

**CONVERGENCE REVIEW  
RESPONSE TO ISSUES PAPER**

**AUSTRALIAN FILM COMMISSION  
JANUARY 2000**

# CONTENTS

	PAGE
1. Executive Summary	2
2. Introduction	
2.1 The Importance of Local Content	4
2.2 The role of Media Policy	5
3. The Australian Content Industries	7
4. Trends in Digital Media and Challenges for Current Cultural Strategies	9
5. The Relevance of Current Policy Interventions	
5.1 Content Quotas	12
5.2 Direct Subsidy	14
5.3 Role of Public Broadcasters	15
5.4 Status of Free to Air Television	15
6. Towards Effective Content Regulation in the Age of Digital Convergence	
6.1 An Evolutionary Path	16
6.2 Regulatory Institutions	17
6.3 International Co-operation	18

## **1. Executive Summary**

Convergence presents threats and opportunities for Australia's content industries and the realisation of the government's cultural objectives.

These objectives become more relevant in a convergent environment, as the media becomes more pervasive. The media in various forms will increasingly define what we know, believe and feel.

For the benefits promised by the digital era to be realised, there will need to be diverse expressions of Australian culture in the various media platforms of the future. Government intervention will continue to be necessary to ensure this occurs.

In the absence of such action, the promised expanded viewer choice will be somewhat illusory if entertainment programming consists primarily of recycled imported material.

Digital technology allows content to be easily used in many different formats, opening up a wider market for what is essentially the same product. Greatly increased amounts of audiovisual material will be distributed over a variety of platforms.

Digital technology will accentuate the trend to concentration in the audiovisual market. As the Issues Paper says local production will feel the full impact of US dominance in content production.

In this context it is important to reaffirm the view that governments have a right and a duty to take measures to ensure media encourages local cultural development.

Advocating a space for the local does not mean rejecting the international.

The trends in digital media pose challenges to current regulatory frameworks. Existing approaches may need to be modified and new innovative approaches developed.

Contrary to some claims Government action in support of social or cultural outcomes in the new environment is most certainly possible.

The pace and direction of change is uneven and there is no certainty about the outcomes. These will be shaped by Australia's domestic policy framework as well as other factors.

A likely outcome is a spectrum of models and services ranging from traditional (but modernised) services such as television and radio, to new services following the on-line model.

A wider range of mass media will emerge as today's specialised new media expand.

Current mechanisms available to government to pursue cultural objectives include, content quotas, industry support, public broadcasting and recognising the special status of free to air television.

These will continue to be available in the future:

7. Content quotas will remain valid though the precise form will be subject to ongoing review and modification in light of the changing environment.
  8. The term 'content regulation' may often be a more appropriate term for new services, and various models such as expenditure requirements, industry development plans, incentive type arrangements should be explored.
  9. Whether it be via traditional quota type arrangements or via other forms of content regulation, it is valid for the government to expect media operators to play a role in supporting Australian content – not in return from protection from competition, but because of the influence of the media in the community.
  10. The capacity of the local content industry to produce Australian content will need to be enhanced necessitating a review of levels of direct subsidy. Innovative ways of supporting local content can be explored based on partnerships between government, content creators and service providers.
  11. Such approaches should include strategies need to ensure Australian material is not ghettoised. The aim should be to support material which will be accessible to audiences across a diversity of services.
- ◆ Public sector broadcasting will take on added importance in the new environment as a source of diversity, and quality in local and international programming.

The way forward is a middle position which recognises that while the project has becoming more complex, the Government can exploit domestic leverage and international cooperation to achieve its objectives.

Developing what this 'middle way' means in practice will become a priority over the next few years. Different services will require different approaches and a combination of strategies will be required.

A key aspect will be the effectiveness of regulatory institutions. There should continue to be a specialist media regulator with responsibility for content and related matters. The regulator should have the ability to react flexibly, and have sufficient powers and resources to deal with the more complex task of regulating in the new environment.

Australia has a strong community of interest with other small markets seeking to maintain culture diversity and national content. Opportunities for international cooperation are opened up by convergence and can be utilised to develop agreements and protocols on cultural policy matters across national borders.

## **2. Introduction**

### **2.1 The Importance of Local Content**

The Australian Film Commission (AFC) welcomes the opportunity to respond to the Convergence Review issues paper.

As the Federal Government's main development agency for the film industry, the AFC has a keen interest in the issues raised in the paper, particularly those relating to the achievement of the Government's cultural objectives.

The AFC takes the view that for the opportunities and benefits promised by the digital era and convergence to be realised, there will need to be diverse expressions of Australian culture in the various media platforms of the future.

We believe government intervention will continue to be necessary to ensure this occurs.

As the Issues paper says one of the fundamental issues raised by convergence is:

*How to ensure that Australian content and diversity can be achieved within new industry structures and alliances, new international markets, and new business models?*

Advocating a space for local culture does not mean rejecting internationalisation. We need to recognise and embrace the opportunities presented by the further 'globalisation of media and communications. Amongst other things, these should include increased opportunities for expressions of Australian culture to reach international audiences. But we also need to recognise that without appropriate strategies there is a danger of the local voices being very thin, particularly in the entertainment programming that will form a major part of content on digital platforms.

The Australian media, program makers and Australian society generally have been very open to ideas, information and entertainment from other countries. At the same time we want to see reflections of local stories, interests and concerns in our media. The challenge of the changing media environment is how to ensure the balance that has been achieved to date, due a considerable extent, to conscious government policy, continues.

In policy consideration we also need to take the broadest view of Australian culture. Australian culture finds expression in a wide range of genres and products and different kinds of material appeal to different audiences, and age groups.

The dynamism and diversity of contemporary Australian culture is readily apparent and is reflected in the wide range of film, television, and multimedia product our creators produce.

Government recognition of the importance of a diverse local culture is well established with successive governments responding to the desires of the community for material, which 'strikes a cord'. A recent example of this support was provided by the recent debate in Parliament on the local content scheme for pay television. In supporting the legislation, all sides of parliament reiterated the importance of regulation, and of drama and documentary 'in reflecting and developing a sense of Australian identity, character and cultural diversity.'

Research has indicated strong public support for local content rules for television and for government funding to the arts. We can only expect these expectations to continue in the future as the media becomes more pervasive in our everyday lives.

In many ways the role of local cultural expression takes on a heightened significance in the changing circumstances. A clear aspect of contemporary life in Australia and elsewhere, is the embrace of the local, along with exposure to, hopefully, the best of the international. This is the other side of the 'globalisation' coin. As the pressures of economic and technological change have gathered pace, this duality and a sense of local community become in many ways more important.

The issues paper sets out the primary social policy objectives currently pursued by Government and asks if these are "more or less relevant in a convergent environment"(p30).

The government's social objectives, including:

- the promotion of national identity and cultural diversity,
  - the promotion of diversity, quality and innovation in content-based services,
- become more relevant in a convergent environment.

## 2.2 The Role of Media Policy

People spend a significant proportion of their leisure time consuming media in various forms. While a considerable amount of hype surrounds the discussion of the digital revolution it is clear that the media will play a greater role in the lives of most Australians. The media matter now and will matter more in the future as the range of options increase and opportunities for interaction open up.

*The role of the media goes much further than simply providing information about events and issues in our societies or allowing citizens and groups to present their arguments and points of view: communication media also play a formative role in society. That is, they are largely responsible for forming (not just informing) the concepts, belief systems and even the languages-visual and symbolic as well as verbal - which citizens use to make sense and interpret the world in which they live. Consequently the role of communication media extends to influencing who we think we are and where we believe we fit in (or not) in our worlds: in other words, the media also plays a major role in forming our cultural identity.*

The Digital Age: European Audiovisual Policy, Report from the High level group on Audiovisual Policy<sup>1</sup>

While at one extreme some commentaries on convergence argue that regulation for social and cultural objectives is rapidly becoming a Quixotic project, in the United Kingdom and in the EU lengthy consideration of the issues raised by Convergence have led to restatements about the continuing need for government intervention.

The EU report referred to above had the following as its first recommendation:

*The starting point for any examination of public policy for the audiovisual sector must be the recognition of the specific role they play in our societies and the need to ensure balance between the free play of market forces and the preservation of the general public interest .*

Amongst the principles set out in the UK Government's Green Paper on convergence are:

- Serving the consumer interest;
- Supporting universal access at affordable cost;
- Promoting quality, plurality, diversity and choice in services.<sup>2</sup>

The Australian government has most recently demonstrated its commitment to regulation in the public interest with its legislation dealing with on line content regulation and with its approach to Australian content on pay television services.

All the evidence suggests that the market failure, which has led to government supporting Australian content rules and other mechanisms, will continue into the digital era. The constraints of our market size and the attraction of readily

---

<sup>1</sup> Available at [http://europa.eu.int/comm/dg10/avpolicy/key\\_doc/hig1\\_en.html#1](http://europa.eu.int/comm/dg10/avpolicy/key_doc/hig1_en.html#1)

<sup>2</sup> *Regulating Communications Approaching Convergence in the Information Age*, July 1998, <http://www.dti.uk/converg/>

available, large amounts of cheap imported content, mean there are no guarantees that audiences will have access to Australian material.

The Issues Paper refers to the social and cultural significance of the media industries.

It would seem valuable for the final report to;

- restate and elaborate on the importance of local culture and the role of media policy in reflecting this; and
- endorse the view that governments have a right and a duty to take measures in the public interest and to ensure media encourages and protects local cultural development;

### **3. The Australian Content Industries**

Achievement of the government's cultural objectives depends on the existence of viable content industries, able to make Australian programs.

The paper recognises the particular challenges facing the local content industries; *"...the production industries in Australia already face some significant structural challenges. It is natural to ask whether structural convergence in downstream service industries (television, radio, music and film distribution) might improve or weaken their position."* (P24).

Further points made are:

- As markets for content-based services internationalise, local production will feel the full impact of the US dominance in content production.
- Powerful intermediaries will continue to mediate between content producers and audiences in most cases.

The paper also questions the assumption that content owners will benefit as a significant number of new content-based services emerge, leading to the bidding up the price of content inputs.

*"It is not clear this will happen. It is not even clear that new content for new types of services is needed, since reformatting of existing content may be all that is required in many cases."*

This is very much the experience with new services such as subscription television here and overseas. The fact that new services and platforms are largely a vehicle for further exploitation of existing content is why a key objective of the major international players is the acquisition and exploitation of distribution rights and film libraries.

“The explosion in digital television and on-line distribution outlets is having a dramatic impact on the perceived value of programme libraries and archives.” Following the MGM purchase of the Polygram library, the MGM Chief executive said “We have a long term strategy to maximise our assets as the largest content provider through worldwide licensing and distribution direct to home. MGM’s 5,100 film titles now has over half of all Hollywood studio films made since 1948.” (TV World).<sup>3</sup>

Despite these challenges, the Australian production industry is reasonably well placed to meet the challenges and realise the opportunities presented by convergence.

- There is strong audience support for local material.
- The local production industry is creatively diverse and technically sophisticated.
- Australian program makers have been quick to adopt new technologies in film and television and developed considerable creative and technical expertise at an early stage in the interactive media area.
- Our film and television product has established a reputation for quality in international markets.

In a recent joint report prepared at the request of the Minister for the Arts and the Centenary of Federation, the AFC and the FFC (Film Finance Corporation) concluded as follows:

*...there are indeed a number of serious issues confronting the Australian film and television industry at this time and consideration should be given to some adjustment of the overall framework of Government support to the industry.*<sup>4</sup>

It is worth noting that others are strengthening their local content industries given the digital challenge and the potential for this to increase the dominance of US studio backed production.

The EU report already cited notes that European producers have been increasing their share of the European audiovisual market and if current policy is sustained, market share is likely to rise significantly in the next four years

---

<sup>3</sup> *Living Off Past Glories*, TV World, March’99, p28.

<sup>4</sup> The AFC and FFC were asked to investigate the state of the film and television production industry, and to make recommendations to government on possible policy responses. Available at <http://www.afc.gov.au/news/newsite/index.html>

### **What kind of Viewer Choice?**

It is often argued that the progressive disappearance of spectrum scarcity and the proliferation of transmission channels will automatically increase the viewer's choice. The theory goes that content regulation becomes less relevant when the view can customise content from a wide menu.

There will be a wider choice in terms of the quantity of programming available to the viewer.

But will the quality, variety and the originality of programming necessarily be enhanced? And what if what you want to see is not there in the first place?

As a European Commission report put it, "Will the result of digitisation simply be more repeats of archive material and more cheap imports?"<sup>5</sup>

*Viewer choice will be illusory if it doesn't include the ability to choose Australian content.*

## **4. Trends in Digital Media and Challenges for Current Cultural Strategies**

While the need for continuing intervention in pursuit of cultural objectives continues and, we would argue, becomes greater, there is no doubt that the trends in digital media pose considerable challenges to current regulatory frameworks.

The issues paper identifies a number of these:

- New industry structures, and especially the separation of content, connectivity and infrastructure.
- The growing power of viewers to choose and customise content.
- The growing internationalisation of services.
- Fragmentation of audiences and changing significance and impact of various media services.
- Increasing proportion of direct payment media versus free-to-air.

In addition there is, despite the proliferation of channels and fragmentation of audiences, a distinct trend in Australia and internationally towards greater concentration of ownership.

---

<sup>5</sup> -*The Digital Age: European Audiovisual Policy*, see footnote 1.

On some interpretations, these developments mean it is very difficult, if not impossible, to maintain Australian content measures. However this conclusion appears to be based on a considerable overstatement of the pace and direction of change.

Most commentators agree the pattern of development is likely to be uneven and the outcomes are very uncertain.

A number of the more dramatic predictions about the impact of convergence on traditional media, such as television rest to a considerable extent on some bold assumptions about likely consumer behaviour.

As the Issues Paper says, “it is not clear that users want to operate interactive services through a television set (which is associated with passive entertainment), or want to operate passive entertainment through a computer (which is associated with interactive applications.)” p19.

The paper also makes the point that patterns of demand in different geographical markets will vary. “Demand patterns depend on taste, cultures, and income and education levels.”

“Internationalisation simply means that service markets are potentially international in scope.” The outcome could well be the coexistence of a number of overlapping markets- global, regional, national and local (p34).

*The new technology creates strong pressures towards a broadcasting industry which is not competitive, but **where audiences are fragmented and yet ownership is concentrated**’ This is because **high** quality multimedia content is expensive to produce, but relatively cheap to change and trivially cheap to reproduce. It therefore has high fixed costs and low marginal costs-the natural creators of monopolies.*

*High quality material can still be produced and yet cost very little **per unit** provided that it reaches a large number of people (exploiting economies of scale) and/or provided that it is used in a wide variety of different formats (exploiting economies of scope), but the exploitation of these economies of scale and scope imply concentration of ownership.*

*Thus while one source of monopoly, spectrum scarcity, has gone, it has been replaced with another-the natural economies of scale and scope on the one hand plus the natural scarcity of talent on the other.*

A. Graham and G. Davies, "Broadcasting Society and Policy in the Multimedia Age"<sup>6</sup>.

---

<sup>6</sup> Published by John Libbey Media, London, 1997.

#### 4.1 Will One Model Dominate?

The paper raises the following question:

*Will one service delivery dominate the media or is there scope for different models to coexist? Will supply side issues, such as securing distribution channels and sources of content, mean that vertical integration will persist at least in some areas.*<sup>7</sup>

It suggests "a media industry dominated by an internet service model will be a much more difficult environment in which to impose Australian content, plurality of control, diversity of content and community standards outcomes."

The UK Green Paper concluded, "It seems likely that a spectrum of distinct elements of provision, reflecting established patterns of consumption will persist for some considerable time. At one end of this spectrum is likely to be a segment which looks much like the universal broadcast television as consumers know it today. At the other end there is likely to be a segment with many of the characteristics of the Internet."

Recent events such as the Time Warner/ AOL merger, 'the biggest merger of all time,' as well as alliances being formed in Australia suggest vertical integration is a key feature of business strategies.

As the Minister for Communications noted recently, "Already, Australia has seen the blurring of the lines between carriage and content with Optus linking with Excite@Home and Telstra's disclosure that it is locked in talks with a 'major global broadband content supplier.' "<sup>8</sup>

There is considerable uncertainty about the speed at which the new services coming onto the market will be adopted, and whether they will supplement or replace established services.

While it is very difficult to make firm predictions, the likely outcome is the co-existence of the two models identified in the paper.

---

<sup>7</sup> The Issues Paper identifies the two service delivery models- the internet based model-marked by open networks ,and the structural separation of service activity and underlying service activity - and the traditional business model of domestic end to end service which marks the traditional industries of telephony, radio and television In the case of the latter it says the suppliers' control of service design and delivery has made it relatively easy for regulators to control service and industry outcomes. p2.

<sup>8</sup> Senator Richard Alston, *Opinion- Media mergers and the Role of Regulation*" in the Australian Financial review 14/1/00, p 37.

## **5. The Relevance of Current Policy Interventions**

The Issues paper suggests that traditional policy objectives and interventions may lose relevance as new industry and market structures emerge and asks what kind of intervention will be available if this occurs.

The current mechanisms include:

- content quotas;
- direct subsidy for content creation via federal and state agencies, and indirect support through tax concessions;
- public broadcasting;
- special status for free-to-air media television.

### **5.1 Content Quotas**

Content quotas involving obligations to show particular amounts and types of Australian programming are mostly associated with free-to-air television.

The Issues Paper refers to the traditional approach to content regulation—“that restrictions on market entry preserve the oligopoly market structure, and are indirectly used to finance Government requirements such as local content (p43).

To the extent that this is still the underlying rationale for content regulation, it must clearly change with the advent of new services provided on a variety of platforms, and with the loosening of government’s ability to control entry.

While the ‘old bargain’ may be of questioned relevance, this is not to say a ‘new bargain’ should not and cannot be struck. In many ways this is what has been occurring with, for example, the approach taken to pay television, and more recently on-line content regulation.

This new bargain is based on notions of influence and significance.

Most commentators predict that while free-to-air television is facing challenges from other media platforms, it will continue to be a very significant player for the foreseeable future.

Free to air television in Australia is changing and modernising in response to various competitive pressures. The broadcasters expect HDTV to provide a distinguishing stand out feature for particular types of content such as special event programming and movies, and are planning to use digital TV enhancements to extend viewer experience.

Further the networks are diversifying, and striking up strategic alliances.

- Ten Network's new media business, Ten Ventures has partnered with Village On-line to form Village Ten On-line which is expected to start launching web sites in the second quarter of this year.
- Network 7 recently announced a tie up with US based NBC Internet Inc to develop on-line and broadband businesses.
- Nine msm is the most popular Australian website.

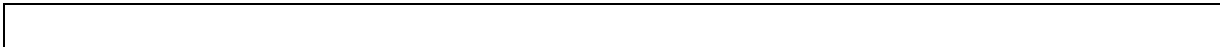
The pattern that is emerging is one of 'new media' growing in significance, and the position of 'old media' changing but not necessarily declining substantially.

As the European Union has recently concluded it would be completely premature to conclude that the current regulatory framework for free to air television is no longer effective.<sup>9</sup>

This is not to say that some adjustments should not be made to the specifics of the content arrangements. These are subject to periodic review with the next review due in 2001. As has been the case in the past the arrangements will be reviewed and adjusted in the light of changing circumstances in the environment.

A different form of content regulation has been applied to pay television- ie. an expenditure test applying currently only to drama channels. Towards the end of last year the Government signalled in Parliament the possibility of extending this documentary channels.

The pay television case is pertinent to other new services. Different forms of 'content regulation', such as expenditure requirements, may well be appropriate and applied albeit modestly, in the early start up phase. They can then be modified and adjusted as the precise character of the industry sector and the types of content provided becomes more settled. Other forms such as industry development plans, and co-regulation schemes may also be appropriate for new platforms and services.



---

<sup>9</sup> In the EU case this is the quota system in place under the Television Without Frontiers directive. The EU undertook an extensive consideration of regulation and convergence from 1998 to 1999 leading to the European Commission adopting a policy of building on the existing framework and the creation of new regulatory categories for new services.

It is reasonable to expect media operators to play a role in meeting the community's cultural objectives by supporting Australian programming, given the influence involved in operating significant media services.

Content regulation will remain valid although new and innovative forms will need to be developed particularly for emerging platforms and services.

## 5.2 Direct Subsidy

Direct subsidy has operated in conjunction with content obligations placed on broadcasters for a considerable period of time. Subsidy is targeted at the particularly vulnerable genres such as feature films, adult and children's drama and documentary.

Public funding is also available, primarily through the AFC, for the development and production of innovative multimedia works, and has contributed significantly to the ability of Australian creators to enter this area.

Direct subsidy will remain crucial to ensuring a supply of diverse Australian audiovisual material in the face of the increased volume of imported programming promised by the proliferation of channels and outlets.

It is likely pressures will mount for increased levels of public funding. This could be directed to established institutions to strengthen existing programs or to undertake novel activities, as occurred, for example, with SBSI.

As has occurred elsewhere we may need to address ourselves to identifying new funding sources. In the UK, for example, a proportion of lottery proceeds supports film production as part of the government's strategy of strengthening the local film sector. There is precedent in Australia with, for example, programs aimed at meeting social objectives in the telecommunications and other areas, being funded through the Telstra Social bonus.

Public subsidy alone does not guarantee programs getting to audience and consequently most existing programs require projects to have a broadcaster or distributor commitment to qualify for funding.

This partnership approach between government, content creators and distribution outlets could be applied in new and interesting ways to existing and emerging services.

Pressure will mount for increased direct subsidy which continues to be viable option for government to achieve its cultural objectives in the new media environment.

The object is to ensure audiences have access to programs.

It is critical that the strengthening of local content capabilities through increased subsidy, occurs in an environment which ensures that material is accessible to audiences across diversity of sources.



### 5.3 Role of Public Broadcasters

While commercial services should, for reasons outlined be expected to play a role in supporting Australian programming, public sector broadcasting will take on added importance in the new environment.

As the ABC says in its submission to the review:

*“The ABC is uniquely placed to play an important role as the convergence of broadcasting with other new services becomes a reality...vertically integrated multinational companies are likely to become the producers, sellers and broadcasters of content. Arguably it will be even more important for Australia to have an adequately funded, independent national public broadcaster of sufficient scale and scope, in production and broadcasting terms, to offset some of the consequences of globalisation and audience fragmentation.*

The following statement of the role of public broadcasters in the digital age is relevant to Australia:

- *“What public policy therefore requires is a positive force that would:*
- *act a counterweight to the private concentration of ownership;*
- *deliver national coverage so as to counteract fragmentation of audiences;*
- *provide a ‘centre of excellence’ which both makes and broadcasts programmes;*
- *widen choice both now and in the future by complementing the market.*

*The best way to provide this positive pressure is via public service broadcasting (not as a substitute to the commercial sector but as a complement to it).”<sup>10</sup>*

### 5.4 Status of Free to Air Television

There are strong arguments for continuing to recognise the special status of free-to-air television. As channels multiply and audiences fragment, advertising revenues will not be sufficient to finance many of the new channels and they will be funded by direct consumer payment. This raises the question of the extent to which the new services will be effectively available to society as a whole.

The valuable thing about free-to-air television is that it is just that - free. This is not to argue that existing arrangements should be set in concrete or that current incumbents should be indefinitely protected from competition.

But it is to recognise that free-to-air services will continue to be an important source of news, entertainment and information for very many Australians.

---

<sup>10</sup> Graham and Davies , p3.

Free-to-air services are likely to have continuing significance as the creators of program bands and audience tastes which drive other markets.

Most predictions are that free-to-air television will retain very significant audience share for the foreseeable future.

It is perhaps appropriate for government policy to aim to preserve diverse free-to-air television services as a social good along with encouraging the growth of new services and platforms.

## **6. Towards Effective Content Regulation in the Age of Digital Convergence**

### **6.1 Evolutionary Path**

The debate on convergence often polarises, with policy makers asked to choose between two visions:

- A radically new regulatory structure is needed because full convergence is with us
- The status quo will suffice because mass markets have not yet converged to a significant extent.

An evolutionary approach involving building on existing frameworks and developing new models for emerging services, is, in fact, required. Examples of the latter have already occurred with the approaches taken to content regulation for pay television and on-line services, both of which involve to varying degrees different structures to traditional media services.

As the issues paper says, when discussing the internationalisation of markets, “a middle position is emerging, in which the Government exploits domestic leverage and international coordination” (p35)<sup>11</sup>.

One extreme view is that national governments will completely lose their power to regulate the media for public policy purposes.

However while undoubtedly the source of government power will change, with spectrum allocation becoming less significant, sources of power and leverage will remain.

---

<sup>11</sup> The divergent views identified in the paper are ‘that traditional styles of intervention can easily be transferred to the Internet Environment’ and alternatively ‘that any government action in support of social or cultural outcomes in the international context is futile.

The Issues paper recognises this when it talks of 'domestic leverage'. As it says, the traditional 'output approach' will remain valid where vertical integration and other elements of traditional industry structures continue. (p45)

One UK commentator, Richard Collins, talks of two other important sources of power:

- the power to ensure that competition thrives and firms do not abuse their dominant positions
- the power to intervene in markets through state agencies to redress market failure.<sup>12</sup>

---

<sup>12</sup> Richard Collins, *Regulating for Convergence*, Paper for the Conference on Convergence, Culture and Policy in the Digital Age, Brisbane, November, 1998

The most appropriate path is an evolutionary approach

The regulatory regime will require modification as convergence accelerates.

Convergence does not mean there should be uniform mechanisms across different types of services.

Different segments of consumer demand will continue to merit different regulatory instruments.

## **6.2 Regulatory Institutions**

While there will be a key role for content regulation in securing the government's cultural objectives, the task will become more complex and challenging.

The current regulatory framework is a tripartite one involving content (ABA), carriage (ACA), and competition (ACCC). The paper asks whether changes to Australia's current arrangements should occur.

This model is, in our view, preferable to a single communications regulator model, and will continue to be appropriate. There should continue to be a specialist industry regulator with responsibility for content and related matters.

A sound knowledge of the operations of the content industries in Australia and internationally, will be even more crucial in the future.

Given the pace of developments, but also the uncertainty of their direction, the regulator will need to have the ability to react flexibly.

This might involve the regulator having discretionary powers within clear legislative frameworks and goals.

One argument sometimes heard is that it will all be simply be too hard - that the multiplicity of services makes monitoring and enforcing regulation almost impossible.

While the task will become more complex, it is difficult to accept that it will somehow be almost physically or technically impossible.

Adequate resources and the right policy settings should enable regulators to meet the challenges of the future.

### 6.3 International Cooperation

As the Issues paper says while 'the internationalisation of markets raises difficult problems in cultural policy,' it also opens up opportunities for international cooperation. (p35)

"Government can negotiate with other national governments and there is scope for international 'coalitions of interest' around some issues."

Forums for international dialogue on broadcasting and the internet have been developing over the last ten years.

International cooperation on on-line issues is occurring in a number of areas and an international consensus on principles which should apply to the internet is emerging.

As the issues paper suggests, it may be harder to achieve 'stable consensus' on cultural policy and local content issues. This is related largely to the longstanding position of the United States of wishing to see free trade in audiovisual material and hence the dismantling of audiovisual support mechanisms established by countries like Australia to ensure a space for local material.

However there is a community of interest amongst many countries on broadcasting regulation and cultural policy issues and a number of ways of exploring this. By way of example:

- The ABA participates in the Asia Pacific Round table of Asian Broadcasting regulators.
- An initiative of the Canadian Government in 1998 has led to a ministerial-level forum- the International Network on Cultural Policy - to discuss international cooperation on cultural policy.
- UNESCO provides various forums for consideration of cultural policy issues - for example a ' Round table on Cultural Diversity in a Globalised World' held in October 1999.

All indications are that the demand for recognition of cultural diversity, and the movement towards international cooperation on cultural policy, will gather pace as technological change and globalisation continues.