

The ACCC has been successful in obtaining undertakings to conduct compliance training from several mobile telephone service providers. The fact that the ACCC proceeded to prosecution in this case demonstrates that it takes any infringements very seriously indeed.

The literal approach to the meaning of "local" call also sends out a warning to an industry that has developed and relies on technical jargon to "sell" its product and services. When tested in the courts, these assumed terms of art cannot be

relied upon as conveying the correct meaning to consumers.

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## Competition, Content and Cultural Identity - Why Free-To-Air TV will thrive in the Future.

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**Kerry Stokes, Chairman of the Seven Network, discusses the future of broadcast television in the face of competition from pay television and converging technologies.**

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**A** question I am often asked is: "Why invest in a Television Network?" "Broadcast Television is an anachronism. Television will be relegated to the pages of history." "It will be surpassed by new communication technologies. Audiences will leave television behind." My answer is simple. You are wrong.

It is clear that broadcast television will thrive in the new world of communication technologies. We can however be certain of one thing. Broadcast television will change.

You may ask how broadcast television will retain a presence in what will undoubtedly become a crowded market. You may also hear a lot of dire predictions about the future of broadcast television. What is being lost in the headlines is the underlying strength of broadcast television. The capability to deliver large unsplintered audiences. What is also being overlooked is the strengthening of broadcast television in international markets.

Much has been written about the future developments in information technology. While the changing shape of telecommunications has been the subject of thousands of column centimetres, uncertainty remains about its form and content. Despite the conjecture, "crystal balling" and in some cases "navel-gazing", we can be certain about a number of key facts.

First, broadcast television will continue to dominate communications, commanding the largest audiences and the biggest slice of advertising revenue.

It is worthwhile to consider some of the latest figures from the United States, where cable has been part of television for 4 decades:

- Despite the continuing dramatic increase in the number of viewing options - in some markets as many as one hundred channels - broadcast television commands more than 70 per cent of total viewing. Cable and pay television attract less than 30 per cent of total viewing, with the leading cable networks attracting household ratings of less than two per cent.
- The four networks in the United States - NBC, CBS, ABC and FOX - command more than 80 per cent of total advertising revenue. Less than 20 per cent of the advertising revenue pie is split between the plethora of cable networks.

Largely overlooked in the ongoing debate about the wonders of new communications technology is the issue of content. Those who own the copyright will be the gatekeepers in this new multi-media environment. All information and entertainment is driven by quality of content - whether it is movies, music, information, sport, text or data. This key fact is driving Seven's future planning and business strategies which ensure the ongoing development of expertise in programme production.

The third key fact is the marketing of broadcast television. Seven is one of Australia's best known and highly regarded brands. Some recent surveys show Seven up there with the likes of Coca Cola and Holden in terms of brand

recognition. The imperative now is to build from this platform of strength and ensure branding across all programmes and markets to reinforce Seven's position as the number of viewing options increase. There has been some interesting consumer research in the United States. In a crowded market - in a battlefield of 100 channels - the three most recognised and highly regarded brands in television are NBC, CBS and ABC. All three networks have worked vigorously to protect their franchise and build their brands. Expect the same of Seven in this country.

The fourth key fact is the evolution of the relationship between the network and the advertiser. The days of simply buying time are behind us. Increasingly networks will form partnerships with advertisers to ensure campaigns are relevant, targeted, flexible to respond to competitive activity and provide "value-added" elements.

Mega-mergers and other alliances over recent times have been drawn between the owners of delivery systems and entertainment software. The relationships between television, entertainment, publishing and computers provide us with the fifth key fact. Telephone companies will increasingly provide a method of distribution of information, particularly into the home. Computer companies will develop control mechanisms and will design systems which will allow the marriage between entertainment companies, publishing companies and telephone companies.

While we are talking about convergence - of competitors and media - it is worth pausing to consider some key socio-economic issues which will affect the take-up of new services. Most people use computers for commercial purpose or reward. Conversely, people watch television for pleasure and entertainment. Most people in the commercial world are conditioned to the thought of replacing computers with new, upgraded models for ease of work and applications. Nobody has conditioned the consumer for the upgrading of television sets that will allow audiences to take advantage of digital technology. If you bought a television set in 1956 to watch the Melbourne Olympic Games, you would still be able to watch television - albeit in black and white. And if you bought a colour television in 1975, you probably have little reason to want to change it. It would be a brave government which alters the delivery system - to the exclusion of analogue broadcasting - over the next twenty years.

There is a final key fact. Back in 1956, pundits predicted television would spell the end of cinema. Not so. Hollywood changed and met the demands of audiences. The studios even embraced the "enemy" and began to produce programming for television. Today, the studios are thriving. Cinemas are back and growing. Not even increased viewer choice through the introduction of prerecorded video cassettes could provide a knock-out punch.

Television pushed radio into the background thirty years ago. Many thought radio was dead and buried. Radio however also met the challenge. It developed new programming formats. Now radio is stronger than ever, with more frequencies than ever and broadcast television will prosper in the dramatic changes to our communications environment. After all, audiences don't care - and don't want to know about - the delivery technology. All they want to know is what is appearing on the television screen. Sure, broadcast television will face more competition. That's a fact of life but we are the only game in town that can deliver a major unduplicated audience.

Broadcast television will continue to command the largest audiences and largest share of advertising revenue in the expanding communications environment - regardless of the number of channels. Cable and satellite delivery platforms bring new and exciting challenges and opportunities for all those involved in

media and communications and not necessarily to the exclusion of broadcasters. There will be new and exciting opportunities for those with entrepreneurial abilities to develop exciting alternatives - an example is MTV in the United States. But these services will always be, by their nature, narrower in their appeal than the services offered by broadcasters. If you look at the pure mathematics of audience delivery, fragmentation will be to the advantage of those who continue to provide a larger market share as a proportion of total viewers. Cable has been around in the United States for more than forty years and, even though the days of the three television networks commanding 90 per cent of the viewing audience have long gone, broadcast television continues to prosper. There are now more television stations in the United States than there were thirty years ago. That country has moved from three networks to four and counting, and then there are the dramatically increasing number of independent and public stations. Add into the mix more than one hundred cable television channels and other options such as direct-to-home satellite programming, and broadcast television still leads the market. The three major networks are buoyant, creative and profitable. They are meeting the competition and thriving.

Let's take a look at cable. CNN is probably one of the best known cable networks. But even today, it is scratching for a substantial audience in the United States. What it generally needs is a good war or murder trial involving a high profile sporting personality live in prime time to generate an audience. However, once the war is over and the jury has delivered its verdict, it slips back.

Then there are the "retro" cable channels. This is a cute, marketing term for channels which show re-runs of network programmes long since relegated to the pages of television history. In a strange twist, network television is now a significant source of programming for cable television channels.

Recent developments in the United States confirm that broadcast television will continue to flourish:

- The merger of the Walt Disney Company with Capital Cities - ABC;
- The Westinghouse purchase of CBS;
- NBC's alliance with Microsoft;

- The success of Fox in becoming a credible fourth television network;
- And the moves by some of the major film studios to develop what will become the fifth and sixth television networks.

These corporate manoeuvres which have captured our attention confirm what broadcast television has known for a long time. No one can surpass our audience delivery. Only broadcast television can deliver the audiences. Sure, we'll change the way we do things. Broadcast television will need to adjust to the addition of new channels and the competition which will develop. While we are positive about the future of television, we are not putting our heads in the sand. Over time, broadcast television will lose some audience share and some share of advertising revenue. But you can be assured that broadcast television will work harder and smarter.

While we can make comparisons with the United States, Australia is a different market. The facts are we have a broadcast system, which in my opinion, is equal to the best available in the world. This is primarily the result of having strong alternative broadcasters - such as the ABC and SBS. In addition to the strong commercial competition, Australian audiences are used to getting a broad range of services for free, services which do not exist in most other countries.

One of the driving factors in the future of broadcast television will be a commitment to be "Australian". Only broadcast television will ensure that we do not become a suburb of Los Angeles. Australian programming defines broadcast television. Sports also define television. Seven's agreement with the International Olympic Committee is an indication of the future development of relationships between broadcast television and sports. The network's agreement with the Australian Football League is another tangible indication. Sports draw audiences to television. They allow television to do what it does best - coverage of events of significance to the majority of Australians and the delivery of major events to all Australians, whether or not they decide to subscribe to a particular cable channel.

News and current affairs is the other important linchpin in the future development of broadcast television. News and current affairs must be the flag carrier for a television network. News

and current affairs defines a network and its credibility and respect with audiences.

Technology can do so much to bring us closer. It can increase the sense of community. It can aid in the process of integrating our rich and diverse culture. It can provide the basis for a major export industry that will cement forever Australia's identity on the global stage. It can also, if we aren't very careful, cause us to lose touch with our neighbours and fellow citizens as we disappear in a fog of global technobabble. Technology is a tool and a good and useful tool, but it is a tool nonetheless. 158 years ago, Wheatstone and Cooke in England, and Morse in America, invented a means of transmitting coded letters by copper at close to the speed of light. 158 years is only a brief period in history, but it has delivered all the ingredients to radically change our media, our lives, our culture and our national identity.

Technology took a giant leap forward in 1948 when Shockley's team in the United States invented the transistor. Today, a single chip can contain 10 million transistors - a number that nearly doubles every couple of years. Once it was thought that the world would only need a few computers. Today, computers are a part of our lives and computer capacity doubles and halves in price every two years. 40 years ago, hardware encompassed a typewriter, a telephone, a

radio... and possibly a television set. Today the hardware includes: set-tops, servers, terminals, consoles, CD-Roms, VCRs, facsimiles, PCS and television.

The delivery platforms have also come a long way. Broadcast television, telephone companies, cable television, direct broadcast satellite, personal computers, wireless, on-line, cinemas - even the corner video store. How individuals, community organisations, businesses and government respond to technological changes is very important to Australia. The technologies have the potential to increase our standard of living, not just economically but also qualitatively. They can make us better human beings with a wider knowledge and understanding of the world in which we live. They have their dangers too, especially for a country like Australia. The principal danger is that we become swamped and our culture eroded by the avalanche of material from other countries, particularly the United States.

There is an Australian culture and it is worth preserving. Information and communications policy is essential to that task. Very simply, without communication, there is no culture. The two are almost synonymous: most acts of culture are acts of communication of one sort or another. The greater the level of foreign involvement in these acts of communication, the greater the risk that

our culture will be diluted. There is a unique Australian identity that is worth preserving and this identity is under threat from the globalisation of the information industries and the present lack of direction and co-ordination in the introduction of new communication technologies. At the moment, Australia is hell-bent on laying cable above and below the ground - at a cost of many billions of dollars. All these services could be much more easily provided through satellite delivery, a process which would ensure a quality of service at a fraction of the cost to all Australians. Technically, there is no reason why we cannot be providing hundreds of channels from the sky before the cable is rolled out.

As I outlined in the Boyer Lectures, capital is a limited resource and as a nation we should be looking to optimise its utilisation. A little earlier, I referred to a danger that we could become a suburb of Los Angeles. This is no particular slight on Los Angeles - it's just that Los Angeles is not Australia and there is no need for us to surrender our cultural identity, certainly not without a fight.

*Kerry Stokes is Chairman of the Seven Network. This is an edited transcript of a speech presented at a recent Cable and Satellite Television Conference in Sydney.*

## The Legal Frontier of the Internet I

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**Robert Cumbow predicts that the United States response to the legal and regulatory challenges posed by the Internet will generally be the adaptation and application of traditional legal principles.**

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The Internet, though not new, has enjoyed phenomenal growth in the last couple of years, and even more phenomenal media attention in the last few months. The past year has certainly been the year of the Internet. This has been due, in large part, to the advent of the graphically appealing World Wide Web, and computer software that enables it to be accessed and used efficiently.

With the increase in population on the Internet has come an increase in conflicts and controversies, giving rise to a recognition of the need for some form of authority and order, some standard by which conduct on the Internet can be measured.

But because the Internet has, until recently, been a frontier, populated by pioneers, and pioneers do not take easily to being told what they can and can't do, there is considerable resistance to the idea of Law on the Internet.

And not without good reason. It is entirely legitimate to ask not only whether there should be law on the Internet, but whether there can be.

People who ask whether there should be law on the Internet often point out that the Internet doesn't need law, because it is self policing. 'Netiquette' is the term given to the unwritten code of behaviour that governed the Internet community

while it was still a close-knit group of computer cognoscenti.

One rule of Netiquette was 'Thou shalt not advertise'. Any effort to turn the net into a commercial communication medium was staunchly resisted. 'Spamming' - the sending of self-promoting messages to all members of one or more news groups was universally condemned. It was the one form of net misconduct that justified 'flaming' - the sending of harassing and insulting messages in reaction to someone else's communication.

In a way, this resistance to early efforts to use the net for commercial communication led to the growth of the