



COMMONWEALTH OF AUSTRALIA

SENATE

Official Committee Hansard

ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS LEGISLATION COMMITTEE

**Reference: Television Broadcasting Services (Digital Conversion)
Bill 1998 and Datacasting Charge (Imposition) Bill 1998**

FRIDAY, 5 JUNE 1998

CANBERRA

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SENATE

**ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS
LEGISLATION COMMITTEE**

Friday, 5 June 1998

Members: Senator Patterson (*Chair*), Senator Schacht (*Deputy Chair*), Senators Allison, Eggleston, Lightfoot and Lundy

Substitute members: Senator Tierney

Participating members: Senators Abetz, Bartlett, Bolkus, Boswell, Bourne, Brown, Calvert, George Campbell, Carr, Colston, Coonan, Cooney, Crane, Faulkner, Ferguson, Harradine, Hogg, Lightfoot, Mackay, Margetts, Murphy, Neal, O'Chee and Tierney

Senators in attendance: Senators Colston, Eggleston, Lightfoot, Lundy, Patterson, Schacht and Tierney

Terms of reference for the inquiry: Television Broadcasting Services (Digital Conversion) Bill 1998 and Datacasting Charge (Imposition) Bill 1998

WITNESSES

**GILBERTSON, Mr Graeme John, Managing Director, South East Telecasters Ltd, 51
John Watson Drive, Mount Gambier, South Australia 5290 153**

**WESTON, Mr Dion, Chief Executive Officer, Spencer Gulf Telecasters, 76 Wandearah
Road, Port Pirie, South Australia 5540 153**

**MILAN, Mr Nigel, Managing Director, SBS, 14 Herbert Street, Artarmon, New South
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**SHARP, Ms Chris, Policy Manager, SBS, 14 Herbert Street, Artarmon, New South
Wales 169**

**SOOTHILL, Mr David, Director, Communications and Planning, SBS, 14 Herbert
Street, Artarmon, New South Wales 169**

**BELL, Mr Anthony Edward, Managing Director, Southern Cross Broadcasting
(Australia) Limited, 41-49 Bank Street, South Melbourne, Victoria 3205 181**

**DRAFFIN, Mr Garry, Chief Executive Officer, Telecasters Australia Limited, Level
8, 1 Elizabeth Plaza, North Sydney, New South Wales 2060 181**

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RUSHTON, Mr John Illingworth, Chief Executive Officer and Managing Director, WIN Television Network, Locked Bag 8800, South Coast Mail Centre, New South Wales, 2521	181
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Committee met at 9.08 a.m.

Matter referred by the Senate:

Datacasting Charge (Imposition) Bill 1998 and the Television Broadcasting Services (Digital Conversion) Bill 1998.

GILBERTSON, Mr Graeme John, Managing Director, South East Telecasters Ltd, 51 John Watson Drive, Mount Gambier, South Australia 5290

WESTON, Mr Dion, Chief Executive Officer, Spencer Gulf Telecasters, 76 Wandearah Road, Port Pirie, South Australia 5540

CHAIR—I declare open the second public hearing of the Senate Environment, Recreation, Communications and the Arts Legislation Committee on the Television Broadcasting Services (Digital Conversion) Bill 1998 and the Datacasting Charge (Imposition) Bill 1998. The committee prefers that evidence be given in public, but should you at any stage wish to give your evidence, part of your evidence or answers to specific questions in camera you may ask to do so and the committee will consider your request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate.

I welcome the representatives of Spencer Gulf Telecasters and South East Telecasters. The committee has before it submission No. 9, which it has authorised to be published. Are there any alterations or additions you would care to make at this stage?

Mr Weston—Yes. I have some bound copies here which I could provide to you of a more elaborate submission based on the very preliminary statement that we provided by the deadline last week.

CHAIR—Thank you. Do you wish to make a brief opening statement? And I mean brief.

Mr Weston—Yes. Basically, we represent a very small portion of the Australian free to air television industry, but one that we think has lost out a bit in terms of the way that this legislation has come before the parliament. The free to air television industry generally is highly regulated in this country; it is the same the world over.

Reading the information provided by the minister in the explanatory memorandums, et cetera, this legislation is fundamentally about providing an environment for the existing industry to modernise, protecting as far as possible the existing Australian free to air television production industry and enabling Australians to benefit from the enhancements of digital technology as soon as possible. As solus market operators—that is, markets where there is only a single commercial television station at the present time—basically a microcosm of those same issues apply to us in slightly different ways.

Our main concern with the legislation is that it is disproportionate in the way that it has affected us. On page 4 of the revised submission we have lodged, there is a diagram that indicates that the capital impost in our service area—which is a measure of our ability to recover the capital outlay that is involved—is \$342 per viewer in our area, compared with \$192 per viewer in the aggregated major regional television markets down the east coast and only \$64 in a household in a metropolitan area.

Because of the way that the legislation is currently written, not only is there that impost or that differential but we have been provided with none of the measures that the government have put in place to alleviate the impact of that impost, particularly the moratorium on additional licences. Those measures have been given to the metropolitan areas and the three station markets applying across the board to the smaller markets. In essence, they are our major concerns. It is such a disparity that it does impact on the potential viability of our businesses.

CHAIR—Thank you very much, Mr Weston.

Senator SCHACHT—First of all, gentlemen, it is good to see you again—Dion, from all those years ago at 5 Triple M, as it then was, and Graeme, from the south-east. You are good South Australians. Can I go to this issue you have raised in your submission and the expanded submission you have just given us. It is not the opposition's fault that you have had only such a short time to prepare these things; that was a government decision. The concern you raised in your submission is that the moratorium on new free to air commercial television licences to 2008 in effect does not cover the situation of SES 8 or GTS 4.

Mr Weston—No. It affects all of those markets which are not currently three-station markets.

Senator SCHACHT—Have you had an opportunity to discuss with the Department of Communications and the Arts the way this was drafted? Was this an accidental slip-up in the drafting arrangements by the government which they did not anticipate or is it a policy issue where they deliberately did not want to apply the moratorium to your television markets?

Mr Gilbertson—My understanding is that it was a deliberate omission—that the government were not in favour of extending the moratorium to cover our situation. In our submission, we go into many, many reasons why we believe this is unfair. That was the information given to me yesterday.

Senator SCHACHT—Only yesterday?

Mr Gilbertson—Yes.

Mr Weston—From my perspective, it appears that a number of aspects of the legislation were considered fundamentally from the impact on the broader industry. The way this element of it has come about was not something that they deliberately did; it is something they have had to consider subsequently. In the process of considering it subsequently, they have taken the view that they wanted it to remain as it ended up.

Senator SCHACHT—I presume both your television stations are members of FACTS, the Federation of Australian Commercial Television Stations.

Mr Weston—Yes.

Senator SCHACHT—Have you raised this issue with them?

Mr Gilbertson—Yes. The licensees affected—including ourselves—received written information last Friday which in essence said that the coalition will not support any variation of the moratorium clause. It was basically, 'You're on your own, fellas. Lobby your local members as hard as you can,' which I did and there was no success.

Senator SCHACHT—Mr Gilbertson, your local member happens to be the Minister for Defence of Australia, so I can understand why that would be the outcome. He is a cabinet minister, so he has probably claimed that he is bound by cabinet solidarity. Mr Wakelin is your member, Mr Weston. He is a backbencher and he might claim that he does not have influence. Nevertheless, when you raised this with FACTS—

Mr Weston—FACTS consulted with us before the minister finalised the legislation and went public with the issue at the end of the March. They consulted briefly, I have to say, at the end of their deliberations.

Senator SCHACHT—But the way Mr Gilbertson responded was to say that FACTS had told you, 'Bad luck, the coalition has taken this decision. You're going to have to cop it.' Is it FACTS's official policy to support the moratorium applying to your situation?

Mr Weston—Yes.

Senator SCHACHT—It is?

Mr Weston—There is no question about that. If you look at the newspapers, they are using exactly the same arguments as we are. We need the certainty.

Senator SCHACHT—I have to refresh my memory and go back to the FACTS submission to see whether that is actually specifically covered. I cannot recollect whether it was or not. I have been reading so much material on this. Perhaps later on, Mr Branigan from FACTS, who I see is in the audience, might care to provide some more information about this issue. Are there any other television stations operating in Australia that are in the same position as GTS 4 and SES 8?

Mr Weston—There is the Broken Hill station, the Riverland station, Imparja, the satellite service in Queensland and, of course, Darwin, Griffith, Tasmania and Western Australia regional—GWN.

Senator SCHACHT—I am just trying to get the scope of the number of stations that are not either a metropolitan network or an aggregated, not aggravated, system. You might say it is an aggravated system. I know some television people have described the aggregation process as aggravation. Is this an indirect way in which the government may encourage or force you to go into an aggregated arrangement?

Mr Weston—It is one mechanism, but that is exactly what we have come here today to talk about. We want to try to find some flexibility within the legislation that will enable viewers in our area who the government considers to be underserved to gain benefit from the technology and allow the multi-channelling capacity of the technology to deliver additional services. That is in the summary. We are seeking for that flexibility to be brought into the legislation.

Senator SCHACHT—That is the summary in the submission you have just tabled today, is it?

Mr Weston—Yes. At the bottom of page 1, there are four points. We are asking that we be permitted, within the context of the use of the new technology, to gear up towards delivering two channels or two streams of television programming as opposed to what we are doing at the moment, which is a single stream.

Senator SCHACHT—So that means that, where the government in policy statements has said that it will not allow the existing commercial airs to multi-channel, you want an exemption that, if you are not in an aggregated market, you would be able to multi-channel?

Mr Weston—Because of the differential in the capacity of these markets to actually recover the capital that is tied up. Using the same basis of estimation, those same relative figures, on which FACTS have put information on the costs of this technology to the government and the aggregated market stations have put to you costs, there is a disproportionate impact there, although it is an inexact science at the moment because it is an emerging technology.

Senator SCHACHT—Does FACTS support you on this position of your being able to have a form of multi-channelling to overcome what the consumers desire in your areas, a broader range of television services?

Mr Weston—I would not want to pre-empt. In the conversations I have had, I have no reason to believe that they would not support that view.

Senator SCHACHT—If you do not get multi-channelling, would this just further increase the pressure that you have to get into aggregation?

Mr Weston—Yes, it is locking in place that, if somebody wanted to introduce a second stream of programming into the regions that we serve, they would have to establish a completely duplicated transmission infrastructure—and I will use the analogy of Optus and Telstra laying out duplicate lines of fibre optic—and the market is not capable of sustaining that sort of outlay.

Senator SCHACHT—If you had a second channel, what happens when, ultimately, people get HDTV and you use the full seven megahertz for your own signal? You are going to be asking for even further spectrum past the seven megahertz.

Mr Weston—We are asking for the technology, with all of its potential, to be treated as a datapipe. That is essentially what is going on with this technology. It is a datapipe. We are asking for flexibility so that, if there is a blockbuster Australian national interest program—the Olympics opening, or whatever—we would deliver that for HDTV.

Senator SCHACHT—At that particular moment in the area, there would be only one signal going out.

Mr Weston—Or that signal and a lesser portion of the spectrum being used to deliver an alternative.

Senator SCHACHT—But, if you had to use the full seven megahertz, on the present advice we have, to get the high quality sporting HDTV, that would only be the one signal?

Mr Weston—Then there would only be a single channel.

Senator SCHACHT—When you had lesser demand for HDTV and you needed only five megahertz, you would say, ‘Maybe we could use the other two megahertz to multi-channel and put another signal out of other programs to give a wider choice.’

Mr Weston—That is essentially the model that the ABC and the SBS will be following.

CHAIR—What incentive is there for you to do high definition television? If you have the opportunity to multi-channel, would it not be more advantageous for you to multi-channel than to produce high definition television? You said for blockbusters but, under your system, you would be getting the opportunity to multi-channel, to have two channels, for the same transmission cost as you would have in the upgraded transmission system. You get the opportunity for two, if not three, analog equivalent channels. How would you suggest that there be some regulations put in place to ensure that you deliver a reasonable amount of high definition television? I have bought my set, and I am furious because I am sitting out there in Mount Gambier and I can get only analog equivalent TV.

Senator SCHACHT—Standard digital, that is all you would be getting.

Mr Weston—That is the same issue that any viewer out there who watches the ABC would be making a judgment on.

CHAIR—Let’s not worry about the ABC. Let’s worry about you. Under your system, how do we make you give me, because I am a resident of Mount Gambier, high definition television for a reasonable amount of time, given that I have bought a high definition TV?

Mr Weston—You can’t, but you can say that, in our region, people will get the broader benefits of the digital technology, the datacasting potential. Plus, having done only a straw poll, it is pretty obvious that they want additional services more than they want HDTV.

CHAIR—But I want to watch the tennis. I want to see the ball on the tennis court and you give me standard digital TV. If I have bought a set, I want to get the quality. I want to be able to see the football. I want to be able to see the golf ball. I want to be able to see the tennis ball. But I cannot on analog or standard digital.

Mr Weston—I understand what you are saying. Inasmuch as I am not an engineer—but I have availed myself of going and looking at this technology—fundamentally, the two-channel stream of programming across this sort of technology is definitely, absolutely, going to provide you with the capacity to see a tennis ball with significantly greater clarity than you would get off the current PAL technology.

Senator TIERNEY—Taking up Senator Patterson's point, surely the difference between your situation and the cities where ABC and SBS are multi-channelling is that, if I have my high definition television set in Sydney and ABC and SBS are not providing it, I do have three other channels that are probably providing it. But, in your situation, I assume that that is not the case, and the Senator Pattersons out there would be fuming because they cannot get high definition television because there is such limited choice.

CHAIR—Would it be reasonable to expect you to provide some period of time—

Senator TIERNEY—Could he respond to that, Madam Chair?

CHAIR—Yes, sorry.

Mr Weston—I can respond and say that you are right. That is why we are asking that the legislation provides sufficient flexibility so that, as a licensee, we provide adequate and comprehensive service, which is what we are required to do at the present time—and adequate and comprehensive means delivering a regionally appropriate local news service and local advertisements—localism—as well as, on occasion, full HDTV.

Senator TIERNEY—But very occasionally. Surely, the high incentive is just to multi-channel because you are providing alternatives and other streams.

Mr Weston—Seriously, I have to ask whether this industry in Australia, within the period of time that we are talking about here of this transition through to 2008, will have substantial amounts of pure HDTV. There will be windows of hours per day to start with. How long that continues to go on through the transition period—

Senator TIERNEY—Can we just tie that down? So you are saying that, in the cities even, the incentive would be perhaps to have a low amount of high definition television?

Mr Weston—The obvious intent would be to raise that content as rapidly as possible to accelerate the uptake of the sets. From a commercial point of view, you would want to try to get people to take the sets up as quickly as possible to make the digital technology viable as early as possible because of the massive outlay that you are going to be putting into the technology just to be able to step into it in terms of transmission cost, the establishment of the transmitters, et cetera.

Senator SCHACHT—Can I go back to the issue of the availability of spectrum. In an aggregated market like here in Canberra, where there is WIN, Prime, Ten, SBS and ABC, 35 megahertz of spectrum will be made available between each of those broadcasters, each getting seven megahertz. When each of them choose to go to full HDTV, they can. When they want to go to more standard digital, there will be this argument about the definition of multi-channelling, which we are still dealing with. In Port Pirie in your area of Eyre Peninsula and upper Spencer Gulf, under the arrangement right now, you would get seven megahertz for GTS 4.

Mr Weston—Most likely on UHF, I might add.

Senator SCHACHT—You will get seven megahertz. ABC and SBS, which operates in the area, will get seven megahertz each. Therefore, 21 megahertz are used. That would mean in that area of GTS 4 up at Eyre Peninsula, even using the translators that you all have, there is still another 14 megahertz not being used compared with an aggregated market here in Canberra, or in the metropolitan areas of Australia.

Mr Weston—That is exactly the same situation which exists at the moment.

Senator SCHACHT—Yes, it exists at the moment. What I am trying to get at is that, if you are arguing that the consumer in your area is wanting to have a range of access to different programs, you can provide only one full HDTV signal, or near full, and maybe a little bit left over and, therefore, there is not much encouragement for the take-up of HDTV because you will not want to do two channels.

Mr Weston—Yes, there is an encouragement—the ability to receive additional services.

Senator SCHACHT—Yes, but if the additional service is also produced in a HDTV format you will not be able to show two HDTV formats at the same time.

Mr Weston—No. That is right. We would have to—

Senator SCHACHT—Juggle it.

Mr Weston—Yes, juggle it.

Senator SCHACHT—Whereas in the aggregated market of Canberra you could get at one time five different signals in full HDTV format and the consumer chooses which they want to watch.

Mr Weston—Yes, that is correct.

Senator SCHACHT—The issue I am raising is, because of the size of the market, et cetera, how do we ensure that the consumer in the Spencer Gulf area or in the south-east of South Australia also gets equal opportunity to watch five times HDTV as in the city? What I am interested in is equity for all consumers. If I said to you, 'We might give you another seven megahertz to run a full HDTV signal,' you will probably pull your hair out and say, 'We can't afford it. There is not a revenue base for advertising and so on.' I presume that the cost of running a couple of HDTV signals for one GTS 4 or one SES 8 would be prohibitive.

Mr Weston—That is what we have tried to show in the submission. What is going to go on here is that, come 2002 and 2003, our stations are basically going to have to go into the capital market or to loan substantial amounts of funds to pay for all this, and we are going to be doing that in a regime of inquiry after inquiry after inquiry that is going to be potentially bringing additional competitors into the marketplace.

Senator SCHACHT—I want to go back to the issue of aggregation. Some parts of regional Australia have aggregation, so they get three networks operating, whether those are really seen as anything more than local regional television or actually dominated by the networks out of Sydney and Melbourne.

Mr Weston—Sure.

Senator SCHACHT—Are you under commercial pressure in South Australia, because SES 8 and GTS 4 have stood outside of going into full aggregation, to aggregate your markets both together and in the Riverland and so on all around South Australia so that WIN, Prime and Ten have an aggregated market?

Mr Weston—There is a slightly different situation, say, to compare Broken Hill with Graeme's situation in Mount Gambier.

Mr Gilbertson—On page 4 I talk about Mount Gambier, which I estimate to be only 18 miles from the Victorian border. As you know, aggregated market AMD covers the whole state of Victoria. Prime and Ten have high powered translators in western Victoria and, because of the hilly terrain of south-western Victoria, they did not have a high powered translator which is virtually full transmitter strength and they would require 27 little retransmission sites to fill all the little villages and holes. So, by default, Mount Gambier and much of the SES viewing area is an aggregated market.

Senator SCHACHT—So people are actually seeing—

Mr Gilbertson—They are. We are more competitive than Adelaide. The *Border Watch*, which you no doubt read, advertises four commercial stations plus the ABC. The *Adelaide Advertiser* only advertises three commercial stations. So we are in a de facto aggregated market. The department, at the time, after we complained, and of course it was too late, changed their rural strength definition to fortuitous overlap. They did say, 'Gee, we didn't realise it would be so strong.'

Mr Weston—I should add that that is the same situation in the southern portion of our market—that is, Port Lincoln, the lower Eyre Peninsula, Port Pirie and the southern areas of our service area.

Mr Gilbertson—The ABA recognised our situation when they finalised the LAP for the south-east of Mount Gambier in 1996. We are unique in that it is unfair competition, which of course we cannot change, because of the time difference. Our competitors get a half-an-hour head start on us. We have lead in our saddlebags which we have had to live with since 1990. So there is no demand for extra services.

Senator SCHACHT—You have not convinced the state government of South Australia to go to eastern standard time yet.

Mr Gilbertson—No. We joined with the media campaign to two occasions to change, but then of course you know the stories about the dairy farmers and curtains fading and the chooks not knowing when to get up.

Senator SCHACHT—Yes. All I can say, Mr Weston and Mr Gilbertson, is that you have raised in this material out of left field an issue that has not been ventilated before in either this legislation or in the hearings. The chair has raised the issue of, if you go all out to give an exception in a non-aggregated market, the commercial televisions getting some specific form of multi-channelling, but does that lead to not encouraging people to take up HDTV receivers because you will want to do more multi-channelling than just one signal?

There has been discussion that we put in by regulation a timetable or minimum levels of HDTV transmission through the simulcast period leading up to 2008. You might start with four hours a day the first year, five hours the next year, et cetera, to show the consumer that it is worth while getting a HDTV receiver because of the increasing level of transmission. In your case, in the structure you have put to us, that would not automatically be an outcome because you would want to use some of it for multi-channelling quite regularly to provide the diversity of broadcasting that your consumers may wish.

Mr Weston—Yes. Essentially, it is a trade of diversity against technical quality. But we are splitting hairs here. We are talking about substantial improvements in technical quality regardless of whether it is a shared use of that data capacity.

Senator SCHACHT—If you were multi-channelling, if you had an extra channel at least for standard digital when you were not using HDTV—so in that case you would have two digital signals going out—do you anticipate that they would have a completely different programming format? For example, on one channel you would show the AFL football and on the other channel at the same time you would be showing rugby league and let the consumer choose which one they wanted.

Mr Weston—Yes.

Senator SCHACHT—That would be a completely separate format.

Mr Weston—In reality, in our areas, there is a large body of people who want to watch sport and there is an equally large body of people who want to watch general programming.

Senator SCHACHT—So it is way beyond enhancement or an add-on of a normal digital signal. If it were a distinct and separate programming signal, would you accept that it would be reasonable that you may have to pay a separate licence fee for the second signal, because it is actually a new programming which you might sell different advertising for?

Mr Weston—If that is the accommodation, that is certainly more realistic than the process of completely duplicating infrastructure and imposing that on the service area.

Senator SCHACHT—So it would be likely that, if you were running two digital channels in standard digital format, one showing AFL football and one showing rugby league, because that is what you think the consumers wanted, you would go and sell different advertising for Aussie rules compared with rugby league and therefore your revenue base would increase because you had an opportunity to sell two different products?

Mr Weston—Modestly. It would be five per cent or something.

Senator SCHACHT—I know that you will argue that there is not that much of an advertising base in the population base in those areas.

Mr Weston—It is a trade. You could inject straight network television into the area and just purely rely on national advertising and cut the guts out of the sort of business that we run at the present time—no local news, no local advertisements and all of that sort of business—and maybe make a go of it. I do not think so, but it is a model versus what we are doing at the present time: you can be a local crash repair or a local restaurant and you can at least get an advertisement on.

Senator SCHACHT—I understand. That is its big advantage. If the legislation is not amended to meet your wishes—

Mr Weston—There will be market rationalisation.

Senator SCHACHT—So it would be inevitable that the structure you presently have in your area and a couple of other areas in Australia—

Mr Weston—You will knock it off. It will be the end of it. It will fade away.

Senator SCHACHT—It will fade away. You will either get digital satellite broadcasting coming in by networks or you will be forced into some form of aggregation?

Mr Weston—No, not aggregation, just having to streamline the business to such a degree that any amount of the inefficiencies, if you want to put it in that form, of doing local news or having a local capacity to generate local commercials, and particularly the cost of inserting them, would go away and you would just stream the stuff through.

Senator SCHACHT—I understand that. The point I was trying to get you to express a view about is that, irrespective of that, would it inevitably lead to the fact that the networks would,

in one form or another, be able to come in over the top of you and say, 'Listen, Channel GTS 4, you'd better join up with us in some aggregated market or you better just become a relay service for Channel 9'?

Mr Weston—Yes, that is correct.

Mr Gilbertson—We believe that—this is not just an emotional view; we believe it is a factual view—if the legislation is not amended according to our requests it would spell the end of local television, the last remaining vestige of local television as we know it today. It would be either by way of straight relay or coming over the top by satellite. In fact, our company may decide to sell up and hand the licence back, we might quit, because we would not be able to continue with the extremely high level of localism which we have today. We do have a couple of tapes we would like to leave with you. We are very proud of our local news service, our daytime talk shows, our sporting broadcasts, our football comments, our schools service, our local community announcements and all of that. Although this hearing is not about localism, I think that is all part of it.

There was one point that I did not point out earlier. We do have an example already in Australia, although it is analog, of two licences, and that is the Griffith example. Griffith television, NTN, was granted a television supplementary licence and the same station is putting out two signals.

Senator SCHACHT—With quite different program formats?

Mr Gilbertson—Yes, exactly. One is a Nine feed and one is a Seven feed, and that is in Griffith, which is a smaller market than ours.

Senator SCHACHT—At the moment both of you have an opportunity to cherry pick what you want out of the Nine, Seven and Ten networks, according to the demands of your consumers?

Mr Gilbertson—Correct.

Senator SCHACHT—So one might say, from the metropolitan market, your view is actually getting the best quality of three rather than all the drudge from the three?

Mr Gilbertson—They are getting a very good deal.

Senator SCHACHT—Do the networks resent you having that ability? When you go to negotiate to pick their best programs for what you want, is there a feeling that you are living off each of their coat-tails?

Mr Gilbertson—No, I do not believe so, We say we pay too much, but we do pay a very good price. Can I rephrase that: we pay what we believe is a top end of the market price.

Senator SCHACHT—So, if you went to two signals, you would cherry pick the best of the three to put on two signals.

Mr Gilbertson—Yes.

Senator SCHACHT—Whereas they might well ask in the end, 'Why don't we have three signals going out,' and there is like an aggregated market of Seven, Nine and Ten. You could not survive. Other than being on the present licence, you would have to be either one of Nine, Ten or Seven in the aggregated market network, wouldn't you?

Mr Weston—It would depend on the way the negotiations went. It is a commercial issue. If you have three program sources and if you were negotiating with them all to produce one channel, you have more bargaining power; if you negotiate with two, you have less bargaining power; and, if you have to go to all three of them, you have no bargaining power. In the end,

it all comes down to economics. If the networks charge too much as a proportion of the turnover, they will render the marketplace unviable. In the end, those issues will be solved by commercial realities.

Mr Gilbertson—We get on extremely well with the networks.

Senator SCHACHT—In the end economics are going to dictate some outcome in this area if the legislation is left as it is. Without your amendment, the economics in the end, I suspect, are going to do you over.

Mr Gilbertson—Viability, the inability to survive—correct.

Senator SCHACHT—You said that you put this view to the department or the government only yesterday. You said the advice you got from FACTS was that the government is not shifting to take up your amendment.

Mr Gilbertson—The advice given to us is that the government will not support any shift from their current moratorium legislation to take into account the argument that we are submitting this morning.

Senator SCHACHT—The argument that some of us are raising is whether the moratorium is needed for the length of eight years for all television stations. That is a separate argument. What you have raised here out of left field is an issue where it is going to be difficult to try to get the balance right. I am certainly glad you raised it. The government tabled a whole heap of amendments suddenly on Tuesday in the House of Representatives. Have you been through those amendments? Have you had a chance to look at those amendments?

Mr Weston—No.

Senator SCHACHT—Can I suggest before you go that you get from the secretariat a full set of the new amendments and the explanatory memorandum to double check that there is not something in there that is accidentally going to hit you over the head.

Mr Gilbertson—As you have said publicly, the whole thing has been rushed and short term. We have not had a lot of opportunity to look at a lot of these things.

Senator SCHACHT—This just further raises my concerns about the public process. You have literally been caught by the fingernails on the edge of the cliff before this hearing has come to an end in raising an important issue that cannot be ignored now. It makes it very difficult to try to work out carefully and in a considered way an outcome that does not look like we are giving an absolutely special sectional deal to a few television stations but in a proper policy way that takes account of the unique circumstances you are operating in.

Mr Weston—There are licensees who are in a worse position than ourselves. *Imparja* is a good example, delivering its services via a satellite channel. You do not have to be a rocket scientist to work out that it has been under constant government subsidy in terms of the satellite component for years. It is just getting to the point where it is potentially possible for it to operate at a profit because the satellite component can be compressed to a point where they can cover under their current turnover, and suddenly digital TV is going to require it to quadruple the amount of bandwidth it has to use on the satellite and it becomes unviable again.

Senator SCHACHT—They still only get seven megahertz allocation under this government's proposal?

Mr Weston—On the ground—terrestrial transmission.

Senator SCHACHT—But, on the satellite, they can buy in as much as they like and do as many signals as they like?

Mr Weston—They could, if they can afford it.

Senator SCHACHT—If Imparja can go do it, that means Channel 9, 10 and 7, if they make a commercial decision, can buy as much spectrum off a satellite to put a signal down to regional Australia for a range of digital services and they are not limited by multi-channelling like we have for terrestrial. Is that correct?

Mr Weston—That is what Mr Packer wanted to do at the beginning of the 1980s.

Senator SCHACHT—Yes, I know. As you understand this legislation, there is nothing to stop the major television networks using satellite to make available a whole range of extra digital signals?

Mr Weston—Absolutely. That is partly in their game plan. It is not just Imparja. If you take the regional markets of Western Australia, they are also satellite delivered. Senator Patterson, you were talking about why somebody would want to buy an HDTV set in our area. You would certainly need to ask that question in Alice Springs and Katherine or out in the bush where the issues that we are talking about are exacerbated.

Senator SCHACHT—I want to come back to this.

Senator EGGLESTON—I have a question in relation to the cost of digitalisation on satellites. You have just said that the cost to Imparja would be much higher, but I understood in Western Australia that the cost of putting, for example, the SBS signal on satellite came down from about \$2.6 million to \$1.1 million with digitalisation, and the same applied to GWN.

Mr Weston—Yes, that is correct.

Senator EGGLESTON—That is not really consistent with what you have just said.

Mr Weston—You are talking about existing PAL television signal delivery versus HDTV signal delivery. It is possible for SBS to now deliver their service using six megahertz of data. Again, I am not an engineer, but it is roughly six megabits chunk of digital.

Senator EGGLESTON—I understand that.

Mr Weston—HDTV requires 19.8, or just under 20, megabits of data. It is at least three times as much actual data capacity to deliver the signal.

Senator EGGLESTON—Do they need to buy more transponder time?

Mr Weston—No, just more data capacity.

Senator EGGLESTON—And that increases the cost on the transponder they are using?

Mr Weston—Yes, because they are using up more of the capacity of the transmission medium.

Senator TIERNEY—Just going back to a point before Senator Eggleston started, you were talking about take-up in the remote areas. One of the great unknowns is the rate of take-up, particularly in rural areas. I was wondering whether you had done any work on the likely take-up, given the lower incomes in rural areas. If it is Sydney or Melbourne, a lot of people will rush out even at the start at high price and buy these sets, but I would not have thought there would be too many rushing out in rural Australia.

Mr Weston—No, we have not done any surveying of that kind. At this stage it is very hard to even predict what the set costs will be at this point. We are aware, only anecdotally, that it is difficult for viewers in our area to purchase pay television, for instance, at the same level

of take-up as they are taking it up in other places because of the factor you are talking about—the ability to cope with that additional burden on their weekly outlay.

Senator TIERNEY—That obviously would affect your business plan. Alluding to some of the earlier discussion, another thing would be that, if satellite is delivering to markets in Western Australia and those remote areas, they could deliver right into your backyard as well.

Mr Weston—Yes, and they will.

Senator TIERNEY—Have you looked at how that affects the viability of what you would be doing with high definition television and the costs of the outlay?

Mr Weston—Inasmuch as you can make predictions about that. As night follows day, an additional satellite pay service within our region is effectively a competitor or, down the track, is potentially as close a competitor to us as would be another free to air channel. Again the reason why we are arguing that we would like to see the legislation modified is to permit a win-win for the viewers and for us in terms of maintaining at least some capacity for businesses within the region that we serve being able to hock their wares and for them to get some sort of impression about what is going on in their region from local news services, because it is certainly not going to come off the satellite.

Senator TIERNEY—I suppose that is the point—it is a balance—that people would get much greater choice off pay TV.

Mr Weston—That is the experience of the United States.

Senator TIERNEY—You might get dozens of channels, but you think the local angle would keep them with your terrestrial system.

Mr Weston—That is our business. We are a packaging business. We package incoming programming. We cherry pick it, move it around, package it up and insert content that enhances the value of it to the local audience so we make money out of it.

Senator TIERNEY—So it would be fairly different to aggregated markets in other states where localism has tended to drop right away?

Mr Weston—Not completely, but at a larger level. In talking with Mr Neville the other day, even in the Sunshine Coast area, there is a contraction of news services as a result of economic rationalisation of the delivery of these things. But there is definitely commercial value in localism. We are not that easily a parallel of the United States, but obviously there are trends, in the introduction of this technology and in looking at the way that free to air is attempting to survive as an industry with the plethora of satellite or other entertainment services, or elements of it that indicate that there is money to be made at that level.

Senator TIERNEY—I assume digital technology for terrestrial makes it easier to get back into this more local approach?

Mr Weston—Yes, but again we are talking about a country of 200 million, and we are in a situation where our service area is 120,000 people spread across 1,500 kilometres—and, in Graeme's case, an even smaller population total.

Senator SCHACHT—Now that much more satellite capacity is becoming available, and with digital technology, would the three existing metropolitan networks be able under this existing legislation, if they can convince people to put a dish on their roof not for pay TV but to take the straight Channel 9, 10 or 7 signal—

Mr Weston—That is another stream of legislation which is about to approach the House, and that is the issue of retransmission.

Senator SCHACHT—Not retransmission.

Mr Weston—That is effectively what you are saying.

Senator SCHACHT—Not pay TV retransmitting but Channel 9 off the satellite.

Mr Weston—I am not sure they are licensed to do that.

Senator SCHACHT—That is what I want to get clear. The technologies which keep changing are making the rules redundant in some areas—you might want to take this on notice—and in your market of GTS 4 and EDS 8?

Mr Weston—I do not have enough knowledge of the way the legislation is drafted to know. My gut feeling would be that that would not be possible, but you could well be right that it is, that there is a loophole that allows that.

Senator SCHACHT—The legislation says they cannot multi-channel; they cannot use it to provide any form of subscription service. If they are not multi-channelling and they just put straight off the satellite the Channel 9 signal as it is seen in Sydney or Melbourne or Adelaide—it goes up to the satellite and comes back down—and they convince people to put a dish on their roof to receive the straight Channel 9 signal from Adelaide, at the moment that is not permitted.

Mr Weston—I do not think it is permitted because their licence—

Senator SCHACHT—It is not terrestrial broadcasting; it is satellite broadcasting.

Mr Weston—That is right, and you would have to have another licence for that.

Senator SCHACHT—Government cannot shoot the satellite down. It is not in our territorial space.

Mr Weston—It is the same as this fortuitous viewing thing. Why couldn't—

Senator SCHACHT—The reason I raise it with you is whether there is a way that the networks can come into your markets via satellite.

Mr Weston—The satellite is a broadcasting tool and broadcasting services in Australia are licensed, and I think that legislation would block that.

Senator SCHACHT—That is all I have.

Senator COLSTON—Mr Gilbertson, you mentioned earlier a worse case scenario in which you might hand back your licence, or words to that effect. If you did that, is there any compensation granted to you for that?

Mr Gilbertson—I do not believe so. When I was in the United States in April, it was stated that there were licensees in some quite major cities—I believe in Las Vegas there were two licensees—that said they could not afford this digital business and it was unviable and they were considering handing back their licence. It has been said before. That is my personal view. It is not a view of our company. We are very, very concerned about what will happen to us—not what could, but what will happen to us—if the moratorium on new licences is not extended to all markets in the same way in which it is being afforded to the metropolitan markets.

Senator SCHACHT—Did the government, in your brief discussions with them in the time you have had, say that they will not extend the moratorium to your situation because you are acting as a sole broadcaster in your market, like GTS 4 and SES 8, even though you have cribbing coming over the border, which is an accidental outcome, they would claim? Is that the main argument they put to you—that they cannot extend the moratorium because you are the only commercial operator in the marketplace and everywhere else there are two or three?

Mr Gilbertson—They are saying the Liberal government will not support any form of anti-competition, which is a bit of a contradiction.

Senator SCHACHT—I beg your pardon.

Mr Gilbertson—That is what was stated to me yesterday.

Senator SCHACHT—Did you point out to them that banning any new commercial free to air licences until 2008 is anti-competitive?

Mr Gilbertson—It was pointed out to me that there is adequate competition, for instance, in the city of Adelaide but not in the city of Mount Gambier. But as I pointed out, the facts of life are that we have more competition in Mount Gambier than they do in Adelaide. I was not going to win that argument.

Senator SCHACHT—Say the parliament decided to not even have the moratorium on any new commercial licences but agreed in the legislation to allow those where there is one single commercial operator free to air at the moment to do some multi-channelling as you propose. Would that be an outcome you could live with?

Mr Weston—Run that past me again.

Senator SCHACHT—At the moment the moratorium on new commercial licences you are excluded from. If someone wants to start another bid for another licence or spectrum they can do it in your area. You say you are being discriminated against; we know that argument. There is a big argument before this committee that the general moratorium on any new commercial free to air licences everywhere else that the legislation stipulates—but not in your area, as you pointed out—should last to 2008. Others are arguing there should be no moratorium—that you allow simulcast to take place, the TV stations get the extra megahertz to go into HDTV, but the government is not prohibited from issuing a further licence if they see, in a policy decision some time in the future before 2008, that is a good outcome. But if the moratorium was lifted completely on everybody—

Mr Weston—It does not change our situation.

Senator SCHACHT—But if you were then able to multi-channel to provide a second channel to meet consumer demand, et cetera, to be able to provide that extra service, would that be an outcome you could live with?

Mr Gilbertson—I would think that, provided we had that flexibility which I believe there has been—

Senator SCHACHT—To provide some multi-channelling?

Mr Gilbertson—To phase in a transition. We understood the original spirit of the original legislation was a transition. Provided we had that phasing-in flexibility or allowance, yes.

Senator SCHACHT—But the allowance you are asking for compared with metropolitan commercial TV markets is that you can distinctly run two different digital signals?

Mr Weston—Yes.

Senator SCHACHT—They are not able to do that.

Mr Weston—No.

CHAIR—Once you come to a committee and say, after the phasing-in phase is over, ‘But our people would prefer to have two standard digital and get different choice,’ there is pressure not to move to high definition and you by default have picked up virtually another licence.

Mr Weston—Yes, but economically there is not a lot in that—five per cent growth of the market potentially. We are not talking about a metropolitan area here. We are talking about a substantially marginal situation. The point here is that our station would still back a moratorium because we do fundamentally agree that it is necessary to act to protect an Australian identity, a capacity of Australians to produce television which portrays our own people and not *Hercules* movies coming from a *Hercules* series from a strange cultural background from New Zealand, as has been the debate.

We are going to get the same issues concerning the industry overall. That is the embodiment of the whole legislation. It is important that Australia adopts this technology early, grasps and uses it properly and provides an environment in which there is enough cut and thrust to sustain an Australian indigenous television production industry in the form that we have at the moment, otherwise we are just going to get more and more flooding in from elsewhere.

Senator SCHACHT—Can I ask—

CHAIR—You said that you were finished five minutes ago.

Senator SCHACHT—I know, but they said something in response to Senator Tierney. What you have raised here today we are trying to catch-up with because this has not been raised with us before. I am trying to make sure I get every possible piece of the jigsaw. The government have said to you it is not in their philosophical position to give you an exclusive monopoly of being the only commercial television licence in these regional areas?

Mr Weston—Yes.

Senator SCHACHT—We know your argument economically, which has a lot of weight. Would it be possible to consider, if you did get, as the chair has said, a second licence to broadcast, that there would be some access to a regime in the local area so that you do not treat it as a programming monopoly and other people can, within reason, negotiate with you to put programs to air? I think there is an argument—it was happening every under competition policy but I do not want to get into that argument—about access. If you are given a sole right to be the only broadcaster, there may be an argument that, through the ABA process, people can say, ‘We have some programs we would like to put to air’—and they take the cost of putting it to air—and they use your second channel.

Mr Weston—We would consider that, yes.

Senator COLSTON—Some of us have a tendency to be a little parochial. Can you inform me whether to your knowledge there is a similar situation in Queensland?

Mr Weston—There is in the remote area, the area that services Longreach and Mount Isa—the satellite delivered service. All of the regional markets, from Townsville, Cairns down to the Sunshine Coast and the Gold Coast, are three-station aggregated markets and this does not apply. They have their own concerns which, I understand, they will be talking to you about this afternoon, which, I might add, argue similar sorts of points.

Senator EGGLESTON—You made a comment about the move to move into this technology as fast as possible. One of the questions we had during the technical briefing was about the comparison with the introduction of colour TV in Australia, which was long delayed and, as a result, Australia got very much the best system in the world, I suppose. Do you have any reservation about the speed with which Australia is rushing into digitisation? Is there any case for delay in terms of technological development?

Mr Weston—Yes and no. To take a stab at it, I do not think in this day and age there is the European system, which we are being told is out there—

Senator EGGLESTON—And the American system.

Mr Weston—We have the American system. I am not qualified to give you a reference. At a lay level, it appears that the Europeans are more interested in diversity and the Americans are more interested in the wow factor, if you want to put it that way. If Australia wants to follow the wow factor, it will take the American system. If they want to follow the diversity line, they will take the European system. That is the technical quality level. The only reservation I have heard about the American system is its ability to handle signal reflection. I am not qualified to tell you whether they have resolved that or whether that is an inherent vulnerability of the ATSC system versus the European system.

Fundamentally, from our point of view, we are less concerned about that. There are some compelling suggestions that, if we had followed the American model, the cost of introducing the technology here would be substantially lower, not only for the broadcasters but most definitely from the viewers' point of view. Also, you have content issues. In our industry—I would not like to see it—certainly in excess of 50 per cent of what we put to air at the moment is American product. If we follow the American system then the cost of acquiring that product is cheaper because there are not the conversion components to it.

Mr Gilbertson—I think also it has come out in our submission, the affiliates' submission, that really you have the three sectors in all of this. This is the basis of what we have been discussing. The metropolitans are in a far greater position to speed ahead with it and they have in many cases only one translator and their main transmitter site. Adelaide, for instance, has only two sites, whereas our company in the south-east currently has five sites. Some of the affiliates are talking about 55 sites. You have heard that argument. You have the three sectors. So when you talk about speed and timetable you have the metropolitan sector, the affiliates and then you have the little guys like us, the solus operators.

Senator EGGLESTON—That is an introduction schedule, isn't it? You mentioned the European system had a capacity for greater diversity. What do you mean by that? Do you mean mobile TV and things like that, or is it something else as well?

Mr Weston—I understand from reading the industry literature that the Europeans are more likely to use the datapipe—and that is the easiest way to think about it—by dividing it into chunks and delivering language—for the reason we are talking about, trying to exceed inner dense spectrum environment. They are probably going to choose to follow the benefits of the technology from a diversity point of view. The Americans are more interested in the wow factor, the actual use of it for high definition division.

Senator EGGLESTON—Thank you, that is quite helpful.

Senator SCHACHT—You mentioned Longreach and Mount Isa in Queensland in response to Senator Colston. People in that area of Queensland get one signal?

Mr Weston—One signal.

Senator SCHACHT—And that station cherry picks like you do from the 9, 10 and 7 networks for their programs?

Mr Weston—Yes.

CHAIR—I would like to thank you for your attendance today and your submission. The secretary may be in touch with you if more questions come up as we go through the hearings.

Mr Weston—I have the submission on disk, if it will save your people hard work with the fingers.

CHAIR—Thank you very much.

Mr Gilbertson—Could we leave our tapes with you if you were interested to have a look at our localism or what we have been saying. I refer to the competition in Mount Gambier, which is illustrated in our television guide which is there every day. If you want to see some good cherry pick programs, come to Mount Gambier. These are the program guides for June.

CHAIR—Thank you very much.

MILAN, Mr Nigel, Managing Director, SBS, 14 Herbert Street, Artarmon, New South Wales

SHARP, Ms Chris, Policy Manager, SBS, 14 Herbert Street, Artarmon, New South Wales

SOOTHILL, Mr David, Director, Communications and Planning, SBS, 14 Herbert Street, Artarmon, New South Wales

CHAIR—The committee has before it submission No. 3, which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Milan—I would like to make an brief addendum to the submission and a little announcement. Australians already enjoy television of a quality and diversity that is unsurpassed anywhere else in the world, with new technologies constantly upping the ante in terms of entertainment and information value.

In moving from analogue to digital, the challenge is to deliver something significantly better—and for Australians, better television means bigger, clearer and smarter television delivered free to air. They do not want to lose anything in the delivery, either. Our television system must retain its current diversity; in fact, it should become even more diverse. To do that, both sectors, commercial and public, must remain competitive. All services must add value to their current programs and must be committed the new digital standard of service.

There is no doubt that digital, through high definition television, can deliver the biggest and clearest free to air television possible. But how can smart can we make our television? Can we provide Australians with an expanded range of intelligent choices? Can we help to narrow the looming gap between the information rich and the information poor?

The crucial element and the thing that concerns us here today is the enabling legislation, enabling us to fulfil those high expectations of Australian audiences. Our view is that legislation does unlock the potential for the technology. We have an ambitious but achievable timetable before us. It is critical that the industry is able to plan a move forward expeditiously. There are still several major issues to resolve, but I think the review processes that are envisaged are capable of resolving them.

We do have some concerns about the legislation, however. Firstly, we are concerned about aspects of the implementation that are mandatory for SBS, such as the setting of a minimum level of high definition broadcasting. This is not consistent with the way government has traditionally treated the national broadcasters and has the potential to impact on our programming decisions. We have well-delineated responsibilities to the Australian public, defined by the SBS act.

Secondly, we are disappointed that our concerns about captioning requirements, particularly in relation to non-English language new services, have not been reflected in amendments to the legislation. On the other hand, SBS is very pleased that the door to multi-channel services has been left open to us. It fits with our charter that says that SBS should extend the range of Australian television services by presenting many points of view and using innovative forms of expression.

The multi-channel capacity of digital television can be used to fulfil that aim. At SBS we envisage the development of special programs that can be televised in tandem with the primary service, such as a separate program stream of multilingual news and information which could build on our highly valued world-watch programming. Most of all, I hope we can look forward to seeing the 2002 World Cup which will be played in Japan and Korea—

Senator SCHACHT—Hopefully, we will qualify this time.

Mr Milan—Broadcast on SBS in wide-screen high definition, with surround sound. That would be a real pinnacle in the history of SBS.

Senator SCHACHT—Going to your submission, I turn to the issue of funding the actual cost of SBS to go to digital and HDTV. The government has provided \$17 million to SBS for the digital upgrade. Would that cover all the anticipated costs for your equipment to be converted to digital in your studios, including your transmitter costs, et cetera?

Mr Milan—Add to the \$17 million our contribution, which would be another \$5 million. So there is \$22 million to convert all of our existing analog equipment for production-in-studio equipment to standard format digital. It does not provide for either high definition television or for transmission.

Senator SCHACHT—How much extra would you need to get it to HDTV standard?

Mr Milan—We do not know yet. We are in, I guess, an iterative process with government. At the moment we have our own digital programming committees. Really, we have to decide what we are going to do from a programming point of view, before we finalise the costings for digital.

Senator SCHACHT—How can the government put an imposition on you which you have complained about—that is, the level of HDTV you may be required to transmit—when you do not have the funding yet to put the equipment in?

Mr Milan—I am sorry, I am not quite understanding you.

Senator SCHACHT—You have said that you have the money—you have \$22 million all up, including your own \$5 million on top of the \$17 million—for the equipment in the studio to go to digital.

Mr Milan—Standard digital, yes.

Senator SCHACHT—Standard digital. You do not know how much extra you will need to put the equipment in for HDTV—high definition digital.

Mr Milan—It is also—

Senator SCHACHT—But you also complain is an implication in the legislation that you may have to meet certain hours of HDTV transmission, and you are saying that your product might not be available at the level to meet those standards. But the government is asking you to do that.

Mr Milan—We are not quite saying exactly that, but I take your point. What we are saying is that we expect an iterative process with government over the next two years so that we can actually develop those costs together.

Maybe to give you some help: one of the other problems in costing high definition television is that it is a very new technology. So a lot of the actual technology is still in the development mode cost of charging. Digital phones, for instance, were introduced at several thousand dollars; now they give them away if you sign up for a three-year plan. So we expect that over the next couple of years the equipment prices will come somewhere—

Senator SCHACHT—For you and the studio equipment for HDTV to come down—yet you have no idea of what you think you require, on top of the \$22 million, to put that equipment in your studios for HDTV?

Mr Milan—We are doing that work at the moment.

Senator SCHACHT—Is there any chance of having some idea given back to us by the time this committee completes its work within 10 days?

Mr Milan—I do not think so.

Senator SCHACHT—Here we are writing legislation which is committing to you HDTV, and we have no idea what you will be up for—and there will be a call on the government to part-fund it, on top of the \$17 million you already have. You will not be able to fund, out of your own existing resources, the additional amount needed to put HDTV equipment in your studios?

Mr Milan—Yes.

Senator SCHACHT—You will make a call on the government for some part of that, whatever it may be?

Mr Milan—We will be making a call on government for some part of additional costs—we think. But if I can put it to you this way: until the legislation framework is agreed, until the NTA sale arrangements are finalised—

Senator SCHACHT—I will get to the NTA in a moment.

Mr Milan—We do not even know what standard is going to be accepted by the Australian government at the moment because there are two competing systems. So there are a lot of variables at the moment.

Senator SCHACHT—On the issue of the \$17 million plus the \$5 million you have put in for the digital upgrade, does that include any money for the cost of upgrading the transmitters and the translators you have all over Australia for the transmission of a digital signal?

Mr Milan—None. Currently that is not our responsibility; as you would understand, Senator, that rests with the NTA. So we are not responsible currently for our own transmission.

Senator SCHACHT—Have you had any indication from the NTA of what it would cost to upgrade the transmitters all around Australia to put out a digital signal, including an HDTV signal?

Mr Milan—No, we have not.

Senator SCHACHT—Do you know whether the National Transmission Agency has given any figure to the government?

Mr Milan—If it has, we are not aware of it.

Senator SCHACHT—Have you had any consultation—just out of curiosity—with the National Transmission Agency or the government on this issue?

Mr Milan—With the NTA, personally, no. I think they have been rather preoccupied on other issues, which I am sure you are aware of.

Senator SCHACHT—For their own survival, of course, in one form or another.

Mr Milan—So, no, we have not. I would say, at the engineer level, obviously we would have a dialogue with the NTA on current transmission issues. But, no, there has not been, as far as I am aware, a kind of proactive debate.

Senator SCHACHT—So, unless the government provides additional funding to the NTA, on top of the \$17 million, it is all irrelevant—because, for digital, if you do not get the transmitters changed, you go off air.

Mr Milan—That would be correct.

Senator SCHACHT—The SBS have run a very successful program of spreading its transmitters to small rural communities by their making the contribution, basically, to buy the small transmitter for the SBS signal going for a sort of 10 kilometre radius around a country town, et cetera. I think there have been several dozen communities who have raised the money and put that transmitter up, which is in analog format.

Mr Milan—Yes.

Senator SCHACHT—Will you have to go back and ask those communities to fund the cost of putting up the digital transmitter?

Mr Milan—I do not think I can answer that question, because it depends on the attitude that the government takes. But, of course, they will still have available to them, for the foreseeable future, the analog signal.

Senator SCHACHT—Until 2008.

Mr Milan—They may or may not

Senator SCHACHT—After that, there will be a review in 2005.

Mr Milan—Yes.

Senator SCHACHT—But, in 2,008 we are planning that the simulcast period will end. Then the screens will go blank, and you will go blank. Have you had any discussion with these communities, warning them that you may have to ask or the government may ask them to cough up again for the cost of a new transmitter in the digital format?

Mr Milan—No, we have not.

Senator SCHACHT—Do you think it would be reasonable for you to give them fair warning soon?

Mr Milan—As we have not even embarked on the conversation with the government, as we have already said, about the rollout of the transmission, I think it might be a bit early to warn them of something that may not be a problem. Our hope is that, as part of this debate with government, we will equalise ourselves with the ABC, and it will not be necessary to go back to small rural communities and ask them to help to put transmitters in. Until we have had that dialogue with government, I think it would be precipitate to start saying to people in the bush that they may be denied something.

Senator SCHACHT—But the government is asking the parliament, the Senate, to carry this legislation by 2 July for the structure of the introduction. In that structure, you get seven megahertz of capacity. You will be able to do multi-channelling; that has all been provided. But that is all useless if you are not able to convert or put simulcast facilities in place; it is a waste of money.

Mr Milan—And, indeed, we will be making that representation to government.

Senator SCHACHT—Has DoCA had any discussions with you on this at a departmental level? This is getting urgent.

Mr Milan—No. However, to be fair, the minister has indicated that he sees it as an iterative process. In his last communication, which was as recent as 26 May this year, he said:

Further consideration will be given to the need for additional funding for transmission when there is greater certainty about the costs of digital transmission and in the light of the Auditor-General's report.

We would endorse that view and we would expect to play a proactive role in that debate.

Senator SCHACHT—The ABC, when they gave evidence before this committee earlier this week—I think it was on Monday—had a similar problem. They said, 'Well, it's all the NTA on the transmission side; go and ask them.' But they took a general punt, I suppose, about the question. They said that they thought \$30 million would be required for providing the digital broadcasting, and they would have to provide it to the NTA. Is that the sort of figure you are looking at?

Mr Milan—We would be very interested to talk to the ABC about how they came across their \$30 million figure. We would not be prepared, or we think we would be foolhardy, to put a figure on it at this stage.

Senator SCHACHT—With regard to the discussions about the privatisation and sale of the NTA, that legislation is still before the Senate, although the government has reserved its right that, if the parliament does not carry the legislation, it might sell the NTA facilities in another way. One of the issues in that bill was that there is a compact to be developed between the ABC, SBS and the government to guarantee your funding for five years to give value to the NTA, because if you bailed out and went somewhere else with your transmission, the NTA probably would be worth nothing other than scrap, as you are the two main clients. Have you reached agreement, even on the contract, with the government of what they should provide to you for the broadcasting of the analog signal?

Mr Milan—No. We are close but no.

Senator SCHACHT—When you say you are close, do you actually have a ballpark figure?

Mr Milan—No, we do not have a final figure yet. That is obviously part of the negotiations.

Senator SCHACHT—In those negotiations on the compact for NTA for analog, has anyone from SBS also just happened to raise with the government, 'Look, you had better give us consideration rapidly about the digital cost.' That has to be in the compact as well?

Mr Milan—No, it has not been raised in the context of that conversation.

Senator SCHACHT—Does that mean that, if the compact is only going to be for analog and you chose to go and get someone else to provide the digital transmission, you have the right to do that?

Mr Milan—That is absolutely correct.

Senator SCHACHT—That really has some implications for the value of the NTA, I would have thought, because it is only guaranteed as a declining five-year analog transmitting agency.

Mr Milan—That is clearly one of the issues for government.

Senator SCHACHT—On the issue of standards and systems, et cetera, which you mentioned, Mr Milan, is the SBS represented on the various review committees that the minister has established in his announcement of March or April this year?

Mr Milan—Both David Soothill, our Director of Planning and Communications, and I will be representing the company.

Senator SCHACHT—On which system we use—European or American?

Mr Milan—I think we favour the European system.

Senator SCHACHT—Congratulations, Mr Milan, you are the first witness from any broadcaster who has been willing—

Senator EGGLESTON—He has made a declaration.

Senator SCHACHT—To indicate which one they favour. Why do you favour the European over the US?

Mr Milan—I think I should switch to David but, in simple terms from a very lay person, for data transfer the Europeans have concentrated much more on mobility. We think that part of the excess capacity will be used for data transfer—mobile telephony, et cetera—and it integrates better with that sort of technology.

Senator SCHACHT—Now that you have raised data and you have said that is an example of why it is easier, under HDTV you are able to multi-channel at least four channels, maybe more?

Mr Milan—In standard format.

Senator SCHACHT—Would you make one of those channels permanently available for data broadcasting?

Mr Milan—I think that is putting the cart before the horse. Our intention is to negotiate with government. What we would prefer to do is use as much of that spectrum for actual broadcasting that fulfils our charter obligations. Clearly, there would be some additional costs in occupying those channels but our hope is to have a successful negotiation with government to use as much of that spectrum space for multi-channelling. Assuming that we only get a part of what we want, then that remaining part will then be used for datacasting. Our approach to that would be similar to our approach to pay television where we have gone to the private sector, successfully got joint venture partners and let them take the capital risk of developing that part of the spectrum.

Senator SCHACHT—I have to say that the opposition have made it clear that we are fully in favour of the ABC and SBS having multi-channelling capacity to meet your national broadcasting aspirations which we put upon you but we did not want it not to be used for commercial. The argument is that the free to air commercials cannot go off into new commercial product unless they pay a fee. It has been outlined to us that there will be a fee charged, when set by the ACA, for datacasting on the free to air commercials. Why should you not also pay a similar fee when you are actually using it commercially for datacasting?

Mr Milan—Our intention for multi-channelling first of all would be non-commercial—

Senator SCHACHT—We understand that.

Mr Milan—I have just been informed that, as part of the negotiation, the government will be looking at any revenue return that we do get from datacasting. It may well be there will be some recovery of revenues to the government.

Senator SCHACHT—In the form of a licence fee or just saying, 'Whatever you earn the government will take back'?

Mr Milan—Not necessarily as a licence fee.

Senator SCHACHT—Some revenue—

Mr Milan—There may be some cost penalty to the organisation but not necessarily—

Senator SCHACHT—If you are operating in the commercial field, going out and getting business for datacasting against a free to air commercial operator who are paying a licence

fee, then to have an even playing field on that you should pay an equivalent amount—in whichever way you structure it. You do not disagree with that?

Mr Milan—In principle, no.

Senator SCHACHT—Thank you. Don't take too much time on this and you might want to take it on notice: you have given some idea of what you would use multi-channelling for, that you would at the same time have a signal going out on the same program but in different languages, et cetera. Would you actually be looking at putting completely different programs together at the same time? For instance, you might have Italian soccer on SBS channel A, a completely different program on Greek soccer on SBS channel B, on channel C is a live broadcast of Tibetan gong music, and so on. Is that the level of differentiation in multi-channelling or basically is each signal going to be an enhancement of the same main signal, such as the news service or the *Movie Show*, et cetera?

Mr Milan—So far we have only talked about the *Worldwatch* products which are our 'in language' news broadcasts. Most of those go out early morning on SBS currently, and our aim would be to repeat those at more sociable times during the day. That is relatively low-cost, because we are already paying to bring that product in. Other things we have thought about are other 'in language' services. Just using it for diversity of football matches may well be not quite what the government envisaged when it was talking about fulfilling our charter obligations. Part of that internal committee process that we have set up is to create programming ideas. Indeed, we will be having that discussion with government as they come up.

Senator EGGLESTON—I have a question related to that: would you, for example, rather than show completely different programs, show the same program in a different language; so you might show the same program but in Italian, Vietnamese or Greek? I think what Senator Schacht is looking for is: are you going to use the channels for totally different programming? What I am asking is: would you use the same programming but with a different language to service your different ethnic audiences?

Mr Milan—No, we are looking at different program streams. The cost of constantly changing the language and resubtitling is very significant, so I think it is unlikely we would take that route. There will probably be different programming streams. However, one of the things we would like to use multi-channelling for is in the area of community service announcements which will be repeated in very many different languages.

Senator EGGLESTON—That is all on that.

CHAIR—I just want to ask a technical question about captioning: is there any capacity at the moment to use technology for captioning, like voice recognition?

Mr Milan—Chris has done a lot of work on captioning, so I might ask her to handle that.

Ms Sharp—It is an area for concern for us in the legislation. The legislation, as it stands, does not differentiate between subtitling and closed captioning. We have a concern that commonsense might not prevail and that we might be required to provide closed captioning in addition to subtitling. Sorry, I do not think I have answered your question precisely.

CHAIR—You have a program that is in French with English subtitles. You are concerned that you may then be expected to have auditory closed captioning in English?

Ms Sharp—No, the closed captioning we provide are in captions. They are another form of subtitling. But they are a much more detailed form of subtitling in the sense that they will give you sound effects in writing. Ordinary subtitles will rely on the audience being able to

hear the sound of a door closing. In closed captioning, the viewer would be told that the door is closed or banged.

Mr Milan—We did not answer your question, and the answer is that I know of no machine or technology that can give you simultaneous translation in multi-languages.

CHAIR—No, I did not mean that. You could have less detailed closed captioning. If you are deaf and you can see the door closing, it still gives you some idea. If I look at a film in another language and see the English subtitle and it does not say ‘door closing’, I suppose you are saying I can hear the door closing but I can also see the door closing—

Ms Sharp—It is in the case where you could only hear it and not see it that it is relevant—

CHAIR—So it is off screen that the door closes and is an important part of the story. I am sure I read—in *New Scientist* or somewhere—there is some machine they use in America for captioning which voice recognises—

Ms Sharp—We do not know of it. It is not a system that is used here.

CHAIR—Maybe I dreamt I read about it or maybe I dreamt somebody was trying to devise one. But I do remember something last year.

Senator EGGLESTON—There are computers that work that way.

CHAIR—I know there are computers that work that way. But when I was reading some stuff about the United States increasing closed captioning—they have stipulated how much closed captioning there should be—I thought I read there was a move to try to develop machines that, for example, could do particular news readers whose voices were recognised by the machine after they had trained the machine to recognise their particular voice. I just thought I had read about it. Maybe it was only somebody thinking they were going to invent it.

Mr Milan—Our concern is not so much about English language; it is about the impost on us if we had to do it in every language. Whilst you can design a machine to recognise English language, on an average week we might broadcast in 70 different languages on SBS television. With our *Worldwatch* programs which are ‘in language’, the cost of simultaneous subtitling for those would prohibit us from putting them to air. It is in those very specialised areas that we have concerns. The actual principle of closed captioning for the deaf is one that we support.

CHAIR—You got some budget money for closed captioning for the deaf, didn’t you?

Mr Milan—Yes, we did.

CHAIR—Do you want some sort of stipulation about how much you should be doing rather than an expectation of it all being done? That news program you do in the morning—I got caught before because the secretary was talking about the news program in the morning where you have it in Russian—

Ms Sharp—That is our major concern.

Mr Milan—That is our concern. In fact, across the week, those *Worldwatch* programs are in 18 different languages. To try to arrange for simultaneous translation and then captioning of those, the cost would prohibit us from doing it.

Ms Sharp—It would probably be technically impossible for us to do it. Because they are news services that come in by satellite and we get them to air as soon as possible after we receive them, we do not have time to subtitle them. They are services for niche audiences. Hungarian news goes out in Hungarian without English subtitles, for instance. At the moment,

we would be caught by the legislation which directs that all news services are to be closed captioned.

CHAIR—You are saying that you want an amendment that would—

Ms Sharp—That specifies English language news services.

CHAIR—I am just thinking about that.

Senator TIERNEY—Just while we have the ball away from Senator Schacht for a while, I want to ask a question which I also asked the ABC. How detailed is your planning at this point on the use of multi-channelling? The ABC were saying that they will use it for education, so I questioned them on how far through they were in planning for that. I assume that, being SBS, you would use it for different language groups. How far advanced is your planning on the use of multi-channelling and to what purposes would you put it?

Mr Milan—We are halfway through the first step down a long road. We have literally just formed the committees and agreed on who is going to serve on them. We have some general ideas, which we indicated in our submission, but we have not gone any further than that at this stage.

Senator TIERNEY—For the *Hansard* record, could you restate briefly what the ideas are?

Mr Milan—One of the ideas, which we have already discussed, is the repeat of the *Worldwatch* program or an expanded *Worldwatch* service. One of the other things that we have thought about is that we are under a lot of pressure from ethnic communities to cover events. Currently, with the amount of spectrum available to us and the amount of funding available to us, we cover issues rather than events. But a more parochial ‘in language’ event coverage service may be another avenue, because that is something that would not be seen to be competitive to either the free to air commercial networks or the pay television networks.

Another idea that we have had is something for youth, and that is not to replicate the very fine educational services on the ABC but looking specifically at ethnic youth and the difference between first generation and second generation and the challenges they face in relating both to their new country and also to the values of their families. So it would be in that sort of area that we think there is a potential to develop our services.

Senator TIERNEY—I suppose one of the things that has disappointed us about SBS in analog has been the slow roll-out or lack of availability of the SBS service in certain areas where we would like to get it. Are we going to experience the same thing with digital or do you envisage the roll-out will be a bit faster?

Mr Milan—I think you have to put that question to government. Our sincere hope is that all Australians will have access to all SBS services, but obviously government has had to balance that with its other funding requirements.

Senator TIERNEY—You are not totally dependent on government for your funding, though?

Mr Milan—For transmission we are, but I take your point. Advertising actually supplies less than 15 per cent of our total revenue. There is no point in actually rolling out a service if it is an inferior service. We are not overly funded, I might say, in terms of program making at the moment.

Senator TIERNEY—But I would have thought you had slightly more flexibility, say, than the ABC. They obviously plan to roll out. They are totally dependent on government funding;

you have got other avenues. I would hope you could perhaps roll out a little faster than the ABC.

Mr Milan—I would say that the ABC, with five times the budget of the SBS, has significantly more flexibility than we have. I would not accept that point.

Senator TIERNEY—They seem to have it all committed to things, though, don't they?

CHAIR—I have another question about closed captioning. With your news watch service, do you know what language it is going to be in? What happens if an event happens in Germany—for example, the train crash—and you might not have German on that morning?

Ms Sharp—No, it is regularly scheduled so that our audience knows which time of the day it is on. For instance, if you want Ukrainian, you would switch on SBS television at 7.30 on Sunday morning; if you want Cantonese news, it comes in Tuesdays to Saturdays at 7.35. So they are quite specific foreign language, mostly national broadcasters from other countries, so we know when they are coming in.

CHAIR—So you do 18 different languages?

Ms Sharp—Yes, at the moment. We do not have much room for much more but we would like to expand it.

Mr Milan—A dozen of those are every other day and the others are maybe only one program a week.

CHAIR—Have you done any costing? If you had to have someone there to do closed captioning for all of those news services, have you done a guesstimate of what it would cost?

Ms Sharp—There is little point in doing a guesstimate of what it would cost because we know it would really be impossible. It would be so difficult even to do it into English, let alone to do it in time and, because it is a news service, you want to get it on the air as soon as possible. I presume you are asking that it be closed captioned in the language it comes in?

CHAIR—Yes, you are saying to us that the legislation indicates that is what you are supposed to do at the moment.

Ms Sharp—There is a possibility.

Mr Milan—The cost would be such that we would not do it. If we had that sort of money available to us, we would be making other forms of programming. Simultaneous translanguage translation is expensive enough; then to put that into closed captioning in language, you would not think about it. The cost would be absolutely immense.

CHAIR—You are saying though that the legislation could indicate that is what you are supposed to do.

Mr Milan—That is absolutely correct.

CHAIR—And you are saying that the cost would be prohibitive because you have got 18 different languages and, to do it simultaneously, you would have to have one person doing the auditory and one person doing the closed captioning because they could not do the same thing. You would have at least two people.

Ms Sharp—You would have to have an additional 18 language proficient people presumably in your captioning staff.

CHAIR—Not only that, you would have one doing auditory and the other one doing closed captioning.

Ms Sharp—You do not do auditory. It just goes across as closed captioning.

CHAIR—I know you do not do it, but you are saying the legislation does not mean you have to do it in an auditory form but it could indicate that you may have to do it in closed captioning.

Ms Sharp—It does.

Mr Soothill—If I could add to that, neither of the digital technology supports an unlimited range of language fonts. Some languages simply could not be delivered by the digital television technology because the technology does not support all language fonts used throughout the world. I think the issue that Chris raised is very important—that is, the time to translate and to closed-caption material is quite significant and we only do it on our news by having people there tracking the news material as it comes in. They then prepare the subtitle beforehand so that, while the news bulletin is being read, they just play out prepared subtitles. That is technically how we can do it.

The other technical point about subtitling and closed captions is that, if we have a movie that is already subtitled and then you want to have closed captions as well, for the viewer at home the closed captions would then appear on top of the subtitling that is already there. That is very confusing and is an issue that would create some major problems for us and for our audience, I believe.

Senator EGGLESTON—Both news and movies in English only?

Mr Milan—The simplest way to handle that is for the legislation just to be about English language programming and then there is not a problem.

CHAIR—If you have got digital TV, can't you use a small amount of the spectrum to put down the closed captioning so somebody who is not hearing impaired can watch the subtitles? You are saying that you overlay it, but would you have to if you used part of the spectrum for closed captioning?

Mr Soothill—The normal subtitles are what is called burnt into the picture. They are put there permanently and, when we broadcast, we cannot take the subtitles off.

CHAIR—No, but the person who is not hearing impaired watches it with burnt in subtitles; the person with a hearing impairment switches and gets the additional channel material from the multi-channelling.

Mr Milan—But they would still have the burnt-in one on the screen, so they would see one on top of the other.

Mr Soothill—They would overlay on top of each other and, although the closed caption will overlay differently, it is a thing that we have been advised would be—

CHAIR—Technically difficult or impossible.

Mr Soothill—It is not just that, but the audience is not happy with it.

Mr Milan—The spectrum space is not the problem; it is what is on the screen that is the problem.

CHAIR—I understand that. I suppose if you had 'door slams' somewhere else, you would have the whole screen full of printing and the person would not see what is on the film. What if you had it not overlaid, but somewhere else?

Mr Milan—I think we should take that question on notice and see if we can give you some more information.

Ms Sharp—If you require more technical detail. To be fair, in the legislation, as it is framed, I think commonsense would prevail and it would be taken that, where programs are

subtitled into English, they would not also be required to be closed captioned. That is how I read it at the moment, although there may be different interpretations on that.

CHAIR—And the person who is hearing impaired would get a reasonable gist of what was going on with the subtitles if they speak English.

Ms Sharp—Absolutely.

CHAIR—That is all I have on that. I do have a question about what happens with the visually impaired because they get left out of the whole system. In America, through FM radio, you can sit and listen to a description of what is on the television.

Mr Soothill—That is called audio description and there are international standards being developed for audio description. I am not aware of the detail but certainly it is an option.

CHAIR—And that can be put down to the spectrum rather than just on radio broadcasting, which I think is what they do in the States.

Mr Soothill—I am not sure.

Mr Milan—I think the answer is anything is possible but it depends on cost and practicality. It is not something we have even thought about until you raised it now. I think we could still have a concern that trying to do it in 68 languages would be tricky.

CHAIR—I do not mean in 68 languages; I just mean in English. I have raised that because it has been raised with me by the Victorian Institute for the Blind. They have people who are trained to do it. They do it at theatres in Melbourne where they sit in a booth and the visually impaired person sits in the theatre with earplugs in. I am concerned about that because, as we get an ageing population, one of the most aggravating things must be to have an older person or a visually impaired person sitting near you saying, ‘What is happening now? What is she doing now?’ I am concerned to reduce that sort of strain. We are looking at closed captioning for the deaf, yet we have another group of people, the visually impaired, who might be able to hear it but lose a lot of the information because they cannot see it. That may be appropriate for some programs. Some programs may devote some time to it with these highly trained volunteers who describe it. That is just something I want to explore as a possibility in a limited way.

Senator SCHACHT—On that same point, I would be interested to see what training you would give these people on how they describe some of the movies you show on SBS. That would be a real challenge. I was watching last night before I went to sleep a movie called *The Black List*, and I have to say there were some scenes in there that would have been a real test for someone to keep a straight face as they were audio describing what was on the screen. I would be interested to see how you go with that, Mr Milan.

CHAIR—That would be a post-senatorial voluntary job for you, Senator Schacht. You could describe SBS programs for the visually impaired.

Senator LIGHTFOOT—Did you flick to that purposefully or was it an accident?

Senator SCHACHT—I always watch SBS; I watch it regularly, but I went to sleep through the middle of the movie so I never knew what happened.

Mr Milan—*The Black List*, was it?

Senator SCHACHT—It was a Canadian movie in French; it was well subtitled.

CHAIR—Thank you very much for your attendance and your submission. If we have any questions as we go further along, we will be in touch with you.

Mr Milan—Thank you.

[10.59 a.m.]

BELL, Mr Anthony Edward, Managing Director, Southern Cross Broadcasting (Australia) Limited, 41-49 Bank Street, South Melbourne, Victoria 3205

DRAFFIN, Mr Garry, Chief Executive Officer, Telecasters Australia Limited, Level 8, 1 Elizabeth Plaza, North Sydney, New South Wales 2060

KENNEDY, Mr David, Principal Consultant, Cutler and Company, 7 Leveson Street, North Melbourne, Victoria 3051

RUSHTON, Mr John Illingworth, Chief Executive Officer and Managing Director, WIN Television Network, Locked Bag 8800, South Coast Mail Centre, New South Wales, 2521

SYPHERS, Mr Warwick David, Finance Manager, Prime Television Limited, Level 6, 1 Pacific Highway, North Sydney, New South Wales 2066

CHAIR—I welcome representatives from NBN Limited, Prime Television, Southern Cross Broadcasting, WIN Corporation and Telecasters Australia to the table. The committee has before it submissions 8 and 8A, which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Draffin—No.

CHAIR—I hate doing this, but would anybody like to make a brief statement? Some people cannot make it brief. Would anybody like to make a brief statement that is not already in the submission?

Mr Draffin—No.

CHAIR—If not, we will proceed straight to questions.

Senator SCHACHT—Maybe Mr Kennedy or all of you were here to hear the evidence given by the representatives from GTS 4 and SES 8, who are not in an aggregated market. Their particular point was that they are excluded from having the benefit of a moratorium on any new free to air licences in their area, whereas the legislation gives you the protection of the moratorium on any new licences. If the legislation stands as is and is not amended in the way they would like to be included in the moratorium, do you think that would mean they inevitably will have to end up joining an aggregated market?

Mr Rushton—I believe that they do deserve the moratorium. I think, on a pro rata basis, the cost and difficulty that they are going to come under in doing this conversion to digital is going to be the same as anybody else. They are in a solus market because it is a small market, so relatively speaking they are going to be in just as difficult a strait as everybody else. I think included also are the areas where there are only two licensees. They are also excluded from the moratorium and these markets have only two licensees for the same reason—because it is a small population.

Senator SCHACHT—They have also asked for the legislation to be amended to give them the right to multi-channel, to have two standard digital when they are not doing HDTV, so they can put together a distinct signal, a different program. They made it very clear there would be quite different programming on each channel at the same time. Do you think that is a reasonable request on their behalf when, in fact, the aggregated market, which basically you are coming from, will not have that ability?

Mr Rushton—I have not had any direct discussions with them on this, but I have heard that some of them had the thought of bringing in the three network signals so they give their small population base a choice of channels 7, 9 and 10 via the multi-channel and not go to

high definition at all. How serious that was, I do not know. I think everybody likes a choice of television. If the cricket is on for a whole day and you hate cricket, it would be damned annoying, I would imagine. So I think there is quite a lot of logic in that.

Senator SCHACHT—You have discovered people who dislike cricket, Mr Rushton!

Mr Rushton—Yes, I have. Fortunately they are in the minority.

Mr Draffin—If I could just add to Mr Rushton's point, my company also operates a remote television service in Queensland and the licence is currently being reviewed between it and Imparja to consider second services in both of those markets. One point that needs to be borne in mind with delivering multi-channelling over satellite is that you start to face the same sorts of cost problems as you do with the issue you have already dealt with, HDTV over satellite. These services are only just turning towards profit and, therefore, stopping taking subsidises from the government because they are delivering a digital signal and, therefore, requiring less transponder space on the satellite. To multi-channel would require more transponder space and, at about \$1 million a shot, I would not have thought there would be a great deal.

Mr Bell—You would probably be aware of the financials of some of these very small operations. The only reason they would want to provide an extra service is they are responsible broadcasters wishing to provide a service. There is absolutely no more money available for that market. It is a very limited revenue stream. It is a very high cost to produce the signal and distribute it around those very large areas. It is simply not viable to have another competitor in those markets.

Senator SCHACHT—They are both from my state of South Australia. It is not viable for them to combine their markets into one and become an aggregated market, like you have operating out of here in Canberra and regional areas on the east coast. Is the population in the regional areas of South Australia just too small for an aggregated market operation as you have in on the east coast of Australia?

Mr Bell—I have worked in the South Australian market. I understand the regional market well. In my opinion, yes, it is too small to cut up.

Mr Rushton—I think it is the distances too. The link costs would be enormous to join them into an aggregated type market.

Senator SCHACHT—I know that to put in another aggregated network from Mount Gambier around to Port Pirie and to a place in between so you have three of them operating is a fair whack. I think Loxton is run by SES 8 now. Therefore, even if someone said, 'Irrespective of their wishes, aggregation is the way to go to give the choice to the consumer,' you would just say that the marketplace could not afford it?

Mr Bell—The only way it could be achieved, in my opinion, would be to allow multi-channelling.

Senator SCHACHT—Because in the aggregated markets under the legislation you will not be able to multi-channel, you do not see that this is an unnecessary advantage to those smaller operators we have just had before us to be able to multi-channel?

Mr Bell—I do not see that it impacts on us at all.

Mr Rushton—They are still at a disadvantage purely because of their geographic situation and the lack of population.

Senator SCHACHT—I was just interested because you are on a different level from them and they are asking for us to amend the legislation to give them a special right that no other

free to air commercial channel under this legislation is supposed to have, which is multi-channelling. You are the next step up on the ladder of commercial television and if you are willing to say that that is a fair thing for them to have, I am just interested to see how you would respond.

In your submission you got to considerable detail on the cost structure of what you are facing. I think you were saying that over eight years it would be \$500 million-odd for regional television, the cost of the equipment—the equipment for studios, et cetera, that conversion, as well as your transmitters and translators. How does that compare, first of all, with when you went to colour television? Is this figure a quantum level higher than when you converted to colour television?

Mr Rushton—Colour television does not even get anywhere near this. This is greater than the cost of aggregation. This really means that we rebuild our networks as they are now. So we have to rebuild another network. It is going to be a mammoth task.

Mr Bell—I will just add to that. At that time, aggregation had not taken place in various markets. Therefore, it is very difficult to make a comparison.

Senator SCHACHT—You think it is even a quantum level above the aggregation cost?

Mr Draffin—Yes, it is.

Senator TIERNEY—Could I just ask a question on the costing of that. The roll-out across regional Australia is far more complex than for the cities and more costly. Could you just tell me what you can do in relation to your translators? Do you have to build a totally new translator for digital? Do you have to have more translators for digital?

Mr Draffin—Yes, essentially, you have to duplicate your network. The real issue for broadcasters such as us is that, whilst at a metro level you just have to turn on, essentially, a single transmitter to reach all of your population, we have the cost of having to meet January 2001 because virtually all of us are in overlap markets. Commercially, therefore, those overlap markets have to turn on at the same time as the metro markets, otherwise we would clearly see significant erosion.

In one of my markets, for instance, that means turning on a broadcast centre in Townsville to be able to reach an overlap market on the Sunshine Coast and having to, therefore, duplicate thousands of kilometres of microwave in between. So the impact is capital intensive in the first and early years of aggregation. It does essentially mean a duplication of every transmitter and translator, and perhaps more, because there is still some technical doubt as to whether the digital signal will travel quite as far as the analog signal. We may, therefore, have to infill some parts of our distribution network.

Senator TIERNEY—So in, say, the Hunter Valley where Mount Sugarloaf is the main transmission point, would NBN have to put up a totally separate tower for this, or can it use that same tower?

Mr Rushton—Not a tower. They would have to put a new antenna on their existing tower, assuming that it passed the analysis that it was strong enough to support it. Then they would have to put in a totally new transmitter to transmit the digital signal, and leave their VHF antenna and transmitter there. So they duplicate that. You can use the same tower.

Senator TIERNEY—And for the translators?

Mr Rushton—You can use the same tower for the translators. You have to put up a new transmitter antenna plus a new translator beside the analog one.

Senator SCHACHT—All on the same tower?

Mr Rushton—On the same tower.

Mr Draffin—We just should there, of course, subject to any or all of these towers passing an appropriate engineering inspection. It may well be that, for a number of the NTA towers, for instance, they are already at their maximum load.

Senator TIERNEY—So we are not going to see a repeat of the mobile nightmare where additional towers go up everywhere?

Mr Draffin—We would hope not.

Senator TIERNEY—We certainly hope not too.

Senator SCHACHT—The figure of \$500 million is over eight years to 2008. That expenditure is a bit lumpy: I presume there would be more of it in the beginning of the 2008 period?

Mr Draffin—Yes.

Senator SCHACHT—So, in that lump, how much of the \$500 million is going to be leading up to 2001 and then just after? Two-thirds of it?

Mr Rushton—Probably about 60 per cent of the capital up to 2001 for the major sites. That is in my case.

Mr Draffin—That is pretty fair.

Mr Rushton—Then the bulk of the capital, of the \$330 million, would be spent by the end of 2003, and then we have that additional \$22 million to \$25 million a year operating costs while we are in simulcast mode.

Senator SCHACHT—After 2008, if that is the deadline the simulcast sticks to that and comes to an end, your costs will go down by the equivalent amount of \$22 million?

Mr Rushton—Yes. As far as the simulcast period is concerned, there will be fairly major promotional campaigns. If we can get everyone converted by 2006, that would be great because we could switch it off.

CHAIR—Would you want your \$22 million extra then?

Mr Rushton—No.

Senator SCHACHT—The government will turn your subsidies off as well.

Mr Bell—The year 2008 is fine, Senator.

Senator SCHACHT—We are probably kind and soft hearted here. You have to run this past Treasury and those other barbarians in Finance, et cetera. That is your much bigger and more difficult task than convincing us about your position.

Do you agree with the definition of ‘enhancement’ that the FACTS submission gave to us on Monday of the ability to enhance the digital signal to provide extra value, extra quality, in terms of information to the signal? Do you agree with their definition, which, I have to say, I actually believe is a form of multi-channelling, but that is matter we have to argue about? Do you agree that is a definition you will also fly by?

Mr Rushton—We are all party to the FACTS submission as well. I think that the enhancement is just that. It is an enhancement of a program. On Monday the major example was a football match. We may have a camera angle from the halfway line or one from behind the goalposts. That is just enhancing the main program. I think it is just an added twitch.

Senator SCHACHT—The example we got—FACTS were quite open about it; it was in their submission—was in a metropolitan market like Melbourne. When one of the network news services was on at six in the evening, at the same time, because there is a big submarket called Geelong, you would have a separate signal going out with the same news service but 30 per cent of it would be changed to emphasise Geelong news and so on. It would be a separate signal. Wherever you were in the metropolitan market of Melbourne, you could choose to watch either of those two events. My own view is that that is actually pretty close to multi-channelling.

Mr Branigan was explaining that it is in fact an enhancement. When you have two different signals going out and the product is partly the same but different in other parts and the consumer can choose two different channels, I think you are into multi-channelling. But that is an argument we have to consider in the legislation. Where would you, in your aggregated markets with three networks of programs operating, see any particular area of enhancement that would be operating differently in your regional markets than in the metropolitan market?

Mr Rushton—In the case of the WIN network, we do not see that there would be any. I doubt that we would be able to afford to do any enhancement. We would take any enhancement from the network that they would allow to give us, but right now we do not have a right to any enhanced programming anyway.

Senator SCHACHT—In relation to the issue of datacasting, when you are not using an HDTV signal, there is multi-channelling and/or datacasting. The evidence we had earlier this week was that, with the datacasting, there would be a fee set by the ACA on what that datacasting would be. The argument as to whether datacasting is an absolute right to the free to air channels to run it and then pay a fee or whether there should be a separate auction or bid to have access when someone else might want to use it is still to be determined in discussion and in this legislation. Would you see datacasting as something you would be interested in paying a fee to operate?

Mr Rushton—As far as we are concerned, it would depend on the amount of revenue we were going to get out of it. If there was some positive revenue in it, we would consider it. Right now it does not figure very greatly in our plans at all. Because we would have such an uncertain time available for it, it would only be one-off contracts that you would be able to do.

Senator SCHACHT—As operators in the aggregated market, could you live with having the legislation or regulations set minimum levels of what has to be transmitted each year through the simulcast period in HDTV—that is, say, three hours a day in 2001, 10 hours a day in 2005 or whatever?

Mr Rushton—In practical purpose we are restricted to taking our feed from the network. We would follow whatever they do.

Senator SCHACHT—Okay. In the submission given to us by the Internet users association last Monday, they gave a definition of what they saw a datacasting channel being able to provide, which was pretty expansive. There was not just teletext and a few figures going up the screen or a reprint of AAPT's latest news flashes, et cetera. It was a very broad range which included people being able to go into a web site for, say, Village Roadshow and download the latest Village Roadshow movies that they are providing such as *Titanic* or whatever. You download that and then at a later stage you replay it at your convenience. That is what they describe as one of the products of datacasting.

In view of the fact that you show movies a lot and your programming is very popular, is that a legitimate datacasting arrangement? They are taking it off the web site. They are downloading it. It is not free to air broadcasting in the traditional sense, but it is a product that you have a big market interest in. You might want to take this on notice. They came after FACTS and I did not have a chance to put this to them on Monday, but we will ask them to chase that up.

Mr Draffin—I think it would be fair to say that the prospects of legislating the Internet are probably a bit beyond us at the moment.

Senator SCHACHT—I would have to say that I think it is a bit beyond all of us.

Mr Draffin—Yes. The situation that regional TV finds itself in is that, although we reach more than a third of Australians, we are dependent on a revenue base of less than a fifth of the advertising revenues available. To a certain extent that does mean that, although we are interested in issues like datacasting, we have to move with the way the market demand is going to move, and that is more than likely going to be driven out of the main metro population. So we have a very active interest in it.

Senator SCHACHT—Have any individual companies or operators within the aggregated market or the whole group done any studies about what sort of demand there would be for datacasting and its product in its broadest sense amongst your consumers?

Mr Rushton—We certainly have not. I am a little embarrassed that very few of my executives seem to understand exactly what is available and what is meant by this datacasting.

Senator SCHACHT—We are trying to find this out because this has to go in the legislation within three weeks. I have to say that what worries me is that unwittingly the parliament can put a description in on a regulation about data and you either make someone very rich or someone very poor. I am very nervous about accidentally or even deliberately saying to someone that this is a free gift by regulation you give somebody and they walk away, whether it is the free to air television or whether it is OzEmail or someone else who are all bidding to say, 'Give us an access to the spectrum and we'll do datacasting whichever way.' That is why I am asking. I am interested to hear that you are almost as difficult about this as we are.

Mr Rushton—Every time I ask somebody outside our organisation what it is about, I never ever get a very sensible answer. I am not sure whether they are hiding some big goldmine from me or they are just as much in the dark as I am.

Senator SCHACHT—So you have not had any discussions with the ABA about a definition of datacasting where it crosses over into broadcasting?

Mr Rushton—I have not, no.

Senator SCHACHT—Does anybody else have a view?

Mr Bell—Senator, I think it is very clear. Our objective is to provide a solid broadcasting service. It would be a shame if legislation prevented us from providing a service that has enhancements. We are not interested in building another business out of the spectrum that is given to us; we are interested in providing a similar service to what we do now, plus provide any enhancements that the technology allows us to do. That can be very broad.

When you enter into the arena of datacasting, there is a certain amount of datacasting that can be provided that provides an enhancement to the service, something the consumer would want and would be grateful for. Then there is the other side where it gets into a whole new business stream. When you can separate the two, I guess that is the problem. But we would

not like to see any legislation that would prevent us from enhancing the services we are currently providing.

Senator SCHACHT—Okay. I can understand that. So enhancement pushes the envelope out a certain way beyond what traditional broadcasting people have conceived it as being. Enhancement might have an actual data application to put information in or a spin-off. Conversely, you would not then object if the people who start off datacasting drift a bit into broadcasting by providing downloaded movies which, no argument, are going to be competitive to your free to air broadcasting?

At some stage someone will bid to buy *Titanic* and show it on screen, but, before it appears on the screen free to air, a datacaster charging a rate might be available to make that available six months earlier, which has an impact on your market. What I am saying is that it cuts both ways. If we try to define it and say that this is all broadcasting, to protect you, they might complain that this is a restriction on them and visa versa. Are you willing to let the dominoes fall and for it to sort itself out in that there will be cribbing both ways into each other's traditional understanding?

Mr Bell—I am not sure that I can answer that in any clear or defined way, but what I can say is that the days of people jumping in a car and going down to the video shop to pick up a movie will be gone in a few years time. Those movies will be downloaded, one way or another, into whatever that television set is of the future that is essentially a computer with a hard disk. Who provides the service of the link between where the movie is sent from and the consumer is an issue that you would have to deal with.

Mr Draffin—May I just add to that. We are also talking about lots of different means by which that movie may get into the house. Probably the most widely accepted view as to how it will get into the house will be down a cable. What we are talking about in this legislation is a degree of free to air bandwidth that will enable the broadcasters to deliver HDTV. When HDTV is not going out, and we do not know when that is, and we assume it is not going to be for a consistent period of time—in other words, HDTV will be assuming more and more of the time we broadcast—you do not really have a proposition that can in any way rival cable as a means of Internet delivery. We might be getting just a bit too broad.

Senator SCHACHT—The Internet association put a proposition in discussions last Monday afternoon, and this was confirmed earlier in the day in a different context. The ABA said that there are probably somewhere between 10 and 15 megahertz on the broadcasting spectrum that is not being used and will not even be used in the allocation of your seven megahertz each. That is free now to be allocated. What they basically said is, 'We would like that 12, 11 or 15 megahertz, whatever it is, issued for individual datacasting use on a bid basis. People go in and bid for three or four megahertz each for a channel and they will then go out and use that for datacasting.'

When they start doing that in the crossover, they will not be operating on HDTV but it will be able to come through the set and provide a range of services. Some of it is going to be moving into your area. If you bid for the datacasting, or someone does, and gets a licence, a broadcaster will be getting into datacasting. Do you have an objection to that?

Mr Rushton—I do from our company's point of view. I do not want a datacaster using that as a point of entry to bringing in a movie channel into our area. If that meant that in that small amount of time we will have data available to transmit, I would rather do away with that.

Senator SCHACHT—I can understand your point of view, Mr Rushton. I think there is an heroic assumption there in that, as parliament's regulators, in the end everything will be clearly black and white in making those decisions.

Mr Rushton—I understand that.

Senator SCHACHT—I would be interested, and I think the committee would, too, for you to have a read of that submission and the transcript of the evidence given by the Internet association. In relation to the definition of datacasting and how it applies, there is going to be a conflict between what they want and what free to air want. I do not think there is any doubt that someone is going to end up winning the argument and someone else is going to end up losing the argument on these definitions in the legislation. How long the definition lasts for before technology blows it apart, your guess is as good as mine, probably better than mine.

CHAIR—There are complications about the somebody's TV becoming a PC and somebody's PC becoming a TV. Nobody knows when that is going to happen, but I think that is going to be a problem. How you keep legislation up to that convergence, I think, one would need the wisdom of Solomon to know.

Mr Bell—The TVs will be computers.

CHAIR—Yes, and the computers will be TVs.

Senator SCHACHT—On pages 8 and 9 of your submission, you give the figures for the aggregated markets. You use the phrase 'single hub capex over one aggregated market'. You might care to explain what a 'single hub capex over one aggregated market' actually means.

Mr Rushton—'Single hub' refers to the mother station. For southern New South Wales, in the case of WIN, Wollongong is the hub, and all of the signals go out from there. In the case of Prime and Capital, Canberra is the hub, and all of their signals emanate from there.

Senator SCHACHT—So that is the capital expenditure in that single hub?

Mr Rushton—Yes.

Senator SCHACHT—The A.1 table 'Operator capex over all aggregated markets' is what WIN has to do outside the hub to get its capital up?

Mr Rushton—Yes.

Senator SCHACHT—These figures were put together by your group. Has anybody yet run their eyes over those figures independently to see whether you have stretched the envelope a bit or whether these are pretty fair dinkum?

Mr Draffin—They were compared by an independent consultant, Cutler & Co., who, because of confidentiality issues between all of the broadcasters, was employed to pull them together. They utilised the best possible information we have available at the moment. We recognise that all of our figures have to be subject to some scrutiny prior to us arriving at any position in terms of the support that we will get.

I guess our primary motivation here today is to ensure that the concept of digital should be looked at in the same way as the equalisation policy was brought in. The issue certainly for my company and for other companies at this table is that we are public companies, and the analysis that you are looking at has also been well looked at by the share market. They certainly appreciate that we have substantive capital costs in the financial year after next, and they are looking for some sort of sign or indication that this process is going to be treated by government in the same way as equalisation was treated.

Senator SCHACHT—On pages 12 and 13, you have four dot points of each of these particular measures you want the government to provide?

Mr Draffin—Yes.

Senator SCHACHT—The first dot point states:

a tapering licence fee rebate for the length of the simulcast period (eight years, or a longer period determined by the ABA as part of its conversion plan), declining from 100 per cent in the first year; So over eight years it comes to one-eighth per annum? Is that right?

Mr Draffin—We are not wed to any of those four points absolutely.

Senator SCHACHT—I understand that.

Mr Draffin—They need to be looked at in totality. In answer to whether it declines by one-eighth per year, it would depend on the totality of the support as to the degree it would decline.

Senator SCHACHT—Can you bring to my attention in the submission where you state what the cost would be to the government if it bought your four dot points in total—that is, the rebate costs over eight years, the rebate of all sales tax on the purchase of all equipment, free NTA site rental and a measure of flexibility on the rollout period? The last dot point seems a bit hard to measure because it is a measure of flexibility. Can you draw my attention to where in the submission it explains what each of those measures would cost the government? It would cost you \$500 million to do the whole project. Do all those measures cost the government \$500 million?

Mr Kennedy—Perhaps the best thing for me to do is refer to aggregation, where a similar package of measures was put in place. The Department of Communications and the Arts has done an evaluation of the cost of that and the proportion of the total costs borne by the operators as part of that assistance package. I do not have that paper with me and I cannot remember the numbers. I am suggesting that the department may be able to provide you with some guidance on that.

Senator SCHACHT—When they turn up we will certainly ask them. I hope they have read the submission by the time they turn up. The second dot point states:

rebate of all sales tax on the purchase of all equipment required for digitisation;

As you list that over on pages 8 and 9 as capital expenditure, can you work out yourself or know what that remission rebate on sales tax would mean as expenditure?

Mr Draffin—That is actually shown in those tables. The third column across is the current tax cost on that capital expenditure.

Senator SCHACHT—In table A.2, for HDTV cameras, new studio, \$56,000 is the rebate?

Mr Draffin—Per camera.

Senator SCHACHT—Per camera it is \$56,000?

Mr Draffin—Yes.

Senator SCHACHT—The total cost is \$770,000 and the sales tax is \$257,000? Have I got that round the right way?

Mr Kennedy—No.

Senator SCHACHT—You have three cameras and the cost is \$257,000. The tax is \$56,000.

Mr Draffin—For each.

Senator SCHACHT—The tax is \$56,000 for each of the three cameras. Is the \$257,000 for each camera or for the three cameras?

Mr Kennedy—For each.

Mr Bell—You can see the \$169,000. That is the total tax.

Senator SCHACHT—The total is \$770,000 for the three cameras. So the total column then is \$1,119,000. So you have quantified the second dot point absolutely. The tapering of the licence fee over eight years—is that given somewhere where you can say what that amount is?

Mr Draffin—No.

Senator SCHACHT—Can you take that on notice? If you get it back to us by the time DoCA turn up, that would be useful because we can then ask whether they agree.

Mr Draffin—Yes.

Senator SCHACHT—The free NTA site rental for digital equipment over the length of the simulcast period—was that \$20 million or something? Did I get that right or not? On page 10 you have \$22 million. Is that the correct figure?

Mr Kennedy—No. That \$22 million is the increase in operating costs. We will have to take that on notice.

Senator SCHACHT—You also mention:

To this must be added distribution costs. The industry uses a mixture of microwave links and leased fibre optic capacity from Telstra.

Can you provide what the figure from Telstra is? Are you asking the government to subsidise Telstra for the cost of those fibre-optic links? Who is going to pay for it? Telstra?

Mr Rushton—Or they give the rebate to us and we do the deal with Telstra. It depends whether Telstra is a private organisation or not then.

Senator SCHACHT—Either way it will require legislation, I suspect. Can you give us a figure of what you think the mixture of microwave links and leased fibre-optic capacity from Telstra will cost? Are the microwave links all from Telstra?

Mr Draffin—Not all.

Mr Rushton—At the time we would get prices from Telstra to provide the additional linkage. We either use Telstra totally for the new one or we say, 'No, they are too expensive. It is more economic for us to duplicate our own microwave link system.'

Senator SCHACHT—Once you pay that, whatever the figure turns out to be, the government then pays a subsidy back to you for the cost of that period?

Mr Draffin—That is right.

Senator SCHACHT—Can you give us some more information on what you think that is? Is that running into tens of millions or a few-odd million or a few hundred thousand? Knowing the way Telstra charges, it is probably tens of millions.

Mr Draffin—It has certainly gone up.

Senator SCHACHT—The site equipment you can get are the figures from the NTA? What do you think the site rental for digital would be?

Mr Rushton—That would be a guesstimate as well. They are not quoting on digital as yet. They are not quoting at all right now because they are expecting to be sold. That is why we wanted to get this through and put in as a condition of the sale.

Senator SCHACHT—The first three dot points can be quantified reasonably well. The last dot point states:

a measure of flexibility on the rollout period.

What does that actually mean?

Mr Kennedy—The intention there is simply that the issue of technical feasibility needs to be taken into account in determining rollout plans in the negotiations between the ABA and the licensees.

Mr Rushton—We have so many sites to update that it is not possible.

Senator SCHACHT—The ABA admitted last Monday that, even by the deadline of starting digital, including HDTV, on 1 January 2001, it is not possible that every Australian consumer, wherever they may be, if they chose to buy an HDTV set would actually get the signal. They did not declare which areas would still be to come on stream. What you are saying is that you cannot guarantee that all of the rollout of the equipment—translators being changed, et cetera—would mean that, if somebody were living at West Wyalong or West Cobar and they bought an HDTV set, they would automatically get a signal because you may not have completed the rollout?

Mr Rushton—Correct.

Senator SCHACHT—How long do you think you would need to roll out across all your markets of your consumers so that the consumer can buy an HDTV set in good faith and get a signal?

Mr Rushton—I think all of our engineers are looking again right now to see what could be done. We all have to do this at the same time. There are limited numbers of companies that we can enlist assistance from to do the installation. In aggregation, the bulk of it was done by our own engineers because it was a staged, well-planned operation that was set down by the government and the department. In our early talks with the minister we said that aggregation took six years. This would probably take seven.

Senator SCHACHT—So it could be seven years before all the operators in the aggregated market could guarantee that, where people are getting an existing analog signal, they would also be guaranteed of getting an HDTV signal?

Mr Rushton—That was what we put to the minister. We are revisiting that now to see just what could be done, bearing in mind that all regional stations would be competing to do it at the same time. That is what makes it difficult—all aggregated markets have to do it at the same time.

Senator SCHACHT—What you are saying is that you need almost the full eight years of simulcast to complete the digital equipment rollout for the transmitters, translators, et cetera?

Mr Rushton—It could be.

Mr Draffin—That seven-year time frame would start before 2001. It starts almost with this process we are at now.

Senator SCHACHT—That is 2005. So it is a possibility that you might need up to five years of the simulcast period to complete it?

Mr Draffin—Yes. The timetable that sits in the FACTS submission at the moment and the legislation, we believe, should be just about doable. But there are a number of factors that are beyond our control, including the speed with which the ABA is able to allocate frequencies and the ability of overseas suppliers to supply us with equipment. Whereas the metros may need only six transmitters, I need 120. That means that my impact on the Sony production line has to compete with America and everybody else.

Senator SCHACHT—You know that we want the Sony production line to be shifted to Australia.

Mr Kennedy—As long as it is fast, we do not care where it is.

Mr Rushton—A good example is that we have just won the second licence in regional Western Australia. We are in the throes of planning a roll-out there. There are 114 transmission points—transmitters and translators—to be installed for the whole state to be covered. We are trying to get 70 per cent of those people getting a signal in eight months time.

Senator SCHACHT—How much is your capital outlay to get those 114 transmitters and translators into place?

Mr Rushton—It will be about \$23 million.

Senator SCHACHT—No wonder your shareholders are interested in the price of your company.

Mr Rushton—Then in a couple of years time we may have to do a similar thing for digital.

Senator SCHACHT—I presume all that stuff is imported.

Mr Rushton—Yes.

Senator SCHACHT—From Japan?

Mr Rushton—The major transmitters are from Japan. We are looking at Italy and some other places in Europe for some cheaper smaller translators.

Senator SCHACHT—A separate issue is that, when people start buying receivers, the old current account deficit will have a real big blow-out if all these sets are imported, let alone your equipment, which is \$500 million. That will all go straight onto the current account deficit, will it not?

Mr Rushton—Yes, over a period.

CHAIR—In one of the speeches in the House of Representatives it was said that people turn their televisions over every 10 years on average.

Mr Rushton—That is the average.

CHAIR—If you have that lead time, when you say that it will be a great bash on the current account, you would expect it to be spread over a time. There might be a blip at the beginning, but I would not imagine that it would be huge. You have the purchase of the equipment but I do not think the television set will have as much as that, Senator Schacht.

Mr Rushton—I would imagine that, as soon as the legislation is passed, the importing of analog sets will start to decline immediately. If their set is about to be replaced, they will wait until the digital set comes in to replace it.

Senator SCHACHT—So the fourth dot point is not actually a financial cost to the government; it is actually the planning arrangements for your flexibility to roll out?

Mr Rushton—Correct.

Senator SCHACHT—So the three dot points sum up the request to the government for financial assistance in one form or another. And you will come back to us on those figures.

Mr Rushton—They are the three points. The precedent was the aggregation.

Senator SCHACHT—I accept the precedent. I am not arguing about that.

Mr Rushton—I understand that.

Senator SCHACHT—I just want to get the figures so that when DoCA turn up next week we can have an argument with them if we have to about what they think of your figures and your cost structures. On the structure of your submission, the detail that you have gone to is what we have always needed to start making some reasonable judgments as a committee as well as a parliament.

Senator EGGLESTON—You said that it would cost you \$23 million to put in about 100 transmitters and translators around Western Australia. I know that in some of the towns which are preparing to receive SBS the cost is estimated to be much lower. You are talking about \$230,000 per translator and transmission facility. They are talking \$30,000 to \$50,000 as community rebroadcasting facilities. Why is your figure so much higher? It is four or five times higher.

Mr Rushton—SBS would only be putting in a transmitter and taking the signal straight off satellite.

Senator EGGLESTON—Won't you be doing that?

Mr Rushton—No. We have to establish the satellite uplink first because it will be a Western Australian service. It will not be coming from the east at all. That cost includes our microwave link systems, our technical facility, our whole television station and things like that, right down to PCs.

Senator EGGLESTON—So what you are talking about is the total cost—

Senator SCHACHT—It is for the whole system. It is not just the translator but all the system that connects them together.

Senator EGGLESTON—Including your studio, your satellite uplift, the cost of the transponder, the whole bit?

Mr Rushton—Yes.

CHAIR—We have no further questions at the moment, but we may have some other questions later on. If we do, I hope you do not mind if the secretary gets in touch with you. I appreciate your time today and your submission.

Senator SCHACHT—I mentioned to you before the Internet association submission. Maybe you should take a copy from the secretariat of all the submissions that we have received. If there are any issues that have been raised that you wish to comment on, please get back to us as soon as you can. I particularly want your response on datacasting definitions.

[11.55 a.m.]

EISENBERG, Ms Julie, Business Development, Communications Law Centre, University of New South Wales, Kensington, New South Wales 2052

GIVEN, Mr Donald John, Director, Communications Law Centre, University of New South Wales, Kensington, New South Wales 2052

CHAIR—Welcome. The committee has before it submission No. 10, which it has authorised to be published. Are there any alterations or additions that you care to make at this stage?

Mr Given—No.

CHAIR—Do you wish to make a brief opening statement?

Mr Given—I wanted to make one key point. It would be clear from the submission, but I have a couple of bits of information that I think would be useful to add. Broadly, we have supported the overall architecture of a decision on digital terrestrial television which provides for a structured migration of the existing television industry from analog transmission environment to the digital transmission environment. There are elements of the decision the government has made which we do not support relating to the period of prohibition on new licences and the emphasis on high definition, but the broad architecture of providing structured migration for free to air television is something we do support.

One of the things that I think has not been commented on as much as it might have been in the debate here in Australia is the extent to which that broad architecture is basically what is happening everywhere in the world. I was interested to get the May issue of *Screen Digest*, the bible of screen industries around the world, which had a couple of pieces in it. The May issue indicated that the Japanese government has just decided to commit \$US1.6 billion to the conversion of terrestrial television to the digital environment. They are particularly concerned to make good on a pledge made in early 1997 to prevent Japan falling behind the US and the European market. They are very concerned. They see this as a key thing and they are prepared to spend good money doing it.

CHAIR—Did they say which system they were going to use?

Mr Given—They have had a problem because they were the first into high definition television.

Senator SCHACHT—It was delivered by cable, was it not?

Mr Given—No, it was delivered by satellite. The MUSE system that was developed back in the mid-eighties was used by the Americans successfully as the vehicle for staving off the allocation of UHF channels to land mobile because there was the possibility that HDTV might come, but the Americans did not have an HDTV system. Over time that Japanese analog system has been superseded by digital systems. They acknowledged that their system was rejected in the competition for a standard in the US. The Japanese recognised that digital television is the way things happen.

The conclusion at the back of the magazine says:

The number of countries that are implementing policies and licensing for digital terrestrial television is accelerating. Sweden has just granted licences favouring established terrestrial broadcasters. This has become common practice, being perceived as a way of ensuring that services are not having to start from scratch with programming deals while introducing and disseminating the technology among a public that is going to be difficult to sell.

It is broadly saying that that basic architecture of thinking about the migration of free television is important to us.

If we look at all of the talk about national information infrastructures, information superhighways and everything else, it seems to us that we already have versions of 100 per cent information infrastructures out there. One of them is a telephone network, the other two are broadcasting networks—radio and television. It is vital that we use whatever is in place already to the maximum extent possible to be delivering new forms of service. Digital television seems to be an important vehicle for that.

The approach that we have taken is that of saying let us not throw this 99 per cent business up in the air just to see what happens. We have a 99 per cent business in television and in radio, we have a 13 per cent business in pay TV, we have a 20 to 23 per cent business in access to the Internet, depending on whose numbers you believe. While vital, it is absolutely critical that we help those businesses establish themselves. Let us not throw the 100 per cent or the 99 per cent access businesses up in the air, because those are crucial ways that people already get important social and cultural information. That is the basic point that I wanted to make.

In saying that we need to structure the future for television, what is important to us is that the television that goes forward is television which retains the key social, cultural, public interest characteristics of television as we have it now. The legislation has a number of safeguards in regard to that, but the elements that we see as being critical to television are, firstly, the coverage issue—that we continue to get to all of the population; secondly, signal quality protection, which is a real potential wild card in this whole issue because of the flexibility that digital transmission provides to raise and lower signal quality; and, thirdly, accessibility of services. Again, I come back to the recent research in the UK highlighting consumer resistance to multiple receiving standards.

I will read you the numbers from the recent study. Fifty-four per cent of British consumers say that they will not subscribe to digital television until terrestrial cable and satellite can be received through a single decoder or television set. They have watched technological change. They think people will sort this out somehow. They have blown their beta VCRs, they have blown money on all sorts of other things. They know that it will get straightened out, and they are going to wait until it does. We have to offer them that sort of solution.

With regard to accessibility for free television, it is absolutely critical that we continue to get decent services available free. We want levels of Australian programming, levels of children's programming and continuation of ownership and control rules which ensure that we have a significant number of people involved in this business and that they are not the same people who are running newspapers and radio stations. I know that this afternoon others will talk about the New Zealand program issue. It seems to me that, to the extent that the model has been determined by government, it has very wisely said 'We have to take forward the Australian content rules.' The Australian content rules as they stood when this decision was taken in March mean something very different following the High Court's rules. It seems to us critical that legislation be changed, that the steps that are necessary be changed to ensure—

Senator SCHACHT—This is the Project Blue Sky decision?

Mr Given—That is right—that what we thought Australian programs meant in March 1998 is what goes forward as being what Australian programs are in this digital environment.

ACTING CHAIR (Senator Tierney)—You make no specific recommendations in regard to the bill, but you are putting forward an alternative model. How realistic do you think that is at this point in time, given how far down the process we are, with the bill about to come in in a week or two?

Mr Given—We acknowledge that, on the two central issues we have raised concerns about in material written before the decision and then afterwards—one being the prohibition on future licences, and also the emphasis on high definition—clearly there is a lot of work happening and things are proceeding apace. But it does seem to us that it is a pretty big decision. It is

important that the right decision is made, rather than our making a quick decision which locks us in.

If we go back and just think about colour TV standards—and I am sure they have been raised before—NTSC colour was introduced in 1953 in the US, the PAL transmission system was not invented until 1961, and we did not introduce it in Australia until 1975. Things move a lot faster than that now. We cannot afford to take that sort of time. But, by waiting, we delivered to ourselves a much better transmission system. I am not encouraging people to wait that sort of time frame, but that is an extraordinary length of time—22 years later—before we got the service. People were prepared to wait and watch.

ACTING CHAIR—Similar to pay TV, wasn't it, but we still mucked it up.

Mr Given—Looking at it historically and at the technical options that digital terrestrial has provided or is providing to us in 1998, I have this quote in a book I am reading where the head of engineering at CBS in the US in 1989 said, 'Someone will invent a digital television transmission when they invent an anti-gravity machine.' That was how confident he was that this was just technically impossible to do, and six years later—

Senator SCHACHT—Has he still got his job?

Mr Given—Six years later they have done it. So it was an extraordinary technical achievement to get there, but it has delivered us possibilities which we are still grappling with. I think there is one crucial aspect: to me, the problem about the emphasis on high definition is that it just does not allow this very flexible technology to be explored to its best advantage. To lock in that kind of decision, I think, would be a severe limitation.

Senator SCHACHT—Like pay TV.

ACTING CHAIR—The free to air television networks seem to be some of the strongest pushers for getting this all up and running as quickly as possible, and they face considerable costs of between \$½ billion to \$1 billion. What is your understanding of why they are putting such pressure on to get this up as fast as possible?

Mr Given—I think there is a range of issues, some which are quite important public interest issues. I think media and communications are moving to a digital transmission environment. That is life; we have to live with that. The Japanese are saying and others are recognising that, if they are left out of this, there are certain kinds of services that they are just not going to be getting. I have highlighted what I see as the important benefits that television has to offer as a 99 per cent access business.

If you just sit there and say, 'Do audiences want wide screen and high definition?' and all that sort of thing, I am pretty sceptical about whether anyone is going to go out and spend lots of money just to get higher quality television pictures. But if what is happening is that we are saying, 'This is a big social technical transformation; we are shifting the infrastructure of this society from one way of doing business to another; the television networks are behind it and you watch these networks every night,' that seems to me to be a somewhat different step. We are taking it to a different level. We are saying that we are moving into an another kind of dimension.

With that, I think people are much more likely to sit back a little and, as was talked about before, say, 'Maybe I should hold on before I replace the TV set; maybe something big is happening here, and I should be thinking a bit more broadly about my purchasing choice.' That is a different story from someone just suddenly, essentially, advertising, 'There is a new

high definition television service available off a satellite; come and buy a dish and a decoder and everything else.' I think if people saw that, they would say, 'Let's wait.'

ACTING CHAIR—With your alternative model, you talk about two lots of seven megahertz. Obviously one is Channel 6. Where are you identifying the other seven megahertz on the spectrum?

Mr Given—That model was about saying that we think there are two things that have to happen. You do have a structure with the migration of free to air from analog to digital. But what it is not about is saying that, once we have worked out how free to air television is to be looked after, we stop the game and just move on. What it should be about is doing the planning, I think, on a slightly different basis from the way the ABA did it—looking for as much spectrum as possible. And I am pleased to hear that they are claiming now that maybe there are 10, 12, 15 megahertz available out there.

Senator SCHACHT—That is the ABA?

Mr Given—Yes.

Senator SCHACHT—I do not know whether I have to say, Senator Tierney, that I forgot to ask them whether that included Channel 6 being in the 12 megahertz; whether 12 megahertz is on top of what they have reserved for Channel 6. That is something we will have to clarify. I have just been informed that it is on top of Channel 6.

ACTING CHAIR—But isn't it in the ABA submission?

Senator SCHACHT—No, it was in the cross-examination on Monday. So it is on top of Channel 6. That means there are 12, 15 megahertz available.

ACTING CHAIR—If it is not in the ABA submission, perhaps we should ask the ABA to give us a little more detail on it, rather than have what was just in the hearing.

Mr Given—It just seems to me that that planning basis is the core of what we are able to do. If you come to that planning process saying, 'Our goal is to look after free to air television,' then you come up with a different answer than if you come to it saying, 'Our goal is to structure the migration of free to air television and also make whatever other spectrum is available for other people.' I do not care if they use it for television or datacasting, or whatever we call it. I think it is a good thing if we get some new people into that spectrum as well, but they have to come to the planning process with that as a goal.

ACTING CHAIR—What is your view on how that should be allocated? We have had a Channel 6 floating around for a very long period of time, and there has not been any great push to put any more television on it. Do you see that as just all being open to datacasting, or do you see us as just leaving it totally flexible in terms of people bidding maybe for another licence or maybe for datacasting?

Mr Given—I think the reason we have supported the seven megahertz allocations for free to air is that, if we are not certain about what this is going to be most useful for, it is a good idea if there are a number of people out there with sufficient capacity to explore those possibilities. So, if you carve it up much more and give people smaller allocations, I think you are just giving less flexibility to whoever has it.

So, if there is more spectrum available than the five seven-megahertz slots that we are talking about, plus the so-called sixth channel, on which someone is obliged to transmit the community channel, I would not want to see that sort of atomised, given away in tiny amounts, that ensure it can only be used for a limited array of things. I would think the people who get

that spectrum should have as close to the same sort of flexibility as free to air broadcasters—as close to seven as is possible to do.

This is very abstract, and the details of the engineering are for people who understand that. But I think there is the idea of saying, firstly, that we want some more people in and, secondly, that we just do not want them in with atomised bits of the spectrum; we want them in there with enough so that they can have the same sorts of flexibilities as the free to airs.

ACTING CHAIR—But couldn't you start with a system where you would have smaller bits of spectrum, and then later perhaps the marketplace might put those together, depending on what services want larger chunks?

Mr Given—Certainly that is the way the spectrum auctions are working at the moment—starting with tiny blocks of spectrum, and people can aggregate them together in the ways they like. We confront the issue then down the track, when analog spectrum is handed back—assuming that all happens—as to what you say to free to air broadcasters. Free to air broadcasters have to hand it back, but can they then rebid for it in some way if they decide that having Channel 6 and Channel 7 together would be a good thing for their business?

The way we see it is that, if you could start with seven blocks of this stuff and you make sure that you have seven players out there—and, as I say, it is all pretty straightforward maths, and the engineering is more complicated—once you get to eight, what you are wanting to say is that you want at least four players out there controlling spectrum in total. So you do not want anyone with more than 25 per cent of whatever is available. That is kind of simple numbering to try to apply to the fact that we say that we have five TV networks at the moment; we want at least four people out there controlling access to VHF and UHF spectrum. By setting a percentage, the actual amount changes as more of it gets handed back.

ACTING CHAIR—The free to air spectrum at the moment is subject to certain requirements and regulations in terms of content: children's programs, advertising, classification requirements. What is your view on what should happen with those sorts of standards if parts of the spectrum are used not for TV broadcasts but used for datacasting?

Mr Given—I think the principles on which we have tried to distinguish between the rules that apply to traditional free to air broadcast services and subscription services are the right sorts of principles to use. The environment does change if people are paying for services; it does change if services are able on demand; and it does change if services are available only with some sort of security provision. If you have to insert pin numbers and that sort of thing, I think you can be more liberal in the kinds of material you are making available if those sorts of safeguards are in place.

The basic point is that, if free to air broadcasters are to be offered a kind of first shot at this new transmission medium, then the reason you are doing that is that you think they have certain characteristics which are worth preserving. So, in many of those areas you have talked about, I do not think we would be looking to change much. I am not looking to see lower levels of Australian programming; I am not looking to see lower levels of children's programming; I am not looking to change the censorship and classification regime for services that are essentially wide coverage, wide area, accessible to anyone who turns the TV on, the kids can look at it and anything else—the principles we have used are quite sensible ones to take forward.

ACTING CHAIR—Finally, if we just move to the technical standards on things like set top boxes, it seems that other countries might be running into a bit of trouble in terms of not setting a standard or open enough architecture or access through set top boxes. In the UK in

particular, if consumers want a wider range of services they might end up with a number of these services sitting up on top of their sets. Do you have a view in what should happen in that rather complex technical area?

Mr Given—I agree that it is incredibly complicated. What seems to be important in the standard setting process is to not make standards so early that you lose sight of new developments that might occur, but not wait so long that the standard setting process does not really affect anything anyway. Certainly it makes sense—the example I have given earlier—for consumers to be able to sign up to a range of services without having to buy a kind of CD stack of set top boxes. It certainly should be a goal that there is one that is accessible to them.

It seems to me the model you want is that the industry is the primary driver but that the legislation states clearly that the goal is that you want them consistent so that people are not having to buy a whole raft of them. And if it looks like that is not going to occur, then there is a capacity for government to step in and make standards. I do not think that is quite as interventionist an outcome as people might suggest.

If you look at the way standards are set anyway—if you look at the way the Americans got to their HDTV where there is still a set of standards but it is the so-called grand alliance HDTV system—the scale of the politics involved in that standard setting process is utterly daunting. You cannot just suggest that it is just a commercial marketplace out there picking the best standard; it is a highly politicised process and it has critical public repercussions. If that is happening, I am not at all averse to democratically elected governments getting involved a little and asking a few hard questions about why standard X is being picked rather than standard Y.

ACTING CHAIR—Is there a danger, if it is left too much to the industry, that some of the bigger players might work it in such a way that you end up with a standard that suits them but might have a proprietary nature which could perhaps lock out smaller players? You can compare it with, say, the automatic teller machines whereby you can use the cards across the big banks but the little guys do not get into that. There is not as much access, so people are more likely to drift to the bigger players. Is that a similar sort of danger?

Mr Given—I think control of proprietary conditional access systems is as main a main game as we have got in the future of media. As we stress in the material that we have provided, we would like to see, through the use of digital terrestrial television, a number of people with the ability to get access at households. So it is not just Telstra that has its copper wires. The model of television with a number of people with towers on hills in control of their own destiny is a good one. But all of that consolidates as soon as you are all going through a single set top box. It is the great competitive issue. You have the implications of that as well into things like the electronic program guide. Whose electronic guide is used; who appears on the front-page of the guide; whose name is in the most; who is channel 1—all of those things—is the main game of competition in television in the future.

ACTING CHAIR—Thank you.

Senator LUNDY—I want to refer to some of the comments in the articles you have supplied to the committee relating to considerations of the public interest. In the view of your organisation, to what degree has the potential market analysis and take-up rates of such new technologies featured in these policy considerations, particularly looking at a socioeconomic analysis of take-up rates and potential inequities that can arise out of new technologies being introduced to the market?

Mr Given—I think those issues are vital to what we have done. The problem I find with new communications services and technologies is that it is very difficult to do market research in the absence of the actual provision of the technologies. Even with that sort of stuff I have quoted which says, ‘Will you subscribe to pay TV or won’t you?’ until people have seen it in someone’s house, they understand what it is about, they get what a multi-channel experience is, I think you are getting numbers that are a bit unreliable.

The second point is that there are a lot of clichés about Australians’ propensity to sign up to new stuff. Yes, there is a reasonable history of that. But I do not think that means we can simply say in public policy terms that we can just count on Australians to buy anything we throw at them. The other side of that experience of taking up new technology is that there is a fair bit of scepticism and street wisdom about what they are being offered. They look at this stuff and say, ‘Hang on’—as I think they are saying a bit with pay TV—‘this industry hasn’t got its act together yet. There still seem to be too many players out there. I can’t quite follow it. They’ll straighten it out and then I’ll subscribe.’ That said, I think people are actually taking to pay TV in pretty much the sort of numbers people expected five or six years ago. I do not think that business has been a disaster at all in take-up terms.

Those issues of take-up of technologies are crucial. But, in public policy terms, if you went out there and said to people, ‘What percentage of people want digital television?’ you would find everyone would say, ‘What the hell are you talking about?’

Senator LUNDY—Just going to another point that you mentioned about the Japanese government spending \$US1.6 billion on upgrading their transmission infrastructure.

Mr Given—The story says ‘to help private companies convert terrestrial television broadcasting system to digital signals’.

Senator LUNDY—In terms of current speculation about what the revenue return to government would have been had they auctioned off the spectrum, there seems to be an issue of forgone revenue. The structure of the government’s policy is just requiring the existing players to fund the upgrade rather than investing in the infrastructure themselves and then providing for access. Can you just comment on that approach by this government, particularly in the context of what it does with respect to competition policy and the opportunities for other players to gain access, and how that relates back to the consumer?

Mr Given—First, I would absolutely agree that we have not done anything like the economic analysis of allocation of spectrum in this area—it has not happened—and we would be the first to acknowledge that the politics associated with allocation of television spectrum is pretty high level stuff. Yes, people would have paid a lot of money for this spectrum.

The key issue is not so much about this being a giveaway because, of course, people would have paid money for it. The question is what you actually get for what you are giving now. If what you get is a service that is watched by Australians on average for 20 hours a week—it is their most popular recreational activity; it is provided to them free; they all get it; there are plenty of Australian programs; there are plenty of kids programs and those sorts of things—then that seems to me to be not a bad starting point to make the deal. I am pretty sceptical about why it is all happening, of course, but that is the kind of deal that is being put in place around the world. I am not uncomfortable with the overall outcome of that, provided it is not just a shut-out. It is why other people need the opportunity to bid to get into the game—not just into a limited datacasting game but into the television game if they want to.

Senator LUNDY—As far as I can see it, with the way in which the government is funding this upgrade, there are a couple of choices. One is that the government invest in itself and then

recoup the investment through the auction of the spectrum and another is a direct cost regime for access to spectrum perhaps. Given that they have gone the other way, what are your views about the relative ability of governments to determine issues like content and quality proceeding down this method rather than controlling the use of that spectrum to the higher degree perhaps through the alternative funding model? Again, relating back to the question of the public interest, how best is the public interest delivered under a different model and under this model?

Mr Given—The key thing we can do, as far as serving the public interest in media services like television, is to ensure that we have a fair number of players out there and that we spend less time being positive or negative about the particular output of a particular channel because, hopefully, if we have a fair few of them out there we will get a reasonable range of services. In talking about a reasonable range, I mean not just a number of services but institutionally diverse organisations: we have our commercial broadcasters supported by advertising; we have our ABC supported by government; we have our SBS supported by government and advertising; and we have our community sector supported by the local communities that it is serving. It seems to me it is absolutely critical that we are not just allowing a kind of homogenisation of the institutions providing it. I think that provides you with very different outcomes. So we need a range of players and a range of different kinds of players.

The second thing is that, in programming terms, I do not think quotas are a good vehicle for ensuring program diversity. They are a very good device, because they are a pretty blunt sort of instrument, for saying, 'We want to have some children's programs and this is how much. Go away and do it, and screen them at a certain time of the day.' They are quite good for saying, 'We want to have 55 per cent Australian programming. We don't actually care whether it is sport, movies or whatever else, just go away and do 55 per cent.' They are quite good for Australian drama programs in that we are told to go away and do broadly the 750 or 850 points a year. I think quotas are quite good for that. I do not think it is so good for saying, 'There is a quota for interesting, diverse, innovative programs,' because that is why you have an ABC, an SBS and a community sector. It is also crucially why you have production funding support through organisations such as the Film Finance Corporation and the Film Commission. That is why I think it is a very great loss that the commercial television production fund has lost its money. That was a vital supplement to existing funding support.

Senator LUNDY—What about the recent High Court decision—Blue Sky?

Mr Given—I think it is potentially a major problem. I do not think the issue is so much about flood gates being opened. I do not think we are suddenly going to find 50 per cent of Australian television is going to be New Zealand programming or something like that, because there are commercial realities. But we do not need the flood gates opened. All we need in the key programming areas where we have program specific quotas—such as children's programs, Australian drama, documentaries, where we are not asking for a huge amount from the networks now—is for there to be a bit of migration from Australian to New Zealand productions and that can have a radical effect on the Australian production industry.

Senator LUNDY—We will pursue that later with other witnesses. I have a question about convergence. You used an example before where there was a radical development in technologies within a six-year period. The exponential development of compression technologies and computer technologies gives rise to concern, because the government's plan is across a 10-year period but those other developing technologies and convergence are just proceeding at an exponential rate. How effectively do you think this piece of legislation is going to inhibit convergence and technological progression, particularly in the context of

services to the home—that is, telecommunications, on-line applications and of course digital television?

Mr Given—The main point is a similar answer to the one about program diversity. The best thing you can do is try to ensure you have a number of people out there with the technical capacity to explore possibilities. You have to put a framework in place that gives people a bit of certainty about what is happening but, as long as there are a number of people exploring things, you have got the best chance. The problem to me does seem to be that we have placed so much emphasis on high definition. If you look at what has happened in the US and the UK particularly, the rhetoric of high definition is all there in America but I do not think the practice is there.

Senator LUNDY—Just on that point, from what I can see so far, high definition TV seems to be the most useful product available to describe this massive leap in the way we broadcast signals. What scope of services can actually be transmitted via this technology, as distinct from HDTV? I am happy for you to take that on notice. It seems to me that you are right that HDTV is the most tangible and easily understood in the eyes of these larger organisations and the ‘simple consumer’. It has almost become an overly simplistic explanation of what the potential of this technology is.

Mr Given—It is certainly right that you can, as the Americans have done a lot of times, put an HDTV demo on in a committee room on Capitol Hill and people will come to it and be amazed at what it looks like, because it is pretty impressive. I am not talking about the old generation ones but the digital ones that are out there now. They look pretty impressive. They set it up in a superb environment with wonderful speakers, completely unlike what your home is going to be like, and you have a fantastic experience and think, ‘This is really something.’

It is much more difficult, you are right, to communicate the nature of an on-line world—even just in an office environment, with learning what is possible through access to the Internet and email communication within your own office. As in our office, a radical transformation is through the simple ability to communicate directly by a coherent email system through two offices. We are becoming routine in this but, when you get it, you suddenly understand that you can change the nature of how you go about communicating with people. You realise how easy it is to do stuff. You do not have to worry about whether people are in or out of the office and that sort of thing. That is very simple.

There are other kinds of services. We are putting on an event in Albury later this year about communications in regional Australia. Again, we want to show the awareness issues about electronic commerce—what is possible, what can you do out there. We want them to think, ‘What is this going to mean to my business?’—not what Andersen Consulting is saying about what is happening to the whole world—‘How is my business, selling whatever it is that I sell, going to be changed by this?’

Senator LUNDY—Is what you are talking about part of NOIE’s strategy?

Mr Given—I think it is an important part of it. The summit that was held down here, to me, seems to be a good step in that kind of very high level awareness stuff. There was a lot of criticism that Australian business is not as switched on to the on-line environment as it could be. That is only one dimension of it. You have got to have the stuff happening at the grassroots as well—where people come and are not intimidated by the scale of the audiovisual presentations that are going on, but thinking, ‘I get it. If I have a web site that has X, Y and Z on it, I can communicate with my potential customers in a way I was not doing.’ Or the community organisation is thinking, ‘I get it at last. That enables me to do something I have

always wanted to do.’ Or as has happened in the policy community, the ability to instantly get information from regulators around the world has transformed discussion about communications policy issues, in my experience. You can find out instantly what is happening in America. It has its upsides and downsides, but it is a real benefit. It is hard to explain that until you put the gear in, the service is affordable, the access is there and you have people around you who can explain what to do when it all breaks down. It is a lot of social and cultural stuff as well as just putting gear into the office or home.

Senator LUNDY—With respect to equity across the vast expanse of Australia—so let us look at metropolitan consumers and regional and rural consumers—we heard this morning of the massive disparities or burdens placed, once again in the area of digital TV, on those providing services to rural and regional customers. In the view of your organisation, is it unreasonable to insist through legislative means that those services are not delayed to those consumers to any unreasonable degree? To what extent do you think there is an acceptable trade-off in the reduced diversity of service to regional areas on practical and competitive grounds?

Mr Given—It is never acceptable in social equity terms that there be a difference. The physical and economic reality is that there is always going to be a difference, at least over time. It is going to take time to get a service into a new market. Certain kinds of technology reduce that time. In relation to satellite technology, in theory, you should be able to flick the switch and the service should be available everywhere. But we found over time that, with the way the beams are configured and everything else, you often found the same kinds of inequities between level of service in metropolitan areas and regional areas applied in relation to satellite as it did to cable.

We do not have the luxury of the time we have had in the past as well, where it took us 25 years or so to get automatic dialling in from the first metropolitan exchange to the last rural exchange. But you can look at the speed at which those services have happened—for example, ISDN, and I cannot remember exactly when it started to be rolling out. We had a commitment in the legislation to make ISDN available to 96 per cent of Australian customers by the end of this year. The speed at which that has happened through Telstra’s network is much faster than earlier technologies have been rolled out in the telephone network. The problem is that we do still have four per cent left who do not get it, and I do not see a problem at all with that being a policy concern of the highest order to try to get it to them—particularly to be employing technologies that make it easier for those services to be provided quickly and at the same cost.

Senator LUNDY—Going back to one of my first questions which talked about the different funding models that could be applied to this technology upgrade, I suppose under an alternative model, if the government funded the upgrade and then recouped costs through the sale of spectrum, they could choose to allocate the funding for the upgrade in a specific way, perhaps favouring more the regions. In that context, do you think there is a reasonable argument for the government to provide quite specific guidelines to the networks to place priority on the regions? If not priority, certainly some sort of status so they are not disadvantaged in the upgrade process.

Mr Given—While the sort of process that the Broadcasting Authority has gone through in relation to planning the use of analog spectrum generally has been relatively slow, the idea of trying to set some priorities in that way is entirely appropriate. The Broadcasting Authority went away in 1992-93 and said, ‘This is what the landscape looks like now. We think the first priority for new services is the most remote and regional areas.’ They are only now getting

to plan Sydney and Melbourne and make new radio services available there. I think it is an entirely appropriate step to be drawing some social priorities about that.

I think the value of having an organisation like the Broadcasting Authority do it is that you can have a fairly public process where people can come forward and make the case as to why it is important that services come forward. In that context, the regional telecommunications infrastructure fund is a good model. There is a lot of money there available to be spent doing useful things at a time when we are wary of simply coming in with the grand nationwide infrastructure plan, because it is terribly expensive. What we do not want to be doing is spending money on services that no-one ends up wanting to buy. We all pay for that if we get it wrong. It would be lovely having a broadband cable network everywhere but I suspect the use of it would not justify it.

Senator SCHACHT—You suggest that two seven-megahertz frequencies be made available by auction to players other than existing television interests, including the community or service special interest channel. Does that mean there will be one for other new commercial interests and one for community or special interests? Is that on top of Channel 6?

Mr Given—No. The way, as I understand it, that it is being proposed at the moment is the Broadcasting Authority has got to go out there and decide how much spectrum is available. It has got to allocate the so-called sixth analog channel. The digital equivalent of that gets allocated and whoever gets it has to transmit the community channel. I am saying that is the right kind of answer. I would just like to see more capacity made available to non-television players.

Senator SCHACHT—When the seven megahertz went to new commercial interests, would they be required to be the same as the existing, who have got their allocation free, and go to HDTV, or could they use it any way they like?

Mr Given—I do not think the people who have got any of the spectrum should be required to go to HDTV. Whatever happened, the rules should be the same for who is getting into it, except that someone has got to transmit this community channel and they would obviously pay less for that multiplex.

Senator SCHACHT—Could you have a reasonable stab in the dark as to what a new commercial interest player might be willing to bid to get hold of seven megahertz without the commitment that they go to HDTV?

Mr Given—No. I would not hazard a guess at what it would be worth. There would be financial analysts who would do that job much better. All we know is that, in the most recent spectrum auctions, we have seen \$350 million paid by Telstra and everyone else for spectrum. If there are two key lessons which emerge from that which relate to this, they are, firstly, it is big money—and we know that—and, secondly, Telstra got as much spectrum as it could bid for in every market, as I understand it.

Senator SCHACHT—It could not buy any more.

Mr Given—It could not buy any more. The reason we have resisted the auction for the whole VHF-UHF spectrum is for precisely that reason—auctions are a vehicle that suit existing players with deep pockets very well. People have had all sorts of concerns about ninemsn and the control they might get over the whole landscape through the digital terrestrial environment. It seems to me very obvious that the key competitive issues in Australian communications at the moment are about Telstra and they are particularly about the relationship between Telstra and News Ltd in pay TV. Those are the big picture competitive issues, and the idea of simply

throwing the whole VHF-UHF band up in the air and expecting that Telstra and News Ltd would not cement their dominance of the Australian media and communications environment seems to me to be awfully—

Senator SCHACHT—You also say—

CHAIR—Awfully what?

Mr Given—Naive.

CHAIR—I thought that is what you were going to say, but you just did not finish.

Senator SCHACHT—Why do you suggest that there should be no dates set for the shutdown of the analog service?

Mr Given—We do not know whether this technology is going to work or not. I am anxious to go forward with a fairly optimistic view of what is likely to happen. I think it will get taken up in substantial numbers but, if it turns out to be a turkey, I do not see why consumers should be the people who are being told at some stage in the future that they have to throw away their sets. If it turns out to be a 20 per cent business, I cannot imagine a government wanting to say 80 per cent of Australians have got to—

Senator SCHACHT—But then that means forever and a day we are locked into simulcast.

Mr Given—We may choose to make some other decisions about spectrum.

Senator SCHACHT—You cannot have forever and a day simulcast continuing where existing licensees have seven megahertz for analog and seven megahertz for digital locking up between them large amounts of the spectrum. If you are going to move to, say, there being forever and a day two systems running parallel, people will have to make a choice of one or the other, but without guaranteed access to both, I would have thought.

Mr Given—There are a couple of things. Firstly, that is essentially what we have at the moment. Because of the nature of the transmission technologies that we are using, there is dead space on the spectrum that we cannot use. So all we are getting out of, essentially, the two seven-megahertz channels is one TV service. So they would not be any worse off.

That said, we have invented a technology that is capable of doing a lot more. We want to see it used to take us somewhere that we are not now. It is certainly unsustainable for people in the future to be simply transmitting an analog service and a digital service and not having anything new at all. I do not think it is appropriate that we make the judgment in 1998 as to exactly how this is going to go.

Senator SCHACHT—But the government does have a review in the legislation in 2005 about the cut-off date of 2008. That is a reasonable structure, is it not?

Mr Given—I think it makes good sense to have a structured review and see where we get to.

Senator SCHACHT—What do you think would have to be the uptake by 2005 of digital receivers to say, ‘We are moving on to achieve a reasonable penetration and you can actually have a shutdown date for analog’?

Mr Given—You would be looking for a substantial majority—by that, I would say more than three-quarters of the audience.

Senator SCHACHT—By 2005?

Mr Given—At the moment at which you made an irrevocable decision that you were going to shut down the analog transmissions at some point, whenever it was—you would look at

the trends and all that sort of thing—you would want to know that you already had a substantial majority—as I say, perhaps three-quarters. But it would also depend on what arrangements were put in place for the other 25 per cent.

If you were saying to the broadcasters, or you as a government were saying for whatever reason, as we have done in regional areas with the conversion to digital transmission, ‘We will subsidise the decoders if you put in place a fair and equitable subsidy arrangement whereby the people who could not afford it get the new equipment,’ I do not see that as a problem. The issue is that the people who are last to switch are going to be the people who can least afford it. We have to look after them.

Senator SCHACHT—I do not disagree. The other way round is that, if you do not have a deadline for switching it off, that last 20 or 30 per cent, whether it is by government assistance or by their own volition, are not going to make the switch. There is a group in Australia who probably will not get rid of their leaded petrol powered cars until they can no longer get leaded petrol at a service station. That is when the decision has to be made. The car has two days to run because that is when the leaded petrol runs out. Until then, there will be a group who will try to keep that car going because it suits them, whether it is because of poverty, whether it is because they love gas guzzling Ford custom line cars from the 1950s or whatever. Sooner or later, if you make the decision, that will encourage and create the debate about how you get that last 20 or 30 per cent across.

Mr Given—That is right. I am sure we will need that. The point is that I am sceptical enough about the marketability of HDTV as HDTV—as I say, not with the whole industry behind it as a social transition, but with HDTV as HDTV—that we really have to let the marketplace make some choices.

Senator SCHACHT—With HDTV not just as an entertainment source for free to air television, do you give any weight to the argument about the capacity of a HDTV screen to replace your computer screen, that this is the new system to revolutionise information distribution in Australia in all its different forms? When you have an HDTV screen with its capacity, you are enhancing the ability for that distribution, whether it is by free to air, whether it is by cable. Once the screen is in the house with the appropriate blackbox converters, et cetera, that would be a major transformation of this country’s information distribution system, would it not?

Mr Given—It has the capacity to be. The issue is more whether the marketplace wants to converge. A lot of the speculation about the future of services involves people saying there is going to be a vast shift from passive use of media to active use of media. I am a little sceptical of that.

Senator SCHACHT—You are agnostic about that?

Mr Given—The Broadcasting Authority’s numbers tell us that something close to 50 per cent of television watching occurs as an adjunct to another activity—eating, talking to the family, doing domestic chores or whatever. Television is not an immersive experience. The idea that, instead of having the TV on in the room while you are talking to kids and your friends and all the rest of it, you are suddenly going to stop doing that, you will have one eye on the TV and sit on the Internet and make 300 choices a minute, I do not think that is a realistic or sensible look at the way people use television.

There might be some of that. There will certainly be transitions in the advertising market, if classifieds move on-line, if direct marketing replaces mass style television. That, to me, is much more the issue. Does the way we go about funding our media now actually collapse

because the people who support it, the advertisers, decide that there are better ways of getting to their potential customers than by using main media, like newspapers, television and radio? That, to me, is the big choice. But, as to whether the technical convergence, which is sort of pretty much there now, actually delivers that outcome, of itself, there is a lot of social and cultural stuff, and kids who have grown up with computers have a different attitude.

Senator SCHACHT—You do not support mandating HDTV, but you do support the introduction of digital television. If it is not an immersive activity, if 55 per cent of Australians do not see it as an immersive activity, to use your phrase—I must remember that, it is a nice phrase—why do you then support the introduction of digital television?

Mr Given—Partly because I think there is a kind of inevitability about transmission systems moving that way, and television is the place that most Australians spend the largest proportion of their recreational time. Of the things they do with their spare time, television is the place they go most often. So, if media and communications are to have a digital future, the place they go most often had better be digital as well.

The second reason is the competitive implications. I think it is quite exciting to see the existing infrastructure migrating to digital transmission and to see a number of facilities based providers of television and other kinds of media and communications services out there with a direct connection to the audience. The great struggle we are having trying to get serious facilities based competition into telecommunications is because there is one incumbent. We have five incumbents in television, and that seems to be a hell of a lot more competitive place to start building a competitive media and communications future than where we have got to in telecommunications, if you think that is an important thing—and I think it is probably quite a helpful thing.

CHAIR—Maybe I missed the point. If you do not mandate for high definition TV, what incentive is there for free to airs to give high definition television, except consumer demand saying, ‘I really want to see a film with the quality of high definition TV or I want to see sporting events and actually be able to see whether the tennis ball hits the line or not’? What incentive is there for them to introduce high definition digital?

Mr Given—That is the issue that is coming up in the US, where the broadcasters have, over a 10-year period, looked at the environment and said, ‘We’re actually not sure that HDTV is the right way to go.’ From the point of view of our audience, I think most people would prefer to go multi-channel. It makes far more commercial sense.

CHAIR—But you would say that, if the market demand is there and company X sponsors high definition television and, if I want high definition television, the ratings will go up for that channel, would you then charge the free to airs for any of the extra multi-channelling over and above analog equivalent digital?

Mr Given—I think the model that has been used in the US is quite good on that. If people want to run subscription services, yes, they should be paying a specific fee to that which parallels what they are paying, which is set in accordance with the sorts of relevant spectrum auctions out there.

CHAIR—So, if somebody else is doing datacasting somewhere else down the spectrum, you would charge them the same amount for using that amount of spectrum for datacasting, or whatever else they are doing other than analog equivalent digital?

Mr Given—Yes, a related fee, if they are providing subscription services. The rationale for that, the reason we are helping the free to air industry, is we believe that free television, widely

available, is actually quite an important social and cultural thing, and we want to preserve that. I think they should be having to provide that. I would not be letting them do pay television. I would be letting them do multi-channel free television because we are about preserving wide coverage, universally accessible, decent quality free television.

CHAIR—But if they multi-channel free television, you have to spread the advertising dollar further.

Mr Given—That will place limits on what they would do in a multi-channel environment because I think it would be quite difficult to fund certain kinds of channels on advertising.

CHAIR—But then you would end up with the sort of stuff you see in America where you have 35 channels and there is nothing worth watching. You sit in New York and try to watch television, but there is nothing to watch. It is terrible.

Mr Given—But the broadcaster is not going to cannibalise its own audience for its main channel, unless they can come up with something which is a good supplement to what it is providing already. To me, the most obvious pressure on this whole no multi-channelling thing is going to come at the Olympic Games when there are 40 Australians competing simultaneously, and there is the technical capacity there for people to see more than one of those events free to air. That is going to be an extraordinarily difficult request to resist from free to air broadcasters in the same way as it is very difficult to resist the argument that people should be able to multi-channel small bits of multi-channelling, for example, to localised services. I find that a very hard argument to resist because it is the kind of public interest thing we have always asked for.

Senator SCHACHT—But if the multi-channelling demand is done by other groups who pay for or get access to it and run it themselves, that then meets your diversity. Do you give those bits and pieces of multi-channelling to the free to airs as a right or do you say, 'No, that is going to be allocated under some arrangement, auction or licensing, so that other people can bid for it and run it'?

Mr Given—But I think other people should be able to bid for the extra bits that the ABA identifies as being available.

CHAIR—I think Senator Schacht is talking about a different thing. He is talking about on the spectrum when the free to air is not using it, not the bit further down the spectrum.

Senator SCHACHT—If they are not using it for HDTV, they can have the equivalent of up to four multi-channelling. Then you say that one of those is for simulcast at standard digital and the other three are not available. They are available, under government policy, to be bid for, auctioned for, for various purposes, including the local community saying, 'We'll use it.' It could be used for datacasting, the local trots or whatever, but it is allocated to other people. Do you not get more diversity in ownership and more diversity of players coming forward and willing to take a punt on running it?

Mr Given—You may. I guess the way multi-channel services are sold to people generally is through packages. People package up services. There are many more people making pay TV channels now.

Senator SCHACHT—That is pay TV where you buy a package and be a subscriber. This is free to air. You do not subscribe to it. You turn the switch on, you turn the knob around or you push the button and get channel 9C. That will give you a mixture of datacasting or it might be that you are doing the local Wollongong trots and a mixture of other things locally which you bid for, got access to and take a punt on that you will make a quid out of it.

Mr Given—I do not think that genuine diversity in programming is going to be encouraged by simply delivering large numbers of one-channel licences to people. I think it is much more likely than Channel 9 will do something different from what Channel 9 is now on a second channel. Then if someone else came along to run a new commercial TV channel, they would say, ‘Well, Nine looks like they’ve got the answer. We’ll do one of them.’

Senator SCHACHT—What you would have to guarantee then is that the three commercial station triopoly does not become like a Kremlin in which they control the gate completely in relation to access to these extra channels. What would you do to ensure that, under regulation, people who wanted to have access to those channels got access to it without having their heads beaten in or priced out of the market?

Mr Given—I would say two things. Firstly, I would ensure that more people were getting access to the spectrum in the first place and, secondly, that the people who are getting access to what we are currently saying are datacasting opportunities are not restricted to datacasting. They can do television if they want to, if they decide that is the business they want to be in.

Senator SCHACHT—In a discussion arising from a previous submission from the Internet providers association last Monday afternoon—you might choose to have a look at that submission—their definition of datacasting, as I raised earlier today, was very broad. In fact, I think free to airs might say that it is, in one form or another, moving into their area. The datacasters might have the potential to say that the free to airs are going to be moving into datacasting, so you get the merging. You can take that on notice.

You might care to have a look at that submission and come back to us with what you think is a definition of datacasting that you could license separately from free to air and, in regulation or government legislation, make it understandable and definable such that it would stand up in a court if there was a dispute.

Mr Given—The approach that has been taken in the legislation is a relatively straightforward one definitionally but a very difficult one in practice. It is simply to say that we have defined what broadcasting is and, as I read the legislation, datacasting is anything else you can do using the facility.

Senator SCHACHT—That is the invitation for three QCs to make a fortune in the courts.

Mr Given—I guess that is right, but it is one of the reasons why we have said that we think that distinction is actually unsustainable, certainly over time. That is a reason we are saying, ‘Let’s not try to build this impossible fence so they can do television.’

Senator SCHACHT—That is the discussion we had earlier today with the regional aggregated television operators. At the edge, you are going both ways. Datacasting will move into some broadcasting—what is seen as the broadcasting market—and visa versa. My biggest issue though is that neither one of them become a gatekeeper to keep anybody else out, particularly the free to airs because they have four channels when they are not using it for HDTV. In one form or another you are controlling that access to it.

What sort of a regime do you have where someone says, ‘Look, they’re sitting on four channels out there. I want to use it for three hours a day, but when I go and talk to them they charge me \$10 million a minute or something just to keep me out of the market.’ What do you do? Does the ACCC itself have enough power to deal with that issue in terms of a competition test? Do you have to put some more tests in the ABA under the Broadcasting Act or the ACA?

Mr Given—There is an access regime in the draft legislation to ensure access to facilities in towers and sites and that sort of stuff. The first step is to make sure that there are a large number of people—and, under our model, there would be seven of them—who are in control of digital terrestrial transmission facilities from the start so you are not stuck with an environment where you have a telecommunications-like number of players and a television-industry-like number of players.

Even in the future we are saying we would always have at least four people out there who are going to control access to facilities. So the first step is to make sure there is a number you can trade off against each other. That said, of course, you will want an access regime and you will want to ensure that those people who are controlling access to facilities are not bottling them up in a way which is anti-competitive. That is what Professor Fels is there to stop.

Senator SCHACHT—Thanks for that.

CHAIR—My concern is that somebody in 12 or 20 years time will look back on this discussion and say, ‘Heavens above!’

Senator SCHACHT—As long as they do not say they got it totally wrong.

CHAIR—Because there will be something that somebody can do that we have not even thought of. Mr Given and Ms Eisenberg, thank you very much for your attendance and we thank you for your submission. If you have any comments you would like to make on any of the other submissions, we would be quite happy to have that. We would need it by next Friday, if you do have any comment to make. If we have any other questions we would like to ask you, we will get back to you. Thank you very much.

Proceedings suspended from 1.07 p.m. to 2.05 p.m.

DEWS, Mr Nigel James, General Manager, Business Development and Online Services, John Fairfax Holdings, 201 Sussex Street, Sydney, New South Wales

LEEDER, Mr Nicholas John, Business Strategist, John Fairfax Holdings, 201 Sussex Street, Sydney, New South Wales

CHAIR—I welcome representatives of John Fairfax Ltd. The committee has before it submission No. 19, which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Dews—No, none at all.

CHAIR—Do you wish to make a brief opening statement?

Mr Dews—Yes. I would like to comment briefly on some of the views that have been aired during the forum. Our interest in digital comes from the fact that Fairfax is primarily an information provider. Digital is a new and fresh distribution medium that is opening up, and we want to be part of it. We know that we are known best for our newspapers—the *Financial Review*, *Sydney Morning Herald*, the *Sun-Herald*, the *Age* and a number of regional and suburban newspapers—but we have also created the country’s most visited web sites. We have the most popular family of Internet sites in the country. We have demonstrated that we know how to and can succeed in new media. We believe that we can play an important role in creating a dynamic digital environment in this country.

There are two areas in which we believe the current legislation needs to be strengthened to give Australia the regulatory framework that it needs. First, it should ensure that there is a level and competitive playing field. That is easy to say but not so easy to do. Digital could offer Australians much more than just enhanced television. The ABA actually said on Monday

that the ABC, the SBS and conventional television will get all but about 10 to 12 megahertz of the spectrum. But companies like ours and others who have shown that they have the ideas and the drive to develop the Internet will be left either to work with conventional TV or to fight over the scraps.

Second, we think that the spectrum is valuable stuff and that market mechanisms should be used to ensure that it is used well. We agree with Tony Branigan from FACTS that Australians may well find other digital services more valuable than cinema picture quality. He mentioned multi-channelling and datacasting. We say: let the people choose the services that they want. We think there is a whole stack of other new products that might also work very well. Our experience on the Internet makes us confident that there are a whole range of possibilities in the datacasting area: for example, news services, classified advertising services, archived information and local city guides. We want a fair go to be able to try those out. There are really two main issues for us: an open playing field and market mechanisms for spectrum.

Senator SCHACHT—Mr Dews and Mr Leeder, in the opening paragraphs of your submission you describe the Fairfax company and its history, et cetera. With the structure of the company, the present situation with a new chairman being appointed and the fact that, if it is true, a major shareholder is going to be selling its shares, does the fact that Fairfax may have a connection—if not directly, then certainly indirectly—with a major free to air television network called PBL in any way change your submission?

Mr Dews—Absolutely not. Nothing is true in any of that arena until it actually occurs. We are operating as an independent media company and nothing changes in our submission.

Senator SCHACHT—If the present major shareholding held by BIL is sold in small lots—there is even a story today in the paper that a cardboard manufacturer from Melbourne, Mr Pratt, might be interested in buying some of it—that might leave the FX Trust, I think it is called, controlled directly by people associated with Mr Packer as the major shareholder in Fairfax. Will that not have some impact on management decisions in Fairfax?

Mr Dews—It is not for me to comment on the shareholder make-up of Fairfax and who may or may not end up owning it. We can only operate within the current guidelines.

Senator SCHACHT—It does certainly add an interest about what suddenly might be a different range of interests that you could be arguing for.

Mr Dews—I would not like to speculate about anything in that area. We continue to operate as an independent media company. The cross-media ownership rules preserve that. We will continue to do that.

Senator SCHACHT—We do not know whether they will until the ABA inquiry under way about Mr Powers' appointment is complete.

Mr Dews—I do not want to comment on any of those issues.

Senator SCHACHT—I know you do not want to comment about it, but we might like to ask you to answer—

Mr Dews—I am unable to answer.

Senator SCHACHT—You are unable to answer because you do not know or you are too afraid to answer?

Mr Dews—Because it is all speculation. I am an employee of the company and represent the current shareholders.

Senator SCHACHT—Speculation?

Mr Dews—It is absolutely speculation.

Senator SCHACHT—Well, 14.9 per cent of the current shareholding is held by FX Trust, which is the second biggest individual shareholder, run by Mr Packer?

Mr Dews—That is correct. We represent the interests of the Fairfax Trust as much as we represent the interests of all shareholders. That has not changed.

Senator SCHACHT—But Mr Packer's interests are absolutely clear through PBL-Channel 9—

Mr Dews—Mr Packer owns a minority of the shares in the Fairfax Trust.

Senator SCHACHT—Under Australian company law, minority shareholders cannot be ignored.

Mr Dews—They are not ignored. I said we represent all shareholders, including the Fairfax Trust.

Senator SCHACHT—Including the Fairfax Trust. Even though it is called the Fairfax Trust, it is essentially Mr Packer, is it not?

Mr Dews—No, it is not; it is the Fairfax Trust.

Senator SCHACHT—I am not going to argue—

Mr Leeder—The other part of it is that 85 per cent of our equity is held by other people, and we need to do what is best for those shareholders.

Senator SCHACHT—Of course. Let me put this to you then: Mr Packer's company, PBL, is in a joint venture with Microsoft to establish a range of Internet on-line broadband services. Is that not correct? You are aware of that?

Mr Dews—Yes.

Senator SCHACHT—You have also said in your opening remarks that you are very proud of your broadband on-line service—

Mr Dews—Absolutely.

Senator SCHACHT—The most hit web site around the place or whatever—

Mr Dews—The most visited family of web sites in the country.

Senator SCHACHT—Most visited web site. In the emerging arrangements where Mr Packer, through his trust, has a significant minority shareholding but one of the biggest individual shareholdings—second biggest now—is there any suggestion that your on-line service should reach an agreement to cooperate, at the very least, with the PBL-Microsoft on-line business?

Mr Dews—We talk to all of the players in this new emerging industry area from time to time. It includes the PBL-Microsoft people, and it includes the people at Channel 7, Channel 10, News Ltd and others about all kinds of options. But there are no concrete options on the board with any of those at the moment.

Senator SCHACHT—What do you talk to them about then?

Mr Dews—We talk to them about things we may or may not be able to do together.

Senator SCHACHT—If you do all of those things together with all of that list, you have probably breached the Trade Practices Act.

Mr Dews—I am sorry, I was not speaking about them as one list. I was saying that, in a new emerging media area like this, there are always conversations that go on about how these things could emerge. But there is nothing concrete on that.

Senator SCHACHT—I think for your sake it is better that there is not something concrete on the table because, otherwise, I suspect that, from what I know of the Trade Practices Act, Professor Fels might have an interest. In the discussions you have had with PBL-Microsoft, is that to share business?

Mr Dews—No. We have not had any discussions that are at the concrete stages of sharing any businesses with that group. All I said was that we talk to all of these people from time to time at an operating level.

Senator SCHACHT—What do you actually talk about—whether you are going to have drinks on Friday night or what?

Mr Dews—Things like industry standards in the advertising area, for example.

Senator SCHACHT—Interest standards in advertising?

Mr Dews—Yes, for example.

Senator SCHACHT—But in no way sharing business or in no way setting rates or fees?

Mr Dews—No, absolutely not. One of the biggest issues in the Internet area is appropriate measurement of web sites and making sure that advertisers and others are getting appropriate data. It is in this sort of area that we share information with those groups to ensure that our advertisers and our readers are getting correct information—just as we do in the newspaper side of the business.

Senator SCHACHT—I ask this because you introduced your submission with a potted, very brief, history of Fairfax. If you had still been owning a television network in Australia as you did in 1987—namely the Channel 7 network—I presume your view would be quite different about having access to digital broadcasting.

Mr Dews—I think there are lots of ifs in the Fairfax history—

Senator SCHACHT—That is something we could probably agree on.

Mr Dews—The fact is that today Fairfax owns newspapers, Internet sites and some magazines.

Senator SCHACHT—If the moratorium up until 2008 was not there for new commercial free to air broadcasting and the five lots of seven megahertz being allocated as a right to each of the free to air broadcasters was therefore put up for auction, would Fairfax bid for one of the seven lots of megahertz?

Mr Dews—It would depend on the regulatory structure. We have certainly shown our intent and our interest in bidding for spectrum, yes.

Senator SCHACHT—Bidding for spectrum, but that would mean you would be contrary to the cross-ownership rules?

Mr Dews—We certainly would not want to break any of the rules. If the spectrum was made available to us for what we consider to be the purpose of a new medium and with particular emphasis on the datacasting side of that, we would be very interested in doing that. We would not want to try to get into television when the rules do not allow us to get into television.

Senator SCHACHT—Okay. That means you might change your view about getting rid of the cross-ownership rules, because I think in last year's debate Fairfax was not in favour. It was not a big campaign you raised—

Mr Dews—No, it certainly was not.

Senator SCHACHT—but I think it was clear that Fairfax was not in favour of getting rid of the cross-ownership rules.

CHAIR—Mr Dews, can I just ask a question on that: you say that you do not want to get into television.

Mr Dews—I did not say that. I said under the existing rules we cannot.

CHAIR—But, on page 7 of your submission, you quote a statement by Professor Ducey: Digital television allows us to reinvent what we mean by television. Nobody says that television broadcasting has to be radio with pictures. It could be computer software. It could be instructions on how to run a smart house. It could be electronic books.

Mr Dews—That is correct. What I meant by television in my comments is conventional television as referred to by the act—and that was the discussion we were having. For us, it raises a very important point: television is like the PC in this new world. The PC used to be a thing you crunched numbers on. Now it is a thing that you communicate on and a thing that you look at information on through the use of the Internet. The television as a device is going exactly the same way. It is just a delivery mechanism for a whole range of different kinds of contact, some of which is conventional broadcast television, some of which are the services that I think we will be referring to as datacasting in the future and some of them are Internet-like services.

CHAIR—You could put conventional-like television transmission now on the Web. The people from the Internet Industry Association came and told us that you could download a movie in so many seconds—

Mr Dews—Yes, you can, that is correct. But going to a movie is not the same as conventional television. The boundaries of all of these things are starting to blur and that is where the difficulties arise.

Senator SCHACHT—When we had the Internet Industry Association here last Monday, their definition of datacasting was pretty expansive—that is their right to put that—and it included, as the chairperson has just said, downloading movies. A major part of the programming on all television stations is to run the latest release movies, as quick as they can get them from the studios after they have had an initial run in cinemas, et cetera. You do not see that, by showing movies, that is moving into an area of broadcasting programming?

Mr Dews—Just to make myself clear, the movie example was one that the senator gave. The area we are most interested in is the area of datacasting that involves utilising our existing content, our text based content initially, to provide data services of the kind that I mentioned—for example, news services, classified advertising services, archived information and local city guides. That at some level does blur into the area of some kind of moving pictures.

For example, if you looked at a range of classified advertising and chose a particular model of car you wanted to look at, you would click on the particular ad for the right car when it came to you; it then would turn into a car that moved across the screen so you could see what that car looked like. That is the sort of moving picture I am talking about—certainly not feature length movies.

Senator SCHACHT—But their definition would allow downloading of movies off someone's web site—that is, the Village Roadshow. Do you see that as still being in datacasting, or do you see that as being in broadcasting?

Mr Dews—For a start, datacasting is not defined, and broadcasting—

Senator SCHACHT—This is what we are attempting to find out. It may be that we are to regulate datacasting—and, from your point of view, I am sure you would like it regulated—otherwise you might see the existing five free to air television stations getting a free channel to do full datacasting and being in control of the gate that gives access to it. We are looking at whether there is a definition.

Mr Dews—There certainly needs to be one, yes.

Senator SCHACHT—Do you have a definition of datacasting?

Mr Dews—I certainly have a part of a definition of datacasting.

Senator SCHACHT—You cannot put part of a definition in a piece of legislation. You have to give us the full box and dice, or surrender.

Mr Dews—I would not be so bold as to suggest that I have the right answer for this. But I would like to give you my definition, if you would just give me a chance.

Senator SCHACHT—What, you can give it to us now?

Mr Dews—Yes. We would like to think of datacasting as anything that we can currently do on the Internet today, with the ability to grow those services in the same way that we can grow them on the Internet as the functionality of the Internet increases. That means interactive services, that means moving pictures as they relate to our content and any other ancillary services of the type that we currently provide on the Internet.

CHAIR—You have just said 'moving pictures as they relate to our content'.

Mr Dews—Yes.

CHAIR—If you have a news story and you put a picture on with that, how does that make it different from broadcasting news?

Mr Dews—We have done that from time to time in the past on the Internet, so I did include that as part of the definition.

Senator SCHACHT—But in the future, with the capacity of the Internet continuing to grow with what it can carry, as we get closer to real-time, if Telstra makes some intelligent decisions in the future making available five megabits of capacity past everybody's home and business by the middle of the next decade on the cable side and with their fibre-optic, and all that sort of stuff, that would mean that people will be able to download, not just from in Australia but all over the world, fully fledged movies or programs. Even though it may be coming via the Internet, as far as the consumer is concerned they are seeing the equivalent quality of a free to air television broadcast news service.

Mr Dews—Yes.

Senator SCHACHT—That means, as far as the consumer is concerned, it is a broadcast.

Mr Dews—Your point is correct: they start to blur. I think your point is definitely correct.

Senator TIERNEY—They blur to the point of having not only news but also, say, the *Titanic* or *Seinfeld*. There is no reason why they could not come down through the Internet as well, is there?

Mr Dews—That is correct.

Senator TIERNEY—So, in effect, you have another TV channel, haven't you?

Mr Dews—You have something that may be considered to be like conventional television. The point I would make on that is: why is it that we need to determine in this new market that certain incumbent players in an old market are to have an advantage? Things change; technology moves faster and creates advantages for consumers.

Senator SCHACHT—For a company that is 160 years old, I am interested in you bagging an old market. But I think I understand the point you are making.

Senator TIERNEY—But surely they might be taking the greater risk, mightn't they, if this is an old technology? Are they going to invest \$½ billion to \$1 billion within 10 years?

Mr Dews—That is an interesting point. If you take the \$500 million number—which is the widely bandied about number as to the level of investment—for companies of the proportions of the existing media players, that is not a large number. In fact, \$500 million over a 10-year period represents about the same level of stay-in-business capital expenditure which they make today.

Senator TIERNEY—The regional television operators think it is a large amount of money; we heard that evidence earlier today.

Senator SCHACHT—Their \$500 million, by the way, was on top of your \$500 million. But you are quoting the metropolitan television stations, so it is \$1 billion all-up across both. If you accept their figures, I think this is about right: it is closer to \$1 billion.

Senator TIERNEY—So you claim that is not a very big deal. But, given that they say there is no extra advertising revenue in it, given the risks of that capital investment and given datacasting and other things from the Internet, I would have thought it is a pretty big risk, isn't it?

Mr Dews—I would dispute the claim that there is no extra advertising revenue in it.

Senator TIERNEY—Could you tell us where it is going to come from? Just because you are changing the quality and definition of the signal, how does that give you extra advertising revenue?

Mr Dews—My first point on that is: if we believe there is extra advertising revenue in it and we are prepared to put our money where our mouth is, in a free market environment typically you would be given a go to find that. But let me give you some evidence on where I think that may be.

If you look at an aggregate level at countries like the UK and the US, and you look at the advertising spend on print, television, radio, cinema, outdoor direct advertising and a few miscellaneous categories, in Australia that currently represents 1.09 per cent of gross national product. However, in the UK that represents 1.12 per cent of gross national product, and in the US it is 1.23 per cent of gross national product. That suggests that, in terms of advertising, we are underpenetrated relative to the size of our country. If there were more advertising opportunities and opportunities to reach particular niche audiences, there is the likelihood that those dollars will emerge. We are prepared to take that risk.

Senator TIERNEY—Wouldn't another explanation be that, because those markets are so vast, if you want to penetrate the market, you have to spend a lot more on advertising?

Mr Dews—No, I do not think that is correct. That is a spend scaled by GDP; it actually adjusts for that effect.

Senator SCHACHT—But you have said that you cannot go into television broadcasting because cross-ownership laws apply. So Fairfax itself is out of the market for a television licence—and you are talking about the advertising licences not having fully reached their potential on revenue from the advertising market in Australia with the figures you have just given.

Mr Dews—Correct.

Senator SCHACHT—But you will not be able to help that out because you are banned under cross-ownership laws from having a television licence.

Mr Dews—I am talking of there being, in the new digital environment that you are currently legislating for, extra potential for advertising revenue to emerge.

Senator SCHACHT—Are you saying that on datacasting, if you separate out a different definition for datacasting from free to air broadcasting and if one of those licences for datacasting were available, you would bid for it?

Mr Dews—Yes.

Senator SCHACHT—Therefore, not only would you charge people for access to the data as it comes over the screen—or that will be provided free—but also you will go and get advertising which will be paid for by people paying for advertising time on your screen?

Mr Dews—It is a combination of those services. In our current Internet services, we fund some of it via advertising, some of it by charging for particular services that people download and through transactions that take place on those services. We see that same sort of combination of charging mechanisms being used in the future.

Senator SCHACHT—But that is advertising that is for a datacasting service. Are you telling us that the broadcasters represented by FACTS, free to airs, are not efficient enough to go and get this remaining potential advertising in the market?

Mr Dews—I did not say that at all, actually. I just said that—

Senator SCHACHT—Why haven't they been able to get it?

Mr Dews—Because the opportunities to target certain markets and the multiplicity of different kinds of services we can get into the house through these new technologies will enable it.

Senator SCHACHT—We only have another week or so to go on this committee's work. But you had a go at giving us what you thought was a rough definition of datacasting, in which immediately I think we pointed out where we think there are a number of grey areas, to say the least, in the overlap. If Fairfax wants to come back to us in the next week with a legal description that could be put in a piece of legislation—

Mr Dews—Sure, we would be happy to do that.

Senator SCHACHT—I would certainly appreciate it; I think it would be useful for the committee as a contested argument for it. Have you done any studies within Fairfax of what the market auction for separate data licences would be worth?

Mr Dews—We have run some alternative scenarios. I think the best way for us at least to give you an example of the kind of scenario we run is to think about it in terms of the kind of environment it looks like the proposed legislation would create. Of course, the value of these licences is largely determined by the regulatory structure that we end up with, and that is what makes the calculation so difficult, as well as whether you end up with big chunks of spectrum or lots of small chunks.

Senator SCHACHT—Let me just define this a little more clearly.

Mr Dews—I can give you the example. I will get down to a precise number, if I could just start with that qualifier. I think it is certainly worth a tremendous amount to the conventional TV stations, and it is the way I would like to start the valuation exercise. That certainly was reflected in their recent stock price movements. If you take their current earnings, which I mentioned earlier was about a total of \$500 million in EBITs between the three major networks in financial year 1997—

Senator SCHACHT—That is EBIT, right?

Mr Dews—Yes, that is EBIT—and you take at face value that we believe there is a potential for an increase in advertising revenue, we think it is fair to consider that the profit opportunity out there is at least 50 per cent of that \$500 million. So it is around \$250 million.

Senator SCHACHT—On top?

Mr Dews—On top of that. If you then apply a normal sort NPV type calculation, you can end up with a value of the spectrum under that regulatory environment of between about \$1 billion and \$2 billion. That is the spectrum that is currently being given away—

Senator SCHACHT—Yes, for the three commercial television stations.

Mr Dews—plus the 10 to 12 megahertz of extra spectrum.

Senator SCHACHT—That is \$1 billion to \$2 billion—

Mr Dews—In total.

Senator SCHACHT—So that is three times seven; that is 21 megahertz for the three commercial free to airs.

Mr Dews—Yes, plus the 10 to 12 left over.

Senator SCHACHT—Ten to 12 that is available elsewhere.

Mr Dews—Yes, under the current regulatory structure or proposed regulatory structure.

Senator SCHACHT—The free to airs, as planned in the legislation, would get their three times seven as a right until 2008. Then they would give back the analog stuff, and that 10 or 12 megahertz is still out there loose. If that were auctioned off under a suitable definition of datacasting, do you have any idea of what the bid might be for that—and in view of the cross-ownership rules that would apply?

Mr Dews—No is the answer. There is too much uncertainty in the definition of datacasting and in the regulatory—

Senator SCHACHT—Let me put it this way: under your definition, which is a very expansive one and similar to that of the Internet Industry Association, what would it be for that 12 megahertz sold in lots of, say, about three megahertz each so there would be about four channels of datacasting available?

Mr Dews—I am sorry; sold in three to four megahertz lots? So you end up with—three fours are 12?

Senator SCHACHT—Yes, you have got—

Mr Dews—Four channels.

Senator SCHACHT—Right. Rather than giving someone 12, you say—because this is what the Internet Industry Association people said—‘We would be happy to bid for about three to four megahertz’.

Mr Dews—Three to four megahertz gets you one datacasting channel, roughly.

Senator SCHACHT—Yes. And whatever that capacity is, it helps probably to find what datacasting is anyway.

Mr Dews—Yes.

Senator SCHACHT—Because you could not put an HDTV signal down on three or four megahertz.

Mr Dews—Not at current compression technologies.

Senator SCHACHT—That is what I am after—if there are about three to four channels available, separately licensed, separately bid for and the four highest bidders get a channel.

Mr Dews—I can put some parameters around it, but I cannot put a number on it—and I will tell you why. I do not know how many people will be interested in it, and a market is only as good as how many buyers and sellers you have.

The number of potential buyers for those three to four channels includes banks, retailers, the remaining media players in the market, including ourselves, and a number of others. It is certainly more than the \$1 billion to \$2 billion being divided by nine, which would be the proportion of my original estimate. So it is a disproportionate share of that number because you have a large number of potential buyers. But how high, who knows? That is the difficulty.

CHAIR—I think you have the problem that, if you do that and compression technology increases—

Mr Dews—That is correct.

CHAIR—you have those players in the field with a huge amount of spectrum without other people being able to get in. You would have to have some sort of limit on how long you could have that amount of spectrum, depending on compression technology.

Mr Dews—That is one of the difficult areas. When you are trying to legislate in an area of rapidly changing technology, anything that does not rely on market based mechanisms relies on somebody's judgment as to how fast that technology is going to move.

Senator SCHACHT—Yes, that is all very well about the free market. But if someone has bid for and got hold of a whack of spectrum and then technology means that they could just double its capacity, shouldn't that doubled capacity—the part that has been doubled—be returned to the public good to be re-auctioned rather than giving it as a free kick? It would be as though somebody had suddenly won Tatts. You have spent \$100 million to buy one three-megahertz datacast channel—

Mr Dews—Yes.

Senator SCHACHT—and three weeks later a bloke wins the Nobel Prize in physics for doubling the capacity for digital technology, so you have just doubled what you can do. Surely the doubling, the capacity, returns to the public through the government to be reallocated for re-auction—

Mr Dews—It certainly could and, as long as—

Senator SCHACHT—otherwise you just walk off with an enormous—

Mr Dews—I think, as long as all datacasters were treated in the same way—

Senator SCHACHT—Absolutely.

Mr Dews—that would be a plausible way to do it.

Senator SCHACHT—It could be done technically as well as being able to be done legislatively.

Mr Dews—Yes. But I think also of importance there is that, when those compression technologies became available to the conventional television stations, they also hand back their parts of the seven megahertz.

Senator SCHACHT—I do not disagree. It is the public's—

Mr Dews—Absolutely.

Senator SCHACHT—I am delighted that Fairfax, one of the old monopolies of media for 150 years, is now a devotee of the free market. This has been a psychological change in Fairfax which I am very pleased to see occurring. I am not sure you would have heard the same view 15 years ago, but I am just making that point.

Mr Dews—It is an entirely different company, in fact. All of our major papers are in competitive markets and face other newspaper players.

Senator SCHACHT—Of course, it is much easier these days for a bank to bid for a licence in datacasting than it is to look at the establishment costs of another daily newspaper in Sydney or Melbourne, isn't it. There is a natural monopoly at work.

Mr Dews—Actually, nobody is stopping anybody from establishing another newspaper—

Senator SCHACHT—Except—

Mr Dews—Senator, there is just one other point would I like to make on that. We recently invested hundreds of millions of dollars in a new plant in Sydney, and we did not ask for any sort of free kick from the government when we were doing that.

Senator SCHACHT—Yes, but you only invested in it because you knew, from due diligence of the board, that it was almost impossible for anybody else to walk in and say, 'We'll spend the same amount of money and start from scratch a new daily newspaper in Sydney.' That is just a fact of life on the commercial operation and economics of daily newspapers.

So, though you had to do it and it was a good decision, et cetera—I noticed that yesterday you had colour photographs of Pauline Hanson on the front page, et cetera—economically it was also a good decision. But you were not making that decision on the basis of saying, 'We're going to stop five more competitors coming into the marketplace for daily newspapers in Sydney.'

Mr Dews—One might make the same argument about conventional television and the sunk costs that they have already put into their television networks, providing as much of a prohibitive barrier to entry to anyone in that industry and the fact that they also do not require a free spectrum give-away in order to succeed in this new digital environment.

Senator SCHACHT—So the purist position—but there is never a purist position in the media; there is always a compromise somewhere around the joint—you are proposing is that none of them should get an allocation in the commercial sector of lots of seven megahertz; that all of those go out to auction—

Mr Dews—Yes.

Senator SCHACHT—and if Channels 9, 10 and 7 owners bid and are successful in their bids for seven megahertz, that is their good luck. If they are not successful, they then know that in 2008, when analog is switched off, they are out of business as broadcasters.

Mr Dews—That is correct, and some large sum of money returns to the public purse as a result of that process.

Senator SCHACHT—I just want to get clearly on the record the consequence of the decision: under your model, if they do not bid enough to get a whack of seven megahertz and someone outbids them, then they know and all the shareholders know that in 2008 they go off the air completely because they have to return the analog.

Mr Dews—They go off the air and some other service replaces them.

Senator SCHACHT—Yes, of course. But as far as the company shareholders are concerned, it is the day of Armageddon.

Mr Dews—Just as protecting the existing environment put value on their share price, that would take it off; that is correct.

Senator SCHACHT—I appreciate your putting that purist position. Don't you see any value in the fact that, if we give the free to airs the free allocation, it then will be in their interests to go out and promote the uptake of digital, and in particular HDTV?

Mr Dews—I think if the government wants to legislate in favour of HDTV, it should do that—and that is a policy decision for you. We have nothing against HDTV as a company. It is what happens to the remainder of the uses of that spectrum that we want fair and equal access to. If it is deemed an appropriate policy to ensure that everybody has a high definition television in Australia, you should do that. But that should not mean that on the way they can provide a lot of other services that have absolutely nothing to do with HDTV that a number of other players could equally compete in.

Senator SCHACHT—In your view, if the value of the spectrum, as we have just described it, was up for free auction but there was no requirement for it to be moved towards HDTV uptake just for digital, would that make the auction return a higher return for the government?

Mr Dews—Yes.

Senator SCHACHT—By what quantum on the \$1 billion to \$2 billion?

Mr Dews—It is difficult to tell. But the market will tell you that if there is more choice, if there are more things you can do with that spectrum, there will be a greater value in it. One of the choices would be HDTV, amongst a number of other alternatives.

Senator SCHACHT—Would you favour the auction being in lots of seven megahertz so that someone, when they buy it, knows that they can go to HDTV; or would you sell it in much smaller lots and, if someone wants to buy lots of two megahertz and put three of them together, that is their business and they would do that in the free market?

Mr Dews—In our paper we suggested that there were ways to create a number of smaller allocations of spectrum. We suggested six megahertz was the largest chunk required, even for high definition television.

Senator SCHACHT—You think the seven is not necessary; it should be six.

Mr Dews—Seven appears; you get contradictory evidence on the technical standards, and I appreciate your difficulty there. But certainly the UK has set that at six megahertz, and that appears to be sufficient.

Senator SCHACHT—What has America set it at, do you know?

Mr Dews—I am not sure off the top of my head, but I could find out for you.

Senator SCHACHT—No, I think we will have that somewhere in one of these endless submissions we are receiving. What do you call your subsidiary company which you are running for on-line services?

Mr Dews—We do not have a subsidiary company because we consider it to be part of our core company, but it sits currently across the business.

Senator SCHACHT—What is your brand name?

Mr Dews—It is Fairfax Online.

Senator SCHACHT—So you do not have a value on Fairfax Online separately spun out of the company; it is all within the books of the overall company?

Mr Dews—Absolutely, yes.

Senator SCHACHT—Again this issue of the definition of cross-ownership rules arises where you are inside Fairfax itself—that is, the definition of what is a broadcasting company, what is a print company, what is an on-line company. It does get very complicated.

Mr Dews—Yes, it does.

Senator SCHACHT—Would it be easier for us if we insisted such a company as yours ought at least to be spun off as a subsidiary company, clearly defined, so that we could see, when we were charging you a licence fee for a datacasting channel, that you were not getting into transfer pricing and a whole range of other things and so that we could see what the genuine revenue was of that company?

Mr Dews—Yes, that would have some merit from a regulatory point of view, I think.

Senator SCHACHT—On the operation of the on-line services with the Internet, at the moment your company, Fairfax Online, charges when someone makes a hit—that is, they see what they want and take some information off, and you charge them for that?

Mr Dews—It depends on the service. Some of those are advertiser funded services. Basically, in the conventional sense of advertising, we put banner ads on the site, we generate revenue from those ads and the sites are then provided free of charge to the users. Other sites are registered services and you pay certain amounts of money for certain information whilst you get other information free—for example, our Trading Room site currently has 20,000 registered users.

Senator SCHACHT—Each of those registered users pays a fee—a flat fee, an access fee?

Mr Dews—No, they register first and they put in their credit card details, and they draw down their credit as required. A lot of the information is free on that site.

Senator SCHACHT—I must get you to go and brief Treasury and the Finance department. What you are just describing is the nightmare of how you define the turnover figure—the arrangement if you are going to have a licensing fee in this regime.

Mr Dews—We can still measure the revenue in total. That would not be a problem. We can measure that revenue. We measure by the advertising revenue, transaction revenue and subscription revenue. It is just three sources.

Senator SCHACHT—You are saying that the accountancy arrangements would be as transparent as we have them for free to air television?

Mr Dews—Yes.

Senator SCHACHT—Even though with free to air television, it is basically that they send the account out for the minutes of advertising sold to a particular client; it is pretty easy for people to identify—

Mr Dews—We can sell the advertising on a whole lot of different criteria. One of those is that we would sell on what is called the click-through rate. If they put an ad on the site that clicks through to another site, we charge a click-through rate. Trust me on this: it can work.

Senator SCHACHT—That is the problem. Treasury cannot trust you, nor can the taxation department.

Mr Dews—It is just measuring revenue. We can measure all of the revenue in the way we would conventionally measure revenue.

Senator SCHACHT—You are so forthright about that that it makes me even a bit suspicious. Nevertheless—

Mr Dews—I am sorry, but it is true.

Senator SCHACHT—People have been grappling with this issue in international commerce terms, et cetera, with people avoiding excise payments, copyright fees, all sorts of fees.

Mr Dews—Absolutely. I understand those issues, but measuring the revenue itself is not a problem.

Senator SCHACHT—The revenue turnover—

Mr Dews—Not a problem.

Senator SCHACHT—Would you be able to set up a company structure where the revenue would be measured from America in a subsidiary company you have based in America and siphoned off that way?

Mr Dews—We do not do anything like that, so I do not understand.

Senator SCHACHT—No, not now, but when you get a licence you might.

Mr Dews—We do not do anything like that.

Senator SCHACHT—This is far too broad an issue for this inquiry, but ultimately it will have to be dealt with. How long have you been involved with Fairfax?

Mr Dews—I have been with Fairfax for two and a half years.

Senator SCHACHT—Where were you before that?

Mr Dews—I was with the management consultants McKinsey and Co. for five years. Before that I was with the Reserve Bank for four years.

Senator SCHACHT—Not a usual career structure for a Fairfax executive, I have noticed.

Mr Dews—I think it just goes to show that this is a new media area, a new business, that requires different skills.

Senator SCHACHT—While they have made the reasonable decision, they have not gone to the usual suspects within the company to run this new business.

Mr Dews—I think you will find there are actually a lot of new faces at Fairfax.

Senator SCHACHT—I am just interested in the new business side of it. I am giving a compliment, Mr Dews; you might not have understood that.

Mr Dews—I do not like it being at the expense of my fellow executives.

Senator SCHACHT—I am sure they can look after themselves. They dish it out to us every day of their lives. So it is only a partial getting even.

Senator TIERNEY—On page 15 of your submission, you say that there is a risk that the rest of the world will not follow on high definition TV. While I understand that maybe Afghanistan and Zambia might not, surely most of the main players will be following?

Mr Dews—I am sorry, what are you referring to, Senator?

Senator TIERNEY—Page 15 of your submission. It says that there is a risk that the rest of the world will not follow the HDTV route. I was wondering whether you could comment on your concerns in that regard.

Mr Dews—The issue there is that certainly in the US a number of the networks backed down from their initial position on HDTV.

Senator SCHACHT—Once they got the spectrum.

Mr Dews—Once they got the spectrum, yes. The point we are making is that there are a number of extremely worthwhile uses for that spectrum, HDTV being one of them. It is difficult for anyone, even those in government, to determine which of those are likely to be the most appropriate outcomes for the use of that spectrum. There are worldwide debates going on about who is going to do what, in what country, with what spectrum. HDTV is only one of those. From our point of view, it would be a real pity if the whole digital revolution centred just on enhanced conventional picture quality.

Senator TIERNEY—So what major industrial countries do you think will not follow on with high definition television?

Mr Dews—I would not like to speculate at the country level or the company level, actually. But different companies in different countries have taken different stances to date. I just think it is that we are at the early part of that debate. I think the interesting evidence from the US was the fact that they got the spectrum for HDTV, and then a number of the major networks backed down from that position and said, 'No, actually we want to do other stuff with it.'

Senator TIERNEY—So under the US rules, they are entitled to keep that spectrum?

Mr Dews—Those rules are in the process of changing, as I understand it.

Senator SCHACHT—Because of that backdown?

Senator TIERNEY—And perhaps will be changed retrospectively?

Mr Dews—A number of things were done and were not done, and those things currently are in a state flux because it looked like—

Senator SCHACHT—You would suggest to us on this point that we should make sure in the legislation that if they do not go through with HDTV, the spectrum returns to the government.

Mr Dews—That is correct. That is why we are suggesting in the paper 'use it or lose it' rules. As I said earlier, we do not have anything against HDTV—but use it for that, or lose it. Everything else, all the other spectrum and all the other uses, should all be in the same pie and all treated equally.

CHAIR—But what happens if they are using it to augment a signal?

Mr Dews—I think HDTV is a very straightforward thing. HDTV is about fantastically enhanced picture quality on a more expensive television box being broadcast in the same manner as conventional TV. Everything else is outside that set.

CHAIR—Even taking a different shot of a football match?

Mr Dews—I think so, yes. I am not the HDTV expert. You should certainly talk to the free to air networks about that. Like I said, I have nothing against it.

CHAIR—No, you cannot on the one hand say that it ought to be HDTV and then say, ‘I am not an expert.’ You have made a statement that it ought to be all HDTV and nothing else. But I say to you, if it is HDTV but you reduce the signal slightly and you enhance it by putting another view of a football match—

Mr Dews—So you can watch it from one end or the other, for example?

CHAIR—I might be watching, say, golf, and it is looking down on it, but it also shows another angle of the ball coming towards the hole.

Mr Dews—To me, that is not HDTV; that is a simulcast of the television program. You paraphrased me but did so incorrectly, Senator, so I would like just to correct the point. I did not say that I am in favour or not in favour of HDTV. I said that, if you want to legislate for HDTV, you should do that.

CHAIR—I did not say you were in favour or not in favour of it. Do not put words in my mouth either. What I said was that you were making a comment about HDTV; then, when I asked you a question, you said, ‘Well, I am not an expert in HDTV.’ What I am asking you is: you say that a pure form of HDTV, one image on the screen of high definition television, is what you want.

Mr Dews—Yes, that is what I am saying. But let me comment on the fact that I am not an expert on HDTV. I think there are very few experts on HDTV.

Senator SCHACHT—On that point, I think you undersell yourself a bit, Mr Dews.

Mr Dews—The issue at hand is that nobody really knows, and that is why we should leave it to the market.

Senator TIERNEY—I will follow up on what you were saying about the US market. Under the US system that is now being introduced, do they allow multi-channelling?

Mr Dews—I am not aware of the final outcome of the current US legislation.

Senator TIERNEY—But I would have thought it is in place, given that it is supposed to be introduced in August, isn’t it?

Mr Dews—I know that there are some efforts under way to change the existing legislation to tighten up the commitments to HDTV. I am certainly not an expert on the US situation. I have spent most of my time dealing with the Australian situation and getting some input on the US situation.

Senator TIERNEY—I was trying to find the answer to what the difference between the countries might be. If they do allow multi-channelling, that would be a reason why people would not be offering high definition television, whereas in Australia we are not allowing that—

Mr Dews—I think the television market in the US, the conventional television market in the US, is very different from our television market.

Senator TIERNEY—With the types of services that Fairfax might offer on datacasting, is it your view that they should be subject to the same content requirements and other requirements that currently apply to broadcasting, even though they are datacasting services that might not use spectrum?

Mr Dews—For example, local content requirements? Is that the kind of—

Senator TIERNEY—Yes, or community standards requirements?

Mr Dews—Absolutely. I see no reason why not.

Senator SCHACHT—The union has just stepped in and is sitting behind you; they will be interested to hear you answer this question: if people were downloading programs like movies on the datacasting channel, under that definition, you would not be upset then to say a proportion of that has to be Australian content movies?

Mr Dews—Absolutely not.

Senator SCHACHT—Of the same level as the free to airs?

Mr Dews—Whatever you want to make the requirement, that is absolutely fine.

Senator SCHACHT—I am very interested to hear that.

Mr Dews—The majority of our content is Australian produced, and we do not see that changing in the near future.

Senator SCHACHT—That is, the on-line services you provide at Fairfax are all, overwhelmingly, local content?

Mr Dews—Yes.

Senator SCHACHT—But if on the movie side you were downloading so that each day people would get access to a couple of hundred movie titles with only two per cent of them being Australian movies and we were to say, ‘No, you have to show 25 per cent of Australian movies on that list,’ you would have no objection to that?

Mr Dews—It is not likely to be an issue that affects us.

Senator SCHACHT—Yes, it would. If you are going to show downloaded movies—

Mr Dews—If we were. But I have just said that it is not likely to be an issue that would affect us because I do not think we are planning to show downloaded movies.

Senator SCHACHT—But they go through your datacast channel—

Mr Dews—Yes.

Senator SCHACHT—to get to Village Roadshow. So you are going to say to Village Roadshow, ‘Bad luck, your web site is not going to be available on our data channel.’

Mr Dews—We are not Village Roadshow; we are Fairfax and we have local content.

Senator SCHACHT—But that is what I am getting to. You then become a gatekeeper as to who has access to your data channel.

Mr Dews—You made a jump there to where you are permitting us to be a gatekeeper, and I had not realised that was the case.

Senator SCHACHT—No, but you are, because you are saying ‘We have our channel, these are access rules which are under competition policy and we have a limited resource.’

Mr Dews—We have plenty of content for three megahertz of spectrum, and I thought that was the parameter under which we were operating in this theoretical debate.

Senator SCHACHT—Would you accept that there may have to be some regulation over access rules?

Mr Dews—Absolutely. I think standards for access are absolutely critical in this area.

Senator SCHACHT—Not the standards for access on the technical side but on the content side. If someone like Village Roadshow says, ‘Look, we have content; we have found that none of the datacasters will give us access, there is no other spectrum available, we are out of business,’ you would accept that under ACCC competition rules there may have to be regulation—

Mr Dews—Sure, absolutely.

Senator SCHACHT—to say that they can go to the ACCC and say that you are anti-competitive?

Mr Dews—Yes. I think all people who are gatekeepers, to use your language, should provide fair and open access to all services.

Mr Leeder—But just a point on that: I think what we are suggesting is that market mechanisms be used to gain access to the spectrum in the first place. So, Village Roadshow, for instance, would say, ‘This is a service we can provide and we can make a lot of money from it, and Australians will appreciate it; so let’s then buy the spectrum on the open market just as Fairfax would have the opportunity to do.’

Senator SCHACHT—Yes, but their business is purely distributing movies. Your business, from the way you have described Fairfax Online, is a whole range of information services. They would say that you can outbid them because you have a broader range of services to put on a datacast channel. They would say that they cannot afford to go into that bid because providing only downloaded movies does not give them the same revenue base to pay for it. Therefore, what they are going to say is, ‘As a minority user, a smaller user, we need access rules to say that we can get onto the data channels.’

Mr Dews—Yes, absolutely.

Senator SCHACHT—You do not have any objection to that?

Mr Dews—No objection at all. I think fair and open access is important, and I think that also applies to the conventional broadcasters and their seven megahertz of spectrum.

Senator SCHACHT—When they are not using it for HDTV?

Mr Dews—I would say, in all cases.

Senator TIERNEY—Coming back to what you said about content requirements—and you said that they were all fine—I am just curious after what Senator Schacht has said: if through datacasting services you are offering a whole range of movies, say, from Village Roadshow or from wherever, how do you then apply the Australian standards, relating ABA and OFLC standards to that?

Mr Dews—I do not think anything changes. I think those standards reflect the community standards of the time, and they should continue to do that.

Senator TIERNEY—But if it is a TV station, there is someone in the station who does that and cuts the piece of what goes through; if it is the OFLC, they do it before the film is released. Now we are talking about datacasting, about stuff coming through the Internet. How are you going to do that through a datacast service?

Mr Dews—If we are Senator Schacht’s gatekeeper, we will have to make sure that we do it. If you tell us that we have to make sure that Village Roadshow shows one Australian movie in four, we can do that, just in the same way as the free to air conventional television stations do that today.

Senator TIERNEY—I would be very keen to have more detail—you might want to put a further submission in on this—on how you plan to do it.

Mr Dews—Senator, we do not want to provide another submission on that because we currently are not planning to be a gatekeeper. We also are not planning to show movies. So I do not have any more information.

Senator TIERNEY—But isn't it true that, if you received from the government access to this amount of spectrum for datacasting—

Mr Dews—What is 'this amount'?

Senator TIERNEY—what would be stopping you?

CHAIR—We were using three as a hypothetical.

Senator TIERNEY—What would stop you from changing your business plan?

Mr Dews—If we have three megahertz of spectrum, we have more than enough content of our own to datacast. We would be unlikely, with current technology, to be looking at subletting any of that to anybody—unless of course the price they offered suggested that it was a good thing for us to do.

Senator TIERNEY—So in five years time if compression has developed and, instead of needing the three megahertz to do that, you can do it in one—

Mr Dews—I am not sure; I think I had to hand it back, according to Senator Schacht's earlier comments.

Senator SCHACHT—That is correct, you hand it back.

Senator TIERNEY—That is very comforting.

Senator SCHACHT—I think with regulation there are two aspects. If you can download in Australia from Village Roadshow's web site in Australia and they have gone through and had all their movies categorised from MA down to G under the standards of the Office of Film and Literature Classification, fine. But someone may say, 'We can download a movie from Paris.' You will pay more for it, of course, but it is downloaded and in Australia. It might be one of those that gets no classification at all and, therefore, it is not to be shown. As you have the infrastructure to show it, would you accept that even through the downloading process you have to accept responsibility for it; or do you just say, 'Listen, we can't control that; we don't know the movies that people are getting from overseas'? If you can give me an answer that works, I will be staggered.

Mr Dews—I cannot. That is why I am hesitating. It is an extremely difficult area. Certainly the more recent literature from the States that I have read would suggest that, just in a practical sense, the onus will have to be much more on those who are viewing and, in some cases, the parents of those who are viewing to ensure that the wrong things are not downloaded. There is all sorts of software that is currently available that you can get to use to do that.

Senator TIERNEY—Now you are really worrying us. You mentioned the most popular family web site you had.

Mr Dews—No, I said the most popular family of web sites in the country are the Fairfax web sites.

Senator TIERNEY—Could you explain very briefly what they are and what sorts of things are on them?

Mr Dews—Yes, although I will probably miss a couple. The *Sydney Morning Herald* on-line, the *Age* on-line, the *Financial Review* on-line, the Trading Room, Personal Investment, CitySearch Sydney, CitySearch Melbourne, *BRW*, *Personal Investment*, and there are probably a couple of others. My apologies to our regionals and suburbans: I will not list them all out.

CHAIR—Thank you very much, Mr Leeder and Mr Dews, for your submission and for your evidence. If we have any other questions for you, we will direct them to you.

Mr Dews—We will get back to you with the definition of datacasting.

CHAIR—We would be pleased to have the definition by Friday. Thank you.

[3.05 p.m.]

BRITTON, Ms Anne, Joint Federal Secretary, Media Entertainment and Arts Alliance, 245 Chalmers Street, Redfern, New South Wales

HERD, Mr Nick, Executive Director, Screen Producers Association of Australia, 144 Riley Street, East Sydney, New South Wales 2010

ATHERDEN, Mr Geoffrey John, President, Australian Writers Guild, 60 Kellett Street, Kings Cross, New South Wales

CHAIR—Welcome. The committee has before it submissions Nos 1 and 25, which it has authorised to be published. Do you have any alterations or additions that you would care to make at this stage?

Ms Britton—No.

CHAIR—Do you wish to make a brief opening statement?

Ms Britton—I think it is fairly self-evident from our submission that we have come here with a fairly single-minded message. That is, our interest is in content, specifically Australian content. I think, if you look at the coverage surrounding this committee and this particular piece of legislation, you could be forgiven for thinking that the only public interest issue of any significance is the type of technology that will be used in the transition to digital and how many new owners will be admitted to the so-called digital club.

We are not here to address you on those issues today, though we are not suggesting that they are not important issues and ones which appropriately should be given significant consideration by this committee. We are here with a very simple message, however, and that is that the local content rules that have been in place in Australia for the past 30 years and that have guaranteed local audiences access to reasonable levels of Australian programming have essentially, by virtue of the High Court decision in *Project Blue Sky* handed down last month, been emasculated. Unless all care is taken, we run the risk that what audiences will remember in the transition to digital is not that there are more service providers or not that they have access to clearer pictures or that the technology has improved but that it is the era in which we saw a significant dilution of the levels of Australian content on screens.

I think that message has largely been lost, and I think it would be a pity if this committee did not look seriously at the issue of Australian content and whether or not when we move into the digital era we will have effectively lost the levels or seen a significant diminution of current levels. Nick Herd, from the Screen Producers Association, will briefly run through the current status of the legislation. Geoffrey Atherden will follow with a brief reminder of what happened in the transition from radio to television.

Mr Herd—Essentially the situation we have now in regard to Australian content is that the commercial broadcasters who are proposed to get access to the additional spectrum for the

transition to digital are going to be protected from competition for a further 10 years. That has been the situation for many decades now. Protection from competition is on the basis that they pay significant licence fees as an economic rent for access to the spectrum but also that they are required to broadcast and fund the production of an increasing amount of Australian produced programs, including children's programs. We now have a situation where the overall transmission requirement on commercial television is 55 per cent of time between 6 a.m. and midnight.

Effectively what the decision of the High Court has done is to undermine the ability of the ABA as the regulatory authority that sets the standard to make an effective Australian content standard, one that meets the cultural and industry objectives in the Broadcasting Services Act. It is clearly the intention of parliament that one of the objectives of the framework of broadcasting set up by the act is that broadcasters should reflect Australia's cultural identity. Also, the requirement for broadcasters to continue funding Australian television production at the same levels that they have done so for many decades has been diluted.

We are arguing that the opportunity presents itself now to the parliament, with the legislation currently before it for consideration, to reaffirm those principles and to amend the act so that it is made clear that, as the High Court has found, instead of treaty obligations overwhelming cultural and industry development objectives, those objectives become paramount again and that the ABA, as the regulatory authority, is given proper powers to determine and enforce Australian content standards.

Mr Atherden—We agree that we are at the frontier of a really exciting era of technological change. Just for a minute, I would like to take us back to another frontier that we faced in the 1950s, which was the introduction of television. Just before television arrived we had what is now called the golden age of radio. Australian radio was rich with Australian drama, Australian serials, Australian comedy and Australian entertainment programs. I am of an age that I can remember when I was working as a school boy in a wool store in St Peter's that in the middle of the day the so-called women's serials were something that every bloke in the shed listened to. We listened to *Mary Worth*, *A Good Neighbour*, *Dr Paul*, *Martins Corner* and *Ada and Elsie*.

Senator SCHACHT—You must be the same age as me, Mr Atherden.

Mr Atherden—Possibly. At night we would listen to *Life with Dexter*, *Search for the Golden Boomerang*, *Jack Davey*, *George Wallace* and *Roy Rene*. Our culture was rich with our own voices in what was then our one electronic mass medium. What happened in 1956 when television was introduced was that, in the absence of content rules, in a few short years all that went. It went from radio and it was not picked up by television. It took about 20 years before growing public concern led to the government introducing local content rules that required broadcasters to broadcast in prime time a minimum amount of first release Australian drama and children's programs.

I think that is an important point in our history when that happened, because before that point you can look at our television and there was virtually no Australian content on television. You could get the idea watching Australian television that all the interesting people, all the interesting stories and all the heroes belonged to other countries, not to ours. After that point, suddenly we had our own heroes. We had *Cop Shop*, *Division Four*, *Homicide*, *The Sullivans* and *A Country Practice*. Now what local content has delivered to us is *Home and Away*, *Neighbours*, *Water Rats*, *Blue Heelers* and a whole range of programs that are successful not just here in Australia but around the world.

There are two points I would like to make about this. The first is that the principal reason for introducing local content rules was cultural. It was so that we had the opportunity to tell our own stories, see ourselves represented and see our own heroes and hear our own accents in our own mass media. And it worked on television. It also gave us a basis from which to export. Programs like *A Country Practice*, *Home and Away*, *Neighbours* and *Blue Heelers* are very successful exports for Australia.

I think we have done two more things that went beyond the original intention. I think they have altered the way we see ourselves. I think they have established an image of Australian culture in our own mass media which is of an open, safe, stable, reliable and fair society. I think they have done the same thing overseas. I think they have persuaded people in other countries that you will not find kangaroos jumping down the main street and you will not find Australia is a desert filled up with unsophisticated yokels. On that basis, I think Australian television, together with Australian film, has had a dramatic effect on our tourism and has opened up markets for trade for us.

I want to make one further point on the subject of local content, and that is that Australia is not the only country to have local content rules. Many other countries have local content rules, a lot of them more stringent than ours. The French and the Canadians are particularly passionate about local content. As was said before, our local content rules deliver to us about 55 per cent across the board, not just drama and children's television but across the board in prime time. About 55 per cent of our prime time television is Australian programming. In Europe the figure is somewhat higher, although they are really only looking for a majority under their current regulations.

I would like to look at two countries that do not have local content rules. One is the United States of America. It has no local content rules, but it is such a large market with such a powerful domestic industry that it does not need them. In America 99.9 per cent of television on the screen is American. When watching television in America you could almost get the idea that there was not a country outside the borders of the United States. So they have a particular view about local content. They do not see the need for it. But I would like to look at one more country that does not have local content regulation, and that is New Zealand.

I was reading in a paper the other day that what has happened since deregulation in New Zealand is that the percentage of local content in New Zealand—I am not talking about content rules—has dropped to about 17 per cent. So New Zealanders see less of their own selves, their own culture, on their television screens than virtually any other country in the world. This is why we are a little nervous. We feel that the decision of the High Court recently to allow New Zealanders access to our content has weakened our local content rules, our local content regime.

We are concerned that, as we go into this new digital age where there will be increased pressures on local content, the danger will be that we are going in with an already weakened local content regime. We believe, as Nick said, that it is within the power of government to do something to alter the act that would strengthen local content and take us into this digital age in a strong position, not in a weakened position.

Senator SCHACHT—What we are dealing with here, the introduction of digital, does not in any way change the content rules of 55 per cent. You are dealing with a High Court decision, which has come out of left field, vis-a-vis New Zealand saying that they can count their production as part of our 55 per cent. So, with the introduction of digital television, apart from the New Zealand aspect, which we will deal with in a moment, all the other local content

rules are staying as they are. It is just the definition with New Zealand that is now in dispute and has to be fixed. You have not put to us any view that we have accidentally slipped up on the legislation, other than in regard to New Zealand, and that the 55 per cent is being weakened anywhere else. That is correct, isn't it?

Ms Britton—That is correct.

Senator SCHACHT—We will deal with New Zealand separately.

Ms Britton—Sure. There is no change. We are not seeking any change. When you quizzed Fairfax just then in relation to whether they are going to comply with the Australian content rules, you cannot afford to ignore that when you talk about Australian content rules at the moment you are talking about emasculated Australian content rules. The High Court has said that the Australian Broadcasting Authority, in developing Australian content rules, can no longer give preference to Australian programming because of the existence of section 160(d) in the legislation. That effectively means that the ABA is without power to put in effective rules. So you cannot ignore the issue.

Senator SCHACHT—I am not trying to ignore the issue. First of all, the Blue Sky issue, to use shorthand terminology, has to be dealt with. You have not identified to me that there is a separate clause somewhere in this legislation that I have missed that is reducing the 55 per cent rule to 35 or to 25.

Ms Britton—That is correct.

Senator SCHACHT—Just out of curiosity, were there local content rules in the golden age of radio or did it develop itself?

Mr Atherden—It developed itself but in a very different world than we have today.

Senator SCHACHT—Of course, I understand that.

Mr Herd—There was local content regulation for radio from about the late 1930s onwards.

Senator SCHACHT—I notice a former employee of the ABA down the back is nodding in agreement, Mr Herd, so you are correct. I now turn to the Blue Sky issue. It is fortuitous that this legislation is now going to be dealt with in the next two sitting weeks in the Senate. You are saying that, if we do not deal with this amendment now, simple as it is, to the Broadcasting Services Act, which is before us for digital, there is going to be some rather rapid and awful consequences for Australian local content?

Ms Britton—There will be some awful consequences in relation to New Zealand programs. Firstly, there is the 'who knows' issue. Who knows to what extent commercial broadcasters will look to displacing Australian programs with New Zealand programs? We are not suggesting that Australian content will disappear from the screens tomorrow, but we appreciate that there are a number of areas which are particularly vulnerable because of the significant price difference between overseas and local programming. Patricia Edgar of the Children's Television Foundation, with whom the committee may be familiar, is on the record as saying that she has no doubt that Australian children's drama in this country is completely quota driven. Without the assistance that we have via the quota, it would disappear. I think in that area we will see a significant diminution.

I do not think the area of adult programming is immune from attack by New Zealand product either. The standard argument against our claim is that no commercial broadcaster in their right mind would buy New Zealand programming; no-one wants to see it; it is not going to rate. The reality is that 100 hours of, say, *Water Rats* costs about \$40 million and that 100 hours of *Shortland Street*, a New Zealand series, could be bought for about \$1 million. They have

to be getting a lot of rating performance to justify expending that additional \$39 million. As we have all seen with the CanWest experience and, indeed, with the ABC, when a network wants to cut its costs Australian programming will be the very first area to go. We say that within a relatively short period of time we will see significant inroads in relation to kids programming and not too long after that in relation to drama.

The problem that the High Court has clearly identified is that, while section 160(d) remains in the act, which basically says that when the ABA is making rules it has to be mindful of its international treaty obligations, the problem does not stop at New Zealand: we are a party to some 900 other treaties and it may well be that we will have to apply similar treatment to those countries. So it is a problem that will not go away.

As the committee will be aware at the moment, the ABA has been asked to come up with some options to consider. The ABA has been instructed by the High Court to change its content rules, which are now deemed unlawful. I do not think you have to be a genius to realise that at some stage you cannot give preference to Australian programming. David Flint at the ABA has been asked to do the impossible, to reconcile the irreconcilable. There is no answer to the problem short of legislative amendment. We would say that, given the current consideration of the issue of television, now is a fitting time to do just that.

Senator SCHACHT—Mr Flint and the ABA went off to investigate, following the directions of the High Court. The impression given at that time was that there may be a way within the existing legislation for the ABA to manage and administer the law and still achieve the content rules to protect Australia from the New Zealand invasion. Do we have any idea of what sort of inquiry he is conducting and when he is going to report by?

Mr Herd—There have not been any public announcements yet as to the length of time that will take. Certainly the indications that we have received from the ABA are that it is going to take about six months to complete this work. They have not yet even got out a preliminary discussion paper. That is not due, as we understand it, for at least another two to three weeks.

Senator SCHACHT—That is the beginning of the public process.

Mr Herd—That is the beginning of the public process which could go till the end of the year or early into next year.

Senator SCHACHT—Ms Britton, you mentioned the difference of the cost between *Shortland Street*, which could be sold to Australia for \$1 million, and *Water Rats*, which costs \$40 million for the same amount of time on air. But how far can the New Zealanders go in designing programs that look Australian or would be attractive to Australians? Are they going to have to have people with ‘I am Australian’ printed across their chest to make sure that they do not look like New Zealanders?

Mr Herd—You are assuming that they will have to make programs that look Australian. That is one of the solutions suggested by the High Court, but equally the ABA could simply say that in order to make the standard lawful it is enough that New Zealanders are allowed to make programs that qualify for the standard without even meeting that cultural outcome. As we have suggested before, I do not think you should underestimate the skills or capabilities of the New Zealand production industry. They are not incapable of making appealing programs. The reality is that they have low local content levels themselves and here they are trying to get access to Australia.

Senator SCHACHT—You are the first Australian in 11 years I have heard at inquiries like this to actually suggest that New Zealanders can do something decent.

Mr Atherden—They are our brothers across the Tasman.

Ms Britton—I do not know to whom you might have been talking, but look at *Once Were Warriors*. *Once Were Warriors* was a very successful New Zealand film, which was in the top five at the box office. I think it is extremely arrogant for Australians to suggest that New Zealand cannot make good product.

Senator SCHACHT—If they make good product, wouldn't the advantage they have over cost start to even out?

Ms Britton—No.

Mr Atherden—Not necessarily. The view is held that no network is likely to buy New Zealand programs at the moment. I would like to make the point that that is virtually the same view that was held about Australian programs before Australian content rules. We were told that there were no writers or directors, that we did not have the talent to do it and that there was no evidence that an Australian audience would have the slightest bit of interest in Australian programs. The advent of Australian content rules changed all that. Access to our market will also have an impact on New Zealand production. So we should not underestimate that.

Senator SCHACHT—In which sense? They will be making more product, but will the product be of better quality? I have heard that what concerns people is their ability to undercut and shabby product, because it is produced on the cheap, will then flood into the country like cheap T-shirts from Asia or the textile industry or whatever. I want to get it clear: are we saying that, irrespective of the quality or the production cost, we do not want them to count? Or are we afraid that they will dress it up a bit but that it will still be a cheap and shoddy production which will undercut our quality production?

Mr Atherden—The point we would like to make is that a subsidy system operates in New Zealand that allows them to undercut us commercially. I think Nick is better placed to deal with that.

Mr Herd—The issue is not the quality of the New Zealand production; it is the fact that they will be able to cover the cost of production in their own market. As Geoffrey says, the areas of production such as most of the drama, documentary, and entertainment programs, which under Australia's content regulation the networks fund here totally themselves, in New Zealand are subsidised by the New Zealand government. New Zealand On Air provides about 50 per cent of the cost of producing those programs. What we are saying is that they have an unfair competitive advantage because they have their costs covered in their domestic market. They can make quality product and bring it into Australia at a fraction of the cost of Australian producers making similar programs.

Senator SCHACHT—Under the CER treaty, as I understand it, they are not supposed to subsidise a product coming into Australia because it is supposed to be an open market. Have you raised this issue with our trade minister? New Zealand complains like billyo when my state government provides some investment allowance to attract an industry to South Australia that then exports the product to New Zealand. They complain that that subsidy is unfair. You clearly have the same thing in reverse, I absolutely agree with you. Has your industry made any complaint to our government to say that what New Zealand is doing with the subsidy is contrary to CER?

Mr Herd—As we understand it, and we have raised this with the trade minister, subsidy mechanisms are exempt from the CER.

Senator SCHACHT—I am not sure that is right.

Mr Atherden—I think the New Zealanders have been really clever because their own government, which does not believe in local content, has supported their producers in a claim in our High Court to gain them access to our local content. They do not believe in their local content, but they certainly believe in ours. I think the Kiwis have become cuckoos. They are not going to build nests for their own production, but they are going to lay their eggs in our nests.

Senator SCHACHT—I am glad I did not use that phrase. I would have been lambasted from one end of the country to the other by New Zealand. Well done, Mr Atherden.

Ms Britton—Could I go back to the issue of pricing and the subsidy, which Nick touched upon. Even if we take the subsidy out of the equation, I think we have to remember that the reason that this government and governments before it have seen it necessary to put in place local content rules is that the fact of life, for better or worse, of television pricing throughout the world is that imported programming can always be bought at a fraction of the cost of local content. That is the case for American product that comes here.

Let us look at *Seinfeld*. It is tremendously popular in America and here. It is made for about \$1.5 million; it sells here for about \$30,000 an episode. That is considered to be a very high price for foreign product. That is the rationale. That is what every successive government inquiry and broadcasting tribunal inquiry has concluded—that local content regulation is necessary because foreign product will always be available in the Australian market for a fraction of what Australian product can be purchased for. Even if it were not for the subsidy that the New Zealanders enjoy, the argument would be as good.

May I go back to a point that Geoffrey made earlier that before television came along everyone said, ‘Who would want to watch Australian product?’ I am reminded, sitting in this Senate inquiry today, of being quizzed—it could have been by you, Senator Schacht—about what pay TV operator in their right mind would put together a service without reasonable levels of Australian content. If you turn on your screen now, it is evident that if you take out music video and sport there is virtually no Australian drama on the screen. Regulation is important. We are no different from any other country. Without regulation, there will not be reasonable levels of local content.

Senator SCHACHT—I do not think it was me saying that, but it sounds like me. That was seven years ago on the pay TV inquiry, I suspect. When I read those recommendations it warns me about people pontificating, including me, as technology destroyed every one of those recommendations we made on pay TV, although possibly not on local content because there is a local content rule.

CHAIR—This hearing is about the digital TV bill. Are you wanting to take the opportunity to talk about amendments to the act before us to do with content? So it is really not specifically about digital TV.

Mr Herd—No, it is not specifically about digital TV.

CHAIR—You have taken the opportunity. It is stretching the friendship a little. That is fine.

Senator SCHACHT—It is not stretching the friendship. The Broadcasting Services Act has to be amended to introduce digital television, and it is not unknown for other people to latch on to a clause on something else. They have taken the opportunity, very cleverly, to put forward the view that, if you do not fix this up, local content rules, irrespective of digital-analog, are all going to fall over.

Mr Herd—It is not irrelevant to the question before you. As we said in our submission, one of the assumptions in moving to this regime is that there will still remain in place Australian content regulation. One of the prices that the commercial networks would have to pay for getting access to the spectrum is not only the cost of transition but also the fact that they could go on supporting very high levels of Australian content. What we are saying is that, since the legislation was drafted, the High Court decision has come down, it has changed the ground rules quite significantly and this committee and the parliament needs to take that into consideration.

Senator SCHACHT—We have had every other suspect turning up here on digital television with particular interests. They have all quite rightly come along. Is anybody you have consulted informally interested in this, from the free to air broadcasters to pay TV to Fairfax to News Ltd and to Internet service providers? Have any of them expressed opposition to amending the Broadcasting Services Act the way you have suggested to overcome this Blue Sky decision?

Mr Herd—Nobody has expressed opposition to us, no.

Senator SCHACHT—To put it around the other way, has anybody given you a tick for what you are trying to do?

Mr Herd—Not specifically, no.

Senator SCHACHT—Can I suggest that, by the time we report at the end of the week after next, you get the list from the secretariat of the various major players who have a view on digital TV and contact them to see what their view is. I have spoken privately to FACTS and they oppose the Blue Sky decision. They have told me that privately, but I think that is wide open. If they are willing to go on the record, it probably enhances your position that, coming from left field, there is a clause in the Broadcasting Services Act that your amendment is proposing to change to deal with the Blue Sky decision. I make that suggestion, to round up the other suspects and see how many are in support. I think most of them will be.

Mr Herd—We would be happy to do that.

Ms Britton—I take your point that this is an inquiry about digital television. But, if you think about it, the key things you are considering are: how many new players, should there be some restrictions and at what point in time should those restrictions be lifted. Obviously, that is not considered in some vacuum. Government per se cannot be interested in commercial viability.

The only reasonable policy justification you have for even going down that path of thinking about those issues is that there is an expectation that new players or old players, or whoever will deliver services in the digital era, will also carry across some of these Public Service obligations, namely, the Australian content rules. In an environment where the Australian content rules have effectively been undermined by trade treaties, we say that you cannot afford to ignore it. That is the reality. It is something from left field, but it is there at the moment. It must be addressed, and we believe appropriately addressed, in this digital bill.

CHAIR—I would like to thank you very much for your submission and for your attendance. Mr Atherden, thank you for taking us down memory lane when talking about some of those old radio programs in the days when it was more simple.

Committee adjourned at 3.37 p.m.