melbourne is clearly inadequate. It's certainly true with communities that are growing and newer communities that the pressure for more air time is huge. Clearly in terms of things like Vietnamese and Cambodian broadcasting for the emerging communities from South-East Asia, the pressure is quite extreme.

That I guess brings me to what I think the key future issue is, certainly for us as a station, which is the emergence of digital broadcasting. One of the opportunities that presents a station like us is the opportunity through the technology to channel split and to effectively increase the amount of air time that's available. I think for ethnic community broadcasters, that again places us in a slightly different position to perhaps many other broadcasters, in that whilst for some broadcasters they may think, "Well, if the amount of air time we had was doubled or tripled through the ability to channel split," there would be questions I guess as to what exactly would fill that space. I know quite clearly what would fill that space at 3ZZZ. I would simply double the amount of Vietnamese broadcasting. Currently we have around two hours of Vietnamese broadcasting a week. SBS would have slightly more, given that they have two frequencies available, but clearly in the overall Melbourne context, that's simply an inadequate amount of time for Vietnamese broadcasting.

The other thing that ethnic community broadcasting does currently is that it allows us to be flexible and respond to particular needs of communities. One of the things that we've done recently obviously is in terms of Albanian broadcasting. With the arrival of refugees from Kosovo, there's clearly simply not enough Albanian broadcasting. These people have arrived in Australia. We do two hours, SBS does two hours; that's pretty much it. There are 10 Albanian-origin people living in Tasmania, so clearly in terms of writing news to these people, there's a huge demand there. One of the things that we've been able to do is actually provide our Albanian language programming to local community stations in Melbourne. We also make it available to Shepparton and to other places where the new refugee communities have come, and thereby increase I guess the services that we're offering. No-one is going to pretend this is going to fundamentally change the position of these people, but I think it's a good example of how ethnic community broadcasting and community broadcasting in general can flexibly respond to changing needs.

If I can just return then to the digital position, that sense of, "We know what we can do in digital," therefore makes us particularly interested then in I suppose the

process by which the government, through regulation, allocates digital spectrum and to make sure that the amount of bandwidth that's been allocated to new broadcasters I suppose genuinely reflects the contribution that they have made and that they can make in the future. I think that it's important that to some extent we don't just allow what's perhaps happened with Internet technology, where the question has been, "Well, we'll make the space available and then it will sort of fill itself naturally," I think the key issue will be to look at who's providing content currently and go to those content providers and to increase what they can already do, as they have the demonstrated ability to actually do it. So that I suppose ultimately for us will be the key issue in the future, the question of bandwidth allocation and to make sure that the governments regulatory process and planning process really takes account of what ethnic community broadcasting offers the whole community.

**PROF SNAPE:** And 3CR.

**MS McARTHUR:** 3CR, that's right. Clearly I'm going to say how great community radio is also. 3CR I think is probably a good case study too of community radio's benefit, having ethnic broadcasters as well as a majority of English language broadcasting groups, but people who really don't have much access to the media. But firstly, I guess 3CR's position would be that the media is increasingly important in the community in terms of news, information, education, community services, international relations, cultural development and the development of local and national identities. Therefore, ownership and content of the media, we think, because it's so important, really needs to be regulated in terms of making sure that the Australian community gets the most out of it. We see that community radio has a crucial role. We know that it's a very complex web, media, and increasingly complex; that with the globalisation of media and ownership of media and also cross-ownership and the emerging new technologies that we're increasingly depending on, particularly the Internet, that it is crucial and we're grateful that this investigation is going ahead into properly planning how the media can best benefit Australia.

As an example I guess of what community radio contributes that is not found in any other media, I guess I will present 3CR, which was set up many years ago. When community radio licences were first given out, 3CR was set up by a range of organisations who felt that certain people in the community didn't get access to the media, and we would still feel that that was the case today. We have 70 affiliated organisations that make up the Community Radio Federation - approximately 70 - from diverse groups such as the Alevi Cultural Association, the Health Services Union of Australia, World Women's Health, the Federation of Community Legal Centres, the Waverley Anglers Club and the Zaza language group which is a subset, a language group which is a subset of the Kurdish community.

There are only two Zaza language programs in the world. One is in Berlin and one is in Melbourne. They relate to each other and communicate across the Internet but their role within Melbourne is clearly significant in that the entire Zaza community in Melbourne can tune into this program weekly and get free essential community information from back home and also information in Melbourne that's crucial to them,

which they wouldn't be able to get anywhere else and it's extraordinarily cheap and accessible and it's weekly and that's because it's radio. If it was a printed publication or on the Internet it wouldn't be as accessible in terms of people gaining access to Internet equipment and also knowledge of how to operate and how to access information on the Internet.

131 programs are broadcast weekly at 3CR, mainly in spoken word which is very resource intensive. So we're talking about a community service that's put to air by 400 volunteers. For every half-hour there would be between one and 10 hours' worth of preparation put into every show. Over a week approximately 300 but probably more community organisations access 3CR weekly to get their community information out to their communities. So that's information that would never probably even reach The Age or other mainstream media. In that, I feel that community radio represents a very significant component of the community, not just in terms of people who are involved weekly in the production of radio shows and community organisations who get their information out through community radio, but also the listenership, but also the hundreds and thousands of people who have gone through community radio through their lives and maybe got skills or community networking or access at some stage in community radio and have moved on to other work.

So in terms of diversity it was set up and 3CR was certainly set up to fill a gap. If you look at mainstream media I think even in - well, I guess TV's the obvious example and soap opera is the obvious example of reflecting a community that I don't believe is really reflective of the community. It's very Anglo and not really made up of the breakdown of cultural diversity and all ranges of diversity that we have in the community, that are in fact I think reflected in community radio. It also gives access to people who aren't journalists and aren't lawyers, so people who wouldn't again get access to The Age or other mainstream media and who can therefore put their issues of their concern - and particularly local issues, they can broadcast them to their community and educate other people. It's also very cheap, we believe.

So I guess the points that we would really hammer home are ownership of the media but also protection of the role of community radio as one of the few places for local information and identity development and community information, and with real access for marginalised communities. We've often run into trouble saying "marginalised communities" because we then back ourselves into corners and maybe begin arguing by default that we are actually not representing broad Australia. But I think that the broad community is actually made up of many, many groups that could be called marginalised in some way or another - and also operates a very democratic model, and I guess 3CR has maintained a structure for its 23 years in operation of real access to not only the airways, that all programmers are volunteers and get free training, but decision-making processes, that the committee of management must be voluntary, that its representatives come from the community.

So it sets up real access, real community involvement and participation and democratic processes which I think are really still essential models for the community

to operate by. I think I've covered most of that. So in terms of the community service that community radio does at no expense to taxpayers, I think is extraordinary and probably much more productive than is known, because community radio doesn't run by economic models that business does. So it doesn't ever monitor as well its participation and its productivity in terms of finance, because they're the key ways that we generally monitor things I think in the community now. Because it doesn't run for profit and it's all voluntary and it's all fundraising it just goes on and is not really monitored or noted, compared to other cultural activity or business activity.

The ownership too of community radio I think is important in that it really is owned by the community, so rather than being owned by a business or a few individuals, the community and particularly 3CR which doesn't take any sponsorship, no community radio can use advertising, but there has been some flexibility in sponsorship since 1992, but 3CR still doesn't take any advertising or sponsorship and just lives off donations, so continues to remain in the hands of community, because those who donate actually have access to decision-making processes and voting and really own the station. That is about it, thank you.

**PROF SNAPE:** Thanks very much. I wonder if I could begin by asking what the relationship of the ethnic side of it is. I see we have two things overlapping here; we have the community radio and the ethnic part of it and they intercept fairly heavily, but not completely. We had a submission in our Sydney hearings and a presentation there from Heart N Soul Productions, which are also ethnic broadcasters at the edge of the AM band. Their concern was in particular that they were going to be dropped off in some conversion process or forgotten about and there were allocated these as, not from the Broadcasting Authority but by the spectrum authority.

They are a narrowcasting and they were telling us how much ethnic broadcasting they undertook and 85 AM broadcast frequencies with a spectrum of languages which perhaps didn't quite rival yours, but certainly got pretty close. What are your relationships there? It is apparent that you are not the only group of ethnic broadcasters, so how do you relate to each other?

**MR FRANCIS:** We represent ethnic community broadcasters, so it is people who have a community broadcasting licence as determined by the ABA. I am not quite sure - you talked about 85 outlets?

**PROF SNAPE:** It says:

Heart N Soul Productions controls 85 AM broadcasting frequencies above the 106.5 kilohertz and up to 1701 kilohertz around the continent of Australia.

The particular letterhead was from 2ME, but that was just one of the many, many frequencies on which they broadcast in New South Wales, ACT, Victoria, Queensland, South Australia, Western Australia. Let me give you a prompt - in Victoria some of them are 2AC, 3AB, 3SA, 3XY and many other which they say on 3XY are Greek 24 hours, 3SA Arabic 24 hours, 2AC Chinese 24 hours etcetera.

**MR FRANCIS:** Over recent times there has been a series of narrowcasters who have come into the market either with permanent or temporary licences, either as subscription services or free-to-air services, either with very few high powered licences and a number of low powered licences. There are basically three principal areas of ethnic broadcasting. One is through SBS, in which we have long-established relationships with. We meet with them on a regular basis. They sit as a member on the policy advisory board of our training project. There is community broadcasting, which is the biggest producer of ours of broadcasting and certainly local broadcasting and then there are the narrowcasters.

Our position I guess is that we have a much stronger relationship with SBS than we do with narrowcasters. Our interests are about providing communities with voices, not necessarily individuals with voices. The nature of most narrowcasting is they broadcast in one language, on the whole in a very limited number of languages. It is certainly in a sense that those broadcasts are available to a large number of the population in a free-to-air variety. So our relationships with narrowcasters are not extensive. We are aware of one another, but we have a focus both in terms of developing truly community broadcasting which reflects those communities.

I guess the ethos of how we see broadcasting is that we see that every community has a right to broadcasting, irrespective of whether that can be made commercially viable or not. That is very much the principles on which we stand. Certainly depending on size of communities and human resources in communities, communities have different numbers of hours of broadcasting, but there is a fundamental right within our sector that people who want to broadcast, communities who want to broadcast, will be given some time.

**PROF SNAPE:** Not in the ethnic area, but in another area we found at least one instance and I think there are more of those in which a narrowcaster and community radio broadcaster who I think we can say were not on good terms with each other - it was put rather more strongly than that - but you don't have that problem, or do you?

**MR FRANCIS:** We think that in terms of providing broadcasting time in a situation of scarcity, that the best way of equitably providing services to the range of ethnic communities that exist in Australia, is through public broadcasting, whether it be community broadcasting or public broadcasting through SBS. We think it is democratic, it is much more representative, it is much more responsive and it deals with those issues. So that is very clearly our view. We think that narrowcasting which is in my understanding a broadcasting form that was introduced when the present Broadcasting Services Act was brought into play, was not something that was widely consulted on at the time and is something that has taken on very many forms, including a form which has allowed for some extra hours of non-English hours of broadcasting. Principally we believe that communities interests and the interests of Australian society are best served by an expansion of free-to-air time in the community and public sector, particularly in the community sector.

**PROF SNAPE:** You are I think required under the act - I can't find the relevant section at the moment - not to have political broadcasting.

**MR FRANCIS:** No.

**PROF SNAPE:** That is not in the act?

**MR FRANCIS:** That is not in the act as I understand it.

**PROF SNAPE:** I am sorry, I am confusing another section of the act in that case. Perhaps I am confusing it with narrowcasting. I will change the question. Are you concerned about political broadcasting, which of course could be quite inflammatory in some of the languages that you are broadcasting?

**MR FRANCIS:** We are and there are lots of examples of it, but we are even more concerned I think about the fact that it should be recognised that whatever community we are talking about in terms of broadcasting, has a right, an innate right to partake in the political debate of this nation.

**PROF SNAPE:** It wasn't of this nation that I was referring to.

**MR FRANCIS:** Yes, I will get to that, but I think that is an important principle to state and I think what is important is that there is a diversity of views which come through the media in terms of particular interests and particular perspectives on issues. It is a very important part of our constitution and a part of our purpose, to actually develop harmonious multicultural relations in this country and that the code of practice that covers community broadcasting quite clearly stipulates that it is things such as incitement or vilification and a range of other undesirable ways that incitement to violence are not allowed and certainly it is my experience - and maybe Nick and Jan can talk more extensively about this from a station's point of view - if it occurs it is stomped on very quickly and very thoroughly.

**PROF SNAPE:** It can't be rather hard to monitor if it is being done in - - -

**MR BASTOW:** Can I perhaps give a sort of practical example of I suspect the concern that you are driving at. Clearly over the last couple of months we have had at the station, given that we have broadcasting in Albanian and broadcasting in Serbian, the issues that they have been covering have been very difficult issues. It would seem to me to be quite unreasonable to suggest that our Serbian language broadcasters not be allowed to discuss current events in Serbia and whatever is one's sort of view of the Serbian government, there is a perfectly legitimate right to discuss the actions that have been taken by NATO in Serbia. Similarly, it would be unreasonable for Albanian language broadcasters not to discuss what is clearly a very fundamental issue going on within Kosovo and within that Balkan area.

Given that people frequently raise this question of seditious comment or that sort of angle, I am always very keen to point out that for instance in the last three

months we have received no complaints about our Serbian broadcasting by Albanians or vice-versa. That is something that I think the stations are quite proud of that has been achieved. I am not going to stand here and say we never receive complaints about our broadcasting, but it has been my experience and Jan may show this, that the complaints are frequently directed within communities. To that extent I think it parallels what occurs in English language media, that clearly there are a vast diversity of views about current events in the English language community media or English language media, which people take deep exception to and whether that is within one political party or within the whole broader Australian society.

To that extent I don't think it is really fair to portray ethnic community media as the voice of hotheads sort of inciting racial or ethnic violence. That has not been my experience and I don't think it is the experience through the sector. The station does take its commitment to multiculturalism and legitimate expression of views very seriously indeed and as Bruce says, we do take action against anyone who undertakes that sort of action where they might be going down that road towards incitement of hatred or whatever against another community.

**PROF SNAPE:** The monitoring comes from a code of practice and complaints essentially?

**MR BASTOW:** Yes. I heard you ask the Press Council if they have a hotline for complaints and it sits on my desk. I mean people ring up and make complaints. My experience is that the complaints relate to generally within ethnic communities and not between them.

**MR SIMSON:** Could I just ask a question. On page 5, Mr Francis, of your submission, specifically dealing with narrowcasting you say that if it is a continuous and separate category the limits that define narrowcasting need to be reviewed. Without going into a lot of detail on this, what are you suggesting should happen here?

**MR FRANCIS:** I guess it is a category that is very, very open-ended and I think what we have seen is some broadcasters, a limited number of broadcasters, claiming to actually be operating as community broadcasters when they are actually narrowcasters. At the other end there are again a limited number of broadcasters who are basically operating as commercial broadcasters, but doing it through having a narrowcast licence.

**MR SIMSON:** Sorry, would you just repeat that last one?

**MR FRANCIS:** Acting as basically commercial broadcasters, but with a narrowcast licence. It seems to me that narrowcasting was probably brought into play to fill a niche in the community that couldn't be satisfied by the other forms of broadcasting. It seemed to me that with some of the bigger communities, ethnic communities, that they're quite capable and able to support a commercial service. But at the present time, because of the planning process and other hold-ups and the scarcity of licences,

frequencies, that they have been - a couple of them have been operating on a sort of - commercial sort of basis. If that's the way they want to operate, that's fine, but I think they should have commercial licences.

**MR SIMSON:** Which they wouldn't get, arguably.

**MR FRANCIS:** They may not. I mean, there are commercial licences becoming available probably in Melbourne and when the planning - - -

**MR SIMSON:** What do you mean they're acting on the boarder, purporting or representing themselves as commercial, in terms of their content or the fact that they're running advertising? What troubles you here?

**MR FRANCIS:** I think it's the purpose and to look at actually what the purpose of narrowcasting was. I think, as is my understanding, that it was to actually fill this void or to open up some possibilities for voids that we didn't necessarily identify to be filled. I guess that in that context I think narrowcasting isn't understood in the same way that commercial broadcasting is, and certainly there's nothing within the act as it exists to stop narrowcasters from advertising and acting in that sort of way. I just wonder if that was the actual purpose of the act and how that sits then with other people who are commercial broadcasters and the relative value, for instance, of a narrowcast licence compared to a broad commercial licence.

**MR SIMSON:** Of course all your licences here today are - I'll ask the question, they are permanent community licences?

**MR FRANCIS:** No. There are in excess of 150 permanent community licences. There are then somewhere around 300 aspirant broadcasters.

**MR SIMSON:** They fall under your window too, under your umbrella?

**MR FRANCIS:** Yes, if they are ethnic broadcasters, yes.

**PROF SNAPE:** 3CR and 3ZZZ are both permanent I think, are they?

**MR FRANCIS:** Permanent licences.

**MR SIMSON:** And therefore you don't need to share your spectrum?

**MR BASTOW:** We are full-time broadcasters, full-time Melbourne-wide broadcasters.

**MR SIMSON:** Whereas aspirants have to share?

**MR FRANCIS:** Depending on the available frequency. If there's more aspirants than there is frequency then, yes.

**MR SIMSON:** In most cases they would share?

**MR FRANCIS:** Yes, they do have to share.

**MR SIMSON:** In Melbourne I think you'll find there's roughly around 23 aspirants and I think they share three or four frequencies.

**MS McARTHUR:** Three or four. One frequency I know has five different aspirants so that determines the time that they go to air for a year. That's how it's divided up, yes.

**MR SIMSON:** Ms McArthur, would you just explain to us how you manage to run your business without any sponsorship revenue and certainly no advertising revenue?

**MS McARTHUR:** That is how community radio stations used to run. We, you know, run on a shoestring, but we have a radiothon annually which raises about a third of our income. We did build our own transmitter site down at Werribee and we've started to lease out some of that space to Simco Ambulance Services, services that need a local transmitter site. We also have membership, all the affiliates. They're members of 3CR who in fact make up federation and own 3CR, pay annual membership and studio fees. So it's very much their slice of - they pay for their slice of the running costs of 3CR.

**MR SIMSON:** They're really buying air time?

**MS McARTHUR:** Probably buying a share of the station really. It's more - yes, it's more about - the way I see it is that the groups got together and said, "Let's have our own media outlet. Let's all share the financial responsibility of the station," and that's how it's divided up.

**MR SIMSON:** It's just an interesting mix when you've got the Waverley Anglers Club and the Voice of East Timor.

**MS McARTHUR:** Extremely diverse.

**MR SIMSON:** You must get some interesting programming switches.

**MS McARTHUR:** You do. That's the difference too, is that other community - and probably more commercial stations - would have a continuous listenership, whereas this offers probably - you know, a public broadcasting model might be Radio National where you will get people tuning in to certain blocks. So the whole East Timorese community in Melbourne tunes in on Thursday night. The fishing community tunes in on Sunday morning. The Zaza group tunes in on Sunday night for their specific community's information needs. You won't get that anywhere else.

**MR BASTOW:** It is quite a different model then to, say, commercial broadcasting.

One of the things that Jan mentioned before, it makes it harder for us to rate - undergo, say, the same commercial rating systems because they're fundamentally based on an assumption that you will tune your radio to Radio National and have it there all day and therefore be aware that that's sort of where your radio is tuned to. With community radio I think people are more selective about what they do because it exists in diversity. But the concrete way you actually do measure your listenership is that they demonstrate their support at your fundraising time, that they are prepared to - - -

**MR SIMSON:** That's your performance check, isn't it?

**MR BASTOW:** Yes, and that people are prepared to donate money and that year after year stations like CR and ZZZ raise well in excess of \$100,000 coming in - not in \$10,000 cheques from large companies but in, you know, small amounts coming from individuals.

**MS McARTHUR:** \$10 and \$20 notes. Can I just add to that that it's not just that we're being anachronistic and principled saying, "No advertising." It actually creates a very different type of media outlet and content in that our programmers don't have to pursue advertising money, so they don't actually have to go to the local business and spend a lot of time chasing up money. Therefore their program doesn't have, "And this was brought to you by such-and-such a club," and therefore they don't feel like they also have to please certain businesses or certain members of the community in terms of what they put to air.

**PROF SNAPE:** On the other hand I suppose that it would be nice to know if people are watching you during the year rather than just get the once-a-year, is it, radiothon signal as to whether they are or not?

**MR BASTOW:** I don't think people will donate to your radiothon simply on the strength that you're holding it that week and that's the week they've tuned in. I expect they donate money because they recognise that they've been provided with a service for over six months, over 12 months.

**MS McARTHUR:** I think getting advertising dollars doesn't necessarily reflect listenership either. It can depend a lot on the people they're targeting. So if we were to go commercial, for example, the Waverley Anglers Club may in fact bring in a lot of advertising dollars because they know they can get to their fishermen and that community is wealthier than the Spanish or the East Timorese community. So even if we were to bring in advertising money and monitor our success that way, I don't think it would be an accurate reflection - - -

**PROF SNAPE:** It wasn't what I had in mind actually. What I was thinking of was trying to survey who is listening during the year.

**MS McARTHUR:** How do you - - -

**PROF SNAPE:** So that you don't get a nasty shock when you - - -

**MS McARTHUR:** We have. We actually have talkback and we have a lot of callers ringing in. We do have a new Vietnamese show that cannot take the number of calls they get every Monday night. So we gauge a listenership that way. We also gauge listenership by promoting special events and people turn up saying they heard it on 3CR. So there's different ways you can gauge it. We also gauge it by the level of volunteers who come into the station. Having 400 volunteers weekly I think gives you - I'd don't think they'd be there unless they knew that their community knew about 3CR and their show was actually doing a service in the community. We also gauge it by 3LO picking up our stories.

**MR SIMSON:** Mr Francis, could I take you back to a comment you made earlier with regard to what you perceive to be increasing concentration or lack of choice. What's your evidence for this?

**MR FRANCIS:** I think if you look in the news area you've seen a frightening reduction in news services that's taken place especially in Melbourne over the last few years. News now basically comes out of 3AW and - radio news comes out of 3AW at the ABC. I think if you look at the obvious desire of - the well-known desires of certain media people to buy other forms of media, I think Fairfax and Packer organisations are fairly well-known. I think if you also look at the ownership now of suburban newspapers, if you look at the ownership of commercial radio stations, there is increasing concentration of ownership of those stations. What you end up with then is an increasing amount of networking of material.

I guess what worries me in terms of what's happening now is that you also see the big players in the media getting together with the big players in telecommunications and starting to form big conglomerates in sort of the whole new online technology sort of information area. So I think there's fairly clear evidence that in terms of what is probably seen as the more - higher influence media outlets, that there has been certainly a concentration of ownership over the last five to 10 years.

**MR SIMSON:** Could I ask any of you to comment please on whether you're also broadcasting over the Internet, using the Internet to complement your - - -

**MR BASTOW:** It's an area that we've looked at but it's my understanding that until perhaps the last two years generally this notion of broadcasting over the Internet has involved essentially live broadcasting over the Internet. So the signal that is being transmitted free-to-air through the air is the same as the one that you would tune into on your computer.

**MR SIMSON:** Very, yes.

**MR BASTOW:** For us, for instance, that's really of relatively little interest because I just don't believe that in the ethnic communities that we service people's level of skill is - - -

**MR SIMSON:** Or they would have the computers or - - -

**MR BASTOW:** They would have a computer and they would both tuning into - I mean, you would tune your computer in to hear something that you could hear on your radio. What is of interest to us, and what we are developing, is clearly - for instance, if you are Albanian, interested in Albanian news, you miss our program at 6 o'clock on Friday nights, to have that program available on demand - - -

**MR SIMSON:** Off your web site?

**MR BASTOW:** Off the web site would be something that would be of interest to people because that gets us around a fundamental problem that we have too, you know, not enough air time available. That, in terms - as I understand it, from talking to the computer people, presents you with rather more of a technological problem. Before to do live broadcasting or essentially sort of just - you know, put your output into - essentially output it to your computer and there it goes. This is actually more sophisticated as it requires the storage of essentially a week's worth of audio, which even in compressed forms is very large. It has sort of technical issues involved.

**MR SIMSON:** There are technical limitations but I was coming at this question because of your observation with regard to the Vietnamese community. I understand you have got the demographics of these people in terms of who can afford computers and who can't, but I'm just wondering the extent to which you see this as opening new opportunities - on a demand basis, not a real time, to widen your scope of your programming.

**MR BASTOW:** I think it would have to be - ultimately I think it would have to be on a demand basis rather than just doing it live. The other advantage that is often held up to sort of web broadcasting is that it somehow internationalises your program - internationalises your listenership or it breaks down the geographic barrier that whilst you are only licensed to broadcast in Melbourne, if you are broadcasting on the Internet people can tune in in Peru or in Albury. That is probably of lesser interest to us other than as a sort of mildly record-breaking sort of thing to do, because we are interested in covering local community events and local issues. That's what people want to hear, so speaking to Peru or to Albury isn't something necessarily attractive to someone for ego purposes.

**MS McARTHUR:** Can I add to that too that we would probably go down that track once the technology is cheap enough for us to do that and other broadcasters have made that mistake and I think that's the beauty of community radio, we can actually let other broadcasters who can afford it lead the way. But also we keep coming back to the idea of radio being outmoded, "Internet has come in, we will replace radio. That's what TV promised, that's what other media promised." We don't think it will for a really long time and we may be a bit deluded but the definite advantages of radio are that they are immediate; cheap, you can buy a very cheap transistor; you can do other things while you're listening to the radio, so it

accompanies you in the car, in the workplace and it's accessible in terms of technology. It's easy to learn. It's also a spoken word so it breaks down - well, it crosses over all the linguistic and literacy boundaries and issues that you raised before with the Press Council. So we still see that radio has a very, very strong future ahead of it in terms of - I mean, even with new digital broadcasting we still see that AM will probably be viable to 2050 because the cars that are made in 2010 will still have AM and be around until 2050. So we see that it's still going to be very strong, simple, cheap, accessible, local and community based for a really long time.

**PROF SNAPE:** You're not involved in Channel 31, are you?

**MS McARTHUR:** No, we're friends with Channel 31.

**MR FRANCIS:** Can I just add that in terms of the Internet, what my organisation has done is to actually start a multilingual news service so we now provide Australian news, national, state sort of level news in 20 languages to community broadcasting stations. Basically a five-minute bulletin, four or five stories which we use broadcasters to translate English news - news written in English into those languages and distribute it via the Internet. We think that's a very important use of the Internet for our sector.

**PROF SNAPE:** Do you charge your members for that?

**MR FRANCIS:** No.

**MR SIMSON:** Just before you go on, you use the Internet to distribute the audio package?

**MR FRANCIS:** No, it's text. We're distributing text at this stage. There are a couple of languages we haven't actually managed to solve the font problem so we actually fax those. But that's news and it's news that's of particular interest to ethnic communities, so it will be big stories with a multicultural focus or particular stories of interest to multicultural communities, for instance, immigration, you know, changes that affect people in those sort of areas. The other thing we've done is that we're a big training provider. We're about to train our 2000th broadcaster in the last six years and all our curriculum is up there on the Net available to stations and available to anyone for non-commercial purposes.

**MR SIMSON:** Do-it-yourself broadcaster, are you?

**MR FRANCIS:** That's right. We see it as very important to skill and resource people. So we think the Internet has big advantages and I think the other thing Jan was saying in relation to radio - I mean, the popularity of radio is actually bigger than ever and radio hasn't wiped it out and I think one of the things digital broadcasting will do is actually make the quality of broadcasting on the move that much better and that's a plus.

**PROF SNAPE:** I think that's been very helpful to us and very interesting. I did note the training that you had there and it was an impressive figure. Thank you very much for your written submissions and also for your presentation and discussion. Thank you.

**MR FRANCIS:** Thanks very much. Thanks for the opportunity.

**PROF SNAPE:** We will break for about two minutes and then have the Australian Screen Directors Association.

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**PROF SNAPE:** We resume and welcome the Australian Screen Directors' Association. We have one representative from the association and a written submission. I'd ask you, if you would, to identify yourself for the transcript please.

**MR HARRIS:** Richard Harris, I'm the executive director of the Australian Screen Directors' Association.

**PROF SNAPE:** If you'd like to speak to the submission.

**MR HARRIS:** Okay. I won't speak for a long time about the submission. I think a lot of the points that I'm probably going to make you've probably heard from a number of other associations from the film industry including, I'd imagine, the Writers Guild, SPAA screen producers. I mean, in many ways on a lot of these issues we're pretty much in concert although sometimes we see different ways of getting to the same ends. I guess I'd just quickly say that the Australian Screen Directors' Association is a professional association for film and television directors. We also represent a number of independent producers and we have membership throughout Australia.

Essentially in terms of this inquiry we actually welcome it. We're certainly not adverse to the kind of principles of competition which we think are important. In fact our industry we believe is very competitive, kind of on a worldwide scale. Most of the crews and the directors that I represent are not just creators but they're actually generally contractors and hence have some of the same concerns as small business people. I guess what our concern really to do with competitiveness is partly to do with our position as contractors but also to do with how we see the actual industry operating and the kind of anti-competitive behaviour that happens.

In terms of the BSA what we see the ultimate aim of competition is, to try and deliver a diversity of product for audiences and essentially consumers. Now, this isn't happening as much as we would like but it's certainly true that in terms of the main area that we're interested in, which is Australian content regulation, we know that without such regulation there would certainly be limited, if not almost negligible, Australian content. The first 10 years of broadcasting, there was very little - and when I talk about Australian content I'm talking about drama and documentary. The first 10 years saw very little of it. Some regulation was introduced by a very conservative government who recognised the value of it and the desire of it from the Australian community, and we think without some sort of regulation it just wouldn't happen.

I guess in terms of a sort of broader sense we do think that the kind of economics of the audio-visual markets means that just simply attempting to do some small things in terms of competition don't necessarily mitigate the fact that Australian content still needs regulation and I can talk to that later. I've sort of mentioned it briefly in my submission. We also echo some of the concerns that were in the last session about the increasing concentration of the media. We only have to look at the pay television introduction in the last few years where the kind of attempts to bring in

new players have kind of shaken down to the extent that we now have the same players or pretty much the same players in essentially a new market. I think I'll probably leave it there and just answer questions as you have them.

**PROF SNAPE:** Thanks very much. As you say, many of your points have been put to us by similar organisations and I think we probably grilled them a fair bit and received clarifications of the view there. Perhaps if I could draw your attention to a paragraph towards the end of page 4 of your submission where we're talking about licence fees and the freezing of them. Are you suggesting there that there is collusion amongst the broadcasters in setting those licence fees.

**MR HARRIS:** I'm not sure I'd actually have evidence that would necessarily stand up in a court of law, but I certainly think that there have been - you know, it's a sort of implicit understanding that licence fees are to be set at certain levels and it becomes clear, the fact that they just sort of stay at a certain level and really just don't move, and people know that if they want to get up a certain project, if they can get content for it they will get a premium fee and they pretty much know, without it ever being stated, what that fee kind of level will be.

**MR SIMSON:** What's the premium fee?

**MR HARRIS:** Sorry, a premium fee is - what I mean by premium fee is a fee you get for quota. So if you get a program up as a quota-eligible program it essentially gets premium fee above what people would pay for Seinfeld or - I mean programs coming from overseas essentially.

**PROF SNAPE:** Leaving aside the children's programs that's not an established fee.

**MR HARRIS:** It's not a set obligatory or legislative fee or anything. It's just kind of an industry established practice fee and people essentially I think know what that sort of fee is.

**MR SIMSON:** Is that separate or the same as the licence fee?

**MR HARRIS:** That's the licence fee.

**MR SIMSON:** The same thing, okay. I'm sorry, I was confused by the terminology.

**MR HARRIS:** Yes, sorry. A premium just essentially means the sort of higher level fee you get if you get it for quota eligibility.

**PROF SNAPE:** If there were a fourth network you don't think that fee might be bid up by competition for these shows?

**MR HARRIS:** It would depend, as many things, but it would really depend on the nature of a fourth network. It would depend on whether they are new players, whether there's - I think it possibly could. I mean, it would be really hard to tell until

you actually saw the actual colour of the money.

**PROF SNAPE:** But if we're thinking of the same content rules, just working on that hypothetical situation with the same content rules, you would then have a fourth - - -

**MR HARRIS:** Yes, I would imagine you'd see some upward pressure early. But what happened, there was quite a high level of competition in terms of licence fees I think, probably before the late 80s when we found that stations or networks were essentially - there wasn't the level of concentration. There has been an equalisation. People have come together. Licence fees, I can't tell you exactly but I think there was a little bit more competition. Essentially what happened is that the licence fees got frozen because of the tenuous nature of the industry and everyone making huge losses.

But what has essentially happened is since that time with the three networks there has been no increase. Maybe there would be an increase if we had a fourth network in the early point, I'm not sure; I couldn't tell you. But I'm not sure how that might shake down if the kind of regulations weren't either tightened or there was some sort of monitoring type of assessment.

**PROF SNAPE:** I'm only trying to change one thing, not in terms of - - -

**MR HARRIS:** No, absolutely. No, I understand that. I'd see that the fourth network may possibly bring some licence fees in the early - I'd imagine so.

**MR SIMSON:** On that, I think your view has actually been a little bit different to the view that we've heard from either SPAA or the Writers Guild in that clearly the main game from your perspective and perhaps theirs also is the content quota, and what you're indicating in a paragraph here is whatever the government decides, it's important that government maintains regulation to ensure the Australian audiences have access to Australian programs.

**MR HARRIS:** Yes.

**MR SIMSON:** That's the main game, from your perspective.

**MR HARRIS:** My position is really that - I mean, essentially I say what I meant by that is essentially I don't wed myself - we don't wed ourselves to any particular thing. We think that the content quota has been very effective. We would like - there's a number of things that we've argued with the ABA and a whole range of other things that we think they can make more effective. But it's really essentially all we've got. I guess what I was trying to make the point in my submission is that essentially the ultimate thing we see as important is some form of cultural regulation. I mean, we don't back away from that and whether they say that that's two hours of drama a week or what it is, we essentially believe - and whether you bring in a fourth network, which we don't necessarily see as completely mitigating the kind of anti-competitive behaviour that will exist - - -

**MR SIMSON:** Sorry, how else could you mitigate that oligopolistic behaviour that you've described in here, and we've heard from so many others, in the absence of increasing the number of players in the marketplace?

**MR HARRIS:** Yes, it's a difficult question. I mean, we've had, you know, some views that there should be some increases to the quota. I think if you did actually increase the players in the marketplace and the level of quotas stayed the same then you would actually achieve that and if the actual - - -

**MR SIMSON:** Sorry, just repeat that. If you increased the number of players?

**MR HARRIS:** Well, if you actually increased the number of players and the content quota stays the same there would be an increase in Australian content because they would have to provide a certain amount of hours of Australian content.

**MR SIMSON:** And by definition therefore there should be some mitigation of that oligopolistic practice.

**MR HARRIS:** Yes, I would imagine so.

**PROF SNAPE:** How do you feel about, instead of having content regulations you had substantial subsidies?

**MR HARRIS:** I think that the subsidy system is less favourable to us essentially. I think that the real value of the quota system is that you actually are ensured of getting product onto the screen for audiences to see.

**PROF SNAPE:** That's the important thing, is it, not creating it?

**MR HARRIS:** I'm talking about in terms of - the ultimate aim of what we do is actually get an audience to see what we're doing. The problem that we have in the film industry for example is that we have an anti-competitive situation where we have only a number of exhibitors and a very small number of distributors who have output deals with America who sends in piles of product. We make Australian films, we get subsidies to make Australian films. We make great Australian films. They get onto the screens for a week. If they haven't made a certain amount of money per week they haven't got the same marketing budget. Whatever it is, they only get a small amount of actual windows to get into the screens.

If they haven't for some reason busted out and actually made a huge amount of money, like had a breakout hit, they disappear off the screens because there's no actual regulation to ensure that Australian films get enough of a showing in order to give them enough of a go for Australian audiences. So the problem is that Australian audiences might - you might see something in the paper and you say, "Oh, yeah, well, I'm going to go and see Star Wars this week because that's on and everyone's going to see it," and then you think, "But I might go and see this Australian film that's on now

or I'll go and see that in a couple of weeks." You turn around in a couple of weeks and it's off the screens whereas other films that are on generally - I mean, the kind of anti-competitive practices that happen in exhibition make the broadcasters look - you know.

**PROF SNAPE:** I'd have thought that it would be in their own interests, if it was going to be a success, to keep it on.

**MR HARRIS:** Yes, but the problem is that the actual kind of economies don't work that way. They've actually got an incentive, given that they've done an output deal with Warners to actually try and give the kind of Warners enough of a go over a number of weeks in order to - they get a whole package of films. They don't just buy one film, they actually get sent a whole pile. So the Australian films - the point is the risk. You can risk - you know, you think it might make you some money but, you know, at the end of the day it might make you some money down the track. But if it hasn't broken out in the first few weeks they just think - well - - -

**MR SIMSON:** One of the, I suppose almost dilemmas that we've been exploring with groups such as yourself is that on the one hand you obviously passionately believe that audience does want your content and that's shown in some of the ratings figures for the content. But in the absence of quotas the stations wouldn't buy it. The stations wouldn't buy it because they'd get cheaper stuff from overseas.

**MR HARRIS:** Yes.

**MR SIMSON:** We've gone through this story so we don't really want to go through it again unless you want to, but at the end of the day that then presumes that the networks or even if there were a fourth commercial free-to-air network, someone would not show this stuff that people really want to see. That argument is almost saying, "Consumer be damned," that the market will not - there would be a market failure, that would not deliver that content to consumers who you, let's assume you're dead right, reckon like watching that.

**MR HARRIS:** Yes. I think there is a market failure. I mean, if the content regulation disappeared it may not be the case that Australian content would disappear. What it would mean though, it would certainly go down and, you know, I just basically don't like to think about what would really actually happen because it could - I mean, we really don't know. The networks are so risk adverse for a bunch of organisations that operate at such a level of high concentration. They just seem unprepared to take punts. So the sort of things that - a lot of the time what happens with Australian series is that for instance series like Neighbours, Home and Away, Blue Heelers, often in the first or second series, they don't actually rate that - or they take a long time developing a following and it's the sort of thing that the - Blue Heelers is now at the top of the ratings, but it could have easily been canned in the first one to two years. It's the sort of thing that without content regulation I seriously think that programs like that just simply - you know, there would be a kind of risk of those things, that you would get the probably the same type, you know, a couple of

similar programs and then they either bank on them or - I can just see them going.

**MR SIMSON:** But there's another type of market failure, isn't there? Because as you say in your own submission, that despite the increased profitability, they're not passing on - you argued in the production sector that the element that you think you're entitled to despite the rise in budgets. Why is that?

**MR HARRIS:** Well, essentially they have been arguing that their levels probably really don't - I mean, you have to ask them why they haven't done it. But essentially they haven't been passing it on, the producers have been in a very - - -

**MR SIMSON:** Why is your bargaining position so weak? I mean, without - - -

**MR HARRIS:** You've got to ask the producers. They know that this is a small industry and once they go out and - I'm surprised that the producers haven't been tougher in actually trying to get licence fees up but they haven't.

**MR SIMSON:** You represent directors.

**MR HARRIS:** I do.

**MR SIMSON:** What's your comment on your own position?

**MR HARRIS:** Well, our problem is that we haven't been industrial enough to really take any action to try and do it and we're in the process of actually trying to put pressure on.

**PROF SNAPE:** Who would you be taking that action against?

**MR HARRIS:** Against producers. I mean, we're at the end of the food chain.

**PROF SNAPE:** I thought writers were. They said they were.

**MR HARRIS:** Sorry, I forgot about writers. That's right, writers and directors - essentially the creative community is always at the end of the food chain. I mean, we're very similar in our kind of position to the writers in that we don't have the same sort of industrial coverage as crews. There are basic fixed costs the producers have had to deal with just in terms of equipment and stock that have gone up, that have meant that our basically - I have directors who were earning more 10 years ago in television than they earn on episodes now.

**MR SIMSON:** Just out of interest, how many directors are in your association?

**MR HARRIS:** There is about 800.

**MR SIMSON:** Okay. Has that been going up or has it been going down?

**MR HARRIS:** It has been going up.

**PROF SNAPE:** But that's for cinema as well.

**MR SIMSON:** That's film as well.

**MR HARRIS:** That's cinema, that's documentary, that's animation and TV and that's also not all working necessarily and it's also a number of independent producers.

**MR SIMSON:** Connected to the Internet?

**MR HARRIS:** We haven't got Internet yet, although it's very difficult in terms of actually defining people's roles in Internet, people who are in the Internet actually tend to be more - we do have people who work doing Internet type of things, but most of the people doing the sort of creating content in Internet at the moment tend to be programmers, designers, a whole range of people where there hasn't been the level of drama directors actually launching into that stuff. Although certainly the documentary area more than any of them has been trying to do more and more things via the Internet.

**MR SIMSON:** Do your members tend to cross TV and film, TV and cinema?

**MR HARRIS:** Yes.

**MR SIMSON:** They tend to dip in and out of both?

**MR HARRIS:** Yes, there's a lot of slippage across.

**MR SIMSON:** Okay. I think I'm done.

**PROF SNAPE:** The fact that we're not asking you for long is not that it's not important, is that we have traversed some of these - - -

**MR HARRIS:** I'm sure you have.

**PROF SNAPE:** - - - and your position seems very similar. We have, I think, explored one or two points at which it was a little bit different. So I think we'll say thank you very much.

**MR HARRIS:** Thanks.

**MR SIMSON:** Thanks for your submission and for coming in.

**MR HARRIS:** I'm sorry it wasn't quite as long, I've actually just be away overseas.

**PROF SNAPE:** That's okay. Do we have the International Managers Forum?

**MR SIMSON:** They're not here yet.

**PROF SNAPE:** In that case we'll adjourn for a few minutes and see if we can find the managers, having had the directors.

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**PROF SNAPE:** Well, we resume the hearings and we're now in videolink with Perth and we welcome the West Australian Department of Trade and Communications. I'm Richard Snape and beside me is Stuart Simson. We take transcript of all the proceedings, as you probably realise, and we've got the transcription service here. Even though it's by videolink, it is a public hearing, of course. I can't say that there are too many members of the public here at the moment but I'm not sure if there are any members of the public at your end. So welcome to the hearings and we would ask those who are going to speak if they would identify themselves, say their name and their position for the sake of the transcript please.

**MR SKELTON:** My name is Phillip Skelton. I'm the leader of the telecommunications task force in the Western Australian Department of Commerce and Trade.

**PROF SNAPE:** If the other people - - -

**MR SKELTON:** We have two other speakers to follow me.

**PROF SNAPE:** If they could speak please and identify themselves.

**MR EDWIN:** Yes, I'm sitting next to Phillip, my name is Graham Edwin. I'm the chief executive of the Western Australian Aboriginal Media Association and I expect shortly to be able to introduce - well, at the appropriate time - our chairman who is on his way.

**PROF SNAPE:** I see, so you will be involved in the next submission rather than this one. Is that correct?

**MR EDWIN:** Yes.

**PROF SNAPE:** Okay, thank you. We will stay with Mr Skelton for the time being.

**MR EDWIN:** Can I introduce another observer, Mr Tom Lock, from the TAFE Communications Network who is just here to listen in on proceedings with your permission.

**PROF SNAPE:** Of course, it's a public hearing. Thank you. So Mr Skelton, would you like to speak to your submission which we've received and read. I haven't read, I must confess, the appendix at this stage, which comments on the various issues but we have read the half dozen pages which is the submission part of it. Would you like to speak to it please.

**MR SKELTON:** Thank you and thank you for the opportunity for the Western Australian government to participate in your inquiry. As you can see from the submission that we sent to you - and we offer our apology for the short time that you've had to assimilate it - as you can see, we've addressed the three major considerations that you put forward and if you wish I could speak to just a selected

few of those items and I could also draw your attention to one or two items in the appendix.

**PROF SNAPE:** If you would please, yes.

**MR SKELTON:** Firstly, Western Australia is a very large state geographically comprising a third of the area of Australia with a population which is very thinly dispersed over that area and physical delivery of services is really quite difficult and is severe challenge in terms of dollars per head of delivering any service, whether it's education or health or law and order or family and children's services or energy or anything else. Consequently, we look to the use of electronic delivery of services to assist us in delivering government services throughout Western Australia and also electronic service delivery for use by the private sector, both businesses and individuals. So that sort of is a scene setter, if you like, that one of our principal concerns relates to non-metropolitan Australia and our other set of concerns relates to metropolitan Perth.

Broadcasting is of particular value to people throughout Western Australia, both capital city and in the remote areas. It is of concern to us that decisions made about broadcasting that might well be made with good intent actually at the end of the day have detrimental effects at the consumer end. For example, the idea that competition universally produces the best solution is not borne out by the experience in thinly populated areas and that sort of raises the issue as to under what circumstances is it appropriate to have government intervention and if so, what should be the nature of that intervention.

For example, when satellite-delivered television to the remote areas changed from analog to digital in the last couple of years, that was supposed to produce benefits for regional viewers, but in actual fact they had to pay considerably and lost services. That came about because the Commonwealth government failed to mandate, in leaving the decision quite reasonably to industry to decide on the technical standards, failed to mandate that whatever the industry decided to do, it should result in the end consumer only having to have one receiver - you know, one decoder or set-top box. In actual fact in Western Australia they have to have two and each one is incompatible with the other and delivers a different set of services. So whereas in the cities we get free-to-air television, in the bush as well as buying a television set the same as everybody else has, they also have to buy about a \$1500 dish and decoder and to receive all services now they have to buy a second dish and decoder. The implications of that are developed in the paper which you have.

There is a certain amount of publicity given to the idea that all of the services are actually delivered over both satellite services - in fact they are not. In particular the government delivered education service, Westlink, is available only through one, through the Optus satellite and is not available through the Pan Am Sat satellite. Those people in the bush who were first in the market of changing their decoder purchased because Golden West Network was first up through Pan Am Sat, purchased a decoder through which the education service is not available. So at the

end of the day, people in the bush have actually been disadvantaged by that change in broadcasting technology.

That leads to, amongst other things, the need to consider the impact on consumers whenever a decision is made to introduce new technology or to change the rules of the game. In that regard we submitted to the federal government a paper called Communications Impact Assessments advocating such a course of action and I commend it to you. In your second consideration about improving competition efficiency and the interests of consumers, we've made the point that having more channels doesn't necessarily result in diversity of services for consumers. In particular I'd like to draw your attention - there are several points in the submission there dealing with local content and the severe reduction in Western Australian television, both in the city and in the bush.

But I would like to draw attention to one particular point and that is relating to community broadcasting and the benefits to consumers of the sixth channel. The sixth channel in Western Australia is about to come on the air on Friday this week after several years of gestation and a great deal of energy being put in order to deliver to the people in Perth the same sort of education broadcasts that I've already mentioned go to the bush and in addition to that, open the gates for the first time for community television. We're very proud of that and that provides a very positive service and submitters other than myself will doubtless elaborate on that.

Sufficient to say that the ability of the government to be able to deliver education services off campus throughout the Perth metropolitan area as well as throughout the remote parts of the state is very significant and we wish that to be able to continue. Similarly, we wish the local content of community television to be able to continue into the long-term future. The reduction in local content, that is Western Australian content, over the years has been quite severe. There are now only the equivalent of two or three hours a week in total of Western Australian content. This channel, channel 31 will reverse that entirely, where almost all of the content will be Western Australia.

Our concern here is that in the change from analog to digital terrestrial television there does not appear to have been any recognition of the need to provide bandwidth for such education and community television stations. So the most significant point that I would like to get across is the need to have another look at the arrangements for ensuring that community/education television has a real place to play and spectrum available for it in the terrestrial digital era. Perhaps if I could spend just a moment or two on a couple of points out of the appendix.

**PROF SNAPE:** Please do.

**MR SKELTON:** Firstly, in the role of the Australian Broadcasting Authority which is a very important and significant body so far as broadcasting is concerned, there are two points that we'd like to make there: one is a question of spending money on broadcasting and the influence that the ABA might be able to bring to bear on that.

The appendix highlights the fact, for example, that the licence fees which are drawn from the commercial licensees are not returned in terms of delivering broadcasting services. WIN TV which was successful in winning the remote area second licence in Western Australia paid \$36 million for its licence, some \$16 million greater than was generally expected. I think a case can be made in principle to either spend the first \$20 million which would be a fair fee to drive that back into facilities for retransmission of television in remote towns around Western Australia or similarly spend the windfall 16 million - one or the other.

The population distribution of Western Australia that I indicated before, a large number of very low population towns means that broadcasters generally do not provide a service throughout their licence area, they provide the signal on satellite but one has to have a satellite receiver and a conventional retransmission system in all of the towns in order for townspeople to receive the services and it is left to local government councils generally under self-help arrangements in which ratepayers pay to provide the television transmitter in their town when in capital cities and large regional areas the broadcasters do that. So in addition to the demerits of living in a remote area, they also face the financial burden of paying to put up their own television transmitter. It seems to me that the licence fees could be used to pay for retransmission systems in low population towns.

The second point about the ABA there is in relation to the skills base within the ABA. The ABA is very important to us and has provided an excellent service over the years but it's clearly been decreasing in its ability to process applications for licences and has had what to us is a disturbing shift in the balance of its employees away from engineering staff towards legal staff. Whilst the legal staff in the ABA have done us proud and individuals like Giles Tanner, for example, have served the industry extraordinarily well, it is a concern to us that there appear to be an increasing number of lawyers and fewer engineers in a business that's fundamentally technical.

In terms of program content, we make some points there about the impact of market forces versus the national interest and that the track record of what we actually see on the screen is not necessarily in the national interest. For example, certainly on commercial television in Western Australia there was only the most superficial interest of broadcasters in ANZAC Day, the day's television being filled largely with sporting events rather than anything to do with the national heritage. Similarly, an increasing amount of overseas content is disturbing in regard to our ability to give adequate emphasis to our national identity.

In regional and remote areas of course, locally relevant content is important. Locally relevant content includes, surprisingly, advertising as well as program content. It's not only of keen interest to people who live in remote towns to have news items about other towns in their region but, to put the shoe on the other foot, it's extraordinarily for people in Kununurra, say, to be seeing an advertisement for a special deal on a motor vehicle or something else that is available only from the dealer in Esperance, about 3000 kilometres away, to where they have no hope of getting. You can imagine what it would be like to the residents of Melbourne if they only saw

advertisements, say, of special deals in Cairns. It's about the same sort of geography.

**PROF SNAPE:** We do quite often but they're usually holiday deals.

**MR SKELTON:** Yes, that's right. The remaining points that come out of that appendix about digitisation, it's always difficult to predict what the take-up rate might be of any new technology but some commentators which quote in the appendix have indicated that only a very low take-up rate likely for the digital terrestrial television, as low as only one per cent of households by the end of the first year and lucky to make 20 per cent at the end of eight years. Other more pessimistic forecasts are also included and quoted in the appendix.

I think the question of the cost to consumers of digitisation is also one to bear in mind that there will be a significant temptation for people to buy the cheap converter box, which technically does not deliver you anywhere near the advantages of high definition television for technical reasons of which I'm sure you're very well aware. So again I think the important thing is looking more closely on the impact on consumers at the time that new technology and new rules are introduced.

Another impact that may be more hidden and might be better spoken to by others is the financial impact on those who have difficulty raising funds to get into television. That really is in the community broadcasting arena where community radio has been very successful over many years because the actual costs of carrying out community radio is modest compared with the cost of community television. So the model that we've now introduced in Western Australia, where those costs are shared between a number of players so it can deliver education as a kind of base load, as it were, and community television of a huge variety of kinds on top, is one that we would like to see preserved into the long-term future and there does not appear to be a spectrum allocation appropriate to accomplishing that goal. Gentlemen, I think I should stop at that point and be happy to answer questions.

**PROF SNAPE:** Thanks very much, Mr Skelton. That's a very helpful introduction and also I found the few pages of your submission, the half dozen pages - as I said, I haven't yet seen the appendix - but I found them very interesting in making a number of points which I don't think have been made in the other 100-odd submissions that we have received. So it was of considerable interest. For example, the point about the digital service being a binary system in the sense that you get it or you don't rather than of the analog being able to continue to view it as it fades and comes back again. Those points about the deteriorating service I found of interest.

In the first page of your submission you say the danger is that the social and cultural aspects can gradually erode as the industry thrives. I was wondering if you were meaning to cover more there than you went into later? Was there more to it? Was it just that type of the deteriorating service that you mentioned that has occurred or did you have more in mind in that sentence?

**MR SKELTON:** We had in mind some of the points that we elaborated a little later

about the reductions in the choice of services, that more services in quantity don't necessarily mean more diversity in a real sense and the reductions in local contents, that is reductions both in Australian content generally, vis-a-vis overseas content, and reductions in Western Australia and regional content in our regional services.

**PROF SNAPE:** Right. I was interested to see that the first commercial television service in Western Australia was actually subsidised by the Western Australia government. Is the Western Australia government still subsidising commercial television services?

**MR SKELTON:** No, sir. There was a subsidy which in the event was for a total amount of just over \$16 million which was spread over seven years. That arose in about 1985 during the debate on whether or not there should be an Australian national satellite system and that ultimately Aussat was formed and formed on a basis that there were regional beams, there was a Western Australian and a central and a north-east and south-east spot beams - because of the technology of the day you needed that to have sufficiently affordable satellite receivers. The then Broadcasting Tribunal conducted an inquiry into whether or not there should be a remote commercial television service and if so to whom should the licence be awarded. In Western Australia there were three applicants and all three wrote to the state government saying that on the basis of their figures there was no way that they could even break even within a considerable period and they all asked for a licence.

The state government, in order to get a choice - that is at that point there was only going to be the ABC -so in order to have a choice, that there be one commercial channel, the state government agreed to provide a subsidy which was paid directly to Aussat which would be paid on behalf of whoever the Broadcasting Tribunal awarded the licence and would be for the initial period of the licence only. That is the state government saw its subsidy as being a help over the start-up hurdle not a contribution to ongoing operational costs.

That was successful. Golden West Network won the licence. The subsidy agreement was negotiated. In return for that subsidy Golden West Network provide a significant degree of local program content, that is program content created within the viewing area and fed back into it, and a very significant amount of education programming, two hours a day Monday to Friday or programming provided by our Education Department. That was seen to be a great success. As a condition of that subsidy we had insight into the books of GWN to ensure that we were contributing to covering losses only and not contributing to profit. We discovered in fact that GWN was not only needing our subsidy but also internally cross-subsidising the remote service from its other activities.

However, by the end of that seven year licence period that ended in 1993 the subsidy ceased. We have not paid any subsidy since then. In the years subsequent to that it became clear with new technology that it should be possible to introduce a competitor and that actually went ahead with WIN Television winning the licence. Far from the days of GWN in 1985 seeking a subsidy and genuinely needing it, WIN

was able to pay \$36 million to get the licence to be its competitor.

The results of that for the consumers are interesting. GWN program content was largely a cherry-picking activity from Seven, Nine and Ten. The viewers out there still have the same, they just get some of it from GWN and some it from WIN. However, in order to reduce its costs, since the advertising revenue pool in total didn't increase, GWN has ceased those education broadcasts and pulled back on its local program content. So at the end of the day it's a matter for debate as to whether the viewers are actually better off having that second service in a market that is financially pretty fragile.

**PROF SNAPE:** WIN is not just drawing from the Nine Network? Does WIN draw solely from the Nine Network? It doesn't draw from the other networks, does it?

**MR SKELTON:** I believe Nine and Ten, and GWN draws largely now from Seven.

**PROF SNAPE:** I see.

**MR SKELTON:** So, at the end of the day, whereas GWN cherry picked the best programs from Seven, Nine and Ten, there are now more programs in total but of course they've gone lower down the picking list.

**PROF SNAPE:** You're getting the second best as well as the best now.

**MR SKELTON:** Yes. Now, if that's choice then that's choice and if that's the case so be it but our real concern is that in order to compete financially GWN has dropped its two hours a day education programming.

**MR SIMSON:** Stuart Simson speaking, Mr Skelton. So in regional WA there is not equalisation as we know it in the eastern states?

**MR SKELTON:** That's correct. Mr Simson, is it?

**MR SIMSON:** Yes.

**MR SKELTON:** Yes. Equalisation as we know it in the eastern states was never adopted in Western Australia because of the financially fragile nature of the market. Having to put up such a large number of - having to pay for satellite transmission in the first place and all that goes with it, and having to pay for re-transmission systems in towns makes the outgoings of a broadcast significantly greater for a large non-metropolitan area.

**MR SIMSON:** Okay. So in regional WA there's WIN, there's GWN and is there also the ABC?

**MR SKELTON:** Yes, indeed, Mr Simson. The ABC has been there from the start.

**MR SIMSON:** And in metropolitan first?

**MR SKELTON:** ABC, SBS, Seven, Nine and Ten, and from Friday this week Channel 31, Education and Community Channel.

**MR SIMSON:** Now, in the case of Channel 31 it says your summary says that this is going to include "local content, local management and local production". Is Channel 31 going to carry local news?

**MR SKELTON:** Yes, I believe so.

**MR SIMSON:** So is your understanding of Channel 31 in Perth different to the Channel 31s that for example we have in Melbourne and Sydney where they're much more blocks of community news and information, or is your Channel 31 almost a pseudo-new channel, new ordinary free-to-air channel?

**MR SKELTON:** I think it's more analogous with the existing Channels 31 in the eastern states. It's definitely not going to have any look or feel anywhere like a commercial channel. It will have the huge diversity that we all expect in community television and large blocks of time of delivering education, TAFE courses for example to off-campus students.

**MR SIMSON:** Is the state government actually providing funding to Channel 31?

**MR SKELTON:** The state government sort of fostered the creation of a consortium to run Channel 31 and the state government is a shareholder in that consortium which is largely composed of non-government organisations.

**MR SIMSON:** Are you providing funding?

**MR SKELTON:** The majority of the capital funding to set up Channel 31 has come through the universities who want to get their media students experienced in broadcasting, a significant amount from the WA Trotting Association, lesser amounts from some other smaller groups with an interest in broadcasting and the WA government's contribution has been largely through a very minor financial support and the provision on a pay-as-we-go basis for broadcasting a large number of hours of education material; that's actual courses.

**MR SIMSON:** But it's interesting, your placing a fair amount of emphasis on the importance of this channel to your television diet for your consumers in metropolitan WA.

**MR SKELTON:** Yes, we are in a sense because it represents a completely different look and feel of a channel to the ABC and the SBS, each of which are different to one another and provide a valued service, and the three commercial channels which also provide a valued service but we see no need for more of the same. So we would wish to avoid having a fourth commercial channel and rather have the completely new and

different and local content based Channel 31.

**PROF SNAPE:** It's currently just been taken to Perth, I understand. Is it proposed that it would go further into Western Australia and throughout Western Australia.

**MR SKELTON:** In one small way the boot is on the other foot. The education material that over the last several years has been broadcast through government owned satellite television called Westlink, those programs that have gone only to the bush will now also come into Perth and in addition to that, the TAFE, for example, will be providing several hundred hours of TAFE courses through Channel 31.

**PROF SNAPE:** I think that the emphasis on education in Channel 31 in Perth is rather greater than it has in the eastern states. While, for example, Channel 31 has a large connection with RMIT in Melbourne, it isn't used, as I understand it, as a base for the provision of education whereas it seems to be that's a very strong element of it in Western Australia.

**MR SKELTON:** Yes, that is correct. Because of the economies of scale and scope, the fact that the TAFE community, for example, are able to reach a significant number of off-campus paying students in the Perth metropolitan area justified the creation of the program content, the actual course material for delivery by talkback television, then those same programs can then be sent via Westlink by satellite to all of the towns around Western Australia so the people in the bush benefit by having more courses available to which they can subscribe than they would have had had there not been Channel 31.

**MR SIMSON:** But the people in the bush are accessing Channel 31 over their satellite service - sorry, the content from Channel 31.

**MR SKELTON:** The program content which is created can be delivered either simultaneously or at different times through both Channel 31 to Perth and Westlink by satellite to the bush.

**MR SIMSON:** Westlink sits along side WIN and GWN and the ABC and SBS?

**MR SKELTON:** In terms of satellite delivery, yes. In terms of retransmission systems in country towns, no. Westlink is delivered to individual satellite terminals which are located in rooms in each town that have been provided by the town and they're in a variety of place, in telecentres, in hospitals, shire offices, libraries and community centres - - -

**MR SIMSON:** So they're point to point services?

**MR SKELTON:** - - - and if you like they are in the form of a mini classroom in which the teacher is in Perth and the material is delivered by talkback television to them so that every program is interactive. The people in those rooms in the remote towns can phone in live to the presenter.

**MR SIMSON:** Who owns Westlink?

**MR SKELTON:** The state government.

**MR SIMSON:** It's primarily an educational service?

**MR SKELTON:** Yes, that's correct. It's used for delivering education and training services to the community outside of Perth and it's also used internally by government in the videoconferencing sense for agency head office staff to brief regional office staff about new policies or new services. It can also be accessed by the private sector for the same purpose, for a company to deliver information to its regional offices.

**MR SIMSON:** When was it set up?

**MR SKELTON:** The trials were conducted throughout 1992 and the permanent service commenced in 1994 and it has been continuous ever since. Delivery typically 25 to 30 hours per week of largely education and training courses.

**MR SIMSON:** Could I just explore with you the problem that you've had with this duplication of set-top boxes. Just so I'm clear on this, in both cases are the set-top boxes converting a digital signal to an analog form for analog television sets?

**MR SKELTON:** Yes, that's correct. The output is a straightforward PAL signal to a conventional television set.

**MR SIMSON:** What form of digital signal is it? Is it a standard definition signal or a high definition digital signal?

**MR SKELTON:** It's a standard definition signal in MPEG format 2 so it's a compressed signal in MPEG 2 format which is an international standard. However, the difficulty arises not with the digitisation of the video but with the conditional access system. Every receiver is individually addressable which is a feature used for two different purposes. The technology was developed for pay television so that if you are subscribing to a pay television service and you haven't paid your month in advance, but instead of getting the picture on the screen you get a message saying that your payment is overdue. The second use is in licensing in that commercial broadcasting is related to geographic licence areas but satellite is completely indiscriminate and covers the whole of Australia. So that GWN Television for example is licensed only within Western Australia and one or two other minor exceptions. So the serial number of each decoder is held in GWN's computer and a digital message sent over the satellite to your receiver, and if you're registered as being located within the GWN licensed area the decoder decodes your picture for you. If you are not in the GWN licensed area it puts up a message on the screen saying you're not authorised to receive this service and phone this 1800 number.

**MR SIMSON:** Just so I'm clear on this, why do you need two different boxes?

**MR SKELTON:** Because those conditional access systems are proprietary devices and the system which was chosen by Optus for its satellite service, and the system which was chosen by Telstra used on Pan Am Sat for use by GWN and others are completely different, incompatible conditional access systems, and the manufacturers of those systems guard their secret closely and will not agree to any commercial arrangements whereby you can have a set-top box that has both of them installed. That's the route of the problem and that's the issue which, in our view, the Commonwealth government should have, in the interests of consumers, intervened in the first instance by making it mandatory that whatever system was chosen it should be the same one for everybody.

**PROF SNAPE:** So that remains as a problem, that inter-operability is still not there. It's a continuing problem, is it?

**MR SKELTON:** Yes, it is indeed, and that will continue for the life of that newly introduced technology. The end result for consumers is that those who bought the decoder appropriate to get GWN, Golden West Network, received Golden West Network at full quality. They received some other services at a reduced quality which Telstra is providing us free of charge. They're providing the ABC for example and SBS at a reduced technical quality of the picture. On the other hand, Optus is providing the ABC and WIN and Westlink at the full technical quality and as a service of providing GWN at a lower technical quality as a freebie, but those freebies in both cases are gentlemen's agreements with no legal and standing and with little likelihood of being extended beyond a couple of years.

Additionally, it is only Optus and hence the decoder is compatible with its system through which people can receive Westlink, the government education service, and Horizon, which is an Optus education channel as well.

**MR SIMSON:** Sorry, just so I hear you correctly there, which one will only provide Westlink and Horizon?

**MR SKELTON:** Optus.

**MR SIMSON:** And Optus has got WIN? No, Optus has got GWN.

**MR SKELTON:** Optus has ABC and Westlink and WIN.

**PROF SNAPE:** SBS?

**MR SKELTON:** I'm not 100 per cent percent certain of the status of SBS, as two which of the two satellites is the prime carrier of SBS and which one is the subsidiary.

**MR SIMSON:** But why couldn't have WIN gone on the Telstra satellite?

**MR SKELTON:** They could have, it was their commercial decision, in the same

way that the government selected Optus through open tender.

**MR SIMSON:** Sorry, you lost me on that last one.

**MR SKELTON:** The government for Westlink delivery selected Optus through an open tender process which became possible for the first time in July 97 when the new Telecommunications Act eliminated the Optus monopoly on satellite services within Australia so competition started in satellite services in July of 97 and the government, through its standard procurement policy, required the market to be tested for buying all our services. We went to the open market. The two significant contenders were Optus and Telstra and in fair competition Optus won.

**MR SIMSON:** Didn't the government appreciate though that the outcome of that open tender could be that people need two different set-top boxes?

**MR SKELTON:** That was a concern that we put very strongly to the Commonwealth government and argued very strongly that the end result of their technical deliberations should result in a single set-top box. The open tender was conducted when the technology was still analog and everybody only needed one set-top box.

**MR SIMSON:** This is only two years ago.

**MR SKELTON:** Yes, that's correct. The change to digital satellite only occurred in 1998.

**PROF SNAPE:** So even though it only occurred there they went with incompatible systems. I mean, you would have thought they would have thought about compatible systems at that time.

**MR SKELTON:** That was a question for the Commonwealth government. The state government has no power over the rules of the game in regard to those issues.

**PROF SNAPE:** Yes.

**MR SKELTON:** So as it has turned out, significantly more than half of the people who own individual satellite dishes have in fact chosen to go with Optus so the government service is getting to the majority of its original audience but it has lost sort of a third of its original audience because of that Commonwealth decision.

**MR SIMSON:** How many subscribers are there to this service, Mr Skelton, in total?

**MR SKELTON:** In total, there are about 3500 individually-owned satellite dishes in Western Australia. I understand that the total for Australia overall is about 8 to 10,000.

**MR SIMSON:** But that three and a half could conceivably grow much more than

that, couldn't it?

**MR SKELTON:** Yes, it could. In fact, we would imagine that - we are talking about people who are beyond the range of any terrestrial transmitter.

**MR SIMSON:** Okay.

**MR SKELTON:** We would expect the total market would be more likely to be two or three times 3500 but at sort of \$1500 or \$2000 to buy the kit it's a little prohibitive.

**MR SIMSON:** Are there any pay television operators in regional Western Australia?

**MR SKELTON:** There used to be but you will be familiar with the history of Galaxy.

**MR SIMSON:** Yes. I'm sorry, I'll be direct. The question I'm asking, does Austar operate in WA?

**MR SKELTON:** Not to my knowledge, Mr Simson. Optus has told us that it intends to carry pay television but up to now it has not done so. Optus has advised us that it intends to carry the Optus Vision pay television and also carry its competitors' pay television, but the service has not yet started.

**PROF SNAPE:** There is no market in pirated set-top boxes, is there? I mean, Austar was telling us of a problem that they were having with pirated boxes in some parts of the country, and with this incompatible system I thought that there might have been an opportunity for a shady entrepreneur.

**MR SKELTON:** We haven't seen evidence yet, Prof Snape.

**MR SIMSON:** Are there any Westlink equivalents in other states or territories to your knowledge?

**MR SKELTON:** Not on the scale and scope of Westlink but satellite is used in other states I understand for delivery of education services. I would defer to others here to provide better information than I can. Professor, if I could introduce Tony Dean who works with me, he may be able to provide you with a better answer than I can.

**PROF SNAPE:** Okay. Mr Dean?

**MR DEAN:** I understand there is a similar service in Queensland operated by the Queensland government for education and training. It's mainly to schools, and similarly in New South Wales there is a TAFE satellite network called O.10. They're the two I guess that are most similar to what we're doing in Western Australia.

**MR SIMSON:** Also, Mr Skelton, we note that you're leader of the telecommunications task force. That's a government agency or a government group?

**MR SKELTON:** Yes, that's a part of the Western Australian government's Office of Information and Communications which is a division of our Department of Commerce and Trade. It's a public sector entity.

**MR SIMSON:** Would you work with your equivalents in any other states around the sort of issues we have been discussing today?

**MR SKELTON:** Yes, we do coordinate with people in other states. We don't really have an exact equivalent in any of the other state governments. The Western Australian government is probably alone in providing a focal point of expertise in broadcasting issues. We coordinate significantly in telecommunications issues with other states. In broadcasting issues we have had dialogue on and off and cooperation with the Northern Territory and Queensland governments.

**MR SIMSON:** When we met in Brisbane - I'm sorry, go on.

**MR SKELTON:** For the obvious reason of populations in remote areas.

**MR SIMSON:** When we met in Brisbane with the indigenous broadcasters, they were talking to us, I suppose, about footprints in terms of accessing signals. How do they fit into the equation in the context of the two satellites that you're talking about earlier in terms of distributing their indigenous content?

**MR SKELTON:** I am not really in a position to give you a good answer to that, Mr Simson. Might I suggest that the session following mine from the Aboriginal Media Association might have better information on that.

**MR SIMSON:** Yes, that's a good point. We will come back to that question as you suggest in a little while. In the city of Perth where you have Channels 7, 9 and 10 plus the ABC and SBS, that is, you have three commercial broadcasters plus the two public broadcasters, what is your view, and I am not asking for anything more than this, your view as to the viability or the profitability of those three commercial broadcasters in the city of Perth?

**MR SKELTON:** I don't believe that I am confident to provide a good answer to that question. The broadcasters provide statistical information on their revenue to the broadcasting authority under the current rules of the game and that might be a question better directed at the ABA.

**MR SIMSON:** I'm coming at it because of the comments that you make about the deterioration as you see it in news services, or does that only relate to regional WA?

**MR SKELTON:** The point applies also in Perth to the extent of over the last several years continuing reduction in the number of hours per week devoted to

Western Australian program content.

**MR SIMSON:** Yes, I saw those hours which seemed quite low.

**MR SKELTON:** They are indeed, and whenever a Western Australian content program is deleted from the broadcasters' schedule there is a significant amount of protest from the viewers in Perth but that seems to fall on deaf ears because the head office of Channels 7, 9 and 10 in all three cases are located in the east, not in Perth.

**PROF SNAPE:** We make the same point in Melbourne against Sydney, mind you, that there has been quite a protest by the Victorian government recently about the Sydney centric ABC.

**MR SKELTON:** Well, to us in Western Australia, professor, it's just "eastern states".

**PROF SNAPE:** Yes, I realise that.

**MR SKELTON:** Everything east of the rabbit-proof fence is sort of "over there", and it's of actually little consequence to us whether it's Sydney or Melbourne. The problem is it's not Perth.

**PROF SNAPE:** Right. I think we have reached the end of our list of questions and we thank you very much for your submission and also for the discussion. Is there anything else you would like to add at this stage?

**MR SKELTON:** I have nothing further to add, professor.

**PROF SNAPE:** Thank you very much for the submission. We look forward to reading the appendix as well and it's possible that the staff might get back in touch with you when we have been able to digest that. We thank you very much for cooperating by doing it by video link which is much easier for us in the eastern states, I hesitate to say.

**MR SKELTON:** And for us. If I might be permitted off the record of course, it costs just as much time and money for me to get to you as it would have for you to get to me.

**PROF SNAPE:** Exactly. So thank you very much indeed, Mr Skelton.

**PROF SNAPE:** We might now switch to the Western Australian Aboriginal Media Association, Aboriginal Corporation. I guess you don't need to be introduced to the way that we're operating, and we thank you very much for your submission. I wonder if you could, that is, those who are going to speak, for the benefit of the transcript, whether they could now state their name and deposition with the Western Australian Aboriginal Media Association please.

**MR EDWIN:** I will go first. I'm Graeme Edwin. I am the director or chief executive of the Western Australian Aboriginal Media Association and station manager of Aboriginal Radio 6AR, and I have beside me our chairman.

**MR MORICH:** Hello. My name is Noel Morich. I am the chairman of the organisation. I have been chairman there about six years on the Western Australian Aboriginal Media Association, radio station 6AR1170.

**PROF SNAPE:** Yes, thank you. Thank you very much for your submission. It's a very brief submission. Normally I ask people to speak to their submission but in this case I think I will ask you to expand it if you wouldn't mind.

**MR EDWIN:** I see the time has flitted by, and it has been very, very interesting, and a lot of essential information has been imparted. We put in that brief submission but there was a lot inside it, and in order to flesh it out I have actually prepared a submission, and it will take only about 10 minutes to read it.

**PROF SNAPE:** If you would please, yes.

**MR EDWIN:** It would take, I think, twice as long if I tried to ad lib it. So with your permission, the Western Australian Aboriginal Media Association, Aboriginal Corporation, known as WAAMA, was registered in 1988 under the Aboriginal Councils and Associations Act of 1976. To date our main activity has been in training indigenous people in radio broadcasting on our community radio station 6AR here in Perth. During the last four years since 6AR first went to air, we have been looking to develop other media interests so as to be able to train indigenous people in all branches of the media as required by our constitution. To this end, WAAMA is involved at board level and helped with the establishment of Perth's newest television station, Community Educational Television Channel 31. I am vice-chair of that organisation. It's due to commence transmission actually on Friday, the 18th of this month.

We intend to do programs for this service which will open up video production opportunities for indigenous people. Until the advent of Channel 31 indigenous people have had to compete for television exposure of their productions, mainly on ABC and SBS TV with little interest from commercial channels. WAAMA is also about to begin producing radio plays of an educational nature to be broadcast on the National Indigenous Radio Service which relays programs by satellite to Aboriginal communities round Australia. If I may in a brief submission tender to the Productivity Commission by WAAMA chairperson, Mr Noel Morich. It was stated:

Indigenous media is an essential service to everyone living in this country, specifically in the areas of community development, race relations, land management, and environmental matters, and therefore must be protected by and from all decisions that result from the inquiry into Australia's broadcasting legislation, and therefore must be protected by and from all decisions that result from the inquiry into Australia's broadcasting legislation, and therefore already established in future indigenous media organisations be assisted financially and by any other lawful means to ensure the healthy continuation of the indigenous culture, life and land of this country we now know as Australia.

Indigenous media plays a major and unique role in helping Australia along the path to reconciliation and therefore a more harmonious and equitable Australian society. Indigenous media is essential for many reasons. For instance, where else in the media would you find stories every day of benefit to Aboriginal people, particularly concerning Aboriginal culture, education, health, housing, the law, and other current issues, that pop up from day to day that affect Aboriginal people? Where else on radio would you hear indigenous music played every hour of every day which provides more benefits to indigenous musicians who now receive a greater share of APRA royalties? 99 per cent of these musicians are simply not heard on mainstream radio stations.

What other media organisation has been set up specifically to cater for the oldest culture in Australia, if not the world? What other media group ensures that the indigenous perspective is presented accurately and appropriately in all matters of public affairs? What other media group ensures that indigenous issues are not compromised or misrepresented? Which media groups understand cultural protocol applicable to Aboriginal societies? Which media groups have in place Aboriginal employment initiatives? The ABC's Indigenous Broadcasting Unit is actively involved in this and other areas devoted to helping indigenous broadcasters.

Despite an overall lack of adequate funding the Aboriginal and Torres Strait Islander media sector is very highly developed thanks to the dedication of its members and their staff and is growing at a rapid pace with many new broadcast outlets coming online, but adequate and consistent funding is needed to maintain current functions of all indigenous media outlets and to carry our sector forward. There is no guarantee that indigenous media will receive on a continuing basis government funding which is presently administered by ATSIC. For indigenous media to provide adequate services and quality of these services on a par with either the ABC or SBS would require equality of funding.

Guarantees must be provided by some means or other to ensure the continuation of indigenous media for the good of the country. The importance of the Aboriginal and Torres Strait Island media sector has been recognised in a number of human rights reports, government reports, and by the Muirhead royal commission into Aboriginal deaths in custody. The royal commission into

Aboriginal deaths in custody report brought down 339 recommendations, two of which were paramount for the Indigenous Media Sector in Australia. These highlighted the vital and significant role Aboriginal and Torres Strait Islander media outlets have in indigenous communities.

The recommendations stated that: "205(a), Aboriginal media organisations should receive adequate funding where necessary in recognition of the importance of their function. 205(b), all media organisations should be encouraged to develop codes and policies relating to the presentation of Aboriginal issues, the establishment of monitoring bodies, and the putting into place of training and employment programs for Aboriginal employees in all classifications." Those recommendations received unanimous support from the Commonwealth, New South Wales, Victoria, Queensland, Western Australia, South Australia, Australian Capital Territory, and the Northern Territory governments. The report was tabled in the Commonwealth parliament in May 1991.

The following are two proposals that we believe should be given serious consideration to become a part of Australia's broadcasting legislation. The first is an answer to recommendation 205(a) from the Royal Commission into Aboriginal Deaths in Custody just referred to. The proposal is that an impost be placed on all commercial interests who are governed by the Broadcasting Act and the rules of the Australian Broadcasting Authority. This impost would be by way of a percentage of all revenue received being collected annually for distribution to the indigenous media industry under the administration of a government-approved body.

There are precedents for the recovery of revenue for good reasons and good purposes. By illustration I mention APRA and AMCOSS fees and broadcast licence fees. In other industries that conduct business for profit there are imposts which require the giving of something back to the community. An example is in the WA housing industry where part of the approval for building housing estates is to provide 10 per cent of the development for recreational open areas for the communities. Another example relates to Perth in the late seventies and early eighties prior to the introduction of the first FM radio stations.

During that period it was the wish of some AM radio station to convert to FM. The then Australian Broadcasting Tribunal saw the commercial advantage and issued an edict that those AM stations that converted would have to give something back. In the case of 6PM of which I was manager for five years during the late 1970s there was a component in the cost of conversion which transferred the frequency and transmission site and facilities to a community radio station now broadcasting in Perth as radio for the print handicapped.

The second proposal refers to recommendation 205(b) of the same royal commission into Aboriginal deaths in custody. The proposal is that under the

guidance of the Australian Broadcasting Authority an accord be reached between indigenous media and the commercial sector to encourage the training and employment of Aboriginal and Torres Strait Islander people in commercial media and for the development of codes and policies relating to the presentation of Aboriginal issues including the establishment of monitoring bodies.

The Western Australia Aboriginal Media Organisation encourages its trainees to seek job opportunities elsewhere in the wider media, and some of our people at 6AR have been successful in gaining employment in ABC Radio at first as trainees. The commercial sector would be able to source staff from indigenous media and give them the same opportunities to honour an employment accord under the above proposal. I believe that the Federal Communications Commission in the United States of America have a policy of employment of African Americans, Hispanics, Asian, and other Americans of foreign ancestry in the broadcasting industry. This is only a very recent recollection of mine which I will pursue for verification.

In conclusion, may I say that by comparison, no other media organisation offers the exclusive services that indigenous media provides, not only to indigenous people, but to the wider community in helping to establish mutual understanding of different cultures and helping Australia along the path to reconciliation and therefore a more harmonious and equitable Australian society.

Thank you.

**PROF SNAPE:** Good. Thank you very much for that presentation, Mr Edwin. In Brisbane as Mr Simson was mentioning, we had a very profitable session with the National Indigenous Media Association of Australia. Are you connected with that? Is the association - - - .

**MR EDWIN:** Yes, we are, we're members, and Mr Morich has been a past member of that executive and I myself am a director of the company formed for the satellite service, the National Indigenous Radio Service, and we perform on various committees.

**PROF SNAPE:** Okay. So the picture and the presentation which they gave to us would be very similar to that which you would be likely to endorse, let's put it that way.

**MR EDWIN:** I read very quickly, I got a fax copy of a transcript of the proceedings in Brisbane, and I haven't analysed it, I haven't absorbed everything because I haven't had time, but we are at the association and I am not qualified to speak on cultural matters and when they do arise I ask Mr Morich to speak on those issues.

**PROF SNAPE:** Yes. Mr Morich, have you seen the discussion that was there?

**MR MORICH:** Yes, I have briefly had a glance at that and how they arrived at all

the paperwork, they consulted every member of the indigenous communities throughout Australia and we are members of the national network. We're talking about people from tribal backgrounds, people who are part of the outback, and they all put together all their views and their views were taken to Brisbane, and then they present it in the manner they were presented.

**PROF SNAPE:** Good. It was a very good presentation that was given to us and it was very interesting.

**MR MORICH:** A very precise consultative decision-making process takes place, long and tedious, but it's all caring and sharing, and anyone who wants to put their voice across they will interpret from indigenous languages into English and then presumably the entire presentation.

**PROF SNAPE:** Thank you.

**MR SIMSON:** It was explained to us at that presentation in Brisbane that there are some indigenous groups in WA have been disenfranchised, have effectively lost their television, because of a change in the nature of the distribution service. Is that because of the problems that were being described to us earlier, the changes that were being described to us earlier by the WA Department of Trade, by Mr Skelton, or is this a separate problem again, a different problem again?

**MR MORICH:** As far as I can gather, it's all about decoders. I am only aware of GWN. Like, we used to travel in the bush a lot. If you arrived in the bush at a certain time GWN was on air, Milpindi was shown, which was an Aboriginal indigenous news program which covered the whole state of WA and drifted into Northern Territory and South Australia, a brilliant program, and when that was on time stood still. Then when decoders changed frequencies and they had to buy new decoders, and Milpindi was sort of - I think it got the axe. Then all the people felt at a great loss that Milpindi and all those programs they were used to, they couldn't access them any more.

**MR SIMSON:** So there are some Aboriginal groups who were receiving a television service with indigenous content that are no longer because of the change in that decoder arrangement.

**MR MORICH:** I think the simplest answer to that, some aren't and some are. I think it's all about chucking in. If you're in the Aboriginal community as we are, like out in the bush in some places, they all chuck in and they pool their resources to buy a decoder and a couple of dishes that would access those types of TV channels they want to access.

**MR SIMSON:** Yes.

**MR MORICH:** It's all about caring and sharing again. They care and share. If they want to watch TV they will all put their hand in their pocket if they're missing out on

TV.

**MR SIMSON:** I'm sorry to ask this technical question - - -

**MR MORICH:** But those decoders are electronically different from analog to digital of course. Does that answer your question?

**MR SIMSON:** Yes, thank you, it does, thank you very much. Could I just ask one more though, and I'm sorry to ask such a technical question, but which of the satellite services delivers the service to the indigenous communities? Do you get it via the GWN signal or via GWN channel or via the WIN Channel or do you get a bit of both? Which channel, and therefore which satellite service, do you rely on to deliver your service?

**MR MORICH:** I am only sort of involved in the old one which is Pelapa B2 which is an Indonesian satellite. I'm not sure the satellite now are delivering services. There was an Indonesian satellite when it first came on and the Aboriginal people were accessing the Pelapa B2 Indonesian satellite but since then Australia, I think we have got Aussat down there, I'm not sure. I know they have changed to a new satellite. Is that mentioned in NIMAA's presentation, the satellite - - -

**MR SIMSON:** Yes. What we will do is we will go back and in the context of the discussion we had today with Mr Skelton about these various satellites and decoder boxes, we will review what NIMAA told us, and I'm sure it will make sense. Could I ask, the interest of the Western Australian Aboriginal Media Association, are you also involved with Westlink? Does Westlink also provide some - - -

**MR MORICH:** What I should say, Westlink - the Aboriginal people in the bush are involved with Westlink. Places out there with the Westlink centres like say Kosminooabri, Great Victoria Desert, Aboriginal people are the representatives of Westlink, put it that way. Some people are there to represent Westlink and they're Westlink contact points in communities in the bush. Where you have an indigenous community like Jiggalong and places like that, way out in the Great Sandy Desert, it's vital to have that communications link-up to anything that happens in the community like a whole lot of things happen, you know - national disasters and goodness knows what else - and then they have Aboriginal representatives there that are contactable by Westlink and they contact Westlink, rain reports, things that happen all around the place. If anything happens out there they're in direct contact with the Westlink - they log on and log off.

**MR SIMSON:** Do your communities receive any government support, either state or federal, for the purchase of the satellite dishes and the decoders?

**MR MORICH:** We have a satellite on our building but I'd leave it to Graham to answer that question.

**MR EDWIN:** Yes, the satellite receivers were as a result of funding which, I'm not

sure now, could have come through the Community Broadcasting Association or ATSIIC. I'm inclined to think it was the CBF funding and they support the NIRS very, very well and have been since the concept and the inception.

**PROF SNAPE:** I've been thumbing through the transcript of the Brisbane hearings and I think it was something to do with Imparja, the Imparja footprint coming out from Alice Springs, and on the other hand the GWN and WIN and Imparja no longer being able to intrude into the Western Australian area and so remote communities which previously had been receiving broadcasts from Imparja are no longer able to do so. Are you familiar with this?

**MR EDWIN:** No, I'm not up to date with Imparja's inabilities there but that would be more in line with talking to CAAMA. Have you talked to CAAMA yet, the Central Australian - - -

**PROF SNAPE:** No. No, we haven't spoken to CAAMA yet. We were, if you like, working through NIMAA at this stage. It was not the inability of the Imparja I think, so much as a ruling of the ABA that Imparja couldn't but we'll explore that some more.

**MR EDWIN:** Yes.

**PROF SNAPE:** We note that the two recommendations that you have got of the impost on commercial interests covered by the ABA and also to obtain an accord between indigenous media and commercial for training. Will you be submitting what you read out as a supplementary submission in writing so it will go on the Web site and be distributed as a submission?

**MR EDWIN:** Yes, I have it all prepared on my computer.

**PROF SNAPE:** Thanks very much. It's much more accessible for other people in that form. As you might have noticed, the transcript in hard copy is - it's probably now getting at about 20 centimetres high and it's rather easier if we've got actual submissions that we can refer people to. Are there other points which you would like to make?

**MR EDWIN:** We, along with all indigenous media organisations, were involved in a major investigation into the future of indigenous media in Australia covering the next five years and the introduction of new technology to allow us to take advantage of it and to look at adequate funding which would need to be sourced. This was called digital dreaming and it ran to about 400 pages. It's currently being trimmed back, I believe, to about a hundred pages by Peter Westway and we're looking forward to that report because it gave very, very solid recommendations as to all branches of the media, not just broadcasting but print and anything else that we conceive would be developing in the future, even possibly some technologies which are known but are not in use. So that digital dreaming report, when it becomes available, would be a most interesting part of the investigation into the Broadcasting Act.

**PROF SNAPE:** I wonder if you would be able to send it to us. Dr Gentle is just telling me that we are going to receive it anyway so we will look forward to that. Thank you very much for linking up with us in this way and for your submission. We look forward to the supplementary submission that you foreshadowed of what you were telling us today and we'll then get that on the Web site too. Thank you very much for talking with us.

**MR EDWIN:** Thank you, professor.

**MR MORICH:** Thank you very much, yes.

**PROF SNAPE:** I now, as I do at the end of day's proceedings, say is there anyone else present in Melbourne - or I should say in Perth as well - who wishes to make a statement? If not, then I will close the proceedings for today and we'll be resuming at 9 o'clock tomorrow morning in Melbourne with Fairfax. Thank you very much.

AT 4.22 PM THE INQUIRY WAS ADJOURNED UNTIL  
THURSDAY, 10 JUNE 1999

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