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*annual report*

*Sydney*  
1995

# Mission Statement

*To promote the availability and development  
of a range of broadcasting services  
which is responsive to the diverse needs and interests  
of all Australians.*

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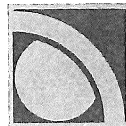
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26 September 1995

The Hon. Michael Lee MP  
Minister for Communications and the Arts  
Parliament House  
CANBERRA ACT 2600

Dear Minister,

In accordance with the provisions of clause 14 of Schedule 2 of the *Broadcasting Services Act 1992*, I am pleased to present this report on the operations of the Australian Broadcasting Authority for the year 1994-95.

Yours sincerely,

  
Peter Webb  
Chairman



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## **Introduction to the report**

The report is presented in accordance with the reporting requirements for departmental annual reports.

The Authority meets its mission statement (see inside front cover) by means of seven objectives. Each of these objectives is addressed, and the outcomes and highlights of the reporting period, in the following section on performance reporting.

A detailed discussion of the Authority's achievements against those objectives begins on p. 21.

In summary, the contents of this annual report are:

The year in review, including significant issues during the reporting year.

Corporate overview, including structure of the Authority, and a summary of its powers and functions.

Performance reports, the Authority's achievements and activities for the year, assessed against the Corporate Plan objectives.

Social justice, including social justice and equity, EEO, internal and external scrutiny.

Summary statements, performance pay, staffing matters.

# The year in review

The year just completed has been an extremely full and productive one for the Australian Broadcasting Authority.

On the domestic front, the Authority has made significant progress in the areas of planning the broadcasting services bands and allocating new licences and has achieved notable results in relation to the program standards regulating Australian content and children's programming on commercial television.

Three major ownership and control investigations contributed to public debate on the issue of control of the media and assisted the Authority in providing advice to the Minister for Communications and the Arts on the operation of the Broadcasting Services Act. The Authority's recommendations for amendment of the ownership and control rules of the Act were endorsed in a Cabinet decision in June 1995.

On the international front, the Authority has developed relationships with broadcasting bodies in the Asia-Pacific region and paved the way for further interaction with other broadcasting regulators.

## **Planning**

The Authority made considerable headway in its program to plan the availability of broadcasting services using the broadcasting bands of the radiofrequency spectrum.

In August 1994, the Authority determined an initial, Australia-wide frequency allotment plan. This document contained broad-brush decisions about allocation of the remaining available television channels and radio frequencies between the various areas of Australia. Also in August, the Authority released the first draft licence area plan, for the Riverland area of South Australia. Completion of licence area plans is the final stage of the public planning process. It will enable allocation of additional commercial and community broadcasting licences and also provide spectrum for other uses such as narrowcasting.

In the reporting year, the Authority released a total of nine draft licence area plans for public comment. These plans covered most of the highest priority areas of Australia. It also substantially completed the initial round of public and industry consultation in the second and third highest priority areas. (In a 1993 decision, the Authority divided the broadcasting spectrum planning task into five priority groups of planning zones.)

Drafts of the Authority's technical planning guidelines were also circulated for comment during the year. These guidelines will provide mandatory rules for licensees wishing to plan new or varied technical operating conditions for their transmission facilities.

Between them, the licence area plans and the technical planning guidelines will create a new regulatory environment for future broadcasting services, one in which the Authority will set broad parameters while responsibility for in-depth planning of technical facilities will move to the broadcasters themselves.

Throughout the year, the Authority continued to plan additional national broadcasting services, open narrowcasting services, re-transmission of existing services and temporary services for aspirant community broadcasters ahead of licence area plans.

### **Licence allocations**

Throughout the year, the Authority has contributed to the development of a diversity of broadcasting services.

A revised policy for temporary transmissions by aspirant community broadcasters was issued. To allow aspirant community radio groups to develop their radio operating skills and encourage support for permanent community licences through the planning process, the Authority provides frequencies to these groups on a short term basis for temporary transmissions.

The new policy was well received by aspirants and industry bodies alike. In framing the policy, the Authority sought to achieve a balance between preserving opportunities for genuine aspirant community broadcasters to hone their skills and build community support while preserving the essentially temporary nature of the broadcasts. The Authority was also encouraged by the progress made by the licensees of the sixth free-to-air television channel, who consolidated their community and educational services during the year.

Through re-transmission approvals, the Authority cleared the way for nine areas in remote Australia to receive additional complementary television services.

The Authority is close to completing the development of a price-based commercial licence allocation system and merit-based community licence allocation procedures, which will enable the licensing of new broadcasting services in 1995-96 and subsequent years.

The Authority issued 800 licences for non-satellite pay TV services to 17 different licensees during the year. The Authority has now issued more than one thousand licences for non-satellite subscription television services.

### **Control**

The Authority has been conducting three major investigations into potential breaches of the control rules of the Act. The investigations have been a focus for intense media attention and speculation over the issue of cross-media ownership and control of media organisations during the year.

Following a ten week investigation, the Authority found that Mr Kerry Packer was not in breach of the Act as a result of his interests in the Fairfax newspaper group. Despite Mr Packer holding company interests of over 17 per cent in Fairfax, the

Authority found there was sufficient proof to show Mr Packer was not in a position to exercise control of the company.

The Authority found that neither Mr Packer nor any company or person associated with him was in a position to exercise control of the operations of Fairfax or the selection of material to be published in the company's newspapers. It also found that neither Mr Packer nor any associate of Mr Packer exercised direction or restraint over any substantial issue affecting the management or affairs of Fairfax and that neither Mr Packer nor any associate has the right to appoint a director, veto the appointment of a director or veto any action taken by the board of directors of Fairfax.

In June 1995, Federal Cabinet endorsed the Authority's recommendations to amend the ownership and control rules contained in the Act. The recommendations were contained in the Authority's first report to the Minister for Communications and the Arts on the operation of the Act

### **Australian content**

One of the Authority's major responsibilities is in the area of Australian content and in the principles which underpin Australia's cultural policy.

During the year, the Authority released a new proposed program standard for Australian content on commercial television for public comment. The release of the draft standard followed extensive consultation with members of the broadcasting and film and television production industries in Australia and New Zealand and with the public, over a twelve month period. The Authority's review aimed to ensure that the Australian content standard meets the objects of the Act and promotes the role of commercial television in developing and reflecting a sense of Australian identity, character and cultural diversity.

The importance of commercial television in the promotion of Australian culture is the foundation of the Authority's regulation for minimum levels of Australian content. There is an economic dividend from this regulation in the further support that it gives to the Australian creative industry. However the main focus of the Authority is on the audience and the cultural benefits that the standard seeks to encourage. The Authority expects the standard, with its requirement for an increase in the minimum level of Australian content broadcasting annually, to be implemented in January 1996.

The proposed standard is built upon the widely recognised positive aspects of the current standard while introducing more flexibility to the regulation of Australian content. The proposed standard also contained initiatives for children's television, recommending the doubling of the amount of quality first-release children's drama to be broadcast each year. This move has been applauded by children's television advocates and the production industry.

### **Research**

The broadcasting industry entered a new era during the reporting period, with the start of pay TV services. The Authority completed its research into community attitudes to the broadcast of R-rated material on pay TV and presented the report to Parliament. On the basis of the research, which found that 82 per cent of Australians support the broadcast of R-rated material on pay TV, the Authority recommended to Parliament that, given the mandated use of disabling devices and the application of codes of practice, R-rated material be allowed to be broadcast on pay TV. R-rated material is not permitted on pay TV until both houses of Parliament approve the broadcast of such material.

The other major research report released in 1994-95 was *Cool or Gross: children's attitudes to violence, kissing and swearing on television*, which examined children's concerns about what they see on television. The research findings prompted intense media interest and was the subject of considerable interest within both the community and the broadcasting industry. Both reports contributed to the debate on the issues surrounding content on television.

### **Codes of practice**

The reporting period saw the publication of the first report on the implementation of broadcasting codes of practice for commercial television and radio. The Authority's monitoring of complaints, investigations into unresolved complaints and attitudinal research indicated codes of practice for these sectors of the industry were working well. Both sectors reported regularly to the Authority on their handling of complaints from the public. The Authority continued to consult with the other broadcasting industry groups in the development of their codes of practice.

### **Pay TV anti-siphoning rules**

In December 1994, the Minister for Communications and the Arts directed the Authority to monitor and to report to him at six monthly intervals on the extent to which the rights to televise events specified in the list in his anti-siphoning notice have been made available for acquisition by free-to-air broadcasters and the extent to which those events whose rights have been acquired have been televised. The Authority is also to monitor and report on whether there are any grounds for adding other events to the notice.

In April 1995, the Authority commenced a standing investigation into which rights have been made available, acquired and televised. It also implemented a monitoring regime to gather this information. The relevant sporting bodies have cooperated with the Authority by providing relevant information when requested. The Authority's first report on the availability, acquisition and use of broadcasting rights was expected to be provided to the Minister early in the second half of 1995.

## **International**

Since the Authority was created, there have been significant international developments in the technology, commerce and content of the industries with which it deals. For example, the use of satellites within parts of the Asia and Pacific regions to deliver television services to people has multiplied the number of services considerably. While this is generally perceived as a useful development from the consumer's point of view, concerns have been expressed by the countries in the region about the sensitivity of those services to local issues, both political and social.

The globalisation of the marketplace for telecommunications providers has already created situations in which the Authority has found itself dealing with companies who are entering the media market in Australia and are unknown to it.

In addition, a great deal is to be gained from a knowledge and understanding of our neighbours and how they regulate broadcasting services. There are many common concerns and exchanges of information will be helpful to us all.

In this context, the Authority has developed two strategies to increase its international presence and develop relationships with regulators and governments within the Asia and Pacific regions.

Firstly, a number of memoranda of understanding have been formally negotiated and signed with other significant regulators. They cover the exchange of information, areas of potential cooperation and matters of common concern. Memoranda have been signed with the United States' Federal Communications Commission, the Singapore Broadcasting Authority, and the South African Independent Broadcasting Authority. The Authority has reached an in principle agreement with the British Broadcasting Standards Council and is negotiating with the Canadian Radio-television and Telecommunications Commission.

While these countries have formed the initial stages in the Authority's program of creating relationships with other regulators, a second strategy of discussions about issues of common concern, especially with neighbouring countries, has been adopted. Japan, Malaysia, Indonesia, New Zealand, Hong Kong, Tonga and Fiji have all participated in these initial discussions.

One area of concern for virtually all the countries the Authority has had contact with is that of children's television. The Authority's children's television standards continued to receive widespread recognition for their promotion of quality television for children. The Authority has taken steps to initiate an international research forum on the subject and, in conjunction with other countries, plans to develop projects to address the critical issues in this area.

## **New areas of interest**

In a changing communications environment where the traditionally separate businesses of broadcasting, telecommunications and computing are converging, there is scope for the Authority to help lead debate in some areas. The Authority will

continue to contribute to the debate about emerging communications services, such as broadband and on-line services, and associated regulatory issues.

### **Technology**

The Authority has continued to operate at the leading edge of communications technology policy. The Authority released a report on the issues surrounding the introduction to Australia of digital terrestrial television broadcasting and established a taskforce of Government and industry representatives to advise the Spectrum Management Agency on the use of spectrum for digital sound broadcasting.

As part of its commitment to this work, the Authority takes an active role in the broadcasting systems development planning work of the International Telecommunication Union. It is through this mechanism that Australia is able to influence future international systems design to meet the needs of the Australian broadcasting system. This increases the prospects of Australians having access to consumer equipment which meets international standards and for Australian manufacturers who build equipment for the Australian market to access world markets, to the benefit of consumers, broadcasters, and all Australians.

The Authority is the Australian body with responsibility for handling radio and television matters within the International Telecommunications Union. Representatives of the Authority attended various ITU study group meetings relating to planning of radio and television systems and development of new technologies in Geneva during the year.

During the year, the Broadband Services Expert Group, headed by the Authority's former chairman, Mr Brian Johns, released its final report.

### **Corporate Services**

On a more personal level the Authority farewelled Brian Johns who had headed the Authority since its inception. In April 1995, Peter Webb who was formerly deputy chairman, was appointed Chairman. At the same time the Authority has welcomed aboard two new members: new deputy chairman, Bob Scott and a new part-time member, Kerrie Henderson.

This year saw further consolidation of the Authority as a single organisation. The completion of organisational restructuring, and decisions to retain the existing split locations in Canberra and Sydney were important stabilising factors allowing the Authority to attract applicants for key positions and to focus on core development work.

Major progress has been made in the Human Resources Management area including progression of an enterprise agreement for the agency which is expected to be finally in place by September 1995.

# Corporate Overview

## Australian Broadcasting Authority



Members

**Chairman:**  
*Peter Webb*



**Policy and  
Programs Division:**  
General Manager:  
*Gareth Grainger*



Deputy chairman:  
*Robert Scott*



Member:  
*Tim O'Keefe*



**Planning &  
Corporate Services  
Division:**  
General Manager:  
*Colin Knowles*



Part time member:  
*Kerrie Henderson*

as at 30 June 1995

**Policy & Communications Branch:**

Director: *Pat Manser*



Legal Section: Manager: *John Corker*

Policy Section: Manager: *Osmond Borthwick (A/g)*

Media & Public Relations Section: Manager: *Fiona Chisholm*

Industry Analysis Section: Manager: *Neil Skinner (A/g)*

Library: Manager: *Lurline Caffery*

**Program Services Branch:**

Director: *Lesley Osborne (A/g)*



Standards Section: Manager: *Nick Herd (A/g)*

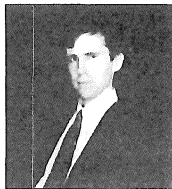
Research Section: Manager: *Linda Sheldon (A/g)*

Codes & Conditions Section: Manager: *Gordana Marin (A/g)*

Allocations & Renewals Section: Manager: *John Souter (A/g)*

**Planning Branch:**

Director: *Giles Tanner*



Services Planning Section: Manager: *Mike Salloom*

Planning Engineering Section: Manager: *Bob Greeney*

**Corporate Services Branch:**

Director: *Jon Torpy*



Financial Resources Section: Manager: *Graeme Haigh*

Human Resources Section: Manager: *Maree Bowman*

Information Systems Section: Manager: *John Small*

# Communications and the Arts Portfolio

**Minister:**

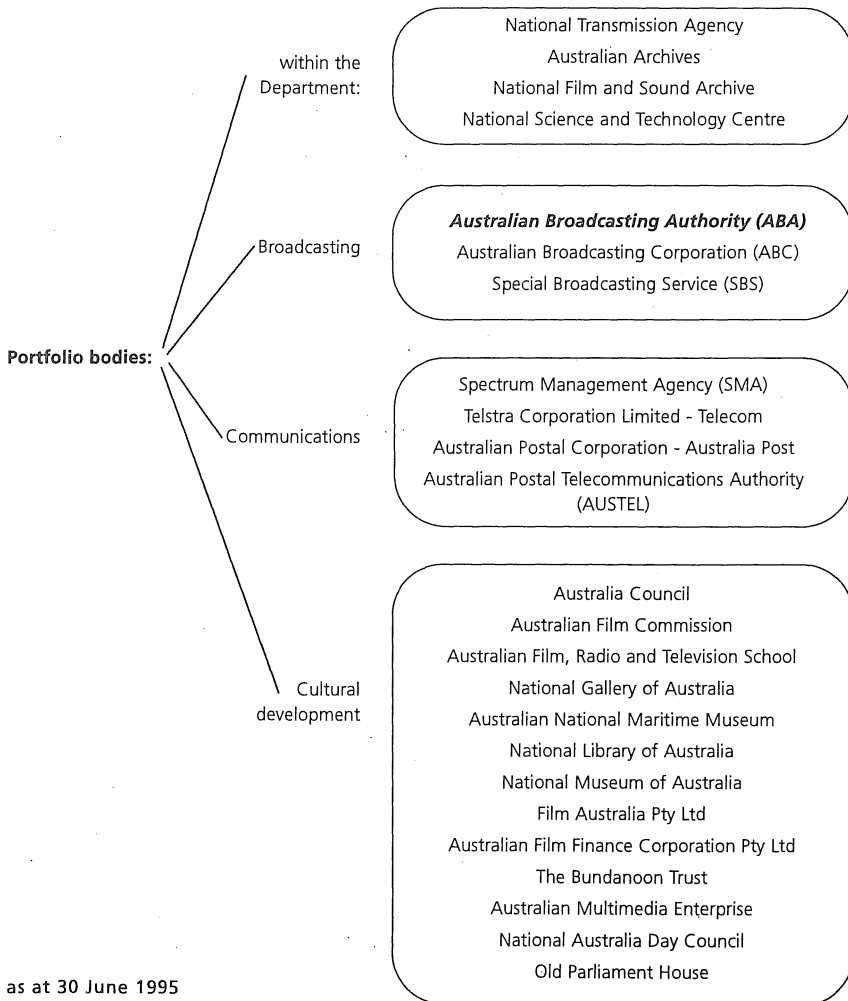
Parliamentary Secretary to the Minister

The Hon. Michael Lee, MP

The Hon. Paul Elliott, MP

**Department:**

Communications and the Arts



as at 30 June 1995

Members of the Authority are:

### **Mr Peter Webb**

Mr Webb was appointed Chairman of the Authority in April 1995, until 4 October 1997. He was initially appointed a member of the Authority for the period 5 October 1992 to 4 October 1997 and then Deputy Chairman from 1 February 1993 for the remainder of his term.

Mr Webb was Acting Chairman of the former Australian Broadcasting Tribunal from 1 July to 4 October 1992, following his appointment as Vice Chairman of the ABT on 11 May 1992.

He held several positions in the New South Wales Attorney General's department after joining the department in 1967. 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.

He 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. Mr Webb was also a member of the Board of the Australian Commercial Disputes Centre between 1986 and 1992. He was appointed an associate member of the Trade Practices Commission in 1993.

### **Mr Robert Scott**

Mr Scott was appointed Deputy Chairman of the Authority in June 1995 for a five year period. Prior to joining the Authority, Mr Scott had some 30 years' experience in the broadcasting and newspaper industries.

Mr Scott was founding Managing Director/Chief Executive of Wesgo Limited, Australia's largest commercial radio group (16 stations) in 1982. He was Chairman of the National Film and Sound Archive in Canberra from 1987 to 1991. He was twice President of the Federation of Australian Radio Broadcasters, in 1989 and 1990, and served on the FARB Federal Council for 10 years, chairing committees including government relations, education and training and industrial relations. Mr Scott was General Manager/Managing Director of three of Sydney's most successful commercial radio stations, 2WS in 1982, 2DAY FM in 1988 and Triple M Sydney in 1994.

In 1994, Mr Scott was awarded the Order of Australia AM for services to media, radio and film conservation and to the community.

### **Mr Tim O'Keefe**

Mr O'Keefe was appointed as a member of the Authority for the five year period 5 October 1992 to 2 October 1997. He was previously a member of the ABT, following his appointment in July 1990 for a five year period.

He has had 12 years' experience in the broadcasting industry and, before joining the ABT, was Chief Executive of Wesgo Limited and Chairman of all that listed company's licensee subsidiaries. Mr O'Keefe 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. Mr O'Keefe is a member of the Institute of Chartered Accountants in Australia.

### **Ms Kerrie Henderson**

Ms Henderson was appointed as the first part time member of the Authority on 17 February 1995 for a period of five years.

Ms Henderson holds degrees in Arts (major in government) and Law from the University of Sydney and practised as a commercial lawyer with prominent Sydney firms from 1986 to 1993. As a lawyer, her practice included both transactional and litigation work, and focused on servicing clients in technology, communications and intellectual property based industries.

In 1994, Ms Henderson took up a part time position with The St James Ethics Centre, a non-profit organisation established to promote business and professional ethics. Her role with the Centre involves the establishment and administration of a national leadership training program.

Ms Henderson is completing the final requirements for a Master of Laws at the University of New South Wales specialising in media, communications and technology.

Change of membership:

### **Mr Brian Johns**

Mr Johns resigned his appointment as Chairman of the Authority on 17 March 1995, to take up an appointment as Managing Director of the Australian Broadcasting Corporation.

Mr Johns was appointed chairman of the Authority from 5 October 1992 to 4 October 1997. In December 1993, Mr Johns was invited to chair the Broadband Services Expert Group, which presented its final report to the Government in December 1994.

Before joining the Authority Mr Johns was managing director of the Special Broadcasting Service for five years, and before that, publishing director of Penguin Books Australia. He has had extensive experience in government having worked in the Prime Minister's department in both the Whitlam and Fraser governments. Mr Johns also has extensive experience in the print media, having held senior journalist positions on the *Sydney Morning Herald* and the *Australian* newspapers and the *Bulletin* magazine.

## **Senior management**

The senior management of the Authority, as at 30 June 1995, was:

Mr Gareth Grainger	General Manager, Policy and Programs Division
Mr Colin Knowles	General Manager, Planning and Corporate Services Division
Ms Pat Manser	Director, Policy and Communications Branch
Ms Lesley Osborne	Director, Programs Services Branch
Mr Giles Tanner	Director, Planning Branch
Mr Jonathan Torpy	Director, Corporate Services Branch.

## **Powers and functions**

The Authority is the broadcasting regulator for radio and television in Australia. As well as planning the availability of segments of the broadcasting services bands (VHF/UHF television, FM and AM radio), the Authority has the power to allocate, renew, suspend and cancel licences and collect any fees payable for those licences.

The Authority is also empowered to conduct research into community attitudes on programming matters, develop program standards relating to broadcasting in Australia, assist broadcasting service providers (licensees) develop codes of practice, and monitor and investigate complaints about licensees.

The Authority monitors the suitability of licensees to ensure compliance with the ownership and control provisions of the Act. In addition, the Authority is required to inform itself and the Minister about advances and trends in broadcasting technology.

More detail about the powers and functions of the Authority can be found in Appendix 3, FOI statement, p.89.

## **Minister**

The responsible Minister is the Hon. Michael Lee, Minister for Communications and the Arts.

## **Structure**

The Authority's operational areas have been designed to achieve the Mission Statement (see inside front cover) in the most effective way possible. The Authority's structure has two Divisions, each with two Branches.

The Policy and Programs Division is comprised of the Policy and Communications Branch and the Program Services Branch.

The Policy and Communications Branch determines and monitors the suitability of licensees to ensure compliance with the ownership and control provisions of the

Act, provides legal and policy advice to the Authority, a library and public information service.

The Programs Services Branch may allocate, renew, suspend and cancel licences and is responsible for the collection of any fees payable for the allocation of new licences, provides opinions as to which service category a service belongs, assists broadcasting service providers (licensees) develop codes of practice, conducts research into community attitudes on programming matters, develops program standards relating to broadcasting in Australia and monitors and investigates complaints about licensees.

The Planning and Corporate Services Division comprises the Planning Branch and the Corporate Services Branch.

The Planning Branch plans the availability of segments of the broadcasting services bands (VHF/UHF television, FM and AM radio) and develops technical planning guidelines for services that use these bands.

The Corporate Services Branch attends to all matters related to personnel, accommodation, office services, financial matters and information technology.

The Policy and Communications, Program Services and Corporate Services branches are located in Sydney, while Planning Branch is located in Canberra.

A detailed exposition of the Authority's structure can be found in Appendix 3 - Freedom of Information Statement.

# Objective 1

**Provide appropriate access to the broadcasting services bands of the radio frequency spectrum and allocate and administer broadcasting licences for radio and television.**

## *Key Outcomes*

- ◆ *Nine draft licence area plans released for areas in the Authority's top priority group.*
- ◆ *Consultation undertaken with existing and aspirant broadcasters in six planning zones in regional NSW, Queensland and Victoria, to assist in the preparation of draft licence area plans.*
- ◆ *Re-transmission of services outside the originating licence area approved to nine areas in remote Australia.*
- ◆ *Revised policy for temporary transmissions by aspirant community broadcasters issued. New policy well received by aspirants and industry bodies alike.*

## **The planning process**

Spectrum planning and licensing are among the primary functions of the Authority as set out in the *Broadcasting Services Act 1992* (s.158).

The Act envisages a national planning and allocation exercise and sets out a three stage process for planning the use of the spectrum set aside for broadcasting, followed by different licence allocation processes for each type of broadcasting service. In performing its planning functions, the Authority must undertake wide public consultation.

The first step in the planning process is the determination of priorities between different areas of Australia and between different parts of the radiofrequency spectrum. As reported in its *Annual Report 1993-94*, the Authority determined its priorities on 29 September 1993. The Authority divided the country into planning

Australian Bureau of Statistics' census descriptions. Licence area populations have also been calculated for the majority of current community broadcasting services. The Authority determined licence area populations for each commercial radio and television broadcasting licence area in Australia under s.30(1) of the Broadcasting Services Act, with effect from 17 November 1994. In determining the population of each licence area, the Authority has specified the percentage of the population of Australia constituted by that licence area population; and the percentage of that licence area population that is attributable to an overlap area.

### **Technical planning guidelines**

Technical planning guidelines containing a set of rules for broadcasters planning their own transmission facilities (within the broad technical specifications set out in the licence area plan) must be prepared by the Authority. Under the *Radiocommunications Act 1992*, the guidelines form part of the licence conditions on transmitter licences issued to commercial and community broadcasters.

Draft technical planning guidelines for all radio and television services using the broadcasting services bands were first released in August 1993. Following substantial comments, a second draft was released in July 1994. Redrafting, taking account of comments received through consultation, proceeded through the first half of 1995. Determination and release of the final technical planning guidelines is expected in the second half of 1995, before any licences are allocated from the first licence area plan.

The guidelines will include requirements to be met by commercial and community broadcasting licensees regarding site restrictions and site tolerance, maximum and minimum radiated power, radiated signal characteristics, emission standards and maximum field strengths for planning individual services using the broadcasting bands.

### **Re-transmission policy**

The way the Authority deals with approaches for permission to re-transmit broadcasting services depends on whether the intended re-transmission is inside or outside the licence area of the service in question. It is common for communities to set up self-help re-transmission facilities as an alternative and quick method of receiving radio and television services within or outside the licence area of the host broadcaster.

In May 1995, the Authority adopted a new policy on re-transmission within licence areas. The new policy now makes it possible for both broadcasters and community self-help groups, in areas where there is an abundance of spectrum and limited demand, to apply ahead of licence area planning for a transmitter licence to re-transmit a broadcasting service (without variation) within its licence area.

Streamlining of this policy provides a clear and consistent framework for the consideration of applications from individuals, communities or licensees for the re-transmission of broadcasting services. The policy sets out the circumstances in which applicants may apply for spectrum and how to apply. Sixty-eight re-transmissions of broadcasting services were approved during the period.

The Authority received 15 applications under s.212 of the Broadcasting Services Act for permission to re-transmit radio and television services into an area outside the originating licence area. Nine permissions were granted, all for remote and underserved parts of Australia. The most significant example is the simultaneous approvals of re-transmissions for the Imparja (IMP) commercial television service into Mt Isa and Longreach, Qld and the QQQ (TEN) commercial television service into Alice Springs and Nhulunbuy, NT.

### **Community television**

As detailed in the Authority's *Annual Report 1993-94*, the Minister for Communications and the Arts directed the Authority in March 1994 to reserve the last available high power television channel in most parts of Australia, the so called 'sixth channel', for a high power television channel to provide national or community broadcasting services. He also directed the Authority to give favourable consideration to making the channel available immediately for community and educational television on a continuing trial basis. In April 1994, the Authority decided to make the channel available on an area by area basis for open narrowcasting services for community and educational non-profit use until 28 February 1996.

The Authority assessed and supported renewals for the licence holders in Sydney, Melbourne, Brisbane, Lismore and Adelaide at various times during the reporting period. It issued one new licence, to the West Australian Community Broadcasting Association for the areas of Perth and Mandurah, in January 1995.

In order to extend the trial period of community television, in April 1995 the Authority extended the availability of the channel in Melbourne, Brisbane, Lismore, Adelaide and Perth (including Mandurah) from 28 February 1996 to 30 June 1997. This followed advice received from the Department of Communications and the Arts that an extension of the availability period would not compromise or pre-empt the outcome of the Ministerial review of the television broadcasting industry which must be conducted before 1 July 1997. The Authority timed the extension of the availability of sixth channel spectrum to accommodate the renewal of three of the licences for community television services for the full twelve month period. Otherwise the Adelaide and Lismore licences would have been able to be renewed for only ten months, and the Brisbane licence for five months.

There was no necessity for the Authority to extend the availability of the sixth channel spectrum in Sydney as it had already renewed the licence on

28 February 1995 for a full twelve months and as the expiry date coincided with the end of the availability period of 28 February 1996. The Authority was of the view that in light of ongoing difficulties with the Sydney licence holder, Community Television Sydney, it would defer a decision concerning an extension of the availability of spectrum in Sydney until closer to the current licence expiry date of 28 February 1996, allowing the Authority to liaise with the licensee and others.

### **Low power open narrowcasting services**

Low power open narrowcasting services (LPONS) contributed to the availability of a diverse range of radio services offering entertainment, education and information. Application of streamlined procedures for processing applications for these services provided the framework for clearing a backlog of applications and clarified the rules to be applied in the consideration of applications. A total of 343 LPONS licences were issued during the period.

### **Temporary transmissions by aspirant community radio broadcasters**

Temporary transmissions foster the development of community radio by allowing aspirant community groups to develop their radio operating skills and programming schedules and encourage support for a permanent community radio broadcasting licence through the licence area planning process.

The Authority completed a review of its policy on temporary transmissions for aspirant community broadcasters in November 1994. The revised policy set up minimum eligibility requirements for access to temporary transmissions. The Authority's new policy has been favourably received by aspirants and industry bodies alike.

At the time of this report, the Authority has progressed assessments of eligibility for temporary transmissions for 101 of the 126 aspirant community broadcasters currently known to it. More than ninety per cent of aspirant broadcasters have needed to amend their rules or articles of association to comply with the revised policy. This has been necessary because the majority of aspirants had incorporated using 'model' rules not tailored to the more specific requirements of community broadcasting. The Authority has facilitated continuing temporary transmissions while negotiating necessary changes with aspirants. A total of 295 temporary transmissions for aspirant community radio broadcasters were approved during 1994-95.

### **Special events policy**

A new policy for issuing transmitter licences for special events was adopted by the Authority in February 1995. Formalisation of this policy set out to provide a clear

interpretation of a 'special event' (for broadcasting purposes) and identify the criteria an applicant needs to meet when applying for spectrum.

The new policy has made it possible for applicants to assess the suitability of their application prior to it being lodged. It has also introduced more predictability as approved applicants, who have submitted their application two months before the special event service is scheduled to commence, now receive notification of the frequency they have been assigned at least a week in advance of conducting their transmission.

One hundred and ten special event licences for distinct and organised events of major sporting, cultural or other community significance were approved during the year.

### **Broadcast engineering for national services**

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#### **TV Tasmania**

In preparation for the clearance of ABC television from VHF channel 3 in northern Tasmania, and provision of SBS television and a second commercial television service throughout the state, the Authority in conjunction with ABC Television and the National Transmission Agency is completing planning for additional television translators throughout the state, notably in remote areas of northern Tasmania. This work is scheduled for completion in late 1995.

#### **Triple-J planning**

In August 1993 the Government announced ABC Radio Triple J coverage would be extended to a further 44 areas. Subsequent to this announcement, a further area (Goulburn, NSW) was added to the list. Transmissions commenced at 18 sites in January 1995. In the past year the Authority has completed planning for a further 17 sites and will continue to plan the remaining ten sites to complete the Government's timetable. Difficulties have been experienced in finding suitable frequencies in some locations where the FM band is shared with television broadcasting on channels 3, 4 or 5. Where possible, these issues are being addressed as part of the licence area planning process.

#### **SBS radio**

SBS radio was extended to all mainland capital cities, with second services on the FM band planned for Sydney and Melbourne.

### **Price-based allocation system for commercial licences**

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Section 36 of the Broadcasting Services Act requires the Authority to develop a price-based system for allocating commercial radio and television broadcasting licences for services that use the broadcasting services bands (BSB). The system is also to be used to allocate licences for other (non-BSB) commercial television

broadcasting services before a date to be proclaimed. This date must not be earlier than July 1997, the date before which the Minister for Communications and the Arts must conduct a review of the television broadcasting industry to assess the national benefits that would accrue if more than three commercial television services were permitted in licence areas.

The Authority expects to finalise a determination for the s.36 price-based allocation system in the second half of 1995. The determination has been drafted by the Office of Legislative Drafting under the direction of Authority staff with assistance from a solicitor from the Attorney-General's Department. The system provides for licences to be allocated in an auction-style process in which the licence is allocated to the highest bidder (subject to the requirements of the determination and the Act being met).

In October 1994, the Authority entered into a resource agreement with the Department of Finance to fund the development and implementation of the price-based licence allocation system for a three year period during which allocations are expected to be conducted.

### **Section 39 licences**

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Section 39 of the Act requires the Authority to allocate on request a second commercial radio licence using the broadcasting services bands to an existing licensee if it is the only licensee providing a commercial radio service in a licence area and at least two other commercial radio licences using the broadcasting services bands are available for allocation in the licence area. The Authority has finalised procedures for allocating s.39 licences and all licensees in single licence markets have been notified of the procedures.

The Authority will notify licensees of their eligibility for a s.39 licence when their eligibility is confirmed. This will not be until after the relevant licence area plan is finalised. The Authority will allocate a s.39 licence to an eligible licensee on application. The Authority expects to allocate s.39 licences before allocating any further commercial licences in the same licence area. A \$10 000 allocation fee has been set which will offset the Authority's costs in planning and allocating the additional licence.

### **Merit based allocations systems for community licences**

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The Authority is in the final stages of developing a licence allocation system for community broadcasting services using the broadcasting services bands (BSB). Subject to final consultation, it is expected to be adopted in the second half of 1995. The system provides for licences to be allocated on the basis of merit having regard to a range of matters specified in the Act.

The Authority has also progressed an allocation system for non-broadcasting services bands community broadcasting licences which it expects to implement following formal adoption of the BSB community licence allocation system in the first half of the 1995-96 reporting year. This will enable commencement of cable, MDS or satellite delivered community broadcasting services. The non-BSB system is application driven and will require payment of an application fee.

### **Non-satellite subscription television broadcasting licences**

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Under s.96 of the Broadcasting Services Act, the Authority issued 800 non-satellite subscription television broadcasting licences to 17 licensees in this period. Unlike broadcasting services bands licences, s.96 licences do not confer any right of access to a cable network, MDS frequency or other transmission medium. It is up to licence holders to negotiate this access with the owner or administrator of the transmission medium. The licences are issued in perpetuity and are not bound by any licence area within Australia. A separate licence is required for each channel of programming.

### **Broadcasting licence renewals**

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The Authority must renew a commercial or community broadcasting licence on application from a licensee unless it is satisfied that renewing the licence would lead to a significant risk of an offence against the Act or the regulations occurring or a breach of the licence conditions occurring. An investigation is not routinely required before renewal in relation to such a risk. The Authority renewed 53 broadcasting licences (26 commercial radio, 8 commercial television and 19 community radio) in this period.

### **Opinions on category of service or proposed service.**

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Under s.21 of the Act, a person who is providing or is intending to provide a broadcasting service, may apply to the Authority for a legally binding opinion as to which category of broadcasting services the service falls into. In the period of this report, the Authority gave opinions on a total of ten proposed services (five each for radio and television). The Authority opinion was in agreement with that of the applicant in eight cases (three for radio and five for television). All opinions were provided to applicants within the required timeframe.

In the period of this report, three services the subject of opinions commenced operation (two radio and one television). Since the commencement of the Act, the Authority has given opinions on a total of 88 proposed services (60 for radio and 28 for television). All but one applicant has sought to have services regarded as narrowcasting. The Authority opinion was in agreement with that of the applicant in 66 cases (42 for radio and 24 for television). Since the commencement of the Act, a total of 55 services the subject of opinions have commenced operation (40 radio and 15 television).

## Objective 2

**Ensure that control of commercial television broadcasting services rests with Australians and that diversity of control of the more influential broadcasting services is maintained.**

### *Key Outcomes*

- ◆ *After an investigation, the Authority found Mr Kerry Packer was not in a position to exercise control of John Fairfax Ltd.*
- ◆ *The Authority commenced an investigation into control of the Seven commercial television network.*
- ◆ *The Authority continued its investigation into control of the Ten television network.*
- ◆ *The Authority found no breaches of the control rules.*

### **Monitoring**

The Authority actively gathers information in order to assess whether control of commercial television broadcasting services rests with Australians and that diversity of control of the more influential broadcasting services is being maintained.

The philosophy of the Broadcasting Services Act encompasses the view that the more influential a type of service can be, the greater the regulation of that type of service is required. For example, commercial television licensees are subject to greater restrictions than pay TV licensees in virtually all key areas, including ownership and control, programming and licensing.

As part of its general monitoring of control issues, the Authority obtains and assesses information from a number of sources including information supplied to it by participants in transactions, meetings with industry players, media reports, other government agencies (including the Australian Securities Commission, the Foreign

Investment Review Board and the Trade Practices Commission), the Australian Stock Exchange, company reports and overseas regulators.

If as a result of its monitoring, the Authority commences an investigation, it has wide ranging powers to obtain information. These include issuing notices requiring the production of documents, examination of witnesses under oath and holding public hearings.

If the Authority was to find a person in breach of the control rules, a range of actions are open to it. Under s.70 of the Act, it may by notice in writing direct the person (or where appropriate, the licensee) to take action so that the person is no longer in breach. The notice is to specify a period (either one month, six months, one year or two years) during which the person is to take action. The Authority can also refer a breach to the Director of Public Prosecutions for prosecution in the courts.

## **Investigations**

During the reporting period the Authority has undertaken three major investigations relating to the control of commercial television broadcasting services and the cross-media rules of the Act. The investigations have underpinned diversity and Australian control of the more influential media by comprehensively exploring the factual and legal issues raised in each case. The reporting of the Authority's findings has been a focus for public debate about the ownership and control provisions of the Act.

The major investigations were:

### **Investigation into control: Mr Kerry Packer/ John Fairfax Holdings Ltd.**

Following a ten week investigation into control in terms of s.60(b) of the Act, on 24 April 1995 the Authority found that Mr Kerry Packer was not in breach of the Act as a result of his company interests in the Fairfax newspaper group.

The Act says a person must not be in a position to exercise control of a commercial television licence and a newspaper associated with the same television licence area. Mr Packer controls the Nine network which provides television services in Sydney and Melbourne. The *Sydney Morning Herald* and the *Age*, both published by the Fairfax group, are associated with the Sydney and Melbourne licence areas respectively.

If a person has company interests exceeding 15 per cent they are regarded as being in a position to exercise control of a company, unless there is proof to the contrary. Despite Mr Packer holding company interests in John Fairfax Holdings Ltd (Fairfax) of 17.17 per cent, the Authority found Mr Packer did not have control of Fairfax as its investigations provided sufficient proof to the contrary.

In particular, the Authority found that:

- neither Mr Packer nor Consolidated Press Holdings Ltd (CPH) nor any associate of either is in a position to exercise control of the operations of Fairfax or the

publishing companies (John Fairfax Publications Pty Ltd, publisher of the *Sydney Morning Herald* and David Syme and Co. Ltd, publisher of the *Age*).

■ neither Mr Packer nor CPH nor any associate of either is in a position to exercise control of the selection and/or provision of a significant proportion of the material to be published by the *Sydney Morning Herald* and the *Age*.

■ neither Mr Packer nor CPH nor any associate of either exercises in any manner, whether directly or indirectly, direction or restraint over any substantial issue affecting the management or affairs of Fairfax or the publishing companies.

■ neither Mr Packer nor CPH nor any associate of either has the right to appoint a director to the board of Fairfax or the publishing companies, to veto the appointment of other directors nor the right to veto any action taken by the board of directors of Fairfax or the publishing companies.

■ the boards of Fairfax and the publishing companies neither act nor are accustomed to act, in accordance with the directions, instructions or wishes of, or in concert with, Mr Packer, CPH or any associates of either Mr Packer or CPH.

These findings are based on evidence collected from Fairfax directors and others.

The Authority's inquiries were wide-ranging and confidential information was collected from the following parties:

- John Fairfax Holdings Limited;
- Publishing & Broadcasting Limited and associated companies;
- Consolidated Press Holdings Limited and associated companies;
- Mr John Lyons, Editor of the *Sydney Morning Herald*;
- Ms Gail Hambly, Co-Secretary & Legal Counsel, Fairfax;
- the following directors of John Fairfax Holdings - Mr Matthew Barger, Mr Conrad Black, Sir Roderick Carnegie, Mr Daniel Colson, Rt Hon. Sir Zelman Cowen, Mr David Gonski, Mr Douglas Halley, Mr Michael Hoy, Mr Stephen Mulholland, Sir Laurence Street, Mr Andrew Turnbull, Mr Dean Wills AO; and
- the following directors of Publishing and Broadcasting Limited and Consolidated Press Holdings Limited - Mr James Packer, Mr Kerry Packer, Mr Brian Powers.

#### **Investigation into control: News Limited/Seven Network Limited**

On 19 April 1995 the Authority commenced an investigation into control of Seven Network Limited to determine whether News Limited or Mr Kerry Stokes or any person associated with those persons had breached any provision of the Broadcasting Services Act.

On 1 June 1995, the Authority found that Mr Kerry Stokes was not in breach of s.53(2) of the Act, which prohibits a person from being in a position to control more than one commercial television licence in a licence area, because he does not control Sunraysia Television Ltd which controls STW Channel 9 in Perth. The issue

was part of the original terms of reference of the Authority's inquiry because of Mr Stokes' holdings in the Seven Network which controls TVW Perth.

The terms of the Authority's investigation changed as a result of this finding. The revised terms focussed on whether News Limited, either alone or together with an associate, has breached any provision of the Broadcasting Services Act.

In particular, the Authority has decided to investigate:

- whether News Limited, either alone or together with an associate, is in a position to exercise control of Seven Network Limited and/or any commercial television broadcasting licence controlled by Seven Network Limited;
- whether News Limited, either alone or together with an associate, has breached paragraph 60(b) of the Act which prohibits a person from being in a position to exercise control of a commercial television broadcasting licence and a newspaper that is associated with the licence area of the licence and accordingly whether News Limited, either alone or together with an associate, has committed an offence pursuant to s.66 of the Act in respect of any such breach;
- whether News Limited, either alone or together with an associate, has breached subsection 57(1) of the Act which prohibits a foreign person from being in a position to exercise control of a commercial television broadcasting licence and accordingly whether News Limited, either alone or together with an associate, has committed an offence pursuant to s.66 of the Act in respect of any such breach;
- whether News Limited, or an associate of News Limited, has breached subsection 64(1) of the Act, which requires a person who becomes aware that he or she is in a position to exercise control of a licence to notify the Authority in writing of that position;
- whether News Limited has provided a commercial television broadcasting service without being licensed to do so in breach of s.131 of the Act.

At the date of this report, the Authority's investigation was continuing.

#### **Investigation into control: CanWest/Ten Network**

The Canadian company CanWest Global Communications Corp. (CanWest) has a 15 per cent shareholding and a 58 per cent economic interest in The TEN Group Ltd which controls the Ten network television licences in Sydney, Melbourne and Brisbane.

Under the Act, a foreign person must not be in a position to exercise control of a commercial television licence or have company interests in a commercial television licensee that exceed 15 per cent. As reported in its *Annual Report 1992-93* and *Annual Report 1993-94*, the Authority has been routinely monitoring the involvement of CanWest in the Ten television network.

As part of its continuing investigation into control of the Ten television network, on 18 November 1994, the Authority requested documents on a range of issues from

CanWest and The TEN Group Ltd. The request followed enquiries made by the Authority of Mr Mike Lattin, former program director at the Ten network.

At the date of this report, the Authority's investigation was continuing.

### **Proposed amendments to the ownership and control provisions**

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It is one of the Authority's primary functions to report to the Minister for Communications and the Arts on the operation of the Broadcasting Services Act (s.158(n)). Advice from the Authority on the operation of the ownership and control provisions of the Act led to a Cabinet decision in June 1995 to amend the Act to include more definitive methods of assessing control.

Cabinet decided that a 15 per cent ownership limit would be applied to the control provisions of the Act and would apply to cross-media interests, the 75 per cent population reach rule and the one licence to a market rule. Cabinet also decided that the definition of 'company interests' would be widened to include interests that are linked to company performance or to the voting rights of members of a company. This will also apply to future foreign interests in free-to-air broadcasters. Pay TV licensees will be quarantined from the new definition of company interests due to their more limited influence and to the recognition that the expertise and investment of foreign companies is necessary in this new sector of broadcasting.

### **Applications for prior approval**

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The prior approval of temporary breaches, under s.67 of the Act, has helped facilitate changes to the structure of the industry, particularly commercial radio broadcasting. Several media companies have made use of the s.67 mechanism for prior approval of temporary breaches. They are Village Roadshow Ltd and Austereo Ltd; Australian Provincial Newspapers Holdings Ltd; Rural Press Ltd and Clear Channel Radio Incorporated.

### **Opinions on control**

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Under s.74 of the Act a person may apply to the Authority for an opinion as to whether they are in a position to exercise control of a licence, a newspaper or a company. The opinions provide applicants with a level of certainty about their position and help to produce regulatory arrangements that are stable and predictable. Three opinions were prepared in the reporting period.

### **Subscription television broadcasting**

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The Authority has closely monitored the ownership and control aspects of the subscription television broadcasting industry by way of regular consultative meetings

with stakeholders assisting in the development of an exciting and competitive new industry.

The Authority has sought to ensure arrangements put in place for co-operation between the holders of satellite subscription broadcasting licences A and B comply with the Act. The Authority has recommended to the Minister for Communications and the Arts that the Act be changed to clarify the desirable level of co-operation.

The Authority has held discussions with Foxtel and Optus Vision about their respective ownership structures and operational arrangements.

The Authority has also assessed, in ownership and control terms, the suitability of applicants for non-satellite subscription television broadcasting services allocated under s.96 of the Act.

### **Notification requirements**

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Within three months of the end of the financial year, each commercial television and commercial radio licensee must provide the Authority with details of persons who were in a position to exercise control of the licence, the name of each director of the licensee and the name of each foreign director of the licensee at the end of the financial year. Within the same period, each person in a position to control a commercial television licence or a commercial radio licence must provide the Authority with details of any company interests held at the end of the financial year in a newspaper that is associated with the licence area of the licence.

Each commercial licensee must notify the Authority that a person has come to be, or ceased to be in a position to exercise control of the licence within seven days of the licensee becoming aware of the event. Similarly, a person who has come to be in a position to exercise control of commercial licence must notify the Authority within seven days of becoming so aware.

The high level of compliance with the Act's notification requirements by the commercial broadcasting industry assists the Authority in its monitoring role. The public is kept informed of changes in ownership and control through the Notifications Register which is available for public viewing through the Authority's library.

## Objective 3

**Encourage service providers to be responsive to the diverse broadcasting needs, interests and values of the Australian community.**

### *Key outcomes*

- ◆ *Results of Authority research into community attitudes to broadcasting published and made available to service providers.*
- ◆ *Investigations into programming issues conducted during the year*
- ◆ *Classification officers forum established.*
- ◆ *First siphoning investigation completed.*

### **Research**

The Broadcasting Services Act requires the Authority to conduct or commission research into community attitudes on broadcasting issues. The results of this attitudinal research are made available to service providers to assist in the development of codes of practice and review of codes already in place.

The Authority continued six attitudinal research projects during the year. All the projects were designed to contribute to service providers' awareness of the community's broadcasting needs, values and interests. Service providers' peak bodies were briefed and/or provided with reports detailing the results of the research. Research results also inform the Authority in the performance of its content regulation function and are disseminated widely within the community.

## Research projects

1. Community standards for pay TV - the broadcast of R-rated material  
Under the Broadcasting Services Act (clause 10(1)(g) of Schedule 2) pay TV licensees are prohibited from broadcasting R-rated programs until:

- a) the Authority has completed extensive, Australia-wide qualitative and quantitative research into community standards of taste and decency in relation to program classifications for pay TV and on what levels of violence and sex should be allowed;
- b) the Authority has recommended the broadcast of such programs; and
- c) the Parliament has, by resolution of each House, approved the broadcast of such programs.

Clause 10(1)(g) also requires pay TV licensees to ensure that access to R-rated programs is restricted by disabling devices acceptable to the Authority.

This research was conducted between March and December 1993 and the Authority reported to Parliament in December 1994. The Authority briefed members of the pay TV industry body, the Confederation of Australian Subscription Television (CAST), about the details of the research findings.

The research showed that 82 per cent of those surveyed agreed that adults should have the option of watching R-rated material on pay TV in the home. Majority support was apparent across all segments of the population as defined by age, gender, parental status, state of residence and area of residence. There was strong support for controls and restrictions to be put in place if R-rated material becomes available on pay TV. There was also strong support for limitations on the times at which R-rated material could be broadcast with 54 per cent nominating 11 p.m. to 6 a.m. as an acceptable time. In addition, 85 per cent of respondents said that, if R-rated programs were to be shown on pay TV, it would be important to receive some information about them before they were broadcast.

The level of support for R-rated material on pay TV depended on the content of the material — there was less support for the availability of R-rated sexual violence (54 per cent) than there was for the availability of R-rated violence (69 per cent) or R-rated sexual content (70 per cent). Eighty six per cent of parents said they would be likely to use controls such as 'start up' cards and personal identification numbers to restrict their children from watching R-rated programs. The report also contained the result of the Authority's research into the characteristics and operation of disabling devices, as required by the Act. The Authority also developed a process for the determination of the acceptability of disabling devices, which was included in the report.

In its report to Parliament the Authority made the following recommendation:

- In all the circumstances, and taking into account the findings of the ABA's commissioned research and the regulatory regime provided by the Broadcasting Services Act, including the mandated use of disabling devices and the application of

industry codes of practice developed in a publicly consultative way, the ABA recommends that programs classified as R by the Office of Film and Literature Classification be approved by Parliament for broadcasting by subscription television broadcasting licensees.

The report to Parliament, *R Classified Programs on Pay TV*, was accompanied by two other publications: *R Classified Programs on Pay TV: Edited Extracts and Summary of Findings*, and *Data Tables for Research into R Classified Programs on Pay TV*. All three publications were made available to the public. The summarised version of the report was made available free of charge.

## 2. Television codes of practice research project

As part of an annual program to monitor the effectiveness of the television industry codes of practice, the Authority commissioned a national survey was conducted in July 1994.

The objectives of the research were to explore concerns about television programming, awareness and usage of the new classification system (including the expanded forms of consumer advice provided at the commencement of some programs), and the new complaints procedure. Awareness of, and attitudes towards, the new M and MA classifications for commercial television programs were also explored.

The main findings of the research showed relatively low concern among the general public about what they had viewed on television in the previous week. The news and current affairs category prompted most concerns, with respondents saying the material was 'too upsetting', 'it had biased reporting' or 'it was inappropriate'. Recall of the classification symbols was quite high in the community, with 61 per cent claiming to find out about classifications from the television screen. More than half the sample (57 per cent) said they would use the classification symbols to decide whether children should watch a program.

The results of this research will feed into the Authority's monitoring of the operation of the codes of practice. The results were given to the representative industry body, the Federation of Australian Commercial Television Stations and were published in *Your Say 1995*.

## 3. Children and television (classification issues)

Stage one of this research was conducted between April and October 1993 and examined children's attitudes about the way they view television in their homes and what concerned them on television. The research methodology addressed access and equity issues by specifically including children and parents from ethnic and culturally diverse households in the sample. The results showed that violent and real-life depictions concerned children more than kissing, nudity and swearing. More than half the children surveyed had exercised self-censorship by switching channels or leaving the room when something was depicted that upset or concerned them, with girls being more likely to do this than boys. Most households had rules about

children's television viewing, with up to 98 per cent of parents claiming to use rules to regulate their child's viewing. Nearly two thirds of the children surveyed (62 per cent) claimed to watch television every day.

The research findings assisted the Authority in its consideration of the effectiveness of the commercial television industry codes of practice. The results confirm that broadcasters need to be careful when children are viewing in large numbers, especially with the strength of news broadcasts shown before 8.30 p.m.

The Authority briefed the representative commercial television industry group, the Federation of Commercial Television Stations, about the research findings. The results were published in the Authority's research Monograph No. 4: *'Cool or gross: Children's attitudes to violence, kissing and swearing on television'* and the findings were also presented to delegates attending the World Summit on Television and Children in Melbourne during March 1995.

The second stage of research on children and television started early in 1995 and has been designed to complement the first stage. As well as informing the service providers directly, the results will assist the Authority in its monitoring of the response of service providers to information about community standards. Stage two focuses on what children like to watch on television and why. The research methodology also addressed access and equity issues.

In developing the project, the Authority conducted in-depth interviews with people involved in the production of children's television. These included producers, directors, writers, editors, television network representatives, children's authors, senior executives of children's organisations and child development experts.

A comprehensive literature review covering international developments over the last ten years was undertaken by a leading academic in the field. Qualitative research with children in Perth, Hobart and Sydney commenced in May 1995 and will continue into the next year.

#### 4. Radio research project

The project was designed to assist the Authority in planning radio broadcasting services throughout Australia. The information provided on community use, satisfaction and demand for radio services is intended to assist the Authority in making decisions about new radio services and licence area plans. The qualitative phase of the research commenced in March 1994 and the quantitative stage, involving the surveying of a national sample of more than three thousand people across metropolitan and regional Australia, was conducted in August 1994.

An internal report on the research, *Demand for Commercial Radio Services*, was produced in June 1995 and the full report will be published in 1995-96. The Authority will also make the results available to the representative industry group, the Federation of Australian Radio Broadcasters.

The Authority will also use some of the data collected in a separate report about use of radio by teenagers, their satisfaction with current radio services and demand for new services. The Authority expects to publish this report in 1995-96.

### 5. Consumer issues and pay TV

In November 1994, the Authority conducted a small qualitative research study by interviewing 29 participants in Telecom's Residential Video Pilot scheme in Centennial Park in Sydney. Four discussion groups were held covering consumer issues relating to the introduction of pay TV. Issues covered expectations and concerns about complaint procedures, fault repair, billing, credit management and privacy. Householders in the study looked forward to a coordinated approach by pay TV companies, expecting for example: simple and straightforward complaints procedures; a fast and effective response to requests for repairs; full information about what personal information would be collected; and provision of consumer information in written form.

A report on the results of this research was provided to Confederation of Australian Subscription Television (CAST) to assist the development of the pay TV industry codes of practice. The research findings were also reported in *ABA Update*, June 1995.

### 6. Families and electronic entertainment

The results of this research will assist the Authority in monitoring community standards and codes of practice. It will examine the way children and teenagers use their time in a rapidly changing broadcast environment and as new technologies are being introduced. It will also explore parental concerns and household rules and regulations that apply to television, video and computer/video games in particular.

This is a joint research project with the Office of Film and Literature Classification. The national fieldwork for this research commenced in June 1995 and will be completed in 1995-96. The findings of the qualitative stage of this research were presented at the conference *Multimedia Regulation and the Family* organised by the Office of Film and Literature Classification, in October 1994.

## Codes of practice

As required by the Act, the Authority assists the key industry groups in the development of codes of practice. Codes of practice for commercial television and commercial radio came into effect in 1993. The Authority also monitors the operation of the codes once they are implemented, to ensure they are working and they comply with community standards. Assessment of the codes is ongoing, and is achieved by research, consultation with the industry and the community, and monitoring the complaints process.

The Authority consulted with the representative industry groups in relation to the development of codes of practice for community broadcasting (CBAA), subscription television broadcasting (CAST), and subscription and open narrowcasting services (FANSS).

As part of its role in the development of codes of practice for the subscription television industry, the Authority examined the consumer aspects of subscription

television, such as billing, fault repair, privacy and credit management. The results of this examination were used to assist in the development of the CAST codes of practice.

The Authority met regularly with industry groups to discuss issues relating to codes of practice. The Authority relays community concerns to service providers, ascertained by means of its complaints recording process and investigations (into unresolved complaints). In addition, the Authority also receives quarterly reports from both the Federation of Australian Commercial Television Stations (FACTS) and the Federation of Australian Radio Broadcasters (FARB) with details of complaints made to broadcasters.

The Authority is an observer on the FACTS Code Administration Council which reviews continuing compliance with the FACTS Code.

The Authority is also an observer on the Australian Music Performance Committee (AMPCOM) which is the commercial radio/music industry group which monitors compliance by commercial broadcasters with Code 4 of the FARB Code, dealing with Australian music content.

In assisting broadcasters to be responsive to concerns in the community, the Authority will provide its interpretation of the code provisions as determined through its investigations of complaints about possible breaches.

Officers of the Authority participated in a seminar on television codes of practice conducted by the Senate Select Committee On Community Standards Relevant To The Supply Of Services Utilising Electronic Technologies in Sydney on 18 May 1995. The Authority's first annual review of audience complaints, *Your Say 1995*, was released at the seminar. It contains summaries of key investigations as well as an analysis of complaints made to broadcasters and to the Authority.

## **Complaints**

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As part of its role in monitoring codes of practice, the Authority records complaints which are made directly to it. Under codes of practice, primary responsibility for the resolution of complaints rests with the broadcasters themselves. However, many members of the public contact the Authority directly with complaints about radio and television. A record is made of these complaints, and the complainant is informed of the complaints procedure and directed to the relevant broadcaster.

Since the implementation of codes of practice for commercial television and radio, the ABC and SBS, the number of people phoning or writing to the Authority with complaints has increased, particularly in relation to the ABC and SBS who are included in the Authority's complaints jurisdiction under the Broadcasting Services Act.

During the year, the Authority received 3116 written and phone complaints, including 1786 about commercial television, 441 about commercial radio and 374 about ABC television. (For a breakdown of complaints by service category and type

see Appendix 2). In 1993-94 the Authority received 2348 complaints, with 1542 being about commercial television.

Of the 3116 complaints, 155 were unresolved complaints or matters which related to licence conditions. These were all the subject of formal investigations (see below). Of the remaining 2961 complaints, 2941 were dealt with in the reporting period. Around one third of complaints were in written form. These receive a written response from the Authority. People who phone the Authority with their complaint are provided with a full explanation of the complaints process and, if requested, are also provided with copies of relevant information such as codes of practice. The Authority has a 1 800 (free call) entry in the White Pages of every telephone directory in the country to assist callers as well as an after hours answering facility for recording comments from the public. The Authority has also installed a telephone typewriter to assist hearing impaired people and provides a telephone interpreter service.

The complaints figures indicate that the Authority handled approximately thirty per cent more complaints in the 1994-95 financial year than in the previous year. Most of the increase is in the 'other' services categories, which includes ABC radio, SBS television and the narrowcast services. It is likely that the promulgation of codes of practice by the national broadcasters, the expansion of the JJJ network and the increase in the number of new narrowcast services has contributed to this rise.

The Authority also recorded somewhat more complaints for commercial television and radio, although as a proportion of the total complaints received complaints about commercial television dropped from 65.7 per cent to 57.3 per cent. Of note is the recent increase in complaints received in relation to the categories of hatred/ridicule/ discrimination, news and current affairs and number of advertisements. The Authority's data indicates that late night comedy and sports programs, and specific advertisements attracted most complaints involving alleged discriminatory material. Commercial radio also registered an increase in this category of complaint.

## **Investigations**

The Authority is required to investigate alleged breaches of the Act or licence conditions, as well as unresolved complaints about matters covered by codes of practice. These are complaints referred to it by complainants who consider the response received from the broadcaster inadequate, or who have not received a response within 60 days. When conducting an investigation into an unresolved complaint, the Authority requests comments from the broadcaster concerned. Both the complainant and the broadcaster are informed of the Authority's decision.

The Authority has a range of sanctions available to it in the event of a breach of licence condition, program standard or code. Any action taken depends on the seriousness of the breach. Of the 155 investigations into program content matters commenced during the year, 39 were investigations into possible breaches of licence

conditions and 113 were investigations into unresolved complaints about program matters covered by codes of practice. None of the unresolved complaints was assessed to be vexatious.

Of the 155 investigations commenced, the Authority finalised 69 investigations during the year. It found one service in breach of a licence condition and two breaches of the commercial television code of practice. Summaries of these three investigations, plus the investigation into a possible breach of the anti-siphoning licence condition by Australis Media, are provided below.

INVESTIGATIONS INTO UNRESOLVED COMPLAINTS RECEIVED IN 1994-95		INVESTIGATIONS COMMENCED IN 1994-95 INTO POSSIBLE BREACH OF LICENCE CONDITION	
Commercial television	74	Commercial television	6
Commercial radio	11	Commercial radio	3
ABC television	11	Community Radio	22
ABC radio	9	Open narrowcasting radio	5
SBS television	8	Subscription narrowcasting radio	2
SBS radio	2	Subscription broadcasting television	1
<b>TOTAL</b>	<b>116</b>	<b>TOTAL</b>	<b>39</b>

#### Investigation into unresolved complaints - 'Hey Hey It's Saturday' - Balloon Dance segment, 6.30 pm, 26 March 1994, Nine Network

The Balloon Dance segment was a comedy routine consisting of three naked men dancing to cha-cha music. The men used balloons to cover their genitals and chests. The comedy element of the routine relied on the performers' limited movements, their deadpan expressions, and also the fact that the balloons shrink or burst requiring rapid changeovers of balloons or the blowing up of a new balloon.

In spite of the use of pixilated computer graphics and large black crosses over the genital area, pubic hair was still visible, and in some instances glimpses of the genitals. As the men turned around, and also when they left the stage, there was a full view of their bare buttocks.

The Authority received a number of telephone complaints about the segment and seven unresolved complaints requesting that the broadcast be investigated.

Complainants found the segment offensive, and were concerned that it had been broadcast in a G classified program, at a time when young children were watching.

The FACTS Code provisions relating to sex and nudity during G classified programs, states that 'Depictions of and reference to sexual behaviour must be limited and discreet. Discreet portrayal of nudity only when absolutely necessary to the story line or program context.'

The Authority sought comment from Nine Network, which submitted that the comedy act had been selected by experienced producers on the basis of its comedy

value and its suitability to the 'Hey Hey It's Saturday' style. The decision to broadcast the segment was made 'having regard to the nature of the act, prevailing community standards, and the known profile of the viewing audience'. Nine Network considered the nudity was in fact 'discreet', as there was no depiction of or reference to sexual behaviour.

Nine Network suggested 'that "nudity limitations" were inserted in the FACTS Code to restrict broadcasters which incorporated nudity in a 'sexual' or mature way, which is difficult for children to analyse and understand'. Nine Network also stated that the 'discreet nudity of this segment was absolutely necessary to the program context — the humour of the act'. Nine Network stated that 'the "Hey Hey It's Saturday" style of entertainment has traditionally included many segments which are slapstick, socially embarrassing and silly...viewers recognise that the show contains a diverse range of material ... The show is not aimed primarily at children'.

In its consideration of the matter, the Authority did not accept the reasons put forward by Nine Network as to why 'nudity limitations' were inserted in the FACTS Code. The code refers quite separately to acceptable depictions of sexual behaviour and of nudity. The provision captures those occasions when nudity occurs outside a sexual context. The Authority considered that broadcasting the shots of the bare buttocks was not a 'discreet' portrayal of nudity.

The Authority did not accept Nine Network's view that there were no sexual connotations in the performance. The performers use of the balloons could have been interpreted as sexually suggestive, as was the elongated shape of some of the balloons. Whilst the Authority accepted that most viewers would have been aware of the general tenor of 'Hey Hey It's Saturday', that is its reliance on humour of a visual, slapstick kind, G classified programs must satisfy the relevant criteria irrespective of the actual profile of the target audience.

The Authority found the program to be in breach of the G classification criteria of the FACTS Code. The Authority accepted the submissions by Nine Network that the producers of the program had misinterpreted the requirements of the FACTS Code. The Authority did not consider that any further action was warranted.

#### **Investigation into unresolved complaints - 'Night Eyes II', 8.30 pm, 20 July 1994, Nine Network**

Classified M by Nine Network, the opening scenes of the film 'Night Eyes II' depicted a naked man and a woman engaged in sexual intercourse. The overall 'scene', which was interspersed with other scenes, lasted approximately 45 seconds.

The Authority received an unresolved complaint from a Queensland viewer, who said that the movie was inappropriate for an M classification.

The FACTS Code requires that broadcasters apply the film classification system administered by the Office of Film and Literature Classification and make any necessary modifications to M (Mature) and MA (Mature Adult) classified films to ensure that they are suitable for broadcast. The code states that material classified M

is recommended for viewing only by persons aged 15 years or over because of the matter it contains, or the way this matter is treated.

In relation to 'sex and nudity' in M programs, the code states:

Intimate sexual behaviour may only be implied, that is, at most, inexplicitly simulated. It must be relevant to the story line or program context. Portrayal of nudity must be relevant to the story line or program context.

The Authority sought a video tape of the film and also received comments from Nine Network. The program was assessed in terms of its compliance with the requirements of the M classification.

Nine Network submitted that the audience had been able to make an informed choice regarding whether it watched the sex scenes in the film because consumer advice had been provided at the beginning of the film. Nine Network claimed that the scene, in the M time zone and in conjunction with warnings, was not in breach of the FACTS Code, nor would it have been regarded as unacceptable by the majority of the community.

The Authority considered that the scene was explicit in its portrayal of intimate sexual behaviour, as it was clear, direct and definite in its depiction of the couple's activity. The Authority also found that the scene was completely incidental to the plot, bearing no structural relationship to the development of the story line.

The Authority found the program to be in breach of the M classification criteria of the FACTS Code. Following the Authority's decision, discussions were held with Nine Network's Classification Officer which served to assist in the interpretation of the code provisions for M classified programs.

#### Investigation into possible breach of licence condition - 3ZZZ Melbourne

The segment complained of was broadcast within the Serbian language program on community radio station 3ZZZ Melbourne in January 1994. The segment commenced with the program presenter reading a letter published in a newspaper that compared the behaviour of Swedish tennis fans with that of Croatian tennis fans. The presenter then commented on the behavioural traits of Croatian people in general.

The Authority received a complaint about the portrayal of the Croatian community within the segment. At the time of the broadcast, community radio broadcasters were obliged to comply with the Radio Program Standards as a condition of licence. Radio Program Standard 3 (RPS 3) provides that a licensee may not transmit a program which:

- (a) is likely to incite or perpetuate hatred against; or
- (b) gratuitously vilifies;

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

During the investigation, the Authority sought written submissions from the licensee and the program presenter in relation to the program's compliance with RPS 3. The broadcaster provided written submissions, an audio tape of the program and a

translation of the program segment. Whilst no written submission was lodged by the program presenter, a verbal comment was given. The program presenter did not believe the program breached RPS 3, and said the segment was not intended to vilify any person.

To breach RPS 3(a), a program broadcast has to be of such severity in nature that it is likely to incite or perpetuate hatred. The Authority was of the view that the program was not likely to have incited or perpetuated hatred.

It is the view of the Authority that the community is entitled to expect a high standard of care from a broadcaster when dealing with sensitive issues. In the discussion of controversial issues, such as the conflict in the former Yugoslavia, some members of the community may be offended by, or in disagreement with some of the views expressed. However, causing offence is not in itself a reason for limiting the extent of discussion of difficult issues.

RPS 3 does not prohibit the full and frank discussion of any issue, or prevent the taking of a stance on a sensitive issue. Whilst the Authority is mindful of the need for freedom of expression in a pluralist society, RPS 3 places an obligation upon broadcasters not to broadcast program material which gratuitously vilifies or incites or perpetuates hatred against sections of the community. The principle of freedom of speech must be carefully balanced against abuses, such as the gratuitous vilification of, for example, ethnic groups. In this context it is acknowledged by the Authority that some of the issues dealt with in community broadcasting are often complex ones which may provide for very strong and very diverse opinions.

Because of the specific audiences they serve, some ethnic programs may express opinions forcefully and persuasively. It is recognised that robustness of expression and debate are a common and highly valued feature of ethnic programming. Nevertheless, it is imperative that a high degree of care be exercised in the selection of program content, particularly programs which deal with sensitive or contentious issues. However, RPS 3 is breached if such material incites hatred or gratuitously vilifies individuals or groups on the basis of their ethnicity.

The Authority found the program to be in breach of Radio Program Standard 3 (b) in that it gratuitously vilified Croatian people on the basis of their ethnicity.

As a result of the Authority's investigation, 3ZZZ suspended of its own accord the presenter concerned for a period of one month. The broadcaster also undertook a re-training program of all member groups and invited senior management of the Authority to address them on programming requirements for community radio. In February 1995, senior management of the Authority gave a training session to presenters on these requirements.

#### **Investigation into possible breach of licence condition - West Indies Cricket Rights**

On 13 January 1995, the Authority commenced an investigation into whether New World Telecommunications Pty Ltd and/or Star Vision Pty Ltd (Galaxy) (both

subscription television licensees controlled by Australis Media Ltd) had complied with a licence condition relating to the anti-siphoning list gazetted by the Minister for Communications and the Arts. The licence condition prevents licensees from acquiring rights to broadcast events specified in a notice gazetted on 6 July 1994, until a commercial or national broadcaster has acquired the rights or the Minister has removed the event from the list.

The investigation related to the acquisition of television rights to the 1995 Australian cricket tour of the West Indies. The main issue in the investigation was whether there had been a breach of licence conditions as a result of the acquisition and this depended on the Authority establishing when the licensees had acquired the rights. On 6 March 1995, the Authority found the licensees were not in breach of the anti-siphoning provisions with regard to the West Indies tour.

### **Classification officers forum**

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The Authority sponsored the establishment of a forum for the exchange of information about television classification issues. It comprises classification officers from each of the commercial television networks, the ABC and the SBS, and representatives from the Office of Film and Literature Classification, the Federation of Australian Commercial Television Stations (FACTS) and the Authority. The consistent interpretation of the classification provisions of television codes of practice is a main focus of the forum, including the difference between M and MA ratings and appropriate consumer advice.

### **Radio categories of service joint working party**

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The Authority set up a joint working party to provide a forum for discussion between the Authority and members of the radio industry on definitions of radio categories of service. Representatives of the Federation of Australian Radio Broadcasters (FARB), Community Broadcasting Association of Australia Limited (CBAA) and Federation of Australian Narrowcasting and Subscription Services Inc. (FANSS) were invited to join the forum.

The terms of reference for the working party focussed on examining definitions of categories of radio service as contained in ss. 14, 15 and 18 of the Act. The joint working party was directed to consider whether, together with published Authority guidelines, the definitions contained in the Act are sufficiently clear to enable appropriate guidance to the Authority, the public and the relevant section of the radio industry on categorisation of commercial, community and narrowcasting services. The required outcome was that the forum recommend to the Authority any additional, or clarifying criteria that the Authority might specify pursuant to s.19 of the Act.

Members of the joint working party lodged submissions on these terms of reference. Issues raised covered matters such as: the particular nature of community broadcasting including community purposes; sponsorship; licensing of aspirant broadcasters as temporary narrowcast services; the defining features of commercial radio services; and the nature of programming on narrowcast services.

The Joint Working Party met regularly over a number of months to discuss the issues raised and held its final meeting on 3 May 1995. The Authority considers the forum provided useful recommendations for future dealings with radio categories of service matters. It also provided an opportunity for industry representatives to work together to find solutions to problem issues. The Working Party did not however identify any additional or clarifying criteria that the Authority might pursue.

### **Pay TV licence conditions**

The Authority commenced a process of consultation with subscription television broadcasters about the imposition of licence conditions. These conditions, provided for in the Broadcasting Services Act (s.100), are intended to provide specific safeguards for consumers, as well as reducing economic barriers to entry to the market of later satellite subscription television service providers.

The Authority also examined the international regulation of domestic reception equipment and subscriber management systems in relation to satellite subscription television services, as a part of its development of subscription television licence conditions.

### **Children's television**

Section 122 of the Act states that the Authority is required to develop standards for children's programming on commercial and

community television. The Authority administers the Children's Television Standards (CTS), which were developed by the Australian Broadcasting Tribunal. The CTS were carried over by the Authority under the provisions of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

The objective of the CTS is to ensure that children have access to a variety of quality television programs made specifically for them, including Australian drama and non-drama programs.

The Authority met regularly with program producers, commercial television operators and other interested parties to discuss issues regarding the classification of children's programs and issues relating to children's

**C program:** a program classified by the Authority as suitable for primary school children.

**Australian children's drama:** a program meeting the requirements for Australian produced children's television drama for children.

**P program:** a program classified by the Authority as suitable for preschool children.

television, such as advertising directed to children and other issues relating to the provisions of the CTS. The Authority has actively increased its activities in this area, including participation in relevant conferences and consultation with industry people.

The Authority participated in the World Summit on Television and Children, 12-17 March 1995, which considered issues relating to the provision of programs for children that meet their specific needs. Conference participants included children's program makers, television operators, researchers, overseas broadcasting regulators and other interested parties. The Authority also gave strong support to the Festival of Television for Australian Children, an Australia-wide broadcast festival of quality programs for children broadcast just after the World Summit.

### **C&P program assessment**

The Authority has successfully continued its assessment system for the classification of children's programs. The system is based on initial assessment of programs by the Authority and additional assessment by specialist consultants, as required, on a case by case basis. The Authority has refined the procedures to provide improved client service, reduced material requirements for applications, reduced processing time (by the Authority) and more timely and comprehensive reports of decisions and reasons to applicants. Children's programs are classified against the criteria set out in CTS 2.

In 1994-95, the Authority classified programs as follows:

No. of C awarded	24
No. of CAD awarded	7
No. of Provisional C awarded	7
No. of P awarded	1
No. of applications refused	23
No. of applications withdrawn	1

## Objective 4

**Promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity.**

### **Key Outcomes**

- ◆ *Draft Australian content standard was released for public comment.*
- ◆ *The proposed standard recommended the doubling of the amount of quality first-release children's drama to be broadcast from 16 to 32 hours annually. This recommendation has been supported by the children's television production industry.*
- ◆ *The proposed standard included a new requirement for 100 per cent of the quota for preschool children's programs to be Australian.*

### **Australian Content**

Under s.122 of the Broadcasting Services Act, the Authority is required to determine standards for Australian content on commercial television. The present standard was originally determined by the Australian Broadcasting Tribunal and came into effect on 1 January 1990.

The cultural objectives of the standard are to encourage programs which are identifiably Australian, recognise the diversity of cultural backgrounds represented in the Australian community, are developed for an Australian audience and are produced under Australian creative control. The standard has two elements: a transmission quota for the amount of Australian content and a quota for first run drama/diversity and children's drama programs.

In July 1994, the Authority commenced a review of the Australian content standard with the release of a discussion paper and by June 1995 had released a draft Australian content standard for public comment. The proposed draft was the culmination of an extensive public consultation process. The Authority also released a working paper and a summary of submissions as part of the review.

The main features of the proposed standard are:

- an increase in the minimum level of Australian content shown by the commercial television networks from 50 to 55 per cent of transmission time annually;
- a doubling of the amount of quality first-release children's drama to be broadcast from 16 to 32 hours annually;
- a new requirement for 100 per cent of the required amount of P classified pre-school children's programs (130 hours per year) to be Australian;
- a new requirement for 10 hours annually of new Australian documentaries,
- a simplified measurement system which will guarantee the current minimum levels of new Australian drama; and
- automatic recognition of 10BA certified programs.

The working paper was released in November 1994 followed by a summary of submissions in December 1994. The consultation process, which is an integral part of the development of the standard, included meetings with members of the production industry, public interest groups and relevant State and Federal government bodies in Sydney, Melbourne, Adelaide, Perth, Brisbane, Canberra and New Zealand. The broadcasting and production industries were also asked to consider the level of Australian drama and how it should be measured. The Authority held public meetings in Sydney and Melbourne in December 1994, to discuss proposals put forth in the working paper. The Authority received 55 submissions in response to the discussion paper and 30 in response to the working paper.

The discussion paper raised the following questions for public discussion:

- what definition of an 'Australian program' will provide flexibility to the industry while delivering programs that meet the cultural objects of the Act?
- what is the appropriate level for a transmission quota?
- what amount of Australian drama programming should be required and how should it be measured?
- what amount of Australian children's drama should be required and how should it be measured?
- what other types of Australian programming should be specifically recognised by the standard?

## **Research**

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Where appropriate, the Authority's research program addresses issues associated with Australian identity, character and cultural diversity when researching community attitudes. For example, in the second stage of the Authority's research project about children and television, children were asked for their views on Australian programs compared to overseas programs. The same project also explored children's attitudes to the portrayal of cultural diversity on television. Results of this project are expected to be released in 1995-96.

## **Commercial television production fund**

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The Commercial Television Production Fund was a Federal Government initiative contained in the *Creative Nation* statement. The aim of the Fund is to give Australians access to a wide range of high quality Australian programs by increasing Australian content on commercial television. In addition, the benefits of the Fund are expected to include strengthening the television production industry as well as providing it with additional support during the onset of the new communications era. Programs financed by the Fund will not be included in the Australian content quota, thereby increasing the amount of Australian content seen on television. At least ten per cent of the Fund is to be spent on productions eligible for the Authority's C classification.

At the request of the Minister for Communications and the Arts, the Authority consulted with broadcasters and production industry groups on the administration of the fund. The Authority prepared a report on the structure of a commercial television production fund for the Minister in February 1995. The report set out a framework for the role and structure of the fund, contained in 15 recommendations.

## **Cultural identity**

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The Authority emphasised the importance of maintaining the levels of local content on television to preserve a sense of national cultural identity in speeches delivered by Members and senior management and by participation in conference debates during the year. The Authority also continued to emphasise the importance of preserving a sense of national identity in discussions at international broadcasting forums such as the Television Development in the Asia-Pacific Region conference in Jakarta in December 1994, the International Broadcasting Convention in Amsterdam in August 1994, the Pan Asian Telecommunications Summit in Singapore in October 1994 and the Regional Meeting on Satellite TV Broadcasting in Tokyo in March 1995.

## **Pay TV drama guidelines**

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Section 102 of the Broadcasting Services Act imposes a condition on pay TV licences, whereby licensees who are providing a service whose programming is predominantly drama are required to ensure that at least ten per cent of the annual program expenditure on that service is spent on new Australian drama programs.

The Authority has begun a review of its guidelines for compliance with this condition. The Authority's aim is to revise the guidelines, which were first released in May 1994, to accommodate changes which have become apparent in the newly developing pay TV industry. The Authority is consulting widely with the pay TV industry as part of the review.

## **Children's television**

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The Authority works closely with the children's television industry, providing advice as part of its role in ensuring that issues associated with Australian culture and identity are carefully considered. The Authority also provides advice to members of the children's television production industry regarding classification issues. The increase in the children's Australian drama quota, signalled in the proposed Australian content standard, is designed to promote a sense of Australian identity for children by ensuring commercial television provides a reflection of Australian society.

Applicants for classification of P and C Australian Drama programs often indicate (in their applications) that their intention is to cast programs using actors of diverse cultural backgrounds thus reflecting the multicultural nature of Australian society. In this way the CTS, which require C Australian drama programs to retain an Australian theme and perspective, also contribute to the portrayal of the cultural diversity of Australian society.

The Authority assisted with the organisation of a competition, sponsored by the Festival of Television for Australian Children in conjunction with the World Summit on Television and Children, for 15 film-makers with a demonstrated interest in children's television to attend the Summit. The intention was that the film makers could gain an understanding of the issues involved in producing programs for children.

## Objective 5

**Establish the Authority as a principal source of expert advice and information on broadcasting issues for Government, the broadcasting industry and the community.**

### *Key outcomes*

◆ *The Authority's report to the Minister for Communications and the Arts on the operation of the Broadcasting Services Act contained recommendations for the amendment of the ownership and control rules. Federal Cabinet endorsed the Authority's recommendations in June 1995.*

◆ *On the basis of research into community attitudes about program classifications on pay TV, the Authority recommended to Parliament that given the mandated use of disabling devices and the application of codes of practice, R rated material be approved for broadcast on pay TV.*

◆ *The Authority signed memoranda of understanding with the United States Federal Communications Commission, the Singapore Broadcasting Authority and the Independent Broadcasting Authority of South Africa.*

◆ *The Authority participated in the establishment of an International Research Forum on children and television.*

◆ *The Authority released a report on issues surrounding the introduction of digital terrestrial television in Australia.*

## Advice to the government

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### Report on the operation of the Broadcasting Services Act

In June 1995, the Authority reported to the Minister on the operation of the Broadcasting Services Act, along with recommendations and options for amendments to the Act. Such a report is required by s.158 of the Act. In its report the Authority said it believed the Act had been successful in attaining many of its objectives in the first 30 months of its operation.

Major achievements of the new regulatory regime include:

- the establishment of an exceptions based regulatory regime which has a high level of industry satisfaction, certainty and investor confidence;
- the establishment of three new industry sectors - pay TV, narrowcasting and community television;
- the licensing or other authorisation of the following new services:
  - √ 3 satellite subscription television licences;
  - √ 6 community access television services;
  - √ 13 high-powered open narrowcasting radio service licences;
  - √ 1003 MDS/cable television licences;
  - √ 917 low-powered open narrowcasting radio service licences;
  - √ 662 temporary transmission permits for aspirant community radio broadcasters;
  - √ 126 new national services (42 television and 84 radio, including JJJ services);
- the establishment of a program to plan the broadcasting services bands of the radiofrequency spectrum with priority given to remote areas through an extensive public consultation process;
- the implementation of rules to ensure major sporting events continue to be available on free to air television;
- the registration of the codes of practice for commercial radio and television (in May and September, 1993 respectively); and
- comprehensive research undertaken into community attitudes on issues relating to programs to inform the Authority, the industry and the public.

The report provided an overview of the scope of achievements of the Act and the way in which it is seen to operate by the Authority. The report also addressed areas for improvement in the regulatory regime provided by the Act and the way the Act interrelates with other legislation.

In the report, the Authority canvassed a number of options for strengthening the current ownership and control rules, including amendment of the company interest provisions to include certain debentures and other forms of quasi-equity; fixed upper limits on cross-media investment; and setting fixed upper limits for the purpose of

all the ownership and control rules, by specifying a level of company interest which would always constitute control. Other major provisions of the Act relating to ownership and control which the Authority believed had operational difficulties included the provisions for assessing the level of foreign company interests and the provisions relating to cooperation between satellite subscription television licensees A and B.

In implementing the Act, the Authority said it had also encountered a number of apparent inconsistencies and unintended consequences in the Act's provisions relating to planning and allocation functions. The principal areas of difficulty had been the requirement for the Authority to determine the mix of services (commercial, national and community) in licence areas; the lack of flexibility within the planning process to deal with changed circumstances; the possibility of Authority decisions to introduce competition being challenged on the grounds that s.23 does not adequately exclude incumbent viability considerations; and the lack of a clear framework for planning for community television services. While many of these difficulties could be addressed through minor amendments to the Act, there are also a number of apparent inconsistencies in this part of the Act that suggest a more thorough review of Part 3 may be warranted.

Other concerns about the operation of the Act raised by the Authority in the report included problems arising from Broadcasting for Remote Aboriginal Communities Scheme services (BRACS) being licensed as community broadcasting services rather than open narrowcasting services; the competing cultural, trade and foreign policy issues relating to the application of CER to Australian content rules for broadcasting; and the Authority's possible lack of power to direct the action a person should take to remedy a breach of the Act.

In June 1995, Federal Cabinet endorsed the Authority's recommendations on changes to the Act's ownership and control rules.

### **Siphoning of programs to pay TV**

On 6 July 1994 the *Broadcasting Services (Events) Notice, No. 1 of 1994* (the anti-siphoning notice) was published in the *Gazette*. The notice lists the events the televising of which the Minister for Communications and the Arts considers should be available free to the general public. Under Clause 10(1)(e) of Schedule 2 of the Broadcasting Services Act, pay TV licensees cannot acquire the right to broadcast an event listed in the notice, unless a free-to-air television broadcaster has acquired the right to broadcast that event.

On 22 December 1994, in his *Direction to the ABA No. 2 of 1994*, the Minister directed the Authority to monitor and to report to him at six monthly intervals on the extent to which the rights to televise events specified in the notice have been made available for acquisition by free-to-air broadcasters and the extent to which those events whose rights have been acquired have been televised. The Authority is also to monitor and report on whether there are any grounds for adding other events to the notice.

The Authority wrote to all sporting bodies associated with events included in the anti-siphoning notice, advising them of the monitoring and reporting functions contained in the direction. The Authority also consulted with television service providers (the ABC, the SBS and commercial television stations) in developing a strategy to comply with the direction.

On 27 April, the Authority commenced a standing investigation into which rights have been made available, acquired and televised. It also implemented a monitoring regime to gather this information. The relevant sporting bodies have cooperated with the Authority by providing relevant information when requested. The Authority's first report on the availability, acquisition and use of broadcasting rights was expected to be provided to the Minister early in the second half of 1995.

In carrying out its monitoring and investigative functions, the Authority decided there would be benefit in a guide to the anti-siphoning rules. The aim is to produce a public document which contains the anti-siphoning provisions and the Authority's interpretation of the provisions. The Authority has consulted closely with industry groups, service providers and sporting bodies in the preparation of the guide which was expected to be released early in the second half of 1995.

#### **Broadband Services Expert Group**

Through the participation of the Chairman and Authority officers, the Authority contributed to the work of the Broadband Services Expert Group. The Group's Interim and Final Reports to the Minister for Communications and the Arts stimulated public interest in advanced communications services and encouraged public debate about their impact on the community. The Group's recommendations have contributed to the development of government policy across a wide range of issues relating to new communications networks and services.

#### **Submissions to government reviews**

The Authority's submission to the Federal Government's review of telecommunications regulation canvassed the need for increased links between communications regulators. In the Authority's view, a network of regulators with industry specific knowledge and expertise could work together through interlinking powers of referral and coordination to ensure industry certainty while preserving a flexible, responsive framework for broadcasting, telecommunications and broadband services.

The Authority made a submission on the draft direction to Austel on access to cable infrastructure by broadband and pay TV service providers by the Minister for Communications and the Arts (*Telecommunications (Service Providers Class Licence) Direction No.1 of 1995*). The submission supported the objective of providing access to cable networks and suggested changes to the definitions of 'pay TV services' and 'carrier associates' to ensure consistency with other regulatory regimes.

## **Parliament**

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### **Report to Parliament**

#### **R classified programs on pay TV**

The Authority began its research project on this matter in March 1993, with the qualitative phase being concluded in April 1993 and a consultant's report on the quantitative phase being supplied to the Authority in March 1994. The Authority's report included results of a study into conditional access systems (disabling devices) for pay TV services. Details of the research results are included under Objective 3, elsewhere in this report.

The Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies (the Senate Committee) provided the Authority with its views and input on the conduct of the research project and the design of the questionnaire used for the quantitative phase. Consultation with the Senate Committee commenced in November 1992 and continued through all stages of the research project.

The Authority reported to Parliament on this matter in December 1994.

### **Parliamentary committees**

#### **Senate Environment, Recreation, Communications and the Arts Legislation Committee**

Officers of the Authority appeared before the Senate Environment, Recreation, Communications and the Arts Legislation Committee conducting Senate Estimates Hearings on three occasions during the 1994-95 financial year (on 29 November 1994; 17 February 1995 and 2 June 1995). The officers representing the Authority provided the committees with information on the Authority's activities and budget.

#### **New South Wales Legislative Council Standing Committee on Social Issues**

Officers of the Authority appeared before this committee on 13 December 1994 in connection with the committee's Youth Violence Inquiry.

#### **Senate Legal and Constitutional References Committee**

Officers of the Authority appeared before this committee on 18 December 1994 in connection with the committee's inquiry into the rights and obligations of the media.

#### **Senate Environment, Recreation, Communications and the Arts Legislation Committee**

Officers of the Authority appeared before the Senate Environment, Recreation, Communications and the Arts Legislation Committee on 23 February 1995. The committee was taking evidence on the Broadcasting Services Amendment Bill 1994, which sought to introduce amendments to the anti-siphoning provision in s.115 of the Broadcasting Services Act.

## Senate Select Committee On Community Standards Relevant To The Supply Of Services Utilising Electronic Technologies

Officers of the Authority participated in a seminar on television codes of practice conducted by the Senate Select Committee On Community Standards Relevant To The Supply Of Services Utilising Electronic Technologies in Sydney on 18 May 1995.

### **Publishing**

There has been a consistent demand by public and industry for information about a variety of broadcasting related issues and topics. To assist in meeting this demand, the Authority operated a vigorous publishing program in the reporting period and produced a range of factsheets, discussion papers, information guides, research monographs, reports and other publications.

The Authority imposes a charge for subscribers to its monthly newsletter, *ABA Update*, and also charges for copies of its monographs, *Trends & Issues* papers and a number of its other publications. The Authority generated a total of \$37 597 from the sale of publications in the reporting period.

Copies of its Annual Reports, program standards, corporate plan, factsheets, information pamphlets, guides and discussion papers are provided free of charge.

A full listing of Authority publications can be found at Appendix 3 (Freedom of Information statement).

#### *ABA Update*

The monthly newsletter *ABA Update* continued to be the Authority's main vehicle for disseminating information about its activities and broadcasting issues. It contained articles by members and officers as well as members of broadcasting and affiliated industries. Some of the issues covered in *ABA Update* articles included consumer issues and pay TV, children's viewing: what the ratings tell us and a range of technical issues in the Innovations series. Among these were delivery of cable video services, digital terrestrial television broadcasting, digital sound broadcasting, set top units, subscriber television, ghost cancelling, international developments in high definition and digital television and how television signal boosters can improve television reception in small and isolated communities.

Subscriptions to *ABA Update* (circulation at the date of this report was 635) increased by just over ten per cent in the reporting period while reprints of a number of back issues were required. A number of other journals contacted the Authority for permission to reprint articles from *ABA Update*.

#### **Financial results**

The biannual publication in *ABA Update* of the commercial radio advertising results and the annual publication of *Broadcasting Financial Results* is a valuable source of information for the industry, Government and financial advisers.

## **Media liaison**

The Authority adopts a proactive approach to the provision of information to the media, to ensure the information available in the public arena is accurate and timely. The Authority issued a total of 84 media releases, along with background briefing and dealt with a total of 2819 enquiries from journalists in 1994-95.

There was extensive media interest in a number of the Authority's activities during the year, accompanied by wide media coverage of particular issues. In order to make its work accessible and understandable to the community and the broadcasting industry, Authority officers and members made themselves available for a large number of press, radio and television interviews. In particular there was widespread interest in the Authority's research into children and television classification issues when the findings were published. Authority officers gave television, radio and press interviews.

The Authority's officers were available to the media, the broadcasting industry and members of the general public, including students, to discuss and explain issues relating to broadcasting.

## **Library**

The Authority's Library, located in the Sydney office, continued to operate under an open access policy, providing reference services on broadcasting matters to the broadcasting industry, academics, students and the public at large and operating as a first port of call for people who are interested in viewing and reading the Authority's publications. It continued to provide resource support for the Authority's programs by collecting and disseminating relevant information.

A number of new titles were added to the collection, with increasing emphasis on issues such as convergence, pay television and broadcasting and telecommunications in the Pacific Rim countries. The quarterly *Library Bulletin* which highlighted key titles among the items received in the Library, was compiled and distributed to Authority officers as well as to a number of external clients.

Where possible, a number of new additions to the Library were added to the National Library's bibliographic database, Australian Bibliographic Network (ABN). In this way information about the Library's holdings is available to a large number of people throughout Australia.

The Library dealt with 660 external telephone enquires, including 18 classified as complex, and 638 internal enquiries. A total of 509 external visitors made use of the library's facilities in the reporting period.

## **Research**

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The six attitudinal research projects undertaken this year covered a broad range of broadcasting issues and contributed to the general body of broadcasting research of Australian and overseas interest.

During the year, the Authority liaised with other expert research organisations and made available the findings of its attitudinal studies in a number of publications. Officers from the Authority's Research section have made presentations to secondary and tertiary students and presented research findings at conferences.

### **International research forum**

The Authority initiated the establishment of the International Research Forum on children and television in March 1995. The forum is being co-ordinated by the Authority and comprises a network of regulators, broadcasters, program makers and academics from around the world for the exchange of information and research. The forum aims to address the role of television and multimedia services in the lives of children and to stimulate further research, including collaborative research between organisations. Countries represented on the forum to date include the United Kingdom, Canada, USA, South Africa, France, Singapore, the Netherlands, Japan, New Zealand, Greece, Argentina, Sweden and Norway.

## **Liaison with other bodies**

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### **Broadcasting industry**

The Authority meets frequently with industry groups and other regulators. The Authority held regular quarterly meetings with the Federation of Australian Radio Broadcasters (FARB) both at officer and board level. Meetings with the Federation of Australian Commercial Television Stations (FACTS), the Community Broadcasting Association of Australia (CBAA), the Confederation of Australian Subscription Telecasters (CAST) and the Federation of Narrowcasting and Subscription Services (FANSS) have been more ad hoc.

Authority officers attended the annual conventions of FACTS and FARB on general broadcasting issues and meetings of the FACTS and FARB Engineering Committees, dealing with developments in the Authority's Technical Planning Guidelines, and developments in policy and possible planning methods for the introduction of digital broadcasting services. Authority officers also convened a panel at the CBAA annual conference in December 1994.

Mr Mike Salloom, Manager Services Planning, spoke at the Northern NSW Community Broadcasting Association's annual conference in Gosford on 30 April 1995. Mr John Souter, Manager Allocations and Renewals, spoke at the National Indigenous Media Association of Australia annual general meeting and conference in September 1994. Deputy Chairman, Mr Peter Webb and Mr Souter

spoke to Victorian community radio aspirant groups about the Authority's temporary transmission policy and permanent licence allocations in November 1994. Officers from the Authority's children's television area spoke at a two day pre-production meeting for the series 'Totally Wild' at the TEN Network in Brisbane.

Following the World Summit on Children and Television in March 1995, the Authority hosted a number of overseas visitors at its Sydney offices. They were Mr Peter Senchuk, Commissioner, Canadian Radio-television and Telecommunications Commission; Ms Rachelle Chong, Commissioner, and Ms Jane Mago, Senior Adviser to the Commissioner, U.S. Federal Communications Commission; Lady Howe, Chairman, and Mr Colin Shaw, Director, U.K. Broadcasting Standards Council; and Ms Nicola Galombik, Policy Analyst, South African Independent Broadcasting Authority.

The Authority hosted a delegation from the Singapore Broadcasting Authority (SBA) in June 1995. Members of the delegation included Colonel Ho Mengkit, Chief Executive Officer, Ms Ling Pek Ling, Director Policy and Planning, and Ms Amy Tsang, Assistant Director of Programs.

### **Schools, universities and associated organisations**

Authority members and officers continued the Authority's liaison program with schools, universities and associated organisations.

Authority officers presented a talk to primary school children at Illawong Public School in December 1994. The topic was media education. Authority officers spoke at the National Conference on Distance Education at Sydney University in December 1994.

Authority officers presented three lectures to media and social science students at Macquarie University, Sydney, the University of NSW and the University of Western Sydney. Lecture topics included the Authority's research program and the relationship between research and policy making.

Bond University Dean of Media Studies met with Authority officers at the Authority's Sydney office.

The results of the Authority's children and television research project were presented to the NSW Department of School Education and the Catholic Education Commission. Both organisations were consulted extensively during the course of the research. Authority officers briefed teacher delegates at an in-service training day about Authority research into children and television and the Department of School Education was asked to comment on the objectives for stage two of the Authority's research project on children and television.

### **Memoranda of understanding**

As part of its aim to communicate with international regulators on broadcasting matters, the Authority signed memoranda of understanding with the United States

Federal Communications Commission, the Singapore Broadcasting Authority and the Independent Broadcasting Authority of South Africa. The memoranda will also assist the Authority to maintain strong links with other regulators on telecommunications issues.

The Authority held discussions with overseas broadcasting and communications regulators, broadcasters and media research organisations. It participated in discussions on international broadcasting issues, explaining the Australian broadcast regulatory system. Authority representatives visited the United States, China, Fiji, Tonga, Singapore, Malaysia, Indonesia, Hong Kong, Taiwan, Japan, France, Belgium, and the United Kingdom in the reporting period.

The Authority has prepared a factsheet on transborder satellite broadcasting which has been used to inform foreign satellite operators and broadcasters of Australian regulations governing satellite broadcasting.

The Authority has reviewed developments within the broadcasting and communications systems and regulatory structures of other countries, including analysis of major overseas reports on communications issues. It has used these reviews in responding to a number of requests for information on overseas broadcast regulatory systems and the development of new communications services.

## **Conferences**

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The Authority supported and was a sponsor for two major gatherings on children and television, *Children and Advertising: A Fair Game?*, a Young Media Australia conference held in Sydney in July 1994 and the World Summit on Television Children and Television, an international summit organised by the Australian Children's Television Foundation held in Melbourne 12-17 March 1995.

Authority members and officers presented papers at a number of conferences and seminars during the year. They were:

*Linking and supporting business cultures: the role of regulatory infrastructure and cooperation*, presented by Mr Brian Johns, Chairman at the Pacific Telecommunications Council Conference, Sydney, 1 July 1994.

*Digital Terrestrial Television In Australia*, presented by Mr Colin Knowles, General Manager Planning and Corporate at the FACTS Engineering Conference, Sydney, 4 July 1994.

*Digital Sound Broadcasting - Overview and International Developments*, presented by Mr Colin Knowles, General Manager, Planning and Corporate at ABC DAB Symposium, Sydney 27 July 1994.

*Children's Television Advertising Standards - Coverage, Application, Complaint Handling*, presented by Ms Gordana Marin, Manager, Codes and Conditions Section, at *Children and Advertising: A Fair Game?* conference, Sydney, July 1994.

*Borderless markets - opportunities in culture and communications*, presented by Mr Brian Johns, Chairman at the *Creating Culture: The New Growth Industries* conference, Canberra, 11-12 August 1994.

*Planning Radio's Future* presented by Mr Colin Knowles, General Manager Planning and Corporate, at the FARB Convention, Melbourne, 20 August 1994.

*What will the Australian telecommunications and broadcasting industries look like in the future?* presented by Ms Pat Manser, Director Policy and Communications, at the *Cable TV and Interactive Services in a Multi-media Delivery Environment* conference, Sydney, 5 September 1994.

Address by Mr Brian Johns, Chairman to the AIMIA *Global Multimedia* conference, Sydney, 23 September 1994.

*Future landscape of the imagination*, the Georges Mora Memorial Lecture presented by Mr Brian Johns, Chairman, at the Fourth Australian Contemporary Art Fair, Melbourne, 30 September, 1994

*Families and Electronic Entertainment: the results of qualitative research*, presented by Ms Linda Sheldon and Ms Margaret Cupitt, Research Section, at *Multimedia Regulation and the Family*, organised by the Office of Film and Literature Classification, October 1994.

*Planning Television's Future*, presented by Mr Colin Knowles, General Manager Planning and Corporate at the FACTS Annual General Meeting, Melbourne, 13 October 1994.

*What Is Required Of Pay TV Operators? A Regulatory View*, presented by Ms Lesley Osborne, Manager Codes and Conditions, at the *Pay TV in Australia: Current Status and Future* conference, Sydney, 27 October 1994.

*Lost in the Jungle* presented by Mr Gareth Grainger, General Manager Policy and Programs and *Making the Connection - Audiences and Programs* presented by Mr Nick Herd, Manager, Standards, at the Screen Producers Association of Australia conference, Melbourne, November 1994.

*Transborder Satellite Broadcasters*, presented by Mr Gareth Grainger, General Manager Policy and Programs, at the Asia Pacific Young Lawyers Conference, Sydney, 19 November 1994.

*The Broadband Services Expert Group*, presented by Mr Brian Johns, Chairman, at the Pan Asian Telecommunications Summit, Singapore, 7 December 1994.

*Legal and regulatory frameworks affecting television - the Australian perspective*, presented by Mr Peter Webb, Deputy Chairman, at the *Television Development in the Asia-Pacific Region* seminar, Jakarta, Indonesia, 8-9 December 1994.

*New music - new markets*, presented by Mr Donald Robertson, Media and PR, at *Visions 2000 - Melbourne Music Festival National Music Industry Conference*, 13 February 1995.

*Networking Australia's future*, presented by Mr Brian Johns, Chairman, at the International Symposium on the Information Infrastructure, Vancouver, Canada, 20-21 February 1995.

Address by Mr Brian Johns, Chairman, at the Australian Book Publishers Association Annual Dinner, Sydney, 9 March 1995.

*Regulation - Alternative National Models*, presented by Mr Peter Webb, Acting Chairman, at the World Summit on Children and Television, Melbourne, 14 March 1995.

Address by Mr Tim O'Keefe, Member, at the Pan Asia Satellite and Cable Television Conference, Hong Kong, March 1995.

*What Children are Viewing in Australia*, presented by Ms Linda Sheldon, Manager, Research at the World Summit on Children and Television, March 1995.

Address by Mr Peter Webb, Chairman, at the Cable and Telephony Conference, Sydney, 26-28 June 1995.

### **Broadcasting technology**

#### **Digital terrestrial television broadcasting**

The Authority established a number of working groups to study the technical feasibility of the introduction of digital terrestrial television broadcasting (DTTB) services in Australia. The work of the Authority's DTTB Specialist Group culminated in a report titled *Digital Terrestrial Television Broadcasting in Australia* which was launched on 22 June 1995.

The Authority's DTTB Specialist Group is now working on the next stage to further develop spectrum planning options and application of DTTB in the Australian environment with a view to making a final report to the Authority in 1995-96.

The Authority will then need to consider and provide advice to the Minister on the issues arising from this that require Government policy direction and development. The Authority will liaise with the Department of Communications and the Arts in the development of policy in this area.

#### **Digital sound broadcasting**

The Spectrum Management Agency (SMA) has asked the Authority to provide it with advice on the possible broadcasting requirements of the 1452-1492 MHz band (L band) for digital sound broadcasting (DSB). This study needs to feed back into work to be undertaken by the SMA into possible non-broadcasting use of this band, as well as possible non-broadcasting use of the DSB carriage technology.

In response, the Authority has formed a DSB Taskforce consisting of Government and industry representatives. The Taskforce is aiming to produce a detailed report on the possible broadcasting uses of DSB in early 1996. The responsibility for development of policy advice to the Minister for Communications and the Arts and the Government rests with the Department of Communications and the Arts.

### **International Telecommunications Union**

The Authority is the Australian body with responsibility for handling radio and television matters within the International Telecommunications Union (ITU). Although formal responsibility for all ITU matters rests with the Spectrum Management Agency, in effect the Authority handles these matters through a memorandum of understanding with the SMA.

Representatives of the Authority attended ITU Specialist Working Party and Task Group meetings of the Radiocommunications Bureau's Study Group 10, Radio Broadcasting, SG11, Television Broadcasting, and SG 10-11S, Satellite Broadcasting, in Geneva from October to December 1994.

Mr Colin Knowles, General Manager Planning and Corporate, attended meetings of Study Groups 10 and 11 in Geneva, Switzerland between 29 May and 7 June 1995. The meetings were concerned with approval of recommendations relating to planning of radio and television systems, and in relation to development of new technologies.

Mr Knowles is Vice Chairman ITU-R Working Party 11C concerned with terrestrial television planning and chair of ITU-R Australian Study Groups 10-11. The Authority provides secretariat support for this group which prepares Australian contributions to ITU international forums. The Australian Study Groups comprise a wide cross section of organisations and individuals concerned with current and future broadcasting technology and planning in Australia. Reports of the Geneva meetings were prepared and circulated to all participants in the Australian Study Groups 10 and 11.

### **Standards Australia**

As chairman of Standards Australia's Radiocommunications Committee (RC/5), Mr Bob Greeney, Director Engineering, participated in development of standards for radiocommunications and broadcasting transmitters and receivers, in-premises cabling systems and interface units (set top units) for connection of home receiving equipment to subscription broadcasting services.

The Director Engineering, as Member of Joint Australia/NZ Task Group, participated in determining requirements for standards for digital video services, including the need for a high degree of commonality in delivery equipment so that consumers can have access to a wide range of digital video and other services available to the home/office.

The output of this group will direct the work of the relevant Standards Australia committees in the development of appropriate standards for equipment used to distribute digital video services and for user equipment required to access digital services. A preliminary report from the Joint Standards Task Group was presented to the Minister for Communications and the Arts in May 1995. The Task Group is focussing on completing its final report during the second half of 1995.

### **Information on broadcasting issues**

The Authority was actively involved in a FACTS committee (GCRS Specialist Group) studying ghost cancelling to improve television reception. Participation in this committee involved providing assistance in laboratory investigations carried out by the Communications Laboratory of the Department of Communications and the Arts. The Authority provided advice to Telstra Broadcasting on broadcasting regulatory frameworks to feed into a report by Telstra to the Ministry of Information and Culture in Laos. The Authority also provided Telstra with a policy paper outlining the major components of broadcasting regulation in force in a range of countries in the Asian region, Europe and the Americas.

### **Overseas consultancy**

Mr Colin Knowles, General Manager Planning and Corporate, was seconded to the Independent Broadcasting Authority of South Africa (IBA) from 27 August to 15 September, acting in a consultancy role on spectrum frequency planning. This secondment was funded jointly by the Australian International Development Board and the IBA.

Ms Lurline Caffery, the Authority's librarian, conducted a consultancy with the IBA of South Africa on library systems.

# Objective 6

**Ensure the optimum operation of the Authority by pursuing continual improvement in the management of its resources.**

## ***Key outcomes***

- ◆ *A draft agency agreement affirmed the Authority's commitment to following a strategy of continuous improvement throughout the organisation.*
- ◆ *A joint management and union post implementation review of the Authority's new structure was completed, leading to a consolidation of staffing and practices in the organisation.*
- ◆ *The first stage in preparing the Authority's Corporate Information Technology Plan was completed.*

## **Staffing matters**

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### **Agency agreement**

The Authority affirmed its commitment to following a strategy of continuous improvement throughout the organisation when it developed a draft Agency Agreement. The agreement provides enhanced conditions and flexibility for officers, and will provide efficiencies through continuous improvement. Negotiations on this agreement proceeded throughout the year and its finalisation represents a significant achievement for the Authority.

The Agency Agreement is expected to be submitted to the Industrial Relations Commission for certification early next financial year. At that time, the final procedural requirements for giving effect to the agreement will be settled.

### **Forward planning**

As part of the Authority's strategic planning program, two days were set aside in February for members and senior management to examine the changing environments for regulators, the Australian Public Service, and the Authority, and

plan for the year ahead. Following on from this, the Authority's divisions conducted detailed planning sessions to review and develop operational plans for their areas for the year ahead.

Output from all the corporate planning activities undertaken during the year is being fed into a review of the Authority's Corporate Plan that is scheduled to be completed in 1995-96.

### **Post implementation review**

As part of the ongoing process of managing the Authority's resources to achieve the best possible administration of the Broadcasting Services Act, a Post Implementation Review of the Authority's new structure was completed. The review group contained representatives from management and the Commonwealth Public Sector Union and recommended some fine tuning to work practices in light of operational experience. The result has been a consolidation of staffing and management practices within the organisation.

The Authority has implemented a system of human resources policies and guidelines. These are designed to provide support and information for managers and officers and assist with consistency and transparency of management decision making. An Industrial Democracy Plan has been agreed and implemented and formal consultative mechanisms re-established, including active committees progressing OH&S and EEO issues. The Authority is progressively reviewing selection documentation, resulting in streamlined selection processes and a better understanding of job requirements for both prospective applicants and members of selection panels.

### **Project planning**

The Authority has a number of committees which determine long and short term priorities for project planning.

The publications committee, comprising Authority members and senior management, assesses publications needs and priorities, enabling more efficient management of the publications program. The *Update* editorial committee directs the input for the Authority's monthly newsletter, *ABA Update*, which is the principal vehicle for disseminating information about the Authority's decisions, activities and policies.

An Authority research committee has been established to determine long term priorities for the Authority's attitudinal research program. The aim of the committee is to ensure that research conducted by the Authority effectively meets the organisation's needs and obtains maximum outcomes.

The Policy Projects Coordinating Committee was established to determine the priority of policy projects for the Authority. The committee acts as a forum for debate on key policy issues facing the Authority.

A Planning and Allocation Management Committee comprising management from these interrelated areas of the Authority meets frequently to coordinate the efforts of both areas and to consider policy and management issues of mutual concern.

A Planning and Allocation Taskforce comprising Authority members and senior management meets regularly throughout the year as a steering group to oversight the Committee's work and the Authority's licence area planning and allocation tasks. In order to maximum the outcomes of the research and minimise unnecessary resource use, the Authority has embarked on a research project with another agency. The Authority has also adopted a practice of minimising the use of consultants in its research projects, and doing as much of the research work in-house, where practicable and appropriate.

### **Investigations training and procedures**

As a result of concerted effort by a number of areas within the Authority, investigation techniques have been developed and refined in the period. This has assisted the officers of the Authority in undertaking investigations.

Internal guidelines on the conduct of examinations under oath were developed. Guidelines for the conduct of public hearings were also developed and circulated to relevant parties for comment.

To enhance understanding and performance and as an aid for investigations relating to ownership and control issues, Authority staff undertook training on the principles of mergers and acquisitions with the Securities Institute of Australia.

### **Management**

A revised internal management structure within the Authority's Planning Branch created a direct reporting middle management element for the licence area planning officers. This has released senior management to focus on broader issues and provided planning officers with day to day access to management direction.

The Authority is committed to adopting continuous improvement management strategies. Tracking the ministerial process has led to improved internal processes resulting in more timely responses to ministerial correspondence and more efficient use of staffing and other resources.

The Authority has been able to improve efficiency and productivity within the existing environment leading to more efficient processing of temporary transmissions and in concert with new policies deal more effectively with requests for re-transmissions and special event licences. Efficient use of resources and targeted training has led to a more client focused team with the ability to undertake and manage new activities

During May 1995, a small survey was undertaken by the Authority's Planning Branch to examine the level of client service the Authority provides. The survey will assist in developing information packages for parties interested in acquiring a commercial or community broadcasting licence.

Operational areas within the Authority undertake regular work plan reviews to assess procedures on a regular basis.

## **Information technology**

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### **Networks**

As part of its process to maintain an improved working environment the Authority converted its Sydney local area network to Banyan Vines and linked its Sydney and Canberra offices. This substantially improved communications between the two sites and with other agencies in the Communications portfolio.

Major benefits of this initiative include: better communications within the organisation; access to data regardless of location; uniform 'look and feel' in both offices; access to the same computer applications for both Sydney and Canberra officers; and reduced support overheads in both offices.

To ensure that all officers have access to equipment necessary to run current applications software, the Authority also undertook a major PC hardware upgrade during the year. This involved the purchase of new desktop computers for most officers. All 386 PCs were replaced with 486 or Pentium computers with 16MB of RAM and older 486 computers are being upgraded as necessary.

Most of the upgrade was completed during the first quarter of 1994-95. It resulted in most officers being able to run the most recent versions of software and it greatly improved the functionality and performance of the software.

The upgrading also replaced obsolete equipment no longer able to cope with the demands of software applications for planning. In particular, the upgrade will allow the in-house computer systems to meet the higher demand that RADCOM imposes on the system. [The RADCOM system will operate between the three communications agencies: the Authority, Spectrum Management Agency and National Transmission Agency. (See below)]

In keeping with the Authority's policy of both providing officers with more flexible working conditions and enabling officers to work when absent from their normal working environment, the Authority has a number of portable computers which can be used for home-based work and by officers whose work takes them away from the office.

### **External communications**

The Authority has decided to establish electronic mail connections to outside organisations using both the X.400 protocol and the Internet. In May 1995, a direct network connection to the Department of Communications and the Arts and to the Spectrum Management Agency using the X.400 protocol was established.

X.400 connection to other government agencies using Telstra's TELEMemo service and Internet e-mail exchange connection are both expected to be completed in 1995-96.

Once established, these facilities will make communication with other agencies faster; simplify the transfer of documents in electronic form; and increase direct access to overseas regulatory bodies.

### **IT software and systems**

#### **RADCOM**

RADCOM is a computer system being developed by BHP-IT for the Spectrum Management Agency and the Authority. It will help the Authority to plan and administer the parts of the radio frequency spectrum used for radio and television broadcasting. It will also act as a public register for all radiocommunications licences and will automate the administration of radiocommunications licences.

The first major phase of the project, the Licence Management Module Phase 1, was implemented by the SMA on the 10 April 1995. The licence management module includes licence processing facilities and engineering tools for frequency assignment, replacing functions of the old SMIS (Spectrum Management Information System).

Training of Authority officers in the use of the new system was undertaken during March and June. Since implementation, most licensing and associated frequency assigning work has been processed on the new system.

The Authority plans to implement the Broadcasting Planning Module by the end of 1995. This module will include 'state-of-the-art' Geographic Information System (GIS) and licence area development tools. It will also include the migration of data from the Authority's present HP1000 and related systems to RADCOM.

RADCOM has two main components: a relational database management system (RDBMS) and a geographic information system (GIS). The RDBMS stores all the non-spatial data such as licence records, customer records and spectrum access details. The GIS is used for storing and displaying the location of all licensed radiocommunications transmitters on digitised maps and assisting with technical engineering calculations to determine the compatibility of closely located transmitting stations.

Following the implementation of RADCOM, two instruments of delegation of powers from the SMA to issue apparatus licences under the redundant spectrum management system were revoked and a new instrument signed under RADCOM on 10 April 1995. The powers specified in the new instrument were delegated to members of the Authority on 13 April 1995.

#### **Financial information system**

The Authority completed the contract to purchase a new financial management information system (FMIS), in June 1995. The new system is expected to be implemented by December 1995. The new system is expected to result in improved financial management for the Authority with expected benefits including: the provision of timely reports and 'real time' financial information for cost centre managers; a better system for the management of assets; improved facilities for

funds control and budgeting; and extensive automation of the preparation of the annual financial statements.

**Records management**

The Authority has acquired an enhanced version of the records management software, TRIM for Windows, to improve its records management capabilities. This new software will be implemented during first quarter of 1995-96.

The new version of TRIM will allow for greater ease of retrieval of information; greater security control on file contents information within the Authority, and better archiving management.

# Objective 7

**Develop the commitment and professionalism of staff to enhance the effectiveness of the Authority.**

## *Key outcomes*

- ◆ *Internal communications improved.*
- ◆ *Continued and enhanced support for professional development.*
- ◆ *First step taken in implementation of Staff Development Strategic Plan.*
- ◆ *Enhancement of physical working environment of the Authority.*

## **Development and appraisal**

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As the first step in the implementation of a Staff Development Strategic Plan, officers completed personal development plans. The plans are designed to provide identification of development and training needs. Identifying these needs allows more effective strategies to be developed which match organisational and individual needs.

Within the context of workplace requirements and the demands of the Broadcasting Services Act, the Authority is evolving a professional development plan for each Branch to enhance officers' skills and knowledge.

During the year all Senior Executive Service and Senior Officers took part in the Authority's Performance Appraisal Scheme. The scheme was adjusted in 1994-95 allowing both cycles to finish in February 1995. The Authority is committed to continuing with appraisal, regardless of the impact of Public Service-wide changes to performance pay arrangements.

Strategies to provide support for officers in the proactive management of stress included the continuation of the Employee Assistance Program and the conduct of training in stress management techniques.

### **Internal communications**

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In an effort to improve communications within the Authority, internal newsletters or information bulletins have been introduced in a number of areas.

*Human Resources Bulletin* provides information for officers, including those on maternity and paternity leave, improving communication on management issues with the Authority. The bulletin also disseminates information on public service wide initiatives.

*ABARM News Weekly*, an e-mail information sheet, was introduced during the year to inform officers on records management issues and to encourage better records management practices.

Officers are kept informed on information technology through a newsletter and a regular 'Tip of the Week'.

Enhancements to the Authority's computer information system during the year improved communications both within and external to the Authority. The major changes were the linking of the Sydney and Canberra networks and the connection of the Authority to other organisations with electronic mail via X400 protocol.

### **Accommodation**

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The fitout of the Authority's office at Darling Park, Sydney was completed during the year. The improvements to the Sydney office include the provision of facilities for Canberra based officers when they are in Sydney; officers on special projects, consultants and auditors; general meetings and functions, media conferences, hearings and training needs.

Also during 1994-95, the Canberra office relocated within the same building, to provide more functional accommodation separate from the other agencies resident in the complex.

### **Training**

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All Authority officers participated in various forms of training or planning days. The training was either at an organisational level, or identified by the officer as necessary for future needs. In-house presentations of current issues, policy development or management issues help keep Authority officers informed on events and aware of developments across the range of Authority activities.

## **Professional affiliations**

Membership of professional societies provides training opportunities and codes of professional ethics which the Research section follows in the conduct of attitudinal research projects. Accordingly, the officers in the Authority's Research section became members of the Market Research Society of Australia. The Research section has also joined the Australia and New Zealand Communication Association, to keep informed about developments in the communications field generally and to exchange information.

Research officers completed tertiary level training in advanced statistical analysis provided by the University of NSW. The course was designed for the specific needs of the section in order to develop existing knowledge while limiting coverage of unnecessary material.

Engineering officers in Planning Branch are affiliated with the following professional associations: the Institute of Engineers Australia (IE Aust.), the IREE Society of the IE Aust. and its technical colleges.

The Authority has joined the Commonwealth Association for Public Administration and Management and the Australian Institute of Management (NSW Ltd) to keep up to date with contemporary management and human resources issues.

## **Conference attendance**

A number of Authority officers attended conferences and seminars on broadcasting and new communications services issues, policy development, management development and cultural matters, both domestic and international. Attendance at these events has helped raise the level of knowledge about industry developments, policy practice and other cultures.

Conferences and seminars attended during the year included:

- Asia-Australia Institute Working in Unfamiliar Cultures Seminar;
  - Australian Broadcasting Summit, Sydney;
  - Australian Telecommunications Competition and Beyond;
  - Cable and Satellite Television;
  - Cable TV and Interactive Services;
  - Children and Advertising: A Fair Game?, conducted by Young Media Australia, July 1994;
  - Cultural Policy State of the Arts;
  - Developing Australia's Telecommunications Infrastructure; and
  - Film and Television Financing and the FFC, conducted by the FFC, August 1994
- Government Policy Conference;
- 1995 International Cultural Policy: State of the Art Conference, Brisbane;
- Introduction to People Management;
- National Convergence Symposium;

Policy Formulation and Advice;  
SPAA, 9th Annual conference, November 1994;  
Marketing Toys - It's Child's Play, conducted by Young Media Australia and  
Institute for Values Research;  
Pay TV forum;  
Telecommunications - Towards 1997 and Open Competition;  
What Stories are We Telling Our Children?, conducted by the Stanley Foster  
Foundation, August 1994; and  
World Summit on Television and Children, conducted by the Australian Children's  
Television Foundation, March 1995.

# Appendices

## Appendix 1

# Staffing matters

### **Social Justice statement**

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The Authority is committed to carrying out its functions in a fair and equitable manner, and in so doing promotes access and equity particularly for client groups confronted by barriers of language, culture, race or religion. Strategies to promote access and equity have been implemented by the Authority. Particularly significant is participation in the broadcasting industry's development and continuing review of codes of practice, in order to encourage program content which reflects the diversity of Australian society. Other actions include:

- the operation of special equipment for people with disabilities to use and receive information;
- ongoing consultation with representative groups in the licence area planning process;
- monitoring of complaints about the portrayal of disadvantaged groups in local programs;
- in researching community attitudes to broadcasting issues, the Authority ensures that a sampling framework representative of Australian cultural diversity is developed for each research project in both the qualitative and quantitative stages of a project.

The Authority's approach to access and equity is integral to achieving its mission of promoting the availability and development of a range of broadcasting services which is responsive to the diverse needs and interests of all Australians.

### **Social Justice and Equity**

#### **Status of Women**

The Authority actively encourages its female officers to attend courses especially designed for the development of women. During the period female officers have attended courses such as Career Development for Women, Women in Management and Self Esteem and Peak Performance for Women.

#### **Equal Employment Opportunity**

The Authority is developing a new Equal Employment Opportunity (EEO) Plan in accordance with the new model put forward by the Public Service Commission. The current plan has been in place since the commencement of the Authority. The process of developing a new plan will include an evaluation of the outcomes achieved from the existing plan which will feed into the objectives for the new plan.

The General Manager of the Planning and Corporate Services Division (SES Band 2) is the Senior Executive responsible for EEO in the Authority. The EEO co-ordinator

for the Authority is the Assistant Manager, Staff Development and Recruitment. The position was reclassified from an Administrative Service Officer Class 6 to a Senior Officer Grade C in March 1995. The Planning Branch, which is located in Canberra, has a contact officer appointed by the Branch Head. The role has been performed by two officers during the period; one at the Administrative Service Officer Class 4 level and one at other Administrative Service Officer Class 6 level.

Under the EEO plan all supervisors and managers have responsibilities for implementing and promoting EEO practices. All supervisory and management positions have EEO responsibilities written into their selection documentation.

The Authority has an EEO Committee comprising of two management and two union representatives. The committee reports to the Authority Consultative Council. The committee has met four times during the period.

As at 30 June 1995, out of a total of 170 officers there were 95 women, 13 from non English speaking backgrounds and 2 with a disability.

#### **EEO in Appointments**

During the period, thirteen women and three persons from a non English speaking background were appointed to the Authority.

### **Staffing overview**

#### **Training**

The net expenditure by the Authority for officers training was \$156 509. Of the 171 officers employed at the Authority, 125 spent a total of 448 days on training activities.

#### **Industrial Democracy**

The Authority is committed to industrial democracy through the sharing of information, workplace participation and representative consultation.

The General Manager, Planning and Corporate Services Division is the Senior Executive responsible for industrial democracy. The Manager Human Resources Section is the Industrial Democracy Facilitator assisted by officers of the Human Resources Section.

A Consultative Council comprising senior management and union representatives has been established. Council met during the period and endorsed the Industrial Democracy Plan. It also discussed a range of other issues including agency bargaining, personnel policies and practices, accommodation and staffing. Two standing committees, the Equal Employment Opportunity Committee and the Occupational Health and Safety Committee, have also been established and meet quarterly.

The Industrial Democracy Plan sets out the formal and informal mechanisms for consultation within the Authority. There are five action plans attached to the plan which deal with the development and review of industrial democracy arrangements, an education and information strategy on industrial democracy, the operation of committees and working parties, a communication strategy and the development of industrial democracy awareness through the induction process. All action plans are being implemented.

**Occupational Health and Safety**

It is the policy of the Authority to promote and maintain a high standard of health, safety and well being for all officers through:

- prevention of accidents and ill health related to working conditions;
- protection of officers from health hazards which may arise out of their work or the conditions under which it is carried out; and
- provision of an occupational environment designed to enhance the health and well being of officers.

An Occupational Health and Safety Committee has been established and meets regularly to discuss health and safety issues. The Committee is made up of management representatives, health and safety representatives and union delegates. Regular workplace inspections are carried out by the health and safety representatives and their reports are presented to each OH&S Committee meeting. Action is then taken to remedy any problems identified and prevent potential hazards.

The Authority has three designated work groups with one health and safety representative and one deputy for each group. Each representative undertakes a five day course of training which is accredited by the Commission for the Safety Rehabilitation and Compensation of Commonwealth Employees. The terms of the current occupation health and safety representatives expired towards the end of the period. Nominations have been called for new health and safety representatives. There were no serious accidents or dangerous occurrences during the period.

**Performance Pay**

The Authority paid a total amount of \$149 500 for performance pay to 55 officers for the 1994-95 financial year. A total of \$28 000 was paid to six Senior Executive Service Officers and \$121 500 was paid to 50 Senior Officers. The break up for each classification is as follows:

Classification	Number of Officers*	Amount Paid
SES1/SES2	6	\$28 000
SOGA & equivalents	6	\$24 384
SOGB & equivalents	15	\$59 616
SOGC & equivalents	30	\$37 500

\* Please note that one officer received payment at both the SES1 and SOGB level and two officers received payment at both the SOGB and SOGC level.

### **Consultancies**

The amount paid to consultancies during 1994-95 was \$268 186.

The breakdown of this amount is available, on request, from the Authority. For contact details, see p. 2.

### **Amounts paid to market research organisations**

During the year the Authority paid \$126 493 to advertising agencies. During the year, the Authority paid \$51 887 to market research organisations.

### **Freedom of Information**

The following information is provided on the operation of the *Freedom of Information Act 1982* (FOI Act).

#### **Requests made**

During 1994-95, the Authority received eight requests for access, one of which was transferred to the Authority, and one application for internal review. The Authority finalised one request which had been received during the previous period.

Three of the requests were withdrawn: one was withdrawn by the applicant and two were deemed withdrawn by virtue of sub-section 29(2) of the FOI Act because the applicants failed to pay the deposit for the charges notified by the Authority. One request had not been finalised at the end of the period. The Authority granted access in full to three requests and partial access to documents in the other two requests.

#### **Applications for Review**

The Authority received one application for review under s.54(1) of the FOI Act, by the person who had requested access. Following the review the Authority decided to grant access to some additional documents, but affirmed the decision to withhold access to other documents.

#### **Time Taken**

For the five requests finalised during 1994-95, the average time taken from receipt of the request to the notification of the decision, was 65 days. Many of the requests involved the consultation of other persons or organisations under s.27 of the FOI Act, which prolonged the response time. In several cases, delays were occasioned by the applicants waiting to pay the charges notified under the Act.

#### **Costs of Freedom of Information**

The total cost to the Authority for FOI activities in the 1994-95 period was approximately \$34 069.

Non-staff costs directly attributable to FOI totalled \$8016, which included \$6964 for training provided through seminars conducted by the Attorney-General's Department. Total staff costs for Freedom of Information activities were

approximately \$14 083, which with 85 per cent overheads of \$11 970, made a total of \$26 053 for the period.

During the period, FOI charges were reduced in two cases, on financial hardship and public interest grounds. Charges totalling \$4 373.05 for the processing of requests were paid, and the Authority received \$250 in fees for the lodgement of FOI requests and applications for internal review.

### **Internal and external scrutiny**

During 1994-95 there were two matters raised involving the Authority: one complaint to the Ombudsman and one appeal to the Administrative Appeals Tribunal.

The Authority received a letter from the Commonwealth Ombudsman on 20 March 1995.

The Ombudsman requested that the Authority reconsider its decision not to further investigate a complaint relating to an alleged breach of a program standard in relation to a broadcast which occurred prior to the establishment of the Authority. The program standard, Television Program Standard 24, requires accuracy and fairness of current affairs programs. Such a requirement is now covered by a code of practice. The Ombudsman also requested that the Authority provide a chronology of its investigation. The Authority provided the requested chronology and has decided to reopen its investigation of the complaint.

Traveller Radio Pty Limited has applied to the Administrative Appeals Tribunal for review of a decision refusing to grant a low power narrowcasting transmitter licence to the company. This decision was made by the Authority under delegation from the Spectrum Management Agency's transmitter licensing powers. This matter was still pending as at June 30 1995.

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

Matters relating to Parliamentary scrutiny are dealt with under the performance report for Objective 5 in this report.

## Financial and staffing resources summary

	1993-94 ACTUAL \$'000	1994-95 BUDGET (a) \$'000	1994-95 ACTUAL \$'000
Salaries	9118	7249	7320
Administrative Expenses	<u>6719</u>	<u>6050</u>	<u>6090</u>
<b>Total Expenditure</b>	<b>15 837</b>	<b>13 299</b>	<b>13 410</b>
Less receipts	<u>(721)</u>	<u>(160)</u>	<u>(600)</u>
	<b>15 116</b>	<b>13 139</b>	<b>12 810</b>
Less cash on hand at beginning of financial year	(613)	(789)	(789)
Plus cash on hand at end of financial year	<u>789</u>	<u>-</u>	<u>329</u>
<b>TOTAL APPROPRIATIONS</b>	<b>15 292</b>	<b>12 350</b>	<b>12 350</b>
<b>TOTAL OUTLAYS</b>	<b>15 292</b>	<b>12 350</b>	<b>12 350</b>
<b>STAFFING</b>			
Staff years (ASL)	157.3	160.0	161.5

(a) Budget figures for 1994-95 have been amended to include additional estimates.

The budget figures for 1993-94 include an additional amount of \$3.8 million to cover the cost of restructuring the Authority which involved a reduction in staff levels from 220 to 157. Receipts for 1993-94 were higher than usual due largely to the sale of assets no longer required when the Authority was relocated in August 1993. Receipts for 1994-95 were higher than usual due to a lease incentive of \$300 000 received from the Authority's lessor.

**Staffing numbers - Australian Broadcasting Authority  
SYDNEY**

Classification	PERMANENT				TEMPORARY				Total
	Full-time Male	Full-Time Female	Part-time Male	Part-time Female	Full-time Male	Full-time Female	Part-time Male	Part-time Female	
Members	3								4
SES Band 2	1								1
SES Band 1		3							3
Legal 2	1								1
Legal 1		4							4
SPAOG 2		1							1
PAOG 3	1								1
PAOG 2		1							1
SPAO(E)G A									
SPOG B		1							1
SPOG C									
PO 2									
PO 1	1								1
TO 4									
TO 3									
SOG A	2								2
SOG B	4	3							7
SOG C	8	7							15
ASO 6	5	19		1					25
ASO 5	3	3							6
ASO 4	6	9			1	2			18
ASO 3	4	6			1	3			14
ASO 2					1	2			3
ASO 1		5			1				6
SITO B	1								1
SITO C	1								1
ITO 2	1								1
<b>TOTAL</b>	<b>41</b>	<b>63</b>	<b>2</b>	<b>4</b>	<b>7</b>	<b>7</b>	<b>117</b>		

Staffing numbers - Australian Broadcasting Authority  
CANBERRA

Classification	PERMANENT				TEMPORARY				
	Full-time		Part-time		Full-time		Part-time		
	Male	Female	Male	Female	Male	Female	Male	Female	
Members									
SES Band 2	1								1
SES Band 1	1								1
Legal 2									
Legal 1									
SPAOG 2									
PAOG 3									
PAOG 2									
SPA0(E)G A	1								1
SPOG B	4								4
SPOG C	5								5
PO 2	3								3
PO 1	1			1					3
TO 4	1								1
TO 3	2								2
TO 2						1			1
SOG B	1								1
SOG C	1								1
ASO 6	3								3
ASO 5									7
ASO 4	2								7
ASO 3									3
ASO 2									7
ASO 1	1						1		2
SITO B									
SITO C	1								1
ITO 2									
<b>TOTAL</b>	<b>28</b>	<b>22</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>53</b>

Classification	Permanent Full-time		Permanent Part-time		Temporary Full-time		Temporary Part-time		Temporary Part-time		Total
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
TOTAL		85		3	6	7					170
SYDNEY & CANBERRA	69										
TOTAL MALE	75										
TOTAL FEMALE	96										

The Authority's Senior Executive Service Profile is two Senior Executive band 2 positions and three Senior Executive Band 1 positions. Two of the five positions are occupied by women. The third female Senior Executive Service officer noted in the staffing number table is an unattached officer who is currently on extended leave.

The Senior Executive Service profile has not changed during the 1994-95 financial year and the Authority has no Senior Executive Service officers participating in intra-agency mobility programs.

## Appendix 2

# Complaints received in 1994-95\*

<b>Commercial television</b>	
Taste, decency, morality	201
Hatred/ ridicule - discrimination	199
Misc. television	188
Unsuitable For children	103
News/ current affairs - accurate/ fair	90
Number of advertisements	80
Program scheduling arrangements	77
G-Violence	73
Other	775
<b>Total commercial television</b>	<b>1786</b>
<b>Commercial radio</b>	
Prohibited Language	91
Hatred/ Vilification - Discrimination	90
Misc. Radio	68
Taste, Decency, Morality	54
Behaviour of Talkback Announcers	53
Other	85
<b>Total Commercial Radio</b>	<b>441</b>
<b>ABC television</b>	
Misc. television	66
Taste, decency, morality	57
News/ current affairs - accurate/ fair	53
Language	44
Program scheduling arrangements	30
Other	124
<b>Total ABC television</b>	<b>374</b>
<b>Other</b>	
ABC radio	231
Community radio	126
SBS television	79
Open narrowcasting television	32
Open narrowcasting radio	21
SBS radio	12
General television	7
Subscription television	3
Subscription narrowcasting television	2
General radio	1
Subscription narrowcasting television	1
<b>Total other</b>	<b>515</b>
<b>Complaints total</b>	<b>3116</b>

\* These relate to complaints recorded by the Authority. They do not include complaints figures from television and radio stations.

### Appendix 3

## 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 assessed by the public.

This statement is correct as at 30 June 1995.

### Establishment

The Australian Broadcasting Authority (ABA) was established by subsection 154(1) of the *Broadcasting Services Act 1992* (the Act), and began operations on 5 October 1992. The ABA took over the licensing, programming and ownership and control functions previously performed by the Australian Broadcasting Tribunal, as well as the function of planning the broadcasting spectrum previously carried out by the former Minister for Transport and Communications and his department.

The ABA is an independent statutory authority responsible through the Minister for Communications and the Arts (the Minister) to the Parliament. It is required to prepare and furnish annually to the Minister a report on its operations during the preceding year for tabling in the Parliament. The Act provides for the appointment of a Chairperson, a Deputy Chairperson and at least one, but not more than five, other Members who may be full-time or part-time. The Members of the ABA are appointed by the Governor-General for periods of up to five years and are eligible for re-appointment on one occasion only. The Minister may appoint persons to be Associate Members of the ABA, either generally or for particular investigations or hearings.

### Organisation

The ABA's present membership consists of a Chairperson, a Deputy Chairperson, one full-time Member and one part-time Member.

The ABA holds regular meetings to make administrative decisions and determine policy. Additional meetings are held as required including meetings to determine opinions as to which category of broadcasting services a proposed service falls into.

## Australian Broadcasting Authority

### Policy and Programs Division

### Planning and Corporate Services Division

Policy and Communications Branch	Program Services Branch	Planning Branch	Corporate Services Branch
■ Legal Section	■ Research Section	■ Planning Engineering Section	■ Information Systems Section
■ Policy Section	■ Allocation and Renewal Section	* Planning Automation Subsection	■ Financial Resources Section
■ Library	■ Codes and Conditions Section	* Spectrum Development Subsection	* Finance and Administration Subsection
■ Media and Public Relations Section	■ Standards Section	* Technology Assessment Subsection	* Records Management Subsection
■ Industry Analysis Section	* Children's Television Subsection	* Specifications Development Subsection	■ Human Resources Section
* Control Subsection	* Australian Content Subsection	■ Services Planning Section	* Pay and Conditions Subsection
* Financial Analysis and Economic Research Subsection		* Branch Support Subsection	* Recruitment and Staff Development Subsection
		* Implementation Policy Subsection	
		* Licence Area Consultation Subsection	
		* Licence Area Development Subsection	

A quorum for such meetings is constituted by three Members. Staff of the ABA are present at the meetings to record the decisions and, as required, to report, to provide advice and to make recommendations to the ABA, and to ensure that the ABA's directions are carried out. Decisions may also be made by resolution by virtue of clause 11 of Schedule 3 of the Act, or by delegation by virtue of clause 18 of Schedule 3 of the Act.

For the purpose of appointment and employment of staff in accordance with the provisions of the *Public Service Act 1922* (the Public Service Act), the Chairperson has all the powers of a Secretary under the Public Service Act as they relate to the branch of the Australian Public Service comprising the staff of the ABA.

### **Staff of the ABA**

As can be seen from the organisation chart on the previous page, the staff of the ABA is organised on a divisional basis, with two branches in each division.

The ABA's Policy and Communications Branch, Program Services Branch and Corporate Services Branch are located in Sydney where its Members are located, and its Planning Branch is located in Canberra.

### **Functions**

The primary functions of the ABA may be summarised as follows:

- (a) to provide advice to the Spectrum Management Agency in relation to the spectrum plan and frequency band plans under the *Radiocommunications Act 1992* and the designation of bands for broadcasting purposes;
- (b) to plan the availability of segments of the broadcasting services bands on an area basis;
- (c) to allocate, renew, suspend and cancel licences and to take other enforcement action under the Act;
- (d) to conduct investigations or hearings relating to the allocating of licences for community radio and community television services;
- (e) to design and administer price-based systems for the allocation of commercial television broadcasting licences and commercial radio broadcasting licences;
- (f) to collect any fees payable in respect of licences;
- (g) to conduct or commission research into community attitudes on issues relating to programs;
- (h) to assist broadcasting service providers to develop codes of practice that, as far as possible, are in accordance with community standards;
- (i) to monitor compliance with those codes of practice;
- (j) to develop program standards relating to broadcasting in Australia;
- (k) to monitor compliance with those standards;

- (l) to monitor and investigate complaints concerning broadcasting services (including national broadcasting services);
- (m) to inform itself and advise the Minister on technological advances and service trends in the broadcasting industry; and
- (n) to monitor, and to report to the Minister on, the operation of the Act.

In addition, the ABA has other functions under the Act and other legislation. These include giving opinions concerning the category to which broadcasting services belong, and determining additional, or clarifying existing, criteria for those categories; giving opinions on whether a person is in a position to exercise control of a licence, company or newspaper; and administering aspects of the ownership and control rules applying to certain categories of licences.

For the purpose of exercising its powers and functions under the Act, the Authority is obliged to take account of:

- the objects of the Act and the regulatory policy set out in the Act;
- any general policies of the Government notified to the ABA by the Minister;
- any directions given to the ABA by the Minister; and
- Australia's obligations under any convention to which Australia is a party or any agreement between Australia and a foreign country.

## **Division function and powers**

Staffing of the ABA is organised into two divisions, the Policy and Programs Division and the Planning and Corporate Services Division. Within these divisions, the functions and powers are divided as follows:

### **Policy and Programs Division**

#### **1. Policy and Communications Branch**

Policy and Communications Branch comprises Industry Analysis Section, Policy Section, Legal Section, Media and Public Relations Section and the Library.

The Branch is responsible for:

- preparing opinions on whether a person is in a position to control a licence, a newspaper or a company;
- assessing applications for prior approval of temporary breaches of the control provisions of the Act;
- maintaining registers of notifications of directorship and changes in control, associated newspapers, large circulation newspapers, temporary (approved) breaches, extensions of time granted and notices to persons in breach;
- monitoring compliance with the control limits;

- conducting investigations/hearings into licensees' compliance with the control provisions of the Act and notifying persons to remedy breaches;
- issuing notices relating to breaches of the control provisions of the Act;
- assisting in the identification and exploration of forward policy issues to be addressed by the ABA;
- co-ordinating the formulation of emerging policy issues throughout the ABA;
- providing secretariat support to the ABA including organising its regular meetings, preparing formal minutes and maintaining the records of decisions of the ABA;
- co-ordinating all tasks carried out under the *Freedom of Information Act 1982* (the FOI Act); and advice to the Minister about matters related to the FOI Act and the *Privacy Act 1988*;
- providing legal and policy advice on issues arising from the ABA's powers and functions;
- referring matters to the Director of Public Prosecutions;
- producing and marketing publications and informing the public of the functions, activities and decisions of the ABA;
- maintaining a full library service for members and staff of the ABA; and
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of the ABA's functions or powers.

## **2. Program Services Branch**

Program Services Branch comprises Research Section, Standards Section, Codes and Conditions Section and Allocation and Renewal Section.

The Branch is responsible for:

- conducting and commissioning attitudinal research and monitoring service trends;
- developing standards for commercial and community television broadcasting licensees relating to programs for children, for determination by the ABA;
- developing standards for commercial television broadcasting licensees relating to the Australian content of programs, for determination by the ABA;
- monitoring compliance with program standards;
- monitoring compliance with sports anti-siphoning provisions and reporting to the Minister on a six monthly basis;
- monitoring compliance with Australian content requirements for pay TV
- consulting with the industry and the community on the development of codes of practice for each broadcasting sector;
- maintaining a register of codes of practice, and monitoring compliance with those codes;

- investigating complaints alleging offences against the Act or breaches of licence conditions;
- investigating unresolved complaints about breaches of the codes of practice of the ABC and the SBS;
- varying, revoking or imposing conditions on commercial, community and subscription television broadcasting licences and on class licences;
- designing and administering price-based systems for the allocation of commercial radio and television broadcasting licences;
- allocating subscription television broadcasting licences, commercial broadcasting licences and community broadcasting licences;
- assessing the eligibility of aspirant community broadcasters to be given licences for temporary transmissions;
- renewing commercial and community broadcasting licences;
- suspending and cancelling licences as appropriate, or taking other enforcement action;
- preparing opinions as to which category of broadcasting services a service falls into;
- issuing notices concerning the provision of broadcasting services without a licence to provide the service;
- developing additional criteria and clarifying existing criteria for the purpose of distinguishing between categories of broadcasting services, for determination by the ABA; and
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of the ABA's functions or powers.

## **Planning and Corporate Services Division**

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### **1. Planning Branch**

Planning Branch comprises Planning Engineering Section and Services Planning Section.

The Branch plans all broadcasting services using radiofrequency spectrum used for AM and FM radio and VHF and UHF television by:

- developing planning priorities for determination by the ABA and preparing variations to those priorities for the ABA's approval;
- preparing frequency allotment plans, and variations to those plans, for the ABA's consideration;
- preparing licence area plans, and variations to those plans, for the ABA's consideration;

- specifying licence areas, frequencies, siting and power levels for transmitters used for broadcasting;
- designating and varying licence areas;
- developing technical planning guidelines for broadcasting services using frequencies within the broadcasting services bands;
- monitoring new technology and service trends;
- issuing apparatus licences to authorise the operation of transmitters for commercial, community and national services; for services provided under class licences; and for the temporary transmission or re-transmission of programs;
- making broadcasting services bands spectrum available for alternative uses for a specified period;
- determining licence area populations;
- allocating callsigns for broadcasting services; and
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of its functions or powers.

## **2. Corporate Services Branch**

This Branch comprises Human Resources Section, Financial Resources Section and Information Systems Section.

The functions carried out within this Branch include:

- attending to all matters related to personnel, training and staff development, accommodation and office services;
- liaising with Commonwealth Departments, the Public Service Commission and the Australian National Audit Office on financial, personnel, staff development and general administrative matters including EEO, ID and OH&S;
- co-ordinating the ABA's budget, and preparing financial statements, estimates and related material;
- maintaining the ABA's records management system;
- maintaining the ABA's accounting system, purchasing and asset control, and internal audit and review;
- collecting fees payable in respect of commercial broadcasting licences on behalf of the Minister; and
- promoting the use of information technology to enhance the efficiency and effectiveness of the Authority's operations.

### **Arrangements for outside participation**

Section 168 of the Act empowers the ABA to inform itself on any matter relevant to its functions. This may be done by consulting with such persons, bodies and groups as the ABA thinks fit, and forming consultative committees for that purpose; by

conducting investigations and holding hearings and considering written submissions from the public; and in any other manner it thinks fit. To this end, ABA officers participate in a range of organisations reflecting the broad range of the ABA's functions.

#### **Memoranda of Understanding**

In order to facilitate the exchange of information and views in an increasingly globalised broadcasting industry, the ABA has signed memoranda of understanding with the following overseas regulators:

The Federal Communications Commission of the United States of America

The Singapore Broadcasting Authority

The Independent Broadcasting Authority of South Africa

The ABA has an ongoing involvement in the following organisations:

#### **Media and Communications Council (MACC)**

The Media and Communications Council is an informal body comprising representatives of public interest groups, trade unions and consumer organisations with an interest in broadcasting issues. It seeks to promote information flow to the public and public participation in the decision making processes affecting broadcasting. Present membership of the MACC includes the Communications Law Centre; the Media, Entertainment and Arts Alliance; the Australian Caption Centre; the Australian Consumers Association; the Musicians' Union; the Ethnic Communities Council; the Consumers' Telecommunications Network; the Australian Writers' Guild and the Australian Council for Children's Films and Television. The ABA meets with MACC twice a year.

#### **Australian Preparatory Groups**

Australian Preparatory Groups consist of representatives from Commonwealth departments and authorities, industry organisations and special interest groups. They work to prepare Australian proposals for the World Administrative Radio Conferences and other major conferences of the International Telecommunication Union. The principal function of these conferences is to seek agreement between member nations on radiocommunications regulations and spectrum allocations. Individual conferences cover specialised aspects of broadcasting, mobile communications, satellite broadcasting, the use of particular frequency bands and the guaranteeing of equitable access to the geostationary satellite orbit for all countries.

#### **Australian Study Groups (ASGs) of the Radiocommunications and Telecommunications Bureaus of the International Telecommunication Union**

The ABA participates in the following ASGs, which are concerned with studying principles and reporting on questions relating to their particular subject areas:

- ITU-T Group 9: Joint Committee on Transmission of Radio and Television on Telecommunications Networks.
- ITU-R Group 10: Broadcasting Service (sound).

- ITU-R Group 11: Broadcasting Service (television).
- ITU-R Group 12: Inter-service Sharing and Compatibility.

#### **Standards Australia Boards and Specialist Committees**

The ABA is represented on the following:

- TE3 Electromagnetic Interference.
- RC5 Radiocommunications Standards.

#### **Digital Terrestrial Television Broadcasting (DTTB) Specialist Group**

This is a specialist group established by the ABA to examine options for a DTTB system to best suit Australia's consumer and broadcasting needs into the next century. The chairman of the specialist group is the ABA's General Manager, Planning and Corporate, and the ABA is also represented in the associated working parties.

#### **Department of Communications and the Arts' Digital Audio Broadcasting (DAB) Committee and associated Policy and Technical Sub-committees.**

The committees are investigating options for the introduction of DAB in Australia.

#### **Broadcasting Industry Advisory Council (BIAC)**

BIAC was established by the Minister for Transport and Communications in late 1992 to provide advice to him about high level broadcasting policy matters. BIAC is chaired by the Minister and its members include the ABA's Chairman and representatives of FARB, FACTS, CBAA, the Australian Broadcasting Corporation, the Special Broadcasting Service and the Australian Council of Trade Unions.

#### **The Minister's Telecommunications Advisory Panel**

The Minister chairs this group which was formed to advise him on the issues arising from the Government's review of post 1997 telecommunications policy and regulation in Australia. The review commenced early in the 1994-95 year. The Chairman of the ABA has participated as a member of the panel.

#### **Other external participants**

In addition, the ABA consults and meets with various interested parties, including the Federation of Australian Radio Broadcasters (FARB), the Federation of Australian Commercial Television Stations (FACTS), the National Transmission Agency (NTA), the Community Broadcasting Association of Australia (CBAA), the Community Broadcasting Foundation (CBF), the Federation of Australian Narrowcasting and Subscription Services Inc. (FANSS), the Progressive Radio Association, the Australian Association of National Advertisers (AANA), the Advertising Federation of Australia (AFA), the Radiocommunications Consultative Committee, Screen Producers Association of Australia (SPAA), Australian Screen Directors Association (ASDA), Australian Writers Guild (AWG), Communications Law Centre (CLC), the Office of Film and Literature Classification Board (OFLC) and the Confederation of Australian Subscription Television (CAST).

The ABA also consults with other regulators such as the Trade Practices Commission, the Spectrum Management Agency, the Foreign Investment Review Board and AUSTEL on a regular basis.

### **Public Participation**

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In determining standards for commercial and community broadcasters the ABA is required to undertake public consultation before exercising its powers. However, as a matter of course, the ABA consults publicly on a wide range of issues relating to the content of programs and advice to the Minister on programming issues.

In performing its functions in relation to the planning of the broadcasting services bands, particularly the determination of planning priorities, the preparation of frequency allotment plans, and the preparation of licence area plans, the ABA is required to consult widely with the public. The ABA places advertisements in newspapers announcing the commencement of its consideration of issues relating to particular planning matters; conducts seminars explaining various aspects of the planning process; and maintains files containing documents relevant to this process, for public inspection.

The ABA also seeks the views of the wider community through surveys of public opinion on program issues conducted or commissioned by the ABA.

### **Categories of documents**

Records are maintained by the ABA in various physical forms including paper files, card indexes, microfiche and computer media. Certain documents, such as the advice received and assumptions made by the ABA in performing its planning functions, are required to be publicly available. Certain other information dealing with ownership and control matters and the codes of practice, are required to be maintained in public registers.

#### **Files**

Files are maintained by the Sydney and Canberra offices on a range of topics related to the ABA's functions. The Records Management Subsection of Corporate Services Branch maintains details of the files used by the ABA.

#### **Card indexes**

Card indexes are generally used for minor record keeping and indexing reference material.

#### **Computer databases**

Computer databases are maintained for bulk record keeping.

#### **Microfiche**

Submissions resulting from the ABA's planning process are available on microfiche in most State and regional libraries as well as the ABA's library. Copies of the

microfiche are available for purchase by any member of the public at \$30 per set. The reports of inquiries conducted by the former Australian Broadcasting Tribunal are also available on microfiche in the ABA's library.

### Registers

The ABA is required to maintain Registers of Codes of Practice; Notifications of Controllers, Directors, and Changes in Control; Associated Newspapers; Large Circulation Newspapers; Prior Approvals of Temporary Breaches; Extensions of Time for Temporary Breaches; Notices to Persons in Breach of the Act; Extensions of Time for Compliance with Notices and Approvals of Breaches of Television Ownership Limits in Small Markets. Persons wishing to inspect any of these Registers should contact the Sydney office of the ABA.

### Classes of records

Records are maintained by the ABA in one or more physical forms on the following topics:

#### Policy and Communications Branch

Registers of notifications of directorship and changes in control, associated newspapers, temporary (approved) breaches, extensions of time granted and notices to persons in breach; registers of financial results of commercial radio and television services; reports on grant of licences under the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*; reports of inquiries conducted by the former Australian Broadcasting Tribunal; records, reports and information papers on Australian and overseas broadcasting; agenda papers and minutes of ABA meetings; ABA publications, including research monographs, news releases and pamphlets; and a register of ABA forms.

#### Program Services Branch

Industry self-regulatory codes of practice; program and advertising standards; Australian content of programs, children's programs, complaints and comments from the public about broadcasting programs and advertising; rights acquired and prices paid for events specified in the Minister's s.115 notice, details, including reports, of research undertaken or commissioned, service licences for all commercial and community stations; price based licence allocation system; subscription television broadcasting service licences; and opinions on which category of broadcasting services a service falls into.

#### Planning Branch

Technical specifications of national, commercial and community broadcasting services; frequency planning; narrowcasting services; reception of broadcasting services; satellite broadcasting; planning priorities; frequency allotment plans; licence area plans; Minister's reservations; Minister's directions; technical guidelines; new broadcasting technology; population figures; and licence areas.

## **Facilities for access**

The ABA maintains library facilities in the Sydney office where documents available under the Act, or documents for which access is granted under the FOI Act, can be examined. Documents may also be examined in the Canberra office by prior arrangement.

The ABA's offices are at:

Level 15, Darling Park

201 Sussex Street

SYDNEY NSW 2000

### **Postal address**

PO Box Q500

Queen Victoria Building NSW 2000

Tel: (02) 334 7700

Fax: (02) 334 7799

DX 13012 Market Street, Sydney.

Blue Building

Benjamin Offices

Chan Street

BELCONNEN ACT 2617

### **Postal address**

PO Box 34

BELCONNEN ACT 2616

Tel: (06) 256 2800

Fax: (06) 253 3277.

Microfiche of submissions received in relation to the ABA's planning process are also available in most State and regional libraries.

A public file on the review of the Australian content standard for commercial television is also available in the offices of Film Victoria and Film Queensland.

## **FOI Procedures and initial contact point**

Requests for access under the FOI Act must be in writing and 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. In many cases however, it may not be necessary to use FOI as the information sought may be readily available. The Manager, Media and Public Relations, in the Sydney office should be contacted in the first instance.

Correspondence on FOI matters should be addressed to the FOI Co-ordinator at the ABA's Sydney office at the address given above.

Under the procedures operating in the ABA for the handling of FOI requests, in some instances the FOI Co-ordinator may need to consult applicants for access to documents under the FOI Act. Specific instances are as follows:

- (a) to assist the applicant to more specifically identify documents that have been requested;
- (b) to give the applicant a reasonable opportunity for consultation before refusing a request on grounds of insufficient information (subsection 15(2) of the FOI Act) or if the request requires a substantial and unreasonable diversion of resources (subsection 24(1) of the FOI Act); or

(c) to notify the applicant of the charges and the deposit that is payable, or to discuss a request that the charges be reduced or not imposed.

As at 30 June 1995, as well as the Members, the General Manager of each Division, the Branch Directors and most of the Section heads are authorised, under section 23 of the FOI Act, to make primary decisions on applications for access to documents held by their area. Generally, access is provided in the form of copies of documents.

In addition to the Members, the General Managers and the Branch Directors are also authorised to make decisions on applications for internal review of primary FOI decisions made by the ABA.

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AUSTRALIAN NATIONAL AUDIT OFFICE

Level 7  
130 Elizabeth Street  
Sydney New South Wales 2000

our ref;

**AUSTRALIAN BROADCASTING AUTHORITY**

**INDEPENDENT AUDIT REPORT**

To the Minister for Communications and the Arts

Scope

I have audited the financial statements of the Australian Broadcasting Authority for the year ended 30 June 1995. The statements comprise:

- . Statement of Financial Position
- . Operating Statement
- . Statement of Cash Flows
- . Statement by Members, and
- . Notes to and forming part of the Financial Statements.

The members of the Authority are responsible for the preparation and presentation of the financial statements and the information contained therein. I have conducted an independent audit of the financial statements in order to express an opinion on them to the Minister for Communications and the Arts.

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, other mandatory professional reporting requirements and statutory requirements so as to present a view which is consistent with my understanding of the entity's financial position, the results of its operations and its cash flows.

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

**Audit Opinion**

In accordance with sub-section 63M(2) of the Audit Act 1901 I now report that the statements are in agreement with the accounts and records of the Australian Broadcasting Authority, and in my opinion:

- (i) the statements are based on proper accounts and records;
- (ii) the statements show fairly in accordance with Statements of Accounting Concepts, applicable Accounting Standards, and other mandatory professional reporting requirements the financial transactions and results, and cash flows, for the year ended 30 June 1995 and the state of affairs of the Australian Broadcasting Authority as at that date;
- (iii) the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Australian Broadcasting Authority during the year have been in accordance with the Broadcasting Services Act 1992; and
- (iv) the statements are in accordance with the Guidelines for Financial Statements of Commonwealth Authorities.

Australian National Audit Office



David A. Doyle  
Executive Director

For the Auditor-General

Sydney

Date opinion formed 23 August 1995


**AUSTRALIAN BROADCASTING AUTHORITY  
FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 1995**


**MEMBERS' STATEMENT**

In our opinion the financial statements, including the accompanying notes, have been properly drawn up so as to give a true and fair view of the Australian Broadcasting Authority's:

- operating result for the year ended 30 June 1995;
- financial position as at 30 June 1995; and
- cash flows during the year ended 30 June 1995.

These statements have been made out in accordance with applicable Accounting Concepts and Standards and the Guidelines for Financial Statements of Commonwealth Authorities issued by the Minister for Finance.

  
P. WEBB  
Chairman  
27 August 1995

  
R. SCOTT  
Deputy Chairman  
21 August 1995

**AUSTRALIAN BROADCASTING AUTHORITY**  
**OPERATING STATEMENT**  
**FOR THE YEAR ENDED 30 JUNE 1995**

	Note	1994-95 \$	1993-94 \$
<b>COST OF SERVICES</b>			
<b>Operating expenses</b> (before abnormal items)			
Employee expenses	4,5	7 849 299	8 512 044
Administrative expenses	6	3 671 675	3 979 063
Loss on disposal of non-current assets		37 887	208 447
Office rental & hire of venues		1 631 521	2 109 370
Legal fees & associated costs		405 272	444 670
Depreciation		594 822	532 192
Employee entitlement provisions		815 394	566 355
<b>Total operating expenses</b> (before abnormal items)		<b>15 005 870</b>	<b>16 352 141</b>
<b>Operating revenues from independent sources</b> (before abnormal items)			
Sale of publications		38 068	45 772
Interest		48 365	87 936
Recovery of legal costs		-	182 624
Miscellaneous revenue		161 311	354 498
Lease incentive	14	300 000	658 186
<b>Total operating revenue from independent sources</b> (before abnormal items)		<b>547 744</b>	<b>1 329 016</b>
<b>Net cost of services</b> (before abnormal items)		<b>14 458 126</b>	<b>15 023 125</b>
<b>Net cost of services</b>		<b>14 458 126</b>	<b>15 023 125</b>
<b>REVENUES FROM GOVERNMENT</b>			
Parliamentary appropriations received	3	12 350 00	15 292 000
Liabilities assumed by government	10	964 672	917 535
Resources received free of charge	1(g)	3150	3200
<b>Total revenues from government</b>		<b>13 317 822</b>	<b>16 212 735</b>
<b>Surplus (deficit) of net cost of services over revenues from government</b>		<b>(1 140 304)</b>	<b>1 189 610</b>
<b>EQUITY INTERESTS</b>			
Accumulated surplus (deficit) at beginning of reporting period		530 672	(658 938)
<b>Accumulated surplus (deficit) at end of reporting period</b>		<b>(609 632)</b>	<b>530 672</b>

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

**AUSTRALIAN BROADCASTING AUTHORITY**  
**STATEMENT OF FINANCIAL POSITION**  
**AS AT 30 JUNE 1995**

	Note	1994-95 \$	1993-94 \$
<b>CURRENT ASSETS</b>			
Cash		328 526	789 122
Receivables		2782	48 154
Prepayments		265 076	542 596
Accrued interest		4582	7113
<b>Total current assets</b>		<b>600 966</b>	<b>1 386 985</b>
<b>NON-CURRENT ASSETS</b>			
Plant property & equipment	7	1 291 652	1 155 123
<b>Total non-current assets</b>		<b>1 291 652</b>	<b>1 155 123</b>
<b>Total assets</b>		<b>1 892 618</b>	<b>2 542 108</b>
<b>CURRENT LIABILITIES</b>			
Creditors		295 622	110 558
Provisions	8	983 863	878 286
Other		124 670	50 417
<b>Total current liabilities</b>		<b>1 404 155</b>	<b>1 039 261</b>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	8	1 098 095	972 176
<b>Total non-current liabilities</b>		<b>1 098 095</b>	<b>972 176</b>
<b>Total liabilities</b>		<b>2 502 250</b>	<b>2 011 437</b>
<b>Net assets</b>		<b>(609 632)</b>	<b>530 672</b>
<b>EQUITY</b>			
Accumulated surplus (deficit)		(609 632)	530 672
<b>Total equity</b>		<b>(609 632)</b>	<b>530 672</b>

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

**AUSTRALIAN BROADCASTING AUTHORITY**  
**STATEMENT OF CASH FLOWS**  
**FOR THE YEAR ENDED 30 JUNE 1995**

	Note	1994-95 \$	1993-94 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Inflows:			
Parliamentary Appropriations		12 350 000	15 292 000
Bank Interest		50 896	83 409
Receipts from User Charges		209 225	336 535
Lease Incentive		300 000	658 186
Outflows:			
Payments to suppliers and employees		(12 807 490)	(16 081 154)
<b>Net cash provided by operating activities</b>	<b>17</b>	<b>102 631</b>	<b>288 976</b>
 <b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Inflows:			
Proceeds from sale of property, plant & equipment		44 329	343 675
Outflows:			
Purchase of property, plant & equipment		(607 556)	(456 896)
<b>Net cash used by investing activities</b>		<b>(563 227)</b>	<b>(113 221)</b>
<b>Net decrease in cash held</b>		<b>460 596</b>	<b>(175 755)</b>
Cash at beginning of reporting period		<b>789 122</b>	<b>613 367</b>
<hr/> <b>Cash at end of reporting period</b> <hr/>		<hr/> <b>328 526</b> <hr/>	<hr/> <b>789 122</b> <hr/>

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

**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 1995**

**1. Summary of material accounting policies**

**(a) Basis of accounting**

The financial statements have been prepared on an accrual basis and adopt the historical cost convention. They have been prepared in accordance with the *Guidelines for Financial Statements of Commonwealth Authorities* issued by the Minister for Finance. The accounting practices adopted by the ABA are consistent with Australian Accounting Standards and Statements of Accounting Concepts.

**(b) Non-current assets**

Property, plant and equipment are shown at cost less accumulated depreciation. Items purchased for less than \$2000 are expensed in the year of procurement.

**(c) Depreciation and amortisation**

Assets are depreciated using a straight line method over the estimated useful life of the asset.

Gains and losses upon disposal of assets arising in the ordinary course of business are taken into account in determining the operating result for the period.

Leasehold improvements are capitalised and amortised over the unexpired period of the lease.

Non-current assets purchased during the period have been depreciated from the date of purchase.

**(d) Leases**

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

**(e) Provision for employee benefits**

Provision is made for the ABA's estimated liability for long service leave entitlements of its members and employees. The liability for long service leave represents the present value of estimated future cash flows to be made by the ABA in respect of services provided by employees up to the balance date.

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.

Provision is made for the ABA's estimated liability for the recreation and leave bonus entitlements of its members and employees. The provision has been calculated in accordance with the conditions laid out in Public Service Board Determination 10 of 1983 for Public Service Act staff and Remuneration Tribunal Determination 20 of 1991 for members of the ABA.

ABA employees are entitled to non-vesting sick leave which accumulates with length of service but is payable upon valid claims. No provision has been made for sick leave as, on a group basis, sick leave taken is less than total entitlements.

**(f) Trade debtors**

Bad debts are expensed as they become known. The ABA considers all debts to be recoverable and deems that provision for doubtful debts is not necessary.

**(g) Resources received free of charge**

During the year the ABA received services free of charge from the Department of Finance for salaries payments. The estimated value of these services is \$3150 (1993-94 \$3200).

These are included in the operating statement as both an operating expense and revenue from government.

**(h) Cash**

Cash comprises cash at bank and cash on hand.

**(i) Comparative figures**

Where necessary, comparative figures have been restated to conform with the current years presentation.

**(j) Rounding**

Figures have been rounded to the nearest dollar.

**2. Changes in accounting policy**

**(a) Employee benefits**

Employee benefits have been calculated in accordance with AAS 30 for the first time. The adoption of the standard has resulted in a change in the method of calculating the ABA's long service leave and sick leave liability.

**(b) Long service leave**

In the past the ABA calculated provision for long service leave in respect of employees with more than five years service. The ABA now calculates provision for long service leave for employees with more than three years service, in accordance with Australian Government Actuary recommendations.

**(c) Sick leave**

ABA employees are entitled to non-vesting sick leave which accumulates with length of service but is payable upon valid claims. As, on a group basis, sick leave taken is less than total entitlements, the adoption of AAS 30 has had no financial effect on the 1994-95 financial statements.

**3. Items of revenue**

The following were the major sources of revenue:

	<b>1994-95</b>	<b>1993-94</b>
Parliamentary appropriation:		
Appropriation Act No. 1	<b>11 019 000</b>	14 809 000
Running Cost Borrowings - Approp Act No. 1	-	470 000
Appropriation Act No. 3	<b>1 331 000</b>	13 000
<b>Total</b>	<b>\$12 350 000</b>	<b>\$15 292 000</b>

**4. Remuneration of executives**

The ABA had the following number of executives whose remuneration was in excess of \$100 000:

Band of income	Number of executives	
	1994-95	1993-94
\$100 000-\$109 999	2	3
\$110 000-\$119 999	1	-
\$130 000-\$139 000	1	-

**5. Remuneration of members**

(a) The ABA had the following number of members whose total remuneration was within the following bands:

Band of income	Number of members	
	1994-95	1993-94
\$120 000-\$129 999		1
\$140 000-\$149 999	1	1
\$160 000-\$169 000	1	-
\$170 000-\$179 000	1	-
\$210 000-\$219 999		1

(b) The following persons were members or associate members of the ABA during the 1994-95 reporting period:

B. Johns	Chairman	Appointed 5 October 1992, resigned 17 March 1995
P. Webb	Chairman	Appointed 19 April 1995 to 4 October 1997
	Deputy Chairman	Appointed 1 February 1993 to 18 April 1995
R. Scott	Deputy Chairman	Appointed 12 June 1995 for 5 years
T. O'Keefe	Member	Appointed 5 October 1992 for 5 years
K. Henderson	Member	Appointed 17 February 1995 for 5 years

**6. Administrative expenses**

These consist of the following major items:

	1994-95	1993-94
Consultancy fees	358 556	333 715
Fees and Services	59 923	305 334
Computer services	240 214	422 250
Travel	683 742	811 995
Office requisites	485 116	479 980
Postage, telephones etc.	289 321	219 320
Repairs & maintenance	468 494	299 715
Incidentals	1 049 608	807 366
Minor assets	36 701	299 388
<b>Total</b>	<b>\$3 671 675</b>	<b>\$3 979 063</b>

**7. Property plant & equipment**

Non-current assets consist of the following:

	Cost	Accumulated Depreciation	Net book value
<b>1994-95</b>			
Computer equipment	1 488 236	793 254	694 982
Software	291 016	83 959	207 057
Furniture and fittings	28 550	23 518	5 032
Office machines and equipment	184 889	91 149	93 740
Monitoring and allied equipment	219 624	177 700	41 924
Workshop equipment	450 187	201 270	248 917
<b>Total</b>	<b>\$2 662 502</b>	<b>\$1 370 850</b>	<b>\$1 291 652</b>

	Cost	Accumulated Depreciation	Net book value
<b>1993-94</b>			
Computer equipment	1 215 911	759 050	456 861
Software	170 908	39 929	130 979
Furniture and fittings	28 550	20 143	8 407
Office machines and equipment	156 789	62 226	94 563
Monitoring and allied equipment	207 161	120 742	86 419
Vehicles	19 199	9234	9965
Workshop equipment	468 064	100 135	367 929
<b>Total</b>	<b>\$2 266 582</b>	<b>\$1 111 459</b>	<b>\$1 155 123</b>

**8. Provisions**

Current	<b>1994-95</b>	1993-94
Provision for long service leave	122 011	108 020
Provision for recreation leave	861 852	770 266
<b>Total Current</b>	<b>\$983 863</b>	<b>\$878 286</b>

Non-current	<b>1994-95</b>	1993-94
Provision for long service leave	\$1 098 095	\$972 176

**9. Agreements Equally Proportionately Unperformed**

Operating lease liabilities:

	<b>1994-95</b>	1993-94
Not later than 1 year	1 460 051	1 812 246
Later than 1 year and not later than 2 years	1 515 552	1 762 498
Later than 2 years and not later than 5 years	4 641 824	4 378 012
Later than 5 years	5 330 873	5 223 242
<b>Total</b>	<b>\$12 948 300</b>	<b>\$13 175 998</b>

**10. Superannuation**

(a) ABA members and employees contribute to either the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme, which provide

pension, lump sum and other benefits. Under both schemes an employer component exists, for which liability is assumed by the government. The liability was \$964 672 (1993-94 \$917 535), which was based on a composite rate of 19.1%, less the 3% productivity benefit (refer note 10b), as advised by Department of Finance.

(b) Members and employees of the ABA 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 ABA and are paid to ComSuper which is liable for payment of the productivity benefit. The benefits averaged 3% of salary and amounted to \$140 277 for the period (1993-94 \$172 255).

#### **11. Auditors' remuneration**

External audit services were provided by the Australian National Audit Office. The audit fee for the 1994-95 financial statements is \$40 000 (1993-94 \$47 000). Payments totalling \$20 000 have been made as at 30 June 1995 relating to the 1994-95 audit. No amounts were paid or due to ANAO for other services provided to the ABA during the financial year.

#### **12. Statutory Revenue**

Revenue collected by the ABA under the Broadcasting Services Act is deposited in the Consolidated Revenue Fund on behalf of the Department of Communications and the Arts.

The ABA received \$133 804 738 (1993-94 \$129 479 584) in licence fees for the 1994-95 collection year, which is comprised of \$124 746 425 (1993-94 \$121 195 403) in television licence fees and \$9 058 313 (1993-94 \$8 284 181) in radio licence fees.

The ABA allowed aggregation rebates of \$19 982 893 (1993-94 \$16 397 350) to licencees under the Television Licence Fees Regulations.

#### **13. Insurance**

The ABA carries Public Liability Insurance and Industrial Risk Insurance for its Sydney and Canberra offices.

#### **14. Lease Incentive**

The ABA received \$300 000 (1993-94 \$658 000) in cash payments as part of a lease incentive from its property lessor. This amount was fully expended during the financial year.

#### **15. Economic dependency**

The normal activities of the ABA are dependent upon the appropriation of monies by Parliament.

#### **16. Segmental reporting**

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

**17. Cash flow information**

	<b>1994-95</b>	<b>1993-94</b>
Operating result (Deficit)	(1 140 304)	1 189 610
Decrease in receivables	45 372	(26 810)
Decrease in prepayments	84 590	(138 494)
Decrease in accrued interest	2 531	( 4 527)
Increase in creditors	189 510	(178 314)
Decrease in lease commitments	-	(19 102)
Increase in employee entitlements	231 496	(761 456)
Increase on other current liabilities	74 253	(285 313)
Depreciation and amortisation	594 822	532 192
Loss on disposal of plant	37 887	274 440
Profit on disposal of assets	( 17 526)	( 65 993)
Profit on disposal of minor assets	-	(207 504)
Adjustment to assets	-	( 19 753)
<b>Net cash generated by operating activities</b>	<b>\$ 102 631</b>	<b>\$ 288 976</b>

For the purposes of the statement of cash flows, cash comprises cash at bank and cash on hand.

**18. Aggregate employee entitlement liability**

The aggregate employee entitlement liability is \$2 186 628, which comprises provisions plus accrued salaries and performance pay.

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