



A U S T R A L I A N
B R O A D C A S T I N G
A U T H O R I T Y



annual report 1996-97

Mission Statement

*Promoting the development of broadcasting
industries in the best interest of
Australians in the rapidly changing
communications environment*



**AUSTRALIAN
BROADCASTING
AUTHORITY**

annual report

*Sydney
1997*

© Commonwealth of Australia, 1997

ISSN 1320-2863

Design by Media and Public Relations

Australian Broadcasting Authority

Printed in Australia by Printing Headquarters, Broadway, NSW 2008

For inquiries about this report, contact:

Publications Officer

Australian Broadcasting Authority at address below

For inquiries about information to be made available to Members of Parliament and Senators on request, contact:

Director

Corporate Services Branch

Australian Broadcasting Authority at address below

For inquiries relating to Freedom of Information, contact:

FOI Officer

Australian Broadcasting Authority

Level 15, 201 Sussex Street

Sydney NSW 2000

Ph. (02) 9334 7700

Fax: (02) 9334 7799

Postal address:

PO Box Q500

Queen Victoria Building NSW 1230

E-mail: info@aba.gov.au

Web site: <http://www.dca.gov.au/aba/hpcov.htm>



**Australian
Broadcasting
Authority**

Level 15 Darling Park
201 Sussex St
Sydney
PO Box Q500
Queen Victoria Building
NSW 1230
Phone (02) 9334 7700
Fax (02) 9334 7799
E-mail info@aba.gov.au
DX 13012 Market St Sydney

2 October, 1997

The Hon. Senator Alston, MP
Minister for Communications, Information Economy and the Arts
Parliament House
Canberra ACT 2600

Dear Minister,

In accordance with the provisions of clause 14 of schedule 2 of the *Broadcasting Services Act 1992*, I am pleased to present this report on the operations of the Australian Broadcasting Authority for the year 1996-97.

Yours sincerely,

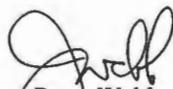

Peter Webb
Chairman

Table of contents

| | Page no. |
|--|-----------------|
| Letter of transmission | 3 |
| Introduction to the report | 7 |
| The year in review | 8 |
| Corporate overview | 16 |
| Performance reporting: | |
| Objective 1 — Expert advice | 23 |
| International liaison | 24 |
| Advice to the government | 30 |
| Digital terrestrial television broadcasting | 30 |
| Digital radio broadcasting | 31 |
| The sixth television channel | 32 |
| External liaison | 34 |
| Objective 2 — Planning the spectrum | 45 |
| Final licence area plans – radio | 46 |
| Final licence area plans – television | 53 |
| Objective 3 — Licence allocations | 56 |
| Commercial radio and television licences | 56 |
| Community radio licences | 59 |
| Open narrowcasting licences | 61 |
| Subscription television broadcasting licences | 63 |
| Temporary transmissions by aspirant community broadcasters | 64 |
| Community television | 65 |
| Objective 4 — Control of broadcasting services | 67 |
| CanWest/The Ten Group Ltd | 68 |

| | |
|---|------------|
| Objective 5 — Programming | 72 |
| On-line services | 73 |
| Investigation into Australian content on pay TV | 74 |
| Attitudinal research | 77 |
| Codes of practice | 82 |
| Australian content on commercial television | 85 |
| Children's television | 88 |
| Anti-siphoning | 90 |
| Objective 6 — Resources | 92 |
| Appendices | |
| 1 Additional matters | 99 |
| Social justice statement | 100 |
| Staffing overview | 102 |
| Litigation summary | 105 |
| 2 Number of new transmitters planned in final licence area plans | 100 |
| 3 Temporary transmissions by aspirant community broadcasters | 111 |
| 4 Investigations: no breach findings | 113 |
| 5 Investigations: breaches found | 124 |
| 6 Freedom of information | 144 |
| 7 Compliance index | 159 |
| Financial statements | 161 |
| Index | 175 |

Introduction to the report

The report is presented in accordance with the reporting requirements for departmental annual reports.

The Authority meets its mission statement (see inside front cover) by means of six objectives. Each of these objectives is addressed, and the outcomes and highlights of the reporting period, in the following section on performance reporting.

A detailed discussion of the Authority's achievements against those objectives begins on p.23.

In summary, the contents of this annual report are:

- The year in review, including significant issues during the reporting year.
- Corporate overview, including structure of the Authority, and a summary of its powers and functions.
- Performance reports, the Authority's achievements and activities for the year, assessed against the Corporate Plan objectives.
- Social justice, including social justice and equity, EEO, internal and external scrutiny.
- Summary statements, performance pay, staffing matters.
- Freedom of information.

The year in review

The year has seen the Authority consolidate its achievements of past years and continue to provide a regulatory environment which encourages the broadcasting industry to be competitive and, at the same time, responsive to audience needs.

The Authority has continued to promote its role as a regulator in the Asian and Pacific regions. In accordance with its acknowledged role as a leader in the new field of on-line services, the Authority has been instrumental in international negotiations which are leading towards the development of international agreement on regulation of the Internet.

International relations

The Authority recognises the rapidly changing nature of communications and how this challenges the traditional definitions of radio and television broadcasting. As a result, the need for international cooperation and dialogue between regulatory counterparts is increasingly evident. The Authority has developed the capacity to engage in dialogue about regulatory matters while respecting diverse cultural and social perspectives.

The Authority has taken a proactive stance in these matters and is recognised as a regulator that sees international regulatory cohesion as essential in an increasingly globalised world, and is also prepared to work towards achieving it.

The Authority places particular importance on its relations with regulatory partners from the Asian and Pacific regions. It has nurtured the notion of an Asian Pacific Regulatory Roundtable and convened an exploratory meeting which led to the inaugural meeting held in Japan in June 1997. The next meeting will be held in Korea.

The Authority has continued to maintain formal links with other broadcasting regulators, and this year signed cooperation agreements with its French and Canadian counterparts and a memorandum of understanding with the regulatory agency in Taipei.

On-line services

Since the release of its report, *Investigation into the content of on-line services*, in July 1996, the Authority has continued to monitor developments, both domestic and international, in the on-line services area. The Authority's investigation placed it at the forefront of both national and international discussions on content labelling and community education. The positive reception given to the report and the support for the Authority's approach to regulation has continued as the Authority has been invited to participate in formal discussions and international working groups.

The Authority has encouraged an international approach to Internet regulation. The Authority has also placed particular emphasis on providing options for parents and supervisors who manage children's access to the Internet. In this regard, the Authority was particularly pleased to join the International Content Rating Group, which will, among other things, develop a model for an international rating of content.

Advice

Digital broadcasting

The Authority has contributed to international standard setting and to the debate on the preferred outcomes for digital terrestrial television broadcasting in Australia. In January 1997, the Digital Terrestrial Television Broadcasting Specialist Group presented its final report to the Authority for consideration. Following this report, in July 1997, the Authority recommended to the government that it support the early introduction of digital terrestrial television broadcasting into Australia, and that it be introduced as a high definition system. This would enable receivers to receive all types of future transmissions.

The Authority also recommended that Australia conduct detailed technical evaluation trials and adopt a single system standard; that all existing commercial and national television services be given a channel for the introductory period which should start in the year 2000; and that, subject to regular review, market factors determine the phase out of the existing PAL analog broadcasting system.

The digital radio broadcasting taskforce convened by the Authority identified the broadcasting requirements for digital radio broadcasting and made a number of recommendations to the Minister for Communications and the Arts' Digital Radio Advisory Task Force. The recommendations included that existing broadcasters be given priority access to digital radio; a development period precede the introduction of digital radio; and non-broadcasters be able to share the digital spectrum.

Pay TV

At the request of the Minister for Communications and the Arts, the Authority conducted an investigation into Australian content on pay TV, including the feasibility of increasing to 20 per cent the required level of expenditure on new Australian drama, as required by s.215(2) of the Act.

The report, Australian content on pay TV, provided the Minister with an analysis of the nature of Australian content on pay TV, and an assessment of the effectiveness of the operation of the current requirement that 10 per cent of a licensee's program expenditure on its drama channels be spent on new Australian drama. In considering options, the Authority consulted widely with the pay TV industry, the commercial television industry, the film and television production industry and relevant government agencies. The Authority considers that the production industry stands to gain from the current requirement, mainly through the increased spending on new Australian drama feature films by channels devoted to new movies.

The Authority concluded that doubling the expenditure obligation to 20 per cent for movie channels packaged in Australia would be problematic for the pay TV industry. However, the Authority considered that such an increase could be imposed on non-movie drama channels around the year 2001, when these channels are forecast to have recovered from losses. Such a proposal should be evaluated closer to that date.

The Authority also recommended that Australian content requirements should not be extended to non-drama pay TV channels. Allowing a range of new Australian

programs to qualify as expenditure by drama channels, however, would provide wider production industry support and encourage greater Australian representation on the non-movie drama channels in particular.

The Authority considered that the present scheme which focuses on licensees rather than channel providers, should be made enforceable.

Anti-siphoning

The Authority also reported to the Minister on the operation of the anti-siphoning provisions of the Broadcasting Services Act. These provisions, as currently drafted, deal with the acquisition of rights to events included on the list, not with the television coverage of those events. The capacity of free-to-air television services to provide live coverage of sporting events is limited, given the need of their programming schedules to appeal to a broad audience. The use of the acquired rights is a commercial decision by the broadcaster.

Sixth channel

At the direction of the Minister, the Authority conducted a public inquiry into the future use of the sixth television channel, taking into account the interests of existing and potential users. As part of its inquiry, the Authority consulted widely, called for submissions and held consultative meetings with interested parties around Australia to discuss funding and structural issues.

The Authority concluded that there was support for the continued use of the sixth channel for community access television, but not using the paradigm of the present community television trial.

Given funding and operational constraints, the Authority proposed a 'hybrid' model. Under this channel sharing arrangement, a commercial operator would cover the costs of transmission and infrastructure in exchange for a limited amount of broadcasting time. In the absence of secure funding arrangements, the Authority also recommended that the sixth channel should be left vacant for review at a later date.

Planning

During the year, the Authority issued final licence area plans for 39 separate markets. The Authority has now issued final licence area plans for all of its group one areas (highest priority was given to those areas which had the fewest services), and the majority of group two areas. Since licence area planning started in late 1994, the Authority has planned channels for: 4 new commercial television services; 55 new commercial radio services; 56 new community radio services; and 112 new medium and high power open narrowcasting radio and television services.

One of the new commercial television services planned, for which a licence is yet to be allocated, is for regional Western Australia. After seeking submissions from the industry and the public, the Authority decided to create a new commercial television licence area by combining the four existing commercial television licence areas in regional Western Australia.

The Authority also released planning proposals, comprising discussion papers and draft licence area plans, for a further six areas during the year.

There has been intense interest in the Sydney radio market, where demand for frequencies, from both commercial operators and aspirant community groups, is almost certain to outweigh supply. In December 1996, the Authority released a technical options discussion paper, *Availability of high power FM frequencies for radio in Sydney*.

The paper began a public process of consideration of the technical supply issues in advance of any calls for expressions of interest in providing new services. Apart from increasing public and industry awareness of the assumptions underpinning the planning process, the Authority was hopeful such a public process may shed new light and disclose additional options for improving broadcasting services in the Sydney area.

The paper did not present considered conclusions. Rather, it proposed some promising avenues for further consideration, and outlined some of the work that must still be done before the Authority can be satisfied that options for increased channel capacity are viable. The Authority is considering the submissions to the paper.

Allocations

During the 1996-97 year, the Authority allocated 3 commercial television licences, 12 commercial radio broadcasting licences, 5 community radio licences, 2 open narrowcasting television licences and 53 open narrowcasting radio licences. The Authority also approved 148 transmissions for special events, 132 licences for re-transmission of broadcasting services; issued 41 national apparatus licences and renewed 20 commercial radio and 20 commercial television broadcasting licences.

The Authority allocated 12 commercial radio broadcasting licences to operators who provided the only commercial radio service in their market, giving them, in effect, second services in their markets. A total of 55 commercial radio licensees were eligible for an additional licence. Forty-nine of these operators have now been allocated an additional licence and 15 of these services have commenced operation.

Using its price-based allocation system, the Authority allocated new commercial television broadcasting licences to provide second services in Mildura, Victoria and Darwin, Northern Territory.

Between July and November 1996, the Authority issued 453 apparatus licences to provide open narrowcasting services. In the interests of efficiency, the Spectrum Management Agency (now the Australia Communications Authority) and the Authority agreed that the public interest would be best served if the task of allocating these licences reverted to the Spectrum Management Agency.

There was no demand for subscription television broadcasting licences during the year, but the Authority prepared itself for the changes in regulation that took place on 1 July 1997. These changes allow the Authority to allocate licences for subscription television broadcasting services delivered by any means, including satellite.

The demand for licences from aspirant community groups continued unabated during the year—the Authority issued 494 transmitter licences for temporary broadcasts. The Authority completed assessments of the eligibility of 42 aspirant community broadcasting groups during the year. A total of 175 aspirant groups have now made use of the temporary regime developed by the Authority. Temporary transmissions in any given licence area are subject to the Authority's licence area planning process and future availability of vacant spectrum. These temporary transmissions allow aspirant groups to develop their broadcasting and management skills.

Control of media companies

The Authority completed one major investigation relating to the control of a commercial broadcasting licence.

On 3 April the Authority found that the Canadian company CanWest Global Communications Corporation was in breach of the foreign ownership provisions of the Broadcasting Services Act, by being in a position to exercise control of the Ten network television licences. The Authority issued a notice to CanWest requiring it to remedy the breach within six months. In reaching its conclusions the Authority conducted a wide-ranging, thorough and comprehensive examination of the documents, and oral examinations of the persons, associated with certain transactions.

On 29 April 1997 CanWest and others filed applications in the Federal Court for review of the Authority decisions. Subsequent to the date of this report, on 8 August 1997, the applications were dismissed. CanWest has since appealed this decision.

The Authority continued to facilitate changes to the structure of the industry, particularly commercial radio broadcasting, by allowing prior approval of temporary breaches of the Broadcasting Services Act. Although there were fewer applications of this kind in this reporting period than in the previous one, there was an increase in the number of applications for opinions on control.

Australian content

The objective of the Australian content television standard is to promote the role of commercial television in developing and reflecting a sense of Australian identity, character and cultural diversity by supporting the community's continued access to television programs produced under Australian creative control. All stations in the three metropolitan television networks met the requirements of the Australian content standard in 1996.

The challenge to the Australian content standard by the New Zealand production industry (Project Blue Sky) is continuing. The High Court is due to consider the case in September 1997.

Children's television

The Authority has successfully continued its assessment system for the classification of children's television programs. The programs are classified against the criteria set out in the children's television standards, which are administered by the Authority. The criteria are that programs made for children must be made specifically for them, be entertaining; well-produced and of a high standard; enhance a child's understanding and experience and be appropriate for Australian children. The Authority assessed 85 applications and granted classification to 67 programs.

Research

The Authority conducts and commissions research into community attitudes on issues relating to programs. From the results of this research, the Authority provides broadcasters and the public with information on the diverse needs, interests and values of the Australian community. When appropriate, the research program also addresses issues associated with Australian identity and character.

The program provides information that is representative of the views of the community and provides a balance to other community views gained through submissions, public meetings and the Authority's complaints process. The research program also informs the process of determining and assessing the standards for children's programs on commercial television. The research results are widely disseminated to assist program makers and broadcasters to understand and serve the interests of children.

As part of its ongoing role to monitor the effectiveness of commercial television codes of practice, the Authority conducted its third national survey on people's concerns about what they had seen on television. The results were provided to the Federation of Australian Commercial Television Stations so that any implications could be considered in the review of the commercial television industry code of practice.

The Authority's research into youth and music in Australia recognises the cultural and economic influence of contemporary music. The research has been designed to feed into the Authority's spectrum planning and licensing process. This may have particular importance for community services in capital cities where there may be opportunities for broadcasting services which address the needs of local youth through youth-oriented services.

During the year, the Authority published a comprehensive literature review which focused on youth, their access to and consumption of music, participation in musical activities, preferred forms of music, and attitudes to Australian versus overseas music.

The Authority is also looking at the amount and type of television watched by preschool-aged children. This is the first research which looks at children in the age group, and parents' attitudes and behaviour towards their children's viewing.

The Authority has sought to maximise resources during the year by conducting joint or collaborative research projects with the Australia Council, the Australian Record Industry Association, the Key Centre for Cultural and Media Policy, and the

Department of Immigration and Multicultural Affairs. In this way, the Authority is able to gain access to information it would otherwise not have the resources to obtain, and is then able to pass this information on to the broadcasting industry.

The Authority's research skills received international recognition when UNESCO asked it to conduct a pilot study on the Internet and international regulatory issues. The study, published after the date of this report, identified some of the main features of the Internet, technical developments, such as the Platform for Internet Content Selection (PICS), completed a comparative study of on-line regulation in four countries and considered the areas which might benefit from international cooperation on on-line regulation.

The Authority entered into a number of new research projects during the year including research into the implementation of on-line services in Australia, media use by migrants to Australia and new research into the children's television industry.

The Authority was a major participant in the first international conference for researchers on young people and the media, 'Youth and the Media, Tomorrow', held in Paris in April. The conference was organised by France's Groupe de Recherche sur la Relation Enfant Medias (GRREM) and overseen by an International Scientific Committee. The Authority's General Manager, Policy and Communications, was elected incoming chairman of the International Scientific Committee.

The ongoing coordination of the International Research Forum on Children and Media (IRFCAM), initiated and developed by the Authority, has assisted its researchers to maintain and develop links with researchers and regulators in other countries as well as in Australia.

Codes of practice

One of the primary functions of the Authority is assisting representative industry groups to develop codes of practice and monitoring those codes once they are implemented. The Authority also has a role in assessing unresolved complaints about matters relating to the codes. Although the codes of practice for commercial radio and television were registered in 1993, and community radio sector in 1995, the codes of practice for the narrowcasting and subscription television sectors have been longer in coming. This reflects the fact that these sectors of the broadcasting industry are still relatively new and are still developing. The Authority registered the codes of practice for the narrowcast sector in September 1997, after the date of this report, and expects to register the codes for subscription television in the latter part of 1997.

The Authority's investigations into unresolved complaints are a means of monitoring the effectiveness of the codes of practice, and of providing broadcasters with an interpretation of the codes. The Authority publishes summaries of its investigations to inform broadcasters and the public of its rulings and make its interpretations available to all.

Corporate services

Looking within the organisation, the Authority has continued to make optimum use of its resources.

The Authority developed its Access and Equity plan, and a Disability Action Plan both of which will be implemented during 1997–98. Work is well advanced on a service charter and work has continued on the Authority's corporate and business planning process.

The Authority's client service working group developed and implemented protocol for telephone contact with clients, and there were significant outcomes from continuous improvement processes adopted during the year.

The Authority continued to encourage staff development, and developed a performance feedback and development scheme for all staff. A number of staff took advantage of training and development opportunities during the year to develop their professional skills, and the Authority also developed and provided in-house training when the need arose.

The Authority maintained a number of lively internal communications systems to keep staff informed, and ensured that its information technology systems are up to date.

Corporate Overview

Australian Broadcasting Authority

Members



Chairman:
Peter Webb



Policy and Programs Division:
General Manager:
Gareth Grainger



Member:
Tim O'Keefe



Member:
Kerrie Henderson



Planning & Corporate Services Division:
General Manager:
Colin Knowles



Policy & Communications Branch:

Director: Pat Manser

Legal Section: Manager: John Corker

Policy Section: Manager: Phyllis Fong

Media & Public Relations Section: Manager:
Donald Robertson

Industry Analysis Section: Manager: Osmond Borthwick

Library: Manager: Lurline Caffery



Program Services Branch:

Director: Debra Richards

Standards Section: Manager: Lesley Osborne

Research Section: Manager: Stephen Nugent

Codes & Conditions Section: Manager: Nick Herd

Allocations & Renewals Section: Manager: Nigel Ryan

On-line Services Project: Manager: Kaaren Koomen



Planning Branch:

Director: Bob Greeney

Services Planning Section: Manager: Mike Salloom

Planning Engineering Section: Manager: vacant



Corporate Services Branch:

Director: Louise Harkness

Financial Resources Section: Manager: Dianne Gallery

Human Resources Section: Manager: Maree Bowman

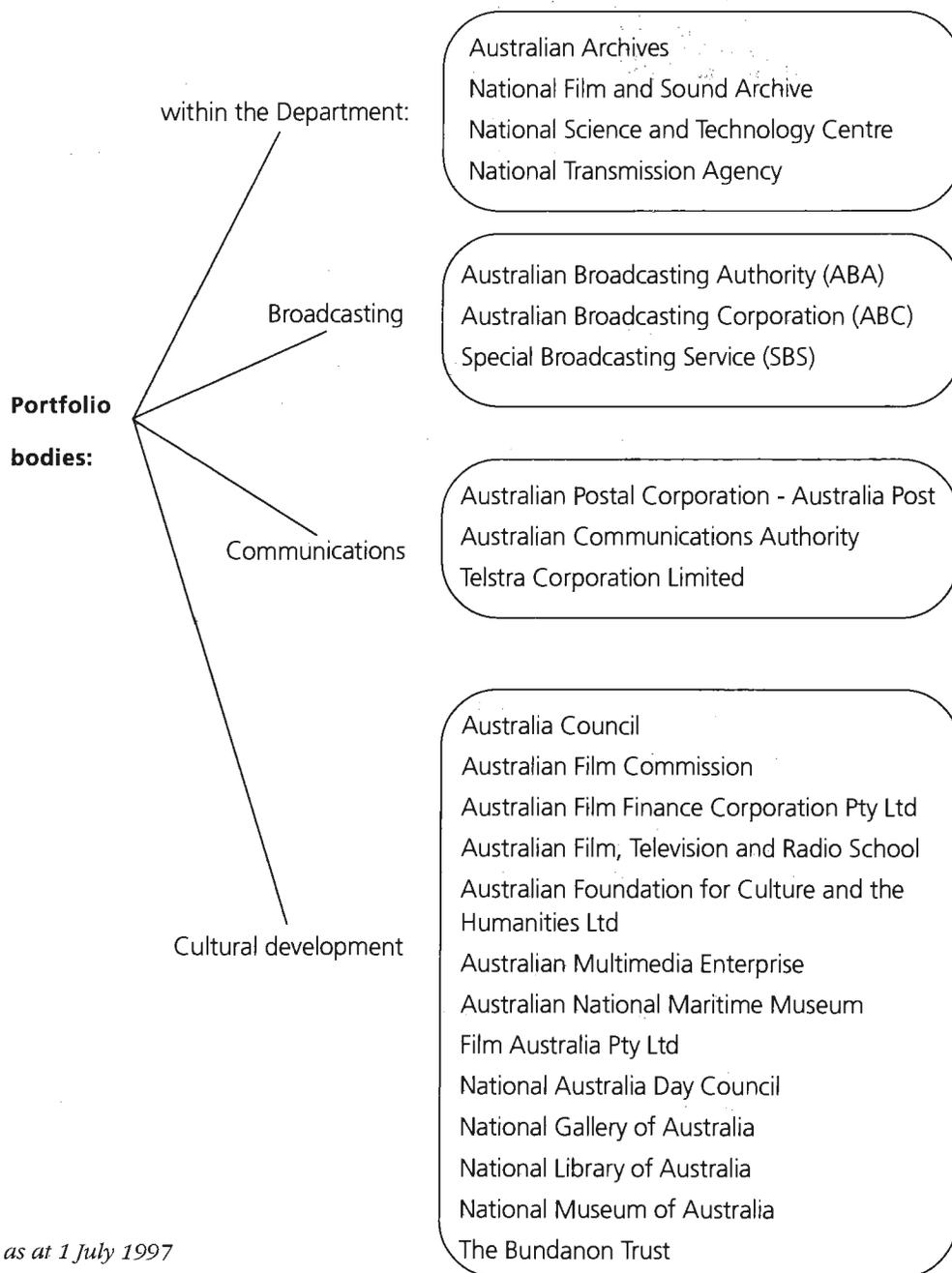
Information Systems Section: Manager: Rahn Yeh

as at 30 June 1997

Communications and the Arts Portfolio

Minister: Senator The Hon. Richard Alston

Department: Communications and the Arts



as at 1 July 1997

At 30 June members of the Authority are:

Mr Peter Webb

Mr Webb was appointed Chairman of the Authority in April 1995, until 4 October 1997. He was initially appointed a member of the Authority for the period 5 October 1992 to 4 October 1997 and then Deputy Chairman from 1 February 1993 for the remainder of his term.

Mr Webb was Acting Chairman of the former Australian Broadcasting Tribunal from 1 July to 4 October 1992, following his appointment as Vice Chairman of the ABT on 11 May 1992.

He was appointed an associate member of the Trade Practices Commission in 1993 and of the Australian Competition and Consumer Commission upon its creation in 1995.

Mr Tim O'Keefe

Mr O'Keefe resigned his appointment as full time member on 31 March 1997 to take up a position at Multimedia Australia. Mr O'Keefe was appointed as a part time member of the Authority for the six months from 1 April 1997 to 4 October 1997. Mr O'Keefe subsequently resigned as part time member, effective 15 September 1997.

Mr O'Keefe had been appointed as a member of the Authority for a five year period 5 October 1992 to 4 October 1997. He was previously a member of the ABT, following his appointment in July 1990 for a five year period.

He has had 12 years' experience in the broadcasting industry and, before joining the ABT, was Chief Executive of Wesgo Limited (now named the Australian Radio Network) and Chairman of all that listed company's licensee subsidiaries.

Mr O'Keefe has also held corporate development and financial management positions with Wesgo, AWA Radio Network and 2DAY FM Ltd and has served on the Federal Council of the Federation of Australian Radio Broadcasters. Mr O'Keefe is a member of the Institute of Chartered Accountants in Australia.

Ms Kerrie Henderson

Ms Henderson was appointed as the first part time member of the Australian Broadcasting Authority on 17 February 1995 for a period of five years.

Ms Henderson holds degrees in Arts (major in government) and Law from the University of Sydney and practised as a commercial lawyer with prominent Sydney firms from 1986 to 1993. As a lawyer, her practice included both transactional and litigation work, and focused on servicing clients in technology, communications and intellectual property based industries.

From 1994 to mid-1997, Ms Henderson also held the position of Director, Leadership Programmes with The St James Ethics Centre, a non-profit organisation established to promote business and professional ethics. In that capacity, she was responsible for the establishment and administration of a national leadership awards program and a number of international ethics conferences. Ms Henderson remains a

professional associate of the Centre, consulting in tyhe area of cross-cultural business ethics. She also works in the area of cross-cultural business management and expatriate training, with a particular emphasis on Indosesia.

Ms Henderson is member of the NSW Executive of the Australia-Indonesia Business Council Ltd and was the first female director of that organisation.

Former members

Former members of the Authority during the reporting period were:

Mr Bob Scott

Mr Scott resigned his appointment as Deputy Chairman of the Authority on 18 October 1996, to return to the commercial broadcasting sector.

Mr Scott was appointed Deputy Chairman of the Authority in June 1995 for a five year period. Before joining the Authority, Mr Scott had some thirty years' experience in the media.

Ms Christine Goode

Ms Goode resigned her appointment as Associate member of the Authority on 6 April 1997.

Ms Goode was appointed Associate member in July 1995. Ms Goode joined the Australian public service in 1968, and has worked predominantly in the fields of transport and communications during her career. In 1993, she was appointed head of the Spectrum Management Agency, and resigned from this position in April 1997.

Senior management

The senior management of the Authority, as at 30 June 1996, was:

| | |
|--------------------|---|
| Mr Gareth Grainger | General Manager, Policy and Programs Division |
| Mr Colin Knowles | General Manager, Planning and Corporate Services Division |
| Ms Pat Manser | Director, Policy and Communications Branch |
| Ms Debra Richards | Director, Programs Services Branch |
| Mr Bob Greeney | Director, Planning Branch |
| Ms Louise Harkness | Director, Corporate Services Branch. |

Changes to membership of the Authority and senior staff

Mr Giles Tanner, Director, Planning Branch ceased on transfer from the Authority, on 18 April 1997.

Since the date of this report the following announcements have been made.

Chairman: Professor David Flint has been appointed from 5 October 1997 for three years.

Deputy Chairman: Mr Gareth Grainger has been appointed from 23 July 1997 for three years.

Member: Mr Michael Gordon Smith has been appointed from 15 September 1997 for three years.

Part time member: Mr Ian Robertson has been appointed from 23 July 1997 for three years.

Part time member: Mr John Rimmer has been appointed from 5 October 1997 for three years.

Mr Colin Knowles, General Manager, Planning and Corporate Services Division, resigned from the Authority on 22 August 1997.

Mr Nick Herd, Manager Codes and Conditions, resigned from the Authority on 29 August 1997.

Powers and functions

The Authority is the broadcasting regulator for radio and television in Australia. As well as planning the availability of segments of the broadcasting services bands (VHF/UHF television, FM and AM radio), the Authority has the power to allocate, renew, suspend and cancel licences and collect any fees payable for those licences.

The Authority is also empowered to conduct research into community attitudes on programming matters, develop program standards relating to broadcasting in Australia, assist broadcasting service providers (licensees) develop codes of practice, and monitor compliance with licence conditions and investigate complaints about services.

The Authority monitors the suitability of licensees to ensure compliance with the ownership and control provisions of the Act. In addition, the Authority is required to inform itself and the Minister about advances and trends in broadcasting technology.

More detail about the powers and functions of the Authority can be found in Appendix 6 - Freedom of Information statement.

Minister

The responsible Minister is Senator the Hon. Richard Alston, Minister for Communications and the Arts.

Structure

The Authority's operational areas have been designed to achieve its Mission Statement (see inside front cover) in the most effective way possible. The Authority's structure has two Divisions, each with two Branches.

The Policy and Programs Division is comprised of the Policy and Communications Branch and the Program Services Branch. It also includes the Authority's on-line services investigation team which reports directly to the General Manager Policy and Programs.

The Policy and Communications Branch monitors the broadcasting industry to ensure compliance with the ownership and control provisions of the Act, provides legal and policy advice to the Authority, a library and public information service.

The Programs Services Branch may allocate, renew, suspend and cancel licences and is responsible for the collection of any fees payable for all licences including the allocation of new licences, provides opinions as to which service category a service belongs, assists broadcasting service providers (licensees) develop codes of practice, conducts research into community attitudes on programming matters, develops, determines and monitors compliance with program standards relating to broadcasting in Australia, monitors compliance with licence conditions and investigates complaints about licensees, and monitors and reports to the Minister on anti-siphoning provisions.

The Planning and Corporate Services Division comprises the Planning Branch and Corporate Services Branch.

The Planning Branch plans the availability of segments of the broadcasting services bands (VHF/UHF television, FM and AM radio) and develops technical planning guidelines for services that use these bands.

The Corporate Services Branch attends to all matters related to personnel, accommodation, office services, financial matters and information technology.

The Policy and Communications, Program Services and Corporate Services branches are located in Sydney, while Planning Branch is located in Canberra.

A detailed exposition of the Authority's structure can be found in appendix 6 - Freedom of Information statement.

Objective 1

Expert advice

Promote the Authority's established role as a principal source of expert advice and information on broadcasting and related issues.

Key outcomes

- ◆ *Authority representatives attended the inaugural meeting of the Regulatory Roundtable for Asia and the Pacific, in Japan.*
- ◆ *The Authority completed an investigation into the future use of the sixth television channel and reported to the Minister for Communications and the Arts.*
- ◆ *The Authority reported to the Minister for Communications and the Arts on a major investigation it conducted into Australian content on pay TV.*
- ◆ *The Authority published the findings of the Digital Terrestrial Television Broadcasting Specialist Group.*
- ◆ *The Authority published the discussion paper of the Digital Radio Broadcasting Taskforce and presented its recommendations to the Ministerial Digital Radio Advisory Committee.*
- ◆ *A memorandum of understanding was signed by the Australian Commerce and Industry Office and the Taipei Economic and Cultural Office on behalf of the Authority and the Taipei Government Information Office.*
- ◆ *The Authority signed cooperation agreements with the French Conseil Supérieur de l'Audiovisuel and the Canadian Radio-television and Telecommunications Commission.*
- ◆ *The Authority held its first Broadcasting Planning Seminar.*

International liaison

Regulatory roundtable

The Authority places great importance on its relations with regulatory partners from the Asia-Pacific region. The Chairman, Mr Peter Webb, has therefore played a lead role in nurturing the concept of a regulatory roundtable for Asia and the Pacific. This facilitation resulted in the Authority convening an exploratory meeting in Singapore on 2 June 1996, chaired by Mr Webb.

In addition to the Authority, regulators from Brunei, China, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, New Zealand, Pakistan, Philippines, Singapore, Thailand and the United States of America were invited to attend. The concept of a regulatory roundtable for Asia and the Pacific was endorsed by participants at the exploratory meeting as well as by those who were unable to be present but had sent messages of support.

On 6 June 1997, the inaugural meeting of the Regulatory Roundtable for Asia and the Pacific was held in Tokyo, Japan. The Vietnam Ministry of Information and Culture was invited as well as all the regulators mentioned above. Regulators from Australia, India, Japan, Korea, Malaysia, New Zealand, Philippines, Singapore and Thailand sent representatives. The meeting was chaired by Mr Shuji Kusuda, Director-General of the Broadcasting Bureau of the Ministry of Posts and Telecommunications, Japan, as host of the inaugural meeting. The Authority was represented by Mr Peter Webb, Chairman, Mr Gareth Grainger, General Manager Policy and Communications and Ms Phyllis Fong, Policy Manager.

This meeting discussed issues relating to broadcasting in the twenty-first century, transborder satellite broadcasts, cable television, Internet content regulation, anti-siphoning, standards for pay TV and free-to-air services, and the role of regulatory authorities. Two working parties were established.

The first working party will develop frameworks and models for transborder satellite broadcasting for consideration by the 1998 roundtable meeting. It is chaired by Korea and its members are Australia, India and Japan.

The second working party will set up an on-line regulatory roundtable network, possibly by hypertext linking the content of regulators' Internet Web sites. This working party is chaired by Australia, with Japan, Malaysia and Philippines as members. Progress reports will be provided to each regulatory authority over the coming year.

The next regulatory roundtable meeting will be hosted by the Korean Broadcasting Commission and the Korean Cable Communications Commission in Seoul, Korea, in June 1998.

Memoranda of understanding

During the year, the Authority formalised relations with other broadcasting regulators by signing cooperation agreements with the French Conseil Supérieur de l'Audiovisuel and the Canadian Radio-Television and Telecommunications Commission in April 1997. A memorandum of understanding was signed by the

Australian Commerce and Industry Office and the Taipei Economic and Cultural Office on behalf of the Authority and the Taipei Government Information Office, in March 1997.

The Authority has in earlier years signed memoranda of understanding or cooperation agreements with the Singapore Broadcasting Authority, the Independent Broadcasting Authority of South Africa, the Federal Communications Commission of the USA, the Broadcasting Standards Council of the UK and the Korean Broadcasting Commission.

The purpose of the agreements is to ensure an easy dialogue between countries and their regulatory agencies in a context of increasingly globalised technologies, ownership of media companies and content issues.

On-line services regulation

The Authority delivered its report into the content of on-line services to the Minister for Communications and the Arts, Senator the Hon. Richard Alston on 1 July 1996 (*Annual Report 1995-96* pp.56-58). The report has been well received by the domestic on-line industry as well as the international community. Many governmental bodies, international and other organisations or individuals around the world have sought copies of the report, *Investigation into the Content of On-line Services*, and have expressed support for the approach taken by the Authority in this area.

During the year the Authority has continued to monitor developments concerning on-line services. The Authority has discussed on-line regulation issues with a large number of international organisations and bodies, including:

- Federal Communications Commission, Washington, USA;
- World Wide Web Consortium, New Jersey, USA;
- OECD, Paris, France ;
- UNESCO, Paris, France;
- Conseil Superieur de l'Audiovisuel, Paris, France;
- European Commission, Brussels;
- Internet Law and Policy Forum, USA;
- British Telecom, London, UK;
- Internet Watch, UK;
- Childnet International, UK;
- INCORE (a venture of the Internet Industry Association of Europe);
- Broadcasting Standards Council, London, UK;
- Independent Television Commission, London, UK;
- Office of the Telecommunications Authority, Hong Kong;
- Television and Entertainment Licensing Authority, Hong Kong;
- Dutch E-mail Hotline Service;
- Microsoft Europe; and
- Singapore Broadcasting Authority.

The Authority has also been invited to participate in a number of formal discussions commenced by international organisations such as the European Commission and

the Organisation for Economic Co-operation and Development (OECD). (For more information about the Authority's activities in the on-line arena, see p.73)

UNESCO

In January 1997 the United Nations Educational, Scientific and Cultural Organisation (UNESCO) commissioned the Authority to conduct a pilot study into the Internet and International Regulatory Issues. The study looked at the issues in the on-line environment, particularly those which relate to content. The report of the study was completed after the date of this report, in September 1997 (see p.74).

International meetings

The Authority has exchanged information with a number of visitors from overseas regulatory bodies during the year. Visitors included Professor De Beer of the South African Broadcasting Authority in August 1996; Mr Salem and Mr Koh of the Malaysia East Asia Satellite 1 (MEASAT) in November 1996; and Mr Peter Senchuk, Commissioner of the Canadian Radio-television and Telecommunications Commission in February 1997.

In addition, members and officers of the Authority met with a number of other overseas visitors and representatives of overseas organisations at the Authority's Sydney office, including:

Mr Toshiko Miyazaki, Forum for Citizens Television, Japan, in August 1996;

Mr Martin Tabel, Chief Censor and Mr Steven Mala, Director Enforcement of the Office of Censorship, Papua New Guinea, in April 1997;

Mr Liu Di Yi, President of Beijing Television Station, People's Republic of China, in April 1997;

His Excellency Mr Ding Guangen, Politburo Member of the Communist Party of China and His Excellency Mr Hua Junduo, Ambassador of the People's Republic of China, in April 1997;

Members of the South African Parliamentary Portfolio Committee on Communications, led by Mr Sam Moeti MP, in May 1997;

Mr Wu Tian Xi, Deputy Director of Beijing Television Station, in June 1997;

Mr Jai Naidoo, Minister for Post, Telecommunications and Broadcasting, Republic of South Africa, in June 1997; and

Mr Robert Graves, Chairman of America's Advanced Television Systems Committee and Mr Richard Citta, Zenith Corporation, USA, in June 1997.

Members and staff of the Authority who met with representatives of international regulatory bodies while overseas included:

Mr Gareth Grainger, General Manager Policy and Programs represented the Authority at the APEC Telecommunications Working Group, Taipei in July 1996.

Mr Peter Webb, Chairman attended the Association of South-East Asian Nations Regulators Forum on the Internet, Singapore in September 1996.

Ms Kaaren Koomen, Manager On-line Services presented the Authority's views and findings on regulation of the Internet and on-line services at the European Commission, Brussels in February 1997.

Mr Tim O'Keefe, Member was an observer at the signing of the Memorandum between Taipei Economic and Cultural Office and the Australian Commerce's and Industry Office in March 1997.

Mr Webb and Mr Grainger met with Mme Francoise Bertrand, Chairperson, Canadian Radio-television and Telecommunications Commission, in Paris, April 1997.

Mr Webb and Mr Grainger met with Mme Isabelle Mariani, Director, Mme Helene Fatou, Member, and M Herve Bourges, President Conseil Superieur de l'Audiovisuel in Paris in April 1997.

Ms Debra Richards and Ms Pat Manser met with M Francois Hurard, Conseil Superieur de l'Audiovisuel in Paris in April 1997.

International Telecommunications Union

Mr Colin Knowles, General Manager, Planning and Corporate Services Division and officers from the Authority's Planning Branch attended meetings of the International Telecommunications Union (ITU) in Toledo, Spain (October, 1996), in Sydney (November, 1996) and in Geneva (April, 1997). The ITU meets to develop recommendations for world-wide standards for the use of radiofrequency spectrum, including digital radio and high definition digital television broadcasting. The development of these international recommendations will assist Australia in the adoption of appropriate technology for digital broadcasting services.

During these ITU meetings, Authority officers attended working parties to establish international guidelines for the orderly sharing of spectrum for both satellite and terrestrial transmissions in preparation for the World Radiocommunications Conference in 1997.

Mr Knowles convened and hosted the ITU-Radiocommunications Working Party 11A and Task Group 11/3 meeting held in Sydney during November 1996. Working Party 11A deal with television production, multimedia and data broadcasting and radiofrequency systems associated with television broadcasting. Task Group 11/3, dealt with planning parameters for the introduction of digital terrestrial television systems, and completed its work in November 1996. Future work on digital terrestrial television broadcasting will be handled in other Working Parties of the ITU which deal with television planning.

Asian Broadcasting Union

The Authority is an associate member of the Asian Broadcasting Union (ABU). Ms Kerrie Henderson, Member of the Authority attended the ABU General Assembly in Hong Kong in November 1996.

International exchange

At the invitation of the Independent Broadcasting Authority (IBA) of South Africa, Mr Nick Herd, Manager Codes and Conditions section, spent two weeks in South Africa in July 1996 assisting the IBA to draft local content regulations for television.

The Authority played host to Mr Noel Leung, Chief Entertainment Standards Control Officer of the Television and Entertainment Licensing Authority, Hong Kong from 6-13 May 1997. Mr Leung worked with staff of the Authority gaining expertise in the areas of program standards, media and public relations, on-line services regulation and media ownership and regulation of the broadcasting industry.

The Authority also hosted a visit by Ms Geongran Jeon, Korean Broadcasting Commission who visited the Authority from 23 September to 2 October 1996. Ms Jeon was interested in the classification of children's television programs and the Children's Television Standards. Ms Jeon also discussed the classification of television programs under the code of practice, and research into children and television.

Youth and the Media, Tomorrow

The Authority was a major participant in the first international conference for researchers on young people and the media held in Paris from 21-25 April 1997. The conference, 'Youth and the Media, Tomorrow', was organised by France's Groupe de Recherche sur la Relation Enfant Medias (GRREM) and overseen by an International Scientific Committee of which Gareth Grainger, General Manager Policy and Programs, is a member.

Peter Webb, Chairman of the Authority, Gareth Grainger, Debra Richards, Director Program Services and Stephen Nugent, Research Manager, presented papers and sat on panels during the conference (see p.43).

The Authority's delegates also established and maintained a permanent display on the work of the Authority in the area of children and the media. The display was a focal point for other delegates to obtain copies of *Australian Children's Television*, copies of the Authority's publications list, general information on the Authority and information on International Research Forum on Children and Media (see below).

IRFCAM member countries:

Argentina, Australia, Bangladesh, Canada, Chile, China, Denmark, France, Germany, Greece, Hong Kong, India, Indonesia, Israel, Japan, Republic of Korea, PDR of Laos, Malaysia, Nepal, the Netherlands, New Zealand, Norway, Papua New Guinea, Philippines, Romania, Russia, Singapore, South Africa, Spain, Sweden, Turkey, United Kingdom, USA, Venezuela and the West Indies.

International research forum on children and media

The ongoing coordination of the International Research Forum on Children and Media (IRFCAM), initiated and developed by the Authority, has assisted its researchers to maintain and develop links with researchers and regulators in other countries as well as other Australian researchers. IRFCAM has more than two hundred and thirty members from 35 countries. Members include media researchers, broadcast regulators and program producers.

The aims of IRFCAM include the sharing of information on research methodologies and results, as well as the exploration of opportunities for joint research on issues of common interest. One of the main ways the Authority facilitates these aims is the production of a biannual newsletter. Two issues were distributed to members in 1996-97: one in December 1996 and the other in June 1997.

During the year, the Authority asked members of IRFCAM to provide feedback on the operation of the forum. Information was sought on the benefits of membership as well as suggestions for improvement. The initial request for feedback was made to IRFCAM members at the 'Young People and the Media, Tomorrow' conference held in Paris in April 1997. The request was broadened to all members in the June 1997 newsletter. Some changes have already been implemented as a result of this process and other changes will follow in 1997-98.

In addition to its wider aims, IRFCAM is also a valuable forum for distributing information about the research activities of the Authority. Each issue of the newsletter contains an update on current and completed projects undertaken by the Authority.

International clearing house on children and violence for children and youth

The Authority contributed two articles to the first newsletter of the recently-established International Clearinghouse on Children and Violence on the Screen. The Clearinghouse is an initiative of UNESCO and was established in response to the ongoing debate about the possible consequences of the portrayal of violence in the media for children and youth. UNESCO commissioned the Nordic Information Center for Media and Communication Research (Nordicom) in Sweden to establish the Clearinghouse. The two articles discussed the Authority's international research forum on children and media, and audience reaction to classification systems in Australia.

Senior executive fellowship

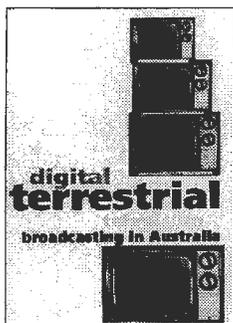
Ms Pat Manser, Director, Policy and Communications was awarded a Senior Executive Fellowship by the Public Service and Merit Protection Commission. Ms Manser used the Fellowship to extend the Authority's contacts with regulatory agencies and industry bodies in Singapore, France and the UK. Her study will result in a report on increasing globalisation of broadcasting structures and the consequent dilution of the effects of domestic legislation.

International codes

The Authority maintains a watching brief on approaches adopted by overseas broadcasting regulators to balance the tension between the commercial interests of broadcasting industries, audience demand for program diversity and community aspirations for a national identity. For example, the Authority participated in negotiations for regional codes of practice for transborder satellite broadcasting, including meeting with regulators in the region to discuss cultural concerns about such broadcasting. The Authority also appraised US legislation requiring the installation of a V-chip in receivers and monitored international debate on this issue.

Advice to the government

Digital terrestrial television broadcasting



The Authority convened the Digital Terrestrial Television Broadcasting (DTTB) Specialist Group which considered the application of digital transmission technology to terrestrial broadcasting in Australia. This group, composed of Authority and industry representatives, closely followed international developments and the potential availability of equipment to further evaluate options for Australia.

In January 1997, the final report of the Specialist Group, *Digital Terrestrial Television Broadcasting in Australia*, was presented to the Authority for consideration. The recommendations of the Specialist Group outlined policy issues to be addressed now, considerations

and actions that flow from threshold decisions, and implementation considerations. Recommendations included:

- Australia should adopt a single system standard for DTTB after completion of detailed technical evaluation trials in Australia of candidate systems;
- the process of standardisation should be further discussed between the Authority, Government, broadcasters and Standards Australia;
- further planning studies should be carried out to evaluate the constraints imposed by existing broadcasting transmission infrastructure before final channel assignments are made for DTTB services;
- DTTB should be implemented in Australia with digital high definition television (HDTV) capabilities available from the outset;
- all existing licensed commercial and national television services should be given access to a full 7 MHz bandwidth DTTB channel and be given full control over the use of the delivery capacity of that channel;
- the year 2000 could be a useful target date for commencement of permanent DTTB broadcasting in Australia (and the commencement of the development phase). The period between now and the commencement in 2000 might be regarded as an experimental phase; and
- the eventual termination of PAL services after the commencement of DTTB services in Australia should be driven by market factors and subject to regular review. The decision should be made in the light of findings and in consultation with both government and industry organisations.

In July 1997, the Authority responded to the Specialist Group's report and recommended to the Government that it support the early introduction of digital terrestrial television broadcasting (DTTB) into Australia.

The Authority also recommended that DTTB be introduced as an HDTV system to ensure that all receivers are able to receive all types of future transmissions. Without this requirement, some receivers might not be able to receive some of the future transmissions as they develop.

Digital radio broadcasting

As discussed in last year's report, the Authority convened a task force of Authority and industry representatives to consider broadcasting requirements for the development of digital radio broadcasting services (DRB) in Australia. This group has contributed to the Digital Radio Advisory Committee (DRAC) established by the Minister for Communications and the Arts. Mr Colin Knowles, General Manager, Planning and Corporate Services convened the task force.

Detailed engineering studies into digital radio broadcasting were conducted by a Working Party of the Authority's task force convened by Mr Hendrik Prins, Technical Consultant to the Federation of Australian Radio Broadcasters (FARB). The working party has wide representation of both broadcast engineers and engineers concerned with non-broadcast use of the spectrum which may be used for digital radio broadcasting. The task force also convened meetings with consumer interest groups about digital radio broadcasting as a means of building consumer knowledge and obtaining relevant input to its deliberations and report.

In October 1996, the Authority published the task force report: *Digital Radio Broadcasting for Australia*. The report identified the broadcasting requirements for digital radio broadcasting use of the 1.5 GHz spectrum (1452–1492 MHz), identified by the World Administrative Radio Conference 1992 as an international allocation for digital radio broadcasting use. The task force's recommendations were presented to the Digital Radio Advisory Committee. These were:

- implementation of digital radio broadcasting be preceded by a development period during which early experience can be gained with digital radio broadcasting pending the arrival of reasonable cost receivers;
- all broadcasters included in licence area plans prepared by the Authority for all parts of Australia be permitted priority access to digital radio broadcasting channels;
- suitable legislative/administrative arrangements be established to allow the Authority to undertake detailed planning of digital radio broadcasting spectrum through an open public process in which all interested parties have the opportunity to participate;
- the arrangements for the Authority to plan digital radio broadcasting spectrum should not dilute the rights of non-broadcast users sharing this spectrum;
- consideration of the future use of the AM and FM spectrum be deferred until digital radio broadcasting implementation is well under way;
- the Authority and the Australian Communications Authority arrange for lodging of the ITU Radio Regulations Appendix 3 filings for an Australian DRB Satellite DBSTAR;
- legislation and policy for digital radio broadcasting allow AM and FM broadcasters freedom to provide some programming independent of their digital radio broadcasting service during the development stage and not be simply confined to simulcast operations;



- broadcasters be able to access up to 256 kbits/s capacity and that service planning be based on this approach;
- broadcasters be able to participate in the establishment and operation of the multiplexers and transmitters necessary for the delivery of digital radio broadcasting services; and
- new digital radio broadcasting service licensing be subject to the same public scrutiny and open process as that applied by the Authority to AM and FM licences.

Report to the Minister on the operation of the Broadcasting Services Act

The Authority provides advice on broadcasting regulation issues to the Minister for Communications and the Arts. One of the opportunities for this is provided by s.158(n) of the Broadcasting Services Act which requires the Authority to monitor and report to the Minister on the operation of the Act.

The Authority concluded its second and third reports to the Minister under this requirement in this reporting period. The second report looked at the Authority's achievements in administering the Act and addressed the problems it faced since the first report was released in the 1995-96 reporting period. Although some of the problems detailed in the first report remain outstanding, the second report contained several new issues which emerged in the past year. These included the legislation associated with the funding of subscription services and the Authority's power to sanction a breach of a code of practice.

The third report raised concerns about the adequacy of the ownership provisions in the Act, and the related issues raised by the Authority in the two earlier reports. It was the Authority's view that the operation of the Act continued to allow financial and economic interests to be held in a broadcasting company by any person, in a way that may cause concern to the public about the potential level of influence that person might exert on the company.

The sixth television channel



In 1992, the House of Representatives Standing Committee on Transport, Communications and Infrastructure (HORSCOTCI) recommended that the last free-to-air television channel available in most parts of Australia that could be used to provide a high power service, the so-called 'sixth channel', be used for community television until a decision was made on its permanent use.

As there was no provision in the *Broadcasting Services Act 1992* to license community television services on the sixth channel on a temporary basis, the Authority used the class licensing regime for open narrowcasters to facilitate the community television trial.

In July 1996, the Minister for Communications and the Arts directed the Authority to conduct a public inquiry into the future use of the sixth channel, taking into account the interests of existing and potential users.

In July 1996, the Authority released an issues paper and called for submissions from the public. The issues identified by the Authority ranged from benefits to the public which might accrue from possible uses of the sixth channel to the impact of new technologies on the uses that were proposed. What emerged from the submissions was a preference for putting the sixth channel to broadcasting rather than non-broadcasting use, and for community access television rather than use by a specific interest group.

It was also apparent to the Authority that submitters had not addressed the important issues of funding and structural arrangements. Consequently, the Authority released a working paper in October 1996 and invited comments from the public on these and other issues. The Authority then held consultative meetings with interested parties around Australia to discuss funding and structural issues.

The report to the Minister, *Inquiry into the Future Use of the Sixth Television Channel*, was released in February 1997. The Authority concluded that there is much support for the continued use of the sixth channel for community access television, but not using the paradigm of the present community television trial.

This conclusion was reached because all the present organisations providing community television; have struggled to find adequate funding for their operations. Many were carrying considerable debt.

The Authority identified four options for community access television services: non-government funded; government funded; continuation of the community television trial; and temporary licensing arrangements.

Having examined the options, the Authority concluded that community access television services would require sizeable investments. Initial figures provided to the Authority estimated that a 10 kW transmitter would cost approximately a million dollars and transmission operation would cost about half a million dollars per annum. Other costings for transmitters and translators totalled between \$1 million and \$2 million, excluding transmission operation costs.

The substantial costs of transmission equipment and annual transmission operation, convinced the Authority that, if the sixth channel is to be used for community access television, aspirant licensees should be able to demonstrate their capacity to secure funding arrangements which would cover these costs.

The Authority proposed a 'hybrid' model which would involve a channel sharing arrangement with a commercial operator covering the costs of transmission and infrastructure in return for a limited number of hours, say two per day, of commercial broadcasting.

In the absence of secure funding arrangements, the Authority considered that community access television should be held in abeyance and that the sixth channel should be left vacant for review at a later date.

The Minister is currently considering the Authority's report.

The trial for the existing licensees has been extended until 30 June 1998. The Government is expected to make its final decision on the permanent use of the sixth television channel before this date.

Cross-media rules review

In October 1996 the Minister for Communications and the Arts announced a review of cross-media rules for the control of commercial broadcasting licences. The Authority provided input to the review, including data concerning both current and historical ownership patterns in Australia's media.

Australian content on pay TV

On 17 September 1996, the Minister for Communications and the Arts, directed the Authority to conduct an investigation into certain matters relating to Australian content on pay TV. The Authority concluded its investigation in May 1997.

In concluding its investigation to the Minister, the Authority identified some broad options for his consideration. The investigation is discussed in detail later in this report: see p.74.

Ratings, classifications and compliance advice

The Authority provided information and advice on television ratings data to the Department of Communications and the Arts. The ratings information was for inclusion in a response to a query from the Minister about children's programs and television ratings.

The Commonwealth Film Support Review sought information and advice on ratings for C classified programs. The Authority also commented on material for inclusion in the report on Commonwealth assistance to the Australian film industry.

The Authority provided the Australian Film Commission (AFC) with information on commercial television licensees' compliance with Australian content requirements. The AFC publicised the information in the fourth edition of *Get the Picture*.

Parliamentary committees

The Authority's Standards Manager, Ms Lesley Osborne and Manager On-line Services, Ms Kaaren Koomen, attended the hearings of the Senate Select Committee for Community Standards Inquiry into Computer On-line Services held in Brisbane in April and Canberra in May 1997.

External liaison

Publishing

Consistent demand by public and industry for information about a variety of broadcasting related issues and topics have contributed to the Authority's vigorous publishing program. In the reporting period the Authority produced a range of fact sheets, discussion papers, information guides, research monographs, reports and other publications.

The Authority imposes a charge for subscribers to its newsletter, *ABA Update*, and charges for copies of its monographs, Trends & Issues papers and a number of its other publications. Sale of publications totalled \$50 888 in the reporting period.

Copies of the Authority's annual reports, program standards, corporate plan, fact sheets, information pamphlets, guides and discussion papers are free.

A full listing of Authority publications can be found at appendix 6.

ABA Update

The Authority's newsletter, *ABA Update*, continued to be the Authority's main vehicle for disseminating information about its activities and broadcasting issues. It contained articles by members and officers as well as members of broadcasting and affiliated industries.

Issues covered by *ABA Update* articles included the Authority's work on regulation of the content of on-line services, results of the Authority's research projects, licensing and planning activities, and summaries of the results of the Authority's investigations into ownership and control issues. The 'Innovations' series covered a range of technical issues including updates on digital terrestrial television broadcasting and other international developments in broadcasting engineering.

In order to provide broadcasters with guidelines about interpretation of the Act or relevant codes of practice, the Authority continued its regular series on investigations into unresolved complaints about program matters or possible breaches of licence conditions. The reports contained salient elements about the Authority's investigations, an explanation of why breaches were found and what action was taken by the Authority.

Regular new features in *ABA Update* included quarterly summaries of Authority investigations into program matters; quarterly summaries of complaints to the Federation of Australian Commercial Television Stations (FACTS) and the Federation of Australian Radio Broadcasters (FARB) (provided to the Authority by FACTS and FARB); and work in progress summaries of the community licence allocation program.

Subscriber numbers to *ABA Update* remained stable in the reporting period (547 at 30 June). A marketing strategy to increase the number of subscribers to *ABA Update* continued during the year. The strategy included providing complimentary copies to delegates at broadcasting and communications conferences, contra ads with other newsletters and sales through Commonwealth Info Shops. A number of other journals contacted the Authority for permission to reprint articles from *ABA Update*.

Media liaison

The Authority adopts a proactive approach to the provision of information to the media, to ensure the information available in the public arena is accurate and timely. The Authority issued 132 media releases, most of them with background briefings and answered 1555 inquiries from journalists during 1996–97.

There was extensive media interest in a number of the Authority's activities during the year, accompanied by wide media coverage of particular issues. In order to make its work accessible and understandable to the community and the

broadcasting industry, Authority officers and members made themselves available for a large number of press, radio and television interviews. In particular there was widespread interest in the Authority's investigations into media ownership and control issues, its investigations into future use of the sixth television channel and Australian content on pay TV, the report of its working group on the introduction of digital television, court challenges to its program standard for Australian content on commercial television, and its report into the content of on-line services.

Staff were available to the media, the broadcasting industry and members of the general public, including students, to discuss and explain issues relating to broadcasting.

Public information

The Authority answered a large number of requests for information from members of the public, including academics and teachers, students, parents, licensees, lawyers and analysts.

The Authority develops and implements public relations strategies to assist in making information available to the public. In keeping with the Authority's international standing in the children's television and on-line services arenas, a public relations strategy was developed and implemented as part of the Authority's participation in the 'Youth and the Media: Tomorrow' conference, in Paris. The strategy promoted the Authority's role and provided the conference participants with information about the Authority's activities.

To make its information available to a wider audience, the Authority updated and expanded its site on the World Wide Web during the year. The Authority's information pamphlets, fact sheets and reports were included on the site; as well as submissions to the Authority's major public inquiries on the future use of the sixth television channel and Australian content on pay TV; and copies of all news releases issued in 1997.

In line with its policy of encouraging Internet service providers to label content that they create, the Authority labelled each file on the site (more than nine hundred files) using the Recreational Software Advisory Council labelling system for the Internet (RSACI).

The Authority has amended the site so it is accessible to visually impaired people and those using text-only browsers. The Authority intends to further expand the role of its site in information provision during 1997-98.

Library

The Library provides a comprehensive research and information service for the Authority. Throughout the year there was an ongoing review to ensure the collection was appropriate and relevant to the Authority's information needs.

The Library increased its use of electronic data bases, such as AUSINET and DIALOG, to provide information to the Authority's staff. As more authoritative information became available on the Internet, Library staff implemented a program of scanning and searching relevant Web sites, and delivering the results electronically to

Authority staff. The legal publisher, Butterworths, developed a major on-line presence during the year. The Library made arrangements to access this data base in line with its policy of maintaining timely and effective information delivery to clients.

The Library's regular current awareness services advised the Authority's staff of new acquisitions and selected journal articles. The frequency of these services was increased during the year. Selected external organisations and individuals continued to receive information about the Library's holdings on a regular basis.

The professional expertise of the Library's staff was used to provide advice and research support for the major reports published by the Authority in the year, for example the *Inquiry into the Future Use of the Sixth Television Channel* and the Authority's research reports.

As in previous years, the Library remained a key centre for the broadcasting community to access information on broadcasting matters. The Library received requests for information by phone, fax and e-mail from organisations including other portfolio body libraries, university libraries, the Communications Law Centre and the Independent Broadcasting Authority in South Africa. The inter-library loan program was maintained. In addition, the resources of the Library were available to individual visitors including academics, lawyers, writers and students.

Links with other information resource centres of relevant national and international bodies, including the Australian Film Television and Radio School and the Independent Television Commission in London were maintained and developed through personal contact and other means. Details of the Library are available on the Authority site on the Internet.

Broadcasting industry

The members and staff of the Authority met regularly with industry groups and other regulators. The Authority held regular quarterly meetings with the Federation of Australian Radio Broadcasters (FARB). The Authority also held meetings with the Federation of Australian Commercial Television Stations (FACTS) and the Community Broadcasting Association of Australia (CBAA), the National Indigenous Media Association of Australia (NIMAA) and the Screen Producers Association of Australia (SPAA). The Authority also participated in the annual meetings of these industry groups.

The Authority maintains ongoing monitoring of broadcasting and related technologies through publications, contact with industry and overseas regulatory agencies and participation in national and international conferences.

The Authority maintains close liaison on technology issues with the following national groups:

- Broadcasting Industry Technology Advisory Group;
- Broadcasting Industry Advisory Council;
- Department of Communications and the Arts — Communications Laboratory Steering Committee;
- Digital Radio Broadcasting Task Force;

Digital Terrestrial Television Broadcasting Specialist Group;
Key Centre for Cultural and Media Policy;
National Transmission Agency;
Spectrum Management Agency (now the Australian Communications Authority);
Standards Australia; and
National Study Groups of the International Telecommunications Union.

Classification officers forum

The Classification Officers' Forum was an initiative of the Authority to encourage information exchange between staff responsible for classification of television programs and relevant officers of the Authority and the Office of Film and Literature Classification (OFLC). Classification Officers from the commercial networks and pay TV channels, the Special Broadcasting Services (SBS) and Australian Broadcasting Corporation (ABC) participate in the forum, as does the Federation of Australian Commercial Television Stations (FACTS). The forum met once during the year and considered issues such as developments related to broadcast television codes of practice, consistency of classifications, recent research and Government reports.

Education

From August to November 1996, officers of the Authority's Research and Children's Television sections provided advice and guidance to students at the University of New South Wales who were researching host selling to children. The students, from the School of Social Science and Policy, were undertaking the research as part of their course requirements. The Authority's involvement consisted of an initial briefing on children's programming, advertising and research issues, and attending a presentation of the students' research proposals to provide comments and suggestions. The students presented their research findings to officers of the Authority in November 1996.

In August 1996 and February 1997, Debra Richards, Director Program Services lectured to Boston University students participating in an exchange student program in Sydney

In September 1996, John Corker, Manager Legal was a guest lecturer at the School of Law, University of New South Wales. He provided a series of lectures to postgraduate law students on the laws relating to the ownership and control of media companies.

In September 1996, Debra Richards, Director Program Services was guest lecturer at the University of Technology, Sydney on the history of broadcasting regulation and the role of the Authority.

In October 1996, Debra Richards, Director Program Services was guest lecturer at Charles Sturt University, Bathurst, NSW. Ms Richards' lecture, *Sex, soap and sport on Australian television*, was on content regulation and the role of the Authority.

In June 1997, Stephen Nugent, Research Manager, was a guest lecturer at the School of Education in Macquarie University. The presentation focused on social research methodology in the public sector and was given to postgraduate students studying educational research methods.

Policy network

A policy network comprising the Authority, ABC, SBS, OFLC and the Australian Film, Television and Radio School (AFTRS) met on four occasions in the reporting period, 23 July, 20 August, 26 March 1996 and 12 March 1997. The network continues to provide a forum where policy developers from some independent communications authorities can informally discuss topical policy issues.

Attitudinal research

The Authority's research results have been widely disseminated to assist program makers and broadcasters to understand the interests and needs of the Australian community.

Industry groups representing service providers are required to take the Authority's research into account when developing their codes of practice. Preliminary results of the Authority's research into community attitudes towards classification and codes for 1996, together with a comparison of results for the three years, were provided to the Federation of Australian Commercial Television Stations (FACTS) in December 1996 so FACTS could consider them during its review of the Commercial Television Industry Code of Practice.

The Authority's research project, Youth and Music in Australia, will inform the Authority's spectrum planning and licensing process, especially in relation to community services in capital cities where there may be opportunities for broadcasting services which address the needs of local youth through new youth-oriented services.

This project is a joint one which will also contribute to the Australia Council and the Australian Record Industry Association (ARIA). It will contribute to the development of strategies for youth arts and explore the issue of funding for contemporary or popular Australian music. ARIA acts as a focus for industry opinion and compiler of industry information and views. It will use the results of this research to gain further insight into the industry.

The study Children's Television Industry Development will provide an evaluation of the children's television industry including national and international needs and potential. It will also develop practical action plans designed to stimulate the production of television for children. With these aims, the study should become an invaluable information source for children's television producers and policy makers.

Broadcasting financial results

In line with the Authority's role of informing itself and the government on industry trends, each year the Authority requests commercial television and radio licensees to submit details of their financial performance. Licensees provide information on revenue, expenses and profits for each of their broadcasting services. The Authority collates and publishes the information as *Broadcasting Financial Results* which includes aggregated results for the previous financial year, as well as trends in financial performance over a five year period.

During 1996–97, the Authority published the broadcasting financial results for the 1995–96 year and a summary of the results in the March 1997 issue of the Authority's newsletter, *ABA Update*.

The annual financial results are a valuable source of information for the industry, including existing and aspirant broadcasters, Government and financial advisers.

Seminars and conferences

The Authority participates in a number of seminars and conferences to raise public awareness and share information on existing and potential, local and international broadcasting regulatory arrangements.

Broadcasting planning seminar

The Authority held a successful one day Planning Seminar in Canberra on 24 February 1997. Authority staff gave presentations on a wide range of topics. The seminar was well received by the 110 people who attended, prompting the Authority to consider making the seminar an annual event. As well as Authority staff, there were four outside presenters from the Spectrum Management Agency (now the Australian Communications Authority), Western Australian Premier's Department, John S Innes Pty Ltd, and Radio Frequency Systems. Topics covered included FM Radio Planning, Planning for the People, Developments in Technology and Planning Services.

Other conferences and seminars

During the year, members and staff of the Authority gave speeches and presented papers at a number of conferences and seminars, and participated in workshops and panels. Titles of papers presented are in italics.

Australian Identity and Broadcasting by Mr Gareth Grainger, General Manager, Policy and Programs; and *Regulation of the Internet — How and Why?* by Ms Kaaren Koomen, Manager On-line Services, at the Key Centre for Cultural and Media Policy Inaugural Winter School, Brisbane, July 1996;

The On-line Services Report: What it means for service providers by Ms Kaaren Koomen, Manager, On-line Services at the Australian Information Industry Association General Meeting, Sydney, July 1996;

End User Education by Ms Kaaren Koomen, Manager, On-line Services at the Electronic & On-Line Services Forum, Service Providers Action Network Inc., Sydney, July 1996;

The ABA's On-line Services Report: an overview by Ms Kaaren Koomen, Manager, On-line Services at the Regulation of On-Line Services, The Communications Law Centre/Mallesons Stephen Jacques Solicitors Seminar Series, Sydney, July 1996;

Children's Television – Australia's Response by Ms Debra Richards, Director Program Services at the Child Rights and the Media Conference, Manila, The Philippines, July 1996;

Censorship Issues Relating to the Internet by Ms Kaaren Koomen, Manager, On-line Services at the Twilight Seminars, Law Council of Australia Media and

Communications Law Committee & Communications and Media Law Association, Sydney, August 1996;

Families and electronic entertainment by Mr Stephen Nugent, Manager Research, and Dr Sally Stockbridge of the Office of Film and Literature Classification at the 20th General Assembly and Scientific Conference of the International Association for Mass Communication Research, Sydney, August 1996;

Developing Digital Radio Broadcasting Services in Australia by Mr Colin Knowles, General Manager, Planning and Corporate Services Division at the Audio Engineering Society (Aust) 6th Regional Convention, September 1996;

Home Viewing and the Limits of Regulation in Relation to New Media by Ms Lesley Osborne, Manager, Standards at the International Standards Conference on Screen Violence, London, September 1996;

Planning and Community Broadcasting by Mr Giles Tanner, Director Planning Branch at The Annual General Meeting of the South Australian Community Broadcasting Association of Australia, September 1996;

The Australia Radio Industry and the ABA by Mr Peter Webb, Chairman; *Planning Progress* by Mr Giles Tanner, Director, Planning Branch; *Standards and Technical Planning Guidelines for Broadcasting Services* by Mr Bob Greeney, Director Engineering at the Federation of Australian Radio Broadcasters (FARB) Convention, September 1996;

Australian Content in Electronic Media by Ms Debra Richards, Director Program Services at the Communications Law Centre/Mallesons Stephen Jacques Seminar Series, Sydney, September 1996;

Free Speech and the Internet in Australia by Ms Kaaren Koomen, Manager, On-line Services at the Free Speech in Australia, Communications Law Centre Conference, Sydney, September 1996;

Censorship and the Internet by Ms Kaaren Koomen, Manager, On-line Services at the Australian Press Council Seminars, Parliament House, Sydney, September 1996;

Internet Regulation in Australia by Ms Kaaren Koomen, Manager, On-line Services to representatives of the United Nations Educational, Scientific and Cultural Organisation, Paris September 1996;

The Regulatory Present and Future of Research by Ms Debra Richards, Director Program Services at the Media Violence Debate and Public Discourse Symposium, Melbourne, October 1996;

Internet Regulation in Australia by Ms Kaaren Koomen, Manager, On-line Services to representatives of the Committee for Information, Computer and Communications Policy, OECD, Paris, September 1996;

Internet Regulation in Australia by Ms Kaaren Koomen, Manager, On-line Services to representatives of the Federal Communications Commission, Washington, September 1996;

Kidz Talk TV – A Child's Right by Ms Debra Richards, Director Program Services at the UN Convention on the Rights of the Child, Australia's Debate, Sydney, September 1996;

Australian Content by Mr Peter Webb, Chairman at the Australian Content — dinosaur or crocodile? seminar, Centre for Media and Telecommunications Law and Policy, October 1996;

Australian Identity in Broadcasting by Ms Debra Richards, A/g General Manager Policy and Programs at the Key Centre for Cultural and Media Policy Culture and Citizenship Conference, Brisbane, September–October 1996;

Planning and Allocation of Community Broadcasting Licences by Mr Nigel Ryan, Manager, Allocation and Renewal and Ms Jenny Brigg, Planning Officer at the Annual Conference of the National Indigenous Media Association of Australia (NIMAA), Alice Springs, October 1996;

PICS and On-line Labelling Schemes Ms Kaaren Koomen, Manager, On-line Services at the On-line Industry Associations Summit, Melbourne, October 1996;

Content Regulation of Television, Videos and Computer/video Games: The Role Parents Play by Mr Stephen Nugent, Manager Research and Ms Margaret Cupitt, Senior Research Officer at the Communications Research Forum, Sydney, October 1996;

International Basis Emerging for Internet Regulation by Mr Peter Webb, Chairman at Electronic Commerce Australia, Sydney, November 1996;

Regulation of On-line Services by Mr Peter Webb, Chairman at the NSW Society for Computers and the Law, Sydney, November 1996;

Ms Kerrie Henderson, Member participated in the Asian Broadcasting Union General Assembly, Hong Kong, November 1996;

Families and Electronic Entertainment by Ms Margaret Cupitt, Senior Research Officer at the Family Research: Pathways to Policy at the Fifth Australian Family Research Conference, Brisbane, November 1996;

The ABA's On-line Services Report: Where to from here? by Ms Kaaren Koomen, Manager, On-line Services at the Media and Communications Committee, Law Council of Australia, Arthur Robinson & Hedderwicks, Melbourne, November 1996; Ms Debra Richards, Director Program Services; Mr Nick Herd, Manager, Codes and Conditions; Ms Deborah Sims, Assistant Manager Standards participated on panels at the Screen Producers Association of Australia (SPAA) Conference: Melbourne, November 1996;

The Regulator's Perspective by Mr Peter Webb, Chairman, Sydney at the J.B. Were and Son Media Production House Conference, December 1996;

Broadcasting Planning for Community Broadcasting by Mr Peter Webb, Chairman; Ms Debra Richards, Director, Program Services; Mr Giles Tanner, Director Planning; Mr Bob Greeney, Director Engineering and Mr Nigel Ryan, Manager, Allocation and Renewal participated on panels at the CBAA Annual Conference, Gold Coast, December 1996;

Internet Content Regulation: Options for the Future by Ms Kaaren Koomen Manager, On-line Services at the Open Interchange Consortium, NSW Chapter, Lunchtime Lecture Series, Sydney, December 1996;

Legal Regulation of the Internet by Ms Kaaren Koomen, Manager, On-line Services at the Legal Perils in Cyberspace, an IIR Conference, Sydney, December 1996;

The Internet and On-line Services Regulation in Australia by Ms Kaaren Koomen, Manager, On-line Services at the NSW Police Service Training Seminar, Prince Alfred Park, Sydney, December 1996;

The Producer, The Market, The Audience by Ms Liz Gilchrist, Assistant Manager, Standards, at the Australian Film Television and Radio School, Sydney, December 1996;

Broadcasters Looking at Large Investment for Digital Television by Mr Peter Webb, Chairman and *Deregulation and Regulation* by Mr Tim O'Keefe, Member at the Australian Cable and Satellite Television Conference, Sydney, February 1997;

Mr Colin Knowles, General Manager, Planning and Corporate Services Division participated at the Forum of Commonwealth Agencies, February 1997;

Ms Lesley Osborne, Manager, Standards participated at the Pay TV panel at the 'Small Screen: Big Picture' conference at Screen West, Fremantle, February 1997;

The Internet and Some International Regulatory Issues by Ms Kaaren Koomen, Manager On-line Services at the First International Congress on Ethical, Legal and Societal Aspects of Digital Information sponsored by United Nations Educational Scientific Cultural Organisation (UNESCO), Monte Carlo, March 1997;

Children and Interactive Multimedia: A Place to Play? by Ms Lesley Osborne, Manager Standards at the New College Institute for Values Research, Sydney, March 1997;

Children's Television by Ms Liz Gilchrist, Assistant Manager Standards at the National Screenwriter's Conference, Melbourne, March 1997;

Ms Belinda Mullen, Standards Officer participated in the Totally Wild Workshop at Totally Wild, Brisbane, March 1997;

Children Television and New Forms of Media: Research from Australia by Ms Debra Richards, Director, Program Services; Mr Gareth Grainger, General Manager Policy and Programs chaired and Mr Stephen Nugent was a member of *Developing the International Research Forum*; Mr Peter Webb, Chairman participated in a roundtable of heads of broadcasting agencies; and Mr Grainger co-presented the concluding report to the Youth and the Media, Tomorrow, Conference, Groupe de Recherche sur la Relation Enfant Medias (France), Paris, April 1997;

Implementing the Rules – Pitfalls and Prospects by Ms Kerrie Henderson, Member, at the Media Ownership in Australia Conference conducted by the Communications Law Centre, Sydney, April 1997;

Defining the Rapidly Evolving Media and Broadcasting Regime by Mr Peter Webb, Chairman and Ms Kaaren Koomen, Manager On-line Services at the AIC Conference, May 1997;

Radio Content by Mr Peter Webb, Chairman at the Australasian Performing Rights Association Conference, Sydney, May 1997;

Digital Radio Broadcasting by Mr Colin Knowles, General Manager, Planning and Corporate Services Division, at the Screen Writers Guild – Internal Affiliation of Writers Guild, Sydney, May 1997;

Media Regulations for New Times by Mr Peter Webb, Chairman at the Skyways, Highways and Corridors, Asia's Communication Challenges, 6th annual AMIC conference, Malaysia, June 1997;

Regulation of the Content of On-line Services by Ms Lesley Osborne, Manager, Standards at the Victorian Society for Computers & the Law Inc., Melbourne, June 1997;

On-line Services: Content Regulation in Australia by Ms Lesley Osborne, Manager, Standards at the Censorship seminar, Australian Library & Information Association, Brisbane, June 1997;

Writing for Children's Drama by Ms Liz Gilchrist, Assistant Manager, Standards at a seminar, Royal Melbourne Institute of Technology, June 1997; and

Writing for Kids Drama Programs by Ms Liz Gilchrist, Assistant Manager, Standards at the Australian Film Television and Radio School, June 1997.

Objective 2

Planning the spectrum

Plan the use of parts of the radiofrequency spectrum in a way which promotes development of and access to a diverse range of broadcasting services and facilitates adoption of appropriate technologies.

Key outcomes

- ◆ *Final licence area plans for 39 separate markets were issued in 1996-97. Channels were planned for the following new services: one commercial television service; one open narrowcasting television service; three commercial radio services; 46 community radio services; and 92 open narrowcasting radio services.*
- ◆ *Capacity was reserved for 42 new national/community television (sixth channel) services.*
- ◆ *Final licence area plans included technical specifications for either an increase in transmitter power or translators (subsidiary transmitters) for 6 national (ABC and SBS) television services and 28 national radio services.*
- ◆ *Final licence area plans also included technical specifications for either an increase in power or translators (subsidiary transmitters) for 38 commercial television transmitters, 103 commercial radio transmitters and 26 community radio transmitters.*

The planning process

Spectrum planning and licensing of broadcasting services are among the primary functions of the Authority as set out in the Broadcasting Services Act (s.158).

The Act envisages a three stage process for planning the use of the spectrum set aside for broadcasting. In performing its planning functions, the Authority must undertake wide public consultation. Once planning is completed in different areas

of Australia, the Authority may allocate licences made available for broadcasting services.

The first step in the planning process is the determination of priorities between different areas of Australia and between different parts of the radiofrequency spectrum. The Authority determined its priorities on 29 September 1993 and divided the country into planning zones (22 for television and 23 for radio) and put each zone into one of five priority groups, with group one zones having the highest priority. The Authority generally gave higher priority to areas that have fewer broadcasting services.

The second stage of the planning process was preparing frequency allotment plans. These plans determine the number of channels that are to be available in particular areas of Australia to provide broadcasting services. The Authority determined the frequency allotment plan for MF-AM radio, VHF-FM radio and television in August 1994. (For more detail on planning priorities and frequency allotment plans see *Annual Reports 1993–94, 1994–95 and 1995–96*).

At the time of their determination, the frequency allotment plans made assumptions about demand, nominal transmitter specifications and siting. These assumptions are being re-examined during the third stage of planning, the preparation of licence area plans. It is envisaged determination of licence area plans will result in variations to the frequency allotment plans. Licence area plans determine the number and characteristics, including technical specifications, of broadcasting services using the broadcasting services bands that are to be available in particular areas of Australia.

Final licence area plans — radio

Final radio licence area plans were issued in 1996–97 in the following planning zones: Remote Australia, Central and South West Western Australia, Riverland (South Australia), Central New South Wales, and Central Victoria and Central Murray.

Remote Australia radio

Ceduna community and open narrowcasting (July 1996)

In the licence area plan for community and open narrowcasting radio in Ceduna, South Australia, the Authority decided to make channels available for one new community radio service and one new open narrowcasting radio service.

Torres Strait community and open narrowcasting (July 1996)

In the licence area plan for community and open narrowcasting radio in Torres Strait, Queensland, the Authority decided to make channels available for one new community radio service and one new open narrowcasting radio service.

Remote Western Australia (August 1996)

In the licence area plan for radio in the remote region of Western Australia, (excluding Carnarvon, Karratha and Port Hedland) the Authority made channels

Final licence area plans: 1996-97

| Radio | release date |
|--|---------------------|
| Remote Australia | |
| Ceduna | July 1996 |
| Torres Strait | July 1996 |
| Remote Western Australia | August 1996 |
| Bordertown, Kangaroo Island, Woomera (SA), Lord Howe Island (NSW), Murrayville (Vic) and Nhulunbuy (NT) | August 1996 |
| Charleville, Roma and Longreach | August 1996 |
| Alice Springs | September 1996 |
| Mt Isa | September 1996 |
| Kalgoorlie, Esperance and Merredin | October 1996 |
| Remote Central and Eastern | October 1996 |
| Bourke and Tenterfield | December 1996 |
| Central and South West Western Australia | |
| Mandurah | July 1996 |
| Northam | August 1996 |
| Geraldton | August 1996 |
| Katanning and Narrogin | October 1996 |
| Bridgetown | November 1996 |
| Bunbury | November 1996 |
| Albany | October 1996 |
| Riverland | August 1996 |
| Central New South Wales | |
| Bathurst, Lithgow and Parkes | May 1997 |
| Orange and Dubbo | June 1997 |
| Mudgee | June 1997 |
| Central Victoria and Central Murray | |
| Swan Hill | June 1997 |
| Television | |
| Riverland | August 1996 |
| Remote Central Australia and Remote North East Australia | December 1996 |
| Remote and Regional Western Australia | February 1997 |
| Perth | February 1997 |

Draft licence area plans 1996-97:

| | |
|------------|------------|
| Swan Hill | April 1997 |
| Bendigo | April 1997 |
| Ballarat | April 1997 |
| Albury | June 1997 |
| Wangaratta | June 1997 |
| Shepparton | June 1997 |
| Deniliquin | June 1997 |

See appendix 2 for a list of transmitter licences included in these licence area plans.

available for new community radio services for Broome, Derby, Halls Creek, Fitzroy Crossing and Meekatharra. Licence area plans for Carnarvon, Karratha and Port Hedland were released in June 1996.

The Authority also made channels available for a community radio service at each of the external territories of Christmas Island and Cocos Island.

No channels were made available for additional commercial radio services as there was no interest from service providers.

Channels were also made available for open narrowcasting services at Beagle Bay, Broome, Carnamah, Coorow, Cue, Derby, Fitzroy Crossing, Halls Creek, Jerramungup, Kalbarri, Kununurra, Laverton, Leinster, Leonora, Marble Bar, Meekatharra, Mingenew, Morawa, Mt Magnet, Mullewa, Newman, Pannawonica, Perenjori, Telfer, Three Springs, Warmun, Wiluna and Wyndham.

One channel was reserved in the region for a new national radio service.

Bordertown, Kangaroo Island, Woomera (SA), Lord Howe Island (NSW), Murrayville (Vic) and Nhulunbuy (NT) community and open narrowcasting (August 1996)

In the licence area plan for community and open narrowcasting radio in Bordertown, Kangaroo Island, Woomera (South Australia), Lord Howe Island (New South Wales), Murrayville (Victoria) and Nhulunbuy (Northern Territory), the Authority decided to make channels available for community radio services for Kangaroo Island and Lord Howe Island. The Authority also extended the licence area of the existing community radio service 5RRR Woomera to include the towns of Olympic Dam, Roxby Downs and Andamooka.

Channels were also made available for open narrowcasting radio services at Nhulunbuy, Woomera and Roxby Downs.

Charleville, Roma and Longreach (August 1996)

In the licence area plan for radio in Charleville, Roma and Longreach, Queensland, the Authority made one channel available for a community radio service for Cunnamulla, with the licence to be made available in 12 months from the release of the licence area plan. Channels were also made available for open narrowcasting radio services. Two channels were made available in each of St George, Mitchell and Roma, while one channel was made available at each of Bedourie, Blackall, Charleville, Cunnamulla, Injune, Longreach, Quilpie, Surat, Winton and Yuleba.

Alice Springs (September 1996)

In the licence area plan for radio in Alice Springs, Northern Territory, the Authority made channels available for open narrowcasting radio services at Alice Springs, Tennant Creek and Yulara in the Northern Territory.

Mt Isa (September 1996)

In the licence area plan for radio in Mt Isa, Queensland, the Authority made channels available for two new community radio services.

The Authority also decided to allow 4LM, the commercial AM radio station in Mount Isa, to increase the power of its service at both Mount Isa and Cloncurry in order to

provide better coverage of its licence area. The service will use day/night switching which means the power will be increased during the day and decreased during the night, when AM signals travel greater distances.

Kalgoorlie, Esperance and Merredin (October 1996)

In the licence area plan for radio in Kalgoorlie, Esperance and Merredin, Western Australia, the Authority made channels available for four new community radio services and seven open narrowcasting services.

Two of the new community radio services are to serve Kalgoorlie with one each for Esperance and Bruce Rock.

The Authority also decided to make channels available for a new wide coverage AM open narrowcasting radio service in Kalgoorlie, a new wide coverage FM open narrowcasting radio service at Esperance and five new limited power FM open narrowcasting radio services in Hopetoun, Lake Grace, Merredin, Ravensthorpe and Southern Cross.

Two channels at Esperance and one at Merredin were reserved for new national radio services.

Remote Central and Eastern (October 1996)

In the licence area plan for radio in Remote Central and Eastern Australia, the Authority made channels available for the transmission of commercial radio service 8SAT at 25 localities in the remote region of Central Australia, and channels for the transmission of commercial radio service 4SUN at 31 localities in the remote region of Eastern Australia. No channels were planned for additional competing commercial radio services, as the Authority had not received any expressions of interest from service providers. A channel has been made available for a new community radio service at Borroloola (Northern Territory).

Channels have also been made available for new open narrowcasting radio services at Balranald (New South Wales), Alpha and Birdsville (Queensland) and Coober Pedy (South Australia).

Nine channels were reserved for national services in the region.

Bourke and Tenterfield community and open narrowcasting (December 1996)

In the licence area plan for community and open narrowcasting radio in Bourke and Tenterfield, New South Wales, the Authority made channels available for two new community radio services, one to serve Bourke and the other to serve Tenterfield, and eleven new open narrowcasting radio services. The Authority decided not to make the licences for the community radio services available for allocation for at least one year after the release of the licence area plan. This will give existing aspirant groups time to consolidate and new aspirant groups the opportunity to emerge.

The Authority decided to allow 2WEB Bourke, the community service in Bourke, to increase its operating power and to extend its licence area to include Coonamble, Nyngan and Wilcannia. The Authority provided channels for transmission of the 2WEB service at these localities as well as at Lightning Ridge and Walgett.

The Authority also decided to allow an increase in the operating power of the existing 2TEN Tenterfield community radio service, and to extend its licence area to include the community of Texas, Queensland.

The Authority made channels available for two open narrowcasting services at each of Bourke, Brewarrina, Collarenebri, Walgett and Wilcannia and one service at Lightning Ridge.

Central and South West Western Australia radio

Mandurah (July 1996)

In the licence area plan for community and open narrowcasting radio in Mandurah, Western Australia, the Authority decided to make channels available for one new community radio service and one new open narrowcasting radio service.

Northam (August 1996)

In the licence area plan for radio in Northam, Western Australia, the Authority decided to make channels available for two new community radio services, one at Northam and one at York. A channel was made available for an open narrowcasting service at Northam and channels were reserved for two additional national radio services to serve the Northam region.

Geraldton (August 1996)

In the licence area plan for radio in Geraldton, Western Australia, the Authority decided to make channels available for three new community radio services. Two of the services are for Geraldton and one for Northampton. A channel was also made available for an open narrowcasting service at Geraldton.

Katanning and Narrogin (October 1996)

In the separate licence area plans for radio in Katanning and Narrogin, Western Australia, the Authority made channels available for three new community radio services, one at Katanning, one at Wagin and one at Narrogin. A channel was also made available for an open narrowcasting service at Wagin and channels reserved for two additional national radio services to serve the Katanning and Narrogin region.

Bridgetown (November 1996)

In the licence area plan for radio in Bridgetown, Western Australia, the Authority decided to make channels available for a new community radio service at Bridgetown. A channel was also made available for an open narrowcasting service at Manjimup and a channel reserved for an additional wide coverage national radio service at Manjimup to serve the Bridgetown region.

Bunbury (November 1996)

In the licence area plan for radio in Bunbury, Western Australia, the Authority decided to make channels available for a new (third) commercial AM radio service, to operate at Bunbury, Collie and Margaret River.

Channels were also made available for three new community radio services, one each at Bunbury, Collie and Margaret River, and channels were made available for one open narrowcasting radio service at each of Bunbury and Busselton. Two channels were reserved for wide-coverage national radio services.

Albany (October 1996)

In the licence area plan for radio in Albany, Western Australia, the Authority decided to make channels available for one new community and two new open narrowcasting services. Due to the large increase in the number of services set to commence in the area, the Authority did not make a channel available for a third commercial radio service. The Authority decided to delay further consideration of a third commercial radio service for Albany until 18 months after the release of the final licence area plan, after the market has had the opportunity to absorb the impact of the new services.

Two channels were reserved for new national radio services to serve the Albany region.

Riverland (August 1996)

In the licence area plan for radio in the Riverland, South Australia, the Authority decided to make channels available for one new community radio service and two new open narrowcasting radio services. In addition, the Authority reserved spectrum for SBS, ABC and national/community television channels and two new national radio services in the Riverland.

Central New South Wales radio

Bathurst, Lithgow and Parkes (May 1997)

In the licence area plans for radio in the Bathurst, Lithgow and Parkes areas of New South Wales, the Authority decided to make channels available for four new community radio services and four new open narrowcasting radio services.

In Bathurst, channels have been made available for a new community radio service and an open narrowcasting radio service. Two channels have been reserved for new national broadcasting services.

In Lithgow, channels have been made available for a new community radio service and an open narrowcasting service. The licence for the community radio service in Lithgow will not be available for allocation for at least two years. This will give existing aspirant groups time to consolidate and new aspirant groups the opportunity to emerge.

Channels have been made available for new open narrowcasting services in Parkes and Condobolin and a new national radio service in Condobolin.

The Authority decided to allow 2LVR, the existing community radio service in Forbes/Parkes, to increase its operating power and to extend its licence area to match that of the commercial radio services 2PK and 2ROK Parkes. The Authority has also provided a channel for transmission of the 2LVR service at Condobolin.

Two channels were reserved at Bathurst and one at Parkes for new national radio services.

Orange and Dubbo (June 1997)

In the licence area plans for radio in the Orange and Dubbo areas of New South Wales, the Authority decided to make channels available for nine new radio services. New commercial radio licences will be made available for allocation in Orange and Dubbo, while new community and open narrowcasting services were planned for Orange, Dubbo and Cobar.

Channels have been made available for two new community radio services in Orange, a new community radio service in Dubbo and one for Cobar.

For each of Orange, Dubbo and Cobar, one FM channel has been made available for a new open narrowcasting radio service.

A channel was reserved at Cobar for a new national radio service.

Mudgee (June 1997)

In the licence area plan for radio in Mudgee, New South Wales, the Authority decided to make channels available for new community and open narrowcasting radio services.

For each of Mudgee and Kandos, channels have been made available for new community radio services. Although the licence for the community radio service in Kandos will be made available for allocation within a few months of the release of the licence area plan, the licence for Mudgee will not be available for allocation for at least two years from the release of the plan. This will give existing aspirant groups in Mudgee time to consolidate and new aspirant groups the opportunity to emerge.

In Mudgee, one channel was made available for a new open narrowcasting radio service.

Central Victoria and Central Murray radio

Swan Hill (June 1997)

In the licence area plan for radio in Swan Hill, Victoria, the Authority decided to make channels available for new community and open narrowcasting radio services.

New community radio licences will be made available for allocation in Swan Hill and Barham, and a new open narrowcasting licence will be made available in Swan Hill. The Authority also planned a channel for a new national radio service at Hopetoun.

Allocation of the licence for a community radio service at Swan Hill is to be delayed for at least twelve months from the date of the licence area plan to give existing aspirant groups time to consolidate and new local aspirant groups the opportunity to emerge.

Final licence area plans — television

Final television licence area plans were issued in 1996–97 in the following planning zones: Riverland (South Australia), Remote Central Australia, Remote North East Australia, Remote and Regional Western Australia and Perth, Western Australia.

Riverland (August 1996)

Although sufficient vacant channels exist to provide one or more extra commercial television services in the Riverland region of South Australia, the Authority did not make channels available in the licence area plan as there was insufficient interest from entrepreneurs in providing such services.

The existing commercial television service RTS will be required to move from VHF channel 5A to a new channel (UHF channel 36) by June 2006. Channel 36 has been made available for use by RTS to enable it to start simulcasting at any time, should the transmitter for its VHF channel 5A service become unreliable or unmaintainable.

Remote Central Australia television and Remote North East Australia (December 1996)

The Authority did not make channels available for any additional competing commercial television services in the licence area plans for Remote Central Australia and Remote North East Australia, due to lack of interest from potential service providers.

Remote and Regional Western Australia (February 1997)

In the licence area plan for television in Remote and Regional Western Australia, the Authority decided to make channels available for a second commercial television service.

The licence area of the new service will be the whole of regional and remote Western Australia and will encompass the four existing television licence areas (South West/Great Southern, Geraldton, Kalgoorlie and Remote Western Australia).

Channel capacity in other centres in Remote and Regional Western Australia will be made available under s.212 of the Broadcasting Services Act upon request.

The commercial services operating on channel 3 from Baandee, channel 3 from Bunbury and channel 3 from Kambalda will be required to move from these television channels not earlier than ten years from the date of the licence area plan. The situation will be reviewed again in five years time to determine whether or not clearance will be necessary at the end of the ten year period.

UHF channels at Baandee, Bunbury and Kambalda have been made available for use by the commercial broadcaster to enable it to commence simulcasting at any time, should its VHF channel 3 services become unreliable or unmaintainable.

The national services operating on channel 5 from Bunbury and channel 5 from Kambalda will not be required to move from these television channels for at least ten years from the date of the licence area plan. The situation will be reviewed again in five years time to determine whether or not clearance will be necessary at the end of the ten year period.

UHF channels at Bunbury and Kambalda have been made available for use by the national broadcaster to enable it to commence simulcasting at any time or continue to simulcast, should its VHF channel 5 services become unreliable or unmaintainable.

UHF channel 31 with increased power has been made available at Pemberton. When UHF channel 33 at Bunbury commences service, a simultaneous change from UHF channel 33 to UHF channel 31 is required at Pemberton to avoid co-channel interference.

The national services operating on channel 5A from Leeman and channel 5A from Central Agricultural will be required to move from channels 5A to UHF channel 57 at Leeman and UHF channel 41 at Central Agricultural not earlier than ten years from the date of the licence area plan. Channels 57 at Leeman and 41 at Central Agricultural have been made available for use by the national broadcaster to enable it to commence simulcasting at any time, should its VHF channel 5A services become unreliable or unmaintainable.

The Authority decided to continue to make channels available for the existing community television services operating at 13 remote centres.

The power of the existing community television service operating on channel 66 at Wingellina (Irrunytju) is to be increased and channels will be made available for the service to be transmitted to an additional 11 communities.

The licence area of the Wingellina (Irrunytju) community television service will be extended to include the above communities.

The Authority decided to make a channel available for a local coverage open narrowcasting community television service in Broome.

Perth (February 1997)

The Authority is aware of reception difficulties faced by some Perth viewers, particularly in the foothills areas, but did not plan additional transmission facilities as the television licensees indicated they were not interested in providing such services, preferring to wait for the advent of ghost cancelling technology in receivers.

Requests for additional information about licence area plans

The Authority received requests for additional information regarding the reasons for the final decisions in the following licence area plans: Central Western Slopes (Orange) radio; Central Tablelands (Dubbo) radio; Bathurst radio; Lithgow radio; and Remote and Regional Western Australia television.

In addition, the Authority received a request for further information regarding the reasons for planning the technical specifications for the additional commercial radio service (s.39) in Coffs Harbour.

Public consultation

The Authority invited expressions of interest in providing a second commercial television service to serve all of remote and regional Western Australia in August 1996.

The Authority released a technical options discussion paper for Sydney, *Availability of high power FM frequencies for radio in Sydney (planning zone R8)*, for public comment in December 1996.

Objective 3

Licence allocations

Ensure the timely licensing of existing, new and emerging broadcasting services within their appropriate categories of service

Key outcomes

- ◆ 3 commercial television licences allocated
- ◆ 12 commercial radio broadcasting licences allocated (under section 39)
- ◆ 5 community radio licences allocated
- ◆ 2 open narrowcasting television licences allocated
- ◆ 53 open narrowcasting radio licences allocated
- ◆ 148 special event licences approved
- ◆ 132 licences for retransmissions of broadcasting services issued
- ◆ 41 national (ABC and SBS) apparatus licences issued
- ◆ 20 commercial radio and 20 commercial television broadcasting licences renewed

Price-based allocation of commercial television and radio broadcasting licences

On 29 October 1996 the Authority conducted licence allocation exercises to allocate commercial television broadcasting licences to serve Darwin and Mildura. The licences were offered for allocation in accordance with the price-based allocation system determined by the Authority in 1995 (see *Annual Report 1995–96*, p.25). The price-based system is set out in the *Commercial Broadcasting Licence Allocation Determination no. 1 of 1995* (the Determination).

The successful bidder for the Darwin licence was Telecasters Australia Limited, with a bid of \$2.1m. The successful bidder for the Mildura licence was Prime Television (Victoria) Pty Ltd, which bid \$3.2m.

The Mildura commercial television licence was allocated on 7 January 1997, and the Darwin licence was allocated on 29 January 1997. Licensees are required under the Act to commence a service within one year of being allocated a licence, or a longer period as notified in writing by the Authority. No commercial radio licences were allocated under the s.36 price-based allocation system in 1996-97.



Successful bidder for the Mildura licence, Mr Daryl Guihot, Prime Television (Victoria) Pty Ltd with Mr Peter Webb.

Allocation of commercial television and radio broadcasting licences to existing operators

Television

Until 5 January 1996, s.73 of the Act allowed an existing commercial television licensee to apply to the Authority for permission to operate a second service in its licence area if it was the only licensee and additional commercial television licences could be allocated in the licence area.

The Authority could give permission if it was satisfied that 'it is unlikely that another person would be interested in, and likely to be in a position to, operate another commercial television broadcasting service in the licence area'.

On 5 January 1996, s.73 was repealed and was replaced with two clauses (s.38A and s.73). Among other things, the new provisions allowed the Authority to allocate a second commercial television broadcasting licence to an existing licensee if it was the holder of the only commercial television licence in force in the area and additional commercial television licences could be allocated in the licence area.

The new provisions required the Authority to allocate a licence if it was satisfied that it would be unlikely that another person would be interested in operating, and in a position to operate, another commercial broadcasting television service in the licence area.

As reported in the *Annual Report 1995-96* (pp.26-27), WIN Television Mildura Pty Ltd, MTN Television Pty Ltd (Griffith) and Territory Television Pty Ltd (Darwin) applied to the Authority for permission to operate second commercial television broadcasting services in their licence areas.

The Authority decided not to grant permission to these licensees to operate second commercial television broadcasting services in their licence areas. These decisions were appealed.

On 1 July 1996, the Administrative Appeals Tribunal (AAT) upheld the Authority's decisions in relation to the Darwin and Mildura licensees and set aside the Authority's decision in relation to the Griffith licensee. Licence allocation exercises

for new commercial television licences to serve Darwin and Mildura were held in October 1996 (see above).

Commercial television licences allocated 1996-97

| Place | No. of licences | Licence allocated to: | Price bid (if applicable) | Date allocated |
|---------------|-----------------|-------------------------------------|---------------------------|-----------------|
| Griffith, NSW | 1 | MTN TV Pty Ltd (Griffith) | N/A* | 18 July 1996 |
| Mildura, Vic | 1 | Prime Television (Victoria) Pty Ltd | \$3.2m | 7 January 1997 |
| Darwin, NT | 1 | Telecasters Australia Ltd* | \$2.1m | 29 January 1997 |

* *Griffith licence allocated to existing operator under s.38A of the Act*

The AAT decided to grant permission to the Griffith licensee to operate a second commercial television broadcasting services in its licence area. The Griffith licensee, MTN Television Pty Ltd, was allocated a second commercial television licence on 18 July 1996.

Radio

Section 39 of the Broadcasting Services Act provides for the allocation of an additional commercial radio broadcasting licence to a licensee in a market where there is only one such service.

Under s.39, the Authority must allocate an additional commercial radio licence to an existing licensee if:

- there is only one commercial radio broadcasting licensee in a licence area; and
- that licensee is providing a service in the licence area; and
- the licence area for the existing ('parent') licence does not have an 'excessive overlap' with a neighbouring licence area; and
- the licensee makes a written application to the Authority; and
- in the opinion of the Authority, suitable broadcasting services bands spectrum is available for providing another commercial radio broadcasting service in the licence area.

From 1 July 1996 to 30 June 1997 the Authority allocated 12 commercial radio broadcasting licences under s.39 of the Broadcasting Services Act, bringing the total now licensed to 49. Licences were allocated to commercial radio broadcasters in Coffs Harbour, Cooma and Grafton, New South Wales; Swan Hill, Victoria; Charleville, Queensland; Renmark, South Australia; Bridgetown, Bunbury, Katanning, Narrogin and Northam, Western Australia; and Devonport, Tasmania.

A total of 55 commercial radio licensees were eligible for an additional licence under this section. Of the 49 licences allocated, 15 services have commenced operation. The 12 to commence during 1996-97 were 2BXS Bathurst, 2CSF Coffs Harbour, 2ZOO Dubbo, 2SNO Goulburn, 2GZF Orange, 2ROK Parkes, 2MVB Taree, 3WWM Horsham, 3NNN Wangaratta, 4ZKZ Innisfail, 6CST Mandurah, 8EZY Darwin.

At the time of this report, six s.39 services remain to be planned. These are for Maryborough and Kingaroy, Queensland; Murray Bridge and Port Lincoln, South Australia; and Burnie and Scottsdale, Tasmania. The Authority is having difficulty finding suitable frequencies or determining suitable technical specifications due to siting difficulties in the areas in question, and has been negotiating with all of the respective licensees. Ultimately, these services may be planned within the relevant licence area plans.

A fee of \$10 000 applies to licences allocated under s.39. The allocation fee is intended to partially defray the Authority's costs in planning and allocating the additional licence.

Commercial radio licences allocated under s.39 1996-97

| Existing service | New service | Date allocated |
|------------------------|-------------|----------------|
| 2CS Coffs Harbour, NSW | 2CSF | 21-2-97 |
| 2GF Grafton, NSW | 2CLR | 3-2-97 |
| 2XL Cooma, NSW | 2SKI | 26-8-96 |
| 3SH Swan Hill, Vic. | 3SHI | 12-9-96 |
| 4VL Charleville, Qld | 4CCC | 26-8-96 |
| 5RM Renmark, SA | 5RIV | 26-8-96 |
| 6AM Northam, WA | 6NAM | 26-8-96 |
| 6BY Bridgetown, WA | 6BET | 5-11-96 |
| 6NA Narrogin, WA | 6NAN | 24-10-96 |
| 6TZ Bunbury, WA | 6BUN | 11-11-96 |
| 6WB Katanning, WA | 6KAN | 24-10-96 |
| 7AD Devonport, Tas. | 7DDD | 24-10-96 |

Allocation of community broadcasting licences

On 19 September 1995, the Authority finalised a community broadcasting licence allocation system for services using the broadcasting services bands (AM and FM radio spectrum). The system provides for licences to be allocated on the basis of merit according to the criteria set out in the Act (s.84).

The Authority allocated five community radio licences during the reporting period.

In December 1995, the Authority advertised the availability of two community broadcasting licences in Mildura, Victoria. Applications closed in February 1996 and there were two applicants for the licences. One licence was allocated to the Association for the Blind Ltd on 11 September 1996 and the other applicant withdrew its application.

In September 1996, the Authority advertised the availability of a community broadcasting licence in Ceduna, South Australia. Applications closed in November 1996 and there was one applicant, Ceduna Community Radio Inc. which was allocated the licence on 20 February 1997.

In January 1997, the Authority advertised the availability of one community broadcasting licence in York, Western Australia. Applications closed in February

1997 and there was one applicant, York Community Radio Inc., which was allocated the licence on 14 May 1997.

In October 1996, the Authority advertised the availability of a community broadcasting licence in Fitzroy Crossing, Western Australia. Applications closed in December 1996 and there was one applicant, Wangki Yupurnanupuru Aboriginal Corporation, which was allocated the licence on 15 May 1997.

In January 1997, the Authority advertised the availability of a community broadcasting licence in Kangaroo Island, South Australia. Applications closed in March 1997 and there was one applicant, Kangaroo Island Community Radio Inc., which was allocated the licence on 23 June 1997.

Community radio licences allocated

| Date licence advertised | Location | No. available | Close of applications | No. applicants | Licence allocated to: | Date allocated |
|-------------------------|----------------------|---------------|-----------------------|----------------|---|----------------|
| Dec 1995 | Mildura, Vic | 2 | Feb 1996 | 2 | Association for the Blind Ltd * | Sept 1996 |
| Sept 1996 | Ceduna, WA | 1 | Nov 1996 | 1 | Ceduna Community Radio Inc. | 20-2-1996 |
| Jan 1997 | York, WA | 1 | Feb 1997 | 1 | York Community Radio Inc. | 14-5-1997 |
| Oct 1996 | Fitzroy Crossing, WA | 1 | Dec 1996 | 1 | Wangki Yupurnanupuru Aboriginal Corporation | 15-5-1997 |
| Jan 1997 | Kangaroo Island, SA | 1 | Mar 1997 | 1 | Kangaroo Island Community Radio Inc. | 23-6-1997 |

* the other applicant withdrew its application.

In December 1995, the Authority advertised that two community broadcasting licences were available in Darwin, Northern Territory. When applications closed in February 1996, there were three applicants for the two licences. The Authority encountered difficulties in assessing the licence allocations — partly because the licences were contested and partly because the applications did not contain all the required information essential to the merit assessment process. In March 1997, the Authority sought more information, giving applicants until 31 July to respond. The applicants have provided the additional information and the Authority is assessing this.

In December 1996, the Authority advertised the availability of two community broadcasting licences in Mt Isa, Queensland. Applications closed in February 1997 and there were two applicants for the licences. These were being assessed at the date of this report.

The Authority advertised that one community broadcasting licence was available for allocation in Albany, Broome, Derby, Halls Creek and Meekatharra, Western Australia and Torres Strait, Queensland. There was one applicant for each of these licences at the close of applications, see table following.

Community radio licences: not yet allocated

| Date advertised | Location | No. available | Close of applications | No. of applicants |
|-----------------|--------------------|---------------|-----------------------|-------------------|
| Dec 1995 | Darwin, NT | 2 | Feb 1996 | 3 |
| Oct 1996 | Derby, WA | 1 | Dec 1996 | 2 |
| Oct 1996 | Halls Creek, WA | 1 | Dec 1996 | 1 |
| Nov 1996 | Torres Strait, Qld | 1 | Dec 1996 | 1 |
| Dec 1996 | Mt Isa, Qld | 2 | Feb 1997 | 2 |
| Feb 1997 | Meekatharra, WA | 1 | May 1997 | 1 |
| Apr 1997 | Albany, WA | 1 | May 1997 | 2 |

Price-based allocation of open narrowcasting licences

On 30 October 1996, the Spectrum Management Agency (now the Australian Communications Authority) determined a price-based allocation system under s.106 of the *Radiocommunications Act 1992* for use by the Authority.

The Authority uses the system to issue transmitter licences to provide open narrowcasting services in parts of the radiofrequency spectrum which have been made available for the purpose in licence area plans prepared by the Authority. Under the price-based allocation system, auction-style licence allocation exercises are held for licences for which there is more than one application. Licences which receive only one application are issued to the applicant in accordance with the terms of the determination which governs the system.

The Authority has conducted two rounds of licence allocation exercises under this price-based allocation system.

In the first round, on 1 November 1996 applications were invited for one new open narrowcasting television licence in Darwin and 84 open narrowcasting radio licences. Applications closed on 30 November 1996 with multiple applications being received for the open narrowcasting television licence and an open narrowcasting radio licence in Broome, Western Australia.

Licence allocation exercises for these two licences were held on 17 December 1996. The highest bidder for the Darwin television licence was Top End Sounds Pty Ltd which bid \$7000. The highest bidder for the Broome radio licence was the Totalisator Agency Board of Western Australia which bid \$16 000.

On 14 March 1997, these two licences were issued to the highest bidders along with 37 licences for which only one application each was received. Another licence, for an open narrowcasting radio licence for Darwin East, was issued on 29 April 1997 (see table below for details).

On 1 April 1997 the Authority invited applications for a second round of new open narrowcasting licences. One new open narrowcasting television licence and 21 new open narrowcasting radio licences were offered. Applications closed on 30 April 1997 with multiple applications being received for the open narrowcasting television

licence in Broome, Western Australia and open narrowcasting radio licences in Alice Springs, Katherine and Mildura. Licence allocation exercises for these four licences were held on 22 May 1997.

Goolari Media Enterprises Pty Ltd bid \$26 000 to be the successful bidder for the Broome television licence while Top End Sounds Pty Ltd was the successful bidder for the Alice Springs and Katherine radio licences with bids of \$8000 and \$4000 respectively. Tatley Pty Ltd was the successful bidder for the Mildura radio licence with a bid of \$32 000. These licences, together with 11 licences for which only one application each was received, were issued on 11 June 1997.

A total of 107 licences have been offered in the two rounds and 55 licences have been issued (see table below for details). No applications were received for the remaining 52 licences.

Open narrowcasting television licences issued 1996-97

| General area served | Applicant | Amount paid (\$) | Licence issued |
|---------------------|------------------------------------|------------------|----------------|
| Darwin City, NT | Top End Sounds Pty Ltd | 7 000 | 14-3-97 |
| Broome, WA | Goolarri Media Enterprises Pty Ltd | 26 000 | 11-6-97 |

Open narrowcasting radio licences issued 1996-97

| General area served | Applicant | Amount paid (\$) | Licence issued |
|----------------------|--|------------------|----------------|
| Balranald, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 14-3-97 |
| Balranald, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 14-3-97 |
| Bourke, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 11-6-97 |
| Brewarrina, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 11-6-97 |
| Broken Hill, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 14-3-97 |
| Broken Hill, NSW | Broken Hill Church of Christ Inc. | 4000 | 14-3-97 |
| Collarenebri, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 11-6-97 |
| Lightning Ridge, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 11-6-97 |
| Walgett, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 11-6-97 |
| Wilcannia, NSW | NSW Race Narrowcasts Pty Ltd | 4000 | 11-6-97 |
| Mildura, Vic | 3UZ Pty Ltd | 4000 | 14-3-97 |
| Mildura City, Vic | Tatley Pty Ltd | 32 000 | 11-6-97 |
| Blackall, Qld | TAB Queensland | 4000 | 14-3-97 |
| Charleville, Qld | TAB Queensland | 4000 | 14-3-97 |
| Longreach, Qld | TAB Queensland | 4000 | 14-3-97 |
| Roma, Qld | TAB Queensland | 4000 | 14-3-97 |
| Winton, Qld | TAB Queensland | 4000 | 14-3-97 |
| Ceduna/Smoky Bay, SA | South Australia Totalizator Agency Board | 4000 | 11-3-97 |
| Cooper Pedy, SA | South Australia Totalizator Agency Board | 4000 | 11-3-97 |
| Renmark/Loxton, SA | South Australia Totalizator Agency Board | 4000 | 11-3-97 |
| Renmark/Loxton, SA | South Australia Totalizator Agency Board | 4000 | 11-3-97 |
| Roxby Downs, SA | South Australia Totalizator Agency Board | 4000 | 11-3-97 |

| General area served | Applicant | Amount paid (\$) | Licence issued |
|---------------------|---|------------------|----------------|
| Woomera, SA | South Australia Totalizator Agency Board | 4000 | 11-3-97 |
| Albany (town), WA | Totalisator Agency Board of Western Australia | 4000 | 11-6-97 |
| Broome, WA | Totalisator Agency Board of Western Australia | 16 000 | 13-3-97 |
| Bunbury, WA | Totalisator Agency Board of Western Australia | 4000 | 11-3-97 |
| Busselton, WA | Totalisator Agency Board of Western Australia | 4000 | 11-6-97 |
| Carnarvon, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Esperance, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Exmouth, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Geraldton, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Kalbarri, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Kalgoorlie, WA | Totalisator Agency Board of Western Australia | 4000 | 14-3-97 |
| Karratha, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Kununurra, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Laverton, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Leinster, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Mandurah, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Meekatharra, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Merredin, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Mt Magnet, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Northam, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Port Hedland, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Southern Cross, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Wagin, WA | Totalisator Agency Board of Western Australia | 4000 | 14-3-97 |
| Wyndham, WA | Totalisator Agency Board of Western Australia | 4000 | 13-3-97 |
| Alice Springs, NT | Top End Sounds Pty Ltd | 8000 | 11-6-97 |
| Darwin City, NT | Top End Sounds Pty Ltd | 4000 | 14-3-97 |
| Darwin East, NT | Philip Charles Ward | 4000 | 29-4-97 |
| Darwin North, NT | Remco Leon De Groot | 4000 | 14-3-97 |
| Katherine, NT | Top End Sounds Pty Ltd | 4000 | 11-6-97 |
| Tennant Creek, NT | Top End Sounds Pty Ltd | 4000 | 11-6-97 |
| Yulara, NT | Top End Sounds Pty Ltd | 4000 | 11-6-97 |

Subscription television broadcasting licences

The Authority did not receive any applications for subscription television broadcasting licences under s.96 of the Act in this period.

Since 1992, the Authority has issued a total of 1456 non-satellite subscription television broadcasting licences to 35 separate licensees, and two satellite licences — satellite licences A and B. [Satellite licence C was allocated by the Minister for Communications and the Arts to a subsidiary of the ABC (s.93)].

Until 1 July 1997, the Broadcasting Services Act drew a distinction between services delivered by satellite and services delivered by other means. From 1 July, the Authority can issue pay TV broadcasting licences under s.96 which allow services to be delivered by any means, including satellite.

Low power open narrowcasting services

Low power open narrowcasting services contribute to the availability of a diverse range of radio services offering information, entertainment and education. One hundred and sixty five of these licences were allocated in the period 1 July – November 1996. From November 1996, responsibility for licensing these type of services was vested in the Spectrum Management Agency (now the Australian Communications Authority).

Temporary transmissions by aspirant community radio broadcasters

Temporary transmissions foster the development of community radio by allowing aspirant community groups to develop their radio operating skills and programming schedules and encourage support for a permanent community radio broadcasting service through the licence area planning process.

The Authority may make vacant spectrum in the broadcasting services bands available for allocation for a specified period to aspirant community radio groups to conduct temporary transmissions under the open narrowcasting class licence.

The Authority approved a total of 494 temporary transmissions for aspirant community radio broadcasters during 1996–97. Temporary transmissions in any given licence area are subject to the Authority's licence area planning process and future availability of vacant spectrum.

During the reporting period, the Authority completed assessments of eligibility for temporary transmissions for 42 aspirant community broadcasters, making a total of 175 assessments since temporary transmissions started. (See appendix 3, p. 113, for a list of all aspirant community broadcasters licensed during 1996–97).

Eligibility entitles groups to access to spectrum for up to 90 days of test broadcasting per year with continuous broadcasts being limited to 30 days. First time applicants may be approved up to a maximum of 30 days in the first six months.

The Authority publishes a list of approved temporary transmissions in each issue of its newsletter, *ABA Update*.

Special events

There were 148 special event licences for distinct and organised events of major sporting, cultural or other community significance approved during the year.

Retransmissions

The Act provides for the retransmission of commercial and community broadcasting services within and, with Authority permission, outside, the licence area of the originating licensee. It also provides for the retransmission of national services. A person who retransmits a service with Authority permission or within the originating

licence area is exempted from the regulatory regime of the Act and protected from any other legal action which could arise in relation to the provision of the service (s.212).

Section 212 also enables individuals or communities to develop self-help arrangements or cooperative ventures between broadcasters and communities. These arrangements can then bring services to areas that may otherwise not be adequately served. Most retransmission applications are for remote and regional areas where relatively few broadcasting services are available.

The Authority issued 132 transmitter licences for retransmissions of broadcasting services during the period. Of this total, 128 were for retransmission within the licence area of the originating licence or for retransmission of national services.

The four approved applications under s.212 to broadcast into areas outside the licence area of the originating service were to enable the retransmission of the following commercial television broadcasting services:

- WAW Remote Western Australia to Drumsite, Christmas Island (following an application from the Christmas Island Administration);
- WAW to Rocky Point, Christmas Is (application from Christmas Island Administration);
- RTQ Regional Queensland to Alpha, Queensland (application from Shire of Jericho); and WAW to Jundah, Windorah and Stonehenge, Queensland (application from Barcoo Shire).

In the period covered by this report, the Authority received 17 applications under s.212 for permission to retransmit radio and television services into areas outside the licence area of the originating service. The Authority considered 42 applications during the year, including 25 applications carried over from 1995–96.

Four applications were approved, two were withdrawn and five were refused. The Authority decided two applications did not apply under s.212. Seventeen applications are currently active and 12 applications are dormant (no action has been taken during the year as applicant appears to have lost interest but has not withdrawn its application).

Community television

In March 1994, the Minister for Communications and the Arts directed the Authority to reserve the last high power television channel in most parts of Australia (the so-called 'sixth channel'), for national or community broadcasting services. He also directed the Authority to give favourable consideration to making the channel available immediately for community and educational television on a continuing trial basis.

Since April 1994 the Authority has made the channel available on an area by area basis for open narrowcasting services by community and educational non-profit groups. Following receipt of advice from the Minister, the Authority extended the community television trial on the sixth high power television channel to 30 June 1998

in all areas in which licences were on issue: Sydney, Melbourne, Brisbane, Lismore, Perth (including Mandurah), Adelaide, Hobart and Bendigo.

The Authority did not issue any further licences in the reporting period.

National services

The Broadcasting Services Act requires apparatus licences for all national television and radio broadcasting services. In the reporting period, the Authority issued 41 national (ABC and SBS) radio and television apparatus licences.

Broadcasting licence renewals

Forty licences (20 commercial radio and 20 community radio) were renewed in 1996–97.

Opinions on category of service or a proposed service

Section 21 of the Act requires the Authority to give, on request, its opinion as to which of the categories of broadcasting service as listed in the Act a nominated or proposed service falls into. These categories are national broadcasting, commercial broadcasting, community broadcasting, subscription broadcasting, subscription narrowcasting and open narrowcasting.

In the period covered by this report, the Authority gave opinions on nine proposed services (six for radio and three for television). The Authority opinion agreed with that of the applicant in seven cases.

The Act provides the Authority with a statutory time frame of 45 days to provide the applicant with a written opinion, or the opinion is taken to accord with that of the applicant. All opinions on category of service were provided to applicants within this required timeframe.

In the period of this report, six services which are the subject of opinions have notified the Authority that they had commenced operation.

Since the commencement of the Act, the Authority has given opinions on a total of 128 proposed services (66 for radio and 62 for television). All applicants have sought to have services regarded as narrowcasting. The Authority opinion agreed with that of the applicant in 96 cases (48 for radio and 48 for television).

Objective 4

Control of broadcasting services

Ensure diversity of control of broadcasting services and that control of the more influential services rests with Australians.

Key outcomes

- ◆ *After the second major investigation conducted into CanWest Global Communications Corporation and its involvement in The Ten Group Ltd, the Authority found that CanWest was in breach of the foreign ownership provisions of the Broadcasting Services Act by being in a position to exercise control of the Ten network television licences.*
- ◆ *The Authority found no other unauthorised breaches of the control rules.*

Monitoring

The Authority actively gathers information to assess whether control of commercial television broadcasting services rests with Australians and to ensure that diversity of control of the more influential broadcasting services is being maintained.

Under the Act's regulatory outlook, the more influential a type of service is considered to be, the greater the level of regulation that applies to it. For example, commercial television licensees are subject to greater restrictions than pay TV licensees in virtually all key areas, including ownership and control, programming and licensing.

As part of its general monitoring of control issues, the Authority obtains and assesses information from a number of sources including participants in transactions, major industry players, media reports, other government agencies or advisory bodies (including the Australian Securities Commission, the Foreign Investment Review Board and the Australian Competition and Consumer Commission) the Australian Stock Exchange, company reports and overseas regulators.

The Authority has wide ranging powers to obtain information if it begins an investigation as a result of its monitoring or in response to a complaint. These

include the powers to issue notices requiring the production of documents, to examine witnesses under oath and to hold public hearings.

If the Authority was to find a person in breach of the control rules, a range of actions would be open to it. Under s.70 of the Act, it may by notice in writing direct the person (or, where appropriate, the licensee) to take action so that the person is no longer in breach. The notice is to specify a period (one month, six months, one year or two years) during which the person is to take action. The Authority can also refer a breach to the Director of Public Prosecutions for prosecution in the courts.

Investigations

The Authority conducted one major investigation relating to the control of a commercial television broadcasting licence in the period under review.

Investigation into control: CanWest/The Ten Group Ltd

On 3 April 1997 the Authority found that the Canadian company CanWest Global Communications Corporation (CanWest) was in breach of the foreign ownership provisions of the Broadcasting Services Act by being in a position to exercise control of the Ten network television licences.

The Authority issued a notice to CanWest requiring it to take action to remedy the breach.

The Authority was satisfied that CanWest was in a position to exercise control of The Ten Group Limited and its commercial television licences. The Authority directed CanWest to remedy the breach within six months.

The Authority was satisfied that CanWest had company interests of 52.49 per cent in The Ten Group Limited because CanWest was in a position to exercise control of 52.49 per cent of the votes cast on a poll at a shareholders' meeting of The Ten Group Limited.

In its investigation, the ABA examined share transactions which took place in November 1996 and January 1997. Shares in The Ten Group Limited which were previously owned by companies associated with Messrs John Singleton, Robert Whyte, Jack Cowin and others were sold to new companies whose purchase of the shares was financed by CanWest. These shares totalled 37.49 per cent of the issued shares of The Ten Group Limited.

In reaching its conclusions, the Authority conducted a thorough examination of the documentation associated with, and oral examination of the persons involved in, the transactions. The Authority considered the circumstances in which these transactions came about, the structure of the new companies and the commercial arrangements between the parties.

The Authority also found that CanWest was in a position to exercise control of The Ten Group Ltd through other means. These included associate relationships with Selli and Donholken which arose from CanWest being in a position to exercise direction or restraint over substantial issues affecting their management or affairs.

The Authority also found that CanWest was in a position to secure the appointment of at least half the board of directors of The Ten Group Ltd.

The Authority was also satisfied a breach of s.57(3) of the Act had occurred as two or more foreign persons had company interests in a commercial television broadcasting licensee that exceeded 20 per cent.

Appeal

On 29 April 1997 CanWest and others filed applications in the Federal Court for review of the Authority decisions, under s.5 of the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act). CanWest also challenged these decisions in the High Court. These proceedings were remitted by the consent of the parties to the Federal Court.

Donholken Pty Ltd and Selli Pty Ltd also sought judicial review of the Authority's decisions, under the ADJR Act. On 8 August 1997, the applications were dismissed. (For more detail about this appeal see appendix 1, pp.105–106)

Applications for prior approval

The prior approval of temporary breaches, under s.67 of the Act and extensions of the approval periods for such breaches under s.68, continues to facilitate changes to the structure of the industry, particularly commercial radio broadcasting.

During the reporting period the Authority approved two applications for prior approval of temporary breaches under s.67.

Section 67 has been used less by the industry during the period than in the last reporting period when there were 10 applications made under s.67 and 12 extensions granted under s.68 to remedy breaches. Five temporary breaches were remedied during the period.

The Authority has 45 days from receipt of an application under ss.67 or 68 in which to approve or refuse to approve the breach arising as a result of the transaction or agreement.

Details of approvals under s.67 and extensions under s.68 are made available to the public through the Authority's Notifications Register.

Applications for opinions on control

Opinions on control are available on the payment of a fee. In broad terms, under s.74 of the Act an applicant can request that the Authority give an opinion on whether a person is in a position to control a licence, a newspaper or a company. The Authority must provide an opinion within 45 days, otherwise it is to be taken that the Authority has given an opinion that accords with the applicant's opinion. The process may take longer if further information is required from the applicant.

By contrast with applications made under s.67, s.74 is being used more by the industry. While there was only one in the previous period, four applications for opinions on control were lodged in this reporting period.

Notices by the Authority

Under s.70 of the Act, if the Authority is satisfied that a person is in breach of the ownership and control rules the Authority may, by notice in writing, direct the person or the licensee to take action so that the person is no longer in breach of that provision.

Details of notices issued under s.70 are made available to the public through the Authority's Notifications Register.

Section 70 provides the notice issued by the Authority must specify a period of one month, six months, one year or two years during which the person must take action to ensure that the person is no longer in that position. When a breach is found to be 'deliberate and flagrant' the Authority is required to specify a period of one month.

The Authority issued two notices in the period under review, both in relation to breaches of the Act by CanWest.

The Authority was satisfied that the breach by CanWest was not 'deliberate and flagrant'. The Authority formed the view that in the circumstances a period of six months was appropriate.

Satellite subscription broadcasting licences A and B

During the reporting period the Authority received no complaints about foreign and cross ownership and the arrangements in place between the holders of satellite subscription broadcasting licences A and B.

It should be noted that under the Act's regulatory scheme all ownership and control provisions, other than the foreign ownership restrictions, of satellite broadcasting licensees A and B will cease to operate from 1 July 1997. These changes mean the Authority is no longer required to maintain a Large Circulation Newspaper Register, the cross-media restrictions on the ownership of satellite licence A are lifted and ownership limitations between licences A and B are also lifted.

Notification requirements

Within three months of the end of the financial year, each commercial television and commercial radio service must provide the Authority with details of persons who were in a position to exercise control of the licence, the name of each director of the licensee and the name of each foreign director of the licence at the end of the financial year. Within the same period, each person in a position to control a commercial television licence or a commercial radio licence must provide the

Authority with details of any company interests held at the end of the financial year in a newspaper that is associated with the licence area of the licence.

Each commercial licensee must notify the Authority that a person has come to be, or ceased to be in a position to exercise control of the licence within seven days of the licensee becoming aware of the event. Similarly, a person who has come to be in a position to exercise control of a commercial licence must notify the Authority within seven days of becoming so aware.

Sixty-one commercial radio broadcasting and fifteen commercial television broadcasting licensees notified the Authority of changes to control during the reporting period. This represented approximately a one hundred percent increase in commercial radio broadcasting notifications, and a 50 per cent decrease for commercial television.

The high level of compliance with the Act's notification requirements by the commercial broadcasting industry assists the Authority in its monitoring role. The public is kept informed of changes in ownership and control through the Notifications Register which is available for public viewing at the Authority's Library and on the Authority's Web site.

Objective 5

Programming

Encourage programming content which reflects the diversity of community values, interests and cultures and which fosters Australian identity and character.

Key outcomes

- ◆ *The Authority is at the leading edge of international developments in regulation of on-line content.*
- ◆ *A major investigation into Australian content on pay TV was completed and a report provided to the Minister for Communications and the Arts.*
- ◆ *116 investigations into broadcast matters were completed.*
- ◆ *A major research project on children and television was completed.*
- ◆ *The Authority conducted its third national survey on people's concerns about what they had seen on television.*
- ◆ *Required levels of Australian programming on commercial television were maintained.*
- ◆ *Required amounts of quality children's and preschool children's programs were broadcast on commercial television in 1995 and 1996.*
- ◆ *Of 85 programs assessed, 67 met the classification requirements for C (children's) or P (preschool children's) programs.*

On-line services

On 1 July 1996 the Authority delivered the report of its investigation into the content of on-line services to the Minister for Communications and the Arts, Senator Richard Alston. The key recommendations of the report, *Investigation into the Content of On-line Services*, were:

- that Australian on-line service providers develop industry codes of practice and the Authority register those codes;
- an On-line Labelling Task Force be established to consider the development of filter software and Internet content labelling schemes which are compatible with the Platform For Internet Content Selection (PICS). This technology provides tools which enable parents and supervisors to restrict children's access to 'unsuitable material'; and
- that community education initiatives be adopted, which assist the Australian community to maximise opportunities presented by on-line services. The Authority also recommended that the educational strategy also support those who are responsible for children's use of on-line services, such as parents and supervisors, and provide practical advice about the technical options which are available to them, including PICS.

Since the report was released the Authority has continued to consult widely with the on-line community and other interested parties. An amendment to the Broadcasting Services Act was passed on 7 July 1997 which enables the Minister to direct the Authority to investigate matters relating to on-line services.

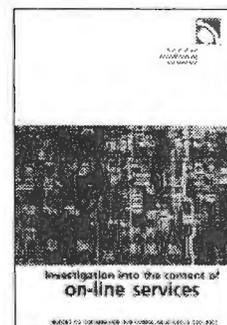
The Authority's report has been well received by the Australian on-line industry as well as the international community. Many international organisations, government bodies and individuals around the world have sought copies of the report and have expressed support for the approach taken by the Authority.

The Authority has also been invited to participate in a number of formal discussions started by international organisations such as the European Commission and the Organisation for Economic Co-operation and Development (OECD).

The Authority is keen to foster such international discussion as it encourages the exchange of information on key issues and developments and promotes an international approach to Internet regulation.

In the second week of July, after the date of this report, the Authority joined with the Internet Watch Foundation, the Recreational Software Advisory Council, the ECO Forum and Childnet International to form the International Content Rating Group. The group agreed to

- assess the current state of PICS, the content labelling scheme RSACi, and the group, Internet content rating for Europe or INCORE;
- develop a model for an international rating of content with takes the RSACi system into account; and
- establish a process of consultation and dissemination with a wider reference group.



The first meeting of the International Content Rating Group will be held in September 1997, in the UK. Observers from a number of government, international and industry organisations will also attend.

Encouraging program content which reflects diversity of community values

The Authority has sought to raise awareness of filtering products and content labelling as an option for parents and supervisors in managing children's access to unsuitable content on the Internet. The Authority is exploring ways of making these tools appropriate for cross-cultural use and is responding to the diverse range of community attitudes to content, particularly as it relates to sex, violence, nudity and language.

Research into on-line services

Since releasing its report, *Investigation into the Content of On-line Services*, the Authority has contributed to a number of research activities and proposals into on-line services.

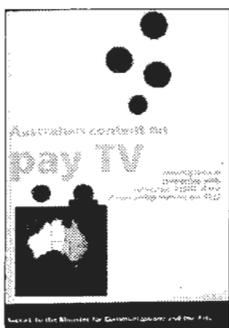
UNESCO

In January 1997 the United Nations Educational, Scientific and Cultural Organisation (UNESCO) commissioned the Authority to conduct a pilot study into the Internet and international regulatory issues. The study includes:

- an overview of the issues in the on-line environment, particularly as they relate to content of on-line services;
- a discussion of recent technical developments such as the Platform for Content Selection (PICS) and the emergence of labelling schemes; and
- an overview of regulatory developments in Australia, Singapore, Malaysia and the United Kingdom.

The Authority expects to publish the report later in 1997.

Investigation into Australian content on pay TV



On 17 September 1996, the Minister for Communications and the Arts directed the Authority to conduct an investigation into certain matters relating to Australian content on pay TV.

The Authority was required to report, amongst other things, on:

- the nature of Australian programming on pay TV;
- the practical operation of s.102 of the Act;
- the implications of increasing to 20 per cent the level of expenditure required under s.102, and the maintenance of an 'expenditure model' for Australian content regulation;
- the implications of extending Australian content requirements to non-drama channels; and

- alternative mechanisms for encouraging Australian content on pay TV.

The Authority's investigation was to provide information to assist the Minister in conducting a review of Australian content on pay TV, required under s.215(2) of the Act.

Section 102 of the Act states:

Each subscription television broadcasting licence is subject to the condition that, if the licensee provides a service devoted predominantly to drama programs, the licensee will, for each year of operation, ensure that at least 10 per cent of the licensee's program expenditure for that year in relation to that service is spent on new Australian drama programs.

The Authority delivered the report of this investigation to the Minister on 2 May 1997 and released the report publicly on 12 May 1997.

The report, *Australian content on pay TV*, provides the Minister with an analysis of the nature of Australian content on pay TV and an assessment of the effectiveness of the current requirement for expenditure on new Australian drama.

In assessing the costs and benefits of this requirement, the Authority drew heavily on a study by the Bureau of Transport and Communications Economics which forecast the order of expenditure resulting from the s.102 licence condition, the capacity of the Australian film and television production industry to supply Australian programming, and the impact of the requirement on the viability of the pay TV industry.

As a result of its investigation, the Authority concluded that the 10 per cent expenditure requirement will provide substantial support to the production industry, mainly through increased spending on new Australian drama feature films by channels devoted to new movies.

The Authority also concluded that doubling the obligation to 20 per cent for movie channels packaged in Australia, as suggested by s.215(2) of the Act, would be problematic for the pay TV industry. The Authority's reasoning is based on the Bureau of Transport and Communications Economics' analysis that increasing the requirement could result in financial problems for these channels, which are one of the main drivers of pay TV in Australia.

The Authority has, however, recommended imposing such an increase on non-movie drama channels around the year 2001, when these channels are forecast to have recovered from losses. For movie channels, the obligation increases as the pay TV industry grows because it is cast as a percentage of revenue, but increasing Australian drama expenditure by non-movie drama channels would require an increase in the level of the obligation. The Authority suggested that proposal should be evaluated closer to that date.

The Authority also recommended that Australian content requirements should not be extended to non-drama pay TV channels. Allowing a range of new Australian programs to qualify as expenditure by drama channels, however, would provide wider production industry support and encourage greater Australian representation on the non-movie drama channels in particular.

The Authority considered that the scheme should be made enforceable and improvements be made to its administration. In its report, the Authority identified some broad options for the Minister's consideration, including models for enforceable regulation.

In conducting its investigation the Authority consulted widely with the pay TV industry, including pay TV broadcasters and channel providers; representatives of the commercial television industry; the film and television production industry; and, relevant government agencies.

At the time of preparation of this annual report, the Minister was considering the Authority's report.

Compliance with pay TV 'new Australian drama' guidelines

After consulting interested parties on the implementation of the s.102 licence condition, the Authority concluded that few, if any, pay TV licensees themselves spend money directly on programming.

The Authority therefore developed, and published in June 1996, *Guidelines for 'new Australian drama' on pay TV* which encourage voluntary expenditure on new Australian drama by those corporate entities in the industry which purchase the programming.

These guidelines assist pay TV broadcasters and channel providers to act in a way which encourages new opportunities for the Australian drama production industry and so honours the spirit of the licence condition.

While the voluntary nature of the guidelines places limitations on the Authority's ability to implement a strict compliance regime, the Authority instituted a system of reporting by channel providers.

Compliance information about actual expenditure on new Australian drama to date is limited to 11 drama channels and the initial reporting period ending 30 June 1996. From the information voluntarily provided to the Authority for this period:

- total program expenditure of predominantly drama channels was \$24 570 420; and
- total spending on 'new Australian drama' was \$1 740 678, equivalent to 7.1 per cent of total program expenditure.

While all the relevant pay TV broadcasters and predominantly drama channel providers have participated and demonstrated goodwill in this regard, only eight of the 11 pay TV channels spent the required 10 per cent on 'new Australian drama'.

As the guidelines are voluntary, the Authority is unable to enforce the expenditure requirement, nor is it able to take regulatory action.

The Authority does not, however, consider that operators are seeking to avoid compliance. In the case of two of the channels, the shortfall was apparently the result of the time lag from agreeing to purchase a program, before 30 June 1996, and paying for the program, which was after that date and at the start of a licence period.

The third channel has indicated to the Authority that it is developing new Australian programming in another genre.

Attitudinal research

The Authority encourages diverse programming content by providing research information on the diverse needs, interests and values of the community. This information is collected, analysed, interpreted and published as part of the Authority's extensive attitudinal research program. Where appropriate, the research program also addresses issues associated with Australian identity and character.

The Authority's research program has a unique role to play in informing the Authority and service providers about community needs, interests and values. It provides information that is representative of the views of the community and provides a balance to other community views ascertained through submissions, public meetings and the Authority's complaints process.

The research program is mandated by the Broadcasting Services Act: one of the Authority's primary functions is, 'to conduct or commission research into community attitudes on issues relating to programs' (s.158(g)).

Industry groups representing service providers are required to take the Authority's research into account when developing their codes of practice (s.123(1)).

The Authority completed two research projects during the year:

- children and television project (completed in the previous reporting period, but published during this reporting period); and
- television codes of practice, completed, but the results published in August 1997, after the date of this report.

The Authority continued with two research projects during the reporting period:

- young Australians and music; and
- infants and television.

The Authority started three new projects during the reporting period:

- children's television industry development;
- media usage by recently-arrived migrants; and
- evaluation of on-line services regulation.

Children and television research

This long-running project had two major stages. The first focused on classification issues and resulted in the Authority monograph *'Cool' or 'gross': Children's attitudes to violence, kissing and swearing on television*, published in 1994-95. Field work for the second stage was completed in 1995-96 with the results released in August 1996 as, *Kids talk TV: 'Super wickid' or 'dum'*.

Kids talk TV: 'Super wickid' or 'dum' asked children about what they liked and didn't like on television. Its objectives included exploring which television programs

children enjoy watching and why, as well as which programs they dislike or find 'boring' and why. Other objectives included examining children's attitudes to Australian-made programs compared to overseas programs and exploring their attitudes to programs especially made for them.

The research shows that children choose to watch television for entertainment, education, escape, company and for 'something to do'. Comedy, drama, action-adventure and variety programs were favourites. Children liked watching characters who were their own age or a bit older, or teenagers or adults who seemed to be doing interesting things. They defined boring programs as those without humour, action and adventure, those they had outgrown, programs with 'grown up' humour they did not understand and some documentaries.

Children were also asked for their views on Australian programs compared to overseas programs and discussed their attitudes to racism after viewing a segment of a program about the life of an Aboriginal girl.

The research results have been widely disseminated to assist program makers and broadcasters to understand the interests and needs of children.

The research methodology for *Kids talk TV: 'Super wickid' or 'dum'* aimed for a diversity of perspectives by taking special care to include children from different educational, ethnic, cultural and religious backgrounds.

Television codes of practice research



As part of its ongoing role to monitor the effectiveness of the commercial television industry code of practice, in September and October 1996 the Authority conducted a third national survey on people's concerns about material they had seen on television.

The research measured awareness of television classifications, in particular the M and MA classifications, and the perceived suitability of movies on commercial television starting at 8.30 p.m. The suitability of the movies was gauged in relation to the use of swearing, and the presentation of sex scenes, nudity and violence.

A number of the questions had been asked in two similar studies, in 1994 and 1995, allowing comparison of results for the three years.

Preliminary results for 1996, together with a comparison of results for the three years, were provided to the Federation of Australian Commercial Television Stations (FACTS) in December 1996. The results were provided at this time to enable FACTS to consider any implications during its review of the commercial television industry code of practice.

The results for 1996 and the three year comparison were published after the date of this report, in August 1997 as part of the Trends and Issues series: *Views on viewing: Community views about commercial television, 1994-1996*.

Some of the 1996 questions will be repeated in a survey to be conducted in September 1997 enabling the Authority to increase its information on community attitudes over time.

Young Australians and music

Young people and music is the focus of a joint research project being undertaken by the Authority, with additional funding provided by the Australia Council and the Australian Recording Industry Association (ARIA).

The project recognises the cultural and economic influence of contemporary music. Information is being gathered about the role of music in the lives of young people (aged 12 to 24 years) and their attitudes to the music currently available to them. It is considering music delivered through radio, television, CDs, the Internet and on-line means, as well as live performances and the participation of young people in music.

The project will aim to provide an understanding of youth perspectives on music content in broadcasting services. As part of the project, the Authority has been liaising with the National Indigenous Media Association of Australia on ways to access the perspectives of young people from indigenous communities.

While each of the research partners has an interest in youth and music, the emphasis of this interest varies. The research will inform the Authority's spectrum planning and licensing process, especially in relation to community services in capital cities where there may be opportunities for broadcasting services which address the needs of local youth through new youth-oriented services.

The project will contribute to the Australia Council's development of strategies for youth arts and explore the issue of funding for contemporary or popular Australian music. ARIA represents the broad interests of all member record companies.

The project consists of three stages: literature review, consultative stage, and qualitative and quantitative data collection.

The Authority commissioned Juliet London Research and Consultancy Pty Ltd to conduct the comprehensive literature review. The review was prepared by Juliet London and Jenny Hearder and was released as a monograph, *Youth and music in Australia: a review*, in June 1997.

The review focused on youth and their access to and consumption of music through various media, their participation in musical activities, preferred forms of music, and attitudes to Australian versus overseas music. The report summarises research currently available and identifies relevant issues for exploration and analysis in the later stages of the project.

The consultative stage contains interviews with key stakeholders in music and youth-related organisations. The interviews identified key issues for discussion in the qualitative stage and are helping to shape the quantitative stage. Seventeen interviews had been conducted by the end of the reporting period and interviews will continue after the date of this report.

The qualitative stage consists of focus group discussions with young people in the target age range. Twelve groups were conducted in April and May 1997 in Sydney, Melbourne, Darwin and Warwick, Queensland. A further group will be conducted in Sydney in August 1997 and this will complete the qualitative stage.



The first three stages will feed into development of the quantitative stage. This final stage will obtain measures from a representative sample of Australian youth on the place of music in their lives and their attitudes to music access, consumption and participation issues. The Authority expects to publish the results in 1998.

Young families and television

The Authority is conducting an analysis of data on the amount and type of television watched by preschool-aged children. The research is also looking at parents' attitudes, and their behaviour, towards their child's viewing.

The data was collected as part of a larger study conducted by Dr Brent Waters, formerly the Director of Psychiatric Services at St Vincent's Hospital, and Dr Judy Ungerer of Macquarie University.

The Authority's previous research on children and television has focused on school-aged children. Preschool-aged children have not been included due to the difficulties of conducting research with this age group. This project therefore fills a gap in the Authority's research activities and will help inform the Authority's activities which relate to preschool-aged children and their exposure to television programming. The project will also provide useful information for members of industry involved in the production of children's program, especially those designed for children under the age of five years.

The Authority expects to publish the results of its analysis in a monograph during the next reporting period.

Children's television industry development

The Authority has accepted an invitation to be an industry partner in new research into the children's television industry. The study, 'Cultural Diversity and Children's Television Industry Development', is being conducted by Ms Wendy Keys of Griffith University, Brisbane. Ms Keys holds an Australian Postgraduate Award (Industry) to conduct the research as part of a three year Doctoral program through the Australian Key Centre for Cultural and Media Policy.

Other industry partners in the new study are the Department of Communications and the Arts and the Seven network. Ms Keys is collaborating with Ms Debra Richards, the Authority's Director of Program Services, Ms Dina Browne of the Seven network, and Associate Professor Jennifer Craik and Dr Albert Moran of Griffith University.

The study's initial focus is Australia's annual Festival of Television for Australian Children, which has run since 1995 and is funded by the Department of Communications and the Arts. The Festival is a unique national event which has gained the cooperation of Australia's commercial and public broadcasters. It makes award-winning international television programs accessible to Australian children and offers a valuable resource with which to undertake an analysis of children's use of cross-cultural television.

The study is evaluating the children's television industry, including national and international needs and potential. It is also developing action plans designed to stimulate the production of television for children. With these aims, the study is expected to provide invaluable information for children's television producers and policy makers.

Evaluation of on-line services regulation

The Authority has also accepted an invitation from the Australian Key Centre for Cultural and Media Policy to be an industry partner in research into the implementation of on-line services regulation in Australia. The Key Centre has submitted an application for Strategic Partnership with Industry – Research and Training Support in 1998.

If the application is successful, the Authority will be an industry partner in a three year Doctoral program of research which will start in 1998. A decision on the application is expected by November 1997.

The proposed research will examine industry practices and user patterns related to regulatory initiatives. It will provide greater understanding of the impact of regulation on on-line service providers and of users' experiences with regulatory systems. It will inform policy development and contribute to the provision of a stable regulatory framework for a rapidly growing industry.

Media usage by migrants to Australia

In February 1997, the Authority finalised arrangements with the Department of Immigration and Multicultural Affairs to include four questions on the third wave of the Longitudinal Survey of Immigrants being conducted during 1997 and 1998. The third wave surveys approximately five thousand people who have migrated to Australia in the last few years.

The Authority is seeking information about media usage and perceptions of the portrayal of ethnic groups on commercial television. The media usage questions explore frequency of use of radio, television, videos, newspapers and the Internet, as well as the media used most often for various news, information and entertainment services.

This research provides a unique opportunity for the Authority to access the experiences and opinions of a large sample of recently-arrived migrants. Many of the interviews will be held in languages other than English, thereby ensuring input from groups who would generally not be included in 'mainstream' surveys of the population.

Due to the large sample for the survey, the data collection phase of the Longitudinal Survey of Immigrants occurs over an extended period of time. Preliminary results will therefore not be available until the second half of 1998.

Codes of practice

Assisting representative industry groups to develop codes of practice, monitoring those codes once they are implemented, and dealing with unresolved complaints made under the codes are among the primary functions of the Authority.

The Authority assists with the development of codes by consulting with industry groups and applying the research into community attitudes to matters covered by the codes.

The Authority registers codes of practice developed by industry groups if it is satisfied that the codes contain appropriate community safeguards, are supported by the majority of service providers and there has been adequate public consultation.

Codes developed by the national broadcasters, ABC and SBS, are notified to the Authority, but are not registered.

The following codes were either registered with the Authority or notified to the Authority at 30 June 1997:

- Commercial Television Industry Code of Practice;
- Commercial Radio Code of Practice;
- ABC Code of Practice;
- SBS Code of Practice; and
- Community Broadcasting Code of Practice.

The implementation of codes of practice for subscription broadcasters and for narrowcast services has been longer in coming. The Authority continued to consult with industry groups, the Confederation of Australian Subscription Television and the Federation of Australian Narrowcasting and Subscription Services, over the development of codes. The codes of practice for narrowcasting radio and television services were registered, after the date of this report, in September 1997. The two industry groups, FANSS and CAST, merged to form Australian Subscription Television and Radio Association Inc.

The SBS notified the Authority of an amendment to its code which moved the start time of MA classified programs on television from 9.00 p.m. to 9.30 p.m. SBS also clarified some other aspects of the code as a result of consultation with the Authority.

The Federation of Australian Commercial Television Stations (FACTS) conducted a public review of the Commercial Television Industry Code of Practice during the reporting period. On 5 May 1997 FACTS submitted the amended code to the Authority for registration, and submitted some additional material on 4 August 1997, after the date of this report. The Authority is currently considering the amended code.

Investigations

If the Authority receives a complaint that there has been a breach of the Act or of a licence condition, it begins an investigation.

Complaints about a possible breach of a code of practice are first dealt with by the broadcaster. It is the broadcaster's responsibility to deal with the complaint and to

resolve it to the satisfaction of the complainant. If the complainant is not satisfied with the broadcaster's response, or the broadcaster does not respond within 60 days, the complainant may complain to the Authority. The Authority is obliged to investigate these unresolved complaints.

As part of its investigation procedure, the Authority obtains a report from the broadcaster on its own investigation into the unresolved complaint.

A breach of a code of practice is not a breach of a licence condition or of the Act. The Authority may make compliance with a code a condition of a broadcaster's licence, but the code is intended to be an integral part of the self-regulatory process. The Authority's response to a breach of a code is to work with the broadcaster to ensure that problems with the performance of the broadcaster against the code are rectified by the broadcaster concerned. The Authority may provide advice to the broadcaster about its interpretation of the codes. The Authority has the power to make compliance with a code a licence condition should there be repeated breaches of the code or a broadcaster proves unwilling to take remedial action.

The Authority has a range of sanctions available to it in the event of a breach of licence condition, program standard or code. Any action taken depends on the seriousness of the breach.

Investigations started

Of the 93 investigations into matters started during the reporting period, 20 were into possible breaches of licence conditions and 73 were into unresolved complaints about program matters covered by a code. One of the unresolved complaints was considered to be frivolous or vexatious and was not investigated.

Investigations completed

The Authority completed 115 investigations during the financial year: some of these had carried over from the previous year. Of the completed investigations, 29 resulted in the Authority finding a breach or breaches had occurred. There were 42 breaches in total as some investigations resulted in findings of more than one breach. Another seven breaches were admitted by the broadcaster concerned while the Authority's investigation was in progress.

It is important to note, however, that these breaches relate to investigations completed during the reporting period and not to when the broadcasts occurred. The broadcasts or actions by broadcasters range over four years. Of the 29 investigations that resulted in a breach finding, 20 started before the reporting period: one started in 1993–94, one in 1994–95, and 18 in 1995–96. The figures, therefore, do not indicate an increase in the number of breaches, nor do they indicate a trend in compliance with codes or licence conditions.

Of the 42 breaches, 34 related to codes of practice, and eight were breaches of licence conditions.

Of the 34 code breaches, 24 related to commercial services, four to ABC television, one to ABC radio and five to community radio.

A list of investigations completed by the Authority in the year with no breach finding is in appendix 4. Appendix 5 provides summaries of 27 of the 29 investigations

resolve it to the satisfaction of the complainant. If the complainant is not satisfied with the broadcaster's response, or the broadcaster does not respond within 60 days, the complainant may complain to the Authority. The Authority is obliged to investigate these unresolved complaints.

As part of its investigation procedure, the Authority obtains a report from the broadcaster on its own investigation into the unresolved complaint.

A breach of a code of practice is not a breach of a licence condition or of the Act. The Authority may make compliance with a code a condition of a broadcaster's licence, but the code is intended to be an integral part of the self-regulatory process. The Authority's response to a breach of a code is to work with the broadcaster to ensure that problems with the performance of the broadcaster against the code are rectified by the broadcaster concerned. The Authority may provide advice to the broadcaster about its interpretation of the codes. The Authority has the power to make compliance with a code a licence condition should there be repeated breaches of the code or a broadcaster proves unwilling to take remedial action.

The Authority has a range of sanctions available to it in the event of a breach of licence condition, program standard or code. Any action taken depends on the seriousness of the breach.

Investigations started

Of the 93 investigations into matters started during the reporting period, 20 were into possible breaches of licence conditions and 73 were into unresolved complaints about program matters covered by a code. One of the unresolved complaints was considered to be frivolous or vexatious and was not investigated.

Investigations completed

The Authority completed 115 investigations during the financial year: some of these had carried over from the previous year. Of the completed investigations, 29 resulted in the Authority finding a breach or breaches had occurred. There were 42 breaches in total as some investigations resulted in findings of more than one breach. Another seven breaches were admitted by the broadcaster concerned while the Authority's investigation was in progress.

It is important to note, however, that these breaches relate to investigations completed during the reporting period and not to when the broadcasts occurred. The broadcasts or actions by broadcasters range over four years. Of the 29 investigations that resulted in a breach finding, 20 started before the reporting period: one started in 1993–94, one in 1994–95, and 18 in 1995–96. The figures, therefore, do not indicate an increase in the number of breaches, nor do they indicate a trend in compliance with codes or licence conditions.

Of the 42 breaches, 34 related to codes of practice, and eight were breaches of licence conditions.

Of the 34 code breaches, 25 related to commercial services, four to ABC television, one to ABC radio and six to community radio.

A list of investigations completed by the Authority in the year with no breach finding is in appendix 4. Appendix 5 provides summaries of 27 of the 29 investigations

completed by the Authority in which a breach was found. There is no report on two investigations as they involve possible outstanding litigation and the Authority has undertaken not to publish the reports before the litigation is completed.

When the Authority found a breach, its decisions and reasons were discussed with the broadcaster concerned with the aim of ensuring future compliance with the regulations. To encourage compliance by other broadcasters and increase awareness and understanding of the Authority's interpretation of the codes, the Authority publishes its reports in its newsletter, *ABA Update*, and provides them to the relevant industry bodies. In instances when there is wide public interest, the Authority will also release its findings as a news release. Publishing a report of a breach also serves as a form of sanction for the broadcaster concerned.

The Authority has continued to develop and modify its database of investigations into unresolved complaints to improve its efficiency as a reporting and management tool. The Authority also reviewed the allocation of human resources for dealing with complaints and maintained the existing level of staffing.

Complaints about broadcasting

Although primary responsibility for the resolution of complaints rests with the broadcasters themselves, many members of the public contact the Authority directly with complaints about radio and television. These complainants are informed of the complaints procedure and directed to the relevant broadcaster.

Around one quarter of complaints to the Authority were in writing and received a written response. People who phoned the Authority with their complaint were provided with a full explanation of the complaints process and, if requested, were also provided with copies of relevant information such as codes of practice. To assist callers, the Authority has a free call entry in the White Pages of every telephone directory in Australia as well as an after hours answering facility for recording comments from the public. The Authority has also installed a telephone typewriter to assist hearing impaired people and provides a telephone interpreter service.

FACTS and the Federation of Australian Radio Broadcasters provide the Authority with quarterly complaints reports: these contain summaries of complaints made to broadcasters.

The Authority has quarterly meetings with the FACTS Code Advisory Committee and with program classification officers from each network. The Authority also consults on a regular basis with the Community Broadcasting Association of Australia, ABC and SBS on matters relating to their codes.

The Authority was an observer at the meetings of the Australian Music Performance Committee which was established under the Commercial Radio Code of Practice to monitor compliance with the Australian music code.

Licence conditions (s.100)

In April 1997 the Authority published in the *Gazette* a notice of its intention to impose conditions under s.100 on subscription television broadcasters. These

conditions are designed to ensure access to domestic reception equipment by satellite television broadcasters using the Optus satellite, access to subscriber management systems by subscription satellite broadcasters and the provision of domestic reception equipment on a rental basis.

The conditions have been imposed by the Authority, after the date of this report, and took effect from the date of gazettal, 3 September 1997.

Australian content on commercial television

Following a wide-ranging public review by the Authority of the Australian content requirements for commercial television, variations to the children's television standards and a new Australian content standard came into effect on 1 January 1996:

The Australian content standard has two main mechanisms: an overall transmission quota and minimum quotas for specific types of programs. The transmission quota sets the overall annual minimum level of Australian programming between 6.00 a.m. and midnight. There are specific quotas for annual minimum amounts of first release Australian programs in the following categories: drama; documentary; and children's (C classified) programs, including children's drama. There is also a requirement for a minimum amount of Australian preschool (P classified) children's programs.

The amount of Australian drama is calculated using a measurement system which multiplies a 'format factor' by the duration of the program. Children's and preschool children's programs and documentaries are measured in hours.

Compliance with the Australian content standard: 1996

The calendar year 1996 was the first year of operation of the current Australian content standard. In monitoring compliance with the Australian content standard for commercial television and the children's television standards, the Authority receives information from all commercial television licensees.

Each licensee had to meet the following requirements:

- Australian programming transmission quota of 50 per cent for 1996. (This quota increases to 55 per cent in 1998);
- Australian drama score for 1996 of 225 points;
- Australian children's drama requirement in 1996 of 24 hours of first release and 8 hours repeat drama. (The minimum requirement for first release Australian children's drama will increase to 28 hours in 1997, and 32 hours in 1998.); and
- Australian first release documentary requirement of 10 hours.

In light of the long history of compliance with the standard by all licensees, in recent years the Authority has assessed compliance data from a sample of licensees. In 1996, the Authority assessed compliance data for the Seven, Nine and Ten network stations only.

The Seven network comprises ATN Sydney, HSV Melbourne, BTQ Brisbane, SAS Adelaide and TVW Perth. The Nine network comprises TCN Sydney,

GTV Melbourne and QTQ Brisbane. The Ten network comprises TEN Sydney, ATV Melbourne, TVQ Brisbane, ADS Adelaide and NEW Perth.

The Authority found that all network stations met the requirements of the Australian content standard in 1996.

The Authority is developing a new compliance database and reporting procedures for licensees. The new system is being tested with the cooperation of the commercial networks before a staged introduction across the commercial sector over the next year or so. The Authority expects that, once operational, the new database system should lessen the administrative impact of compliance monitoring for both broadcasters and the regulator.

Compliance under the previous standard: 1995 and 1993–95

Before the introduction of the Australian content standard, licensees were required to comply with Television Program Standard (TPS) 14 which included three-yearly requirements in addition to annual Australian content requirements. The Authority reported on compliance in the calendar year 1994 in its 1995–96 annual report. This year, in addition to reporting the 1996 compliance results under the Australian content standard (see above), the Authority is reporting the 1995 Australian content compliance along with the compliance results for the three-year period 1993–1995.

Compliance under TPS 14

The following compliance results relate to the three Sydney commercial television licensees ATN 7, TCN 9 and TEN 10 against the previous Australian content standard, Television Program Standard (TPS) 14, which was in force until the end of 1995.

Each of the licensees met the minimum:

- Australian programming transmission quota of 50 per cent for 1995;
- drama/diversity score of 1320 for 1995 and the three-year score of 4260 for the period 1993–1995; and
- Australian children's drama score of 170 for 1995.

ATN 7 and TEN 10 also met the minimum drama score for 1995 of 750 and the minimum three-year drama score of 2250 for the period 1993–1995. TCN 9 did not meet the minimum drama score for 1995 nor the three-year drama requirement (see below).

Breach

In October 1996, the Authority found TCN Channel Nine Pty Ltd (TCN), licensee of the Nine network's Sydney station, did not meet the requirements of the Australian content standard on two occasions in the three years 1993–95. The Nine network also failed to meet the requirements of the children's television standards on one occasion in the same period. Failure to comply with these program standards is a breach of a condition of licence.

TCN failed to comply with the minimum Australian drama requirement for the 1995 calendar year, the minimum three-year drama score for the three-year period 1993–1995 and the requirement for broadcasting C classified children's programs in 1994. The shortfalls in TCN's Australian drama requirements were the result of the station's incorrect assumption that the Paul Hogan film *Almost An Angel* would qualify under the standard as an Australian drama. To make up for the drama shortfall, TCN screened the first release Australian movie *The Custodian* in December 1996 as an addition to the 1996 Australian drama requirements. According to TCN, the shortfall in children's programming was inadvertent and was due to the over-run of international sporting events. TCN made up the one hour shortfall in 1996.

TCN has assured the Authority that it has introduced a number of measures to its programming systems and will make every effort to ensure the breaches are not repeated. The Authority was satisfied with this action and the undertakings given by the licensee, but placed it on notice for future, similar breaches.

Challenge to the Australian content standard

As reported in the Authority's *Annual Report 1995–96* (p.51), Project Blue Sky and five New Zealand production companies commenced proceedings in the Federal Court of Australia on 26 October 1995.

On 11 April 1997, Project Blue Sky Inc., representing the New Zealand film and television production industry, was granted leave to appeal to the High Court from the decision of the Full Federal Court upholding the validity of the Authority's Australian content standard.

The Full Federal Court determined that the Authority had been given the task of implementing two mutually inconsistent Parliamentary instructions, because of an irreconcilable conflict between the special provision to make Australian content standards for commercial television and the general provision to act consistently with the Australia New Zealand Closer Economic Relations Trade Agreement.

The matter will be heard by the High Court on 29 September 1997. The Australian content standard remains in force unless and until the High Court determines the appeal in favour of Project Blue Sky.

See p.106 for more detail on the progress of this litigation.

Australian content in advertising

The television program standard covering Australian content in advertising was one of the Australian Broadcasting Tribunal standards carried over by the Authority in October 1992.

The standard requires at least 80 per cent of advertising time broadcast each year by commercial television licensees, between the hours of 6.00 a.m. and midnight, to be used for Australian produced advertisements. The objective of the standard is to ensure that the majority of advertisements on television are Australian made, by means of a flexible regulatory system that recognises the market reality of advertising.

Compliance results show that all network stations broadcast well below the amount of foreign advertising allowed under the standard. In the calendar year 1996, foreign advertising averaged 9.87 per cent of all advertising on the Seven network, 7.70 per cent on Nine and 10.60 per cent on Ten.

The Federation of Commercial Television Stations assists the Authority to monitor the impact of the standard by providing information on Australian and foreign commercials cleared by its Commercials Acceptance Division.

New Zealand commercials have fully qualified as 'Australian' since 1981 under the current and previous standards relating to Australian content in advertisements and advertising. The current standard includes New Zealand advertisements not by reason of the Australia New Zealand Closer Economic Relations Trade Agreement but in recognition of the trans-Tasman relationships that had developed under the previous regulation.

Children's television

Under s.122 of the Act, the Authority is required to develop standards for children's programming. The objective of the children's television standards is to ensure that children have access to a variety of quality television programs made specifically for them, including Australian drama and non-drama programs.

The Authority administers the current children's television standards which came into effect on 1 January 1990 and were updated on 15 December 1995 because of the review of Australian content on commercial television. As a result of the review, the number of hours of quality first release children's drama required to be broadcast, doubled from 16 to 32 hours a year. There was also a new provision that all preschool children's programming required to be shown be Australian made.

Commercial operators must broadcast a minimum of 390 hours of children's programming each year. The programs must be preclassified by the Authority.

Compliance with the children's television standards

The Authority reported on compliance in the calendar year 1994 in its 1995-96 annual report. This year the Authority reports on 1995 and 1996 compliance.

1995

The Authority processed compliance results for 1995 for the Sydney stations of the three commercial networks Seven, Nine and Ten.

In 1995 all three licensees met the minimum requirements for:

- C (children's) programs of 260 hours, of which at least 130 hours were first release Australian;
- P (preschool children's) of 130 hours; and
- Australian children's drama of 170 points (see also Australian content compliance).

1996

On the basis that licensees usually comply fully with the children's television standards, the Authority processes a sample of licensees results. In 1996 the Authority processed compliance information from the Seven, Nine and Ten network stations only.

On 1 January 1996, the variations to the children's television standards came into effect. All licensees met the minimum requirements for the year for:

- C (children's) programs of 260 hours, of which at least 130 hours was first release Australian;
- Australian P (preschool children's) of 130 hours; and
- Australian children's drama of 24 hours of first release and 8 hours repeat. The minimum requirement for first release Australian children's drama increases to 28 hours in 1997, and 32 hours in 1998. (See also Australian content compliance.)

C & P program assessment

The Authority has successfully continued its assessment system for the classification of children's programs. The system is based on initial assessment of programs by the Authority and additional assessment by specialist consultants, as required, on a case by case basis.

Children's programs are classified against the criteria set out in the children's television standards which state that children's programs must be made specifically for them; be entertaining; well-produced and of a high standard; enhance a child's understanding and experience, and be appropriate for Australian children.

The Authority grants the following classifications: C—suitable for primary school children; Australian children's drama (CAD)—meets the requirements for Australian produced children's television drama; P—suitable for preschool children. Provisional classification is awarded to programs which are at an early stage of development and appear likely to meet the criteria when completed. The Authority also grants CAD at pre-production classification if it appears that the program will, when completed, comply with the requirements of the criteria. Assessment for classification is made on the basis of final scripts for the program. The applicant is required to provide the Authority with a copy of the completed program within one month of completion.

The Authority makes every effort to refine and revise program classification and assessment procedures. In March 1997, staff of the Authority held an in-house, one-day consultants' workshop to discuss and improve the program assessment and classification process. Twenty of the Authority's 22 consultants attended the workshop and recommended more workshops be held. A child development consultant also conducted a workshop, in February 1997, to assist Authority staff in the classification of programs.

Programs classified

Under s.122(1)(a) of the Act, the Authority varied the children's television standards on 28 January 1997 to allow for programs broadcast during the 1997 Festival of Television for Australian Children to include C classified material shown during school hours as part of the Festival.

The Authority assessed 85 applications during the reporting year. The Festival of Television for Australian Children presented 44 programs for the Authority to classify: 31 were granted C classification (below). The remaining 13 were withdrawn by the applicant before assessment.

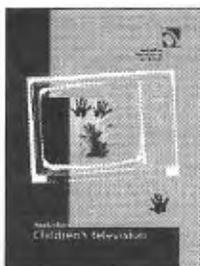
| Applications granted classification | | Applications refused classification | |
|-------------------------------------|-----------|-------------------------------------|-----------|
| C | 18 | C | 10 |
| Festival Programs (all C) | 31 | CAD | 1 |
| CAD | 9 | Provisional C | 5 |
| Provisional C | 7 | Provisional P | 1 |
| P | 2 | P | 1 |
| TOTAL | 67 | TOTAL | 18 |

External liaison

Staff of the Authority met regularly with program producers, broadcasters and other interested parties to discuss issues regarding the classification of children's programs. Staff attended and participated in workshops, seminars, conferences and other public forums.

The results of the Authority's children's television research project, published as *Kids talk TV: 'Super wickid' or 'dum'* have provided information on programs that children like and dislike and the reasons for these likes and dislikes. The report has been made available to broadcasters and children's program producers for their consideration in developing and scheduling children's programs.

The infants and television research project will provide information on what television programs infants up to the age of two and a half years are exposed to and parental involvement in monitoring and controlling their child's exposure to television.



The Authority maintains regular contact with people in regard to children's issues, programming and production. It also provides information on issues relevant to children's television to students, teachers, researchers, industry professionals and members of the public on request. The Authority published an easy-to-read booklet with the children's television standards and a summary of the Authority's research into children and the media.

Anti-siphoning

The anti-siphoning provisions, contained in s.115 of the Act, empower the Minister for Communications and the Arts to list in a formal notice (known as the anti-siphoning list) events which should be available on free-to-air television for viewing

by the general public. The aim of the anti-siphoning list is to prevent these events from being siphoned off by pay TV to the detriment of free-to-air viewers.

The anti-siphoning list is not a list of sporting events reserved solely for free-to-air television. It does not compel free-to-air broadcasters to acquire the rights to listed events and does not guarantee them exclusive rights to such events.

The anti-siphoning list covers the period up until 31 December 2004 and contains sporting events within 11 sports categories.

The right to broadcast listed events can only be acquired by pay TV licensees if broadcast rights are held by commercial television licensees (who have the right to televise the event to more than fifty per cent of the Australian population) or by a national television broadcaster (the ABC or SBS). This requirement is set out in a licence condition on all pay TV licences (paragraphs 10(e) and (l), Schedule 2 of the Act).

The anti-siphoning provisions, as currently drafted, deal with the acquisition of rights to events included on the anti-siphoning list, not with the television coverage of those events. The capacity of free-to-air television to broadcast sporting events is limited, given the broad appeal of its programming schedule. The use of the rights acquired by a commercial or national television broadcaster and decisions on whether to broadcast live, delayed, highlights only or to a limited geographic area, are commercial decisions for the licensee to make. For example, the Nine network, which had the rights for the 1997 Australian cricket tour of England, on most occasions chose not to show the first session of the Test matches.

On 30 September 1996 the Minister directed the Authority to report to him as necessary rather than every six months. The Authority is required to report if rights to events on the anti-siphoning list are not made available to free-to-air broadcasters; if the Authority considers that, over time, there has been a sustained reduction in the extent to which free-to-air broadcasters televise listed events; or if the Authority considers there are grounds for the Minister to add or remove an event from the anti-siphoning list.

The operation of the anti-siphoning provisions of the Broadcasting Services Act has been clarified by two recent decisions of the Federal Court. These are the decisions of Lockhart J in the matter of *Nine Network Australia Pty Ltd v Australian Broadcasting Authority and Foxtel Cable Television Pty Ltd* and the decision of the Full Federal Court in the same matter.

The events in question consisted of the three test matches and seven one day matches between the Australian cricket team and the South African cricket team held in South Africa in February and March 1997. These were all events on the Minister's list.

For more detail on these proceedings, see pp.107–108.

The Authority intends to redraft its *Guide to Pay TV Anti-Siphoning Provisions* in light of the court judgments. The Authority will consult as part of its review of the guide which is not likely to occur until later in 1997.

Objective 6

Resources

Optimise the ABA's use of resources in serving clients and developing staff.

Key outcomes

- ◆ *Client service working group established.*
- ◆ *Access and Equity Plan developed.*
- ◆ *Disability Action Plan developed.*
- ◆ *Performance feedback and development scheme developed.*

Resources

The Authority has taken a number of initiatives designed to optimise its use of resources.

The Authority's Budget Committee met regularly during the year to consider resource issues and make recommendations to the Chairman on the best possible distribution of the Authority's budget.

Planning Branch created a Priorities Coordination Group which identified all Planning Branch projects, assigned a priority to each and met weekly to assess resources attached to each project. This initiative has facilitated a more streamlined approach to allocating resources to priority areas.

The Authority also reviewed the structure and functions of its Corporate Services Branch enabling a transfer of some resources to other, higher priority, areas in the Authority.

Joint projects

The Authority has sought to maximise opportunities for research projects by conducting joint or collaborative research projects as identified by the Authority's Research Committee.

The Australia Council and the Australian Record Industry Association are providing additional funding for the joint research into young people and music. This extra

funding enables the Authority to undertake more extensive research than if it were to fund the research alone.

The Authority has also committed financial and in-kind support to a collaborative research project with the Australian Key Centre for Cultural and Media Policy. Because of the support provided by the Australian Research Council, the Key Centre and industry partners, the Authority expects the return from this project, in the form of information and research findings, to surpass its contribution.

The Authority has agreed to contribute to a proposed program of doctoral research which is the subject of a grant application to the Australian Research Council. If successful, the research will start in the second half of 1997–98. The Authority considers that supporting this research is a cost-efficient means of obtaining data.

The Authority is also using the resources of the Department of Immigration and Multicultural Affairs to gain access to data it does not have the resources to collect on its own. The Authority has included four questions in the third wave of Longitudinal Survey of Immigrants being conducted during 1997 and 1998.

Information technology

The Authority continued to improve its information technology resources by:

- improving efficiency by upgrading work station configuration. The new work station configuration, to be implemented agency wide, will include software for Prophecy and RADCOM;
- completing further upgrades to its communications infrastructure, including doubling the size of data channels between its Sydney and Canberra offices, thus providing more efficient data communications between the two sites;
- replacing two outdated servers with more up-to-date hardware;
- introducing automated software updating for the agency-wide work stations. This enables software updates to be completed on an agency-wide basis from a central point; and
- updating the cabling in the Sydney office and removing all outmoded cables.

In November 1996, the Authority, with the Spectrum Management Agency, commissioned a new computerised licensing and planning system called RADCOM. This new system replaced the Authority's ageing planning tool which had been established in 1984 and could no longer be supported. The RADCOM system brings improvements in the processing of licensing and regulation of broadcasting services. Once it is fully tested and all staff are trained to use its new features it will provide significantly improved planning tools for the development of technical specifications for broadcasting services. A major improvement is the inclusion of a Geographic Information System which gives planners more accurate geographical data, and allows the computer generation of licence area maps and of population statistics within each licence area. The system is a major component of the resources required for licence area planning under the Broadcasting Services Act.

Corporate and business planning process

The Authority conducted a senior management strategic focus day on 13 February 1997 to develop a vision of the Authority's role for the remainder of 1997.

The Authority's finalised, published and distributed its corporate plan covering the years 1996-99. The Authority intends to conduct annual reviews of the plan.

Business planning on a divisional basis has continued through the year.

Service charter

The Government has decided that service charters should be introduced for all Government bodies to improve the quality of service provided, to maximise the benefit to those receiving services.

The Authority's Service Charter will represent a public commitment by the Authority to deliver high quality services to its customers. Development of the charter is well advanced.

As well as setting out the quality of service customers can expect to receive, it will suggest how to make a complaint, how to comment on the charter and the ways in which the charter will be kept up to date.

In April 1997 the Authority adopted a strategy for developing its charter taking into account the advice in the booklet *Principles for Developing a Service Charter*, published by the Service Charters Implementation Unit, Department of Industry, Science and Tourism.

The Authority established a working party in May 1997 and held workshops during June and July 1997. The Authority expects that its Service Charter will be finalised and launched by the end of 1997.

Client liaison

The Client Service Working Group developed and implemented protocol for telephone contact with customers in relation to the planning, allocation of and improvement to broadcasting services.

As part of its program to improve the efficiency of the licence area planning process, the Authority is also developing simplified licence area planning discussion papers. The Authority also examined engineering tasks associated with planning new services, so that it could produce more timely engineering reports.

Continuous improvement

There were a number of continuous improvement projects initiated in the corporate services area of the Authority including reviews of records management, petty cash and accounts processing procedures. Recommendations from these projects will be implemented during 1997-98.

The Authority's Allocation and Renewal section participated in ongoing reviews of the planning and allocation functions over the past year, conducted 'business planning' (at the section level), and restructured working arrangements resulting in an improved reporting and supervisory structure.

Guided Self Assessment provided an opportunity for the Authority's Planning Branch to undertake an audit of its continuous improvement activities. The assessment identified strengths and opportunities for the Branch in terms of areas that could be focussed on over the next 12 months. A number of continuous improvement initiatives were identified as a result of this process.

The opportunities identified provided the Branch with the momentum to continue its improvement and streamline the planning process and its documentation. In this way the Authority addressed issues associated with timing and client requirements.

The Authority formed an organisational development committee to address organisation-wide issues and identified three priority areas for change. These are: moving towards a culture of openness and learning; moving towards a culture of constructive dialogue; and moving towards a culture operating with an effective risk management framework. The Committee has started work on identifying strategies to assist the Authority to make these cultural changes.

Disability action plan

During the course of the year the Authority developed a Disability Action Plan in accordance with the Commonwealth Disability Strategy. The plan aims to identify barriers and implement strategies which ensure that people with disabilities have access to the Authority's programs and services. Practical ways in which the Authority can achieve this are outlined in the plan which will be implemented in 1997-98.

Personal development and training

The Authority has developed a performance feedback and development scheme for all staff. The first cycle started in August 1997. The objectives of the scheme are to:

- link the contributions of individual staff and work teams with Authority goals;
- provide regular opportunities for constructive feedback on performance through a structured process;
- encourage open communication between staff and supervisors;
- promote a shared understanding of expectations; and
- meet training and development needs by better planning.

Branch development plan

The Authority's Planning Branch developed a Branch Development Plan which was completed in October 1996. The plan set out the training and development objectives for the Branch and how they would be achieved within the financial year.

The plan was based on the Personal Development Plans completed by all Planning Branch staff and was designed to meet the training requirements identified by them. There were a number of initiatives in the plan. A major change was the establishment of a Staff Training and Development Coordinating Committee. This committee ensures that all staff have access to training and development in a fair and consistent manner.

The second initiative was the Skills Audit. A number of staff volunteered their skills to train staff and this was organised on an ongoing basis throughout the year. The in-house training is seen as an opportunity to improve skills and ensure cost effective training.

Planning Branch staff attended a number of courses during the year, including:

- Team Skills Workshop conducted by Humphry Armstrong of Lifelong Learning Systems;
- Radio Frequency Systems Antenna Design Engineering course; and
- Organisation Self Assessment Program, conducted by the Australian Quality Council, which also included staff from Allocations and Renewals.

Planning Branch conducted an in-house training course in presentation skills, and also had ongoing in-house training courses in computer skills and in the use of the Internet.

Plain English policy

One of the outcomes of the middle management development program, discussed in last year's report, was the development of a program to improve the standard of the Authority's communications. In line with this, the Media and Public Relations section developed and implemented a plain English policy for use throughout the whole organisation. Senior officers were guided through the policy, and provided with a kit and advice on implementing the policy within their sections. The aim of the policy was to simplify and clarify all the Authority's written communications and the policy outlined a quality standard which each draft of a document should meet. The section also developed and implemented copyediting and proofreading plans. Follow up training and advice has continued during the year.

Other personal development activities

Staff undertook training and study to improve professional skills. Development opportunities were provided through on the job training opportunities, participation in organisational committees, working groups and multi-disciplinary teams, and training courses and programs. Training was provided in a range of skills including project management, legal awareness, investigations, facilitation and management skills. Development programs included the Springboard Personal Development Program for Women, a program for ASO1 to 4 staff, which also involves staff providing a mentoring role. Selected Authority staff were trained in operating systems and Inter/Intranet support roles.

In carrying out its attitudinal research activities, the Authority has been assisted by a statistical consultant, Dr George Argyrous of the University of New South Wales, who has provided advice and training.

Professional affiliations

The Library retained its membership of the Federal Libraries Information Network (FLIN) and the Australian Council of Libraries and Information Services (ACLIS).

Authority staff retain membership of a number of professional organisations, as a means of maintaining professional standing and keeping up-to-date with developments. Such organisations include the Society of Editors (NSW) and the Institution of Engineers.

The Research Section continued its membership of the Australia and New Zealand Communication Association to keep itself informed about development in the communications field and to exchange information.

Internal communications

All publications, including *ABA Update*, are made available to all staff, to keep staff up-to-date with all Authority activities.

The Authority's *Human Resources Bulletin* provides information for officers, including those on maternity and paternity leave, about management issues. The circular also disseminates information about Public Service issues.

Matters of interest to all staff were presented at 'tune-up' sessions.

The Authority's staff were advised of new acquisitions and selected journal articles through the Library's current awareness services. The frequency of these services was increased during the year.

Conferences attended

To keep up-to-date with issues and developments, a number of Authority officers attended conferences and seminars on broadcasting and new communications services issues, policy development, management development and cultural matters, both domestic and international.

Appendices

Appendix 1

Social justice statement

The Authority is committed to carrying out its functions in a fair and equitable manner. In doing so it aims to promote access and equity particularly for client groups confronted by barriers of language, culture, race or religion. The Authority has implemented strategies to promote access and equity, including developing an access and equity plan (see below). Also significant is the participation by the broadcasting industry in developing and reviewing codes of practice to encourage program content which reflects the diversity of Australian society. Other actions include:

- using special equipment which allow people with certain disabilities to receive and use information;
- ongoing consultation with representative groups in the licence area planning process;
- ongoing consultation with representative groups in the on-line arena; and
- in researching community attitudes to broadcasting issues, the Authority ensures that the sampling framework representative of Australian cultural diversity is developed.

The Authority's approach to access and equity is integral to achieving its mission of promoting the development of broadcasting industries in the best interests of Australians in the rapidly changing communications environment.

Access and equity plan

During the course of the year the Authority set up an internal working party to develop an Access and Equity Plan in accordance with the principles of the *Charter of Public Service in a Culturally Diverse Society*. The plan, which will be implemented in 1997–98, sets out practical strategies to ensure that the client services provided by the Authority meet the needs of people who face barriers due to their race, religion, language or culture.

The plan complements the Authority's Corporate Plan which, as part of its charter, aims to 'encourage programming content which reflects the diversity of community values, interests and cultures and which fosters Australian identity and culture'.

Activities undertaken to meet access and equity responsibilities include: consideration of diverse community needs in the licence area planning process for radio and television services; attitudinal research on a range of broadcasting issues including a longitudinal survey of new migrants' views about their use of broadcast media and the portrayal of ethnic groups on commercial television and research with Aboriginal and Torres Strait Islander communities on youth and music in Australia; provision of information in printed and electronic forms; access to a telephone typewriter for visually impaired clients; access to an interpreter service at

cost to the Authority; and in a report on the possible impact of digital terrestrial television released during the year, the Authority stressed the need for closed captions for the hearing impaired and to examine the need for audio-descriptive channels for the visually impaired.

Social justice and equity

Status of women

The Authority actively encourages women to attend courses especially designed for the development of women. During the period staff have attended courses conducted as part of the Springboard Personal Development Program for Women. The program is designed to provide skills in setting and achieving goals and focusing on priorities.

Equal employment opportunity

The Authority has in place an equal employment opportunity (EEO) plan for the period 1996 to 1999. The plan contains four objectives which are supported by strategies and performance indicators. These objectives are:

- to ensure that the Authority is a workplace free of unjustified discrimination and which allows staff to balance their work and family responsibilities;
- to ensure equity in staff selection processes;
- to increase the number of Aboriginal and Torres Strait Islander staff within the Authority; and
- to maintain the authority's good performance in respect of the employment of women, people with disabilities and people from a non-English speaking background.

Division, Branch and Section Heads have responsibility for achieving the plan's objectives.

The Senior Executive responsible for EEO is the General Manager, Planning and Corporate Services. The EEO coordinator is the Assistant Manager, Human Resources. The Planning Branch has an EEO contact officer appointed by the Branch Head.

The Authority has an EEO Committee consisting of two management and two union representatives. The committee reports to the ABA Consultative Council. The committee met four times during the reporting period. The committee monitored the continued implementation of the Authority's EEO Program. During the period this included the development and introduction of the Workplace Harassment Prevention Policy, and establishment of a network of Workplace Harassment Contact Officers.

The Authority has in place a workplace harassment policy and has set up a network of workplace harassment contact officers.

As at 30 June 1997, the Authority had a total of 159 staff. Of these 92 were women, 31 came from non-English speaking backgrounds, six had a disability and one came from an Aboriginal and Torres Strait Islander background.

EEO in appointments

During the period only one new staff member was appointed to the Authority from outside the Public Service and this appointee did not identify with any of the EEO target groups.

Staffing overview

Training

The net expenditure by the Authority for staff training was \$69 380. Of the 159 staff employed at the Authority, 103 spent a total of 357 days on training activities.

Industrial democracy

Authority is committed to industrial democracy through the sharing of information, workplace participation and representative consultation.

The Authority has an industrial democracy plan which sets out the formal and informal mechanisms for consultation and also includes associated action plans.

The General Manager, Planning and Corporate Services is the senior executive responsible for industrial democracy. The Manager, Human Resources Section is the Industrial Democracy Facilitator assisted by officers of the Human Resources Section.

The Authority's peak consultative body is the Consultative Council which is made up of management and union representatives. The Council met on four occasions during the reporting period and discussed a range of issues including equal employment opportunity, occupational health and safety, staff development, childcare, consultancies, the Authority's budget and the Corporate Services Branch review.

Occupational health and safety

It is the policy of the Authority to promote and maintain a high standard of health, safety and well being for all staff through:

- preventing accidents and ill-health caused by working conditions;
- protecting staff, contractors and the public from any health hazard which may arise out of their work or the conditions in which it is carried out; and
- placing and maintaining staff in an occupational environment designed to maximise health, safety and well being at work.

The Authority has completed an occupational health and safety agreement which sets out the mechanisms for implementing the Authority's policy.

The Authority has three designated work groups with one health and safety representative and one deputy for each group. Each representative undertakes a five day course of training which is accredited by the Commission for the Safety Rehabilitation and Compensation of Commonwealth Employees.

The Authority's Occupational Health and Safety Committee is made up of management representatives, health and safety representatives and union delegates. The Committee met four times during the reporting period.

Regular workplace inspections are carried out by the health and safety representatives and their reports are presented to each Occupational Health and Safety Committee meeting. Action is then taken to remedy any problems identified and prevent potential hazards.

Consultancies

The amount paid to consultancies during 1996-97 was \$126 807.

Market research organisations

During the year the Authority paid \$44 874 to advertising agencies and \$37 230 to market research organisations.

Sponsorship

In response to a number of proposals by Young Media Australia to the Authority concerning cooperative projects for the two organisations, in May 1997 the Authority decided to sponsor *small screen*, the Young Media Australia newsletter. The sponsorship totalled \$1650 and will enable Young Media Australia to put *small screen* on its Web site for 12 months.

Freedom of information

The following information is provided on the operation of the *Freedom of Information Act 1982* (FOI Act).

Requests made

During 1996-97, the Authority received nine requests for access to documents. The Authority finalised one request which had been received during the previous period. The Authority granted access in full to documents in one request, access in part to documents in five requests and refused access in one request. One request was withdrawn and two requests had not been finalised at the end of the period.

Applications for review

The Authority received three applications for internal review under s.54(1) of the FOI Act. The reviews affirmed the original decision in the three cases.

Time taken

For the seven requests finalised during 1996–97, the average time taken from receipt of the request to the notification of the decision, was 45 days. Five of the requests involved the consultation of other persons or organisations under s.27 of the FOI Act, which extends the statutory response time to 60 days.

Costs of freedom of information

The total cost to the Authority for freedom of information activities in the 1996–97 period was approximately \$47 780.

Non-staff costs directly attributable to FOI totalled \$13 545. Staff costs for freedom of information activities were approximately \$18 500, which with 85 per cent overheads of \$15 730, made a total of \$34 235 for the period.

During the period, FOI charges totalling \$8854 for the processing of requests were paid, and the Authority received \$390 in fees for the lodgement of FOI requests and applications for internal review.

Internal and external scrutiny

Ombudsman investigation

In July 1996, the Ombudsman released the report, *Investigation Into The Administration Of Complaints About Broadcasting Services By The ABA*. The Ombudsman found that there had been inordinate delays in obtaining adequate responses from the broadcasters, and deficiencies in the Authority's complaints handling procedures in the first two years of its operation.

The Ombudsman made recommendations about the Authority's complaints handling procedures and has also made policy recommendations about complaints handling in general under the codes of practice and under the Broadcasting Services Act.

The Authority accepted that there had been internal deficiencies in terms of process and the allocation of resources. The Ombudsman acknowledged that the Authority had taken steps to address these with revised procedures, allocation of resources and management reporting systems, which had the effect of improving the performance of the Authority in investigating and responding to complaints. These initiatives, commenced in the previous financial year, resulted in continuing improvement in the Authority's ability to respond quickly and effectively to complaints.

The Ombudsman supported the Authority's recommendation to Government that the statutory period for the retention of records of matter broadcast be increased from 60 to 90 days.

In relation to the Ombudsman's recommendations regarding the operation of the Commercial Television Industry Code of Practice, the Authority discussed these with the Ombudsman and undertook that they would be fully considered in the public review of the code.

The Authority has continued to assist the Ombudsman in relation to people who have made complaints to both the Ombudsman and the Authority during the year.

The Ombudsman, however, has not raised with the Authority any significant problems with the manner in which the Authority has dealt with these complaints.

AAT review

Central Zone FM Services Pty Ltd (CZFM) applied on 25 March 1996 to the AAT for review of an Authority decision not to show an additional commercial radio broadcasting service as available in the licence area plan for the Broken Hill market. The Authority questioned the jurisdiction of the AAT to review this decision. CZFM submitted an amended application to the AAT, and requested leave from the AAT to address it regarding jurisdiction. On 21 August 1996, the AAT handed down its decision. Deputy President Dr P Gerber dismissed the application for want of jurisdiction.

Litigation summary

CanWest Global Communications Corporation (CanWest) and others v ABA

Federal Court Proceedings No. NG322 of 1997; NG 384 of 1997; VG 183 of 1997; VG 185 of 1997

On 3 April 1997 the Authority found CanWest to be in breach of the *Broadcasting Services Act 1992*. On 29 April 1997 CanWest and others filed applications in the Federal Court for review of the Authority decisions, under s.5 of the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act). The contested decisions of the Authority were:

- to give CanWest two notices directing CanWest to take action within six months so that it would no longer be in breach of ss.57(1) and 57(3) of the *Broadcasting Services Act*; and
- to publish a report on its investigation.

The notices were issued on the basis of a finding by the Authority that CanWest was in breach of ss.57(1) and 57(3) of the Act.

CanWest also challenged these decisions in the High Court. This claim was put forward under paragraph 75(iii) of the Constitution and sought to quash and set aside the Authority decisions and declarations that the Authority's findings about CanWest were invalid. These proceedings were remitted by the consent of the parties to the Federal Court.

Donholken Pty Ltd and Selli Pty Ltd, two other parties to the transactions which were the subject of the Authority's investigation, had also sought judicial review of the Authority's decisions under the ADJR Act.

On 28 May 1997 the Court constituted by His Honour Justice Hill made orders that all of the above proceedings be expedited.

On 16 June, Justice Hill ordered discovery against the Authority. The matters (together with proceedings brought by CanWest, Selli and Donholken against the

Treasurer of the Commonwealth of Australia concerning separate but related decisions) were heard from 14 to 23 July 1997. On 8 August 1997, Justice Hill handed down his judgement and ordered that each of the applications be dismissed and that CanWest and others should pay the Authority's costs.

On 29 August, CanWest appealed to the Full Federal Court the decision of Hill J that the Authority's decision should not be set aside. The appeal is expected to be heard before the end of 1997.

Project Blue Sky v ABA — the Australian Content Standard

High Court Proceedings No. S219 of 1996

The Australian Content Standard, determined by the Authority under s.122 of the Broadcasting Services Act, came into force on 1 January 1996. As part of this standard, the Authority defined 'Australian program' as a program produced under the creative control of Australians who ensure an Australian perspective. For the purposes of the standard, this definition does not include programming produced by New Zealanders.

Project Blue Sky Inc., representing the New Zealand film and television production industry, and five New Zealand production companies challenged the validity of the standard, asserting that the Authority had not complied with the Australia New Zealand Closer Economic Relations Agreement (CER) in determining the standard. CER requires Australia to provide national treatment to New Zealand persons and services.

The program standard was challenged on the basis that it was not authorised by ss.122 and 160 of the Broadcasting Services Act, and was not determined in a manner consistent with Australia's obligations under the CER agreement.

On 2 August 1996, Justice Davies of the Federal Court ruled that it was open to the Authority to determine a standard which is consistent with the Protocol to the CER Agreement. The Authority's appeal to the Full Federal Court from the decision of Justice Davies was successful. However, Project Blue Sky sought leave to appeal the decision.

On 11 April 1997, the High Court granted Project Blue Sky leave to appeal from the judgment of the Full Federal Court. This matter is to be heard by the High Court on 29 September 1997. (See also p. 87)

SAT FM Pty Ltd v ABA

Federal Court Proceedings No. VG684 of 1996

In October 1996, the Authority released its licence area plan for radio in Kalgoorlie, Western Australia in *Esperance Kalgoorlie and Merredin Radio Licence Area Plans*. SAT FM Pty Ltd challenged the Authority decision to make no additional commercial FM radio broadcasting services available for allocation in the Kalgoorlie region.

SAT FM Pty Ltd filed an application for an order of review under the Administrative Decisions (Judicial Review) Act (the ADJR Act) in the Federal Court on 11 November 1996. The application sought review of the Authority decision of 8 October 1996

that no additional commercial FM radio broadcasting services be made available in the Kalgoorlie licence area.

The Authority filed a notice of objection to competency asserting that the decision is of a legislative character not an administrative character and therefore is not a decision to which the ADJR Act applies. The jurisdictional argument was set down for hearing in Melbourne on 3 July 1997. On 18 July 1997, Sundberg J ordered that the Authority's objections to competency be upheld, the application dismissed and the applicants to pay the Authority's costs.

Golden West Network v ABA

Federal Court Proceedings No. NG367 of 1997

Golden West Network Pty Ltd (GWN) challenged the Authority's decision to plan a second commercial television broadcasting licence for the remote and regional Western Australian licence area. The Authority made this decision on 23 February 1997, pursuant to s.26 of the Broadcasting Services Act. The decision was contained in the Authority's licence area plan: *Remote and Regional Western Australia. Television Decisions*, released in February 1997.

GWN is the incumbent licensee of four commercial television licences in regional and remote Western Australia. The combined licence areas of these services are proposed as the licence area for the planned second commercial television service. GWN's application for an order of review of the Authority's decision argued that GWN's ability to provide an adequate and comprehensive service will be adversely affected if an additional commercial television service is licensed to operate in the licence area.

The Authority provided reasons for its decision to GWN on 17 April 1997. GWN filed its application for an order of review in the Federal Court of Australia on 15 May 1997. The first directions hearing was held on 27 June 1997. At a directions hearing on 5 September, GWN withdrew its application.

Foxtel Cable Television Pty Ltd v Nine Network Australia Pty Ltd and the ABA — Sport anti-siphoning case

High Court Proceedings No. S35 of 1997

The Nine network (Nine) complained to the Authority on 30 January 1997 about an Authority decision which was notified to Nine in a letter dated 16 January 1997. The Authority had found that Foxtel's acquisition of live rights to the Australian cricket tour of South Africa did not breach the licence condition which relates to acquisition of the rights to broadcasting an event (Clause 10(1)(e) of Schedule 2 of the Broadcasting Services Act).

The Authority reconsidered this decision afresh on 11 February 1997 and came to the same view.

Nine sought a review of the Authority's decision in the Federal Court and Foxtel joined as a party to the litigation. The matter was heard before Justice Lockhart on Friday 21 February 1997. Justice Lockhart's judgment was handed down on 25 February 1997.

The Court decided the Authority had erred in law and on 26 February 1997 ordered the Authority's decision be set aside and remitted to the Authority to decide the matter again according to law.

On 28 February 1997, Foxtel filed a notice of appeal against Justice Lockhart's decision and was granted leave to seek a date for the appeal hearing as soon as possible. The Full Federal Court hearing was held in Perth on 17 March 1997. On 26 March 1997 the appeal was dismissed. Foxtel made an application for special leave to appeal to the High Court of Australia from the judgment of the Full Federal Court.

On 4 August 1997, the High Court refused to grant special leave to Foxtel.

Notice to produce

The Australian Taxation Office (ATO) served on the Authority a notice which required the production of Australian Broadcasting Tribunal (ABT) documents by 31 January 1997. The notice called for documents relating to several radio stations and a television station formerly owned by Alan Bond, namely 3AK, 6GE, 6KG, 6PM, and GTV 9.

The documents came within s.125 of the *Broadcasting Act 1942*, the effect of which is continued in force under the *Broadcasting Services (Transitional Provisions) Act 1992*. Section 125 is a secrecy provision which continues to apply to ABT documents.

The Authority fully complied with the notice, with the exception of one document over which a claim for confidentiality was made by GTV 9. The ATO advised that the notice was spent and the Commissioner of Taxation did not propose to pursue the documents or to issue a further notice calling for documents.

Other

The Authority responded to 11 subpoenas during the period. There were also eight requests for statements of reasons pursuant to s.13 of the *Administrative Decisions (Judicial Review) Act 1977*, all of which were complied with.

No matters were raised by the Auditor-General during the period.

Matters relating to Parliamentary scrutiny are dealt with elsewhere in this report.

Financial and staffing resources summary

| | 1995-96 ACTUAL \$'000 | 1996-97 BUDGET(a) \$'000 | 1996-97 ACTUAL \$'000 |
|--|--------------------------------------|---|--------------------------------------|
| Salaries | 7345 | 7478 | 7233 |
| Superannuation | – | 922 | 930 |
| Administrative expenses | 5212 | 5425 | 4542 |
| Total expenditure | 12 557 | 13 825 | 12 705 |
| Less receipts | (729) | - | (575) |
| | 11 828 | 13 825 | 12 130 |
| Less Cash on Hand at beginning of financial year | (329) | (825) | (825) |
| Plus Cash on Hand at end of financial year | 825 | – | 1 695* |
| TOTAL APPROPRIATIONS | 12 324 | 13 000 | 13 000 |
| TOTAL OUTLAYS | 12 324 | 13 000 | 13 000 |
| STAFFING | | | |
| Staff years (ASL) | 149.8 | 140.0 | 144.6 |

(a) Budget figures for 1996–97 have been amended to include additional estimates.

* Cash at Bank includes a \$91 000 shortfall in drawdowns due to an administrative error. These funds will be provided to the ABA as part of the 1997–98 Additional Estimates.

Staffing numbers

| SYDNEY | PERMANENT | | | | TEMPORARY | | | | Total | |
|--------------|----------------|----------------|------------------|----------------|------------------|----------------|------------------|----------------|-------|------------------|
| | Classification | Full-time Male | Full-Time Female | Part-time Male | Part-time Female | Full-time Male | Full-time Female | Part-time Male | | Part-time Female |
| Members | 1 | | 1 | 1 | | | | | | 3 |
| SES Band 2 | 1 | | | | | | | | | 1 |
| SES Band 1 | | 3 | | | | | | | | 3 |
| Legal 2 | 1 | 1 | | | | | | | | 2 |
| Legal 1 | | 3 | | | | | | | | 3 |
| SPAOG 2 | 1 | | | | | | | | | 1 |
| PAOG 3 | | 1 | | | | | | | | 1 |
| PAOG 2 | | | | | | 1 | | | | 1 |
| SPOG C | | 1 | | | | | | | | 1 |
| PO 1 | | 1 | | | | | | | | 1 |
| SOG A | | 2 | | | | | | | | 2 |
| SOG B | 5 | 3 | | | | | | | | 8 |
| SOG C | 4 | 10 | | | | | | | | 14 |
| ASO 6 | 9 | 8 | | 4 | 1 | | | | | 22 |
| ASO 5 | 2 | 2 | | | | | | | | 4 |
| ASO 4 | 6 | 14 | | 1 | | | | | | 21 |
| ASO 3 | 2 | 3 | 1 | | | | 3 | | | 9 |
| ASO 2 | | 1 | | | 2 | | 1 | | | 4 |
| ASO 1 | 1 | | | | | | 1 | | 1 | 3 |
| SITO C | 1 | | | | | | | | | 1 |
| ITO 2 | | 1 | | | | | | | | 1 |
| TOTAL | 34 | 54 | 2 | 6 | 3 | 6 | 1 | 1 | | 106 |

CANBERRA

PERMANENT

TEMPORARY

| Classification | PERMANENT | | TEMPORARY | | | | Total | | |
|----------------|----------------|------------------|----------------|------------------|----------------|------------------|----------|----------------|------------------|
| | Full-time Male | Full-time Female | Part-time Male | Part-time Female | Full-time Male | Full-time Female | | Part-time Male | Part-time Female |
| SES Band 2 | 1 | | | | | | | | 1 |
| SES Band 1 | 1 | | | | | | | | 1 |
| SPAO(E)G A | | | | | | | | | |
| SPOG B | 4 | | | | | | | | 4 |
| SPOG C | 5 | | | | | | | | 5 |
| PO 2 | 4 | 1 | | | | | | | 5 |
| PO 1 | 2 | 1 | | | | | | | 3 |
| TO 4 | 1 | | | | | | | | 1 |
| TO 3 | 2 | | | | | | | | 2 |
| SOG B | 1 | | | | | | | | 1 |
| SOG C | 1 | 2 | | | | | | | 3 |
| ASO 6 | 2 | 5 | | | | | | | 7 |
| ASO 4 | 1 | 7 | | | | | | | 8 |
| ASO 3 | | 3 | | | | | | | 3 |
| ASO 2 | 1 | 3 | | | | 2 | | 1 | 7 |
| ASO 1 | | | | | | | 1 | | 1 |
| SITO C | 1 | | | | | | | | 1 |
| TOTAL | 27 | 22 | | | | 2 | 1 | 1 | 53 |

SYDNEY & CANBERRA

| | | | | | | | | | |
|---------------------|-----------|-----------|----------|----------|----------|----------|----------|----------|------------|
| TOTAL | 61 | 76 | 2 | 6 | 3 | 8 | 1 | 2 | 159 |
| TOTAL MALE | 67 | | | | | | | | |
| TOTAL FEMALE | 92 | | | | | | | | |

Appendix 2

Number of new transmitters planned in final LAPs

| Licence area plan | Date published | Television | | | | | | Radio | | | | |
|--|----------------|------------|-----|--------------|------|------|-----|-------|-----|------|------|-----|
| | | ABC | SBS | Nat/ Cmty | Comm | Cmty | ONC | ABC | SBS | Comm | Cmty | ONC |
| NSW | | | | | | | | | | | | |
| Bathurst | 20-5-97 | | | | | | | 2 | | | 1 | 1 |
| Bourke cmty and ONC radio | 13-12-96 | | | | | | | | | | 7 | 11 |
| Central Tablelands (Orange) | 6-6-97 | | | | | | | | | 1 | 2 | 1 |
| Central Western Slopes (Dubbo) | 6-6-97 | | | | | | | 1 | | 2 | 2 | 2 |
| Lithgow | 20-5-97 | | | | | | | | | | 1 | 1 |
| Lord Howe Island cmty and ONC radio | 29-8-96 | | | | | | | | | | 1 | |
| Mudgee radio | 30-6-97 | | | | | | | | | | 2 | 1 |
| Parkes | 20-5-97 | | | | | | | 1 | | | 2 | 2 |
| Tenterfield community | 13-12-96 | | | | | | | | | | 1 | |
| Vic | | | | | | | | | | | | |
| *Murrayville cmty and ONC radio | 29-8-96 | | | | | | | | | | | |
| Swan Hill radio | 27-6-97 | | | | | | | 1 | | | 2 | 1 |
| Qld | | | | | | | | | | | | |
| Roma radio | 29-8-96 | | | | | | | | | | | 8 |
| Charleville radio | 29-8-96 | | | | | | | | | | 1 | 2 |
| Longreach radio | 29-8-96 | | | | | | | | | | | 4 |
| Mt Isa radio | 18-9-96 | | | | | | | | | 1 | 2 | |
| SA | | | | | | | | | | | | |
| *Bordertown cmty and ONC radio | 29-8-96 | | | | | | | | | | | |
| Ceduna cmty and ONC radio | 22-7-96 | | | | | | | | | | 1 | 1 |
| Kangaroo Island cmty and ONC radio | 29-8-96 | | | | | | | | | | 2 | |

| Licence area plan | Date published | Television | | | | | | Radio | | | | |
|---|----------------|------------|-----|--------------|------|------|-----|-------|-----|------|------|-----|
| | | ABC | SBS | Nat/ Cmty | Comm | Cmty | ONC | ABC | SBS | Comm | Cmty | ONC |
| Riverland TV and radio Woomera | 28-8-96 | 1 | 4 | 4 | 3 | | | 2 | | 2 | 2 | 2 |
| cmtly and ONC radio | 29-8-96 | | | | | | | | | | 1 | 2 |
| WA | | | | | | | | | | | | |
| Mandurah cmtly and ONC radio | 26-7-96 | | | | | | | | | | 1 | 1 |
| Remote WA (remainder) radio | 29-8-96 | | | | | | | 1 | | 34 | 9 | 33 |
| Kalgoorlie radio | 8-10-96 | | | | | | | | | 5 | 2 | 1 |
| Esperance radio | 8-10-96 | | | | | | | 2 | | 10 | 1 | 4 |
| Merredin radio | 8-10-96 | | | | | | | 1 | | 6 | 1 | 2 |
| Narrogin radio | 10-10-96 | | | | | | | | | 1 | 1 | |
| Katanning radio | 10-10-96 | | | | | | | | | 1 | 2 | 1 |
| Bridgetown radio | 13-11-96 | | | | | | | 1 | | 1 | 1 | 1 |
| Albany radio | 14-11-96 | | | | | | | 2 | | | 1 | 2 |
| Northam radio | 30-8-96 | | | | | | | | | | 2 | 1 |
| Geraldton radio | 16-9-96 | | | | | | | | | | 3 | 1 |
| Bunbury radio | 14-11-96 | | | | | | | 2 | | 6 | 3 | 2 |
| WA TV | 24-2-97 | 5 | 38 | 38 | 35 | 12 | 1 | | | | | |
| Perth TV | 24-2-97 | | | 5 | | | | | | | | |
| NT | | | | | | | | | | | | |
| *Nhulunbuy cmtly and ONC radio | 29-8-96 | | | | | | | | | | | |
| Alice Springs radio | 18-9-96 | | | | | | | | | | | 3 |
| Territories and others | | | | | | | | | | | | |
| Torres Strait cmtly and ONC radio | 30-7-96 | | | | | | | | | | 1 | |
| Remote Central & Eastern Australia radio (remainder) | 17-10-96 | | | | | | | 9 | | 36 | 1 | 5 |
| Remote Central and Eastern TV | 18-12-96 | | | | 1 | | | | | | | |

* there were no transmitters planned in these licence area plans

comm – commercial; cmtly – community; ONC – open narrowcast; Nat/cmtly – national/community

Appendix 3

Temporary transmissions by aspirant community broadcasters

The following aspirant community broadcasters were issued with a licence to broadcast at least once during 1996–97. Some of the licensees may have broadcast up to the (then) maximum allowable 90 days for the year, in blocks of up to 30 days or intermittently throughout the year for example, on weekends. Some have broadcast once only.

| Licensee | Area served |
|--|--------------------|
| New South Wales | |
| Islamic Council of NSW Inc. | Bankstown |
| Muslim Community Radio Inc. | Bankstown |
| Radio Rhema Bathurst Christian Broadcasters | Bathurst |
| Bega Access Radio Inc. | Bega |
| Blacktown City Community Radio Assoc. | Blacktown |
| Bay FM Community Radio Incorporated | Byron Bay |
| Macarthur Community Radio | Campbelltown |
| Casino's Own Wireless Association Inc. | Casino |
| Central Coast Community Television Inc. | Central Coast |
| Cessnock Community Broadcasters Inc. | Cessnock |
| Radio Rhema Coffs Harbour Christian Broadcasters | Coffs Harbour |
| Living Sound Broadcasters Ltd | Coniston |
| Nimmitabel Community Radio Group | Cooma |
| Radio Rhema Dubbo Christian Broadcasters | Dubbo |
| Deepwater and Districts Community FM Radio Inc. | Glen Innes |
| Radio Five O Plus Association Inc. | Gosford |
| Wyang Gosford Progressive Community Radio | Gosford |
| Central Coast Broadcasters Ltd | Gosford |
| Hornsby Ku-Ring-Gai Community Radio Inc. | Hornsby |
| Living Sound Broadcasters Ltd | Illawarra |
| Kandos Rylstone Community Radio Inc. | Kandos |
| Nepean Christian Broadcasters | Katoomba |
| Macleay Valley Community FM Radio | Kempsey |
| New Wave Broadcasters Ltd | Killara |
| Lake Waves FM Community Radio Inc. | Lake Macquarie |
| Community Radio Coraki Association Inc. | Lismore |
| Summerland Christian Broadcasters | Lismore |
| Maitland Community Broadcasters Ass Inc. | Maitland |
| North Harbour Radio | Mosman |

| Licensee | Area served |
|---|-------------------------|
| Liverpool Plains Community Broadcasting | Murrurundi |
| Narrabri Shire Community Radio Inc. | Narrabri |
| Port Stephens FM Radio | Nelson Bay |
| Newcastle Christian Broadcasters Ltd | Newcastle |
| Orange Community Broadcasters | Orange |
| Radio Rhema Orange Canobolas Christian Broadcasters | Orange |
| Nepean Riverlands Community Radio Assoc. | Penrith |
| Way Out West Fine Music Inc. | Penrith |
| Radio Rhema Mid North Coast Christian Broadcasters | Port Macquarie |
| Port Stephens FM Radio Inc. | Port Stephens |
| Queanbeyan Community Radio Inc. | Queanbeyan and Canberra |
| Free Broadcast Incorporated | Sydney |
| Sydney Gay and Lesbian Broadcasters (FREE FM) | Sydney |
| Sydney Youth Radio Inc. (WILD FM) | Sydney |
| Koori Radio Gadigal Information Service | Sydney |
| Radio Rhema Tamworth Peel Valley Christian Broadcasters | Tamworth |
| Manning Great Lakes Christian Broadcasters Inc. | Taree |
| Australian Capital Territory | |
| ArtSound FM | Canberra |
| Canberra Christian Radio | Canberra |
| Ethnic Broadcasters of ACT (EBC) | Canberra |
| Radio Antenna International FM Inc. | Canberra |
| Victoria | |
| Upper Goulburn Community Radio Inc. | Alexandra |
| Ballarat Gospel Radio | Ballarat |
| 2 State Community Radio Inc. | Barham |
| Bendigo FM Education Broadcasters Inc. | Bendigo |
| Central Victorian Gospel Radio | Bendigo |
| Whitehorse – Baroondara FM Inc. | Box Hill |
| Golden Days Radio For Senior Citizens Inc. | Caulfield |
| Coburg – Thornbury Darebin Secondary College Radio | Coburg |
| Colac Public Radio Group Inc. | Colac |
| Upper Murray Community Gospel Broadcasters | Corryong |
| Echuca Moama Broadcast Service Inc. | Echuca |
| Southern Victoria Community Radio Inc. | Geelong |
| Radio Rhema Geelong Gospel Radio Inc. | Geelong |
| Horsham & District Community Radio | Horsham |
| Central Highlands Broadcasting Inc. | Kyneton |
| Mansfield Community Radio Inc. | Mansfield |
| RMIT Student Radio Association | Melbourne |
| Hitz FM Broadcasting Inc. | Melbourne |

Licensee

Area served

| | |
|---|------------------------------|
| Melbourne Gospel Radio | Melbourne |
| SRA (Student Radio Association) | Melbourne |
| KISS 90 FM Dance Club Broadcasters Inc. | Melbourne |
| New Gen Radio Inc. | Melbourne |
| Nu Country Music Radio Inc. | Melbourne North West Suburbs |
| Moonee Valley Radio Inc. | Melbourne South East Suburbs |
| Bacchus Marsh Community Radio | Melbourne Southern Suburbs |
| JOY Melbourne Independent Community Broadcast | Melbourne Southern Suburbs |
| 3MU Monash University Union Radio Incorporated | Melbourne and Geelong |
| Radio Rhema Greater Shepparton Christian Broadcasters | Shepparton |
| 3 NGR Inc. | Sunbury-Bulla Shire |
| Wangaratta Community Radio Association | Wangaratta |
| West Gippsland Community Radio | Warragul |
| WYN FM Community Radio Inc. | Werribee |

Queensland

| | |
|--|----------------|
| Beaudesert Community Radio | Beaudesert |
| Family Radio | Brisbane |
| Radio Rhema Sunshine Coast Christian Broadcasters Assoc. | Caboolture |
| Smithfield Community Radio Association | Cairns |
| Bumma Bippera Media | Cairns |
| Gladstone and District Christian Broadcasting | Gladstone |
| HOTT FM Limited | Gold Coast |
| Radio Hope Island Ltd | Gold Coast |
| Radio Rhema Gold Coast Christian Air Broadcast | Gold Coast |
| Cooloola Christian Radio Association Inc. | Gympie |
| Fraser Coast Community Radio Inc. | Maryborough |
| Mt Isa Christian Broadcasters Association Inc. | Mount Isa |
| Access FM Community Radio Society Inc. | Nambour |
| Noosa District Cmty FM Radio Assoc. Inc. | Nambour |
| Kalwun Development Corporation Ltd | Nerang |
| Wide Bay Christian Broadcasting Association | Pialba |
| Encounter FM Community Broadcasters Assoc. | Strathalbyn |
| Sunshine Coast Christian Broadcasters Assoc. | Sunshine Coast |
| Coastwide Community Radio Association | Sunshine Coast |
| Radio Pacific Community Radio Association | Toowoomba |
| Toowoomba Christian Broadcasters Assoc Inc. | Toowoomba |
| Radio Rhema Toowoomba Christian Broadcasters | Toowoomba |
| Radio Rhema NQ Townsville Christian Broadcasters | Townsville |
| Warwick Community FM Radio Association | Warwick |
| Community Radio of Wondai Association Inc. | Wondai |
| NAG Radio Broadcasting Inc. | Yeppoon |

Licensee

Area served

South Australia

Music Broadcasting Society of SA
 Barossa Broadcasting Board Inc.
 Ceduna Community Radio Inc.
 Kangaroo Is Community Broadcasters
 South East Christian Broadcasters Inc.
 Pirie Community Radio Broadcasters Inc.
 Encounter FM Community Broadcasters Assoc.
 Great Southern FM Community Broadcasters Assoc.

Adelaide
 Adelaide Foothills
 Ceduna
 Kangaroo Island
 Mt Gambier
 Port Pirie
 Victor Harbor
 Victor Harbor

Western Australia

Albany Community Radio Inc.
 Dalby Broadcasting Association
 Esperance Sunshine Broadcasting Inc.
 York Community Radio

Albany
 Dalby
 Esperance
 York

Northern Territory

Darwin Christian Broadcasters Association Inc.

Darwin

Tasmania

Tasman Community Broadcasters

Hobart

Appendix 4

Investigations completed in 1996-97: no breach finding

| ABC television | | |
|-----------------------------|--|--|
| program | substance of complaint | relevant ABC code |
| The 7.30 Report | Offensive language. | Language. |
| McFeast | Comments were offensive and insulting to Christians. | Language, discrimination. |
| Lateline | Inaccurate reporting and failure to provide substantive response to complaint. | News/current affairs – accuracy. Complaints handling. |
| Four Corners | Inaccurate reporting. | News/current affairs – accuracy. |
| ABC radio | | |
| program | substance of complaint | relevant ABC code |
| National News | Inaccurate reporting of an attack by a pit bull terrier. | News/current affairs – accuracy. |
| Book Talk Radio National | Offensive language. | Language. |
| SBS television | | |
| program | substance of complaint | relevant SBS code |
| Cousin Cousine | Program promotion not suitable for G time. | Sex/nudity, classification. |
| House Call/1900 | Promotions were offensive and exploited women. | Classification, portrayal of women. |
| SBS radio | | |
| program | substance of complaint | relevant SBS code |
| Farsi/Persian | Incorrect use of the term 'Farsi'. | Self identification of groups. |

Commercial television

| Licensee | program/ advertisement/issue | substance of complaint | relevant code/program standard#/licence condition* |
|---------------------|---------------------------------|---|--|
| ATN 7 Sydney | Today Tonight | Inaccurate reporting of a shooting incident. | News/current affairs – accuracy. |
| ATN 7 Sydney | Who Dares Wins | Failure to respond to telephone complaints. | Complaints handling. |
| ATN 7 Sydney | Sport - Rugby Union | Cigarette company logo displayed on the field was a tobacco advertisement. | Tobacco advertising prohibition.* |
| ATV 10 Melbourne | Revenge | Sex scenes unsuitable for M time. | M – Sex and nudity. |
| BTQ 7 Brisbane | Nude Moments | Sexual references unsuitable for M time. | M – Sex and nudity. |
| BTQ 7 Brisbane | Today Tonight | Vilification of aboriginal people. | Hatred/ridicule – discrimination. |
| BTQ 7 Brisbane | Today Tonight | Program not presented with due care as it showed how to make a bomb. | News/current affairs programs in G classification period. |
| BTQ 7 Brisbane | News | Misleading use of the word 'homosexual'. | Stirring up hatred on basis of sexuality. |
| BTQ 7 Brisbane | Rising Sun | Movie contained graphic sexual scene. | M – sex and nudity. |
| CBN Orange | News and Weather | Misleading information. | News/current affairs – impartiality; distinguishing news from commentary. |
| GTV 9 Melbourne | Four Weddings and a Funeral | Bad language. | Language during M classified movie. |
| GTV 9 Melbourne | A Current Affair | Presentation of only one side of argument; failure to respond to complaint. | News/current affairs – impartiality; complaints handling. |
| GTV 9 Melbourne | The Footy Show | Segment ridiculed disabled people. | Stir up severe ridicule on the basis of mental disability. |
| HSV 7 Melbourne | Fire | Language and sex scenes unsuitable for M time. | M – Language, sex and nudity. |
| HSV 7 Melbourne | Today Tonight | Political interference, inaccurate reporting. | News/current affairs – accuracy. |

| Commercial television (ctd) | | | |
|-----------------------------|-----------------------------------|--|--|
| Licensee | program/ advertisement/issue | substance of complaint | relevant code/program standard#/licence condition* |
| HSV 7 Melbourne | Today Tonight | Interview edited to give false impression. | News/current affairs – accuracy, fairness, misrepresentation of viewpoint. |
| HSV 7 Melbourne | Passion Profit Power | Depicted the process of putting a subject into a hypnotic state. | Prohibited matter (hypnosis). |
| HSV 7 Melbourne | Nude Moments | Failure to respond to complaint. | Complaints handling. |
| QTQ 9 Brisbane | A Current Affair | Inaccurate and biased reporting. | News/current affairs – accuracy, fairness. |
| QTQ 9 Brisbane | A Current Affair | Unnecessary emphasis on ethnic background in reporting. | News/current affairs – accuracy, fairness negative portrayal. |
| QTQ 9 Brisbane | Non-program Matter | Non-program matter in excess of limits during the program 'Streets of Laredo', | Non-program matter – hourly limits. |
| SAS 7 Adelaide | Kraft Food advertisement | Not suitable for children's viewing. | Commercials directed to children. |
| SES Mt Gambier | News and Weather | Inaccurate and unfair statements. | Accuracy and fairness. |
| SSW Albany | Classic Choc Milk (advertisement) | Reference to drug use. | M – drug use. |
| TCN 9 Sydney | Nightline | Violence gratuitous and distressing. | News/current affairs – distressing material. |
| TCN 9 Sydney | Daybreak | Commentary not distinguished from news. | News - facts vs commentary. |
| TCN 9 Sydney | Snapdragon | Sex scenes and violence unsuitable for M time. | M - Violence, sex and nudity. |
| TCN 9 Sydney | 60 Minutes | Invasion of privacy. | News/current affairs – privacy. |
| TCN 9 Sydney | 60 Minutes | Bias against shooters. | News/current affairs – accuracy, fairness. |

All potential breaches of the code of practice unless otherwise indicated:

* *potential breach of licence condition*

potential breach of radio program standard.

Commercial television (ctd)

| Licensee | program/ advertisement/ issue | substance of complaint | relevant code/program standard*/licence condition* |
|----------------------------|---|---|---|
| TEN Sydney | Flipper | Language and violence unsuitable for G time. | G - Violence, sex and nudity. |
| TNQ Regional Queensland | News | Unsatisfactory response to complaint. | Complaints handling. |
| TNT Tasmania | Shadow of Obsession | Sex scenes unsuitable for M time. | M - Sex and nudity. |
| TVW 7 Perth | News | Inaccurate reporting. | News/current affairs – accuracy. |
| TVW 7 Perth | 'The Man Who Made Husbands Jealous' (promotion) | Movie promotion shown in G time showed nudity and sexual activity. | Promotions in G viewing period. |
| VTV Regional Victoria | News | Invasion of privacy. | News/current affairs – privacy. |
| WIN Southern NSW | News | Inaccurate and unfair reporting. | News/current affairs – accuracy, fairness. |
| WIN Southern NSW | A Current Affair | Failure to present material accurately. | News/current affairs – accuracy, fairness. |

Commercial radio

| Callsign | program/advertisement /issue | substance of complaint | relevant code/program standard/ licence condition |
|-------------|----------------------------------|---|--|
| 2DAY Sydney | Women's Conference in Beijing | Discrimination on basis of race. Sexism and anti-gay bias | Hatred/vilification. |
| 2GB Sydney | Ron Casey | Discrimination on basis of race. | Hatred/vilification. |
| 2MMM Sydney | Erotica USA | Use of offensive material. | Unsuitable for broadcast. |
| 2UE Sydney | Alan Jones | Inaccurate references to the late John Newman's estate. | Current affairs – accuracy |
| 2UE Sydney | John Laws | Offensive comments re homosexuals; inadequate response to complaint. | Offensive language; gratuitous vilification; complaints handling. |

Commercial radio (ctd)

| Callsign | program/advertisement /issue | substance of complaint | relevant code/program standard/ licence condition |
|-----------------|---|---|--|
| 3AW Melbourne | News/current affairs | Did not give reasonable opportunity for the broadcasting of election matter to all parties contesting the election. | Election matter – reasonable opportunity.* |
| 3AW Melbourne | Football with Rex Hunt | Bad language. | Use of offensive language. |
| 3AW Melbourne | Steven Price | Unjustified use of Internet material. | Unjustified use of material and right to privacy. |
| 3AW Melbourne | Gun control debate | Breach of Victoria's EEO law. | Committing an offence against another law.* |
| 3AW Melbourne | Ross Warnecke | Did not distinguish fact from commentary and analysis. | News/current affairs – distinguish fact from commentary and analysis. |
| 3FOX Melbourne | Martin and Molloy | Offensive language. | Unsuitable for broadcast. |
| 4BC Brisbane | Breakfast Program | Vilification of Aboriginal people. | Hatred/vilification. |
| 4BC Brisbane | Wayne Roberts | Discriminatory remarks. | Stirring up hatred on basis of sexuality. |
| 4BC Brisbane | Stan Zemanek | Material presented in a misleading manner. Station did not respond to complaint. | News/current affairs –viewpoints not misrepresented. Complaint handling. |
| 4KZ Brisbane | Gary Beatty | Response to complaint was dismissive. | Complaints handling. |
| 5DDN Adelaide | Bob Byrne | Racist comments. Failure to respond to complaint. | Hatred/vilification. Complaint handling. |
| 5MMM | Big Breakfast | Use of offensive language. | Unsuitable for broadcast. |
| 6PPM Perth | Worst Joke Wednesday | Use of offensive language. | Unsuitable for broadcast. |

Community radio

| Callsign | program/advertisement /issue | substance of complaint | relevant code/program standard licence condition |
|-----------------|------------------------------|---|--|
| 2CCR Parramatta | Technical | Broadcasting outside the service area. | Licence area.* |
| 2000 FM Sydney | Management | Denial of access to Filipino radio group. | Access / community participation.* |
| 2000 FM Sydney | Arabic language program | Sponsorship and advertising. | Sponsorship limitations and no advertising.* |
| 2WEB Bourke | Nature of service | Association with commercial radio station; presentation of news and current affairs. | Not for profit.* |
| 3ZZZ Melbourne | Mauritian | Failure to reinstate announcer and failure to respond to complaint. | Participation/management.* Complaint handling. |
| 3ZZZ Melbourne | Polish language program | Anti-Semitic comments. | Inciting hatred and violence, complaints handling. |
| 4ZZZ Brisbane | Language | Frequent use of four-letter words. | Offensive language. |
| 5RPH Adelaide | Management | Failure to represent the community interest and failure to encourage community participation. | Participation/management.* Represent community.* |
| 5RPH Adelaide | Community interest | Emphasis shifting from news to sport. | Representing community interest.* |

Open narrowcasting television

| Callsign | program/advertisement /issue | substance of complaint | relevant code/program standard licence condition |
|-------------------|------------------------------|------------------------------|--|
| Channel 31 Sydney | Ashfield Baptist Church | Vilification of homosexuals. | Television program standard – vilification.# |

| Open narrowcasting radio | | | |
|------------------------------------|-------------------------------------|--|--|
| Callsign | program/advertisement /issue | substance of complaint | relevant licence condition/ section of the Act |
| Information Radio 88FM (Razorback) | Technical | Excessive transmitter power | Apparatus licence – technical specifications. * |
| Studio City FM (Mornington) | Technical | Excessive transmitter power and commercial format. | Apparatus licence – technical specifications. * |
| Sky FM (Western Sydney) | Technical | Excessive transmitter power and commercial format. | Apparatus Licence - technical specifications. * |
| Western Visitor Radio (Dubbo) | Nature of service | Providing a commercial service. | Prohibition on providing a commercial service without a licence. * |

All potential breaches of the code of practice unless otherwise indicated:

* *potential breach of licence condition or of the Broadcasting Services Act 1992*

potential breach of television program standard.

Appendix 5

Investigations:
Breaches found by the Authority 1996–1997

| Callsign | program/ advertisement /issue | substance of complaint | relevant code/licence condition |
|--------------------------------|-------------------------------------|---|--|
| ABC television | | | |
| ABC TV | Club Buggery | Failure to respond to complaint. | Complaints handling |
| ABC TV ¹ | current affairs | Inaccurate and unbalanced reporting; failure to correct a demonstrable error. | News/current affairs – accuracy/balance; demonstrable correction of errors. |
| ABC TV | The Great Debate | Failure to respond to complaint. | Complaints handling. |
| ABC radio | | | |
| ABC Radio | JJJ | Offensive song lyrics; complaints handling. | Complaints handling. |
| Commercial television | | | |
| GTV 9 Melbourne | A Current Affair | Failure to respond to complaint. | Complaints handling |
| GTV 9 Melbourne | A Current Affair | Dissatisfied with response to complaint. | Complaints handling. |
| IMP Northern Territory | election advertisement | Broadcasting an election advertisement during 'blackout' period. | Broadcasting of election advertisement during 'blackout' period.* |
| QTQ 9 Brisbane | A Current Affair | Unnecessary and irrelevant depiction of cruelty to animals; lack of substantive response. | Care exercised in broadcasting distressing material; complaints handling. |
| RTQ Regional Queensland | News | Failure to respond to complaint. | Complaints handling. |
| SAS 7 Adelaide | Agro's Cartoon Connection | Commercial content. | Distinguishing program material from commercials; exercising care with commercials directed to children. |
| SAS 7 Adelaide | Agro's Cartoon Connection | Commercial content. | Distinguishing program material from commercials; exercising care with commercials directed to children. |
| SAS 7 ¹ Adelaide | News | Inaccurate and unfair presentation of news material. | Accuracy, fairness and impartiality in news presentation. |
| TCN 9 Sydney | Today | Dissatisfied with response to complaint. | Complaints handling. |

¹ There is no summary of this breach, because the issue is subject to litigation.

| Callsign | program/ advertisement /issue | substance of complaint | relevant code/licence condition |
|-----------------------------------|--|---|--|
| TVQ 10 Brisbane | Sex/Life | Program unsuitable for television | Inappropriate depiction of sex/nudity. M rated program was not inexplicit or simulated. |
| TVT(WIN) Hobart | News | Network did not respect embargo on broadcasting name of deceased. | Use of material relating to person's personal/private affairs. |
| Commercial radio | | | |
| 2ROX Kempsey | Breakfast Program | Failure to consider complaint conscientiously. | Complaints handling. |
| 2MW Murwillumbah | Australia Tonight | Announcer vilified and incited hatred against homosexuals. | Vilification and incitement of hatred; presentation of significant viewpoints; retention of audio tapes. |
| 3AW Melbourne | Paul Barber | Failure to respond to complaint. | Complaints handling. |
| 3AW Melbourne | Paul Barber | Failure to respond adequately to complaint. | Complaints handling. |
| 3AW Melbourne | Paul Barber | Viewpoint misrepresented during on-air interview; failure to respond adequately to complaint. | Misrepresentation of viewpoints; complaints handling. |
| 6PPM Perth | Morning Program | Dissatisfied with response to complaint. | Complaints handling. |
| Community radio | | | |
| 3ZZZ Melbourne | Mauritian language program | Conflict resolution. | Conflict resolution mechanisms. |
| 4EB Brisbane | Sponsorship announcements on community radio | Sponsorship announcements exceeded four minutes per hour. | Sponsorship announcements; no advertisements on community radio.* |
| 4EB Brisbane | Greek language program | Failure to respond to complaint. | Complaints handling. |
| 6EBA Perth | Voice of Polonia | Management practices. | Principles of volunteering, rights of volunteers; conflict resolution mechanisms. |
| 6EBA Perth | management | Denial of access to air-time. | Representing the community; access.* |
| 6RKR Rockingham | management | Community participation; advertising. | Advertisements on community radio.* |
| Open narrowcasting radio | | | |
| FM88 Springwood | general program content | Providing a service of broad rather than narrow appeal. | Did not satisfy any of the criteria for a narrowcaster.* |
| Western Visitor Radio Dubbo | general program content | Providing a service of broad rather than narrow appeal. | Apparatus licence specifies that service must be low power open narrowcasting.* |

All breaches were of a code of practice unless otherwise indicated.

** breach of licence condition*

| Callsign | program/ advertisement /issue | substance of complaint | relevant code/licence condition |
|----------|-------------------------------------|---------------------------|---------------------------------------|
|----------|-------------------------------------|---------------------------|---------------------------------------|

Open narrowcasting television

| | | | |
|------------|----------------|---|--------------------------------------|
| SPN Sydney | Better Gay Sex | Broadcasting of offensive and pornographic material | Unauthorised use of a transmitter. * |
|------------|----------------|---|--------------------------------------|

* *breach of licence condition*

Admitted breaches 1996–1997**ABC television**

| | | | |
|--------|----------|---|--|
| ABC TV | Backchat | Failure to broadcast prior warning of simulated sex scenes. | Provide advance notice of distressing/disturbing segments. |
|--------|----------|---|--|

ABC radio

| | | | |
|--------------------|----------------|---|--------------------------------------|
| ABC Radio National | Women Out Loud | Inappropriate language when children listening. | Language inappropriate for audience. |
|--------------------|----------------|---|--------------------------------------|

Commercial television

| | | | |
|-----------------|------------------|---|---------------------------|
| ATN 7 Sydney | News | Failure to respond adequately to complaint. | Complaints handling. |
| GTV 9 Melbourne | A Current Affair | Failure to respond adequately to complaint. | Complaints handling. |
| QTQ 9 Brisbane | 60 Minutes | Promotion with reference to sex and rape not suitable for G time. | Promotions in G programs. |
| TCN 9 Sydney | News | Failure to respond to complaint. | Complaints handling. |

Commercial radio

| | | | |
|--------------|------|-------------------------|-------------------------------|
| 2TM Tamworth | News | Inaccurate news report. | Accuracy in news presentation |
|--------------|------|-------------------------|-------------------------------|

Investigations — breaches

The following are summaries of breaches found by the Authority as a result of investigations concluded during the reporting period. Some of the breaches relate to broadcasts which occurred in previous reporting years. The breaches were of codes of practice, the Act or licence conditions.

The summaries relate to breaches found as a result of investigations stemming from complaints. Breaches of ownership and control rules are detailed separately (see Objective 4, p. 67).

Of the 115 investigations completed during the reporting period, 29 investigations resulted in 42 findings that a breach of a code of practice or of a licence condition had occurred. Summaries of the findings of these investigations and their outcomes are set out in the appendix.

Responsibility for dealing with and responding to complaints made under codes of practice rests primarily with the broadcasters. It is their responsibility to resolve complaints. However, should a complaint be unresolved either because the complainant has not received a response, or because the complainant considers the response to be inadequate, then the Authority will conduct an investigation.

A breach of a code of practice is not a breach of a licence condition or of the Act. Compliance with codes is not a condition of licence unless the Authority imposes such a condition.

Because the regulatory onus is on the broadcasters themselves, when dealing with breaches of codes the Authority has worked with the broadcasters concerned or with industry representative bodies to ensure problems identified are rectified, that steps are taken to ensure such a breach does not recur, and, if necessary, appropriate amendments are made to codes.

Given the large number of codes, the range of issues they cover and the number of broadcasting services that are covered by codes, the Authority does not consider the number of code breaches it has found to be indicative of any serious problem either with the performance of an individual broadcaster or with the operation of the codes.

In relation to the breaches of licence condition, although the Authority has the discretion to take punitive action against licensees, the Parliament has made clear in section 5 of the Act that such action must be commensurate with the seriousness of the breach. In all cases of a breach of condition the Authority was of the view that the finding of a breach and the response of the licensee in remedying the breach was commensurate with the seriousness of the breach.

Codes of practice

Commercial television

ATN Sydney, BTQ Brisbane, HSV Melbourne, SAS 7 Adelaide, TVW Perth

Program: Agro's Cartoon Connection

Complaint: Suitability of program promotions/alleged non-compliance with the Children's Television Standards (CTS) concerning three commercials/ endorsement of products by the program's hosts/overall 'commercial content'/ promotion of 0055 telephone numbers to children

The complainant alleged that a number of breaches of the code and the Children's Television Standards had occurred in an episode broadcast on 6 December 1995. It was alleged that: two program promotions and the broadcast of non-program material breached the code; the promotion of 0055 telephone numbers to children in competition segments did not comply with the code; three commercials broadcast and the endorsement of products by the program's hosts did not comply with the Children's Television Standards.

The Authority found the program complied with the section of the code relating to time occupied by non-program matter (s.5). The Authority considered a program

promotion for 'Grace Under Fire' did not breach the code but that a program promotion for 'MacGyver' contained depictions of violence unsuitable for a G classification zone and SAS, TVW and BTQ breached the code (s.3).

The Seven network had acknowledged the breach to the complainant and, therefore, the Authority considered the matter had been resolved.

The Authority found a Kellogg's Coco Pops/'Ren & Stimpy' premium offer and a Sharp Sports Locker competition commercial did not meet the requirements regarding the commercials directed towards children (s.6.16). The Authority decided there was no breach, as the Seven network had placed reasonable reliance on the classification of these items by the Commercial Acceptance Division of the Federation of Australian Commercial Television Stations. A commercial for the movie 'Bushwacked', however, did not meet the requirements of this section of the code.

The Authority found promotions and competitions for Glow Zone Hot 'n' Cool Caps, the movie *Babe*, and I & J Agro's Fish Fingers were program segments essentially directed towards children, and therefore breached the code relating to the presentation of broadcast material (s.1.8). The segments were not adequately distinguished as promotional material in order for children viewing the program to sufficiently recognise and understand that the material presented was a promotion of product. The Authority found the program segment 'Agro's Wheel' did not breach the code.

The Authority considered the practice of host selling/host endorsement of products and services by principal characters and personalities which is not precluded in G classified programs. Although the Authority considered the presentation of promotional material in this way may mislead or deceive children there had been no breach of the code.

The Authority considered the billboards used for competitions and the promotion of 0055 telephone numbers did not present information in a manner which was clearly accessible to the child viewer. As these promotions were program matter, the Authority found there was no breach of the requirements of the code.

Before the Authority completed the inquiry, the Seven network advised that a new policy for the presentation of sponsored segments within the program had been implemented, from 13 September 1996. The aim of the policy was to ensure that the program's hosts and presenters do not sell or endorse products within the program and that sponsored segments would be presented as discrete segments.

The Seven network also implemented a new policy for the promotion of 0055 telephone numbers in competitions directed to children. The policy ensures that clear and legible details of competitions and the use of 0055 telephone numbers are provided on billboards and in voice-overs and that children are advised to seek parental consent before dialling the number.

The Authority was satisfied with the action taken.

ATN Sydney, BTQ Brisbane, HSV Melbourne, SAS 7 Adelaide, TVW Perth

Program: Agro's Cartoon Connection

Complaint: Suitability of a program promotion/alleged non-compliance with the Children's Television Standards (CTS) concerning one commercial and competitions on the program/endorsement of products by the program's hosts/commercials for products broadcast in program breaks either before or after host selling segments/overall 'commercial content'/promotion of 0055 telephone numbers to children and unsafe practices in a segment of the program.

The complainant alleged that a number of breaches of the code and the Children's Television Standards had occurred in an episode of the program broadcast on 24 May 1996. It was alleged that: a program promotion, the broadcast of non-program material, and a segment containing dangerous and unsafe practices breached the code; the promotion of 0055 telephone numbers to children in competition segments did not comply with the code; and competitions broadcast in the program and the endorsement of products by the program's hosts did not comply with the Children's Television Standards.

The Authority found that the program complied with the section of the code relating to the time occupied by non-program matter (s.5). The Authority found a program promotion for 'MacGyver' did not breach the requirements for program promotions (s.3).

The Authority found a commercial complained about by the complainant was not a commercial but was a sponsorship announcement for a segment of the program. The Authority also considered the placement of a commercial for a product which was the subject of a host presentation immediately before the commercial, but was satisfied the commercial complied with the requirements for the presentation of broadcast material (s.1.8).

The Authority found that promotions and competitions for Maggi 'Wiggle Giggle Watches', The Magic of Nutella, Sanitarium and the Disney Classic Video Collection to be promotional segments primarily directed to children. The Authority found that these segments were not adequately distinguished as promotional material so that children viewing the program could sufficiently recognise and understand the material presented was a sponsored promotion for a product (s.1.8). The Authority found the program segment 'Agro's Wheel' did not breach the code.

The Authority also considered the practice of host selling/host endorsement of products and services by principal characters and personalities. This practice is not precluded in G classified programs directed to children (s.2). Although the Authority considered the presentation of promotional material in this way may mislead or deceive children, there had been no breach of the code or of the Children's Television Standards.

The Authority found no breach of the requirements of the code concerning 0055 telephone numbers and billboards used for competitions, although it found that the billboards did not present information clearly to the child viewer.

The Authority found that a 'game' played at traffic lights during the 'It's Crikey' segment of the program breached the G classification requirements as the segment

contained dangerous elements and that a long pole used in the 'game' at the traffic lights was a dangerous plaything (ss.2.10 and 2.10.6).

The Authority, in conducting the investigation, also viewed episodes of the program broadcast on 4 and 18 December 1996 and 19 February 1997 to assess the effectiveness of the Seven network's voluntary policies for host selling and the promotion of 0055 telephone services (see above). The policies had been introduced on 13 September 1996, after the date of broadcast of the episode to which this complaint related. The Authority noted that billboards in the program had been improved, competition segments were presented as discrete segments and host selling had been greatly reduced. Three examples of host selling were noted.

After viewing a hosted segment in the episode of 19 February 1997 which featured the program's host Terasa hitting Agro three times on the head with a hammer, the Authority found that the segment breached the requirements of the code relating to dangerous playthings (s.2.10.6).

During the investigation, the Seven network advised the Authority that production of the 'It's Crikey' segment had ceased and the segment would not be broadcast after July 1997. The Seven network also advised it had taken the Authority's concerns into consideration concerning the hosted segment in the 19 February 1997 episode of the program and had advised the program's producer and the program's host of those concerns.

The Authority was satisfied with the action taken.

GTV 9 Melbourne

Program: A Current Affair

Complaint: Inaccurate and unfair reporting/breach of individual privacy/simulation of events in order to mislead viewers/complaint handling procedure

The complainant alleged that the segment, about corruption within the smash repair industry, was unfair and inaccurate, in breach of privacy regulations, and simulated events in order to mislead viewers. The complainant also alleged that the broadcaster had not followed correct procedures when dealing with the complaint.

In its assessment of the broadcast the Authority found the story to have been fair and accurate, not to have breached any individual's privacy, and not to have simulated events in order to mislead viewers. However, the Authority found the licensee did not respond within the time specified in the code (section 7.9), which allows for a maximum of 30 days for the broadcaster to respond.

Although the licensee provided an initial response promising a more substantive response within 20 days, the licensee did not meet this undertaking and failed to comply with the time period set down in the code.

As a result of this finding, the licensee informed the Authority that it had taken steps to ensure, as far as possible, that there were no further breaches relating to complaints handling.

GTV 9 Melbourne

Program: A Current Affair

Complaint: Inaccurate and unfair report/complaint handling

The complainant alleged that segments of the program breached various provisions of the code relating to news and current affairs (s.4). The complainant also claimed that they had not received a substantive response to their written complaint within the required time (s.7).

The Authority found that the program complied with s.4. However, the Authority found that the station had breached the complaint handling provisions of the code by not responding within the required period.

Before completing this investigation the Nine network informed the Authority that, as a result of previous Authority findings, the network had taken steps to ensure, as far as possible, that there were no further breaches relating to complaints handling. The Authority, therefore, did not take any further action in relation to this breach which had occurred before these preventive steps were put in place.

The Authority was satisfied that the broadcaster had taken appropriate measures.

QTQ 9 Brisbane

Program: A Current Affair

Complaint: Care not exercised in selection and broadcast of material/ distressing material/factual material not presented accurately/complaint handling

The complainant alleged that an item about cruelty to circus elephants was inappropriate to show in this timeslot as it would have caused distress to a large number of viewers, and that the item was not relevant to Australia and taken out of context. The complainant also alleged that the station did not provide a substantive response to their complaint.

The Authority concluded that care was not exercised in the broadcast of the segment as a large number of children would have been watching the program. The segment showed graphic scenes of a man being trampled to death by an elephant and of an elephant being shot to death. The Authority considered that the depictions of violence in the segment would be likely to cause alarm and distress to children and a substantial part of the audience. The Authority therefore found that the licensee breached the sections of the code relating to news, current affairs and live sporting segments, and material which may offend viewers (ss.2.6 and 2.7).

The Authority also found that the broadcaster's complaint handling procedures had breached the relevant section of the code (s.7.8). The Authority did not uphold the complaint in relation to factual material not presented accurately (s.4.3.).

As a result of the Authority's investigation, the executive producer of 'A Current Affair' has been made aware of the issues which have been raised and has instructed the relevant staff to pay careful attention to the vision incorporated in the program.

The Authority was satisfied with the measures taken by the broadcaster.

RTQ Regional Queensland

Program: News

Complaint: Unfair and racist news report/complaint handling

The complainant alleged that the item about the sentencing of four men for sexual assault was presented in an unfair, biased manner and was racist. In addition, the complainant alleged the station did not reply to the complaint.

In its assessment of the broadcast the Authority found the bulletin to have been accurate, fair and unbiased in its reporting. No spoken references were made to the race of the men and the report outlined the facts of the case and the sentence of the court. However, the Authority found that the licensee had failed to comply with the code as it did not respond to the complaint within the required time period (s.7.9).

As a result of the Authority's findings and to ensure there are no further breaches, the broadcaster has established new complaint handling procedures.

The Authority was satisfied with the action taken by the licensee and decided not to take the matter further on this occasion.

TCN 9 Sydney

Program: Today

Complaint: Use of offensive language/inaccurate reporting/complaint handling

The complainant alleged that comments made by one of the program's co-hosts were offensive and breached section of the code on the broadcast of material which may distress or offend viewers (s.2.7) and that editorial comments in one segment of the program breached the code relating to accuracy (s.4.3.1). The complainant was also dissatisfied with the manner in which his complaint had been dealt with by the licensee.

Whilst the Authority found that neither the comments nor the language broadcast were in breach of the code, the Authority determined that the response by TCN 9 to the first letter of complaint did not comply with the provisions of the code relating to complaint handling. The broadcaster did not respond to the complainant within ten working days, the response was in no way substantive and did not inform the complainant of the right to refer the matter to the Authority as required.

As a result of the Authority's findings the executive producer of 'Today' was briefed about the requirements of the code for complaint handling. The licensee has undertaken to ensure that all executive producers are aware of their obligations and to hold a series of seminars for all journalists and production staff regarding complaints handling.

The Authority was satisfied with the action taken by the licensee.

TEN 10 Sydney

Program: Sex/Life

Complaint: Inappropriate for M time

The complainant alleged that the content of the program was pornographic and broadcast too early at night.

As the complaint did not relate to a particular episode, the Authority reviewed four episodes of the program broadcast in August and September 1996. The episodes reviewed were all classified M, for mature audiences, were broadcast after 8.30 p.m., and commenced with warnings that the program contained 'Sex Scenes, Adult Themes and Nudity'.

The Authority found that one segment of the episode of 'Sex/Life' broadcast on 19 September 1996 breached the code in that it was not consistent with the M classification criterion for portrayal of sex and nudity.

The Authority met with representatives of the Ten network to discuss classification issues arising from the investigation. This information will act as a reference for future classification assessment by the licensee.

TVT Tasmania

Program: News Update

Complaint: Invasion of an individual's privacy

The complainant alleged that the 1.30 p.m. 'News Update' invaded his privacy as the station broadcast details of his son's death despite being informed by the police that a media ban was in place until 4 p.m.

The Authority found that because the family had not been notified of the finding when the 'News Update' was broadcast, their right to privacy outweighed the public's right to know about the finding, and a breach of the code relating to privacy in news and current affairs (s.4.3.5) had occurred.

As a result of the finding the broadcaster conducted training workshops for news staff on the requirements of the code and adhering to press embargoes. In addition, all coverage of fatalities is now checked directly by the news director before broadcast.

The Authority was satisfied with the action taken by the broadcaster.

Commercial radio

2MW Murwillumbah

Program: Australia Tonight

Complaint: Broadcast of prohibited material (likely to incite hatred)/did not allow reasonable opportunity to present significant viewpoints/retention of material

The complainant alleged that the announcer voiced anti-homosexual opinions that were unsuitable for broadcast and did not allow reasonable opportunity for other viewpoints to be presented. The Authority also investigated whether the licensee had breached a condition of its licence relating to retention of records of matter broadcast.

The Authority found that the licensee had breached the code by broadcasting matter which was likely to incite hatred against homosexuals (s.1.3) and that the announcer failed to make reasonable efforts to allow significant viewpoints to be discussed in relation to homosexuality (s.2.2). The Authority also found that the licensee had

breached a condition of its licence in that it failed to retain audio tape recordings of material broadcast after it had been informed by the complainant that these recordings may be required for use in legal proceedings (clause 5 of Schedule 2 of the Act).

The Authority noted that the licensee acted promptly in relation to the announcer's comments by terminating his employment. The Authority also noted that the licensee arranged for relevant programming and administrative staff to be addressed by a representative from the legal profession regarding the requirements of both the code and the Act.

In light of this action the Authority decided not to take the matter further, but placed the licensee on notice that more serious steps may be taken if future similar breaches of either the code or the conditions of its licence were determined.

2ROX Kempsey

Program: Morning Program

Complaint: Use of offensive language/complaint handling

The complaint alleged that an announcer broadcast offensive remarks about a song and that when they phoned the station to complain about the language used by the announcer, the complainant received an obstructive response. The complainant also alleged that when they wrote to the station about the announcer's statement and the station's response to the complaint, the station did not respond.

The Authority found the announcer's language not to have breached the code. However, the Authority found the licensee had breached the complaints handling procedures set down in the code (s.5.4).

The station has undertaken to improve its handling and recording of complaints to ensure that further breaches of the code do not occur. As a result of this remedial action the Authority decided to take no further action.

3AW Melbourne

Program: Paul Barber

Complaint: Failure to respond to complaints

The complainant alleged that the station failed to respond to several letters of complaint.

The Authority found that the station did not have a system in place for ensuring that a record of complaints was maintained as required by the code (s.5.4).

The licensee informed the Authority that remedial action had been taken to ensure that as far as possible future similar breaches do not occur. The Authority was satisfied with this action, and decided to take no further action.

3AW Melbourne

Program: Paul Barber

Complaint: Use of offensive language/failure to respond adequately to complaint

The complainant alleged that the announcer used offensive language and that the

station did not provide an adequate response to the complaint.

In relation to the language used by the announcer the Authority found that the code had not been breached. However, the Authority found that the response by the licensee to the complainant was inadequate and in breach of the code (ss.5.2(b) and 5.3).

As mentioned above, the licensee informed the Authority that remedial action had been taken to ensure as far as possible that future similar breaches do not occur. This finding was made on the same day as the one above and no further action was taken.

3AW Melbourne

Program: Paul Barber

Complaint: Misrepresentation of viewpoints and complaints handling procedures

The complainant alleged the announcer misrepresented his views made during an interview and was also dissatisfied with the lack of response from 3AW to his written complaint.

The Authority found that licensee had breached the code by misrepresenting the interviewee placing wrong and improper emphasis on certain statements (s.2.2). The Authority also found the licensee's complaints handling procedures were deficient and the licensee also breached s.5 of the code.

As this was the first time 3AW had been found to be in breach of this s.2.2, the Authority decided not to take the matter any further, particularly as the announcer who had conducted the interview had had his employment at 3AW terminated early in 1996.

As 3AW had been found to be in breach of the section of the code relating to complaint handling procedures previously, the licensee was placed on notice that further similar breaches of s.5 would result in the Authority giving serious consideration to making compliance with the section a condition of 3AW's commercial radio broadcasting licence.

6PPM Perth

Program: Morning Program

Complaint: Offensive language/failure to respond adequately to complaint

The complainant alleged that a joke told by a caller contained offensive language unsuitable for broadcast and that the station did not adequately respond to the complaint.

The Authority did not find that the language used breached the code. However, the Authority found that the station breached the code in that it failed to consider the complaint conscientiously and investigate it if necessary as required (s.5(2)(b)).

As a result of the Authority's findings the broadcaster instigated policies to ensure that complaints are handled appropriately. In light of this remedial action the Authority decided to take no further action on this occasion.

ABC television

Program: Roy and HG — Club Buggery

Complaint: Comments promoted violence/complaint not responded to

The complainant alleged that comments made by Roy Slaven and H.G. Nelson during the program promoted violence and that the ABC had not responded to the written complaint about the program.

The Authority found that whilst the language complained about may have offended some viewers such usage did not involve a breach of the code, and that a regular viewer would not have taken their comments seriously or construed them as being an incitement to, or promotion of, violence. However, the Authority found that in this instance the ABC had breached the complaints handling procedures set down in the ABC Code of Practice (s8).

The ABC had stated that due to the complainant's behaviour and past history of frequent complaints to the ABC they had taken the view that the complaint was vexatious and accordingly did not respond. However, the Authority had no evidence before it to suggest that the complainant had repeatedly complained about the program, nor could it be inferred from any of his previous behaviour or complaints that this specific complaint was vexatious.

The ABC undertook to respond to such complaints in future unless they were clearly vexatious. As such, the Authority decided to take no further action on this occasion.

Program: The Great Debate

Complaint: Lack of balance and complaint handling procedures

The complainant alleged there was a lack of balance and equity shown by the on-air political commentators of two programs and that the ABC had failed to respond to his complaint.

The Authority decided that there was no evidence of a lack of balance in either 'The Great Debate' program of 1993 or the segment of 'The 7.30 Report' broadcast on 27 January 1996, and the ABC therefore had not breached s.4 of the ABC code.

However, the ABA decided that the ABC had breached s.8 of the ABC code by not responding to a written complaint within 60 days.

The ABC acknowledged that the complaint was not responded to within the required period. No action was taken by the Authority.

ABC radio

Triple J

Program: Jen Oldershaw

Complaint: Offensive lyrics in the song 'You Suck' by The Murmurs/complaint not responded to within required period

The complainant alleged that some of the lyrics of the song were offensive and not suitable for broadcast and that the broadcaster had failed to respond to the complaint within the required period.

The Authority found that the broadcaster had not breached the code as it relates to language (s.2.2). While the lyrics of the song 'You Suck' may be considered offensive by some listeners who may not be accustomed to the style of music played on Triple J, the Authority considered that the lyrics would not have exceeded the expectations of the majority of its target audience familiar with that style.

The Authority found that broadcaster had breached the code in that it had failed to respond to the complainant within the required time period (s.8).

As a result of the investigation the ABC placed greater responsibility on network managers to respond directly to complaints in a timely manner, and mechanisms were put in place in other areas, in addition to Corporate Relations, to ensure records are kept of all correspondence received and that copies are retained for follow up action as required. The Authority decided not to take the matter further but placed the ABC on notice that more serious steps may be taken if similar breaches were found in the future.

Community radio

3ZZZ Melbourne

Program: Mauritian language

Complaint: Inadequate conflict and dispute resolution mechanisms

The complainant alleged that the station had inadequate conflict and dispute resolution mechanisms in place to handle the complainant's appeal to be reinstated as a broadcaster in the Mauritian Broadcasting group.

The Authority found that although the broadcaster had mechanisms in place to resolve the dispute in its early stages, they had not been used. The Authority also noted that at no time during the dispute period did 3ZZZ suggest alternative dispute resolution mechanisms in an effort to resolve this dispute. The Authority therefore found that the station breached the conflict resolution provisions of the code (s.6).

The Authority decided to take no further action in relation to this breach in recognition of the subsequent action taken by the station to resolve the dispute. In addition, the Authority is satisfied that the station will in the future make better use of the dispute mechanisms it has in place.

6EBA Perth

Program: not applicable

Complaint: Management practices and conflict resolution

The complaint concerned the circumstances surrounding the dismissal of a volunteer announcer at the station as a result of on-air comments made by that announcer, as well as the lack of conflict resolution procedures at the station.

The Authority found that the licensee breached the sections of the code relating to volunteers and conflict resolution (ss.5 and 6) as it had not properly addressed the rights of volunteers within the organisation and had not prescribed appropriate or adequate methods of dealing with internal disputes and conflict resolution.

As a result of the Authority's findings the licensee formulated guidelines on volunteering and the rights and responsibilities of volunteers. The licensee also reviewed its policy for handling internal disputes and complaints. The licensee provided the Authority with a copy of the new draft policy and informed the Authority that once this policy had been finalised all members of the organisation would be informed.

Licence conditions

Commercial television

IMP Northern Territory

Program: Election advertisement

Complaint: Broadcast of an election advertisement during 3-day blackout period

The complainant alleged that commercial television station Imparja Television had broadcast an election advertisement within the blackout period for a by-election for the Northern Territory House of Assembly seat of Stuart.

The Authority found that Imparja had breached a condition of its licence by broadcasting an election advertisement within the blackout period (Schedule 2, clause 3A(2)).

The Authority viewed this as a serious breach of a licence condition as it relates to the conduct of elections in Australia, but it was apparent that the breach was not intentional and Imparja gave the Authority an undertaking that they had subsequently implemented a system to ensure as far as possible that a similar breach did not occur again. The Authority therefore decided not to take the matter further on this occasion.

The Authority also confirmed with both Imparja and the Federation of Australian Commercial Television Stations that the Authority does not notify commercial television stations of impending Parliamentary elections or by-elections as this is not one of the Authority's functions under the Act.

Community radio

4EB Brisbane

Program: Greek language

Complaint: News bulletins from unauthorised sources/sponsorship announcements in excess of 4 minutes per hour

The complainant alleged that certain news bulletins were taken from unauthorised sources and the station had exceeded the allowable time limit for the broadcasting of sponsorship announcements.

The Authority found that the news bulletins had not breached the code which deals with guidelines for news and current affairs programs (s.2). The Authority also found that while sponsorship announcements had not exceeded the four minutes per hour allowed, the station had broadcast an advertisement and thereby breached the condition of its licence (clause 9(1)(b) of Part 5 of Schedule 2 of the Act).

The station undertook to advise all of its broadcasters of this finding and to instruct them to cease such announcements. Accordingly the Authority decided on this occasion not to take the matter further.

4EB Brisbane

Program: Greek language

Complaint: Advertising and Complaints Handling

The complainant alleged that Brisbane ethnic community radio station 4EB had broadcast an advertisement that had failed to respond substantively to several written complaints.

The Authority found that while a segment within the program constituted an advertisement under common law, it was an incidental accompaniment to the broadcasting of other matter as it formed a minor part of the program as a whole and its broadcast was an unavoidable consequence of the broadcasting of this program. Consequently the licensee was found not to have breached a condition of its licence (Clause 2, Schedule 2 of the Act) by broadcasting an advertisement.

The licensee was, however, found to have breached s.7.4 of the code by not adequately responding to two complaints made to it in the latter part of 1996.

The Authority noted that 4EB was without a station manager for the latter part of 1996 and early 1997 and that complaints handling is the station manager's responsibility. After discussing the matter with 4EB the Authority was confident that complaints are now being dealt with diligently and decided to take no further action.

6EBA Perth

Program: not applicable

Complaint: Refusal to grant access to air-time

The complainant alleged that it had been refused access to air-time on the station following a dispute between groups within the Bosnian community.

The Authority found that by imposing a moratorium on groups from the Balkan states the station was not encouraging certain sections of the community to participate in the selection and provision of programs at the station, nor was it seeking to widen the community's involvement and participation in broadcasting. The Authority therefore found the licensee in breach of the licence condition at paragraph 9(2)(c) of Schedule 2 of the Act and also in breach of the code concerning community involvement (s.1.9).

As a result of the investigation the licensee informed the Authority that it intended to lift the moratorium which was the subject of the complaint and that the Bosnian groups had reached an agreement and would be provided with air-time. As a result the Authority decided not to take the matter any further, but placed the station on notice that more serious steps may be taken if future similar breaches occurred.

6RKR

Program: not applicable

Complaint: participation/advertising/suitability

The complaint alleged the licensee had breached community radio licence conditions relating to community participation, the prohibition on advertising and the suitability of the licensee.

The Authority decided that there was not sufficient evidence to suggest that community participation in the operations of the station and in the selection and provision of programs was not of an adequate level. The Authority also decided that there was insufficient relevant evidence to prove that the licensee of 6RKR was no longer a suitable licensee.

The Authority decided, however, that 6RKR breached a condition of its licence on 11 August 1995 by broadcasting an announcement which was an advertisement. The announcement promoted and drew attention to a product but was not 'tagged' and was therefore not a sponsorship announcement within the meaning of the Act (Clause 9(1)(b), Schedule 2).

6RKR told the Authority that, as a result of the investigation, it would not air sponsorship announcements that were incorrectly tagged and had recently delayed a major sponsor's self-produced announcement until the tagging was in line with legislative requirements. The Authority was satisfied with 6RKR's response and took no further action.

Open narrowcasting television

SPN (Channel 31 Sydney)

Program: Better Gay Sex

Complaint: Program was pornographic and unsuitable for television

The Authority received a number of complaints about a program broadcast on Channel 31 Sydney entitled 'Better Gay Sex'. The program was broadcast by South Pacific Network Pty Limited (SPN) on channel 31, which was being used at the time to provide a community television service in Sydney on a trial basis. The

complainants alleged that the program was grossly offensive and pornographic. The video of this program was originally classified R for sex education purposes by the Office of Film and Literature Classification.

As there is no provision for the Authority to issue licences for temporary community television services the Authority has issued apparatus licences to suitable community broadcasting groups in various parts of Australia to provide their service under a class licence. Because services provided under class licences are in some way limited in their appeal and/or audience reach they are subject to minimum levels of regulation.

There is currently no code of practice applicable to class licences, and they are not subject to restrictions on the broadcast of R rated material. The Act sets out the only conditions applicable to broadcasting services provided under a class licence, one of which states that a person providing a broadcasting service under a class licence will not use the broadcasting service in the commission of an offence against another Act or a law of a State or Territory.

Under the *Radiocommunications Act 1992* (Radcoms Act) Community Television Sydney Limited (CTS) was issued an apparatus licence in March 1993 for the purpose of providing an open narrowcasting service, one of the five categories of service able to be provided under a class licence. Under the Radcoms Act the licensee of an apparatus licence may authorise other persons to operate a transmitter under the licence. In December 1993 a contract was entered into between CTS and SPN under which SPN agreed to provide transmitter equipment for CTS in return for access to broadcast time. However, in October 1995 CTS wrote to SPN terminating this contract and directed SPN to cease any transmissions on Channel 31. SPN continued to telecast their programs despite being specifically denied the use of the apparatus licence by CTS. In November 1995 the Spectrum Management Agency, the relevant statutory body charged with issuing apparatus licences and overseeing authorisations to operate transmitters, wrote to SPN advising them that in its view the authorisation from CTS to SPN to operate the transmitter for Channel 31 had been withdrawn in October 1995.

Regarding the content of the program 'Better Gay Sex', the Authority found that the broadcast of this program was not an offence under any Commonwealth or State Act or any other law of New South Wales. The Authority also determined that there was no applicable code of practice at the time of broadcast.

Regarding the actual transmission of this program however, the Authority determined that the service provider, SPN, failed to comply with a condition applicable to services provided under a class licence in that it used the broadcasting service, known as Channel 31, in the commission of an offence against another Act (Radcoms Act) by knowingly operating a transmitter otherwise than as authorised by an apparatus licence without reasonable excuse.

The Authority also noted in its investigation report that, although there is no condition placed on services provided under a class licence regarding the broadcast of R rated material, this type of material is unsuitable to be broadcast by providers of community television services under class licences. In its report the Authority

strongly encouraged providers of community television services to broadcast material in accordance with the classifications and restrictions which apply to commercial television broadcasting services.

At the time the Authority completed its investigation report SPN was in liquidation. The Authority therefore wrote to the liquidator of SPN seeking comments regarding what action the Authority should take as a result of its findings. The liquidator declined to comment and, as SPN was in liquidation, the Authority decided to take no further action. The Authority would, however, take note of this breach when considering any future application by SPN for an apparatus licence.

Open narrowcasting radio

Radio FM88 Springwood

Program: not applicable

Complaint: Service did not meet the criteria for open narrowcasting services

The complainant alleged that the licensee of FM88, Celestial Industries Pty Ltd, was in breach of the licence conditions applicable to a low power open narrowcasting service by providing a service of broad commercial appeal and transmitting at greater power than allowable under the technical conditions applicable to low power services, 1 watt.

A breach of the technical specifications of an apparatus licence, which specifies transmitter site, type of service (open narrowcasting) and signal strength, is an offence under the *Radiocommunications Act 1992*. Schedule 2 of the *Broadcasting Services Act 1992* states that a broadcasting service must not be used in the commission of an offence against another Act or law of a State or Territory.

An open narrowcasting service is a service provided free and whose reception is limited in some way (s.18, *Broadcasting Services Act*).

The Authority found the service was operating in accordance with the technical specifications of its apparatus licence.

The Authority decided, however, that the service was of broad rather than narrow appeal. The licensee of FM88 was therefore in breach of both the *Radiocommunications* and the *Broadcasting Services Acts*.

As a result of the Authority's finding, FM88 ceased broadcasting while the licensee, in consultation with the Authority, considered various options for altering the service so that it satisfied one or more of the criteria for a narrowcast service. This was the situation at the date of this report.

Western Visitor Radio (Dubbo)

Program: not applicable

Complaint: Service did not meet the criteria for open narrowcasting services

The complainant alleged that the service being provided by Western Visitor Radio did not meet the relevant criteria for open narrowcasting services set down at s.18 of the Act.

The Authority found that the service provided at the time of the complaint failed to meet the criteria for an open narrowcasting service. Accordingly, the Authority found that Western Visitor Radio had breached the apparatus licence condition that the licence only be used to provide a low power open narrowcasting service.

The Authority formed the view that the format and promotion of the live-to-air program broadcast by Western Visitor Radio from 7 a.m. to 12 noon Monday to Friday meant that the service failed to meet the criteria that the service be targeted to special interest groups or provide programs of limited appeal.

As a result of the Authority's findings Western Visitor Radio made substantial changes to the live-to-air program so that it ceased to be in breach of the condition on their apparatus licence. On the basis of this remedial the Authority decided to take no further action.

Appendix 6

Freedom of information

Section 8 statement

The *Freedom of Information Act 1982* (the FOI Act) requires Commonwealth Government agencies to make available information about their organisation, functions and operations, and about rules and practices which are used in making decisions which affect people.

Section 8 of the FOI Act requires each agency to publish detailed information about the way it is organised, its powers, the kinds of decisions made, arrangements for public involvement in the work of the agency, documents held by the agency and how these can be assessed by the public.

This statement is correct as at 30 June 1997.

Establishment

The Australian Broadcasting Authority (ABA) was established by s.154(1) of the *Broadcasting Services Act 1992* (the Act), and began operations on 5 October 1992. The ABA took over the licensing, programming and ownership and control functions previously performed by the Australian Broadcasting Tribunal, as well as the function of planning the broadcasting spectrum previously carried out by the former Minister for Transport and Communications and his department.

The ABA is an independent statutory authority responsible through the Minister for Communications and the Arts (the Minister) to the Parliament. It is required to prepare and furnish annually to the Minister a report on its operations during the preceding year for tabling in the Parliament. The Act provides for the appointment of a Chairperson, a Deputy Chairperson and at least one, but not more than five, other Members who may be full-time or part-time. The Members of the ABA are appointed by the Governor-General for periods of up to five years and are eligible for re-appointment on one occasion only. The Minister may appoint persons to be Associate Members of the ABA, either generally or for particular investigations or hearings.

Organisation

The ABA's present membership consists of a Chairperson and two part-time Members.

The ABA holds meetings to make administrative decisions and determine policy. Additional meetings are held as required including meetings to determine opinions

as to which category of broadcasting services a proposed service falls into. A quorum for such meetings is constituted by three Members. Staff of the ABA are present at the meetings to record the decisions and, as required, to report, to provide advice and to make recommendations to the ABA, and to ensure that the ABA's directions are carried out. Decisions may also be made by resolution by virtue of clause 11 of Schedule 3 of the Act, or by delegation by virtue of clause 18 of Schedule 3 of the Act.

For the purpose of appointment and employment of staff in accordance with the provisions of the *Public Service Act 1922* (the Public Service Act), the Chairperson has all the powers of a Secretary under the Public Service Act as they relate to the branch of the Australian Public Service comprising the staff of the ABA.

Staff of the ABA

As can be seen from the organisation chart on the following page, the staff of the ABA is organised on a divisional basis, with two branches in each division.

The ABA's Policy and Communications Branch, Program Services Branch and Corporate Services Branch are located in Sydney where its Members are located, and its Planning Branch is located in Canberra.

Functions

The primary functions of the ABA may be summarised as follows:

- (a) to provide advice to the Spectrum Management Agency in relation to the spectrum plan and frequency band plans under the *Radiocommunications Act 1992* and the designation of bands for broadcasting purposes;
- (b) to plan the availability of segments of the broadcasting services bands on an area basis;
- (c) to allocate, renew, suspend and cancel licences and to take other enforcement action under the Act;
- (d) to conduct investigations or hearings relating to the allocating of licences for community radio and community television services;
- (e) to design and administer price-based systems for the allocation of commercial television broadcasting licences and commercial radio broadcasting licences;
- (f) to collect any fees payable in respect of licences;
- (g) to conduct or commission research into community attitudes on issues relating to programs;
- (h) to assist broadcasting service providers to develop codes of practice that, as far as possible, are in accordance with community standards;
- (i) to monitor compliance with those codes of practice;
- (j) to develop program standards relating to broadcasting in Australia;
- (k) to monitor compliance with those standards;
- (l) to monitor and investigate complaints concerning broadcasting services (including national broadcasting services);

Australian Broadcasting Authority

Policy and Programs Division

Policy and Communications Branch

- Legal Section
- Policy Section
- Library
- Media and Public Relations Section
- Ownership & Control Section

Program Services Branch

- Research Section
- Allocation and Renewal Section
- Conditions and Codes Section
- Standards Section
- ★ Children's Television Subsection
- ★ Australian Content Subsection

-
- On-line Services Project*

Planning and Corporate Services Division

Planning Branch

- Planning Engineering Section
- ★ Planning Automation Subsection
- ★ Spectrum Development Subsection
- ★ Technology Assessment Subsection
- ★ Specifications Development Subsection
- Services Planning Section
- ★ Branch Support Subsection
- ★ Implementation Policy Subsection
- ★ Licence Area Consultation Subsection
- ★ Licence Area Development Subsection

Corporate Services Branch

- Information Systems Section
- Financial Resources Section
- ★ Finance and Administration Subsection
- ★ Records Management Subsection
- Human Resources Section
- ★ Pay and Conditions Subsection
- ★ Recruitment and Staff Development Subsection

* reports directly to General Manager, Policy and Programs

(m) to inform itself and advise the Minister on technological advances and service trends in the broadcasting industry; and

(n) to monitor, and to report to the Minister on, the operation of the Act.

In addition, the ABA has other functions under the Act and other legislation. These include giving opinions concerning the category to which broadcasting services belong, and determining additional, or clarifying existing, criteria for those categories; giving opinions on whether a person is in a position to exercise control of a licence, company or newspaper; and administering aspects of the ownership and control rules applying to certain categories of licences.

For the purpose of exercising its powers and functions under the Act, the Authority is obliged to take account of:

- the objects of the Act and the regulatory policy set out in the Act;
- any general policies of the Government notified to the ABA by the Minister;
- any directions given to the ABA by the Minister; and
- Australia's obligations under any convention to which Australia is a party or any agreement between Australia and a foreign country.

The ABA has wide investigation and information gathering powers including the power to require persons to attend for examination or to produce documents.

Division functions and powers

Staffing of the ABA is organised into two divisions, the Policy and Programs Division and the Planning and Corporate Services Division. Within these divisions, the functions and powers are divided as follows:

Policy and Programs Division

1. Policy and Communications Branch

Policy and Communications Branch comprises Ownership and Control Section, Policy Section, Legal Section, Media and Public Relations Section and the Library.

The Branch is responsible for:

- preparing opinions on whether a person is in a position to control a licence, a newspaper or a company;
- assessing applications for prior approval of temporary breaches of the control provisions of the Act;
- maintaining registers of notifications of directorship and changes in control, associated newspapers, large circulation newspapers, temporary (approved) breaches, extensions of time granted and notices to persons in breach;
- monitoring compliance with the control limits;
- conducting investigations/hearings into licensees' compliance with the control provisions of the Act and notifying persons to remedy breaches;

- issuing notices relating to breaches of the control provisions of the Act;
- assisting in the identification and exploration of forward policy issues to be addressed by the ABA;
- co-ordinating the formulation of emerging policy issues throughout the ABA;
- providing secretariat support to the ABA including organising its regular meetings, preparing formal minutes and maintaining the records of decisions of the ABA;
- coordinating all tasks carried out under the *Freedom of Information Act 1982* (the FOI Act); and advice to the Minister about matters related to the FOI Act and the *Privacy Act 1988*;
- providing legal and policy advice on issues arising from the ABA's powers and functions;
- referring matters to the Director of Public Prosecutions;
- producing and marketing publications and informing the public of the functions, activities and decisions of the ABA;
- maintaining a full library service for members and staff of the ABA;
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of the ABA's functions or powers; and
- co-ordinating briefs and responses to questions arising from Parliamentary processes.

2. Program Services Branch

Program Services Branch comprises Research Section, Standards Section, Conditions and Codes Section, Allocation and Renewal Section, Children's Television Sub-section and Australian Content Sub-section.

The Branch is responsible for:

- conducting and commissioning attitudinal research and monitoring service trends;
- developing standards for commercial and community television broadcasting licensees relating to programs for children, for determination by the ABA;
- making decisions about the classification of programs for children;
- developing standards for commercial television broadcasting licensees relating to the Australian content of programs, for determination by the ABA;
- monitoring compliance with program standards;
- monitoring compliance with sports anti-siphoning provisions and reporting to the Minister on an as needs basis;
- monitoring compliance with Australian content requirements for pay TV;
- consulting with the industry and the community on the development of codes of practice for each broadcasting sector;
- maintaining a register of codes of practice, and monitoring compliance with those codes;

- investigating complaints alleging offences against the Act or breaches of licence conditions;
- investigating unresolved complaints about breaches of the codes of practice, including the ABC and the SBS;
- varying, revoking or imposing conditions on commercial, community and subscription television broadcasting licences and on class licences;
- designing and administering price-based systems for the allocation of commercial radio and television broadcasting licences;
- allocating subscription television broadcasting licences, commercial broadcasting licences and community broadcasting licences;
- assessing the eligibility of aspirant community broadcasters to be given licences for temporary transmissions;
- renewing commercial and community broadcasting licences;
- suspending and cancelling licences as appropriate, or taking other enforcement action;
- preparing opinions as to which category of broadcasting services a service falls into;
- issuing notices concerning the provision of broadcasting services without a licence to provide the service;
- developing additional criteria and clarifying existing criteria for the purpose of distinguishing between categories of broadcasting services, for determination by the ABA;
- collecting fees payable in respect of commercial broadcasting licences on behalf of the Commonwealth; and
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of the ABA's functions or powers.

3. On-line Services Project

The On-line Services Project is responsible for:

- conducting investigations, at the direction of the Minister, into on-line services with a special view to content regulation issues;
- monitoring national and international developments in the on-line area;
- providing information to the community regarding on-line issues.

Planning and Corporate Services Division

1. Planning Branch

Planning Branch comprises Planning Engineering Section and Services Planning Section.

The Branch plans all broadcasting services using radio frequency spectrum used for AM and FM radio and VHF and UHF television by:

- developing planning priorities for determination by the ABA and preparing variations to those priorities for the ABA's approval;
- preparing frequency allotment plans, and variations to those plans, for the ABA's consideration;
- preparing licence area plans, and variations to those plans, for the ABA's consideration;
- specifying licence areas, frequencies, siting and power levels for transmitters used for broadcasting;
- designating and varying licence areas;
- developing technical planning guidelines for broadcasting services using frequencies within the broadcasting services bands;
- monitoring new technology and service trends;
- issuing apparatus licences to authorise the operation of transmitters for commercial, community and national services; for services provided under class licences; and for the temporary transmission or re-transmission of programs;
- making broadcasting services bands spectrum available for alternative uses for a specified period;
- determining licence area populations;
- allocating callsigns for broadcasting services; and
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of its functions or powers.

2. Corporate Services Branch

This Branch comprises Human Resources Section, Financial Resources Section and Information Systems Section.

The functions carried out within this Branch include:

- attending to all matters related to personnel, training and staff development, accommodation and office services;
- 8 liaising with Commonwealth Departments, the Public Service Commission and the Australian National Audit Office on financial, personnel, staff development and general administrative matters including EEO, ID and OH&S;
- co-ordinating the ABA's budget, and preparing financial statements, estimates and related material;
- maintaining the ABA's records management system;
- maintaining the ABA's accounting system, purchasing and asset control, and internal audit and review;
- promoting the use of information technology to enhance the efficiency and effectiveness of the Authority's operations.

Arrangement for outside participation

Section 168 of the Act empowers the ABA to inform itself on any matter relevant to its functions. This may be done by consulting with such persons, bodies and groups as the ABA thinks fit, and forming consultative committees for that purpose; by conducting investigations and holding hearings and considering written submissions from the public; and in any other manner it thinks fit. To this end, ABA officers participate in a range of organisations reflecting the broad range of the ABA's functions.

Memoranda of understanding

In order to facilitate the exchange of information and views in an increasingly globalised broadcasting industry, the ABA has signed memoranda of understanding with the following overseas regulators:

- The Federal Communications Commission of the United States of America;
- The Singapore Broadcasting Authority;
- The Independent Broadcasting Authority of South Africa;
- The United Kingdom Broadcasting Standards Council; and
- The Korean Broadcasting Commission.

The ABA has an ongoing involvement in the following organisations:

Australian Preparatory Groups

Australian Preparatory Groups consist of representatives from Commonwealth departments and authorities, industry organisations and special interest groups. They work to prepare Australian proposals for the World Administrative Radio Conferences and other major conferences of the International Telecommunication Union. The principal function of these conferences is to seek agreement between member nations on radiocommunications regulations and spectrum allocations. Individual conferences cover specialised aspects of broadcasting, mobile communications, satellite broadcasting, the use of particular frequency bands and the guaranteeing of equitable access to the geostationary satellite orbit for all countries.

Australian Study Groups (ASGs) of the Radiocommunications and Telecommunications Bureaus of the International Telecommunication Union

The ABA participates in the following ASGs, which are concerned with studying principles and reporting on questions relating to their particular subject areas:

- ITU-T Group 9: Joint Committee on Transmission of Radio and Television on Telecommunications Networks.
- ITU-R Group 10: Broadcasting Service (sound).
- ITU-R Group 11: Broadcasting Service (television).
- ITU-R Group 12: Inter-service Sharing and Compatibility.

Standards Australia Boards and Specialist Committees

The ABA is represented on the following:

- TE3 Electromagnetic Interference.
- RC5 Radiocommunications Standards.

Digital Terrestrial Television Broadcasting (DTTB) Specialist Group

This is a specialist group established by the ABA to examine options for a DTTB system to best suit Australia's consumer and broadcasting needs into the next century. The chairman of the specialist group is the ABA's General Manager, Planning and Corporate, and the ABA is also represented in the associated working parties.

Department of Communications and the Arts' Digital Radio Broadcasting (DRB) Committee as well as the associated Policy and Technical Sub-committees

The committees are investigating options for the introduction of DRB in Australia.

Other external participants

In addition, the ABA consults and meets with various interested parties, including the Federation of Australian Radio Broadcasters (FARB), the Federation of Australian Commercial Television Stations (FACTS), the National Transmission Agency (NTA), the Community Broadcasting Association of Australia (CBAA), the Community Broadcasting Foundation (CBF), the Federation of Australian Narrowcasting and Subscription Services Inc. (FANSS), the Progressive Radio Association, the Australian Association of National Advertisers (AANA), the Advertising Federation of Australia (AFA), the Radiocommunications Consultative Committee, Screen Producers Association of Australia (SPAA), Australian Screen Directors Association (ASDA), Australian Writers Guild (AWG), Communications Law Centre (CLC), the Office of Film and Literature Classification Board (OFLC) and the Confederation of Australian Subscription Television (CAST).

The ABA also consults with other regulators such as the Australian Consumer and Competition Commission (ACCC), the Australian Communications Authority (ACA) and the Foreign Investment Review Board (FIRB) on a regular basis.

Public participation

In determining standards for commercial and community broadcasters the ABA is required to undertake public consultation before exercising its powers. However, as a matter of course, the ABA consults publicly on a wide range of issues relating to the content of programs and advice to the Minister on programming issues.

In performing its functions in relation to the planning of the broadcasting services bands, particularly the determination of planning priorities, the preparation of frequency allotment plans, and the preparation of licence area plans, the ABA is required to consult widely with the public. The ABA places advertisements in newspapers announcing the commencement of its consideration of issues relating to particular planning matters; conducts seminars explaining various aspects of the planning process; and maintains files containing documents relevant to this process, for public inspection.

The ABA also seeks the views of the wider community through surveys of public opinion on program issues conducted or commissioned by the ABA.

Categories of documents

Records are maintained by the ABA in various physical forms including paper files, card indexes, microfiche and computer media. Certain documents, such as the advice received and assumptions made by the ABA in performing its planning functions, are required to be publicly available. Certain other information dealing with ownership and control matters and the codes of practice, are required to be maintained in public registers.

Files

Files are maintained by the Sydney and Canberra offices on a range of topics related to the ABA's functions. The Records Management Subsection of Corporate Services Branch and Branch Support Subsection in Canberra maintain details of the files used by the ABA.

Card indexes

Card indexes are generally used for minor record keeping and indexing reference material.

Computer databases

Computer databases are maintained for bulk record keeping.

Microfiche

The reports of inquiries conducted by the former Australian Broadcasting Tribunal are available on microfiche in the ABA's library.

Registers

The ABA is required to maintain Registers of Codes of Practice; Notifications of Controllers, Directors, and Changes in Control; Associated Newspapers; Prior Approvals of Temporary Breaches; Extensions of Time for Temporary Breaches; Notices to Persons in Breach of the Act; Extensions of Time for Compliance with Notices and Approvals of Breaches of Television Ownership Limits in Small Markets. Persons wishing to inspect any of these Registers should contact the Sydney office of the ABA.

Classes of records

Records are maintained by the ABA in one or more physical forms on the following topics:

Policy and Communications Branch

Registers of notifications of controllers, directors and changes in control, associated newspapers, temporary (approved) breaches, notices to persons in breach and extensions of time for temporary approvals and compliance with notices; financial

results of commercial radio and TV services; reports on grant of licences under the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*; reports of inquiries conducted by the former Australian Broadcasting Tribunal; records, reports and information papers on Australian and overseas broadcasting; agenda papers and minutes of ABA meetings; ABA publications, including research monographs, news releases and pamphlets; and a register of ABA forms.

Program Services Branch

Industry self-regulatory codes of practice; program and advertising standards; Australian content of programs, children's programs, complaints and comments from the public about broadcasting programs and advertising; rights acquired and prices paid for events specified in the Minister's s.115 notice, details, including reports, of research undertaken or commissioned, service licences for all commercial and community stations; price based commercial licence allocation system; community merit based allocation system; temporary transmissions for aspirant community broadcaster; subscription television broadcasting service licences; opinions on which category of broadcasting services a service falls into; and records of notifications to licensees in relation to licence fees and payments of those fees.

Planning Branch

Technical specifications of national, commercial and community broadcasting services; frequency planning; narrowcasting services; reception of broadcasting services; satellite broadcasting; planning priorities; frequency allotment plans; licence area plans; Minister's reservations; Minister's directions; technical planning guidelines; monitor new broadcasting technology; population figures; and licence areas.

Corporate Services Branch

Personnel and staffing; finance; purchasing; furniture and fittings; equipment and accommodation; appointment of members.

Information products

As a matter of course the ABA makes all discussion and working papers on issues which it is publicly consulting available free to the public.

Information products available to the public, as at 30 June 1997, are listed below. All products are free, except where marked otherwise.

Pamphlets

An Introduction to the ABA
Complaints about Programs

Fact sheets

ABA Investigations
Allocation of Community Broadcasting Licences
Broadcasting and Communications Industry Regulators in Australia

Callsigns

Class Licences
Community-of-interest Ties: Community Broadcasting Licence Areas
Community Radio Broadcasters and Sponsorship Announcements
How to Read a Licence Area Plan
Notification Obligations of Commercial Licensees and Controllers

Planning for Broadcasting Services
Price-based Allocation of Commercial
Broadcasting Licences
Price-based allocation of Open
Narrowcasting Broadcasting Licences
Requests for ABA Opinions Concerning
Control of Licences
Retransmissions within Licence Areas
A Summary of the Control Provisions of
the Broadcasting Services Act 1992
Special Events
Subscription Television Broadcasting
Services in Australia
Technical Planning Guidelines
Temporary Transmissions by Aspirant
Community Radio Broadcasters
Transmitter Licences for New
Commercial and Community
Broadcasters
Transmitter Licences for New Open
Narrowcast Broadcasters

Anti-siphoning

First Report to the Minister July 1995
Second Report to the Minister December
1995
Third Report to the Minister June 1996
Guide to Pay TV Anti-siphoning
Provisions July 1995
Guide to Pay TV Anti-siphoning
Provisions October 1996

Australian content

Australian content Working Paper,
November 1994
Summary of Submissions December
1994
Final Report September 1995
Australian Content Variations October
1996

Licensing

Guide for Service Providers Under Class
Licences
Guide to Subscription Television
Broadcasting Services
Guide to Temporary Transmissions by
Aspirant Community Broadcasters

Licensing of New Free-to-air
Broadcasting Services August 1996
Narrowcasting for Radio Discussion
Paper, April 1994

Draft licence area plans

Albury radio
Broken Hill radio
Central NSW radio
Central Victoria and Central Murray
radio
Darwin television and radio
Deniliquin
Esperance, Kalgoorlie and Merredin
radio
Geraldton radio
Griffith television
Mildura television and radio
Mt Gambier television
Perth television
Remote Central and Eastern Australia
television
Remote Western Australia television
Riverland television and radio
Riverland 2nd
Shepparton radio
South West Western Australia television
Spencer Gulf television
Wangaratta radio

Final licence area plans

Albany radio
Alice Springs radio
Bathurst radio
Bordertown, Kangaroo Island and
Woomera (SA), Lord Howe Island
(NSW), Murrayville (Vic) and
Nhulunbuy (NT) final community radio
Bourke/Tenterfield radio
Bridgetown radio
Bunbury radio
Carnarvon, Karratha, Pt Hedland radio
Ceduna community radio
Central Tablelands radio (Dubbo)
Central Western Slopes radio (Orange)
Charleville, Longreach and Roma radio
Darwin/Katherine television and radio

Esperance, Kalgoorlie and Merredin radio
Geraldton radio
Griffith television
Katanning and Narrogin radio
Lithgow radio
Mandurah radio
Mildura /Sunraysia
Mt Gambier/South East SA television
Mt Isa radio
Mudgee radio
Northam radio
Parkes radio
Perth television
Remote Central and Eastern Australia radio
Remote Central and Eastern Australia television
Remote and Regional Western Australia television
Remote Western Australia (Remainder) radio
Riverland final TV and radio
Spencer Gulf TV/Broken Hill radio and television
Swan Hill radio
Torres Strait community radio
On-line services investigation
Investigation into the Content of On-line Services Issues Paper December 1995
Pay TV
Australian content on pay TV Working paper March 1997
Australian content on pay TV Information paper November 1996
Guidelines for 'New Australian Drama' on Pay TV June 1996
Planning
Planning Priorities September 1993
Frequency Allotment Plan August 1994
Sixth TV channel
Inquiry into the future use of the sixth television channel Issues paper July 1996

Inquiry into the future use of the sixth television channel Working paper October 1996
Plus
Annual Report 1995-96 (previous years also available)
Australian children's television (including Australian content standard and Children's television standards)
Current controllers of a broadcasting licence
Digital terrestrial television broadcasting in Australia First report – July 1995
Estimated coverage areas of UHF television transmitters – Tasmania February 1994
International Research Forum Newsletter
 No. 1 November 1995
 No. 2 June 1996
 No. 3 December 1996
 No. 4 June 1997
Self-help Guide second edition

Publications

ABA Update (11 issues per annum)
 \$45 per annum
Monographs
Living with television \$9.95
The People We See on TV: Cultural Diversity on Television
 includes supplement: *From the dark side* by Lester Bostock \$9.95
'Cool' or 'Gross': Children's attitudes to violence, kissing and swearing on television \$9.95
Music, new music and all that: Teenage radio in the 90s \$20.00
Families and electronic entertainment \$20.00
Kids Talk TV – 'super wikid' or 'dum' \$20.00

Trends & Issues

Audiences and Programs in 1992 \$5.00
Australian Content on Television \$5.00
Viewing Australia \$5.00
Broadcasting Audiences in the 90s
\$10.00

Specialist publications

Australian content on pay TV \$10.00
Broadcasting Financial Results 1995-96
(previous years also available) \$100
disk
Broadcasting planning seminar \$15.00
Digital radio broadcasting for Australia
\$10.00
Digital terrestrial television broadcasting
in Australia Final report January 1997
\$10.00
Information package: Price-based
allocation of transmitter licences for
open narrowcasting services \$40.00
Inquiry into the future use of the sixth
television channel \$10.00
Investigation into the content of on-line
services \$20.00
Investigation into Control: CanWest/The
Ten Group Ltd – second investigation
\$40.00

Investigation into Control: CanWest/The
Ten Group Ltd \$30.00
Investigation into Control: Mr Kerry
Packer/John Fairfax Holdings Ltd;
Investigation into Control: News
Corporation Ltd/Seven Network Limited;
Investigation Report: Mighty Morphin
Power Rangers; Investigation Report :
The Daniel Yock Story; Investigation
Report: Agro's Cartoon Connection
Investigation Report: Agro's Cartoon
Connection - second investigation;
Investigation Report: Sex/Life \$10.00
each
Interim Australian Broadcasting
Planning Handbook \$75.00
Listening to the listeners radio research
\$50.00
'R' classified programs on Pay TV
\$10.00
Radio and Television Broadcasting
Stations 1996 \$40 a copy or \$65
per data disk (TV only)
Technical Planning Guidelines \$15.00
Your Say 1995 \$10.00
Your Say 1996 \$10.00

Facilities for access

The ABA maintains library facilities in the Sydney office where documents available under the Act, or documents for which access is granted under the FOI Act, can be examined. Documents may also be examined in the Canberra office by prior arrangement.

The ABA's offices are at:

Level 15, Darling Park
201 Sussex Street SYDNEY
NSW 2000
(PO Box Q500
Queen Victoria Building NSW 1230)
Tel: (02) 9334 7700
Fax: (02) 9334 7799
DX 13012 Market Street, Sydney

Blue Building
Benjamin Offices
Chan Street
BELCONNEN ACT 2617
(PO Box 34
BELCONNEN ACT 2616)
Tel: (02) 6256 2800
Fax: (02) 6253 3277

E-mail: info@aba.gov.au

Web site: <http://www.dca.gov.au/aba/hpcov.htm>

A public file on the review of the Australian content standard for commercial television is also available in the offices of Film Victoria and Film Queensland.

FOI procedures and initial contact point

Requests for access under the FOI Act must be in writing and addressed to 'The FOI Co-ordinator' and be accompanied by an application fee (currently \$30). The FOI Act provides for a reduction of the charges or non-imposition of the charges in certain circumstances. In many cases however, it may not be necessary to use FOI as the information sought may be readily available. The Manager, Media and Public Relations, in the Sydney office should be contacted in the first instance.

Correspondence on FOI matters should be addressed to the FOI Co-ordinator at the ABA's Sydney office at the address given above.

Under the procedures operating in the ABA for the handling of FOI requests, in some instances the FOI Co-ordinator may need to consult applicants for access to documents under the FOI Act. Specific instances are as follows:

- (a) to assist the applicant to more specifically identify documents that have been requested;
- (b) to give the applicant a reasonable opportunity for consultation before refusing a request on grounds of insufficient information (s.15(2) of the FOI Act) or if the request requires a substantial and unreasonable diversion of resources (s.24(1) of the FOI Act); or
- (c) to notify the applicant of the charges and the deposit that is payable, or to discuss a request that the charges be reduced or not imposed.

As at 30 June 1997, as well as the Members, the General Manager of each Division, the Branch Directors and most of the Section heads are authorised, under s.23 of the FOI Act, to make primary decisions on applications for access to documents held by their area. Generally, access is provided in the form of copies of documents.

In addition to the Members, the General Managers and the Branch Directors are also authorised to make decisions on applications for internal review of primary FOI decisions made by the ABA.

Appendix 7

Compliance index

| | Page no. |
|---------------------------------|------------------|
| Letter of transmission | p.3 |
| Table of contents | p.5 |
| Index | p.175 |
| Introduction | p.7 |
| Contact officers | p.2 |
| Corporate overview | p.16 |
| Social justice and equity | p.100 |
| Internal and external scrutiny | p.104 |
| Occupational health and safety | p.102 |
| Freedom of information | Appendix 6 p.145 |
| Advertising and market research | p.103 |
| Program performance reporting | p.23 |
| Staff | p.102 |
| SES data | p.110 |
| Summary statements | p.109 |
| Financial statements | p.161 |

INDEPENDENT AUDIT REPORT



To the Minister for Communications and the Arts

Scope

I have audited the financial statements of the Australian Broadcasting Authority for the year ended 30 June 1997. The financial statements comprise:

- Members' Statement;
- Operating Statement;
- Statement of Assets and Liabilities;
- Statement of Cash Flows;
- Schedule of Commitments;
- Schedule of Contingencies; and
- Notes to and forming part of the Financial Statements.

The members of the Australian Broadcasting Authority are responsible for the preparation and presentation of the financial statements and the information they contain. I have conducted an independent audit of the financial statements in order to express an opinion on them to the Minister for Communications and the Arts.

The audit has been conducted in accordance with Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Australian Accounting Standards, other mandatory professional reporting requirements (Urgent Issues Group Consensus Views) and statutory requirements so as to present a view of the entity which is consistent with my understanding of its financial position, the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In accordance with section 63M(2) of the *Audit Act 1901*, I now report that the financial statements are in agreement with the accounts and records of the Australian Broadcasting Authority, and in my opinion:

- (i) the statements are based on proper accounts and records;
- (ii) the statements present, fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements, the financial transactions and results, and cash flows, for the year ended 30 June 1997 and the state of affairs of the Australian Broadcasting authority as at that date;
- (iii) the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Australian Broadcasting Authority during the year have been in accordance with the Broadcasting Authority Services Act 1992 ; and
- (iv) the statements are in accordance with the Guidelines for Financial Statements of Commonwealth Authorities.

Australian National Audit Office



Russ Chantler
Executive Director

For the Auditor-General

Sydney
21 August 1997

**AUSTRALIAN BROADCASTING AUTHORITY
FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 1997**

MEMBERS' STATEMENT

In our opinion the attached financial statements present fairly the information required by the Minister for Finance Guidelines on Financial Statements of Commonwealth Authorities.


P. WEBB
Chairman
24 August 1997


G. GRAINGER
Deputy Chairman
21 August 1997

AUSTRALIAN BROADCASTING AUTHORITY
OPERATING STATEMENT
FOR THE YEAR ENDED 30 JUNE 1997

| | Notes | 1997 \$ | 1996 \$ |
|--|--------|-------------------|-------------------|
| NET COST OF SERVICES | | | |
| Operating expenses | | | |
| Employee expenses | 8,9,10 | 7 447 969 | 7 707 341 |
| Administrative expenses | 4 | 2 302 895 | 2 599 433 |
| Office rental & hire of venues | | 1 632 731 | 1 738 861 |
| Employee entitlement provisions | | 691 705 | 906 200 |
| Legal fees & associated costs | | 363 824 | 513 655 |
| Depreciation | | 421 622 | 464 118 |
| Loss on disposal of non-current assets | | 9 324 | 10 764 |
| Total operating expenses | | 12 870 070 | 13 940 372 |
| Operating revenues from independent sources | | | |
| Licence Allocation Fee | | 120 000 | 370 000 |
| Legislative review funds | | 0 | 200 000 |
| Recovery of legal costs | | 80 595 | 83 548 |
| Miscellaneous revenue | | 162 140 | 79 302 |
| Sale of publications | | 50 641 | 54 626 |
| Interest | | 71 770 | 47 126 |
| Profit on sale of non-current assets | | 2 146 | 1 695 |
| Total operating revenue from independent sources | | 487 292 | 836 297 |
| Net cost of services | | 12 382 778 | 13 104 075 |
| REVENUES FROM GOVERNMENT | | | |
| Parliamentary appropriations received | 2 | 13 000 000 | 12 324 000 |
| Liabilities assumed by government | | 0 | 1 037 010 |
| Resources received free of charge | 3 | 3 078 | 3 029 |
| Total revenues from government | | 13 003 078 | 13 364 039 |
| Surplus of revenues from government over net cost of services | | 620 300 | 259 964 |
| EQUITY INTERESTS | | | |
| Accumulated (deficit) at beginning of reporting period | | (349 668) | (609 632) |
| Accumulated surplus (deficit) at end of reporting period | | 270 632 | (349 668) |

The accompanying notes form an integral part of these financial statements.

AUSTRALIAN BROADCASTING AUTHORITY
STATEMENT OF ASSETS AND LIABILITIES
AS AT 30 JUNE 1997

| | Notes | 1997 \$ | 1996 \$ |
|--------------------------------------|-------|-------------------------|------------------|
| PROVISIONS AND PAYABLES | | | |
| Employees | 5A | 2 395 319 | 2 465 078 |
| Suppliers | 5B | <u>119 323</u> | <u>107 337</u> |
| Total provisions and payables | | <u>2 514 642</u> | <u>2 572 415</u> |
| Total liabilities | | 2 514 642 | 2 572 415 |
| EQUITY | | | |
| Accumulated surplus (deficit) | | <u>270 632</u> | <u>(349 668)</u> |
| Total equity | | 270 632 | (349 668) |
| Total liabilities and equity | | <u>2 785 274</u> | <u>2 222 747</u> |
| FINANCIAL ASSETS | | | |
| Cash | 6A | 1 604 314 | 824 802 |
| Receivables | 6B | <u>110 563</u> | <u>97 464</u> |
| Total financial assets | | <u>1 714 877</u> | <u>922 266</u> |
| NON-FINANCIAL ASSETS | | | |
| Plant and equipment | 7A,B | 906 777 | 1 050 634 |
| Other | 7C | 163 620 | 249 847 |
| Total non-financial assets | | 1 070 397 | 1 300 481 |
| Total assets | | <u>2 785 274</u> | <u>2 222 747</u> |
| Current liabilities | | 1 194 674 | 1 266 290 |
| Non-current liabilities | | 1 319 968 | 1 306 125 |
| Current assets | | 1 878 497 | 1 172 113 |
| Non-current assets | | 906 777 | 1 050 634 |

The accompanying notes form an integral part of these financial statements.

AUSTRALIAN BROADCASTING AUTHORITY
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 1997

| | 1997 | 1996 |
|--|---------------------|---------------------|
| | \$ | \$ |
| OPERATING ACTIVITIES | | |
| Cash received | | |
| Appropriations | 12 909 500 | 12 324 000 |
| Sale of goods and services | 490 410 | 698 860 |
| Interest | 72 136 | 45 642 |
| Total cash received | <u>13 472 046</u> | <u>13 068 502</u> |
| Cash used | | |
| Employees | (8 209 433) | (8 355 091) |
| Suppliers | (4 201 357) | (3 986 925) |
| Total cash used | <u>(12 410 790)</u> | <u>(12 342 016)</u> |
| Net cash from operating activities | <u>1 061 256</u> | <u>726 486</u> |
| INVESTING ACTIVITIES | | |
| Cash received | | |
| Proceeds from sales of plant and equipment | 1 470 | 1 730 |
| Total cash received | <u>1 470</u> | <u>1 730</u> |
| Cash used | | |
| Purchase of plant and equipment | (283 214) | (231 940) |
| Total cash used | <u>(283 214)</u> | <u>(231 940)</u> |
| Net cash from investing activities | <u>(281 744)</u> | <u>(230 210)</u> |
| Net increase in cash held | <u>779 512</u> | <u>496 276</u> |
| add cash at 1 July | 824 802 | 328 526 |
| Cash at 30 June | <u>1 604 314</u> | <u>824 802</u> |

The accompanying notes form an integral part of these financial statements.

AUSTRALIAN BROADCASTING AUTHORITY

SCHEDULE OF COMMITMENTS

AS AT 30 JUNE 1997

| | 1997 | 1996 |
|----------------------------------|------------------|------------|
| | \$ | \$ |
| BY TYPE | | |
| OTHER COMMITMENTS | | |
| Operating lease | 8 477 238 | 11 219 158 |
| Total other commitments | 8 477 238 | 11 219 158 |
| Total commitments payable | 8 477 238 | 11 219 158 |
| Net commitments | 8 477 238 | 11 219 158 |
| BY MATURITY | | |
| One year or less | 1 400 599 | 1 451 628 |
| From one to two years | 1 355 524 | 1 477 091 |
| From two to five years | 4 173 221 | 4 655 430 |
| Over five years | 1 547 894 | 3 635 009 |
| Net commitments | 8 477 238 | 11 219 158 |

The accompanying notes form an integral part of these financial statements.

AUSTRALIAN BROADCASTING AUTHORITY
SCHEDULE OF CONTINGENCIES
AS AT 30 JUNE 1997

There is no schedule of contingencies as there are no known contingencies.

The accompanying notes form an integral part of these financial statements.

**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 1997**

1. Summary of significant accounting policies

1.1 Basis of accounting

The financial statements are a general purpose financial report.

They have been prepared in accordance with the Guidelines titled *Financial Statements of Commonwealth Authorities* issued by the Minister for Finance in July 1997 which require compliance with Australian Accounting Standards, Accounting Guidance Releases and other mandatory professional reporting requirements (Consensus Views of the Urgent Issues Group) and having regard to Statements of Accounting Concepts.

The financial statements have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets which, as noted, are at valuation. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

1.2 Rounding

Figures have been rounded to the nearest dollar.

1.3 Taxation

The Authority is exempt from all forms of taxation except fringe benefits tax.

1.4 Property, plant and equipment

Property, plant and equipment are shown at cost less accumulated depreciation. Items purchased for less than \$2 000 are expensed in the year of procurement.

In 1996–97 the ABA commenced work on an Asset Replacement Plan which will incorporate progressive revaluation of property plant and equipment by the 'deprival' method of valuation by 1 July 1999.

All depreciable non-current assets are written off to their estimated residual values over their estimated useful lives using the straight line method of depreciation.

Gains and losses upon disposal of assets arising in the ordinary course of business are taken into account in determining the operating result for the period.

Leasehold improvements are capitalised and amortised over the unexpired period of the lease.

Non-current assets purchased during the period have been depreciated from the date of purchase.

1.5 Provision for employee benefits

Provision is made for the ABA's estimated liability for long service leave entitlements of its members and employees. The liability for long service leave represents the present value of estimated future cash flows to be made by the ABA in respect of services provided by employees up to the balance date.

A portion of the provision relating to amounts estimated to be payable within twelve months is included as a current liability and the remainder is shown as a non-current liability. Payments of long service leave are funded by parliamentary appropriation on an as required basis.

Provision is made for the ABA's estimated liability for the recreation and leave bonus entitlements of its members and employees. The provision has been calculated in accordance with the conditions laid out in Public Service Board Determination 10 of 1983 for Public Service Act staff and Remuneration Tribunal Determination 20 of 1991 for members of the ABA.

ABA employees are entitled to non-vesting sick leave which accumulates with length of service but is payable upon valid claims. No provision has been made for sick leave as, on a group basis, sick leave taken is less than total entitlements.

1.6 Leases

Operating lease payments, where the lessor effectively retains substantially all of the risks and benefits of the leased items, are charged to expense in equal instalments over the lease term.

1.7 Debtors

Bad debts are expensed as they become known. The ABA considers all debts to be recoverable and deems that provision for doubtful debts is not necessary.

1.8 Cash

Cash comprises cash at bank, cash on hand and salaries trust account.

1.9 Resources received free of charge

Resources received free of charge are recognised in the Operating Statement where the amounts can be reliably measured.

1.10 Comparative figures

Where necessary, comparative figures have been restated to conform with the current year's presentation.

1.11 Insurance

The ABA carries Public Liability Insurance and Industrial Risk Insurance.

1.12 Economic dependency

The normal activities of the ABA are dependent upon the appropriation of monies by Parliament.

1.13 Segmental reporting

The ABA is responsible for regulating commercial television and commercial and public radio in Australia. It is therefore considered that for reporting purposes the ABA operates within the one industry and within one geographical segment.

2. Parliamentary appropriations

| | 1997 | 1996 |
|---------------------------------|--------------------------|--------------------------|
| | \$ | \$ |
| Appropriation Act No. 1 1996-97 | 12 929 000 | 11 977 000 |
| Appropriation Act No. 3 1996-97 | <u>71 000</u> | <u>347 000</u> |
| Total | <u>13 000 000</u> | <u>12 324 000</u> |

The total appropriation received by the ABA to 30 June 1997 was \$12 909 500. The shortfall of \$90 500 was due to an administrative error which was not detected until after 30 June, resulting in the appropriation lapsing. The Department of Finance has agreed to provide these funds to the ABA at 1997-98 Additional Estimates.

3. Resources received free of charge

| | 1997 | 1996 |
|---|---------------------|---------------------|
| | \$ | \$ |
| Processing of salaries payments provided by the Department of Finance | <u>3 078</u> | <u>3 029</u> |

4. Administrative expenses

These consist of the following major items:

| | 1997 | 1996 |
|--------------------------|-------------------------|-------------------------|
| | \$ | \$ |
| Consultancy fees | 59 096 | 327 907 |
| Fees and Services | 185 106 | 127 801 |
| Computer services | 38 954 | 170 946 |
| Travel | 564 105 | 440 823 |
| Office requisites | 416 245 | 457 730 |
| Postage, telephones etc. | 275 645 | 307 442 |
| Repairs & maintenance | 107 723 | 86 409 |
| Incidentals | 479 193 | 553 877 |
| Minor assets | <u>176 828</u> | <u>126 498</u> |
| Total | <u>2 302 895</u> | <u>2 599 433</u> |

5. Provisions and payables**5A Liabilities to employees**

| | 1997 | 1996 |
|--|-------------------------|-------------------------|
| | \$ | \$ |
| Salaries and wages | 112 644 | 118 035 |
| Annual Leave | 816 044 | 895 793 |
| Long Service Leave | <u>1 466 631</u> | <u>1 451 250</u> |
| Aggregate employee entitlement liability | <u>2 395 319</u> | <u>2 465 078</u> |

5B Suppliers

| | 1997 | 1996 |
|-----------------|-----------------------|-----------------------|
| | \$ | \$ |
| Trade creditors | <u>119 323</u> | <u>107 337</u> |
| | <u>119 323</u> | <u>107 337</u> |

6. Financial Assets**6A Cash**

| | 1997 | 1996 |
|--------------------------|------------------|---------|
| | \$ | \$ |
| Cash at bank and on hand | 1 604 314 | 824 802 |

6B Receivables

| | 1997 | 1996 |
|--------------------|-----------------------|----------------------|
| | \$ | \$ |
| Goods and services | 20 063 | 7 464 |
| Appropriations | 90 500 | - |
| Other debtors | - | <u>90 000</u> |
| | <u>110 563</u> | <u>97 464</u> |

7. Non-financial assets

7A Plant and equipment

| | 1997 | 1996 |
|----------------------------------|-----------------------|-------------------------|
| | \$ | \$ |
| Plant & equipment - at cost | 2 829 724 | 2 869 289 |
| Accumulated depreciation | <u>(1 922 947)</u> | <u>(1 818 655)</u> |
| Total plant and equipment | <u>906 777</u> | <u>1 050 634</u> |

7B Analysis of plant and equipment

Movement summary for 1996-97 for all assets irrespective of valuation basis

| Item | Plant & equipment \$ |
|--|-------------------------|
| Gross value as at 1 July 1996 | 2 869 288 |
| Additions | 290 889 |
| Disposals | <u>(330 453)</u> |
| Gross value as at 30 June 1997 | <u>2 829 724</u> |
| Accumulated depreciation as at 1 July 1996 | 1 818 654 |
| Depreciation charge for assets held 1 July 1996 | 406 763 |
| Depreciation charge for additions | 14 859 |
| Adjustment for disposals | <u>(317 329)</u> |
| Accumulated depreciation as at 30 June 1997 | <u>1 922 947</u> |
| Net book value as at 30 June 1997 | 906 777 |
| Net book value as at 1 July 1996 | 1 050 634 |

7C Other non-financial assets

| | 1997 | 1996 |
|---|-----------------------|-----------------------|
| | \$ | \$ |
| Prepaid property rentals | 26 579 | 111 789 |
| Other prepayments | <u>137 041</u> | <u>138 058</u> |
| Total other non-financial assets | <u>163 620</u> | <u>249 847</u> |

8. Remuneration of members

| | 1997 | 1996 |
|--|----------------|---------|
| | \$ | \$ |
| Remuneration received or due and receivable by Members of the ABA: | 439 106 | 551 357 |

The aggregate of superannuations payments paid to Comsuper for members was \$22 065.

The ABA had the following number of members whose total remuneration was within the following bands:

| Band of income | Number of members | |
|-----------------------|-------------------|------|
| | 1997 | 1996 |
| \$40 000 - \$49 999 | - | 1 |
| \$50 000 - \$59 999 | 2 | - |
| \$130 000 - \$139 999 | 1 | - |
| \$150 000 - \$159 999 | - | 1 |
| \$160 000 - \$169 999 | - | 1 |
| \$190 000 - \$199 999 | - | 1 |
| \$200 000 - \$209 999 | 1 | - |

9. Related party disclosures

The following persons were members or associate members of the ABA during the 1996–97 reporting period:

| | | |
|--------------|------------------|--|
| P. Webb | Chairman | Appointed 19 April 1995 to 4 October 1997 |
| R. Scott | Deputy Chairman | Appointed 12 June 1995 resigned 18 October 1996 |
| T. O'Keefe | Member | Appointed 5 October 1992 resigned 31 March 1997 |
| | Part-time Member | Appointed 1 April 1997 to 4 October 1997 |
| K. Henderson | Member | Appointed 17 February 1995 for 5 years |
| C. Goode | Associate Member | Appointed 19 July 1995 resigned 6 April 1997 |

10. Remuneration of executives

| | 1997 | 1996 |
|--|----------------|---------|
| | \$ | \$ |
| Remuneration received or due and receivable by Executives: | 580 780 | 477 284 |

The ABA had the following number of executives whose remuneration was in excess of \$100 000:

| Band of income | Number of executives | |
|-----------------------|----------------------|------|
| | 1997 | 1996 |
| \$110 000 – \$119 999 | 2 | 2 |
| \$120 000 – \$129 999 | 2 | 2 |

11. Auditors' remuneration

External audit services were provided by the Australian National Audit Office. The audit fee for the 1996–97 financial statements is \$37 000 (1995–96 \$37 000). No payments have been made as at 30 June 1997 relating to the 1996–97 audit. No amounts were paid or due to ANAO for other services provided to the ABA during the financial year.

12. Cash flow reconciliation

| | 1997 | 1996 |
|--|---------------------|-------------------|
| | \$ | \$ |
| Net cost of services | (12 382 778) | (13 104 075) |
| Revenues from government | 13 003 078 | <u>13 364 039</u> |
| Operating Surplus | 620 300 | 259 964 |
| Depreciation of plant & equipment | 421 622 | 464 118 |
| Assets written on | 0 | (2 324) |
| Loss on disposal of plant & equipment | 9 324 | 10 764 |
| Profit on disposal of plant & equipment | (2 146) | (1 695) |
| (Increase) in receivables | (13 099) | (90 100) |
| Increase / (decrease) in employee liabilities | (69 759) | 258 450 |
| Increase / (decrease) in liability to suppliers | 8 787 | (187 920) |
| Decrease in other assets | 86 227 | 15 229 |
| Net cash provided by operating activities | 1 061 256 | <u>726 486</u> |

13. Statutory revenue

Revenue collected by the ABA under the *Broadcasting Services Act 1992* is deposited in the Consolidated Revenue Fund on behalf of the Department of Communications and the Arts.

The ABA received \$165 096 558 in licence fees for the 1996-97 collection year, which is comprised of \$154 477 551 in television licence fees and \$10 619 037 in radio licence fees.

The ABA allowed aggregation rebates of \$14 674 047 to licencees under the Television Licence Fees Regulations.

| | 1997 | 1996 |
|--|---------------------------|--------------------|
| | \$ | \$ |
| Cash Balance 1 July | - | - |
| Add: moneys collected during the year | 165 096 558 | 148 872 572 |
| Less: moneys transferred to the Commonwealth | <u>165 096 558</u> | <u>148 872 572</u> |
| Cash Balance 30 June | <u>-</u> | <u>-</u> |

Index

A

- AAT See Administrative Appeals Tribunal
- ABA Update 35, 40, 84, 97
- ABC See Australian Broadcasting Corporation
- Access and Equity Plan 15, 100-1
- Administrative Appeals Tribunal, review by 105
- Administrative Decisions (Judicial Review) Act 1977, s.13, requests for statements 108
- advertising
 - Australian content 87-8
- advice 9-10
 - anti-siphoning 10
 - digital broadcasting 39
 - government, to 30-4
 - objective, as 23
 - pay TV 9
 - sixth television channel See sixth television channel
- AFTRS See Australian Film, Television and Radio School
- anti-siphoning 10, 90-1
- ARIA See Australian Record Industry Association
- ASGs See Australian Study Groups
- Asian Broadcasting Union 27
- attitudinal research 39, 77
- Australia Council 79, 92
- Australian Broadcasting Authority
 - establishment 145
 - members 19-20
 - new members 20-1
 - organisation chart 147
 - powers and functions 21, 146, 148
 - divisions, of 148-151
 - senior management 20
 - structure 21-2, 146
- Australian Broadcasting Corporation 38, 39
- Australian content 12
 - advertising 87-8
 - commercial television, on 85
 - pay tv, on
 - investigation 9, 34
 - report 9-10, 74-6
- Australian Content on Pay TV 9-10, 74-6
- Australian content standard
 - breach 86-7
 - challenge 12, 87
 - compliance
 - current standard 85-6
 - information 34
 - previous standard 86
 - TPS 14 86
- Australian Film, Television and Radio School 39
- Australian Key Centre for Cultural and Media Policy 81, 93
- Australian Preparatory Groups 151
- Australian Record Industry Association 39, 92
- Australian Research Council 93

- Australian Study Groups 151
- Australian Subscription Television and Radio Association 82
- Availability of High Power FM Frequencies for Radio in Sydney 11, 55

B

- breach See investigations
- Broadcasting Financial Results 39-40
- broadcasting industry, liaison with 37-8, 153
 - children television issues 90
- broadcasting licence renewals 66
- Broadcasting Planning Seminar 40
- broadcasting services
 - control 67-71
 - investigations See investigations
 - monitoring 67-8
 - notification requirements 70-1
- Broadcasting Services Act 1992
 - Minister, reports to 32
 - s.5 69
 - s.18 142
 - s.21 32, 66
 - s.36 57
 - s.38A 57
 - s.39 58, 59
 - s.54(1) 103
 - s.67 69, 70
 - s.68 69
 - s.70 68, 70
 - s.73 57
 - s.74 69, 70
 - s.84 32
 - s.93 63
 - s.96 63
 - s.100 84
 - s.102 75, 76
 - s.115 90
 - s.122 88
 - s.122(1)(a) 90
 - s.123(1) 77
 - s.125 108
 - s.154(1) 145
 - s.158 45
 - s.158(g) 77
 - s.158(n) 32
 - s.212 65
 - s.215(2) 9, 75
 - Schedule 2 143

C

- C and P programs 89-90
 - classification, grant of 90
- Canada
 - agreement with 8, 24
- CanWest
 - appeal 69

investigation 12, 68-9, 105-6
notice, issue of 70
CAST See Confederation of Australian Subscription
Television
CBAA See Community Broadcasting Association of
Australia
children's television
C and P programs 89-90
classification, grant of 90
external liaison 90
research 39, 77-8
children's television industry 39, 80-1
preschool-aged children 13, 80
children's television standards 88
compliance 88-9
Classification Officers' Forum 38
classifications
C and P programs 90
provision of information 34
client liaison 94
Client Service Working Group 94
codes of practice 14, 82-4
breach, investigations into 82-4
finding of breach 125-139
no breach, finding of 118-124
research 78
Communications and Arts Portfolio 18
Community Broadcasting Association of Australia
37
community broadcasting licences
allocation 59-60
licences not yet allocated 61
temporary transmissions 64, 114-17
community television 65-6
complaints 84
Confederation of Australian Subscription Television
82
conferences, attendance at 40-4, 97
consultancies 103
consultation
industry organisations 37-8, 153
public 153
regulatory bodies 153
continuous improvement projects 94-5
control
broadcasting services, of See broadcasting
services
opinions, applications for 69-70
'Cool' or 'Gross': *Children's Attitudes to Violence,
Kissing and Swearing on Television* 77
corporate and business planning process 94
corporate overview 16-22
Corporate Services Branch 15, 22, 151
cross-media rules review 34
*Cultural Diversity and Children's Television Industry
Development* 39, 80-1

D
digital broadcasting 9, 30-2
Digital Radio Advisory Committee 31, 153
Digital Radio Advisory Task Force 9
recommendations 31-2

digital radio broadcasting 31-2
Digital Radio Broadcasting for Australia 31
digital terrestrial television broadcasting 9, 30
Digital Terrestrial Television Broadcasting in Australia
30
Digital Terrestrial Television Broadcasting Specialist
Group 9, 30
recommendations 30
Disability Action Plan 15, 95
documents
access 158
categories 154
DRAC See Digital Radio Advisory Committee
DRB See digital radio broadcasting
DTTB See digital terrestrial television broadcasting

E

education 38
EEO See equal employment opportunity
equal employment opportunity 101-2
external liaison 34-44

F

FACTS See Federation of Australian Commercial
Television Stations
FANSS See Federation of Australian Narrowcasting
and Subscription Services
FARB See Federation of Australian Radio Broadcast-
ers
Federation of Australian Commercial Television
Stations 35, 37, 38, 39, 78, 82, 84
Federation of Australian Narrowcasting and
Subscription Services 82
Federation of Australian Radio Broadcasters 35, 37,
84
financial statements 161-174
Foxtel Cable TV Pty Ltd 107-8
France
agreement with 8, 24
freedom of information
applications for review 103
costs of processing 104
procedures 159
requests 103
finalisation of 104
Section 8 Statement 145-159

G

GGREM See Groupe de Recherche sur la Relation
Enfant Medias
Golden West Network 107
Goode, Christine (Associate Member)
20
Groupe de Recherche sur la Relation Enfant Medias
14, 28
Guide to Pay TV Anti-Siphoning Provisions 91
Guidelines for 'New Australian Drama' on Pay TV 76

H

Henderson, Kerrie (Part-time Member) 19-20
Human Resources Bulletin 97

- I**
- industrial democracy 102
 - information technology 93
 - Inquiry into the Future Use of the Sixth Television Channel* 33
 - international agreements 8, 24
 - Canada 8, 24
 - France 8, 24
 - International Clearing House on Children and Violence on the Screen* 29
 - international codes 29
 - International Content Rating Group 8, 73-4
 - international exchange 27-8
 - international relations 8, 24-9
 - memoranda of understanding See memoranda of understanding
 - on-line services See on-line services
 - regulatory bodies, meetings with representatives of 26-7
 - Regulatory Roundtable for Asia and the Pacific 8, 24
 - International Research Forum on Children and Media 14, 28-9
 - aims 28
 - member countries 28
 - newsletter 28, 29
 - International Telecommunications Union 27
 - Radiocommunications Working Party 11A 27
 - Task Group 11/3 27
 - Internet
 - ABA web site 36
 - content issues 74
 - International Content Rating Group 8, 73-4
 - international regulation 8, 14
 - UNESCO, pilot study commissioned by 14, 26, 74
 - Investigation into the Administration of Complaints about Broadcasting Services by the ABA* 104
 - Investigation into the Content of On-line Services* 8, 25, 73
 - investigations
 - CanWest See CanWest
 - codes of practice, breach of See codes of practice
 - finding of breach 125-144
 - licence conditions, breach of See licence conditions
 - no breach, finding of 118-124
 - on-line services See on-line services
 - IRFCAM See International Research Forum on Children and Media
 - ITU See International Telecommunications Union
- K**
- Kids Talk TV: 'Super Wickid' or 'Dum'* 77-8, 90
- L**
- LAPs See licence area plans
 - Library 36-37
 - licence allocation 11-12
 - existing operators
 - radio 58-9
 - television 57-8
 - price-based system
 - radio 57
 - television 56-7
 - licence area plans
 - draft 47
 - radio
 - Central and South West Western Australia 50-1
 - Central New South Wales 51-2
 - Central Victoria and Central Murray 52
 - Remote Australia 46-50
 - reasons for decisions, requests for 54
 - table 47
 - television
 - Perth 54
 - Remote and Regional Western Australia 53-4
 - Remote Central Australia 53
 - Remote North East Australia 53
 - Riverland 53
 - transmitter licences 112-13
 - licence conditions
 - finding of breach 139-144
 - no breach, finding of 118-124
 - litigation
 - CanWest See CanWest
 - Foxtel Cable TV Pty Ltd 107-8
 - Golden West Network 107
 - Project Blue Sky 12, 87, 106
 - SAT FM Pty Ltd 106-7
 - Longitudinal Survey of Immigrants, input into 81, 93
- M**
- market research 103
 - media liaison 35-6
 - memoranda of understanding 24-5, 151
 - Korea 25
 - Singapore 25
 - South Africa 25
 - Taipei 8, 25
 - United Kingdom 25
 - United States of America 25
 - Minister for Communications and the Arts 21
 - music
 - young people, and, research into 13, 39, 79-80
- N**
- narrowcasting
 - code of practice 14
 - National Indigenous Media Association of Australia 37, 79
 - national services, apparatus licences for 66
 - national survey on concerns about television 13
 - NIMAA See National Indigenous Media Association of Australia
 - Nordic Information Center for Media and Communication research 29
 - NORDICOM See Nordic Information Center for Media and Communication Research
 - notices, issue of 70
 - Notifications Register 69, 71

O

- objectives
 - control of broadcasting services 67
 - expert advice 23
 - licence allocations 56
 - planning the spectrum 45
 - programming 72
 - resources 92
 - occupational health and safety 102-3
 - Office of Film and Literature Classification 38, 39
 - OFLC See Office of Film and Literature Classification
 - O'Keefe, Tim (Member) 19
 - Ombudsman, investigation by 104-5
 - on-line services 8, 25-6, 73-4
 - evaluation of regulation 81
 - International Content Rating Group 8, 73-4
 - international organisations, discussions with 25-6
 - Investigation into the Content of On-line Services* 8, 25, 73, 74
 - recommendations 73
 - research 74
 - UNESCO, pilot study commissioned by 26
 - On-Line Services Project 150
 - open narrowcasting licences, allocation of 61-3
 - low power licences 64
 - price-based system 61-2
 - radio 62-3
 - television 62
 - opinions
 - control 69
 - proposed services 66
 - outside participation, arrangements for 151-4
- ## P
- papers, presentation of 40-4
 - parliamentary committee, attendance at 34
 - pay TV
 - anti-siphoning See anti-siphoning
 - Australian content
 - investigation 9, 34
 - report 9-10, 74-6
 - new Australian drama guidelines, compliance with 76
 - personal development 95-6
 - PICS See Platform for Internet Content Selection
 - plain English policy 96
 - planning 10-11
 - Planning and Corporate Services Division 22, 150-1
 - Planning Branch 22, 150-1
 - Platform for Internet Content Selection 14, 73, 74
 - Policy and Communications Branch 22, 148-9
 - Policy and Programs Division 21-2, 148-150
 - policy network 39
 - preschool-aged children, research into 13, 80
 - prior approval, applications for 69
 - professional affiliations 97
 - Program Services Branch 22, 149-150
 - programming 72-91
 - Project Blue Sky 12, 87, 106
 - proposed services, opinions on 66
 - public information 36

- public inquiry 153-4
 - Remote Western Australia, second television service for 55
 - sixth television channel 10, 32-3
- publications 155-8
- publishing program 34-5

R

- Radiocommunications Working Party 11A (ITU) 27
- ratings, provision of information on 34
- records, classes of 154-5
- Recreational Software Advisory Council 36
- Regulatory Roundtable for Asia and the Pacific 8, 24
- research 13-14
 - attitudinal 39, 77
 - children See children's television
 - codes of practice 78
 - collaborative projects 13-14, 92-3
 - International Research Forum on Children and Media 14, 28-9
 - migrants, media usage by 81
 - on-line services 74
 - youth and music 13, 39, 79-80
 - Youth and the Media, Tomorrow conference 14, 28
- resources 92-7
- retransmissions 64-5

S

- s.125, notice to produce under 108
- SAT FM Pty Ltd 106-7
- satellite subscription broadcasting licences 70
- SBS See Special Broadcasting Services
- Scott, Bob (Deputy Chairman) 20
- Screen Producers Association of Australia 37
- seminars, attendance at 40-4, 97
- Senate Select Committee for Community Standards Inquiry into Computer On-line Services 34
- senior executive fellowship 29
- service charter 94
- sixth television channel 10, 32-3
 - public inquiry 10, 32-3
- Social Justice Statement 100
- SPAA See Screen Producers Association of Australia
- Special Broadcasting Services 38, 39, 82
- special event licences 64
- spectrum planning 45-6
- sponsorship 103
- staffing
 - numbers 110-11
 - overview 102-3
 - resources summary 109
- Standards Australia 152
- status of women 101
- subpoenas 108
- subscription television broadcasting licences 63
 - s.100 conditions 84-5

T

- Task Group 11/3 (ITU) 27
- temporary transmissions, licences for 64, 114-17

training 95-6, 102
transmitter licences, new 112-13

U

UNESCO

pilot study commissioned by 14, 26, 74

V

*Views on Viewing: Community Views about
Commercial Television* 78

W

Webb, Peter (Chairman) 19

World Wide Web site 36

Y

year in review 8-15

youth 13

music, and, research into 13, 39, 79-80

Youth and Music in Australia: a Review 79

Youth and the Media, Tomorrow conference 14, 28,
36

1994-1995

1995-1996

1996-1997

1997-1998

1998-1999

1999-2000

2000-2001

2001-2002

2002-2003

2003-2004

2004-2005

2005-2006

2006-2007

2007-2008

2008-2009

2009-2010

2010-2011

2011-2012

2012-2013

2013-2014

2014-2015

2015-2016

2016-2017

2017-2018

2018-2019

