



Incorporated Since 1994

Submission 99

The Parliamentary Inquiry into Community Broadcasting

The Honorable Jackie Kelly
Chairperson,
Dear Madam,

30/03/06.

BACKGROUND

The Management Committee of Community Television Perth Inc. and the general membership have asked for a submission to be made to the Parliamentary Inquiry which you chair.

We are an affiliate group of the CBAA and until recently a local producer provider for access 31, the Perth Community Television Station.

Established in 1994, CTV Perth was the pioneering grass-roots group who lobbied over many years and conducted crucial experimental broadcasts that finally led to the government developing community broadcasting through its provision of narrowcast and then in March 2004 two permanent [5 years] analogue terrestrial licences for Sydney and Perth. In the period of the narrowcast licences, CTV Perth because of its limited financial resources joined in with a Consortium comprising initially three of our four universities, the WA TROTTERING ASSOCIATION, the FILM AND TELEVISION INSTITUTE, WESTLINK, and the WA ABORIGINAL MEDIA ASSOCIATION and held two of the Board positions. Since then the Consortium has dwindled to the representation of two universities, CURTIN and EDITH COWAN and a changed role for WESTLINK and WESTONE.

Initially known as the educational and community television Channel 31 a memorandum of understanding between the overall body and CTVPerth Inc. was drawn up, which promised that CTV PERTH would be the sole community program provider and a fixed percentage of incoming revenues would be allocated towards a production fund to be used for the purpose of generating community programs. This was never enacted and in due course, CTV PERTH reluctantly had to proceed with court matters to resolve this issue.

c o m m u n i t y t e l e v i s i o n p e r t h



Department of Culture and the Arts
Government of Western Australia

337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



Office of Multicultural Interests
Government of Western Australia



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

Because of the lack of money, this action was suspended, and at the same time CTV PERTH supported the claims of WEST TV in the contestation for the new permanent television licenses, which finally passed to access 31. Obviously there was a conflict of interest due to the court action and as a consequence, our Board member resigned from the board of access 31. Under the new dispensation the former two Board positions have not been offered to CTV PERTH Inc.

Claimants of the licence promised that they would enter into full and supportive negotiations with the other unsuccessful applicants but as you will see from part of our submission (by Dr. Ian Alexander and Greg Smith), shows that common meetings ended up with rejections by the broadcaster continuously and alternative solutions were dismissed perfunctorily.

Our membership has a very stable base and fluctuates around 150 members who come from all walks of life. Utilising a small equipment and establishment grant in 2000 from Lotteries West and later from the Department of Culture and Arts, we have achieved a remarkably high level of production of some six broadcast hours per week. Our productions have won many key awards in the WA SCREEN AWARDS, the COMMUNITY BROADCASTING ASSOCIATION OF AUSTRALIA NATIONAL AWARDS and the national ANTENNA AWARDS .

We currently provide programs for Channel 31 in Melbourne and for AURORA FOXTEL with its nationwide broadcasting structure through its Community Broadcasting Outlet, as well as productions for a cable station in Iowa, so we are international, national and local.

CBAA's governance and constitution sustain the rights of stations over individuals and this may be logical in the case of radio, where most of the station staff are also its producers, but in our case we have been delegated as a television 'affiliate' and have few clear rights as producers in station matters though there are infinitely fewer television stations. This has created an overbalance of power with station managers and paid staff, over the content provider community producer. The prime function of a community TV station and its services purport to represent and facilitate the community producer, but under current circumstances the effective and DEMOCRATIC representation is not possible for these producers.

c o m m u n i t y t e l e v i s i o n p e r t h



337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

1. The scope and role of Australian Community Broadcasting across radio, television, the internet and other broadcasting technologies.

However the community content provider's scope and role in Australian community broadcasting with the new technologies practically suggests that the broadcaster licences that covered analogue radio and television became meaningless, because we could

instantly become broadcasters from our current premises without a digital or analogue transmitter with broadband and online streaming, and podcasting.

Furthermore than that, when the government makes its decision on the further distribution of digital television licences we intend to apply for such a licence with the clear sense that our application would create a far more genuinely community based television than currently exists.

If this new understanding of what is possible in community television broadcasting was embraced then the system would be infinitely more democratic.

2. Content and Programming Requirements that reflect the character of Australia and its cultural diversity.

Despite the very generous funds allocated for local programming to the station access 31 by the West Australian State Government, in 2005, the locally produced community programs in their program schedule has dramatically dropped by at least 50% at the end of the year 2005, compared with the previous year 2004. In the first quarter of 2006 the locally produced community programs suffered even more from the greed of the station and the programming is now showing more than 80% non local content.

c o m m u n i t y t e l e v i s i o n p e r t h



Department of Culture and the Arts
Government of Western Australia

337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



Office of Multicultural Interests
Government of Western Australia



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

This decline in both quantity and quality of the locally produced community television programs in Perth was a direct result of the assigned funds for local production not filtering through to the major source of program suppliers - the independent producers. No monetary cash contribution has been made for the supply of the basic budget needs of the independent producer such as transport, catering, sets and props, tapes, minimal wages, honorariums or a token payment for the finished program, **NOTHING!**

Despite the fact that the station received a separate government donation for its infrastructure and equipment, it charges real cash from the volunteers and independent community program producers for the use of equipment for production purposes instead of giving free access to those members in line with the support that the government donation aimed to provide.

If this remains the official policy of our only community television station, it spells disaster for the future success of local producers to fulfil the stated charter of community television to reflect the character of Australia and its cultural diversity in the content and program requirements under which the existing community station licenses were granted.

The CBAAs has stated in its submission; "3.8 The technical and regulatory climate has shifted markedly since the time of the 2002 DCITA Report, such that these perceived impediments to digital transition for CTV no longer exist. The two preconditions which the 2002 DCITA Report suggested were necessary for digital transition of community television are now evident: namely stability, accountability and good governance in the CTV....." as cited in our response to your Item 3. of the Inquiry.

We would argue that access 31 Perth does not have good governance, and that its constitution is not democratic in allowing full representation to its ordinary members and producers, both members and independents. Initially their constitution's details were withheld from the general public and interested parties at the time of licence application and a lengthy period afterwards unlike that of the other claimant TV WEST who happily provided the constitution to all who wished to be informed. When the constitution was finally presented, an examination of its constituency shows that an unaccountable group of 5 'members' controls even the appointments of the Board and could at any time sack it without recourse, and in the area of producers rights and representation, the Board members themselves carry a disproportionate stacking of votes compared to the minimal representation given to producer members.

c o m m u n i t y t e l e v i s i o n p e r t h



337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

It would be timely for the Inquiry to look into that constitution and its assurance of 'good governance'.

This earlier licence process did not attempt to affect or comment upon what we feel was an undemocratic constitution that has a direct flow on to the genuine expression of the democratic bias of the 'character of Australia and its cultural diversity. Not to do so we feel disregarded the opportunity through licence demands of making the structure of access 31 more democratic and accessible to the community at large and to the greater and direct support and representation of the independent and member community program providers.

The lack of the community spirit in the station's management by its manager and paid employees works against the more authentic representation of the individual producer organisation and the efforts of individual members which could be expressed through a fairer distribution of allocated production funds that met basic production needs rather than bloated salaries for positions of a non-productive staff.

3. Technological opportunities, including digital, to expand community broadcasting networks

This submission to the House Standing Committee on Communications, Information, Technology and The Arts inquiry into community broadcasting deals with the challenge facing community television in developing financially sustainable operations with a diverse and vibrant local community program production content regionally and nationally.

This submission contends that the present organisational and operational arrangements underpinning the present CTV licensees do not meet these challenges. Primarily as a consequence of the financial and technical burden associated with supporting a broadcasting infrastructure state by state without government funding to support such an infrastructure. However these challenges can be met by taking a "whole of country" approach through a single national broadcasting infrastructure with regionally based program production and programming. The transition to digital transmission provides an opportunity for such a restructure of the community television sector.

c o m m u n i t y t e l e v i s i o n p e r t h



337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

Recommendations

- 'must carry' requirement for 24-hour, 7 day-a-week digital transmission of community television be placed on an existing digital carrier, with the costs shared amongst existing carrier in the form of a tradable obligation
- that a precondition to this be a review of the community TV broadcasting sector to ensure financial sustainability and programming integrity at a national and regional level.

Despite the assertions by CBAA in its submission to the Standing Committee on Communications, Information Technology and the Arts Inquiry into the Uptake of Digital Television in Australia,

"3.8 The technical and regulatory climate has shifted markedly since the time of the 2002 DCITA Report, such that these perceived impediments to digital transition for CTV no longer exist. The two preconditions which the 2002 DCITA Report suggested were necessary for digital transition of community television are now evident: namely stability, accountability and good governance in the CTV....."

There is considerable anecdotal evidence that financial stability has not been achieved across the sector. Briz31 was reliant upon a substantial individual donation to go out of voluntary administration, and much of Access 31 Perth infrastructure, relocation, and production costs have been met by the WA state government, which has secured short and medium term funding but does not meet long term sustainability. This is particularly so considering the potential costs involved in the transition to digital transmissions.

It should be noted the 2002 DCITA report raised concerns about over reliance on individual donors or creditors.

"The sale of large amounts of airtime or reliance on benefactors/creditors may lead to circumstances where the commercial entity or benefactor involved may, in practical terms, be taken to control the licence, and who may influence editorial and access policies."

c o m m u n i t y t e l e v i s i o n p e r t h



337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

Further, CBAA claimed

“Whereas in 2002, the DCITA Report noted that no existing CTV service provided continuous service, that situation has changed dramatically. C31 Melbourne and Access 31 Perth now broadcast twenty-four hours a day...”

*The **assertion of 24 hour** broadcasting is made with the inclusion of what can be fairly described as “test pattern” broadcasts, similarly in the case of Access 31 Perth, a significant amount of programming per day is made up of syndicated programs, old Hollywood films and international news broadcasts.*

The absence in community-produced programs cannot be explained by the lack of those programs. Aurora TV, a non-profit organization that broadcasts on Foxtel digital pay for TV has demonstrated that at a national level there is sufficient content available to support 24 hours 7 days week broadcasting of Australian made community television. In relation to Perth, WA, Aurora often broadcasts 4 hours of Western Australian content compared with Access 31 Perth average of around 6 hours excluding “test pattern” broadcasts in the form of Montage TV in any one day. In the case of Perth the focus has necessarily been on propping up the broadcasting infrastructure to the detriment of locally produced programs.

In ensuring financial sustainability and integrity of locally produced community TV, the community TV sector must fundamentally reorganize itself.

The transition to digital transmission provides an opportunity, in the adoption of the ‘must carry’ recommendation to focus attention toward independent community production as opposed to supporting a broadcasting infrastructure.

The success of Aurora TV in providing a balance of regionally produced community TV has provided a model for this reorganization that would see substantial financial benefits in economies of scale as well as national reach for potential major sponsors while not necessarily undermining localism. In essence CTV would be a single national organization with regionally based programming groups, core programming would be determined at a national level with regions determining programming for a number of hours each day specific to their regions that would be broadcasts only in their regions.

c o m m u n i t y t e l e v i s i o n p e r t h



Department of Culture and the Arts
Government of Western Australia

337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



Office of Multicultural Interests
Government of Western Australia



Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

4. Opportunities and threats to achieving a diverse and robust network of community broadcasters.

Threats:

CTV, an independent, community-based production house is currently effectively banned from broadcasting on WA's only free-to-air community TV channel, ie Access 31. This is clearly reducing the diversity of offerings on free-to-air Community Television. Since late 2005, CTV has been locked out by Access 31 Perth because of their refusal to provide fair and reasonable Broadcast Agreements for CTV-produced programs. Up until that point CTV programs were regularly shown on Access 31, and CTV acted as a major community program provider to 31.

This action by Access 31 has basically been brought about by the fact that during 2005 CTV started regularly supplying CTV productions to Foxtel Aurora TV, programs that had been *previously broadcast* on Access 31. CTV provided 31 with first-release programs, and Aurora with past runs. Access 31's actions are designed to oust Foxtel Aurora from the market, by preventing CTV supplying both broadcasters.

The sequence of events was as follows:

- CTV met with Access 31 in mid-2005, to discuss the suspension of 3 regular CTV programs. Access 31, without notice axed three popular programs with the spurious claim that they had been delivered late (i.e. outside 9-5 weekday business hours).
- A meeting was held on August 10th 2005, to discuss the matter. At that meeting were CTV Management Committee members, Dr Ian Alexander (Chair), Mr Peter Jeffrey OAM (Secretary) and Mr Greg Smith (Producer Representative) and Access 31's Andrew Brine (CEO) and Gerry Gannon (31 Board Member/chair of program

c o m m u n i t y t e l e v i s i o n p e r t h



Department of Culture and the Arts
Government of Western Australia

337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



Office of Multicultural Interests
Government of Western Australia



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

committee). It was agreed that the suspended programs would be restored to air. This occurred a few weeks later.

- However, Gerry Gannon flagged at that meeting the matter of CTV supplying Foxtel, and foreshadowed revised Broadcast Agreements for 2006, which would seek to 'acquire' Broadcast Rights for 2006. We expressed our opposition to such a concept, pointing out that Rights could only be acquired by a payment or equivalent consideration being given to the Program Producers, CTV Perth. Access 31 made it clear that they viewed allowing CTV programs free airtime on Access 31 as a payment in itself.
- **CTV fundamentally disagrees with this point. The Broadcast Agreement contracts from Access 31 sent to CTV in late 2005 sought our (early) signature on documents, including a three-year exclusive broadcast period. Our producers refused to sign such contracts and this action was endorsed by resolution of our Management Committee.**
- Access 31 has not shown any CTV programs since then. CTV has also received notice from Channel 31 Melbourne -- where we had an agreement for them to broadcast some of our programs -- that they will not broadcast CTV programs if we continue to also supply them to Foxtel Aurora.
- CTV understands Access 31's need to protect the programs they agree to show. CTV offered Access 31 an alternative to their proposed three-year exclusive broadcast rights contracts i.e. first broadcast and repeat rights over a 3-month period. This, however, was rejected without negotiations.

c o m m u n i t y t e l e v i s i o n p e r t h



Department of Culture and the Arts
Government of Western Australia

337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



Office of Multicultural Interests
Government of Western Australia



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

We believe that Access 31 and 31 Melbourne are behaving in an anti-competitive manner by stipulating Exclusive broadcast rights. We also hold that it is counter to the notion of 'free-to-air' community broadcast to only broadcast 'exclusive rights' material. Producers who have agreed to sign Exclusive Rights contracts are, we believe, unduly hindered in their independence and in their distribution rights.

This action by Access 31 and 31 Melbourne in regards to CTV Perth productions, is a real threat to the diversity and robustness of the free-to-air Community TV network. Similar problems have also been experienced by Slice TV, a program supplier to Channel 31, Sydney.

As a further sectional submission to Point 4 we would like to add the following as we feel that if it is observed it can lead to an insistence on 'good governance' that will truly ensure a democratic and totally accessible community broadcasting system.

THE MAIN ETHICAL PRINCIPLES OF THE LOCAL COMMUNITY TELEVISION.

It is assumed that local channel 31 television broadcast will provide a voice for the community while serving educational purposes.

However, there are several factors that are detrimental for the community television purpose and developments.

1. Currently there is no unified cohesive public service ethical standard and strategic policy that applies to community television throughout Australia.
2. There is no policy on the source of funding for the programmes and the role of government funding in this process.

c o m m u n i t y t e l e v i s i o n p e r t h



337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526



Incorporated Since 1994

3. Analysis of Perth's Channel 31 shows up to 80% of it is publicly shown programming is made somewhere overseas.
4. The process of the granting of the licences to local community televisions appears lacking the clear transparency and accountability in its decision making process.
5. There are also instances of the broadcaster Channel 31 Perth not following the regulatory processes but there are no procedures addressing the accountability or the appointed governing body to deal with other issues which might create the climate for potential financial, EO and OHS abuses.

All of the above factors, combined together can be detrimental to a healthy, transparently functioning, good spirited community television in Australia.

Hence it seems important:

1. To RECODIFY the National Community Television code of practice.
2. To tie the government licence with the condition of producing and broadcasting only of local and AUSTRALIAN community content.
3. To create National guidelines for community television content.
4. To devise new and clear guidelines for the operation and licensing conditions, which will be offered for the public for consultation and comments. Set the guidelines once the feedback and evaluation process is complete.
5. To create a community "watchdog body" in each States which will be empowered to make recommendation to withdraw a licence from a community TV broadcaster if not operates democratically or not following the set guidelines and regulations.

Yours Sincerely

Peter Jeffery OAM
Secretary of CTV Perth Inc.

c o m m u n i t y t e l e v i s i o n p e r t h



337 Wellington St
Perth

PO BOX 8133
Perth WA 6849



With thanks to our proud
sponsors



CITY of PERTH

Ph + 61 8 9221 5355
Fax + 61 8 9221 5366
www.ctvperth.com.au
info@ctvperth.com.au
ABN 97 044 565 526