Pay TV: why regulate?

Rory Sutton examines the Industry Commission paper on the continuing prohibition of pay TV being delivered to Australian households

The moratorium imposed on pay TV in 1986 technically is no more, ending in October last year. Yet the introduction of pay TV was further stalled earlier this year after Transport and Communications Minister Kim Beazley took a submission to Cabinet. It foundered ostensibly on the rock of the potential adverse effect pay TV would have on the balance of payments. The suspicion is that, in addition, there was more than a tad of political infighting and commercial pressure involved. Whatever the reasons, Beazley lost the battle, though yet may win the war, and was told to re-submit at a later date.

The irony of the 'balance of payments' argument is that the proposed carrier for pay TV is to be the fully imported, new generation of Aussat satellites. Kim Beazley's aim is to sell them to private enterprise as part of his strategy to build a strong, outward looking telecommunications industry which will survive and prosper in a global market. The proposition that Aussat should have a monopoly on the carriage of pay TV is seen as an added inducement to potential purchasers. The probability is that the successful buyer will be from overseas, with any profits presumably following the same path.

The Industry Commission's Office of Regulation Review (ORR) has provided a trenchant critique and analysis of the Cabinet's current position, a position based on a range of previous reports, reviews and it seems a predilection to continue to protect and embrace the regulated strictures of the current free to air services in Australia.

Business regulation?

In its paper *'Pay TV: Why Regulate?'*, the ORR asserts that the ongoing prohibition of household pay TV services in Australia is an extreme form of government regulation of business. It claims Australian consumers are being denied access to this service, thereby foregoing the benefits of expanded choice, and where the profit motive alone will produce the range of goods and services that most satisfies consumer preferences and enhances community welfare. Not that a public outcry demanding the introduction of pay TV exists presently.

The ORR states that pay TV should be introduced promptly and with minimum regulation. Somewhat predictably, market forces are its core tenet. Rejected is the view that Aussat should be given a monopoly as the sole carrier for pay. Rejected is the view that pay TV will affect materially the advertising revenue of the established commercial stations. The latter view, incidentally, has gained credence by the recent decision to allow SBS to carry five minutes of advertising every hour with estimates of revenue ranging between $15 to $30 million annually. Consistent with its free market philosophy, the ORR advocates an untrammelled pay TV service, without censorship, foreign ownership restrictions and without Australian content regulations.

Its only concession to regulatory forces is a recognition that radio spectrum property rights may need some protection and that there may be some danger from 'siphoning', where free to air viewers could be deprived of particular and significant programs. The ORR claims this would occur only if pay TV attained a substantial audience. It concludes that the history of costly and misdirected regulation of broadcasting and telecommunications justifies a careful approach to further government intervention in these markets.

Narrow focus

While it is difficult to dispute the 'dry' economic force of the review, it is disappointing for its narrow focus. The introduction of the Television Remote Control, or 'zapper', has revolutionised viewing habits and demands. The future appears to be 'random access' for viewers, with the opportunity to tap into a vast global video library. The technologies of fibre optic cable and signal compression foretell an access explosion for all kinds of information, including pay TV. The consequence of this may be a rapid decline of broadcasting networks as presently constituted, with the emphasis on niche markets and diversity. A dream world for 'user pay' and the smart entrepreneur.

Even if the major networks do survive, there could be significant economies to be gained from overhauling current infrastructures, such that the networks would no longer retain exclusive, but costly transmission facilities. Issues, such as compression technology, have not been addressed by the ORR, nor does it assess the opportunities for Australia to exploit its "clever country" status by developing and manufacturing its own requirements. Overall, the ORR Review essentially only reinforces the myriad of other reviews and papers supporting the introduction of pay TV into this country. It is doubtful that the Federal Cabinet has any more information now upon which to make a rational decision than it had previously.

The fear must be that Australia will miss an opportunity to be a major force in the development of a burgeoning industry. This applies especially in the Asian Region. By contrast New Zealand is an aggressive player in the pay TV market. It has introduced the service to a population of only three million. At the same time it is actively pursuing market opportunities both in Asia and the Pacific, helped by some significant partners from the U.S. The danger is that Australia could be left behind, and find itself with no say or income from any of its pay TV services. If this does occur, the outcome for the balance of payments will be gloomy indeed. It may be a case of pay now or pay even more in the long term.

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safeguard editorial freedom and integrity and reliable, neutral news. Any product placement in such programs is undesirable. Forbidding any product placement in editorial style programs makes detailed policing as to how editorial decisions have been made unnecessary, thus doing away with the risk of excessive commercial censorship.

The existing regulatory framework is only partially effective. A two tier approach is possible.

The first tier would concern programs without any editorial or objective information content: there product placement would be acceptable, as long as products were shown in a manner dictated principally by artistic or editorial considerations.

The second tier would cover editorial style programs. All advertising influence on these kinds of programs should be avoided. Therefore any kind of product placement would be unacceptable, whether it influences editorial decisions or not, and whether consideration is received or not.

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