

AUSTRALIAN CONTENT IN ADVERTISING: TPS 23

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THIS REPORT PRESENTS AN OVERVIEW OF THE COMMERCIAL TELEVISION NETWORKS' COMPLIANCE WITH TELEVISION PROGRAM STANDARD (TPS) 23 DURING ITS FIRST TWO YEARS OF OPERATION.

INTRODUCTION

A new standard for Australian Content in Advertising came into effect on 1 January 1992. The previous standards regulating this matter (TPS 18, 19 and 20) were repealed from this date. The standard resulted from an extensive public inquiry into Australian content on commercial television conducted by the former Australian Broadcasting Tribunal (ABT). That part of the inquiry specifically dealing with advertisements commenced in July 1988.

Australian produced advertisements must make up at least eighty per cent of advertising time, between the hours of 6.00 a.m. and midnight, under the standard. The objective of this standard is to ensure that the majority of advertisements on television are Australian made. This is achieved by means of a flexible regulatory system that recognises the market reality of advertising.

The previous standards (TPS 18 and 19) required all advertisements transmitted by licensees to be produced in Australia or New Zealand. As a result, regulation was more restrictive for advertisements than it was for general programming. There were, however, a number of significant exceptions to the basic requirement of TPS 18 and 19.

The major exception allowed up to twenty per cent of the duration of an advertisement to be foreign footage and sound, provided that the persons, places and events portrayed could not be photographed or recorded in Australia or New Zealand. However, up to a hundred per cent of an advertisement could be photographed or recorded outside Australia or New Zealand provided that a three-member Australian crew was sent for that purpose.

Other exceptions included test marketing where an imported advertisement could be used in a four-week campaign for a new product. This testing could only take place in markets

with one commercial television station. In addition, up to fifty per cent imported archival footage could be used in advertisements for historical works, 'part works' or biographies, provided that it directly related to the nature of the product. Advertisements for imported films, videos, recordings and live appearances by foreign entertainers could contain unlimited amounts of imported footage.

Given these exceptions, it is clear foreign advertising matter did appear on Australian television under the previous standard. However, no empirical data is available to indicate the total amount of foreign advertising in Australia since all foreign material was deemed to be 'Australian' under the standard.

Under TPS 18 and 19 completely foreign advertisements were shown on Australian television but were not recognised as such. Rather, they were classified as 'Australian' because a three-person crew from Australia was present on the set. The crew did not necessarily participate in the shoot to the degree intended by the spirit of the standard. This practice was known within the industry as 'ghost crewing'.

TPS 23 sets an objective test for what is considered to be an 'Australian produced advertisement'. Under the standard there are two circumstances in which advertisements are considered to be Australian produced.

6 (1) An advertisement is 'Australian produced' if:

- (a) it is wholly pre-produced, filmed and post-produced in Australia or New Zealand or partly in Australia and partly in New Zealand; or
- (b) if this is not the case - Australians [and/or New Zealanders] have exercised direction over the creative and administrative aspects of pre-production and post-production.

The standard provides for a system

of regulation based on advertisements actually broadcast rather than a system using the number of advertisements cleared by the Federation of Commercial Television Stations Commercial Acceptance Division (FACTS CAD). This approach recognises the different life-span of individual advertisements and the fact that some advertisements may be cleared by FACTS CAD but never appear on television.

OPERATION OF THE STANDARD IN ITS FIRST TWO YEARS

The ABT introduced TPS 23 in January 1992. It intended to review the operation of the new standard at an informal public conference to be held in December 1992. When the ABT was replaced by the ABA in October 1992, TPS 23 was carried over as an ABA standard. The ABA decided not to hold a conference on the standard but has monitored licensees' compliance with the intention of making this information available for public comment.

This report presents an overview of licensees' compliance with the new standard during the period 1 January 1992 to 31 December 1993. The ABA is interested in hearing from members of the production industry and advertisers with particular concerns about the standard.

The standard was determined on 19 November 1991 with a commencement date of 1 January 1992. However, the ABT indicated it would allow licensees adequate time to develop the systems necessary to ensure compliance with the standard. FACTS and the Seven network had their new system operational from 1 January and the Nine and Ten networks implemented their new computer systems on 8 March and 3 May 1992 respectively.

During 1992 the ABA requested information from licensees on a spot-check basis to monitor how much of

their annual allowance for foreign advertisements they had used. Results for January to August 1992 indicated the percentage of foreign advertisements was less than five per cent, well below the maximum 20 per cent. Clearance figures from FACTS CAD to the end of August 1992 showed 3.29 per cent foreign advertisements.

At the same time the ABA also took the opportunity to seek information about the mechanisms which licensees had established to ensure compliance with the standard.

COMPLIANCE WITH THE STANDARD

THE ROLE OF FACTS COMMERCIAL ACCEPTANCE DIVISION (CAD)

FACTS CAD clears advertisements prior to broadcast by television stations, ensuring that they meet the ABA's standard and other legal requirements.

Applications from advertising agencies for clearance of advertisements are processed by FACTS CAD on a daily basis. Each advertisement is determined to be Australian, Foreign, Exempt or Grandfathered (Australian but originally cleared by FACTS CAD before 1 January 1992). It is also allocated a FACTS number and an Agency Key number.

An advertisement is considered to be 'Australian produced' on the basis of complying with clause 6(1)(b) of the

The Commercial Film Production Association (CFPA) has expressed concern about the wording of the FACTS CAD form submitted by the advertising agencies. During the latter part of 1992, the CFPA stated that the wording of Question 3 on the FACTS form, by omitting all explicit reference to pre-production and post-production, is a watering down of clause 6(1)(a) of TPS 23.

Clause 6 (1) (a) of TPS 23 states:

6 (1) An advertisement is Australian produced if:

- (a) it is wholly pre-produced, filmed, and post produced in Australia or New Zealand or partly in Australia and partly in New Zealand;

Question 3, FACTS CAD form asks:

Was the commercial(s) wholly filmed and produced in Australia or New Zealand?

The CFPA argues that Question 3 should be amended to make it consistent with the wording of the standard. This would help prevent foreign commercials being inaccurately classified as Australian. The CFPA presented an example of one advertisement which had been inaccurately classified as Australian when it should have been classified as Foreign. The advertisement was subsequently reclassified as Foreign.

FACTS did not agree that Question 3 of the CAD form omits 'all reference to pre-production and post-production', FACTS maintains the existing wording of Question 3 clearly encompasses all types of production, including pre-production and post-production.

Foreign advertisements comprised three per cent of the total number of advertisements cleared by FACTS CAD during 1992. In 1993 foreign advertisements comprised 3.3 per cent of the total number of non-exempt advertisements cleared.

No distinction is made between new, revised or tagged commercials. For instance, advertisements which are identical, except for the last few seconds which contain different outlet information will be listed as individual commercials by FACTS CAD. Every change to a commercial results in a new key number and FACTS number. At present, a distinct new commercial cannot be

distinguished from a revised commercial.

In 1992 the number of advertisements cleared was marginally higher than for the previous year. This followed a large increase in the number of advertisements between 1990 to 1991. Since the figures for 1990 and 1991 do not indicate the exact number of Australian advertisements in relation to what were, in effect, foreign advertisements deemed to be Australian, it is difficult to compare the number of Australian advertisements over the three years. However, the clearance figures for 1992 and 1993 indicate that there has been no great reduction in the number of Australian commercials cleared by FACTS CAD.

There were 1011 foreign advertisements cleared in 1992 and 1115 in 1993.

The FACTS CAD Running Sheets provided further information about the foreign advertisements cleared. Given that 1992 was the first year of the new standard, the ABA decided to look at the monthly FACTS CAD clearance rates for that year and at the types of products advertised in the foreign advertisements cleared by FACTS CAD during 1993. (A complete list of the foreign advertisements cleared by FACTS during 1992 is available from the ABA on request).

Annual figures for number of advertisements cleared by FACTS CAD:

1990	30941
1991	36142
1992	36385
1993	37446

The monthly number of foreign advertisements cleared peaked at 125 in June (see graph page 9). There is no indication that there was a huge increase in foreign clearances during the year 1992. The decline after October may simply reflect a general decrease in activity leading up to Christmas and the end of the ratings period. There were only 28 foreign advertisements cleared during December 1992.

The foreign commercials cleared by FACTS CAD have been categorised by the ABA according to the type of product they advertise. There were 34 categories.

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FACTS CAD CLEARANCE FIGURES

	1992	1993
Australian	32684	32280
Foreign	1011	1115
Exempt	2690	4051
TOTAL	36385	37446

Advertisements for imported cinema films, videos, recordings, live appearances by overseas entertainers and paid community service announcements are exempt from the standard.

standard by meeting six (or more) of the 10 criteria listed in clause 6(2).

FACTS is acquiring a more effective database but the system currently in use is only able to total 'all commercials' and 'foreign commercials'.

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The largest category of imported commercials cleared by FACTS CAD during 1992 was toys, with 184 foreign advertisements (18 per cent of the total number of foreign ads). This was followed by 133 foreign advertisements for cars (13 per cent). Categories which had 50 or more advertisements included sports goods (67 advertisements), fast food (65), diet products (64) and perfume (50) (see table page 9).

The results of the first year of the standard appear to support the ABT's view that variables other than cost influence whether an Australian or foreign advertisement is used. Product type is clearly such a variable, with particular product categories such as toys, cars and sports goods accounting for approximately forty per cent of foreign advertisements cleared during 1992. It would seem some products are more 'global', whether by nature or the way in which they are marketed, than other products and services which are more culturally specific to Australia or which are promoted in that manner.

During the ABT's inquiry, the Australian Association of National Advertisers (AANA) made the point, whether for cultural reasons or because of differences in the product or brand name (or its positioning), very few foreign advertisements appear able to be used globally. Advertisers with a universal product often prefer to advertise with a

culturally specific message.

LICENSEE COMPLIANCE INFORMATION

During the ABT's Australian Content in Advertising Inquiry, FACTS identified the following elements which needed to be recorded by licensees to ensure compliance with the new standard:

- whether an advertisement is Australian, Foreign, Exempt or Grandfathered (Australian but cleared by FACTS CAD pre 1 January 1992);
- the length of each advertisement; and
- a calculation of the proportion of broadcast time occupied by foreign advertisements.

The ABT agreed that this information would allow compliance to be assessed.

Licensees are required to provide annual compliance figures including the percentage of advertising time (between the hours of 6.00 a.m. and midnight) used for Australian advertisements and the percentage used for non-Australian ('foreign') advertisements.

Given the amount of foreign advertisements used was well below the 20 per cent quota in August 1992, the ABA took the approach of only requesting compliance details for the three metropolitan networks. This approach also accords with the finding of the inquiry that non-metropolitan stations, given

their local advertising profile would, in practice, broadcast fewer foreign advertisements than metropolitan services.

The ABA believes its approach in this matter is in line with the regulatory policy of the *Broadcasting Services Act 1992* in that the ABA has not imposed an unnecessary administrative burden on service providers.

Each network has provided the ABA with a report on its compliance with the standard during 1992 and 1993. Information provided by the Nine and Ten networks for 1992 is for an incomplete year because computer systems to monitor compliance were not developed until early 1992. The Nine network broadcast an average of 4.36 per cent foreign advertisements over a period of approximately 10 months. The Ten network average over approximately eight months was 8.13 per cent.

The Seven network provided a full year figure for foreign advertisements broadcast during 1992, averaging 5.52 per cent.

From the figures provided by the three commercial networks, the percentage of advertising time occupied by foreign advertisements during 1992 and 1993 was well below the maximum allowable of 20 per cent.

Compliance figures are based on the following formula:

$$\text{FOREIGN \%} = \frac{\text{FOREIGN HRS X 100}}{\text{TOTAL HRS - EXEMPT HRS}}$$

1992 COMPLIANCE (%)

SEVEN NETWORK (FULL YEAR)

	ATN	HSV	BTQ	SAS	TVW	AVERAGE
AUSTRALIAN	94.4	93.7	94.2	94.8	95.3	94.48
FOREIGN	5.6	6.3	5.8	5.2	4.7	5.52

NINE NETWORK (8 MARCH TO 27 DECEMBER 92)

	TCN	GTV	QTQ	AVERAGE
AUSTRALIAN	95.6	94.5	95.7	95.27
FOREIGN	4.4	5.5	4.3	4.73

Figures for January and February 1992 not available due to computer software development.

TEN NETWORK (3 MAY TO 31 DECEMBER 92)

	TEN	ATV	TVQ	AVERAGE
AUSTRALIAN	92.1	91.2	92.3	91.87
FOREIGN	7.9	8.8	7.7	8.13

Information for the first 18 weeks of 1992 was not available due to the implementation of new software.

1993 COMPLIANCE (%)

SEVEN NETWORK

	ATN	HSV	BTQ	SAS	TVW	AVERAGE
AUSTRALIAN	90.9	90.8	90.7	91.0	92.6	91.2
FOREIGN	9.9	9.2	9.3	9.0	7.4	8.8

NINE NETWORK

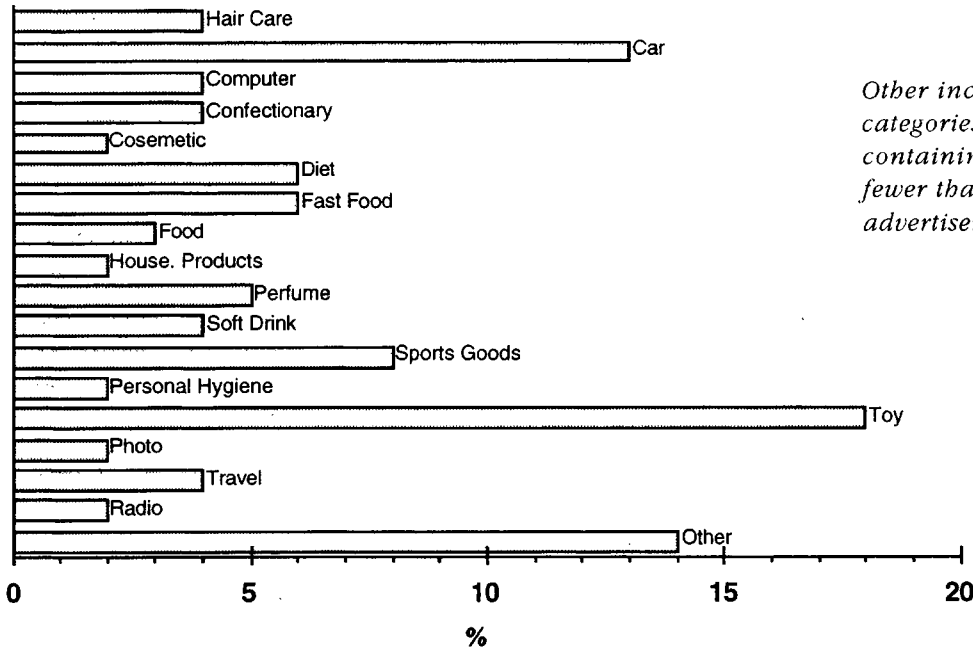
	TCN	GTV	QTQ	AVERAGE
AUSTRALIAN	93.9	94.7	94.8	94.46
FOREIGN	6.1	5.3	5.2	5.53

TEN NETWORK

	TEN	ATV	TVQ	AVERAGE
AUSTRALIAN	90.0	90.2	89.9	90.03
FOREIGN	10.0	9.8	10.1	9.96

SUMMARY

CATEGORIES OF FOREIGN ADS CLEARED BY FACTS CAD



Other includes categories containing fewer than 15 advertisements.

PRODUCT TYPE	No
Toys	184
Cars	133
Sports Goods	67
Fast Food	65
Diet Products	64
Perfume	50
Confectionary	42
Soft Drink	40
Travel	39
Computer	39
Food	32
Household Products	25
Hair Products	25
Radio Stations	19
Cosmetics	20
Photographic	18
Personal Hygiene	17
Publications	13
Pharmaceuticals	13
Fashion	11
Optical	11
Pool Chemicals	11
Telecommunications	11
Petroleum Products	10
Miscellaneous	10
Coffee	9
Credit Cards	8
Alcohol	7
Electrical Goods	7
Farm Machinery	6
Records	4
Couriers	3
Mineral Water	3
Car Parts	2

SUMMARY

Although only the Seven network could provide a complete report on their compliance with TPS 23 during 1992, all three networks reported percentages of advertising time used for foreign advertisements well below the maximum allowable amount of 20 percent. The highest network average was recorded by the Ten network with 8.13 percent.

Levels of foreign advertisements recorded by each network during 1993 are also well below the 20 per cent level set by TPS 23. The network averages for 1993 range from 5.53 percent for the Nine network to 9.96 percent for the Ten network.

During the ABT's inquiry into Aus-

tralian Content in Advertising concern was expressed about the possible impact of imported foreign commercials on the local production industry.

The CFPA argued that foreign advertisements would be at the high end of the production cost spectrum and that this would damage the local production industry. The foreign advertisements that have been broadcast, however, appear to have a broad range of production values.

Overall, information from FACTS CAD suggests that imported commercials are being used in addition to, rather than instead of, locally made advertisements.

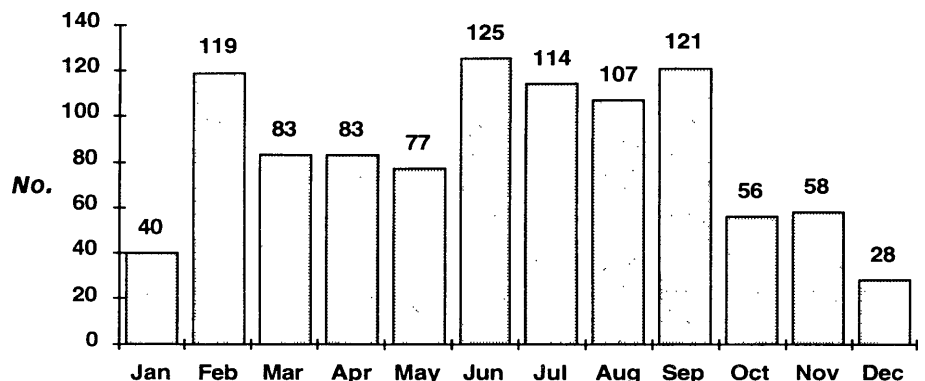
There are a number of advertisers who have used television for the first time because of the ability to use foreign advertisements. Such activity is not undermining local production because these advertisers were not previously users of Australian production facilities.

In April 1992, *Ad News* reported 'The prevalence of new advertisers and brands amongst those clearing imported footage combined with the apparent growth in total Australian production seems to point away from foreign content as a driving force behind production sector difficulties.'

The Australian Film Commission's *National Survey of Film, Television and Video Production for 1991-92* said, 'new evidence suggests that commercials pro-

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FOREIGN ADVERTISEMENTS CLEARED 1992



- ¹ *Digital Terrestrial Television Broadcasting in Australia - Issues and Options*, Australian Broadcasting Authority (ABA) Digital Terrestrial Television Broadcasting Specialist Group, November 1993.
- ² *Ibid.*
- ³ For further discussion of the relative advantages of terrestrial transmission over satellite or cable transmission, see *The Need for Terrestrial Broadcasting*, European Broadcasting Union, 22 February 1993.
- ⁴ *The Digital Revolution in Broadcasting - a Report on the IIR Conference Broadtech 1993*, Colin Knowles, Director Planning, ABA, 28-29 September 1993.
- ⁵ The Independent Television Commission (ITC) makes this point in its Discussion Document on Digital Television and includes comment about various technical issues surrounding the implementation of DTTB. For further reference, see *ITC Discussion Document on Digital Television*, Independent Television Commission, June 1993.
- ⁶ For further discussion about the systems to be adopted by the United States and Canada, see the *Second and Third Further Notice of Proposed Rule Making in the matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Services*, Federal Communications Commission, 17 September 1992 and the *Principles for Guiding Advanced Television Implementation in Canada*, Advanced Broadcasting Systems of Canada Inc, 30 April 1993.
- ⁷ *High Definition TV - a \$13bn Dud*, Ben Hills, *The Sydney Morning Herald*, 19 March 1994.
- ⁸ The ABA, for example, is currently conducting research into the public's view on current radio services and their demand for new or different radio services.
- ⁹ *ITC Discussion Document on Digital Television*, op cit.
- ¹⁰ *View of the Future*, Jean-Luc Renaud, Spectrum, Autumn 1993.
- ¹¹ As also raised by the ITC in its *Discussion Document on Digital Television* when discussing the relative advantages and disadvantages of opening up DTTB for new players.
- ¹² *Planning Broadcasting Services and Future Demands For Spectrum*, Colin Knowles, published in ABA Update, January 1994.
- ¹³ *Third Further Notice of Proposed Rule Making...*, op cit.
- ¹⁴ *Second and Third Further Notice of Proposed Rule Making...*, op cit.
- ¹⁵ *Third Further Notice of Proposed Rule Making...*, op cit.
- ¹⁶ *Principles for Guiding Advanced Television Implementation in Canada'*, op cit.
- ¹⁷ *ITC Discussion Document on Digital Television*, op cit.
- ¹⁸ *26th Annual Report*, Australian Broadcasting Control Board, 1974.
- ¹⁹ *Third Further Notice of Proposed Rule Making*, op cit.
- ²⁰ *Ibid.*
- ²¹ *Principles for Guiding Advanced Television Implementation in Canada*, op cit.
- ²² *View of the Future*, op cit.
- ²³ *The Impact of Colour Television in Australia*, Martin Koffel, 1970 and *HDTV: How, Why and When?*, Dr Joseph Flaherty, Royal Television Society Shoenberg Lecture reprinted in the *Journal of the Royal Television Society*, November 1993.
- ²⁴ Colin Knowles, General Manager, Planning and Corporate Services, ABA, May 1994.
- ²⁵ *Digital Television*, J.J. Bigeni, Australian Broadcasting Corporation, October 1993.
- ²⁶ *High Definition TV - a \$13bn Dud*, op cit.
- ²⁷ *MPEG - Development of Digital Compression Standards*, Reji Mathew and Murray Delahoy, published in *ABA Update*, March 1994.
- ²⁸ Colin Knowles, General Manager, Planning and Corporate Services, ABA, May 1994.
- ²⁹ *Third Further Notice of Proposed Rule Making*, op cit.
- ³⁰ The Communications Futures Project Second Work in Progress Paper, *Delivery Technologies in the New Communications World*, March 1994, contains a useful discussion about issues centred around set-top units, both about the likely short-term problems of different services requiring different types of units and about the mooted answer to this problem - a 'universal black box'. The paper argues that while the standardisation of set-top units might appear to provide greater consumer convenience and lower costs from higher production runs, the development of a 'universal' black box could in fact mean tripling the cost of a set-top unit and preclude other development paths in this area, most notably in the integration of set-top functions into digital television sets.



TPS 23

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duction had experienced some growth during recent years, despite the recession'.

The survey went on to say, 'the growth in the number of new commercials is estimated to be at least seven per cent' and 'the increase cannot be attributed to the inclusion of foreign commercial, which accounted for less than two per cent of CAD approvals'.

Furthermore the survey found, 'the estimate supports a value of \$315 million for commercial production in 1991-92 and revised estimates of \$305 million in 1990-91 and \$295 million for 1989-90'.

The AFC's 1992-93 survey has again

revised its estimates for the value of commercial production. The 1992-93 survey reports that indicative values for commercial production in previous years have been revised, as a result of a report it commissioned from Mervyn Smythe and Associates.

The CFPA commissioned several reports from Mervyn Smythe and Associates which were submitted to the ABT's public inquiry into Australian content in advertising.

The AFC survey states 'preliminary results indicate this sector is now smaller than previously estimated, with a total value between \$168 million and \$203 million.' The AFC adopted the mid-point of these figures, \$185 million, as the indicative value of advertising pro-

duction in 1992-93.

The ABA notes that the Australian Bureau of Statistics is preparing to conduct a service industry survey of the film and video production industry for 1993-94. This should provide information to enable a more reliable analysis of the commercial production sector of the industry to be done.



NEW DX BOX NO.

The ABA has a new DX box number:

DX Box 13012

MARKET STREET SYDNEY