



The ABA conference 2004 brought together the best of Australia's the world's communications industry leaders. There was lively and well-informed discussion, and there were claims and counter-claims. A breath of fresh air, including some from foreign climes, has blown into the current policy debates.

Lyn Maddock, ABA Acting Chair, introduced the conference. This is an edited extract from her speech.



ABA CONFERENCE 2004

We have been holding this conference annually for the last few years to offer a forum for discussion of issues facing all of us. It is a time when we want to listen to you on any and all matters relating to policy, regulation and planning in broadcasting.

We have come through a somewhat tumultuous year but it has also been a very productive year, and we look forward to further significant and positive change in the coming 12 months.

The last 12 months have not been quiet. There are some common themes in our activities: for example, we are starting to

One of the big matters facing us will be ... whether existing regulatory measures ... aimed at achieving a clear distinction between editorial comment and advertising material [are] adequate

use audits to supplement our complaints-based approach where any non-compliance is unlikely to be visible to the audiences. We do this to gain assurance that self-regulatory systems are working without putting us all to the cost and disruption of major investigations. We expect to continue this approach focusing on areas where non-compliance is likely to be a serious problem, but not visible to audiences.

We also try to ensure that we operate in a way that is flexible, one in which we attempt to mix and match the tools at our disposal – encouragement, persuasion, oversight, sanctions crafted to particular outcomes and mandatory sanctions – to the circumstances at hand.

We are mindful in this of the need to preserve the relationship that is at the core of co-regulation – that between the service provider and the viewer or listener.



Stephen Carter

Conference photographs by Kate Callas



The next 12 months

Codes of practice are the underpinning of our regulatory framework and we will be working on these for radio, the Internet industry and community television.

One of the big matters facing us will be the issue we identified when we examined the Telstra sponsorship of the *Alan Jones Program*. We indicated at the time of the report, that we wanted to examine whether existing regulatory measures – those aimed at achieving a clear distinction between editorial comment and advertising material – were adequate, and whether extra safeguards were needed with respect to accuracy and fairness in current affairs programs when an issue involved the sponsor of the program. These are not easy issues to address for a radio industry that has both rich and poor stations, the urban specialist stations and the rural generalists, in which the line between current affairs and entertainment becomes ever more blurred.

We will continue to deal with convergence issues such as mobile telephony, and it is these areas where the need for flexibility and use of all the tools in our kit may well be necessary.

For the large number of reviews of digital policy underway over the next 12 months or so, we will be called upon for a range of technical inputs, as well as dealing with the multitude of issues which arise through the rollout of digital free-to-air services and subscription television digitalisation.

We also expect other issues to arise, or gather steam, which are indicators of the changes the industry is undergoing. Some are:

- the internationalisation of content services, including the delivery of subscription services from offshore
- the requests for access to the spectrum for new types of services not currently covered by our regulatory framework
- the relevance of a complaints process based on licence areas when programs are overwhelmingly networked
- other tensions arising from geographic licence areas in an increasingly linked system, such as the role of using local content in such a linked, centralised system.

For these types of issues we must understand and prepare for the future, and this conference is an important part of that process, and try to insure that individual day-to-day decisions that we make don't impose undue restrictions on those future developments. For while we make no attempt to predict the future, we must be 'future aware' in the way we work.

One of the largest issues that we think will need to be addressed in this context is the style of regulation we administer.

In a world in which technology is charging ahead and business strategies are exploring new opportunities unthought of until recently, a regulator must take particular care not to be a brake on those developments. At the same time it must ensure compliance with the underlying objectives of government intervention in this area.

To maintain that balance in an unpredictable world, the availability of a range of powers and sanctions assumes greater relevance with a consequent obligation on us to be open, consistent and accountable.

The coming merger

There is the overriding issue of the coming merger of the ABA and the Australian Communications Authority – a restructuring that, over time, may help us become more efficient in our operations and to cope more effectively with convergence.

A co-regulatory system such as ours copes with changing technology and business approaches better than a more directive regulatory regime. Increasingly, as convergence has proceeded, we and the ACA have had to manage issues in close consultation, without necessarily having a clear idea



Peter Yates

of where regulatory responsibility might ultimately lie. The 3G phone content issue is the current most striking example of where we, the ACA and the Department of Communications, Information Technology and the Arts have worked closely on defining the desired policy and regulatory outcomes without the certainty of where some aspects of formal responsibility might or should lie. An effective outcome will still be reached but it is time consuming and heavily reliant on good will.

The merger will enable the new agency, the Australian Communications and Media Authority, to deal with this and the myriad of similar issues which will arise, both more efficiently and in a way which looks to the future.

Our task in preparing for ACMA is to ensure that all those necessary administrative elements are in place for the start up,

the availability of a range of powers and sanctions assumes greater relevance with a consequent obligation on us to be open, consistent and accountable

and to ensure that the incoming Board has information and options before it that will enable it to move quickly to put in place the structures and policies it wishes to.

ACMA will have the good fortune to be starting out as the digital reviews are being finalised and we will, of course, take these into account in our preparation.

And for the future I am sure that the ACMA will want to have some ongoing forum for discussion of the types of issues on our agenda.

I hope this conference will be stimulating, I hope it will be

thought provoking and I hope it will be fun.

And I hope that it will not just concentrate on our issues as a regulator: those of you running a business in this sector will be facing a related but different set of issues. If we are to be 'future aware' we also need to have a good understanding of those.



Bob Horton, (centre, left) confers with Robert Le Tet