

June 8, 2001

Senator Alan Eggleston
Chair
Senate Environment, Communications
Information Technology and the Arts
Legislation Committee
S 1.57
Parliament House
CANBERRA ACT 2600



Dear Senator

ASTRA SUPPLEMENTARY SUBMISSION

BROADCASTING LEGISLATION AMENDMENT BILL (NO 2).

ASTRA would like to make the comments below, following the public hearing today before the Senate ECITA Legislation Committee into BLAB 2.

A. Automatic De-Listing

- 1) We note that the Federation of Australian Commercial 'Television Stations (FACTS) agreed with ASTRA's submission that the free-to-air (FTA) television networks' imperative is to secure television broadcast sporting rights as far in advance of the start of an event as possible.

The Department of Communications Information Technology and the Arts (DOCITA) is also in accord with ASTRA's submission that FTA television routinely acquires FTA rights to events that they are interested in broadcasting a year, and often years, in advance of the start date.

FACTS did not provide any examples of where they have acquired rights to events less than 6 weeks, or even 10 week`, from the start of an event in the past 2 years.

Therefore, ASTRA reiterates that a 10 week automatic de-listing window is fair and reasonable, compared with the 6 weeks contained in BLAB 2.

It is important to note that even if pay-TV acquires rights to an event via an automatic de-listing process - whether it be 6 weeks, 10 weeks or more from the start of that event - there is no obstacle to FTA negotiating and acquiring FTA rights for that same event before, during or after the de-listing.

FTA television has a clear opportunity to acquire FTA broadcast rights from a rights holder at any time.

- 2) FACTS stated a possible concern that when an intermediary acquires broadcast rights on a regional or global basis, that intermediary may have no incentive to negotiate Australian FTA television rights.

This proposition is flawed because an intermediary, like any other sports rights holder, has a commercial imperative to maximise the audience reach and the revenues it can obtain for its rights. This imperative necessitates a FTA rights sale if at all possible.

There is no evidence that any sports rights holder, or intermediary, has attempted to withhold FTA rights from Australian FTA television in order to deal exclusively with pay-TV. Legislation should not be based on subjective speculation in the absence of factual evidence.

AS ASTRA noted, intermediaries go to all possible lengths to secure FTA coverage.

In addition, ASTRA is aware that sports bodies will impose on intermediaries an obligation to secure FTA coverage in all markets where TV rights are sold by that intermediary. For example, soccer's world governing body, FIFA, insists on this in relation to the sale of World Cup Soccer rights.

In conclusion, the involvement of intermediaries is not an impediment to FTA acquisition of sports rights.

- 3) The FACTS proposal for pay-TV companies to notify the FTA networks, and other parties including the Minister, that FTA rights are available would complicate rather than simplify the policy objective of BLAB 2.

As DOCITA explained, the thrust of the BLAB2 legislation is to simplify the de-listing process through an automatic mechanism.

As DOCITA explained, a mechanism as proposed by FACTS that requires one commercial body to signal its intentions to another commercial body is flawed and unworkable

- 4) The key protection for the FTA networks is that fact that the Minister may intervene and block automatic de-listing if he believes that FTA has not had a reasonable opportunity to acquire FTA rights. This protection is clear in BLAB 2.

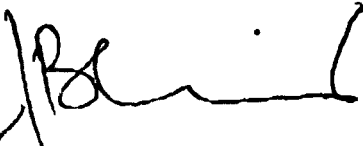
B. HDTV

To the extent that FACTS wants the opportunity to demonstrate HDTV in retail outlets via a 'loop tape' of no more than 30-60 minutes, ASTRA has no objection as long as this exemption is clearly defined and restricted.

ASTRA supports current legislation that prevents commercial FTA multi-channelling, and this BLAB 2 amendment should not be used to subvert the intent of that legislation.

The purpose of the HDTV amendment needs to be very clear in the Explanatory Memorandum to BLAB 2. The Memorandum must give clear guidance as to the types of exemptions that can be determined by the Australian Broadcasting Authority (ie. loop tapes only).

Yours sincerely



JIM BLOMFIELD
ASTRA Chairman