

- pay particular attention to technological convergence and the possibility of multi-channel re-transmission facilities involving both radio and television services;
- concentrate on two time frames
 - medium term future (1988 to 1997)
 - long term future (1997 onwards)
- not recommend options or ar-

gue for particular policies, but identify the implications of adopting particular systems for Government policy; and

- not operate as an inquiry and not seek submissions from interested parties.

The Unit, which is headed by Mr Peter Westerway, is to report by 30 June, 1985.

Robyn Durie

CASE NOTES

Saatchi & Saatchi Compton (Vic.) Pty. Limited v Australian Broadcasting Tribunal and Actors Equity 23 November, 1984.

Young & Rubican Cowdrey Pty. Limited v Australian Broadcasting Tribunal 8 February, 1985.

These two cases both concern the power of the Australian Broadcasting Tribunal ("ABT") to determine "standards" in connection with television advertisements.

The ABT purports to determine standards pursuant to s100(4) of the Broadcasting & Television Act, which provides:

"(4) A licensee shall comply with such standards as the Board determines in relation to the televising of advertisements".

The ABT has published Television Standards and, in paragraph 39 of those Standards, requires that all television advertisements must be produced in Australia, but may include a proportion not exceeding 20% of the duration of the advertisement of pictorial matter photographed outside Australia or sound recorded outside Australia with various provisos and conditions.

The ABT sought to investigate an advertisement prepared by Saatchi & Saatch (the advertising agency) which included foreign produced material. The agency sought a review of that decision under the Administrative Decisions (Judicial Review) Act.

Beaumont J held that the reference to "standards" in s100(4) only permitted standards relating to the quality of the product, rather than its quantity. In his Honour's view, in the exercise of its powers under s100(4), the ABT may regulate the content what is regarded as socially desirable or acceptable, but may not restrict the location at which television advertisements may be produced to sites within Australia, because that restriction does not purport to deal in any way with the quality of what may be televised.

Accordingly, the ABT had no power to enforce a determination of standards pursuant to s100(4).

Interestingly, his Honour apparently conceded that the ABT could impose conditions in terms of paragraph 39 of the Television Standards to any relevant licence which it may issue, pursuant to the ABT's powers under s16(1)(e). In the present case, it appears that no such condition was imposed by the ABT on any licensee.

In the Young & Rubican case, the advertising agency unsuccessfully sought interlocutory orders against the ABT, restraining it from seeking to prevent the broadcasting by television stations of a foreign made advertisement for Volvo motor vehicles. The Volvo advertisement did not comply with the ABT's standards since it contained more than 20% overseas content.

The ABT had sent a telex to
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7. finally recommended that the Secretariate consider the desirability of extending the studies also to the rights of performing artists.

Victoria Rubensohn

Case Notes

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television commercial licensees indicating that if the Volvo commercial was televised, the matter would be considered by the ABT at the next review of the particular station's licence. Although the ABT sent a subsequent telex making it clear that, in view of the Saatchi & Saatchi decision, it was a matter of individual judgment as to whether, pending the outcome of an appeal of that decision, the commercial should be televised, Morling J found that the licensee should not have any uncertainty in Saatchi's case pending the hearing of an appeal to the Full Court.

The ABT has appealed from the decision of Saatchi & Saatchi to the Full Court and that matter should be heard in the near future.

However, the Australian Government has indicated that it will, if necessary, amend the Broadcasting & Television Act to empower the ABT to make Television Standards regulating content of programmes, in order to overcome the Saatchi decision. The precise terms of any amendment have not been disclosed. However, it would seem that prompt legislative action will be taken, in the event that the Full Court affirms Beaumont J's decision. Stephen J. Menzies

Freedom of Information - Peter J. Byrne

This recently published book is an analysis of the Commonwealth Freedom of Information Act and the Victorian Freedom of Information Act. As well as providing an explanation of the provisions of the Acts, it includes a practical guide to using them. (The Law Book Company Limited)

BOOKS IN BRIEF

The Rights of Journalists and Broadcasters - Geoffrey Robertson and Andrew Nicol.

This book is a comprehensive guide to media law in the United Kingdom. Although parts of it relate to areas of law where Australian law has diverged from that of the U.K., such as contempt of court, official secrets and company law, there is still in the book a large amount of material which is of interest and assistance to Australian practitioners. These areas include defamation, obscenity, breach of confidence and copyright.

As those who are familiar with the hypotheticals run on the Channel 9 "Sunday" program are aware, Geoffrey Robertson is highly articulate. He, together with his co-author Andrew Nichol, has produced a book which not only conveys an immense amount of information without becoming stodgy, but is also extremely readable. (Oyez Longman)

The Law of Intellectual Property - Staniford Ricketson

This book was published late last year and was written by Sam Ricketson, a senior lecturer in law at the University of Melbourne. It is the only comprehensive guide to industrial and intellectual property in Australia and is useful both as a student's text book and for practitioners. Despite the numbering system so dear to the heart of the Australian publishers, this book is also easy to read and contains useful sections dealing with areas such as the relationship between intellectual property rights and consumer protection under the Trade Practices Act 1974, the registration of business names and a comparison between the new UK Patent Act and our current Australian Act. It is lengthy (over 1200 pages) but an invaluable tool. (The Law Book Company Limited)