O Senate Select Committee in FTA

Dear Senators Boswell, Brandis (Deputy Chair) Conroy, Cook (Chair) Ferris, Harris, O'Brien and Ridgeway.

Any "Free Trade Agreement" entered into by Governments should be able to, at least, achieve a state of no significant disadvantage. Whilst I am not sure that an FTA between economies so disparate in size is overly different from free swimming rights between a shark and a minnow, with its consequent risks, I acknowledge that such an agreement has been negotiated. However I would also suggest that it does not satisfy the Government's previously stated aims with regard, to name but two, the Agricultural Industry and the PBS. That aside, I must question why, when most nations, most notably the French, have upheld their sovereign rights over Arts and Culture in the ongoing GATT in Services treaty negotiations under WTO talks, the Australian Government has not upheld, in this FTA, its stated aims as expressed by the Department of Foreign Affairs and Trade in April 2003

" The Government has made it clear many times that cultural policy objectives will be taken into account in trade negotiations. A high priority is placed on these objectives and Australia has taken a strong stand in WTO negotiations on their legitimacy, setting out, to the broad support of the membership, the value the Australian Government places on the freedom to have in place measures to pursue these objectives through policy interventions AND TO ADAPT THESE MEASURES AS CIRCUMSTANCES CHANGE"
(emphasis added)

It would appear that the above aims were achieved in the Singapore/Australia FTA

Given that your terms of reference include (FTA) effects on the economic, trade, investment, social and environmental policies of Australia may I offer some suggestions re these effects with reference the Arts, Culture and Media section of the agreement.

Economic : Numerous reports from the predecessors of the ABA have stressed the interdependence of the various arms of the Entertainment Industry. They recognized the importance of Government mandated Australian content provisions with regard the TV industry, in particular with regard to Drama. They recognized the employment and training benefits which arose from said provisions and which contributed in no small part to the resurgence of the Australian Film Industry. The resultant critical mass, along with other Government initiatives, contributed in no small way to the growing overseas awareness of Australia, its people, stories and places. The multiplier effect of this is not inconsequential. The overall transmission quota for Australian programmes on free to air Television is 55%, between the hours of 6am and 11pm, leaving 45% of transmission time available for programmes from overseas. There is no quota requirement for hours between 11pm and 6am. In 2002, for example, 63% of new programmes on

Australian Network Television were from outside Australia and only 28% of new hours were from non US sources, (Conversely, in the US, 98.5% of new programming was generated inside the USA. In the UK, the figure was 95.7%)

The FTA negotiated between the United States and Australia puts strict limits on the ability of Government to respond to future changes. These limits include:

1. The Government may not impose local content requirements on most pay television channels,
2. Of those pay television channels where the Government may act to impose local content rules, the level of local content is set at very low levels, in no way similar to the current free to air TV rules;
3. The Government will never be able to regulate existing media, (unless currently regulated) for local content. This means cinema (including e-cinema) may never be regulated;
4. The Government may not begin to act to introduce rules for interactive media until the level of access to local production for Australian audiences is already found to be at unacceptably low levels. There is no ability to take pre-emptive action.

If as a result of multi channeling and/or an increase in pay TV the broadcasters of free to air TV become resentful of carrying the primary responsibility for delivering Australian programmes to Australian audiences, they may seek a lowering of the Australian Content requirements. If the lowering were granted, then under the terms of the FTA, the Government would NOT be able to raise the level. If the level of Australian content can be mandated to fall but not rise, this would have flow on effects to the quantity of Australian product which would lead to a drop in the number of participants which subsequently diminishes the talent pool, both artistic and technical which previous Government regulation has successfully encouraged. It simply does not make economic sense.

Trade: For years the US Government has acknowledged the trade benefits, to the US, which Hollywood has created through its exposure of America and its way of life through the medium of Film and TV. I quote from MEAA E-Bulletin November 03. "While US negotiators (for the FTA) seek to limit public support for Australian culture, legislators in Washington are re-designating moviemakers as manufacturers so they can cash in on multi billion dollar tax breaks. The strategy is revealed in Republican Bill Thomas' American Jobs Creation Act that experts say will cut corporate taxes by $60 billion over the next decade. Congress's joint tax committee estimates the industry will benefit by $597 million from its reassignment as manufacturing and another provision which slashes tax rates on studios exhibiting films overseas. One US report, last week, quoted a Government aide as saying 'ultimately the entertainment industry will keep more of the current (export subsidies and tax) benefits than any other exporting industry" Around 250 films are released into the Australian market each year, of which 70% are from the USA, 10% are Australian and the rest from the UK, Europe, Asia or elsewhere. Under the FTA, new media, which covers all media that has yet to be introduced in Australia or YET TO BE INVENTED, will only be able to be regulated in respect of interactive audio services and interactive video services and only after the Government has established that Australian content is unacceptably low on these media....AND only after there has been consultation with the USA. Where is there any trade benefit for Australia in the light of the above? Previously the biggest impediment to Australian Film and TV product being screened in the USA was the inability or unwillingness to deal with the Australian accent. Now, through the FTA the Government appears to have mandated a potential bonanza for the US industry whilst ensuring that new media is kept out of Australian hands. The Motion Picture Association of America must be very pleased.

Investment: With all the forgoing which suggests an eventual diminution of
Australian production, and a quarantined new media sector, where is there any incentive for Australian investment in the Australian Film and TV creative areas. Certainly it will be possible for Australians to invest in overseas creative entities, and, where it suits them, for the US creators to invest in Australia. There is already a significant raft of US production within Australia, but our attractiveness is dependent on the exchange rate and more particularly on our much sought after film crews (whose initial training and experience came mostly through content mandated TV and FFC type Government incentive) However where is there any ability to invest in the future if our industry and its development is so circumscribed by the FTA.

Social & Environmental Policies: As mentioned before, numerous Government
reports over the years have emphasized the interdependence of the Arts. A viable Film industry is nurtured by Television drama which has, because of regulation, managed to create work and expertise, managed to enhance the awareness of Australians about themselves and their stories, which has assisted in the development of greater theatre opportunities, which have encouraged Governments to invest in the development of Film and in the development of Film and Theatre Schools which have produced an ongoing stream of talented performers who should now have a future in the Arts because of ongoing Government commitment and support, thereby being able to reflect Australia to Australians, in all its and their diversity. To negotiate away the right and duty of a sovereign nation to legislate for the benefit of its citizens is irresponsible.

I urge you to consider the above and recommend that any legislative change vis a vis the FTA and the Arts be denied. Let us remove Arts and Culture from the FTA.

Yours faithfully

Peter J Stratford