

Competition and Pay-TV

Andrew Windybank won the 1995 CAMLA Essay prize with this article which examines and analyses competition issues in Pay-TV.

On Sunday night the 27th October 1956, Bruce Gyngell appeared on Australia's first official television broadcast from the TCN-9 studios in Sydney. So began the first age of television in Australia. When Galaxy Multi-Channel Television ("Galaxy" began subscription television ("Pay-TV") broadcasting in both Sydney and Melbourne on the 26th January 1995, Australia entered the second age. In contrast to the excitement that surrounded the introduction of free-to-air television, according to one AGB McNair survey, 36 per cent of the population are not interested, and a further 27 percent are only slightly interested, in paying for more television programming. And yet Pay-TV is here to stay. By October 1995 well over 400,000 Sydney homes had the option of linking to the Foxtel cable network, and a similar number may choose to access Optus Vision.

In this rapidly changing environment, the government is taking a "wait and see" approach to the regulation of the Pay-TV market. A combination of clear deficiencies in the provisions for regulation of Pay-TV under the *Broadcasting Services Act 1992* (Cth) ("the BSA") and an unwillingness on the part of the Australian Competition and Consumer Commission ("The ACCC") to take action under the *Trade Practices Act 1974* (Cth) ("the TPA"), has seen the development of two major players in the Australian Pay-TV industry. It is becoming increasingly clear that Optus Vision and Foxtel will be the only real competitors in the Australian Pay-TV market.

Broadcasting Services Act - Provisions for Pay-TV

The BSA, according to its Second Reading Speech (at 3599) was introduced in response to the need for simplification of the former legislation and to allow the broadcasting industry to respond to "the complexities of the modern market-place

and the opportunities created by technological developments". Section 3 of the BSA declares that the objects of the Act include, *inter alia*, the provision of "a regulatory environment that will facilitate the development of a broadcasting in Australia that is efficient, competitive and responsive to audience needs". This broad statement accords with Australia's national competition policy. However, the provisions for "Subscription Television Broadcasting Services", Part 7 of the BSA, do little to regulate competition between the various players in the Pay-TV industry.

Competition in the broadcasting services industry has been regulated by placing limitations upon ownership and control of broadcasting Licences. Encouragement of diversity in the ownership and control of commercial Broadcasting services, has been effected by the imposition of limitations upon persons in the control of the relevant commercial Broadcasting Licences (Part 5). By regulating the ownership and control of these Licences, specifically by limiting the extent of foreign ownership and the concentration of media ownership, the BSA seeks to promote a competitive broadcasting services industry. In the case of subscription television however, the BSA does not regulate the notion of "control" in nearly as much detail. Part 7 of the BSA was conceived at a time when the Australian government planned to broadcast pay television via satellite and the ownership and control provisions do little to stimulate competition in an industry which is now dominated by non-satellite Pay-TV delivery systems.

Part 7 of the BSA - "Subscription Television Broadcast Services".

Part 7 of the BSA regulates the allocation of both satellite and non-satellite Pay-TV Licences by the Australian Broadcasting Authority ("the ABA"). The ABA is only prohibited from

allocating a Licence if the applicant is not "suitable" or is not an Australian company (s.98(2)). These requirements do not reflect a great concern for the BSA's object of promoting competition because the ABA will effectively allocate a Licence if the applicant can pay the Licence Fee. The ability to pay for a Licence does not necessarily procure an ideally competitive market because only those applicants with the alliances necessary to generate the economies of scale for the efficient delivery of Pay-TV services will bother applying for Licences. As will become apparent, this effectively limits competitors to the "media giants".

It is clear from the focus of Part 7, and from the fact that the BSA defines the only "subscription television satellite" as the Optus (formally AUSAT) satellite system, (s.6 definition) that the government envisaged a satellite delivery system for Pay-TV broadcasting services. Section 93 of the BSA provides for the allocation of three satellite subscription television Broadcasting Licences pursuant to a "price based allocation" (s.93(1)) scheme which specified the precise terms for allocation. It is clear therefore that there is a more extensive regime of conditions for satellite services than non-satellite services, with the effect that Part 7 deals inadequately with the allocation of Licences for the alternative "non-satellite" distribution methods.

Non-Satellite Broadcasting Systems

Although not clearly specified, s.96 outlines the procedure for the allocation by the ABA of "other subscription television Broadcasting Licences" which includes the allocation of all "non-satellite" Licences. "Non-satellite" Licences are to be issued on the basis of one Licence per service/channel until 1 July 1997. Licences can now be allocated without restriction, as the statutory moratorium on allocation prior to 31

December 1994 has expired (s.96(3B)). They are issued upon "application in writing", and "must be accompanied by the application fee determined by the ABA" (s.96(4)). This process is relatively simple compared to the complexity that surrounded the satellite Licence cascading bid system.

There are several "non-satellite" Broadcast systems that may be used for Pay-TV broadcasting. The BSA does not specifically refer to all of the alternatives, but the Explanatory Memorandum to the *Broadcasting Services (Subscription Television Broadcasting) Amendments Act* (Cth) 1992, which inserted Part 7 into the BSA, identified "Cable" as an alternative method of pay-TV delivery. In addition, the *Broadcast Services Amendment Act* (Cth) 1993 introduced a definition for "MDS systems" (multi-point distribution systems), which is defined in section 6 as a system for transmitting radiocommunications on a frequency or frequencies within two specified bands of megahertz (s.6 definition). These two delivery systems are the most viable non-satellite alternative in terms of cost and efficiency.

As at 23 February 1995, the ABA had allocated 20 MDS and 789 Cable subscription television broadcasting Licences under s.96 of the BSA. All of the MDS Licences have been allocated to Star Vision Pty Ltd which is a wholly owned subsidiary of Australis Media Pty Ltd ("Australis"). Of the 225 MDS spectrum allocation that had been made by the Spectrum Management Agency, over 87% have been made to companies associated with Australis. Thus it can be said that Australis holds nearly all of the Licences required to deliver Pay-TV via MDS technology.

The parties holding satellite subscription Licences are allowed to use other satellites or alternate capacities to deliver subscription television programming for the purpose of ensuring that, "as much of Australia as possible is covered by those services" (s.116A). Already Australis, the holder of satellite Licence B, has commenced broadcasting via MDS capacity, and has announced plans to deliver exactly the same

broadcast package of eight channels via satellite capacity from September 1995. The BSA does not specifically regulate the competition issues that are associated with the potential for delivery of the same broadcast material by more than one capacity, and notwithstanding the various amendments that have been made to the BSA since 1992 in an attempt to update the legislation, it is clear that the regulation of Licence ownership is relatively elementary.

Ownership and Cross Media Rules

Part 7 of the BSA does not adequately regulate the extent to which existing broadcasters and foreign broadcasters should be allowed to participate in "non-satellite" Pay-TV broadcasting. This is particularly problematic as the issue was debated at length in both the parliamentary and public arenas. There are relatively specific provision for the ownership and control of satellite Licences but only foreign ownership requirements are specified for non-satellite Licence holders.

Division 3, Subdivision B strictly limits the categories of people who are allowed to be in a position to control the company to which satellite Licence A is allocated. Three categories or class of persons are disqualified from obtaining more than a 2% interest in the company holding the Licence pursuant to sections 106, 107 and 108. The three categories of persons are not excluded from taking an interest in satellite Licence B. The only other restriction in relation to satellite Licence ownership is that the owner of satellite Licence A must have company interest in Licence B of more than 2% and must not be in a position to control that Licence (s.110).

All Licences, both satellite and non-satellite, are subject to foreign ownership limitations pertaining to company interests pursuant to s.109. It is important to remember that the foreign ownership limitations are the only restrictions for non-satellite Licence allocations.

The Shortfalls of Part 7 of the BSA

Despite the claim that the provisions of Part 7 cover non-satellite transmission facilities, which includes MDS and cable, both the provisions for Licence and the application of the cross-media rules to Pay-TV are inadequate to deal with the current and future state of the industry.

Generally the objects of the BSA, pertaining to "diversity of control" (s.3(c)) and "competition and efficiency" (s.3(b)) will not continue to be met unless the present regulatory environment for Pay-TV is tightened. However, it may be too late as technology has now developed to a point where it can be "sold" to consumers, and the leading providers of Pay-TV have already acquired the relevant Licences.

Convergence of technology, which in the case of subscription television is manifest in the quantity and quality of video, audio and data information that can be carried digitally on the same network and then merged with relative ease, has brought about the, "breakdown of traditional boundaries between broadcasting, telecommunications and radiocommunications, computing and the entertainment industry."¹ The phrase "multi-media" encapsulates the notion of convergence, which is clearly a reality to the players in each of the two main subscription television consortiums (Foxtel and Optus Vision) as audio-visual broadcasting might (film and television) has been combined with each of the two general telecommunications carriers (see Appendix A).

Cross-media links in Pay-TV have developed at an extraordinary pace over the past six months, and although it is not directly the role of the BSA to regulate the anti-competitive effects within the relevant market, the allocation of Pay-TV broadcasting Licences could have been used to limit the ownership of non-satellite capacity, in much the same way as ownership of the three satellite Licences was regulated. It is submitted that, not only does the legislative framework clearly favour satellite delivered Pay-TV, but the BSA has failed

to adequately regulate the distribution of non-satellite Licences. In much the same way as Australian print media is characterised by a concentration of ownership, the Pay-TV industry is already divided into two distinct camps (see Appendix A). Both Optus Vision and Foxtel are planning for the future by installing co-axial and fibre optic cable networks, and because these delivery systems are likely to be taken up by the majority of Pay-TV customers, based on the programming power of each consortium, Part 7 will remain hopelessly inadequate for market regulations.

The Role of the ACCC under the BSA

The regulatory structure of the BSA has been identified as a scheme for the promotion of competition in the ownership and control of broadcasting media. Freedom of competition between subscription television services is to be encouraged, under Part 7 of the BSA. That regulatory scheme operates in tandem with the Part IV provisions of the TPA which will limit merger activity and agreements that substantially lessen competition within the broadcast industry.

Specifically, pursuant to section 97 of the BSA, the ACCC is provided with a role in the process of subscription television Licence allocation. Before the allocation of a satellite (s.39) or non-satellite (s.96) subscription television Licence, the ABA must request that the ACCC provide a report which is to advise whether the allocation of the Licence to the applicant would contravene section 50 of the TPA and not be authorised under section 88 of the TPA if the applicant had applied for such an authorisation (s.97).

The ACCC has an obligation therefore, to define the relevant market and determine whether the acquisition of a Licence has the effect of "substantially lessening competition" in that market. Prior to allocation of the three satellite Licences, the applicants were reviewed and the Commission formed the view in each case that the allocation of the relevant Licence was unlikely to have the effect on substantially lessening

competition. It is not clear how much investigation has been undertaken by the Commission into the holders of non-satellite licences.

Since each of the Commission's reports into the allocation of satellite licences were drafted, circumstances in the Pay-TV industry have altered dramatically, giving rise to major competition issues relating to both the vertical and horizontal arrangements forged as Licences prepare to deliver Pay-TV broadcasting services. Importantly, many of the agreements that have already been struck between potential competitors may have breached provisions of Part IV of the TPA as well as section 50.

Part IV of the Trade Practices Act - Application to Pay-TV

The ACCC has acknowledged that the pay-TV market is dynamic and that the structure of the market is likely to change dramatically over the first few years after its inception.² The emergence of Optus Vision and Foxtel has caused the initially disassociated Pay-TV players to align themselves with one of the two camps, casting doubt over the level of competition that will actually be achieved when subscription television is in full swing.³ There is sufficient evidence at the present time to suggest that the future of Australian pay-TV, and associated cable access services which at this time are viewed as having unlimited potential, will be characterised by an oligopolistic market dominated by two major players.

The TPA provisions of particular relevance are sections 45, 46 and 50. Section 45 prohibits a corporation from making or giving effect to a contract or agreement or understanding containing a provision which has the purpose or would have to be likely to have the effect, of substantially lessening competition. Section 46 prohibits the misuse of market power by corporations which have a "substantial" degree of power in a market, while section 50 prohibits mergers and acquisitions which would have the effect of "substantially lessening competition in a market."

In assessing the application of the TPA provisions, the first step is of the relevant market. In *Queensland Wire Industries Pty Ltd v Broken Hill Pty Co Ltd* (1989) 167 CLR 177, Mason CJ and Wilson J stated (at 187) that:

"In identifying the relevant market, it must be borne in mind that the object is to discover the degree of the defendant's market power. Defining the market and evaluating the degree of market power in that market are part of the same process, and it is for the sake of simplicity of analysis that the two are separated.

Although this decision dealt with the application of section 46, it has been noted (in *AG (Cth) v Davids Holdings Pty Ltd* (1993) ATPR 41-226, at 41, 121) that similar considerations arise under section 50 in determining the potential for dominance in a market, and the approach has been applied in other Part IV cases.

In *Re Queensland Co-operative Milling Assoc Ltd ("QCMA")* (1976) ATPR 40-012 the Trade Practices Tribunal identified five "elements of market structure" that ought to be taken into account when examining the level of competition in a given market. These elements included the number and size of independent sellers, the height of barriers to entry, the extent of product differentiation, the character of vertical relationships with customers and with suppliers, and the nature of any arrangements which restrict the ability of firms to function as independent entities. The likely current and future positions of the two Pay-TV consortiums will be determined by reference to these elements of market structure.

The functional elements of the Pay-TV industry have already been identified by the ACCC in the reports on the allocation of satellite licences. These functional elements provide a framework for determining the competitive effect of changes in the Pay-TV industry and give rise to a number of potential markets including a retail "product market" - in which the broadcasting services are delivered to subscribers; a "programming market" - in which different types of programming are supplied to the broadcaster, a "delivery system market" -

in which broadcasters must choose between alternate transmission technologies; a "subscriber management market" in which subscriber information is provided to the broadcaster; and a market for "decoding equipment" necessary for subscribers to receive the Pay-TV broadcast.

Individual markets within the Pay-TV industry are now beginning to take shape. It is clear that cable delivery will dominate the Pay-TV industry despite the existence of an MDS delivered service and the earlier preference, as evidenced by prevailing government policy, to introduce Pay-TV services via satellite. Similarly, both Optus Vision and Foxtel have secured a variety of programming types to meet the demands of the specialised programming markets that are expected to develop (see Appendix A). Other associations developed by the two consortiums include agreements with subscriber management service providers and decoding manufacturers. For this reason it is appropriate to identify an overarching "service or product delivery market" in which the retail Pay-TV product is delivered to consumers.

The approach of dividing the Pay-TV industry into functional elements, which give rise to separate markets, may ignore the all-encompassing nature of the industry. Because each of these markets are inextricably linked, any analysis of the competitive effects with the industry ought to consider relationships between the functional elements rather than each individually. A merger or arrangement struck in one of the markets enables a competitor to leverage another market in order to gain competitive advantage. It is therefore artificial to view the industry as anything other than an aggregate market.

Determining the Level of Competition with the Pay-TV Industry

There are several aspects of the Pay-TV alliances that may give rise to a breach of the Part IV provisions of the TPA. In particular, it is likely that recent developments constitute a breach of either section 46 or 50 of the Act. For section 46 the relevant threshold requires a corporation to have "a substantial degree of power in the market". This

requirement is not simply concerned with percentage market shares, but depends on the market structure, as market power is determined from the relationships between market participants. For the purposes of section 50, the relevant competition test is whether the acquisition "would have or be likely to have the effect of substantially lessening competition in a market". The ACCC will make its assessment having regard to those factors identified in section 50 (3) a specific matters to be taken into account in order to determine the effect of an acquisition upon competition and again the structure of the market is highly relevant.

Recent changes in the structure of the Pay-TV industry may be divided into: (1) horizontal dealings; and (2) Vertical dealings.

Horizontal Dealings

There are two developments which suggest that the ACCC would be justified in investigating the anti-competitive effects of horizontal dealings between Pay-TV players. There has been a dramatic reduction in the number of delivery licence holders and in the number of programming packages that will be available to consumers.

When that the ACCC considered the allocation of the satellite Licence B in New World Telecommunications Pty Ltd, the Commission argued that there were a number of factors that would "tend to lessen the potential anti-competitive effect of Australis Media acquiring New World" (*Licence B Report*, at 19). Since that report however, there have been a number of developments that have strengthened rather than lessened the anti-competitive effect of Australis gaining control of the Satellite B Licence. Australis Media presently holds the majority of MDS transmitter Licences throughout Australia, and in particular, has concentrated ownership in Sydney (11 of the 12 available) and Melbourne (11 of the 13 available). Australis controls satellite Licence B and has successfully negotiated with the holder of satellite Licence A to enable it to commence the Galaxy broadcast package via satellite from September 1995. This arrangement eliminates any rivalry between satellite and MDS delivery

systems. In addition, because Galaxy is owned by Australis Media, which in turn has a 20 percent equitable interest in Foxtel, it is submitted that there is potential for competition to be limited even further when cable delivery of Pay-TV commences in October 1995.

The series of arrangements that have been formed between program providers may also greatly reduce the level of competition in the programming market as defined by the Commission. Although no definite conclusions can be drawn without examining specific programming agreements, it is submitted that there is substantial evidence to suggest that the Australian consumer will have a choice between at most three different program packages (See Appendix A). More importantly, now that the majority of programming providers have aligned themselves with either Foxtel or Optus Vision, the height of barriers to entry have been dramatically increased suggesting that the choice of programming is not likely to increase.

These changes indicate that it ought to be easier for the ACCC to intervene in horizontal arrangements between Pay-TV players as there appears to be evidence to support a finding of misuse of market power, particularly if the market is defined broadly as the Pay-TV product delivery market.

Vertical Dealing

Vertical relationships may give rise to a breach of Part IV of the TPA where there is market power at a particular functional level that is used for anti-competitive purposes in other upstream or downstream markets. This exercise of market power is likely to occur where a service provider is able to leverage market power (often attained as a result economies of scale acting as a market barrier) into the one of the other relevant Pay-TV markets.

Member program providers within each of the two Pay-TV consortiums will probably have individual interests in the Pay-TV channel to which their programming is supplied. For example, Channel Seven's procurement of exclusive sporting rights to the Optus Vision consortium has given the network a 30% interest in the proposed sports

channel. It also appears likely that the two Pay-TV consortiums have access to many of the types of programming that form the basis of a Pay-TV broadcast package and therefore cover nearly all of the potential programming markets. However, there are areas of programming deficiency in both camps that may give rise to exclusive arrangements designed to gain a monopoly in the provision of that service.

In the case of Foxtel for example, there is a distinct lack of local Australian sport. The "Superleague" will probably provide winter Australian sport, but it may be the case that other Australian sport, for example the Sheffield Shield Cricket rights (owned by the Nine Network), or Australian Rules Football rights (owned by Channel Seven), will not be available because Optus Vision will wish to retain exclusive coverage. Similarly, Foxtel may have a dominant market position in relation to movie rights through the Fox Studio movies and the potential movie programming available through Australis Media's American equity partners which between them have access to various US film rights including productions from Paramount, Columbia Tri-Star, and MCA-Universal Pictures. Exclusive dealing arrangements of this sort may constitute a breach of section 47 or section 46 of the TPA. The Commission must therefore continue to monitor the types of deals that are struck between the equity partners on Optus Vision and Foxtel.

Another important vertical relationship issue that may arise is the extent of any agreements or relationships between Pay-TV broadcasters and free-to-air commercial television networks (*Licence B Report*, at 20-21). Professor Allan Fels has raised concerns about the link between free-to-air and Pay-TV broadcasters, indicating that there are circumstances under which the ACCC might seek to block such partnerships. Initially, in mid 1995, ACCC took the view that free-to-air television would provide a major potential constraining effect on the exercise of market power by Foxtel and Australis and allowed the Foxtel Australis alliance to proceed. Only months later, the deliberations of the ACCC over the proposed

Foxtel-Australis merger reveal that the Commission is not convinced that Pay-TV and free-to-air television are in the same market. The situation is further complicated by the relationship with the telephone market and the broadcast services market.

The BSA provides a basic framework for the allocation of licence for both satellite and non-satellite broadcasting technology. Unfortunately, the Act focuses almost entirely upon satellite delivery Pay-TV. As convergence has become a reality, and the two telephony carriers have committed to installing coaxial and fibre optic cable networks, satellite is already viewed by many as an outdated delivery system for Pay-TV broadcast services. In addition, the BSA does not specifically regulate to limit licence allocation to individual applicants by imposing specific requirements such as restrictions on the number of licences and cross media associations allowed per applicant. As a result the BSA has been ineffective in regulating competition within the Pay-TV industry.

Although Part IV of the TPA applies to the Pay-TV market to prohibit acts which substantially injure competition, the ACCC has not adequately addressed the potential impact that convergence will have on that market. In most cases this is because the scope of potentially anti-competitive agreements is not yet clear. It is submitted however that there is sufficient information available to suggest that: (1) competition in the product market will be dominated by Optus Vision and Foxtel; (2) merger of Australis and Foxtel will further lessen competition in the product market; (3) the industry will be characterised by concentration of ownership and high barriers to entry; and (4) free-to-air participants in Optus Vision will be obliged to contribute programming. The findings of the ACCC in each of the satellite licence reports are thus outdated and the current situation warrants further investigation by the Commission into potential breaches of Part IV of the TPA.

The regulatory scheme offered by the BSA in conjunction with TPA is not tight enough to prevent economies of scale driving together companies that will operate to provide entertainment services to the exclusion of smaller players. Until

such time as the BSA is amended to cover the rapidly changing technological environment, it is open to the ACCC to alter the structure of the Australian Pay-TV market. In the future both Optus Vision and Foxtel will command market power at every functional level of the Pay-TV market because of their links to the two cable networks. As interactive services become commonplace, cable access will force satellite and MDS technology out of the product delivery market, and a new competitor will have to buy cable access to customers' homes from the consortiums. With the prospect of the cost of access being prohibitive, the ACCC should act now to prevent the market becoming a duopoly at every functional level.

Andrew Windybank is a solicitor with Phillips Fox.

APPENDIX A

The two major players in Australian Subscription Television are:

Optus Vision - Optus, Continental Cablevision (the third largest US cable company), Nine Network (Australia's largest television network), and Seven Network (Australia's second largest television network).

Ownership:

1. The Seven Network joined Optus Vision in late April 1995, taking 2% share in the company with an option to go to 15% before July 1997.
2. Seven took a 30% stake in Optus Vision's sport channel.

Programming:

1. Seven brings rights to AFL Football, international Rugby Union matches involving Australia, Tennis, Golf, Motor Sport and every event of the 1996 Atlanta and 2000 Sydney Olympic Games to the Pay-TV group.
2. The Nine Network, owned by Kerry Packer, is to provide access to the ESPN world wide sports network.
3. The Nine Network has news rights (CNN and NBC).

- Both Seven and Nine have substantial movie rights and movie libraries.

Other Service agreements:

- Australis has in place a technical service agreement with Lenfest which provides assistance in relation to the selection and operation of a subscriber management system.
- Optus Vision has signed an \$185 million deal with ADC Telecommunications for the supply of advanced digital decoding equipment.

Foxtel - News Limited, Telecom (Australia's dominant carrier) and Australis Media (major Australian MDS and Cable licence holder).

Ownership:

- Australis has the Lenfest Group (a mid-sized cable company), Liberty Media (a US cable television programming company) and Tele-communications Inc (the largest US cable company) as equity partners.
- Australis is also believed to have achieved breakthrough programming negotiations with the holder of Licence A satellite licence.
- Telstra purchased 22.5 million shares in Australis, with an option to spend another \$357 million on Australis shares. News Corporation also undertook to acquire 25.5 million convertible notes in Australis. These transaction give Foxtel a 20 percent equity stake in Australis.
- Telstra has a 50% shareholding in Foxtel.

Programming:

- Australis Media has the option to provide a basic channel programming package, as it is currently via it's Galaxy TV service, as well as some big movie rights including films from paramount, Columbia Tri-Star, and MCA-Universal Pictures (supplied from its American partners).
- Fox studios will provide movie programming.

- News Limited has formed the "Super League" (to start in 1996) and "Super Rugby" (10 year television rights to Southern Hemisphere competition) but lacks the sport programming of Optus Vision.

Other Service Agreements:

- News Limited has "targeted the potentially huge market for equipment in homes that receive Pay-TV signals" by contracting with a company to supply decoding equipment.
- There is "a suggestion" that Foxtel will get the subscriber management business.
- Telecom already has extensive customer profiles which could be used for the development of the subscriber management business.

Australis Media Limited

- The following companies as equity partners in Australian Media Limited:
 - Lenfest Communications ("Lenfest") - a mid-sized US cable company;
 - Liberty Media Inc ("Liberty") - a US cable television programming company;
 - Tele-Communications Inc ("TCI") - the largest US cable company with 30 million cabled homes in the US.
- Lenfest has approximately 15% interest in Australis Media.
- Lenfest is also the parent company to a number of American subsidiary companies which are involved in related industries, including digitally compressed satellite transmission services, microwave and satellite uplink facilities, and a satellite delivered interactive music video service (StarNet).
- Lenfest is 50% owned by a subsidiary of Liberty Media Inc. Liberty has interests in a number of US programming networks including:
 - Black Entertainment Television (18%)
 - Encore (90%)
 - Home Shopping Network (42%)

- International Family Entertainment (15%)
- QVC Network (28%)
- Prime Sports Channel Network (39%)
- Court TV (33%)
- Video Jukebox Network (11%)
- Liberty Media is in turn 50% owned by TCI.
- TCI has interests in a number of US programming networks:
 - Turner Broadcasting Systems (22%)
 - Discovery Communications (49%)
 - The Sega Channel (33%)
 - CNN (22%)
 - Learning (49%)
 - Cartoon (22%)
 - TNT (22%)
 - E! (10%)
 - Headline News (22%).

The Other Players in Australian Pay-TV are:

Continental Century - to which Century Communications (a mid-sized US cable company and cellular phone operator) is an equity partner.

CTV - to which United Holdings Inc. (a mid-sized cable company) is an equity partner.

Access Cable - to which Douglas Communications Corp (a mid-sized US cable company) is aligned.

Rawson/Cox Joint venture - to which Cox Cable Communications (the fourth largest US cable company) is an equity partner.

- Hardy, C., McAuslan, M. and Madden, J. "Competition Policy and Communications Convergence" (1994) 17(1) UNSWLJ 160.
- Report by The ACCC on The Allocation to Subscription Television Broadcasting Licence B to New World Telecommunications Pty Limited, Canberra, 15 December 1993; Report by The ACCC on The Allocation to Subscription Television Broadcasting Licence C to Ambridge Pty Limited, Canberra, 27 June 1994. These reports will be cited as "Licence B Report" and "Licence C Report" respectively.
- The ABC, which holds satellite Licence C, and an assortment of other potential broadcasters, still remain in the Australian Pay-TV industry but their ability to compete effectively has to be doubted given the economies of scale that will be generated by Optus Vision and Foxtel/Telstra.