



The third annual Australian Broadcasting Authority conference was held at the Hyatt Hotel, Canberra, on Tuesday 6 and Wednesday 7 May.

ABA Conference 2003

Keynote address

After introductory remarks by the ABA's Chairman, Professor David Flint, Senator the Hon Richard Alston, Minister for Communications, Information Technology and the Arts, gave the conference's keynote address.

The Minister noted that the issues that currently interest us are broadly the same as twelve months ago. He listed them as:

- Digital television and, increasingly, digital radio;
- Pay TV - particularly in the wake of the Foxtel/Optus content-sharing agreement;
- The future of spectrum management;
- Online regulation - including the complex issue of interactive gambling, and
- Free-to-air issues, including the Commercial Television Australia code review and the carriage of local content.

The Minister began by putting the Government's position on media ownership reform.

"To put it bluntly, Australia's media ownership regulations belong in the 1980s," he said.

"Australians in 2003 can get their news and information from a wider range of sources than ever before, and in an ever-increasing variety of formats.

"One in two households is connected to the Internet. Almost one quarter of households have pay TV. Digital television is a

reality. There are more community broadcast licences than ever.

"And yet we have an ownership regime designed for an age when our media choices consisted largely of newspapers, radio and television."

After providing details of the Bill currently before the Parliament and noting that all acquisitions will continue to be subject to scrutiny by the Australian Competition and Consumer Commission, the Minister said, "We continue to negotiate with various parties in the Senate - those with open minds, which does not include the Labor Party."

Of all the emerging sources of news, information and entertainment, digital television is the one that has possibly the greatest potential to reshape our expectations of the mass media, the Minister said.

"We are now in our third year of terrestrial digital television broadcasting and coverage is now available to 75 per cent of Australian homes. We are likely also to see the digitisation of our cable operators commence in the next year.

"There is no denying that, as in the US, the early take-up of terrestrial digital television here has been modest. To February this year, industry estimates are that about 53,000 free-to-air digital set-top boxes have been sold nationwide - well up from the



Above: Senator Richard Alston, Minister for Communications, Information Technology and the Arts



Above: Professor David Flint, ABA Chairman

All conference photos by Kate Callas



◁ 35,000 STBs in the market at the end of 2002.”

If consumers are to embrace digital television they need a good reason to do so. The availability of a digital signal is a prerequisite, not a reason, he said. Content is an important element, price of set-top boxes is another.

“Recent reports from the US suggest that networks there consider high definition sport to be a key driver for take up. That is good news for Australian sports junkies as our digital TV framework leaves the HD option open through an HD quota obligation which commences in the major capital cities this coming July.

“Ultimately though the task of encouraging consumers to part with their cash belongs to industry. The digital terrestrial platform is within reach of most households. And the analog networks, which already have a warm welcome in those households, are powerful vehicles for marketing the benefits of digital television. Despite threatening to do so for some months, the free-to-air have not launched a major advertising campaign extolling the virtues of digital TV.”

Whatever the market challenges arising from digitisation for existing broadcasters, facing more challenges is inevitable and may require us all to revisit our view of what the television business really is, the Minister concluded.

“We collectively chose to move to digital a few years ago and we need to maintain and even build on our efforts in coming years to be able to face those challenges.”

Compared to digital TV, which is in a state of relative infancy, digital radio is still in the gestation period, the Minister said.

A number of technologies exist with increasingly interesting possibilities. The United States favours IBOC technology, while Eureka 147 is the system presently employed for terrestrial digital radio in the UK, Canada, Europe and parts of Asia. Then there is Digital Radio Mondiale (DRM), a European digital radio system which is designed to deliver very wide coverage using the high and medium frequency bands. Finally there are digital satellite solutions. In the USA there are now two companies, Sirius and X-M, delivering around 100 channels each of subscription digital radio to US motorists (principally) using hybrid satellite-terrestrial systems. However there is a strong view that Australia does not have the market to support such a model here.

“I think it’s some years ago now that I first spoke to the commercial radio industry about the potential of digital radio broadcasting and I remain of the belief that digital radio has considerable potential for the consumer. However, it is also the case that around the world the business case for digital radio has been relatively slow to emerge. It is for these reasons that the ABA facilitated the use of spectrum for digital radio trials in Sydney by Commercial Radio Australia (CRA).

“We are keen to see the CRA trials in Sydney on behalf of both

the commercial and national broadcasters make rapid progress and I understand that some leading CRA members are almost ready to begin transmission.

“The more informed we are at the outset, the greater the prospect of making digital radio work - for Australian industry and equally importantly for Australian consumers.

“To that end, I am pleased to announce today the formation of a Digital Radio Study Group involving the Department of Communications, Information Technology and the Arts, the ABA and the Australian Communications Authority (ACA).

“This study group will analyse digital radio technologies and implementation around the world and assess their potential application here in Australia. The main task of the study group is to establish a fact base which Government can use to look at the policy issues associated with implementing digital radio in Australia. It will work in close association with industry and relevant stakeholders where necessary and as widely as possible analyse the technological and regulatory ramifications of the different technologies. I expect to receive a report in late November this year.

“It is important that we are as conversant as possible about the relative merits of alternative digital radio formats in order that we maximise the potential benefits to consumers and to industry.

“We certainly hope that the initiation of this study group will

act as a catalyst for industry and regulators towards realising the potential of this promising form of broadcast technology.”

Digital is also a big issue for pay TV in 2003, the Minister said.

Some pay TV operators already operate digital services via satellite. But digitisation of *cable* will greatly enhance the capacity of the network and allow for the introduction of interactive services and other forms of value-adding.

A significant aspect of last year’s Foxtel/Optus content-sharing agreement was the proposal by Foxtel and Optus to digitise the pay TV platform.

“The increased service options and competitive dynamic from these developments are to be welcomed and I look forward to seeing how Australians respond to the retail offering.

“As you’d be aware, the ACCC has been asked to provide advice on the wider competition implications of emerging industry structures in the pay TV sector. The Government will examine the advice with interest and will release it for independent comment as we consider any recommendations,” he said.

Another big issue looming on the horizon relates to content, with the imminent receipt of the ABA review of Australian pay TV content requirements and the revised Commercial Television Australia Code.

“One area of content over which the regulators have decided to exert some influence recently is



the provision of local news and information," the Minister said.

In the wake of its investigation showing a significant decline in the sources of news and local information on regional television since the mid-90s, the ABA has decided to impose a new condition on commercial TV licensees in some aggregated markets, requiring them to broadcast minimum levels of local news.

"As you know, the Government's media ownership Bill imposes similar obligations on regional broadcasters who are granted cross-media exemptions - though the Government obligation also applies to radio broadcasters," he said.

Regulation of online content is also looming larger as a public policy issue.

"My Department is currently reviewing the regulation of online services. We start from the view that you never achieve 100 per cent success in any area, but if you can address mainstream concerns you're a long way towards achieving success," he said.

Among the issues the review will address are:

- The overall effectiveness of the scheme including the complaints system, the industry codes and the public awareness components, including NetAlert;
- The role and effectiveness of filter technologies including whether that role can or should be strengthened;
- The application of the scheme to pornographic

spam following the NOIE report, and

- The application of the scheme to live - streamed content.

"The Government is committed to taking a strong stand against spam by sending a clear message to spammers that spamming in Australia will not be tolerated and will be punished wherever possible. So we have effectively outlawed unsolicited email and will be doing our best to ensure that our actions address the spam problem.

"Many other countries are still grappling with their response, but we will be attacking spam on several levels - combining legislation, industry collaboration, international cooperation, the assistance of partner agencies, and public education," he said.

"We want to maximise the benefits the Internet can deliver, but we also need to make it clear that this participation carries with it some element of responsibility.

"Interactive gambling is one area where this notion of responsibility comes to the fore.

"As you know, the Department is currently reviewing the Interactive Gambling Act (IGA) and several issues came up in the course of the review.

"Online wagering is not prohibited by the IGA, except where wagers are accepted after a sporting event has started. Some have argued that real-time, 'ball by ball' betting may not be the highly addictive pastime we consider it to be and should be permitted.

"Similarly online lotteries and

online sales of lottery tickets are not prohibited by the IGA. Should they be? Australian wagering and sports betting operators have also expressed concern about offshore wagering operations providing services to Australians.

"Submissions to the review have now closed. I expect the Department to report to me in the near future.

"In fact, we recently received a letter requesting that the Kingdom of Denmark receive 'designated country' status for the purposes of that Act - in other words, they want to go down the same path as Australia.

"Changes to communications technology over the past decade have had enormous implications right across communications policy - not least on policies concerning spectrum management. Digitisation, with its simulcast arrangements, and the continuing growth of wireless communications technologies such as wi-fi and 3G will put increasing pressures on spectrum usage. By the same token, in the longer term, the analog switch off will raise the prospect of potential uses for spectrum which then becomes available. Demand for spectrum is certainly not as great as in the US.

"Australia has two main spectrum management agencies - the Australian Communications Authority and the Australian Broadcasting Authority. Recently, some have questioned whether this separation is appropriate in a

convergent world, where access to content is as important as access to a delivery platform - although I think there is broad scepticism in the community about whether convergence is proceeding as well as it should.

"The Productivity Commission argued that regulation of content ought to be separated from the regulation of spectrum - in part to ensure spectrum is allocated efficiently, without reference to other policy considerations.

"Others vigorously disagree. To date, no single approach seems to have found universal favour.

"In the UK, a single agency known as OFCOM is drawing together five existing regulators.

"In the United States, the Federal Communications Commission is technically a single agency but in practice employs a range of policy approaches across its many bureaux. The FCC is currently reviewing its approach to spectrum management.

"The Department of Communications, Information Technology and the Arts released a discussion paper in August last year reviewing current institutional arrangements in Australia and flagging a possible merger between the ABA and the ACA.

"We're currently considering our response to this review, mindful of the need to come up with a solution that causes minimum disruption to the industry and to the existing planning and licensing timetable."





ABA Conference 2003

Day one

Following the Minister's address, the opening morning of the conference focussed on the latest broadcasting developments in the UK, with a look at trends in Europe and the US.. Patricia

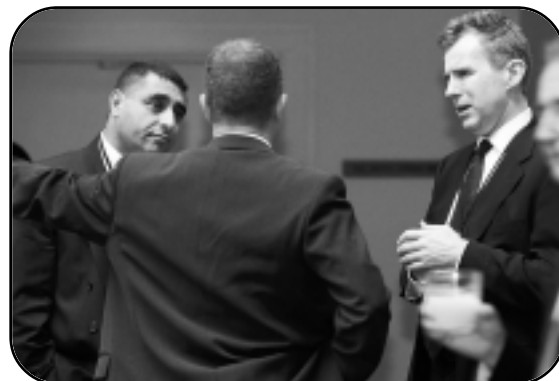
channeling and HDTV among other things. On the panel were Patricia Hodgson, Nigel Milan from SBS, Jeff Bird from Swinburne University, Chris O'Mara, Seven Network and Finola Burke, Southern Cross Equities.

The first morning was rounded out by a highly entertaining debate on the proposition that radio is more influential than television. Convened by ABA member Michael Gordon Smith, the debate featured two teams, one led by Susan Oddie, Network Ten, supporting the cause for television and the other by Fiona Cameron, DMG/Nova, talking up the case for radio. Susan was supported by Bruce Meagher, dandolo partners, Harold Mitchell, Mitchell & Partners and Paul Bongiorno, Network Ten. Fiona was supported by Tony Pilkington of 5AA Adelaide, Peter Ickeringill of

Mallison Stephen Jacques and Anne Parsons, Zenith Media.

The afternoon kicked off with two concurrent sessions - a presentation on the personal video recorder (PVR) which looked at its possible impact on the drive for digital television uptake convened by ABA General Counsel Jonquil Ritter and a session on trends in media spending convened by ABA member Ian Robertson. The media spending session had the benefit of the accumulated wisdom of Ian Atwill, AANA, Robert Morgan, Clemenger Communications, Anne Parsons, Zenith Media and Gerry Thorley, Eyecorp.

In the late afternoon sessions Julian Thomas, Swinburne University, unveiled ABA research into spectrum charging for broadcasting, Mick Geave from the BBC and Sam Hamilton, NDS spoke about the role of metadata in PVRs and to close out the day Jane Schulze of the *Australian* quizzed



Above: Networking at the conference

Julie Flynn (Commercial TV Australia), Joan Warner (Commercial Radio Australia), Deb Richards, from pay TV's peak body ASTRA, and Barry Melville




Above: Susan Oddie, Network Ten

Hodgson, Chief Executive of the UK Independent Television Commission, provided a highly informative update. ABA member Malcolm Long then chaired a panel on digital terrestrial TV, which looked at multi-



Above: Fiona Cameron, DMG Radio

(Community Broadcasting Association of Australia) on the issues facing each of their broadcasting sectors. 



Above: Jeff Bird, Swinburne University and Nigel Milan, Managing Director, SBS



Above: Debra Richards, ASTRA and Julie Flynn, Commercial Television Australia



More details, including selected presentations, can be viewed at the conference website www.aba.gov.au/conf03



Above: Joan Warner, Commercial Radio Australia



Above: Jane Schulze, The Australian



Above: Neil Byron, Productivity Commission



Above: Jonquil Ritter, ABA General Counsel



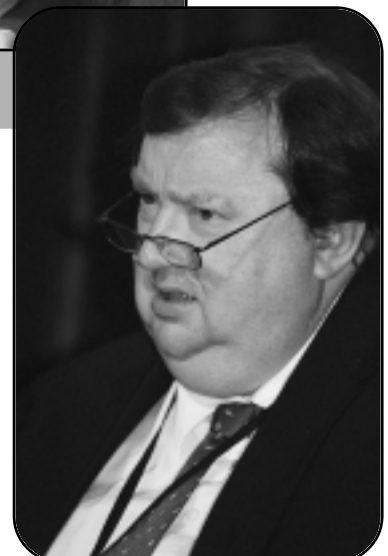
Left: Tony Pilkington, 5AA



Above: Marion McCutcheon, Murdoch University



Above: Dr Julian Thomas, Swinburne University



Above: Harold Mitchell, Mitchell & Partners



ABA Conference 2003

Day two

Day two commenced with 'The 70 Year Itch', a session on radio



Giles Tanner, ABA General Manager

issues convened by ABA General Manager Giles Tanner. The radio industry in Australia has plenty to ponder as rival digitalisation models continue to emerge in the US, Europe and elsewhere. Meanwhile, 'steam radio' (MF - AM) is encountering problems with urban encroachment on scarce transmission sites. Does AM need a conversion strategy sooner rather than later? Plus

Lee Hubber (Fbi) looked at radio's growth at the margins.

In late 2002, the ABA commissioned ACNielsen to replicate a study on violence on television conducted by the Australian Broadcasting Tribunal in 1989. A late morning session explored those results, indicating how community attitudes have changed or remained the same over the last decade (see separate story this issue).

Other sessions on day two included digital television issues facing consumers and broadcasters in remote regions, convened by ACA member and ABA associate member Bob Horton and how to achieve true interactivity in digital TV, convened by Robert Le Tet.

As delegates enjoyed lunch on the second day, media commentator Jock Given provided a wide ranging overview of events and trends in media and communications over the past year or so.

In the final session of the conference Kim Anderson, Nine Network and Patrick Delaney, Foxtel unveiled upcoming plans for programming on free-to-air and pay

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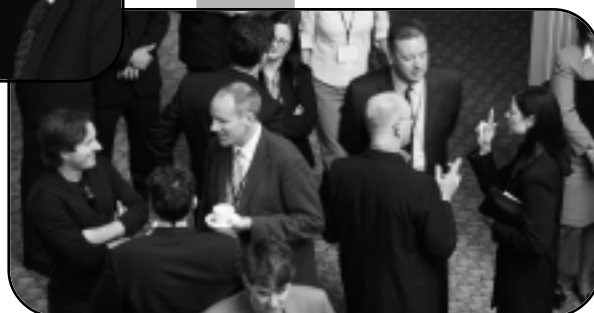
Lisa Thurston, Gilbert & Tobin



Robert le Tet, ABA member



Above: Jock Given



Above: More networking.



Jeff Astle, Digital One; Lee Hubber, I&G Media; Bob Peters (ANZ)

Right: Fred Gengaroli, Director Engineering, ABA





New media markets: the UK experience



Patricia Hodgson, Chief Executive, Independent Television Commission, UK, gave the keynote address on day one of the conference.

Part one of a three-part series

In Britain and Australia, we share:

- Common values in regulation; in particular a commitment to local programmes for local audiences;
- Strong support for public service, whether from the ABC or BBC and
- A flourishing commercial sector, witness sales around the world of *Neighbours* or *The Crocodile Hunter*

These are extraordinary times for our sector: the switch to digital, broadband roll-out, Wi-fi, 3G - the whole challenge of convergence. The opportunities are huge, but then so are the risks.

Giants like News Corp, Microsoft and Sony are shaping up for market battles on a global scale. It's not surprising, given the prizes. Microsoft's turnover, at A\$52bn creates a state within a state; a body with GDP greater (according to the World Bank) than most UN members and cutting edge technology that's certainly ahead of that available to armed forces of smaller States. It even seems

to deal on a sovereign basis with US and EU authorities.

But, as Microsoft assesses convergence - the ability to watch television on your PC or send e-mails through your television - it wrestles with whether its software expertise can be leveraged across new value chains. Or will new companies and new technologies displace that? And, of course, the price, for those who get it wrong, yields numbers as eye-watering as Third World debt. AOL-Time Warner bet the firm on a business model that looked to sell entertainment online and has so far ended up with the largest posted losses in corporate history, some A\$181bn in 2002 and, not surprisingly, a nasty executive meltdown.

These issues are as important for the rest of us as to the companies concerned. The fortunes of such businesses and the sector they drive are hugely important to our prosperity, our culture and even our democracy. Clearly, as we saw from the dot.com boom and bust and the crash of Technology, Media and Telecoms stocks that followed, the sector is on a roller coaster ride. Between May 2001 and March 2003 those

stocks lost 60% of their value in the UK and 44% in the US. How, in these circumstances, are businesses, governments and regulators to understand the industry and make the right decisions for success?

Why it matters

All this matters because communications are key determinants of economic prosperity. The UK communications sector produced £59bn (A\$163bn) turnover in 2001, and accounted for about 4% of GDP. Look at the growth rate in the second half of the 90's - an average of 16% CAGR until the 2001 bust.

The US statistics are even more staggering. A sector worth A\$1,172bn Australian dollars in 2001, contributing 3% to the country's GDP and growing during the late 90's at 10% per annum. No wonder Tony Blair and Al Gore in the US (before those "hanging chads" blighted his electoral chances) put the "new economy" at the centre of their political programmes.

Tony Blair has seen mobile phones grow in the UK from a James Bond type gizmo to a must-have for three-quarters of the population in little more than 10 years. Mobile telephony created a British world leader

in Vodafone, a company with four times the market cap of British Telecom, itself a world class company.

He saw News Corp introduce digital television into the UK through BSkyB satellite services and drive that service into a quarter of all UK homes in just 4 years. With cable and digital terrestrial now running to catch up, the UK leads the world, with digital TV in over 40% of homes.

Of course, the sector itself is only the tip of the iceberg. Good communications fuel growth in other sectors.

Information technology has been credited with growing US productivity by 2.25% per annum. Supermarkets can fill inventories as fast as the goods leave the shelves; banks can move money instantly round the world; the pace of business quickens; and it's not just business.

Over half the population, here and in the UK, have internet access at home; around 60% in the US. You can bank online, order a pizza and even vote without leaving the house - the UK is piloting on-line voting in Local Elections.

Broadband is beginning to

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New media markets: the UK experience

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happen - we recently signed up the 1 millionth subscriber in the UK. In the US, penetration at 10% must be on the verge of take-off. What fantastic potential for transforming the quality of people's lives. Broadband can turn every home into a small business or even a doctor's surgery or university lecture hall. In Britain we are using cable to enable people at home to access health information and then talk direct about their problems to a National Health nurse. Meanwhile, in the States, MIT now posts its course materials on the web.

All this is happening, by the way, in a world where half the population has never made a phone call.

In the 20th Century fortunes were made by spreading the internal combustion engine, wireless and fixed telephony

round the world. In the 21st Century it will be digital communications, so we need to encourage our trailblazers. Of the top 25 communications companies in the world, eight are American. Britain has two in the top 25, Vodafone and British Telecom; and would have three if the BBC were capitalised. Australia has Telstra and News Corporation. And News Corp is a company whose roots here have positioned it well to take market share in China and the Far East.

It's not just the economic prizes. The sector matters because communications underpin our culture as well as our economy. Text messages via mobile phones create a new language for the young. Apparently, a 13 year old in Scotland handed in her school essay in mobile phone-speak. She found it easier than English!

The internet creates global communities around special interests from surfing to genealogy, and broadcasting is as powerful a shaper of our minds and imaginations as it ever was. It's just that in a global market place, capturing that imagination is more complex.

But it certainly matters. It matters, whether you are trying to sell goods and services to consumers, enrich the cultural life of your people or win the battle for hearts and minds across the Middle East. The countries that manage their communications sectors well stand to boost their economies, inform their citizens and substantially improve the quality of life.



Parts two and three of Patricia's speech will appear in the July and August issues of ABA Update.

ABA finds no breach in relation to control of 2GB and 2CH

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and, to a lesser extent, 2CH. Mr Jones is clearly in a position of influence regarding management of Macquarie Radio and it is likely his influence will increase over time.

The ABA scrutinised the correspondence between Mr Jones and Mr Buschman covering the period from March to October 2002, and explored the role of Mr Jones during its private examinations. This included whether he was in a position to control a significant proportion of programs on 2GB and 2CH, or a significant proportion of the operations of the stations or whether he was able to exercise direction or restraint over the management of Macquarie Radio. Ultimately, for the reasons set out in this report, the ABA concluded on balance that Mr Jones' role at 2GB did not place him in a position

to exercise control over the 2GB and 2CH licences prior to 24 October 2002.

Conclusions about the matters for investigation set out in the Terms of Reference

The ABA has concluded that Mr Jones did not acquire any company interest requiring disclosure to the ABA prior to 24 October 2002. The ABA has concluded that Mr Jones and companies associated with him came to be in a position to exercise control of the 2GB and 2CH licences on 24 October 2002 as a result of the dividend interest notified to the ABA, and not as a result of any other company interest or matter that might place a person in a position to exercise control.

Further, the ABA has concluded that there has been no failure by any person to comply with the requirements of section 62, 63 and 64 of the *Broadcasting Services Act*

1992 in relation to circumstances by which Mr Jones and his associated companies come into a position to exercise control over the 2GB and 2CH licences.

The ABA is satisfied that there is no evidence to suggest that any offences have been committed under the *Broadcasting Services Act 1992* in connection with the notification requirements of the Act or in other dealings with the ABA in relation to the matters dealt with in this report.

For the reasons set out in the report, the ABA is of the opinion that the 2GB and 2CH licences remain suitable licensees as required by the conditions of their licences.

Accordingly, the ABA is satisfied that it should take no further action as a result of the investigation.

