

# Advertising time on television

Sean O'Halloran argues that trial deregulation has proven successful and that the ABT is planning to reintroduce regulation

**F**our years ago, the television industry argued that regulation of advertising placement and levels had produced an unsatisfactory balance between the complex, and sometimes competing, elements that comprise the public interest. Viewers, stations, program producers and advertisers all had an obvious interest in the balance that was achieved, but none was well-served by the existing system of regulation. This system was based on arbitrary and rigid hourly limits, and had produced an inappropriate advertising/program mix because it encouraged stations to force breaks in programs, and did not recognise differences between program types.

The Australian Broadcasting Tribunal accepted these arguments and decided to 'deregulate' advertising time on television for a trial period. The Tribunal established a set of detailed criteria against which to measure the success or failure of the trial and cautioned stations that, in the event of failure, it would reimpose regulation.

## Trial successful

**T**he trial period has been successful. Viewers have suffered no detriment measured against the Tribunal's criteria. They have enjoyed more flexible and sensitive standards of presentation, a reduction in the number of breaks during some programs and an increase in both the quality and diversity of Australian programming on commercial television (which stations have been able to fund more readily since the removal of archaic advertising limits).

Importantly, there has been no wholesale increase in the amount of advertising on television since the removal of direct limits. This is borne out by the Tribunal's own research. Some stations have increased commercial content - generally by one minute per hour - in certain time zones or programs during seasonally heavy periods of demand. Declining levels of viewer complaint suggest that the increases have been achieved in a way that is acceptable to most viewers, without sacrificing high standards of presentation.

This 'costless' maximisation of revenue potential has occurred in tandem with a reduction in the number of breaks during some programs. For example, during the course of the trial period, the Seven Network

has reduced the number of breaks in most one-hour drama programs from five to four.

## Hourly limits

**T**he Tribunal is presently concluding its review of advertising time on television. In a proposal released in December 1990, the Tribunal states that there is a need for hourly limits, in the form of industry guidelines, on the amount of advertisements and program promotions on commercial television. The Tribunal proposes that these limits should be 13 minutes per hour in prime time, and 15 minutes per hour at other times. These limits are almost identical to those which applied prior to the Tribunal's decision to 'deregulate' for a trial period.

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It is impossible to reconcile this proposal with the Tribunal's approach to these issues in 1987. At that time, the Tribunal's main concern was the rate and number of interruptions to programs (rather than overall levels of content). The Tribunal specifically rejected hourly limits on advertising content as a useful regulatory tool. Interestingly, the Tribunal also specifically rejected any scheme of industry self-regulation as being contrary to the public interest and potentially anti-competitive. The proposal is also difficult to reconcile with the success of the trial period. The Tribunal's proposal does not recognise that increases in commercial content during some programs and time zones represent a necessary trade-off for:

- a reduction in commercial content during other programs,
- a reduction in the number of breaks during some programs, and
- the higher Australian content requirements imposed on the industry in 1990 during a period of declining revenue growth and declining profitability.

The Tribunal has indicated that it would like to see stations continue to experiment with the placement of advertising, and a continued trend towards reducing the number of breaks in certain programs. This

is not possible if restrictive hourly limits are reintroduced. Market forces will dictate that all programs carry a full, and sometimes forced, complement of commercial content irrespective of their nature and running length. Commercial considerations would also dictate that stations revert to uniform and inflexible break structures.

## Disguised regulation

**T**he Tribunal's attraction to restrictive hourly limits is difficult to reconcile with the following objects of 'self-regulation', namely:

- the need to demonstrate an enhanced commitment to experimentation;
- the requirement for continuing viewer research;
- the need to demonstrate compliance with research findings;
- the scheduling of regular public conferences; and
- greater public accountability for licensees.

The Tribunal's response to this inquiry raised wider issues of concern to the industry. The implementation of appropriate self-regulatory mechanisms would seem to be an increasingly prominent tenet of government broadcasting policy. The Tribunal has cloaked its latest proposal in the language of self-regulation. We are told that the proposed hourly limits represent 'flexible, self-regulatory guidelines operating within maximum limits clearly stated', rather than 'rigid rules'. The nature of this distinction is elusive. In the industry's view, this process of heavily guided 'self-regulation' is nothing but disguised regulation.

The process holds no attraction for either the industry or the public. Faced with a choice, both would be better served by open, honest and direct regulation. The only sensible course open to the Tribunal is to abandon the process of disguised regulation and to extend the current period of no direct regulation indefinitely, subject to:

- a requirement that licensees undertake regular viewer research; and
- a requirement that licensees periodically review guidelines in light of research findings. The performance of licensees would be assessed during the course of licence renewal inquiries.

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