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The flawed philosophy of anti-siphoning

Rory Sutton discusses Pay TV, sport and siphoning

By repute this is the era of deregulation. Curious it is, therefore, that the Federal Government has chosen to regulate sporting coverages on Pay TV with anti-siphoning provisions. This means that certain sporting events, deemed to be of national importance, may not be bought exclusively by Pay TV operators unless rejected by free to air stations. Examples are the Melbourne Cup, Cricket Tests in Australia, AFL Grand Finals and so on.

The justification for anti-siphoning rules is social equity. This is a noble sentiment certainly, but conflicts with the essential nature of Subscription Television Services. These services are simply retailing operations, where there is a direct provider to consumer relationship, as with any other retailing enterprise. Pay TV is not the same as the traditional broadcasters. The latter requires a licence to access a limited resource of transmission spectra, and with this privileged membership comes specific obligations to provide a universal service.

The onset of the superhighway technology renders this finite position redundant. The sky now is the limit and even that may be open to question. Anyone with the drive, ambition, money and software has the potential to exploit satellite, cable or dish to dish transmission.

To succeed requires clever marketing and a product for which consumers are prepared to pay.

access and context

The social equity notion implicit in the anti-siphoning regulations is laudable, but assumes that everyone, wherever they may choose to live, has an inalienable right to equal services. Yet it seems only Pay TV operators and owners of certain sporting

events are to be singled out, while retailers in other fields are free to make commercial decisions. Certainly governments do not dictate to Woolworths where to establish the next supermarket. While it is understandable that politicians would seek to protect access to the Melbourne Cup for all, it does raise a dilemma as to what is in the national interest and is a national sacred cow.

In reality, the Victorian Racing Club is unlikely to want to sell the Melbourne Cup exclusively to a Pay TV enterprise until it is assured of maximum exposure across the country. Thus the VRC is certain to exercise commercial criteria anyhow. It will be an interesting debate should Pay TV offer a much higher rights fee than a free-to-air channel. If by regulation, the VRC is precluded from selling to the highest bidder, perhaps it could ask the government to make up the difference.

Furthermore, the notion that particular sporting events possess a special national cachet is questionable. To single out the AFL Grand Final or the NSW Rugby League Grand Final, neither constitute a national event. Indeed in one context, both events manifest the sporting divide between the States. There is some argument in the case of Test cricket, but it is doubtful Australia v Sri Lanka evokes the same passions as do the Ashes series.

flawed philosophy

It is difficult to sustain a rigorous argument for anti-siphoning rules based on pure logical criteria. Emotional and political considerations obviously hold sway presently. Aspirants in the Pay TV arena will be prepared to live with these for the moment.

While the anti-siphoning rules are designed to apply for ten years only, it is

probable they will be eroded earlier than that as technology and commercial realities prevail. It is clear the philosophy is flawed. Inevitably political expediency is a more potent force, as politicians seek to espouse social equity, or more aptly to keep the folks contented. The sadness is, that the fare to be offered by Pay TV generally does not promise great riches in programs, unless it be live sport. The riches to be gained by the entrepreneurs by buying and selling sporting rights are immense potentially and will exert great pressure on the current guidelines.

It is likely that the anti-siphoning regulations will implode, falling victim to a good dose of anti-siphoning themselves, as all involved seek to maximise returns. It is probable the Government will give way to political expediency and commercial reality, sooner rather than later.

Rory Sutton (previous Head ABC TV Sport)

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"But, call me old fashioned, I do not believe that the highest economic return equals the greatest public benefit where broadcasting is concerned."

see "Distinctly New Zealand" by Dr Ruth Harley.