To The Productivity Commission

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Requested Submission to the Productivity Commission Public Hearings

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Preface

This submission is offered in response to a request by Dr. Geraldine Gentle. She heard my views of the Commission's *Draft Report on Broadcasting* on a regular slot I have with Peter Clarke's 3LO evening program. On the program of November 19th, I concentrated on the Recommendations of the Commission about the future of Australian content quotas.

In that broadcast I briefly outlined that historically, effective regulations had promoted Australian content in the electronic media and this had contributed enormously to economic as well as cultural goals in this country.

Decisions made by governments in this area will clearly point the way that the Australian television industry will head in the future. Strengthening Australian content provisions will substantially improve the employment prospects of Australians in all sectors of the media industry. Conversely, any weakening of the overall local content quota would produce a lower output of local content with a subsequent loss of local employment opportunities.

Competition ought to be seen as a means to an end and not an end in itself. One reason why Australian free to air networks have been allowed to operate for so long in a highly protected industry is that they were more able to invest in local content if their profit margins were high. Maybe this was always the quid pro quo. Whatever the case, ensuring the future of Australian content has always been a battle. Effective regulation of local content quotas remains the key in this regard.

On the Future of Australian Content on Television and Radio

The Commissions Draft Recommends:

9.3 The Australian content regulations for commercial television should be simplified and better targeted to their social and cultural objectives by removing:
The overall quota for Australian content of 55% (p.236)

And on p. 237… The Commission is not convinced that Australian programming or other content regulation should apply to subscription television.

Summary of My Recommendations:

1. **The Productivity Commission should recommend a substantial INCREASE the Australian Quota content for Australian drama, documentaries and children's programs.**
2. **The 55% local content requirement should be retained.**
3. **The 10% local content requirement for subscription television on Drama Channels be increased to 20%**

1. Difficulties in Quantifying Social and Cultural Components of Programs.

The Productivity Commission's Draft Report correctly states (p.236) that a great deal of overall Australian programming consists of local news, sport, game shows and infotainment. This largely constitutes the existing local content quota of 55%.

Historically, the quotas were lifted by 5% on an annual basis from 1990, (1990 = 35%, 1992 = 45%, 1994 = 55%) and it is clear that as a result of this, the commercial TV networks increased the output of programs such as these primarily because they were relatively cheap to produce.

Yet the debate on whether these programs contribute to "stated cultural and social objectives" becomes rather complex. Agreement on how we can ever clearly define social and cultural objectives is hard to come by in an extremely diverse and multi-cultured society.

There was a great deal of difficulty in the old points system devised by the then Australian Broadcasting Control Board back in 1973. The scale of points devised by the ABCB looked very clear cut - with divisions between types of programs and whether they were first released screenings or repeats, and whether they were screened during prime or off peak times.

Yet it was difficult to argue that for example, every "one shot drama special" was always really "worthy" of 20 points per screening while every Drama Serial could only score a maximum of 5 points. There was always going to be problems when we had to quantify what each and every program was contributing to social and cultural objectives.

It was largely on this basis that an overall Australian content quota, measured as a percentage of all programming was introduced. While this is not a perfect system, the quota still serves as a useful quantifiable benchmark for the commercial networks.

2. Australian Content on Television: the historic need for regulation.

The fact remains that if the commercial television networks were free to make decisions purely on economic and financial considerations over the past four decades, it is unlikely that many Australian made television programs would have been produced. It was the existence of a regulatory framework of the ABCB, the ABT and now the ABA which through initiatives from governments of all political persuasions, put pressure on the networks to comply with the points or quotas.

The Productivity Commission Report acknowledges that.....
"Without Government intervention it seems likely that commercial broadcasters would provide fewer Australian drama, documentary and children's programs" p.235

It seems quite clear that local content will far more likely be seen and produced if the industry continues to be effectively regulated to achieve that purpose.

It has been well documented that many Australian programs have not only enjoyed high ratings in this country, but have also been successfully exported. The long and short term economic benefits that accrue from the success of Australian film and television exports are also well known.

At the moment, the requirement for Australian Drama productions consists of 175 hours per year. **This may initially sound a high figure yet in reality it represents about 2% of total TV screen time per year. One wonders why this figure could not be at least doubled.**

Australian made Children's Drama is required to be screened for 32 hours per year. This figure is indeed higher than in many other comparable countries. Yet it is important to note that the ABC, a public service broadcaster, still leads the field here and they are NOT under ABA jurisdiction (Green Guide, Sept.23rd 1999). Again, given the social, educational and cultural importance attached to children's television, the figure represents a very paltry 0.3% of total television screening time per year. Additionally it is worth noting that the fact that Australian Children's Television programs are doing rather well as exported product – the case can be made that this quota should also be doubled.

Australian made Documentaries are set at 15 Hours per year for the commercial networks – or a rather miserable 0.17% of total annual television output. This again seems a rather inadequate figure.

3. The Economics of the Issue:

The argument that the commercial networks have an obligation to support Australian productions is a strong one. The Australian commercial networks operate in a most lucrative and highly protected industry.

Under the present Government's legislation, no new commercial free to air competitors are likely to appear until at least 2007. This effectively means that the commercial networks have been able to extend the protected and very cosy relationship they have enjoyed with television audiences and advertisers over the past four decades. The quid pro quo of this arrangement was that the Australian networks would continue to support local content, given their strong market position.

If the adage first articulated in the early days of television in Britain– "that the granting of a television licence is the granting of a licence to print money" – remains true, then the commercial networks ought to be mandated to support and encourage local industry, local production and equally important, local culture.

Clearly, the commercial networks continue to screen first release prime time programs – primarily from the US - far more often than Australian productions. The economic reasons for this are easy to understand.

The popular *Friends* for example, might cost the American producers around $3m per episode to produce, yet Network 9 can procure it for around $ 25,000. It is therefore relatively very inexpensive to screen this high rating program in Australia.

On the other hand, *Water Rats* costs the 9 network around $300,000 per episode and *Neighbours* costs the 10 network around $160,000 per episode. On an pure financial basis it is obvious that cheaper American imports can create higher profits for commercial stations.

Reports on the recent demise of *Hey Hey It's Saturday* as well as *The Midday Show* cited spiralling costs as a major contributing factor in the decision to axe what were very popular programs.

We must look more carefully at the current economic circumstances of Australian commercial networks in order to further substantiate the point.

Profits for the TV Networks.
(Source:ABAMarch17th1999)
http://www.aba.gov.au/about/public_relations/newrel_99/23nr99.htm)

The 47 Commercial TV Licences generated revenue of $2,755.8m in the past financial year producing a profit of $476.6m – an overall 6.9% increase from the previous financial year.

Network 10 increased profit by 16% - to $194.5m
Network 9 increased profit by 21.9% - to $177.7m
Network 7 decreased profit by 28.4% - to $84.1m

These profit statements make for interesting reading, given the amount of publicity that the ratings results generate. The profit "ladder" is almost a reversal of the ratings ladder. Note that Channel 10 made the highest absolute profit and came (consistently) last in the rating wars. Yet Network 10 spend less on Australian productions than the other networks and this might well help explain their wonderful bottom line.

Total Revenue:

Network 7: $916.3m - a 5% increase on the previous year
Network 10: $658.4m - a 5% increase on the previous year
Network 9: $1090.9m - a 12% increase on the previous year

Expenditure on Australian Programming:

Network 7: $268.2m – a 2.9% increase on the previous year
Network 9: $195.6m – a 3.1% DECREASE on the previous year
Network 10: $78.9m – a 2.8% DECREASE on the previous year.

Again note Channel 10s very low relative figure for Australian content expenditure – given it's relatively high profit margin.

Note the decreases in Australian production expenditure for 9 & 10 given their healthy profits.

While commercial free to air networks continue to make very healthy profits they surely have an added responsibility and obligation to support, encourage and screen more local productions.

3. Notions of Public Interest.

Public interest clauses in general are especially important when we focus on media industries. In democracies, the media is not just another industry. The media are different to most other industries because their output has the potential to shape and influence public perceptions and opinion.

I would argue that there is a strong public interest element in screening more Australian content on Australian commercial television networks. This isn't just because Australian programs are generally very popular with Australian viewers. The public interest clause is also served by the fact that Australian culture and identity are better served when our screens have significant amounts of a wide variety of locally made product.

Concerns about public interest seem to lose momentum in the world of commercial television networks who continually focus on purely economic and market driven considerations. In a climate of increasing self regulation, this trend will continue within the industry. **Eliminating overall quotas for local Australian productions would in effect serve very particular or sectional economic interests but would not best serve the public interest.**

In this scenario protected commercial licences operating in an exceedingly lucrative market would hold no social or cultural responsibilities or obligations if these quotas were scrapped.

Even in the present regulatory climate, the value of Australian Film and TV production fell by 27% in the last financial year – from $381m to $278m.

The major contributing factor for this was the number of TV dramas which were discontinued during 1999. These included… Murder Call, Medivac, Good Guys Bad Guys, Heartbreak High and State Coroner.

Meanwhile, in an ironic twist, export revenue from the licensing of Australian television programs increased by 133% between 1995 – 1998.

5. The Case of New Zealand. Comparisons with Canada.

It is important also to note the Australian High Court Ruling in 1998 that all NZ productions could now be included in the Australian content quota of 55%. This clearly reduces the amount of Australian content that is required to go to air while allowing the generally much cheaper New Zealand products to count as Australian.

Additionally it is illuminating to note that in New Zealand itself, local sport, is now not seen on free to air television after market forces produced the situation where subscription channels now held exclusive rights (W Hope 1999). If we look at local content generally across the New Zealand FTA networks, it constitutes less than 25% of all programming.

It could well be argued that with no regulatory force in operation, the free market has allowed cheaper foreign (primarily US) programs to dominate. This is not a positive outcome for viewers and does not to my mind, serve the public interest in that country. One can only speculate whether the electoral victory of the opposition parties in November 1999 was an indirect result of this.

Two possible role models exist for Australia:

New Zealand has NO QUOTAS – and has just under 25% local content on its screens – no free to air sport in a highly deregulated climate.

Canada on the other hand has a far more regulated industry. There, a 60% local content quota requirement exists for Free To Air Television.
Canada has a 16% minimum local content requirement for Pay TV:
35% Canadian music must also be broadcast on Canadian Radio stations.
(Productivity Commission Draft Report: Table G 1 Appendix)

6. Australian Content on Pay/Subscription Television : A Case for ongoing regulation.

The post 1995 subscription channels brought Australian audiences even more foreign content than ever before. This was despite the fact that every commission hearing and parliamentary inquiry into the possible introduction of Pay TV in Australia since the late 1970s was concerned about the whole issue of Australian content. It was generally conceded that once introduced, subscription television should be required to show a minimum amount of Australian content.

That the 10% quota has obviously not been met after the first 4 years of Pay TV – it registered around 7% after the first three years - is no reason to scrap the quota all-together. The general argument for Australian content on subscription television remains the same as it applies to free to air commercial networks.

Pay TV is clearly not at this point in time, making the huge profits of the free to air networks. It would be unreasonable to expect the subscription operators to immediately invest huge amounts of capital on Australian productions for exclusive release on Australian Pay TV stations.

Yet a great deal of the content of Pay TV consists of repeats of popular American and British programs. The cost of broadcasting repeats of popular old Australian programs would not be prohibitive. At this level, an overall quota of 20% Australian content does not sound too unrealistically ambitious.

If time permits, I would also like to discuss Draft Recommendation 8.4 relating to the possible removal of the present Cross Media Ownership Provisions.

I have a number of serious reservations about this.