

## CHAPTER 4

### CAPTIONING AND OTHER IMPORTANT ISSUES

#### Captioning standards

4.1 Under the amendments made to the *Broadcasting Services Act 1992* through the *Television Broadcasting Services (Digital Conversion) Act 1998*, a requirement was introduced for the determination of a captioning standard. Subclause 38(1) of the BSA requires regulations to be made determining standards for the closed captioning of television programs for the deaf and hearing impaired.

4.2 With the introduction of the Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000, the Government has outlined the captioning quotas applicable to metropolitan licence holders from 1 January 2001 (at the start of their digital broadcasts). Regional broadcasters will need to meet the required captioning quotas when they begin to broadcast in digital mode. The quotas proposed by the Government are:

- all prime time viewing hours programming; and
- all news and current affairs programming outside these hours.

4.3 Item 128 of the Bill amends the captioning requirements of Subclause 38 to exempt a television program (or part of one) that is wholly in a language other than English and to exempt incidental or background music and television programs whose audio component consists only of music “that has no human vocal content that is recognisable as being in the English language”.<sup>1</sup>

4.4 The Explanatory Memorandum to the Bill states that:

An estimated 1.7 million deaf and hearing impaired Australians have limited access to free to air television services.<sup>2</sup>

It also quotes a table that shows that overall, about 19% of all television programs were captioned last year.

4.5 The Committee received 8 submissions on the issue of captioning. Three in favour of the captioning requirements in the legislation (two of those requesting a move to full captioning, by 2005 – in the case of the National Working Party on Captioning – and in the case of Mr Tayeh, full captioning of the Olympic Games and subsequent major sporting event broadcasts).

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1 Broadcasting Services Amendment (Digital Television and Datacasting ) Bill 2000, p.49

2 Explanatory Memorandum, Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000, p.47

4.6 The Australian Caption Centre stressed in its submission that it was:

well advanced in its preparations for assisting the broadcasters in complying with the proposed legislation by the start-up date of 1 January 2001.<sup>3</sup>

and that:

There are no technical or human resource impediments to implementing the legislation as proposed by the Government's Bill.<sup>4</sup>

4.7 In addition to recruiting stenocaptioners overseas and training more local stenocaptioners, the Centre told the Committee that it was testing remote live captioning to avert the difficulty of television stations having to find stenocaptioners in rural and regional locations.

4.8 Five submissions, one from FACTS and four from regional television broadcasters pointed to the costs and operational difficulties they would face in meeting the captioning requirements.

4.9 WIN Corporation's Chief Executive, Mr John Rushton explained his difficulties to the Committee in these terms:

I can quickly tell you how we put news to air in, say, Victoria. We have journalists and cameramen right across the state. We produce six different news bulletins a day. All of those go to air from our mother station in Ballarat each night at 6 p.m. So five of them are prerecorded and the sixth one is going to air live. Those stories are coming in on the microwave link to Ballarat probably from about 2 p.m. onwards and they are all edited remotely. Then there is a producer in each area putting each bulletin to air. So there could be some stories still coming in from areas, say, at 4 o'clock when it has to be prerecorded at 4 o'clock, so they get slotted in further down the bulletin. As soon as they have done the prerecord for the 4 o'clock one—and the prerecord is just for the intros, and it probably takes 10 or 15 minutes per bulletin—they then move on and do the next one and so on down the track.

For us to have that done remotely would mean that we would have to send a story up the line somewhere to the remote position for them to view it and then steno it—or whatever the terminology is—and then send it back to us. There just would not be time to do it because we do this prerecorded technique so we can offer a lot of different news bulletins to the community.<sup>5</sup>

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3 Australian Caption Centre, Submission No.5, p.3

4 Australian Caption Centre, Submission No.5, p.3

5 WIN Corporation, *Proof Committee Hansard*, 31 May 2000, pp.42-43

4.10 In its submission to the Committee, WIN suggested that an American automatic captioning system called the electronic newsroom (ENR) might provide a partial solution to the problem. Using that approach, each bulletin would have the presenter's introduction and journalists' voiceovers captioned as well as full captioning of weather and news updates. The Committee raised the ENR issue with the Australian Caption Centre's Mr Robert Scott who answered:

The electronic newsroom system can work in a situation like that if the text files are there for everything that is going to air. If they are not there and you have live interviews or taped items or taped stories from overseas where a script is not available, then there will be no captioning there unless somebody creates it.<sup>6</sup>

4.11 Mr Scott pointed out that some regional stations appear to be able to caption at reasonably low cost:

One thing we did notice when we were looking at how the news was put together in some of these regional television stations is that in a lot of cases where the news is being put together on a shoestring budget where they have the small staff numbers, which Senator Calvert referred to before, they tend to produce a lot more of the bulletin in advance and they tend to ensure that everything in the bulletin is scripted on a central newsroom computer system. There was one station, in particular, that we looked at in Mount Gambier which was a very small operation and ironically it worked out that captioning a news bulletin like theirs was very inexpensive. I think in one of our submissions to the review we indicated that they could probably do their bulletin for maybe \$50,000 a year. That was mainly because it was produced so far in advance and everything was scripted and any national items were on a news service that was coming from major metropolitan networks and would already be captioned.<sup>7</sup>

4.12 Ms Clark from the National Working Party on Captioning argued strongly for the requirement for full captioning of news by regional broadcasters to be maintained:

I still stand by my previous point that I believe that all prime time captioning is achievable and I believe that people in the regional areas should not miss out. I know that when the announcement was made by Channel 7 that one of the regional television stations would be captioning their news there was a lot of enthusiasm and support from the community and it made life a lot more accessible for those people in those regional areas. I think the country people are isolated enough, and if you are talking about a deaf or hearing impaired person in the country then they have that double isolation.<sup>8</sup>

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6 Australian Caption Centre, *Proof Committee Hansard*, 31 May 2000, p.16

7 Australian Caption Centre, *Proof Committee Hansard*, 31 May 2000, p.16

8 National Working Party on Captioning, *Proof Committee Hansard*, 31 May 2000, p.16

4.13 The Committee supports the Government proposals for captioning quotas as a means of ensuring access to information for hearing impaired television viewers. However, the Committee recognises the particular difficulties faced by regional television in one (solus) and two-station markets and would hope that the Government will consider the other options proposed by regional broadcasters.

### **Reviews required under the Bill**

4.14 In addition to the reviews of the process of introduction of digital television already in the BSA, the proposed Bill requires a number of other reviews to be carried out in the next few years after digital television broadcasting commences. These are:

#### Before 1 January 2004

- whether the provisions relating to HDTV quotas should be repealed (proposed subclause 60 A of Schedule 4);
- the regulatory arrangements for transmission of TV programs by commercial television broadcasting licensees in HDTV digital mode in remote licence areas (proposed subclause 60 A of Schedule 4);
- the regulatory arrangements that should apply to the transmission of television programs by national broadcasters in HDTV digital mode in remote coverage areas (proposed subclause 60 A of Schedule 4); and
- whether any amendments should be made to Schedule 6 which sets out the regulatory scheme for datacasting (clause 61 of proposed Schedule 6).

#### Before 31 December 2005

- the provisions associated with additional commercial television broadcasting licences in solus and two-station markets (proposed subclause 60 (1) of Schedule 4); and
- the regulatory arrangements and revenue arrangements (if any) which should apply to enable a datacasting transmitter to be used on or after 1 January 2007 to provide other services licensed under the BSA (proposed subclause 60 (1) of Schedule 4).

4.15 Whilst not in the legislation itself, the second reading speech indicates that the ABA will receive a reference from the Minister to examine whether services such as streamed audio and video, available on the Internet are, legally, broadcasting services. It is expected that the ABA will examine this issue in the context of the general

convergence of broadcasting with other services and report within twelve months of the passing of the legislation.<sup>9</sup>

4.16 In response to questioning from members of the Committee, a number of witnesses urged that the timing of the various reviews should be brought forward and that they should be undertaken as soon as possible as there is still a degree of uncertainty about the regulations in some areas.

#### HDTV Quota Review

4.17 There seemed to be some confusion at the public hearings about the nature of the proposed review. Some witnesses suggested that a review should be conducted into the viability of HDTV in the Australian context and the likelihood of commercial FTAs offering very much HDTV on their loaned 7 MHz of spectrum. However, the proposed review is to examine whether HDTV quotas are still necessary and not to re-visit Government policy decisions about HDTV as a basis for the introduction of DTTV.

4.18 FACTS expressed the view in its evidence to the Committee, that it is difficult to know what the right time for the review is, however, there should be a couple of years to test the market, both in terms of equipment and program availability. FACTS had not considered whether the review should be statutory or departmental and stated that either would be acceptable.<sup>10</sup>

4.19 The ABC supported this view:

We know that the take-up in the early stages will be low, so there is a question of how robust the data will be if you do the review too early.<sup>11</sup>

4.20 ASTRA called for an immediate statutory review to determine if HDTV is to go ahead or not

In fact, the impression I got listening to FACTS yesterday was that nothing will happen with HDTV in the next two years. So, based on that, ASTRA feels: why wait two years; why wait until 2004 for the review; why not have the HDTV review right here and now? Let us bring it forward. Let us have it and let us clear the air once and for all on whether this is a dead duck or whether there is some validity in HDTV.<sup>12</sup>

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9 Second Reading Speech, Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000, p.4

10 FACTS, *Proof Committee Hansard*, 31 May 2000, p.34

11 Australian Broadcasting Corporation, *Proof Committee Hansard*, 1 June 2000, p.75

12 ASTRA, *Proof Committee Hansard*, 1 June 2000, p.107

4.21 ASTRA argued that if the review found that HDTV would not go ahead, the FTAs would no longer need 7 MHz of spectrum and the unused spectrum should be returned to Government and auctioned.

Can I just add to that in terms of bringing it forward. There has to be an outcome. If the decision is that HDTV is not a goer, then the outcome must be that that spectrum goes back to public auction. That is part of the review. There needs to be a reconsideration of that, because that was the original decision and one of the main planks of the decision in the first place.<sup>13</sup>

#### Schedule 6 and regulatory scheme for datacasting post 2006 reviews

4.22 In its evidence, Fairfax called for more information to be given about the proposed review of datacasting regulations and expressed the view that this was necessary so that datacasting licence bidders might obtain some certainty:

We certainly think there should be guidelines, legislative guidelines, as to how those reviews should be undertaken and what should be taken into account. Given the importance of the scarce resource that we are talking about, public review is better than private review. Most importantly, there is a need for certainty. I can understand the notion that none of us are quite sure how this service will develop and how indeed other services which may be provided through spectrum will develop as well. So I can understand the notion of a review period. But I think it is very important that the people who are thinking of bidding for these licences have a clear understanding of what are the terms under which those reviews will be carried out.<sup>14</sup>

4.23 Telstra also supported the statutory review approach and the need for certainty as quickly as possible and indicated that:

Ideally, to give you certainty, you would have the review before you had to fork out for the licence. But the practicality of that seems to be not there.<sup>15</sup>

4.24 Telstra indicated that the pertinent issues for the review into post 2006 regulatory arrangements should be:

to address issues of convergence. A lot of the issues that have been addressed by the Productivity Commission need to be considered. The fundamental question seems to be: to what extent can converging industries, including broadcasting, be liberalised?

Telstra has a preference for the provisions in this bill for the separation of the spectrum licensing process from the service licensing process. We would like to see spectrum licensing subject to market based principles as it

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13 ASTRA, *Proof Committee Hansard*, 1 June 2000, p.112

14 Fairfax, *Proof Committee Hansard*, 1 June 2000, pp 96-97

15 Telstra, *Proof Committee Hansard*, 31 May 2000, p.52

is in telecommunications today—namely, auctioned with a presumption of renewal. In relation to services licensing and broadcasting or other content type services, it would happen presumably under the ABA, similarly to how it does now.<sup>16</sup>

4.25 In evidence to the Committee, Optus indicated that it too is concerned at the degree of uncertainty which exists in relation to possible regulations for datacasters post 31 December 2006.<sup>17</sup>

4.26 FACTS agreed that the situation post 2006 is fuzzy at present and resolution sooner rather than later would be beneficial.<sup>18</sup>

#### ABA reference on streamed audio and video as broadcasting or datacasting

4.27 When questioned by the Committee, FACTS agreed that this review should be conducted urgently, preferably prior to the commencement of digital broadcasting and datacasting.<sup>19</sup>

4.28 The ABC was of the view that its Board should make such decisions about ABC programming. However, if the ABA had to do the review, it should be done earlier rather than later.<sup>20</sup>

#### **Australian content**

4.29 A number of submissions referred to the effect that conversion to digital television transmission could have on the Australian film and multimedia production industries. The matter was also raised in evidence to the Committee. The Screen Producers Association of Australia (SPAA) called for a quota system to be introduced requiring that the 20 hours of mandated HDTV should be original, first run Australian content and pointed out that:

Australian programs contribute to the community's sense of character, identity and reflect its rich diversity and history.<sup>21</sup>

4.30 SPAA also asked that content shot on 35mm film, Super 16 film and high definition video should be counted as high definition production format for the purpose of meeting the 20 hours HDTV quota. Recognising the high cost of conversion for Australian producers, SPAA suggests that the licence fees of

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16 Telstra, *Proof Committee Hansard*, 31 May 2000, p.54

17 Cable and Wireless Optus, *Proof Committee Hansard*, 1 June 2000, p.113

18 FACTS, *Proof Committee Hansard*, 31 May 2000, p.34

19 FACTS, *Proof Committee Hansard*, 31 May 2000, p.34

20 Australian Broadcasting Corporation, *Proof Committee Hansard*, 1 June 2000, p.74

21 Screen Producers Association of Australia, Submission No. 24, p.8

commercial broadcasters should be increased and the additional funds collected used to assist the independent production sector.

4.31 FACTS told the Committee that there would not be any Australian program available for digital transmission “initially”:

That is for a number of reasons, the most significant of which is that there are no real HD capable production facilities at the moment. Naturally, the networks have been focusing on the first order of business, which is getting the transmission structure up and operating. Production facilities have always been seen as the second stage. I would not expect any serious progress on that front until well into next year.

... It is likely that commercial television stations will want to present their most popular programming in high definition as early as they sensibly can. At least five out of the top 10 programs on commercial television in any week are local programs; often it is seven or eight. Some of those programs may be very difficult to produce in high definition television for some little time.<sup>22</sup>

4.32 The Productivity Commission’s Professor Snape argued that in the longer term it would become necessary to have an inquiry to look at other means of reaching a minimum acceptable standard for Australian content in the digital broadcasting and datacasting environments:

We said, ‘Leave most of the existing quotas in place for the time being because taking them off would be disruptive at a time of change; but have an open, public inquiry into the desirable means of pursuing the cultural and social objectives that would target the sources of the social and cultural production rather than the platforms on which they are disseminated.’<sup>23</sup>

4.33 The Committee recognises that Australian content is a very important issue in this debate and it believes that the situation will have to be monitored closely in the first two years after conversion to assess the impact of digital television and datacasting on the levels of Australian content available through the new services.

## **Interoperability**

### *Audio standard*

4.34 In the second reading speech introducing the Bill, the Government stated:

As part of the requirement to provide SDTV at all times, the government expects that broadcasters will provide an audio stream using the MPEG sound standard. The government would encourage the industry to reach a

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22 FACTS, *Proof Committee Hansard*, 31 May 2000, p.36

23 Productivity Commission, *Proof Committee Hansard*, 31 May 2000, p.57



common position on this issue, but may be willing to consider regulating a standard, using existing powers in the legislation, if this appears necessary in the interests of consumers.<sup>24</sup>

4.35 In its submission, FACTS did not refer specifically to the audio standard but indicated its strong support for the

principle of common technical standards across all digital program and datacasting service ‘platforms’.<sup>25</sup>

4.36 ASTRA called for MPEG to be adopted as the common audio standard. The Committee received a submission from Dolby Laboratories supporting AC-3 sound technology the system for which FACTS has indicated a preference.<sup>26</sup>

4.37 In answer to a question from the Committee about the interoperability of set-top boxes, Mr Colin Knowles from the ABC stated that:

All of the boxes currently sold in the US are in fact multistandard compatible. There are no boxes sold in Europe that are HD and SD because nobody is broadcasting in HD ...

It is technically possible. In fact, the chip designs are already done to do that. Likewise, the same argument applies to the audio standard. The chip that can decode AC-3 and MPEG is already in place in almost every DVD player that is sold.<sup>27</sup>

4.38 The Committee’s view on this issue is that it is in the interest of all involved and especially in the best interest of the consumer that the systems used should be fully interoperable. Furthermore, in view of the rapid changes in technology in this area, the Committee concurs with FACTS’s comment that if standards need to be mandated, whatever standards are adopted, should:

... wherever possible be open standards which allow the “headroom” necessary for the 20 or more years service expected from the DVB-based digital transmission system.<sup>28</sup>

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24 Second Reading Speech, Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000, p.2

25 FACTS, Submission No. 21, p.12

26 FACTS, *Proof Committee Hansard*, 31 May 2000, p.37

27 Australian Broadcasting Corporation, *Proof Committee Hansard*, 1 June 2000, p.78

28 FACTS, Submission No. 21, p.12

