

Pacific Rim Report: How the 90s will change broadcasting

Bruce Gyngell explains that the introduction of pay TV allows a chance to shape our cultural future

In my considered opinion Australians have the best television in the world. Perhaps not the most, but undoubtedly the widest choice that is freely available. This may astound those who are so actively proselytising about the virtues of the multi-channel cable systems, the wonders of one hundred in Queens, New York, and the TCI promise of 500 by next year. However, I do not believe that 12 channels entirely devoted to one movie starting every ten minutes really creates genuine choice.

Variety or monotony?

On the present terrestrial system of 3 commercial channels, the ABC and SBS you do have a genuine range of ideas and program concepts — cultural, national and philosophical. The best from the world, America and Great Britain, is all scheduled with news, current affairs, factual programs and drama produced here in Australia.

It is important, as we move towards the apparent inevitability of becoming a republic, that we consciously develop a recognisable and unique Australian culture, obviously drawing on the rich mixture of heritages that now are part of the fabric of this society. To return to live in Australia is marvellous. It is brash, it is confident and seems to be filled with optimism, in contrast to some of the commentators who appear to me to be mired in piddling despair.

This country which was the first to introduce an eight hour day, first with social services and followed our sisters across the Tasman with universal suffrage, seems to be setting off to make the new Australia. I am excited to be back and to be part of it. However, we must share the good news with the rest of the world and probably the best way of doing this is by producing television, drama and movies. I genuinely believe that *Neighbours* has done more about creating an awareness of Australia in the mind of the general public than anything else — some of you may well cringe at the thought — and indeed it may presently be being replaced by *Sylvania Waters*.

We should also make it as easy as possible for people to come here and make programs without restrictions. Hollywood maintained its pre-eminent position by opening its doors to people who wanted to work there. If you had a track record they welcomed you and gave you a green card.

Pay television

My real concern is that this country, which has much to be proud of, should make the right decision as to its future direction at the moment, as we stand on the brink of the greatest technological revolution since the introduction of television itself. We are on the cusp of the most far reaching changes since the image othocon tube first beamed a picture. And if we embraced an analogue system for pay TV, it would be obsolete and antiquated before it is installed.

It is noticeable, however, that in all the thousands of pages of tortured discussion over pay TV — a debate now going back more than a decade almost to my days at the ABT — very few people are asking what pay TV will bring to their screens. Even fewer appear to have a real understanding of the impact it will have on the fragile ecology of television. Indeed, it strikes me that many commentators think that there is some huge program tap out there that is just waiting to be turned on, to fill Australian screens with an exciting new range of programs that match those already on the screen.

Bruce Gyngell requires little introduction. Famous as the first face on Australian television, and a former Chair of the Australian Broadcasting Tribunal, he recently returned from Great Britain in his new role as Executive Chairman of the Nine Network. Bruce kindly agreed to speak at CAMLA's Annual Dinner on 28 April 1993, only shortly after his return. As this article highlights, Bruce has lost none of his enthusiasm for the challenges confronting Australian media this decade. We thank him for sharing these thoughts about those challenges.

I would like to know, where is this new nirvana of program choice? Do they really believe that there is an inexhaustible supply? If so, why are the networks in America running the 93rd run of *I Love Lucy*? Why are the numbers of new series produced falling each year? Because some people are bewitched by the 100 channel system in New York, they automatically assume there is a cornucopia of programming just waiting for them. The fact that it is all repeat run American programs does not appear to deter them from pushing for pay TV, with obviously no concern about Australian culture being subordinated.

I am not opposing change — far from it. I say we should shape it. We should recognise that the movie channels on pay TV will be the only profitable and popular ones. Movies are basically an American art form, with 95% of all movies in the English speaking world coming through Hollywood. We have to change that.

Australian television is efficient. There are no restrictive practices or fat that can be trimmed to allow production to become cheaper, unlike Britain where the multi-skilling practices we introduced at TV-AM, saved us the equivalent of \$31 million.

The rushed introduction of pay TV, far from improving existing channels and choice, could undermine and erode the achievements of the past, and weaken Australia's production base.

Many look to BSKYB as an example and say that it is a success. It is trading profitably albeit with a debt of 1.4 billion pounds. However, people conveniently overlook that it is in its third incarnation, having started as a Pan-European service ten years ago, re-launched in 1989 as a British service only on 4 Astra transponders and finally merging with BSB in October 1990, to save them both from collapse.

It should be borne in mind that one of the reasons for the uptake of satellite dishes has been the availability of only two popular channels in Britain, for 60 million people. In Britain there are only 2 or 3 movies a week, unlike the 28 available each and every week in Australia.

Continued p6

From page 4

feared that some members of the fourth estate may simply invent sources either to lend credibility to a story or, as the prosecution in the Nicholls case tried to persuade the jury, in order to avoid liability for criminal conduct or to fulfil some other self-interested motive.

In my view, this image of the media running riot is exaggerated. Conferring on journalists a public interest immunity from disclosure of confidential sources poses no great danger. For a start, ethical and professional considerations place great pressure on reporters and their publishers to make sure they get a story right. Most would be well aware of the dangers inherent in accepting, without independent verification, information from a source who is not prepared to be identified.

Other remedies

It is a fact, nevertheless, that unprovable or, at worst, simply wrong and damaging material will slip through. However, when it does, the subject of the publication has a remedy in defamation. It is not necessary for a plaintiff to succeed in a defamation action against a journalist or a media defendant to identify the source. Indeed, it is very much to the defendant's disadvantage not to be able to rely on the evidence of its source.

Secondly, it is unlikely that a journalist would feel ethically bound to honour an undertaking to a source whose information is proved to have been knowingly wrong. Nevertheless, it should be noted, as the Cornwall case demonstrates, that it may be difficult to determine whether the source deliberately lied or was under a misapprehension.

As to reporters fabricating sources to lend an air of credibility to a story, if the information were untrue and damaging there would again be a remedy against the reporter and publisher in defamation. If malice could be established, the remedy of injurious falsehood is available. No doubt the fact of the fictitious source would be significant evidence of malice in both actions.

A thornier issue is the right of the subject of a publication to compel disclosure of a source in order to take action against the source for defamation, injurious falsehood or, in some circumstances, breach of confidence. However, generally nondisclosure of the source does not deny the subject an effective remedy against the reporter and publisher for defamation. Indeed, in terms

of the publisher's capacity to pay substantial damages, that remedy may be more effective.

Very recently, Chris Sumner seems to have changed his tune slightly, announcing that the South Australian government may be prepared to consider legislation giving journalists some limited protection from disclosure of confidential sources. Clearly, laws giving such a public interest immunity are long overdue in this country. A recent report commissioned by the United Nations found that Australia is one of only two of the world's major western democracies which does not constitutionally guarantee freedom of expression. The report by the London-based International Centre Against Censorship also commented that the standard of press protection in Australia was comparatively low and noted the poor protection for confidentiality of journalists' sources. One can only wonder how the jailing of an Australian journalist for four months for doing his job will enhance that reputation.

Ross Duncan is a solicitor with the ABC.

From page 5

A unique identity

Australia should be developing its own unique identity, not seeking to impose an impoverished model from a society in decline. We should all hope that by the turn of the century Australia will be a country with its own distinctive character drawing richly on the culture of its people, having renounced its unquestioning allegiance to America, the way it already has to Britain.

The move towards digital is the biggest technological revolution in broadcasting since the advent of television. I am well aware that technology is changing so fast and that if you wait for the end point you will never make a decision. I am not a Luddite, trying to halt the inexorable development of new technology. Quite the reverse, I want Australian television to continue to be as good as it is and develop strongly and confidently into the twenty-first century and beyond.

The reality is that the future is ours. We should be drafting the blueprint for the future from our own rich creative talents.

I am not opposing the introduction of pay TV. I merely am saying, let us proceed in a measured way where we consider all the cultural, programming and cost

implications. We came to television late, when all is said and done. I was only 27 when I said "Good evening and welcome to television".

But we got it right! The best sporting coverage in the world and the only truly broad ranging selection of programming in the world, which makes a really multi-cultural nation.

This is the edited version of a paper delivered by Bruce Gyngell to the CAMLA Annual Dinner on 28 April 1993

Copyright Essayists!

The trustees of the G. C. O'Donnell Biennial Prize Trust recently announced the competition for the 1993 G. C. O'Donnell Prize. The prize of \$3,000 will be awarded to the author of an unpublished essay displaying original thinking on a topic regarding copyright and the interests of authors.

Entries should be in the range of 5,000-15,000 words, although there is no minimum or maximum word limit.

Entries should be received by the G. C. O'Donnell Prize Trust, Law Faculty, Australian National University, Canberra ACT 0200 by 24 September 1993.

Further details and a copy of the competition rules may be obtained from the A.N.U. Law Faculty.