# CUT!

# PROTECTION
## OF
# AUSTRALIA'S FILM AND TELEVISION INDUSTRIES

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# PROTECTION OF AUSTRALIA'S FILM AND TELEVISION INDUSTRIES

Ross Jones

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## Foreword

The Australian film and television industry has received large subsidies over the last 20 years or so, directly by way of grants through bodies like the Australian Film Commission, and indirectly by way of tax concessions, devices intended to limit foreign competition and protect the employees of the industry, or expenditure on specialised education and training for the industry.

It has had some successes. There have been a few commercially successful films, and a greater number of successful television soap operas, like 'Neighbours'. The presence of Australia in the world film industry is a reality, with the showing of Australian films (most of all 'Crocodile Dundee') having done much to increase awareness of Australia. Series like 'Neighbours' have done the same by their appeal to mass television audiences. There are, therefore, many benefits which have accrued from the great expansion of the industry over the last two decades, both in terms of generating tourism income and in diplomatic recognition. These are difficult to quantify.

But it is important to attempt to quantify the costs, and ask ourselves whether in fact the large sums of money and resources involved have been well spent. Are we getting our money's worth? Why is the industry showing little evidence of commercial viability after so many years of subsidised growth and development? Is there the possibility of a viable unsubsidised export film and television industry? How much are Australian filmgoers and television viewers really prepared to pay for an indigenous production industry? Further, we have to ask for whose benefit the industry in fact exists. The system of excluding foreign actors operated by Actors Equity makes it clear that the union believes that the whole point of subsidising the industry is to provide employment for their members at wage rates determined by the irrational processes of Industrial Relations Commission awards. The prohibition on the import of television advertisements made overseas has a similar purpose. So also do Australian content provisions imposed on commercial television producers by the Australian Broadcasting Tribunal.

The only simply criterion of whether a system of subsidy operates to the benefit of consumers is to allow them to choose freely whether they wish to consume its products in free competition with alternatives. This freedom is limited by Australian content requirements and by import prohibition. Some of those in the film and television industry are now pressing for quota provisions to be imposed on cinematic exhibition as well as on television. There is evidence of a substantial demand for Australian product; but this is not enough for those who wish to have the industry run to their own benefit. There is also an argument that the industry must be subsidised in order to ensure that Australian history and culture are brought to Australians, that our culture cannot otherwise compete with the imported products of America. Here also is an issue of consumer choice; but there is an argument in favour of sponsoring some domestic production. How to do this instead of merely providing an expensive welfare system for mediocre producers, directors, actors and writers is a problem that is rarely addressed by the proponents of subsidies.

Ross Jones's book is now the best available treatment of these issues, providing factual backing in support of his main thesis, that even if subsidy were justified on non-economic grounds, it is not working to produce an industry that is potentially viable or delivering what consumers want. There is one simple conclusion which follows from his arguments: on economic and equity grounds, it is time to withdraw subsidies and protection for the whole industry. If it cannot stand on its own feet after 20 years, it is unlikely to be able to do so in the future. As happened in earlier periods of expansion of the Australian film industry, it is not British or American 'cultural imperialism' which is killing the industry, but the greed and mediocrity of those who insist that whatever is good in the industry should be overloaded by wage demands, overmanning, regulation, and skimming off of profits before they have even been earned in the market.

As someone who has a long-standing interest in the Australian film industry, and a passion for cinema, I wish Ross Jones's conclusions could have been otherwise. But as things stand, they are irrefutable.

**Padraic P. McGuinness**

# Preface and Acknowledgements

Over the past few years the federal government has put microeconomic reform and improved industry efficiency at the top of its economic agenda. Tariffs have been cut and subsidies decreased in many industries. Limited tax reform has been instigated to reduce distortions in resource allocation. Industries have been opened up to more competition.

The Australian film and television industries have been an exception to this deregulatory thrust. Indeed, the film industry continues to demand a variety of assistance measures. Over the past 20 years the industry has been assisted through tax concessions, direct grants, subsidies and restrictions on the employment of foreign personnel. It has lobbied the government for even greater assistance through a variety of quota arrangements at a time when other Australian industries have been forced to accept reduced government assistance.

The television industry has been highly regulated since its earliest days, and regulation increased during the 1980s. The Australian Broadcasting Tribunal and the regulatory bodies that preceded it have imposed a set of discriminatory rules on commercial television stations. A wide range of local content regulations has been introduced that requires the commercial stations to provide specific forms of programming.

The official purpose of government intervention in film and television has been to encourage the growth of a domestic production industry and to provide employment opportunities for performers and technicians. Special interest groups have been effective in lobbying for assistance by making appeals for the preservation of local culture. Unions, especially Actors Equity, have gained a considerable degree of influence over the operation of the protection measures, while the taxpayer has been forced to pay the direct cost of the assistance as well as the less visible, indirect costs of reduced program choice.

This monograph examines the case for government assistance to the film and television industries. Such assistance has been only rarely subjected to critical analysis. Chapter 1 examines the nature of the film industry and the methods of protection and assistance governments have provided for it. In Chapter 2 the methods of assistance to the local television production industry are considered. The arguments for and against protecting the local industry are evaluated in Chapter 3. Chapter 4 examines the consequences of the system of protection that has evolved. The concluding chapter considers alternatives to the current approach.

Finally, I would like to thank the anonymous referees of the first draft of this study for their valuable comments and insights into a number of issues. Thanks are due also to Betty Pursehouse and Basia Dziedzic for wordprocessing assistance and to Andrew Davies for helping prepare the manuscript for publication.

## About the Author

**Ross Jones** is a Senior Lecturer in Economics at the University of Technology, Sydney. He has worked in industry and in government. His research interests include the economic and regulatory aspects of the media and government assistance to industry. His consulting interests currently include work on waterfront performance measures. He is a co-author of a widely used text in microeconomic policy.

# Chapter 1

# The Structure and Financing of Film Distribution and Exhibition in Australia

The Australian film industry, like its overseas counterparts, consists essentially of three separate industries: film production, film distribution, and film exhibition. These three segments correspond roughly to manufacturing, wholesaling, and retailing in most production processes. For many years the independent film producers (the 'manufacturers') have argued that the structural characteristics of the distribution and exhibition industries have led the industry to perform inadequately. More specifically, the producers have argued that the highly concentrated nature of film distribution and exhibition in Australia has prevented the establishment of a viable local production industry, and that some form of government assistance to local film producers is necessary to improve the efficiency of the industry.

## Film Exhibition

The film exhibition industry in Australia is dominated by three organisations: the Hoyts Corporation (Hoyts), Village Roadshow Corporation (Village) and Amalgamated Holdings, the parent company of the Greater Union Group (Greater Union). Greater Union also has a one third shareholding in Village. While the three companies control less than 50 per cent of the more than 700 screens in Australia, they control most of the cinemas in the major cities and suburbs and earn more than 80 per cent of the total box-office revenue. All three companies are currently involved in major expansion programs, and their combined share of the market will probably increase in the next few years.

## Film Distribution

Film distributors play a number of very important and diverse roles. Their simplest role is to purchase rights to distribute films to cinemas in a given territory, usually a specific country. In most cases the distributor ensures that a print of a film gets to a cinema at the correct time.

The major distributors operating in Australia play a much greater role. Many distributors supply some or all of the finance for a film's production and are involved in many of the creative decisions relating to cast, director, writer, and so on at the beginning of production. These distributors tend to take on the responsibility for the financial management of the production and exercise control over the marketing and distribution of the final product.

The distribution section has undergone considerable consolidation through merger activity in the past 20 years. In Australia there are now three major distribution groupings. Paramount, Universal and MGM-UA jointly operate the distributor United International Pictures (UIP). Fox, Columbia, Tri-star and Hoyts operate another, while Warner Bros, Orion, Disney, Roadshow and Greater Union are linked in the third. The major American film companies earn more than 80 per cent of the Australian cinema box office gross. Foreign independent films imported by Australian distributors and Australian films not distributed by the major US companies make up most of the remainder of the market.

## Exhibitor-Distributor Relationships

It has been argued (see for example, Tariff Board, 1973) that links between exhibitors and distributors have led to a reluctance by the major firms in the industry to distribute and exhibit Australian films. Australian distributors typically have long-term arrangements with particular exhibitors whereby the latter have first rights to the output of the former. The current linkages are shown in Table 1.1.

**Table 1.1**
**Exhibitor-distributor links**

| Distribution company | Exhibitor |
|---|---|
| UIP [1] | Greater Union |
| Fox-Columbia | Hoyts |
| Roadshow Greater Union [2] | Greater Union / Village |
| Hoyts | Hoyts |

[1] Paramount, Universal and MGM films tend to be exhibited by Greater Union while United Artists output goes to Hoyts reflecting arrangements prior to creation of UIP.

[2] Warner Brothers and Orion output tends to be exhibited by Village while Disney / Touchstone output tends to be exhibited by Greater Union.

While these traditional relationships are long standing, they are less rigid than in the past. Suburban multi-cinema complexes have expanded in recent years, and their need for product has prompted them to take product from all distributors. Even in the city cinemas these linkages are more flexible than previously. Roadshow Greater Union Distributors in particular have used Hoyts theatres for their product as well as their more usual Village and Greater Union partners.

The links between distributors and exhibitors tend to create an industry with the characteristics of a vertically-integrated structure. That is to say, the outcome is either common ownership between distribution and exhibition (e.g. Roadshow Distribution and Village Theatres) or long-term contractual or customary relationships (e.g. Fox-Columbia and Hoyts). These links between the major distributors and exhibitors have long been a source of concern to local film producers.

## The Heavy Hand of Regulation

The distribution-exhibition relationships in Australia have long been criticised. The major complaint is that the high level of market concentration in both distribution and exhibition and the relationships between the two sectors of the film industry have an adverse effect on the distribution and exhibition of Australian films. While the precise nature of this 'adverse effect' is rarely explained, it is claimed that the industry does not function efficiently.

The 1973 Tariff Board Inquiry and the 1984 Report of the Commission of Inquiry into the Distribution and Exhibition of Australia Films in New South Wales both argued that the failure of the foreign-owned distributors to acquire Australian films for distribution locally and overseas indicated that these markets failed to function properly. Once the conviction of market failure was established, it was then a short step to a variety of recommendations that would lead to greater government regulation in the industry.

**The 1973 Tariff Board Report**. The Tariff Board Report argued that the foreign-owned distributors were unwilling to acquire Australian films for distribution. Since Australian films would be competing for cinema exhibition time with the product of their parents, distributing local films could reduce the returns to their parent companies. Yet the major American distributors produce less than half the films they distribute. They acquire distribution rights to any independently-produced films that they think have commercial potential. The claim that the major distributors are concerned only with films they produce themselves is incorrect.

It was further argued that local distributors and exhibitors had little incentive to acquire local films for distribution. Foreign films are generally released in Australia some months after being released in their home countries. Distributors and exhibitors therefore have some indication of the potential appeal of such films, and many of the imported films come with a ready-made advertising campaign. In contrast, new Australian films will have no track record to indicate their likely revenue and might need an expensive local advertising campaign. Consequently, the report argued that there might be a bias towards the imported product.

The Tariff Board Report concluded that the market structure of distribution and exhibition in Australia was a major cause of the failure of Australian films to gain distribution and exhibition. It made some radical recommendations. The first main recommendation was that the government should break up all the links between distribution and exhibition, and also break up the major cinema chains, Hoyts, Village and Greater Union. It was claimed that the high level of concentration in exhibition reduced competition in the acquisition of films and that access by Australian producers to local screens would increase with the break-up of the major exhibition companies.

The second major recommendation was that government should establish and fund a distributor, the Film Distribution Branch (FDB), as part of the new government authority, the Australian Film Authority. It was proposed that the FDB be given wide powers to negotiate with the exhibitors on behalf of Australian producers. If terms favourable to the Australian producers could not be obtained, the FDB should gain access to American films and offer packages to exhibitors containing the desirable American and less desirable Australian films, thereby making access to American films conditional on taking Australian films. In the extreme, the Australian Film Authority would be empowered to control the import of all foreign films.

Most of the Tariff Board's recommendations for greater government intervention in the industry were rejected. The low profitability of the exhibition sector of the industry indicated that no new companies were interested in entering the industry even should the three major exhibitors be forced to divest. The American distributors lobbied heavily against proposed compulsory acquisition of their product by the government and threatened to abandon the Australian market if such action was taken. Opposition to the proposals from the industry and the federal Opposition, and the reservations of the Minister, Senator McClelland, regarding the need for and benefits of such a radical move, led to the shelving of the proposals of the Tariff Board.

**The 1984 New South Wales Report.** The NSW Inquiry in 1984 examined many of the same issues as the Tariff Board had a decade before. The role of the foreign distributors was again considered. The Report stated that 'The role of these distributors in the market place, in so far as Australian product is concerned, should become more positive because of the considerable indirect influence which those distributors exert' (Commission of Inquiry into the Distribution and Exhibition of Australian Films in New South Wales, 1984:16). The Inquiry then proceeded to recommend measures to encourage distributors to handle Australian-produced films. It proposed that a 10 per cent tax be levied on a distributor's gross revenue, with a tax concession of 5 per cent for each Australian film distributed in any one year, up to maximum of 10 per cent (so if a distributor handled two Australian films annually it would not pay the tax). The revenue collected under this arrangement would be placed into a fund to cover the marketing of Australian films. Two other conditions were to be met before the tax concessions could be claimed: the distributor would have to return 10 per cent of the revenue received from the exhibitors to the producers, and spend at least $75 000 on advertising and promoting each Australian film distributed.

The Inquiry also recommended the introduction of a quota system in film distribution, whereby one or more Australian short films would be exhibited with every non-Australian feature film. Such films would be shorter than one hour but would not include promotional documentaries, travelogues or similar material.

The controversial recommendations of this Inquiry, which would have forced foreign distributors in Australia to subsidise the distribution of Australian-made films, were not accepted by the NSW State government.

### Film Production in Australia

From the closure of Cinesound in the early days of World War II until the late 1960s, the Australian film production industry was almost lifeless. The few productions made in Australia during that time were generally financed and produced by foreign concerns, featuring foreign talent and using Australian locations for purposes of the plot only (e.g. 'The Sundowners' and 'On the Beach'). But in the following two decades the Australian film industry grew rapidly. Government support was the major instrument of this growth and private sector financing continues to be conditional on government assistance.

The revival of the film production industry began in the late 1960s. In 1964 an inquiry was held to explore ways of encouraging greater local content on television. Though not specifically concerned with the film industry, the inquiry (undertaken by the Vincent Committee) made recommendations to help Australian film production. Unlike previous proposals that emphasised quotas, the Vincent Committee recommended the provision of tax concessions on film investment and film profits, as well as direct government financial assistance.

The recommendations of the Vincent Committee were not acted upon by the Menzies Government. But they encouraged the development of various lobby groups within the industry. In 1968 the Australian Film Council was established to lobby the government for film assistance. Its membership included Actors Equity, the Australian Writers Guild, the Institute of Motion Picture Technicians, the ABC Staff Association, the Producers' and Directors' Guild of Australia, and a number of other interested parties.

**The Australian Film Development Corporation.** The first major direct government assistance to the industry was established by the Gorton Government in the late 1960s, in the form of the Australian Film Development Corporation (AFDC). Its responsibility was 'to encourage the making of Australian films and to encourage the distribution of Australian films both within and outside Australia' (Australian Film Development Act 1970, s. 20(1)).

The AFDC began with a fund of $1 million and its first investment was $250 000 for 'The Adventures of Barry McKenzie'. It was planned that the AFDC would encourage the production of films with considerable box office potential so that eventually government funding could be phased out: profits from previous investments in films would ultimately make the AFDC self-financing.

The AFDC's policies were strongly criticised by the Tariff Board's 1973 inquiry, and its policy of investing only in those films which had strong commercial prospects was attacked by certain groups. In response, the AFDC claimed that a commercially-oriented strategy was appropriate in view of its obligation to achieve financial independence.

Dermody and Jacka (1987) have documented other criticisms of the AFDC. As members of the board of the AFDC were debarred from any pecuniary interest in film production, distribution or exhibition, members tended to have little commercial knowledge of the industry. The background of most of the members was in finance and management. Furthermore, the interest rate charged by the AFDC was higher at 9 per cent than the then commercial rate and loans had to be repaid within two years.

During the five years from 1970/71 to 1974/75 the AFDC received $4.6 million from the Australian government. Within the five years of its operation the AFDC earned $596 000 from investments and loans, which represented about 13 per cent of its invested funds. However, it is probable that some of its investments made near the end of its life would have returned income to its successor, the Australian Film Commission. Two of its more successful investments, 'Picnic at Hanging Rock' and 'Caddie', for example, would both contribute income in later time periods.

During its period of operation the AFDC was probably the most important source of finance for the industry. More than 50 per cent of total film expenditure in 1972-74 was provided by the AFDC.

**The Australian Film Commission.** In 1975 the Australian Film Commission (AFC) was established, replacing the AFDC. The AFC has a broader range of activities than the AFDC, but its basic responsibility is to encourage the making, promotion, distribution and broadcasting of Australian programs (for both cinema and television). It provides direct financial assistance in three ways:

- direct investment in film and television programs;
- loans to producers where there is some certainty of a return (for example, pre-sale to a TV network); and
- completion guarantees.

The AFC also provides funds for script development through direct grants and investment finance, and gives direct grants for special activities like production and distribution of 'specialised' film, film cooperatives, theatre exhibition, publications, lectures and seminars.

Emphasis is placed on overseas sales of output. The AFC subsidises overseas marketing through representatives in the UK and the US and sends representatives to major film buyers' markets.

Film commissions were also established in all six States between 1972 and 1978 to assist the development of the industry in their particular States.

**Private sources of finance.** As the amount of government assistance to the industry increased, private funding lagged behind. Typically, local producers started their projects with investment from the AFC and/or one of the State film commissions. The second step was to obtain cash from a local film distributor and also from one of the television networks (usually commercial). Both of these groups would then share the profits with the producer. The final step was to raise funds from private sources, generally involving a large number of small investors. Doctors, lawyers, dentists and other relatively wealthy individuals would be targeted by the producers. Such speculative funds were often difficult to obtain, especially as they could be written off only over 25 years.

Film finance is taxed as either revenue or capital. If it is revenue, Section 51 of the Income Tax Assessment Act applies. The major industry participants such as producers, distributors and exhibitors are usually liable to Section 51. Expenditure under Section 51 attracts a 100 per cent deduction in the year of expenditure. This applies mainly to expenses involved in distribution, promotion and prints.

Private investors who provide finance for a film production and acquire ownership in the copyright of the film are regarded as having made a capital outlay. Initially, investors could write off their investments only over the life of the capital asset, deemed to be 25 years. In 1978, however, the Fraser Government, in an attempt to attract private investment into the film industry, announced that private sector investment could be written off after two years, starting in the first year of income received from the film. In the 1979/80 financial year 16 feature films were produced, equal to the output of the peak year 1975/76, when the AFC was first established.

However, not one of the productions in the period 1969-80 was made without federal and/or State government assistance. Furthermore, in the period 1977-80 all of the films given assistance had been in project form at the time the AFC was formed. That is to say, very little was generated in the way of creative development, and AFC financial assistance was given almost wholly to projects that had been modified or revised to qualify for financial assistance.

Private financial assistance was still scarce. Local distributors, especially Roadshow and Greater Union, and (to a lesser extent) Hoyts provided some assistance, but there was still a considerable need for private funding.

**The overall pattern of investment.** Table 1.2 shows the sources of finance for films 1969/70 - 1979/80.

**Table 1.2**
**Sources of film finance 1969/70 - 1979/80**
**(percentage of total annual finance)**

| Year | Total government | Total industry | Total private |
|---|---|---|---|
| 1969/70 | 52 | — | 48 |
| 1970/71 | 22 | 28 | 50 |
| 1971/72 | 58 | 2 | 40 |
| 1972/73 | 27 | 8 | 65 |
| 1973/74 | 50 | 4 | 46 |
| 1974/75 | 40 | 46 | 14 |
| 1975/76 | 53 | 29 | 18 |
| 1976/77 | 57 | 30 | 13 |
| Average 1969/77 | 49 | 25 | 26 |
| 1977/78 | 64 | 11 | 25 |
| 1978/79 | 61 | 16 | 23 |
| 1979/80 | 54 | 16 | 30 |
| Average 1977/80 | 59 | 14 | 27 |
| Average 1969/70 to 1979/80 | 54 | 19 | 27 |

*Source:* AFC Interim Report on the Australian Film Industry, 1982

Table 1.2 displays a number of important features. First, over the entire period 1969/70 - 1979/80 government funding provided on average more than half of the total film finance. Government funding included production loans, direct equity investment and completion loans. Government investors generally deferred the recoupment of their investment until private investors had recouped their investment. Any profits were shared according to agreed formulae. This deferral was necessary to encourage the limited private investment.

Second, industry investment was highly volatile. 'Industry investment' refers to investment by film distributors and exhibitors, both in Australia and overseas, film production companies owned by groups within the industry (e.g. Hexagon Films, a production subsidiary of Village Roadshow), television companies and their associated companies, and video and ancillary companies. Such investment would include equity investment, television pre-sales and distribution advances. Industry investment appears to be related to the relative success of previous investment. For example, in the five years to 1978 Greater Union invested in eleven of the 49 films produced, almost one third of the non-government film investment of the period.

Third, private investment (i.e. non-government investment other than industry investment) was significant in the early 1970s but declined during the decade. It rose quickly after the introduction of the two-year tax write-off in 1978. It would appear that private investment from outside the industry was considerably influenced by the introduction of tax concessions.

Most of the private investment went into features that also had government funding. In most cases private investment was supplementary to government investment.

Film budgets increased with the annual number of feature films during the period. Private sector investment did not expand as rapidly as the film budgets, and government investment increased in relative terms until the tax changes were introduced. The AFC noted that 'the main result of the tax incentives was to enable private investment to keep up with the Government led pace of the industry and to top up Government and industry investment' (Collins & Oliver, 1982:21).

In August 1980 the Treasurer, Mr John Howard, announced changes to the tax incentives to prevent a procedure known as 'gearing up' from gaining tax deductions. Under this procedure (as described in Dermody & Jacka, 1987) gearing involved a tax exempt organisation such as a State film corporation lending funds to a film investor. The investor then added this money to his own investment in the film and claimed a deduction for the whole amount. A common gearing was 3:1 by the tax exempt authority. If the film made no money the investor paid nothing back to the lender. If the film made some money, the tax exempt lender (e.g. the State film corporation) was repaid its loan only after the private investor had recovered his investment.

## Film Production Since 1980

It would seem that the initial tax concessions were ineffective in generating the desired private investment. When these leverage schemes were declared unacceptable there was a significant downturn in private investment, and in the first quarter of the 1980/81 financial year production started on only one film.

At the same time lobbying increased for more generous tax concessions. In 1980 Prime Minister Malcolm Fraser promised in his election policy speech a 150 per cent tax write-off over one year for investment in Australian films. He also promised tax exemption of up to 50 per cent of the original investment. Specific areas of investment (especially feature films and television mini-series dramas) would be eligible for tax concessions. Such programs would have to qualify as 'Australian' as defined by a set of regulations.

The purpose of the tax concessions was to reduce the need for direct government assistance by encouraging private capital into long-term continuing film production. It was hoped that new private sector ancillary services would develop to provide a complete Australian film-making infrastructure.

The actual legislation, known as the 10BA provisions in reference to the amendments to Section 10B of the Tax Act) differed slightly from the election announcement by stipulating that the 150 per cent write-off would occur in the year in which the film was marketed rather than the year in which the expenditure occurred. As a result of this change there emerged the so-called 'twelve month rule'. Because investors wanted their tax concessions in the year of the expenditure, producers were forced to ensure that production was completed before the end of the financial year. The availability of investment funds was also influenced by the tax system. An investor could commit funds near the end of a financial year; if the film was not made the investor had effectively deferred paying tax. The outcome was that private investment capital was available mainly near the end of the financial year; consequently, most film productions were compressed into a few months rather than being spread evenly over the year.

The impact of the tax changes was considerable. In the second half of 1980, production started on three films. Details of the tax incentive scheme were announced in late 1980, and in the first half of 1981 production started on 24 films.

In March 1983 the Hawke Labor Government was elected and in its first budget cut the tax concession from 150 per cent to 133 per cent and the tax shelter on profits from 50 per cent to 33 per cent. Yet no slump in film production occurred (see Table 1.3).

## Table 1.3
## Feature film production 1983/84 - 1988/89

| Fiscal year | Productions |
|---|---|
| 1983/84 | 21 |
| 1984/85 | 34 (3) |
| 1985/86 | 42 (3) |
| 1986/87 | 30 (5) |
| 1987/88 | 42 (17) |
| 1988/89 | 22 |

Numbers in parenthesis indicate non-10BA projects (i.e. those not eligible for tax concessions) and ABC in-house productions.

*Source*: AFC, Annual Report, 1988:29 and AFC Annual Report, 1989:14

In September 1986 the government reduced the tax concessions still further: write-offs on investments to 120 per cent and the tax shelter on profits to 20 per cent. As the changes had been announced some months earlier there was a rush of funds into the industry to gain the higher concessions. In the twelve months to June 1985 around $190 million was committed to new film projects. In the following three months a further $240 million was provisionally underwritten, indicating without doubt the importance of the concessions to the industry.

The decrease in the generosity of tax concessions from late 1986 led to a shift in emphasis from the 10BA-dominated tax concession productions to more direct private sector capital-raising. In the first quarter of 1987 Australian subsidiaries of two foreign film companies were floated: De Laurentis Entertainment Ltd and New World Pictures (Australia), capitalised at $55 million and $52.5 million respectively. In April 1987 Filmpac Holdings was established with a $70 million production fund and a number of other smaller production ventures were announced.

At the same time the usefulness of the tax concessions as a fund-raiser was further reduced by the decrease in the top rate of personal income tax from 55c to 49c. It was estimated that this change combined with the 10BA changes had increased the break-even point for the private investor. That is, given the previous tax concessions, a private investor would break even on his investment if a film returned 30 per cent of its cost. The personal and 10BA tax changes increased this to

80 per cent. The effect of this was that a pre-sale of the film became important in order to attract capital from private investors.

As budgets increased film producers turned increasingly to overseas markets to secure pre-sales. To guarantee such overseas sales, many producers turned to overseas talent, especially acting talent. It was argued that international 'stars' would ensure the pre-sales necessary to get the production under way. But this approach led to conflict with the various Australian craft and acting unions who thought their jobs were threatened (the consequences of this are discussed in Chapter 4).

In early 1988 the Hawke Government announced the replacement of the 10BA tax concessions. The Treasury had long objected to the scheme because of its cost to Australian taxpayers, estimated to be $560 million between 1983 and 1988.

In 1987 the AFC published a report that examined the relative efficiency of film assistance measures. The report recommended abolition of the 10BA tax concessions. In May 1988 Treasurer Paul Keating announced further revision of the 10BA tax scheme to eliminate all exemptions on film revenues and reduce the deduction from 120 to 100 per cent.

The 10BA tax concession plan was a great success as a scheme for attracting private capital into the film industry. Table 1.4 shows the value of productions financed under 10BA.

**Table 1.4**
**10BA Production 1980/81 - 1987/88 ($ millions)**

| | 80/81 | 81/82 | 82/83 | 83/84 | 84/85 | 85/86 | 86/87 | 87/88 |
|---|---|---|---|---|---|---|---|---|
| Features | 57.8 | 17.7 | 73.3 | 76.0 | 67.4 | 105.6 | 77.9 | 28.2 (27.5)[1] |
| Telemovies | 0.8 | 4.1 | 5.5 | 13.0 | 15.8 | 14.3 | 8.7 | 26.1 (22.1)[1] |
| Mini-Series | 1.3 | 13.2 | 21.3 | 41.5 | 84.4 | 19.5 | 55.2 | 4.2 (2.5)[1] |
| Documentaries | 0.3 | 2.1 | 9.1 | 15.0 | 18.1 | 19.6 | 37.9 | 25.0 |
| Total Production | 60.3 | 37.0 | 109.2 | 145.5 | 185.8 | 159.0 | 179.7 | 83.5 (52.1)[1] |

[1] Projects funded in 1987/88 - production carried over into 1988/89.

*Source:* AFC, 1988:50

The increase in output was considerable. Between 1980/81 and 1987/88, 247 features, 138 telemovies and 127 mini-series were produced. Overall production grew from a base of 50-100 hours per annum to more than 250 hours per annum, divided roughly equally between film and television. The rapid increase in production and the consequent increase in private investment was far in excess of the government's expectations when the scheme began. A preliminary estimate had suggested that the cost in terms of tax revenue forgone in the first year would be around $2 million. By 1982/83 the cost was $60 million. In 1983/84 it had climbed to $100 million. The government reduced the tax concessions in August 1983 but the cost to the government continued to increase, peaking at $155 million in 1984/85.

Table 1.5 shows the tax concessions and their effects.

**Table 1.5**
**The investment equation**

| 10BA Concession | Marginal tax rate % | Amount at risk (as % of amount invested) | Break-even point (as % of amount invested) |
|---|---|---|---|
| 150/50 (From October 1980) | 60 | 10 | 10 |
| 133/33 (From August 1983) | 60 | 20.2 | 20.2 |
| 120/20 (From September 1985) | 60 | 28 | 40 |
| 120/20 (From July 1987) | 49 | 41.2 | 61.6 |

The Marginal Tax Rate column shows the top rate for individual investors (excluding the Medicare levy). The Amount at Risk column shows the proportion of an investor's outlay which is at risk after allowing for the initial tax write-off. The Break-even point column shows the level of pre-tax return required for the investor to break-even after tax.

*Source:* AFC, 1987:4

In its early years the 10BA legislation provided investors with an effective 90 per cent subsidy. Introduced at the time when the government was legislating against other tax schemes (for example the 'bottom of the harbour' schemes), the 10BA concessions were among the few remaining legal tax avoidance schemes, and very generous ones at that.

As the tax concessions decreased the investors became more exposed. Producers began to secure pre-sales of film rights. But as the concessions fell further in 1985, and marginal tax rates were decreased in 1987, pre-sale became essential. As it is difficult to secure domestic pre-sales of the margin necessary to attract investors, foreign pre-sales became increasingly important. Of course, reliance on foreign pre-sales generated other problems. In particular, foreigners who are guaranteeing a significant proportion of a film's production costs may want some control. This may involve consultation on the use of foreign actors to increase the market potential of the production overseas. As well as generating industrial conflict with local unions (see Chapter 4), critics have claimed that the 'Australianness' of these films, which are subsidised by the Australian taxpayer, will be decreased in an attempt to make them attractive to foreign audiences.

Film assistance programs also have direct costs. One part of the cost to the Australian taxpayer of the operation of the AFC can be represented to some extent by the appropriations given to the AFC from government revenue. This allocation has increased from $2.9 million in 1975/76 to $21.2 million in 1986/87. Table 1.6 shows the resources of the AFC 1978/79 - 1989/90.

**Table 1.6**
**Australian Film Commission:**
**Resources ($ millions) 1978/79 - 1988/89**

| Year | Appropriations | Revenues | Total |
|---|---|---|---|
| 1978-79 | 9.73 | 8.01 | 17.74 |
| 1979-80 | 10.84 | 4.38 | 15.22 |
| 1980-81 | 10.86 | 5.68 | 16.54 |
| 1981-82 | 10.72 | 6.64 | 17.36 |
| 1982-83 | 12.03 | 7.82 | 19.85 |
| 1983-84 | 18.80 | 8.50 | 27.30 |
| 1984-85 | 19.70 | 9.05 | 28.75 |
| 1985-86 | 20.20 | 10.87 | 31.07 |
| 1986-87 | 21.12 | 12.24 | 33.36 |
| 1987-88 | 20.67 | 15.22 | 35.89 |
| 1988-89 | 15.51 | 4.60 | 20.58 |
| 1989-90 | 16.10 | 3.52 | 19.62 |

*Source*: Australian Film Commission Annual Reports, various.

Although appropriations have decreased in recent years, in 1988/89 an additional $70 million was granted to assist film production through the Film Finance Corporation. In 1988/89 profit on fully recouped film investment fell substantially, contributing in part to the substantial fall in revenue.

The 10BA tax concessions were effectively stopped by the government in July 1988 when the tax regulations were once more revised. They now provide 100 per cent deduction for capital expenditure on qualifying Australian films but with no tax exemption for revenue.

The cost to the economy of these concessions has been considerable. Treasury estimates suggest a cost to revenue of more than $500 million over the life of the scheme. The AFC noted that the $155 million tax loss in 1984/85 represented about 9.7 per cent of tax expenditures related to industry assistance, and about 2 per cent of total tax expenditures.

In the period 1975/76 - 1987/88 a considerable proportion of direct government investment, loans, and distribution guarantees was written off by the Australian Film Commission. Table 1.7 shows the results.

**Table 1.7**
**AFC losses on investments and advancements**

| Year to June 30 | Allocation to producers $ millions | Write-offs (and losses) $ millions | Write-offs as % of allocation |
|---|---|---|---|
| 1976 | 4.08 | 0.59 | 14.4 |
| 1977 | 4.83 | 1.35 | 27.8 |
| 1978 | 4.65 | 0.09 | 1.9 |
| 1979 | 4.21 | 5.55 | 132.0 |
| 1980 | 4.38 | 2.44 | 55.7 |
| 1981 | 5.03 | 2.50 | 49.7 |
| 1982 | 4.25 | 3.71 | 87.3 |
| 1983 | 3.76 | 2.19 | 58.2 |
| 1984 | 5.71 | 2.36 | 41.1 |
| 1985 | 5.97 | 5.76 | 96.5 |
| 1986 | 9.10 | 6.36 | 69.9 |
| 1987 | 11.49 | 6.73 | 58.6 |
| 1988 | 12.28 | 6.86 | 55.8 |
| TOTAL | 79.74 | 46.49 | 58.0 average |

Allocation amounts include investments, loans and distribution guarantees. Write-offs in any particular year do not relate to allocations made in that year. Changes in accounting procedures for when the write-offs are made caused the substantial jump in the 1985 figures. Since 1985 write-off provisions have been made each year based on past experience. Previously they were made only after a film's release.

*Source*: *Encore*, 26 January 1989: 4

The table shows that 58 per cent of AFC investment has been written off. The high rate of write-off is partly the result of AFC investment procedures. The AFC often provides development funds for the establishment of a project but is less likely to take an investment or equity position in the actual production. So in those rare cases when a film receiving assistance is a big commercial success (e.g. 'Young Einstein') the return to the AFC is not as great as the return to later investors in the production.

Furthermore, the AFC is more likely to become involved in low-budget and often less commercial productions. Big budget television mini-series, for example, often the more profitable type of film/television investment, generally do not need AFC funds. Consequently the AFC tends to be locked into the riskier projects. This is not necessarily undesirable if its objective is to provide funding where the private sector is unwilling to do so, but it does make continued government funding inevitable.

**The Film Finance Corporation**

The major form of government assistance to the film industry in the future will come from the Australian Film Finance Corporation (FFC), established in July 1988. Its major function is to cooperate with the private sector in investment in film and television productions. The aim is to establish a continuing system of film investment in a manner similar to the major American studio system. An annual slate of film and television productions is partly funded by the FFC with the expectation that the returns from the successful productions will be re-invested in future years' production schedules.

Before it invests any money in a production the FFC requires the producer to obtain certification from the government that the proposed production is Australian. Each producer must obtain a provisional certificate as required by Division 10BA of the Tax Act from the Department of the Arts, Sport, the Environment, Tourism and Territories (DASETT). The certificate is awarded on the strength of a preponderence of Australian elements, as determined by DASETT. The project must generally have not less than 15 per cent private participation before FFC assistance can be given. During the Corporation's first year, the required average level of private sector participation was 30 per cent; in 1989/90 it was 35 per cent and in 1990/91 was due to increase to 40 per cent. These figures are averages, so individual projects can fall below these figures if others are above it.

To encourage private sector support, the FFC is able to give the private sector equity partners a preferred position on any returns to a project. The extent to which the FFC is prepared to accept this subordinate equity position is again decided on a case-by-case basis. Likely private sector participants would include film distributors, television networks, financial institutions, underwriters, and venture capital investors.

In establishing this new form of financing, the government anticipated that the FFC would have some direct control over the productions in which public money is invested. It is also hoped that in later years the annual appropriation can be reduced as returns are generated from earlier film investments. As the government has not guaranteed to maintain funding at present levels, future investment may depend on profits being made from investment in the first few years of the scheme. The FFC has been given around $270 million to invest over its first four years (*Variety*, 25 April, 1990:43).

To 30 June 1990, the FFC had committed $143.2 million to support a domestic film and television slate of $231.2 million and a further $15.3 million towards international co-productions. Private sector participation in film was 34 per cent and in television mini-series and movies 44 per cent.

The FFC intends that 50-55 per cent of its production should be feature films. Feature film investment is generally more risky than television production. However, the FFC is an investor and looks for a return on its investment. As funding for future productions will depend to some considerable extent on the box office success of the first production slate, there should be a greater commercial focus than in the past. Emphasis is likely to be given to investment in films with the greatest potential for sales overseas and to ancillary media such as video and television.

It seems probable that this greater commercial emphasis will generate conflict with various special interest groups within the industry. For example, fears have been expressed that in its determination to achieve international commercial success for its products, the FFC may make greater use of foreign actors and decrease the specific 'Australianness' of its features.

However, in recognition of the greater commercial emphasis of government funding through the FFC, the government has announced specific assistance to new film makers and innovative projects unable to meet the commercial orders of the FFC. The Special Production Fund (SPF) will be funded at an indicated $6 million level over the three years beginning 1988/89.

### The State Film Corporations

The film and television industries also receive direct support from the State film commissions and corporations. Between 1972 and 1978 all six States established organisations to provide assistance to the industry.

The South Australian Film Corporation (SAFC) was established in 1972, three years before the AFC. Its major objective was to encourage the production of film and television output within South Australia. In its early years the SAFC was directly involved in film development and production. In more recent years it has moved aside from direct production. The SAFC has its own film studios and tries to attract productions to South Australia by investing the value of these facilities in the budgets of the productions. Emphasis has also moved away from film and towards less risky television production.

The Victorian Film Commission (now called Film Victoria) was established in 1976 and founded its own production studio in 1980. Emphasis is placed on attracting productions to Victoria by assisting with production surveys and filming permits. Some limited funding of production (primarily for television) is provided but the major objective seems to be to generate employment for the various Victorian film and television crafts.

In the following twelve months, Tasmania, Queensland, New South Wales and Western Australia established film commissions. The Commissions established by Queensland, Tasmania and Western Australia played a very minor role in film and television investment. With limited resources provided by their respective governments their attempts to attract production to their States were not very successful. The Tasmanian Film Commission was sold to private interests in 1981 after investing in only two films. The Queensland Film Commission did very little before its demise in December 1977, when it was replaced by the Film Industry Development Office (FIDO). Part of the State Department of Tourism, National Parks, Wildlife and Sport, FIDO's main role is to facilitate negotiations with producers wishing to film in Queensland.

The major task of the New South Wales Film Corporation (NSWFC) was to assist in the financing and marketing of feature films. The NSWFC was known for its aggressive marketing of films overseas. It established representation in Los Angeles and a number of cities in Europe, as well as providing assistance for Australian film-makers at film festivals. In its role as film producer the NSWFC was executive producer of such films as 'My Brilliant Career' and 'Bliss', but by the mid-1980s it was shifting its emphasis away from identifiable Australian films towards popular entertainment.

In 1987 an inquiry was held into the finances of the NSWFC after the Auditor General noted in his 1986 Annual Report that the Commission had an accumulated deficiency of $6.8 million, and an operating deficiency of $1.79 million. The accuracy of these figures was questioned by the NSWFC, but there was considerable concern about its efficiency. In 1988 the Greiner Liberal Government abolished the NSWFC and replaced it with the New South Wales Film and Television Office (NSWFTO). The NSWFTO will no longer provide production investment in films but will continue to invest in script and project development. A budget of $2.5 million was provided, $1 million less than the budget of the defunct NSWFC.

## Film Quotas

Various attempts had been made to protect the local film production industry through a system of quotas. In 1935 a Film Quota Bill was passed by the NSW parliament. This required distributors to acquire Australian films for distribution. However, as insufficient films were being produced to enable distributors to meet the quota, and as the distributors were not required to produce films themselves to meet the quota, the regulations were not enforced.

In 1973 the Tariff Board Inquiry considered the option of introducing Australia-wide quotas but rejected them on the grounds that their effect would be uncertain and they would involve some considerable and unacceptable degree of government control.

Little was heard of the film quota issue until 1988, when the Shadow Minister for Arts, Liberal Senator Chris Puplick, announced his intention to enquire whether there was some need for government intervention to ensure better opportunities for Australian films, and to this end would review the findings of the 1973 Tariff Board Report. A quota system ensuring that a minimum number of Australian films was shown in Australian cinemas was suggested *(Encore,* 31 August 1988). This proposal has not yet become part of the Opposition's formal arts policy.

### The Industry Investors

Although at present very little film production takes place without subsidy, a variety of alternative investor-based schemes are emerging. However, given the failure of both 1987 industry floats (De Laurentis Entertainment Ltd and New World Pictures Australia) investors may be hesitant. One private scheme aims to raise $140 million over three years while a number of small production companies are attempting to raise finance for production schedules of between two and three films annually. All of these schemes are independent of government tax concessions and subsidies.

Of the industry majors, Hoyts has plans for some investment in a number of productions both in Australia and overseas. Roadshow Greater Union, who were major investors in Australian film production in the late 1970s and early 1980s, plan little investment in production but intend to acquire commercially viable, independently produced films for distribution.

The other major industry investors are the television networks and television production companies. These are examined in Chapter 2.

# Chapter 2

# The Structure and Regulation of the Australian Television Industry

The Australian television industry has grown rapidly since its inception a little more than 30 years ago. It is now on the verge of many major changes: aggregation in country markets giving the capital city networks access to a larger market; pay TV; cable TV; and a variety of satellite based programming. The demand for product to broadcast will increase substantially over the next decade, both in Australia and overseas.

Television provides audiences with a much wider range of program formats than does cinema. News, sport, current affairs, quiz and variety (interviews/music) programs and serials are formats generally unavailable at the cinema. Most of these formats tend to be parochial. It is in these areas that Australian program production has been particularly successful.

As television in Australia has grown, so has the demand for Australian programming. Although for many years American programs dominated Australia's television screens (as well as its cinema screens), for much of the past 20 years many of the most popular television programs have been Australian. The most popular television programs in Australia are no longer imported. Local production is demanded by viewers and television networks and opportunities for the employment of Australian talent have increased.

## The Commercial Television Industry

The television industry in Australia is divided into two parts: commercial and non-commercial. The commercial stations provide programming to viewers with the objective of making profits from 'selling' these viewers to advertisers who wish to promote their products to the viewers.

The non-commercial television stations tend to provide programming as a public service. In Australia they are funded by governments rather than by advertising revenue. In Australia the major publicly-funded television is provided by the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS).

Australia has 51 commercial television stations, 15 in the mainland capital cities and 36 regional stations. The five major metropolitan cities of Sydney, Melbourne, Brisbane, Adelaide and Perth each have three commercial stations. Most other population centres have access to one commercial television station.

The market structure is largely determined by the provisions of the Broadcasting and Television Act 1956 as amended and its licensing provisions. Entry into the market is licensed, and new licences are issued infrequently. Technical constraints imposed by the availability of spectrum frequency (at least on the UHF band) restrict licence availability. Financial constraints also play a part in restricting licences. The Australian Broadcasting Tribunal (ABT), which issues and renews licences under the Act, is required to take account of the financial viability of existing and new licences when considering applications for new licences. Historically, the ABT has been conservative in its estimations and consequently new licences are infrequently granted.

Until recently the Act imposed what was called the 'two station rule' whereby no person or corporation could effectively control more than two television stations. The purpose of the rule was to discourage high levels of concentration and market power and encourage diversified and regional ownership of television stations. The effect, however, was that large media groups which gained control of the Sydney and Melbourne television stations had access to 43 per cent of the Australian market, while no other group owning two stations could command such a market share. The entire industry was then dominated by the two-station Sydney-Melbourne networks.

The Sydney-Melbourne stations tended to commission television production contributing about 35 per cent of the cost each, with their Brisbane and Adelaide affiliates each contributing 15 per cent. Sales to Perth, Hobart and regional stations provided additional revenue but these stations rarely made contributions to production costs.

The Broadcasting (Ownership and Control) Act 1987 and the Broadcasting Amendment Act 1987 amended the ownership and control rules. The two-station rule was replaced by a '60 per cent of the Australian population' rule. The changed regulations led to a number of new owners entering the market, some of whom later resold their stations. Intense competition between the three commercial networks pushed up local and overseas program prices, which in part led to the severe financial problems faced by the networks by the end of the decade.

## Aggregation

As well as passing legislation that abolished the two-station rule, the government also passed legislation in 1987 to equalise television service. Under the equalisation legislation non-metropolitan viewers in Eastern Australia will have access to three commercial television stations in place of the one regional monopoly in each market that has existed since the 1960s.

The means by which this will occur is aggregation. Regional television stations will be able to broadcast their signal to two adjoining markets. For example, in southern New South Wales the Wollongong, Canberra and Wagga/Albury television stations have been able to broadcast into all three regions since 1989. Television viewers in these areas will then get access to three commercial channels.

It is expected that each regional station will be forced to align itself with one of the three commercial networks. The regional operators then have exclusive access to the programming of their network affiliates. The networks gain access to country areas and an expanded market. Advertising sales to national buyers will become easier and some of the wealthy regional monopoly stations may be forced to make a more significant contribution to the costs of network programming.

## The Public Television Services

Australia has two publicly-funded televisions services, the ABC and SBS. The ABC operates a television network throughout the country, principally funded by an appropriation from the federal government. ABC Enterprises, the ABC's merchandising division, provides less than 10 per cent of ABC funding, but its share is increasing.

The appropriation by the federal government has fallen in real terms (dollar amounts discounted for the inflation rate) for most of the past 15 years. For 1987/88 the ABC received $430 million, a $17 million dollar cut from the previous year (*Variety*, 20 April 1988:60). ABC TV receives less than 50 per cent of this budget. For the following three years the ABC received the same amount in real terms.

In 1980 a second publicly funded network, the multicultural SBS network, was established. SBS operates on a very limited budget. In 1987/88 its total budget was $53 million, indexed for three years, of which only $15 million is allocated to television programming and acquisition. SBS broadcasts mainly foreign-produced programs and attracts a fairly small proportion of the total viewing audience, generally less than 2 per cent (although SBS is disadvantaged by being on the UHF frequency band, which only about 60 per cent of viewers can receive).

## The Quota and Points Systems

Concern over the nature of programming on Australian television was expressed even before the industry was established. The 1954 Royal Commission on Television considered the issue of Australian content before deciding that any Australian content quotas should not be determined until the industry was operating. The Commission did judge that Australian television stations had an obligation to ensure that the best use was made of Australian talent.

In 1960 local content quotas were introduced in response to complaints about American domination. Harrison (1980) notes that lobbying for quotas came at this stage from an independent film and television producer, Hector Crawford, rather than from unions or associations in the industry. The quota was set at 40 per cent local content with special peak hour requirements. During the 1960s this quota was increased to 50 per cent. The special peak-hour requirements were made more specific, and an Australian drama quota and children's program quota were introduced. However, for much of the decade the various quotas were not met by television stations. Yet the regulatory agency, the Australian Broadcasting Control Board (ABCB), failed to take any significant action against the stations which did not comply.

By 1969/70 lobby group pressure was becoming more widespread and organised. The 'TV – Make it Australian' Committee, originally established by well known television actors to fight for residual fees to actors from repeat programs, quickly began to lobby for a higher Australian quota. By 1972 it was calling for increased Australian content in specific program categories, government assistance to production, and a system of increasing quotas.

In 1973 a points system was adopted for Australian television programming. This highly regulatory system provided television stations with a number of points for broadcasting different categories of Australian programming. Each station had to earn at least one point for every hour of transmission between 6 a.m. and midnight. Since overseas programs earned no points, stations had to show high point-scoring Australian programs in compensation.

The points system encouraged certain types of programs at the expense of others. For example, one-off dramas, quality variety, and arts and education programs received ten points, the maximum possible. In contrast, the direct telecast of a major sporting event earned only one point.

After six months the points system was altered to take account of an obvious problem. As it was very difficult to distinguish 'quality' variety from 'other' variety, this category was replaced by 'light entertainment'. However, this required an evaluation of every program within the category based on factors like program budget, artists and musicians employed, and rehearsal time. It involved considerable administrative inconvenience for the stations supplying the information and the ABCB.

In 1976 the points system was changed after consultation with the unions and the Federation of Australian Commercial Television Stations (FACTS). The ABCB stated that its intention was to increase the quality rather than the quantity of Australian programs. Under the revised system television stations had to broadcast 104 hours of first-run peak-time drama annually. Quotas for children's television programs were also increased. Again reflecting the bias towards certain types of programs, one hour of drama like 'The Young Doctors' was worth ten times as many points as a coverage of a VFL or Rugby League Grand Final.

Another amendment introduced the category of the 'special'. Each station was required to broadcast four specials annually. It was stipulated that these programs be of the highest quality and involve substantial employment of Australian actors, artists or musicians. They could be variety or one-off dramas. A further stipulation was that they must use higher than normal budgets.

Licence holders were also required to meet a certain quota of children's programming. This had to be broadcast in particular hours, generally 4 p.m. to 5 p.m. Monday to Friday. The so-called C-Classification also had a drama component, with the result that broadcasters had to meet children's drama quotas as well as the more general drama quotas.

These three quotas for drama, specials and children's programming reduced the flexibility of programming decisions at the commercial stations. Further restrictions were introduced when the ABT, the ABCB's regulatory successor, recommended that from 1977 Australian content be increased to 50 per cent during peak viewing hours.

Unions such as Actors Equity, and film producers through the Film

Production Association of Australia, had lobbied heavily for this 50 per cent quota. It was vigorously opposed by FACTS, which claimed that the industry could not afford it. Concern was also expressed at the increasingly authoritarian and paternalistic nature of ABT recommendations.

Whether the points system succeeded in meeting its objectives is open to debate. It is probable that the goals of increasing quantity and quality were incompatible. Table 2.1 shows that while the increase in local content in the years 1973-75 coincided with the introduction of the system, the increases were not maintained.

**Table 2.1**
**Australian content on metropolitan commercial stations 1971 - 78**

| Year | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 | 1977 | 1978 |
|---|---|---|---|---|---|---|---|---|
| Total hrs of Aust programs: | 2250 | 2200 | 2428 | 2436 | 2254 | 1903 | 1987 | 2122 |
| Percentage of total transmission time: | 38 | 40 | 44 | 44 | 43 | 36 | 38 | 39 |

*Source*: Harrison, 1980

It is doubtful whether the points system had much effect on Australian content. In 1978 the number of hours of Australian programming was in fact lower than in 1971.

### The Pattern of Consumer Demand

The points system seems not to have succeeded in increasing the broadcast of categories of program to which it applied. The shares of total transmission time of product categories like drama, variety, current affairs and so on fluctuated over the period. For example, Australian variety programs varied from as low as 1.4 per cent of total transmission time to 3.3 per cent. It would seem likely that another factor was important in determining the extent of Australian programming. That factor is demand.

Television stations make their profits by selling advertising time. The prices they charge vary with the number of viewers. Consequently, stations will broadcast those programs that attract the highest audiences. If Australian drama rates highly, then a points system is unnecessary to encourage television stations to broadcast drama. If Australian drama rates poorly, the points system forces stations to show programs that consumers don't want to see. As viewers cannot be forced to watch programs, this wasteful, authoritarian approach serves no purpose at all, except to generate employment for those working on these unpopular programs.

In recent years, however, Australian consumers have shown a preference for Australian television programs. Since the late 1970s American television programs have ceased to dominate television ratings. Table 2.2 shows the impact of Australian programs in the national top rating programs since 1982. It is clear that Australian programs dominate and that those stations that do not provide local programs will not attract audience support.

**Table 2.2**
**Australian programs' share of national top ten programs 1982 - 88**

| Year | Share (%) |
|---|---|
| 1982 | 60 |
| 1983 | 70 |
| 1984 | 70 |
| 1985 | 70 |
| 1986 | 70 |
| 1987 | 60 |
| 1988 | 90 |

*Source: Variety* (various issues) and Australian Film Commission, 1988

The demand for Australian drama has also increased. Ratings statistics indicate that Australians want to watch local drama. In the period 1981-87 Australian-made mini-series scored an average rating of 29 in Sydney, compared with an average of 19 for foreign mini-series over the same period. In 1984 four Australian mini-series were shown; in 1989, the number had grown to 22. Television stations will respond to demand. Quotas may be less efficient and perhaps unnecessary.

No doubt one of the reasons for the large increase in Australian mini-series production was the provision of tax concessions and subsidies. As was noted in Chapter 1, production may be affected now that the generous tax concessions have been discontinued. However, as long as ratings remain high for such programs, television stations will respond to the demand.

By 1986/87 all Australian commercial television channels exceeded their target points under the point system, and more than half of them exceeded the quota by at least 100 per cent. All stations met their drama quota of 104 hours and only one failed to meet the requirement of four specials (ABT,1987a:200-12).

## The Pursuit of 'Australianness'

After a three-year public enquiry, the ABT in 1989 announced new programming guidelines. These guidelines, The Standard Television Program Standard 14 (TPS 14), came into effect on 1 January 1990.

The new standard contains two separate requirements. The first is a transmission quota which requires that 50 per cent of transmission time between 6 a.m. and midnight be occupied by Australian programs by 1993. The quota was set at 35 per cent for 1990 increasing by 5 per cent each year over the following four years.

The second is a quota for first-release Australian drama, children's drama and certain 'diversity' programs. This quota is regulated through a points system. Each qualifying program is awarded a score which is calculated by multiplying an 'Australian factor' by a 'quality factor' by the duration of the program in hours.

The Australian factor is determined on the basis of the amount of Australian involvement in the creation of the program. The quality factor is influenced by purchase price and on notional costs and programming risks in the case of diversity programs.

The ABT has a Compliance and Information branch to administer these complex regulations. While TPS 14 introduces some slight flexibility into stations' programming decisions, the effect is still to encourage the production of particular types of programs, especially drama, which may be inconsistent with consumer demand for such programs.

If Australians resumed their preference for American programs, it would still be difficult to justify requiring television stations to broadcast Australian programs that consumers no longer demand. Quotas are an inefficient and currently irrelevant means of protecting the local industry.

## Source of Programming

Australian commercial television stations produce television programs and also purchase programs from independent suppliers. In the US most of the programs are made for the networks by the independent suppliers. In Australia many of the programs are produced in-house or as co-productions between networks and independent suppliers. Drama productions tend to be produced by independent suppliers like Crawford Productions ('The Flying Doctors'), Grundy's ('Neighbours'), JNP ('A Country Practice'), Kennedy-Miller (mini-series including 'Bodyline', 'Vietnam' and 'The Dismissal') and McElroy and McElroy ('Return to Eden', 'The Last Frontier'). Variety and current affairs productions are more often produced by the stations themselves.

Independent companies rapidly increased their output in the early 1980s when the 10BA tax concessions were introduced. Many independent film production companies found it easier to make distribution deals with local television networks than with the major motion picture distributors. Local network demands for mini-series productions gave the producers guaranteed sales.

As the quality of these programs improved many were sold overseas. This led to co-productions with overseas companies and by the late 1980s independent Australian production companies were major suppliers of programs to Australian television networks. Most important, they had regular production schedules and could begin to realise some of the economies that stem from continuity of production.

The commercial networks in Australia also have long-term relationships with the suppliers of foreign programs. The Ten Network entered an exclusive arrangement with MCA (parent of Universal Studios) that gives the network access to all Universal product. The network also signed a program agreement with Twentieth Century Fox. The Seven Network has an arrangement with the American NBC network and with program supplier Disney. The Nine Network has exclusive program rights to US product from Warner Brothers, Columbia and CBS.

The major American studios also have their television distribution subsidiaries operating in Australia. However, unlike their motion picture equivalents, the local television subsidiaries of the US majors are involved in the overseas sale and distribution of Australian television product. Paramount Pictures Television International Distribution, the world's leading distributor of Australian television programming, has sold Australian mini-series such as 'A Town Like Alice' to over 70 countries.

The local producers are also successfully selling programs overseas. Grundy's have sold 'Neighbours' to UK while Crawfords have sold 'The Flying Doctors' and other programs to a number of countries.

With the explosion in the variety of satellite, pay and cable TV overseas in recent years, the demand for first-run programming will increase enormously. Australian producers should be able to gain access to this expanding market with their relatively inexpensive (at least by US standards) programming.

**Australian Programs on the ABC and the SBS**

For many years the ABC tended to produce almost all of its own Australian programming. In the early 1970s it produced around 150 hours annually of Australian drama. But as its financial resources decreased as a result of budget cuts, its annual in-house drama production figure fell to around 60 hours by 1980. By the mid-1980s the ABC was producing most of its drama programs through co-productions with overseas companies. The ABC also increased the marketing of its productions overseas, selling many programs to the BBC and American cable TV stations.

The ABC has considerable production facilities, including sound stages, editing rooms, mixing studios, workshops, and production personnel including camera crews, wardrobe, designers, draftsmen, all at its permanent disposal. The ABC trades these facilities for access to scripts, actors, overseas locations: whatever the co-production needs.

By the late 1980s the ABC was programming around 100 hours of drama, about half of which involved co-productions with overseas partners. The ABC has been criticised for its limited use of independent local production companies as compared with the commercial networks. Actors Equity has claimed that the international co-productions invariably involve some use of foreign actors and technical personnel, which reduces job opportunities for Australians.

However, the ABC is the major buyer of Australian-made documentary programs. Independent producers of documentaries therefore find a ready buyer in the ABC.

SBS is not a major programmer of Australian-made television programming. Its major objective in the programming areas is to increase the level of multicultural production. This will involve the purchase of material from independent suppliers with some limited co-production between SBS and Australian and overseas producers. Independent documentary producers may find SBS a willing buyer for their products.

Locally-produced drama is not a high priority for SBS, but some limited drama co-productions between SBS and independent firms like Henry Crawford Productions have already taken place.

### Future Prospects

The recent amending Acts to the Broadcasting (Ownership and Control) Act have had a major effect on the structure of the television industry in Australia. Many metropolitan commercial stations have changed ownership at very high prices. The new owners' public statements appear to commit them to a greater degree of competition than in the past. Spending on Australian programs increased in 1987/88 and all three networks announced plans to increase their Australian content. However, cost-cutting measures by the networks in 1989 involving the termination of a number of Australian programs appeared to contradict such earlier statements.

The new ownership provisions have enabled multi-station networks to develop under common ownership. The relatively high cost of producing Australian drama can now be spread more equitably across network stations. The aggregation of regional markets in the Eastern States will facilitate this. In the past the regional stations, being monopolies in their local areas, could purchase product from three networks. This buyers' market enabled them to force down the prices that they paid for Australian television programs.

Once aggregation occurs the regional stations will find competition intense. As affiliates of one of the major networks it is to be expected that they will also pay their share of the costs of Australian programming. While Sydney and Melbourne stations in the past spent around 40 per cent of their total revenue on Australian productions, regional stations spent less than 25 per cent. Greater competition in non-metropolitan areas may increase demand for Australian programming.

Of course, it is possible that in smaller markets aggregation may increase competition among stations for limited regional advertising revenue to such an extent that local stations are unable to afford to produce local or regional programs. In this case local production may decrease and become increasingly concentrated in the major cities for national distribution.

The dominance of Australian programs in the top-rating television programs should provide increased incentives for local production. While the demise of the 10BA tax concessions may slow down the production of local mini-series, demand by foreign companies for programming to sell overseas is likely to strengthen. If Australian production companies can keep their costs lower than those of the US, market opportunities could increase.

It is likely that pay TV will be introduced into Australia in some form in the next few years. This will increase the demand for programming. Competition between existing television networks and the new pay TV operators is likely to increase the prices paid for programs. Local producers of film and television programs will be beneficiaries of such increased demand, while consumers will benefit from greater choice.

Given such likely developments in demand conditions it must be asked whether the high levels of regulation by the ABT on local content are necessary. Quota requirements that insist on certain levels of a particular type of programming (Australian drama, for example), bias broadcasting in a particular direction. Such a bias may not reflect demand. Ratings suggest that news and current affairs-type programming and special sports programming are the kinds that viewers most want to watch.

Attempts to force networks to broadcast particular types of programs invariably generate charges of paternalism or of pandering to vocal minorities who have something to gain from regulation of broadcasting. Demand for Australian drama by viewers is strong at the moment. In a competitive market such demands will be met without the need for regulation. If this demand changes networks should have the opportunity to change programming accordingly without having to seek the permission of a regulatory body.

The Australian television production industry will probably need to expand its exports. Network sales often do not cover production costs. This is common in the US, where exports make up the deficiency. Protection of the local industry through quotas is unlikely to encourage the industry to become outward-looking or to enhance its responsiveness to consumer demand.

## Production of Advertisements

The ABT also regulates the transmission of advertisements on television. Production of television commercials is worth around $200 million to the industry. All advertisements transmitted by a licensee must be produced in Australia or New Zealand. Minor exceptions to this regulation allow a proportion not exceeding 20 per cent of the soundtrack to be photographed and recorded outside Australia if this cannot be undertaken in Australia. Notwithstanding the previous regulation, if more than 20 per cent of material filmed overseas is to be included in an Australian-produced advertisement, an Australian production crew must be sent overseas to obtain the footage. If artists or models are to appear in the overseas-filmed segment, at least one of the artists or models must be an Australian resident who accompanies the crew for the purposes of the shoot.

When material is filmed overseas for an Australian advertisement, the industry practices 'ghostcrewing', i.e. using an Australian crew alongside a foreign crew when filming foreign footage. Similarly, if cartoon commercials are produced outside Australia, the cartoon must be redrawn frame by frame before being shown on Australian television. Minor exceptions may allow foreign footage in particular test marketing cases and in the use of archival footage.

Such regulations effectively act as a total embargo on the import of foreign commercials and provide almost total protection from foreign competition for the Australian advertisement and commercial making companies.

A related issue concerns the production in Australia of television commercials for the US market. In 1989 Actors Equity announced that its members should receive the same rates of pay as American actors under the US Screen Actors Guild regulations. The Screen Production Association of Australia has claimed that such payments increase local costs to such an extent that the overall cost advantage of producing in Australia is lost.

## Conclusion

Assistance to the local television production industry is primarily in the form of regulation. While tax concessions exist for producers of television mini-series, most television assistance takes the form of broadcast quotas placed on Australian commercial television stations. The nature of regulations encourages the production of local drama to meet the drama quota of two hours weekly.

The argument that Australian television should reflect an Australian way of life has been widely used as an argument for quotas. This is essentially a 'cultural protection' argument and is discussed in Chapter 3.

# Chapter 3

# Arguments for Intervention

Most arguments for government intervention are based on the concept of market failure. Market failure is said to occur when for some reason or other private sector markets do not function effectively in their task of producing and/or distributing goods and services and associated income. Government intervention in any of a variety of forms is then argued to be appropriate to eliminate or reduce this market failure and so improve the performance of the market. The form taken by such intervention depends on the nature and cause of the market failure. A common market failure argument for intervention is that the private sector does not produce a good or service in sufficient quantities, and government intervention through a subsidy is appropriate to ensure some socially optimal output.

Many such arguments for intervention in the film and television industries have been advanced. Most of them can be rejected on economic grounds. Others, particularly the 'national interest' arguments discussed later in this chapter, are less amenable to economic analysis and are probably better dealt with by sociologists. But even such emotive 'preservation of cultural heritage' arguments can and should be the subject of some economic analysis.

## The Imperfectly-Competitive Markets Argument and Film Distribution

The major feature of the argument from imperfectly competitive markets is that where a small number of firms dominate the market, they may deliberately restrict competition. Government intervention may therefore be necessary to increase competition.

The general issue is whether there is sufficient competition between distributors in Australia to ensure that local film production is treated fairly. In the absence of competition, it is possible that distributors may have sufficient market power to engage in anti-competitive practices that discriminate against local producers. But even if this were the case, it is difficult to understand why distributors would refuse to distribute Australian-made films if they thought that these films could earn profits. It seems highly improbable that distributors would collude to exclude local films from their release schedules and thereby reduce their profit opportunities.

**Assessing commercial potential.** The argument of local producers that the distributors may not have the skills to assess the commercial potential of Australian films also seems implausible. A distributor that lacked such skills would not long remain in business, regardless of the level of competition in the industry. While there may be differences of opinion between producers and distributors as to the likely profitability of a particular film, it does not seem likely that the valuation of a film's potential by all distributors would always be lower than the valuation by the local producers, unless, of course, one group had insufficient skills to assess the potential of the films' true commercial potential.

The foreign-owned distributors that operate in Australia are required to consider the potential appeal of films produced by their parent companies. For example, not all films produced by Twentieth Century Fox and Columbia in the US are distributed by Fox-Columbia in Australia. In 1987, almost one quarter of Fox and Columbia films distributed in the US were rejected for local distribution by their Australian subsidiary. Sometimes even successful films in the US are not distributed in Australia because local distributors doubt their potential. For example, 'Pee-Wee's Big Adventure' was a major US success in 1985 but gained no national release in Australia. It would seem therefore that local distributors do have the skills to determine the relative merits of local and foreign-made films.

**The criteria of workable competition.** There are a number of ways of assessing the competitiveness of the distribution and exhibition sectors in Australia. Since the standard textbook definitions of 'perfect competition' are inappropriate, it is customary to follow the Trade Practices Commission in using some measure of 'workable competition'. This concept involves value judgements but some practical criteria can be applied. There should be at least as many firms as are able to operate efficiently or at least cost. It should be reasonably easy for firms to enter and leave the market. Customers should be able to switch suppliers reasonably easily. Behavioural or performance criteria include the degree of efficiency, profitability and innovativeness that are achieved, the degree of competition between the firms themselves, and the extent to which consumer demands are satisfied.

**Entry barriers.** In a high-risk business such as film distribution, a certain minimum size is probably necessary so that the many losses from distribution can be balanced against the few successes. It seems that a major distributor in Australia would need a minimum of around

20 films annually to achieve efficiencies in distribution. The various mergers between the American majors in Australia in recent years is attributable to decreased output of their parent companies and the subsequent need for increased product from other sources.

Nevertheless, barriers to the entry of new distributors seem to be minor. Filmpac, CEL, Palace, Other Films, Valkyrie, New Vision, Vestron, Ronin and others have all entered the market in recent years. While not all have remained viable, a director of Valkyrie Film Distribution has stated: 'There is a lot more product available to independents than ever before particularly through mainstream distributors' (*Encore*, 18 August 1988). Of course, the ability of any new entrant to enter at a scale sufficient to compete with the US majors is limited. The film distribution market probably comprises two distinct sectors. The majors compete against one an other in the worldwide mass appeal market, while newer entrants, especially in Australia, are likely to compete in more specialised segments.

The skills and expertise necessary to know which films will succeed worldwide are probably limited and such scarcity may be an entry barrier. The relatively high risk of failure must also act as a deterrent to large scale entry. However, the growth of ancillary markets, especially home video, has reduced the risk of failure since it enables costs to be recouped from markets other than the primary theatrical market for films.

**Ability of customers to switch suppliers.** In recent years Hoyts' exhibition in particular has increased its range of suppliers. Lack of product from two of Hoyts' traditional suppliers, Columbia and United Artists, has forced it to find alternative sources of product. The fact that it has been able to do this without great difficulty suggests that there is sufficient competition at the distribution level.

**Distributors' market shares.** Concentration of distribution has long been high and mergers have probably increased it. The American major distributors dominate Australian box office gross. However, there have been substantial differences in market shares among the firms over recent years. While comprehensive Australian figures are not available, American market shares would be a reasonable indicator of the American distributors' share in Australia. As about 90 per cent of Australian box office revenue is typically derived from American films, such figures represent most of the Australian market.

Changes in market share tend to be an indicator of workable competition. Table 3.1 indicates that there are considerable fluctuations in market share rankings from year to year.

### Table 3.1
### North American film rental market shares ranking 1979 - 89

| Company | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Columbia | 5 | 4 | 4 | 5 | 3 | 3 | 4 | 4 | 8 | 9 | 5 |
| Fox | 6 | 2 | 4 | 2 | 1 | 4 | 3 | 6 | 5 | 3 | 6 |
| MGM / UA | 2 | 6 | 6 | 4 | 6 | 6 | 7 | 9 | 8 | 5 | 7 |
| Paramount | 2 | 2 | 2 | 2 | 3 | 1 | 4 | 1 | 1 | 2 | 4 |
| Universal | 2 | 1 | 3 | 1 | 5 | 5 | 2 | 4 | 6 | 6 | 2 |
| Warner Bros | 1 | 4 | 1 | 5 | 2 | 2 | 1 | 2 | 3 | 4 | 1 |
| Disney | 8 | 7 | 7 | 7 | 8 | 9 | 9 | 3 | 2 | 1 | 3 |
| Orion | 7 | 8 | 8 | 8 | 7 | 7 | 8 | 7 | 4 | 7 | 8 |
| Tri-Star | - | - | - | - | - | 7 | 4 | 7 | 7 | 8 | (a) |

(a) Merged with Columbia.

*Source: Variety*, various issues

These figures indicate a high degree of competition for market share between the different firms, no single firm dominating. There is no reason to believe that the Australian market shares would be significantly different. Although most of these companies operate in Australian marketing groups, rivalry is still intense.

Table 3.2 provides limited information on recent market share changes for the major Australian distributors.

### Table 3.2
### Distribution market shares

| | 1988 | 1989 [1] |
|---|---|---|
| Hoyts | 21 | 3 |
| UIP [2] | 20 | 39 |
| Fox | 6 | 6 |
| Columbia | 4 | 1 |
| Tri-Star | 1 | 1 |
| Warner Bros | 9 | 11 |
| Disney | 20 | 20 |
| Greater Union | 9 | 12 |
| Orion | 2 | 6 |
| Others | 8 | 1 |

[1] Six months to 3 June.

[2] UIP includes Paramount, Universal and MGM-UA.

*Source: Encore*, 17 August 1989

**Responsiveness to consumers.** The issue of the responsiveness of distributors to consumer demand many be fairly subjective. But it seems reasonable to suggest that distributors try to meet perceived demand. Competition for consumers' entertainment expenditure is intense. Substitutes exist, especially in the form of free television but also other forms of entertainment as varied as video games, sporting events and records and cassettes. Distributors unable to meet consumer tastes will quickly go out of business.

**Profitability.** As most of the film distributors in Australia are not public companies, information on profitability is difficult to obtain. But given the relative ease of entry for new distributors and the highly concentrated nature of film exhibition, it is unlikely that excessive profits are being earned. Film distribution is a high-risk business and many films do not recover their costs of distribution. Even fewer recover production costs, and it is commonplace for distributors to provide a proportion of these funds as well. So there is little reason to assume that substantial profits are being earned.

**Vertical integration.** The links between distributors and exhibitors have also been criticised as anti-competitive. However, such relationships could well be desirable. The tendency towards vertical integration between distribution and exhibition is worldwide, encouraged by the efficiencies to be gained therefrom.

Williamson (1971) argues that integration is sometime attributable to what he calls 'transactional failures'. In markets where protracted bargaining between independent parties to a transaction can be expected, it becomes attractive to internalise the bargaining cost. Whereas a typical production process is standardised, each film is a unique commodity. In the absence of vertical arrangements, negotiations tend to be undertaken for each film. A distribution-exhibition arrangement can thus avoid the repetitive and costly negotiations that would otherwise occur.

Distributors such as Roadshow Greater Union can reduce their transaction costs through their ownership links with Village and Greater Union Theatres. American distributors without ownership links with Australian cinemas also find it simpler to deal with the a single cinema group. For example, the long-standing links between Twentieth Century Fox and Hoyts guarantee Fox access to modern, conveniently-located cinemas across the country. The arrangement also gives Hoyts access to a regular flow of product, and facilitates planning the release and promotion of films.

## Foreign Film Distribution and Australian Production Opportunities

A rather different kind of argument is that the American distributors do not re-invest the profits made from local distribution in Australia film production. (The same criticism has been made about the Canadian industry; see Globerman, 1987.) The argument is that if Australian firms controlled distribution, then the profits would be re-invested in local production. But while it is true that the US majors have not invested much in Australian production, they do contribute to the Australian industry. They purchase film prints in Australia and spend large amounts on advertising with local media organisations.

It is more important, however, to ask whether greater Australian control of distribution really would encourage more investment in local production. Local distributors could possibly invest less if they gained control over the local distribution of American films. Greater access to successful American films may discourage local distributors from local production. If the local distributors could earn more from distributing American films than Australian ones, they may actually decrease local film investment. The outcome may in fact be fewer rather than more films produced and distributed in Australia.

Another possible outcome is that local distributors would compete against one another for the rights to successful American films. This may then lead to excessive prices being paid for local rights, more money flowing overseas, and again less for local film investment. For example, intense competition by the Australian commercial television networks has pushed up prices paid for American programs and may have the effect of reducing the funds available for local drama. While such outcomes are by no means certain there is no reason to believe that greater Australian control of film distribution would increase investment in local film production.

The American film distributors have also been criticised in Australia for their failure to distribute Australian films overseas. Again, such criticism seems unfair. The major American distributors have expertise in distributing and promoting films with a worldwide appeal. Many Australian films have limited appeal on world markets and distributors such as UIP and Fox-Columbia concentrate on relatively few large scale releases across the world. Given the shortage of 'smash-hit' films the major distributors often acquire independent films that may have this mass appeal. Warner Bros distributed the two Mad Max sequels 'Road Warrior' (Mad Max 2) and 'Beyond Thunderdome' (Mad Max 3) after recognising their international potential. Paramount and Twentieth Century Fox distributed 'Crocodile Dundee' worldwide after it had succeeded locally. But it is unrealistic to expect such organisations to distribute small-scale Australian movies with limited appeal. The major distributors may lack such skills. It is not uncommon for the major distributors to sell distribution rights to some of their own productions where such films appear to have only specialised appeal.

The major distributors are not interested in monopolising film distribution. They seek to maximise the returns to a limited number of mass-appeal movies. There are substantial economies to be gained in the worldwide distribution and promotion of films such as 'Batman' or the 'Back to the Future' series of films. Such releases are expensive mainstream entertainment and use the same advertising and sales promotion material worldwide. Independent Australian producers who produced such films would probably have no difficulty in obtaining distribution. The 'Superman' films were not produced by a major company for example, but gained worldwide distribution and promotion through Warner Bros.

Arguments that the film distribution and exhibition structure in Australia facilitate conduct that is not in the best interest of Australian film production are generally without foundation. Australian-owned distributors like Roadshow Greater Union and Hoyts are involved in Australian film production and do not appear to discriminate against local product. The foreign distributors, while having very little involvement in local production, appear willing to distribute overseas those films that they think will be profitable. Government proposals to force distributors to acquire locally-made films are totally without merit. It seems reasonable to conclude that the main reason for the failure of many Australian films to gain distribution is that they simply lack commercial appeal.

Even if it could be shown that the market structure has led to behaviour that inhibited the growth of the local industry, the remedy would lie in methods other than those currently used. If the difficulty lies with anti-competitive behaviour in the market, government intervention through the Trade Practices Act would seem to be more appropriate than the existing range of subsidy/assistance measures.

## Externalities Arguments

When a firm produces a product or when a person consumes a product and some of the costs and/or benefits of the production or consumption fall on others who are not party to the production or the consumption, an 'externality' or 'spillover' is said to occur. Externalities may be positive (providing benefits) or negative (generating costs).

Those goods that generate external costs to third parties tend to be over-produced by the private sector. For example, the factory that dumps polluted water into a river imposes costs on third parties downstream. If that factory had to pay all the external costs of its production, including the cost of disposing of polluted water, its total costs would increase and output would decrease. But without intervention to make the producer pay the external costs, such goods will be overproduced.

Similarly, the production and consumption of some goods generate positive externalities. For example, a house-owner who spends money on extensive landscaping may increase the value not only of his own house but also that of his neighbour's house as the general neighbourhood is made more attractive. Such windfalls are known as **positive** externalities. Since such benefits are not paid for, the goods and services that generate them tend to be underproduced by the private sector, and government intervention to increase their production can sometimes be justified.

Supporters of film industry assistance measures claim that film and television production generate external benefits. But do Australians really think that local film and television industries generate so many external benefits that they are willing to pay for them?

It may well be the case that Australians support government assistance to the film and television industries. Although the evidence is anecdotal, Australians appear to take pride in the success of films like 'Crocodile Dundee' or television serials like 'Neighbours' overseas, even if they don't 'consume' the product themselves. (As it happens neither of these examples relied on government subsidies.)

It is also likely that many Australians support the ideal of significant Australian content on television and at the cinema. But would that support be maintained if it was at the cost of reduced access to foreign programs? And where is the demand for Australian product? In 1989 Australian features took 5 per cent of the box office gross of capital city cinemas. Of the more than 100 Australian films released in 1984-87 only five could be described as reasonably successful (i.e. earning more than $500 000). Box office statistics suggest that most Australians are not particularly interested in supporting Australian movies from their own pockets (*Variety*, 20 April 1988:38).

In the case of television similar inferences can be drawn. The

Australian content regulations for television drama require commercial television stations to broadcast 104 hours annually. For most of the 1980s Australia's most popular network has been the Nine Network, yet Nine shows the least amount of Australian drama. Its list of failures in the drama area is lengthy. While some Australian drama programs rate highly, it would seem that the drama content requirements force stations to produce more local drama than is demanded by viewers. Consumer demand, not regulation, should determine the amount of drama produced.

There may of course be other externalities. Schou (1982:3) argues that an externality is generated by the exhibition of Australian films and television programs overseas. This externality consists in the dissemination of knowledge about Australia that will stimulate demand for Australian products and promote Australia as a tourist destination. Schou claims that while such externalities cannot be measured, 'it seems likely that substantial externality benefits are involved, and that the distribution of Australian films overseas may be a relatively cost efficient way of achieving such benefits' (1982:4).

This line of argument can be logically extended to a wide variety of activities to justify a subsidy. For example, an Australian tourist in the US may meet Americans on his/her travel, as a result of which the Americans decide to visit Australia. Does this justify a government subsidy to the Australian planning to visit the US?

Further, not all Australian films and television programs will show Australia in a favourable light. Schou's argument could be applied in reverse to an Australian film like 'Mad Max 3', which shows Australia after the devastation of nuclear war and may actively discourage foreigners from holidaying in Australia. If we decide to subsidise films that generate positive externalities, should we also impose taxes on (or ban) films that may generate negative externalities?

But suppose that Australian film and television programs broadcast overseas do make a major contribution to tourism. Does this justify governments subsidising their production? The cost of assistance to the film and television industries falls on every taxpayer, but the benefits of the predicted tourist boom would not be distributed equally to all taxpayers. The major beneficiaries would be tour companies, airlines, hotels and restaurants that service the foreign tourists. But tourist-dependent industries can promote their services without government intervention. They could enter the film and television industries themselves, and/or subsidise the cost of productions from which they receive some benefit. They could ensure that their services were highly visible in films or television programs: some companies specialise in placing particular products in visible positions in films. Promotion of Australia through government-subsidised film and television is not the most appropriate solution.

Again, a film-induced tourism boom could increase the price of services and coastal land and make many Australian residents worse off. Would these people be compensated for the external costs imposed on them?

A further extension of the externalities argument is the claim that subsidies and assistance to film and television promote tourism and therefore generate more jobs in the economy and increased economic activity. It is sufficient to state that such job subsidisation, if desired, could be undertaken more effectively simply by subsidising the wages of waiters, hotel maids or any other group experiencing high unemployment. General macroeconomic policies to stimulate economic activity seem a far more plausible approach than film and television subsidisation.

## The Merit Goods and Information Market Failure Arguments

A further broad line of argument in support of government intervention (particularly financial assistance and subsidies) is that consumers (especially younger ones) need exposure to indigenous cultural output. Two claims of market failure issues lie behind this argument. The first is that consumers lack sufficient information to make correct choices: they may prefer foreign films and television because they lack information about the desirability of the Australian alternative. Second, the consumption of the Australian film or television production is inherently preferable to foreign alternatives: there is intrinsic merit in the one type of consumption compared to the other.

These arguments assert that Australians' apparent preference for, say, American movies does not reflect their **real** preference; or, if it does, this is not desirable because there is more merit in the consumption of their own culture. Such consumption strengthens their own 'Australianness' and at the same time makes the Australian culture more interesting to foreigners because it is different from their own. Thus, Schou (1982:4) claims that 'intangible benefits related to national identity may be seen to derive from the exposure of people in Australia . . . to indigenous cultural product'.

The merit good argument is extremely difficult for an economist to evaluate. But intervention to promote 'Australian culture' does raise the issue of paternalism and elitism. Who decides whether two hours weekly of Australian drama on television (the ABT regulation) is of more cultural merit than two hours of its American equivalent? Should the government have the power to decide what type and quantity of entertainment/culture is most appropriate for its citizens? Can it be shown that regulation and subsidisation of the film and television industries has led to the creation of an Australian culture – that we will be any more 'Australian' than we were prior to the intervention? Yet policies promoting these uniquely Australian programs with their desirable cultural ingredients may not lead to increased consumption. Presumably the final step would then be to legislate to require people to watch the programs.

## The Infant Industry Argument

The infant industry argument has a long tradition in Australia. The basis of the argument is that many Australian industries need some form of government assistance and/or protection in their early years or until they can become large enough to compete with established foreign firms.

This argument has been used with varying degrees of success in Australian manufacturing industry. The principle is that the local firms receive assistance until they are large enough to achieve economies of scale; this will lower their costs sufficiently to enable them to compete against imports.

The infant industry argument is applied to the film and television industries in the following manner: The dominance of the major American entertainment companies in the Australian market prevented the development of local film and television production. Local producers have a major cost disadvantage compared to the American companies. American companies achieve lower costs because of economies of scale in the US, caused particularly by the much larger market size. Having recovered their production costs in the large domestic market, the argument goes, they then sell their product on world (Australian) markets at a very low price. Local producers are unable to compete and cannot survive.

It follows from this argument that the local industry needs to be protected against such activity until it can become large enough to achieve scale economies. One method of protection is to subsidise the local industry, for example through loans (the Australian Film Commission) or tax concessions (10BA). Another method is to impose quotas on imports: which the local content requirements on Australian television in effect do. When the industry develops to the point where scale economies are achieved, protective measures can be removed; the local economy will have a viable industry that no longer needs government assistance.

Supporters of the infant industry argument (e.g. Schou, 1982) claim that American producers enjoy scale economies unavailable to local producers. But the source of these economies is rarely explained. It seems probable that the alleged scale economies come from the ability of American producers to secure access to their large home market and thereby recover the highly fixed costs of performers and production staff salaries, advertising and promotion expenses, and technical and special effects costs. These costs, though lower in Australia than in the US, still tend to be substantial for Australian producers. Dermody and Jacka (1987:226) estimated that in 1982 the average production cost for an Australian film was about $2 million. Given that only about 25 per cent of a film's gross box office income is returned in film rental, the break-even box office figure would need to be around $8 million (depending on the method of financing). At the end of 1988 only eight Australian films had taken more than $2 million in gross film rentals. If advertising and promotion costs are included, the break-even point becomes much higher. Thus very few Australian films will recoup their production costs from cinema exhibition in Australia.

The implication of this is that commercial films produced in Australia must gain overseas sales to have any chance of being profitable. To increase the possibility of such overseas sales film-makers will most likely turn to international 'stars' and more commercial 'international' themes and stories. In other words, to compete with Hollywood they will need to produce Hollywood-style movies.

However, this turns trade principles upside down. If the US has a comparative advantage in producing mass-appeal Hollywood-style entertainment, why should the Australian taxpayer subsidise equivalent production in Australia? It seems unlikely that any amount of financial assistance to Australian film production will enable Australians to complete against the Americans in this field. Again, the more 'international' the Australian films become, the weaker becomes the argument for protecting Australian film on the grounds that Australian cultural identity needs to be promoted. If Australia is going to compete in American markets with copies of American culture, then no protection could possibly be justified in terms of merit good/cultural protection arguments.

Similarly with television. Obviously not all Australian television production needs assistance. Sports, current affairs and information-type programs will be able to successfully compete against US competition. The major area of concern is drama. Australian television stations can purchase American drama series more cheaply than they can produce local drama. Is the infant industry argument sustainable in this case? Some producers of Australian television drama have found that, like film producers, they cannot make a profit from sales within Australia alone. Most Australian-made television mini-series are now made with international sales as a major objective. But the arguments against giving financial assistance to this type of production are similar to those that apply to films.

In the case of locally-made television series like 'A Country Practice' and 'Neighbours', the local television networks pay the full costs of production. All overseas sales are extra profit for the production companies. Local content rules and drama quotas effectively create a demand by the networks for such programs even if the demand by local consumers is insufficient. If the infant industry argument were applicable, one would expect that once these production companies became established the quotas could be abolished. In fact, many production groups are lobbying for increased quotas.

The infant industry argument is not a justification for permanent assistance. Nor is it a justification in itself for the establishment of an industry in which Australia has no comparative advantage and one whose high-cost output could be replaced by cheaper imported substitutes.

## Income Redistribution Arguments

One of the major reasons why governments intervene in private sector activities is to redistribute wealth and income. Can government intervention in the film and television industry be justified on such grounds?

Anecdotal evidence suggests that unemployment in some parts of the film and television industries is high. The Australian Writers Guild estimated that in 1981 commercial television provided full-time employment for around 10 per cent of their members (Australian Writers Guild, 1983:3). A recent study (Throsby & Mills, 1989:11) stated that a significant number of artists are unable to work at their chosen career. American studies have suggested that unemployment rates for actors could be as high as 95 per cent. It is reasonable to assume that the majority of creative personnel in the film and television industry earn incomes from the industry that are less than the average income for all workers. But it does not automatically follow that assistance to these workers is justified.

Many workers in the film and television industry work part-time in other jobs. Their income from acting may be low, but they do have the opportunity to supplement this income. So the average wage of these people may not be as low as it seems. In addition, many Australian creative personnel earn wages far in excess of the average level. Australian actors who appear regularly in American films (e.g. Bryan Brown), and the casts of Australian serials (e.g. 'Neighbours') would earn far in excess of the average wage. Globerman (1983:59) argues that in most of the performing arts there are three categories of performers: the 'stars' whose income is very high; the full-time performers whose incomes are usually at least as high as the national average; and the part-time performers whose incomes are low. Many actors choose the profession because there is the small chance of earning a very large income. The choice is similar to that in other high-risk ventures, oil exploration or mining for opals, for example. The possibility of huge success is part of the return to the investment, and the fact that average salaries may be low is no justification for assistance.

The issue then is whether government should intervene to redistribute income towards these groups. It seems inequitable for governments to intervene to redistribute income towards the first two groups specified above, whose average income is higher than the national average. Nor does there seem much justification for policies that increase opportunities for part-time performers to become full-time performers. As Globerman (1983:59) points out, 'some greater market failure issue must be at stake to justify the direct and indirect costs associated with creating full-time jobs for a substantial number of marginal performers and other creative artists'.

Even if a policy of redistributing income in favour of performers were accepted, more efficient ways exist than encouraging film production through tax concessions and grants, and television production through Australian quotas. These are blunt instruments, and give the greatest increase in income to those groups whose supply is reasonably scarce. Since actors do not fall into that category, most of the benefits go to the other types of labour employed in the industry. If the government wished to raise the incomes specifically of actors, it could do so most effectively through tax concessions to actors or targeted income subsidy schemes. But there is no real justification for such redistribution in the first place.

## Conclusion

The main point of this chapter is that most of the arguments used in support of government intervention in the Australian film and television industry cannot be supported on economic or equity grounds.

The claim that foreign (American) film distributors have monopolised the industry in Australia at the expense of local producers is a long-standing claim that has never been satisfactorily proven. There does not appear to be much justification for intervention in distribution and exhibition organisations to overcome this perceived market failure. There is sufficient competition to ensure that distributors will acquire films from any source if they believe that they can make a profit from distribution.

The externalities argument that promotion of Australian films overseas generates tourist income and a greater awareness of Australia by foreigners is not a justification for film industry assistance. Promotion of Australia by private interest groups like Qantas or publicly-funded groups like the Australian Tourist Commission would be far more effective.

The infant industry argument is also of doubtful merit. There seems little likelihood of the infant film industry growing up into 'Hollywood Australia'. The Americans appear to have a comparative advantage in the production of a particular type of film. Australia may be better served by not trying to copy the American experience.

The merit good argument is the most difficult for an economist to evaluate. Supporters of intervention claim that the development of an Australian culture can only come through protection and subsidy for film and television locally. But the question of what this culture is cannot be effectively answered. The box office success (or lack thereof) of most Australian movies does not seem to indicate that Australians desire to consume more local culture. The failure of many Australian drama programs on television to rate as well as their American equivalents seems to be further evidence that Australians do not place great importance on the consumption of this culture.

Intervention for the purposes of income distribution has been shown to be inappropriate. There is no evidence to suggest that such intervention is justified on equity grounds and even less evidence to suggest that the methods used in Australia to provide assistance to the film and television industries would achieve such goals.

# Chapter 4

# Protecting the Home Front

As in many other Australian industries, the protection given to local film and television production has been heavily influenced by the trade unions and employer associations that operate in the industry. These groups have organised themselves into a most successful lobby. Through appeals to national sentiment and some vague notion of 'Australianness' these interested parties have played a major role in the political processes that have led to the extensive direct and indirect assistance given to the industry by the Australian taxpayer.

In this chapter the role of the various lobby groups in the industry is discussed.

## The Unions and the Producers: An Overview

Three major employees' groups and one important employers' group are active in the film and television industries. The employee groups are Actors Equity Australia, The Australian Writers' Guild and The Australian Theatrical and Amusement Employees' Association. The significant employer group is the Screen Production Association of Australia.

Actors Equity covers all Australian performers other than instrumental musicians, in both film and television as well as live theatre. It had around 10 000 members in 1988. Non-union actors are rare: the union claimed in 1988 that no production employed non-union members.

The Australian Theatrical and Amusement Employees Association (ATAEA) is the non-performers' entertainment union. Its membership includes film, television, theatre and video production personnel like set designers, film technicians, and costume designers, as well as theatre ushers/usherettes, ticket sellers and amusement park employees. The union operates a closed shop and all film crews must be financial members of the union.

The Australian Writers Guild (AWG) has around 1750 members, of whom about 650 are full members, the remainder being associates. To qualify for full membership, a writer must have had 50 minutes or more of material broadcast or performed professionally on radio, television, stage or screen. Only full members have voting rights in the union. Associate members include writers with some writing credits, and persons in the entertainment industry with an interest in writing.

A number of specialist craft guilds have links with Actors Equity and/or ATAEA. They include the Musicians' Union of Australia, the Film Editors' Guild of Australia, the Australian Cinematographers' Society and the Australian Screen Directors' Association.

The Screen Production Association of Australia (SPAA) is the national production industry's employer organisation. Founded in 1956 and previously known as the Film Production Association of Australia, the SPAA and its television production equivalent have been active in the campaign for government assistance.

**The Australian Film Commission Act 1975**

The protectionist stance of Actors Equity has been evident since the early 1970s. Actors Equity was one of the groups behind the 'TV - Make it Australian' campaign. The objective of this campaign was to increase the amount of Australian content on television through lobbying the Australian Broadcasting Control Board for increased local broadcasting quotas. The campaign enjoyed moderate success and played some part in the development of the points system for Australian commercial television, discussed in Chapter 2.

The Australian Film Development Corporation Act of 1970, which was the earliest government legislation promoting the development of a local film production industry, laid down the conditions a film had to meet to qualify for any government assistance. The Australian Film Commission Act 1975 that established the Australian Film Commission closely adhered to these requirements. The major requirements are as follows:

> To qualify for consideration, a project must be an Australian film (or TV program) which is defined as follows: made wholly or substantially in Australia, and in the opinion of the Corporation (Commission) has significant Australian content.
>
> In determining whether a film has significant Australian content, the Corporation (Commission) shall have regard to:
>
> (a) the subject of the film;
>
> (b) the place or places where the film was, or is to be made;

(c) the places of residence of the persons taking part in the making of the film (including authors, musical composers, actors and technicians);
(d) the source from which the moneys to be used in the making of the film will be derived;
(e) the ownership of the shares or stock of the capital of any company concerned in the making of the film;
(f) the ownership in the copyright in the film;
(g) any other matters it thinks relevant.

The AFDC (1973:2) provided further details about the meaning of 'significant Australian content':

(i) Australian residents should occupy at least five of the individual command positions (these include scriptwriter, producer, director, director of photography, art director, film editor and music composer).

(ii) At least 70% of the artistic personnel employed should be Australian residents. Moreover, no non-resident should be employed where a suitable Australian resident is available.

(iii) At least 90% of all technical personnel employed in the production should be Australian residents.

The latter two requirements could be relaxed in certain circumstances, such as when foreign funds for the production depended on the use of particular foreign talent; when suitable Australians were not available; and when a foreign actor of considerable box office appeal was required.

Such special circumstances of course required an arbiter. The AFDC and the AFC fulfilled this role. However, as the AFDC and AFC were also required to have regard to the commercial viability of funded productions, there was some scope for considerable conflict of interest: for example, commercial viability could dictate the employment of a foreign star.

Dermody and Jacka (1987:138-41) noted that in the first few years of the policy's operation there was not a great deal of conflict between film producers and the various unions; until about 1980 most of the producers had strongly believed that the film industry's products should reflect some concept of an indigenous culture. However, the disappointing box-office returns of films such as 'The Irishman', 'The

Mango Tree', 'The Picture Show Man' and 'The Chant of Jimmy Blacksmith' in the late 1970s had encouraged some producers to consider making films that had a more international appeal. For some of these producers 'international appeal' required international actors. The potential for conflict with the unions therefore increased.

Actors Equity was aware of the consequences of this change of attitude for its members. In 1979 Actors Equity and the Film and Television Producers' Association signed an award that gave Equity considerable power over the employment of foreign actors. The agreement specified that producers must ask Equity for permission to import foreign actors and personnel. In those cases where Equity gave permission, the producers in turn agreed to pay penalty rates to the Australian actors who appeared in the production.

## Equity's 'Defence of Employment' Policy

In 1980 Equity announced its Defence of Employment Policy. In an extension of its employment policy it introduced new rules designed to ensure the employment of Australian actors in major roles rather than just to provide jobs for local actors. Its important requirements were:

1. Where a film is wholly or partly funded by a government statutory body, no imported artists shall be allowed except in exceptional circumstances.
2. Where a film is privately funded, Equity will approve the importation of actors subject to the following:
   (a) The actor is of internationally recognised merit and ability.
   (b) An equal number of Australian artists will receive co-billing.
   (c) Promotions will include Australians in promotional material.
   (d) The imported artist does no other work while in Australia.
   (e) All the above is sealed by written agreement with the Union.
   (f) There is a limit of two imported artists except in most exceptional circumstances.

With this policy Actors Equity attempted to control the hiring of actors not only in government-subsidised films but also in films that were wholly funded by the private sector.

One of the earliest consequences of this policy was the decision by film producer Anthony Ginnane to shift a $10 million feature film (at the time the most expensively budgeted film in Australia) from Australia to New Zealand after Equity refused him permission to import three foreign actors for starring roles. Twenty Australian actors and 35 Australian technicians on this privately-funded film were replaced by New Zealanders.

Equity's willingness to undertake industrial action to achieve its objectives was apparent during a dispute in 1980 with the production company Fontana Films. The company had refused to sign an agreement with Equity stipulating that all actors working on its films be union members and paid residual fees (fees for additional sales and repeat rights). Equity banned actors from working for the company, which thereupon sought an injunction against the union restraining it from breaching Section 45D of the Trade Practices Act. When an interim injunction was issued against Equity, the union sought the assistance of the ACTU, which threatened to call a national strike of actors. Equity was compelled to comply with the Section 45D order. The ACTU also funded Actors Equity's constitutional challenge to Section 45D in the High Court.

The penalty clause was put to good use during the filming of 'Gallipoli'. The Australian production company Associated R & R Films employed Australian actors, and an Australian writer, director and producer. Equity placed a 40 per cent penalty loading on the film because its executive producer was a foreigner based overseas. The loading added considerably to the production budget of the film and was a useful means of artificially raising the wages of the local actors.

The unions' increasing militancy was revealed when it lobbied the then Minister for Immigration, Ian MacPhee, to prevent the importation of 'low quality' club acts and demanded that foreign entertainers be banned from performing at shopping centres. Equity also lobbied the New South Wales Department of Services to require that housie and bingo callers in registered clubs above a certain size be members of Equity.

In late 1980 the federal government announced its new tax plan for the film and television industries. Investors in Australian films would receive a tax concession of 150 per cent for investment in the film and 50 per cent of any profits would be tax-exempt (full details are given in Chapter 1). To qualify for the tax concessions, a film had to be certified as Australian by the Minister of Home Affairs. The criteria for

Australianness were similar to those previously established for the AFC and AFDC. The rapid expansion of the industry after the introduction of the tax concessions generated problems for the Department of Home Affairs. The Department, not the AFC, now had the responsibility of determining the 'Australianness' of a film and thereby granting it the very generous tax concessions.

## Restrictions on Imported Artists

In 1981/82 more than 40 films were made in Australia. The demand for actors and technical personnel grew rapidly and many overseas people came to Australia to work in the industry. In response to this increased use of imported talent Equity issued revised guidelines in December 1982. In January 1983 the Minister for Home Affairs, Tom McVeigh announced new and more restrictive guidelines for defining a film as 'Australian'. Dermody and Jacka (1987:149) observed that Equity had found an ally in McVeigh, a National Party politician from Queensland. McVeigh was highly supportive of the argument that Australian films should reflect an Australian culture, and guidelines issued by his Department reflected the Equity view.

The 'defence of employment policy on imported actors in motion pictures' stated (in part) that:

1. Imported artists will not be considered for films based on literature which is considered part of Australia's national cultural heritage or films based on Australian historical fact . . . unless the character as written originally in the case of literature or in fact in the case of history is of an ethnic background which cannot be cast within Australia.

2. (i) No imported actor is allowed in a film budgeted at under $3 million, except in 'most exceptional circumstances'.

   (ii) There is a maximum of one imported actor in a supporting role for a $3-$5 million film.

   (iii) Maximum of one imported co-lead or two supporting actors in films budgeted at more than $5 million.

In his press release the Minister stated that 'The overall concept of the film, including the characters and events portrayed therein can be expected not to be alien to the Australian multi-cultural experience' (McVeigh, 1983).

The new guidelines represented a major victory for Equity. But whether it preserved jobs is a different question. One immediate effect was to place pressure on film budgets. The producer of a $2 million movie who wants a foreign actor may be tempted to increase the budget to $3 million so the actor can be imported. As the total supply of film finance is limited this action may reduce the funds available to produce other films. Even in the 150/50 per cent tax write-off days, funds were not unlimited. Such a policy may reduce the total number of films made and thus reduce total employment in the industry.

Capital to finance films may be available from overseas if the domestic supply is limited. But the rising cost of the local films would reduce the chances of making a profit on the investment from Australia alone, thereby increasing the need for international appeal and, probably, international actors. Alternatively, if the producer could not raise the extra money to import a foreign actor, the production may not go ahead. Again, this reduces employment opportunities for actors.

An unintended effect of such a policy may be to promote employment for a very limited number of actors. In their efforts to meet union restrictions and international marketplace demands, producers may tend to employ only that limited group of Australian actors who have some international reputation. The same small group of performers whose incomes would be considerably higher than the average Equity member will gain employment at the expense of other performers.

It is difficult to see how this policy, described as 'almost xenophobic' by *The Australian* (24 January 1983), would generate more employment opportunities. Many actors also had doubts, and established a rival actors' union, the Screen Actors Guild (SAG), which adopted a less hostile policy towards foreign actors. The SAG was vigorously attacked by Equity, and the potential for demarcation disputes and work bans increased. The new policy also attracted threats of retaliation: the Screen Actors Guild of America considered taking action to keep all Australian actors out of the US industry.

The 'defence of employment' policy generated considerable media attention and enormous criticism from film producers. Producers claimed that Equity's policy hijacked the Australian Film Commission, the Treasury and the Department of Immigration, and gave Equity the power to decide the cast of a film even though Equity represented only between 10 and 20 per cent of the total workforce on a film production. Producers threatened to take their productions overseas, thereby reducing job opportunities for all workers in the industry, including actors.

Actors Equity claimed that their policies were not merely in defence of employment, but designed to encourage 'cultural authenticity'. As the vast majority of Australian productions were government subsidised, Equity argued that it was important that the industry fulfil national goals and not be geared primarily to supply the US market. Ignoring commercial considerations, the federal Secretary of Actors Equity, Michael Crosby, stated 'If we could ever be sure that "art" was the only consideration in casting a film, no intervention by us would be necessary' (*The Sydney Morning Herald*, 24 September 1984).

The ATAEA also adopted restrictive practices. An application by promoter Michael Edgeley in 1984 to import equipment sets for a 'Disney on Ice' production was rejected by the ATAEA on the grounds that the set construction industry in Australia was experiencing large-scale unemployment. A compromise to build part of the sets in Australia was rejected by the union even after the promoter informed the union that the production would have provided employment for more than 200 people during its proposed three-month tour.

The Australian Screen Directors' Association (ASDA) also developed a policy in the early 1980s on employment of foreign personnel. Their policy, which applied only to films produced using the 10BA tax concessions, opposed the employment of non-Australian directors except in exceptional circumstances. In such circumstances, an Australian trainee director approved by ASDA must be employed; and the imported director must become a member of ASDA for at least one year and agree not to be employed on another 10BA project for a minimum of two years.

As the number of 10BA productions for television induced by tax concessions increased in the mid-1980s, Actors Equity extended its employment regulations to this area as well. These regulations applied also to the employment of imported females, since research undertaken by Equity apparently indicated that there were fewer roles for females than males. An imported female actor would not be considered for a production unless there were at least one other lead female role of similar importance or unless one of the three co-leads was a woman's role.

A further restriction introduced in 1985 consisted of twelve casting guidelines to be followed before an actor could be imported in the absence of an Australian who could fill the role. These included providing sufficient information and preparation time for readings and screen tests, suitable locations, and audition readings to be conducted with professional actors.

By applying these new regulations to television, Equity made it very difficult for low-budget television movies to be made in Australia. The movie made for television is very popular in the US but the American networks tend to insist on an American lead. As these movies typically have budgets below $3 million, Equity prevents an American actor from taking a role and effectively prevents a US sale. A lucrative market for Australian productions is thus lost. As many productions depend on foreign sales to raise their budget, the entire production is lost.

Equity's 1985 restrictions on foreign personnel were strongly opposed by both the Screen Production Association and the Screen Directors (even though the latter group had their own restrictions on the employment of foreign directors). The producers argued that the disputes resolution procedure established by the Minister for Immigration and Ethic Affairs was inappropriate, since whereas the disputes committee heard appeals against bans, the union did not have to justify imposing the ban in the first instance.

Equity argues that their bans have not had a major impact. Table 4.1 shows the number of applications for overseas actors approved and rejected by Equity between 1981 and 1984.

**Table 4.1**
**Approvals/rejections by Actors Equity 1981-84**

| | Feature films | | Television productions | |
|---|---|---|---|---|
| Year | Approved | Rejected | Approved | Rejected |
| 1981 | 25 | 3 | 8 | 2 |
| 1982 | 17 | 2 | 9 | 0 |
| 1983 | 6 | 2 | 8 | 1 |
| 1984 | 7 | 3 | 13 | 2 |

*Source*: *Encore*, 18 July 1985

A survey by the SPAA of 36 independent producers and production companies in mid-1986 found that Equity had delayed, obstructed, prevented or caused financial loss for producers in almost 60 per cent of all attempts to bring in foreign talent since 1980. Details of this study are in Table 4.2.

## Table 4.2
## Screen Production Association of Australia survey of independent producers on actor imports

| | |
|---|---|
| Producers | 36 |
| Have tried to import actors | 27 |
| Have not tried to import actors | 9 |
| Approaches to Equity - number of actors | 83 |
| Approaches to Equity alone (then abandoned) | |
| Formal rejection | 11 |
| Informal rejection | 2 |
| Rejected by Equity and government | 6 |
| Rejected by Equity but allowed by government | 7 |
| Approved by Equity with little or no argument | 38 |
| Approved by Equity only after argument, delays and/or significant cost | 18 |
| Approved by government but still blocked by Equity | 1 |

*Source: Encore,* 23 October 1986

When the SPAA released its survey it claimed that the use of overseas actors in Australian productions would most likely increase jobs for Australians and generate significant export earnings.

The role played by the Department of Immigration in Equity's policies has also been criticised. The then Minister, Mr Chris Hurford, was forced to defend himself against claims that he was being a 'cultural commissar' in deciding whether particular foreign performers were of a high enough standard to be granted visas. The case of the American singing group 'The Platters' embroiled Hurford's Department in an embarrassing incident in July 1986. Hurford banned the group from appearing in Australia, the ban was overturned by a judge in the Federal Court, Hurford appealed and won, and then finally reversed his original decision and granted a visa. Hurford then decided that in future the burden of proof should be placed on Equity to demonstrate that the foreign performer would be in direct competition with Australian performers; in all other cases the foreigners would be automatically allowed entry.

This belated recognition that Actors Equity had assumed some de facto control over part of the country's immigration policy led to changes in government policy. In December 1986 the Department of Immigration issued a new policy for foreign artists seeking work in

Australia, which eliminated the requirement that they satisfy 'cultural enrichment' criteria. Instead, the government decided to make 'net employment effects' the dominant test. This policy takes into account long-term effects so that importation for a current project would be considered a net employment benefit if it generated opportunities for a future project.

## Equity's Wage Push

Equity has also attempted to use its industrial strength to lobby for higher wages for actors. In its Award, Equity has special loadings for films that use foreign actors and/or foreign production personnel. Its highest general category (Category C) requires a 40 per cent loading on Australian actors' rates if an overseas artist is being used on a film.

In 1987 a dispute arose between Equity and Evil Angels Productions over rates of pay for Australian actors. The production company offered local actors a further 10 per cent loading over the 40 per cent Category C rate. For a 60-hour week pay rate this represented a weekly wage of $2023. Equity demanded that the 300 local actors involved in the film 'Evil Angels' be paid $2700 per week. The union placed a ban on the film less than six weeks before the company was due to begin filming in Australia. The dispute was ultimately resolved at the Arbitration Commission; the producers agreed to pay supporting and principal actors on the film a 75 per cent loading, and minor part actors a 25 per cent loading. This gave the principal players $2260 for a 60 hour week and 'bit' players $2100 a week. The company also agreed to give actors on the 16-week shoot $140 a week holiday bonus.

The producers of the film argued that the union used its strength to secure high wages on the grounds that a foreign production company could afford to pay more than an Australian company. Equity argued in its defence that such lucrative rates of pay were justified because 'even the most experienced [actor] would spend a minimum of six months a year out of work' (*National Times*, 13 September 1987). Apparently long periods of non-acting somehow justify demands for high wages.

Equity gained a substantial wage rise for stage actors in 1988 after threatening strike action. The weekly base rate for theatre actors was increased from $274.60 to $356. While this is still substantially below the average wage (at the time of writing around $450 a week), most theatre actors actually earn more than the award rate. It is also possible that many of the actors on the minimum rates supplement their income through second jobs.

Naturally, one consequence of this pay rise was the immediate demand by actors for larger government grants to subsidise live theatre's higher costs of production.

## Equity and Affirmative Action

Equity is also lobbying for some affirmative action in the theatre. It wants all continuing theatrical production companies, both subsidised and commercial, to be required to give 50 per cent of all positions to female actors. Presumably, companies would be required to stage plays that had a large number of female roles so they could meet the quota. While such a policy may provide increased employment opportunities for females in the short term, in the long run it is more likely to reduce employment as theatres companies go bankrupt producing non-commercial plays for quota purposes.

Equity's two objectives of higher incomes and more employment for actors are unlikely to be fulfilled. Equity's wage push is raising film production costs. As budgets rise, fewer films will be made, so decreasing employment for behind-the-camera workers as well as actors. The cost advantage that Australian film makers may have over their foreign counterparts will be lost, so reducing the number of foreign films made in Australia.

At the same time, policies designed to promote and preserve employment through insistence on Australian actors for particular roles may destroy the commercial prospects for some projects, thus reducing rather than increasing employment opportunities.

## Equity and the Film Finance Corporation

When the Australian Film Commission announced in 1987 that it was investigating methods of film financing other than tax concessions, Equity found that, at least in this instance, its best interests were served by cooperating with the producers. Both groups lobbied for the retention of the tax concessions. But ultimately producers and unions realised that Treasury objections to the generous tax write-offs would prevail. Both groups then announced support for a film bank that would continue to provide assistance to the industry, albeit in another form.

However, the issue of restrictions on foreign actors performing in Australia was still a source of contention. In late 1987 Equity held a national referendum to gain the authority from its members to organise strike action if its foreign actor policy was not accepted by the SPAA.

Agreement was reached between the two parties in April 1988. In a joint statement Equity and the SPAA announced that the criterion of 'net employment benefits' would be judged according to whether the use of overseas actors was needed to gain finance for the project, subject to certain limitations. One important limitation is that in any project the recipient of government assistance will be able to use only one overseas actor. No overseas actors will be allowed on low-budget projects that have government funding.

Privately-financed projects that are under the creative control of Australians will be allowed to use one overseas lead actor and one overseas support actor. In the special case of high-budget productions (features budgeted at more than $7.5 million and mini-series above $900 000) a third overseas actor can be used. Any Australian actors working for minimum award rates on international co-productions will receive a loading of about $280 a week, depending on the number of overseas actors used.

No agreement was reached for overseas productions that use Australia as a location. Equity wants these actors to be paid the rate of the originating country or the Australian rate, whichever is higher.

The producers believe that the new arrangements will increase their chances of securing international co-productions, while the unions have won acceptance of their defence of employment policies. However, in early 1991 the SPAA announced its decision to abandon the agreement and in future its members would import actors without reference to Actors Equity. Equity presumably will fight such a move.

## ATAEA and the Producers

The other major union in the industry has also been in dispute with producers. In 1988 ATAEA and the SPAA agreed to a restructuring of the motion picture award. The new award introduces a five-day working week for capital city shoots and a rostered day off each month at the contracted daily rate, which effectively implements a 38-hour week. A ten-hour working break (or 100 per cent loading where the break is not given) and travelling time to be counted as work-time have also been introduced.These changes will no doubt be expensive for film producers. While such agreements may be reasonably common in manufacturing, it is likely that flexibility will be severely reduced, especially in non-studio location work, adding to costs. While many other unions are engaged in award restructuring that increases flexibility and improves productivity, ATAEA appears to be moving in the opposite direction.

ATAEA has been involved in industrial action over staffing practices in cinemas. The Hoyts Corporation has begun an extensive cinema-building program which will substantially increase the number of multiplexes (generally six or eight cinema complexes) that the company will operate. Hoyts plans to reduce the number of projectionists and ushers attached to each complex, arguing that its cinemas are overstaffed by overseas comparisons.

As cinema costs are the first cost to be taken from a film's box office receipts, lower cinema running costs benefit not only the exhibitors but also the film distributors and ultimately the producers. Highly automated cinema complexes housing numerous screens are the main way in which costs can be reduced, and returns to producers increased.

### The Unions and Local Content on Television

The other major area where Actors Equity and some other entertainment industry unions have been active is in the Australia quota rules for commercial television.

As explained in Chapter 2, Australian commercial television stations are required to broadcast particular quantities of Australian programming in general and drama in particular. The 1970 'TV – Make it Australian' committee established by two well-known actors was highly successful in lobbying for increased local content.

In 1983 the ABT began a major inquiry into the local content rules, and a large number of interested parties made submissions. Among those lobbying for increased local content are Actors Equity, the Australian Writers' Guild, and the SPAA. SPAA passed a resolution at its second annual conference in December 1987 calling on all unions to work towards government regulation of the television networks to enforce local content of 85 per cent, with one hour daily of first-run Australian drama.

The Australian Writers' Guild has emphasised the employment opportunities generated for its members by the local content, especially drama, quotas. It claims that work opportunities in documentary and children's programs are limited and poorly paid. In its submission to the ABT the Guild notes that commercial television provided full-time employment for less than 10 per cent of its total membership. It continues 'therefore there remains a large body of Australian talent not being given the opportunity to express itself through Australian television, nor the opportunity to earn a living by means of its skills and talent' (Australian Writers Guild, 1983:3).

Employment opportunities are also the major objective of the Guild's recommendations for television variety. The submission notes that 'If Australia is to provide [Australian singers, dancers, comics and other variety performers] with a living . . . it is vital that the programming of television variety programs be encouraged. The Guild therefore recommends that each commercial television station be required to screen one hour of quality variety each week' (1983:13). Such arguments implicitly assume that the television industry has an obligation to provide employment for particular types of labour. No mention is made of whether demand exists. In the case of variety, television ratings in Australia and the US suggest that there is very little demand for prime-time variety.

The submission by Actors Equity to the hearing argues that the previous points system has proven to be inadequate and has not encouraged the broadcasting of 'quality' programs. While noting that the system encourages the production of long-running television serials that provide most of the employment for actors and technicians, Equity argues that 'these compare poorly with quality drama when it comes to job satisfaction and the opportunity to utilise and develop professional skills' (ABT,1989:14).

Equity has recommended a more highly regulated market with a new points system for peak-hour viewing. This new system would be administered by an Australian Programs Committee, to consist of members of the industry unions, Actors Equity, ATAEA, the Australian Writers Guild, various film and television production associations (both private and government), the Australian Consumers Association, and the Federation of Australian Commercial Television Stations. It would appear that such a committee would be dominated by those special interest groups who would benefit from higher Australian content quotas. Whether the television viewer, in whose name this regulation is being undertaken, would benefit remains open to question.

## The ABT and the 'Australian Look'

In December 1989 the ABT announced that it was at the end of its long Australian Content Inquiry. A new regulatory procedure, which assesses an 'Australian look', was introduced for commercial television. This system is similar to the Australian content requirements of the 10BA tax concessions used by the Australian Film Finance Corporation. Programs are given points according to their Australian content. Commercial television stations are required to score a minimum of 1650 points annually. The score system replaced the existing annual

104 hours first-run Australian drama quota. The ABT also requires that at least 50 per cent of all programming be Australian.

Under a complex system of criteria programs gain points for Australian elements in their production.

The regulations require that:

- The program is based on an original creative work by an Australian and retains the authenticity of the theme, perspective and character or the program is based on an Australian interpretation of an original creative work and therefore has an Australian perspective and character.
- The writing, development, editing and supervision of the story, script or screenplay is undertaken by Australians.
- The program is produced by an Australian, possibly in conjunction with a foreign co-producer or a foreign executive producer.
- The director is Australian.
- The casting of major and minor characters accurately reflects the Australian characters portrayed and maximises the participation of Australian actors.
- Australians control the final editing of the program.

These guidelines are in fact more stringent than those for the 10BA tax concessions for the film. For example, if only one of the writers is foreign (and a production may often use a group of writers), then the program fails the Australian writer test, and does not receive the maximum points.

Local mini-series and tele-movies that meet the guidelines will earn the same score as a feature film (5 points). Serials will score 1.1 points and series 2.2 points. Programs reflecting diversity, such as variety programs, earn 2.2 points for series productions and 5 points for one-off specials. These arrangements give 'Neighbours' (a serial) 1.1 points, 'The Flying Doctors' (a series) 2.2 points, and 'Hey, Hey, It's Saturday' (variety series) 2.2 points.

It is probable that the post-1990 television regulations will be highly complex. The local content rules will require a large bureaucracy to rate the entire range of local programs for their Australian content. Programming decisions will be heavily dependent on the need to meet quotas and score points. Consumer preferences will be of less importance.

# Chapter 5

# The Failure of Intervention

Government intervention, involving subsidies and cash assistance, tax concessions and quotas, and a large regulatory bureaucracy, has been supporting the Australian film and television industries for more than 20 years. What has been the outcome?

Government assistance has led to a rapid expansion in film production in Australia. In 1980/81, 29 features were made using government funds. In 1987/88 the number of government assisted features was 42, a 45 per cent increase over 1980/81. In its 1987 Annual Report, the Australian Film Commission stated that the total value of budgets for Australian film production in 1986 was $78 million. Yet the total value of the Australian box office receipts was only $188.5 million.

Australian films realised 13.23 per cent of gross box office receipts from central capital city locations in 1986/87. On the assumption that the Australian films' share of the total market is not significantly different from this proportion, it seems probable that total box office receipts for Australian films would be around $25 million.

Before producers receive any box office receipts certain expenses, such as exhibitors' costs and distributors' fees, including costs of prints and advertising, must be deducted. These costs vary, but would never be less than 50 per cent of box office receipts. They can often be much higher. Even the highly generous figure of 50 per cent of box office receipts returning to production gives a total revenue of less than $13 million on an outlay of $78 million. By the end of the decade Australian films' share of the box office had dropped to around 5 per cent or less than $15 million, yet in 1989/90 around $160 million worth of feature film production was committed (with most of the money from the government-funded FFC).

It is clear from these figures that there is vast over-investment in film production in Australia. The 10BA tax concessions generated investment that could not be justified on commercial grounds while the FFC appears to be investing to an extent unjustified by the returns.

## Film Quality

As long ago as 1982 concern was expressed within the industry as to the quality of the films entered in the Australian Film Awards. One preselector, rating all 30 films on a scale from 0 to 10, gave an average of 3.5, claiming that 'there does seem to be a consensus that most films were poor, and that at least 10 could be described as an embarrassment to the industry . . . Almost all of the films have no chance of breaking even and some won't even get a proper release' (Murray, 1982:406.11).

At the end of the decade has this situation changed? In the two years 1986/87 and 1987/88, 72 10BA-assisted films were made, while 49 received some cinema release. It is possible that such comparisons may not be entirely accurate because some 1987/88 productions may not have been completed for release in the same year. But if a lagged comparison is made, comparing, say, productions 1985/86 and 1986/87 to releases 1986/87 and 1987/88, the findings are similar. Many films gain no cinema release. While film-makers may argue that this is due to anti-competitive and collusive practices on the part of distributors and exhibitors, another explanation may simply be that the films are unworthy of release.

Of those films that obtain release most are commercial failures. Many may be artistic failures as well. Of the 24 Australian films released in 1987/88 the two most successful were sequels to previously successful films ('Crocodile Dundee II' and 'The Man from Snowy River II'). Most of the remaining 22 films attracted very small audiences. Independent art-house cinemas played eight of the films. There is no evidence to suggest that Australian cinema-goers prefer to see Australian rather than foreign films. Instead there seems to be an oversupply of the Australian product.

## Effects on Costs

One of the major effects of the rapid increase in film production has been the growth in demand for skills used in the industry. One area that experienced rapid growth was the financial services market. Companies were established specialising in raising film finance, underwriting production and securing local and overseas presales. Fees for such services were considerable. For example, specialist firms that raised film finance took as much as 8 per cent or 9 per cent of the total budget for their services. Underwriters' fees could be 5 per cent of the budget. Firms that provided completion insurance would take up to 5 per cent of the budget for supplying additional funds if a film went over-budget or for providing financial administration if a film appeared likely to exceed its budget.

Fees were also payable to executive producers. Such persons or groups are responsible for getting a film to the production stage. These fees are also considerable. Dermody and Jacka (1987) note that such fees are as high as $500 000 per film.

It seems reasonable to believe that salaries paid to production personnel would also increase. While the supply of actors may be considerable (although those of particular public stature may be limited), technical personnel may be in short supply during a rapid expansion such as occurred in Australia in the 1980s.

One outcome of this rapid expansion can be seen from Table 5.1:

**Table 5.1**
**10BA film investment results**
**1981/82 - 1988/89**

| Year | Number of features | Value $ millions | Average Budget $ millions |
|---|---|---|---|
| 81/82 | 13 | 17.8 | 1.4 |
| 82/83 | 36 | 73.3 | 2.0 |
| 83/84 | 30 | 76.0 | 2.5 |
| 84/85 | 31 | 67.4 | 2.2 |
| 85/86 | 36 | 105.6 | 2.9 |
| 86/87 | 29 | 77.9 | 2.7 |
| 87/88 | 11 | 28.2 | 2.6 |
| 88/89 | 10[1] | 27.5[1] | 2.8 |

[1] Production funded 1987/88 but production carried over to 1988/89.

*Source*: Adapted from *AFC News*, October 1988

Average production budgets accelerated rapidly in the early years of 10BA tax concessions to the industry. The rapid increase in film output (almost tripling in the twelve months to June 1983, for example) appears to have increased costs very quickly.

Assistance to the film industry has apparently had the greatest impact on employment and wages in the industry. Union policies that restrict the access of foreigners to the local industry are a further indication that employment issues are the major priority. But where is the justification for film assistance as an employment subsidy scheme for out of work actors, writers and so on?

Throsby and Mills (1989) argue that performers' products are sold in private markets that do not reflect the social valuation of the art and as a consequence they are forced to accept financial rewards that are less than some socially desirable optimum. Such market failure or externality issues can then be used to justify government subsidy to produce the 'optimum' level. However, the social value of such activities is difficult to quantify and introduces value judgements about the relative merits of subsidies to commercial as opposed to non-commercial or 'art' films, plays, and so on. Should performances by Joan Sutherland be subsidised and not those by Kylie Minogue?

### Television Assistance

The Australian content quotas and the drama quotas imposed by the Australian Broadcasting Tribunal have generally been justified on social and cultural grounds. The promotion of some concept of 'Australianness' and cultural identity is the goal. But the main effect of these regulations and restrictions has been to shelter Australian drama and employment in drama from overseas competition.

The quota and points system imposed on Australian television arbitrarily favours some types of programming over others. Local drama productions are given preference. Networks are forced to devote resources to fulfilling their drama quota at the expense of other types of programming. Yet television viewers do not appear to have any unsatisfied preference for Australian drama. The television ratings for some recent Australian drama programs (e.g. 'Richmond Hill', 'All the Way' and 'Family and Friends') suggest that Australian drama is oversupplied.

Those groups with a vested interest in maintaining drama quotas might argue that some Australian drama fails because it is of poor quality. But, surely, drama quotas cannot guarantee quality (as opposed to quantity). Quality might best be achieved by eliminating quotas and having fewer but better Australian drama programs.

But why should dramatic actors be given preference over other Australian performers such as singers, musicians and other variety performers? The ABT recognised this after extensive lobbying by variety artists and introduced what has been referred to as the 'Bobby Limb quota' whereby commercial networks have been required to produce a quota of big-budget Australian variety specials. Again, it has not been shown that Australians want to watch such programs. Network variety programs, such as 'The Don Lane Show' and 'The Mike Walsh Show', have been cancelled because viewers did not watch them in sufficient numbers.

The drama quotas have of course increased the demand for technical and acting talent. Costs of production have increased rapidly. According to one network, local production costs have for some years grown at between two and five times the rate of increase in the CPI each year (ABT, 1987b:89).

The costs of enforcing the regulations are also considerable. The complex methods by which the ABT decides on the degree of 'Australianness' of a program and its contribution to a network's points quota involve a high level of bureaucratic involvement. Given the ABT's involvement in licence renewal hearings, ownership changes, the issuing of new radio and television licences, aggregation and enforcement of standards, the broadcast bureaucracy has the potential to grow large and cumbersome.

Government regulation in the industry is not only cumbersome but also works against itself. It is difficult to reconcile the objective of 'Australianness' with financial support for SBS. This so called 'ethnic television' promotes a multicultural view of Australia and broadcasts little Australian programming.

Commercial networks will face increased competition in the future. Widespread videocassette recorder usage has led to decreasing demand for network television. The likely introduction of pay TV (via cable or satellite) will also decrease demand for network television. There is also the issue of regulating the competing mediums. So far there have been no serious proposals to introduce local content requirements for the production and/or hiring of pre-recorded videos (where for example each person hiring videos for home use would be required to hire one Australian film for every ten US videos!)

The introduction of pay TV is also likely to generate more regulatory issues. Existing networks, actors, writers, and television production personnel will all have an interest in ensuring that the new medium is regulated in the same way as existing services. If this happens, then pay TV will exhibit the same characteristics as the current programming or existing networks. Television viewers will not benefit from the opportunities for more diversified types of programs that could come with pay TV.

The existing television networks complain of the high cost of meeting ABT programming regulations. The ABT then helps the networks meet these costs by restricting competition in the industry. The loser in such a system is the television viewer. Rather than increased regulation, a solution that gives greater program diversity is to deregulation.

## A Deregulatory Agenda

Networks could be freed from meeting the range of local content requirements. There would then be no reason to restrict competition. New television stations, particularly pay TV stations, could be established. New over-the-air stations could also be allowed. There is no reason why larger cities like Sydney and Melbourne could not support more television stations. If stations went bankrupt as a consequence of deregulation and increased competition, there would be no grounds for concern. In the absence of deliberate government entry barriers, viewers would still have a wider choice than they do today.

Television stations may choose to specialise, and try to attract particular demographics that appeal to advertisers, in much the same way that commercial radio stations do. There is no reason to assume that Australian drama would disappear. Two of the three commercial networks currently show drama in excess of the level required by regulations. They do this in response to demand.

Is it likely that in the absence of ABT regulations commercial networks would show mainly foreign programs? Networks will show what viewers demand. Recent attempts by the Ten Network to cut costs by programming mainly American programs and cheap local game shows led to further rating falls and less revenue from advertisers. Programming will be demand-driven without the ABT, and program schedules will reflect what viewers want to see. For those still concerned about 'quality', the ABC could be used to provide more of a particular type of programming, including drama.

If the government believes that more Australian drama on television is desirable, then a more appropriate means to achieve this is through direct subsidy. Governments could subsidise local drama production companies and produce an outcome considerably more efficient than the current system of regulatory quotas.

The greater visibility of the subsidies makes them considerably more appropriate than other means of assistance, since the taxpayer is made aware of the true cost of protecting the jobs of workers in film and television.

The introduction of subsidies would also remove the need to restrict the number of licences. One of the major reasons for restricting competition to the existing three commercial networks is to ensure levels of profitability that enable the networks to support the drama quotas. Direct subsidies would eliminate the need for entry restrictions, and new competitors (probably pay TV) would be able to enter, so providing viewers with a greater range of programs.

This is not to suggest that the author supports direct subsidies. It is merely suggested that they are a more efficient assistance measure than existing ones.

The current system of regulation and local content rules protects certain groups from competition. It discriminates in favour of dramatic actors and against other performers. It reduces viewers' choice and encourages the development of a complex and expensive bureaucratic system. In the current context of microeconomic reform, it is no more than a tariff designed to protect local actors from imported competition and should be abolished.

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