

Pay TV: A new policy for Australia

Kim Beazley outlines the Government's plan for the regulation of pay TV

Pay TV is to become an integral part of a package of reforms in broadcasting foreshadowed by the Prime Minister during the 1990 election. As you know the draft enabling legislation for pay TV services is contained in the Broadcasting Services Bill. The Bill is not, I stress, a final Government position: it is the basis on which wide-ranging public consultation can be undertaken. However, there are some fundamental building blocks within it which deserve attention.

The community and the industry must realise how different pay TV is from free-to-air TV.

Free-to-air TV has been the most successful mass entertainment media in history and will continue that dominance in mass audience reach well into the 21st century. But there has always been widespread consensus that the viewers need government intervention to fully protect their interest.

Often this has been by way of regulation, to guarantee adequate and comprehensive cover or to ensure Australian content. That is because it is the viewers who have always been the goods on sale in the commercial TV market, rather than the programs. It is the advertisers who have been the consumers, and they measure the value of their purchase by the cost per thousand reached, not the quality or quantity of the programs on air.

Pay TV is different. It is a new market place for programs, somewhat like a retail shop. The individual viewer chooses whether to buy and which products are bought. The monthly subscription returns should give a clear indication of individual levels of satisfaction with types of programs in a way not hitherto possible in television. Unless the program package is very different from free broadcasting, the public will not pay for something they can obtain by simply turning on their TV sets.

The regulation must recognise this difference. We must not make easy assumptions about this new service, based purely on radio and TV experience.

Considerable Risks

The Government knows the considerable risks in starting a new business on the scale of a national, satellite delivered pay TV service. It will need a group of people with vision, great skills and very long pockets, to assist at the birth of this new



industry. But there is also a tremendously exciting opportunity on offer. There is no longer any reason why entrepreneurs should not be given an opportunity to balance the risks against possible gains.

It is because the Government recognises these risks that it has decided that there will be a single four channel national pay TV licence in the first instance. The timing of the allocation of rights to any further channels will be a matter for Government consideration. It is also in the viewers' interest to have certainty about the supply of the service as they are making threshold decisions as to whether to buy new receiving equipment and subscriptions.

Although most Australians will get to know subscription TV through the national pay service, the exposure draft leaves the way open for niche services. This is an opportunity for community language services which would not be viable on a national scale and also for highly localised operations and the licencing regime will reflect this.

At this stage it appears technologies, other than the satellite, cannot provide large scale TV services for subscription. If the pace of technological change quickens over the next few years, the draft rules should provide enough flexibility for any necessary adjustments.

Licensing

Through the licence allocation process, the Government expects to hold detailed talks with potential service providers as a necessary part of setting workable licence conditions.

The allocation of rights for the four channel pay TV service on Aussat will be a price based allocation process. I wish to proceed as soon as possible with the sale, but licence allocation cannot be concluded until the enabling legislation is in place.

My present thinking is that we would proceed as with the sale of Aussat and the second telecommunications carrier licence. We have learnt that this process has positive features in this type of sale, particularly in gathering industry information to enable practical licence conditions and selection criteria to be set.

We should be advertising early in 1992 for expressions of interest in providing a four channel satellite service, as the first stage of the process. Further stages could include a request for proposals and a formal information memorandum from the Government, before the final tender process is concluded.

Existing broadcasters have argued that pay TV will undermine their audience base and affect revenues. But even without competition from pay TV, average weekly viewing declined in the 1980s as viewers sought out their own alternatives to a night in front of free-to-air programming.

However, as a safeguard, the five year advertising moratorium gives existing broadcasters ample time to resolve their current predicament and adjust to new and emerging services such as pay TV. Indeed, the decision enables some diversification of their broadcasting operations to aid in that adjustment.

Ownership Rules

There is a limit to which existing broadcasters will be able to diversify their operations into pay TV. I might emphasise at this point that a limit of 25 per cent has been imposed, not because of some Government paranoia about any media ownership. There is a principle at stake here about the risks to society from insufficient diversity of ownership in the media if pay TV is not structured to encourage new participants. The Government also has an eye towards adverse effects on business competition.

The Government has already acted to cap foreign ownership in commercial TV because of television's pervasiveness and power to influence. But pay TV is, as I have said, different. After five years it will reach probably only 20 per cent of

households, and even then the audience will be spread over four channels.

But the Government is also conscious of the substantial capital resources a pay TV operation will require and that severe limits on foreign equity could lead to additional foreign debt, particularly since there may be only a limited pool of Australian investment funds. Banks are certainly a lot tougher these days on broadcasting finance. A venture into pay TV could be enhanced by the equity, experience, technical expertise and access to program material overseas companies could contribute.

The Government considers that it is in the national interest to ensure majority Australian ownership for pay TV. However, this is a new industry with an as yet undetermined structure and market base. Specific limits could jeopardise the industry's viability if they were locked in, at the wrong level, before the Government had the opportunity to discover more details of that market.

After the expressions of interest phase, the Government will set the limits for both aggregate cross media ownership and foreign ownership and either legislate them, or make them part of the licence conditions to be enforced by the new Australian Broadcasting Authority.

Delivery Technology

The Government has made an in-principle decision that pay TV delivery technology should be, to the greatest extent possible, a matter for commercial decision.

Nevertheless the Government sees considerable national benefits in establishing common in-home electronics infrastructure that receives and manages decoding and subscription services. This would minimise consumer equipment costs and minimise the likelihood of the emergence of a technological barrier to entry for future market participants. This is why the Government, with the involvement of AUSTEL, will be seeking to get together with the industry after the allocation process for the four channel satellite service has been finalised to settle on a transmission system which will optimise those benefits to the nation.

The Government will also expect the successful four channel licensee to develop a local industry package to minimise the involvement of Australian industry in the development of pay TV. This should not be difficult.

Program Siphoning

One issue which seemed to be reported widely during the recent public debate over pay TV was the issue of program

siphoning. There is no doubt that Australian television audiences are accustomed to watching key sporting and cultural events of national significance. The Government considered this should continue to be the case.

We were also aware that pay TV could also open up new markets for some sporting events that now get little free-to-air coverage such as softball, netball or baseball. It should also provide more coverage for existing sports, which have only limited coverage, like Sheffield Shield cricket.

Rather than prohibiting pay TV from acquiring any rights to events of national importance and cultural significance, the Government sought to facilitate the wider coverage of events by only banning pay TV from the *exclusive* rights to events on a special list before free-to-air broadcasters have purchased them. This would allow pay TV services to have access to programming but would not prevent non-subscribers from receiving important events on free-to-air TV.

This list would be promulgated by the existing Minister for Transport and Communications, and I would imagine could include such events as the Melbourne Cup, the Commonwealth Games and football grand finals. However, I expect that any public opinion on the contents of the list will be expressed during the public consultation phase on the new Broadcasting Services Bill. We must make it clear to potential pay TV operators which events are to be protected under the anti-siphoning provisions.

I also fully expect rumours of sport disappearing will circulate regularly but the Government intention is clear: Pay TV is designed to augment free-to-air sports coverage.

Australian Content

Australian content on pay TV is another important issue. The Government believes Australian content is an essential component in fulfilling its broadcasting objectives. There is evidence that audiences have a preference for Australian drama, sport and news. I expect pay TV to achieve a high level of Australian content, from its inception, on any sport and news channels. Where coverage of cultural events or educational programming is part of the package, it will also need Australian content to build subscriber interest. This will provide employment opportunities for presenters, reporters, producers and camera crews.

I believe pay TV will also provide an additional outlet for Australian drama, often seen as the leading edge of programming which explores the Australian identity. Producers will be able

to sell their programs to both pay TV and free-to-air TV, knowing they have a bigger range of customers. Many programs produced in Australia for pay TV will also have significant export potential into a world market where the expansion of TV channels (largely subscription) is leading to a demand for programs that Hollywood will not be able to satisfy.

Regulations for a minimum level and diversity of Australian content has been applied to free-to-air broadcasting to ensure that television reflects an Australian identity and Australian cultural values. The regulation also provides a degree of security for the Australian production industry.

But the Government has to take into account the direct contractual relationship between pay TV subscribers and program providers: if viewers don't like programs across the four channels they will not subscribe. Therefore pay TV is, more akin to hiring a video or buying a magazine. The Australian content policy must reflect consumers' greater influence. This is already the challenge for producers and programmers watching what happens in the video shop and cinema.

The Government also understands that in the early years when it has only a small subscriber base, pay TV will be financially limited in its capacity to commission much in the way of the more expensive drama programs — as broadcasters were limited at the start of television.

With no experience of pay TV in Australia, there is the potential for misallocation of resources if mistakes are made in trying to guess the viability of the industry and subscriber demand.

In these circumstances, the Government saw the benefit in determining any prescribed level of Australian content when more is known about the cost structure of the pay service. This is why it is more appropriate that the Australian Broadcasting Authority should consider the Australian content requirements for pay TV, when it is clearer what sort of programming is under consideration.

But there is no question of the Government's commitment to the role of pay TV in deepening the resource base for Australian programming. We must all learn as we go how best to do this.

This is the edited text of a 15 November 1991 address given by Kim Beazley, then Minister for Transport and Communications, to a Pay TV conference in Sydney.