Submission
to the
Productivity Commission's

Inquiry into Broadcasting

By
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This submission reflects the views and opinions of the writer and are not to be taken as representative of the views held by any professional group or individual colleagues.

Introduction

1.0 This submission refers to the Broadcasting of Television programs and the domestic Australian television production industry

Broadcasting

2.0 Government subsidy and regulation directly affect the Australian broadcasting industry but the health of the domestic television production industry does not correlate to the state of the Broadcasting industry.

2.1 The broadcasting industry is very healthy, with a margin of 28%[1]. Despite this financial vitality, the broadcasting industry does not pay adequate fees for domestic programming. This is due to government subsidies and the relatively cheap cost of imported programming.

2.3 To cover the low license fees, independent producers are forced to look overseas for funds or use the government subsidies of 'investment' by the Film Finance Corporation (FFC) or the Australian Film Commission (AFC).

2.4 Domestic producers are always competing with each other and with imported products. But the greater competition is with imported products as the licensees are always in a position to sell at less than the cost of a locally produced product.

2.5 This is compounded by anti-competitive practices by broadcasters, the nature of the international trade in television products, the selling practices of US distributors and a lack of a unifying aim on the part of the Australian Government policies regarding importing programs, government subsidies and private investment.

[1] Radio and Television Services, Australian Bureau of Statistics, 1996-1997. Cat No 8680.0

Anti-competitive practices by broadcasters

3.0 Each of the commercial broadcasters has signed up to one or more 'studio output' deals which exclude or restrict other broadcasters from bidding for the programming from that studio or source.

3.1 The ABC also has such a deal with the BBC. It is every bit as anti-competitive for the commercial broadcasters and so should also come to the attention of the Inquiry.

3.2 SBS has a similar deal with Channel 4 in the UK, but I believe it is more of an understanding akin to a gentleman's agreement. Again the effect of this is to restrict competition between all Australian Networks.

International Trade

4.0 Effectively there are two positions for national governments.

4.1 The US model which seeks to prevent any domestic quotas, controls or restrictions on the ability of her domestic industry to sell into any market in the world.

4.2 Opposing this is the French model which identifies the sovereignty of a nation to have its own capacity to produce products for it's own market. Consequently, to erect any barriers necessary to protect her producers from competing with lower priced imported products is deemed a responsibility of Government.

4.3 Australia does have a quota in the form of a points based system of the Australian Content Standard. The application of the Australian Content Standard is a source of annoyance for the US Government in pursuit of its free market policies.

4.4 Additionally, the purpose of the Australian Content Standard has been compromised by the application of the Closer Economic Relations Agreement with New Zealand.

Selling Practices of the US Distributors

5.0 The tactics of US Distributors are as follows:

- Lock down studio output deals. However, it should be noted that these are voluntarily entered into by the Australian Networks.

- Blind bidding, i.e. bidding for a program unseen by the purchaser.

- Third line forcing, the practice of bundling programming together to force up the total hours of product sold and therefore available for use by the broadcasters.

5.1 Third line forcing does more than force unwanted products on the purchaser. For example, a Program Series 'A' (13 X 1 hour episodes) is available at a price in excess of the price the network is willing to pay. Rather than drop the price other programming (Sitcoms 'B' and 'C') are added and offered as a package. So instead of buying 13 hours at the price they want, they will get an additional 13 hours of programming, i.e. 2 Series of 13 X 0.5 hour Sitcoms.

5.2 It is then a matter of commercial sense to exploit all this programming to the fullest to maximise return on expenditure. This literally eats into the network schedules reducing the opportunities for local producers.

5.3 It is illegal in the US film distribution industry to sell film rights by blind bids or block bookings, a third line forcing mechanism, ensuring exhibitors purchase films they may not want. However, I am not sure if it is policed at all.

5.4 The inquiry should ascertain if the program sales fall under US or Australian Corporate Laws. If Australian, it is a matter of ensuring the practices are fair and freely competitive between the purchasers.

5.5 If they fall under US laws it becomes a factor to use in demonstrating the US laws and thier application foster unfair competitive practices in the international trade in television products. This weakens their free market stance on such trade.

Tariff Protection

6.0 The French Government's lobbying excluded the trade in television products from the previous round of GATT talks.

6.1 The other agreements suggesting cultural products cannot be subject to tariffs deserves some thought. If the products are valued enough to receive special treatment in relation to customs, then they are important enough to be valued by all national governments

6.2 It is logical to then expect the ability and capacity to make such products is a special case, and so, deserving of whatever degree of protection, subsidy or restriction governments see fit to use to establish or maintain their domestic industry.

Internal Competition

7.0 The Free To Air (FTA) Television Networks compete with each other for the audience. The emergence of Pay Television is in competition with the FTA Networks.

7.1 Due to this fact the FTA Networks should not be allowed to own or hold interests in the emerging Pay Television Distributors or Channels. This should also apply to ABC and SBS.

Conclusion

8.0 Anti-competitive practices should be illegal and enforced. Networks should compete for individual programs on a fair and equal basis.

8.1 The Australian Government needs to inquire into the Production of domestic television product to ensure the industry is a viable part of the national entertainment economy.

8.2 Government subsidies for program production should cease and be replaced with an easily managed system to encourage private investment in Australian television products.

8.3 Imported programs should be subject to tariffs to ensure local producers are competing on an equal footing with overseas products. The revenues raised could be used to offset tax concessions for investors in local product.

8.4 Conflicts of interest should be prevented by including Pay Television as another example of cross-media ownership and subject to regulations.