

SUBMISSION
to
THE SENATE ENQUIRY
into
BROADCASTING CODES OF PRACTICE
by
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Introduction

In January, 2008, I wrote to the relevant minister, Senator Conroy, raising the following questions:

- (1) Was it a fact that the Commercial Television Industry's Codes of practice are supposed to be reviewed every three years?
- (2) Was the minister aware that the last publication containing the Commercial Television Industry's Codes of practice was dated July, 2004?
- (3) Why has the Commercial Television Industry been allowed to be so sloppy in its own governance?

In my correspondence, I offered to brief the minister about the background to my questions. Perhaps the Senate's enquiry may not only be timely, but it may also save everybody a great of time and trouble by examining carefully the issues which are raised below. Although the focus here is on the use of watermarking on Australian television broadcasting, the matters raised cover a much wider field, which is probably inevitable given the scope of the material.

Some two years ago, I became concerned that watermarking had been introduced onto Free-to-Air Television broadcasts in Sydney without any public consultation and without any restrictions. Upon further enquiry, I ascertained that the difficulties associated with this change of policy were, in fact, part of a much wider

malaise in the provision of television broadcasts in the nation's largest city. In the material which follows, I have endeavoured to outline nine areas where problems exist and to suggest possible solutions, some of which might be included in a revised version of the Codes of Practice.

Problem 1.

When watermarking was introduced in Australia, there had been, to my knowledge, no public consultation.

Solution

The free to air channels need to carry out an investigation concerning viewer reaction to the use of watermarking and associated problems (see further below). In conducting this research, the various organisations need to keep in mind the following limitations of such a study: (a) there is likely to be a silent majority, (b) there may be some marginalised groups (e.g. old age pensioners, people with limited incomes, etc.) whose viewing may be restricted to free to air channels only and (c) some of those who reply may not be terribly perceptive about the range of issues which watermarking implies.

Problem 2.

When watermarking was first introduced, I began by making some telephone enquiries to the Australian Broadcasting Commission - neither of my calls were answered so I wrote. The answer I received was hardly satisfactory, so I wrote to Free TV Australia. I was astonished to discover that in spite of the fact that watermarking represented a major policy shift, there was nothing to cover it in their existing guidelines. I wondered whether the individual stations had done any better so I wrote to one of the stations asking why watermarking had been introduced - there was no reply. I then tried another with the same result and yet another - ditto. The correspondence from me was well written and courteous in tone. I realised that if my views were to reach the upper echelons of station management, I would have to change my strategy. I tried again with one station marking the letter "attention C.E.O." (by name) and inscribing the

envelope ("private and confidential"). I did eventually receive a reply from this and the other station managers who had been approached in similar fashion, but only after considerable delays. I found this general situation to be highly unsatisfactory and smacking of arrogance. At the very least, the stations must answer their correspondence particularly when important issues are at stake.

Solution

The stations should have appropriate mechanisms for dealing with correspondence from their viewing audience.

Problem 3

There is presently no agreement as to the strength of the watermark image. Sometimes the logo is lightly outlined and at others, the mark is more than distinct. The latter is unnecessarily obtrusive.

Solution

Where watermarking is unavoidable, the image should appear as lightly as possible.

Problem 4

There is presently no agreement as to the location of the logo on the screen.

Solution

Where watermarking is unavoidable, the logo should appear in the extreme bottom R.H. or L.H. side of the screen.

Problem 5

There is presently no agreement as to the broadcasting of material from its own channel or another which already bears a watermark.

Solution

Where material which is already watermarked is broadcast, the use of any additional watermarking should be avoided.

Problem 6

When free to air television was introduced in Australia, there were strict guidelines

concerning the amount of advertising which could be carried in each hour. The use of watermarking has led to some serious problems in this regard. There is, for example, a cooking programme (on Channel 9, I think), which carries a continual additional sign indicating that the programme is sponsored by the Women's Weekly. This is clearly a breach (both in letter and spirit) of the original intentions of free-to-air television broadcasting.

Solution

If watermarking is unavoidable, it should not be accompanied by any other images, which are either overtly or covertly of a commercial nature.

Problem 7

Watermarking of itself has raised a series of quite serious issues. The use of such logos has opened a Pandora's box, because it has become part of a massive intrusion of other printed material on the screen. On one recent occasion, I counted four separate messages on the screen - it was a wonder that there was any room left to see the programme itself.

Solution

Where watermarking is unavoidable, any additional intrusions onto the screen should be kept to an absolute minimum.

Problem 8 (Copyright)

One of the defences for watermarking has been that it protects copyright. Let us consider some examples of programmes to see whether the proposition will hold water.

(a) News Broadcasts

The old adage "there is nothing as stale as yesterday's news" seems applicable here. There appears to be no possible justification for the use of watermarking for routine parts of broadcasts which simply show pictures of news readers. What of the cases where excerpts from reports made by one channel are used on another channel? The

existing courtesy, "the following report comes by permission of Channel X" would seem to be more than adequate. Given the very public brawls between the various stations usually in the law courts, one can imagine why the existing niceties were abandoned.

(b) Repeats of Classic Programmes or Movies

Under the existing arrangements, a commercial channel would simply show a logo, title of the movie and rating at the beginning of each segment. If one wanted to download the programme with a view to multiple copying, the existing strategies would have made life impossible for such people. If someone wanted to make multiple copies of a programme (say M*A*S*H), he or she could simply go to the nearest video store, rent the copies, download them onto a computer and reproduce them at will.

Solution

Where it can be shown that there is very little threat to copyright, watermarking should not be used.

Problem 9

In the light of my experiences with the various channels, I wondered whether the minister of the day was aware of the difficulties. I wrote to the then minister, Senator Coonan and when I had not received a reply within a reasonable time, I wrote again on a personal basis. In due course, the reply which I received was insulting to say the least. The correspondence had obviously been prepared by a low-grade clerk within the public service and it did not address the questions which I had raised.

Solution

There needs to be much better monitoring of how well the relevant departments are responding to matters raised by constituents. My suspicion is also that there may be insufficient liaison between Free TV Australia, the minister of the day and the Canberra bureaucracy.

Conclusion

I trust that these few comments will alert the members of the Committee that, prior to a major change in policy, there needs to be adequate public consultation and that codes of practice should be adjusted in line with such an alteration. Management of the various channels will need to do a whole lot better in responding to correspondence from their viewing audience. What is at stake here is partly an adherence to old-fashioned courtesy, but also a sensitivity to changing tastes among the viewing public. We need to return to the original intentions of commercial broadcasting in Australia, and ensure that, in the thirst to make money, we have not allowed the intrusion of commercial priorities to spoil our viewing pleasure. Finally, there will need to be better communication between the television stations and the various arms of government. I commend these views to the honorable senators.