

Broadcast regulation in a changing environment

Henry Geller suggests Australia can learn from the US experience.

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As the century draws to a close, there is great ferment in the world's broadcasting systems, driven largely by technology and the market. Government policy must be responsive to those driving factors, and yet still be alert to insure broadcast operations are consistent with vital national interests.

I will focus here on the U.S. situation, and not just because I am familiar with that system. There are lessons to be learned from the U.S. experience. We have implemented one policy goal very well, but failed miserably in other important respects. Australia can take note of those failures and adopt different courses.

Diversity in programming

The U.S. model of a strong, wide-open system of private outlets, does seem to be on the ascendancy throughout the world. The largest benefit from this policy is the resulting much greater diversity in programming available to the public. There are now over 9000 commercial radio stations, and 1300 noncommercial ones; over 1000 commercial TV outlets and 330 noncommercial TV stations. But the strongest case for greater diversity stems from the opportunity for other technologies. There are windows of such opportunity, and several new delivery systems have become entrenched.

The VCR is now in roughly two-thirds of all U.S. TV households, and has spawned a substantial pay TV industry.

Cable television is the rising force in the U.S. video scene. Using the satellite for efficient distribution, cable (which now can deliver over 60 programming channels) is in 57% of U.S. TV households, and passes 86% of such households. Its eventual penetration rate may be close to 70%.

"the American system is still delivering chewing gum for the eyes".

It is clear, however, that cable will continue to splinter the TV audience and the trend in the U.S. is to receive TV via pay. It is also clear that cable has stymied the growth of direct broadcast satellite (DBS) operations. While several are still projected, there has been no rush to implementation.

Seventy-one percent of U.S. households now receive nine or more TV stations. Four-

fifths of the cable households can tune in to 30 or more channels.

It may be argued that the numbers mean little in the way of quality: that the American system is still delivering "chewing gum for the eyes." Much of the new programming is aptly so described and necessarily so in light of the giant maw that television is today. But there has been a substantial contribution to diversity. There has been a marked increase in in-depth informational programming and cultural and educational programming as well.

Failings of the American system

What then are the failures of policy I referred to? First, even with abundance, there can be market deficiencies in meeting public interest goals. We certainly have an abundance of commercial radio stations in the U.S. But while these stations supply a great number of entertainment formats, they do not provide in-depth informational programming, children's programs, cultural fare, and similar public service presentations.

Second, government policy to insure operation by commercial broadcasters in the public interest has been a failure. The statute adopts a public trustee concept based on spectrum scarcity. Congress decided to allocate the radio spectrum to various uses and award licenses to prevent engineering chaos. In broadcasting, Congress decided upon a system of short term licenses to private entities who volunteer to serve the public interest and then at renewal of license, demonstrate to the Federal Communications Commission (FCC), that their overall operations have done so. At renewal, the public has the right to participate, and new parties can seek to displace the incumbent licensee on the ground that they will do a better job in serving the public interest - a process called comparative renewal.

The comparative renewal process has been a failure. The incumbent always wins, no matter how poor its past record has been. The FCC has long urged abandoning the process.

Worse, the ordinary renewal process has been a similar fiasco. At renewal, the licensee simply sends the FCC a postcard. The Commission is therefore renewing licenses without the least notion of what public service, if any, has been rendered.

Young children watch television a great

deal. A public trustee should therefore make available not only cartoons but programming that informs and educates as well as entertains. And to reach young children, it must be age specific. The FCC gutted the requirement for age-specific educational or informational fare. The FCC Chairman stated that the Commission will not hold licensees to any duty to serve children.

A public trustee must devote time to controversial issues so as to inform the public, and must do so fairly. But the FCC has now eliminated the fairness doctrine. Station owners can feel strongly on many issues and they can now use their stations simply as propaganda operations. The Commission believes that the hands-off publishing regulatory model, rather than the broadcast model, is better policy. Indeed, the Chairman of the FCC said that "television is just a toaster with pictures."

The FCC has eliminated its policy against trafficking in station licenses. The Commission now states that getting stations to their higher valued use serves the public interest. But a trafficker by definition tries to run up the price of the station, and to do that, one doesn't present public service in the form of in-depth informational shows or educational children's fare. To get such fare, the FCC previously recognized that the broadcasters "must put profit in second place and children in first." The FCC now says the opposite, and stations are bought and sold like pork bellies.

Lessons for Australia

I turn now to the possible lessons for Australia. Do not try to hold to the limited (UK) approach in light of the strong worldwide market and technology trends. But do not immediately embrace the American disease of letting all systems go.

There are windows of opportunity for new services like pay TV. In light of its large size, its relatively sparse population, and the desirability of delivering the new services to widely scattered communities, it might be the best course for Australia to opt for DBS to deliver new pay services, and not authorize any cable TV operations at this time. Instead, it might authorize Telecom to begin not only trunking but installing fiber optic cable to the home as soon as possible and over the next decade or so, to gradually build a broadband highway to the home. Even more important, this would allow Australia early in the next century to have an ideal system: video pub-

lishing over a common carrier. This would be a wedding of the publishing and common carrier models. That is, a separation of content and conduit as in publishing, where magazines, pamphlets, etc., all move over the postal service. In the meantime, the public would be able to receive new TV services quickly and throughout the nation over high powered DBS.

“Diversification of the sources of information is vitally important to a democracy”

There is a need for objective, effective regulations to secure the public interest in free-to-air broadcasting for the next decade and into the next century.

Fortunately for Australia, unlike the U.S., this requires maintenance and refinement of existing regulation.

There is a need to promote a strong public telecommunications system, since such a system is motivated and dedicated to presenting public interest like children's educational programming. If there is effective regulation of the commercial system, the financial support for noncommercial broadcasting should come from the general treasury. If the regulatory process is weak and cannot be strengthened, I recommend further deregulation accompanied by substantial fees from the commercial system, so as to better support public telecommunications.

Multiple ownership restrictions, both on the local and national level, should be maintained. Diversification of the sources of information is vitally important to a democracy, and thus should be reflected in bestowing scarce broadcasting privileges. Both our countries face what Yeats called the “rough beast” of change. Certainly that beast challenges us and poses great problems. But it also offers the opportunity for great benefits.

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