



A U S T R A L I A N
B R O A D C A S T I N G
A U T H O R I T Y



annual report 1995-96

Mission Statement

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



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B R O A D C A S T I N G
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annual report

*Sydney
1996*

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ISSN 1320-2863

Design by Media and Public Relations

Australian Broadcasting Authority

Printed in Australia

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**Australian
Broadcasting
Authority**

26 September 1996

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Dear Minister,

In accordance with the provisions of clause 14 of schedule 2 of the *Broadcasting Services Act 1992*, I am pleased to present this report on the operations of the Australian Broadcasting Authority for the year 1995-96.

Yours sincerely,


Peter Webb
Chairman

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Introduction to the report

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

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

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

In summary, the contents of this annual report are:

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

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

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

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

Summary statements, performance pay, staffing matters.

The year in review

The year provided a number of firsts for the Authority while it presented opportunities for broadcasters to provide a range of diverse broadcasting services. The year has been extremely full and productive in a climate of change.

As well as providing opportunity for greater diversity of radio and television services, the Authority has provided the regulatory certainty which has contributed to the commercial health of the sector, with both the commercial radio and television broadcasters posting increased profits.

Planning

In the reporting year the Authority made considerable progress in its planning process, releasing nine final licence area plans for areas in its top priority group. The licence area plans were released as part of the Authority's Australia wide planning for new television and radio services. The Authority also released planning proposals, comprising discussion papers and draft licence area plans, for a further six planning zones in 1995-96.

The Authority released its *Technical Planning Guidelines* in August. Until 1992, the Government was responsible for detailed planning of all broadcasting technical facilities. Now the licencees themselves will plan new facilities within general parameter set by the technical specifications in licence area plans and the *Technical Planning Guidelines*. These guidelines set down the procedures which must be followed and limits which must be observed when planning new or changed transmission facilities.

Allocations

Now that final licence area plans are being released, it is the Authority's role to allocate licences for the new services being made available.

The Authority developed a price-based system for allocating commercial broadcasting licences, as required by the Act. The first commercial radio broadcasting licence was allocated under this system in May 1996, to serve the Mildura market. Price based allocation of the first commercial television broadcasting services under this system was commenced but not completed during this report, due to litigation.

The Authority developed a merit-based system for allocating community broadcasting licences during the year. Expressions of interest were called for five community radio licences, two in Mildura and three in Darwin. The first community licence under this system was allocated after the date of this report. It was allocated to the Association for the Blind Ltd. for a service in the Mildura area.

The previous government accepted the Authority's recommendations to allocate incumbent commercial radio operators a second licence in single service markets. This has led to an extensive roll-out with the Authority issuing 38 new commercial radio licences during the year. As these services commence, they will provide

greater listening choice for listeners in remote and regional areas. At the date of this report, three services were up and running.

Commercial interests continued to respond to the opportunities provided by new categories of services.

The Authority issued 453 non-satellite pay TV licences. As part of its continuing trial of community television, the Authority made channels available in Bendigo and Hobart. Evidence of demand for this type of service will be more apparent as the Authority moves further into its investigation into possible uses for the so-called 'sixth channel' and assesses community and industry demand.

The demand for new categories of radio services continued unabated as the Authority issued 440 low power open narrowcasting licences. There is continued strong interest in community broadcasting, as the Authority issued 398 open narrowcasting licences for temporary transmissions by aspirant community broadcasters making a total of 1119 issued since October 1992. These continue to be issued in advance of the planning process and allow community groups the opportunity to develop their broadcasting and management skills.

Control

The Authority completed two major ownership and control reports, each of which was the result of a wide ranging investigation. The investigations related to possible control of the Ten television network by Canadian company CanWest, and possible control of the Seven television network by News Corporation. No breaches of the control rules were found and the investigations have underpinned Australian control of the commercial television industry by comprehensively exploring the factual and legal issues in each case.

The Authority has continued to facilitate changes to the structure of the broadcasting industry, particularly commercial radio broadcasting, by allowing prior approval to temporary breaches of the Broadcasting Services Act. The Authority also continued in its monitoring role, assessing potential breaches of the Act and assessing the suitability of subscription television broadcasting licence applicants.

Australian content

The Authority continued to promote the role of broadcasting services in developing a sense of Australian identity, character and cultural diversity. A new program standard for Australian content on commercial television came into effect on 1 January 1996. The revised standard was the culmination of extensive consultation with the industry and the general public.

The new standard significantly strengthened Australian content and increased its presence on Australian television. The amount of quality first-release children's Australian drama to be broadcast is to be doubled from 16 to 32 hours annually.

It is now a requirement for 100 per cent of the quota, 130 hours annually, for preschool children's programs to be Australian. There is a new requirement for 10 hours of first run Australian documentaries to be broadcast each year.

The standard was challenged on the issue of whether New Zealand programs could be counted as Australian programs for the purposes of the standard. Acting on legal advice, the Authority excluded New Zealand programs from the standard (although New Zealand programs are by no means excluded from Australian television screens.) The New Zealand production industry was successful in its Federal Court challenge and as a result, the Authority is required to revoke or vary the standard by 31 December this year and determine a standard which is consistent with the Protocol on Trade in Services. The Authority has lodged an appeal against the Federal Court's decision.

Children's television

The Authority continues to give full effect to the objects of the children's television standards — that children have access to a variety of quality television programs made specifically for them. The Authority assessed and approved an increased number of programs as meeting the specific requirements for children's television in the past year. The Authority has also ensured children have a say on media issues through its research program.

Research

It is part of the Authority's role to encourage service providers to be responsive to the diverse broadcasting needs, interests and values of the Australian community. The Authority's attitudinal research program continues to feed into this process, by providing valuable feedback for broadcasters and information for the Authority itself.

The mass shooting tragedy at Port Arthur, Tasmania led to extensive public discussion of the issue of violence in the media. The Authority was able to use the results of its research program to advise the Ministerial Committee on the Portrayal of Violence. The Authority was prominent in its support of the introduction of the V-chip. The V-chip is a device which can be installed in television receivers and can be programmed to block programs of certain classifications or those which contain material of a certain kind e.g. violent or sexual material.

The Authority has also contributed to the public debate on concerns about children's use of electronic media. The Authority's research project, Families and Electronic Entertainment, conducted in conjunction with the Office of Film and Literature Classification, showed that parents actively supervise their children's use of electronic media and most believe their children achieve a reasonable balance in their use of electronic entertainment and other activities.

The Authority's research into aspects of radio use was designed to feed into the Authority's licence area planning process and also to assist broadcasters in making decisions on format and target audiences. The research was also aimed at alerting the industry to the decline in teenage listening patterns and suggesting means of turning this around.

The Authority completed extensive and long running research into children's attitudes to television — what they like, what they don't like and why. A ground breaking aspect of this research is that it was the first to be conducted from a child

perspective. Broadcasters and those who work in the world of children's television now have a wealth of information about children's attitudes towards television, as well as the more traditional information: what adults think children think.

Codes of practice

The codes of practice regime is continuing to expand and settle. The Authority registered codes of practice for the community radio broadcasting sector during the year, and work is well advanced towards doing the same for the subscription and narrowcasting sectors. There is evidence to suggest that the viewing and listening audience is now more familiar with the self-regulatory regime and its requirements and is now participating in the process in the way parliament envisaged. The Authority will take an active role in the review of the commercial television industry code of practice which is taking place in the second half of 1996.

The Authority continues to monitor audience perception of the television codes of practice as part of its role as regulator in a predominantly self regulating industry. Investigating unresolved complaints about broadcasting matters is one of the Authority's primary functions, and a means of providing a guide to broadcasters on interpretation of the codes. In effect these guidelines are provided to all broadcasters, as the Authority publishes summaries of breaches, along with reasoning.

New technologies

Part of the Authority's regulatory jurisdiction is the new pay TV arena. A given for any new industry is that its face and structure will change as it develops and consolidates its position in the market place. The subscription television industry is no exception. The Authority has accommodated the changes to this rapidly changing industry with its guidelines for compliance with the condition for expenditure relating to drama programming. Although the structure of the industry as it has emerged is now totally different from that envisaged prior to the drafting of the legislation, the Authority has accommodated these changes, in consultation and agreement with the industry. Guidelines for Australian drama on pay TV have been completed after the date of this report, but they will serve to guide the industry as an interim measure until a review, which is to be conducted before July 1997.

In December 1994, the Minister for Communications and the Arts directed the Authority to monitor and report to him on the anti-siphoning provisions. In particular, the Authority was to monitor and report on the extent to which broadcast rights to events on the anti-siphoning list are offered to, acquired and used by national broadcasters and commercial television broadcasting licensees and whether there are any grounds for the Minister to add events to the list.

The Authority's first report to the Minister, *Anti-siphoning—the Availability, Acquisition and Use of Broadcast Rights*, was released in July 1995. This report showed that the commercial and national broadcasters had acquired the rights to broadcast most of the events contained in the anti-siphoning list. Where the rights had not been acquired, the commercial or national broadcasters either did not wish to acquire them or negotiations were still proceeding at the time of that report.

The subsequent reports to the Minister, in December 1995 and June 1996, whilst addressing all of the matters contained in the direction, focused on updating the extent to which events on the anti-siphoning list have been acquired and broadcast in the period since the previous report.

Within the scope of its monitoring function, the Authority considers that the anti-siphoning provisions are working effectively to ensure that major sporting events are broadcast on free-to-air television. Virtually all listed events have been acquired by commercial or national broadcasters and the televising of listed events remains at satisfactory levels.

The Authority has also stayed at the forefront of the emerging digital technologies, and has made significant contributions to planning for the future implementation. The Authority has been involved with their assessment, and with the development of international recommendations on digital radio and television broadcasting technology and spectrum use and all aspects relating to introducing digital to Australia. In this way, the Authority aims to ensure Australia is both in line with international standards, and that as they are developed, international standards are in line with Australia's requirements.

On-line services

During the reporting period the Authority conducted and completed its investigation into the content of on-line services, at the request of the Minister for Communications and the Arts. In the course of its investigation, the Authority consulted widely with the community, the on-line industry and closely monitored international developments. The Authority was conscious of the considerable public interest in the issue of regulating on-line services, and the extensive public debate and the disparate strongly held points of view, and released a report to general industry acclaim. The report recommended what is in essence, a continuation of the spirit of the current legislation: self-regulation by codes of practice, overseen by a regulatory body such as the Authority. There were also recommendations relating to public education campaigns. The Minister has accepted the recommendations in the report, and they are now being implemented.

International

As communications technology makes our world ever smaller, Australia cannot operate, or attempt to operate in a vacuum. The Authority continued its program of establishing relations with overseas regulators. In the spirit of a willingness to exchange information, the Authority signed co-operation agreements with the Broadcasting Standards Council of the UK and the Korean Broadcasting Commission.

These agreements are very important to the Authority. In order to maintain its links with its more immediate region, the Authority convened a regulatory roundtable with regulators from Asia and the Pacific.

In addition to this international focus, the Authority maintained its close links with the broadcasting industry in Australia, and in particular with the industry's peak groups.

Corporate services

On the domestic front the Authority is pleased to have had its Agency Agreement certified by the Industrial Relations Commission. The agreement represents both the Authority's commitment to continuous improvement throughout the organisation, and a strategy for achieving it.

The Authority also developed and implemented its equal employment program for the period 1996-99.

The Authority is continuing its forward planning program, which seeks to anticipate and accommodate changes ahead for regulators, the Australian Public Service and the Authority.

The Authority continued to develop the commitment and professionalism of staff by a variety of means, including developing and running training courses, when such need was evident. Human resources policies enabled management to keep track of needs and requirements of staff and the Authority as a united organisation, within the public sector framework.

The Authority has improved its financial management with the implementation of a new financial management information system. The Authority has also improved its internal communications systems.

Corporate Overview

Australian Broadcasting Authority

Members



Chairman:
Peter Webb



Deputy Chairman:
Robert Scott



Member:
Tim O'Keefe



Part time member:
Kerrie Henderson



Associate member:
Christine Goode



Associate member:
John Dickie



Policy and Programs Division:
General Manager:
Gareth Grainger



Planning & Corporate Services Division:
General Manager:
Colin Knowles

Policy & Communications Branch:

Director: Pat Manser



Legal Section: Manager: John Corker

Policy Section: Manager: Phyllis Fong (A/g)

Media & Public Relations: Manager: Donald Robertson (A/g)

Industry Analysis Section: Manager: Osmond Borthwick

Library: Manager: Lurline Caffery

Program Services Branch:

Director: Debra Richards



Standards Section: Manager: Lesley Osborne (A/g)

Research Section: Manager: Stephen Nugent (A/g)

Codes & Conditions Section: Manager: Nick Herd (A/g)

Allocations & Renewals Section: Manager: Nigel Ryan (A/g)

Planning Branch:

Director: Giles Tanner



Services Planning Section: Manager: Mike Salloom

Planning Engineering Section: Manager: Bob Greeney

Corporate Services Branch:

Director: Louise Harkness



Financial Resources Section: Manager: Graeme Haigh

Human Resources Section: Manager: Mark Jeppesen (A/g)

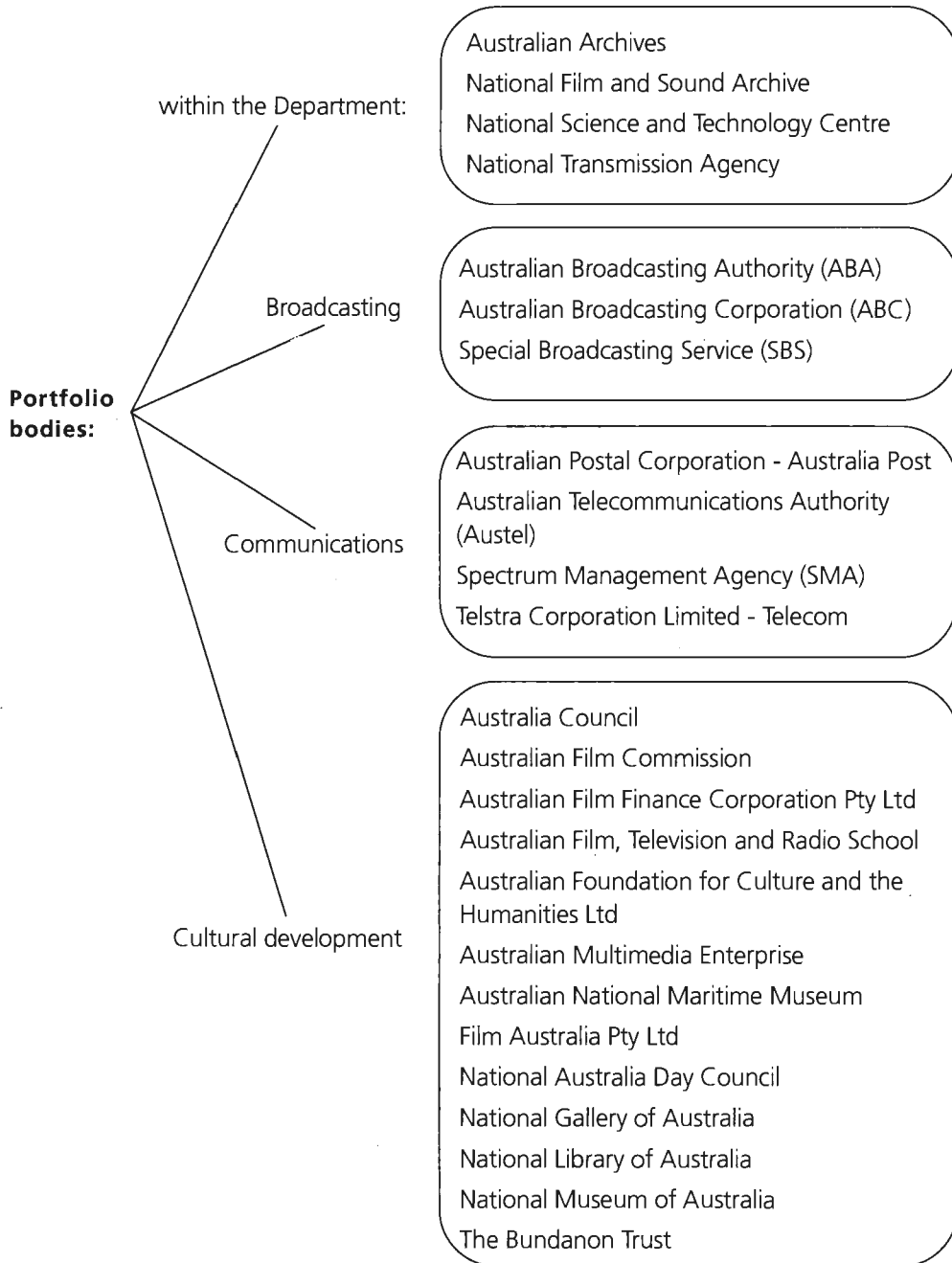
Information Systems Section: Manager: John Small

as at 30 June 1996

Communications and the Arts Portfolio

Minister: Senator The Hon. Richard Alston

Department: Communications and the Arts



Members of the Authority are:

Mr Peter Webb

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

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

He was appointed an associate member of the Trade Practices Commission in 1993 and of the Australian Competition and Consumer Commission upon its creation in 1995.

Mr Robert Scott

Mr Scott was appointed Deputy Chairman of the Authority in June 1995 for a five year period. Prior to joining the Authority, Mr Scott had some thirty years' experience in the media.

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

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

Mr Tim O'Keefe

Mr O'Keefe was appointed as a member of the Authority for the five year period 5 October 1992 to 4 October 1997. He was previously a member of the ABT, following his appointment in July 1990 for a five year period.

He has had 12 years' experience in the broadcasting industry and, before joining the ABT, was Chief Executive of Wesgo Limited (now named the Australian Radio Network) and Chairman of all that listed company's licensee subsidiaries. Mr O'Keefe has also held corporate development and financial management positions with Wesgo, AWA Radio Network and 2DAY FM Ltd and has served on the Federal Council of the Federation of Australian Radio Broadcasters. Mr O'Keefe is a member of the Institute of Chartered Accountants in Australia.

Ms Kerrie Henderson

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

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

Ms Henderson is Director, Leadership Programmes with The St James Ethics Centre, a non-profit organisation for the promotion of business and professional ethics. She is also a director of the Australia-Indonesia Business Council.

Ms Christine Goode

Ms Christine Goode joined the Australian public service in 1968, and has worked predominantly in the fields of transport and communications over her career.

Her transport experience has included budget and resource management in the Department of Aviation at the time it operated the major Australian airports and air traffic services. She was Australia's lead international aviation negotiator from 1986 to 1991.

From 1991 she worked in communications, initially on communications policy as Deputy Secretary in the Department of Transport and Communications. She moved from this position to head the Spectrum Management Agency in 1993 when the Australian Government created a separate statutory authority to focus on radiocommunications.

Ms Goode was appointed a member of the Management Advisory Board in March 1995; and an Associate Member of the Australian Broadcasting Authority in July 1995.

Mr John Dickie

Mr Dickie was appointed as an Associate member of the Authority for the term of its Investigation into the content of on-line services. He is the director of the Office of Film and Literature Classification (OFLC) and has held the position since 1988.

Mr Dickie began his career as a cadet journalist with *the Telegraph* (Brisbane) and subsequently joined *the Age* (Melbourne) as chief law reporter before joining the Attorney-General's Department in 1968.

In 1974 Mr Dickie was appointed as the first Director of Information and Public Relations for the Attorney-General's Department and was press secretary to six Attorneys-General. From 1983 to 1986, he was the Assistant Secretary of the Special Services Branch where he was responsible for censorship policy and literature classification, a post he held until he joined the OFLC.

During his time with OFLC, Mr Dickie has ensured that the interests of the community have informed the development of classification policy and has overseen many innovative changes to Government regulation of entertainment media.

Senior management

The senior management of the Authority, as at 30 June 1996, was:

Mr Gareth Grainger	General Manager, Policy and Programs Division
Mr Colin Knowles	General Manager, Planning and Corporate Services Division
Ms Pat Manser	Director, Policy and Communications Branch
Ms Debra Richards	Director, Programs Services Branch
Mr Giles Tanner	Director, Planning Branch
Ms Louise Harkness	Director, Corporate Services Branch.

Powers and functions

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

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

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

More detail about the powers and functions of the Authority can be found in Appendix 6 - Freedom of Information statement.

Minister

The responsible Minister is Senator the Hon. Richard Alston, Minister for Communications and the Arts.

Structure

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

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

The Policy and Communications Branch monitors the broadcasting industry to ensure compliance with the ownership and control provisions of the Act, provides legal and policy advice to the Authority, a library and public information service.

The Programs Services Branch may allocate, renew, suspend and cancel licences and is responsible for the collection of any fees payable for the allocation of new

licences, provides opinions as to which service category a service belongs, assists broadcasting service providers (licencees) develop codes of practice, conducts research into community attitudes on programming matters, develops and monitors compliance with program standards relating to broadcasting in Australia, monitors compliance with licence conditions and investigates complaints about licencees, and monitors and reports to the Minister on anti-siphoning provisions.

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

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

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

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

A detailed exposition of the Authority's structure can be found in Appendix 6 - Freedom of Information statement.

Objective 1

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

Key Outcomes

- ◆ *Nine final licence area plans released for areas in the Authority's top priority group.*
- ◆ *Price-based system for allocating commercial broadcasting licences developed.*
- ◆ *Merit-based system for allocating community broadcasting licences developed*
- ◆ *Over twelve hundred licences issued, including; 38 new commercial radio licences; 453 non-satellite pay TV licences; 440 low power open narrowcasting licences; and 398 open narrowcasting licences for temporary transmissions by aspirant community broadcasters.*

The planning process

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

The Act envisages a three stage process for planning the use of the spectrum set aside for broadcasting. In performing its planning functions, the Authority must undertake wide public consultation. Once planning is completed in different areas of Australia, the Authority may allocate licences made available for broadcasting services.

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

of quite large areas (22 for television and 23 for radio) and put each zone into one of five priority groups, with group one zones having the highest priority.

People living in remote or sparsely settled areas of the country commonly suffer a dearth of all types of broadcasting services. The Authority gave great weight to this factor in its final decisions. The Authority's priorities tend to give higher priority to areas that have fewer broadcasting services. The Authority gave its highest priority for television planning to those areas of Australia which currently have access to only one commercial television service. The highest priority for radio was given to remote Australia, Darwin and the Top End, and central and south west Western Australia (excluding Perth).

Secondly, the Authority is to prepare frequency allotment plans (FAPs) which determine the number of channels that are to be available in particular areas of Australia to provide broadcasting services. The Authority determined the FAPs for MF-AM radio, VHF-FM radio and television in August 1994. In making its determination, the Authority decided that all parts of the broadcasting services bands have equal priority. As it was able to complete planning for all parts of the spectrum simultaneously, there was no need to plan any one part of the spectrum before another. The Authority also determined that all areas of Australia have equal priority for frequency planning.

At the time of their determination, the FAPs made assumptions about demand, nominal transmitter specifications and siting. These assumptions are being re-examined during the third stage of planning, the preparation of licence area plans (LAPs). It is envisaged determination of LAPs will result in variations to the FAPs. LAPs determine the number and characteristics, including technical specifications, of broadcasting services using the broadcasting services bands that are to be available in particular areas of Australia.

Final licence area plans

Final licence area plans were issued in 1995-96 for the following planning zones: Mildura/Sunraysia, Griffith Murrumbidgee Irrigation Area, Darwin and Katherine, Spencer Gulf South Australia, Broken Hill, Mt Gambier/South East Australia; and for parts of the Remote Western Australia planning zones.

Mildura/Sunraysia radio and television LAP (July 1995)

In the licence area plan, the Authority decided to make a channel available for a new commercial television service in Mildura/Sunraysia. The new service would have the same licence area as the existing commercial television service, STV. The Authority also decided to make channels available for two new commercial FM radio services. These would serve the same licence area as the existing commercial radio service, 3MA.

The Authority decided to make channels available for two new community radio services, one to serve Mildura and the other to serve Dareton. Channels were made available at Robinvale for re-transmission of these services. The licence area of the existing community radio service, 3HOT was extended to include Robinvale and Wentworth and channels were made available at those two locations to permit re-transmission of the service.

The Authority made a channel available for an open narrowcasting AM radio service in Mildura and reserved channels for two national television services in Mildura/Sunraysia (one existing and one additional) and one national/community television service. It also reserved channels for four national FM radio services (three existing and one additional).

Griffith/Murrumbidgee Irrigation Area television LAP (August 1995)

In the licence area plan, the Authority decided to make channels available for a new commercial television service in Griffith and the Murrumbidgee Irrigation Area. The new service would have the same licence area as the existing commercial television service, MTN.

The Authority also reserved channels for two national television services (one existing and one additional) and one national/community television service.

Darwin radio and television and Katherine radio LAP (October 1995)

In the licence area plan, the Authority decided to make channels available for a new commercial television service in Darwin. The new service would have the same licence area as the existing commercial television service, NTD.

The Authority also decided to make a channel available for a new open narrowcasting television service for the city of Darwin and reserved channels for two national television services and one national/community television service.

The Authority made channels available for a new commercial FM radio service in Darwin and Katherine and two new community radio services for Darwin. The licence area of the existing Darwin community radio service (8TOP) was extended to include Adelaide River, Batchelor, Lake Bennet and Jabiru. A channel was also made available for a new community radio service for Katherine.

The Authority made channels available for one high power open narrowcasting radio service for Darwin, three limited coverage open narrowcasting radio services (Darwin City, Darwin East and Darwin North) and one limited coverage open narrowcasting radio service for Katherine.

The Authority reserved channels for all existing national radio services in Darwin, Adelaide River and Katherine and channels for two new national services at Batchelor.

Spencer Gulf, South Australia, television LAP (February 1996)

The Authority reserved channels for two national television services and one national/community television service in Spencer Gulf. Channels were not made available for a new commercial television service due to lack of entrepreneurial interest in providing such a service.

Broken Hill radio and television LAP (February 1996)

The Authority made channels available for two medium power open narrowcasting FM radio services in Broken Hill.

The Authority also reserved channels for two national television services and one national/community television service in Broken Hill. A channel was not made

available for a new commercial television service due to lack of entrepreneurial interest in providing such a service.

Mt Gambier/South East South Australia television LAP (April 1996)

The Authority reserved channels for two national television services and one national/community television service in Mt Gambier/South East South Australia. Channels were not made available for a new commercial television service due to lack of entrepreneurial interest in providing such a service.

Remote Western Australia

Carnarvon radio LAP (June 1996)

The Authority made channels available for low/medium coverage open narrowcasting radio FM services for Carnarvon, Exmouth and Onslow.

Karratha radio LAP (June 1996)

The Authority made channels available for low/medium coverage open narrowcasting radio FM services for Karratha, Dampier, Paraburdoo, Roebourne and Tom Price.

Port Hedland radio LAP (June 1996)

The Authority made a channel available for a low/medium coverage open narrowcasting radio FM service for Port Hedland.

Draft Licence Area Plans

Planning proposals, comprising discussion papers and draft licence area plans, for the following planning zones were released in 1995-96:

Remote Western Australia radio (July 1995)

Perth television (October 1995)

Riverland, South Australia radio and television (October 1995)

South West Western Australia radio and television (September 1995)

Central New South Wales radio (January 1996)

Remote Central and Eastern Australia radio and television (February 1996).

Public consultation

As part of the public consultation process for planning in group three planning zones, Authority staff and members visited aspirant and existing radio broadcasters in the Illawarra and South East regions of New South Wales, the Australian Capital Territory and the Darling Downs region in Queensland. The Authority also conducted further public consultation in the Riverland area of South Australia (a high priority group one zone). The purpose of these visits was to assist existing and aspirant groups and organisations to identify the issues they need to address in submissions to the planning process and for Authority staff to gain first hand knowledge of broadcasting planning issues in these areas. Following consideration of submissions

received, planning proposals will be published and circulated widely for public comment prior to the licence area plans for these regions being published.

Allocation of commercial television and radio broadcasting licences

On 31 October 1995, the Authority finalised a price-based allocation system for allocating commercial television and radio broadcasting licences, as required by s.36 of the Act. The price-based allocation system is set out in the *Commercial Broadcasting Licence Allocation Determination No. 1 of 1995* (the Determination).

The price-based allocation system provides for licences to be allocated in an auction-style process in which the licence is allocated to the highest bidder, subject to the requirements of the Determination and the Act being met.

The Authority has allocated one commercial radio broadcasting licence using the price-based allocation system. The licence was for a service in the Mildura/Sunraysia area and was allocated to Lookridge Pty Ltd on 10 April 1996. The price of the licence was \$10 000.

On 6 and 7 December 1995, the Authority advertised for applications for the commercial television broadcasting licences which it had decided to make available in the Mildura, Griffith, and Darwin licence areas.

Applications for the licences were due to close on 16 February 1996, however, the application period was extended to 19 July 1996 pending the outcome of Administrative Appeals Tribunal (AAT) reviews of certain Authority decisions under s.73 of the Act relating to the licences (see below).

Subsequent to the date of this report, on 1 July 1996, the AAT handed down its decisions. As a result of the AAT's decisions, on 19 July the Authority extended the deadline for applications for the Darwin and Mildura licences until 16 August 1996 and allocated a new commercial television licence to the existing licensee in the Griffith area on 18 July under s.38A of the Act.

Section 39 licences

Section 39 of the Act provides for the allocation of an additional commercial radio broadcasting licence to a licensee in a market where there is only one such service. Section 39 was amended on 8 December 1995, with changes taking effect from 5 January 1996.

At the start of the reporting period, 55 commercial radio licensees were eligible for an additional licence under this section.

Under the old s.39, the Authority was required to allocate, on request, a second commercial radio broadcasting licence to an existing licensee in a single licence market if at least two other commercial radio broadcasting licences were available for allocation. The Authority allocated one licence, in the Mildura/Sunraysia area, under the old s.39.

Under the amended s.39, the Authority must allocate an additional commercial radio licence to an existing licensee if:

- a) there is only one commercial radio broadcasting licensee in a licence area;
- b) that licensee is providing a service in the licence area;
- c) the licence area for the existing ('parent') licence does not have an 'excessive overlap' with a neighbouring licence area;
- d) the licensee makes a written application to the Authority; and
- e) in the opinion of the Authority, suitable broadcasting services bands spectrum is available for providing another commercial radio broadcasting service in the licence area.

From 8 January to 30 June 1996, the Authority allocated 36 licences under the amended s.39. Licences were allocated to commercial radio broadcasters in Albany, Armidale, Ballarat, Bathurst, Bega, Carnarvon, Charters Towers, Colac, Darwin, Dubbo, Emerald, Esperance, Griffith, Goulburn, Gunnedah, Gympie, Horsham, Innisfail, Inverell, Kalgoorlie, Karratha, Lithgow, Longreach, Mandurah, Merredin, Mount Gambier, Mudgee, Nambour, Orange, Parkes, Port Hedland, Queenstown, Roma, Taree, Wangaratta and Young.

Subsequent to the date of this report, a further five commercial broadcasting licences have been allocated. Two additional commercial radio services have been planned but licences not allocated. The Authority is currently negotiating with the licensees before determining the technical specifications of the remaining services. Twelve services remain to be planned.

An allocation fee of \$10 000 applies to the allocation of licences under both the old and the amended s.39. The allocation fee is intended to defray in part the Authority's costs in planning and allocating the additional licence.

Section 73 permission

Until 5 January 1996, s.73 of the Act allowed an existing commercial television licensee to apply to the Authority for permission to operate a second service in its licence area if it was the only licensee and additional commercial television licences could be allocated in the licence area.

The Authority could give permission if it was satisfied that 'it is unlikely that another person would be interested in, and likely to be in a position to, operate another commercial television broadcasting service in the licence area'.

On 5 January 1996, s.73 was repealed and was replaced with two clauses (s.38A and s.73) which clarify the provisions of the old s.73.

On 13 June, 10 August and 17 October 1995 respectively, the Authority finalised licence area plans (LAPs) for the Mildura/Sunraysia, Griffith and Darwin areas. A new commercial television licence was identified as being available for allocation in each of the LAPs.

On 21 September, 29 September and 1 December 1995 respectively, WIN Television Mildura Pty Ltd, MTN TV Pty Ltd (Griffith) and Territory Television Pty Ltd (Darwin)

applied to the Authority for permission to operate second commercial television broadcasting services in their licence areas.

On 3 November and 13 November 1995 and 12 January 1996 respectively, the Authority decided not to grant permission to the licensees in Mildura, Griffith and Darwin to operate second commercial television broadcasting services in their licence areas.

On 7 December and 11 December 1995 and 17 January 1996 respectively, the Mildura, Griffith and Darwin licensees served the Authority with applications for review by the Administrative Appeals Tribunal (AAT) of the Authority's decisions under s.73. Hearings were held before the AAT on each of these matters in April 1996.

Subsequent to the date of this report, on 1 July 1996, the AAT upheld the Authority's decisions in relation to the Darwin and Mildura licensees and set aside the Authority's decision in relation to the Griffith licensee. In place of the Authority's decision, the AAT decided to grant permission to the Griffith licensee to operate a second commercial television broadcasting services in its licence area.

As a result of the amendments to s.73 and the introduction of s.38A (see above), the Griffith licensee was allocated a second commercial television licence on 18 July 1996.

Merit-based community licence allocations system — broadcasting services band licences

On 19 September 1995, the Authority finalised a community broadcasting licence allocation system. The system was developed in consultation with the peak industry sector representative body, the Community Broadcasting Association of Australia, and other industry stakeholders. The system provides for licences to be allocated on the basis of merit according to criteria set out in s.84 of the Act.

In December 1995, the Authority advertised the availability of two community broadcasting licences in Mildura and two in Darwin. When applications closed in February 1996, there were two applications for the licences in Mildura and three for Darwin. After the date of this report, the Authority allocated a community licence in Mildura.

Community licence allocations system — non-broadcasting services band licences

The Authority is developing an allocation system under s.82 of the Act for non-broadcasting services band community broadcasting licences. This will enable allocation of cable, MDS or satellite delivered community broadcasting services. The system is application driven and will require payment of an application fee. The Authority expects to adopt the system in 1996-97.

Non-satellite subscription television broadcasting licences

Under s.96 of the Act, the Authority issued 453 non-satellite subscription television broadcasting licences to seven companies in 1995-96. At the date of this report, the Authority had issued a total 1456 non-satellite subscription television broadcasting licences to 35 separate licensees.

Low power open narrowcasting services

Low power open narrowcasting services contribute to the availability of a diverse range of radio services offering information, entertainment and education. Four hundred and forty of these licences were issued during 1995-96.

Temporary transmissions by aspirant community radio broadcasters

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

Under an open narrowcasting class licence, the Authority may make vacant spectrum in the broadcasting services bands available for allocation for a specified period to aspirant community radio groups.

The Authority approved a total of 398 temporary transmissions for aspirant community radio broadcasters during 1995-96. Temporary transmissions in any given licence area are subject to the Authority's licence area planning process and future availability of vacant spectrum.

At the time of this report, the Authority had completed assessments of eligibility for temporary transmissions for 106 of the 133 aspirant community broadcasters currently known to it. Eligibility entitles groups to access to spectrum for up to ninety days of test broadcasting per year.

The remaining 27 aspirants include 14 groups seeking to conduct transmissions for the first time and a further 13 which have conducted transmissions but are yet to fully meet the eligibility criteria.

Many of the aspirant broadcasters formed their organisations using model rules which do not necessarily correspond with community broadcasting requirements. Authority staff have provided advice on these requirements to the more than ninety per cent of aspirant broadcasters which have had to change their rules or articles of association so they comply with these requirements.

The Authority publishes a list of approved temporary transmissions each month in its newsletter, *ABA Update*.

Special events

There were 113 special event licences for distinct and organised events of major sporting, cultural or other community significance approved during the year.

Re-transmissions

Section 212 of the Act provides for the re-transmission of commercial and community broadcasting services within and, with Authority permission, outside, the licence area of the originating licensee. It also provides for the re-transmission of national

services. A person who re-transmits a service with Authority permission or within the originating licence area is exempted from the regulatory regime of the Act and protected from any other legal action which could arise in relation to the provision of the service.

The Authority approved 148 re-transmissions of broadcasting services during the period. Of this total, 145 were for re-transmission within the licence area of the originating service or for re-transmission of national services.

Three approvals were to enable the re-transmission of radio and television services into areas outside the originating licence area. These were for re-transmission of commercial television service WAW Remote Western Australia into Longreach, Central Queensland, commercial television service RTS Riverland into the towns of Morgan and Cadell in the South Australian Riverland region, and commercial radio service 6FMS Remote Western Australia into Exmouth, Western Australia.

Section 212 enables individuals or communities to develop self-help arrangements or co-operative ventures between broadcasters and communities. These arrangement can then bring services to areas that may otherwise not be adequately served. Most re-transmission applications are for remote and regional areas where relatively few broadcasting services are available.

Community television

In March 1994, the Minister for Communications and Arts directed the Authority to reserve the last high power television channel available in most parts of Australia (the so-called 'sixth channel'), for national or community broadcasting services. He also directed the Authority to give favourable consideration to making the channel available immediately for community and educational television on a continuing trial basis.

Since April 1994 the Authority has made the channel available on an area by area basis for open narrowcasting services by community and educational non-profit groups. The Authority has extended the availability of the sixth high power television channel to 30 June 1997 in all areas in which licences are on issue.

In the period under report, the Authority issued licences for services in Hobart (May 1996) and Bendigo (June 1996), to be effective from 1 July 1996.

The Authority continued to make spectrum available for community television in Sydney, Melbourne, Brisbane, Lismore, Perth (including Mandurah) and Adelaide.

National services

The Broadcasting Services Act requires apparatus licences to be issued for all national television and radio broadcasting services. In the reporting period, the Authority issued 1002 national (ABC and SBS) radio and television apparatus licences.

Broadcasting licence renewals

Sixty licences (36 commercial radio, 5 commercial television and 19 community radio) were renewed in 1995-96.

Opinions on category of service or a proposed service

Section 21 of the Act requires the Authority to give, on request, its opinion as to which of the categories of broadcasting service as listed in the Act (national broadcasting, commercial broadcasting, community broadcasting, subscription broadcasting, subscription narrowcasting and open narrowcasting) a nominated or proposed service falls into.

In the period of this report, the Authority gave opinions on 23 proposed services (all for television). The Authority opinion was in agreement with that of the applicant in 17 cases.

The Act provides the Authority with a statutory time frame of 45 days to provide the applicant with a written opinion, or the opinion is taken to accord with that of the applicant. All opinions on category of service were provided to applicants within this required timeframe.

In the period of this report, four services which are the subject of opinions have notified the Authority that they had commenced operation.

Since the commencement of the Act, the Authority has given opinions on a total of 119 proposed services (60 for radio and 59 for television). All applicants, with one exception, have sought to have services regarded as narrowcasting. The Authority's opinion was in agreement with that of the applicant in 90 cases (43 for radio and 47 for television).

Since the commencement of the Act, a total of 39¹ services that were the subject of opinions commenced operation (22 radio and 17 television).

¹ **Erratum**

Last year's report stated that, to 30 June 1995, a total of 55 services that were the subject of an opinion had commenced operation. That figure was incorrect and should have been reported as 35.

Objective 2

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

Key Outcomes

- ◆ *After an investigation, the Authority found CanWest Global Communications Corporation, a foreign person under the Act, was not in a position to exercise control of Ten Group Ltd.*
- ◆ *After an investigation, the Authority found News Corporation Ltd was not in a position to exercise control of Seven Network Ltd.*
- ◆ *The Authority found three minor breaches of the control rules.*
- ◆ *The Authority found no other unauthorised breaches of the control rules.*

Monitoring

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

Under the Act's regulatory outlook, the more influential a type of service is considered to be, the greater the level of regulation that applies to it. For example, commercial television licensees are subject to greater restrictions than pay TV licensees in virtually all key areas, including ownership and control, programming and licensing.

As part of its general monitoring of control issues, the Authority obtains and assesses information from a number of sources including participants in transactions, major industry players, media reports, other government agencies (including the Australian Securities Commission, the Foreign Investment Review Board and the Australian

Competition and Consumer Commission), the Australian Stock Exchange, company reports and overseas regulators.

The Authority also responds to complaints about possible breaches of the Act or licence conditions.

The Authority has wide ranging powers to obtain information if it begins an investigation as a result of its monitoring or in response to a complaint. These include the powers to issue notices requiring the production of documents, to examine witnesses under oath and to hold public hearings.

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

Investigations

The Authority has concluded two major investigations relating to the control of commercial television broadcasting services in the period under review. The investigations have underpinned Australian control of the more influential media by comprehensively exploring the factual and legal issues raised in each case. The Authority has issued detailed reports of its findings in each case.

The major investigations were:

Investigation into control: CanWest/The Ten Group Ltd

The Canadian company CanWest Global Communications Corporation (CanWest) has a 15 per cent shareholding and a 58 per cent economic interest in The Ten Group Ltd (TGL) which controls the Ten network television licences in Sydney, Melbourne and Brisbane (and, since November 1995, the Ten network licences in Adelaide and Perth).

The Authority has actively monitored control of the Ten network since its sale to the present shareholders in 1992. The Authority commenced a more formal investigation following a statement in late 1994 about the role of CanWest by Mr Mike Lattin, a former general manager of network programming for the Ten network.

Following an exhaustive investigation into control, on 30 November 1995 the Authority found that CanWest, a foreign person under the Act, was not in breach of s.57 of the Act as a result of its interests in TGL.

At that time, the Act said a foreign person must not be in a position to exercise control or have company interests of greater than fifteen per cent in a commercial television broadcasting licence. The Act has since been amended to provide that a person with company interests of greater than fifteen per cent in a company is to be regarded as being in a position to exercise control of that company.

The Authority analysed approximately fifteen thousand pages of documents, examined key witnesses from within TGL and CanWest and compiled 950 pages of transcript.

The Authority's report of the investigation covered events since CanWest's purchase of TGL shares, as the Authority had not previously provided an account (separate from its Annual Reports) of its dealings with TGL.

The report is a comprehensive account of the Authority's interpretation of control within media companies.

The Authority concluded that neither CanWest nor any other foreign person had been or was in a position to exercise control of TGL, Network Ten Limited (NTL) or the respective licensee companies by means of any of the formal arrangements in place at Ten.

The Authority examined the way in which key decisions had been reached within the Ten companies, and relationships between persons within and outside those companies. The Authority concluded that neither CanWest nor any other foreign person had been or was in a position to exercise control of TGL, NTL or the respective licensee companies by way of any informal arrangements.

The Authority found that the ultimate decision makers at Ten were the Board of Directors of TGL and NTL.

CanWest provided, and continues to provide, advice to Ten on a range of broadcasting related issues. However, the Authority considers that where advice is accepted on its merits, the provision of that advice cannot amount to the exercise of control. The Authority found evidence that at times CanWest's advice to Ten was not accepted by the Board. Taking into account such evidence, the Authority found that where advice was accepted by the directors, it was accepted on its merits.

Investigation into control: News Corporation Ltd/Seven Network Ltd

On 11 April 1996, the Authority concluded its investigation into control of Seven Network Limited (Seven) to determine whether News Corporation Limited (News) or any associated person had breached any provision of the Act.

The Act says that a person must not be in a position to exercise control of a commercial television licence and a newspaper that is associated with the licence area of the licence. At that time, the Act also said a foreign person must not be in a position to exercise control or have company interests of greater than fifteen per cent in a commercial television broadcasting licence. The Act has since been amended as outlined above.

The Authority found News Corporation Ltd was not and had not been in a position to exercise control of Seven Network Ltd.

The Authority investigated the major events that had taken place at Seven Network Limited since the beginning of 1995, including events leading up to Seven's decision to join Optus Vision and the resignation of Mr Ivan Deveson as Chairman of Seven.

New evidence was also brought to the Authority's attention at the end of 1995 concerning the acquisition and sale of sporting rights by Seven. The Authority investigated this matter and found that there was no evidence of arrangements between News and Seven to act together in relation to sporting rights.

The Authority also examined the relationships between the major shareholders in Seven: News, Telstra and Mr Kerry Stokes.

The Authority examined the business relationships between Mr Stokes and News, as well as those between Mr Stokes and Mr Ken Cowley, the CEO of News. The Authority found that there was no evidence that Mr Stokes acted in association with News or Mr Cowley in buying into Seven or seeking board representation on Seven.

Applications for prior approval

The prior approval of temporary breaches, under s.67 of the Broadcasting Services Act and extensions of the approval periods for such breaches under s.68, continues to facilitate changes to the structure of the industry, particularly commercial radio broadcasting.

During the reporting period the Authority approved ten applications for temporary breaches under s.67. The Authority has also approved 12 applications for extensions of time in which to remedy temporary breaches under s.68.

The Authority has 45 days from receipt of an application under s.67 or 68 in which to approve or refuse to approve the breach arising as a result of the transaction or agreement. During the reporting period the average time for the Authority to make a decision under ss.67 and 68 was 20 days.

During the reporting period persons involved in 13 temporary breaches had taken action to remedy the breaches.

Details of approvals under s.67 and extensions under s.68 are made available to the public through the Authority's Notifications Register under s.75.

Notices by the Authority

Under s.70 of the Act, if the Authority is satisfied that a person is in breach of the ownership and control rules the Authority may, by notice in writing, direct the person or the licensee to take action so that the person is no longer in breach of that provision.

Details of notices issued under s.70 are made available to the public through the Authority's Notifications Register under s.75.

During the reporting period the Authority issued notices in relation to three breaches of the Act.

The acquisition of more than fifty per cent of the share capital of National Mutual Holdings Limited by AXA Societe Anonyme, a French insurance company, led to the foreign ownership level in Seven Network Ltd rising beyond twenty per cent. AXA and National Mutual were found to be in breach of s.57(3) of the Act, under which two or more foreign persons must not have company interests in a commercial television broadcasting licensee that exceed 20 per cent. The Authority directed AXA and National Mutual to remedy the breach within six months. The breach was remedied within that period.

The Authority found that Mr Kerry Stokes and a number of associated companies and persons were in a position to exercise control of two commercial television broadcasting licences (STW and TVW Perth) in the same licence area. The breach arose following the passage of the *Broadcasting Services Amendment Act 1995* (BSAA), which altered the Broadcasting Services Act to provide that anyone with company interests of greater than fifteen per cent in a company would be deemed to control that company. The Authority found that Mr Stokes was not protected by the grandfathering provisions of the BSAA. The Authority directed Mr Stokes and associates to remedy the breach within two years. The breach was remedied within that period.

The Authority found that Mr Kerry Stokes and a number of associated companies and persons were in a position to exercise control of a commercial television broadcasting licence (ATN) and commercial radio broadcasting licences (2GGO and 2CFM) in the same licence area. The Authority found that Mr Stokes was not protected by the grandfathering provisions of the BSAA. The Authority directed Mr Stokes and associates to remedy the breach within one year. The breach was remedied within that period.

Subscription television broadcasting

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

Satellite subscription broadcasting licences A and B

During the reporting period the Authority received a number of complaints about foreign and cross ownership and the arrangements in place between the holders of satellite subscription broadcasting licences A and B.

The Authority investigated the complaints in terms of the ownership and control rules in Part 7 of the Act and found that there were no breaches of the Act.

Notification requirements

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

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

position to exercise control of commercial licence must notify the Authority within seven days of becoming so aware.

Thirty four commercial radio broadcasting and 26 commercial television broadcasting licensees notified the Authority of changes to control during the reporting period.

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

Objective 3

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

Key outcomes

- ◆ *Three research projects completed and results used to inform the Authority and industry of community attitudes towards television, radio and other media.*
- ◆ *Codes of practice for community radio broadcasters registered.*
- ◆ *Investigations into programming matters, with subsequent reports, provided guidance for broadcasters.*
- ◆ *An increased number of programs assessed as meeting the criteria for C and P classified children's programs.*

Research

The Authority plays an important role in providing broadcasters with information on the diverse needs, interests and values of the community. This information is collected, analysed, interpreted and published as part of the Authority's extensive attitudinal research program.

The Authority's research program is mandated by the Broadcasting Services Act. One of the Authority's primary functions is, 'to conduct or commission research into community attitudes on issues relating to programs' (s.158(g)). The results of this attitudinal research are made available to service providers to assist in the development of codes of practice and review of codes already in place. Industry groups representing service providers are required to take the Authority's research into account when developing their codes of practice (s.123(1)).

During the reporting period, the Authority completed three attitudinal research projects, started two new projects and continued an annual survey. The Authority also published its second review of television and radio audience research data.

Authority staff briefed service providers' peak bodies and/or provided them with reports detailing the results of the research. The research results also inform the Authority in the performance of its content regulation function and are disseminated widely within the community.

The completed projects were:

- families and electronic entertainment;
- radio research project; and
- children and television project (kids talk TV, completed but published after the date of this report).

The two new projects started during the year were: young families and television, and young Australians and music. The Authority is continuing with its monitoring research into aspects of the television code of practice.

The research program provides information that is representative of the views of the community as a whole and complements information obtained through submissions, public meetings and the Authority's complaints process.

1. Families and electronic entertainment

The objective of this joint project with the Office of Film and Literature Classification was to focus on families and their use of various forms of electronic entertainment. It examined the ways children and teenagers use their time in a rapidly changing entertainment environment. It also explored parental concerns and household rules and routines that apply to television, video and computer/video games in particular.

The research consisted of qualitative and quantitative stages. The qualitative stage was completed in 1994 while the national fieldwork for the quantitative stage commenced in June 1995. It involved a sample of 743 families across Australia and was completed in July 1995. Three types of survey instruments were used to collect data: an inventory of electronic equipment in homes, a diary of leisure activities of children, and attitudinal data in relation to usage of, and concerns about, various forms of electronic entertainment.

The research showed that most parents and guardians actively supervise their children's use of television, video and computer/video games. Most parents believe their children achieve a reasonable balance between electronic entertainment and other activities.

Some parents list the use of electronic entertainment by their children in their top three concerns, but more are concerned about their children's well-being with respect to education, personal safety and security. The study showed that parental concern about electronic entertainment focused on television first, followed by videos and computer/video games—the content of television was of greater concern to parents than the content of computer/video games. One reason for this was the greater realism of programs on television. Younger children were subject to more rules and supervision than older children.

A monograph reporting the findings, *Families and Electronic Entertainment*, was launched in June 1996 by the Attorney-General, the Hon. Daryl Williams QC.

2. Radio research project

This project was designed to assist the Authority in planning radio broadcasting services throughout Australia. Information was gathered on radio usage patterns, satisfaction with existing services and demand for additional services. The research involved both qualitative and quantitative stages, completed during 1994-95.

The results of the research were published in *Listening to the Listeners: Radio Research* (August 1995). The research is informing the Authority's planning and licence allocation processes and is a useful resource for the radio industry. As the Authority issues new commercial radio licences, licensees can use the research to make decisions on format and target audiences. Aspirant community licensees can use the research to assess demand for the type of service they are proposing.

The research shows Australians put radio and television ahead of print when rating their satisfaction with media. The national survey, based on a representative sample of 3217 people aged 14 years and over across Australia, found:

- in rating the various forms of media on a scale of 1 to 10 (where 1 equalled terrible and 10 equalled excellent), Australians rated radio 7.4, television 7.0, daily metro papers 6.1 and local/regional papers 6.0;
- 78 per cent of the population listened to the radio daily, while 84 per cent watched television daily;
- radio was most likely to be used for music (70 per cent), talkback (62 per cent), information about new and latest music (43 per cent) and for company (40 per cent);
- television was most likely to be used for comedy/humour (81 per cent), international news (76 per cent), national news (75 per cent) and entertainment (72 per cent);
- when asked what they liked best about radio, 44 per cent of people said music, 18 per cent said news, 14 per cent said talkback and 13 per cent said information;
- when asked, 'how can radio be improved to make it better for you?', the most common responses were, 'better choice of music' (9 per cent) and 'less advertising' (7 per cent). Younger people were more likely to nominate 'better choice of music' (21 per cent of 14-17 year olds), whereas older people were more likely to state 'no improvement necessary/happy as it is' (49 per cent of those aged 55 years and over).

People in metropolitan areas (Sydney, Melbourne, Brisbane, Adelaide and Perth) were happier with radio services than their non-metropolitan counterparts (i.e. all other respondents). Fifty seven per cent of metropolitan listeners said they 'have plenty of good stations to choose from' compared to 41 per cent of non-metropolitan listeners.

The Authority made extensive use of this research in the preparation of the *Music, New Music and All That: Teenage Radio in the 90s* monograph published in June 1996. As its starting point, the monograph takes figures from *Broadcast Audiences in the 90s* (see below for details) which suggest that the amount of time teenagers spend listening to radio has declined in recent years. It also uses the results of other

relevant research by the Authority, as well as research conducted by other organisations and interviews with people working in the radio industry to consider possible reasons for this trend.

The Authority liaised with the Federation of Australian Radio Broadcasters in the preparation of *Music, New Music and All That: Teenage Radio in the 90s*, and gave FARB the opportunity to comment before publication. This was done as part of the Authority's commitment to consultation with stakeholders.

3. Children and television research project

This is a long-running project which has had two major stages. The first stage focused on classification issues and was published in 1994 as *'Cool' or 'gross': Children's attitudes to violence, kissing and swearing on television*.

The second stage commenced in 1994 and complements the consideration of classification issues covered in stage one. Children were asked what they liked and didn't like to watch on television. The objectives of the research were to explore what television programs children enjoy watching and why, as well as what programs they dislike or find 'boring' and why. Other objectives were to examine children's attitudes to Australian-made programs compared to overseas programs and to explore their attitudes to programs especially made for them.

The second stage consisted of three components: a literature review, a consultation stage and a qualitative stage. The literature review and consultation stage were completed in 1994-95, and the qualitative stage in 1995-96. The qualitative stage involved 16 group discussions with children aged five to 12 years. A total of 117 children participated in these discussions. Eleven of the discussion groups were conducted in Sydney, Hobart and Perth in April and May 1995. The other five were conducted in Sydney in August 1995.

The research methodology addressed access and equity issues by taking special care to include children from different educational, cultural and religious backgrounds.

The research found comedy, drama, action-adventure and variety were children's favourite program types. Children liked watching characters who were their own age or a bit older, or teenagers or young adults who were doing interesting things. Acting ability and attitude were considered much more important than presence of good looking characters.

The results of the project have been published, after the reporting period, as the Authority monograph, *Kids Talk TV: 'super wickid' or 'dum'*.

4. Young families and television

As well as the children and television research project (see above), Authority research efforts in the area of children and the media have also included an analysis of data on the amount and type of television watched by preschool-aged children, and on the attitudes and behaviour of the parents of these children in relation to their child's viewing.

As noted above, the Authority's children and television research project focused on children aged five to twelve years. There has been very little information gathered on

television viewing by preschool-aged children. This project aims to fill the information gap. The Authority is developing a comprehensive body of data on media usage by children of all ages.

The young families and television data was collected as part of a larger study conducted by Dr Brent Waters, formerly Director of Psychiatric Services at St Vincent's Hospital, and Dr Judy Ungerer of Macquarie University.

The Authority will publish the results of this analysis in the 1996-97 year.

5. Young Australians and music

Young people and their relationships with music is the focus of a major new joint research project being undertaken by the Authority, with funding provided by the Australia Council and the Australian Recording Industry Association.

The project will gather information from young people about the role of music in their lives and their attitudes to the music currently available to them. Under consideration is the means of music delivery: the traditional mechanisms such as radio, television, CDs and newer delivery mechanisms such as the Internet. The research will also consider live performances and participation by young people.

The research will consist of the following stages: a literature review, consultative stage, and qualitative and quantitative data collection. The objectives of the research will be refined as the project progresses, particularly following the literature review and consultative stage.

The literature review started subsequent to the reporting period. The Authority plans to publish a monograph in 1997, reporting the research findings.

Monitoring survey

As part of its ongoing role to monitor the effectiveness of the commercial television industry code of practice (FACTS Code), the Authority conducted a second national survey in August 1995.

The objective was to measure awareness of television classifications, in particular the M and MA classifications. The study also looked at the perceived suitability of movies on commercial television starting at 8.30 p.m., particularly in relation to the presentation of sex scenes, nudity and violence and the use of swearing.

A number of the questions had been asked in a similar study in 1994, allowing comparison of results for the two years. This information will feed into the review of the FACTS Code which is to be conducted during the second half of 1996. Many of the questions will be repeated in a survey to be conducted in 1996-97 so the Authority's monitoring of community attitudes extends over time.

The main findings of the research included a relatively low degree of concern among the general public about what they had viewed on television in the previous week. Twenty per cent of those sampled reported seeing something that had concerned them on television in the preceding week and a further 18 per cent said they had seen something in the previous eight months which concerned them.

Of the responses expressing concern about something viewed in the previous week, 34 per cent related to news and current affairs, a result comparable with the previous year's result.

This research also established that recall of the television classification symbols remained quite high in the community, with 81 per cent able to recall one or more of the classification symbols, compared with 83 per cent in the 1994 research. Of those surveyed, 50 per cent recalled the M classification symbol unprompted. When asked, 85 per cent of responses demonstrated a reasonable understanding of the purpose and intention of the M classification.

When asked about the MA classification, 23 per cent could recall the symbol unprompted and 76 per cent demonstrated a reasonable understanding of the purpose and intention of the classification.

The Authority considers this is a satisfactory result given that the use of these classification symbols for television had been in place for less than two years when the research was conducted.

Results of the August 1995 research were reported in the Authority publication *Your say: A review of audience concerns about Australia's broadcast media 1996*, which was released in June 1996.

Review of television and radio audience data

In February 1996, the Authority published its second review of television and radio audience ratings data. *Broadcast Audiences in the 90s* reviewed audience ratings data from 1991 to 1994 (with a particular focus on 1993 and 1994). The earlier review, *Audiences and Programs 1992*, focused on 1992 data.

Broadcast Audiences in the 90s showed that most of the top ten regular television programs watched by all viewers in 1993 and 1994 were Australian produced. As the review covered the years leading up to the introduction of pay TV, it also provides a reference point for measuring the impact of new broadcast media on viewing and listening preferences.

The publication contains information on average weekly time spent watching television and listening to radio, as well as audience share information for television and radio stations. It also lists the top rating programs for the children, teenagers and all people categories. This information provides the Authority and industry with information in relation to viewing and listening patterns which gives a context to the attitudinal research data collected in other studies.

Codes of practice

Assisting representative industry groups to develop codes of practice, monitoring those codes once they are implemented and dealing with unresolved complaints made under the codes are among the primary functions of the Authority.

Assistance with development of codes occurs through consultation with industry groups and through the application of research into community attitudes to matters covered by the codes.

The Authority registers codes of practice developed by industry groups if it is satisfied that the codes contain appropriate community safeguards, they are supported by the majority of service providers and there has been adequate public consultation in the development of the codes.

Codes developed by the national broadcasters, ABC and SBS, are notified to the Authority, but are not registered.

The following codes were either registered with the Authority or notified to the Authority at 30 June 1996:

- Commercial Television Industry Code of Practice;
- Commercial Radio Code of Practice;
- ABC Code of Practice;
- SBS Code of Practice; and
- Community Broadcasting Code of Practice.

The Community Broadcasting Code of Practice is a new code registered with the Authority and which took effect from 1 January 1996. This code was developed after extensive consultation with groups representing community broadcasters, including indigenous broadcasters.

The implementation of codes of practice for subscription broadcasters and for narrowcast services has been longer in coming. The Authority continued to consult with industry groups, the Confederation of Australian Subscription Television and the Federation of Australian Narrowcasting and Subscription Services, over the development of codes. The Authority expects to register these codes early in the new financial year.

The Australian Broadcasting Corporation notified the Authority of an amendment to its code which changed the start time of MA classified programs on television, from 9.00 p.m. to 9.30 p.m.

The Authority understands that a similar change will be made to the SBS Code of Practice. The Authority also consulted with the SBS over clarification of some aspects of its code.

The Authority began consultation with the Federation of Australian Commercial Television Stations regarding the issues to be addressed in its review of the Commercial Television Industry Code of Practice. The consultation phase of the review, which commenced in August, after the date of this report, is scheduled to be completed by the end of 1996.

Investigations

If the Authority receives a complaint that there has been a breach of the Act or of a licence condition, it immediately begins an investigation.

Complaints about breaches of codes of practice are first dealt with by the broadcaster. It is the broadcaster's responsibility to deal with the complaint and to resolve it to the satisfaction of the complainant.

If the complainant is not satisfied with the broadcaster's response, or the broadcaster does not respond within 60 days, the complainant may complain to the Authority. The Authority is obliged to investigate these unresolved complaints.

As part of its investigation procedure, the Authority seeks a report from the broadcaster on its own investigation into the unresolved complaint and provides advice to the broadcaster about its interpretation of the codes.

A breach of a code of practice is not a breach of a licence condition or of the Act. The Authority may make compliance with a code a condition of a broadcaster's licence, but the code is intended to be primarily part of a self-regulatory process by the broadcaster. As the onus of compliance with the codes rests with broadcasters, the Authority's response to a breach of a code is to work with the broadcaster to ensure that problems with the performance of the broadcaster against the code are rectified by the broadcaster concerned. The Authority has the power to make compliance with a code a licence condition where there are repeated breaches of the code or a broadcaster proves unwilling to take remedial action.

The Authority has a range of sanctions available to it in the event of a breach of licence condition, program standard or code. Any action taken depends on the seriousness of the breach. Of the 148 investigations into matters commenced during the year, 29 were investigations into possible breaches of licence conditions and 119 were investigations into unresolved complaints about program matters covered by codes of practice. None of the unresolved complaints was considered to be frivolous or vexatious.

The Authority completed 170 investigations arising from 218 separate complaints, during the financial year. Of these investigations, 37 resulted in the Authority finding a breach or breaches had occurred. The total number of breaches arising from these 37 investigations was 46 (some investigations resulted in findings of more than one breach). It is important to note that, however, that these breaches relate to investigations completed during the reporting period and not to broadcasts made. The broadcasts or actions by broadcasters found to have breached actually range over a four year period.

Of the 37 investigations that resulted in findings of a breach, 19 started before the beginning of the reporting period and so therefore relate to broadcasts made earlier. Three of the investigations started in 1993-94 and 16 in 1994-95. As a result, the figures should not be taken on face value to indicate an increase in the number of breaches, nor do they indicate a trend in compliance with codes or licence conditions.

The Authority has publicly acknowledged, in the context of an investigation by the Commonwealth Ombudsman, that at the commencement of the reporting period there was a backlog of investigations not completed. During the year there was a comprehensive review of investigation procedures and new procedures were implemented to improve response to unresolved complaints. The Authority also reviewed the allocation of resources for dealing with complaints. The Authority has continued to develop and modify its database of investigations into unresolved complaints to improve its utility as a management information tool.

Of the 46 breaches found, 35 related to a code of practice, seven were breaches of licence conditions and four were breaches of radio or television program standards which were in force prior to the commencement of a code of practice.

Of the 35 code breaches, 26 related to commercial services, four to ABC television, four to SBS television and one to SBS radio.

A complete list of investigations completed by the Authority in the year is in appendix 2, it provides summaries of 36 of the 37 investigations completed by the Authority which resulted in breaches being found. There is no report on one investigation as it involves outstanding litigation and the Authority has undertaken not to publish the report to the general public before the litigation is completed.

When the Authority found a breach, its decisions and reasons were discussed with the broadcaster concerned, with the objective of ensuring future compliance with the rules. To encourage compliance by other broadcasters and increase awareness and understanding of the Authority's interpretation of the codes, the Authority publishes its reports and provides them to the relevant industry bodies. Publishing a report of a breach also serves as a form of sanction for the broadcaster concerned. To provide guidelines for all broadcasters, the Authority also published summaries of the reports in its annual review of audience concerns about broadcast media, *Your Say 1996* and in its monthly newsletter, *ABA Update*.

The Authority continues to monitor public awareness of the program classification system and the provision of consumer advice by service providers through the conduct of attitudinal research.

Complaints made about broadcasting

Under codes of practice, primary responsibility for the resolution of complaints rests with the broadcasters themselves. However, many members of the public contact the Authority directly with complaints about radio and television. These complainants are informed of the complaints procedure and directed to the relevant broadcaster.

Around one quarter of complaints to the Authority were in written form. These received a written response. People who phoned the Authority with their complaint were provided with a full explanation of the complaints process and, if requested, were also provided with copies of relevant information such as codes of practice. To assist callers, the Authority has a 1800 (free call) entry in the White Pages of every telephone directory in the country as well as an after hours answering facility for recording comments from the public. The Authority has also installed a telephone typewriter to assist hearing impaired people and provides a telephone interpreter service.

The Federation of Australian Commercial Television Stations (FACTS) and the Federation of Australian Radio Broadcasters provide the Authority with quarterly complaints reports. These reports give summaries of complaints made to broadcasters.

The Authority has quarterly meetings with the FACTS Code Advisory Committee and also with program classification officers from each network. The Authority also consults on a regular basis with the ABC and SBS on matters relating to their codes.

The Authority was an observer at the meetings of the Australian Music Performance Committee which was established under the Commercial Radio Code of Practice to monitor compliance with the Australian music code.

Licence conditions (s.100)

The Authority continued to consult with subscription television broadcasters and with the Department of Communications and the Arts and the Department of Industry, Science and Technology about the imposition of licence conditions under s.100 of the Act in relation to subscription broadcasters.

The intention of these conditions is to provide specific safeguards for consumers and encourage Australian industry involvement in providing subscription television services.

International codes

The Authority maintains a watching brief on approaches adopted by overseas broadcasting regulators to balance the tension between the broadcasting industries' commercial interests, audience demand for program diversity and community aspirations for a national identity. For example, the Authority participated in negotiations for regional codes of practice for transborder satellite broadcasting, including meeting with regulators in the region to discuss cultural concerns about such broadcasting. The Authority also appraised US legislation requiring the installation of a V-chip in receivers and monitored international debate on this issue.

Children's television

Section 122 of the Act states that the Authority is required to develop standards for children's programming. The Authority administers the children's television standards which were developed by the Australian Broadcasting Tribunal. The standards were carried over by the Authority under the provisions of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*.

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

The standards oblige commercial operators to broadcast a minimum of 390 hours of children's programs each year. This includes at least 130 hours of preschool (P) programs and at least 260 hours of children's (C) programs.

During the reporting period, the Authority revised the standards as a consequence of the new Australian content standard determined in September 1995. The revised standards doubled the number of hours of quality first release children's drama to be

broadcast, from 16 to 32 hours a year. The new requirement will be phased in between 1996 and 1998. The revised standards also included a requirement that all of the preschool programming quota (130 hours per year) be Australian. The revised standards came into effect on 1 January 1996.

Authority staff met regularly with program producers, broadcasters and other interested parties to discuss issues regarding the classification of children's programs and programming and production generally. Authority staff maintain regular contact with interested parties on issues relating to children's television, such as advertising to children.

Compliance with children's television programs standards

The Authority assesses commercial television licensees' compliance with the children's television standards, ensuring that the required broadcast hours have been met for C and P programming.

During the reporting period, the Authority processed compliance data for the three commercial services in Sydney for the calendar year 1994. While ATN (part of the Seven network) and TEN (part of the Ten network) met these broadcasting requirements, TCN (part of the Nine network) failed to meet the requirement that 360 hours of C programs must be broadcast. The licensee of TCN recorded a shortfall of one hour which it has undertaken to make up in the 1996 calendar year. According to the licensee, the shortfall was inadvertent and was due to the over-run of international sporting events.

As TCN had always previously met the requirements of the children's television standards and gave an undertaking to broadcast an additional hour of children's programs in the 1996 calendar year, the Authority decided not to take any further action.

C & P program assessment

The Authority has successfully continued its assessment system for the classification of children's programs. In the year under review, the Authority assessed 69 programs, compared with 62 in the previous year. In total, 47 programs were classified C or P in 1995-96.

The system is based on initial assessment of programs by the Authority and additional assessment by specialist consultants, as required, on a case by case basis. Children's programs are classified against the criteria set out in the children's television standards which state that a children's program is one which is made specifically for them, is entertaining, is well produced and is of a high standard, enhances a child's understanding and experience and is appropriate for Australian children.

The Authority awards programs the following classifications: C - suitable for primary school children; Australian children's drama (CAD) - meets the requirements for Australian produced children's television drama; P - suitable for preschool children.

Some programs are awarded a Provisional classification. This is awarded to programs which are at an early stage of development and appear likely to meet the criteria when completed.

In the reporting period, the Authority awarded 17 programs a C classification; 13 programs CAD; 9 programs Provisional C classification; 6 programs P classification; and 2 programs Provisional P classification. Details of these programs are published in the Authority's monthly newsletter, *ABA Update*. The Authority also refused 22 applications and one application was withdrawn.

Objective 4

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

Key Outcomes

- ◆ *A new program standard for Australian content on commercial television came into effect on 1 January 1996.*
- ◆ *A new requirement that all of the 130 hour annual quota for preschool children's P programs must be Australian.*
- ◆ *A new requirement for 10 hours of Australian documentaries per year.*
- ◆ *Final guidelines for expenditure on new Australian drama on pay TV released.*

Australian content

In September 1995 the Authority concluded a wide-ranging public review of the Australian content requirements for commercial television. The new Australian content standard and variations to the children's television standards came into effect on 1 January 1996. The new standards significantly strengthen Australian content and increase its level on commercial television.

The Australian content standard has two main mechanisms: a transmission quota and minimum quotas. The transmission quota sets the overall minimum level of Australian programming between 6.00 a.m. and 12 midnight and there are quotas for minimum amounts of drama, Australian children's preschool (P classified) and children's (C classified) programs (including children's drama) and Australian documentary programs.

The amount of Australian drama is calculated using a measurement system which multiplies a 'format factor' by the duration of the program. Children's and preschool children's programs and documentaries are measured by an annual hourly requirement.

The main features of the standard received general support from the broadcasting and television production industries and include:

- more Australian programming, with the transmission quota increasing in 1998 from 50 to 55 per cent;
- a doubling of quality first release Australian children's drama between 1996 and 1998, from 16 to 32 hours a year;
- a new requirement for eight hours of repeat Australian children's drama a year;
- a new requirement that all of the 130 hour annual quota for preschool children's P programs must be Australian;
- a new requirement for 10 hours of first run Australian documentaries each year which will ensure documentaries have a place in commercial television schedules;
- guaranteed minimum levels of new Australian drama under a simplified measurement system;
- support for new Australian fully-scripted sketch comedy by its inclusion within the drama quota;
- a definition of 'Australian program' that requires programs of all categories to be produced under the creative control of Australians;
- automatic recognition as 'Australian' for programs with a 10BA certificate and for official Australian co-productions;
- support for Australian feature films because they count towards the free-to-air drama quota, even if they have had cinema, video and pay TV release;
- a clear statement that the standard exists for reasons of cultural development¹.

The standard makes assessment of whether a program is 'Australian' more flexible and is now consistent with the requirements of production financing. This approach was supported by broadcasters and producers. To qualify for the quotas, programs must meet the standard's definition of an 'Australian program' in one of three ways: programs must be proven to be produced under the creative control of Australians using criteria set out in the standard; or programs must be official co-productions; or programs must hold a final certificate issued under Division 10BA of the *Income Tax Assessment Act 1936*.

Australian programs which have received financing from the Commonwealth's Commercial Television Production Fund will not be counted towards broadcasters' obligations under the new standard. These programs are additional to the standard and these arrangements mean there will be a net increase in Australian drama programming.

The increase in quality first release Australian children's drama means that by 1998, each commercial television service will be required to broadcast 40 hours of Australian children's drama programs a year, including 32 hours of new Australian children's drama. This increase is designed to promote a sense of Australian identity for children by ensuring television provides a reflection of Australian society.

¹ For more information about the Australia content standard, contact the Authority's Standards section. Contact details on p.2

The Authority removed a disincentive to quality children's (C)² drama being shown in prime time, by increasing the amount of non-program matter (advertising and promotions) from 12 to 13 minutes per hour during C drama shown between 6.00 p.m. and 8.30 p.m. This means that broadcasters will not lose the minute of advertising revenue they would have gained by screening non C material in prime-time.

Litigation on the Australian content standard

Section 160(d) of the Act requires the Authority to perform its functions in a manner consistent with 'Australia's obligations under any convention to which Australia is a party or any agreement between Australia and a foreign country'. One of the issues in the review was whether New Zealand programs should be included in the Australian content standard consistent with the Protocol on Trade in Services (the Protocol) to the Australia New Zealand Closer Economic Relations - Trade Agreement (the CER).

In its review, the Authority came to the conclusion that there was a real legal impediment to the recognition of New Zealand persons and programs in the standard. The Authority formed the view that it would be outside its legal power to include New Zealand programs in the Australian content standard. The definition of 'Australian program', for the purposes of the standard, does not include programming produced by New Zealanders.

Project Blue Sky Inc., representing the New Zealand film and television production industry, took the view that the ABA's standard contravened Australia's treaty obligations under the Protocol by not according national treatment to New Zealand programs.

Project Blue Sky and five New Zealand production film companies (the applicants) commenced proceedings in the Federal Court of Australia on 26 October 1995 to review the Authority's decision to determine an Australian Content Standard. The proceedings were initiated under the *Administrative Decisions (Judicial Review) Act 1977* but, on advice that the High Court was the more appropriate jurisdiction as the determination of the standard was legislative rather than administrative in character, the applicants then commenced proceedings in the High Court of Australia. The High Court proceedings were then remitted to the Federal Court for decision.

In their statement of claim the applicants alleged that the program standard was not authorised by ss.122 and 160 of the Act and that the standard was not determined in a manner consistent with Australia's obligations under the CER Agreement.

The Federal Court heard the matter after the date of this report, on 19 July 1996. In the ruling of 2 August 1996, Justice Davies has made clear that the Authority cannot include New Zealand persons or programs as Australian for the purpose of the Australian content standard. However, His Honour held it was otherwise open to the Authority to determine a standard which is consistent with the Protocol.

In orders agreed by the parties on 26 August 1996, the court declared the standard invalid to the extent to which it fails to be consistent with the Protocol. The court did

² See Objective 3 for more information about the children's television standards.

not set aside the standard on that date, but ordered that unless the Authority revokes or varies the standard in accordance with the ruling of Justice Davies on or before 31 December 1996, the standard will be set aside with effect from that date. Licensees are required to comply with the standard until 31 December 1996 or until revoked or varied in accordance with His Honour's ruling.

The Authority has appealed this decision.

Compliance with the Australian content standard

In monitoring regulatory compliance with the Australian content standard for commercial television and the children's television standards, the Authority receives information from all commercial television licensees. In light of the long history of licensee compliance, the Authority processed compliance information concerning the three commercial services in Sydney only, for calendar years 1994 and 1995. The Authority found that in 1994 all complied with the then Australian content standard. Assessment for the calendar year 1995 was not finalised as at 30 June 1996.

Following its determination of the new Australian content standard, the Authority commenced development of a new compliance database and reporting procedures for licensees. The Authority's new system was still being developed at 30 June 1996. The system is being tested with the co-operation of one of the commercial networks prior to a staged introduction across the commercial television sector over the next year or so. The Authority expects that, once operational, the new database system should lessen the administrative impact of compliance monitoring for both broadcasters and the regulator.

Australian content in advertising

The television program standard covering Australian content in advertising was one of the Australian Broadcasting Tribunal program standards carried over by the Authority. The standard requires at least eighty per cent of advertising time broadcast each year by licensees, between the hours of 6.00 am and midnight, to be used for Australian produced advertisements. The objective of the standard is to ensure that the majority of advertisements on television are Australian made, by means of a flexible regulatory system that recognises the market reality of advertising.

The Federation of Australian Commercial Television Stations (FACTS) assists the Authority to monitor the impact of the Australian content in advertising standard by providing statistics on the clearance of Australian and foreign commercials.

Compliance information, previously published in the June 1996 issue of *ABA Update*, shows that for the first four years of the standard, the level of foreign advertisements on commercial television remained well below the maximum 20 per cent allowed under the Australian content in advertising standard. In the calendar year 1995, foreign advertisements averaged 9.8 per cent of all advertising on the Seven network, 6.4 per cent on Nine and 8.6 per cent on Ten.

New Zealand commercials have fully qualified as 'Australian' since 1981 under the current and previous standards relating to the Australian content of advertisements

and advertising. The current standard includes New Zealand advertisements not by reason of the CER Agreement but in recognition of the trans-Tasman relationships that had developed under the previous regulation.

Pay TV drama guidelines

Section 102 of the Broadcasting Services Act imposes a condition on subscription television broadcasting (pay TV) licences. This condition specifies that licensees who provide a service with predominantly drama programming are required to ensure that at least ten per cent of the annual program expenditure on that service is spent on new Australian drama programs.

In June 1996, the Authority released final guidelines for compliance with this condition.

The Authority has acknowledged that few, if any pay TV licensees will themselves expend money on programming. If pay TV licensees do not themselves incur program expenditure, then s.102 is not, strictly speaking, enforceable as a condition on their licence.

The Authority has therefore developed and introduced a system of voluntary expenditure on new Australian drama by those corporate entities in the pay TV industry who purchase programming. Pay TV broadcasters and channel suppliers have responded positively to this proposal.

This approach is an interim measure in the period prior to the Minister's review of Australian content on pay TV, pursuant to s.215(2) of the Act, which is scheduled to be conducted prior to 1 July 1997.

The aim of the Authority, in this interim period, is to ensure that pay TV broadcasters, or where appropriate, pay TV channel providers, act in a way which complements the policy intention which led to the introduction of s.102, in that the development of the pay TV industry should lead to new opportunities for the Australian drama production industry.

The Authority first issued guidelines about compliance with this condition in May 1994, and again in September 1995. The September draft guidelines significantly expanded upon the May 1994 version taking into account the structure of the pay TV industry sector which had emerged. This draft was also based on a detailed re-examination of the legal framework for the operation of s.102 of the Act. Following the release of the September draft, an extensive consultation process occurred which included several rounds of public submissions and comment; meetings with pay TV licensees, channel providers and representatives from the production industry; as well as an open forum with pay TV and production industry representatives.

Cultural identity

Where appropriate, the Authority's research program addresses issues associated with Australian identity, character and cultural diversity when researching community attitudes. For example, in the second stage of the research project on children and

television, children were asked for their views on Australian programs compared to overseas programs. The project also explored children's attitudes to the portrayal of cultural diversity on television. The new project on young Australians and music will explore young people's attitudes to Australian music, and in particular new Australian music, compared to music from overseas.

The Authority emphasised the importance of maintaining the levels of local content on television to preserve a sense of national cultural identity in speeches delivered by Members and senior management and by participation in conference debates during the year. The Authority also continued to emphasise the importance of preserving a sense of national identity in discussions at international broadcasting forums.

Objective 5

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

Key outcomes

- ◆ *On the basis of its extensive research into community attitudes to television, the Authority provided advice to the Ministerial Committee on the Portrayal of Violence.*
- ◆ *The Authority completed an investigation into the content of on-line services and reported to the Minister to general industry acclaim. The report recommended development of codes of practice and public education campaigns.*
- ◆ *The Authority signed co-operation agreements with the Broadcasting Standards Council (UK) and the Korean Broadcasting Commission.*
- ◆ *The Authority convened a regulatory roundtable with broadcasting regulators from Asia and the Pacific, to discuss issues of common concern.*
- ◆ *The Authority convened task forces to examine options for the introduction of digital broadcasting technology into Australia.*
- ◆ *The Authority provided three further reports to the Minister on the operation of anti-siphoning provisions.*

Advice to the government

Report to the Minister on the operation of the Broadcasting Services Act

The Authority provides advice on broadcasting regulation to the Minister for Communications and the Arts. One of the opportunities for this is provided by s.158(n)

of the Broadcasting Services Act which requires the Authority to monitor and report to the Minister on the operation of the Act.

The first report under s.158(n) was provided to the Minister during the reporting period. A number of the Authority's recommendations resulted in changes to the Act. These related to the 15 per cent fixed limit for media ownership, arrangements for satellite subscription television services and additional commercial radio licences in single markets. The remaining recommendations are set down for incorporation in current plans for legislative amendment or are being considered in other review processes.

At the date of this report the Authority is preparing the second report to the Minister under s.158(n). It looks at the Authority's achievements pursuant to the Act and addresses the problems it has faced in administering the Act since the first report. Although some of the problems detailed in the first report remain outstanding, the second report contains several new issues which have emerged in the past year. Some of the new issues include the legislation associated with the funding of subscription services and the Authority's power to sanction a breach of a code of practice.

Ministerial committee on the portrayal of violence

The Authority provided two submissions to the Ministerial Committee on the Portrayal of Violence established in the wake of the massacre at Port Arthur, Tasmania to consider the issue of violence in the media. The submissions contained information on the development and operation of codes of practice, summaries of the Authority's research findings on violence and related issues, and analysis of V-chip technology. The Authority has also appraised US legislation requiring the installation of V-chips in television receivers and monitored international debate on this issue.

On-line services investigation

On 24 July 1995, the Minister for Communications and the Arts directed the Authority to investigate the content of on-line information and entertainment services, including services on the Internet, with a view to examining the appropriateness of the development of codes of practice for those services that, as far as possible, are in accordance with community standards.

The Minister also directed the Authority to investigate technological advances and service trends in the provision of on-line information and entertainment services by the broadcasting industry and the extent to which the on-line information and entertainment broadcasting services are accommodated by the operation of the Broadcasting Services Act.

In carrying out its investigation the Authority consulted widely with organisations and individuals; released an issues paper and called for public submissions; placed information and copies of submissions on its World Wide Web site; and monitored national and international developments.

The Authority received 219 formal submissions to its investigation. Submissions were available for viewing by the public in hard copy form on a public file and on the Authority's Web site.

In accordance with the Minister's direction, the Authority's investigation gave particular attention to the means by which community needs might be met by on-line services and children might be protected from material which is harmful or distressing to them.

The Authority's consultation process also identified a range of other issues of interest to users of on-line services and to the community generally which must be considered in proposing any regulatory framework for on-line services.

The report was delivered to the Minister for Communications and the Arts on 1 July 1996 (the first working day after 30 June). The report identifies the range and nature of on-line services. It examines the response of the Australian community to these new services—the introduction of on-line services into Australian homes and schools and the range of issues this raises for the community and government.¹

In recommending a regulatory framework the Authority drew upon information gathered during the course of the consultation process and the results of previous studies on related issues and research into community attitudes.

The main elements of the Authority's proposed regulatory framework are:

- the identification of matters which should be included in codes of practice for service providers, which provide appropriate community safeguards, including complaints handling procedures;
- the registration by the Authority of such codes of practice, developed by service providers after a process of public consultation; and
- the monitoring of the codes of practice, and their effectiveness, by the Authority.

The Authority recommended that a complaints handling regime should be developed specifically for on-line services. As part of its role in monitoring the effectiveness of codes of practice, the Authority should perform an independent appeals function for any unresolved complaints. Codes registered by the Authority could operate as part of a co-ordinated regulatory and enforcement strategy applicable to the on-line services industry.

In relation to Unsuitable material the Authority recommended that service providers include in codes of practice reasonable age verification procedures which aim to limit the holding of open on-line accounts to persons over the age of 18. This aims to prevent children's access to open on-line services without parental supervision. Compliance with this aspect of a code would contribute to defences available under any criminal provisions for on-line services.

The Authority proposed that a purpose-built labelling scheme for on-line content be developed using the technology known as Platform for Internet Content Selection (PICS) which has strong support from the industry and on-line community.

The Authority recommended that it convene an On-line Labelling Task Force which would develop the labelling system for Australian content providers and consumers. The Authority also recommended that Australia participate in the PICS development

¹ Copies of the report, *Investigation into the content of on-line services*, are available from the Authority. Contact details on p.2.

process in the international arena, and collaborate with relevant expert bodies to maximise Australian labelling consistency with overseas ratings schemes.

Community understanding of the development of codes of practice, and the implementation of labelling schemes will be critical to their success. The Authority acknowledged that a co-operative approach by government agencies, the on-line industry and the community is required. The Authority recommended a community education campaign to support those who are responsible for children's use of on-line services.

The Authority is of the view that essentially private communications, such as e-mail, should be exempt from any new regulatory regime.

The Authority identified, for further examination, a number of means by which Australian content might be encouraged on-line, including the use of tax incentives, export credits and other forms of financial assistance. Given the cultural and potential commercial significance of on-line services, the Authority proposes to further explore, in conjunction with relevant agencies, the ways and means by which appropriate stimulus might be given to develop Australian content on-line.

Siphoning of programs to pay TV

As stated in last year's report, the *Broadcasting Services (Events) Notice No. 1 of 1994* (the anti-siphoning list) was gazetted on 6 July 1994. The anti-siphoning list was specified by the Minister for Communications and the Arts, under s.115 of the Act and has been amended twice, on 11 May 1995 and 29 January 1996. The amendments have either added events to or deleted events from the list.

The *Broadcasting Services Amendment Act 1995* received Royal Assent on 8 December 1995. This Act clarified the Minister's power to add events to, or remove them from, the anti-siphoning list.

On 22 December 1994, the Minister directed the Authority to monitor and report to him on the anti-siphoning provisions. In particular, the Authority was to monitor and report on the extent to which broadcast rights to events on the anti-siphoning list are offered to, acquired and used by national broadcasters and commercial television broadcasting licensees and whether there are any grounds for the Minister to add events to the list.

The purpose of the direction is to ensure that the Minister is kept informed on the operation of the anti-siphoning provisions of the Act.

The Authority's first report to the Minister, *Anti-siphoning—the Availability, Acquisition and Use of Broadcast Rights*, was released in July 1995. This report showed that the commercial and national broadcasters had acquired the rights to broadcast most of the events contained in the anti-siphoning list. Where the rights had not been acquired, the commercial or national broadcasters either did not wish to acquire them or negotiations were still proceeding at the time of that report. In addition, listed events were being televised to an extent considered to be satisfactory, by commercial and national broadcasters. In general, the amount of coverage was similar to that in previous years.

The subsequent reports to the Minister, in December 1995 and June 1996, whilst addressing all of the matters contained in the direction, focused on updating the extent to which events on the anti-siphoning list have been acquired and broadcast in the period since the previous report.

Within the scope of its monitoring function, the Authority considers that the anti-siphoning provisions are working effectively to ensure that major sporting events are broadcast on free-to-air television. Virtually all listed events have been acquired by commercial or national broadcasters and the televising of listed events remains at satisfactory levels.

The first and second reports have been released to the public. As at 30 June 1996, the third report was being considered by the Minister.

Guide to the pay TV anti-siphoning provisions

In carrying out its monitoring and investigative functions, the Authority decided there would be benefit in a guide which addressed the operation of the anti-siphoning rules and their practical application. The Authority's experience in dealing with the rules in practice demonstrated that such a document would be of assistance to the parties affected by the operation of the anti-siphoning provisions.

In July 1995, the Authority released a draft *Guide to the Pay-TV Anti-Siphoning Provisions* for comment. The Authority received submissions from interested parties on the draft and expects to publish a final version in 1996-97.

Parliamentary committees

Authority Chairman, Mr Peter Webb and Associate Member, Mr John Dickie appeared before the Senate Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies at its hearing into on-line services in October 1995.

International liaison

Regulatory roundtable

The Chairman and staff of the Authority convened a meeting in Singapore on 2 June 1996 to explore the concept of a roundtable for broadcasting regulators from Asia and the Pacific. In addition to Australia, in attendance were representatives of regulators from Hong Kong, Indonesia, Japan, Korea, Malaysia, New Zealand, Pakistan and Singapore. The US Federal Communications Commission sent a videotaped message supporting the concept. While unable to attend, indications of support were also received from regulators in Brunei, China, India, the Philippines and Thailand.

While the main purpose of the meeting was to discuss the future of a regulatory roundtable, participants took the opportunity to brief each other about the regulatory regimes in their respective countries.

Participants recognised that the pace of technological developments will continue to increase and that this would make it difficult to regulate on the basis of geographical boundaries. This is one reason the regulatory round table will be a valuable forum for regular open and frank dialogue.

The meeting endorsed the concept of a regulatory roundtable for Asia and the Pacific and it is planned to hold the next meeting in Japan in early June 1997.

Memoranda of understanding

As detailed in its *Annual Report 1995-96*, the Authority has signed memoranda of understanding with a number of other regulators. During 1995-96, the Authority maintained relations with those regulators with which it has agreements; in Singapore the Singapore Broadcasting Authority; in South Africa the Independent Broadcasting Authority; and in the US the Federal Communications Commission.

During the year, the Authority formalised relations with more regulators by signing co-operation agreements with the Broadcasting Standards Council (UK) in August 1995 and the Korean Broadcasting Commission in June 1996.

Meetings

The Authority has exchanged information with a number of visitors from overseas regulatory bodies during the year. Visitors have included Mr Keith Spicer, Chairman of the Canadian Radio-television and Telecommunications Commission in September 1995 and Mr Jonathan Levy, Economist, Office of Plans & Policy, of the US Federal Communications Commission in October 1995. There were visits by representatives of the Korean Cable and Communications Commission, Messrs Kang and Kim in December 1995, and from the Korean Broadcasting Commission, Commissioners Kim, Lee and Shin in June 96. The Authority also met with Messrs Yeh and Chung of the Taiwanese Government Information Office in January 1996.

In addition, members and officers of the Authority shared views in meetings with a number of other overseas visitors and representatives of overseas organisations. These included Dr Marwah Daud Ibrahim, Indonesia (November 1995), NHK Japan (November 1995), Ministry of Information, Taipei (January 1996), South Africa's National Community Radio Forum (March 1996), South African Broadcasting Commission (March 1996) and South African Task Group on Government Communications (June 1996).

Mr Gareth Grainger, General Manager Policy and Programs, co-ordinated arrangements for a panel at the International Broadcasting Conference in Amsterdam in September 1995 which addressed the cultural implications of transborder satellite broadcasting.

Mr Colin Knowles, General Manager, Planning and Corporate Services, attended the BBC Digital Radio & Television Implementation Groups, London in September 1995.

Mr Bob Greeney, Director of Engineering, Planning Branch, attended National Transcommunications Limited UK - Digital Television Transmission Technology Group (Satellite & Terrestrial) in September 1995.

Ms Linda Sheldon, Manager Research, met with Dr Anura Goonasekera, Senior Program Specialist, AMIC in Singapore in September 1995. The purpose of the meeting was to explore future collaborative research projects between AMIC and the Authority.

International Telecommunications Union

The Authority convenes the Australian National Study Groups of the International Telecommunications Union (ITU) concerned with development of international recommendations on radio and television broadcasting technology and spectrum use. The Authority leads delegations to the radio and television broadcasting technical groups of the ITU. Australia's overall participation in the ITU is co-ordinated by the Spectrum Management Agency.

Major activities in the ITU in 1995-96 included the development of systems for future radio and television broadcasting services which will use digital transmission techniques, and preparation of plans for international co-ordination of the allocation of space for future broadcasting satellites.

Mr Bob Greeney, Director of Engineering, attended meetings of the ITU-Radio Working Party 10-11S (satellite broadcasting) and Working Party 10B (digital radio broadcasting) in Rome in September 95.

Mr Colin Knowles, General Manager, Planning and Corporate Services, attended the ITU-R Working Party 10-11S (satellite broadcasting), 10/11R (recording for radio and television broadcasting), Task Group 11/1 (HDTV), Task Group 11/2 (digital television coding), Task Group 11/3 (digital terrestrial television broadcasting), Working Party 11B (digital television studio systems), Working Party 11C (terrestrial television planning), and Working Party 11E (education of television systems) held in Geneva in March 96. Mr Knowles is Vice-Chair of Working Party 11C.

Asian Broadcasting Union

The Authority is an associate member of the Asian Broadcasting Union (ABU). Messrs Colin Knowles and Ananda Abeyaratne, Planning Engineer, attended the Special Co-ordination Meeting of Engineering Group to consider future satellite planning in the Asia Pacific Region and possible inputs to the forthcoming International World Radio Conference to consider this matter. The meeting was held from 30 March-1 April 96, in Kuala Lumpur.

International exchange

The Authority played host to three trainees from the South African Independent Broadcasting Authority in August/October 1995. The trainees worked with staff of the Authority gaining expertise in areas such as program standards, media and public relations and media ownership and regulation of the broadcasting industry.

International research forum on children and television

The Authority co-ordinates the International Research Forum on Children and Television. This forum has assisted the Authority's researchers to develop and maintain links with other Australian researchers as well as with researchers and regulators in other countries. Countries represented in the forum include Argentina, Bangladesh, Canada, Chile, France, Greece, Indonesia, Israel, Japan, Korea, Laos, Malaysia, Nepal, the Netherlands, New Zealand, Norway, the Philippines, Russia, Singapore, South Africa, Sweden, Turkey, United Kingdom and the United States of America, Venezuela.

The forum's aims include the sharing of information on research methodologies and results, as well as exploring opportunities for joint research on issues of common interest. One of the main ways the Authority meets these aims is the production of the bi-annual *International Research Forum Newsletter*. The first issue was distributed to Forum members in November 1995, and the second in June 1996.²

The Forum was an Authority initiative stemming from the World Summit on Children and Television held in Melbourne in March 1995.

International trends

The Authority has monitored and analysed international developments in satellite broadcasting. In particular, the Authority has focused on the growth of digital satellite broadcasting both in the South East Asian and wider world markets.

The Authority has evaluated regional trends in broadcasting regulation and market industry structures. These serve as pointers to future trends in the industry and enable the Authority to identify potential external impacts on broadcasting that may occur when the embargo on satellite delivery by other than Optus satellites is lifted in July 1997.

External liaison

Publishing

Consistent demand by public and industry for information about a variety of broadcasting related issues and topics have contributed to the Authority's vigorous publishing program. In the reporting period the Authority produced a range of fact sheets, discussion papers, information guides, research monographs, reports and other publications.

The Authority imposes a charge for subscribers to its monthly newsletter, *ABA Update*, and also charges for copies of its monographs, Trends & Issues papers and a number of its other publications. The Authority received a total of \$59 455 from the sale of publications in the reporting period, an increase of 58 per cent on 1994-95.

Copies of the Authority's annual reports, program standards, corporate plan, fact sheets, information pamphlets, guides and discussion papers are provided free of charge.

A full listing of Authority publications can be found at appendix 6.

To make its information available to a wider audience, the Authority established a site on the World Wide Web during the year (under the auspices of the Department of Communications and the Arts). General information about the Authority was placed on the Web site together with a list of the Authority's publications and information about the Authority's research program (including the *International Research Forum Newsletter*). Material relating to the investigation into the content of on-line services was progressively placed on the home page. As the investigation proceeded terms of reference, the issues paper, submissions to the investigation and the final report were added to the page.

The Authority intends to add more information to the Web site during 1996-97.

² For copies of the newsletter, *International Research Forum Newsletter*, contact the Authority. Details on p.2.

ABA Update

The Authority's monthly newsletter, *ABA Update*, continued to be the main vehicle for disseminating information about its activities and broadcasting issues. It contained articles by members and officers as well as members of broadcasting and affiliated industries. Issues covered by *ABA Update* articles included the on-line services investigation, results of the Authority's research projects, licensing and planning activities, and summaries of the results of the Authority's investigations into ownership and control issues. In addition, the Innovations series covered a range of technical issues including updates on digital terrestrial television broadcasting and other international developments in broadcasting engineering.

In order to provide broadcasters with guidelines about interpretation of the Act or relevant codes of practice, the Authority began a regular series in the newsletter, 'Investigations'. This series detailed results of investigations into unresolved complaints made to the Authority. The reports contained salient elements about the Authority's investigations, an explanation of why breaches were found and what action was taken by the Authority.

Subscriptions to *ABA Update* (current circulation 610) increased by just over ten per cent in the reporting period. A marketing strategy to increase paying subscribers to *ABA Update* was developed and implemented during the year. The strategy included providing complementary copies to delegates at broadcasting and communications conferences, contra ads with other newsletters, sales through AGPS/Commonwealth Government bookshops and database marketing. A special edition of *ABA Update* was produced for the Federation of Australian Radio Broadcasters convention and annual general meeting in August 1995. A number of other journals contacted the Authority for permission to reprint articles from *ABA Update*.

Media liaison

The Authority adopts a pro-active approach to the provision of information to the media, to ensure the information available in the public arena is accurate and timely. The Authority issued a total of 101 media releases, along with background briefing and dealt with a total of 2682 inquiries from journalists during 1995-96.

There was extensive media interest in a number of the Authority's activities during the year, accompanied by wide media coverage of particular issues. In order to make its work accessible and understandable to the community and the broadcasting industry, Authority officers and members made themselves available for a large number of press, radio and television interviews. In particular there was widespread interest in the Authority's investigations into media ownership and control issues, results of the Authority's research program and the investigation into the content of on-line services.

Staff were available to the media, the broadcasting industry and members of the general public, including students, to discuss and explain issues relating to broadcasting.

Digital terrestrial television broadcasting

The Authority convenes the Digital Terrestrial Television Broadcasting (DTTB) Specialist Group which is considering the application of digital transmission technology to terrestrial broadcasting in Australia. This group, comprising Authority and industry experts, has closely followed international developments and the potential availability of equipment to further evaluate options for Australia. The Authority expects to publish the second report of its Specialist Group in 1996-97. As reported in last year's Annual Report, the group's first report, *Digital Terrestrial Television Broadcasting in Australia*, was released in June 1995.

Digital radio broadcasting

As discussed in last year's report, the Authority convened a task force of Authority and industry representatives to consider broadcasting requirements for the development of digital radio broadcasting (DRB) services in Australia. This group has contributed to the Digital Radio Advisory Committee (DRAC) established by the Minister for Communications and the Arts. Convenor of the Task Force is Mr Colin Knowles, General Manager, Planning and Corporate Services.

Detailed engineering studies into DRB were conducted by a working party of the Authority's task force convened by Mr Hendrik Prins, Technical Consultant to the Federation of Australian Radio Broadcasters. The Working Party has wide representation of both broadcast engineers and engineers concerned with non-broadcast use of the spectrum which may be used for DRB. The Task Force also convened meetings with consumer interest groups about DRB as a means of building consumer knowledge and to obtain relevant input to its deliberations and report. The Task Force expects to deliver its final report to DRAC in 1996-97.

The Deputy Chairman, Mr Bob Scott and General Manager, Planning and Corporate Services, Mr Colin Knowles, represented the Authority at DRAC. The Authority prepared a submission to DRAC in response to the Committee's Working Paper.

Broadcasting industry

The members and staff of the Authority met regularly with industry groups and other regulators. The Authority held regular quarterly meetings with the Federation of Australian Radio Broadcasters. The Authority also held meetings with the Federation of Australian Commercial Television Stations and the Community Broadcasting Association of Australia. The Authority also participated in the annual meetings of these industry groups.

The Authority maintains ongoing monitoring of broadcasting and related technologies through monitoring publications, contact with industry and overseas regulatory agencies and participation in national and international conferences.

The Authority maintains close liaison on technology issues with the following national groups: the Broadcasting Industry Technology Advisory Group; the Broadcasting Industry Advisory Council; the Department of Communications and the Arts - Communications Laboratory Steering Committee; the National Transmission Agency; the Spectrum Management Agency; Standards Australia; National Study

Groups of the International Telecommunications Union; and the Federation of Australian Commercial Television Stations.

Classification Officers Forum

The Classification Officers' Forum was an initiative of the Authority to encourage information exchange between staff responsible for classification of television programs and relevant officers of the Authority and the Office of Film and Literature Classification (OFLC). Classification Officers from the commercial networks and pay TV channels, the SBS and ABC participate in the Forum, as does the Federation of Australian Commercial Television Stations. The Forum met on three occasions during the period under review, with one meeting hosted by the OFLC. The Forum considered issues such as developments in relation to broadcast television codes of practice, consistency of classifications, recent research and relevant Government reports.

Australian Music Interagency Forum

During the period under review the Authority hosted three meetings of agencies which have responsibilities in relation to Australian music. Attending the meeting were representatives of the Australia Council, the Department of Communications and the Arts, the Department of Industry, Science and Technology, and Ausmusic. In addition to exchanging information about each agency's activities, the Forum explored possibilities for joint research and for co-ordinated action on specific issues involving contemporary Australian music.

Educational organisations

Authority research staff met with students studying at the School of Social Science and Policy at the University of New South Wales, on 27 July 1995. The students were briefed on research issues relating to television advertising and children. The students were undertaking a research project in this area as part of their course requirements. The students presented their research projects to Authority staff in August 1995, and their findings in November 1995.

The results from *Music, new music and all that: Teenage radio in the 90s* research project were presented to commercial radio students at the Australian Film, Television and Radio School in Sydney in June 1996.

Policy network

A policy network comprising the Authority, the Australian Broadcasting Corporation, the Special Broadcasting Service, the Office of Film and Literature Classification and the Australian Film, Television and Radio School was set up during the reporting period. The network provides a forum where policy developers from some independent communications authorities can informally air topical policy issues. The policy network intends to invite individual guest speakers to present papers at some of their meetings. It is convened by Ms Pat Manser, Director, Policy and Communications.

Library

The year was one of continuous improvement and innovation for the Library. As has been the practice in past years, the Library kept pace with emerging changes and technological developments in the acquisition and delivery of information. The Library continued to provide current, cost effective and high quality information to support the policy making initiatives and other programs of the organisation.

Concomitant with its brief to be an information resource for the members and staff of the Authority, the Library has been developed as a centre of excellence in the provision of reference services on broadcasting matters to the broadcasting industry, academics, students and the public at large. The Library's resources and facilities were used by more than two thousand internal and external clients during the year. In addition, Library staff handled more than one thousand two hundred telephone inquiries.

The Library increased its use of the Internet to provide transcripts, legal information, policy statements and other material from domestic and overseas organisations to Authority staff.

The *Library Bulletin*, which highlights key works among the items received in the Library, was compiled and distributed on a regular basis to Authority staff as well as to a number of external clients. In addition, information about the Library's holdings can be found on National Library's bibliographic database, Australian Bibliographic Network (ABN). This enables information about the Library's holdings to be made available throughout Australia.

Seminars and conferences

The Authority participates in a number of seminars and conferences to raise public awareness and share information on existing and potential, local and international broadcasting regulatory arrangements.

During the year, members and staff of the Authority presented papers at a number of conferences and seminars. The following table gives details of the conference and speaker:

ABC Digital Radio Broadcasting Conference, Sydney, August 95, Mr Robert Scott, Deputy Chairman and Mr Colin Knowles, General Manager, Planning and Corporate Services;

Public Service Programming in Asia at the Seminar on Impact of Changing Media Environment, September 95; Mr Peter Webb, Chairman;

Amsterdam International Broadcasting Conference, September 95, Mr Gareth Grainger, General Manager, Policy and Program Services;

International Broadcasting Convention 95, Amsterdam, September 95, Mr Colin Knowles, General Manager, Planning and Corporate Services, was panel speaker on 'The Future of Digital Terrestrial Television Broadcasting'; and presented a paper on 'Consumer Friendly Television Delivery';

Digital Broadcast Asia, IIR Conference, Hong Kong, September 95, Mr Colin Knowles, General Manager, Planning and Corporate Services, was also chair of the conference;

Women and Communications, pre-conference session, Osaka, IIC Annual Conference, September 95, Ms Linda Sheldon, Manager Research, presented a paper on the research project 'Cool or Gross';

Optus Vision local television Launch, September 95: Ms Lesley Osborne, Manager Standards, spoke on community access to television and the Authority's role;

Australian Content: Dinosaur or Crocodile? at Melbourne University, October 95; Mr Peter Webb, Chairman;

Australian Pay TV & Sport at UTS National Workshop, October 95; Mr Gareth Grainger, General Manager, Policy and Programs;

Communications Research Forum - Sydney, October 95, Mr Colin Knowles, General Manager, Planning and Corporate Services;

Families and Electronic Entertainment at Regulation and Entertainment Media, the annual conference of the Office of Film and Literature Classification, Sydney, October 95, Ms Linda Sheldon, Manager Research;

Research into teenagers using radio in the 90s, Communications Research Forum, Sydney, October 95, Ms Linda Sheldon, Manager Research;

Annual General Meeting of the Australian Churches Media Association, October 1995, Mr Robert Scott, Deputy Chairman;

Commercial Broadcasting Towards 2000 at Screen Producers' Association of Australia National Conference, November 95, Mr Peter Webb, Chairman, Mr Nick Herd, Codes & Conditions Manager, Ms Linda Sheldon, Manager Research and Ms Lesley Osborne, Manager Standards;

The Authority's planning and allocation processes at the Community Broadcasting Association of Australia annual conference, Melbourne, November 95, Mr Peter Webb, Chairman and Mr Robert Scott, Deputy Chairman;

Implementation of Community Radio Codes at the National Indigenous Media Association of Australia's annual general meeting, Canberra, November 95, Lesley Osborne, Manager Standards and Nigel Ryan, Assistant Manager Allocations and Renewals;

Local Content in a Multichannel Environment at Australian Cable & Satellite Telecommunications Conference, February 96; Mr Gareth Grainger, General Manager, Policy and Program Services;

Australian Cable & Satellite Telecommunications Conference, February 96; Mr Peter Webb, Chairman;

Small Screen, Big Picture at Western Australia Television Conference, March 96; Mr Peter Webb, Chairman;

Pay TV: Access or Excess at DoCA Forum, March 96; Mr Peter Webb, Chairman;

Digital Broadcasting, AIC Conference, Sydney, March 96, Mr Colin Knowles, General Manager, Planning and Corporate Services;

South Africa Telecommunications & Broadcasting Summit, April 96, Mr Tim O'Keefe, Authority member;

On-Line Services Investigation Censorship and the Internet: an Australian Information Technology Society and Telstra Corporation Seminar, April 1996, Sydney, Ms Kaaren Koomen, Manager On-line Services Investigation;

On-Line Services Investigation, Service Providers Action Network Inaugural Meeting, April 1996, Sydney, Ms Kaaren Koomen, Manager On-line Services Investigation.

Australian Broadcasting Summit, IIR Conference, Sydney, May 96, Mr Peter Webb, Chairman and Mr Colin Knowles, General Manager, Planning and Corporate Services;

Telecommunications Working Forum, May 96; Mr Peter Webb, Chairman;

Will the Internet Liberate the Masses Australian Information Technology Society and Telstra Corporation Seminar, May 1996, Sydney, Ms Kaaren Koomen, Manager On-line Services Investigation, was chief adjudicator;

Regulation of On-Line Services, Law in Cyberspace Seminar, May 1996, University of New South Wales, Ms Kaaren Koomen, Manager On-line Services Investigation;

Asian Mass Communication Research and Information Centre, June 96; Singapore, Mr Peter Webb, Chairman;

BroadcastAsia, June 96, Singapore, Mr Peter Webb, Chairman;

The Role of Education in the Regulation of the Internet Education and the Information Superhighway, an ITEC Conference, June 1996, Sydney, Ms Kaaren Koomen, Manager On-line Services Investigation; and

The Regulation of the On-Line Services Industry - Can Government Control Content on the Net?, The Internet: Hype or Reality, an IIR Conference, June 1996, Sydney, Ms Kaaren Koomen, Manager On-line Services Investigation.

Objective 6

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

Key Outcomes

- ◆ *The Authority's Agency Agreement certified by the Australian Industrial Relations Commission.*
- ◆ *The Authority's Equal Employment Opportunity Program for 1996 to 1999 developed and implemented.*

Staffing matters

Agency agreement

The Authority's Agency Agreement was certified by the Australian Industrial Relations Commission on 22 September 1995. This certification reaffirmed the Authority's commitment to following a strategy of continuous improvement throughout the organisation. Significant progress in the implementation of initiatives included in the Agreement has been achieved. Enhanced conditions and flexibility for officers have resulted and efficiencies through continuous improvement have been apparent.

Forward planning

As part of the Authority's strategic planning program, two days were set aside in February for members and senior management to examine the changing environments for regulators, the Australian Public Service, and the Authority, and plan for the year ahead. Following this, the Authority's divisions conducted detailed planning sessions to review and develop operational plans for their areas for the year ahead.

Output from all the corporate planning activities undertaken during the year is being fed into a review of the Authority's Corporate Plan that was completed after this report period.

Project planning

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

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

The Research Committee determines the long term priorities for the Authority's attitudinal research program. The aim of the committee is to ensure that research conducted by the Authority effectively meets the organisation's needs and obtains maximum outcomes.

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

A Planning and Allocation Taskforce comprising Authority members and senior management meets regularly throughout the year as a steering group to oversight the Committee's work and the Authority's licence area planning and allocation tasks.

The Authority has adopted a practice of minimising the use of consultants in its research projects, and doing as much of the research work in-house, where practicable and appropriate.

Management

A number of continuous improvement projects have been initiated within the Authority's Planning branch. These include training in continuous improvement concepts for all managers and a customised training program for selected staff as facilitators. These staff were made responsible for convening working groups to discuss improving the service the Authority provides to clients.

Continuous improvement working group initiatives included making considerable improvements to the process of producing Planning branch publications. These include the licence area planning zone information booklets which are distributed to the public before the Authority makes consultative visits to any planning zone. The Authority also streamlined the preparation process for these consultative visits.

Continuous improvement working groups also developed a faster process for writing and releasing licence area plan decisions. The completion and release of licence area plans for Mount Gambier, Carnarvon, Karratha and Port Hedland are all products of this continuous improvement initiative.

Information technology

Networks

The Authority completed the consolidation of Canberra and Sydney computer networks and external mail links to other parts of the Communications and the Arts portfolio.

Particular attention was given to improving the reliability of the network. The Authority has developed new database systems to improve the management of data and increase the effectiveness of its work. The new systems include systems to manage complaints, allocate licences and to collect and analyse Australian content data.

To ensure that all staff have access to equipment necessary to run current software applications, hardware storage capabilities were expanded; thus providing the extra power needed by new databases and allowing the Authority to continue operating its systems in the event of a hardware failure.

The Authority upgraded software packages for records management and the library's catalogue and on-line data bases.

There have also been improvements to the configuration of work stations, enabling more staff to use the new financial management information system, improving work station and software management, and facilitating integration of the Authority's Sydney and Canberra local area networks.

In keeping with the Authority's equal employment opportunity policy, specialised hardware and software facilities have been developed and implemented for a member of staff with a disability to help overcome some of the difficulties caused by conventional hardware and software.

External communications

The Authority has established Internet e-mail for all staff and provision of Internet addresses for some areas of the Authority. These facilities will make communication with other agencies faster; simplify the transfer of documents in electronic form; and increase direct access to overseas regulatory bodies. In implementing these arrangements the Authority paid particular attention to protecting the security of its network.

IT software and systems

RADCOM

RADCOM is a new, integrated computer system which has already replaced the Spectrum Management Agency's Spectrum Management Information System and is in the process of replacing the Authority's automated broadcasting planning system.

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

The Authority uses RADCOM to plan and administer the parts of the radiofrequency spectrum used for radio and television broadcasting. It also acts as a public register for all radiocommunications licences and automates the administration of radiocommunications licences.

Considerable resources have been applied to completing the specification of the detailed design of the broadcasting planning module. Development (by BHP-IT) of the broadcasting planning module and other changes to support broadcasting planning are nearing completion. Submissions management, the first broadcasting-specific component is now operational. Acceptance testing, migration of data from existing systems, and staff training for the remainder of the broadcasting planning module, as well as installation of the special hardware to support the geographic information system, are to commence soon.

Financial management

A new financial management information system was implemented in December 1995. The new system has resulted in improved financial management for the Authority. The benefits include: the provision of timely reports and 'real time' financial information for cost centre managers; a better system for the management of assets; improved facilities for funds control and budgeting; and extensive automation of the preparation of the annual financial statements.

The Authority has negotiated favourable telephone rates through a reseller's agreement with the Office of Government Information Technology, resulting in savings in both telephone and fax costs.

Records management

The Authority implemented an enhanced version of the records management software, TRIM for Windows, in December 1995. This has allowed for greater ease of retrieval of information; greater security control on file contents information within the Authority, and better archiving management.

Objective 7

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

Key outcomes

- ◆ *Middle Management Development Program established and conducted.*
- ◆ *Branch Development Plans established.*
- ◆ *Appropriate and relevant human resources policies developed.*
- ◆ *Training programs developed and provided for officers as need dictates.*

Training and development

Middle Management Development Program

The Authority identified a need for middle management training through its Personal and Branch Development Plans.

The program, developed by Common Ground Consulting for the Authority, is an action learning program, based on experiential learning. It was attended by 20 staff most of whom were at the SOGC and ASO6 levels. The program was held in two course work blocks with a management project between the two blocks.

The course work was designed to provide skills and understanding essential to the action learning design and core management information and experiences.

Personal development plans

In conjunction with their supervisors, Authority officers drew up Personal Development Plans during the year. The plans are designed to identify development and training needs, allowing for more effective training and development strategies which match organisational and individual needs.

Branch development plans

Branch development plans were implemented during the year. Based on personal development plans, branch development plans provide for the enhancement of skills and knowledge within the context of workplace requirements and the demands of the Broadcasting Services Act.

The plans were established having regard to individual needs, branch priorities and available budget. They were developed early in the 1995-96 year, and branches will develop new plans for the 1996-97 year.

Training

The Authority developed and implemented a staff induction program and guidelines for the management of probationary appointments. This was done to ensure that staff are able to fit quickly into their new environment and become productive members of the team.

Authority staff attended a number of internal training and development courses during the year. All staff participated in various forms of training or planning days.

An induction course was conducted in March and received favourable comment. Further courses will be conducted on a needs basis. Drawing on existing skills within the Authority, training for this course was provided in-house by Authority staff.

A number of courses were offered on site for policy development and stress management techniques.

Officers in the Codes and Conditions, Industry Analysis and Legal sections of the Authority received training in investigation techniques. The training was provided by a consultant, who gave a course adapted to the Authority's specific needs. Further investigation techniques courses are planned for 1996-97.

To gain first hand knowledge of the broadcasting industry, a number of Authority officers have gone on industry tours. Further industry related visits are planned for the current year.

The Authority's Media and Public Relations section ran a number of internal media training courses designed to increase awareness of media liaison and publishing processes. The training included preparation of news releases, interview training and preparation and publishing of publications.

Research section officers received training in research skill and statistical analysis. The training was provided by a consultant, as the necessary expertise was not available in-house.

Library staff received training in the use of the upgraded library management software package and attended refresher courses in on-line access techniques.

Internal communications

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

ABARM News provides information to officers about records management issues and helps to maintain and improve records management practices.

Officers are kept informed about information technology matters by a regular 'tip of the week'.

Matters of interest to the whole Authority are presented at 'tune up' sessions, which provide a means for disseminating information about a particular issue to all officers.

The Authority's Library advises officers of additions to its collection through its current awareness program: the weekly *Journals Received* list and the quarterly *Library Bulletin*. The Library catalogue is available to all officers on-line. During the year, the Library organised a number of familiarisation tours for all Sydney staff. Library staff also gave induction tours for new members of staff.

Professional affiliations

Memberships of the Commonwealth Association of Public Administration and the Australian Institute of Management (NSW Ltd) were maintained in order to keep up to date with contemporary management and human resources issues.

Staff of the Authority's Research section are members of the Australia and New Zealand Communication Association. This membership enables them to keep informed about developments in the communications field generally and to exchange information.

The Library retained its membership of the Australian Library and Information Association and the Federal Libraries Information Network. The Library is also a member of the Australian Film Institute which guarantees access to the Research and Information Service of the Institute.

Conference attendance

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

Conferences and seminars attended by members and officers of the Authority during the year included:

12th IMZ (International Music Centre);

1995 International Conference 'Cultural Policy: State of the Art';

Australian Broadcasting Summit;

Australian Film Institute Information Gathering Seminar;

Communications Research Forum;

Community Broadcasting Association of Australia annual conference;

Consumer Futures Conference;

Cultural representation, conference of the Communications Law Centre and Office of Multicultural Affairs;

Delivering the Radio Digital Future;
Digital Broadcasting Conference;
Federation of Australian Commercial Television Stations annual conference and annual general meeting;
Federation of Australian Radio Broadcasters annual conference;
Framing Communication, Annual conference of the Australia and New Zealand Communication Association;
National Indigenous Media of Australia annual general meeting;
Public choices: Reforming Australia's Telecommunications;
Recorded Music Industry Conference, presented by ARIA (Australian Recording Industry Association);
Regulation and Entertainment Media, annual conference of the Office of Film and Literature Classification; and
Screen Producers Association of Australia's annual conference.

Appendices

Appendix 1

Additional matters

Social justice statement

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

- the operation of special equipment for people with disabilities to use and receive information;
- ongoing consultation with representative groups in the licence area planning process; and
- in researching community attitudes to broadcasting issues, the Authority ensures that a sampling framework representative of Australian cultural diversity is developed.

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

Social justice and equity

Status of women

The Authority actively encourages its female officers to attend courses especially designed for the development of women. During the period female officers have attended courses such as Woman Manager in the 90s; Mentoring and Networking; Assertive Communication Skills for Women; and Career Development for Women.

Equal employment opportunity

The Authority has developed a new equal employment opportunity (EEO) plan for the period 1996 to 1999. The new program has been endorsed by the Chairman and approved by the Public Service and Merit Protection Commission.

It was developed having regard to information contained in a staffing analysis and two staff surveys and was developed in consultation with staff and the Community and Public Sector Union. The plan contains four achievable objectives which are supported by strategies and performance indicators.

These objectives are:

- to ensure that the Authority is a workplace free of unjustified discrimination and which allows staff to balance their work and family responsibilities;
- to ensure equity in staff selection processes;
- to increase the number of Aboriginal and Torres Strait Islander staff within the Authority; and
- to maintain the Authority's good performance in respect of the employment of women, people with disabilities and people from a non-English speaking background.

In implementing the new EEO plan, responsibility for the achievement of the objectives has been devolved to Division, Branch and Section Heads.

The senior executive responsible for EEO is the General Manager, Planning and Corporate Services. The EEO co-ordinator is the Assistant Manager, Human Resources. The Planning Branch has an EEO contact officer appointed by the Branch Head.

EEO responsibilities have been included on the selection documentation for all supervisory and management positions.

The Authority has an EEO committee comprised of two management and two union representatives which met twice during the reporting period.

EEO in appointments

As at 30 June 1996, the Authority had a total of 154 staff. Of these 86 were women, 29 came from non-English speaking backgrounds and six have disabilities.

During the period seven new staff were appointed to the Authority. Of these four were women and one was from a non English speaking background.

Staffing overview

Training

Net expenditure by the Authority for officers on training was \$154 506. Of 154 staff employed at the Authority, 111 spent a total of 423 days on training activities. In addition \$18 875 in financial assistance was provided to 17 approved students in respect to Higher Education Contribution Scheme (HECS) and compulsory fees under the Authority's studybank policy.

Industrial democracy

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

The General Manager, Planning and Corporate Services Division is the senior executive responsible for industrial democracy.

The Manager, Human Resources Section is the Industrial Democracy Facilitator assisted by officers of the Human Resources Section. The Consultative Council, comprising management and union representatives, met on four occasions during the reporting period and discussed a range of issues including EEO, OH&S, implementation of the

Agency Agreement, consultancies and the Authority's budget. The Authority has started a review of the industrial democracy (ID) plan. The ID plan sets out the formal and informal mechanisms for consultation and associated action plans.

There has been significant progress during the year in implementing all action plans.

Occupational health and safety

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

- preventing accidents and ill health related to working conditions;
- protecting staff from health hazards which may arise out of their work or the conditions under which it is carried out; and
- providing an environment designed to enhance the health and well being of staff.

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

The Authority has three designated work groups with one health and safety representative and one deputy for each group. Each representative undertakes a five day training course which is accredited by the Commission for the Safety Rehabilitation and Compensation of Commonwealth Employees.

Performance pay

All Senior Executive Service Officers and Senior Officers took part in the Authority's Performance Appraisal Scheme. The Authority affirmed its commitment to appraisal and to a review of the scheme.

The Authority's performance appraisal cycle for senior officers ended on 29 February 1996. The senior officers were eligible for a pro rata payment from 1 March 1996 to 30 June 1996. The current performance pay scheme for senior officers ceased from 1 July 1996 and performance pay has been incorporated into base rate salaries.

The Authority paid a total amount of \$40 496 for performance pay to 43 senior officers for the 1995-96 financial year. The break up for each classification is as follows:

Classification	Number of Officers*	Amount Paid
SOGA & equivalents	5	\$7 726
SOGB & equivalents	15	\$20 270
SOGC & equivalents	23	\$12 500

* One officer received payment at the SOGB and SOGC level.

Consultancies

The amount paid to consultancies during 1995-96 was \$346 883.

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

Amounts paid to market research organisations

During the year the Authority paid \$69 127 to advertising agencies and \$63 960 to market research organisations.

Freedom of information

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

Requests made

During 1995-96, the Authority received three requests for access to documents. The Authority finalised one request which had been received during the previous period. The Authority granted access in full to documents in one request and access in part to documents in the other two requests. One request had not been finalised at the end of the period.

Applications for review

The Authority received one application for review under s.54(1) of the FOI Act, by the third party whose documents had been requested. The request for internal review was withdrawn.

Time taken

For the three requests finalised during 1995-96, the average time taken from receipt of the request to the notification of the decision, was 50 days. Two of the requests involved the consultation of other persons or organisations under s.27 of the FOI Act, which prolonged the response time.

Costs of freedom of information

The total cost to the Authority for Freedom of Information activities in the 1995-96 period was approximately \$ 13 900.

Non-staff costs directly attributable to FOI totalled \$3540. Staff costs for Freedom of Information activities were approximately \$5600, which with 85 per cent overheads of \$4760, made a total of \$10 360 for the period.

During the period, FOI charges were reduced in one case, on financial hardship and public interest grounds. Charges totalling \$925.90 for the processing of requests were paid, and the Authority received \$130 in fees for the lodgement of FOI requests and applications for internal review.

Internal and external scrutiny

Ombudsman complaint

As indicated in the last Annual Report, the Ombudsman had requested the Authority to reconsider its decision not to further investigate a complaint relating to an alleged breach of a program standard in relation to a broadcast which occurred prior to the establishment of the Authority. The program standard required accuracy and fairness of current affairs programs. The requirement is now covered by a code of practice.

The Authority decided to re-open its investigation and commenced a fresh investigation in August 1995. The Authority finalised its investigation in December 1995, after giving both the complainant and the licensee an opportunity to comment on its preliminary views. The Authority found breaches of the standard and provided a full report of its investigation to the complainant and expressed its regret to the complainant for the delay in finalising the complaint. It reported on its investigation in *Your Say 1996* and in the Authority's newsletter, *ABA Update*, and in appendix 3 of this report.

The Ombudsman expanded its investigation of this matter to cover other complaints in relation to news and current affairs programs. The Ombudsman reported on its investigation after the date of this report, in July 1996.

Legal issues

AAT matters

Traveller Radio Pty Limited applied to the Administrative Appeals Tribunal (AAT) on 13 July 1994 for review of a decision refusing to grant a low power narrowcasting transmitter licence to the company. This decision was made by the Authority under delegation from the Spectrum Management Agency. Traveller Radio Pty Limited accepted the Authority's submissions that the AAT had no jurisdiction to hear the matter and withdrew the appeal on 29 April 1996.

Central Zone FM Services Pty Ltd (CZFM) applied on 25 March 1996 to the AAT for review of an Authority decision not to show an additional commercial radio broadcasting service as available in the licence area plan for the Broken Hill market. The Authority questioned the jurisdiction of the AAT to review this decision. CZFM submitted an amended application to the AAT, and requested leave from the AAT to address it regarding jurisdiction.

On 21 August 1996, the AAT dismissed CZFM's application for want of jurisdiction, without proceeding to review the decision.

AAT review of section 73 decisions

WIN Television Mildura Pty Ltd, Territory Television Pty Ltd and MTN Television Pty Ltd applied in December 1995 and January 1996 to the AAT for review of the Authority's decisions to refuse permission to operate a second service in the Mildura, Darwin and Griffith television markets under s.73 of the *Broadcasting Services Act 1992*.

These decisions were made on the basis that the Authority was not satisfied that it was 'unlikely that another person would be interested in, and likely to be in a position to operate' a second commercial television broadcasting service in the Mildura, Griffith and Darwin areas.

The matter was heard in the AAT in April 1996, and the AAT's decision was handed down on 1 July 1996. In Darwin and Mildura, the Authority's decision was affirmed. In Griffith, the Authority's decision was set aside.

Federal Court

Challenge to Australian content standard

Project Blue Sky and five New Zealand film and television production companies commenced proceedings in the High Court and the Federal Court against the Authority's Australian content standard which came into effect on 1 January 1996. The High Court proceedings were remitted for determination by the Federal Court.

The statement of claim argues that the program standard was not authorised by ss.122 and 160 of the Broadcasting Services Act and that the standard was not determined in a manner consistent with Australia's obligations under the CER Agreement.

The hearing of this matter took place in the Federal Court of Australia on 19 July 1996 (for more detail on this matter, see Objective 4).

On 2 August 1996, his Honour Mr Justice Davies held that the Authority was not empowered to define an Australian person to include a New Zealand person or define an Australian program to include a New Zealand program. However, His Honour found that there was a means of implementing the provisions of both the Act and the CER Agreement and that accordingly, the Authority had failed to comply with the obligation which is imposed on it by ss.160(d) and 122(4) of the Act.

Subpoenas

The Authority responded to six subpoenas during the period, which required the examination and assessment of considerable numbers of documents and the involvement of the Australian Government Solicitor. In one matter, the Authority was successful in its application to deny access to documents the subject of a subpoena on the grounds of public interest immunity. The relevant documents had been obtained or created in the course of an investigation which had not yet been completed. In its judgement the Federal Court stated,

... if an investigating authority is compelled to produce documents gathered and statements received or evidence given in the course of an inquiry before that inquiry is concluded, the proper orderly and satisfactory prosecution of that inquiry is more likely than not inhibited.

Auditor-General

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

Financial and staffing resources summary

	1994-95	1995-96	1995-96
	ACTUAL	BUDGET	ACTUAL
	\$'000	\$'000	\$'000
Salaries	7 320	7 120	7 345
Administrative Expenses	<u>6 090</u>	<u>5 533</u>	<u>5 212</u>
Total Expenditure	<u>13 410</u>	<u>12 653</u>	<u>12 557</u>
Less receipts	<u>(600)</u>	<u>-</u>	<u>(725)</u>
	12 810	12 653	11 832
Less Cash on Hand at beginning of financial year	(789)	(329)	(329)
Plus Cash on Hand at end of financial year	<u>329</u>	<u>-</u>	<u>821</u>
TOTAL APPROPRIATIONS	<u>12 350</u>	<u>12 324</u>	<u>12 324</u>
TOTAL OUTLAYS	<u>12 350</u>	<u>12 324</u>	<u>12 324</u>
STAFFING			
Staff years (ASL)	161.5	160.0	149.8

Staffing numbers - Australian Broadcasting Authority

SYDNEY

PERMANENT

TEMPORARY

Classification	PERMANENT				TEMPORARY				Total
	Full-time Male	Full-Time Female	Part-time Male	Part-time Female	Full-time Male	Full-time Female	Part-time Male	Part-time Female	
SES Band 2	1								1
Legal 2	1	1							2
SPAOG 2	1	1							2
PAOG 2						1			1
SPOG B									
PO 2									
TO 4									
SOG A		2							2
SOG C	5	5							10
ASO 5		2							2
ASO 3	2	6		1		2	1		12
ASO 1	1								1
SITO C	2								2
TOTAL	38	53		5		5	1	1	103

Staffing numbers - Australian Broadcasting Authority

CANBERRA Classification	PERMANENT				TEMPORARY				Total
	Full-time Male	Full-time Female	Part-time Male	Part-time Female	Full-time Male	Full-time Female	Part-time Male	Part-time Female	
Members									
SES Band 2	1								1
SES Band 1	1								1
Legal 2									
Legal 1									
SPAOG 2									
PAOG 3									
PAOG 2									
SPAO(E)G A	1								1
SPOG B	4								4
SPOG C	5								5
PO 2	3			1					4
PO 1	3	1							4
TO 4	1								1
TO 3	2								2
SOG B	1								1
SOG C	1	2							3
ASO 6	2	4							6
ASO 5									
ASO 4	2	6							8
ASO 3		2							2
ASO 2		6							6
ASO 1	1								1
SITO B									
SITO C	1								1
ITO 2									
TOTAL	29	21		1					51

Classification	Permanent Full-time Male	Permanent Full-Time Female	Permanent Part-time Male	Permanent Part-time Female	Temporary Full-time Male	Temporary Full-time Female	Temporary Part-time Male	Temporary Part-time Female	Total
TOTAL									
SYDNEY & CANBERRA	67	74		6		5	1	1	154
TOTAL MALE	68								
TOTAL FEMALE		86							

Appendix 2**Investigations completed in 1995-96:
no breach finding**

ABC radio		
program	substance of complaint	relevant ABC code¹
Breakfast Show	Comments made were offensive to Christians.	Discrimination
John Highfield	Failure to respond to complaint.	Complaint handling
Life Matters	Offensive language.	Language
Music	Offensive language and dissatisfied with response to complaint and complaint handling.	Language
Music - Closer - Nine Inch Nails	Offensive lyrics in song.	Language
News	Inaccuracy in news bulletins.	News/current affairs - accurate/fair
News	Failure to respond to complaint.	Complaint handling
Sport - Car Racing	Delayed response re: unnecessary broadcast of horse racing.	Complaint handling

ABC television		
program	substance of complaint	relevant ABC code
7.30 Report	Offensive language and failure to respond to complaint.	Language and sex/sexuality and complaint handling
7.30 Report	Alleged bias re: allegations made against MP Barry Morris.	News/current affairs - balance
7.30 Report: Nice Guys Finish Last	Intimidation of whistleblowers.	News/current affairs - accurate/fair
Between The Lines	Depiction of naked men was gratuitous, sexist and offensive.	Discrimination
Big Picture - Billy Connolly World Tour	Offensive language.	Language
Four Corners	The segment, 'A reason to kill' was biased against shooters.	News/current affairs - accurate/fair
Gay and Lesbian Mardi Gras	Offended by broadcast.	Sex/sexuality discrimination
Gay and Lesbian Mardi Gras	Impersonations were offensive to Christians.	discrimination
Don Giovanni	Simulated sex scenes involving a statue of Mary - offensive to Christians.	Sex and nudity
The Ferals	Failure to respond to complaint.	Complaint handling
Media Watch	Discriminatory broadcast and sexist comments regarding nurses.	Discrimination
News	Inaccurate reporting and bias reporting.	News/current affairs - accurate/fair
News - Update	Not suitable for children to watch in afternoon.	News update appropriate to time zone

¹ for copies of the relevant codes please contact the Authority's Codes and Conditions section. Contact details on p.2.

Commercial radio

Licensee	program/ advertisement/issue	substance of complaint	relevant code/program standard#/licence condition*
2CC Canberra	Advertisement: brothel	Questioned whether brothel advertisements were acceptable for radio and TV.	Unsuitable for broadcast
2DAY Sydney	David Rymer	Offended by hoax call to student.	Unsuitable for broadcast
2KY Sydney	Political matter	Questioned whether 'reasonable opportunities' were provided in the broadcast of election matter.	Political/controversial material*
2KY Sydney	News	Broadcast of interview with Bob Carr during blackout- not tagged and not 'blacked out'	Identification of political matter*
2MW Murwillumbah	Australia Tonight	Inadequate response.	Complaint handling
2NEW Newcastle	News	Inaccurate news report involving complainant.	Current affairs - accurate/fair
2TTT Tamworth	Advertisement: tobacco	Broadcast advertisement for discount cigarettes.	Tobacco advertising prohibition*
2UE Sydney	George Gibson	Comments made were offensive to Christians.	Hatred/vilification - discrimination
2UE Sydney	John Stanley	Failure to respond adequately to complaint.	Complaint handling
2UW Sydney	Breakfast Show	Alleged rigged contest.	Contests
3AW Melbourne	Neil Mitchell	Dissatisfied with response re: bias report of the 'Sporting Shooters Association of Aust. video presentation to the National Rifle Association'.	Interviews/talkback programs
3AW Melbourne	Paul Barber	Broadcast was defamatory and offensive and improper complaint handling.	Language and vilification and privacy and complaint handling
3MP Melbourne	News	Closure of news room by new owner, Southern Cross Network.	Contribute to adequate and comprehensive service*

3UZ Melbourne	Keith Hillier	Unsatisfactory response. Believed whole of code of practice pertaining to news and current affairs had been breached	News/current affairs - accuracy and privacy
5SSA Adelaide	Advertisement: A Current Affair	Promotion makes inappropriate reference concerning naughty children and spouses.	Unsuitable for broadcast smacking and Hatred/vilification - discrimination
5SSA Adelaide	Ugly Phil	Unsuitable content for children.	Prohibited language
6KA Karratha	Management	Inadequate logging of on-air programs	Complaint handling and records of matter broadcast*
6MM Mandurah	Neil Brooks	Comments made by an announcer and dissatisfied with broadcast apology.	Unsuitable for broadcast and complaint handling
6PPM Perth	Breakfast Show	Dissatisfied with complaint handling procedures.	Complaint handling
6PPM Perth	Sex Survey	Offensive sexual comments.	Unsuitable for broadcast
6PR Perth	Management	Failure to respond to complaint.	Complaint handling
7HHO Hobart	Cooke And Moore	Dissatisfied with response re: comments made about the size of women and unsatisfied with response	Prohibited language and Hatred/ vilification - discrimination and Complaint handling
7HHO Hobart	Advertisement: Forestry Tasmania Inc.	Advertisements for cable logging were political and should have been tagged.	Identification of political matter*

All potential breaches of the code of practice unless otherwise indicated:

- * potential breach of licence condition
- # potential breach of radio program standard.

Commercial television

Licensee	program/advertisement	substance of complaint issue	relevant code/program standard#/licence condition*
ADS 10 Adelaide	News	Inaccurate report of the Hindmarsh Island story.	News/current affairs - accurate/fair
ATN 7 Sydney	Cartel	Excessive violence for M time.	MA - Violence
ATN 7 Sydney	Andrew Denton	'Last Supper' segment was blasphemous and offensive.	Hatred/ridicule - discrimination
ATN 7 Sydney	Advertisement: Greens	Political advertisements demonstrated racism towards the Japanese and not correctly tagged.	Hatred/ridicule - discrimination and Election advertisement 'definition'*
ATN 7 Sydney	Today Tonight	Material broadcast without complainant's consent re: neighbourhood disputes.	News/current affairs - privacy and News/current affairs - accurate/fair
ATN 7/TCN 9 /TEN 10 Sydney	Advertisement - Pacific Power	'Pacific Power' advertisement was political matter.	Identification of political matter*
ATV 10 Melbourne	Murder In Too The Heartland	Violent & frightening for G and PG time.	Promotions in G or PG after 8.30pm
ATV 10 Melbourne	The Stand	Not suitable for G time.	Promotions in G programs
ATV 10 Melbourne	News	Failure to respond to complaint.	Complaint handling
ATV 10/GTV 9 Melbourne	Advertisement - Transport Accident Commission	Not satisfied with complaint handling by broadcaster	Complaint handling
BTQ 7 Brisbane	Real Life	Invasion of privacy.	News/current affairs - Privacy and negative portrayal and facts vs commentary.
BTQ 7 Brisbane	Andrew Denton Summer Offences	Promoted suicide	M - Suicide
BTQ 7 Brisbane	Empty Nest	Fortune teller's description of a sex scene was inappropriate for children.	G - Sex and nudity
BTQ 7 Brisbane	Great Outdoors	Level of nudity inappropriate for PG time.	PG - Sex and nudity

Commercial Television cont.			
Licensee	program/advertisement issue	substance of complaint	relevant code/program standard#/licence condition*
BTQ 7 Brisbane	Great Outdoors	Nudity not suitable for PG time.	Promotions in PG programs
BTQ 7 Brisbane	Home And Away	Sex scene inappropriate for G time.	G - Sex and nudity
BTQ 7 Brisbane	Macgyver	Suicide scene is too explicit and blatant for PG time.	PG - Suicide
BTQ 7 Brisbane	News	Violent reporting during nightly news, particularly in rugby league segment.	News/current affairs - audience composition
BTQ 7 Brisbane	Today Tonight	Dissatisfied with reponse.	Complaint handling
BTQ 7 Brisbane	Wheel Of Fortune	Racist and offensive joke made by John Burgess.	Hatred/Ridicule - discrimination
GTV 9 Melbourne	60 Minutes	Comments belittled Australians.	Hatred/ridicule - discrimination
GTV 9 Melbourne	60 Minutes	Inaccurate report on faulty pacemaker.	News/current affairs - accurate/fair
GTV 9 Melbourne	The Footy Show	Hatred/contempt/ridicule towards homosexuals, arising from comments by panel member.	Hatred/ridicule - discrimination
GTV 9 Melbourne	Halifax fp	Failure to respond to complaint.	Complaint handling
GTV 9 Melbourne	News	Failure to reply to complaint.	Complaint handling
GTV 9 Melbourne	Videos Vigilantes & Voyeurism	Gratuitous violence during M time.	M - Violence
HSV 7 Melbourne	Today Tonight	Unfair presentation of shootings in Melbourne and reference to guns.	News/current affairs - accurate/fair
HSV 7 Melbourne	Today Tonight	Misleading use of footage of Shooter's Party.	News/current affairs - accurate/fair
HSV 7 Melbourne	News	Failure to respond to complaint.	Complaint handling
HSV 7 Melbourne	Real Life	Three segments broadcast were misleading 1) coverage of re-enacted burglary, 2) identification of a Sydney doctor, and 3) jay-walking.	Promotions for MA programs and News/current affairs - audience composition

NEW 10 Perth	NRG	Unnecessary use of offensive language.	G - Language
NEW 10 Perth	News	Broadcast a man being crushed by elephant.	News/current affairs - distressing material
QTQ 9 Brisbane	50 Fantastic Years	Nudity not suitable for PG time.	PG - Sex and nudity
QTQ 9 Brisbane	A Current Affair	Caricature of John Howard contravened current affairs sections of the commercial TV code of practice.	Hatred/ridicule - discrimination and News/current affairs - accurate/fair and Distressing material and News/current affairs - negative portrayal
QTQ 9 Brisbane	Halifax fp	Offensive language and failure to respond to complaint.	M - Language
QTQ 9 Brisbane	Money	Inaccurate and misleading information provided.	News/current affairs - accurate/fair
QTQ 9 Brisbane	News	Sensational sex crime reporting.	News/current affairs - audience composition
QTQ 9 Brisbane	What's Up Doc?	Inappropriate reference to sexual behaviour during G time.	G - Sex and nudity
RTQ Regional Queensland	Falling Down	Offensive language	M - Language
RTQ Regional Queensland	Blackmail	Sex scene not suitable for G time.	Promotions in G programs
SAS 7 Adelaide	News	Alleged misleading and inaccurate coverage	News/current affairs - accurate/fair
STW 9 Perth	Basic Instinct	Failure to respond to complaint.	Complaint handling
TCN 9 Sydney	Don't Forget Your Toothbrush	Male nudity not relevant to story line or program context.	M - Sex and nudity
TCN 9 Sydney	Centrespread	Explicit scenes of lesbian sex.	MA - Sex and nudity .
TCN 9 Sydney	Midday	Misleading veterinary information on pet food segment.	News/current affairs - accurate/fair

Commercial Television cont.

Licensee	program/advertisement issue	substance of complaint	relevant code/program standard#/licence condition*
TCN 9 Sydney	Weddings	Non-discreet portrayal of nudity in PG time.	PG - Sex and nudity
TCN 9 Sydney	The Today Show	Sexual innuendo made by presenter.	G - Sex and nudity
TCN 9 Sydney	The Today Show	Inappropriate setting of show - in a pub.	G - Drugs
TCN 9 Sydney	The Today Show	Tobacco advertising shown	Tobacco advertising prohibition*
TCN 9 Sydney	A Current Affair	Unbalanced report of the Shooters' Party.	News/current affairs - lack of balance
TCN 9 Sydney	Sport - Cricket	Racially offensive terms used about the Irish by sporting commentators	Cultural sensitivities and Hatred/ridicule - discrimination
TEN 10 Sydney	Doug	Distress to children.	Criteria for C & P programs
TEN 10 Sydney	Echo Point - promotion	Dealt with teenage sex during a childrens' midday movie ('Heidi') on a Saturday	Promotions in G programs
TEN 10 Sydney	Baywatch	Not satisfied with station's response.	Complaint handling
TEN 10 Sydney	Infomercial	Infomercials are extended advertisements - and questioned whether 'non-program' matter in terms of code.	Non-program matter - definition
TEN 10 Sydney	Someone's Watching	Dissatisfied with response re: depiction of sexual acts, unsuitable for M time.	M - Sex and nudity
TEN 10 Sydney	Sport - Cricket	Discriminatory comments towards Irish persons.	Cultural sensitivities and Hatred/ridicule - discrimination
TEN 10 Sydney	The Ren And Stimpy Show	Not suitable for G classification.	G classification
TEN 10 Sydney	The Simpsons	Sexual references inappropriate for G classification.	G - sex and nudity
TNT/TVT Tasmania	Bookplace	A book titled <i>Rumpata Elephant and the Bad Boy</i> not appropriate for children.	Criteria for C & P programs

TVT/TNT Tasmania	Advertisement - Forestry Tasmania Inc.	Political advertisements were not correctly tagged.	Identification of political matter*
TVQ 10 Brisbane	The Ren and Stimpy Show	Not suitable for G or PG classification.	G - Sex and nudity and PG - sex and nudity and Promotions must comply with viewing zones
TVQ 10 Brisbane	Video Hits	Inappropriate sexual reference in video clip.	G - Sex and nudity
TVW 7 Perth	Talking Telephone Numbers	Magician segment was violent, offensive and unsuitable for children.	PG - Violence
VTV Regional Victoria	News	Invasion of privacy.	News/current affairs - privacy

Community radio			
Licensee	program	substance of complaint	relevant code/program standard#/licence condition*
2EAR Moruya	Management	Access issues - change of program format provides for less volunteer participation.	Participation, management*
2NUR Newcastle	Ashes	Offensive language and violent content.	Prohibited matter (Incite violence)#
2000 Sydney	Bosnian	Did not broadcast a community announcement about a date change of the Bosnian Cultural Society 'Reporod' Inc.'s AGM.	Participation, management*
2000 Sydney	Romanian	Program management disallows participation of other Romanian persons - and station broadcasts injurious information about people from the Romanian community.	Participation, management* and records of matter broadcast and Prohibited matter (discrimination)# and News# and Current affairs programs#
2REM Albury /Wodonga	Sponsorship announcements	Sponsorship announcements broadcast without tags - and excess number of advertisements.	Prohibition on the broadcast of advertisements* and 4 minutes per hour limit*
2RRR Sydney	East Timor	Inaccurate reporting.	Current affairs programs#
2TLC Maclean	Sponsorship announcements	Sponsorship announcements broadcast without tags.	Prohibition on the broadcast of advertisements*

Community radio cont.			
Licensee	program	substance of complaint	relevant code/program standard#/licence condition*
2UUU Nowra	Management	Discrimination of community groups from participating in station operations.	Participation, management*
3CR Melbourne	Concreteer's Gang	Misinformation in current affair's segment.	Current affairs programs#
3CR Melbourne	Croatian	Promoted hatred against Serbians.	Prohibited matter (incite violence)#
3ZZZ Melbourne	Serbian	Discrimination towards Croatians.	Prohibited matter (discrimination)#
4EB Brisbane	Music	Serbian song offensive to Muslims.	Prohibited matter (discrimination)#
4RPH Brisbane	Chuck Brooks	Inflammatory talk to incite public reaction.	Prohibited matter (incite violence)#
4RPH Brisbane	Management*	Not serving or encouraging participation by the print handicapped	Participation, management*
4ZZZ Brisbane	Music - General	Song was deeply offensive and included religious vilification.	Prohibited matter (discrimination)#

All potential breaches of the code of practice unless otherwise indicated:

- * potential breach of licence condition
- # potential breach of radio program standard.

SBS radio		
Program	substance of complaint	relevant SBS code
Farsi	Name of Iranian program should be 'Persian' not 'Farsi'.	Language and diversity and self identification
Hungarian	Presentation of Hungarian programs and no substantial response to complaint received.	Language and diversity and complaint handling

SBS television		
Program	substance of complaint	Relevant SBS code
Crazy Love	R rated material broadcast.	Explanation of classifications
Dateline	Racial remark by 'Dateline' commentator.	Prejudice, racism, discrimination
Homework	R rated material broadcast.	Explanation of classifications
Lovers	R rated material broadcast.	Explanation of classifications
News	Dissatisfied with station's response.	Complaint handling
Ninga Scroll	Inappropriate sexual content for television.	Sex and nudity
Vito And The Others	Offensive language.	Language/terminology

Subscription narrowcasting radio		
Call sign	substance of complaint	relevant program standard#
Voice of Greece	Inappropriate comments/actions in order to turn people away from church.	Prohibited matter (discrimination)#

All potential breaches of the code of practice unless otherwise indicated:

- * potential breach of licence condition
- # potential breach of radio program standard.

Appendix 3

Investigations: breaches found

Investigations - breaches

The following are summaries of breaches found by the Authority as a result of investigations concluded during the reporting period. Some breaches related to broadcasts which occurred in previous reporting years. The breaches were of codes of practice, or of the Act (licence conditions) or of the program standards.

The summaries relate to breaches found as a result of investigations stemming from complaints. Breaches of the ownership and control rules are detailed separately (under Objective 2 of this report).

Of the 170 investigations completed during the reporting period, 37 investigations resulted in 46 findings that a breach of a code of practice¹ or of a licence condition had occurred. Summaries of the findings of these investigations and their outcomes are set out in this appendix.

Responsibility for dealing with and responding to complaints made under codes of practice rests primarily with the broadcasters. It is their responsibility to resolve complaints. However, where a complaint is unresolved the Authority will commence an investigation either because the complainant is not satisfied with the station's response, or has not received a response.

If the Authority finds that a breach of a code of practice has occurred this does not represent a breach of a licence condition nor of the Act. Compliance with codes is not a condition of licence unless the Authority imposes such a condition.

Because the scheme of the Act puts the regulatory onus on the broadcasters themselves the response of the Authority in dealing with breaches of codes has been to work with the broadcasters concerned or with industry representative bodies to ensure problems identified are rectified and, if necessary, appropriate amendments are made to codes.

Given the number of codes that are operational, the range of issues they cover and the number of broadcasting services that are covered by codes, the Authority does not consider the number of code breaches it has found to be indicative of any serious problem either with the performance of an individual broadcaster or with the operation of the codes. In any case the Authority has in place regular consultative forums to assist in monitoring the operation of the codes.

In relation to the breaches of licence condition, although the Authority has the discretion to take punitive action against licensees, the Parliament has made clear in s.5 of the Act that such action must be commensurate with the seriousness of the breach. In all cases of a breach of condition the Authority was of the view that the finding of a breach and the response of the licensee in remedying the breach was commensurate with the seriousness of the breach.

¹ Codes of practice for each industry sector can be obtained by contacting individual radio or television broadcasters or industry groups representing each sector. The Authority also provides copies on request.

Codes of practice

ADS 10 Adelaide

Program: Eyewitness News

Complaint: inaccuracy in news footage/dissatisfied with complaint handling procedure

The complainant alleged that the segment, about removing aluminium sulphate from drinking water, was inaccurate. The complainant also alleged that the network had not followed correct procedures when dealing with the complaint.

The Authority found the news item had not been an accurate representation of factual material and had breached the relevant section of the commercial television code (section 4.3.1). The Authority also found that the station's complaints handling procedures had breached the relevant sections of the code (sections 7.8 and 7.9).

As a result of the Authority's finding, measures were put in place at ADS 10 to ensure that the requirements of the code would be observed, particularly in relation to news items and complaint handling procedures. In relation to the news item, the Ten network informed the Authority that firm instructions had been given to the news department at ADS 10 that in similar circumstances in the future, a more balanced approach must be adopted.

ATV 10 Melbourne

Program: Ten News

Complaint: inappropriate for G time

The complainant alleged that ATV had shown a news item about a drug use trial, illustrated by footage of preparation and administration of an illicit drug. Even if adequate warning about the content of the footage is given, as the news item was broadcast in the G classified time zone, adequate care means that the broadcaster must take into account the likely composition of the viewing audience and in particular the presence of children.

The Authority formed the view that due care was not taken in the broadcast by ATV, thereby breaching the commercial television code (section 4.1.2).

The complainant was also dissatisfied with the response by ATV to the complaint. The Authority found that ATV had also breached clause 7.11 because it had failed to respond to a complaint within the timeframe required by the code (30 days from receipt of the letter).

As a result of this investigation, the Ten network withdrew the offending footage from its news libraries and instituted a number of measures: included a requirement that news directors at each station report directly to the General Manager, Network News and Current Affairs and hold regular meetings to ensure code requirements are met; and the development and circulation of management guidelines and staff training in these matters.

On the basis of this remedial action and measures, the Authority decided to take no further action.

In relation to the issues of inadequate response to the initial complaint, the Authority has raised the issue in the current review of the code of practice by FACTS.

BTQ 7 Brisbane

Program: Sportsworld

Complaint: inappropriate language

The complainant alleged that BTQ7 had breached the section of the commercial television code relating to language in a G classified time zone (section 2.10). The relevant segment was part of a broadcast of 'Sportsworld', in which the compere or mediator used inappropriate language.

The licensee had considered the complaint and decided the language used was justified because it was a major sports story and highlighted the tensions spilling over into rugby league's relationship with the media. BTQ7 stated that its audience was well aware that rugby league is a tough sport involving tough participants and to sanitise comments would fail to convey the events properly.

The Authority considered there was nothing in the segment which suggested there was an exceptional circumstance justifying the use of an expletive, and as the segment was pre-recorded its use was not accidental.

The Authority decided that the licensee did not comply with the code. The network circulated the Authority's decision throughout the network and in particular to sport producers in each State. The Authority was satisfied with the network's response and did not consider further action was warranted.

BTQ 7 Brisbane

Program: Real Life

Complaint: inappropriate footage for G classified time zone

The complaint was about an episode of 'Real Life' broadcast in a G classified zone. The complainant was concerned that footage of naked women contained in the episode, was not appropriate for that zone.

Although 'Real Life' did not require classification, the Authority found the broadcast of the program was in breach of those sections of the commercial television code relating to the broadcast of current affairs in G time (sections 2.6 and 2.7); references to sexual behaviour and nudity (section 2.10.2); as well as section 4.1.2 which relates to presenting news and current affairs with due care.

The Seven network advised that the Authority's report would be circulated to all news directors and 'Today Tonight' ('Today Tonight' is the Seven network's new evening current affairs program) producers in order that they be aware of the Authority's decision. The Authority was satisfied with the network's response and did not consider further action was warranted.

BTQ 7 Brisbane

Program: Seven Nightly News

Complaint: broadcast of proscribed material (likely to stir up contempt)

The Authority received a complaint about a story broadcast in April 1994, 'The Daniel Yock Story', by BTQ during the 'Seven Nightly News' program. The complainant alleged that BTQ did not comply with the requirements of the commercial television code of practice because the broadcast had the potential to stir up serious contempt against Aboriginal people by portraying them in a negative light.

The Authority found this program did breach the code of practice (section 1.6.6). The Authority considered that the story presented a strong focus on the potential for violence, the portrayal of the violence was potentially misleading to the viewer and the sequence of the file footage, commentary and other visual images combined in the story to suggest that Aboriginal people are untrustworthy, aggressive and threatening and the community is justified in being wary of them.

It was the Authority's opinion that BTQ considered its presentation of the story constituted a 'fair report, or fair comment on' an event of identifiable interest, but the Authority also believed that the way the file footage was used affected the fairness of the news report. The Authority considered that 'the Daniel Yock Story' was not a fair news report and that BTQ's belief in the report's fairness was not reasonable. While the Authority accepted that the report was made 'in good faith' the Authority did not consider this to be sufficient to excuse the broadcast from being in breach of the code.

Following the release of its investigation report, the Authority met with representatives of BTQ, the Seven network and FACTS to discuss the Authority's findings. At this meeting, the Seven network continued to put the view that the broadcast did conform with the code.

In light of matters raised at this meeting, and given the sensitivity of the issues covered by this investigation, the Authority invited the Seven network to provide comment on the decision, which was published in the Authority's newsletter, *ABA Update* (no.41, March 1996).

GTV 9 Melbourne

Program: A Current Affair

Complaint: dissatisfied with network response (complaints handling)

The complainant was dissatisfied with the manner with which the Nine network had dealt with a complaint about a segment of the program 'A Current Affair' broadcast by GTV 9.

The Authority considered that the network's response to the complainant was inadequate and the broadcaster had breached the commercial television code (section 7.9).

The Nine network circulated the Authority's report on the breach to relevant persons within the network, in order to emphasise importance of compliance with the code. The Authority was satisfied with the network's response and did not consider further action was warranted.

Prime TV

Program: Rudy Coby: The Coolest Magician on Earth

Complaint: inappropriate classification (violence)

The complainant alleged that certain scenes broadcast in 'Rudy Coby: The Coolest Magician on Earth' meant the program was inappropriately classified for G and not suited to the time in which it was broadcast. Despite the magician's entreaties to not 'try this at home', and the warnings that were given, the complainant considered that younger children would not heed such warnings.

In the Authority's opinion, the program contained violent sequences which may have

alarmed or caused distress to children and therefore breached clause 2.10.1 of the commercial television code. The program also breached clause 2.10.6 of the code because of its depiction of dangerous playthings in a way which did not minimise the likelihood of imitation.

The Authority received advice that any repeat showing of the program would be scheduled in PG time.

Nine network

Program: 60 Minutes

Complaint: incorrectly classified footage (violent)/ inadequate warning

The complainant alleged that the '60 Minutes' story which centred on the activities of various rebel warlords in Liberia was in breach of the commercial television code (sections 2.7 and 2.26) in that there was insufficient warning of material likely to seriously distress or offend. In the introduction to the story the reporter Richard Carleton warned 'I should mention that our story does contain some rather disturbing scenes'.

In the Authority's assessment, as a major theme of the story was the brutality of the civil war in Liberia, there was an identifiable public interest in broadcasting the scenes of brutality which were the subject of the complaint.

However the Authority considered that, although warning was given, it was inadequate and did not sufficiently indicate the nature of the material to be broadcast.

The Nine network accepted the Authority's finding, but indicated it had a different interpretation of the application of the commercial television code to the broadcast.

Seven network

Program: Mighty Morphin Power Rangers

Complaint: not satisfied with broadcaster's response

The Authority found two episodes of the 'Mighty Morphin Power Rangers' series contained scenes which did not comply with the G classification criteria as set out in the commercial television code of practice (section 2.10). Five stations in the Seven network broadcast the episodes and therefore all five were in breach. The two episodes were 'Day of the Dumpster' and 'Mighty Morphin Power Mutants'. Both episodes contained violent scenes. The Authority considered that the scenes in 'Day of the Dumpster' episode could encourage children to think that violent acts to soft body parts could cause little or no harm. The Authority considered the scenes in 'Mighty Morphin Power Mutants' certain violent sequences could cause alarm, distress or anxiety to children.

Seven has advised the Authority that further programs in the series will be carefully considered and modified before broadcast to ensure that they fall within the G classification criteria. Seven has indicated it will be guided in that consideration in the Authority's report.

TCN 9 Sydney**Program: Nine News****Complaint: breaches of the code relating to news and current affairs programs**

The segment, in the six o'clock evening news bulletin, was a news item about a murder victim which used an incorrect photograph of the victim. The complainant alleged the news item breached the sections of the commercial television code relating to accuracy and fairness (section 4.3.1), causing a public panic (4.3.2), and privacy in news and current affairs (section 4.3.5).

The Authority did not uphold that part of the complaint referring to privacy because, although the wrong photo had been used, the Authority did not consider this an invasion of privacy as there was no material revealed relating to that person's personal or private affairs. The distress caused by presenting the wrong photograph was not of a nature that would cause a public panic.

The Authority expects a high degree of care to be exercised in the selection and broadcast of visual images accompanying a news item. The Authority found that Channel Nine did not comply with section 4.3.1 of the code.

The report of the investigation was circulated in the Channel Nine news room and journalists were instructed to take even greater care in identifying persons accurately and with appropriate sensitivity. The Authority was satisfied with the network's response and did not consider further action was warranted.

STW 9 Perth**Program: Basic Instinct****Complaint: inadequate response by licensee**

The complainant had complained in writing to the broadcaster, STW 9 regarding the movie 'Basic Instinct'. The complainant alleged there had not been a response in writing by the licensee, as required by the code (section 7).

The licensee stated there was no record of the letter of complaint ever having been received. The Authority is of the view that the letter of complaint was in fact received by STW 9 as the program manager of STW 9 had telephoned the complainant in response to the complaint. However no further response to the complaint was forthcoming. The Authority therefore found the licensee had breached the sections of the code relating to response by broadcasters to complaints (sections 7.8 and 7.9).

The Authority accepted that it was not the licensee's intention to be dismissive of the complaint and that the program manager had several lengthy telephone conversations with the complainant about the complaint. The Authority also noted that the licensee had not previously breached this section of the code, and accordingly decided not to take the matter further.

Ten network**Program promotion: Picket Fences****Complaint: inappropriate footage for G time (violence)**

The complainant alleged that the promotion for the program, 'Picket Fences', which was broadcast during G classified time, contained footage showing a gun being used by a youth in an apparently violent manner.

The Authority found that the program promotion was in breach of the code (section 3.6.1) as it was clear in the depiction of the action and facial expression of the youth that his intention was to harm or seriously menace by discharging a firearm in a public place.

Although the network had responded to the complainant that the brevity of the segment played down the impact of the scene, in the Authority's opinion this brevity added to its impact. The Authority considers that it is the broadcaster's responsibility to ensure that program promotions are constructed and classified appropriately, taking the likely composition of the viewing audience into consideration.

The Authority met with the Ten network and discussed the interpretation and application of the code to promotions.

Ten network

Program promotion: Seaquest DSV

Complaint: inappropriate footage for G time

The promotion was for the program, 'SeaQuest DSV' and broadcast during 'The Wonderful World of Disney' which is broadcast in G time. The complainant alleged the program promotion contained violent scenes which were inappropriate for broadcast at that time of the day.

In its assessment, the Authority considered that the scenes in the promotion depicted the use of weapons in a manner clearly and definitely intended to inflict harm and/or with serious menace. The Authority considered the broadcast inappropriate for G time, breaching the relevant section of the commercial television code (section 3.6).

In its response the Ten network informed the Authority that it had instituted procedures designed to ensure adherence with the provisions of the code. The Authority also took into account that the network did not have the benefit of its interpretation of the code (see *Picket Fences* above) at the time the promotion was broadcast. The Authority was satisfied with the network's response and did not consider further action was warranted.

Ten network

Program: The Bold and the Beautiful

Complaint: inappropriate scenes for classification zone

The complainant alleged that a particular episode of the long running drama series had contained violent scenes inappropriate for G classified time zone thereby breaching the relevant section of the commercial television code (section 2.10). The program had recently moved from a PG time zone.

The Authority considered that the content of the final scenes of the program, whilst in the context of the storyline, contained material which, due to the depiction of physical and psychological violence, would be likely to cause alarm or distress to children. The Authority decided that the content of these scenes exceeded the limits of the G classification criteria and failed to comply with the requirements of the code.

Network Ten stated that this episode had featured material which was totally out of keeping with the content of the series over many years and was broadcast due to an error of judgement by their program classification staff. The network implemented procedures to ensure future episodes of 'The Bold and the Beautiful' complied with

the code. The Authority was satisfied with the network's response and did not consider further action was warranted. The Authority did however place the network on notice for future, similar breaches.

Ten network

Program: Take 40 Australia

Complaint: footage unsuitable for G classified material

The Authority received a complaint about a video clip, 'I'm an Asshole' broadcast by the Ten network on its G classified program, 'Take 40 TV'.

The Authority decided that, by broadcasting this footage, the licensee had breached that section of the commercial television code which provides that material classified G must not contain any matter likely to be unsuitable for children to watch without parental supervision, and limiting depictions of violence, use of expletives and dangerous playthings (section 2.10).

The network advised the Authority that it had instituted new procedures designed to ensure full adherence to the provisions of the codes. Among these were improved liaison procedures at pre-production stage, whereby production staff and drama script writers were encouraged to raise code matters with the Director, Broadcasting Policy and the network's program classification officer. The network was also planning further staff training on codes matters.

The Authority was satisfied with the network's response and did not consider further action was warranted.

TNQ Regional Queensland

Program: Blue Water Dreaming

Complaint: the segment contained footage inappropriate for the program's G classification or the G time zone

The complainant alleged that the episode in question contained a segment with footage inappropriate for the program's G classification or the G time zone in which it was broadcast.

The Authority found that TNQ failed to comply with section 2.3 of the commercial television code as the particular episode of the program was inappropriately classified as it contained portrayals of nudity which were neither discreet nor absolutely necessary to the storyline (section 2.10.2).

The Authority decided to take no further action but placed the broadcaster on notice that further breaches of this kind would require action by the Authority to ensure compliance with the code.

TVW 7 Perth

Program: Today Tonight

Complaint: inadequate warning/inappropriate for G classified zone

The complainant alleged that the warning given before a segment, which featured a (then) soon to be released video on the subject of executions, was insufficient and that care was not exercised in the broadcasting of this segment during a G classification time zone. The program presenter began the segment with a warning

that some scenes may be distressing to some viewers, however the complainant thought that this warning was insufficient.

Within the terms of section 2.25 of the code, news or current affairs programs may contain coverage of visual or aural material which, in the licensee's reasonable opinion, is likely to seriously distress or offend a substantial number of viewers only if there are identifiable public interest reasons for broadcasting the material and if adequate prior warning is given to viewers.

In responding to the complaint the licensee stated that the video which featured in the segment had been the subject of considerable public debate in other countries and that the decision by the Office of Film and Literature Classification to permit its distribution raised serious issues. However, TVW 7 accepted that it had breached the code (section 2.26) in that the wording of the warning which preceded the segment was inadequate. The Authority raised the issue in a meeting with the business director of the Seven Network to prevent a similar breach recurring. The Authority was satisfied with the network's response and did not consider further action was warranted.

2UE Sydney

Program: Bob Rogers

Complaint: dissatisfied with licensee's response

The complainant was dissatisfied with the lack of a response by the licensee of 2UE to a complaint made about a segment of the program hosted by Mr Bob Rogers.

The Authority found that the licensee initially supplied incorrect information to the complainant concerning the availability of records of matter broadcast. The Authority also considered that complaints handling arrangements were inadequate when the station manager, who normally deals with all complaints, was absent, thus breaching section 5.2(b) of the code. In addition, the licensee had not informed either the complainant or the solicitors acting on behalf of the complainant of their right to take the matter to the Authority, thus breaching section 5.3 of the code.

As a result of the Authority's decision the licensee took measures to ensure firstly that staff were made aware of complaints handling procedures and also that staff, in the absence of the station manager, refer complaints to either the company secretary or the station's solicitor.

Licence conditions

4CA Cairns

Program: John Mackenzie Program

Complaint: accuracy in news and current affairs/failure to keep logging tapes

The complainant claimed that: the station refused to allow him to speak on the program; the program made significant factual errors in presenting news and current affairs and failed to correct errors of fact; the station was in error in believing that it did not have to meet ethical standards for news and current affairs. The complainant argued that these issues amounted to breaches of sections 2.2(a), 2.2(c) and 2.2(d) of the commercial radio codes.

The Authority is of the opinion that the codes did not require that equal time should be given to differing viewpoints or that specific organisations or individuals should be invited to present their views on issues covered in current affairs programs. The Authority decided there had not been a breach by the licensee.

The station acknowledged that it failed to ensure the audiotape of the program segment was retained for the additional period required after receiving the complaint. The Authority therefore found that the station had breached the licence condition requiring that matter broadcast be retained.

The station advised the Authority that the incident occurred during a period where the station manager had given notice of intention to resign and was occupied with finalising his involvement with the station. The station has revised procedures to ensure that the breach does not happen again and a memorandum to all staff has been circulated advising of the changed procedures and emphasising the importance of complying with licence conditions.

In view of the action taken by the station and the fact that this was the first such breach committed by the licensee, the Authority decided not to take further action beyond publication of a short summary of the report.

2000 Sydney

Complaint: accuracy in news/right of reply/broadcast of proscribed material (inflammatory)/ failure to keep logging tapes

The complainant raised a number of allegations about the accuracy of news stories, the right of reply on certain programs and the inflammatory nature of material broadcast about the Romanian community. The complainant also alleged that access to the community radio service 2000 Sydney, known as 2000FM and operated by the Multicultural Community Radio Association Ltd, was limited to certain people involved with the station.

As the community radio code of practice was not registered at the time the issues which were the subject of the complaints occurred, the Authority assessed the complaints against the relevant radio program standards.

The Authority found that 2000FM had not breached any standard relating to the broadcast of material likely to incite hatred against or gratuitously vilify a person, or the accuracy of news broadcasts. The standards did not oblige the licensee to provide a right of reply for news stories.

Although the Authority was critical of aspects of the licensee's decision making processes in considering a request for air time, it was satisfied that the structures in place provided an adequate opportunity to participate in the operation and programming of the service.

The Authority found, however, that the licensee had breached the licence condition requiring that matter broadcast be retained. The licensee has undertaken to implement substantive measures to correct its recording facilities and procedures. The Authority considered the plan of action outlined by the licensee in regard to the prevention of further breaches was a satisfactory response.

2REM-FM Albury-Wodonga

Complaint: broadcasting of advertisements/exceeding time allowed for sponsorship announcements/failure to keep logs

The complainant alleged three breaches of the Broadcasting Services Act in that community radio service 2REM-FM broadcast advertisements which were not tagged, the time of these advertisements had exceeded time limitations as defined under the Act and there were no recordings of the broadcasts. These activities were potential breaches of the Act.

On assessing the tapes provided by the complainant the Authority found that 2REM had broadcast advertisements, that the time taken by the advertisements had exceeded the time allowed and there were no logs kept, thereby breaching clauses 5(3), 9(1)(b) and 9(3) of Schedule 2 of the Act.

The Authority has required 2REM to remedy these breaches by implementing appropriate procedures to identify sponsorship announcements clearly and to introduce logging equipment.

4ZZZ Brisbane

Complaint: Broadcast of proscribed material (denigration)/ failure to keep program logs.

The complainant alleged that both the complainant's name and organisation had been mentioned in a derogatory manner on community radio service 4ZZZ Brisbane and the station had failed to keep a log of the program. Broadcasters are required to keep logs of such programs broadcast as a condition of licence (clause 5, Schedule 2 of the Act).

The Authority found there was no log of the program in question because the equipment had failed on that day and, as the announcer was unaware of this failure, he had not made a back up of the program.

The Authority therefore found the licensee, Creative Broadcasters Limited, in breach of the licence condition, but in the absence of a tape record, was unable to form any opinion as to the program's content.

The licensee took the following steps to ensure such a breach did not occur again: a compulsory staff meeting about logging requirements; installation of a new logging system, changing the announcing co-ordinator's job description to include in the requirement to oversee personally the change over to a back up system in the event the main logger broke down; and distribution of back up procedure to all announcers.

5YYY Whyalla

Complaint: use of classifieds on community radio

The complaint alleged community radio service 5YYY Whyalla had breached the licence conditions relating to the use of classifieds on community broadcasting services. The Authority was required to consider whether the broadcast of classifieds by 5YYY constituted advertisements for the purposes of Schedule 2 of the Act, or whether they were community promotional material.

The Authority considered these classifieds were in fact advertisements, and they were not sponsorship announcements as they did not contain the relevant sponsorship tag. This was the first time the Authority had investigated such a matter, thereby setting a precedent for community broadcasters.

The licensee undertook that all classifieds broadcast on the station will carry a tag acknowledging the lodger as a supporter of community radio in Whyalla. The Authority also provided the Community Broadcasting Association of Australia with a full copy of the report to assist members with compliance.

As it was the first time a breach of this provision had been found and the licensee did not have the benefit of the Authority's reasoning relating to categorising classifieds, the Authority took no further action.

2KKK Katoomba

Complaint: breach of licence condition: transmitting from a site not specified in its apparatus licence

The complainant alleged that Tourist Radio Pty Ltd (open narrowcasting radio service), call sign 2KKK, was transmitting from a site different from that specified in its apparatus licence, and was providing a service at a transmitter power greater than that allowed under the technical conditions applicable to low power services. The apparatus licence for 2KKK specifies the licensed site as Katoomba Council and indicates that the transmitter power shall not exceed 1 watt.

Compliance with the technical specifications of an apparatus licence is a condition of the licence under the *Radiocommunications Act 1992*. Any breach is an offence under s.113 of the Radiocommunications Act and thereby of clause 11(c), Schedule 2 of the Broadcasting Services Act.

The Authority, after investigation, decided that 2KKK was not complying with the technical conditions by exceeding its transmitter power and by transmitting from another site.

As the breach was not considered significant and was immediately remedied, the Authority decided not take any further action.

Foxtel

Channel: Arena

Complaint: advertising on pay TV

The complainant alleged that interstitial material, broadcast as the 'Microscope' series constituted an advertisement, thereby breaching a condition of that licence. An interstitial is defined as material or a short program used to fill in time between main programs.

After viewing the material and taking comments from the licensee, Foxtel Cable Television Pty Ltd, into consideration, the Authority decided Foxtel had breached the licence condition and that the matter was an advertisement within the meaning of that condition.

As a result of the Authority's finding, Foxtel advised all channels of the Authority's decision, the basis for that decision, issued guidelines to ensure future compliance and provided training for all in-house producers.

Because of these preventative steps, and because it was a first breach, the Authority decided not to take the matter further.

Breaches of program standards

Standards in relation to matters other than Australian content and children's television applied to categories of services where there was no code of practice registered with the Authority at the time the broadcast took place. This applied primarily to community broadcasters and narrowcasters. As codes are registered with the Authority, the relevant standards cease to be in force and are replaced by the code.

BTQ 7 Brisbane

Program: Real Life

Complaint: accuracy and fairness in news and current affairs

The complainant alleged that a segment on the program 'Real Life' was inaccurate and unfair. In the Authority's view, the footage broadcast was confrontational and unjustified and was used without the complainant's consent. The Authority found the licensee had breached the relevant television program standard in force at the time of the broadcast. In the view of the Authority, the 'Real Life' segment unfairly presented the complainant as an irresponsible person who was recklessly indifferent to the safety of his guests at his backpacker hostels. In the Authority's view this was unfair and unjustifiable.

There were a number of difficulties for the Authority in investigating this complaint which contributed to the complainant presenting his complaint to the Commonwealth Ombudsman. The difficulties for the Authority relate to the timing of the broadcast, the time the complaint was first made to the Authority and the protracted nature of resolution of this complaint by both the Seven network and the Authority. The Authority has expressed some regret to the complainant for this.²

While the Authority could impose no penalty on the licensee in respect of a breach of the program standard (as the program was broadcast before the Authority came into being), making a finding of a breach enabled the public record to be clear about the licensee's conduct with regard to the complainant.

The Authority had a number of meetings with officials of the Seven network and its regional affiliates and now believes the Seven network understands and accepts its responsibilities to the public and the Authority in respect of complaints about matters covered by codes of practice.

3CR Melbourne

Program: Radio Vukovar

Complaint: broadcast of proscribed material (incitement to hatred and vilification)

The complainant alleged that the broadcast, which was in the Croatian language, was racist in nature and promoted hatred against the Serbian community. At the time of the broadcast program standards still applied for community radio.

² For more detail about this investigation, see the Authority's *Your Say 1996*.

The Authority decided that the program breached Radio Program Standard (RPS) 3, which prohibits vilification or inciting hatred, as comments made by the program announcers gratuitously vilified Serbian people and promoted hatred against Serbian people. The comments attributed reprehensible actions and behavioural traits to an entire ethnic group and used emotive, derogatory and generalised descriptions of an entire people. In the Authority's opinion, the comments carried some weight as they were made by the announcer.

As a result of the Authority's decision, 3CR took the following measures to prevent a similar breach recurring: ensuring that all programmers were aware of and committed to the broadcasting standards; suspending the relevant announcer from programming duties; monitoring the 'Radio Vukovar' program more closely; providing training courses on RPS 3 for the station's announcers; and the writing of an apology to the Serbian National Federation.

The Authority considered this a satisfactory outcome and decided no further action was warranted.

3RRR Melbourne

Program: The Liars Club

Complaint: broadcast of proscribed material (vilification)

The complainant alleged the Church of Scientology had been vilified in three segments, broadcast on three separate days.

The relevant programs were broadcast before the community radio codes of practice were registered, therefore, community radio broadcasters were obliged to comply with radio program standards as a condition of licence. The relevant standard (Radio Program Standard (RPS)3) is intended to strike a balance between the principles of free speech and the rights of individuals and groups to be protected from the broadcast of unacceptable material.

As part of its investigation, the Authority considered whether the Church of Scientology fell within the term 'religion', as it appears in RPS3. The High Court designation of Scientology as a religion was considered a significant indicator that it was a religion, for the purpose of RPS3.

The Authority found that 'The Liars Club' program on 3 September 1995 breached RPS3(b) in its discussion about the Church and its members. The Authority considered that the compere had converted the interviewee's views from being ones which stood alone to ones which had the licensee's apparent support and confirmation. This presentation gave the comments a strength which assumed the character of gratuitous vilification on the basis of religion.

The Authority considers that broadcasters need to ensure that in giving effect to freedom of speech they also exercise the care and integrity this freedom implies.

The Authority also found that Triple R Broadcasters Limited, the licensee of 3RRR Melbourne, had breached licence conditions by not retaining a copy of the program on one of the relevant dates.

In response to the findings of breaches, the station manager advised the Authority that there were arrangements to ensure a back up logging system would be

implemented until the equipment could be upgraded. The station manager also advised that the compere had been suspended for four weeks, and that the Program Committee, as part of an internal review of program format, had decided to discontinue the program. In view of these facts, and the licensee's approach to the breach, the Authority decided not to take any further action.

Voice of Greece

Complaint: broadcasting live without permission

On two separate occasions, comperes from the subscription radio narrowcasting station Voice of Greece (VoG) contacted a Greek Orthodox minister by telephone and subsequently interviewed him on air without first obtaining his permission.

Subscription radio narrowcasting services are subject to the radio program standards until codes of practice for those services are developed.

The Authority found (VoG) breached Radio Program Standard (RPS) 7 by transmitting the words of an identifiable person without having informed him in advance that the words may be transmitted.

As a result of this finding, VoG undertook to take action to ensure that there was no breach of RPS 7 again; VoG announcers were to be informed of the Authority's findings; and the Authority forwarded the terms of RPS7 and the correct procedure regarding the conduct of interviews to the licensee for distribution among interviewers. The Authority was satisfied with the action taken.

ABC code

ABC TV

Program: Glued to the Telly

Complaint: inappropriate for G classified time zone

The complainant alleged that documentary 'Glued to the Telly' was broadcast with a symbol preceding it that indicated it was classified G (General - suitable for all ages). The complainant was concerned that the program should have been classified M in the light of allegedly sexually explicit contents.

The complainant was not satisfied with the response by the ABC and forwarded the complaint to the Authority.

On request from the Authority, the ABC responded that the program had been broadcast in the M classification time zone and conformed to the criteria applicable to that classification but had been incorrectly labelled G. The Authority's concern was that the G classification symbol had been shown at the start of the program as this could have been misleading to viewers.

On request from the Authority, the ABC stated that it would be developing methods to prevent preview classification tapes from outside producers not completely reflecting the content of the program as screened.

The Authority's final view was that, although the complaint was justified as the program was labelled incorrectly, the ABC had admitted a breach and the plan of

action outlined by the ABC in regard to the prevention of future breaches of the code is a satisfactory measure.

ABC TV

Program: The Investigators

Complaint: Accuracy and fairness in current affairs

The complainant alleged that the ABC TV program, 'The Investigators' broadcast a story about the Life Be In It Pty Ltd (Life) national franchise operation which was inaccurate.

The basis for the complaint was that the ABC presenter stated there was no contract between Life and the manufacturer of the product, and the story was not balanced because the ABC failed to interview the director of Life's marketing company.

In the Authority's view, the main point of the segment was generally accurate with one exception, but the factual and legal/contractual mix was much more complex than was conveyed by the ABC. The Authority considered the ABC should have explained more clearly the contractual relationship between the parties.

The Authority found that the ABC had breached section 4(a) of the ABC Code of Practice in that every reasonable effort was not made to ensure the program was accurate.

A copy of the report of the investigation was distributed to relevant personnel in the ABC and their attention was drawn to the Authority's comments relating to the reporting of complex material. In view of the fact that the general thrust of the program was not misleading to the ordinary and reasonable viewer, and the program is no longer broadcast, the Authority decided not to take further action.

ABC TV - South Australia

Program: 7.30 Report

Complaint: Accuracy and fairness in news and current affairs

The complainant alleged that the '7.30 Report' had presented an unfair portrayal of Mr Jack Guscott, former Chairman of the South Australian Lotteries Commission in that it was unbalanced, irresponsible and gave the impression that Mr Guscott was 'a shady character with something to hide'.

The Authority found that the ABC had breached its code of practice as the portrayal was not accurate, impartial or balanced. The Authority considered that references in the report appeared aimed at increasing the drama of the report rather than providing an accurate, balanced and impartial report.

The ABC advised the Authority that it would make a public statement in its South Australian edition of the '7.30 Report' acknowledging the Authority's finding of a breach of the code. The Authority considered this a satisfactory outcome.

SBS code

SBS TV

Program: Ghosts of the Civil Dead

Complaint: Unsuitable for television.

The complainant claimed that each of the films 'Ghosts of the Civil Dead', 'Lovers, Homework' and 'Crazy Love', contained material which was not suitable for television as they had been classified 'R' by the Office of Film and Literature Classification (OFLC). The films were modified and classified by SBS as MA (Mature Adult Audience - recommended for viewing only by persons aged 15 years and over) and broadcast after 9.30 p.m.

The film, 'Ghosts of the Civil Dead' was assessed against SBS's interim codes, which were in place at the time of the broadcast. The Authority considered the broadcast of the remaining films to have been in accordance with the SBS Code of Practice which was registered in 1994.

The Authority did not uphold the complaint that the broadcast of films classified R by the OFLC was of itself a breach of the SBS Codes. However, with regard to 'Ghosts of the Civil Dead', the Authority found the failure to broadcast an appropriate advance warning about the presentation of explicit violence and frequent coarse language breached the interim SBS codes of practice (section 2). In other respects the broadcast was in accordance with the codes.

Since the broadcast of the film, SBS has made a number of improvements in the presentation of information to viewers about SBS programs. These include procedures aimed at ensuring that consumer advice warnings are provided for all M and MA programs. The Authority was satisfied with the action taken.

SBS TV

Program promotion: The sacred mound

Complaint: Inappropriate classification

The complainant alleged the program promotion for the movie 'The Sacred Mound', '...contained offensive scenes; partial nudity and a sex scene' thereby breaching section 3.6 of the code. The complainant alleged the program promotion was broadcast outside the appropriate classification time zone.

SBS admitted that it was in breach of its code. The Authority noted SBS plans to adopt procedures to prevent further breaches by increasing the classifications training sessions to presentation department staff and to allow only those who have received training to make scheduling decisions. SBS also proposed taking greater care in the future to place program promotions in the appropriate time slot.

The Authority regarded this as a satisfactory measure. The Authority requested that SBS report when training has been conducted, and to provide details of the effectiveness of this measure in regard to the prevention of further breaches. SBS has reported that referrals to the Classifications Manager have increased since the training.

SBS TV**Movie promotion: Mediterraneo****Complaint: inappropriate promotion for time slot/inadequate response by broadcaster**

The complainant alleged the promotion, for the film, 'Mediterraneo' and broadcast at 5.30 p.m., contained explicit sex scenes and full frontal nudity and was therefore inappropriate for the timeslot. In addition, the complainant did not receive a response from the SBS.

The SBS advised the Authority that the broadcast of the promotion at that time had been an error, as the promotion had been scheduled for transmission after 8.30 p.m. The SBS apologised for any distress or inconvenience caused by the mistake adding that on-air coordinators had been given instructions about the use of unscheduled promotional material to prevent a similar incident recurring.

The SBS noted that the complainant's letter had been received and forwarded to another section for action but had been either misdirected or mislaid. The SBS also acknowledged it had failed to comply with the statutory requirement, as it had not responded to the complainant within 60 days.

The Authority accepted the assurances from the SBS that measures have been taken to reduce the risk of similar occurrences and regarded this as a satisfactory outcome.

SBS radio 2EA**Program: Spanish language program****Complaint: advertisements/commercial promotions**

The complainant alleged that certain radio interviews and radio announcements were, in effect, commercials promoting various products and that the staff of the program used SBS premises and resources to promote a book in order to advance personal financial gain.

The Authority assessed three separate broadcasts of the Spanish language program and considered that they met the common law definition of advertising. These programs therefore represented a breach of the SBS code as advertising is not permitted on SBS radio.

In representation to the Authority, the SBS contended that the material was intended to be of a community promotional nature and that the SBS did not receive payment or valuable consideration for the broadcast. The material was of a kind regularly broadcast by community radio to inform about events of interest to the community.

In meeting with the SBS, the Authority advised that the Board of the SBS should consider amending the code in relation to SBS radio to clarify what kind of advertising or promotional material is permitted.

Appendix 4

Freedom of information

Section 8 statement

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

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

This statement is correct as at 30 June 1996.

Establishment

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

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

Organisation

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

The ABA holds regular meetings to make administrative decisions and determine policy. Additional meetings are held as required including meetings to determine opinions as to which category of broadcasting services a proposed service falls into. A quorum for such meetings is constituted by three Members. Staff of the ABA are present at the meetings to record the decisions and, as required, to report, to provide

advice and to make recommendations to the ABA, and to ensure that the ABA's directions are carried out. Decisions may also be made by resolution by virtue of clause 11 of Schedule 3 of the Act, or by delegation by virtue of clause 18 of Schedule 3 of the Act.

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

Staff of the ABA

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

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

Functions

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

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

Australian Broadcasting Authority

Policy and Programs Division

Policy and Communications Branch

- Legal Section
- Policy Section
- Library
- Media and Public Relations Section
- Industry Analysis Section
- ★ Control Subsection
- ★ Financial Analysis and Resources Section Economic Research Subsection

Program Services Branch

- Research Section
- Allocation and Renewal Section
- Conditions and Codes Section
- Standards Section
- ★ Children's Television Subsection
- ★ Australian Content Subsection

Planning and Corporate Services Division

Planning Branch

- Planning Engineering Section
- ★ Planning Automation Subsection
- ★ Spectrum Development Subsection
- ★ Technology Assessment Subsection
- ★ Specifications Development Subsection
- Services Planning Section
- ★ Branch Support Subsection
- ★ Implementation Policy Subsection
- ★ Licence Area Consultation Subsection
- ★ Licence Area Development Subsection

Corporate Services Branch

- Information Systems Section
- Financial Resources Section
- ★ Finance and Administration Subsection
- ★ Records Management Subsection
- Human Resources Section
- ★ Pay and Conditions Subsection
- ★ Recruitment and Staff Development Subsection

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

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

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

Division functions and powers

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

Policy and Programs Division

1. Policy and Communications Branch

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

The Branch is responsible for:

- preparing opinions on whether a person is in a position to control a licence, a newspaper or a company;
- assessing applications for prior approval of temporary breaches of the control provisions of the Act;
- maintaining registers of notifications of directorship and changes in control, associated newspapers, large circulation newspapers, temporary (approved) breaches, extensions of time granted and notices to persons in breach;
- monitoring compliance with the control limits;
- conducting investigations/hearings into licensees' compliance with the control provisions of the Act and notifying persons to remedy breaches;
- issuing notices relating to breaches of the control provisions of the Act;
- assisting in the identification and exploration of forward policy issues to be addressed by the ABA;
- co-ordinating the formulation of emerging policy issues throughout the ABA;
- providing secretariat support to the ABA including organising its regular meetings, preparing formal minutes and maintaining the records of decisions of the ABA;

- co-ordinating all tasks carried out under the *Freedom of Information Act 1982* (the FOI Act); and advice to the Minister about matters related to the FOI Act and the *Privacy Act 1988*;
- providing legal and policy advice on issues arising from the ABA's powers and functions;
- referring matters to the Director of Public Prosecutions;
- producing and marketing publications and informing the public of the functions, activities and decisions of the ABA;
- maintaining a full library service for members and staff of the ABA;
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of the ABA's functions or powers; and
- co-ordinating briefs and responses to questions arising from Parliamentary processes.

2. Program Services Branch

Program Services Branch comprises Research Section, Standards Section, Conditions and Codes Section, Allocation and Renewal Section, Children's Television Sub-section and Australian Content Sub-section.

The Branch is responsible for:

- conducting and commissioning attitudinal research and monitoring service trends;
- developing standards for commercial and community television broadcasting licensees relating to programs for children, for determination by the ABA;
- making decisions about the classification of programs for children;
- developing standards for commercial television broadcasting licensees relating to the Australian content of programs, for determination by the ABA;
- monitoring compliance with program standards;
- monitoring compliance with sports anti-siphoning provisions and reporting to the Minister on a six monthly basis;
- monitoring compliance with Australian content requirements for pay TV;
- consulting with the industry and the community on the development of codes of practice for each broadcasting sector;
- maintaining a register of codes of practice, and monitoring compliance with those codes;
- investigating complaints alleging offences against the Act or breaches of licence conditions;
- investigating unresolved complaints about breaches of the codes of practice of the ABC and the SBS;
- varying, revoking or imposing conditions on commercial, community and subscription television broadcasting licences and on class licences;

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

Planning and Corporate Services Division

1. Planning Branch

Planning Branch comprises Planning Engineering Section and Services Planning Section.

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

- developing planning priorities for determination by the ABA and preparing variations to those priorities for the ABA's approval;
- preparing frequency allotment plans, and variations to those plans, for the ABA's consideration;
- preparing licence area plans, and variations to those plans, for the ABA's consideration;
- specifying licence areas, frequencies, siting and power levels for transmitters used for broadcasting;
- designating and varying licence areas;
- developing technical planning guidelines for broadcasting services using frequencies within the broadcasting services bands;
- monitoring new technology and service trends;
- issuing apparatus licences to authorise the operation of transmitters for commercial, community and national services; for services provided under class licences; and for the temporary transmission or re-transmission of programs;

- making broadcasting services bands spectrum available for alternative uses for a specified period;
- determining licence area populations;
- allocating callsigns for broadcasting services; and
- collecting information and conducting investigations or hearings for the purposes of the performance or exercise of any of its functions or powers.

2. Corporate Services Branch

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

The functions carried out within this Branch include:

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

Arrangement for outside participation

Section 168 of the Act empowers the ABA to inform itself on any matter relevant to its functions. This may be done by consulting with such persons, bodies and groups as the ABA thinks fit, and forming consultative committees for that purpose; by conducting investigations and holding hearings and considering written submissions from the public; and in any other manner it thinks fit. To this end, ABA officers participate in a range of organisations reflecting the broad range of the ABA's functions.

Memoranda of Understanding

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

The Federal Communications Commission of the United States of America

The Singapore Broadcasting Authority

The Independent Broadcasting Authority of South Africa

The Broadcasting Standards Council of the United Kingdom

The Korean Broadcasting Commission.

The ABA has an ongoing involvement in the following organisations:

Media and Communications Council (MACC)

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

Australian Preparatory Groups

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

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

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

- ITU-T Group 9: Joint Committee on Transmission of Radio and Television on Telecommunications Networks.
- ITU-R Group 10: Broadcasting Service (sound).
- ITU-R Group 11: Broadcasting Service (television).
- ITU-R Group 12: Inter-service Sharing and Compatibility.

Standards Australia Boards and Specialist Committees

The ABA is represented on the following:

- TE3 Electromagnetic Interference.
- RC5 Radiocommunications Standards.

Digital Terrestrial Television Broadcasting (DTTB) Specialist Group

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

Department of Communications and the Arts' Digital Radio Broadcasting (DRB) Committee as well as the associated Policy and Technical Sub-committees

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

Other External Participants

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

The ABA also consults with other regulators such as the Australian Consumer and Competition Commission (ACCC), the Spectrum Management Agency (SMA), the Foreign Investment Review Board (FIRB) and AUSTEL on a regular basis.

Public Participation

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

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

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

Categories of documents

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

Files

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

Card indexes

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

Computer databases

Computer databases are maintained for bulk record keeping.

Microfiche

The reports of inquiries conducted by the former Australian Broadcasting Tribunal are available on microfiche in the ABA's library.

Registers

The ABA is required to maintain registers of codes of practice; notifications of controllers, directors, and changes in control; associated newspapers; large circulation newspapers; prior approvals of temporary breaches; extensions of time for temporary breaches; notices to persons in breach of the Act; extensions of time for compliance with notices and approvals of breaches of television ownership limits in small markets. Persons wishing to inspect any of these registers should contact the Sydney office of the ABA.

Classes of records

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

Policy and Communications Branch

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

Program Services Branch

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

broadcasters; subscription television broadcasting service licences; and opinions on which category of broadcasting services a service falls into.

Planning Branch

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

Corporate Services Branch

Personnel and staffing; finance; purchasing; furniture and fittings; equipment and accommodation; appointment of members; and records of notifications to licensees in relation to licence fees and payments of those fees.

Information products

As a matter of course the ABA makes all discussion and working papers on issues which it is publicly consulting freely available to the public.

Information products available to the public, as at 30 June 1996, include:

Fact Sheets (all free)

ABA Investigations

Allocation of Community Broadcasting Licences

Broadcasting and Communications Industry Regulators in Australia

Callsigns

Class Licences

Commercial Broadcasting Licence Allocation - Section 39

Community Radio Broadcasting and Sponsorship Announcements

How to Read a Licence Area Plan

Investigation into the Content of On-line Services

Notification Obligations of Commercial Licensees and Controllers

Planning for Broadcasting Services

Price-based Allocation of Commercial Broadcasting Licences

Requests for ABA Opinions Concerning Control of Licences

Re-transmission Within Licence Areas

A Summary of the Control Provisions of the Broadcasting Services Act 1992

Technical Planning Guidelines

Temporary Transmissions by Aspirant Community Broadcasters

Transmitter Licences for New Commercial and Community Broadcasters

Pamphlets (all free)

An Introduction to the ABA

Complaints about Programs

Information guides/discussion papers and reports (all free)

Anti siphoning

First Report to the Minister, July 1995

Second Report to the Minister, December 1995

Guide to the Pay TV Anti-siphoning Provisions, July 1995

Australian Content

Discussion Paper, July 1994

Working Paper, November 1994

Summary of Submissions, December 1994

Proposed Standard, June 1995

Final Report, September 1995

Licensing

Guide for Service Providers Under Class Licences

Guide to Subscription Television Broadcasting Services

Guide to Temporary Transmissions by Aspirant Community Broadcasters

Licensing of New Free to Air Broadcasting Services, August 1995

Narrowcasting for Radio, Discussion Paper, April 1994

On-line Services Investigation

Investigation into the Content of On-line Services Issues Paper, December 1995

Pay TV

Guidelines for the Implementation of Pay TV 'New Australian Drama' Licence Condition

Guidelines for 'New Australian Drama' on Pay TV

Planning

Current State of Radio and Television Planning, vols 1-5 radio, vol 6 TV 1992

Frequency Allotment Plan, August 1994

Planning Priorities, September 1993

Licence area plans (final and draft)

Mildura/Sunraysia

Griffith/MLA

Darwin/Katherine

Spencer Gulf/Broken Hill

Remote WA

Licence area plans(draft)

Central NSW

Geraldton

Mt Gambier

South West WA

Remote Australia

Perth

Riverland

Esperance/Kalgoorlie

Research

International Research Forum Newsletter, November 1995

International Research Forum Newsletter, June 1996

Plus

ABA Annual Report 1994-95

Current Controllers of a Broadcasting Licence

Digital Terrestrial Television Broadcasting in Australia

Estimated Coverage Areas of UHF Television Transmitters-Tasmania, February 1994

Report to the Minister on the Australian Commercial TV Production Fund

ABA Update

Yearly subscription (12 issues) \$45.00

Supplementary subscription \$25

Monographs

Classification Issues \$9.95

Living with Television \$9.95

The People We See on TV \$9.95

From the Dark Side \$5.00

'Cool' or 'Gross' \$9.95

Music, new music and all that \$20.00

Families and Electronic Entertainment \$20.00

Trends & Issues

Audiences and Programs in 1992 \$5.00

Australian Content on Television \$5.00

Viewing Australia \$5.00

Broadcasting Audiences in the 90s \$10.00

Specialist publications

Australian Broadcasting Planning Handbook \$75.00

Broadcasting Financial Results, 1994-95 (disk only) format WK1 \$100.00

Investigation into the Content of On-line Services \$20.00

Investigation into Control (CanWest/Ten group) \$30.00

Investigation into Control (Fairfax/Packer) \$10.00

Investigation into Control (News/Seven) \$10.00

Investigation Report - Mighty Morphin Power Rangers \$10.00

Investigation Report - The Daniel Yock Story \$10.00
Listening to the Listeners - Radio Research \$50.00
Radio and Television Broadcasting Stations, 1996 \$40.00
 Disk Radio (ASCII text or .dbf) \$65.00
 Disk Television (ASCII text or .dbf) \$65.00
R Classified Programs on Pay TV \$10.00
Technical Planning Guidelines \$15.00
Your Say 1996 \$10.00

Facilities for access

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

The ABA's offices are at:

Level 15, Darling Park	Blue Building
201 Sussex Street SYDNEY	Benjamin Offices
NSW 2000 and	Chan Street
PO Box Q500	BELCONNEN ACT 2617
QVB Post Office NSW 1230	PO Box 34
Tel: (02) 9334 7700	BELCONNEN ACT 2616
Fax: (02) 9334 7799	Tel: (06) 256 2800
DX 13012 Market Street, Sydney	Fax: (06) 253 3277

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

FOI procedures and initial contact point

Requests for access under the FOI Act must be in writing and addressed to 'The FOI Co-ordinator' and be accompanied by an application fee (currently \$30). The FOI Act provides for a reduction of the charges or non-imposition of the charges in certain circumstances. In many cases however, it may not be necessary to use FOI as the information sought may be readily available. The Manager, Media and Public Relations, in the Sydney office should be contacted in the first instance.

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

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

- (a) to assist the applicant to more specifically identify documents that have been requested;

- (b) to give the applicant a reasonable opportunity for consultation before refusing a request on grounds of insufficient information (subsection 15(2) of the FOI Act) or if the request requires a substantial and unreasonable diversion of resources (subsection 24(1) of the FOI Act); or
- (c) to notify the applicant of the charges and the deposit that is payable, or to discuss a request that the charges be reduced or not imposed.

As at 30 June 1996, as well as the Members, the General Manager of each Division, the Branch Directors and most of the Section heads are authorised, under section 23 of the FOI Act, to make primary decisions on applications for access to documents held by their area. Generally, access is provided in the form of copies of documents. In addition to the Members, the General Managers and the Branch Directors are also authorised to make decisions on applications for internal review of primary FOI decisions made by the ABA.

Appendix 5

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AUSTRALIAN BROADCASTING AUTHORITY

INDEPENDENT AUDIT REPORT

To the Minister for Communication and the Arts

Scope

I have audited the financial statements of the Australian Broadcasting Authority for the year ended 30 June 1996. The statements comprise:

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

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

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

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

Audit Opinion

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

- (i) the statements are based on proper accounts and records;
- (ii) the statements show fairly in accordance with Statements of Accounting Concepts and applicable Accounting Standards the financial transactions and cash flows for the year ended 30 June 1996 and the state of affairs of the Australian Broadcasting Authority as at that date;
- (iii) the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Australian Broadcasting Authority during the year have been in accordance with the *Broadcasting Services Act 1992*; and
- (iv) the statements are in accordance with the Guidelines for Financial Statements of Commonwealth Authorities.

Australian National Audit Office



David A. Doyle
Executive Director

For the Auditor General

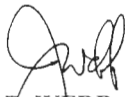
Sydney

14 August 1996


**AUSTRALIAN BROADCASTING AUTHORITY
FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 1996**

MEMBERS' STATEMENT

In our opinion the attached financial statements present fairly the information required by the Minister for Finance Guidelines on Financial Statements of Commonwealth Authorities.



P. WEBB
Chairman
14 August 1996



R. SCOTT
Deputy Chairman
14 August 1996

**AUSTRALIAN BROADCASTING AUTHORITY
OPERATING STATEMENT
FOR THE YEAR ENDED 30 JUNE 1996**

	Note	1995-96 \$	1994-95 \$
NET COST OF SERVICES			
Operating expenses			
Employee expenses	11,12	7 707 341	7 849 299
Administrative expenses	4	2 599 433	3 671 675
Office rental & hire of venues		1 738 861	1 631 521
Employee entitlement provisions		906 200	815 394
Legal fees & associated costs		513 655	405 272
Depreciation		464 118	594 822
Loss on disposal of non-current assets		<u>10 764</u>	<u>37 887</u>
Total operating expenses		13 940 372	15 005 870
Operating revenues from independent sources			
Licence Allocation Fee		370 000	-
Legislative review funds		200 000	-
Recovery of legal costs		83 548	-
Miscellaneous revenue		79 302	143 785
Sale of publications		54 626	38 068
Interest		47 126	48,365
Profit on sale of non-current assets		1 695	17 526
Lease incentive		<u>-</u>	<u>300 000</u>
Total operating revenue from independent sources		836 297	547 744
Net cost of services		<u>13 104 075</u>	<u>14 458 126</u>
REVENUES FROM GOVERNMENT			
Parliamentary appropriations received	2	12 324,000	12 350 000
Liabilities assumed by government	9	1 037 010	964 672
Resources received free of charge	3	<u>3 029</u>	<u>3 150</u>
Total revenues from government		<u>13 364 039</u>	<u>13 317 822</u>
Surplus (deficit) of net cost of services over revenues from government		<u>259 964</u>	<u>(1 140 304)</u>
EQUITY INTERESTS			
Accumulated surplus (deficit) at beginning of reporting period		(609 632)	530 672
Accumulated surplus (deficit) at end of reporting period		<u>(349 668)</u>	<u>(609 632)</u>

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

**AUSTRALIAN BROADCASTING AUTHORITY
STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 1996**

	Note	1995-96 \$	1994-95 \$
CURRENT ASSETS			
Cash		824 802	328 526
Receivables	20	91 398	2 782
Other	5	255 913	269 658
Total current assets		<u>1 172 113</u>	<u>600 966</u>
NON-CURRENT ASSETS			
Plant property & equipment	6	1 050 634	1 291 652
Total non-current assets		1 050 634	1 291 652
Total assets		<u>2 222 747</u>	<u>1 892 618</u>
CURRENT LIABILITIES			
Creditors		107 337	295 622
Provisions	7	1 040 918	983 863
Other		118 035	124 670
Total current liabilities		<u>1 266 290</u>	<u>1 404 155</u>
NON-CURRENT LIABILITIES			
Provisions	7	1 306 125	1 098 095
Total non-current liabilities		<u>1 306 125</u>	<u>1 098 095</u>
Total liabilities		<u>2 572 415</u>	<u>2 502 250</u>
Net assets		<u>(349 668)</u>	<u>(609 632)</u>
EQUITY			
Accumulated surplus (deficit)		(349 668)	(609 632)
Total equity		<u>(349 668)</u>	<u>(609 632)</u>

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

**AUSTRALIAN BROADCASTING AUTHORITY
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 1996**

	Note	1995-96 \$	1994-95 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Inflows:			
Parliamentary Appropriations		12 324 000	12 350 000
Bank Interest		45 642	50 896
Receipts from User Charges		698 860	209 225
Lease Incentive		-	300 000
Outflows:			
Payments to suppliers and employees		(12 342 016)	(12 807 490)
Net cash provided by operating activities	14	<u>726 486</u>	<u>102 631</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Inflows:			
Proceeds from sale of property, plant & equipment		1 730	44 329
Outflows:			
Purchase of property, plant & equipment		(231 940)	(607 556)
Net cash used by investing activities		<u>(230 210)</u>	<u>(563 227)</u>
Net increase/(decrease) in cash held		496 276	460 596
Cash at beginning of reporting period		328 526	789 122
Cash at end of reporting period		<u>824 802</u>	<u>328 526</u>

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

**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 1996**

1. Summary of significant accounting policies

(a) Basis of accounting

The financial statements are a general purpose financial report.

They have been prepared in accordance with the Guidelines on Financial Statements of Commonwealth Authorities issued by the Minister for Finance which require compliance with Statements of Accounting Concepts, Australian Accounting Standards, Accounting Guidance Releases and other mandatory professional reporting requirements (Consensus Views of the Urgent Issues Group).

The financial statements have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets which, as noted, are at valuation. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

(b) Rounding

Figures have been rounded to the nearest dollar.

(c) Taxation

The Authority is exempt from all forms of taxation except fringe benefits tax.

(d) Property, plant and equipment

Property, plant and equipment are shown at cost less accumulated depreciation. Items purchased for less than \$2 000 are expensed in the year of procurement.

All depreciable non-current assets are written off to their estimated residual values over their estimated useful lives using the straight line method of depreciation.

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

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

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

(e) Provision for employee benefits

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

A portion of the provision relating to amounts estimated to be payable within twelve months is included as a current liability and the remainder is shown as a non-current liability. Payments of long service leave are funded by parliamentary appropriation on an as required basis.

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

1983 for Public Service Act staff and Remuneration Tribunal Determination 20 of 1991 for members of the ABA.

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

(f) Leases

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

(g) Debtors

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

(h) Cash

Cash comprises cash at bank, cash on hand and salaries trust account.

(i) Resources received free of charge

Resources received free of charge are recognised in the Operating Statement where the amounts can be reliably measured.

(j) Comparative figures

Where necessary, comparative figures have been restated to conform with the current year's presentation.

2. Parliamentary appropriations

	<i>1995-96</i>	<i>1994-95</i>
Appropriation Act No. 1	11 977 000	11 019 000
Appropriation Act No. 3	347 000	1 331 000
Total	<u>\$12 324 000</u>	<u>\$12 350 000</u>

3. Resources received free of charge

	<i>1995-96</i>	<i>1994-95</i>
Processing of salaries payments provided by the Department of Finance	<u>\$3 029</u>	<u>\$3 150</u>

4. Administrative expenses

These consist of the following major items:

	1995-96	1994-95
Consultancy fees	327 907	358 556
Fees and Services	127 801	59 923
Computer services	170 946	240 214
Travel	440 823	683 742
Office requisites	457 730	485 116
Postage, telephones etc	307 442	289 321
Repairs & maintenance	86 409	468 494
Incidentals	553 877	1 049 608
Minor assets	126 498	36 701
Total	<u>\$2 599 433</u>	<u>\$3 671 675</u>

5. Other assets

	1995-96	1994-95
Prepayments	249 847	265 076
Accrued Interest	6 066	4 581
Total	<u>\$255 913</u>	<u>\$269 657</u>

6. Property, plant & equipment

Non-current assets consist of the following:

	Cost	Accumulated Depreciation	Net book value
1995-96			
Computer equipment	1 632 216	1 072 871	559 345
Software	331 259	149 198	182 061
Furniture and fittings	31 150	26 278	4 872
Office machines and equipment	200 106	120 938	79 168
Monitoring and allied equipment	226 562	209 537	17 025
Workshop equipment	447 996	239 833	208 163
Total	<u>\$2 869 289</u>	<u>\$1 818 655</u>	<u>\$1 050 634</u>

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

7. Provisions

	1995-96	1994-95
Current		
Provision for long service leave	145 125	122 011
Provision for recreation leave	895 793	861 852
Total Current	<u>\$1 040 918</u>	<u>\$983 863</u>
Non-current		
Provision for long service leave	\$1 306 125	\$1 098 095

8. Aggregate employee entitlement liability

The aggregate employee entitlement liability is **\$2 428 077** (1994-95 \$2 186 628), which comprises provisions plus accrued salaries.

9. Superannuation

(a) ABA members and employees contribute to either the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme, which provide pension, lump sum and other benefits. Under both schemes an employer component exists, for which liability is assumed by the government. The liability was **\$1 037 010** (1994-95 \$964 672), which was based on a composite rate of 19.1%, less the 3% productivity benefit (refer note 9b), as advised by Department of Finance.

(b) Members and employees of the ABA are also covered by the provisions of the Superannuation Benefit Act 1988 which provides for additional superannuation benefits known as the productivity benefit. Contributions are funded by the ABA and are paid to ComSuper which is liable for payment of the productivity benefit. The benefits averaged 3% of salary and amounted to **\$172 956** for the period (1994-95 \$140 277).

10. Agreements equally proportionately unperformed

Operating lease liabilities:

	1995-96	1994-95
Not later than 1 year	1 451 628	1 460 051
Later than 1 year and not later than 2 years	1 477 091	1 515 552
Later than 2 years and not later than 5 years	4 655 430	4 641 824
Later than 5 years	3 635 009	5 330 873
Total	<u>\$11 219 158</u>	<u>\$12 948 300</u>

11. Remuneration of members

	1995-96	1994-95
Remuneration received or due and receivable by Members of the ABA:	\$551 357	\$492 329

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

Band of income	Number of members	
	1995-96	1994-95
\$ 40,000-\$ 49,999	1	-
\$140,000-\$149,999	-	1
\$150,000-\$159,999	1	-
\$160,000-\$169,999	1	1
\$170,000-\$179,999	-	1
\$190,000-\$199,999	1	-

12. Remuneration of executives

	1995-96	1994-95
Remuneration received or due and receivable by Executives:	\$477 284	\$481 591

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

Band of income	Number of executives	
	1995-96	1994-95
\$100,000-\$109,999	-	2
\$110,000-\$119,999	2	1
\$120,000-\$129,999	2	-
\$130,000-\$139,000	-	1

13. Auditors' remuneration

External audit services were provided by the Australian National Audit Office. The audit fee for the 1995-96 financial statements is **\$37 000** (1994-95 \$40 000). No payments have been made as at 30 June 1996 relating to the 1995-96 audit. No amounts were paid or due to ANAO for other services provided to the ABA during the financial year.

14. Reconciliation of net of cost of services with cash flows from operating activities

	1995-96	1994-95
Net cost of services	(13 104 075)	(14,458 126)
Total revenues from government	<u>13 364 039</u>	<u>13 317 822</u>
Operating surplus	259 964	(1 140 304)
Depreciation & Amortisation	464,118	594,822
Assets written-on	(2 324)	-
(Gain) on disposal of Non Current Assets	(1 695)	(17 526)
Loss on disposal of plant	10 764	37 887
Increase/(Decrease) in employee provisions	265 085	231 496
Decrease/(Increase) in receivables	(88 616)	45 372
Decrease/(Increase) in prepayments	15 229	84 590
Decrease/(Increase) in accrued interest	(1 484)	2 531
Increase/(Decrease) in creditors	(187 920)	189 510
Increase/(Decrease) in other current liabilities	(6 635)	74 253
Net Cash Provided by Operating Activities	<u>\$726 486</u>	<u>\$102 631</u>

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

15. Liabilities not recognised

The nature of the ABA's activities is such that, from time to time, claims for expenses in relation to legal services are received in the course of the ABA's normal activities. The ABA considers that any such expenses will not be significant.

16. Statutory revenue

Revenue collected by the ABA under the *Broadcasting Services Act 1992* is deposited in the Consolidated Revenue Fund on behalf of the Department of Communications and the Arts.

The ABA received **\$148 872 572** (1994-95 \$133 804 738) in licence fees for the 1995-96 collection year, which is comprised of **\$139 038 162** (1994-95 \$124 746 425) in television licence fees and **\$9 834 410** (1994-95 \$9 058 313) in radio licence fees.

The ABA allowed aggregation rebates of **\$17 652 867** (1994-95 \$19 982 893) to licencees under the Television Licence Fees Regulations.

	1995-96	1994-95
Cash Balance 1 July	-	-
Add: moneys collected during the year	\$148 872 572	\$133 804 738
Less: moneys transferred to the Commonwealth	<u>\$148 872 572</u>	<u>\$133 804 738</u>
Cash Balance 30 June	<u>-</u>	<u>-</u>

17. Insurance

The ABA carries Public Liability Insurance and Industrial Risk Insurance.

18. Economic dependency

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

19. Segmental reporting

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

20. Receivables

	1995-96	1994-95
Other Debtors	<u>\$91 398</u>	<u>\$2 782</u>

No debts are overdue.

21. Related party disclosures

The following persons were members or associate members of the ABA during the 1995-96 reporting period:

P. Webb	Chairman	Appointed 19 April 1995 to 4 October 1997
R. Scott	Deputy Chairman	Appointed 12 June 1995 for 5 years
T. O'Keefe	Member	Appointed 5 October 1992 for 5 years
K. Henderson	Member	Appointed 17 February 1995 for 5 years
C. Goode	Associate Member	Appointed 19 July 1995 to 4 October 1997
J. Dickie	Associate Member	Appointed 31 August 1995 until the completion of the on-line services investigation.

The aggregate remuneration of Members is disclosed in Note 11.

The aggregate of superannuation payments paid to ComSuper for Members was **\$9 401** (1994-95 \$6 376).

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