



AUSTRALIAN BROADCASTING TRIBUNAL

***Report on
Activities***

***1 July 1992 to
4 October 1992***



AUSTRALIAN BROADCASTING TRIBUNAL

**REPORT ON ACTIVITIES
FOR PERIOD
1-7-92 TO 4-10-92**

Australian Broadcasting Authority

Sydney

1993

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The Honourable, the Minister for Transport and Communications

The *Broadcasting Act 1942* was repealed with effect from 5 October 1992. This report covers the period from 1 July 1992 to 4 October 1992.

In accordance with the general principle that Government agencies should be visible and accountable, I present the completed report.



P. Webb

Former Acting Chairman

22 June 1993

CHAPTER 1

MEMBERSHIP OF THE TRIBUNAL

The membership of the Tribunal at 4 October 1992 was as follows:

Peter Webb
(Acting Chairman)

Appointed from 11 May 1992 for a five year period, or until the Tribunal is abolished by an Act of Parliament, Mr Webb has held several positions in the New South Wales Attorney-General's Department. He was Deputy Secretary/Deputy Director-General between 1985 and 1991 and Director-General of the New South Wales Courts Services from 1989 to 1991. Mr Webb was a member of the New South Wales Legal Aid Commission from 1983 to 1991 and of the Law Foundation of New South Wales between 1982 and 1985. He was also a member of the Board of the Australian Commercial Disputes Centre between 1986 and 1992. He is legally qualified.

Under the provisions of the *Broadcasting Act 1942*, Mr Webb assumed the position of Acting Chairman from 1 July 1992 to 4 October 1992.

Kim Wilson

Appointed from 1 December 1987 for a period of five years, Mr Wilson previously practised as a lawyer in NSW and in Papua New Guinea. He was legal adviser to the leader of the Northern Territory Opposition, senior private secretary to the Federal Minister for Aboriginal Affairs and a judge of the Supreme Court and National Court of Papua New Guinea. He has been an Associate Commissioner of the Trade Practices Commission since September 1991 and a member of the Council of the National Film and Sound Archive since 1990.

Bruce Allen M.J.

Appointed from 21 April 1988 for a period of five years, Mr Allen was formerly a television producer with the ABC, the BBC and more recently with the Canadian Broadcasting Corporation. He has been a policy and program analyst and a consultant to the public and private sectors, including the Canadian Department of Communications in Ottawa. He was a foundation director of Television Australia Satellite Systems Limited; a course director at the Australian Film, Television and Radio School; has taught the theory and practice of television production at Macquarie University and lectured in communications at Ottawa University.

Suzanne Brooks B.Ec.

Appointed from 1 August 1988 for a period of five years, Ms Brooks was formerly Head of the Office of Status of Women in the Department of the Prime Minister and Cabinet. In the mid 1980s she worked in money market activities and was a financial adviser to the Victorian Government. She is currently undertaking a Master of Law degree.

Tim O'Keefe B.Com.(UNSW), ACA

Mr O'Keefe was appointed to the Tribunal in July 1990 for a period of five years. He has had ten years experience in the broadcasting industry and before joining the Tribunal was Chief Executive of Wesgo Ltd and Chairman of all that listed company's licensee subsidiaries. He has also held corporate development and financial management positions with Wesgo, AWA Radio Network and 2DAY FM Ltd and has served on the Federal Council of the Federation of Australian Radio Broadcasters.

CHAPTER 2

REPORT ON THE TRIBUNAL

This is the final report of the Australian Broadcasting Tribunal and covers the period 1 July 1992 to 4 October 1992.

The Tribunal was established on 1 January 1977 and assumed the powers and functions of the Australian Broadcasting Control Board and continued until 4 October 1992 when the *Broadcasting Act 1942* was repealed by the *Broadcasting Services (Transitional Provisions and Consequential Amendments Act 1992)*. On 5 October the *Broadcasting Services Act 1992* came into effect.

The first job of the Tribunal in 1977, given to it by the government, was to conduct a public inquiry into the community's wishes regarding broadcasting standards, or self-regulation for broadcasters. The Tribunal recommended a measure of self-regulation and defined self-regulation as:

a system of participatory regulation under which broadcasters, through their industry bodies, would develop advertising and program codes which would be endorsed by the Tribunal and policed by the industry ...

The Tribunal felt that:

... a self-regulatory system could not be applied to all areas of broadcasting because of the natural conflict between the needs of commercial organisations and the interests of the public. The community could not reasonably expect broadcasters to immediately regulate themselves in such areas as Australian content, children's programs or advertising, where their necessary and justifiable desire for profits could be in conflict with their acknowledged social responsibilities.

The Tribunal also noted that there were some areas in which it had become obvious that official bodies should not attempt to regulate the industry and they included 'such subjective questions as taste in programs, moral standards and values'. About these matters the Tribunal said 'it would be in the natural and direct interests of the broadcasters to be responsive to the interests of their audience'.

In the 15 years that it took for some of the recommendations of the Tribunal on self-regulation to find reflection in an Act of Parliament, the Tribunal presided over a regulatory system that the broadcasting industry, and the Tribunal itself, came to regard with impatience. There were cumbersome methods for making decisions and the dichotomy between spectrum planning and the licensing function made for some difficult relations at times.

However, the Tribunal and its various members - distinguished Australians all - and its professional and energetic staff have a lot to look back on with a genuine sense of satisfaction.

Despite the difficult times the television and radio industries suffered in recent years, none of the Tribunal's decisions threatened the economic base of the industry. In fact the Tribunal was more

susceptible to attack from those who felt that it limited competition rather than encouraged it.

As a final analysis, it can be said objectively that the Tribunal administered the laws given to it by the Parliament as sensibly and prudently as circumstances allowed.

The Tribunal provided an outlet for those people in the community who wished to express concern about such matters as public broadcasting, the content of television and radio programs and the development of program standards. It also allowed the various production industries and commercial interests associated with broadcasting to have their say on these matters.

In the last few years of the Tribunal nearly all the program standards were redrawn and continue to stand the test of time, despite the intense attention of some sections of the community.

These program standards of the Tribunal both attracted and accommodated many complaints over the years, but as these were at a step removed from the industry itself, the Tribunal provided the industry with a useful bulwark against consumer pressure and agitation.

The number of complaints grew enormously in the last few years of the Tribunal with attention focused on the issues of sex, nudity and violence on television.

The Australian content and children's program standards fostered Australian performing and production talent, making a significant contribution to the growth and development of the local music, television and film production industries.

The Tribunal's wide and varied selection of publications also filled a void in the information needs of the industry and the community.

In its 17 year history, the Tribunal has sailed upon some troubled waters but the achievements of the Tribunal are many, and all those who have been associated with it can look back with pride on their many and varied accomplishments.

CHAPTER 3

POWERS AND FUNCTIONS OF THE TRIBUNAL

The Tribunal was established by s. 7 of the *Broadcasting Act 1942* ('the Act'), and its structure and functions were detailed in Divisions 1 and 2 of Part II of the Act.

The Tribunal was established on 1 January 1977 and assumed the powers and functions of the former Australian Broadcasting Control Board with the exception of the planning and engineering functions relating to broadcasting services. These were transferred to the Postal and Telecommunications Department (now the Department of Transport and Communications) and later to the Minister.

From 1 January 1978 the powers and functions of the Tribunal were extended to transfer to the Tribunal powers in the broadcasting and television licensing area formerly exercised by the Minister for Post and Telecommunications (now the Minister for Transport and Communications).

On 4 October 1992, the Broadcasting Act was repealed by the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*. The repeal of the Act meant that the Australian Broadcasting Tribunal ceased to function and with the commencement of the *Broadcasting Services Act 1992* the Australian Broadcasting Authority took over the role of broadcasting regulator.

The express functions of the Tribunal were set out in s. 16 of the Act as follows:

- (1) The functions of the Tribunal are-
 - (a) to grant, renew, suspend, revoke and accept the surrender of licences;
 - (b) to authorise transactions in relation to licences under ss. 89A, 89B, 89C, 89CA, and 89CB;
 - (c) to grant approvals and give directions under Divisions 2 and 3 of Part IIIA in relation to the ownership and control of licences;
 - (ca) by order, to determine guidelines to be observed by a licensee within the meaning of Part IIID in respect of the hours during which, and the manner in which, policy launches of political parties are to be broadcast;
 - (cb) by order, to determine guidelines, not inconsistent with regulations, to be observed by a broadcaster in respect of the days and times when, and the manner in which, election broadcasts within the meaning of Division 3 of Part IIID are to be made;
 - (d) by instrument in writing, to determine the standards to be observed by licensees in respect of the broadcasting of programs and in respect of programs to be broadcast;

- (e) (repealed)
- (f) to determine the hours during which programs may be broadcast by licensees;
- (g) to hold inquiries as provided by this Act or as directed by the Minister under s. 18, and to publish reports in relation to those inquiries;
- (h) to assemble information relating to broadcasting in Australia under s. 124; and
- (i) to perform such duties and exercise such powers as are imposed or conferred upon it by this Act and the regulations.

(2) In performing its functions under paragraphs (1)(d) and (f) in relation to broadcasting of programs by licensees, the Tribunal shall consult representatives of those licensees.

Under s. 15D of the Act the Tribunal could have delegated to a member of the Tribunal any of its powers under the Act, other than the power of delegation and the power to hold inquiries.

Under s. 15C of the Act the Chairman of the Tribunal could have constituted Divisions of the Tribunal for the purposes of holding inquiries, consisting of a member or members and an associate member or members, if applicable.

More details of the former Tribunal's functions are contained in Appendix N (FOI Statement).

Responsible Minister

At the date of this report, the responsible Minister was the Minister for Transport and Communications, Senator the Hon. Bob Collins.

For details of the Minister's role and powers under the *Broadcasting Act 1942*, see Chapter 9.

CHAPTER 4

LICENSING

The Tribunal's licensing powers were contained in Parts IIIB and IIIBA of the *Broadcasting Act 1942*. The main powers which directly affected licences were:

- grant
- renewal
- suspension and revocation
- imposition, variation and revocation of licence conditions
- approval of licence transfer
- approval of participation in licence benefits
- approval of share transactions affecting licences.

The Tribunal's administration of the latter three powers is outlined in Chapter 5.

As part of its licensing functions, the Tribunal also approved changes to memoranda and articles of licensee companies, collected licensees' financial information and licence fees, and assembled information from licensees and other sources.

As at 4 October 1992, there were 310 licences on issue in the following categories:-

Commercial Television	41
Commercial Radio	146
Public Radio	107
Remote Television	3
Remote Radio	1
Supplementary Radio	5
Limited (Information Purposes)	7

Number and Type of Licences on Issue

During the period, one pair of commercial television licences was consolidated. In addition, the Tribunal granted the following four public and one supplementary radio licences:

CALL SIGN	LICENSEE
Public	
2CCC Gosford	Central Coast Community FM Radio Association Inc.
2000 Sydney	Multicultural Community Radio Association Ltd.
2SSR Sutherland	Sutherland Shire Community Radio Association Inc.

3MGB Mallacoota

Mallacoota and Genoa
Broadcasting Co-operative
Society Ltd.

Supplementary

8SUN Alice Springs

Alice Springs Commercial
Broadcasters Pty Ltd.

Grant of Limited Licences

During the period, the Tribunal granted a limited licence to Ballarat Tourist Association Inc. for the purpose of providing an information service to Ballarat in Victoria.

The Tribunal also made decisions during the period to grant seven limited licences for the purpose of providing either a radio or television service that had a substantial connection with a special event.

Consolidation of Licences

Pursuant to s. 94B of the Broadcasting Act, the Minister prepared a written plan known as the *Equalisation of Regional Commercial Television Indicative Plan*, which specified, among other things, the regional licences that were eligible to be consolidated.

Section 94ZC of the Act provided for the consolidation of two or more licences, where those licences were specified in the Indicative Plan as being eligible for consolidation into single licences and where the relevant licensee or licensees applied to the Minister for consolidation.

The Minister specified nine pairs or sets of licences which were eligible for consolidation. They were:-

CBN/CWN/RVN	MVQ/SEQ
NEN/ECN	RTQ/DDQ/SDQ
NRN/RTN	TNQ/FNQ
BCV/GLV	BTW/GSW
BTV/GMV	

Prior to 1992-93, the following licences had been consolidated:

CALL SIGN AFTER CONSOLIDATION

CBN, CWN and RVN	CBN Southern NSW/ACT
NEN and ECN	NEN Northern NSW
NRN and RTN	NRN Northern NSW
BTV and GMV	VTV Regional Victoria
DDQ, SDQ and RTQ	DDQ Regional Queensland

TNQ and FNQ

TNQ Regional
Queensland

BTW and GSW

SSW South West
Western Australia

During the period, the Tribunal, in compliance with a direction by the Minister's delegate, revoked the MVQ and SEQ licences and granted a new consolidated licence for a service to be known by the call sign STQ. Thus, all pairs or sets of licences specified in the Indicative Plan have been consolidated except BCV and GLV.

During the period, the Tribunal granted approval for various changes to the memoranda and articles of association of four commercial television licensees and two commercial radio licensees.

Albury-Wodonga

Accounts of the earlier stages of this inquiry are contained in the Tribunal's *Annual Report 1990-91* (p. 20) and *Annual Report 1991-92* (p. 21).

A further hearing into the independent radio licence grant was held on 22-26 June 1992 in Albury. On 3 August 1992, the Tribunal was informed that the applicant company, Albury-Wodonga Broadcasters Pty Ltd, had resolved to withdraw its application at a general meeting of the company held on 30 July 1992. As a consequence, the inquiry was terminated on 2 October 1992.

A full account of this inquiry is contained in Report No. IL/90/77.

Wagga Wagga, NSW

An account of the early stages of this inquiry is contained in the Tribunal's *Annual Report 1990-91* (p. 22).

On 18 September 1992, the Federal Court handed down its judgement on the Tribunal's decision to grant a commercial FM licence to Wagga and Riverina FM Stereo Broadcasters Pty Ltd ('Wagga & Riverina'). The appellant was Riverina

Changes to the Memoranda and Articles of Association of Licensees

Commercial Radio Licence Grant Inquiries

Broadcasters (Holdings) Pty Ltd ('Riverina'), the licensee of an existing AM commercial radio licence, 2WG Wagga.

Riverina was successful in its appeal against the Tribunal's decision. As a consequence of the Federal Court's decision, the two applications for the grant of the licence (lodged by Wagga & Riverina and South West Media Ltd) have been remitted to the Tribunal for further consideration.

Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Mackay, Qld

Accounts of the early stages of this inquiry are to be found in the Tribunal's *Annual Report 1990-91* and *Annual Report 1991-92* (pp. 20 and 22 respectively).

On 29 May 1992, the Federal Court handed down its judgement on the Tribunal's decision to grant a commercial FM radio licence to the sole applicant for the licence, Tropical FM Pty Ltd ('Tropical FM'). The appellant was Barrier Reef Broadcasting Pty Ltd ('Barrier Reef'), the licensee of an existing AM commercial radio licence, 4MK Mackay.

Barrier Reef was successful in its appeal against the Tribunal's decision. As a consequence of the Federal Court's decision, Tropical FM's application for the grant of the licence has been remitted to the Tribunal to be determined according to law.

Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Darwin, NT

An account of the early stages of this inquiry is to be found in the Tribunal's *Annual Report 1991-92* (p. 23).

Following a public hearing in Darwin on 17-18 August 1992, the Tribunal decided on 1 October 1992 not to grant a commercial FM radio licence to The Media Company (NT) Pty Ltd. The Tribunal found that the applicant company did not have the necessary management capability to provide an adequate and comprehensive service.

A full account of this inquiry is contained in Report No. IL/92/43.

Albury-Wodonga

An account of the preliminary stages of this inquiry is contained in the Tribunal's *Annual Report 1991-92* (p. 21).

A submission objecting to the grant of the licence was received from North East Broadcasters Limited, licensee of 3NE Wangaratta, the service area of which overlapped that of the proposed service.

In view of the exhaustive nature of the evidence already taken at the inquiry into the grant of an independent FM station to serve the area (see above), it was decided not to hold a further hearing on this matter. Further questions were asked by each party (North East Broadcasters Limited and the applicant, Radio Albury Wodonga Ltd, licensee of 2AY Albury), and final submissions were invited in writing. The Tribunal decided to grant the licence to the applicant on 2 October 1992.

A full account of the Tribunal's inquiry is contained in Report No. IL/92/47.

Lismore, NSW

The commencement of this inquiry was noted in the Tribunal's *Annual Report 1991-92* (p. 24). Public submissions were accepted up to 15 July 1992. The Tribunal referred the submissions received to the applicant (Richmond River Broadcasters Pty Ltd) for comment and sought further information from it about aspects of its application. Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Mildura, Vic.

On 14 July 1992, the Tribunal decided to terminate its inquiry into the grant of a supplementary FM radio licence to Sunraysia Broadcasters Pty Ltd, the former licensee of 3MA Mildura.

The Tribunal's decision to terminate this inquiry was based on the fact that the application was no longer valid following the transfer of the 3MA licence from Sunraysia Broadcasters Pty Ltd (the applicant) to Promote Pty Ltd.

A full account of this inquiry is contained in Report No. IL/87/97.

Mt Isa, Qld

On 26 November 1991, the Minister for Transport and Communications referred to the Tribunal an application from North Queensland Broadcasting Corporation Pty Ltd (NQBC), licensee of commercial radio service 4LM Mt Isa, for the grant of a supplementary FM radio licence.

In response to the Tribunal's invitation for public submissions, Ausradio Pty Ltd, licensee of the N-E Zone Remote Commercial Radio Service, made a submission opposing the grant. Ausradio's submission centred on its belief that an independent licence should be granted in the area.

The decision to refer the supplementary application to the Tribunal was made by the Minister following advice on planning from the Department of Transport and Communications. In making this decision, the Minister noted Ausradio's interest in establishing an independent service, but decided a supplementary licence was more appropriate to the needs of the Mt Isa market. The Tribunal decided not to hold a hearing in relation to this inquiry and granted the supplementary FM radio licence to NQBC on 21 August 1992.

A full account of the inquiry is contained in Report No. IL/92/30.

Joined Supplementary/ Independent Radio Licence Grant Inquiries

Kempsey, NSW

Accounts of the early stages of this inquiry are contained in the Tribunal's *Annual Report* 1988-89 (p. 33), *Annual Report* 1989-90 (p. 25), *Annual Report* 1990-91 (p. 22) and *Annual Report* 1991-92 (p. 24).

On 10 July 1992, the Tribunal decided to grant a supplementary FM licence to Mid-Coast Broadcasters Pty Ltd.

A full account of this inquiry may be found in Report Nos. IL/88/221 and IL/89/77 (issued jointly).

Tamworth, NSW

An account of the early stages of this inquiry is contained in the Tribunal's *Annual Report* 1991-92 (p. 25).

Tamworth FM Pty Ltd, the sole applicant for the independent commercial radio licence, notified the Tribunal on 30 July 1992 that it was withdrawing its application. This led to the termination of the independent licence grant inquiry.

The Tribunal then moved to consider the supplementary application from Tamworth Radio Development Co. Pty Ltd and all related material. It was not necessary to seek any further submissions or comments on that application. On 15 September 1992, the Tribunal decided to grant the supplementary licence to Tamworth Radio Development Company.

A full account of this inquiry is contained in Report No. IL/92/24.

Sale, Vic.

An account of the early stages of this inquiry is contained in the Tribunal's *Annual Report 1991-92* (p. 22).

The licensing criteria of the Broadcasting Act required the Tribunal to consider the commercial viability of any existing commercial radio service whose service area overlapped that of the proposed licence. Commercial radio services 3TR Sale and 3GG Warragul both had significant overlaps within the service area of the proposed licence, and both lodged submissions opposing the grant on the grounds that their viability would be affected. Public submissions were also received which both supported and opposed the grant of an additional licence in the Sale area.

A public hearing was held in Sale on 2 and 3 September 1992.

The Tribunal found that while FM Gippsland was suitable to hold the licence, an analysis of the market showed that 3TR would not be viable if a competing service was established in the same area. On 2 October 1992, the Tribunal decided neither to grant a commercial FM radio licence to FM Gippsland Pty Ltd, nor a supplementary licence to 3TR.

A full account of this inquiry is contained in Report No. IL/92/20.

Bundaberg, Qld

On 13 November 1992, the Minister for Transport and Communications invited applications for the grant of a commercial FM radio licence to serve the Bundaberg area of Queensland.

One application was received, from Rockworth Pty Ltd.

The Minister further referred to the Tribunal an application by Bundaberg Broadcasters Pty Ltd, the licensee of radio 4BU

Bundaberg, for the grant of a supplementary FM radio licence to serve the same area.

On 19 February 1992, the Tribunal commenced a joint inquiry into the grant of a commercial FM radio licence and a supplementary FM radio licence. Bundaberg Broadcasters Pty Ltd submitted to the inquiry that it would not be in the public interest to grant an independent licence to Rockworth Pty Ltd, as the commercial viability of the 4BU service would be affected.

A hearing took place in Bundaberg on 7-8 September 1992.

On 30 September 1992, after considering all the evidence before it, the Tribunal decided that it was in the public interest to refuse to grant the commercial licence and to grant a supplementary FM radio licence to Bundaberg Broadcasters Pty Ltd.

A full account of this inquiry is contained in Report Nos. IL/92/26 and 27 (issued jointly).

Cairns, Qld

An account of the early stages of this inquiry is contained in the Tribunal's *Annual Report 1991-92* (p. 25).

The Tribunal conducted public hearings into this matter on 22-25 July 1992 and 6-9 August 1992. During these hearings, the Tribunal heard evidence relating to the management capability of the applicant for the independent service, Cairns FM Pty Ltd.

In the course of receiving evidence relating to Cairns FM Pty Ltd, the Tribunal became aware of the management practices of an existing commercial radio station, 4AM Mareeba, the licensee of which is a related company through common ownership and directorships.

The Tribunal heard, in camera, evidence of allegations relating to undeclared contra revenue and unauthorised recording or bugging of telephone conversations of 4AM officers or employees. These matters were later referred to the ABA.

On 2 October 1992, the Tribunal decided to grant a supplementary FM radio licence to Greater Cairns Radio Limited for a period of five years from a date to be determined.

A full account of this inquiry is contained in Report No. IL/92/10.

Broken Hill, NSW

In a notice dated 21 July 1992, the Minister for Transport and Communications invited applications for a public radio licence to serve Broken Hill in NSW. One application was received, from Broken Hill Community FM Association Inc.

Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Griffith, NSW

In a notice dated 8 August 1991, the Minister for Transport and Communications invited applications for a public (community) licence to serve Griffith NSW.

One application was received, from the Griffith Community FM Association Inc.

On 15 September 1992, the Tribunal decided to grant the licence without holding a public hearing.

A full account of this inquiry is contained in Report No. IL/91/71.

Canberra, ACT

On 9 October 1991, the Minister for Transport and Communications invited applications for a special interest (Print Handicapped) public radio licence to serve Canberra in the ACT.

As in the case of radio for the print handicapped (RPH) services in Sydney, Melbourne, Brisbane and Hobart, a Canberra RPH service ('One PPP') had been operating since 1988 on a frequency outside the MF AM broadcast band and licensed under the *Radiocommunications Act 1983*. These services were mentioned in the Tribunal's *Annual Report 1989-1990* (pp. 29-30).

On 28 September 1992 the Tribunal decided to grant a public radio licence to Print Handicapped Radio of the ACT Incorporated. A full account of this inquiry is contained in Report No. IL/91/84, which is bound together with the report for the RPH station licensed to serve Hobart.

Omeo, Vic.

In a notice dated 21 July 1992, the Minister for Transport and

Communications invited applications for a public radio licence to serve the Omeo area in Victoria. One application was received, from Omeo Shire Community Access Radio Inc.

Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Redcliffe/Pine Rivers, Qld

On 8 April 1992, the Minister for Transport and Communications invited applications for a public radio (community service) licence to serve the Redcliffe/Pine Rivers area of Brisbane. One application was received, from Pine Rivers Community Radio Association Incorporated. Following a public hearing on 17 September 1992, the Tribunal decided, on 1 October 1992, to grant a public (community) radio licence to the applicant.

A full account of this inquiry is contained in Report No. IL/92/52.

Redlands Shire, Qld

On 8 April 1992, the Minister for Transport and Communications invited applications for a public radio (community service) licence to serve Redlands and surrounding areas of Brisbane. One application was received, from Bayside Community Radio Association Incorporated. Following a public hearing on 17 September 1992 the Tribunal decided, on 1 October 1992, to grant a public (community) radio licence to the applicant.

A full account of this inquiry is contained in Report No. IL/92/53.

Mackay, Qld

An account of the early stages of this inquiry is to be found in the Tribunal's *Annual Report 1991-92* (p. 28).

On 17 September 1992, a new application was received from the Community Radio Association Mackay. This application represented the combination of two earlier independent applications (from the Mackay Community Radio Association and the Central Queensland Aboriginal Land Council) for the licence. These earlier applications were received by the Tribunal

in February 1992. Each independent application was withdrawn following the submission of the new application.

Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Millicent, SA

On 11 December 1991, the Minister for Transport and Communications invited applications for a public (community service) radio licence to serve the town of Millicent, South Australia.

The only applicant for the licence was Millicent Community Access Radio Inc. (MILCAR).

The Tribunal received two public submissions in response to its invitation. Both raised concerns about the commercial nature of the proposed service, and in particular the use of advertising.

A public hearing was held in Millicent on 21 July 1992 where the Tribunal examined MILCAR's programming and management proposals, its financial position and matters relating to sponsorship. The Tribunal decided to grant the licence to MILCAR on 29 July 1992.

A full account of this inquiry is contained in Report No. IL/92/12.

Perth, WA

In a notice dated 15 October 1992, the Minister for Transport and Communications invited applications for a special interest (Aboriginal) public radio licence to serve Perth. One application was received, from the Western Australian Aboriginal Media Association.

Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Kununurra, WA

In a notice dated 3 December 1991, the Minister for Transport and Communications invited applications for a special interest (Aboriginal) public radio licence to serve the Kununurra region of Western Australia.

One application was received, from Waringarri Aboriginal Corporation.

A public hearing was held in Kununurra on 7 July 1992. At the conclusion of the hearing, the Tribunal decided to grant the licence to the applicant.

A full account of this inquiry is contained in Report No. IL/92/25.

Hobart, Tas.

On 9 October 1991, the Minister for Transport and Communications invited applications for a special interest (Print Handicapped) public radio licence to serve Hobart, Tasmania.

As in the case of radio for the print handicapped services in Sydney, Melbourne, Brisbane and Canberra, 7RPH had been operating since June 1982 on a frequency outside the MF AM broadcast band and licensed under the *Radiocommunications Act 1983* (and prior to that the *Wireless Telegraphy Act 1905*). These services have previously been referred to in the Tribunal's *Annual Report 1989-1990* (pp. 29-30).

On 28 September 1992, the Tribunal decided to grant a public radio licence to Broadcast Services for the Print Handicapped Incorporated.

A full account of this inquiry is contained in Report No. IL/91/81, which is bound together with the similar report for the RPH station licensed to serve Canberra.

Nhulunbuy, NT

In a notice dated 21 July 1992, the Minister for Transport and Communications invited applications for a public radio licence to serve the Nhulunbuy area (including the centre of Yirkala) in East Arnhem Land. One application was received, from the East Arnhem Community Radio Association Inc.

Subsequent to the date of this report this inquiry was continuing, pursuant to s. 12 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

Renewal of Licence with Conditions

2GLA Forster

In June 1989, the Tribunal commenced the licence renewal inquiry for public radio station 2GLA Forster. Over the course

of this inquiry a number of submissions were received by the Tribunal from groups and individuals expressing concern at the poor level of community control of and access to 2GLA's management and programming.

As a result of these submissions and the Tribunal's own concerns, a public hearing was held in Forster on 7 May 1992. A further public conference was held in Forster on 17 June 1992. As a result of all the information presented to the Tribunal over the course of the inquiry 2GLA's licence was renewed for the minimum period of one year with conditions requiring the licensee to:

- (a) hold an extraordinary general meeting by 29 October 1992, to discuss and resolve -
 - (i) methods of increasing community involvement in the operations and programming of 2GLA, and of broadening the licensee's membership and the representation of the community on the licensee's committees;
 - (ii) the desirability of altering the memorandum and articles of association and the licensee's policies to limit the number of board members' consecutive terms; remove restrictions on participation in the licensee's activities; and establish committees;
 - (iii) the establishment of an annual membership fee set at an appropriate level;
 - (iv) methods by which the licensee company could reduce its dependency upon sponsorship income;
 - (v) methods for ensuring future compliance with sponsorship rules and codes of practice; and
 - (vi) methods of conducting ascertainment research;
- (b) in the period leading up to the meeting, broadcast a public statement, as set out in the report, at specified times, and publish the statement in the local newspaper;
- (c) prior to the meeting, send all members of the licensee company a copy of the conclusions and decision from the Tribunal's report and copies of the agenda papers, and make copies available to the public;
- (d) provide the Australian Broadcasting Authority (ABA) and all members of the licensee company, within 30 days of the meeting, with a report of the proceedings of the meeting, including the minutes and the manner in which the board intends to implement the decisions of the meeting;

- (e) provide the ABA with a report of the proceedings of its board and committees, including the minutes of those meetings, every six months from the date of the Tribunal's report (29 September 1992).

A full account of this inquiry is contained in Report No. IL/89/116.

**Revocation/
Suspension/
Imposition of
Conditions
Inquiries**

Remote Commercial Television Services

The Tribunal's inquiry into the variation or revocation of the conditions on the licences of the remote commercial television services lapsed on 5 October 1992. This matter was referred to the Australian Broadcasting Authority for its consideration.

3WRB, Melbourne Western Suburbs

In April 1992, following an inquiry into the suspension or imposition of conditions on the licence of 3WRB (see the Tribunal's *Annual Report* 1991-92 (p. 33), the Tribunal decided to impose conditions on the licence. These conditions required the licensee to convene a general meeting not later than its next annual general meeting to consider and vote on specified motions to amend its rules.

The licensee held the required general meeting on 20 August 1992. The meeting debated and voted on the specified motions. All the required changes to the rules, with some amendments, were ratified by the meeting. The licensee also complied with other conditions relating to the general meeting which were imposed by the Tribunal at the same time.

3HOT, Mildura

An account of the early stages of the inquiry is to be found in the Tribunal's *Annual Report* 1991-92 (p. 34).

The Tribunal determined, on 26 June 1992, that the licensee of public radio service 3HOT Mildura had breached the terms and conditions of its licence, as set out in s. 119AB of the Act, by broadcasting advertisements.

On 7 September 1992, the Tribunal decided not to impose conditions on the licence because the licensee had taken action to correct the situation and comply with the Act.

A full account of this inquiry is contained in Report No. IL/91/58.

3SUN, Shepparton

On 2 June 1988, the Tribunal decided to grant a commercial FM radio licence to Goulburn Valley Broadcasters Pty Ltd to serve the Shepparton area. An account of this inquiry appears in the Tribunal's *Annual Report* 1987-88 (pp. 22-23). Conditions were placed on the licence relating to programming, staffing and financial matters.

On 5 November 1990, the Tribunal decided to commence an inquiry into the variation or revocation of these conditions. On 28 August 1992 the Tribunal found that the licensee had fulfilled, or proposed to fulfil, the conditions and, as a consequence, decided to revoke all of the conditions that had been placed on 3SUN's licence.

The following changes to call signs were approved during the period:

Allocation of Call Signs

CALL SIGN	LOCATION	LICENSEE/SUCCESSFUL APPLICANT
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Commercial Radio

2ONE (effective upon conversion to FM -currently 2KA)	Katoomba	Hayden Nepean Broadcasters Pty Ltd.
3BBO (effective upon conversion to FM - currently 3BO)	Bendigo	Malbrink Pty Ltd.
3SSR (effective upon conversion to FM -currently 3SR)	Shepparton	Radio 3SR Pty Ltd.
4KQQ (effective upon conversion to FM -currently 4KQ).	Brisbane	Wesgo Communications Pty Ltd.
4RAM (effective upon conversion to FM -currently 4RR)	Townsville	Nessan Pty Ltd.

4SSS (effective upon conversion to FM - currently 4SS)	Nambour	Sunshine Coast Broadcasters Ltd.
4TOO (effective upon conversion to FM - currently 4TO)	Townsville	Townsville Broadcasters Ltd.
7XXX (effective upon conversion to FM - currently 7HT).	Hobart	Tasradio Pty Ltd.

The following new call signs were approved during the period:

Commercial Television

STQ (consolidated licence - previously MVQ and SEQ)	Regional Queensland	Sunshine Television Network Ltd.
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Public Radio

2BLU (1)	Katoomba	Blue Mountains Public Broadcasting Society Inc.
2LVR (1)	Forbes	Lachlan Valley Community Radio Inc.
3MGB	Mallacoota	Mallacoota and Genoa Broadcasting Co-operative Society Ltd.
4KIG (1)	Townsville	Townsville Aboriginal and Islander Media Association Ltd.
5THE (1)	Millicent	Millicent Community Access Radio Inc.
8KTR (1)	Katherine	Katherine Community Radio Inc.

Supplementary Radio

2HIL (1)	Broken Hill	Far West Radio Pty Ltd.
2ROX (1)	Kempsey	Mid-Coast Broadcasters Pty Ltd.
4MIC (1)	Mt Isa	North Queensland Broadcasting Corporation Pty Ltd.

Remote Radio

4SUN (1) North-East Zone Ausradio Pty Ltd.

(1) Service not commenced as at 4 October 1992.

CHAPTER 5

OWNERSHIP AND CONTROL

The Tribunal's powers in regard to ownership and control of licensee companies, as well as the procedures to be followed in the exercise of those powers, were outlined in the *Broadcasting Act 1942*. Sections 90J and 90JA related to commercial radio and ss. 92F and 92FAA related to commercial television.

On 5 October 1992, the *Broadcasting Services Act 1992* came into effect, bringing about a set of procedures for notifying share transactions that are substantially different from those which pertained under the Broadcasting Act.

Under the Broadcasting Services Act, acquisitions of controlling interests in commercial licences, through share transactions or otherwise, are not subject to approval by the Australian Broadcasting Authority.

Given these legislative changes, applications and inquiries commenced by the Tribunal, but not completed prior to 5 October 1992, lapsed and no further action was taken in regard to the transactions.

During the period 1 July 1992 to 4 October 1992, a total of 29 applications for approval of changes in ownership and control were submitted to the Tribunal.

Of these, six (or 21 per cent) were from prescribed parties. The remaining 23 (79 per cent) were from non-prescribed parties.

All of the applications related to radio and covered six separate transactions.

During the period 1 July 1992 to 4 October 1992, nine extensions of time were granted by the Tribunal, for the lodgement of share transaction applications.

Joined Inquiry Concerning ENT Ltd

An account of the early stages of this inquiry can be found in the Tribunal's *Annual Report 1990-91* (pp. 39-40) and *Annual Report 1991-92* (pp. 44-45).

As at 4 October 1992, no decision had been reached by the Launceston Magistrates' Court in relation to a charge brought against Mr David McQuestin under the Companies Code of failing to exercise a reasonable degree of care and diligence

Applications Received

Extensions of Time to Comply with the Act

Most Significant Inquiries

as a company director. Mr McQuestin, the Managing Director of ENT Ltd, has pleaded guilty to the charge.

This inquiry lapsed with the commencement of the *Broadcasting Services Act 1992*.

Unfinished Inquiries

Broadcasting Station 4IP Pty Ltd/ The Totalisator Administration Board

Broadcasting Station 4IP Pty Ltd/Beach Media Pty Ltd

Appointment of Receivers and Managers to 4IP Pty Ltd and Beach Media Pty Ltd

The Tribunal received an application from Beach Media Pty Ltd regarding the acquisition of 100 per cent of the issued shares in Broadcasting Station 4IP Pty Ltd (formerly Radio Ten Pty Ltd), licensee of commercial radio service 4IP Brisbane.

On 29 January 1991, Messrs I.S. Cotton and R.J. Duff were appointed receivers and managers of Broadcasting Station 4IP Pty Ltd and of Beach Media Pty Ltd.

On 13 June 1991, the Totalisator Administration Board of Queensland (TABQ) acquired all of the issued capital of Broadcasting Station 4IP Pty Ltd. The Tribunal accepted an application from the TABQ on the 24 July 1991.

The Tribunal commenced an inquiry into the share transaction on 6 September 1991.

A consideration of the share transaction application by Beach Media Pty Ltd was overtaken by subsequent events when the Tribunal decided to consider the above-mentioned matters jointly:

- i) as all the applications related to the same licensee company, Broadcasting Station 4IP Pty Ltd.; and
- ii) in order to allow the Tribunal to deal properly and efficiently with interrelated matters.

On 22 September 1992, the Tribunal approved the application lodged by the TABQ to acquire all of the issued capital of Broadcasting Station 4IP Pty Ltd.

The Tribunal also decided to terminate its inquiries into the acquisition of 100 per cent of the issued capital of the licensee company by Beach Media Pty Ltd and into the appointment of receivers and managers (Messrs I.S. Cotton and R.J. Duff) to the licensee company, as both transactions were overtaken by subsequent events.

Since this time, a change of call sign to 4TAB has been approved.

4LG Longreach

On 24 April 1992, the Tribunal received an application from Mid-Queensland Broadcasting Pty Ltd to transfer the commercial radio licence for 4LG Longreach to Gloweir Pty Ltd. Approval of the application was given on 1 September 1992.

MTN Griffith

In February 1992, the Tribunal commenced a share transaction inquiry into the sale of the licence of commercial television service MTN Griffith to Lochfield Consultants Pty Ltd ('Lochfield').

As part of this inquiry, the Tribunal investigated cross-media directorship and ownership issues that seemed to arise from the sale. After obtaining an independent opinion from counsel, the Tribunal agreed with Lochfield's legal representatives that there were no cross-media directorship breaches. However, the potential cross-media ownership breaches are still being investigated. Thus, the inquiry will continue pursuant to s. 18 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

During the period 1 July 1992 to 4 October 1992, the Tribunal did not bring to the attention of the Minister any apparent circumstances, where contraventions of the ownership and control provisions of the Act amounted to an offence.

Contraventions Amounting to Offences

There were four applications for the transfer of radio licences approved during the period 1 July 1992 to 4 October 1992.

LICENCE	FROM	To
3CAT Geelong	Geelong Broadcasters Pty Ltd	Shellhall Pty Ltd
3SR Shepparton	Hanor Pty Ltd	Votrait No. 706 Pty Ltd
5SE Mt Gambier	Southern State Broadcasters Pty Ltd	Votrait No. 688 Pty Ltd
4LG Longreach	Mid-Queensland Broadcasting Pty Ltd	Gloweir Pty Ltd

Licence Transfers

**Operation of
Service by Other
Than Licensee**

At 4 October 1992, the following service was being operated (under s. 89A of the Act) by persons other than the licensee:

SERVICE	LICENSEE	OPERATOR
3KKZ Melbourne	The Industrial Printing and Publicity Co. Ltd	KZFM Radio Pty Ltd.

CHAPTER 6

PROGRAM AND ADVERTISING STANDARDS

The activities of the Tribunal's Programs Division were directed towards the determination and maintenance of program standards and the assembling of information to assist this process and to inform the community about broadcasting.

The Tribunal monitored the compliance of licensees with the standards, investigated complaints against licensees, undertook research and provided information about programming on radio and television in Australia.

The Tribunal assessed compliance of licensees with the program standards by a mixture of direct monitoring, review at the time of licence renewal and as a result of comment and complaint by the public. All licensees were required, as part of the conditions of their licence, to comply with the program standards.

The determination of program standards is discussed in the following chapter: Programs - Public Inquiries.

Background to the standards

It was the Tribunal's view that children are entitled to a choice of quality programs which take into account their special interests and experiences and are made from their point of view. Children should also have the opportunity to view contemporary Australian programs made especially for them.

The regulation of children's programming in Australia has essentially arisen from a perceived lack of quality age-specific television programs for children and out of a concern to protect their interests. Certain commitments to children's programming were imposed on television licensees by the Tribunal following its Self Regulation Inquiry in 1977, and in 1984 the Children's and Preschool Children's Television Standards (CTS/PTS) were introduced. The standards, amongst other things, set criteria for C classification. A review of the operation of these standards resulted in new Children's Television Standards (CTS) which took effect from 1 January 1990.

These 1990 standards rationalised the criteria for C and P classification; set the requirement for new Australian children's drama at 12 hours per year in 1990 and then 16 hours per year thereafter (up from eight hours previously) and ruled that P (preschool) programs must be classified prior to broadcast.

Children's Programs Standards

Administration of the standards

Prior to March 1992, the assessment of programs for C or P classification under the Children's Television Standards was the task of an advisory committee of the Tribunal, the Children's Program Committee (CPC).

The Tribunal reviewed the operation of the Committee in June 1991, introducing measures to streamline the assessment and classification process. A further review took place in March 1992 when it was decided to disband the committee and move to new assessment procedures. These procedures are based on initial assessment of programs by Tribunal staff and further assessment by specialist consultants on a case by case basis.

Applications processed

In the period 1 July to 4 October 1992, the Tribunal considered 15 applications for classification and decided that:

- 1 be classified P
- 2 be classified Provisional C
- 6 be classified C
- 2 be classified C Australian Drama
- 4 be refused classification

A list of programs classified P, C or C Australian Drama in this period appears in Appendix F.

Comments and Complaints

The Tribunal received a total of 734 comments or complaints during the period 1 July 1992 to 4 October 1992.

Although the vast majority of comments and complaints did not involve breaches of the standards or licence conditions, the Tribunal recognised that the views expressed by the complainants were sincerely held.

The table in Appendix E provides a summary of the nature and number of complaints and comments received during the period concerning differing aspects of television and radio programs or advertising.

Provided stations complied with the provisions of the standards and the Broadcasting Act, the Tribunal did not normally intervene in the day to day programming arrangements of the stations. However, in the course of licence renewal inquiries,

the Tribunal assessed how each licensee fulfilled its undertaking to provide an adequate and comprehensive service.

The Tribunal had no jurisdiction over the programs of the Australian Broadcasting Corporation (ABC) or the Special Broadcasting Service (SBS). However, complaints and comments received about programs of the ABC and SBS were referred to the respective organisations, each of which is an autonomous statutory authority responsible for its own programming standards.

As reported in Chapter 10, on 28 August 1992 the High Court made orders which struck down Part IIID of the Broadcasting Act. This part of the Act imposed restrictions on the broadcast of political advertising during election campaigns and established mechanisms for the allocation of free time to parties and candidates during such periods. As a consequence of the Court's decision, the Tribunal ceased taking administrative action in relation to this part of the Act.

The High Court did not strike down s. 116 of the Act, which required licensees to refrain from broadcasting election advertisements from midnight on the Wednesday preceding the polling day to the close of the polls. The Act required the Tribunal to serve a notice on all affected licensees of this obligation for each and every election or by-election. During the period the Tribunal took such action in relation to a general election in Victoria.

The Research Section of the Tribunal was responsible for the conduct of research, and for the assessment of research supplied to the Tribunal. This research was used to support the functions of the Tribunal: licensing; standards development and publishing of information on broadcasting in Australia.

A major part of the research activity for the three months between July and October was the completion of research projects commenced in the second half of the 1991-92 financial year. An outline of these projects is given below.

The second half of a two stage research project investigating attitudes to Australian content on television and knowledge and expectations of new audio visual services was conducted. This research also investigated how Australian families use television to provide a base for interpreting and using the attitudinal information. The Tribunal commissioned Australian National Opinion Polls to carry out this research.

Broadcasting of Political Matter

Research

A research study on community attitudes towards the representation of ethnic minorities on television was also finalised during this period. The project was conducted in collaboration with the British Broadcasting Standards Council (BSC). This research supplied information on how minorities are represented and the attitudes of the community to those representations. The collaboration with the BSC allowed for international comparisons including the image of Australia that is projected overseas through our television programs. The research was presented at the IIC conference in Montreal, Canada, in September 1993. The study was conducted for the Tribunal by Australian Market Research. A final payment of \$43 000 was made during the three month period.

The Tribunal subscribed to the audience ratings data supplied to the broadcasting industry by AC Nielsen and AGB. The data was used to assess audience trends and supply information to support the functions of the Tribunal.

CHAPTER 7

PROGRAMS - PUBLIC INQUIRIES

Before it exercised a substantive power the Tribunal was required to hold a public inquiry. Since the power to determine program standards was defined as a substantive power, any determination of program standards, whether undertaken at the Tribunal's initiative or at the request of another, was preceded by an inquiry.

From 1 July 1992 to 4 October 1992, the Tribunal conducted three such public inquiries. Of these, two were to review existing standards. Both these inquiries were initiated by the Tribunal and continued on from 1991-92.

The third inquiry was initiated following an application from the Federation of Australian Commercial Television Stations for the variation of the existing standard relating to the amount of advertising and program promotions on television. This was the only new inquiry commenced in this period.

The three inquiries were completed by 4 October 1992.

MAJOR PROGRAM STANDARDS INQUIRIES AND PROJECTS

Inquiry to vary Television Program Standard (TPS) 25 - Advertising and Promotion Time (IP/92/69)

On 31 August 1992, the Tribunal received an application from the Federation of Commercial Television Stations (FACTS) requesting that the Tribunal consider amending the existing Television Program Standard (TPS) 25. This standard limited the amount of advertising and program promotions which could be broadcast on television. The application requested the inclusion of provisions for election advertisements, etc., similar to those in force prior to 1987, when the advertising time rules were repealed for a trial period.

The need for such an inquiry had been prompted by the successful challenge to the *Political Broadcasts and Political Disclosures Act 1991* by the commercial television stations and the NSW State Government. This Act had made provision for the make up of advertising time by broadcasters.

FACTS further submitted that their application should be considered urgently, due to impending elections in Queensland and Victoria. The Ten network advised separately that they only supported those parts of the FACTS' application covered by Issues 1 - 3 (see below).

Advertising and Promotion Time Inquiry

The Tribunal accepted the application and initiated the inquiry on 1 September 1992. The Tribunal also determined that the inquiry would be conducted pursuant to s. 17(C)(7) of the *Broadcasting Act 1942*. This allowed the Tribunal to determine that certain procedural steps in the inquiry process were not practicable in the circumstances.

The issues for the inquiry were:

1. Whether TPS 25 should be amended to allow licensees to broadcast one additional minute of advertising time in each hour during election periods to allow for the broadcast of election advertisements;
2. Whether TPS 25 should be amended to permit licensees to make up advertising time displaced by the broadcast, free of charge, of a policy speech of a political party at the rate of a maximum one minute per hour over the period of 14 days immediately following the broadcast;
3. Whether TPS 25(7) should be amended to include advertisements regarding electoral or voting procedures, broadcasts by or on behalf of electoral authorities, as exempt non-program matter;
4. Whether TPS 25 should be amended to allow licensees operating within a synchronized network program schedule to broadcast one additional minute of non-program matter per hour should the network schedule one additional minute of advertising time during election periods to allow for the broadcast of election advertisements.

Submissions were sought from certain parties to the previous Advertising Time on Television Inquiry (IP/89/182), from the industry, and from Federal and State secretariats of the Australian Labor Party, the Liberal Party of Australia, the National Party of Australia, and the Australian Democrats, amongst others.

A total of seven submissions were received. Following consideration of these submissions, the Tribunal decided that:

1. TPS 25 would not be amended to allow licensees to broadcast one additional minute of non-program matter time in each hour during election periods to allow for the broadcast of election advertisements.
2. TPS 25 would be amended to exempt the broadcast of non-program matter displaced as a result of the broadcast free of charge of policy speeches of political parties.
3. TPS 25(7) would be amended to exempt advertisements regarding electoral or voting procedures, on behalf of

electoral authorities from the calculation of the amount of non-program matter broadcast.

4. TPS 25 would not be amended to allow licensees to broadcast one additional minute of non-program matter per hour should the network in which they are participating schedule on additional minute of non-program matter time during election periods to allow for the broadcast of election advertisements.

The Tribunal released its decision on 10 September 1992. The amendments to TPS 25 came into effect as of that date.

Inquiry to Review Radio Program Standard (RPS) 3 and Television Program Standard (TPS) 2(b)

On 18 September 1992, the Tribunal concluded its inquiry to review the application and effectiveness of Radio Program Standard (RPS) 3 and Television Program Standard (TPS) 2(b).

RPS 3 and TPS 2(b) read as follows:

A licensee may not transmit a program which:

- is likely to incite or perpetuate hatred against; or
- gratuitously vilifies;

any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, religion or physical or mental disability.

The inquiry commenced on 16 December 1991. Nineteen submissions to the inquiry were received including submissions from the NSW Anti-Discrimination Board, the Human Rights and Equal Opportunity Commission, the Office of Multicultural Affairs, the Communications Law Centre, the Federation of Australian Radio Broadcasters (FARB), the Federation of Commercial Television Stations (FACTS), the Office of Aboriginal Affairs (NSW) and the Ethnic Affairs Commission (NSW).

Following consideration of the arguments raised in submissions to the inquiry, and in view of the pending change in the regulatory environment, due to the proclamation of the *Broadcasting Services Act 1992* and the consequent establishment of the Australian Broadcasting Authority, the Tribunal decided that the standards relating to discriminatory broadcasts (RPS 3 and TPS 2(b)), should continue in their current format.

The Tribunal found that the existing standards were not operating as effectively as was intended when they were

Inquiry into Discriminatory Broadcasts

introduced in 1986. Submissions to the inquiry highlighted that an imbalance existed between broadcast material which the wider community deemed to be inappropriate, and material which had actually been found to breach the standards by the Tribunal.

The Tribunal considered that a justly constructed standard or industry code of practice would go some way to redressing the imbalance that exists.

However, the Tribunal considered that it would not be appropriate to initiate any changes to the standards at that time. The Tribunal recommended that the ABA consider maintaining the existing standards, to apply during the period of transition from program standards to codes of practice. In addition, the Tribunal recommended that the ABA and the industry take account of the information provided to the inquiry.

Classification Inquiry

Inquiry into the Classification of Program Material on Television (IP/91/46)

In November 1991 the Tribunal commenced an inquiry into the classification of program material on commercial television. The aim of the inquiry was to review the effectiveness of the television program standards which were in force at the time. These standards set out the criteria which commercial television stations use to classify programs and advertisements as G (general), PGR (parental guidance recommended), AO (adults only) and not suitable for television. They also set out the times of day when these programs can be broadcast.

The inquiry also looked at the issue of program promotions broadcast during the early evening viewing period, and the television advertising conditions covering advertisements for alcohol, betting and gambling, and personal products.

The inquiry included extensive public and industry consultation, a series of public conferences held throughout Australia and research commissioned jointly by the Tribunal and the Office of Film and Literature Classification (OFLC) into the attitudes of the general population to classification issues.

Approximately eleven hundred submissions were received from industry groups and the public. Submitters included the Federation of Australian Commercial Television Stations (FACTS), the OFLC, the Australian Film Commission, children's television organisations, religious and community organisations such as the Australian Family Association and a large number of individual submitters.

In September 1992, the Tribunal released its report on the inquiry. The report included discussions of the main concerns raised during the inquiry by submitters and the results of the research conducted in conjunction with the OFLC and a series of recommendations covering the issues of the inquiry.

The major recommendations of the report were:

- that a family viewing period be introduced, to run from immediately following the early evening news until 8.30 p.m. During this time only material which is suitable for children or suitable for children with parental guidance may be shown;
- that at all other times the scheduling of programs reflect the audience composition at the time of broadcast;
- that the current system for the classification of television programs be replaced by a modified form of the OFLC's Guidelines for the Classification of Films and Videotapes. This would adopt the G and PG film/video classifications and a modified form of the M classification in which the M classification would be split into two parts. Lower level M material could be shown from 8.30 p.m. and 'stronger' M material could only be shown on television after 10.30 p.m. in an unmodified form. R material could not be shown on television without modification;
- that consumer advice indicating the strength and frequency of the elements of a program which have contributed to its classification be broadcast before programs; this would particularly indicate levels and frequency of sex, violence and offensive language.

CHAPTER 8

INFORMATION AND ANALYSIS

The Tribunal provided information and analysis relating to the financial, economic, ownership and control, organisational structure, staffing and operational aspects of service areas, services and licensee companies.

These functions included:

- Analysis and assessment of the financial capability of applicants for radio and television licences, and the commercial viability of the markets concerned. Analysis of licensees' financial performance and capability for licence grants and renewals.
- Provision of advice to the Tribunal on the economic and financial implications for the broadcasting industry of changes in regulations or policies.
- Co-ordination of the collection, development and maintenance of relevant data bases of economic, financial, staffing and operational information relating to individual services and the industry as a whole.
- Preparation of submissions, background papers and recommendations to the Tribunal in relation to the ownership and control of licences.
- Maintenance of records of the ownership and control of licences and publication of summaries of ownership information.
- Maintenance of the Associated Newspaper Register and administration of the provisions relating to the cross-media ownership rules and registered lenders.
- Compilation and maintenance of socio-economic profiles of licensees' markets.
- Preparation of summaries of financial results of licensee companies for publication.
- Assessment and collection, on behalf of the Commonwealth, licence fees from commercial licensees.

The Branch carried out analyses of the financial capability of licensees and applicants for broadcasting licences, the commercial viability of particular markets and research on related broadcasting issues.

During the period the Tribunal provided six financial analyses on commercial television, commercial radio and public radio services for licence renewal and share transaction inquiries. The Branch also provided four analyses for commercial radio

Financial Analyses

licence grant inquiries and four analyses for public radio licence grant inquiries.

Fees for licences for commercial radio and television services were payable to the Commonwealth in accordance with, respectively, the *Radio Licence Fees Act 1964* and the *Television Licence Fees Act 1964*. The Tribunal acted as the Minister's agent in the assessment and collection of these fees. If the licence fee remained unpaid after two months from the due date, the *Broadcasting Act 1942* provided that an additional fee by way of penalty was payable by the holder of the licence. The additional fee was calculated at the rate of 20 per cent per annum on the amount of the licence fee unpaid and applied from the due date.

Licence fees were calculated in accordance with formulae contained in the licence fees Acts. The formulae resulted in licence fees being percentages of the gross earnings, with the percentage payable escalating according to the level of gross earnings to a maximum of 3.25 per cent for radio services and 9.0 per cent for television services.

Fees for Licences for Commercial Radio

Annual Licence Fees

During the period 1 July 1992 to 4 October 1992, the Tribunal received \$27 125 in licence fees outstanding from the 1991-92 collection year.

FM Access Fee

This fee applied to all non-metropolitan commercial radio grants, including supplementary licence grants and to conversions of existing non-metropolitan commercial radio services from AM to FM.

In the case of a licence grant or conversion where there was an existing service in the area, the fee was calculated by applying a formula to the gross earnings of the service or services. Where there was no existing service, the FM access fee was calculated by applying the formulae to the gross earnings of any radio licensee whose service area overlapped the proposed licensee's service area, or to the gross earnings of any radio licensee whose service area was a similar size or had a similar level of population as the proposed licensee's service area. During the period 1 July 1992 to 4 October 1992, FM access fees totalling \$718964 were received from incumbent services in Wollongong, Katoomba, Hobart, Newcastle and Bendigo.

Annual Licence Fees

During the period 1 July 1992 to 4 October 1992, the Tribunal received no annual licence fees from commercial television services.

Aggregation Rebates

On 25 January 1990, regulations under the Television Licence Fees Act were gazetted which provided for a rebate of licence fees payable by the licensees of regional commercial television services when these services moved to aggregate.

There were no aggregation rebates allowed during the period 1 July 1992 to 4 October 1992.

The limited licence scheme was designed to authorise restricted broadcasting services within defined categories. Limited licences were restricted in relation to such factors as specialised program content, hours and range of transmission, duration of service, and narrow or specific community focus. Fees were sometimes payable on the grant or renewal of limited licences and an annual fee during the currency of a licence was also sometimes payable. Fees payable in any applicable case were determined in relation to the category of limited licence and the nature of the service. A total of \$97 225 was collected by the Tribunal during the period 1 July 1992 to 4 October 1992 from seven limited licence holders.

In the period 1 July 1992 to 4 October 1992, the Services, Markets and Operations Section upgraded information collections on the population and geographic characteristics of licence areas which included developing indexes to localities, establishing new databases on small area demography and economic activity, including tourism, employment participation and unemployment. In addition, the section held comprehensive population estimates and projections for each defined service area and in this period began updating age structure and other demographic data to 1991.

Six reports were completed on the demographic and socio-economic characteristics of local areas and an automated database facility was established to provide short standardised

Fees for Licences for Commercial Television

Limited Licence Fees

Demographic and Socio- economic Databases

social profiles for the licence areas of forthcoming community radio grants.

Annual Collection of Data

The fourth Annual Collection of Data for commercial radio - a census of all commercial services - was conducted in August 1992. One hundred and forty nine of 150 commercial radio services were surveyed compared with 148 in 1990 (2SM was not surveyed, as it had no staff and was on a transitional program schedule). At August 1992, 141 services were on the air 24 hours a day, compared with 132 last year and 124 in 1990.

Fifteen of the 42 metropolitan operators had changed their program formats from the previous survey, compared with 11 last year and 19 in 1989-90. Adult Contemporary/Gold format variants continued to dominate the metropolitan services, although the popularity of Contemporary music formats aimed at younger audiences continued, with 11 city services playing this format (compared with 12 last year). Sport/Talk formats fell from 13 at the 1991 survey to 10 this year.

The Section provided eight reports for licence grant and renewal inquiries and noted a growing volume of ad hoc requests from diverse sources for information on services' program formats and operations.

CHAPTER 9

LEGISLATION

The *Broadcasting Act 1942* ('the Act') provided a framework for the planning and regulation of broadcasting services in Australia.

The responsibility for planning the development of broadcasting services, the determination of standards and practices for the technical equipment used and its operation, rested with the Minister for Transport and Communications (s. 125D of the Act).

The Broadcasting Act provided that the Minister could direct the Tribunal to hold an inquiry into a wide range of matters including any matter relating to the operation of the Act or broadcasting services (s. 18).

The Minister commenced the licence grant process by publishing a notice inviting applications for a licence (ss. 82, 82AA, 82AAA) or referring an application for a licence to the Tribunal for determination (ss. 82A, 82AB). The Minister determined the service specifications and the technical conditions for every licence and was responsible for the issue of licence warrants which authorised the operation of each radiocommunications transmitter (s. 89D).

The Minister and the tender board established under the Act were responsible for the conversion of commercial radio licences from the AM to the FM Band as part of the National Metropolitan Radio Plan (ss. 89DAA to 89DAP).

The Minister was responsible for the issue of retransmission and temporary transmission permits (Div.2 of Part IIIB).

Under Part IIIBA (Ownership and Control), the Minister could make certain declarations and specifications. These included declarations that a pair of licences had a substantial market in common (s. 89T), specification of the maximum number of commercial radio licences in a state that a person could have held (s. 89U) and specification of the declared population of Australia (s. 91AAD).

Under Part IIIC of the Act, the Minister was responsible for the equalisation of regional commercial television. Under this part, the Minister prepared and published a written plan specifying approved markets, aggregation areas, the affected licensees and those licensees eligible for consolidation with one another. Licensees could then elect whether they wished to proceed towards aggregation in the approved markets or to provide multi-channel services (MCS) before proceeding to aggregation. Licensees submitted an implementation plan and the Minister determined whether or not to approve the plan. Under this part,

The Role and Powers of the Minister

the Minister had power to grant, renew, revoke, suspend and attach conditions to an MCS permit.

Licensing

Under the Act, the planning of commercial and public broadcasting services allowed for the grant of eight different types of licence by the Tribunal, including licences for principal services (including remote services), supplementary services and limited licences.

The Tribunal was responsible for granting and renewing licences, subject to such service specifications as the Minister determined. The Tribunal was also empowered to renew, transfer, suspend or revoke licences. For the exercise of all these powers, specific criteria were laid down in the Act (ss. 80 - 89CC).

Ownership and Control

Part IIIA of the Act contained a range of complex provisions designed to ensure diversity in the ownership and control of commercial broadcasting services. It also provided an approval mechanism for people acquiring or enlarging 'prescribed interests' in broadcasting licences. A person or company held a 'prescribed interest' if they held or controlled a licence, or if they had a shareholding or voting interest above a certain threshold in a company which holds a licence.

The Act limited the number of prescribed interests in licences which could be held by any person and also limited the cross-media interests which a person could have in a commercial television or radio service area.

With regard to television, a person could hold a prescribed interest in any number of licences serving a combined population no greater than 60 per cent of the Australian population. 'One licence to a market' rules also applied so that individuals could not control more than one television licence within the same market or within the Australian Capital Territory or Tasmania.

For commercial radio, the 'prescribed interest' rules were:

- (a) a 'one radio licence within a service area' limit, with allowance for up to 30 per cent service area population overlap between relevant licences.
- (b) a state limit which is a number representing half the number of discrete service areas in the state.
- (c) a nationwide limit of 16 licences.

The cross-media limits in the Act:

- (a) prohibited the holder of a prescribed interest in a commercial television licence from also having a prescribed interest in a commercial radio licence where the two licences had a substantial market in common;
- (b) prohibited the holder of a prescribed interest in a commercial television or radio licence from also having a prescribed interest in a newspaper that is associated with the service area of the commercial television or radio licence.

For the purposes of the cross media rules the Tribunal was required to keep an Associated Newspaper Register (s. 89S); a newspaper would be entered in the register if it was in English, was published at least four days each week, at least 50 per cent of its circulation was sold as a newspaper, and it had at least 50 per cent of its circulation in the service area of the relevant commercial television or radio station.

Where new ownership and control limits had been introduced (e.g. the cross-media limits) or old limits made more restrictive (e.g. the state limits for radio in South Australia and Tasmania), 'grandfathering' provisions protected pre-existing interests which would otherwise have resulted in contraventions of the Act. Similarly, an interest which was legal when acquired, but which would have subsequently contravened a limit because of a new census count or a service area change (other than a change due to aggregation) was protected by 'prospective' grandfathering rules.

In the area of program regulation, the Act imposed some specific requirements over a range of matters (such as Australian music, religious programs, political and election matter, and cigarette advertising) and conferred on the Tribunal the power to determine program standards (s. 16(1)(d)), give directions to ensure that the standards were complied with (s. 99(2)), issue reprimands or admonishments (s. 101), impose conditions (s. 85), and regulate a range of other activities and arrangements affecting programming (Part IV of the Act).

In carrying out its functions, the Tribunal was required in many cases to conduct an inquiry before exercising a 'substantive power' (ss. 17A-17C(1)). In other cases, the Tribunal could decide that an inquiry, although not required, was desirable (s. 17C(2)-(3)). The Act contained general provisions covering the

Programs

Inquiries

conduct of inquiries, and the rights of persons to participate in such inquiries (Part II Division 3 of the Act). Detailed provisions relating to the conduct of 'substantive power' inquiries are to be found in the *Australian Broadcasting Tribunal (Inquiries) Regulations 1986*. An outline of the Tribunal's inquiry process is contained in Appendix A to the Tribunal's *Annual Report 1985-86*.

Assessment of Licence Fees

Other Acts of relevance to the Tribunal were the *Television Licence Fees Act 1964* and the *Radio Licence Fees Act 1964*, which specify the annual licence fee payable by commercial licensees on a sliding scale related to 'gross earnings' of the station. The Tribunal administered this legislation on behalf of the Minister for Transport and Communications, including the assessment and collection of licence fees.

New Acts and Amendments to the Act

Broadcasting Services Act No 110 of 1992

This Act was assented to on 14 July 1992.

Broadcasting Services (Transitional Provisions and Consequential Amendments) Act No 105 of 1992

This Act was assented to on 9 July 1992 and commenced on 5 October 1992. At this date, s. 28 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992* repealed the *Broadcasting Act 1942*.

Regulations

Political Broadcasts (State and Territory Elections) Regulations 1992 SR 259 (notified in *Gazette* of 10 August 1992).

Political Broadcasts (Commonwealth Elections) Regulations 1992 SR 260 (notified in *Gazette* of 20 August 1992).

These two regulations were gazetted prior to the High Court's decision in the Australian Capital Television case set out below. These regulations dealt with the allocation of 'free time' to political parties during elections pursuant to the provisions of Part IIID of the Broadcasting Act.

CHAPTER 10

REVIEW OF TRIBUNAL DECISIONS

The following is an outline of judgements handed down in the period 1 July 1992 to 4 October 1992 concerning Tribunal decisions.

TCN Channel Nine Pty Ltd (TCN) v ABT: Amalgamated Television Services Pty Limited v ABT: Federal Court

On 19 March 1992, an application for orders of review under the *Administrative Decisions (Judicial Review) Act 1977* ('ADJR Act') was filed in the Federal Court by TCN, licensee of Channel Nine, Sydney. On 23 March, the Seven network commenced a similar action. The applications were in respect of the decision of the Tribunal made on 24 February 1992 to introduce a new program standard, TPS 25 - Advertising and Promotion Time. This standard regulated the amounts of advertising and program promotions allowed to be broadcast on commercial television. The applicants alleged, amongst other things, that in determining the program standard the Tribunal breached the rules of natural justice and that the decision involved an error of law.

On 24 June 1992, Mr Justice Gummow handed down his decision in respect of several preliminary issues in favour of the Tribunal. This was followed by a hearing before Mr Justice French on 31 August and 2 September 1992 into the remaining substantive issues of the case. On 30 September 1992, His Honour handed down his decision dismissing the application. His Honour found, amongst other things, that there was no breach of the rules of natural justice by the Tribunal in coming to its decision and that the Tribunal had sufficiently discharged its obligation to provide adequate reasons for its decision.

Riverina Broadcasters (Holdings) Pty Limited v ABT and Wagga and Riverina FM Stereo Broadcasters Pty Limited: Federal Court

This application under the ADJR Act was commenced by Riverina Broadcasters on 12 December 1991 and arose out of the decision of the Tribunal to grant a commercial FM licence to serve Wagga and surrounding areas to Wagga and Riverina FM Stereo Broadcasters Pty Limited.

This matter was heard before Mr Justice Drummond on 13 and 14 August 1992. On 18 September 1992, he handed down his decision finding that the Tribunal had made an error of law in coming to its decision. The error of law concerned the Tribunal's interpretation of a decision of the Full Court of the Federal Court in *Australian Broadcasting Tribunal v Wesgo*

Communications Pty Ltd (1989) 88 ALR 502, which led to the Tribunal wrongly ignoring depreciation in assessing the commercial viability of the incumbent licensee. His Honour ordered that the decision to grant the licence be set aside and remitted to the Tribunal for further consideration. At a later hearing into costs, his Honour ordered that the two respondents each pay one-sixth of the applicant's costs in the matter.

Other Litigation

Australian Capital Television & Ors v The Commonwealth of Australia; New South Wales v The Commonwealth & Anor: (1992) 108 ALR 577 High Court of Australia

These two matters arose out of the passing of the *Political Broadcasts and Political Disclosures Act (Cth) 1991* which inserted Part IIID into the Broadcasting Act. This part imposed restrictions on political advertising on the electronic media. Each action challenged the constitutional validity of the legislation. As each matter concerned the same legislation, the High Court consented to hearing both matters together, both at the interlocutory stage and at final hearing.

The full hearing of the two matters took place over three days, 17-19 March 1992. On 28 August 1992 the High Court made formal orders and on 30 September 1992 the High Court handed down its reasons for finding that Part IIID was invalid in its entirety. The High Court's reasons focused on the concept of representative government contained in the Commonwealth Constitution. The majority of the High Court found that the legislative power of the Commonwealth did not extend to restricting freedom of communication on political and economic matters as that freedom was indispensable to the proper functioning of representative government.

Litigation on hand at 4 October 1992

John Laws v ABT: Supreme Court of New South Wales

On 25 May 1988, Mr Laws commenced proceedings in the New South Wales Supreme Court against the Tribunal and a staff member, Ms Paramore, for defamation in relation to an interview Ms Paramore had with Jane Singleton on 2GB on 29 April 1988. The interview dealt with, amongst other things, the issue of the Tribunal's decisions of 24 and 27 November 1987, concerning breaches of Radio Program Standard (RPS) 3 by Mr Laws. No hearing date had been set by 4 October 1992.

Alice Springs Commercial Broadcasters Pty Ltd v ABT: Federal Court

In September 1990, in the course of preparing for other litigation pending before the Federal Court, the Tribunal discovered that in conducting the Alice Springs supplementary licence grant inquiry (Index No: IL/87/49) the Tribunal had proceeded under the Broadcasting Act whereas the decision should have been made under the previous Broadcasting and Television Act. The Tribunal subsequently vacated its decision and Alice Springs Commercial Broadcasters Pty Ltd claimed that the Tribunal should pay the legal costs arising from the earlier application to the Federal Court.

The question of costs was heard in the Federal Court in Adelaide on Tuesday 17 December 1991.

United Telecasters Ltd (in liquidation) v ABT and others and Westpac Banking Corporation: Federal Court

The company which formerly held the licence for commercial television service TEN Sydney, in liquidation and with receivers appointed, sought review of the Tribunal's decision of 14 February 1992 to approve the share transfers from the licensee companies in receivership to companies which were wholly owned subsidiaries of Westpac Banking Corporation. The application claimed that the Tribunal had erred in law in that it failed to investigate thoroughly the fitness and propriety of Westpac.

The matter was heard before Mr Justice Einfeld on 2 July 1992 and at the date of this report he had reserved his decision.

Valerie Lawson

On 28 August 1992, Ms Valerie Lawson of the *Sydney Morning Herald* commenced review proceedings in the Administrative Appeals Tribunal concerning a Tribunal decision under the *Freedom of Information Act 1982*. The Tribunal had decided not to release a number of documents which had been requested under that Act. The documents concerned the Tourang Consortium's bid for the Fairfax Group.

At the date of this report, the matter had not yet been listed for hearing by the Administrative Appeals Tribunal.

Administrative Appeals Tribunal Review

Nine Network Australia Limited

On 9 September 1992, Nine Network Australia Ltd commenced review proceedings in the Administrative Appeals Tribunal concerning a Tribunal decision under the Freedom of Information Act. The Tribunal had decided to release a document that had been requested under that Act by the Communications Law Centre. The document in question is the transcript of a conference between the Tribunal and members of the Nine Network Australia Ltd.

Subsequent to the date of this report, on 29 October 1992, the Nine Network Australia Ltd notified the Administrative Appeals Tribunals and the Authority of its desire to withdraw its application for review.

Australian Council for Children's Films and Television

On 10 June 1992 the Ombudsman wrote to the Tribunal in relation to a complaint from Ms Biggins of the above association. The complaint concerned the Tribunal's decision to disband the Children's Program Committee.

The Tribunal responded to this complaint in a letter to the Ombudsman dated 6 July 1992.

Nine Network Australia Limited

On 24 June 1992 the Tribunal received a letter from the Ombudsman's office concerning a complaint from the general counsel of the above company. The complaint concerned the Tribunal's refusal to provide reasons for a decision, pursuant to s.17C(7) of the Broadcasting Act, to allow a public submission period of 14 days instead of the 42 day period required by the *Australian Broadcasting Tribunal (Inquiry) Regulations 1986* in the Darwin FM commercial radio licence inquiry.

The Tribunal provided the Ombudsman's office with reasons for the decision on 5 August 1992.

CHAPTER 11

PUBLIC INFORMATION

The Media and Public Relations Branch was responsible for :

- a) co-ordination and management of the production and commercial marketing of Tribunal publications, including *Broadcasting in Australia*, *Ownership of Australia's Broadcast Media*, *Broadcasting Financial Yearbook*, *ABT Manual*, *ABTEE* and major inquiry reports;
- b) co-ordination of the media liaison needs of the Tribunal including advice to senior management, writing and distribution of news releases, handling enquiries from journalists, arranging interviews and media or news conferences;
- c) co-ordination of the public relations activities of the Tribunal, including the preparation of information brochures on the Tribunal's role and functions.

Broadcasting in Australia

The fourth edition of this publication, covering the 1991 calendar year, was published in September 1992. The book provided an overview of the broadcasting industry and contained information on television and radio programming, financial results, ownership structures, location of services and lists names, addresses and transmitting frequencies of all broadcasting licensees.

The book sells for \$34.95 and from 1 July to 30 September 1992 had raised \$509.

Broadcasting Financial Yearbook

The *Broadcasting Financial Yearbook* contained financial results for commercial television, commercial radio and public radio. Comparative figures for the three metropolitan television networks and the four major radio networks were included. The publication also contained staff numbers of commercial television and radio services and population changes in service areas.

The 1990-91 edition was launched on 30 June 1992. It sells for \$80 and from 1 July to 30 September 1992, had raised \$7936.

Ownership of Australia's Broadcast Media

Ownership of Australia's Broadcast Media contained listings of the major shareholders in companies which held a broadcasting licence and companies which published major newspapers. It

Public Information

Publications

detailed multiple share holdings in licensee and publishing companies, licences having a substantial market in common, population reach figures for the major media groups and service area maps for commercial radio and television. It was published quarterly with a yearly subscription costing \$165. No receipts were obtained in the reporting period.

ABTEE

The Tribunal published a monthly newsletter, *ABTEE*. The newsletter contained information about Tribunal inquiries, litigation summaries, details of new services, changes to call signs, public hearing dates and listed inquiry reports published.

A yearly subscription to *ABTEE* cost \$36. In the three months to 30 September 1992, it raised \$914.

ABT Manual

The second edition of the *ABT Manual* was published in soft cover book form in March 1992. The *Manual* contained the Tribunal's program and advertising standards, policy statements, practice notes and forms. The *Manual* cost \$15 and in the three months to 30 September 1992, had raised \$645.

Monographs

One monograph based on research into community attitudes to broadcasting, *What We Want From Our TVs* was published in the three months to 30 September 1992. In that period it raised \$568.

Oz Content

The fourth volume of the Tribunal's inquiry into Australian content on commercial television, dealing with advertisements, was published in the period. In the three months to 30 September 1992, the four volume set raised \$480.

Marketing of Publications

A publications flyer with a brief description and price of each publication, together with an order form, was updated periodically. This flyer was supplied to people who wrote or phoned to inquire about Tribunal publications. The flyer was designed in-house.

Because the Tribunal did not have (and in fact was precluded from operating) a retail facility, the vast majority of publications were distributed by mail.

Distribution

Media Liaison

A total of 555 media calls were taken in the period 1 July to 4 October 1992.

News Releases

A total of 40 news releases were issued in the period 1 July to 4 October 1992. A full list of these appears at Appendix D.

In its role of assembling and disseminating information about broadcasting in Australia, the Tribunal maintained offices and state representation in all Victoria, Queensland, South Australia and Western Australia. These offices were resource centres and held extensive information records in document and microfiche form. Records included documentation for Tribunal inquiries, decisions and reports as well as research reports and other material. Tribunal publications were also available for sale.

The Tribunal's state representatives acted as liaison officers between the Tribunal, broadcasters, industry organisations, public interest groups, media researchers and other bodies or individuals with broadcasting interests.

State representatives were also involved in increasing public awareness of broadcasting and the Tribunal's role in its administration. They had an important role in receiving comments and, where necessary, investigating complaints about broadcasting, informing members of the public about the relevant program standards or sections of the Act and passing complaints to the Complaints Unit for investigation.

After the introduction, in May 1986, of the Tribunal's uniform inquiry procedures, state representatives were available to assist the public and industry in their understanding of these procedures. Such assistance was provided not only to ensure that, where appropriate, applications were lodged in accordance with the relevant regulations, but to assist the public generally to understand the inquiry process.

Public Relations

State Offices

The state representative in Victoria also had responsibility for Tasmania, and the state representative in South Australia had responsibility for the Northern Territory.

People in remote areas were provided with toll-free telephone numbers for the Sydney head office and the Complaints Unit in Melbourne.

Local files, reports and decisions were located in the State Library of Tasmania.

Library

During the period under review the Library continued its usual programs and activities which were directed towards providing Tribunal members and staff with apposite and timely information in the discharging of the Tribunal's obligations under the Broadcasting Act.

Demand for the Library's services from the wider community was steady.

Freedom of Information

The following material is provided on the operation of the *Freedom of Information Act 1982*.

Requests Made

In the period 1 July to 4 October 1992 (96 days), one request was outstanding from the previous period and two new requests were received. One internal review was outstanding at the commencement of the period. Two further requests for internal review were received in the period.

In relation to the three requests, access was granted in full to two and access in part was granted to the other. The request where access was granted in part related to the minutes of a meeting with a commercial radio service and associated correspondence.

Of the three internal reviews considered in the period, one was initiated by the original FOI applicant and the other two were sought by affected parties under the section 27 consultation process.

The first internal review, which had been carried over from the previous period, concerned documents relating to the bids for the Fairfax Group and was brought by the original FOI applicant as access was refused in total to the requested documents. Section 125(2)(a) of the Broadcasting Act is included in Schedule 3 of the FOI Act which allowed the Tribunal to

claim an exemption under section 38 (secrecy provision) of the FOI Act in relation to the requested documents. The result of the review was that access to the documents should be refused for the same reason as the original decision. As at 4 October, the applicant had lodged an appeal with the Administrative Appeals Tribunal (AAT) but no hearing date had been set (the appeal was subsequently withdrawn in January 1993).

The second internal review was lodged by an affected party following the section 27 consultation process. The original FOI applicant was granted access to several documents, one of which was subject to an objection by an affected party. That party exercised its rights and appealed to the Administrative Appeals Tribunal. As a result of that appeal, the Tribunal was obliged to withhold the disputed document until the matter had been decided upon by the AAT. As at 4 October, the matter had not been listed for hearing (the appeal was subsequently withdrawn in November 1992 and the document was provided to the FOI applicant).

The third internal review concerned an affected party after the consultation process had concluded. The original decision was to grant access in full to a particular document. The affected party sought an internal review of the decision to grant access which decided that the document should be released to the FOI applicant in full. The affected party subsequently withdrew its objection to the release of the document.

The average time taken to notify decisions was 26 days compared with 38 days last year. The shorter time period was a result of two of the requests being relatively simple.

Cost of Freedom of Information

The total cost to the Tribunal for Freedom of Information activities in the period was approximately \$1056.

No requests were received for remission of applications fees or charges.

A total of \$31.25 was received in the period representing charges associated with the request. A total of \$140 was received in the form of application fees.

Staff costs for Freedom of Information activities were \$517.62, which, with 85 per cent overheads of \$439.98, made a total of \$1037.60. In the full year 1991-92, staff costs amounted to \$5556 or approximately \$1460 for 96 days.

CHAPTER 12

ORGANISATION AND STAFF OF THE TRIBUNAL

Section 15 E of the Broadcasting Act provided that staff of the Tribunal be employed under the *Public Service Act 1922*.

The Tribunal's senior staff, as at 4 October 1992, were:

Human Resources

Senior Executive Service

Ms Pat Manser	Director, Licensing Division (Temporary Transfer)
Ms Debra Richards	Acting Director, Programs Division
Mr Norm Grimmond	Acting Director, Corporate Services Division

Other Senior Staff

Ms Michele Blum	Assistant Director, Grants and Renewals Branch, Licensing (Temporary Transfer)
Mr John Souter	Acting Assistant Director, Ownership and Control Branch, Licensing
Mr Michael Zagame	Assistant Director, Information and Analysis Branch, Licensing
Ms Lesley Osborne	Assistant Director, Standards Inquiries Branch, Programs (Temporary Transfer)
Mr Nick Herd	Assistant Director, Research and Assessment Branch, Programs
Ms Madeleine Davis	Acting Assistant Director, Management Services Branch, Corporate Services
Mr Graeme Haigh	Assistant Director, Secretariat Branch, Corporate Services
Mr Giles Tanner	Acting Principal Legal officer, Legal Branch, Corporate Services
Ms Fiona Chisholm	Manager, Media and Public Relations Branch, Corporate Services
Mr John Small	Manager, Information Systems Branch, Corporate Services
Ms Lurline Caffery	Librarian, Library Branch, Corporate Services

Staffing Overview

As at 4 October 1992, the Tribunal employed 141 staff. This figure included five statutory office holders (Chairman and four Members), 123 permanent officers and 13 temporary

employees. Six staff were located in the Tribunal's Melbourne office and there was one representative in Brisbane, Adelaide and Perth. The Tribunal had four permanent part-time staff.

Of the 133 non-SES staff, 71 were women.

As at 4 October 1992, two of the three Senior Executive Service positions were staffed by women.

Changes in Membership and Senior Staff

Mr Peter Webb

Mr Webb became Acting Chairman of the Tribunal from 1 July 1992 and continued in this office until the Tribunal was abolished on 4 October 1992.

Ms Sue Brooks

On 4 October 1992, Ms Brooks' term as a member of the Tribunal ceased with the abolition of the Tribunal on that date.

Mr Bruce Allen

On 4 October 1992, Mr Allen's term as a Member of the Tribunal ceased with the abolition of the Tribunal on that date.

Mr Kim Wilson

On 4 October 1992, Mr Wilson's term as a Member of the Tribunal ceased with the abolition of the Tribunal on that date.

Mr Tim O'Keefe

On 4 October 1992, Mr O'Keefe's term as a member of the Tribunal ceased with the abolition of the Tribunal on that date.

Ms Fiona Chisholm

On 9 July 1992, Ms Fiona Chisholm was appointed to the position of Manager, Media and Public Relations Branch, Corporate Services Division.

Performance Pay

Performance appraisal continued for SES officers and it was expected that performance pay would be introduced for the SES by the Government before the end of 1992.

The Tribunal was in the process of establishing a performance management program for the senior officer structure. It had been expected that performance pay, based on the scheme, would be available for the Senior Officer Grade A and B levels

from August 1992 and for the Senior Officer Grade C level from November 1992. As at 4 October 1992, performance pay had not been authorised for introduction to senior officer grades within the Australian Public Service.

The Tribunal implemented an appraisal scheme for its legal staff. The first appraisal cycle for eligible staff was completed in September.

The Tribunal was committed to a high level of staff development and training and during the three month period all staff were encouraged to attend training courses, conferences and seminars.

Expenditure by the Tribunal for eligible training under the Training Guarantee Scheme for the period 1 July 1992 to 4 October 1992 was 4.95 per cent of the Tribunal's payroll of \$1 358 133. The net eligible training expenditure was \$67 194.78 and 145 staff spent a total of 467 days on training. Several middle managers attended courses provided by the Public Service Commission under its middle management development program. Other staff undertook a variety of courses such as supervision, writing skills, stress management, women in management, developing job seeking skills and information technology training. Several senior officers used the general development opportunities offered through the Public Service Commission. Staff also undertook a variety of short courses such as team-building, negotiation skills and supervision skills.

The Tribunal was a member of the NSW Joint Agencies Training Committee which comprised personnel and training managers from 19 small government agencies in Sydney. The agencies pooled their resources to produce a combined training program offering cost effective activities catering for the needs of people in member organisations. Ten courses were run during the three month period.

An officer from the Tribunal was selected to participate in the NSW Action Management program. This program was developed by the NSW Regional Directors' Training Steering Committee. It is a seven month action learning development program for middle managers in the Australian Public Service. Project-based, it is designed to provide a significant development opportunity, particularly in people management skills, for a mixture of new and experienced managers.

Twenty-four middle management officers participated in a program specially developed by the Tribunal. The program

Training

was funded with assistance from the Middle Management Development Program run by the Public Service Commission. As well as attendance at eight workshops, participants worked on four projects which they presented at the end of the program. These projects were:

- Stress Management
- Financial Management
- Time Management
- Career Planning.

Occupational Health and Safety

It was the policy of the Tribunal to promote and maintain the highest degree of health, safety and well-being of all staff by aiming to:

- prevent accidents and ill-health caused by working conditions;
- protect staff from any health hazard which may arise out of their work or the conditions in which it is carried out; and
- place and maintain staff in an occupational environment designed to satisfy their needs or health, safety and well-being at work.

The Tribunal Occupational Health & Safety Committee (OH&S) met during September to deal with health and safety matters. The Committee membership was made up of an equal number of management staff, OH&S representatives and union delegates.

Industrial Democracy

The Tribunal was committed to Industrial Democracy (ID) and, in accordance with ID principles, staff and union were represented on various Tribunal committees. The Consultative Council, comprising representatives of management and the Public Sector Union, met in July. Issues discussed included the establishment of the Australian Broadcasting Authority and the implications for the consultative process, Studybank, the Employee Assistance Program, childcare and home-based work.

Equal Employment Opportunity

The Tribunal continued its ongoing program of identifying and eliminating discriminatory practices and introducing measures which would allow people in target groups equality of employment opportunity.

A survey of the percentage of officers in the target groups was not undertaken for the period of this report.

The Tribunal's social justice aims were reflected in its policy of holding regular consultative meetings with industry, interest and consumer groups. Through such consultative processes the Tribunal facilitated participation in decision making about appropriate Tribunal activities by those individuals and groups who may have been affected by the Tribunal's decisions. During the period from 1 July to 4 October 1992, these tenets continued to underpin the completion of a number of Tribunal projects and inquiries. Many of the processes carried out within the Tribunal involved the public, notably:

- attitudinal research;
- the public inquiry mechanism;
- the complaints process;
- the education and information program of visits, talks and media contacts.

The public's view was sought in particular circumstances. For example, when the renewal of a licence was being assessed, the community to which the licensee delivered the service was asked for its views. This may also have included seeking out the views of target audiences, such as migrants or Aborigines.

Additionally, the public inquiry process aimed to enhance fair access to broadcasting services by:

- encouraging public submissions and requiring licensees to take account of them;
- encouraging public attendance and participation at hearings and conferences through prominent advertisement in the local press and/or issuing of media releases;
- ensuring hearings were held where possible in the major centre of the licensee's community;
- placing emphasis during inquiries on signal reception difficulties within licensees' designated service areas.

Individual participation in decision making was encouraged through the Tribunal's emphasis, when considering the grant or renewal of public radio licences, on the level of community participation in the operations of the licensee and the selection and provision of programs.

Social Justice

Outcome

The major part of the Tribunal's attitudinal research activity was the completion of research projects which commenced in the second half of the 1991-92 financial year. The topics were attitudes to Australian content, representation of ethnic minorities on television and audience expectations of new audio visual services.

The Tribunal conducted three public inquiries into program standards in the period. Of these, two were to review existing standards and were a continuation of earlier initiatives. The third was initiated following an application from the Federation of Australian Commercial Television Stations relating to advertising and program promotions on television.

Further details of these inquiries are outlined in chapter 7.

The Tribunal continued to subscribe to audience rating data supplied to the broadcasting industry during this period and continued to monitor and report on the 008 complaints number based in its Melbourne office.

During the three month period, the Tribunal released the fourth edition of its annual review of the broadcasting industry, *Broadcasting in Australia*. The Tribunal also released *What We Want from Our TVs*, a monograph based on research into community attitudes to broadcasting; volume four of *Oz Content*, with the results of its inquiry into Australian content of advertisements; and continued to publish *ABTEE*, its monthly newsletter. The Media and Public Relations Branch continued to issue media releases and provide information upon request to the general public, other government departments, the media and the broadcasting industry.

Information Systems

The Tribunal recruited a LAN (local area network) administrator and speeded up extension of the LAN in the Sydney office. As at 4 October, about 90 Tribunal staff had access to the LAN.

The impending implementation of the *Broadcasting Services Act 1992* made some changes necessary to the computer system used to monitor compliance with the law governing ownership and control of broadcasting stations. Although the system is quite complex, the changes made necessary by the new Act were not substantial, and programming work had been completed by the time the new Act which came into effect on 5 October 1992.

Government information technology purchasing guidelines were complied with. Compliance was ensured by the fact that

the approval of the Director of Corporate Services was required all information technology expenditure over \$10 000. The Tribunal had no major projects requiring Acquisition Council action, and most hardware purchases were made under Commonwealth Government period contract PE50.

In the period under review, a total of \$15 350 was spent on classified advertising. A further \$43 000 was paid out for research conducted on behalf of the Tribunal.

Significant instances of loss were reported to the police and investigated internally to determine whether fraudulent action had occurred. No instances of fraud were identified during the period.

Fraud policy was planned to be reviewed after the establishment of the Australian Broadcasting Authority.

No insurable or manageable claims or losses occurred during the period.

The nature of the Tribunal's activities generally required the purchase of standard items, most of which were available under period contract.

Unless otherwise agreed with the supplier, it was Tribunal policy to pay its accounts on 30 day terms. During the July to September period the Tribunal achieved a reasonable performance. Details of the Tribunal's payment performance during the period are as follows:

Paid prior to due date	0
Paid on due date	713
Paid within 30 days of due date	254
Paid later than 30 days after due date	28
Total number of accounts paid	995

During the period the Tribunal undertook no major capital works.

Advertising and Market Research

Fraud Control

Claims and Losses

Purchasing

Payment of Accounts

Capital Works Management

External Scrutiny

No matters were raised by the Auditor-General during the period.

Privacy

All Tribunal application forms which required details which could have been regarded as personal information to be provided to the Tribunal in the exercise of its functions under the Broadcasting Act, indicated that unless a request was made for restricted access, the information would be placed on a public file.

No complaints relating to privacy, in terms of the Privacy Act, were received during the year.

Financial Statement

The Auditor-General's certification of the Tribunal's financial statements appears at Appendix L.

APPENDICES

APPENDIX A

MEETINGS ADDRESSED BY TRIBUNAL MEMBERS FROM 1 JULY 1992 TO 4 OCTOBER 1992

31.7.92

Mr O'Keefe addressed students at the Australian Film, Television and Radio School in Sydney.

5.8.92

The Acting Chairman addressed the Blake Dawson Waldron seminar on broadcasting and pay TV in Melbourne.

20.8.92

Mr Wilson addressed students at the University of Technology (Ku-ring-gai Campus) on the subject of broadcast regulation.

31.8.92

The Acting Chairman addressed the Law Society at the University of New South Wales.

7.9.92

Mr Allen addressed graduate students at the University of Technology on the subject of changes to broadcast regulation.

10.9.92

Ms Brooks addressed students at Griffith University on classification issues.

APPENDIX B

MEETINGS OF THE TRIBUNAL

The Tribunal held regularly scheduled meetings to deal with the normal business of the Tribunal in the period under review and, in addition, met to consider urgent matters as they arose.

Subject to certain conditions, the official minutes of Tribunal meetings and records of meetings with outside bodies such as industry bodies were available in each of the Tribunal's offices, in the Department of Transport and Communications (Broadcasting Policy Division) in Canberra, the State Reference Library in Darwin and the State Library of Tasmania in Hobart. Access to the records of other meetings was available through the provisions of the *Freedom of Information Act 1982*.

Consultation: Meetings with Outside Persons and Bodies

In the period, the Tribunal consulted with representatives of public radio and commercial radio and television services, in accordance with the provisions of s.16(2) of the *Broadcasting Act 1942*, and also with representatives of the broadcasting industry bodies, as has been its normal practice.

Meetings were arranged and conducted in accordance with the practices set out in the Tribunal's Practice Note PRN 04 - Meetings and Other Contact With The Tribunal. Members and staff were in attendance at the following meetings:

Media and Communications Council (MACC)	22.7.92
Western Broadcasting Services Pty Ltd	29.7.92

APPENDIX C

PUBLIC INQUIRY REPORTS 1 JULY 1992 TO 4 OCTOBER 1992

Reports are ranked state by state and alphabetically in call sign order, where appropriate. Metropolitan licences are ranked ahead of regional licences, and television is ranked ahead of radio.

Those reports dated 4 October carried over from the Australian Broadcasting Tribunal to the Australian Broadcasting Authority with automatic renewal.

Those reports dated 5 October were of inquiries which lapsed as a result of the Broadcasting Services Act 1992 which came into effect on that date.

FILE NO.	TITLE	REPORT DATE
89/204/IO	CTC, ADS, NEW - Chartreuse/Chagrin Pty Ltd/Caprice/BDC Investments - Share Transaction	5/10/92
90/18/IO	ATN, HSV, BTQ, MVQ, SEQ, SAS, TVW - Share Transaction - David Crawford and John Alpass	5/10/92
91/24/IL	BKN Broken Hill - Licence Renewal	4/10/92
90/103/IO	CBN, NEN - Dextran Pty Ltd - Share Transaction	5/10/92
90/106/IL	MTN Griffith - Licence Renewal	4/10/92
91/50/IL	NRN Northern Rivers - Licence Renewal	4/10/92
88/135/IO	GMV, STV, VTV, 3GG, 3SR - ENT Ltd - Share Transaction	5/10/92
89/45/IL	STV Mildura - Licence Renewal	4/10/92
90/33/IL	VTV Ballarat - Licence Renewal	4/10/92
90/4/IL	BTQ Brisbane - Licence Renewal	4/10/92
90/67/IL	QTQ Brisbane - Licence Renewal	4/10/92
89/65/IL	MVQ Mackay - Licence Renewal	4/10/92
90/3/IL	TVQ Brisbane - Licence Renewal	4/10/92
92/48/IL	QQQ, WAW, IMP - Licence Revocation/Variation	5/10/92
92/65/IO	TNQ, ITQ, QQQ - Telecasters North Queensland Ltd/Susprium Pty Ltd - Share Transaction	2/10/92
91/23/IL	GTS Spencer Gulf - Licence Renewal	4/10/92

FILE NO.	TITLE	REPORT DATE
88/214/IO	SAS, TVW - Kaycliff Pty Ltd/Bell TV - Share Transaction	5/10/92
92/40/IL	NEW Perth - Licence Renewal	4/10/92
91/68/IO	TVT Hobart - Tasmanian TV Ltd/W R Rolph & Son Pty Ltd - Share Transaction	5/10/92
91/69/IO	TVT Hobart - Tasmanian TV Ltd/Gotham City Properties - Share Transaction	5/10/92
91/26/IO	NTD Darwin - Publishing & Broadcasting Ltd - Share Transaction	5/10/92
90/9/IL	2CA Canberra - Licence Renewal	4/10/92
90/8/IL	2CC Canberra - Licence Renewal	4/10/92
89/141/IL	2BCR Bankstown - Licence Renewal	2/7/92
90/91/IO	2DAY, 2CA, 2ROC, 3FOX, 5SSA, 6GL - Coopers Brewery Ltd - Share Transaction	4/10/92
92/56/IO	2GB Sydney - Uniting Church in Aust./Harbour Radio Ltd - Share Transaction	5/10/92
89/140/IL	2GLF Liverpool - Licence Renewal	4/10/92
89/145/IL	2RSR Darlington - Licence Renewal	4/10/92
90/45/IL	2AAA Wagga Wagga - Licence Renewal	4/10/92
92/47/IL	2AY Albury/Wodonga - Supplementary Licence Grant	2/10/92
89/109/IL	2BOB Taree - Licence Renewal	4/10/92
89/116/IL	2GLA Great Lakes (Forster) - Licence Renewal	4/10/92
90/100/IO	2GO Gosford - Wesgo Communications Pty Ltd/Actraint No. 116 - Licence Transfer	5/10/92
90/53/IL	2HD Newcastle - Licence Renewal	4/10/92
90/109/IL	2RG Griffith - Licence Renewal	4/10/92
90/15/IL	2VOX Wollongong - Licence Renewal	4/10/92
89/118/IL	2VTR Windsor/Colo - Licence Renewal	4/10/92
90/75/IO	3XY Melbourne - GLFM Pty Ltd/Radio 3XY Pty Ltd - Share Transaction	5/10/92
90/137/IL	3BAY Geelong - Inquiry into whether to impose further conditions under s.85	2/7/92
92/68/IO	3CAT Geelong - Geelong Broadcasters Pty Ltd/Shellhall Pty Ltd - Licence Transfer	26/8/92

FILE NO.	TITLE	REPORT DATE
91/5/IO	3XY, 3BAY - Votrait No. 378 Pty Ltd - Share Transaction	5/10/92
91/58/IL	3HOT Mildura - Imposition of Conditions	7/9/92
92/22/IL	3MFM South Gippsland - Licence Renewal	4/10/92
89/39/IL	3SH Swan Hill - Licence Renewal	4/10/92
92/71/IO	3SR Shepparton - Licence Transfer	4/9/92
89/36/IL	3SR Shepparton - Licence Renewal	4/10/92
90/147/IL	3SUN Shapparton - Licence Revocation	28/8/92
90/72/IL	3TR La Trobe Valley - Licence Renewal	4/10/92
92/35/IO	3YB Warmambool - Regional Communications Pty Ltd/ DGS Anderson - Share Transaction	31/8/92
92/36/IO	3YB Warmambool- Regional Communications Pty Ltd/Ringlow Pty Ltd - Share Transaction	31/8/92
92/72/IO	3YB Warmambool - Regional Communications Pty Ltd/ Ecliptic Pty Ltd - Share Transaction	9/9/92
90/50/IO	4TAB Brisbane - Beach Media Pty Ltd/Radio 4IP Pty Ltd - Share Transaction	28/9/92
91/38/IO	4TAB Brisbane - Appointment of receivers to 4IP Pty Ltd and Beach Media Pty Ltd	28/9/92
91/65/IO	4TAB Brisbane - 4TAB/Totalisator Admin. Board of Qld - Share Transaction	28/9/92
92/59/IL	4CRB Gold Coast - Licence Renewal	4/10/92
92/30/IL	4IM Mt Isa - Licence Grant	21/8/92
88/202/IO	4BBB Brisbane - Austereo/The Eagle; 2DAY FM & 105 FM - Share Transaction	5/10/92
92/64/IO	4LG Longreach - Gloweir Pty Ltd - Licence Transfer	1/9/92
91/19/IL	4QFM Ipswich - Conditions Inquiry s. 85	5/10/92
92/18/IO	5AD, 5SE - Southern State Broadcasters Pty Ltd/Montclair Pty Limited - Share Transaction	31/7/92
89/175/IL	5AD Adelaide - Licence Renewal	31/7/92
89/176/IL	5DDN Adelaide - Licence Renewal	4/10/92
92/63/IO	5SE Mount Gambier - Southern State Broadcasters/ Votrait No. 688 Pty Ltd - Licence Transfer	30/7/92
88/99/IO	6IX Perth- 6IX Radio Network Pty Ltd/Austereo - Share Transaction	5/10/92

FILE NO.	TITLE	REPORT DATE
90/119/IL	6RTR Perth - Licence Renewal	4/10/92
92/11/IO	7EX, 7HT - Hunter Broadcasters Pty Ltd/TAB (Tasmania) - Share Transaction	5/10/92
91/81/IL	7RPH Hobart - Licence Grant	30/9/92
91/84/IL	Licence Grant - Canberra - Public Radio (Print Handicapped Radio)	30/9/92
90/77/IL	Licence Grant - Albury-Wodonga - Commercial Radio	2/10/92
88/221/IL	Licence Grant - Kempsey - Supplementary Radio Licence	10/7/92
89/77/IL	Licence Grant - Kempsey - Commercial Radio	10/7/92
92/20/IL	Licence Grant - Sale - Commercial Radio	2/10/92
92/21/IL	Licence Grant - Sale - Supplementary Radio	2/10/92
87/97/IL	Licence Grant - Mildura - Supplementary Radio	14/7/92
92/12/IL	Licence Grant - Millicent - Public Radio	29/7/92
92/26/IL	Licence Grant - Bundaberg - Supplementary Radio	2/10/92
92/27/IL	Licence Grant - Bundaberg - Commercial Radio	2/10/92
92/10/IL	Licence Grant - Cairns - Commercial Radio	2/10/92
92/13/IL	Licence Grant - Cairns - Supplementary Radio	2/10/92
92/52/IL	Licence Grant - Redcliffe Pine Rivers - Public Radio	1/10/92
92/53/IL	Licence Grant - Redland Shire - Public Radio	1/10/92
92/25/IL	Licence Grant - Kununurra - Public Radio	7/7/92
92/61/IL	Limited Licence Grant - Canberra	20/7/92
92/77/IL	Limited Licence Grant - Concord Golf Course, NSW	24/9/92
92/67/IL	Limited Licence Grant - Eastlakes Golf Course, NSW	6/8/92
92/76/IL	Limited Licence Grant - Geelong Air Show	17/9/92
92/78/IL	Limited Licence Grant - Gold Coast	1/10/92
92/73/IL	Limited Licence Grant - Surfers Paradise	21/9/92
92/57/IL	Limited Licence Grant - Adelaide Grand Prix - TV	10/7/92
92/58/IL	Limited Licence Grant - Adelaide Grand Prix - Radio	10/7/92
92/60/IL	Limited Licence Grant - Murray Bridge	10/7/92
92/79/IL	Limited Licence Grant - Perth, Ascot Summer Carnival	1/10/92
92/62/IL	Limited Licence Grant - Albany	23/7/92

FILE NO.	TITLE	REPORT DATE
92/70/IL	Limited Licence Grant - Kalgoorlie	27/8/92
92/66/IL	Limited Licence Grant - Litchfield Park, NT	20/8/92
92/74/IL	Limited Licence Grant - Northern Territory	21/9/92
92/45/IL	Limited Licence Grant - BRACS Licences	5/10/92
91/46/IP	Inquiry into the classification of television programs	24/9/92
91/86/IP	Inquiry into review of RPS3/TPS2(b)	18/9/92
92/69/IP	Inquiry into Television Program Standard 25	10/9/92

Those reports dated 4 October carried over from the Australian Broadcasting Tribunal to the Australian Broadcasting Authority with automatic renewal.

Those reports dated 5 October were of inquiries which lapsed as a result of the Broadcasting Services Act 1992 which came into effect on that date.

APPENDIX D

NEWS RELEASES ISSUED FROM 1 JULY 1992 TO 4 OCTOBER 1992

Number	Date	Subject
NR54/1992	1.7.92	ABT GRANTS EAST GIPPSLAND COMMUNITY RADIO LICENCE
NR55/1992	1.7.92	ABT INFORMATION KIT FOR CHILDRENS' TV PRODUCERS
NR56/1992	3.7.92	NEW ABT RESEARCH ON TV CLASSIFICATION
NR57/1992	3.7.92	ABT CONSULTS TAS VIEWERS ON TV CLASSIFICATION
NR58/1992	7.7.92	ABT RESEARCH ON PROGRAMMING NEEDS AND INTERESTS
NR59/1992	13.7.92	ABT GRANTS NEW KEMPSEY FM RADIO SERVICE
NR60/1992	16.7.92	NO ROLE FOR ABT IN PEOPLE METER DISPUTE
NR61/1992	22.7.92	ABT HEARING IN MILLICENT
NR62/1992	28.7.92	ABT CLOSES MILDURA INQUIRY
NR63/1992	30.7.92	ABT GRANTS MILLICENT LICENCE
NR64/1992	3.8.92	ABT GRANTS NEW TAMWORTH FM RADIO SERVICE
NR65/1992	5.8.92	BROADCASTING REGULATION TO BE MORE FLEXIBLE
NR66/1992	11.8.92	ABT HEARING IN DARWIN NEXT WEEK
NR67/1992	12.8.92	RADIO AD REVENUE SHOWS RE-GROWTH
NR68/1992	14.8.92	POLITICAL ADVERTISING RESTRICTIONS
NR69/1992	25.8.92	ABT HEARING IN SALE NEXT WEEK
NR70/1992	25.8.92	ABT REJECTS OFFER ON AD TIME
NR71/1992	26.8.92	QUEENSLAND POLITICAL ADVERTISING RESTRICTIONS
NR72/1992	28.8.92	ABT AND HIGH COURT DECISION
NR73/1992	1.9.92	ABT HEARING IN BUNDABERG NEXT WEEK
NR74/1992	1.9.92	ABT INQUIRY INTO EXTRA ELECTION AD TIME
NR75/1992	4.9.92	ABT REVIEWS HOME VIDEO PROGRAM
NR76/1992	7.9.92	ABT HEARING FOR REDCLIFFE PINE RIVERS
NR77/1992	7.9.92	ABT HEARING FOR REDLAND
NR78/1992	10.9.92	ABT REFUSES TO GRANT EXTRA AD TIME DURING ELECTIONS

Number	Date	Subject
NR79/1992	11.9.92	NAUGHTIEST HOME VIDEOS NOT IN BREACH
NR80/1992	15.9.92	ABT GRANTS GRIFFITH COMMUNITY RADIO LICENCE
NR81/1992	15.9.92	VIEWERS SUPPORT ETHNIC DIVERSITY ON TELEVISION
NR82/1992	16.9.92	THREE DAY ELECTION BLACKOUT FOR VIC LICENSEES
NR83/1992	21.9.92	ABT OZ CONTENT PUBLICATION RELEASED
NR84/1992	22.9.92	DISCRIMINATION STANDARDS NEED IMPROVEMENT
NR85/1992	24.9.92	BROADCASTING IN AUSTRALIA RELEASED
NR86/1992	26.9.92	ABT RECOMMENDS NEW TV CLASSIFICATION GUIDELINES
NR87/1992	28.9.92	LIMITED LICENCE GRANTED TO NORTHERN TERRITORY TAB

APPENDIX E

SUMMARY OF COMPLAINTS

Number and nature of complaints received from 1 July 1992 to 4 October 1992.

COMMERCIAL TELEVISION	No.	%
Program Classification	474	64
Program Promotions	27	4
Content of Advertisements	20	3
Program Scheduling	7	1
Other	148	20
Total commercial television	676	92
 COMMERCIAL RADIO		
Offensive matter	31	4
Discriminatory broadcasts	4	1
Other	15	2
Total commercial radio	50	7
 PUBLIC RADIO		
General	8	1
COMPLAINTS - TOTAL	734	100

APPENDIX F

PROGRAMS CLASSIFIED P, C OR C AUSTRALIAN DRAMA (1.JULY - 4 OCTOBER 1992)

PROGRAMS CLASSIFIED C

TITLE	APPLICANT
BUTTERFLY ISLAND (Series 3)*	Mediacast Pty Ltd
CHICKEN MINUTE	Tasmanian Television Limited
CLOWNING AROUND - ENCORE!*	Barron Films Ltd
GOODSPORTS (Series 2)	Tasmanian Television Limited
MIND TWIST	Television and Telecasters Limited (Network Ten Australia)
NEW ADVENTURES OF WINNIE THE POOH, THE	Australian Television Network
THE OUTBACK - MY HOME	Australian Television Network
ROAD TO AVONLEA (Series 1)	Sullivan Film Distribution Inc.

PROGRAMS CLASSIFIED P

THE BOOK PLACE (Series 2)	Australian Television Network
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* denotes Australian C Drama program

APPENDIX G

CONSULTANCY SERVICES

A total of 13 consultants were engaged during the period at a cost of \$88 429*. Of this, \$47 928 was spent on research surveys. Major consultancy engagements were as follows:

DIVISION	CONSULTANT	COST	PURPOSE
Programs			
	AC Nielsen	4928	Monthly subscription to television ratings
	AIM Data	3150	Electronic monitoring of advertising time on television
	Australian Market Research	43 000	Research into community attitudes towards cultural diversity on television
	Subtotal	51 078	
Licensing			
	Siars Pty Ltd	10 000	Economic data from small regional solus markets
	Subtotal	10 000	
Corporate Services			
	A-Tek Systems	2596	Specialised computer support
	Common Ground Consulting	11 660	Design and conduct of training workshops for middle managers
	FINALCO	5454	Media consultant
	Hands-On Systems	4513	Maintenance and enhancement of LAN
	Subtotal	24 223	
	Minor consultancies	3128	
	TOTAL	88 429	

A complete listing, including those consultancies valued at less than \$2000, is available on request.

* *The apparent discrepancy between this figure and the one for consultancy services contained in the Financial Statements, Appendix L, is the result of the inclusion of an amount for computing services in that figure.*

APPENDIX H

LICENCE GRANTS AND RENEWAL INQUIRY REPORTS PUBLISHED

Licence Grant Inquiries - Commercial Radio

Report No.	Title	Date of Report
90/77/IL	Albury-Wodonga	2/10/92
89/77/IL	Kempsey	10/7/92
92/20/IL	Sale	2/10/92
92/27/IL	Bundaberg	2/10/92

Licence Grant Inquiries - Supplementary Radio

Report No.	Title	Date of Report
92/47/IL	Albury/Wodonga	2/10/92
87/97/IL	Mildura	14/7/92
88/221/IL	Kempsey	10/7/92
92/13/IL	Cairns	2/10/92
92/21/IL	Sale	2/10/92
92/26/IL	Bundaberg	2/10/92

Licence Grant Inquiries - Public Radio

Report No.	Title	Date of Report
91/84/IL	Canberra	30/9/92
92/10/IL	Cairns	2/10/92
92/30/IL	Mt Isa	21/8/92
92/52/IL	Redcliffe Pine Rivers	1/10/92
92/53/IL	Bayside	1/10/92
92/12/IL	Millicent	29/7/92
91/81/IL	7RPH Hobart	30/9/92
92/25/IL	Kununurra	7/7/92

Limited Licence Grant Inquiries

Report No.	Title	Date of Report
92/61/IL	Limited Licence Grant - Canberra	20/7/92
92/77/IL	Limited Licence Grant - Concord Golf Course, NSW	24/9/92
92/67/IL	Limited Licence Grant - Eastlakes Golf Course, NSW	6/8/92
92/76/IL	Limited Licence Grant - Geelong Air Show	17/9/92
92/78/IL	Limited Licence Grant - Gold Coast	1/10/92
92/73/IL	Limited Licence Grant - Surfers Paradise	21/9/92
92/57/IL	Limited Licence Grant - Adelaide Grand Prix - TV	10/7/92
92/58/IL	Limited Licence Grant - Adelaide Grand Prix - Radio	10/7/92
92/60/IL	Limited Licence Grant - Murray Bridge	10/7/92
92/79/IL	Limited Licence Grant - Perth, Ascot Summer Carnival	1/10/92
92/62/IL	Limited Licence Grant - Albany	23/7/92
92/66/IL	Limited Licence Grant - Litchfield Park NT	20/8/92
92/70/IL	Limited Licence Grant - Kalgoorlie	27/8/92
92/74/IL	Limited Licence Grant - Northern Territory	21/9/92
92/45/IL	Limited Licence Grant - BRACS licences	5/10/92

Licence Renewal Inquiries - Television

Report No.	Title	Date of Report
91/24/IL	BKN Broken Hill	4/10/92
90/106/IL	MTN Griffith	4/10/92
91/50/IL	NRN Northern Rivers	4/10/92
90/33/IL	VTV Ballarat	4/10/92
89/45/IL	STV Mildura	4/10/92
90/4/IL	BTQ Brisbane	4/10/92
90/67/IL	QTQ Brisbane	4/10/92
90/3/IL	TVQ Brisbane	4/10/92
89/65/IL	MVQ Mackay	4/10/92
91/23/IL	GTS Spencer Gulf	4/10/92
92/40/IL	NEW Perth	4/10/92

Licence Renewal Inquiries - Commercial Radio

Report No.	Title	Date of Report
90/9/IL	2CA Canberra	4/10/92
90/8/IL	2CC Canberra	4/10/92
90/53/IL	2HD Newcastle	4/10/92
90/109/IL	2RG Griffith	4/10/92
88/107/IL	3XY Melbourne	4/10/92
89/39/IL	3SH Swan Hill	4/10/92
89/36/IL	3SR Shepparton	4/10/92
90/72/IL	3TR La Trobe Valley	4/10/92
89/175/IL	5AD Adelaide	31/7/92
89/176/IL	5DDN Adelaide	4/10/92

Licence Renewal Inquiries - Public Radio

Report No.	Title	Date of Report
89/141/IL	2BCR Bankstown	2/7/92
89/140/IL	2GLF Liverpool	4/10/92
89/145/IL	2RSR Darlington	4/10/92
90/45/IL	2AAA Wagga Wagga	4/10/92
89/109/IL	2BOB Taree	4/10/92
89/116/IL	2GLA Great Lakes (Forster)	4/10/92
90/15/IL	2VOX Wollongong	4/10/92
89/118/IL	2VTR Windsor/Colo	4/10/92
92/22/IL	3MFM South Gippsland	4/10/92
92/59/IL	4CRB Gold Coast	4/10/92
90/119/IL	6RTR Perth	4/10/92

APPENDIX I

SHARE TRANSACTION REPORTS 1 JULY 1992 TO 4 OCTOBER 1992

Licence(s) affected/Company in which interest acquired or increased/Company or person acquiring or increasing shareholding	File No.	Decision Date
CTC, ADS, NEW - Chartreuse/Chagrin Pty Ltd/ Caprice/BDC Investments	89/204/IO	5/10/92
ATN, HSV, BTQ, MVQ, SEQ, SAS, TVW - David Crawford and John Alpass	90/18/IO	5/10/92
TEN, ATV, TVQ - James Millar and Robert Dunn	90/152/IO	3/7/92
CBN, NEN - Dextran Pty Ltd	90/103/IO	5/10/92
MTN Griffith - Lochfield Consultants/Votrait No 620	92/14/IO	29/9/92
GMV, STV, VTV, 3GG, 3SR - ENT Ltd	88/135/IO	5/10/92
TNQ, ITQ, QQQ - TNQ Ltd/Susprium Pty Ltd	92/65/IO	2/10/92
SAS, TVW - Kaycliff Pty Ltd/Bell TV	88/214/IO	5/10/92
TVT Hobart - Tasmanian TV Ltd/W R Rolph & Son Pty Ltd	91/68/IO	5/10/92
TVT Hobart - Tasmanian TV Ltd/Gotham City Properties	91/69/IO	5/10/92
NTD Darwin - Publishing & Broadcasting Ltd	91/26/IO	5/10/92
2DAY, 2ROC, 2CA, 3FOX, 5SSA, 6GL - Coopers Brewery Ltd	90/91/IO	4/10/92
2GB Sydney - Uniting Church In Aust/Harbour Radio Ltd	92/56/IO	5/10/92
2GO Gosford- Wesgo Communications Pty Ltd/ Actraint No 116	90/100/IO	5/10/92
3XY Melbourne - GLFM Pty Ltd/Radio 3XY Pty Ltd	90/75/IO	5/10/92
3XY, 3BAY - Votrait No 378 Pty Ltd	91/5/IO	5/10/92
3YB Warrambool - Desmond George Samuel Anderson	92/35/IO	31/8/92
3YB Warrambool - Regional Communications Pty Ltd/ Ringlow Pty Ltd	92/36/IO	31/8/92
3YB Warrambool - Regional Communications Pty Ltd/ Ecliptic Pty Ltd	92/72/IO	9/9/92
4BBB Brisbane - Austereo/The Eagle; 2DAY FM & 105 FM	88/202/IO	5/10/92
4TAB Brisbane - Totalisator Admin. Board Of Qld	91/65/IO	28/9/92
4LG Longreach - Gloweir Pty Ltd	92/64/IO	1/9/92

**Licence(s) affected/Company in which
interest acquired or increased/Company
or person acquiring or increasing
shareholding**

File No. Decision Date

5AD, 5SE - Southern State Broadcasters Pty Ltd/ Montclair Pty Limited	92/18/IO	31/7/92
6IX Perth - Radio Network Pty Ltd/Austereo	88/99/IO	5/10/92
7HT Hobart - Hunter Broadcasters Pty Ltd/TAB (Tasmania)	92/11/IO	5/10/92

Those reports dated 4 October carried over from the Australian Broadcasting Tribunal to the Australian Broadcasting Authority with automatic renewal.

Those reports dated 5 October were of inquiries which lapsed as a result of the Broadcasting Services Act 1992 which came into effect on that date.

APPENDIX J

FREEDOM OF INFORMATION SECTION 8 STATEMENT

The *Freedom of Information Act 1982* (the FOI Act) requires Commonwealth Government agencies to make available information about their organisation, functions and operations, and about rules and practices which are used in making decisions which affect people.

Section 8 of the FOI Act requires each agency to publish detailed information about the way it is organised, its powers, the kinds of decisions made, arrangements for public involvement in the work of the agency, documents held by the agency and how these can be accessed by the public.

This statement is correct as at 30 June 1992 and, except for a change in tense, is the same statement as published in the Tribunal's 1991-92 *Annual Report*.

ESTABLISHMENT

The Australian Broadcasting Tribunal was established by s. 7 of the *Broadcasting Act 1942* (the Act) and began operations on 1 January 1977. The Tribunal was an independent statutory authority responsible, through the Minister for Transport and Communications, to the Parliament. It was required to prepare and furnish annually to the Minister for Transport and Communications a report on its operations during the preceding year for tabling in the Parliament. The Act provided for the appointment of a Chairman, a Vice-Chairman, at least one but not more than six other Members, and also of up to six Associate Members who may be appointed for specific inquiries. The Members of the Tribunal were appointed by the Governor-General for periods of up to five years and were eligible for re-appointment.

ORGANISATION

The Tribunal

The Tribunal's membership consisted of a Chairman, a Vice-Chairman, four Members and two Associate Members. One of the Associate Members had been appointed to conduct inquiries in general; the other had been specifically appointed to a program standards inquiry into the classification of television programs.

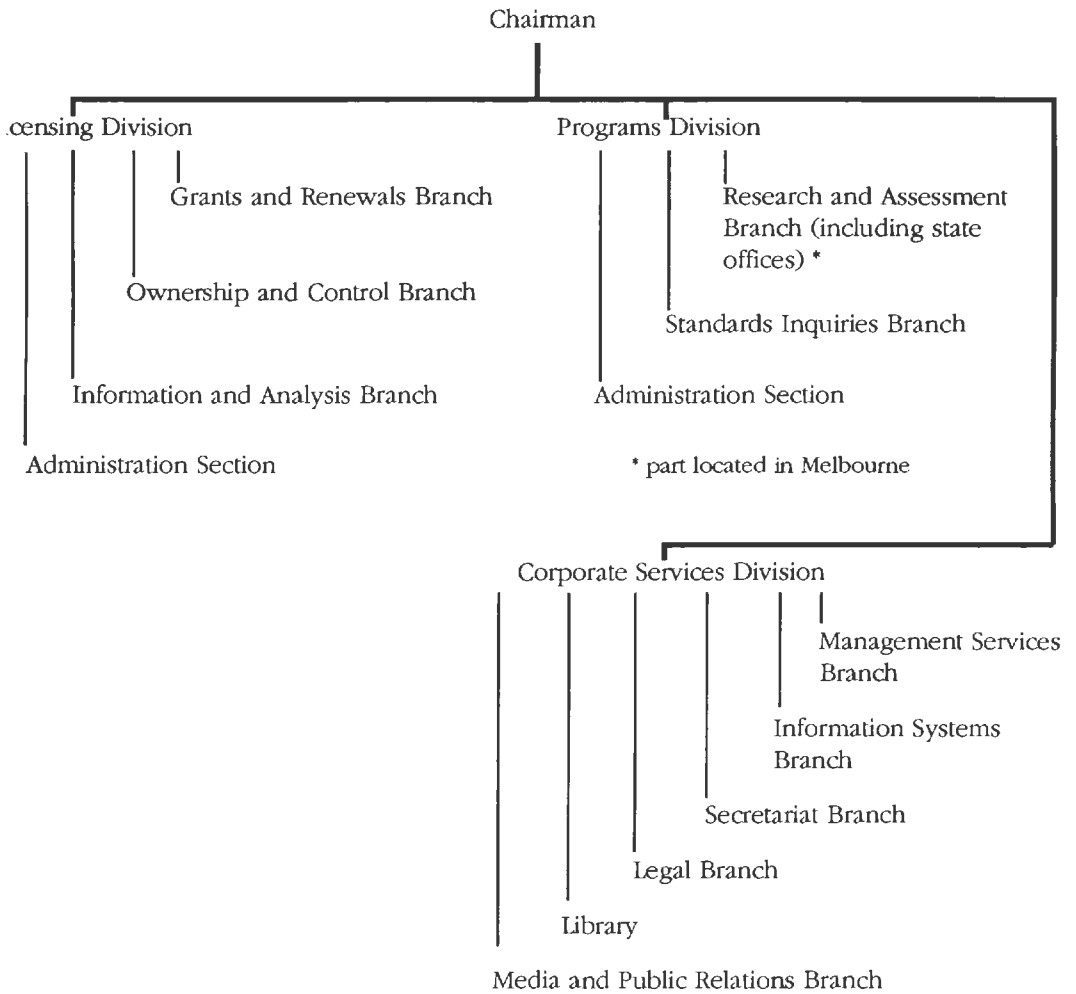
The Tribunal held regular monthly meetings to make administrative decisions and determine policy. Additional meetings were held as required. A quorum for such meetings was constituted by a majority of the members holding office and decisions were determined by a majority of the votes of the members present. The chairman of the meeting had a deliberative vote and, in the event of an equality of votes, also a casting

vote. Staff of the Tribunal were present at the meetings to record the decisions; and as required, to report to the Tribunal; to provide advice and to make recommendations; and to ensure that the Tribunal's directions were executed.

For the purpose of appointment and employment of staff in accordance with the provisions of the *Public Service Act 1922*, the Chairman had the powers of a Secretary of a department for the branch of the Australian Public Service comprising the staff of the Tribunal.

Staff of the Tribunal

As can be seen from the organisation chart on the following page, the staff of the Tribunal was organised on a divisional basis. During the year, the Tribunal completed a review of its structure. The Central Office was primarily located in Sydney, where the Members were located, with the Complaints Section of the Programs Division being co-located in Melbourne with the Victorian state office. The Tribunal also had a state office in each other mainland capital city. Tasmanian and Northern Territory interests were handled by the Victorian and South Australian offices respectively.



FUNCTIONS

The Tribunal

The functions of the Tribunal, in summary, were as follows:

- (a) to grant, renew, suspend, revoke and accept the surrender of licences;
- (b) to authorise transactions in relation to licences under ss. 89A, 89B, 89C, 89CA and 89CB of the Act (such as licence transfers);
- (c) to grant approvals and give directions under Divisions 2 and 3 of Part IIIA of the Act in relation to the ownership and control of licenses (such as approvals for share transactions);
- (d) to determine (in writing) the standards to be observed by licensees in respect of the broadcasting of programs (including advertisements) and in respect of programs to be broadcast;
- (e) to determine the hours during which programs may be broadcast by licensees;
- (f) to hold inquiries as provided by the Act (and the Australian Broadcasting Tribunal (Inquiries) Regulations) or as directed by the Minister, and to publish reports in relation to those inquiries;
- (g) to assemble information relating to broadcasting in Australia under s. 124 of the Act;
- (h) to perform such duties and exercise such powers as are imposed or conferred upon it by this Act and the Regulations;
- (i) to determine guidelines to be observed by a licensee within the meaning of Part IIID of the Act in respect of the hours during which, and the manner in which, policy launches of political parties are to be broadcast; and
- (j) to determine guidelines to be observed by a broadcaster in respect of the days and times when, and the manner in which, election broadcasts within the meaning of Division 3 of Part IIID of the Act are to be made.

For the purpose of exercising its powers and functions under the Act, the Tribunal could make Orders, give directions and do such other things as it thought fit. It should be noted that the Tribunal did not have the power to determine planning policies, formulate changes to the legislation, allocate frequencies, or decide when applications are to be invited for a particular kind of licence in a particular region. These were all functions of the Minister for Transport and Communications (see s. 125D of the Act). The Minister is advised and assisted by the Department of Transport and Communications which has offices in Canberra and each State capital city.

Internal Committees

To support the corporate responsibility of the Tribunal for all operations, the Tribunal had established a number of committees comprising members of the Tribunal and senior staff.

These committees directed and managed various work activities. Ad hoc working parties were established from time to time to deal with specific tasks.

LICENSING DIVISION

The Licensing Division comprised the two Inquiries Branches, Grants and Renewals Branch and Ownership and Control Branch, the Information and Analysis Branch and an Administration Section.

Inquiries Branches: Grants and Renewals Branch and Ownership and Control Branch

Undertook inquiries into the granting and renewal of licences and about the ownership and control of licences, and made arrangements for the conduct of these inquiries.

Undertook inquiries into the revocation, suspension and imposition of conditions on licences.

Arranged for the publication of notices including the invitation of submissions and notices of conferences and hearings; provided information to parties to inquiries and the public.

Examined and analysed applications, submissions and other relevant information, and prepared submissions and recommendations to the Tribunal about licensing inquiries.

Assisted in the preparation of inquiry reports and arrange for their printing and release to parties and the public.

Maintained all documents, including inquiry files, about licensing inquiries conducted by the Tribunal.

Information and Analysis Branch

Analysed and assessed the financial capability of applicants for radio and television licences, and the commercial viability of the markets concerned.

Analysed licensees' financial performance and capability for licence renewals.

Provided advice to the Tribunal on the economic and financial implications for the broadcasting industry of changes in regulations or policies.

Co-ordinated the collection, development and maintenance of relevant data bases of economic, financial, staffing and operational information about individual radio and television services and the industry as a whole.

Prepared submissions, background papers and recommendations to the Tribunal in relation to the ownership and control of licences.

Maintained records of the ownership and control of licences and publishes summaries of ownership information.

Maintained the Associated Newspaper Register and administered the provisions about the cross-media ownership rules and registered lenders.

Compiled and maintained socio-economic profiles of licensees' markets.

Prepares text on the financial results of radio and television services for publication.

Assessed and collected, on behalf of the Commonwealth, licence fees from commercial licensees.

Maintained licensing information and statistics about all commercial and public services; responsible for all matters of a licensing nature that need to be dealt with outside the inquiry process.

Administration Section

Provided support for the Division in relation to the conduct of public inquiries including travel arrangements and publication of inquiry reports.

Maintained reports on current status of all Tribunal inquiries.

Administered the budget allocation for the Division, and attended to the purchasing and stock-taking needs of the Division.

Arranged the archiving of public inquiry documentation.

PROGRAMS DIVISION

Standards Inquiries Branch

Undertook public inquiries (by application, as directed by the Minister, or initiated by the Tribunal) into matters about the making of, and amendment to, program standards (including advertising standards) and considered possible breaches of the terms and conditions of licences and made arrangements for the conduct of these inquiries.

Provided policy advice and information on current programming issues to the Tribunal relevant to its standards-making powers.

Arranged for the publication of notices including the invitation of submissions; provides information to parties to inquiries and the public.

Processed applications for inquiries and examined and analysed submissions and other relevant information.

Drafted program standard inquiry reports and arranged for the printing and release of the final reports to parties and the public.

Consulted and liaised with other government agencies, industry organisations and public interest groups on procedural and policy matters about program standards.

Drafted program standards, including advertising standards.

Maintained all inquiry documents, including inquiry files about program standards inquiries.

Assisted in the assessment of children's television programs submitted for classification under the Children's Television Standards.

Research and Assessment Branch

Developed procedures to assess compliance with the Tribunal's program standards.

Advised the Tribunal on the compliance with program standards.

Analysed and reports on overall programming practices and performance of licensees.

Advised the Tribunal about complaints from members of the public in relation to program and advertising matters, investigated possible breaches of the standards and prepared reports and correspondence as necessary.

Designed and undertook, or commissioned and supervised, research about broadcasting as required by the Tribunal in the exercise of its functions.

Evaluated research, surveys etc. relevant to broadcasting undertaken by licensees, and other organisations in Australia and overseas.

Prepared reports on research for publication generally.

Maintained contact with other research organisations.

Assembled and provided information about broadcast programming in Australia as required under s. 124 of the Act.

Administered the provisions of the Act about the broadcasting of election advertisements.

Made records etc. available for examination by the public and the industry.

State Offices

Represented the Tribunal at State level.

Acted as point of contact for licensee managements.

Provided information to public interest groups and to the public generally including the presentation of speeches on the role and functions of the Tribunal.

Prepared correspondence including replies to the public in accordance with agreed policy.

Assisted with the conduct of public inquiries.

Visited licensees' premises and prepared reports on station performance as contributions to the inquiry process.

Maintained records of matter assembled by the Tribunal pursuant to its responsibilities under the Act.

Observed and recorded station transmissions as necessary.

Reported possible breaches of statutory requirements, standards etc. to Central Office.

Undertook inquiries and investigations as requested by Central Office.

Administration Section

Provided support for the Division about the conduct of public inquiries including travel arrangements and publication of inquiry reports.

Administered the budget allocation for the Division, and attended to the purchasing and stock-taking needs of the Division.

Arranged the archiving of public inquiry documentation.

CORPORATE SERVICES DIVISION

Comprised six Branches being the Information Systems Branch, the Legal Branch, the Library, the Management Services Branch, the Media and Public Relations Branch and the Secretariat Branch.

Information Systems Branch

Promoted the effectiveness and efficiency of the Tribunal's operations through the use of information technology.

Legal Branch

Undertook research, and provided legal advice about and interpretations of, the Tribunal's powers and functions.

Assisted Members and Tribunal staff in the preparation of reports, and attended public inquiries as required.

Attended court proceedings, instructs the Australian Government Solicitor and represented the Tribunal in matters involving or affecting the Tribunal in the Tribunal's inquiries or other litigation.

Maintained contact with the Department of Transport and Communications on legislative matters.

Monitored and reviewed, as necessary, Tribunal procedures.

Drafted Policy Statements, Practice Notes and Commentaries.

Supervised the administration of the FOI Act as it affected the Tribunal and requests for information under that Act.

Library

Maintained full library service (reference, information retrieval and provision, loans etc.) for Members and staff of the Tribunal.

Provided reference only services to the general public and persons engaged in research on matters relating to broadcasting.

Collected material on a broad range of subject areas relevant to the work of the Tribunal including radio and television broadcasting; pay TV; satellite broadcasting; broadcasting planning, regulation and legislation; communications and mass media theory; advertising; computing; demography and management.

Housed the publicly accessible copies of Tribunal inquiry files; Tribunal minutes and records or details of Tribunal meetings with outside bodies; summary of complaints-received reports; and all Tribunal publications including Annual Reports.

Produced a regular Library Bulletin listing new acquisitions, which was distributed both internally and to selected persons and organisations outside the Tribunal.

Management Services Branch

Arranged for the selection and appointment of staff.

Managed records of the finances of the Tribunal, including estimates of expenditure, actual expenditure, purchasing and security of stores, equipment, furniture and fittings.

Attended to all matters about personnel, staff development and training, accommodation and office services.

Developed, implemented, monitored and reviewed, as necessary, personnel, finance, accounting and purchasing procedures as well as Equal Employment Opportunity (EEO), Industrial Democracy (ID) and Occupational Health and Safety (OH & S).

Maintained contact with Commonwealth Departments, the Public Service Commission and the Auditor-General's Office on financial, personnel, staff development and general administrative matters including EEO, ID and OH & S.

Media and Public Relations Branch

Co-ordinated material for inclusion in the *Annual Report* and other Tribunal publications, and undertook final preparation of those publications.

Co-ordinated the marketing of Tribunal publications.

Undertook public relations duties including the dissemination of information on activities of the Tribunal by the newsletter *ABTEE*, news releases, articles and interviews, and responded to enquiries.

Secretariat Branch

The Secretariat Branch comprised an executive area and three sections.

Secretariat Section

Provided secretariat facilities for the Tribunal and internal committees, including the arrangement of, and preparation for, meetings and non-inquiry type conferences, collation

of agenda items, preparation of formal minutes, and the maintenance of records of decisions of the Tribunal and committees.

Co-ordinated and prepared ministerial briefing material, replies to ministerial representations and to questions in Parliament.

Co-ordinated policy decisions of the Tribunal and other related agencies.

Co-ordinated matters related to the FOI Act and the *Privacy Act 1988*.

Maintained records of press articles, and parliamentary references on matters relevant to the Tribunal's activities.

Co-ordinated the preparation of the Tribunal calendar.

Maintained the Tribunal's mailing lists.

Distributed the Tribunal's standards, policy statements, practice notes and other information about the Tribunal.

Prepared speeches for Members of the Tribunal.

Records Management Section

Maintained registry services, including filing systems, distribution of correspondence and archiving of Tribunal files other than inquiry files.

Maintained quality of data in a database of Tribunal inquiry and meetings decisions.

Executive Support Section

Provided secretarial, research and administrative support to Members and the Director, Corporate Services Division.

Provided reception and switchboard services.

POWERS

The Tribunal had a range of powers relating to:

- (a) the grant, renewal, transfer, suspension or revocation of licences, including the conditions upon which, and the period for which, any licence was to be granted or renewed;
- (b) the transmission and content of program and advertising material, including the power to determine the standards to be complied with by licensees;
- (c) changes in ownership or control of commercial licences and remote television licences, including powers to approve or refuse to approve certain share transactions, give directions to protect a licensee during a share transaction, order the divestiture of interests held in contravention of the Act, and approve or refuse to approve changes to the memorandum and articles of association of licensee companies;

- (d) the procedures for the conduct of public inquiries and the investigation of matters affecting the functions of the Tribunal;
- (e) the collection and dissemination of information about broadcasting in Australia; and
- (f) the making of such orders and the giving of such directions as it thought fit for the purpose of exercising its powers and functions.

ARRANGEMENTS FOR OUTSIDE PARTICIPATION

Section 29 of the Act empowered the Tribunal, with the approval of the Minister, to appoint such advisory committees as it thought fit. During the year, the Children's Program Committee, which had been in operation for several years, was disbanded and a new method of assessment of children's programs was introduced.

Under the new system, children's programs submitted for classification under the Children's Television Standards were initially assessed by Tribunal staff. If the program met the standards, staff recommended immediate classification to a Tribunal Member. If the Member had concerns about a program, the advice of expert consultants in child development, television production and script assessment may have been sought. The Tribunal also participated in standing committees and arrangements existed for consultation with industry representatives. In addition, opportunities were provided for members of the public to participate in the decision-making processes of the Tribunal, as outlined below.

Meetings with industry bodies, industry unions, consumer groups and other statutory bodies

The Tribunal consulted with representatives of broadcasters as required by s. 16 of the Act through regular meetings with the Federation of Australian Radio Broadcasters, the Federation of Australian Commercial Television Stations, the Public Broadcasting Association of Australia, the Progressive Radio Association, and, as required, with the individual licensees.

In addition, the Tribunal met regularly with the Media and Communications Council, an umbrella group comprising entertainment industry unions and public interest and consumer groups, the Australian Association of National Advertisers, the Advertising Federation of Australia and, as required, with other groups who approached the Tribunal. Meetings were also held from time to time with other statutory bodies on areas of common interest.

Public participation

Most functions of the Tribunal involved an opportunity for the public to contribute to the making of decisions, or to be informed of progress towards a decision. Examples were surveys of public opinion conducted or commissioned by the Tribunal, inquiries into changes in program standards, and inquiries into the grant and renewal of licences and changes to the ownership of licences.

The Tribunal's public inquiry arrangements and procedures were governed by the Act and the Australian Broadcasting Tribunal (Inquiries) Regulations, which commenced in May 1986. The Tribunal placed notices in the Australian Government *Gazette* and newspapers about the commencement of inquiries and maintained an inquiry file containing documents relevant to the inquiry for public inspection. A number of inquiries were conducted by documents and correspondence, but when there was a hearing or a conference, these were conducted in public unless there was a special reason for doing otherwise.

Area inquiries

The Act was amended in 1985 to provide for the holding of area inquiries by the Tribunal. However the Tribunal was unable to hold an area inquiry until the Government proclaimed a commencement date. These inquiries were intended to cover a range of issues including the adequacy of broadcasting services provided in the various areas of the country. The Act allowed the conduct of area inquiries to be generally more informal and flexible than those relating to inquiries into particular licensing matters.

CATEGORIES OF DOCUMENTS

Documents held by the Tribunal may have been available for public access, subject to sections 124 and 125 of the Act which precluded availability in such manner, or in such circumstances, as in the opinion of the Tribunal would have been prejudicial to the interests of any person, or where a confidentiality direction under s. 19 is in force.

The documents of the Tribunal were listed below. Those made available other than under the provisions of the Freedom of Information Act, are identified as follows:

- * free of charge
- # for inspection
- ^ for a copying charge per page or per microfiche
- ~ for purchase from the Tribunal (T), the Australian Government Publishing Service Bookshops (AGPS) or Austscript (A)
- | free of charge to particular persons or groups who participate in a particular inquiry

Category	Location	Documents	Availability
Legislative regulatory	All offices	Enactments	# ~ (AGPS)
		Television Program Standards	* & #
		Television Advertising Conditions	* & #
		Children's Television Standards	* & #

		Radio Program Standards	* & #
		Radio Advertising Conditions	* & #
		Policy Statements	* & #
		Practice Notes	* & #
		Commentaries	* & #
	Sydney office	Legal opinions	
Government and Parliament	Sydney office	Tabling documents	
		Cabinet submissions	
		Cabinet decisions	
		Ministerial briefings	
		Ministerial correspondence	
		Replies to parliamentary questions	
	All offices	Tribunal's <i>Annual Report</i>	*
Meetings	All offices	Minutes of Tribunal meetings (subject to any deletions based on exemptions criteria in the FOI Act)	# ^
	All offices	Records of meetings with regular outside bodies (GPC)	# ^
	Sydney office	Agenda papers of Tribunal	
		Records of meetings of standing committees and with non-regular outside persons and bodies (non-GPC)	
Children's matters	Sydney office	Consolidated list of 'C' programs Tribunal files correspondence Decisions and statement of reasons concerning classification of children's television programs.	#
Public relations	All offices	News releases	*
		Newsletter <i>ABTEE</i>	~(T)
		Discussion papers	*
		Tribunal research reports	# *
	Sydney office	Tribunal's mailing lists	
		Publications:	
		<i>Broadcasting in Australia</i>	~(T, AGPS)
		<i>Ownership of Australia's Broadcast Media</i> quarterly subscription	~(T)

		<i>Broadcasting Financial Yearbook</i>	~(T)
Management	Sydney office	Personnel records and staffing files Records of appointment of members Financial, purchasing, furniture and fittings, equipment and accommodation files General administrative records and files Register of Tribunal forms	
Public inquiries	Sydney office, at the inquiry and at the relevant State office	Relevant inquiry files as required by the Regulations: Public inquiry exhibits including applications, submissions, replies by applicants to submissions, statements of evidence, audio and video tapes, background and information papers, issues papers, public notices (being transferred to microfiche)	# ^ !
	All offices	Transcripts of the relevant State inquiries Reports and Decisions of public inquiries	# ~(A) # *
	Sydney office	Public inquiry records files, Policy and procedural files, Register of documents received, Register of reports	
Licensing	Sydney office	Licences and operating specifications for all stations Records of shareholders, shareholdings and directors of licensee and associated companies (main data base held on computer) Registers of financial results of commercial radio and television services and public radio services	

		<p>Registers of approvals for the acquisition or increase of prescribed interests - commercial radio and television services</p> <p>Individual station files about transactions, licence transfers or leasing of licences</p> <p>Reports on licensing matters about the grant, renewal, suspension or revocation of licences</p> <p>Annual Collection of Data for public and commercial radio services - records of operations (held on computer)</p> <p>Records of commencement of operations and licence periods for individual stations and related correspondence</p> <p>Records of notifications to, and payment by, licensees in relation to licence fees</p> <p>Records of memoranda and articles of association of licensee companies, statutory declarations etc.</p> <p>Policy and procedure files</p> <p>Register of applications for registration of registered lenders</p> <p>Register of registered lenders</p> <p>Register of applications received in relation to share transactions</p> <p>Register of applications received for approved investor certificates</p> <p>Associated Newspaper Register</p>	# ^
Programs	All offices and at the hearing or conference of the inquiry	Public inquiry files on Program (including Advertising) Standards	# ^
	All offices	Industry self-regulatory codes published by the Media Council of Australia	

	Monthly reports of the written and telephoned complaints and comments from the public about broadcasting programs and advertising
Melbourne office	Written and telephoned complaints and comments from the public about broadcasting programs and advertising
Sydney office	Reports by the Commercials Acceptance Division of the Federation of Australian Commercial Television Stations
	Correspondence on: sponsorship announcements on public radio stations
Sydney office	Ministerial representations on program and advertising matters
Sydney office	Records, including discussion papers about the revision of program and advertising standards
Sydney office	Information submitted by broadcasting services about the Australian content of programs, children' programs, and religious programs
	Statistical and other reports containing information about program and advertising matters
	Reports on program matters about the grant, renewal, suspension or revocation of licences
	Station program and reports on operations files
	Details, including reports, of research undertaken or commissioned, and evaluations of research undertaken by other organisations

FACILITIES FOR ACCESS

The Tribunal maintained library facilities in the Sydney office where documents available under the Act or documents for which access was granted under the FOI Act could have been examined. Documents may also have been examined in the State offices by prior arrangement.

Requests for access under the FOI Act were to have been made in writing, addressed to 'The FOI Co-ordinator' and be accompanied by an application fee (currently \$30). The FOI Act provides for a reduction of the charges or non-imposition of the charges in certain circumstances.

FOI PROCEDURES AND INITIAL CONTACT POINTS

Where information was sought on any matter falling within the Tribunal's area of responsibility, inquiries were to be directed as follows:

The FOI Co-ordinator
Australian Broadcasting Tribunal
76 Berry Street
North Sydney NSW 2060

or

PO Box 1308
North Sydney NSW 2059

Tel.(02) 59 7811
Facsimile: (02) 954 4328 (FaxStream)
DX 10528 North Sydney

or to the Tribunal's offices at:

14th Floor
Marland House
570 Bourke Street
Melbourne VIC 3000
Tel.(03) 670 1777
Facsimile:
(03) 670 4821 (FaxStream)

3rd Floor
70 Light Square
Adelaide SA 5000
Tel.(08) 231 1454
Facsimile:
(08) 231 1452

8th Floor
444 Queen Street
Brisbane QLD 4000
Tel.(07) 832 4702
Facsimile:
(07) 832 1623

10th Floor
251 Adelaide Terrace
Perth WA 6000
Tel.(09) 325 7041
Facsimile:
(09) 221 1631

Under the procedures which operated in the Tribunal for the handling of FOI requests, in some instances the FOI Co-ordinator may have needed to consult members of the public who have lodged requests. Specific instances were as follows:

- (a) to assist the applicant to more specifically identify documents he or she had requested;
- (b) to give the applicant a reasonable opportunity for consultation before refusing a request on grounds of insufficient information (section 15(2)) or if the request required a substantial and unreasonable diversion of resources (section 24(1)); or
- (c) for notification of charges and deposit, if necessary, including a discussion of charges remission. As at 30 June 1992, those who had been authorised to grant access under s. 23 of the FOI Act were the following:

Director, Corporate Services Division

Matters relating to personnel, finance, purchasing, minutes of meetings, public relations, publishing, and information systems.

Director, Licensing Division

Matters relating to licensing, ownership and control, financial data relating to licensees of radio and television services and associated matters.

Director, Programs Division

Matters relating to programs and advertising including children's programs.

Principal Legal Officer

Matters relating to legislative changes and litigation involving the Tribunal.

Those who have been authorised to refuse access or to make deletions to documents were the Vice-Chairman or a delegated Member.

The Chairman was the Reviewing Officer, who may have delegated those functions to the Vice-Chairman or a Member.

APPENDIX K

INDEX TO REQUIREMENTS

The requirements refer to the numbered requirements contained in the *Guidelines for the Preparation of Departmental Annual Reports*, Department of the Prime Minister and Cabinet, April 1992.

Secretary's Statement

- 01 p.vii
- 02 p.vii
- 03 p.vii
- 04 not applicable

Aids to Access

- 05 p.iii
- 06 pp.143-149
- 07 p.vi

CORPORATE AND PORTFOLIO OVERVIEW

Objectives

- 08 pp.11, 12, 108

Social Justice Overview

- 09 p.85

Corporate Structure

- 10 p.110
- 11 none

Portfolio Legislation and Statutory

Authorities

- 12 p.64
- 13 p.64
- 14 not applicable
- 15 p.64
- 16 not applicable
- 17 not applicable

Non-Statutory Bodies

- 18 not applicable
- 19 not applicable
- 20 not applicable
- 21 not applicable

Government Companies

- 22 not applicable
- 23 not applicable
- 24 not applicable

EEO in Appointments

- 25 pp.84, 85

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- 26 pp.73, 74

PROGRAM REPORTING

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- 27 chapters 4, 5, 6, 7, 8, 10
- 28 chapters 4, 5, 6, 7, 8, 10

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- 29 pp.85, 86
- 30 none

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- 31 pp.81, 82
- 32 p.82
- 33 p.82

Performance Pay

- 34 p.82
- 35 p.82

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- 36 pp.83, 84
- 37 pp.82, 83, 84
- 38 pp.83, 84
- 39 pp.83, 84

Interchange Scheme

- 40 p.83

Equal Employment Opportunity

- 41 p.84

Industrial Democracy

- 42 p.84

Occupational Health and Safety

- 43 p.84
- 44 not applicable

Post-separation Employment

45 not applicable

OTHER RESOURCES**Financial Statements**

46 pp.88, 128

Fraud Control

47 p.87

48 p.87

49 not applicable

Claims and Losses

50 p.87

51 p.87

Purchasing

52 p.87

Information Technology Purchasing**Arrangements**

53 pp.86, 87

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54 p.87

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55 p.102

56 p.102

57 p.102

58 p.102

59 p.102

60 p.102

Capital Works Management

61 p.87

Property Usage

62 not included

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63 p.87

EXTERNAL SCRUTINY**Reports by Auditor-General**

64 p.88

65 p.88

66 p.88

67 p.125

Inquiries by Parliamentary Committees

68 not applicable

69 not applicable

70 not applicable

Comments by Ombudsman

71 p.70

72 p.70

73 p.70

Decisions of Courts and Administrative Tribunals

74 pp.68, 69

75 pp.68, 69

76 not applicable

Freedom of Information (FOI)

77 not applicable

Privacy

78 not applicable

79 not applicable

80 not specified

81 not specified

82 not applicable

83 not applicable

Client Comments

84 p.70

85 p.70

IMPACT MONITORING**Business Regulations**

86 not applicable

87 not applicable

Status of Women

88 none

Environmental Matters

89 none

90 none

91 none

92 none

93 none

94 none

APPENDIX L

FINANCIAL STATEMENTS



our ref;

INDEPENDENT AUDIT REPORT

To the Minister for Transport and Communications

Scope

I have audited the financial statements of the Australian Broadcasting Tribunal for the period 1 July 1992 to 4 October 1992. The statements comprise:

- . Members' Statement
- . Statement of Financial Position
- . Operating Statement
- . Statement of Cash Flows, and
- . Notes to and forming part of the financial statements

The Tribunal's members are responsible for the preparation and presentation of the financial statements and the information they contain. I have conducted an independent audit of the financial statements in order to express an opinion on them to the Minister for Transport and Communications.

The audit has been conducted in accordance with Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial statements are presented fairly in accordance with Australian accounting concepts and standards and statutory requirements so as to present a view of the Tribunal which is consistent with my understanding of its financial position and the results of its operations.

As disclosed in Note 1(a) to the financial statements, the Australian Broadcasting Tribunal has not applied the recoverable amount test for valuation of non-current assets. I agree with this departure from Australian Accounting Standard, AAS10, "Accounting for the Revaluation of Non-Current Assets". Application of the recoverable amount test would be misleading because of reduction in the valuation based on the ability of the non-current assets to generate net cash flows from their continued use and subsequent disposal does not represent a decline in the service value of these assets.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In accordance with sub-section 28(2) of the Broadcasting Act 1942, I now report that the statements are in agreement with the accounts and records of the Tribunal, and in my opinion:

- (i) the statements are based on proper accounts and records
- (ii) the statements show fairly the financial transactions for the period 1 July 1992 to 4 October 1992 and the state of affairs of the Tribunal at that date
- (iii) the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Tribunal during the period have been in accordance with the Broadcasting Act 1942, and
- (iv) the statements are in accordance with the Guidelines for Financial Statements of Public Authorities and Commercial Activities, which require compliance with Statements of Accounting Concepts and applicable Accounting Standards.



Allan Thompson
Executive Director
Australian National Audit Office
Sydney


2 April 1993


AUSTRALIAN BROADCASTING TRIBUNAL

MEMBERS' STATEMENT

In our opinion the financial statements of the Australian Broadcasting Tribunal, including the notes thereto, are drawn up so as to show fairly:

- (a) The Tribunal's operating result for the period 1 July to 4 October 1992;
- (b) The Tribunal's financial position as at 4 October 1992; and
- (c) The Tribunal's cash flows during the period 1 July to 4 October 1992.


Peter Webb
Acting Chairman
as at 4 October 1992


Tim O'Keefe
Member
as at 4 October 1992

Signed at Sydney, NSW this twenty-ninth day of March 1993.

AUSTRALIAN BROADCASTING TRIBUNAL
OPERATING STATEMENT
FOR THE PERIOD 1 JULY TO 4 OCTOBER 1992

	1 July to 4 October 1992		1991-92	
	\$	\$	\$	\$
COST OF SERVICES				
Operating expenses				
Salaries & allowances (Note 3)	1,467,161		5,669,219	
Office rental and room hire	324,446		1,319,788	
Consultancy fees	136,560		686,067	
Travelling and subsistence	163,045		500,173	
Other expenditure	416,210		1,374,886	
Legal fees	129,435		228,169	
Disposal of non-current assets	6,578		23,040	
Repairs and maintenance	14,332		8,156	
Depreciation (Note 1 (c))	76,676		252,552	
Amortisation of leasehold improvements	40,217		128,527	
Amortisation of leased equipment	3,664		14,655	
Employee entitlements	-19,288		125,096	
Doubtful debts	-1,070		3,228	
Total operating expenses		2,757,966		10,333,556
Operating revenue from independent sources				
Sale of publications	12,027		88,946	
Interest	11,226		77,061	
Proceeds of sale of assets	5,434		6,633	
Miscellaneous revenue	22,476		107,017	
Total operating revenue from independent sources		51,163		279,657
Net cost of services		2,706,803		10,053,899
REVENUE FROM GOVERNMENT				
Parliamentary appropriations received (Note 2)	2,753,000		9,739,000	
Total Revenue from Government		2,753,000		9,739,000
Operating result		46,197		-314,899
OUTSIDE INTERESTS AND TRANSFERS				
Operating result		46,197		-314,899
Accumulated results of operations at beginning of financial year		-880,500		-565,601
Total available for appropriation		-834,303		-880,500
Accumulated results of operations at end of financial year		-834,303		-880,500

The accompanying notes form an integral part of these statements.

AUSTRALIAN BROADCASTING TRIBUNAL
STATEMENT OF FINANCIAL POSITION
AS AT 4 OCTOBER 1992

	1 July to 4 October 1992		1991-92	
	\$	\$	\$	\$
CURRENT ASSETS				
Cash	316,159		186,114	
Receivables (Note 6)	14,477		7,146	
Other (Note 7)	188,332		135,134	
TOTAL CURRENT ASSETS		518,968		328,394
NON-CURRENT ASSETS				
Property, plant and equipment (Note 8)	885,775		990,637	
TOTAL NON-CURRENT ASSETS		885,775		990,637
TOTAL ASSETS		1,404,743		1,319,031
CURRENT LIABILITIES				
Creditors (Note 9)	461,836		369,428	
Leases (Note 10)	25,510		24,139	
Provisions (Note 11)	743,550		749,215	
TOTAL CURRENT LIABILITIES		1,230,896		1,142,782
NON-CURRENT LIABILITIES				
Leases (Note 12)	31,385		38,301	
Provisions (Note 13)	658,987		700,670	
TOTAL NON-CURRENT LIABILITIES		690,372		738,971
TOTAL LIABILITIES		1,921,268		1,881,753
NET ASSETS		-516,525		-562,722
EQUITY				
Capital	317,778		317,778	
Accumulated results of operations	-834,303		-880,500	
TOTAL EQUITY		-516,525		-562,722

The accompanying notes form an integral part of these financial statements.

**AUSTRALIAN BROADCASTING TRIBUNAL
STATEMENT OF CASH FLOWS
FOR PERIOD 1 JULY TO 4 OCTOBER 1992**

	1 July to 4 October 1992	1991-1992
	\$	\$
	Inflows (Outflows)	Inflows (Outflows)
CASH FLOWS FROM OPERATING ACTIVITIES		
Inflows:		
Receipts from user charges	44,786	243,233
Interest received	117	77,061
	44,903	320,294
Outflows:		
Payments to suppliers and employees	-2,650,986	-10,123,628
Net cash used in operating activities (Note 22)	-2,606,083	-9,803,334
CASH FLOWS FROM INVESTING ACTIVITIES		
Inflows:		
Proceeds from sale of property, plant & equipment	1,510	6,633
Outflows:		
Property, plant & equipment	-18,382	-365,498
Net cash used in investing activities	-16,872	-358,865
CASH FLOWS FROM GOVERNMENT		
Inflows:		
Parliamentary appropriations	2,753,000	9,739,000
Net cash flows provided by government	2,753,000	9,739,000
Net increase in cash held	130,045	-423,199
Cash at beginning of reporting period	186,114	609,313
Cash at end of reporting period	316,159	186,114

The accompanying notes form an integral part of these statements.

AUSTRALIAN BROADCASTING TRIBUNAL

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE PERIOD ENDED 4 OCTOBER 1992

1. Statement of significant accounting policies

The following summary explains the significant accounting policies which have been adopted in the preparation of the accounts.

(a) *General basis of accounting*

The financial statements have been prepared on an accrual basis and take into account historical cost principles. The form of the financial statements and the Notes to and forming part of the financial statements are in accordance with the *Guidelines for Financial Statements of Public Authorities and Commercial Activities*, which were revised in February 1992. The accounting practices adopted by the Tribunal are in accordance with Australian Accounting Standards and Statements of Accounting Concepts.

In accordance with clause 7 of the *Guidelines for Financial Statements of Public Authorities and Commercial Activities*, the exemption from applying paragraphs 19 and 23 of Australian Accounting Standard AAS10, 'Accounting for the Revaluation of Non Current Assets' has been adopted. The Australian Broadcasting Tribunal is a not for profit entity.

The accounting policies adopted in the preparation of the financial statements are consistent with those applied in the preceding year.

(b) *Non-current assets*

Property, plant and equipment is shown at cost less accumulated depreciation.

Items purchased for less than \$1000 are expensed.

(c) *Depreciation*

Depreciation is provided on all fixed assets and is calculated on a straight line basis at rates which provide for the cost to be written off over the anticipated economic lives of the assets.

Gains and losses on disposal of assets arising in the ordinary course of business are taken into account in determining the operating surplus or (deficit) for the year.

Leasehold improvements are capitalised and are amortised over the unexpired period of the lease including the period of the lease option as it was always intended that the option be exercised.

Non-current assets purchased during the year have been depreciated from the month of purchase.

(d) *Leased assets*

Assets acquired under finance leases are included as property, plant and equipment in the statement of assets and liabilities. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of

the leased property. Where assets are acquired by means of finance leases, the present value of the minimum lease payments is recognised as an asset at the beginning of the lease term and amortised on a straight line basis over the expected useful life of the leased asset. A corresponding liability is also established and each lease payment is allocated between the liability and interest expense.

Operating lease payments, where the lessors effectively retain substantially all of the risks and benefits of ownership of the leased items, are charged to expense in equal instalments over the lease term.

(e) *Provision for employee benefits*

Provision is made in the financial statements for obligations in respect of long-service leave, having regard to actual experience of employee departures and periods of service and for annual leave entitlements not taken at balance date. Provisions are calculated using current salary levels.

(f) *Segmental reporting*

The Tribunal is responsible for regulating commercial television and commercial and public radio in Australia. It is therefore considered that for reporting purposes the Tribunal operates within the one industry and geographical segment.

(g) *Trade debtors*

Bad debts are expensed as they become known.

(h) *Cash*

Cash comprises cash at bank.

(i) *Comparative figures*

Comparative figures included are those for the previous full financial year 1 July 1991 - 30 June 1992. These statements are for the period 1 July 1992 to 4 October 1992.

	1 Jul-4 Oct 1992	1991-1992
	\$	\$
2. Items of revenue and expense		
Items credited as revenue:		
Parliamentary appropriations:		
Appropriation Act No 1 Div 664.1	-	9,739,000
Appropriation Act No 1 Div 654.1	2,753,000	-
Interest	11,226	77,061
Profit on the sale of non-current assets	2,509	3,670
Items charged as expense:		
Finance charges relating to finance eases	3,683	17,554
Loss on disposal of non-current assets	3,653	20,077
Rental expense on operating leases	274,153	1,199,984
Long service leave	(34,476)	82,064
Recreation leave	15,188	43,032
Doubtful debts	(1,070)	3,228

3. Emoluments of members and associate members

Salaries and allowances includes expenses of \$157 334 (\$637 219 in 1991-1992) to members of the Tribunal appointed under section 8 of the *Broadcasting Act 1942*. The remuneration payable to members is determined by the Remuneration Tribunal and is adjusted by National Wage Case decisions.

Salary Band	1 Jul-4 Oct 1992 No of Members	1991-1992 No of Members
\$10,000 - \$19,999	-	1
\$20,000 - \$29,999	3	-
\$30,000 - \$39,999	2	-
\$80,000 - \$89,999	-	1
\$90,000 - \$99,999	-	3
\$110,000 - \$119,999	-	2

For 1991-1992 members falling within bands \$10 000 to \$89 999 are members who have been appointed or who have retired within the financial year.

4. Provision for long service leave

Provision is made for the Tribunal's estimated liability for the long service leave entitlements of its members and employees. The estimate is based on a qualifying period of ten years' eligible employee service, including previous eligible service with Commonwealth or State Governments or statutory authorities, and is accrued from the commencement of the sixth year of such eligible service.

In accordance with accepted practice, a portion of the provision relating to amounts estimated to be payable within twelve months is included as a current liability and the remainder is shown as a non-current liability.

Payments of long service leave are funded by parliamentary appropriation on an as required basis.

5. Provision for recreation leave and leave loading

Provision is made for the Tribunal's estimated liability for the annual leave and leave loading entitlements of its members and employees. The provision has been calculated in accordance with the Tribunal's terms and conditions of employment.

	1 Jul-4 Oct 1992	1991-1992
6. Receivables (current)	\$	\$
Trade debtors	7,271	12,120
Less: Provision for doubtful debts	6,719	7,790
	<u>552</u>	<u>4,330</u>
Interest receivable	13,925	2,816
Total receivables	<u>14,477</u>	<u>7,146</u>

7. Other (current)

Prepayments	188,332	135,134
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	1 Jul-4 Oct 1992	1991-1992
	\$	\$
8. Property, plant and equipment		
Computer equipment		
At cost	1,203,049	1,233,326
Accumulated depreciation	574,956	544,164
	<u>628,093</u>	<u>689,162</u>
Furniture and fittings		
At cost	186,606	183,862
Accumulated depreciation	129,271	119,986
	<u>57,335</u>	<u>63,876</u>
Office machines and equipment		
At cost	109,656	108,516
Accumulated depreciation	52,957	47,475
	<u>56,699</u>	<u>61,041</u>
Monitoring and allied equipment		
At cost	37,235	37,235
Accumulated depreciation	34,857	32,995
	<u>2,378</u>	<u>4,240</u>
Leasehold improvements		
At cost	671,673	658,842
Accumulated amortisation	560,592	520,376
	<u>111,081</u>	<u>138,466</u>
Leased equipment		
At cost	73,274	73,274
Accumulated amortisation	43,085	39,422
	<u>30,189</u>	<u>33,852</u>
Total property, plant and equipment		
At cost	2,281,493	2,295,055
Provision for depreciation and amortisation	1,395,718	1,304,418
Total written down amount	<u>885,775</u>	<u>990,637</u>
9. Creditors (current)		
Trade creditors	461,836	369,428
10. Leases (current)		
Lease liability	25,510	24,139
11. Provisions (current)		
Provision for long service leave	107,277	114,062
Provision for recreation leave	636,273	635,153
	<u>743,550</u>	<u>749,215</u>

	1 Jul-4 Oct 1992	1991-1992
	\$	\$
12. Leases (non-current)		
Lease liability	31,385	38,301
13. Provision for long service leave		
Provision for long service leave	658,987	700,670

14. Superannuation

Tribunal members and staff contribute to either the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme, which provide pension, lump sum and other benefits. Under both schemes there exists an employer component which is funded direct from the Treasury.

Members and staff of the Tribunal are also covered by the provisions of the *Superannuation Benefit Act 1988* which provides for additional superannuation benefits known as the productivity benefit. Contributions are funded by the Tribunal and are paid to the Retirement Benefits Office which is liable for payment of the productivity benefit. The benefits average 3% of salary.

One member of the Tribunal contributes to a private superannuation scheme administered by AMP. In this instance the Tribunal funds the employer contribution as well as the 3% superannuation benefit.

15. Commitments for expenditure not brought to account

	1 Jul-4 Oct 1992	1991-1992
	\$	\$
Operating lease commitments:		
Not later than 1 year	658,786	922,351
Later than 1 year and not later than 2 years	32,944	38,676
Later than 2 years and not later than 5 years	4,628	8,563
TOTAL	<u>696,358</u>	<u>969,590</u>
Finance lease commitments:		
Not later than 1 year	36,362	36,362
Later than 1 year and not later than 2 years	35,922	36,362
Later than 2 years and not later than 5 years	-	8,660
Minimum lease payments	72,281	81,384
Deduct: Future finance charges	-15,396	-18,941
TOTAL	<u>56,886</u>	<u>62,443</u>

16. Auditor's remuneration

External audit services were provided by the Australian National Audit Office. The audit fee for the 1991-1992 financial statements was \$40 000.

17. Contingent liabilities

From information currently available it is estimated that the Tribunal's liability for ongoing litigation is \$5000. In the normal course of events these costs will be separately funded by the Commonwealth as they become payable. The contingent liability may vary greatly depending on the course of litigation.

Following a current internal review, a contingent liability may exist for Fringe Benefits Tax. The amount of this contingent liability cannot be quantified at the present time.

18. Licence Fees

Moneys received by the Tribunal in respect of broadcasting and television licence fees are not reflected in the financial statements because the Tribunal acts only as an agent for the Minister for Transport and Communications in so far as the billing and collection of licence fees is concerned. Payments received by the Tribunal's Sydney office are forwarded to the Department of Transport and Communications.

During the period 1 July 1992 to 4 October 1992 the Tribunal received \$27 125 in licence fees from the 1991-92 collection year. This amount was paid by commercial radio services. As at 4 October 1992 television licence fees of \$376 617 and radio licence fees of \$493 183 remained unpaid from the 1991-92 collection year.

Licence fees overpayments of \$223 827 were received during 1991-92. As at 30 June 1992 refunds of \$27 642 were made and the balance of \$196 185 was refunded during the period 1 July 1992 to 4 October 1992.

Details of other fees received are as follows:

- The FM Access Fee applies to all non metropolitan commercial radio grants, including supplementary licence grants, and to existing non metropolitan commercial radio services' conversions from AM to FM transmission. During the period 1 July 1992 to 4 October 1992 FM Access Fees totalling \$718 964 were received.
- The limited licence scheme is designed to authorise restricted broadcasting services within defined categories. The amount of limited licence fees received during the period 1 July 1992 to 4 October 1992 totalled \$97 225.

19. Members

The following persons held the position of member or associate member of the Australian Broadcasting Tribunal.

K Wilson	Appointed	1 December 1987
	Ceased	4 October 1992
B Allen	Appointed	26 April 1988
	Ceased	4 October 1992
S Brooks	Appointed	1 August 1988
	Ceased	4 October 1992
T O'Keefe	Appointed	30 July 1990

P Webb
(Acting Chairman)

Appointed

11 May 1992

P Webb is now Deputy Chairman and T O'Keefe a member of the Australian Broadcasting Authority.

20. Insurance

Consistent with Commonwealth Government policy the Tribunal acts as its own insurer. Losses are expensed as incurred.

21. After balance date event

On the 4 October 1992, new legislation, the *Broadcasting Services Act 1992*, created the Australian Broadcasting Authority (ABA). The ABA took over the licensing, programming and ownership and control functions of the Australian Broadcasting Tribunal (ABT), as well as the function of planning and broadcasting spectrum from the Department of Transport and Communications.

22. Reconciliation of operating result with cashflows from operations

	1 Jul - 4 Oct 1992	1991-1992
	\$	\$
Operating result	46,198	-314,899
(Increase) decrease in non current assets	-2,475	-
(Increase) decrease in receivables	-6,260	7,089
(Increase) decrease in other current assets	-53,198	37,218
Increase (decrease) in creditors	92,408	-301,731
Decrease in lease commitments	-5,543	-19,354
Increase (decrease) in employee entitlements	-47,348	125,096
Depreciation and amortisation	120,552	395,734
Increase (decrease) in provision for doubtful debts	-1,070	3,228
Adjustment for assets not previously capitalised	0	-13,122
Loss on disposal of property, plant & equipment	3,653	20,077
Gain on disposal of property, plant & equipment	0	-3,670
	<u>146,917</u>	<u>-64,334</u>
Parliamentary appropriations	-2,753,000	-9,739,000
Net cash used by operating activities	<u>-2,606,083</u>	<u>-9,803,334</u>

Reconciliation of cash

Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the statement of financial position as follows:

Cash at bank	316,159	186,114
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