



Under the Big Top with the ABA

AFTER much recent criticism of its closed door approach to media ownership and control inquiries, the ABA is reported to have asked the Attorney-General's Department to prepare guidelines for a public inquiry process, should the need arise.

Meanwhile, the ABA's chairman, Peter Webb, has defended the organisation's lack of investigative transparency. Webb said that while the ABA considers the need for a public hearing in every investigation, it's not something it does 'just to create a circus for people to revel in'.

The ABA has wide-ranging information gathering powers, set out in Part 13 of the Broadcasting Services Act 1992. Its principal information gathering powers are: consultation, calling for public submissions; investigations and hearings, with the ABA

having the discretion to determine the most appropriate use of its resources and powers, having regard to economic and efficiency considerations (s.168(2)).

The Act also states that Parliament intends that broadcasting services be regulated so that public interest considerations are 'addressed in a way that does not impose unnecessary financial and administrative burdens on providers of broadcasting services'.

In relation to media ownership and control investigations, the ABA has to date failed to exercise its wide-ranging information gathering powers, to include parties other than those directly involved in an investigation. The ABA has defended itself on the basis of confidentiality of information and the need to ensure that parties have confidence in the ABA to

encourage the provision of information.

In this self-informed process, the public is to be assured that the ABA is inquiring thoroughly into all issues relevant to the matter and that the objects of the Act are being promoted.

The Act is serious about financial and administrative impacts on the industry and the ABA has shown itself to be quite considerate of these concerns.

But, at what point should other public interest issues be considered? While the risk of creating a 'circus' might be real to the ABA, to the public it is apparent that a more open and transparent process can still be controlled by an effective ringmaster, one who can both allow wider public input and also manage the degrees of relevance of public issues in an investigation. □

Communications Futures - a sneak preview

LINKING every Australian to a fully interactive cable based network will cost a cool \$40 billion, according to the Federal Government's yet-to-be-released Communications Futures Project.

Carried out by the Bureau of Transport and Communications Economics between August 1993 and December 1994, the Project is one of the most thorough studies of Australia's communications needs ever undertaken. The Broadband Services Expert Group drew heavily on the report's interim findings.

It provides a layperson's explanation to technologies, drawing attention to their significance for market development.

Another of its major conclusions is that microwave and satellite rather

than cable will be the platform for pay TV until at least 2003. The Project's manager, Chris Cheah told *CU* that even at best, Telstra would be reaching just 3 million homes with cable - and not until 1998. The obvious interim measure would be MDS/DBS but, according to the report, there won't be huge profits to be made from either technology. Similarly, the report shows that there is only room for one cable network in Australia, signalling a big shakeout in the industry before too long. Following the 1997 telecommunications review, it is likely that extra satellite capacity from Asia will squeeze the cable market in Australia even tighter.

CU also understands the report will offer views on how to assess potential future universal service ob-

ligations (USOs) such as for broadband, ISDN, Internet and pay TV, although it apparently does not think any of these warrant such attention yet. Rather, an evolutionary approach is justified.

As an aside, the BTCE estimated the cost of a cable-based USO at over \$1 billion per year, compared with the \$100 million to \$200 million currently for telephony. An obvious question: where does the money come from? Taxes? Telephony subscribers?

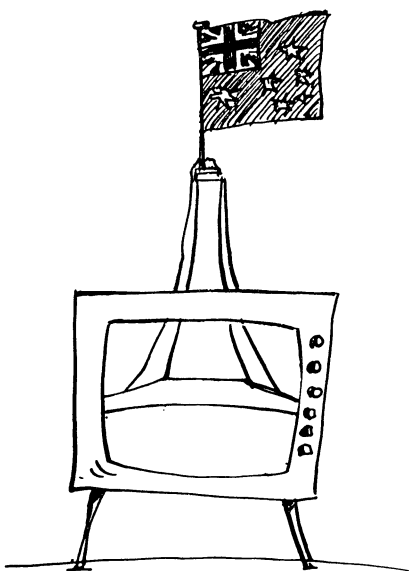
According to Cheah, the \$40 billion forecast is way beyond a 'real world' figure. The actual takeup of a full two-way cable network, is likely to be no more than 30 per cent which would be limited to metropolitan and some provincial areas which would come in at around at \$5 billion.



The Project also analysed how much the average household could be expected to spend each month on pay TV, video on demand, electronic transactions and eventually, a fully two-way network. Assuming a 100 per cent transfer of current spending on home entertainment, the average household in inner metropolitan areas is predicted to spend up to \$65 a month for a fully interactive service.

Cheah said the next decade would not see a radical departure from current trends in communications developments. The emphasis will continue to be on telephony, broadcast and personal computers. Interactive broadband services would not be part of the furniture until after 2000.

The report predicts that the top seven technologies in order of emer-



gence in the market will be: mobile communications; multichannel TV; digital telecommunications networks; business applications; on-line services; new multimedia content forms; and finally, interactive broadband.

Cheah gave the Communications Futures Project a brief airing at the Australian Telecommunications Users Group (ATUG) Conference in Sydney on 3 May.

Hopefully, the Minister will release the report soon. *CU* looks forward to giving a fuller critique of the report in future issues. □

Review of content rules on pay TV

THE ABA has foreshadowed a revision of the current rules requiring pay TV operators to spend 10 per cent of their program budgets on Australian content.

According to Deborah Sims the ABA's assistant manager, Australian content, a formal process to review the guidelines will be established soon. She said the ABA had always planned to revisit the guidelines once a pay TV industry established itself in Australia.

In May 1994 the ABA published its 'Guidelines for the implementation of the pay TV 'new Australian drama' licence condition'. Under section 102 of the Broadcasting Services Act, a subscription television broadcasting licensee must ensure that at least 10 per cent of its program expenditure is spent on new Australian drama in a year.

The guidelines address issues such as the trading of program rights, the calculation of program expenditure and provide definitions of 'new' Australian drama, 'service devoted predominantly to drama programs' and 'program expenditure'.

However, only local content which is actually broadcast is counted towards the 10 per cent quota specified under the Act.

Since late last year, the new pay TV operators have been besieging the ABA with their views on the local content rules.

The latest cannon fire has come from the vice president of Columbia Tristar Television Jack Ford who told a Sydney cable TV conference this month that the ABA's position threatens to stifle opportunities in Pay TV for new local production. Columbia

Tristar is a partner and content producer for two pay TV movie channels, Showtime and Encore, which form part of the Galaxy channel, TV1.

Ford said the present guidelines should be 'abandoned completely' as they are 'unworkable'. He also criticised the fact that no credit is currently given for research and development into new programming. Recognition needed to be given for expenditure on products which 'won't get past the drawing board, let alone onto a screen.'

'Forget all about insisting that a program must be broadcast to obtain a credit,' he said. 'Please don't inflict this on the Australian public.'

Deborah Sims said some of Mr Ford's criticisms were based on misinterpretations of the guidelines. She said free-to-air local programs had to go to air before counting towards local content quotas. Pay TV should be no different on that score, she said.

But Ford, until recently a senior communications partner with law firm Blake Dawson Waldron, indicated in his speech that if push comes to shove, court action might result.

'In my view, the guidelines are so deficient that if the ABA made a decision or purported to take some action in relation to a licensee in reliance on the guidelines, the decision or action would readily be set aside by the Federal Court'.

Under section 215 of the Act, the Minister must review the operation of the Australian content condition on pay TV by 1 July 1997, including whether the level of expenditure should be increased from 10 per cent to 20 per cent. □