SUBMISSION

BY

MEDIA ENTERTAINMENT AND ARTS ALLIANCE

TO

STANDING COMMITTEE ON COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARATS

INQUIRY INTO THE UPTAKE OF DIGITAL TELEVISION

MAY 2005

The Media Entertainment and Arts Alliance

The Media Entertainment and Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

Executive Summary

The Media Entertainment and Arts Alliance welcomes the opportunity to comment on the take-up of digital television in Australia.

For the past five years, the Alliance has called for a comprehensive review of broadcasting policy in Australia, agreeing with the Productivity Commission that without changes to the digital conversion framework the Government's digital agenda was likely to stall.

The current arrangements are not delivering digital take-up in a manner that would allow for shutdown of analogue for years.

The digital agenda legislation was predicated on a view that consumers would be attracted by enhanced picture and sound quality and that datacasting would allow a new platform for the delivery of information to audiences.

Clearly, consumers have not found these incentives sufficiently attractive. Consequently, a review of Australia's digital agenda is urgently needed.

The Alliance considers that, as has been the case in the United Kingdom, it will be the availability of a diversity of content on free-to-air digital television that will be the most effective driver of take-up.

To that end, the Alliance urges the removal of the current impediments to competition in the free-to-air television market, maintenance of current local content regulation to drive the creation of increased levels of new Australian programming attractive to Australian audiences and adequate resourcing of the national broadcasters to enable them to take the driving seat in the digital millennium.

In April 1998, the Federal Government introduced the Television Broadcasting Services (Digital Conversion) Bill 1998 and the Datacasting Charge (Imposition) Bill 1988 to the House of Representatives.

At the time, "the Minister for Communications, the Information Economy and the Arts, Senator Richard Alston, said the Bills set in place the policy framework for the conversion to digital of free-to-air terrestrial commercial and national broadcasters. 'Digital broadcasting provides a quantum leap in television technology. Viewers will have the option of viewing high definition pictures of startling clarity, and with DC quality surround sound,' Senator Alston said. 'But digital broadcasting offers much more than just better pictures and sound. It provides the capacity for the humble television set to become a central information point in every home. Viewers will no longer be limited to looking passively at a box in the corner of the house. Digital transmissions will enable a host of new information to be provided along with the main television programming."[1]

The Bills passed the Senate in July 1998. The main points of the policy were:

- Commercial and national free-to-air broadcasters (FTAs) to commence digital terrestrial television broadcasting (DTTB) in metropolitan areas by 1 January 2001 and in regional areas from that date onwards and to be in place by 1 January 2004.
- FTAs were loaned 7MHz of spectrum free of upfront charge to enable them to simulcast their existing service in analog and digital format for at least eight years – the period during which it was estimated Australians would have acquired digital televisions and at which time the analogue service switched off.
- In addition to the simulcast requirements, minimum levels of high definition television broadcasting (HDTV) were mandated.
- Unused loaned spectrum could be used for datacasting services (subject to an appropriate charge for spectrum use).
- Available spectrum not required by the FTAs for digital conversion was to be allocated on a competitive basis for datacasting services (with the FTAs barred from bidding for this spectrum).
- Commercial FTAs were able to provide enhancements directly related to programs simulcast on their analogue channel but barred from utilising their spectrum for multi-channelling or subscription services.
- The ABC and SBS were able to provided enhanced programming with a review scheduled for 2001 to determine the extent to which they might be allowed to multi-channel.
- Free access was guaranteed to the community television sector to the spectrum needed to broadcast one standard definition digital channel.
- The prohibition on new commercial FTA entrants was extended to 31 December 2006.

In 1999, the Federal Government commissioned the Productivity Commission to conduct the most comprehensive inquiry into broadcasting in Australia ever undertaken. Their report was delivered in March 2000.

The Commission's Report focussed in large part on the switch over to digital and the Government's digital broadcasting policy. The Report warned, "Without change to the framework for digital television, the conversion plan is at serious risk of failure."[2] It made a number of recommendations aimed at driving consumer take-up of digital television and freeing up access to spectrum. The Productivity Commission's Broadcasting Report concluded that the switch to digital television would be the most fundamental change in broadcasting since the introduction of television itself.

In April 2000, the Government released the Report and Senator Alston issued a press release saying the Government would "respond to the Commission's recommendations in due course."[3]

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[1] *Digital Broadcasting a step closer*, Media Release, Sen The Hon Richard Alston, Minister for Communications, the Information Economy and the Arts, Deputy Leader of the Government in the Senate, 8 April 1998, available online at www.dcita.gov.au/Article/0,,0_4-2_4008-4_12212,00.html.
[2] *Broadcasting Inquiry Report*, Productivity Commission, 3 March 2000, page 17.
[3] *Productivity commission report on broadcasting*, Ministerial press release, 11 April 2000, available online at www.dcita.gov.au/Article/0,,0_4-2_4008-4_14938,00.html

The Alliance is not aware that the Government has to date responded to the Commission's recommendations.

However, in June 2000, in a Ministerial press release entitled *Success Of Digital TV Will Rely On Consumer Choice*, Senator Alston said, "The Parliament has done its job by putting in place a comprehensive framework of legislation, the final piece of which passed last night ... Now it is up to the industry ... Digital TV and datacasting must appeal to consumers if it is to succeed – ordinary Australians must be given a compelling reason to buy a new television set or a new set top box ... Digital broadcasting offers tremendous opportunities to revolutionise the quantity and accessibility of information, by massively expanding the amount of information able to be carried on a TV signal. It offers the potential – if the industry provides the necessary impetus – to ensure that Australia is a nation where everyone is 'information rich'."[4] The same press release reiterated the restrictions put in place in the legislation covering the transition to digital – the prohibition on new commercial television licenses until the end of 2006, the prohibition on multichannelling by the commercial FTAs, the restrictions on multichannelling imposed on the national broadcasters, the tightly circumscribed definition of datacasting, the requirement to simulcast, the requirement to broadcast mandated levels of HDTV in addition to the simulcast requirement for standard definition television (SDTV) – the very restrictions that would serve to limit the growth and diversity of content available to audiences, the one thing demonstrated internationally that is most likely to drive take-up of digital.

By restricting competition, banning multichannelling by the commercial FTAs, by not funding the creation of content for the multichannels now allowed to the national broadcasters, by imposing genre restrictions on what the national broadcasters are able to broadcast on their multichannels and by too tightly defining datacasting, the industry has not had many tools available to them to use to drive digital take-up. In short, the digital agenda legislation has prevented the very competition that might have driven the desired take-up.

The Council of Australian Governments (CoAG) established the National Competition Council (NCC) to oversee the implementation of national competition policy. In 2003, the NCC, in its *Assessment of governments' progress in implementing the National Competition Policy and related reforms*, stated in relation to the restrictive nature of broadcasting regulations: "The Commonwealth Government has addressed neither the benefits and costs to the community from these restrictions nor whether its objectives in broadcasting could be achieved without these restrictions. The Council assesses the Commonwealth as having failed to meet its NCP obligations, because it did not consider the major restrictions of competition against the CAP clause 5 principle."[5]

In June 2004, DCITA launched the first of a series of reviews mandated by legislation that look at the matters set out in the digital conversion legislation. The matters are being reviewed individually rather than holistically, notwithstanding the 2000 Productivity Commission's Broadcasting Report which recommended:

"To ensure that the social and cultural objectives of broadcasting continue to be addressed in the future digital media environment, the Government should:

- commission an independent, public inquiry into Australian audiovisual industry and cultural policy, to be completed by 2004; and
- following this review, but prior to the final switch-off of analog services, implement a new framework of audiovisual industry and cultural policy."[6]

In a similar vein, the Australian Consumer and Competition Commission (ACCC) commented in 2003, in its report to Senator Alston, "Given the various interrelationships between the media regulations a

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[4] Success Of Digital TV Will Rely On Consumer Choice, Ministerial press release, 30 June 2000, available online at www.dcita.gov.au/Article/0,,0_4-2_4008-4_15093,00.html

[5] National Competition Council, *Assessment of governments' progress in implementing the National Competition Policy and related reforms: 2003 - Volume two: Legislation review and reform*, August 2003, p.11.7 available online at http://www.ncc.gov.au/pdf/AST5LR-012.pdf.

[6] *Broadcasting Inquiry Report*, Productivity Commission, 3 March 2000, Recommendation 11.4, page 422.

fundamental reconsideration of media regulation is required. That is, the media regulations cannot be examined in isolation and any reform needs to take place 'across-the-board'."[7]

One of the DCITA reviews is looking at matters relating to the end of the moratorium on the issuing of new commercial television broadcasting licences. However, the Government, in announcing the review in July 2004, "indicated that it intends to amend the current legislative arrangements which give the Australian Broadcasting Authority (ABA) the power to allocate new commercial television broadcasting licenses so that the power is vested in the Government." Consequently, the review "will therefore be conducted on the basis that the Government intends to amend legislation to provide that decisions regarding the allocation of new commercial television broadcasting licences will now rest with the government of the day. The review will examine how this decision should be implemented. It will focus on the process and the framework for making decisions, and will not address the question of whether or not a new licence should, in fact, be allocated."[8]

By contrast, in October 2004, the Productivity Commission released its *Discussion Draft: Review of National Competition Policy Reforms.* In respect of communications, it suggested, "Government policy should focus on facilitating the emergence of new and innovative ways to deliver more content and more choice to consumers. Removing the restrictions on competition ... would be a first step to achieving these aims. It would also help to facilitate the uptake of new technologies and ensure that these technologies are used in ways that maximise their potential."[9]

In its submission to the Productivity Commission's Review of National Competition Policy Arrangements, the NCC reported that the Australian Government has failed to meet its legislation review commitments in respect of communications.[10] The NCC submission continued: "The Australian Government is a party to the NCP and also disburses competition payments. While the Council assesses the Australian Government's progress in implementing the NCP program and reports publicly on its performance, the Australian Government does not receive NCP payments. This creates an inconsistency in how jurisdictions are treated when they fail to comply with their commitments. Apart from the opprobrium of being found not to comply, there are no incentive mechanisms operating on the Australian Government to progress reforms. Indeed, the Australian Government's relatively poor performance has been noted by the States and Territories subject to penalty recommendations. The PC could usefully look at how this might be addressed."[11]

So now, five years on from the release of the Productivity Commission's Broadcasting Report, nearly four and a half years since the commencement of digital terrestrial television broadcasting and a little over two and half years away from the proposed switch from analog to digital, the Productivity Commission's warnings are playing out as reality.

Wisely, the Parliament is now inquiring into and reporting on:

- The rollout process for digital television, including progress to date and future plans.
- Options for further encouraging consumer interest in the uptake of digital television.
- Technological issues relevant to the uptake of digital television.
- Future options.

Identifying that "fewer than 500,000 of Australia's 7.8 million households are currently receiving digital free-to-air TV signals" and noting that "Digital TV penetration in the Australian consumer market is around 5 per cent, while penetration in the United Kingdom is around 70 per cent," the discussion paper then identifies the key questions as being:

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[7] *Emerging market structure in the communications sector, A report to Senator Alston, Minister for Communications, Information Technology and the Arts*, ACCC, June 2003, page xvii.
[8] *Provision of Commercial Television Broadcasting Services After 31 December 2006, Issues Paper*, DCITA, July 2004, available online at www.dcita.gov.au.
[9] *Discussion Draft: Review of National Competition Policy Reforms,* Productivity Commission, October 2004, page 196, available online at www.pc.gov.au.
[10] Submission to the Productivity Commission's Review of National Competition Policy Arrangements, NCC, June 2004, page 15, *Discussion Draft: Review of National Competition Policy Reforms,* Productivity Commission, October 2004, page 194, both available online at www.pc.gov.au.
[11] Submission to the Productivity Commission's Review of National Competition Policy Arrangements, NCC, June 2004, page 39, available online at www.pc.gov.au.

- What are the key drivers for uptake of digital television?
- Has the retail sector embraced digital television technology?
- How can industry further facilitate the uptake of digital television?
- What role do digital television technical standards play and how can any problems be revisited?
- Can the local communications industry be more involved?

The Alliance considers that the first question is the salient one. The answer is, as commentators from the Productivity Commission to the ACCC have observed, that the digital agenda legislation needs to be reviewed and amended. The first step would be to remove restrictions to competition, the second would be to fund the national broadcasters to enable them to create new programming across all genres for their digital free-to-air channels and the third would be to regulate levels of Australian content on digital services to the extent allowable under the Australia United States Free Trade Agreement.

Australia is now years behind the United Kingdom in driving digital switchover, a point made in the Discussion Paper.

In its 2004 report to the Secretary of State, *Driving digital switchover*, the British regulator Ofcom reported, "[t]he growth of digital TV has been one of the UK's most significant commercial and technical achievements of recent times. Since its launch in 1998, digital TV has grown faster than almost any other electronic household good or service, and the UK is recognised as the global leader in digital TV adoption."[12]

The Ofcom Report went on to say, "Digital switchover has the potential to transform TV broadcasting, not least to create a more effective and well-functioning broadcasting market, it could open new avenues for the creative talents of the broadcasting industry; and it would provide the scope for new and exciting opportunities in broadcasting and in new communications technologies by freeing up a large amount of potentially valuable radio spectrum."[13]

The UK Government worked closely with its regulator, Ofcom, to drive digital switchover and in so doing the UK has become a world leader.

The Alliance is wary of making international comparisons given that broadcasting industries worldwide have dramatically divergent histories. However, given the success of the United Kingdom in particular it is worth considering what happened in that market. Information regarding digital take-up in the United States – where switchover may occur next year – is set out at Appendix A. Information regarding a number of Asia Pacific countries can be found at Appendix B and information about Berlin, the first region in the world to switch off its analogue signal in August 2003, is set out at Appendix C.

History of multichannel TV in the UK

1989	Sky Television launches UK satellite TV with a four channel service
1990	British Satellite Broadcasting (BSB) launches. Sky and BSB merge to form British Sky Broadcasting (BSkyB)
1992	BSkyB buys exclusive rights to live FA Premier League football coverage
1993	Sky launches multichannel pay TV packages
1997	Independent Television Commission licenses digital terrestrial TV multiplexes to Digital 3&4 and British Digital Broadcasting. The BBC is also allocated one multiplex

[12] *Driving digital switchover*: a report to the Secretary of State, Ofcom, 5 April 2004, page 3, available online at www.ofcom.org.au.
[13] *Driving digital switchover*: a report to the Secretary of State, Ofcom, 5 April 2004, page 3, available online at www.ofcom.org.au.

1998	[illegible]
1999	Sky and ONdigital begin to offer free set top boxes. NTL and Telewest launch digital cable TV services. Sky introduces interactive services. Secretary of State announces ambition to complete digital switchover and defines switchover targets.
2000	[illegible]
2001	BSkyB reaches five million digital subscribers and switches off its analogue service. ONdigital relaunched as ITV Digital. NTL and Telewest launch broadband internet services. Government launches Digital TV Action Plan.
2002	ITV Digital closes down. Freeview launched. New BBC digital TV and radio services begin broadcasting. NTL applies for Chapter 11 protection in the US; it later secures recapitalisation. Half of all UK viewers have multichannel TV.
2003	At the end of the year, half of all UK households have digital TV.

Source: *Driving Digital Switchover, A Report to the Secretary of State*, Ofcom, 5 April 2004, Section 3, Box 3.1, available online at www.ofcom.org.uk/research/dsoind/dso_report/.

One of the big lessons in the UK's experience has been that "In its original guise as a predominantly pay TV service, the digital terrestrial platform did not prove to be a success. The demise of ITV Digital in 2002 created an opportunity for a new digital proposition: a free-to-view digital terrestrial service which offered a limited range of channels for a one-off cost of less than a hundred pounds. This easily understood product, marketed under the Freeview brand, has succeeded in winning many customers who were not attracted by the subscription-based digital services."[14]

Launched in October 2002, by the end of 2003 Freeview accounted for 24% of digital homes, close to 3 million television homes. Twelve months later, by 31 December 2004, free-to-view digital households had risen to almost 5 million, comprising Freeview viewers and free-to-view digital satellite homes. The total number of homes using the latter was around 385,000 including viewers who were no longer Sky subscribers but still received public service channels through their set-top box.[15]

FREEVIEW is marketed by DTV Services Ltd which is a company run by its three shareholders the BBC, Crown Castle International and BSkyB.

DTV Services Ltd has been established to promote FREEVIEW by utilising the complementary skills and expertise of the BBC, Crown Castle International and BSkyB respectively.

Responsibility for the programmes shown on FREEVIEW however remains with the channels providing those programmes.

FREEVIEW[16]

The dramatic success of Freeview warrants further examination. According to Ofcom, a number of reasons account for Freeview's success.

"Before the launch of Freeview, the demand for greater choice without a monthly subscription had not been catered for by other multichannel services. Research conducted by the BBC has indicated that almost two-thirds of Freeview customers said the one-off payment and lack of contract was extremely important to them. Freeview has also attracted a different demographic from other digital TV

[14] Source: *Driving Digital Switchover, A Report to the Secretary of State*, Ofcom, 5 April 2004, Section 3.9, available online at www.ofcom.org.uk/research/dsoind/dso_report/.

[15] *Digital television UK household penetration reaches just under 60%*, Ofcom media release, 30 March 2005, available online at www.ofcom.org.uk.

[16] See Freeview online at ~~http://www.freeview.co.uk/aboutus/index.html~~.

platforms, including older people, who often report no desire to obtain digital TV ... The channels available through Freeview have gained viewers through higher investment, greater promotion and through more tie-ins with their analogue stablemates. For instance ITV2 increased its share of viewing from 1.1% of total viewing during 2002 to 1.5%. BBC3 (available on Freeview) meanwhile enjoyed a 50 per cent increase in its viewing share compared with its predecessor, BBC Choice. Part of BBC3's increase in audience was driven by a large increase in its budget."[17]

Falling costs for digital set-top boxes, increasing numbers of channels available on Freeview, heavy promotion, availability of Freeview products from a range of retailers, including supermarkets, and significant investment in the creation and production of new British content are considered by Ofcom to have assisted its take-up.

While BSkyB drove early take-up of digital services, it was Freeview that accelerated the process. In April 2004, Ofcom projected "digital take-up to continue to grow strongly over the next two years. Thereafter, its growth is likely to slow. Ofcom's projections suggest that digital take-up will level off at around 80 percent of households. The market alone will not deliver switchover."[18] The regulator suggested that a firm switchover date was needed to drive future strategy.

On 9 March 2005, Ofcom CEO, Stephen Carter, announced that digital terrestrial television in the UK is "now a very viable platform. But, as regards full coverage, and thus switchover, that is both a political and an operational question." He suggested that "The politics are rightly for Ministers" and operational questions matters for the regulator and went on to say "Ofcom would benefit from certainty on the basis on which it must negotiate internationally and release of spectrum. Consumers need certainty about how long their capital purchases are valid for. The industry needs certainty over where to invest: analogue or digital. In short, all waits on the politicians to fire the go button. But thereafter it must be delivered effectively. That means an independent organisation: Switchco, not a Whitehall Committee."[19]

The Labour Party General Election Manifesto for 2005 pledged that UK digital switchover will be achieved between 2008 and 2012 in the following terms: "We will achieve digital switchover between 2008 and 2012 ensuring access to high-quality free-to-view and subscription digital TV. This will happen region by region, and we will make sure that the interests of elderly people and other vulnerable groups are protected."[20]

In the meantime, the BBC continues to commit to further boosting its digital television and online content strategies. "Digital channel BBC Three will 'explore ambitious, innovative ways for viewers to access BBC Three content, not only via different approaches to television, but also via broadband PC and mobile handheld devices' ... Twenty per cent of BBC Three's content will have an interactive television element. BBC Four meanwhile will 'create impact by commissioning high-profile and distinctive landmark series which will build on the channel's reputation as a "place to think"'"[21]

Over recent months the BBC's Director-General, Mark Thompson, has outlined his vision for the BBC's future promising that investment will be focussed on content that marks the BBC as distinctive and delivers maximum public value. "This year marks the beginning. We will increase our overall programme spend by £61m and, of this, £21m will be invested in BBC Television."[22]

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[17] Source: *Driving Digital Switchover, A Report to the Secretary of State*, Ofcom, 5 April 2004, Section 3.12, available online at www.ofcom.org.uk/research/dsoind/dso_report/.
[18] *Driving Digital Switchover, A report to the Secretary of State*, Ofcom, 5 April 2004, available online at www.ofcom.org.uk.
[19] *Digital Britain: FT Broadcasting and New Media Conference*, Stephen Carter, CEO, Ofcom, 9 March 2005, available online at www.ofcom.org.uk.
[20] *The Labour Party Manifesto 2005 – Britain forward not back*, Chapter 8, available online at http://www.labour.org.uk/manifesto.
[21] *BBC boosts DTV and online strategies*, DTG News, 20 April 2005, available online at www.dtg.org.uk.
[22] *BBC Statements demonstrate focus on delivery,* 19 April 2005, see online at http://www.bbc.co.uk/pressoffice/pressreleases/stories/2005/04_april/19/statements.shtml

Notwithstanding Ofcom's views that the Government now must make definitive determinations about switchoff and projections that industry will not be able to drive total take-up, the BBC remains determined to "ensure that BBC management drives the market for free-to-air digital television, digital radio and new media."[23]

Thus the strategy in the UK has been strongly linked to offering audiences more free-to-air content and services whereas in Australia the policy underpinning digital take-up has relied on audiences being attracted by better picture and sound quality.

Given that Australians have long been known as very fast adopters of new technologies, the fact that take-up of digital services has been slow indicates that what is on offer – enhanced picture and sound quality – is nowhere near sufficiently attractive to drive the decision to acquire a set-top box.

It is unlikely that subscription television will be able to drive take-up to levels necessary to enable analogue switch-off. After a decade, Foxtel has yet to turn a profit. However, Foxtel Chief Executive Kim Williams says, "We remain on track to reach cash-flow break-even before 30 June 2006. Subscriber growth is strong and will be reinforced by our recent agreement for Optus to sell Foxtel Digital [and] churn continues at historically low levels."[24] In April Optus announced it will spend A$30 million replacing analogue set-top boxes with digital devices, flagging the possibility that subscription platforms will turn off analogue in the near future.[25] Nonetheless, despite Foxtel now having one million residential subscribers, it is "expected to find it harder to attract new customers amid a slowing economy and higher prices."[26]

However, as the ABC's Managing Director Russell Balding has pointed out, "If the ABC is allowed to broadcast a full range of programmes, such as news, drama, comedy, on digital multi-channels, it would encourage more people to make an investment in digital television." Balding points out that while there has been increased take-up of digital pay services from service providers such as Foxtel and Austar, this "does not benefit the millions of consumers who have not and may never subscribe. What we need is real incentives for people to buy digital set-top boxes so they can enjoy the benefits of free-to-air digital television," adding that the ABC's ability to offer incentives was "extremely limited with the current genre restrictions."[27] Obviously, if the current genre restrictions were lifted, the ABC would also need to be adequately funded to enable the creation of new Australian content. There is no reason to believe that SBS would be any different, the current impediments being genre restrictions and the need for increased funding to create content.

In the interim, Channel 9 has blamed a lack of viewers for its decision in April this year to axe Australia's only digital interactive service on free-to-air television. Nine Sports Active was offering football player statistics and match highlights to viewers in Brisbane and Sydney on Friday evenings.[28] It appears that such program enhancements are not sufficient to attract viewers to switch to digital. However, with current constraints on what the commercial FTAs are able to offer, there is little they can offer by way of real content options.

Many of the current restrictions in place are the result of a mix of concessions made to the commercial FTAs and to the subscription services. For the former, the major concession was a moratorium on new free-to-air services, effectively a protection from competition, and for the latter it was a bar on the commercial FTAs being able to multichannel, again a protection from competition.

While the current regulatory framework may serve the incumbent commercial FTAs well, it is questionable whether the framework developed for the 20th century is serving the Australian public or

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[23] *Board of Governors: 2005/2006 Objectives*, 19 April 05, see online at bbc.co.uk.
[24] *Foxtel creeps towards profit*, James Chessel, *Sydney Morning Herald*, 6 May 2005.
[25] Source: *Optus to offer Foxtel's DTV service*, DTG News, 12 April 2005, available online at www.dtg.org.uk.
[26] *Foxtel creeps towards profit*, James Chessel, *Sydney Morning Herald*, 6 May 2005.
[27] *Australian Broadcasting Corp calls for free DTV*, DTG News, 16 August 2004, available online at www.dtg.org.uk.
[28] *Nine cancels digital interactive service*, DTG News, 25 April 2005, available online at www.dtg.org.uk.

the Australian audio-visual industry as it should in the 21st century. It certainly does not appear to be delivering the Government's digital expectations.

Last year, the ACCC observed that "an ABN AMRO report on the media sector released in July 2002 [*FTA Television: Time to Face the FACTS*] noted that the operating margins of Australia's major FTA television companies (at an average of 28 per cent) were amongst the highest in the world (global average of 18 per cent). The report commented that this was the result of the benefits provided by the current regulatory structure of the Australian FTA industry."[29] Thus far, the commercial FTAs have argued for on-going protection because any fracturing of the advertising base would be disastrous for their viability and in particular for Australian drama content. However, in the face of such solid financial performance it is difficult to accept that some further level of competition would have repercussions as adverse as those claimed.

Whilst predicting the future is difficult at the best of times, it seems unlikely that the advertising pie is going to do anything other than grow. Certainly, the advent of technologies like digital video recorders capable of time-shifting programs and putting the decision to watch commercials in the hands of viewers are posing challenges to media reliant on advertising. However, it is worth noting that Foxtel launched the first interactive television advertisements in Australia in April this year[30] and this month, online advertising spending world-wide is reported to have reached an all-time high with revenues totalling $9.6 billion for 2004, a 33% increase from $7.3 billion in 2003. Greg Stuart, President and Chief Executive of the Interactive Advertising Bureau, who commissioned PricewaterhouseCoopers to conduct a report into interactive advertising last year, commented, "Interactive advertising has clearly become a mainstream medium and one that can no longer be ignored as a critical piece of any marketing mix."[31]

In 2000 Broadcasting Report, the Productivity Commission found that achieving "a more competitive and contestable broadcasting industry requires not just that spectrum be made available, but that new players be able to obtain it to provide services."[32] It found that the prohibition on new television services until the end of 2006 restricted competition and should be removed. Rejecting the networks' arguments that restricted entry was justified, the Commission commented, "The industry has long justified restricted entry on the grounds that it is necessary to enable it to meet the higher costs of local content programming required for cultural policy purposes. The Commission is not satisfied that such compensation is justified; many industries incur higher costs in meeting government policy objectives, from health (pharmaceuticals) to environmental standards."[33]

The Productivity Commission also found that concentration in media can provide incumbents with market power that "may allow them to raise prices above competitive levels (for example for cover prices, advertising rates or subscription services), or to be less sensitive to consumer demands ... may also give incumbents power over related markets ...[and] may also limit the range of ideas and information available to the community."[34]

The Australian Competition and Consumer Commission (ACCC) reached similar conclusions in its June 2003 *Report to Senator Alston, Minister for Communications, Information Technology and the Arts, on Emerging Market Structures in the Communications Sector* (ACCC Report), finding that the entry of new services would increase competition, foster innovation and efficiency and lead to increased program diversity and choice for consumers.[35]

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[29] ACCC Submission to DCITA, *Provision of services other than simulcasting by Free-to-air broadcasters on digital spectrum*, 23 August 2004, page 11, available online at www.dcita.gov.au.
[30] *Foxtel to air Australia's first iTV ads*, DTV News, 22 April 2005, available online at www.dtg.org.uk.
[31] *Online ad spending at record high*, Sydney Morning Herald, 5 May 2005, available online at www.smh.com.au.
[32] *Broadcasting*, Productivity Commission, March 2000, page 21.
[33] Ibid.
[34] Ibid.
[35] *Report to Senator Alston, Minister for Communications, Information Technology and the Arts, on Emerging Market Structures in the Communications Sector*, ACCC, June 2003, Section 5, available online at www.dcita.gov.au.

As noted above, the incumbent broadcasters have argued that the introduction of a fourth network would adversely impact on levels of Australian content on television. Responding to the ACCC Report, the Nine Network and Network Ten argued that "Fragmentation of the mass free-to-air audience will inevitably lead to a decline in quality across free-to-air channels, including the primary service of each broadcaster" and went on to say that "Experience in the U.S. and the U.K. indicates that new free-to-air channels will not lead to an increase in free-to-air advertising revenue to offset their cost."[36]

Others think differently. John Singleton and his Macquarie Media consortium indicated in 2004 they would be willing to bid for a free-to-air licence and had modelling to demonstrate it could sustain 100% Australian content providing that such levels of content were made a condition precedent to the acquisition of the licence.

Media commentators have been almost brutal in demolishing the arguments of the incumbent networks. Dr Terry Flew, Head of Media and Communications in the Creative Industries Faculty at the Queensland University of Technology, did not mince words when he concluded in July last year that "In every sense other than the calculus of political advantage from supportive media mates, the decision to go ahead with a fourth commercial free-to-air television licence should be a no-brainer."[37]

Those in favour of enabling new entrants argue that the commercial television advertising pie is not fixed and that comparisons with the United Kingdom and the United States are flawed in part because the markets in the three countries vary dramatically one from the other.

The Alliance is naturally most concerned that allowing new entrants not result in the outcomes warned of by the networks.

However, the Alliance is of the view that, providing transmission quotas for Australian content remain in place in existing media, apply with equal force to new entrants, and are introduced in new media to the extent allowable under the terms of the Australia United States Free Trade Agreement, the evidence in the Australian market indicates that the advertising pie for television is not fixed. See Appendix D for further comment on growth in free-to-air broadcasting advertising revenue.

Finally, the enhanced capacity for delivery of content and hence creation of content that freeing up spectrum will allow could, if appropriately regulated and supported, help drive a new era of Australian-created intellectual property. If the aggressive government policies being deployed in the UK in respect of their national broadcaster were adopted in Australia, this country could position itself to be a program provider rather than predominantly a program consumer. The British television production industry is securing a central place for itself internationally using the switch to digital and the demand for increased content as the driver. At present, Australian content makers are unable to emulate their progress. The BBC, with additional funding, has been able to use the digital agenda in the UK to build on its already established reputation by dramatically increasing its library of intellectual property, positioning itself internationally and creating a catalogue that will reap financial dividends for decades to come.

The Alliance commends to the Committee the many recommendations of the ACCC, the Productivity Commission and others that a comprehensive review of broadcasting policy be conducted as a matter of urgency in order that the possibilities that digital conversation offer can be realised in Australia.

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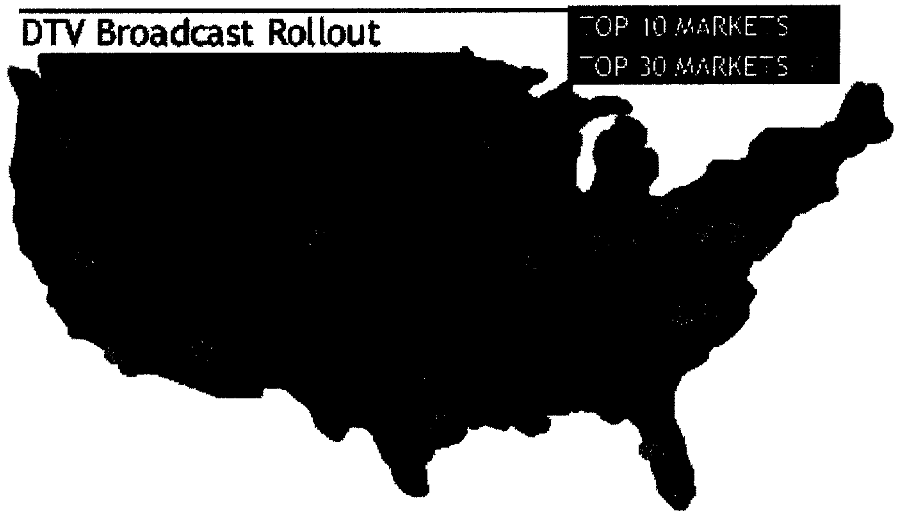
[36] *Comments to the DCITA in relation to the Australian Competition and Consumer Commission report to Senator Alston, Minister for Communications, Information Technology and the Arts on Emerging Market Structures in the Communications Sector*, Nine Network Australia Pty Ltd and Network Ten Pty Ltd, July 2003.
[37] *A fourth commercial free-to-air TV network? Should be a no-brainer.* Dr Terry Flew, On Line Opinion, posted 2 July 2004, available online at www.

APPENDIX A

UNITED STATES OF AMERICA – DIGITAL BROADCAST TIMELINE

Digital Broadcast Timeline

April, 1997
FCC gives broadcasters $70 billion worth of spectrum to broadcast digital alongside analog until 2006. FCC also mandates that in 2006 all broadcasts must be fully digital.
November, 1998
PBS, ABC, NBC, CBS, and Fox are committed to broadcasting digitally in the top ten U.S. markets (30% of viewers) by Nov. 1.
May, 1999
Broadcasters must have digital stations in top 30 U.S. markets (50% of viewers).
2006
Broadcasters must relinquish extra broadcast spectrum and broadcast only digital.



Source: PBS, available online at http://www.pbs.org/opb/crashcourse/hdtv/timeline.html.

Legislation in the United States provides for digital switchover to occur in 2006 but includes a proviso that switchover cannot occur until more than 85% of households have digital receivers. However, in February 2005, Texas Republican Jo Barton, Chair of the House Energy and Commerce Committee hinted that this provision might be scrapped and in April this year told the National Association of Broadcasters' convention that a bill he proposed introducing would have "a hard date and that hard date could be December 31, 2006."[38] At the same convention LG Electronics "predicted more digital sets would be sold this year in the US than analogue sets."[39]

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[38] *Barton bill to speed US switchover*, DGT News, 20 April 2005, available online at www.dtg.org.uk.
[39] *Barton bill to speed US switchover*, DGT News, 20 April 2005, available online at www.dtg.org.uk

APPENDIX B

ASIA PAC MARKET
Trends in Digitalisation

Market	Legislation	Launch	Conversion
China	2000	2003	2015
Hong Kong	2000, 2004	2001	2012
Japan	1998	2011	2011
Korea	2000	2010	2010
Taiwan	1998	2002	2008

"China

"The first digital service was launched in September 2004 by China Central Television (CCTV) and Shanghai Interactive Television introduced a second digital service in January 2005. The State Administration of Radio, Film and Television (SARFT) is aggressively pushing the market and has set huge targets for the Beijing Summer Olympics. Full digital conversion is targeted for 2015. It arranged for banks to provide cable operators with low interest loans to subsidize set-top boxes and is offering free set-top boxes to subscribers to accelerate the transition and boost the subscription market.

"The first DTH [digital to home] transmission is now scheduled for the first half of 2006, having been pushed back from 2005. The new services is [sic] expected to pick up rapid speed as many homes will have access to multichannel television for the first time.

"Taiwan

"In November 1997, the National Information Infrastructure (NII) under the Executive Yuan unveiled its timetable and plans for digitalization of the Taiwan broadcasting industry. The plan dictates that digital migration will be complete by January 2008. Since digital cable and terrestrial penetration are low, the Government Information Office (GIO) also decided, in January 2004, to award a digital cable TV licence to telecom giant CHT to enable it to launch digital service in Taipei City and Northern Taiwan. As it is a cable TV licensee, the CHT service is also regulated by many of the restrictions that impact the cable MSO business. Due to low digital TV penetration, the GIO has been asked by the Executive Yuan to draft new laws by 2005 to boost the island's digitalization plan.

"South Korea

"The Korean government is committed to building a national infrastructure by digitizing broadcasting-related networks as well as information- and communications-related networks. In terms of broadcast-related networks, the government plans to complete digital transition by 2010. For the cable TV industry, the government has urged service providers to take the initiative in converting to digital broadcasting technologies, as is the case in other countries. The government has looked for the cable industry to transition at least 6 million – 9 million subscribers to digtal by 2008, implying a 50%-70% conversion rate, based on Korea's existing analogue subscriber base."

"Japan

"In 1988, the Ministry of Internal Affairs & Communications (MIC) issues its timeframe and plan for national digitalization by 2010. With the market having begun digital communication satellite (CS) in 1996 and digital broadcast satellite (BS) services plus digital cable trials in 2000, the MC focused on digital terrestrial with the emphasis on full digitalization of terrestrial by 2011, including reception of digital terrestrial over cable systems. The criteria for switching analog off has been set as equivalent coverage to analog; and 85% take up rate, including reception over cable TV systems. The aim is to achieve this by 2010 and progress will be reviewed area by area every three years."

"Hong Kong

"The government has directed terrestrial broadcasters TVB and ATV to begin simulcast broadcasting of both analog and digital TV (HDTV) in 2007 at the latest, and extend the coverage of their digital networks to 75% of Hong Kong by 2008.

"The government plans to switch off analog broadcasting five years (2012) after the commencement of simulcast, although it states that this is 'subject to further market and technical studies.' The government is indirectly paying for digital transmission upgrade by abolishing the 10% royalty on terrestrial TV advertising revenues it collected until 2003."

Source: *The Indian Entertainment Industry – An Unfolding Opportunity*, PriceWaterhouseCoopers, commissioned by the Federation of Indian Chambers of Commerce and Industry, March 2005, pages 49 and 50.

APPENDIX C

Digital switchover in Berlin

"The timescale

Berlin-Brandenburg became the first region in the world to switch off its analogue signal in August 2003. Switchover was first announced in February 2002 and the public communication campaign started in October 2002.

"The consumer experience

No televisions went blank because analogue services were gradually phased out between February and August 2003. The phasing allowed the digital signals to be introduced before the last analogue frequencies were switched off.

Effective communication was of central importance: letters were sent to every household ahead of switchover and broadcasters showed on-screen reminders. The campaign worked in persuading consumers of the desirability of change, and most incurred the extra expenditure willingly. Limited subsidies were given to those on some state benefits. The total number of available TV channels was eventually expanded from eight to 30.

Switchover was marketed as a way of receiving more channels at a lower price. The implicit comparison was with cable television, where a monthly charge of around €15 (EUR) gave access to only slightly more channels than the new digital terrestrial platform.

"The scale of the task

About 150,000 households (six per cent of all households in Berlin) relied on analogue terrestrial television prior to switchover. Another 90,000 homes were dependent on terrestrial reception for secondary TV sets.

"Important policy decisions

The regulator provided incentives for commercial broadcasters, which had little commercial interest in investing in switchover due to the relatively small number of households which depended on terrestrial TV. The state Government offered certain terrestrial households on means-tested social security benefits a voucher which could be exchanged for a specified model of digital converter.

"Costs

The costs of running the switchover process were allocated as follows:

- Marketing (~€1m(EUR))
- Box subsidies (~€0.5m (EUR))
- Transmission cost subsidies (up to ~€ 0.7m (EUR) a year for 7 years)

"Lessons learned

- The importance of gradual switchover so screens did not go blank overnight.
- TV advertising was the most effective communication channel.
- By giving only a few months' notice before the start of switchover, the costs of the communication and support were kept to a minimum.
- It was, however, vital that the trade was well prepared with adequate stocks of the receivers.
- More support for the elderly might have reduced the number of follow-up calls.
- The relatively small fraction of households dependent on analogue terrestrial transmissions helped limit the scale of the switchover process."

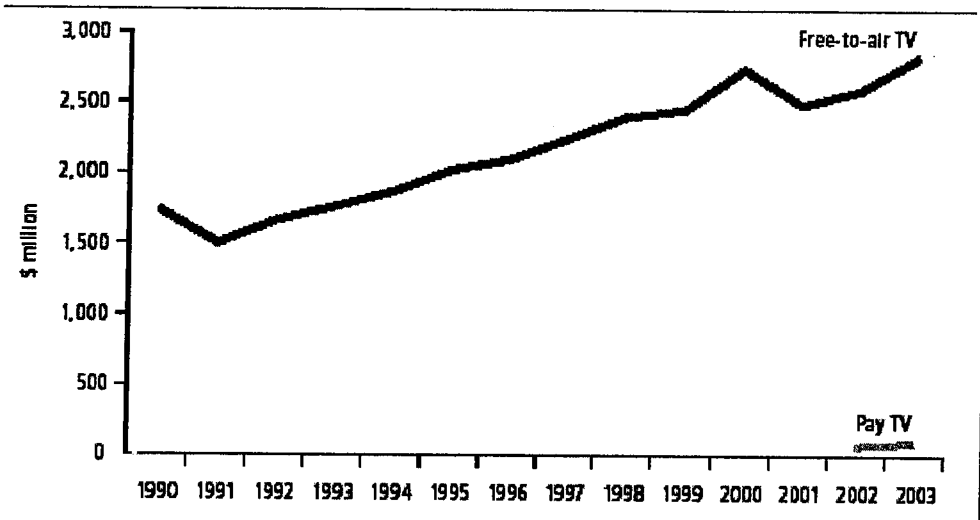
Source: *Driving Digital Switchover, A Report to the Secretary of State*, Ofcom, 5 April 2004, Section 2, Box 2.2, available online at www.ofcom.org.uk/research/dsoind/dso_report/.

APPENDIX D

Growth in advertising expenditure

Free-to-air commercial television accounted for more than 35% of all advertising during the calendar year 2003, second only to newspapers. Free-to-air commercial television is also the preferred medium for national advertisers, accounting for 53% of national advertising. As can be seen from the table below, advertising revenue has, overall, been steadily climbing since 1991. Figures for advertising on pay television have only been available since 2002.

Advertising revenue – free-to-air commercial broadcasting

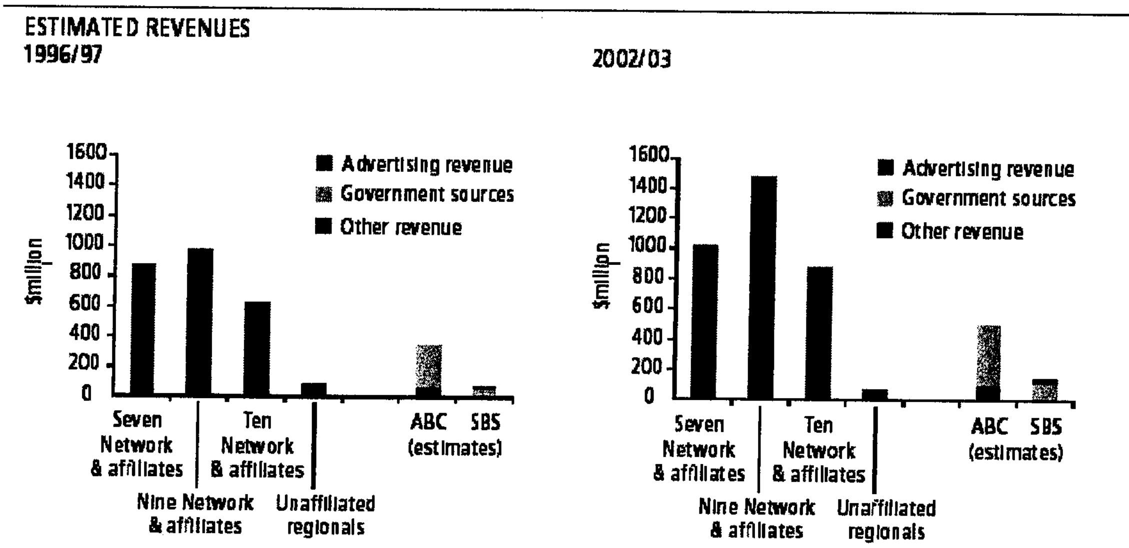


Source: Commercial Economic Advisory Service of Australia (CEASA)

Source: *Australia's Audiovisual Markets*, Australian Film Commission, page 48.

Advertising revenue has been growing for all three networks.

Estimated Revenues for free-to-air broadcasters: 1996/7 and 2002/3



Source: Australian Broadcasting Authority, Australian Broadcasting Corporation, Special Broadcasting Service Corporation, Global Media Analysis estimates

Note: For ABS and SBS, revenue is for television operations only.

Source: *Australia's Audiovisual Markets*, Australian Film Commission, page 47.

Advertising Revenue: 2002/2003

Metropolitan markets (5 markets and 15 stations)	
Sydney	820
Melbourne	669
Brisbane	364
Perth	235
Adelaide	180
Total metropolitan	*2,268*
Aggregated regional markets (5 markets and 14 stations	
Northern NSW	150
Queensland	136
Southern NSW	124
Victoria	119
Tasmania	46
Total aggregated regional	*575*
Other regional markets (14 markets and 19 stations)	
Total other regional	*91*
[illegible]	[illegible]

Source: Australian Broadcasting Authority, ACNielsen & ATR Australia

Source: *Australia's Audiovisual Markets*, Australian Film Commission, 2004, page 46.

The upward trend in advertising revenue looks set to continue. On 10 August 2004, Free TV Australia, the organisation that represents the commercial free-to-air broadcasters, released the figures for advertising revenue for commercial networks for the first six months of 2004. With total revenues of $1.54 billion for the six months, the networks were on target to achieve an annual total in excess of $3 billion for the calendar year 2004.

Free TV Australia announces January – June 2004 advertising revenue for commercial television networks

Category	Gross Advertising Revenue	% Change
Metropolitan Service		
Sydney	*433,920,996*	12.77%
Melbourne	*349,833,412*	12.25%
Brisbane	*196,369,902*	16.35%
Adelaide	*96,717,069*	11.17%
Perth	*123,086,451*	12.07%
TOTAL	***1,199,927,830***	12.98%
Regional Service		
New South Wales	*149,729,957*	11.40%
Victoria	*51,568,747*	12.93%
Queensland	*78,282,991*	16.18%
South Australia	*13,478,227*	13.10%
West Australia	*17,576,137*	9.79%
Northern Territory/ Tasmania	*29,663,274*	10.21%
TOTAL	***340,299,333***	12.57%
STATE/TERRITORY Metro + Regional		
New South Wales	583,650,953	12.41%
Victoria	401,402,159	12.34%
Queensland	274,652,893	16.31%
South Australia	110,195,296	11.40%
West Australia	140,662,588	11.78%
Northern Territory/ Tasmania	29,663,274	10.21%
TOTAL	**1,540,227,163**	12.89%
Networks (Five Capital Cities)		
Seven	29.9%	
Nine	40.1%	
Ten	30.0%	
TOTAL	**100.0%**	

NOTE:
- The % change is when compared to the six months ended 30 June 2003

Free TV Australia Limited

In May 2003, Commercial Television Australia (CTVA) as it was then (now Free TV Australia) released statistics demonstrating that "the valuable AB demographic watching free-to-air (FTA) television in Australia [had] increased dramatically over recent years".[40] CTVA found that that the average number of ABs watching prime time free-to-air television was 657,000 during the first eight weeks of the 2003 ratings period, an increase of eight percent on the previous year and an increase of 42% on figures for 1996 while subscription television experienced a decline in this demographic during

[40] *Free-to-air Television Prompts ABs to Buy Up*, CTVA media release, 14 May 2003, available online at www.ctva.com.au.

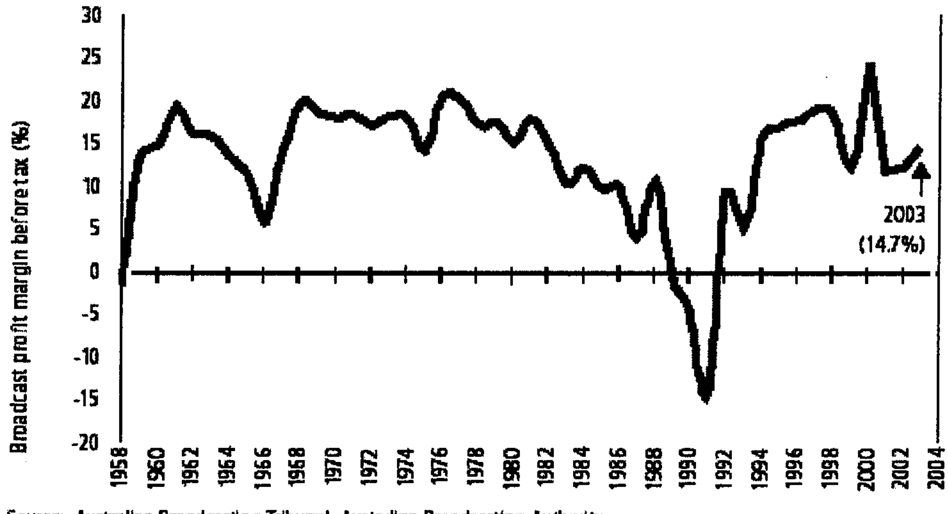
prime time. Commenting on the findings, Tony Hercok, CTVA Director of Marketing, said, "The figures indicate that FTA continues to be the must-have media for advertisers wanting to communicate with consumers in this key demographic."[41]

> "Advertisers obviously want people to see their products, using FTA television to target people with high-disposable incomes must be a key part of their marketing strategy ...
>
> "On average, nearly 4.5 million people watched prime time FTA television in the early ratings weeks this year ... No other communication medium comes anywhere near that in reaching deep into the Australian consciousness."
>
> Tony Hercok, Director of Marketing, Commercial Television Australia[42]

While advertising revenue continues to increase, profits also remain robust for the commercial networks.

Save for three hick-ups, the history of the commercial free-to-air networks shows almost continuous comfortable profit margins. The first hick-up came with the introduction of mandated transmission quotas for local content followed by the launch of Channel 10 in 1965, after which profits recovered and levelled out nicely until the ownership changes that occurred between the mid 1980s and early 1990s. Following record profits in 2000, profits were down in 2001 and 2002 – due to an unexpected short-term downturn in advertising[43], caused by some uncertainty about long-established industry models in a convergent global media environment[44]. However, as is the case worldwide, the sector is now booming again.[45]

The only time the networks have not been in profit was during the short period in the late 1980s and early 1990s when ownership of the networks changed hands. Otherwise, profit levels achieved in commercial broadcast television regularly outstrip other industries.



Source: Australian Broadcasting Tribunal, Australian Broadcasting Authority
Notes: Broadcast profit is earnings before interest and tax (EBIT) less interest expense.

Source: *Australia's Audiovisual Markets*, Australian Film Commission, 2004, page 48.

Whilst the entry of a new player to the commercial FTA arena will obviously mean that four rather than three networks will be in competition for advertising revenue, it is far from certain that the total expenditure on advertising will stay fixed. More likely, and given the overall trend for advertising

[41] *Free-to-air Television Prompts ABs to Buy Up*, CTVA media release, 14 May 2003, available online at www.ctva.com.au.
[42] Ibid.
[43] *Australia's Audiovisual Markets*, Australian Film Commission, 2004, page 48.
[44] *A fourth commercial free-to-air TV network? Should be a no-brainer.* Dr Terry Flew, On Line Opinion, posted 2 July 2004, available online at www.onlineopinion.com.au.
[45] Ibid.

expenditure on television to increase, a new player will provide more advertisers with the opportunity to take their products to a national audience. As the trend for older Australians to consume more television than younger Australians and with the viewing time of the AB demographic seemingly on the rise, television is likely to become an even more attractive prospect for advertisers.

In 2002, FACTS (later to become CTVA and more recently Free TV Australia) announced the results of a Whirthlin benchmark study of advertising decision makers. Julie Flynn, the Chief Executive Officer, said the study found that advertisers agreed "that free-to-air television is the best way to build brands, deliver a message, communicate with young people and that it will continue to be the strongest medium in 10 years time. The study supports the view that to sell product, advertisers must employ FTA television as their lead communications medium – no matter what the advertising environment."[46] The same FACTS media release commented on another Whirthlin study of consumers that found "93% of respondents agree it is easy to skim over ads in newspapers, while 66% of people find Internet pop-up ads annoying and 60% say they are not as likely to take messages in from radio as they are with television. These results prove advertisers maintain support for FTA television and that their confidence is justified."[47]

If new entrants were to target sections of the population not currently adequately catered for by the incumbents, it is likely that new advertisers might enter the market.

It is possible that were a new player to enter the market profit levels might drop in the short term. However unpalatable that might be to the incumbents, given that "the current oligopoly generates surplus profits to the incumbent broadcasters in the range of $600 million to $1billion annually"[48], it is unlikely that a short term drop in profitability would result in the immediate demise of any of the incumbents or necessitate any erosion of levels of quality Australian content.

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[46] *Advertisers support FTA campaign*, FACTS media release, 26 August 2002, available online at www.ctva.com.au.

[47] Ibid.

[48] *A fourth commercial free-to-air TV network? Should be a no-brainer.* Dr Terry Flew, On Line Opinion, posted 2 July 2004, available online at www.onlineopinion.com.au.