

IBA is now also having to consider the implications of broadcasting services delivered outside the broadcasting service frequency band (e.g. wireless cable), and the imminent arrival of international satellite footprints over South Africa.

The fledgling IBA still very sparsely staffed, faces enormous challenges in a very short time-frame - challenges which would appear daunting to any mature broadcasting regulatory agency. The importance of its role in ensuring an equitable and healthy

broadcasting sector in South Africa cannot be overestimated.

The significance of its task is perhaps best illustrated by the fact that the illiteracy level in South Africa is about 60% of the population, with estimates as high as 80% among rural women. The obvious consequence is that the use of print media among the majority population is extremely limited, although there is strong evidence of multiple access via a literate "reader". Thus broadcasting is of obvious social, educational

and political significance. TV access, as opposed to ownership, is estimated as up to 50% of the black community, but is limited by the price of sets and limited electrification in non-urban areas. In these circumstances, the importance of radio to the black community is overwhelming, and will be a significant factor in the IBA's blueprint for the broadcasting environment of the New South Africa.

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## Cool or Gross Childrens TV

Cathrine West reviews recent developments in childrens television

*"I feel embarrassed for them doing it on national television" boy, grade 3-4 on kissing and partial nudity on TV.*

*"I feel like I want to get a bazooka and blow the two up and get rid of it, because I hate fighting and sometimes I leave the room" boy, 10 years of age, on violence in television programs.*

### what the children think

These are two examples of concerns expressed by Australian kids to the Australian Broadcasting Authority ("ABA") in its recent survey of children's attitudes to violence, sex and swearing on Australian television (ABA Monograph 4). The survey involved 1,602 primary school children between 8 and 12 years of age from schools in NSW and 18 focus groups of 5-12 year olds in Sydney and NSW country towns. A group of parents was also surveyed.

The survey of children themselves is the first by the ABA. The ABA has previously conducted research into adult attitudes to classification issues but has not undertaken research of childrens' views. The ABA considers it has a statutory responsibility under the *Broadcasting Services Act 1992* ("the Act") and the Childrens Television Standards to take into account children's television interests. One of the objects of the Act is "to ensure the providers of broadcasting services place a high priority on the protection of children of exposure to program material that may be harmful to them (section 3(j)).

The results of the survey include:

- violence, in particular depictions of animals being hurt or people being killed, was most likely to upset children;
- in contrast, sex and nudity concerned only 8% of children and swearing upset only 2% of children;
- almost 66% of children did not like to watch children being hurt and almost

60% were concerned by parents arguing or hitting each other;

- almost 50% of children enjoyed programs depicting realistic monsters and ghosts;
- children take an active role in their television viewing, expressing independent motivation both in the selection of programs and in their reaction to programs that upset them. For instance, 92% of children claim to watch the news citing personal interest in being informed of current events as their motivation. 55% of children indicated that they had stopped watching television or changed channels as a result of being upset by a television program. Girls are 22% more likely than boys to stop watching programs that included violence, kissing and swearing;
- almost 66% of children claimed to watch television every day, whilst just over 25% of children said that they did not watch television everyday but on most days. Over 50% of children watched television before school and 77% watched after dinner on school days.

The second stage of the survey will consist of a research study by the ABA into what children enjoy about the television programs they watch. This stage will involve consultations with producers and writers of childrens shows.

### Australian content

The ABA is presently reviewing the requirement for minimum levels of Australian content for commercial television broadcasters. The current Television Program Standard (TPS14), inherited by the ABA from the Australian Broadcasting Tribunal, contains a minimum requirement of the equivalent of 16 hours per year for Australian childrens drama for the primary school age group

("Australian C Drama").

In 1992, the commercial broadcasters averaged the equivalent of one extra hour of Australian C Drama above the minimum level. The ABA has proposed in a recently released Working Paper that the current requirement be doubled to 32 per year, to be phased in over a period of 3 years.

After the release of the Discussion Paper, the ABA received a submission from the Federation of Australian Commercial Television Stations ("FACTS") arguing that the quota system under TPS14 creates an imperative to mass produce programs and that there is no explicit legislative requirement for the ABA to determine a standard that sets particular levels for childrens drama programs or any program genre. Further, that the only regulation of Australian content should relate to a transmission quota rather than a specific requirement for the broadcast of certain types of drama. FACTS considers that the usefulness of the quotas in the sixties and seventies in boosting drama production has been outlived and they now inhibit diversity and high end drama.

The ABA took the view in the Discussion Paper that the standard for specific drama is necessary to ensure the continued production and broadcast of childrens drama on commercial television. The ABA did not accept FACTS submission. The ABA considers that section 122 of the Act requires it to determine a standard in respect of the Australian content of programs of commercial television and, in exercise of this power, it has a significant degree of discretion as to what constitutes "Australian content of programs" sufficient to include specific quotas for childrens drama.

The ABA has also suggested that the definition of "Australian program" be extended to programs in relation to which a certificate under section 10BA of the *Income Tax Assessment Act* has been issued. This

will assist producers of childrens programs who traditionally have found access to funds difficult as it will allow official co-productions to be included in the quota.

The ABA proposed release of a revised standard for discussion in early 1995. It is likely that the increased Australian C Drama quota will be included in the revised standard.

### other developments

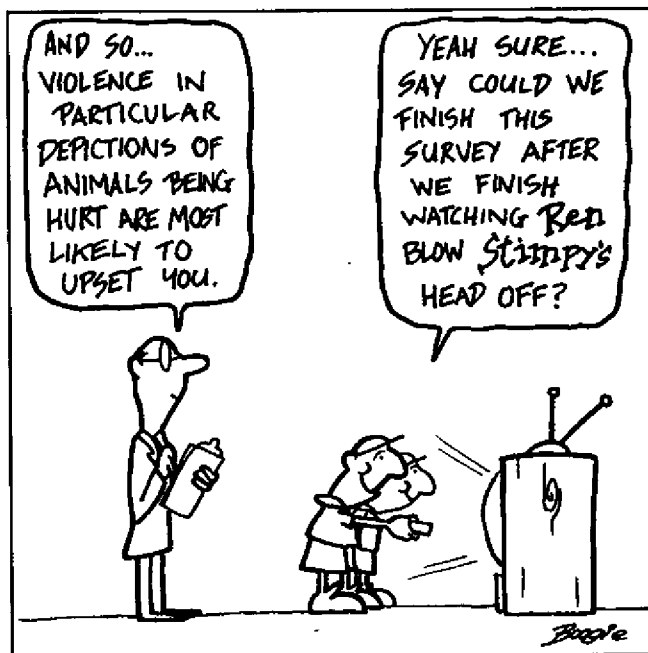
**A**nother impetus for the production of Australian childrens drama programs is the Commonwealth Government's commitment made in the *Creative Nation* statement to spend at least 10% of the \$20 million per annum allocated to the Australian Television Production Fund on Australian childrens drama programming. The programs produced with the fund will not count towards the proposed revised quota. This should further boost the production of childrens television programs.

One of the subscription television services to be operated by the ABC's dedicated subsidiary company will offer predominantly childrens programming (the other is a 24 hour news channel). The

Minister has imposed on the subsidiary company's licence significant Australian content requirements. Accordingly, the amount of quality Australian childrens programs broadcast on television in Australia will increase dramatically.

The Australian Childrens Television Foundation was the host of the first World Summit on Television and Children in March 1995 which will be followed by the Festival of Television for Australian Children. One of the issues to be addressed at the Summit is the provision of childrens programs which reflect childrens needs, concerns, interests and culture.

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## What Price Access

**Don Robertson and Bruce Meagher discuss the Privy Council's decision on the use of market power.**

**T**he *Competition Reform Bill 1994*, adopting many of the reforms suggested by the Hilmer Report, has highlighted the critical issue of when a corporation possessing market power may refuse access to goods or services provided by it. Even more difficult is the issue of what price that corporation may charge for access, including any monopoly rents it would otherwise be able to charge. That is, can it charge the monopoly price or must it only charge the price payable in a competitive market.

The Privy Council has recently delivered an important judgement in a case concerning these issues and the principles relating to the use of market power. Although New Zealand has its own unique regulatory framework in the area to which

the judgement relates, the decision is of general importance.

### background

**T**he judgement is the culmination of a long running dispute concerning the term and conditions of interconnection between the networks of Telecom New Zealand ("TCNZ") and Clear Communications ("Clear"), the new entrant in the New Zealand telecommunications market. [Ed.: see article "Interconnection and the dominant market position in New Zealand", *CLB Vol 13 No 4*, which reported on the NZ Court of Appeal decision].

Clear brought an action under section 36 of the *New Zealand Commerce Act 1966*,

a close equivalent to section 46 of the *Australian Trade Practices Act*. Section 36(1) provides:

*No person who has a dominant position in market shall use that position for the purpose of:*

- (a) *restricting the entry of any person into that or any other market; or*
- (b) *preventing or deterring any person from engaging in competitive conduct in that or any other market; or*
- (c) *eliminating any person from that or any other market.*

The *Australian Trade Practices Act 1974* contains similar words, except that it applies to all corporations having a substantial degree of power in a market, not just those who are dominant.

### the facts

**B**efore 1 April 1989, TCNZ had a monopoly over the provision of telecommunications services. Clear entered the market intending to compete with TCNZ for long distance calls and local calls for business customers in the CBDs of Auckland, Wellington and Christchurch.

Unlike Australia, New Zealand has no statutory right for competing carriers to interconnect with each other, no industry specific regulator and no provisions whereby guidance can be given as to the terms and conditions of interconnect, other than the provisions of the *Commerce Act*.

Whether interconnection should in fact occur was not in contest - TCNZ agreed that it should and had negotiated terms of interconnection in relation to long distance calls.

It is important to note that for the provision of business customer calls in the relevant CBDs, Clear intends to establish both local exchanges and a local loop, that is, direct connections to each of its customer's premises. The issue between the parties was the terms and conditions for interconnection which would allow Clear customers to communicate with TCNZ customers.

A number of offers and counter offers were made before matters reached an impasse in negotiations in relation to a particular contract for which Clear required interconnection.

### the offer trial

**A**t trial, TCNZ made an offer, based on a model developed by two US economists (the "Baumol-Willig Pricing Rule"). Under that offer:

- TCNZ would levy an access charge, equivalent to the monthly line rental for