COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS

Reference: Future opportunities for Australia's film, animation, special effects and electronic games industries

WEDNESDAY, 27 AUGUST 2003

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS

Wednesday, 27 August 2003

Members: Mr Pyne *(Chair)*, Mr Hatton *(Deputy Chair)*, Mr Baldwin, Mr Ciobo, Ms Grierson, Mr Johnson, Mr Pearce, Mr Sercombe, Mr Tanner and Mr Ticehurst

Members in attendance: Mr Ciobo, Mr Pearce, Mr Pyne and Mr Sercombe

Terms of reference for the inquiry:

To inquire into and report on:

(a) the current size and scale of Australia's film, animation, special effects and electronic games industries;

(b) the economic, social and cultural benefits of these industries;

(c) future opportunities for further growth of these industries, including through the application of advanced digital technologies, online interactivity and broadband;

(d) the current and likely future infrastructure needs of these industries, including access to bandwidth;

(e) the skills required to facilitate future growth in these industries and the capacity of the education and training system to meet these demands;

(f) the effectiveness of the existing linkages between these industries and the wider cultural and information technology sectors;

(g) how Australia's capabilities in these industries, including in education and training, can be best leveraged to maximise export and investment opportunities; and

(h) whether any changes should be made to existing government support programs to ensure they are aligned with the future opportunities and trends in these industries.

WITNESSES

Committee met at 12.13 p.m.

BURNS, Mr Trevor, Head, Government and Parliamentary Relations, Australian Broadcasting Corporation

LEVY, Ms Sandra, Director, ABC Television, Australian Broadcasting Corporation

MARSHALL, Ms Lynley, Director, New Media and Digital Services, Australian Broadcasting Corporation

CHAIR—I declare open this hearing of the House of Representatives Standing Committee on Communications, Information Technology and the Arts into the future opportunities for Australia's film animation, special effects and electronic games industries. The inquiry arises from a request by the Minister for Communications, Information Technology and the Arts, Richard Alston. A public invitation was issued by the committee for written submissions and so far more than 90 submissions have been received. This is the fourth public hearing of the inquiry. Already the submissions and public hearings have presented consistent themes and some clear suggestions for improving policy in this area. Access to broadband, the protection of intellectual property, more aggressive international marketing of our film and games expertise and products as well as more finely tuned education and training opportunities have all been identified as requiring the attention of government.

The purpose of this inquiry is to examine the measures that the Commonwealth should consider so as to take world class industries to the next stage of their development. It is with great pleasure that we welcome the ABC today. The committee does not require you to give evidence under oath but these hearings are formal proceedings of the parliament and I remind you that the giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee prefers all evidence to be taken in public but you may request that your evidence be given in camera and we will consider your request. You might like to give an opening statement and, if you wish to amend your submission or make any additions to it, you are welcome to do so.

Ms Levy—It is a pleasure to be here. To open our submission, Trevor Burns will say a few words.

Mr Burns—The ABC welcomes the opportunity to appear in front of the committee. We are pleased the committee has recognised the importance of the industry through the inquiry. The ABC is an integral part of the wider Australian film industry, operating as a major producer and coproducer with the independent film and television production sector. The ABC is also a major acquirer of content from the Australian film industry through prepurchasing and acquisition arrangements. The ABC has longstanding relationships with major Commonwealth and state bodies and film funding agencies. The ABC's New Media and Digital Services Division is a major provider of digital content and new media services to Australian audiences. Its current activities include content delivered via narrowband and broadband Internet wireless, such as SMS and interactive television. The ABC submission specifically addresses three of the committee's terms of reference: namely, sections (b), (c) and (h). We welcome the opportunity to take questions from the committee.

CHAIR—What are (b), (c) and (h)?

Mr Burns—They are:

(b) the economic, social and cultural benefits of these industries;

(c) future opportunities for further growth of these industries, including through the application of advanced digital technologies, online interactivity and broadband;

(h) whether any changes should be made to existing government support programs to ensure they are aligned with the future opportunities and trends in these industries.

CHAIR—Many people who are involved in the film or television industries in Australia have had their start with the ABC. Do you find it difficult to hang onto people when they have achieved a certain level of skill or success because of lack of finance or the capacity to pay them what they want to be paid, or are there other reasons why many get their start with the ABC but do not stay with the ABC?

Ms Levy—I will answer that by going back a few decades. I started as a specialist trainee at the ABC. I became a drama producer as part of my experience and opportunities inside the ABC and then left and went into the independent production industry. The ABC in the past was able to train an enormous number of people who are currently eminent in the industry. The ABC had a much bigger staff, probably about double the number it currently has. In the 1970s the ABC had a huge drama division, with between eight and 12 drama producers and about 20 drama directors on staff. We even had in-house writers. These days we have none. So the opportunities for that kind of career development, for spotting talent and giving people the chance to learn skills on the job, which the ABC used to do, sadly, has deteriorated over the last two decades. There is that history. Peter Weir started there. All sorts of extraordinary people worked and gained their first opportunities in the ABC.

That is probably not so much the case with the skills of producing and directing—that kind of area. The area of cameramen, for example, has probably declined over the years. Holding on to people once they reach a position of skill—like Tony Squires, for instance—comes down, crudely, to money, more than anything else. The ABC is lucky to have an enormous number of talented people who work for it, but commercial television has more money and can offer much higher income rewards than we can. That process has happened over a long time. Roy and HG, the *Good News Week*, Tony Squires—there are probably many examples. So the ABC is disadvantaged in the marketplace in particular ways.

One of our roles is to identify and develop new talent, which we pride ourselves on doing, and I think we do it. At the moment I look at the Chasers, a young group of 20-something talented satirists, at *The Glass House* team of humorists, and at some of the other programs we have done. I look at *Fat Cow Motel* and the interactive program we have done recently. We do all sorts of things to develop new talent. But our capacity to be the great training ground that we once were has definitely eroded and our capacity to compete with commercial television by holding people through financial rewards is definitely not there.

CHAIR—You have great success in producing good Australian drama and comedy and other programs which run a couple of seasons—maybe three or four at best—but you do not have a lot of success exporting those programs to overseas markets from which you could make money. Yet, some of the commercial television stations manage to sell material of not nearly as good quality to overseas markets. Is there a failure in the ABC to identify export markets and get into them? Does the ABC try very hard to sell product overseas or do you just produce it for Australian audiences?

Ms Levy—Probably the long answer to that is that television worldwide is a domestic business. It is a chance for the local culture to speak to itself. In Germany they make German television, in Scandinavia they make Scandinavian television, and so on. Free-to-air television in America is 100 per cent American. They do not have UK programs on free-to-air television in America. In Britain it is 94 or 95 per cent British. Overwhelmingly in France it is French television. The opportunities in the marketplace to sell television into a television domestic zone are very limited. In Japan they buy almost nothing. Japan is another market that is almost exclusively Japanese. So if there is an opportunity—a few per cent of their entire content is acquired—you also have to look at the fact that Australian content has to compete with the best and the most expensive from the USA. When they spend between $2 million and $7 million an hour on their dramas and we spend, in US dollars, about $150,000 to $200,000 an hour, there is already a problem. We have to compete with the best of the rest of the world when we are selling into international markets and yet the cost of our production is very low and we have no stars who are known internationally who could help sell our programs, which also makes it very difficult.

Another factor that makes it very difficult is that a lot of material is sold in huge output deals. Warner Brothers has huge output deals through Europe. One year the Americans signed up $9 billion worth of output deals into Europe with the opening up of cable and pay television in a significant way. When they sell material in output deals—say, if you want *Friends*—you have to buy all these other 30 shows. We cannot do output deals because we have not got drivers like *Friends* to head the output deal. So we compete in a very uneven marketplace. The shows that have done well—and you are probably largely thinking of *Home and Away*—

CHAIR—*Prisoner*.

Ms Levy—A long time back.

CHAIR—Who could forget?

Ms Levy—Indeed, who could forget *Prisoner?* It was a landmark production. *Home and Away* has been very successful, but Australia made *Home and Away* at a time when teenage soaps were not being made in the UK. So there was an opportunity for a program which appealed to a market that did not currently then have teenage programs or programs which showed the beaches. *Home and Away*, which has been around for a long time, found a niche—only in the UK; it does not sell well anywhere else—in that marketplace. So every now and again we fluke an opportunity because our timing is just right or because the program is not available otherwise or because that network has just lost a project that they wanted from another broadcaster and we fill a gap. But it is very hard for Australia to compete internationally with our

projects. So the answer is that it is always difficult, whether it is an ABC project, a Channel 10 or a Channel 7 project. It is difficult for everybody.

CHAIR—One of the major problems is that we are competing with the United States, which has a lot more money to spend on television and film. The ABC does very well with very little in comparison to the United States. Since there does not appear to be the likelihood of large amounts of government funding being injected into the ABC in the years ahead because we have a whole lot of other issues to deal with at the national level, not least of which is the issue of national security, isn't the ABC living in an outdated paradigm if it just rejects the idea of between-program advertising—

Mr SERCOMBE—Richard Alston has rejected it.

CHAIR—That is the current government policy. But we are here to talk about future policy. If the SBS can raise $18 million a year, with ratings of around 2, couldn't the ABC, with ratings of 10 or more, raise a tremendous amount of advertising revenue? Then, rather than competing with America on an uneven playing field, it would be able to produce high quality dramas and comedies that appeal to overseas audiences and break into those markets. We could then make a lot of money and the ABC would be in clover.

Ms Levy—The ABC Act, section 31 states:

The ABC shall not broadcast advertisements.

Section 31, states:

This does not prevent the Corporation from broadcasting any announcement relating to any activity or proposed activity of the Corporation.

The ABC Act precludes us from looking at between-program advertising or, indeed, any advertising. A change to section 31 of the ABC Act would make that possible—but only a change of the ABC Act. So it is not something the ABC ever considers because it is a function of a change to the act.

Mr SERCOMBE—This is essentially a policy issue, a statutory issue. It is a little unfair to be correcting a policy issue such as this. It is such a fundamental policy issue to officers of the ABC. It is a matter that more appropriately could be directed to the minister. It is a little unfair and, perhaps, not in accord with our terms of reference.

CHAIR—I think it is in accord with the terms of reference, but if Ms Levy is uncomfortable answering questions about future sources of revenue for the purposes of expanding the television industry then I will not ask any further questions.

Mr SERCOMBE—It seems unfair, when it is a policy issue that the minister should be addressing, not an officer of the ABC.

CHAIR—I will ask one more question and then we will move to other questions. I understand that the act says that. Do you have an opinion about the capacity of the ABC to advertise and whether that would be a good idea or a bad idea?

Ms Levy—With three commercial free-to-air broadcasters in Australia, there is adequate opportunity for advertisers to find the outlet for their products and to provide payment through that form for all the drama that is currently required under the ABA quota system. Seven, Nine and Ten are currently required, as a condition of their licence, to provide 225 points each of drama. The difference with the ABC and the kind of content that we do—or that we would pride ourselves on doing if we had more funds, which goes to the heart of our triennial funding submission—is that we are seeking to get additional funding to work with the independent sector on creating another 180 hours of drama and comedy. The sort of drama we would do would cover literary adaptations, classics of Australian literature, stage play adaptations, political drama, humorous and satirical drama. The kind of content we would do is a different style of content so that we are not the same as them. I would suspect that if we were dependent on revenue from advertising we would all end up doing much more similar material than we currently do.

Mr PEARCE—Ms Levy, thank you for your hospitality this morning—it was very interesting. Clearly the ABC covers a broad spectrum of broadcasting services. Given that our terms of reference are focusing very much on the film, television and new media areas, what do you see, in your capacity as director of television at the ABC, as the goal for this area? What does the ABC have as its mission for this area?

Ms Levy—The ABC has a mission to reflect Australia back to itself in as many diverse ways as possible. Our task is to be a mirror and an interpreter and a forum for all levels, all aspirations and all groups within the community. We are the major cultural institution in this country and we reach nearly 100 per cent of homes. We have an extraordinary regional and metropolitan reach and a fantastic capacity to speak to the people of this country and to reflect them to each other.

Mr PEARCE—On a world benchmark basis how do you rate the ABC in the film, television, drama and new media area? What is your view on that? You have obviously spent some time looking at similar public broadcasters throughout the world. Where do you rate yourself?

Ms Levy—It is an interesting question because we can rate ourselves in two ways. One is by audience share. If I compare us with Canadian Broadcasting Corporation, the Public Broadcasting Service in America and BBC2, which is probably the channel there that is closest to us, we outperform them in terms of our audience share. The CBC has a share of approximately eight per cent of the audience; in America PBS has a declining share, somewhat below two per cent; and BBC2 has a share of about 10 per cent. We currently have a share of about 16 to 17 per cent. Audiences in Australia definitely affirm their commitment to and their pleasure in what the ABC does. We perform very strongly.

In terms of our aspirations as to the kind of broadcaster we could be, we could be a much more comprehensive broadcaster with more funding. The kinds of high-end programs that we would aspire to do across documentaries, arts and culture, drama and comedy are very limited by our capacity to pay for them. When I look at the very lush and lavish period dramas and history programs that we currently buy from the UK I feel very disappointed that on behalf of

Australians we cannot do the same with our history and our own literary masterpieces. We would be very pleased to be able to do more of the kind of high-end programming that we currently cannot afford.

Mr PEARCE—Technology plays a very clear role in the production of your services and content and, clearly, technology has changed rapidly over this past decade. Where do you rate ABC's technological capability in terms of the equipment you have and the sort of capital investment required? Is the equipment you have in the studios that we saw this morning world leading stuff or are you lagging behind on that score? What is your view on that?

Ms Levy—I do not have a comprehensive view of all the areas of production so there may be areas that I cannot speak to.

Mr PEARCE—Broadly speaking.

Ms Levy—Broadly speaking, we are absolutely equal with and somewhat in front of state of the art production methodologies. Because of our budget pressures—and I think this is generally true of the Australian production industry—we are enormously innovative. We are very happy to seize upon methodologies that lead to cuts in costs because if it reduces labour hours it cuts costs for us, which is always a prime motive. We keep abreast of all the current changes in technology. We are very eager to try them out. As a society I think you will find we are fairly fearless when it comes to trying to tackle and embrace new technology. That is absolutely true of the ABC.

Mr PEARCE—Do you make that technology or those services available to private enterprise to buy for production work? Do you outsource that as a potential revenue source?

Ms Levy—They have them as well. There is a very vigorous independent sector that provides facilities for post production. Post production has been the big area of significant change in recent times. In the last five to 10 years there has been an extraordinary growth in computer generated activity and in digital technology in post production. Australia is very lucky; we have a vigorous and lively independent sector. As well as that, the ABC and the independent sector work together constantly and share information and insights. It is a very good relationship.

Mr PEARCE—I am interested to get back to this area of potential education and training and helping people who want to get into film and TV production et cetera. What sort of role does the ABC take? It is very apt that we are here in the Victorian College of the Arts. As an example, do you work closely with the VCA here? Is there a strong relationship? Is there a strategy in place where the ABC proactively approaches tertiary training institutions and offers facilities, guidance, mentoring or any types of services to any potential students who are interested in production, drama, engineering or directorships? Is there anything like that? Is there any program in place?

Ms Levy—The only formal program that I am aware of is our program with NIDA—the National Institute of Dramatic Art. Each year we normally hold a two-week television training course for the NIDA students, in terms of formal interaction. Informal interaction comes about more through particular project development—people entering the industry want to learn how to write et cetera. A huge amount of our work is done with the independent sector and we have a huge development infrastructure as well in which ideas and people come to us with projects and

we encourage and guide their development. It is more of that kind of basis than an apprenticeship process. As the ABC's capacity to do what it has to do with its shrinking funds and staff numbers decreases, the opportunities to do what you are alluding to become fewer and fewer.

Mr PEARCE—Ms Marshall, I would be interested in your comments given your area of responsibility, new media. The VCA has quite a strong area of interest in animation and technology right within this college. Do you work with the college in any formal way? Is there any relationship that exists?

Ms Marshall—We work with the RMIT, with Murdoch University and I think we have with the VCA from time to time. As Sandra says, it tends to be on specific projects, but the sorts of accords we have established with Film Victoria, for example, the SAFC and the AFC, as we discussed this morning, provide opportunities for young people working in the external environment. Whether that be in an independent production capacity or as part of a tertiary education facility, it provides them with the opportunity to submit projects which are then published and broadcast via ABC Online and the ABC. So we play a very important role in providing a platform for the broadcast of material from new producers to the industry. That is very important in our sector because as technology is changing methods of production change and the skills that these young people have are vital to the dynamic nature of the work we do.

Mr PEARCE—Finally, Ms Levy, given your experience in your area of responsibility, what is your outlook for the next decade for Australian film and television drama? What do you see happening?

Ms Levy—Quite frankly, I see quite tough times ahead. The cost of production is quite high and very hard to bring down much lower; I think we make programs as economically as possible. As you have seen today, even looking at a weekly program like *MDA*, we will try anything to keep the cost down, but I do not think that the Australian industry can keep the cost down much lower. The competition for dollars in the marketplace is very high. The Australian industry is overwhelmingly based on the notion of deficit financing; that is, that the cost of production is greater than the cost they can get out of the country, so to fill that deficit is increasingly difficult. Internationally pay and cable make more and more niche broadcasting where there is less opportunity for us to sell into major broadcasters. Niche broadcasting means less money for each sale and therefore the deficit that is created by the lack of finance in this country is harder to fill. So I think it is a very difficult challenge that the industry here faces in trying to maintain an Australian voice in the face of a very difficult problem of costs not being met by the domestic market.

Mr SERCOMBE—Ms Levy, talking earlier about Australian product accessing overseas television markets I think you used an expression like 'occasionally we fluke it'. Could you give us a couple of practical examples of the flukes and what you believe were the determining factors in their getting access offshore?

Ms Levy—When I say fluking it, I mean the big sales. *Home and Away* and *Heartbreak High* are probably the two most significant programs that were sold out of Australia into the international market because they were sold for significant amounts of money. Both of them were teenage dramas at a time when Australia was making teenage drama before the UK and

Europe. Both of those sold extremely well at market. Other programs sell to markets for small amounts of money. There may be 30 sales to cover the deficit but not taking it into profit. It is very difficult to sell for a significant price. Sometimes the sale will go to a territory and it will be worth $2,000 an episode, $500 an episode, $1,500 an episode—very small amounts of money—and the cost of maintaining a sales division is a factor. I was for 10 or 11 years with Southern Star until I came back to this role, so I am very familiar with the difficulty of the marketplace.

Australian sales agents need to have salespeople out in the field covering Asia, Africa, South America, Europe. There are many broadcasters to sell to, but the value of each sale is very small. So there are sales opportunities available, but they are tiny and you are mostly selling for non-prime time. So Australian material is sold into non-prime time for small amounts of money. Every now and again some opportunity arises unexpectedly which delivers significant amounts of money, but that is not the norm.

Mr SERCOMBE—Ms Marshall, the ABC's submission talks about whether changes should be made to existing government support programs. One of the lines that interested me here was:

> The ABC believes additional and more effective support is required from government and industry via a range of related and support programs. These programs should be aimed at stimulating back-end development of new media and digital technologies.

Could you amplify in more specific terms the new media and digital technologies you have in mind? I apologise that I was not able to come this morning, and this might have been an issue that was touched on with my colleagues.

Ms Marshall—Yes, we did briefly.

CHAIR—We need to get it on the record in any case.

Ms Marshall—All we are really talking about there in terms of the back-end support is the various software mechanisms and content management systems and content distribution mechanisms which make it cost-effective and simple to distribute our content across new platforms as they become viable and accessible for the audience at large. For example, a program at the moment which is broadcast on ABC TV might also appear on ABC Online in a broadband format—video delivered online and with text and interactive elements—and segments of that will now also go out via SMS and through wireless delivery mechanisms. They also appear on an interactive television environment. It is the ability to simply and easily manage and distribute that content without replicating production models across each platform which is a key part of the development of the industry going forward.

Mr SERCOMBE—The committee has had material put to it on the issue of the adoption of appropriate standards and platforms. It is claimed that the introduction of digital interactive TV has been dramatically held back in Australia by the absence of initiatives there. Is this an area you can talk to us about?

Ms Marshall—Are you referring to common applications for digital set-top boxes, for example?

Mr SERCOMBE—Yes, for free-to-air TV.

Ms Marshall—Obviously—we think obviously—having common standards in place where content has been uniformly produced for delivery across a common standard is going to aid the development of an industry. It is basically quite a simple issue. I guess the key is getting to that point where a common standard can be agreed, accepted and then distributed.

Mr SERCOMBE—What is the ABC's perspective on it?

Ms Marshall—In regard to a common platform for interactive digital set-top boxes, we have supported the MHP standard as being the standard for the Australian marketplace.

CHAIR—Ms Marshall, this morning we talked about *Fat Cow Motel* and how it was a bit of an experiment on the ABC's part, which you learnt a lot from—it worked in some areas and did not work and some others. Could you talk about that experience and what you might be planning to do in the future in terms of that sort of interactive television and online activity? I thought that was very interesting and, while we heard about it this morning, it cannot really be used unless it is on the record.

Ms Marshall—The *Fat Cow Motel* project was a collaborative effort with television and new media and we were delighted at the ABC to be able to broadcast this program which is the first of its kind in Australia. It has provided some really interesting learnings. First of all, as we discussed this morning, there was a huge response from the audience in feedback and engagement with the opportunity for interactivity with the program itself. Audience accesses to the online site, for example, reached a record high for a television related site of 1.1-odd million accesses in the second week of broadcast and large numbers subscribed to email services, SMS services and were really having fun just playing with it basically.

We have seen over time, though, that as the program has not been quite so popular on the television side—it is fair to say it has not engaged people to the same extent—the levels of engagement with the online and interactive elements have declined. It is fair to say that we still have a core audience online of people who are fanatically engaged with it each week, but those numbers have at least halved. That is telling us that the audience wishes to engage with a program across various platforms: they are watching it on the television, they are coming online and having a look at additional content and they are getting SMS messages about it. They want to solve the puzzle so they are part of it, not just consuming it. But for it to be successful it really needs to be compelling across all platforms. Sandra and I discussed this yesterday in terms of the lessons. I mentioned this morning that we also felt it went on for too long. It is probably too many weeks for the audience to stay engaged solving the problems each week; some weeks they probably cannot watch the show or something is going on.

CHAIR—How many weeks is it before the problem is solved?

Ms Marshall—It is a 13-week series and it runs for the entire 13 weeks.

CHAIR—So you do not get the answer until the 13th week?

Ms Marshall—We get answers each week.

CHAIR—As you go along?

Ms Marshall—Yes, but the series culminates with the audience deciding how it is all going to end. It is one of those 'Will they get together or won't they?' series. I think that will be fun, and we expect to see a bit of an upsurge then. What we are looking for in the future are cross-media projects which, as I said, engage the audience across all platforms with very compelling television and compelling online and interactive elements. We think the ideal duration for the programs will be two or three weeks so you really have the audience captured and engaged. It is very early days for that sort of content. As an experiment and a learning exercise, it has been wonderful to have the opportunity to work with.

CHAIR—Do you think that *Fat Cow Motel* will be a template for future interactive television and online activity? This is a very small part of what you have just started but, given the number of people who are online and using SMS et cetera, I wonder whether it will be quite an important part of future television and ABC activity if you can find the right formula that makes it work—in the same way that reality television has taken over, for its benefits or failures. I am wondering whether this sort of activity may become a substantial part of our futures as well.

Ms Marshall—I think it will. The thing to remember is that the success of the activity, if you like, will always come down to the content. We are dealing with what happens online or via SMS. Those are the technologies, and that is really all they are: access mechanisms for the audience. There is an increasing amount of research out there which tells us that the audience are consuming their media via multiple channels and they want to have more control over how they receive their entertainment, their news and information et cetera, and more direct engagement with that. Technology provides that mechanism, but whether or not it is going to be successful will come down to the creative concept—the content—because that is really what people want; the rest is a delivery mechanism. As far as *Fat Cow Motel* being a template is concerned: if we say the template is a cross-media project which utilises the various technology platforms available to us to engage with an audience then, yes, that is a template. But it is the content that we deliver across those various forms which will be the key.

Mr CIOBO—You speak about it being content driven. We saw this morning some of the examples of the visual media stream. Is a lot of that material developed in-house? Is there still a strong culture of development within ABC or do you tend to mostly commission what you do?

Ms Marshall—No, a vast majority of what we do is being produced in-house but also we have a significant element, as I said this morning, which is coming into us via the relationships we have with external agencies and particularly the accords we have with organisations such as Film Victoria, the SAFC and the AFC broadband fund. We are gathering a wealth of very wonderful and creative material which is supplementing and complementing what the ABC is able to offer.

Mr CIOBO—Ms Levy, would those sorts of collaborative exercises apply as well with regard to drama production and other forms of television production?

Ms Levy—I would say that all our drama and comedy is now made with the independent sector, in terms of the creative development and the creative management of it. The ABC as a broadcaster—as with the other broadcasters—uses various ways of commissioning content. In

documentaries we have accords that are funded by the FFC. Under that particular agreement we make 12 hours a year and, if there is a licence fee in place that represents 35 per cent of the budget, the FFC will fund the remaining part of the budget. They have those accords with SBS and with us, but the condition, of course, is that all applicants to the FFC are independent producers.

We have an arrangement with Film Australia for documentaries. All applicants to the FFC for documentary nonaccords, as they are called—which are those outside of the accords where we, or indeed any other broadcaster, can put up a licence fee to the producer. The producer then can be an applicant to the FFC. It is the same with adult drama and children's drama, but all of our work is made by independent producers.

Mr CIOBO—Would it be fair to say that most ABC docos, for example, are fairly light? We do not have the David Attenboroughs and that type of thing.

Ms Levy—Would you call David Attenborough not light?

Mr CIOBO—I do not know. I am asking you what your opinion is. It would seem to me, though, that there is probably a broader level of international awareness and perhaps greater scope for us to produce more documentaries. You want to say in a commercialised sense that that, therefore, is light, and that we can generate more out of Australia if we focused on that level.

Ms Levy—Again, everything goes back to funding, really—funding and content. Whatever question you ask, we end up back at the same point. We co-finance most of our natural history content out of ABC Television because natural history is very expensive to make because of the numbers of hours and months and so on that are involved. In fact, we are running a wonderful documentary in two weeks—made by David Parer who made *The Galapagos*—on the platypus. It has taken him three years to make it, and it is one hour long. It is an opportunity to make the kind of extremely labour-intensive natural history documentaries we would like to do more of. We do a lot of them with co-financiers—with National Geographic, with Discovery, with BBC and so on. Yes, we make them, but we do not make many, because they take a lot of time and they are very expensive.

CHAIR—Did you get your money back?

Ms Levy—We have not started selling that one yet. We will be starting—

CHAIR—But I would assume, if you are doing it with Discovery and National Geographic, it is going internationally.

Ms Levy—Yes, and almost everything we do does. But an enormous amount—just again, to make sure that it is understood—of the things that we sell internationally are not necessarily sold by ABC sales because we, again, are the broadcaster and not always the full financier. The independent producers can market them internationally through various other arrangements, so the ABC does not stand alone as the only organisation that sells the material that we screen. It is hard to differentiate between an ABC product in the marketplace and any other, because they

might all be sold by Beyond, Southern Star or Beckers. We do not always sell our own content because we do not necessarily fully finance it.

We make a vast range of documentaries, from things like social issue documentaries and the accords, which tend often to be quite strongly authored personal documentaries, through to the *Reality Bites* strand, which is four half-hours where we make a miniseries, to things like *Police Academy*, *Bush Mechanics*, *Outback Australia* and those sorts of things. There is quite a range of content. We probably screen about 120 hours of Australian documentaries a year from *Australian Story* to *Reality Bites* to *Big Picture*, which is battleships or airships, and *Navigators*, which was on Baudin's and the French explorations of Australia in the 18th century. It is already a quite diverse range of documentary.

Mr CIOBO—You both mentioned content as being one of the principal drivers of success or otherwise, and we spoke this morning about Miffy the rabbit, which had shifted from being in a television program to being in the new digital media.

CHAIR—It migrated.

Mr CIOBO—'Migrated' was the word, was it? Is there a strict set of protocols or some sort of matrix that you use in evaluating which programs will be left and which programs will be migrated into other mediums? How do you make determinations with regard to content and specific programming like Miffy, for example?

Ms Marshall—I would say—and I think this is a common position—that we look for content which works across the specific platform for which we are responsible. The needs of the audience are sometimes the same and sometimes very different. Some television programs are very successful TV programs but do not have the same appeal for online audiences. In terms of how we work collaboratively, we look for programs that will have appeal across platforms and then work together on how to migrate one to the other, to use that term, and get the best value for the audience in how they can access the material.

Ms Levy—Normally in television we look 12 months in advance. We do an analysis of a year's schedule of what we are trying to achieve, what slots we are going to change and what material we need to commission. I do a grid of content that is to be acquired and likely to be produced. I look at it across genres. I look at the spread across genres. I look at our development slate to see that we are developing for the needs of the schedule. When we do our deal memos we try to acquire as many rights as possible so that it is possible for the new media to take up the opportunity should they find it appropriate for that platform. So we try to make everything possible for the entire organisation to use the projects that we commission. We try to ensure that enterprises have an opportunity, that our music publishing area has an opportunity and that our radio or new media has an opportunity to look at the project, and at early stages of development we notify our colleagues as to what might be coming up that could be useful or of interest. So there is a great deal of crossing of information and acquisition of rights in the early stages to make it possible. That does not always mean it is necessarily going to happen, but we try to leave the door open on everything we do.

Mr CIOBO—What about within television? Why do we have a situation where, for example, *Behind the News*, which for all intents and purposes is an extraordinarily successful and popular

program, is to be axed when it is such a small part of the ABC's funding and budgeting and yet plays such a crucial role in the ABC's meeting its charter?

Ms Levy—It is probably appropriate for me to answer that on behalf of the board. As you know, at the last board meeting, the board confirmed the ABC's strategy in managing budget cuts. The ABC announced that it had a $26 million shortfall in funding which led to the ABC trying internally to find $26 million worth of cuts and trims in order to meet that budget requirement. The whole organisation, through each division, was obligated to look at options within the divisions and to offer options to the director of finance, the managing director and the board. At the last board meeting the board announced the strategy of the budget decisions.

Mr CIOBO—But why would a program like that, which for all intents and purposes seems to be successful—and I can only go off the back of a petition of several hundred signatures that I received from my electorate indicating how successful the program is—be identified as being a possible program to be cut, and now ratified as a program to be cut, when it accounts for something like 0.01 per cent of the budget?

Ms Levy—The ABC is always in the difficult position of looking at cuts. To find $26 million worth of cuts means cutting something that somebody finds enormously valuable. Therefore, there is nothing in the ABC any more that is not important in some way and that could be cut. The ABC chose not to isolate *Behind the News* but to look at the education strand, which is a two-hour strand of transmission across about 36 weeks of the year.

The education strand will be continued next year. The current production cuts that were announced involve *Behind the News* and, I think, a primary health show and they occur across this current financial year. The *Behind the News* program will cease transmission in December. The ABC provides 42 hours a week of children's programming, of which *BTN* makes up 20 minutes. So the ABC provides 25 per cent of its schedule for children's content and *BTN* is one part of that.

Mr CIOBO—In terms of production costs and general cost savings broadly across the ABC, would there be an opportunity for economies of scale? What would be the ABC's attitude with regard to possible cost savings through economies of scale by sharing some of the administration between ABC and SBS, for example?

Ms Levy—I am afraid I cannot answer that. That is entirely up to government. The ABC and SBS are separate organisations.

Mr CIOBO—But, from what you know of the ABC's culture and SBS's culture, would there be possible opportunities for something like that?

Ms Levy—I could not really answer that question.

Mr PEARCE—I have an open question for our three guests. Having regard to our terms of reference, and aside from the element of being able to request more funds—because every group wants more funding—at the end of the day we as a committee have to come up with a set of recommendations in a report. I am particularly interested to know what are the most significant

two or three things you believe the government could do to support the Australian film and television industry.

Ms Marshall—One of the things that could help the development of the industry—and we mentioned it in our points under terms of reference—is the establishment of funds such as the *Bell Broadcast* and *New Media Fund* in Canada, which support the development of content—cross-platform, cross-media content. I think that would be very appropriate here too. It would enable content to be produced in the independent production sector and to then be made available for broadcast by the ABC. That would be a really effective mechanism for helping to drive the industry forward. It would enable skill development, funding to develop projects which otherwise would not get up and certainly could not be funded by the ABC and the ability to utilise new technologies. It would enable the distribution of the content that is produced as result of those projects.

Mr PEARCE—So you are really talking about some sort of industry development fund that is set aside which people can access to encourage skill development and external production; is that right?

Ms Marshall—Yes. We have made the point in our submission, too, that we are not necessarily advocating a centralised approach to current support or rationalisation of agencies or anything like that, but the facilitation of a larger investment fund would aid the creation and production of larger scale projects, which would no doubt assist various sectors of the industry.

Mr PEARCE—Are there any other significant things that we could do?

Ms Levy—For me it always goes back to funding and content because they are so inextricably linked. But I think the really important thing in Australia that we have to be conscious of is to ensure that diversity of content can be maintained. That diversity does depend on a rich mix of the nature and style of the content that we are talking about such that the Australian community can look at one end at quite serious literary works and at the other end at quite light-hearted and frivolous pieces. I would also like to see in the future a greater emphasis on the notion of an Australian kids channel. I think it is very rare for a middle-class affluent country not to have a dedicated kids channel. In our submission we wrote that we were eager to have a multichannel that was dedicated to kids because I cannot believe that we as parents, as grandparents and as children do not believe that it is important that our children and our future grandchildren have the right to hear our stories, our voices and have their own society reflected back to them in all its complexity. We do not have that currently. That seems to me to be a great loss to our culture in our forward planning.

The third thing is to look for mechanisms that will ensure funding that is not reliant on government budget issues. We used to have tax mechanisms. There are things like licence fees. There are formulas that other countries have invented. In France, they have a tax on cinema attendance. There can be mechanisms other than the constant going back to government, cap in hand, and saying, 'Please give us more.' As you say, every organisation does the same. But there are mechanisms in various places that ensure that culture, diversity and the maintenance of our own identity can be protected.

CHAIR—Do you think the public would be open to the idea of returning to the old licence fee system?

Ms Levy—I think the very interesting thing about the public is that once upon a time nobody thought they were paying for television but with pay TV people actually put their hands in their pockets and pay for it. The community has understood that certain things, including watching television, do have an actual dollar bill attached to them. It may be that now, with the emergence of pay, the community would be more willing to look at a licence fee commitment.

Mr PEARCE—Does the ABC work with any of the pay channels in Australia?

Ms Levy—Yes. We do all sorts of deals with pay where we have first runs and they on pay acquire further runs and so on.

Mr PEARCE—Are you making much money out of that?

Ms Levy—No. Everything is deficit finance; everything is put into the budget to try and get the money together to make the show. There is no profit in it, but it helps to get something made. We share our limited cash, and they do that for commercial television projects as well.

CHAIR—If we had licence fees for the ABC or perhaps even between-program advertising, we might be able to—Ms Levy is happy to talk about the licence fee, so I assume she is happy to talk about between-program advertising—we could expand the reach of the ABC and you would obviously look to keep that money to yourselves; you would not want to have any arrangements whereby the Commonwealth would pick up a percentage of that extra revenue.

Ms Levy—We have not got it yet.

CHAIR—But if you did have it.

Ms Levy—It would depend on the formula and how it was set up. Of course, any discussion about future funding is worth having because it is obviously one of the biggest issues that faces everybody. We all understand that it is an issue.

CHAIR—So you welcome the debate on between-program advertising and licence fees for the ABC as potentially useful because it highlights the issues of funding and programming.

Ms Levy—We would welcome a debate which looked realistically at the degree of underfunding that the ABC currently experiences. The gap between us and Channel 7 or Channel 9, just in television alone, is about $600 million. When you add it all together and you see the gap between us—that $1.5 billion is available is available for the production and creation of commercial television in this country over and above what the ABC has—there is a huge gap between us and our competitors.

Mr CIOBO—You are really comparing apples and oranges, aren't you?

Ms Levy—No, not at all.

Mr CIOBO—At the end of the day, you are talking about programs that are driven by the commercial market—that is, ratings driven for broad appeal or niche markets—which generate in many respects advertising dollars. That, I thought, was not ABC's desire.

Ms Levy—No. That is not what I am comparing them with. What I am talking about is the amount of money they use each year to generate programs and run their television networks. Channels 7 and 9 both spend about $950 million a year in running their networks. We spend about $600 million less than that in running networks in which we provide programs on the arts, religion and science, Indigenous programming and other particular programs. We provide a huge range of programs, which we are very proud of but at a cost which is so far short of what our competitors spend on the range of programs they make that the playing field in which we compete for audience is very unfair. The second point I would make is that, compared to other public broadcasters, we are the second-lowest funded in the world. Portugal and we share a very similar allocation of funds. Portugal is just behind us. Who is just ahead of us?

Mr Burns—It is the other way around. Greece is just behind us.

Ms Levy—Greece is just behind and Portugal is just ahead of us. You can see that, for the kind of country we are and for the kind of pride we take in our public broadcaster, we are giving it a very difficult set of circumstances to try and excel as I believe the community wants it to do.

Mr Burns—We could table that graph.

CHAIR—That would be good if you would not mind.

Mr Burns—It is from a report by Macquarie Bank in 2001.

CHAIR—Is that your submission?

Mr Burns—No, it is our funding submission.

CHAIR—We have already had that.

Mr SERCOMBE—But does the committee have it?

CHAIR—No. Would you be prepared to table that submission?

Mr Burns—Yes, it is a public document. Macquarie Bank found that the ABC's current level of funding is significantly lower than that of other international public broadcasters and its Australian commercial peers. It looked at total revenues per capita of public broadcasters around the world.

Ms Levy—And we were the second lowest.

CHAIR—The secretariat will get that from you and we will add that to our exhibits. Thank you for your patience. It was extremely interesting evidence. Thank you also for hosting us this morning at Elsternwick and Southbank.

Ms Levy—It was a pleasure. Thanks for the opportunity.

Proceedings suspended from 1.11 p.m. to 1.58 p.m.

CURRY, Mr Ron, Company Director, Interactive Entertainment Association of Australia

JENKIN, Ms Beverly, Chief Executive Officer, Interactive Entertainment Association of Australia

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Curry—I am a director of Atari Australia, which is a member of Interactive Entertainment Association.

CHAIR—Although we do not require you to give evidence under oath, I advise you that these hearings are formal proceedings of the parliament. I remind you that the giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament—not that we assume you are going to do that. The committee prefers all evidence to be given in public, but if you do want any of your evidence to be given in camera then you can request that and we will consider your request. If you would like to add to your submission, amend it or give us any exhibits, you are quite entitled to do so.

Ms Jenkin—We would like to thank the committee for this opportunity to appear as witnesses before you. While we recognise that you do have a submission from us, we have just provided you with some additional information today to flesh out what we said in our original submission. We would like to talk to that for a short time and obviously answer questions. You will not all have had time to read it before we start, so you do what you need to do in terms of reading that.

CHAIR—Leap in.

Ms Jenkin—The Interactive Entertainment Association is the trade association for the interactive entertainment industry. We represent Australian companies responsible for sales, marketing, distribution and development of computer and video games, software, hardware and accessories. At this stage, you would notice that we have 11 members. Those members represent probably 90 per cent to 95 per cent of the industry in Australia in terms of turnover. Australia has increasing recognition globally of being a sophisticated and dynamic industry at the forefront of technology. Australia shows really good growth in employment figures. Ron is going to expand on the figures shortly. One important thing is that, despite a perception, video games are not just for children; 70 per cent of video game players are over age 18. Those figures are from records of our members who are registered as players.

Mr Curry—The size of our industry within Australia is $825 million at retail, which is just a bit smaller than the box office and significantly larger than either video at retail or music, which are around $520 million. As an industry, it is much larger than those two, although we obviously do not enjoy the profile that the music or video industries do. The estimation is that by 2007 the industry will be worth about $1 billion at retail in Australia. I will put some perspective on what we do.

CHAIR—By when?

Mr Curry—By 2007. To bring a game to market, there are various prices. If we take a more modern game, for example, Enter the Matrix, that game costs between $US40 million and $US60 million to bring to market, which is considerably more than what it costs to bring a music CD to market and around the same as it costs to make a movie. For an Australian company to put forward an idea to launch a video game and make a demo tape, it would probably cost around $500,000 to $1 million just to launch. I am just trying to give you some perspective on the cost of bringing a product to market in our industry.

Ms Jenkin—One of the future growth opportunities we see is broadband. The future opportunities would be online gaming, which is dependent on broadband for the speed. It is a bit difficult to play some of these sophisticated technology games on a slow speed computer or console. Broadband will give a lot more impetus in developing that online gaming area. We have stated in the document that there are 1.15 million consoles in Australian homes. That does not include the fact there are 4.6 million PCs in Australian homes. There are about 5.8 million hardware platforms which could be used as an Internet-capable device and which would require broadband. We believe that the technology there is actually driving broadband rather than broadband driving the technology. One of the biggest inhibitors for that to develop is cost and availability. We believe that broadband is something that would assist in the growth, so future opportunities—which is what we are talking about today—are largely dependent, from our perspective, on that area.

You will probably find some similar statements made by the film industry because I know that it is looking at online film download. Given that broadband does give greater access, it also does not protect the industry from its No. 1 issue, which is piracy and counterfeiting. We are talking here about organised piracy; we are not talking about end-user piracy. Our concern is not there. Our concern is with the organised area because it is a very profitable business; therefore it offers quite a bit of interest for people who wish to make money—whether illegally or not is the other issue.

There is recognition that the Australian industry has the capacity for investment, but it is reluctant to invest and losses can be high. We have a pretty good example of that which Ron will talk about shortly. We estimate that the loss to the industry is about $42 million per annum, if we take it as 10 per cent of software. That is just an estimate. At this stage, we are involved in an Allen Consulting Group study on the economic cost to Australia of counterfeiting which we hope will be available in October 2003. We believe that will be very useful towards supporting our case that there is even a loss to the government through GST and taxes et cetera.

Mr Curry—On the piracy issue, it hurts the consumers and it hurts our business in Australia. The way that it hurts consumers is that they are not always buying a legitimate product. By legitimate I mean a product that in Australia we have brought to market with certain features and in-game play, which may be tailored to Australia or otherwise. With a pirated product, it is quite often impossible to tell whether it is the genuine article or not, so the customer is buying something that may not be genuine and may not be the full game.

The other concern we have is that quite often it will not be correctly classified as per the OFLC. As an industry we work hard with that body and we work hard internally to ensure the classifications we place on the games are correct. In fact, the games are often modified for release in Australia because of our stringent OFLC guidelines. Games that come in pirated most

probably will not be rated or will be rated incorrectly so that they can be sold in Australia. That is of concern to us as an industry body because if it is picked up, it has got our company name on it and it is incorrect, then it is obvious that the OFLC will be coming after us and not the importer. And parents will not get the right guide to the game for their child. That is how it affects the consumer. If I can highlight an example of an Australian developed game, a company called Acclaim, based in Melbourne, developed *AFL Live* and spent a considerable amount of money developing that in Melbourne. They released the game on 12 September last year and the retail price was around $99. The game was available the next day at the markets for $10.

CHAIR—It took that long?

Mr Curry—Yes; often it is available on the Internet before then. We see counterfeit at the markets, for example in Nike T-shirts and whatever, and in the case of exploiting someone's logo you are robbing that company of their income. With a video game not only are you robbing acclaim, for example, but you are robbing the royalties of the AFL, of the people who produced the music, of the people who write the game and of all the other IP holders, because it is not just a simple unit—there is a lot of IP that goes into a game. A lot of people spend a lot of money to get themselves in a game, as they do in a movie, with placements. So the robbing of the royalties does not stop with us, or acclaim, or a similar company.

Ms Jenkin—The whole issue about classification, in case we have not made it clear, is that it is mandatory in Australia. It is actually the only country in the world that has to have classification and there are different issues relative to what can be brought in and what cannot, what cannot be classified. So even if a game comes in that looks to all intents and purposes like it is legal and looks as if it has a legal classification on it; often that is not the case. That happened with *Vice City*, which was refused classification in Australia, however the unmodified version was brought in illegally. That was actually a legal product at that time but it also happens with illegal product, pirated copy. So while we realised that the recent Copyright Amendment (Digital Agenda) Act took into account some of the issues of the Andrews committee in increasing penalties et cetera, we do not believe that the reality is that we have enforcement practices that support those greater penalties.

We believe that this is the single greatest inhibitor to the growth of our industry as we go forward. This is also in two other government fora at this time—you would understand that. It is involved with the FTA type negotiations, because IP is a very big part of that, and it is also very much a part of the digital agenda act. But we still believe that it is important to mention it here because, purely and simply, it is one of the biggest inhibitors. It is one of the biggest reasons that investors would not get so involved in development because without a certain business environment it is very difficult to commit funds. We believe it is very important to say that at this stage. It is an inhibitor. We have a particular slide which says, 'Organised crime needs an organised defence.' It is a nice little way to say things but, in actual fact, we are dealing with an organised crime situation.

The economic value and promise of the games industry should not be underestimated. The figures that Ron quoted earlier and that are quoted in that document should show you that. It is important to understand that a complex interplay between the copyright environment and the investment environment does exist. The games industry needs a business and legal framework in which to grow and foster further investment, both locally and internationally. Without adequate

copyright infringement laws and enforcement, all the funding in the world will not help the Australian industry compete on the world stage.

CHAIR—You have made a very strong statement about copyright law and the effect it is having on your industry. The government passed some new laws quite recently—I think it was this year—to do with copyright which followed up on copyright laws we passed a few years ago. It seems to me that we have the laws in place to protect copyright but we may be falling down regarding the policing of those laws and the bringing of criminals to book. Do you think that that side of the equation is working? If not, who should be responsible for policing the laws and bringing the criminals to book?

Ms Jenkin—Basically what we have said is that, while those changes to the law earlier this year would increase penalties et cetera and therefore bring about some greater capacity to deal with criminals, we do not believe the enforcement practices support that. In particular, we believe that the sorts of penalties that are actually imposed on criminals—especially repeat offenders—are low and do not bear the importance they should. They are a cost of doing business for most pirates in the organised area.

CHAIR—A cost of doing business is to pay the penalties—is that what you are saying?

Ms Jenkin—Yes.

CHAIR—And they are happy to pay because it is a drop in the ocean in comparison to—

Ms Jenkin—Yes. They are not paying taxes any other way, so I suppose that is their tax. I do not mean to be flippant, but that perhaps is a factor. Who is responsible? Clearly, if you have laws in place there is a requirement that they be backed up both by the legal fraternity and through the enforcement agencies—the Federal Police et cetera. I am a member of the Intellectual Property Enforcement Consultative Group that meets infrequently under Stephen Fox and Norman Bowman, AG's department, and help to auspice those meetings regularly. Talking about follow-up is a continuing frustration—because where does intellectual property protection sit as a priority? I would not be surprised by a suggestion that it is a victimless crime. Who is harmed? Business in Australia is harmed quite considerably, and we are hoping that our Allen Consulting Group study later this year will show that. It is not just a cost to the industry; it is also a cost to government.

CHAIR—It seems that the Federal Police do not pursue copyright because they have given it a low priority. They have a prioritisation list, and copyright infringements are right down the bottom. It seems that the state police do not pursue it at all. The people I am aware of who have complained have been told to take civil proceedings against the perpetrators; yet it is a criminal offence. Do you think the state governments and the federal government are shifting the blame between each other and that your businesses are the losers? I would not mind who pursued it as long as somebody did, but it seems that the Federal Police say it is not really their baby—there are more important things to do—and that the state police do not even bother to follow up the phone calls.

Ms Jenkin—The simple answer to your question is yes.

CHAIR—Should it be a state police responsibility or a Federal Police responsibility?

Ms Jenkin—I think it is a bigger issue than just either/or. It is a both/and issue and it requires the attention that that entails. I cannot answer you as to how it should specifically be done, but the priority has to be raised—the bar has to be raised—to ensure that it is appropriately addressed. Clearly, resourcing is an issue. If you do not have the resources anywhere it is hard to do everything. I understand that the Federal Police have specific directions as to their priorities. That comes out in the Intellectual Property Enforcement Consulting Group meetings that I attend. It is clearly not at the top of their list of priorities because they are not getting resourced for it. They have probably been given directions to concentrate on drugs, terrorism, guns and things collateral to those. My understanding is that in some of the biggest intellectual property cases—and this is why we are talking about organised activity, not end-user activity—there has been a connection with laundering money. I cannot substantiate that with any backup at this stage, but it is discussed openly.

Mr PEARCE—Following on from that, what has the industry, and the players in the industry, been doing to try to overcome this issue? Is there investment in new technology that will encode the games and protect copyright—the other side? There is enforcement, but what is the industry doing? Can you tell us what you are trying to do to eliminate it?

Mr Curry—There are two issues: I will speak about technology and I will let Beverly speak about enforcement. From a technology point of view, we develop technology continually. We have game faders, for example, which mean that if the game is not played on the original disk it will fade. It is a cat and mouse game—as quickly as we can develop copy protection or encryption, there is somebody sitting somewhere else being smarter and developing a way to crack it.

Mr PEARCE—Are you saying that there is a program in place within the various industry manufacturers to try to develop some sort of encoding that prohibits copyright infringement?

Mr Curry—Absolutely.

Ms Jenkin—There is the issue that the technical protection measures were recently overturned by the High Court in the Stevens v. Sony case. I am not a legal expert on this, so this is a hearsay sort of statement, but it is illegal to manufacture, distribute and market a technological protection device. But it is not illegal to use them. The thing that interests me is that it is quite clear that there are many people out there advertising that they will chip your machines—changing a technological protection device—and there is no follow-up on that. I find that hard.

Mr PEARCE—The point I am making is that it is a dual sort of approach—something can be done to enforce and maintain the law, but the industry has a responsibility to work at finding ways to help this program as well. And I am heartened to hear that that is actually happening.

Mr Curry—We do run into some issues. Our company ran into a couple of issues not so long ago where we did install some copy protection on games. We are currently trying to determine through our solicitors whether that is legal or not, because consumers are saying that they are permitted, under law, to make a backup of it in case they ruin or destroy it. If that is the case—

Ms Jenkin—It is actually not the case—you are not allowed to make a backup copy. It is a misunderstanding. Many of us in our offices think that it is all right to have a backup copy of our business software because that has been an accepted practice, but it is actually not legal to do it—but that is beside the point; we should put that aside.

We support the Australian Film and Video Security Office. Each of our members does take its own legal action, through civil courts particularly, in relation to this issue. They spend quite significant amounts of money annually on their own enforcement and follow-up of infringement. We are not talking about small amounts of money here—it takes some cases in the hundreds of thousands to bring them to book. And when you get a judgment which is in the thousands, at best perhaps in the tens of thousands, it is a difficult issue—will we take it up or not? Are we going to get reasonable things at the other end?

Mr PEARCE—Who is doing this? When you say it is organised, is it distributed, is it backyard operators or is it former employees of your organisations who have left and know how to do it?

Mr Curry—No. It is not difficult to do. We say 'backyard' but I do not want it to be inferred from that that it is someone sitting in their lounge room doing it; it is the wholesale production of games.

Ms Jenkin—If you wish, we could ask our members to provide some more information for you to show you the scale that we are talking about.

CHAIR—That would be very useful.

Ms Jenkin—We will see what we can do to give you appropriate information.

CHAIR—We can add things as exhibits and submissions throughout the inquiry, so that would be good.

Ms Jenkin—That particular consultative group I was talking about earlier also talks about this and there is an acknowledgment worldwide that this is a very productive area for organised crime to make its money to fund all its nefarious exercises. It is actually documented in that particular committee.

Mr SERCOMBE—Which committee?

Ms Jenkin—The Intellectual Property Enforcement Consultative Group. This is where we have got the Federal Police, the Attorney-General's Department, I was going to say the FBI but that is not the right name—

CHAIR—The ACC.

Ms Jenkin—Yes. They are all involved as well as some state police, but the only state police that regularly attend meetings are the Victoria Police. They are seen as actually being very interested in following up on cases because they have done some very good hauls on that. We

get no cooperation whatsoever from Queensland, and the New South Wales Police are also rather difficult.

Mr CIOBO—Is that wholesale distribution you are talking about something that is happening within Australia, or is that occurring in countries such as Malaysia, for example, and then being imported?

Ms Jenkin—Again, the basic statement being made is that, yes, Malaysia and Indonesia are very fertile ground for that organised activity. However, it seems that there is now a move to actually have the platform in Australia.

Mr CIOBO—At an organised criminal level?

Ms Jenkin—That is our understanding. But, again, let us see what we can find to bring back to you.

Mr SERCOMBE—On the study that Allen Consulting Group is doing, who has briefed Allen Consulting Group on that and what is your association's role in it?

Ms Jenkin—We are funding it. The three organisations funding it are the Business Software Association of Australia, Interactive Entertainment Association of Australia and the Australian Toy Association. They are all finding the study but at arm's length.

Mr SERCOMBE—Have they produced a preliminary report or discussion paper?

Ms Jenkin—They have just started it. They only started it at the beginning of August, basically. Part of that economic study will also be dealing with an independent household survey so that we can get information from individuals, and their perceptions.

Mr PEARCE—And you expect that to be published in October.

Ms Jenkin—We hope so.

CHAIR—Is Australia typical or atypical of Western countries in its endemic problems with copyright?

Ms Jenkin—It is hard to say.

Mr Curry—Infringing the copyright itself?

CHAIR—Are most Western countries experiencing what we are experiencing? I imagine the answer to that is yes.

Mr Curry—Yes.

CHAIR—And are we handling it better or worse than most other Western countries?

Mr Curry—I do not think we are handling it any better than anywhere else and perhaps we have a lot less focus here than Europe or the US.

Ms Jenkin—I would think that the evidence would show that the US has a much stricter regime in terms of follow-up. I will see what can do to find out about that.

Mr SERCOMBE—Is the US follow-up in civil action or criminal action, or both?

Ms Jenkin—I think I would need to clarify that.

Mr SERCOMBE—You read periodically in the press about giants like Microsoft being extraordinarily aggressive in civil proceedings on breaches of copyright, and then there is the music area of Napster being done over. But my impression from the US is that that is fundamentally civil action on the part of the copyright holders rather than criminal matters. In terms of looking at what the options are in Australia, if in fact the costs are disproportionate to outcomes in terms of civil procedures, maybe a more productive approach is looking at simplifying the civil remedies rather than looking at beefing up the criminal aspect, unless it can be demonstrated that the organised crime aspect is driving the thing. I would have thought the profit margins for serious organised crime on other contraband are significantly higher. That is just my impression. I would have thought actively exploring the impediments you as an industry face in civil remedies would be a very interesting way to go.

Ms Jenkin—I suppose really I would have to reserve my comment and get back to you on that. In terms of what is happening in the US, we will get something to you.

Mr SERCOMBE—That would be very useful because there is no point in us reinventing the wheel, if there are simple remedies that can be taken on the basis of US experience.

CHAIR—Judging by the number of questions and the depth of our interest in this, any more information you could provide to us would be very useful. You are the only witnesses so far who have really given us a lot of information on copyright. But it is an area that the government can actually do something about. When you can get some more information together, we would be grateful for it.

Ms Jenkin—We did wish to submit to this group because we do see it as very important for us to submit. We are not after government handouts; that is not really what we are about. We want to have a good business environment in which we can actually move forward and grow our business. That is what we are here for.

Mr PEARCE—Do you call yourself the electronic games industry or the interactive entertainment industry?

Ms Jenkin—We are Interactive Entertainment.

Mr PEARCE—I know what you are called, but what is the collective description?

Ms Jenkin—Interactive entertainment is the preferred name as we go forward, because there is quite a bit of merging.

Mr PEARCE—Does there exist a code of conduct, or has the industry discussed having a code of conduct across the industry for manufacturers, suppliers and retailers that are involved in the industry?

Ms Jenkin—Our association has a code of business practice, which has a typical association style. What sort of things do you think a code of conduct would have to encompass?

Mr PEARCE—I am just thinking about piracy and copyright. I was in the music industry for a number of years, which suffers a lot from copyright infringement. It happens from two sources: external to the music industry and internal to the music industry. I am sure that you would agree that not all of the copyright infringement is happening outside your industry. There might be some happening within your industry through players who are looking at other sources of potential revenue or distribution, potentially. What I am saying is that there are many industry groups who have a code of conduct that their members are asked to subscribe to and to work to. Is that something that you have considered?

Ms Jenkin—In order to be a member of this association you have to agree to abide by the code of conduct.

Mr PEARCE—Therefore the logical question is: how many players are in your industry that are not in your association?

Ms Jenkin—We claim to have 90 to 95 per cent of the industry with our 11 members.

Mr SERCOMBE—The non-pirate industry.

Mr Curry—Yes. Pirates will not join.

Ms Jenkin—Pirates are in the industry to a certain extent—I would be startled if they were not. We do claim to have 90 to 95 per cent of the industry through our members.

Mr SERCOMBE—And how big is the pirate section out of the total industry, would you say?

Ms Jenkin—We have not been able to identify it.

Mr SERCOMBE—Is it 20 per cent of your turnover, or 10 per cent or 30 per cent?

Ms Jenkin—A very conservative estimate is claimed. When we were developing our Canberra presentations, we said, 'It has to be at least 10 per cent.' That does not sound a lot.

Mr SERCOMBE—By dollar turnover.

Ms Jenkin—Yes. That is where we got the $42 million from. There are those in the industry who claim that it is as high as 30 per cent. We have no evidence to support that. But we know that it is at least 10 per cent. We are hoping with the Allen study that we may be able to develop a better and a credible source of information.

CHAIR—Is the Game Developers Association of Australia, the GDAA, a completely different area of the industry?

Ms Jenkin—Yes. We are not competing; we are complementary.

CHAIR—So you cover the whole of the industry and they cover just the games development part of it?

Mr Curry—They tend to cover the games development, so that is from inception to, effectively, when it goes in the box. Our industry tends to very loosely pick up from the moment it goes into the box.

Mr SERCOMBE—You do the platform.

Mr Curry—Yes, we represent the platform holders. We also represent the companies who distribute the games. So effectively we are the sales, marketing and distribution side of the business, and development is separate. Atari is represented by both associations, because they have a development arm and a sales, distribution and marketing arm.

Ms Jenkin—Right. We loosely describe our members as platform holders—that is the hardware—and the publishers, which are the software houses like Atari. That is the description.

CHAIR—We have met in Canberra with Micro Forte and the Game Developers Association. I did not know that Micro Forte was not on your list of members, but that is because they are just pure games developers.

Mr Curry—Yes, they are a developer. They may develop on behalf of Atari, Microsoft or Sony. Probably one of our companies would use them to develop a game for us, because they are an independent developer.

Mr CIOBO—One of the biggest issues that we have picked up from those on the games development side of it—and I think it would be fair to say that this is a perception that exists across the board; it is not confined to any one geographical location but comes from other places we have had hearings—is a lack of access to capital for investment in games development. From your perspective, from an industry overview point of view especially—for you, Mr Curry, involved in Atari and whatnot—why does there seem to be a bit of a drought when it comes to capital investment? Is it the risk factors, in terms of developing Australian product? Is it that it is easier to just take advanced product from the United States and put it into the Australian market? What is the driver?

Mr Curry—Are we talking about specifically Australian content?

Mr CIOBO—Correct.

Mr Curry—Yes, demographics—there is not the population in Australia to support the development of product. As regards the units that you can sell in Australia compared to the US, for example, we probably move about five per cent of what the US will. If you want an example

of Australian content, if you take a property called *The Saddle Club*—I do not know whether anyone has—

CHAIR—I know *The Saddle Club*.

Mr Curry—*The Saddle Club* in Australia has moved—

CHAIR—I know all the children's stories. I have three children under three. That is all I need to know about children!

Mr Curry—In the US they have sold 2,000 units of that game and they have sold 9,000 into the market. In Australia we have sold five or six times that through the market, but that is not enough volume to sustain the development, marketing and production of that game.

Mr CIOBO—In contrast to that, though, you look at *Ty the Tasmanian Tiger*, for example, and at the development of games like that. We are repeatedly told as a committee that it is a global market and that there are not boundaries, in terms of geographic or country boundaries as they exist, and that, if there were the opportunity to obtain investment as readily in Australia as you can in the United States, you could develop games that have broad international appeal and could be success stories like *Ty the Tasmanian Tiger*.

Mr Curry—Absolutely, we have had some huge successes from Australia. You are right; there is no investment. Take somewhere like Canada, which will match a developer dollar for dollar. People like Electronic Arts, who I think are in your area, have moved a development studio to—I think it is—Nova Scotia because they get a dollar for dollar match from the government. It simply does not happen here.

Mr CIOBO—But from a publisher perspective then, is it a case of it being a dutch auction, and you go wherever there is the best deal?

Mr Curry—Absolutely, you job it out. We may job work out to Australia, who in turn job the work out to Asia. The thing about our industry is, because it is electronic and we can move the data from country to country, you can get it done anywhere you like. Australia was a great place to get piecemeal work done when the dollar was a lot weaker. It was a very big incentive to have work done here.

Mr CIOBO—So is that the primary driver?

Mr Curry—Cost? Yes.

Mr CIOBO—So we can expend significant amounts of effort in developing training programs, associated infrastructure and other aspects that might perhaps give us a competitive advantage in qualitative terms, but is it principally then a quantitative decision, so it is assigned to an area of production where there is going to be the greatest yield? Is that the story?

Mr Curry—To a point, yes. Games are still produced in the US, which has a very high cost for producing games. That is where the talent is; that is the other issue.

Ms Jenkin—I think that we can enhance some of the things that the Game Developers Association would have said in that often for a game developer to make their mark, they have to go overseas. That is why we said in our original submission that it would be good to be able to facilitate the transfer of personnel back and forth: to allow people to go overseas, get their development and then come back more easily to work in Australia. It would also be good to assist in bringing people from overseas. Business is business, I suppose; people have to do what is right for their own businesses.

You have to credit the Queensland state government and the Victorian state government for giving good support in this area. THQ, which is a Melbourne based publisher company, has put a studio up in Queensland, and Infogrames has a studio in Melbourne, largely through the support that the state governments have given. And the Electronic Arts studio just goes back and forth.

Mr SERCOMBE—I am intrigued by that example Mr Curry gave about Canada. Obviously this is relevant to debate in Australia about the negotiations for a US free trade agreement. I would have thought that in the context of NAFTA, the North American Free Trade Agreement, the Canadian government arrangement, as you described it, would be potentially actionable by the United States because it is a direct government subsidy of a product that is in competition with a US product. It is my understanding that in the framework of the free trade arrangements that NAFTA represents—and that potentially Australia may be party to—that would be illegal. I may have missed an essential element of your presentation. I would find it very helpful to get access to some information about what you are referring to. I suspect that in the form you have presented it, it would be actionable by American companies that were disadvantaged by the arrangement.

Mr Curry—I am not sure. I can ask the company that gave me that information to follow it up.

Mr SERCOMBE—If you could, it would be very useful.

Mr CIOBO—If it is driven in most part by commercial interests—and I fully understand and accept that argument; it is not something that sits uncomfortably with me—why do publishers have a presence in Australia?

Mr Curry—Because it was an economical country in which to get that work done.

Mr CIOBO—Is it a legacy of past times?

Mr Curry—Partially, yes. This is stepping out of the area that I am an expert in. I am in the sales, distribution and marketing side. We are talking now about a different association and—

Mr CIOBO—It is not really. I believe the games developers have told us—and I am paraphrasing—that the single biggest obstacle, as they see it, is a lack of access to capital. And they say that that capital has to come from publishers.

Mr Curry—We are a little different because we have a publisher development studio. We own it. I think the GDAA may be talking about independent development houses that are not supported by a developer. They certainly do need the capital to keep afloat. We inject the capital

because we own the company—but we are one out of quite a number. So maybe using the example of the Atari local body is not really answering the question you are asking. If you were talking about Ratbags, Micro Forte or similar people, then I certainly believe it would be a capital issue.

Ms Jenkin—Ratbags is a company, by the way.

Mr Curry—They are from Adelaide.

Ms Jenkin—The one thing that the Acclaim example of the *AFL Live* shows is that the capital that was put into that for investing was from within Australia. That was developed in Australia by Acclaim and their whole investment—and it was not an inconsiderable investment—was put in jeopardy by the pirated copies appearing the next day. That is one of the issues in terms of capital being available, as well. It is not as simple as saying that is the only answer, but that is very much a part of the answer.

Mr CIOBO—Is this all part of the broader counterfeiting that is taking place in terms of movies, DVDs and computer games? To some extent we saw counterfeiting running rampant in the music industry because of bandwidth. As I understand it the only barrier to its becoming as rampant in DVDs, and perhaps games, is the bandwidth. Do you have grave fears, as more and more broadband is rolled out, that you will start to see that same degree of counterfeit product in the marketplace and transferred easily between countries?

Mr Curry—There is certainly the same potential for it to happen, yes.

Ms Jenkin—It is an area in which, on the one hand, you see great excitement at the possibility of broadband within the industry but, on the other hand, you see fear for what you have just mentioned. If you are trying to download large files, having broadband expands the possibility.

CHAIR—In your submission you talked about the free trade agreement and the benefits to Australia from the free trade agreement with the United States in this area. Would you like to expand on that?

Ms Jenkin—I suppose that in the free trade agreement we are talking again about the protection of intellectual policy rights—the same issues—and our submission on that is being finalised at the moment. We have to meet with our negotiators in, hopefully, about three or four weeks. We are very seriously concerned about the responsibility of ISPs and how they react. You were talking about a code of conduct and we are very much in support of it. We are in discussions with other groups of the Internet Industry Association to talk about a code of conduct for ISPs, because we believe that, in dealing with their own people that they contract with, they are not dealing with it responsibly. I suppose that is one area that we believe could be better looked after. I think those are the two main areas we are talking about at this stage.

We have mentioned the free trade agreement. America is one of the basic sources of talent, of transfer of personnel between the two areas. Professional people, such as lawyers et cetera, talk about temporary access, temporary visas and special arrangements relating to the free trade

agreement, and I believe we are talking about something similar to make that transfer of personnel easier both ways.

We raise the issue again about managing classification. With the convergence of media in Australia and worldwide, we embrace the idea of classification within Australia, because we think it gives the end user information about the product. They know that when they see the classification on it they can have some confidence that they know what they are going to look at. It is mandatory and, therefore, we are required to follow all the guidelines. Therefore, with the convergence of media, having fully transparent classification across the media would be useful. At the moment, the highest classification for electronic games is MA+; we cannot get to an R classification. We are not saying that there is an enormous market for R classification, but it would make life so much easier with product and import/export if that inhibition were not there. We did not actually get into that in this particular submission. We are not saying we want R classification just because we want R classification. We believe that there should be continuity and consistency, and that makes it difficult, particularly as we go forward with DVDs, which are both movies and games. That will present even bigger challenges. Perhaps you do not realise that online gaming does not have government classification by the OFLC, so the classification on online gaming will not exist.

Mr CIOBO—With 70 per cent of your market being people aged over 18—and I know *Vice City* is one you had to censor for Australian markets—

Ms Jenkin—*Grand Theft Auto* was another.

Mr CIOBO—I would have thought that there would be significant demand.

Ms Jenkin—There probably is. What I meant by what I said was that it is not that we are making a big case for R, but we believe there should be consistency in convergence. There may well be significant demand for R rated games, just as there is for R films.

CHAIR—Thank you very much for appearing this afternoon. If we have any further questions, we will ask you to come back and have another chat.

[2.46 p.m.]

DENHAM, Miss Ann-Marie Frances, Director/Animator, BigKidz Entertainment Pty Ltd

REYES, Mr Jeffrey Christian, Co-Director, BigKidz Entertainment Pty Ltd

CHAIR—Welcome. While the committee does not require you to give evidence under oath, we do have to advise you that the hearings are formal proceedings of the parliament and that the giving of false or misleading evidence is a serious matter and could be regarded as a contempt of parliament. I also remind you that we prefer to take our evidence in public but if you do want to give any evidence in camera then you are welcome to request that and we will consider your request. You are welcome also to make brief opening remarks or a statement, and then we will go to questions. Do you wish to make an opening statement?

Miss Denham—No.

CHAIR—In your submission you said that we should move away from Australian content as a criterion for the support of animated products produced within Australia and that the exploration of Australian identity was a good thing through Australian content but that this criterion has been 'overused' and is in fact 'hampering the industry to a significant extent'. I found that confusing. I did not know what that meant so perhaps you could explain what that means.

Miss Denham—The exploration of Australian identity is something that seems to feature in a lot of submission guidelines for various projects. I have also found that a lot of entrants to short film festivals seem to focus on that a lot. It is probably not the impression I am trying to give that I do not think it is important, but there seems to be a wealth of that. There are also a lot of instances where a project that comes up for submission is not deemed as being Australian enough. I think it is a very nebulous kind of a statement because you get into the instances of people saying, 'What is it to be Australian?' Perhaps that is what they are trying to discover through their own animation but I think that can be at the cost of a decent story, something that people can relate to or at least find interesting. I have seen a lot of short films that are an exploration of that but I do not think it offers anything new or original. I am not sure what commercial value it has in terms of bringing overseas interest to the Australian animation industry.

CHAIR—So you are saying, essentially, that the Australian industry should be focused on what the market wants, whether that is in Australia or whether that is internationally?

Miss Denham—Not necessarily, because I think people are not as focused on original content. You can look at overseas instances where there are a lot of copy projects—things that are of a similar style, a similar subject matter—and I think Australia has the chance to present something different, but it does not necessarily have to be through Australian identity. I think it is more focused on good design, good animation and good scriptwriting.

CHAIR—So you think our product should be anything at all and we limit ourselves by requiring too much emphasis on Australian stories or Australian content?

Miss Denham—I believe so, yes.

CHAIR—And so government could assist in its commissioning of work, or whatever it might do, or any guidelines that it might lay down for government support for various projects and, rather than insisting on Australian stories or Australian content, insist on just good product that will hopefully attract investment and export markets and therefore grow the industry. Is that what you are saying?

Miss Denham—Yes, because you could have a project that focuses on Australian life or Australian society, but it gets produced overseas and that does not help the animation industry in Australia. I think it is more important to have productions that are produced within Australia, and I think that should be the focus first. Unless there is a solid industry here, people are not going to look at Australia as a country that can produce animation on a wide scale. You can have Australian fauna and Australian flora in a series that is not even produced in Australia; it is shipped out overseas because there is not support here to produce it.

CHAIR—It is the old argument about the fact that when you were at the airport buying duty-free koalas you see they were made in China.

Miss Denham—Yes. It is unfortunate because, unless there is the work here, you are not going to get Australian animators in a situation where they can produce their own content or come up with an original series idea and then present that to producers who are interested and who can help support a production.

CHAIR—So you are looking for an animation industry where, as in the film industry where they might produce *Peter Pan* at Warner Brothers or *Star Wars* at Fox Studios—these are almost entire foreign productions with all foreign investment—they use 95 per cent or 90 per cent Australian crews, for example. It does not matter what the content is, it is being produced here, which is growing the film industry, and that therefore has enormous spin-off effects for the Australian industry itself. You would like to see the same thing happening in the animation industry.

Miss Denham—Yes, because then it is not limited to one country—many countries can come here. India is an example. Many projects go to India for production, but they have not necessarily originated in India.

CHAIR—There are some people in the film industry in Australia who think this is quite impure and the problem is, they say, that by allowing these American companies to come here and make films all the people who would always be making Australian stories are busy making money by doing *Scooby Doo* or *Peter Pan*, *Star Wars* or *Matrix*. Then there is the group that says that if you do not produce *Matrix* and *Star Wars* and *Peter Pan* and *Scooby Doo* et cetera there will not actually be any Australian in Australia to produce them in the first place because they will not be making any money. So you are falling into the latter category rather than the former category?

Miss Denham—Yes, you are correct.

CHAIR—But translating all that to animation?

Miss Denham—Yes, because I do not think that the Australian animation industry is doing particularly well in the situation that we have. You could say, 'Yes, we are trying to do it for the art or for the purity of Australian animation.'

CHAIR—So long as you do not mind drinking out of Vegemite jars.

Miss Denham—Yes, and I think you can have both as long as there is some support in there for both areas. That is why I think it is important that there are independent animators and that there are short-film festivals because that is where you get some really great pieces of animation that probably would not even be touched in a commercial sense because it is too different from what the market supposedly demands. I believe that if you give the market something that is well written, well constructed and well drawn they will enjoy it. You can trail behind everyone else who is blazing a path, but I do not think you will ever do anything particularly original or anything standout.

Mr SERCOMBE—I can agree with all of that, but I then ask myself—and I ask you—what the rationale is for there being effectively a public subsidy in some form or another for the activity if you remove the rationale that it is primarily about Australian national identity or Australians. What is the expression the Australian Film Corporation uses—'Australian stories told by Australians'? I can agree entirely with what you say about the focus, but then if it is going to be market driven—in the global market—why should the Australian taxpayer subsidise it? What is the return for the Australian taxpayer if there is not a national identity payback?

Mr Reyes—I think there is already. What we are trying to grow is the commercial side of animation. A lot people are looking at animation as a whole. There are independent animators and in our off-time we do make our own films that contain these things. What we are trying to say is that a lot of animators that graduate here in Australia go overseas because there is not an industry here to support them.

Mr SERCOMBE—There are lots of nuclear physicists or molecular biologists who do the same.

Mr Reyes—The argument that Anne was making about the whole commercial side of the industry was getting enough attention here so that we can produce good quality Australiana. At the same time, as Anne said, it is quite nebulous. What is Australiana? In our industry, Australiana is koala bears still.

Mr SERCOMBE—What about *Nemo*?

Miss Denham—I think it is fantastic that a piece of animation has done that well. I am very interested to see the Australian content in it.

Mr SERCOMBE—It would be reasonably Australian.

Miss Denham—Yes, and I think anything that supports the Barrier Reef is great, because it is going. But the success of that is down to the scriptwriting. It is down to people who are very good animators regardless of what media they work in. 3-D animation is very popular at the moment because there have been films that have been very successful made in 3-D. It is not the fact that it is 3-D; it is the fact that a lot of work has gone into it. Regardless of the medium, there has to be decent scriptwriters, there has to be support and training for the animators and there has to be good marketing. You can make marketing work for independent animators—it is not necessarily a purely commercial thing. I do not think there is anything wrong with commercialism as long as it can help support the industry as a whole, and that includes independent animators.

Mr PEARCE—I notice in your submission that you talk about the need for greater state and federal government promotion of the Australian animation industry. What do you think that the federal government could do?

Miss Denham—I think there is an opportunity for representatives to go to international markets and say that Australia is a great place to produce animation, it is cheap, we have skilled workers, we have facilities and we have got the technology to do it. This is something that I have noticed in a lot of publications. There is a lot of promotion for countries like India, Korea and Canada as places to bring your animated project for production, but I do not seem to spot that anywhere for Australia—or very little. I cannot even think of any facility that we have. There is Disney, but that would be American content.

Mr Reyes—I think we fall under the general film industry. We are not separated. It is a good idea to highlight animation as a separate industry to Australian film because we are producing a lot, whether it is 3-D or special effects.

Mr PEARCE—What is the Australian industry doing to promote itself overseas?

Mr Reyes—Local studios are contacting international studios—Canadian studios, for example—just to create a brother company type relationship.

Miss Denham—Yes, coproductions seem to be the way to go all over. There are not many companies that can produce something on their own. I know that there is an Australian-Canadian coproduction that has been in Sydney.

Mr PEARCE—My first question was about what governments could do to promote Australia, and you answered that. I am interested to know what the existing Australian industry is doing to promote Australia as a good destination for animation?

Miss Denham—To be honest, I am not sure because we do not seem to have a national body and we do not have a union. We have many associations but none that seems to cover a national capacity.

Mr PEARCE—Do you know why that is?

Miss Denham—Probably a mixture of procrastination—

CHAIR—You are all very independent operators, though, aren't you?

Miss Denham—Yes.

CHAIR—And you are all, essentially, private individuals or companies that have come out of either a successful product or wanting to create a successful product, but there does not seem to be a very cohesive industry.

Miss Denham—No.

Mr PEARCE—Is it true to say that the industry itself is not promoting itself very well?

Miss Denham—I believe so. It might be a situation where there is so little work that everyone is very jealous of what they do have, and I guess that is when people become a bit isolated. We all say, 'Yes, we want the industry to grow stronger,' but whether or not we are actually doing anything to help that is another matter. I do not think that we are doing enough, really.

Mr Reyes—I think we are doing some things, but we are not doing enough. Sometimes, because of how small the industry is, it almost feels like, 'Are we just doing this for something at the end of the day?'

Miss Denham—I guess we need an instance where people get together regularly and discuss what we would like to see happen for the animation industry in Australia and what can be done in order to get to where we want to go.

CHAIR—Maybe animators are like poets and they can only work on their own.

Miss Denham—I think sometimes it takes somebody to volunteer to do a lot of the work.

CHAIR—There might be a template from the Games Developers Association of Australia. That association really grew out of the fact that one or two people decided that there was an industry worth growing in Australia. Before it developed, they were essentially just doing one on one things with United States companies. As soon as they got big enough, they would be taken over by a United States company and that would be the end of it. They tried to build their own association, and I think they are actually doing quite well. That would be a template. It was run by Microforte, but it does require one personal group or company to decide that that is an important priority. Of course, there is a role for government in things like that, too, in establishing a framework or some kind of support for an industry association.

Miss Denham—We are very keen to see what can be done and hear what other people have to say on the matter.

CHAIR—You have obviously identified that as a problem, which is useful for our inquiry because we are trying to find out what needs to be done.

Miss Denham—I think what we need is industry cohesion.

CHAIR—Yes, it sounds like it.

Miss Denham—It is quite difficult to maintain large groups of animators and that is when people start to close themselves off—they work out of home and they do not necessarily get the chance to meet other animators or experience the team situation that can be achieved.

CHAIR—So how does an animator come to the attention of a United States distributor or company?

Mr Reyes—Through publications.

Miss Denham—Yes, through publications—exposure in the animation journals and newsletters. Sometimes direct contact can interest these people, but generally it is lost because of everyone else contacting them. Other ways include attendance at festivals and international markets and sending them ideas.

Mr Reyes—Another way can be via education. When we were in college, at the Queensland College of Art, there was not a lot of commercial animation that was coming out of Australia. A lot of our curriculum was looking at American shows and films. So you set your goals to go to America and make it big, because that was where the good stuff is being done. Unless you were set on becoming an independent animator who would do Bolex in the bottom of your house, America was the place to be—for our industry, anyway.

Miss Denham—Sometimes visiting animators would do a series of lectures covering certain aspects of animation. I understand that Warner Brothers did a talent search out here a few years back. I do not know whether other companies do that, whether they come over and contact animation education facilities or companies to see what there is in terms of original content.

Mr Reyes—There is *Mucha Lucha*.

Miss Denham—*Mucha Lucha* was an original idea by a Sydney studio that got picked up by Warner Brothers.

Mr Reyes—They do that often. They come to fresh places. Australia has really hungry animators with lots of great ideas because the industry is so small, so they come over to see what we have. There is a full table of great ideas that can be commercially sold internationally as well. *Mucha Lucha* was a great example.

Miss Denham—Unfortunately, it was produced in America—not unfortunately because it was great, but there would be no indication whatsoever that it originally came from Australia. It is now wholly owned by Warner Brothers, which is unfortunate. When you look at it you do not say, 'Oh, that's Australian,' whereas there is a lot of stuff where you say, 'Ugh, that looks Australian,' and unfortunately it is in a negative sense, for us. I am not saying whether people who have not been in the animation industry think that, but there is that feeling that if it is good it is probably not from Australia in terms of animation.

CHAIR—What is the BigKidz story? How do you manage to keep your company going?

Mr Reyes—It is very difficult.

CHAIR—I see that you have done things on John Callaghan's *Quads* and Freddo Frog cinema and television commercials and things like that.

Miss Denham—It is very difficult at the moment. We try to get commercials and there is also web site work. Occasionally you will have a situation where people will give you work from a series, so we got the opportunity to work on a Disney series.

Mr Reyes—There are video clips.

Miss Denham—Yes, there are music video clips. It requires a lot of having an ear to the ground and trying to network to see what is out there. Sometimes people will contact you, other times it just might be a chance meeting in a pub. It is amazing where you can meet people, but it has been very thin.

CHAIR—So you are waiting for the big job to come along.

Mr Reyes—We actually lost a big job earlier this year.

Miss Denham—Yes, we had the opportunity to get four Freddo Frog commercials, but the agency wanted to reduce our budget by 30 per cent and we just could not do it. It would have left us in severe financial straits, so we lost it to somebody else who was a one-man gig.

Mr SERCOMBE—You could do new *Rubbery Figures*.

CHAIR—We do need *Rubbery Figures* too. Thank you very much for attending today.

Proceedings suspended from 3.08 p.m. to 3.35 p.m.

BUCKLAND, Mrs Jenny, Chief Executive Officer, Australian Children's Television Foundation

O'MAHONY, Mrs Bernadette, Head of Development and Production, Australian Children's Television Foundation

CHAIR—I have great pleasure in welcoming representatives of the Australian Children's Television Foundation. I have to advise you that the committee does not require you to give evidence under oath but the proceedings are formal hearings of the parliament. I remind you that the giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament—not that we expect you to be giving false or misleading evidence about children's television. I also remind you that we prefer to take evidence in public, but if you do want to give any evidence in camera you are welcome to request it and we will consider your request. If you would like to make any opening remarks or add to or amend your submission, you are welcome to do that as well. I now invite you to make an opening statement.

Mrs Buckland—I might begin by giving you a bit of background about Bernadette and me and our different areas of expertise. Before I was the CEO of the Children's Television Foundation, I established our international distribution and export arm. The ACTF distributes Australian children's programs to more than 100 countries and has won a number of export awards for doing that. My expertise is very much in the distribution and economics of children's television. Bernadette is our head of development and production. She has a long history of working in the production industry in Australia—for news, current affairs, feature film and adult and children's drama production. At the ACTF she is responsible for identifying new talent and for overseeing all of our production through to completion.

I think the thrust of our submission is really that we think it is very important to understand that the way the film and television and related industries are set up in Australia—through a combination of quotas that require Australian content on Australian television and also make specific provision for children's television; subsidy from government and state film bodies; and also the special way that our industry overlaps, because of its size—is really critical to the success of the Australian industry. I think it really can be said that the Australian industry punches above its weight in many respects and that that is because successive governments, going right back to the late 1960s, have supported the industry through those overlapping and intertwining support mechanisms. That is really the thrust of it.

CHAIR—The ACTF is unique and it covers a lot of the aspects of our inquiry: television, film and animation. What do you think the biggest challenge for the Australian industry is at the moment?

Mrs Buckland—The biggest challenge for the Australian industry at the moment is that we are completely dependent on an international market to be sustainable and that the international market, over the last few years, has really been very slow. There has been a downturn in advertising revenues across the world and there has been a slowing down of buying product. There is also a reaction to American content in Europe which, as a by-product, has affected Australian producers, because Europe is a very strong market for our product. Also, the licence

fees that broadcasters pay to screen programs have been very static around the world for a couple of years. We are hopeful that that situation has reached its trough, if you like, and is slowly on the way up, but that is a very big challenge as production costs rise and broadcasters pay the same as or less than they have been paying for programming for a number of years.

CHAIR—Is your foundation funded by the government?

Mrs Buckland—We receive funding from the Commonwealth and each of the states and territories. They are quite small amounts from the states and territories—in Tasmania they provide $14,000 a year—

CHAIR—That is not very much, is it?

Mrs Buckland—and the Commonwealth government provides about $2.3 million a year.

CHAIR—Do you get any private funding?

Mrs Buckland—The funding we receive allows us to develop and identify programs that we want to produce, but we raise the production budgets in the same way any independent producer would. That may be private funding, it may be private investment under 10BA, it may be FFC funding and it will also be a combination of presale and licence fees. The BBC have paid quite a lot for our current production, for example. Their licence fee alone covers about 40 per cent of the cost of production.

CHAIR—What production is that?

Mrs Buckland—It is called *Noah and Saskia* and it is a 13-part television drama. It is also presold to the ABC, but the BBC has paid considerably more than the ABC has for this program.

CHAIR—So people come to you with scripts and ideas?

Mrs Buckland—They can, or we will decide there is an issue that we want to make a program about and we will commission someone.

CHAIR—So you commission them and then you go out and find the finance, they produce it and then you might handle the distribution and the contractual arrangements et cetera and try to find markets overseas as well as domestically.

Mrs Buckland—That is right.

CHAIR—That sounds interesting.

Mrs Buckland—It is a great job.

CHAIR—It would be. In your submission you talked a bit about the free trade agreement with the United States. Would you like to comment on your impressions of the impact that might have on your particular corner of the industry?

Mrs Buckland—That could have a really significant impact on our corner of the industry. We are very pleased with the Australian government's response so far, as we understand it, to that inquiry, but we are concerned that the government does not go backwards in response to concessions that may be sought by the United States. We would find it impossible to compete if we did not have quotas for children's television for Australian drama on television. The protection that we have in this country is very important to the industry. The children's television industry would probably be the first to collapse. The broadcasters are only required to screen 32 hours of Australian children's drama a year, which is not very much. What I am saying is that if they did not have to do that, they would not.

CHAIR—And they would not do that because there is no advertising dollar in it. Is that right?

Mrs Buckland—There is some advertising dollar but the broadcasters maintain it is not enough to make it viable. We dispute that, but that is the argument that is always maintained. Although the broadcasters will often exceed the adult quota for Australian content, they never exceed the quota for children's drama. That is why I say it would be the first to go. They follow the letter of the law and that is all, for children's television.

Mrs O'Mahony—They can also buy overseas children's television programs at $4,000 or $2,000 an episode by doing an output deal with a studio like Disney, which specifically makes children's programs, versus the $85,000 an episode they have to pay to meet the FFC's minimum. Their shareholders and economics alone dictate that they would just scrap it. If you look at the television commercial deregulation, the amount of commercials made in Australia has completely dropped off to practically nothing. A lot of the commercials on air are foreign and a lot of those with Australian voices have just been dubbed—they have been shot overseas and Australian voiceovers have been put on them. I think that is a good example of what taking the regulation away did, and it has impacted on the industry as a whole, from visual effects to the crews working.

CHAIR—Taking what regulation away?

Mrs O'Mahony—Television commercials were deregulated; there is no quota on television commercials for Australian content anymore. Effectively, what was made and was keeping people in works and visual effects houses and postproduction facilities has dropped off by 90 per cent. I think that is an interesting example.

Mr PEARCE—Mrs Buckland, you talked about 100 countries that you are exporting to. Do they translate the programs?

Mrs Buckland—It depends on the country. The bigger markets in Europe will translate the program. We deliver the program with what is called a music and effects track and they dub the voices onto that.

Mr PEARCE—So you just take out the voice from the original production?

Mrs Buckland—That is right. So every squeaking door, every piece of music and everything else is there, but they dub the voices. In smaller territories, they will subtitle—for instance, in

Scandinavia. Interestingly—this is completely irrelevant—Scandinavia has the highest literacy rates in the world because children read television.

Mr PEARCE—From the description you were giving us before, it seems that what you do is commission a production and essentially you produce it, hire the cameramen, the crew, the cast and everything like that, it is in the can and you then sell it to the ABC or BBC, et cetera as the finished product.

Mrs Buckland—We will do both with the one project. To fund it we will need a number of presales. We will always have a local presale because our rationale is that we are making programs for Australian children. We will not go into production unless we have presold on the basis of the script.

Mr PEARCE—Do you go out to the ABC and run a pitch?

Mrs Buckland—Yes, to the ABC, Channel 7 and Channel 10. I mention those three because they are the three that acquire from us. Channel 9 has yet to do so. We will go out and pitch the script and the series and persuade them that they should get behind the series. Then we need at least one international presale, maybe more. We do the same thing. Once we have the money together we go ahead and make it. Then we sell it in the can to the rest of the world.

Mr PEARCE—Do you have various models or do you have one set model in terms of exclusivity? First in, best dressed? If you go out and pitch to ABC, Channel 7 and Channel 10, do you say to them, 'We have pitched to all of you; the first one that lets us know will get it exclusively'?

Mrs Buckland—Yes, that is the model we use. Occasionally, if we were negotiating with a pay broadcaster, Nickelodeon, Fox or Disney channel in Australia, then a window for pay television would be negotiated. That would be part of the contract. The broadcaster will want exclusive rights.

Mr PEARCE—How has pay TV impacted your organisation? Has it been a positive impact in terms of potential revenue?

Mrs Buckland—Initially it was extremely positive. The ABA requires the pay television broadcasters to spend 10 per cent of their programming remit on new Australian productions. When those regulations first came in the Disney channel took them very seriously and fully funded one of our productions. We did not have to go anywhere else for the money; they paid the lot. As the pay TV market took off they started acquiring finished product for very small amounts of money—$2,000 an episode, that kind of thing. After a while they all worked out that they could acquire programs for very small licence fees. So the pay broadcasters in Australia tend to acquire all the children's programs that are produced that also go on free to air television and they pay $2,000 to $5,000 an episode for those programs. The effect now is that there is a small sale which is equivalent to making a sale to the Netherlands or somewhere, but it is not enough to trigger production.

It is all to do with the issue of how you interpret 'new' Australian production. Initially they interpreted it as being not screened on free to air television, and that is why with our first series

they went in and put up $5.8 million to produce it. That came from Disney. They then screened it on their other Disney channels around the world as well. It struck us as a very good model for getting new production up. Now it is defined as 'new to pay television', so that is why they acquire the programs that are going to be produced for free to air anyway.

Mr PEARCE—How many productions would you produce in a typical year?

Mrs Buckland—For us it would be one a year. Basically we go from one production to the next. We always have several that we are developing.

Mr PEARCE—What is a typical production—13 weeks?

Mrs Buckland—Usually 13 episodes; occasionally 26 episodes.

Mr PEARCE—You are outsourcing all of that? You do not have studios yourselves?

Mrs Buckland—No, we do not have studios. We outsource almost entirely. Bernadette is the only creative person on the staff, as the producer with overall responsibility. Everybody else is from the freelance industry and they go from working on one of our shows to doing a feature film to all sorts of things.

Mr PEARCE—I guess that is largely how the industry works—on a freelance contract basis.

Mrs Buckland—Absolutely. I think that really adds to our quality and the quality of the work that comes from Australia. Often around the world large public broadcasters will not outsource and will use the same crew on every single production. I think it gets tired. Certainly, children's television in Australia benefits from the fact that the people making our very best feature films are then turning around and working on a children's series. I think we really benefit.

Mr PEARCE—When you go to the ABC to pitch, who do you talk to generally?

Mrs Buckland—The head of children's television. Her job within the ABC is to executive produce things like *Play School*, but she would not do a high-end drama production. She would commission that, and we would hope she would commission it from us.

Mr PEARCE—Do you have a good relationship with the ABC?

Mrs Buckland—Yes.

Mr PEARCE—I guess it varies, but are you saying that you generally go to the ABC, Seven and Ten?

Mrs Buckland—Yes.

Mr PEARCE—Is there a pattern? Is the ABC the most likely customer?

Mrs Buckland—No. I would say that the ABC is one of the most interested customers, but the ABC argues that it does not have the funding to commission. The 32-hour-a-year quota applies to the commercial broadcasters only. The commercial broadcasters all do 32 hours a year of children's drama. The ABC does not meet that. It does not do 32 hours a year and it says that it cannot afford to. It might do one 13-part series a year, or maybe two if you are lucky. From that point of view, it is not the biggest program buyer. In my view, the network performing best with children's drama at the moment is the Ten Network. The Ten Network commissions a variety of programming. It regularly commissions, from four or five different production houses, a range of work for children from the lower end of the eight- to 14-year-old age group to the upper end of that age group.

CHAIR—The 32-hour quota is for children's drama?

Mrs Buckland—That is right. The Ten Network would screen it at four o'clock on a Friday. I would like to see that at a better time slot, because I do not think enough children are at home at four o'clock and then it leads into *The Bold and the Beautiful* and *Ten News*. But in terms of actually acquiring the programming, the Ten Network is acquiring the most. The ABC has the biggest children's audience, because it is screening children's programs from three o'clock to 6 or 5.30 every day of the week. Families know they are there. They know that if you start at three o'clock it will be for the little kids and as you get progressively later it will be for older children. The ABC has definitely won the audience in that timeslot but it does not necessarily have the best, most cutting edge quality shows. It has some of them.

Mr PEARCE—That is interesting. What was the last production you did?

Mrs Buckland—The last production we did was *The Legacy of the Silver Shadow* for the Ten Network last year. This year it is *Noah* and *Saskia* for the ABC.

Mr PEARCE—Does the foundation operate with a surplus, or does it break even?

Mrs Buckland—We operate within our budget. The programs generally do not break even, although they do over the long haul. The one thing that gives children's television the edge over adult drama is that the audience is renewed every five years, so the programs stand in the marketplace a long time. Our most successful program, *Round the Twist*, was originally produced in 1989. It is in profit and is still screening around the world—in fact it was on the ABC just recently. Over the long haul these programs are starting to make their money back. A lot of the territories in the world pay very small licence fees, so although we say they have sold to 100 countries—Indonesia is screening quite a lot of our programs at the moment but it is paying $75 an episode—you need a lot of sales to recoup a budget.

Mr PEARCE—How do you promote the programs internationally? Do you pack your bags once a year and go off with a lot of videos?

Mrs Buckland—Yes. There is a television market in Cannes in April and October every year—think of the home show or something like that.

Mr PEARCE—It is not a bad place to have to go.

Mrs Buckland—After you have done it for a while, you have been there enough.

Mr SERCOMBE—Why isn't the committee going?

Mrs Buckland—Maybe you should check it out so that you can understand it, because a lot of Australian production houses and distributors go there. The Australian Film Commission has a stand that we sublet a bit of every year, and people go there. It is just like the home show. Program buyers come from all around the world. There is everything from adult drama—the BBC has a massive stand and the Americans all have massive stands—to Playboy Television and children's television. Everything is sold there.

Mr PEARCE—So you go there and potential buyers and network operators can come and look at tapes?

Mrs Buckland—People make appointments and come and see us. Then they will ask for tapes and they will speak to us. That is basically the way it is done.

Mr CIOBO—You have mentioned that, if there were not the quota requirements, there would not be much, if any, children's TV. Are there any models around the world that you are aware of that does operate on a free market basis where there is sufficient demand and there is sufficient revenue generated to mean that that does not have to be mandated?

Mrs Buckland—The countries that have the active industries all have regulation. They regulate in different ways, so sometimes it is hard to compare. In the United Kingdom, the BBC has a very precise mandate and it supports local producers because it has an independent production quota that is essentially a local content quota, and commercial broadcasters in the UK have been required to screen children's programming. There is some discussion at the moment that those regulations in the UK are breaking down for the commercial broadcasters. In years gone by the BBC and ITV really competed head-to-head with children's television and the UK had the most competitive, vigorous, exciting children's television slate. In that country, anything that goes for adults goes for children: they get documentaries, they get entertainment and they get drama—they get everything, because it is a big, well-resourced country. But it looks as though they are whittling down the requirements that ITV spend a lot of time on children's television and ITV are making commercial decisions to do away with it, which will leave the BBC as the major player. Of course, the concern will be that the BBC might not do the job quite as well as it has been doing with that really strong level of competition.

In the US, there actually is regulation for children's television, which was hotly contested by broadcasters when it was brought in a few years ago. The FCC brought in a regulation that required them to screen three hours a week of what it called 'educational programming' for children. The FCC saw children's television as being a wasteland of cartoons—merchandising-driven programs and programs that lacked soul and substance. They call it an educational quota in the US. The broadcasters all tried to get around that. In the first year they tried to submit that programs like *The Jetsons* and *The Flintstones* were educational because *The Flintstones* was historical and *The Jetsons* was technological! They were stamped on. It has really been quite amusing reading the way they tried to get around that. PBS is much weaker in the United States—or quite weak comparatively—and the FCC were really concerned that the commercial broadcasters treated their audience as a market and did not do anything valuable for them. Those

three hours of educational programming are not required to be American; they do not need a local content quota as such, because that is all they ever think of screening, but they are required to do something for children which is three hours a week of educational programming.

Other countries which have substantial children's television production industries include France, which has a very substantial animation industry and where broadcasters are required to do certain things for children. In the main, it turns out to be animation. There is also Canada, which protects its local industry.

They are the countries around the world with the strongest children's television. They support their industry, but they also make special provision for children within that to ensure that that is done. We are the only country that has the drama requirement—that there must be 32 hours of drama. That is to ensure a certain amount of diversity and to ensure that everything that is put on air for children is not a cheap magazine style program that is very easy to get away with and does little. So the 32 hours is meant to indicate that, within everything else that you do, you will do something that is high budget and quality. Our programs sell in all those countries around the world because so few other programs, apart from the UK—and very occasionally, the US and Canada—do children's drama. That is why we have the edge.

Mr CIOBO—The reason I asked the question about the viability of children's programming and the reason it leads into this next question is apparent—that is, we have heard evidence that we should have a dedicated children's TV channel. Do you think that something like that is sustainable? It would not appear to be sustainable on a commercial footing, so would there be sufficient demand to warrant having a dedicated channel through the public system?

Mrs Buckland—I think there would be sufficient demand from the audience. Free-to-air television is losing some of its audience to pay television and, in the main, it is the children's channels. It is Nickelodeon, Disney, whatever. As I said before, Channel 10 screens *The Legacy of the Silver Shadow* or whatever drama it is doing in its children's programming at four o'clock in the afternoon, which harks back to the days when I was at school and we would come home straight after school and turn on the television. Children do not do that any more. They are in after-school care, playing sport or doing other things, and often they are not able to sit down and watch television until seven o'clock. Ideally, if there are young children they are not going to be watching the ABC news or whatever is on the commercial channels. The popularity of the children's channels is that they are there and they are screening programs for children. But they are not accessible to every household and, although they buy quite a lot of the Australian programming, they do not have the whole lot.

The children's drama quota has been in place for 21 years now. There is a huge wealth of wonderful programs that have been produced over that time, with significant government subsidy and support through investment through the Film Finance Corporation, 10BA investment or whatever. Often the commercial broadcasters screen things once or twice and then they will be out of their licence period. They are often sold around the world. We have hundreds of hours in our catalogue being sold around the world, but they are not actually on air. It is a real pity that the ABC could not make a go of ABC Kids but there are possibly other ways of looking at how you do it. Lately I have been pondering how you could go about doing something, because I think it would be a fantastic thing. The issue we would have to look at is the responsibility of the free-to-air broadcasters now and whether or not, in setting up such a

channel, we would be removing their responsibility to the child audience. If so, perhaps they would like to contribute to the cost of running a channel purely for children.

CHAIR—It has been suggested to me that one of the ways the ABC could have continued funding *Behind the News* would have been to have a trust that was established for children's television that did things like *Behind the News*. But it seems we already have a foundation for children's television that would be able to do the same thing. Do you ever consider ideas like picking up *Behind the News* from the ABC and doing it yourself?

Mrs Buckland—That is something we are considering at the moment, and we are considering a model for funding that.

CHAIR—Good. I am very keen on *Behind the News*.

Mrs Buckland—So am I, and we are considering a way to do it.

CHAIR—That is good news.

Mr PEARCE—Are you talking to the ABC about that?

Mrs Buckland—No, we have not discussed it with the ABC yet.

Mrs O'Mahony—We would have to do a deal with a newsroom somewhere. The ABC has the advantage of having access to all the footage from around the world for current affairs and news. Anybody outside of a broadcaster does not have that, and you would need a relationship with either a commercial broadcaster or the ABC to do that, but we have not got that far.

CHAIR—You have said that 1.3 million children a week watch *Behind the News*, so I would have thought it would be a very attractive program to produce, if not by the ABC—and I hoped that it would have been; I am disappointed in the ABC for not producing it next year—certainly for your foundation. That would mean that it would abrogate the requirement to set up some kind of trust for children's television, because your foundation is already going and has lots of expertise. That is just a bit of self-indulgence on my part, because I am interested in *BTN* in particular.

The other thing that we heard about today was *Fat Cow Motel*. That is interactive television, which looked quite interesting. They said that it was an experiment that sort of worked but sort of did not work and they would like to do something like that in the future. Do you do any kind of interactive television like that or are you planning on going down that track? Do you think there is a market for that sort of thing in the future?

Mrs O'Mahony—We have not yet. The thing with *Fat Cow Motel* was that a lot of its interaction was via mobile phones and you cannot do that when you are dealing with children under 13. You cannot put that onus on the parents and you cannot expect that they are all going to have mobile phones. If they do, I think the parent part of our audience would be up in arms about them calling the web sites and mobile phone lines.

CHAIR—That is very old-fashioned of you, Mrs O'Mahony.

Mrs O'Mahony—I am a parent. I have a 10 year old who has already asked for a mobile phone. She is not getting it.

Mr PEARCE—Would that be different if the mobile phone operators agreed to fund it?

Mrs O'Mahony—I would look at that differently but I would still have a problem with the 10 year old having the mobile phone.

Mrs Buckland—And accessibility.

Mrs O'Mahony—Because they just cannot just ring that number, they can ring anything. We have considered in the past ways of looking at add-ons to our programs with broadcasters or whatever. The issue has been funding them because the broadcasters do not want to pay more than their licence fee for those additional extras in children's television, so that has been a question mark. At the moment, most of the broadcasters around the world are not looking for that extra material either. They are literally screening their children's programs but they do not want the add-ons.

CHAIR—It is maybe a bit nascent at the moment for that.

Mrs O'Mahony—I think it is a bit early.

Mr PEARCE—When you talk about children's television—what is the age bracket that you define that as being.

Mrs Buckland—We define a child as anyone under 18 but—

Mr PEARCE—So you are going up to that level?

Mrs Buckland—Not often. In terms of our mandate, we would say that we could. A couple of years ago we produced a feature film called *Yolngu Boy*, which was very much for the upper teen young adult audience. Generally, we see the broadcasters, particularly the ABC, as doing things for the preschool audience, so we have not done a lot for the preschool audience. We think that the market that is not catered for, where we see ourselves as filling a gap, is the eight- to 14-year-old audience where programs for an older audience will not necessarily meet all of their needs and they are way beyond the preschool programs, so we fill a niche for those children.

Mr PEARCE—Are you specialising in one area of children's entertainment? Do you also cover health and lifestyle educational type shows for young people or is it solely in the entertainment area?

Mrs Buckland—We consider that entertainment and education go hand in hand. We focus on high-budget drama because that is what the broadcasters themselves will not produce but our programs are frequently used in an education setting. They will be dramas but things happen in dramas that are often useful for discussion, whether it is a health and human relationships issue, you can talk about adoption or racism, all sorts of issues get covered in our programs and so we often have educators writing materials for teachers to use. They are always available free of

charge on our web site and the programs are used in the classroom again and again and are found to be a very enjoyable resource for kids to use.

Mr PEARCE—Would it be true to say that if you were to do something with *Behind the News* that would be a new area for you?

Mrs Buckland—Yes. We have actually made a couple of documentaries but it would be something that we would look at in a different way.

CHAIR—Infotainment.

Mrs O'Mahony—Traditionally I would not call *Behind the News* infotainment in the true commercial sense of the word. We are traditionally not funded for what the commercial broadcasters call infotainment for the reason that they are cheap to make and they make them in-house with the crew and the facilities that they already have. They do not outsource those and they are not expensive to make. They are cheap programming as far as they are concerned and often they are effectively half an hour of advertising.

Mrs Buckland—With something like *Behind the News* and schools programs, up until now we would have said, 'That is the ABC's mandate.' But if it is not—

CHAIR—I would say so as well; I cannot speak for my colleagues.

Mrs Buckland—it is something we are very interested in looking at.

CHAIR—I would advocate it was part of their charter. Thank you very much for attending today.

[4.10 p.m.]

SMITHIES, Mr John, Chief Executive Officer, Australian Centre for the Moving Image

CHAIR—I now have great pleasure in welcoming Mr Smithies, the representative of the Australian Centre for the Moving Image. Although we do not require you to give evidence under oath, the hearings are formal proceedings of the parliament, and the giving of false or misleading evidence is a serious matter and could be treated as a contempt of the parliament. While we like to take our evidence in public, if you to which to give evidence in camera, you can request to do so and we shall consider your request. Do you wish to make any opening remarks?

Mr Smithies—Although I am appearing also as part of the submission of the Victorian government, I do have opening remarks because, if you look at the submission, ACMI is a fairly new organisation and is mentioned within the body of the submission but we do not get directly involved with the recommendations that are in that submission. I will leave those for my colleagues who are appearing before the committee tomorrow. That said, there are two areas I would like to address. One is about the industries that you are doing your investigation into. They are all really dependent on this language of the moving image, which is what the centre is about. The centre, being the first of its kind in Australia and probably one of the few in the world, is yet to be understood by a lot of people. So I come to this committee to talk a little bit about the moving image, particularly as it relates to the future of these industries.

We expect our writers to be thoroughly versed in writing by the time they get their books published; we do not wait till they finish high school before people learn to write. In the case of the moving image, we expect our filmmakers to tell stories with the moving image when they have often not made a story using the medium before they finish high school. ACMI sees itself as a language centre and we are here to collect, advocate and research the moving image in the future. It is a language that is only a hundred years old and we believe it is still underutilised but will provide a great future for all our industries. That is one point.

The second thing to say is that, while the recommendations in this submission go to fairly immediate issues in the industry, ACMI's concern is about the longer term. When we look at the last 100 years of audiovisual content and moving image, we can see enormous growth. In another 100 years there will not be just twice the amount; within 50 years there will be exponential growth. The growth in product and production is going to be incremental in normal film and television, but far outweighing that will be the production that you and I make and that our kids will make in the future using digital cameras and video-editing material.

So the issues for Australia are: how are we going to manage that growth in content and what value do we get out of it so that it is not just a lot of home movies, and how can we bring our film-makers far closer to the construction and making of stories with the moving image before they leave high school and go to film school? They are two areas that I would like to investigate further today.

CHAIR—You have obviously had a look at our terms of reference for the inquiry. Do you think that the Commonwealth is doing enough in the area of promotion of film, electronic

games, animation and special effects? We have heard from a lot of people over the last four public hearings and some have been very successful on their own and have said that the government should do little. I think they have said that because they have been successful. We have also heard from people who have said that they would like to be successful and they think the government is not doing enough. So the government is a bit torn between what is a good idea and what is not a good idea. If you had the opportunity to recommend to the government things that we could do to promote this industry, what areas would they cover?

Mr Smithies—In terms of promoting and growing the industry, the kinds of actions that have been done in policy by state and federal governments seem on world benchmarks to be not unusual and seem to work. In the context of what is happening in the world around us and what is coming in the future, I suspect we are focusing too much on the short term and not the long term. I think the generational change has to start a lot earlier. That is where we come into the notion of this language and this storytelling capacity, which we do not do anything about until it is far too late. I think the Commonwealth, with a national agenda, should be looking at coordination of curriculum, research, pilot trials, investigating the efficacy of the moving image as an educational tool and researching what else it feeds into the community beyond feature films and television, which generally competes on an American model. I think the Commonwealth's role is certainly longer term.

CHAIR—What does ACMI do?

Mr Smithies—ACMI are a language centre. We exhibit, collect and cover every form of the moving image. We are involved with a number of research areas, including CRC in Queensland, and we are participants in a number of ARC grants. Our new facilities at Federation Square have cinemas, production studios and exhibition spaces. We have relationships with a range of producers and, by the time the studios are finished, we will be into production as well. We will have new forms of television and media and we will be working with young and emerging producers.

CHAIR—There seems to be quite a plethora of production houses and so on. Is there somebody actually bringing them altogether into one strand so that everyone knows what everybody else is doing?

Mr Smithies—State by state I think you will find there are groups forming. There is the Screen Services Association of Victoria, which is the first of its kind for all of the post-production houses. SPAA, of course, does it at a local level—at a chapter level—and I think you will find those guilds and associations work that way.

Mr SERCOMBE—I was very interested in your response to the chairman's query about what the Commonwealth could be doing. Could we go back to that and tease out some more specific examples of what you mean. The broad concept was there. Can we operationalise it a bit and get a bit of a sense in more concrete and tangible terms of what you, given your experience in the industry, think the Commonwealth ought to be doing? To talk about coordination is fine, but what does that mean in reality?

Mr Smithies—If you looked across the states at the moment, you would see that they are all at different levels of curriculum development and what those in education are using cinema for.

To take a Victorian example: in 1989 the curriculum changed and cinema became a text in its own right in English. So for the last 12 or 13 years we have had 28,000 teachers and nearly half a million senior students go through English and learn about how to understand and read film and cinema. That has not happened in all the other states. The way Australia is developing those skills and that understanding is uneven. If you then go into key streams of literacy and numeracy in, say, primary school, we are proposing that you bring this other form of literacy inside of it about creating media. We are investigating that at the Victorian level, but it does not help nationally if we just do that. We would like to get that more coordinated across the nation. ACMI's brief is to do things outside as much as inside Victoria. We are very keen to work with the other states.

To give you an example: the technology is there now to allow 11- and 12-year-olds to start to create short films. If they were to bring into a centre like ours or their school in the future a photograph of their family, once that is digital they could zoom in and pan across each of the members of that family. They could talk about them. They could then insert some other digital photos of those families. What they would have are the basic building blocks of the moving image story. They could add sound to that, frame it, edit it and, in four minutes, they would have talked about their family—a subject very personal to them. If you were to carry that throughout a curriculum over the whole life of secondary school, by the time those kids got into university they would not be responding just in 10,000-word essays; they would be creating media and taking that skill into a range of areas. Out of that, you are going to find the best writers of moving image stories, who are going to go into this industry and perhaps create new genres that have not been invented before. Perhaps Australia will have its own voice in that way.

These stories, as you create them, are providing a lot of skills and literacy and are generating a lot of new ways of storing and viewing media. If anything is true about the moving image, and about this industry, it is that it is about storytelling. What we are seen to be doing is creating stories from other models around the world and not telling much of our own stories. At the other end, we are working with one of the major banks to look at how senior execs can capture corporate knowledge through digital storytelling. You build over time a collection of information about corporations—about how they have changed their way of management or changed their views. These are very useful parts of corporate memory that are in a digital library of some kind. So, across 50 years, if we start the curriculum changes and graduates of high school come out with numeracy, literacy and a form of media literacy, they are going to create new industries, and they are going to be quite worthwhile industries too.

CHAIR—I will try and imagine this. AFTRS looks after people postgraduate who have been through some course to do film, television or radio. What you are obviously saying is that at the other end, the high school and even primary school end, you are trying to encourage and identify a stream of people who look at the moving image as their means of communication and potential career as writers, editors or whatever. You are the opposite to AFTRS; you are starting at the beginning of the whole process. You are saying the people who get involved in the moving image are the people who, once they have left school, discover a talent or have a passion or whatever, and you think there might be a great deal more for people at high school and primary school who, if they had the opportunity, might develop into that area and tell their stories, which currently does not happen.

Mr Smithies—Exactly. In fact, it would be not so much opposite AFTRS but at an entry level below AFTRS.

CHAIR—Not opposite, but at the other end of the spectrum.

Mr Smithies—You have Open Channel and resource centres that fit between AFTRS and the film schools. The technology is now available. Digital cameras are under $1,300. You can get the editing software off the Internet. There is an opportunity to turn vast amounts of home movie footage into cogent five-minute stories, and there is a skill there about communicating.

CHAIR—ACMI is funded by Film Victoria?

Mr Smithies—No, by Arts Victoria—the department.

CHAIR—The department of the arts. All your funding is from the Victorian state government?

Mr Smithies—All our recurrent funding, yes.

CHAIR—I take it that the Victorian state government—the Bracks government or perhaps the Kennett government before that—is obviously investing in film and television, radio production, screenwriting, editing et cetera from the beginning of the process? You are the first of your kind in Australia.

Mr Smithies—That is correct. This project has covered 12 years, so it has covered a number of governments since 1991.

CHAIR—That was the end of the Kirner government?

Mr Smithies—Yes.

CHAIR—Am I right in thinking that Victorian state governments have identified this area as a major growth area for Victoria?

Mr Smithies—They have. The evidence is that over that period of time there has been a bipartisan view on developing industry at this level.

CHAIR—That is very interesting and quite unique.

Mr PEARCE—How much government funding do you get?

Mr Smithies—It is about $15 million recurrent from the state.

CHAIR—That is substantial, isn't it?

Mr PEARCE—Per annum?

Mr Smithies—Yes. It is the first government in the world to say that, next to museums, libraries and galleries, there is an endeavour of activity here of equal value. It is a significant move. There is nothing like it in the world.

CHAIR—Do you have collaborative relationships with other institutions?

Mr Smithies—Particularly Commonwealth ones?

CHAIR—Yes.

Mr Smithies—Since embarking on this project 12 years ago, we have worked closely with ScreenSound, the AFC, Film Australia—not so much Film Finance Corporation—and the National Library. We manage programs, which are about distribution of films, for the National Library. We do programs funded partly by the Australian Film Commission, and we do a number of projects in collaboration with ScreenSound.

Mr PEARCE—Have other states and territories established similar programs?

Mr Smithies—No.

Mr PEARCE—Have other states and territories approached you or have other organisations approached you about trying to get a similar establishment in each area?

Mr Smithies—There was a push at one time in Sydney for the MCA to have a Cinematheque. We kind of ran parallel for a while. It was quite a different model to what we were doing. They were adding cinema to a gallery, which is what happens commonly around the world. But we see it quite separately; we are just about the moving image in its entirety. That was a different model. We got the kick-along with the Commonwealth when it put in $50 million from the Centenary of Federation Fund to contribute to our building at Federation Square which houses us and SBS. We have a very good relationship with SBS. That is where we will do a lot of our new and more innovative production, we believe, in the future.

Mr PEARCE—Do you work with the ABC at all?

Mr Smithies—We have tried on and off. We do not get the phone calls returned very often. We do have a better relationship with SBS. We have also talked to Channel 9, and we have also talked to some independent producers.

Mr PEARCE—You do not get the phone calls. Is it that basic?

Mr Smithies—I think it is. They already see themselves in the area that we may be in—and that is fine. I think if they are doing what we are doing it does not have to be the one organisation. There are things we could do with them, and I suspect when the studios are up and we get them back in to get them to understand what we are doing they will be interested. But they are fairly mainstream as well. In one way we are looking to do more innovative things.

Mr PEARCE—What do you think you could provide the ABC?

Mr Smithies—The studio facilities at Federation Square are quite unique: they are full digital studios, able to be upgraded to HD television. They are public spaces. They allow us to do programs in a very cost-effective way—to do programs you do not have to put a lot of investment in because a lot of the content and the IP is with ACMI and the artists and producers we work with. It is an experimental area. Essentially, the state and the Commonwealth have put in this money, they have created a fantastic space and we are saying to producers, 'Now come with creative ideas to try new forms of television—for streaming, multichannel, digital channels and traditional broadcast—but think beyond the normal kinds of productions.' We think a lot of the people who will come into that will be students who come out of high schools in the next 10 years.

Mr PEARCE—So does that all come down to the fact that you think you could save the ABC money? Is that what you are saying?

Mr Smithies—I do not know how you can save the ABC money. I think the way we would work would not be financial; it would be a way they might get access to new forms of content creation that they may not have considered in the past.

Mr SERCOMBE—But you just have to walk across Princes Bridge to go to their digital new media centre; it is very close.

Mr Smithies—It should be online. There should be cable right up next to us. That is still an ambition of ours, yes.

Mr SERCOMBE—What is SBS doing that interests you particularly, other than the story-lines? When I visited your centre a few weeks back there was some fascinating stuff—migrant stories—but what in addition to the story-lines are you developing with SBS?

Mr Smithies—There are certainly programs relating to a multicultural theme that will fit within SBS quite easily, but there are also forums for youth and music, which they are doing—types of shows that we believe could be sold internationally. We are in the middle of getting a production slate of about 15 projects together and we will work through those. Some of them relate to news gathering by youth—I was interested in the discussion about *Behind the News*—programs where we can have cameras with young people not only going behind the news but finding and telling the news that interests them in the way that they want it, and doing that digitally, on networks and compiling it through a live television program, for instance. So we are looking at all the kinds of models that a digital network world provides us that is not bound by traditional broadcasting models. This would be using the Internet, digital cameras and desktop editing, bringing it through a `media service' centre, getting it compiled and then broadcast either through television, through streaming on the web or through other digital channels that we will trial over the next few years.

Mr CIOBO—Is ACMI, for all intents and purposes, a public space? Are you the only public space of this type in Australia?

Mr Smithies—That is correct.

Mr CIOBO—What have you found in terms of demand for this type of facility?

Mr Smithies—The production facilities are still being finished at the moment, but we have found that the producers we have spoken with and shown the facilities to are all really interested in it, because it provides an opportunity to do things they have thought about but for which facilities have not been available.

Mr CIOBO—Would you see your role as being another opportunity in the marketplace for film and TV students, high-school competitions and those types of things?

Mr Smithies—Yes.

Mr CIOBO—But it would not be as a replacement for those types of facilities within the respective institutions, would it?

Mr Smithies—No, it would be additional to those—and working with emerging filmmakers and producers who want to work in a non-linear or multichannel world where they can try things out with the public, because it is a very public space.

Mr CIOBO—So do you charge on a cost recovery basis or is it all taxpayer subsidised?

Mr Smithies—It is taxpayer subsidised; that is the only way it could survive.

Mr CIOBO—So are you sitting in breach then, just out of interest—there is nothing behind this other than interest—of competitive neutrality aspects in terms of others who provide those kinds of facilities?

Mr Smithies—I do not believe we do, no.

CHAIR—Thank you very much for appearing this afternoon, Mr Smithies, and if we need to get any more information from you we will be back in touch.

Resolved (on motion by **Mr Ciobo**):

That this committee authorises publication of the evidence given before it at public hearing this day.

Committee adjourned at 4.31 p.m.