

**MEDIA POLICY**  
**ACTU Congress September 1995**

**1. PREAMBLE**

- 1.1 Congress notes that the media and information services industries are of fundamental importance to the Australian society and economy. Reflecting the importance to the community of these industries, there should be adequate mechanisms for public accountability, planning and regulation of information services and the media.
- 1.2 Congress declares that policy and legislation pertaining to the provision and regulation of the media should reflect the following principles:
- (i) the exercise of freedom of speech;
  - (ii) the protection of national sovereignty;
  - (iii) the enhancement of Australian cultural identity and diversity;
  - (iv) the provision of adequate and diverse public information, education and entertainment services;
  - (v) the provision of services which cater for national, regional and local needs, special interest and diverse language groups, minority interests, the under-privileged and both urban and rural needs;
  - (vi) the provision of maximum opportunity for the encouragement of Australian creative, technical and performing talent;
  - (vii) the presentation of news, commentary, information, advertising and like services in a fair and balanced manner; and
  - (viii) participation of unions in media industry planning and management.
- 1.3 Congress views with concern the increasing concentration of ownership and control of the media in Australia.
- 1.4 The concentration of radio, television and print media ownership under the control of a small number of corporations presents a direct threat to the democratic processes and the quality of life of all Australians and adversely affects the employment opportunities and security of media workers.

## **2. BROADCASTING OBJECTIVES**

- 2.1 Congress recognises the influential role of broadcasting in Australian society. Special regulation is required in this sector where the commercial interests of licensees may be at variance with the public interest.
- 2.2 Broadcasting policy and regulation should seek to realise the following objectives:
- (i) Diversity in ownership and control, including through publicly-owned services;
  - (ii) Diversity of programs and services, including local services and programs;
  - (iii) The maximum possible level of local content;
  - (iv) Encouragement of quality programming;
  - (v) The development of a financially viable broadcasting industry; and
  - (vi) Australian ownership and control of broadcasting interests.

## **3. BROADCASTING REGULATION**

- 3.1 Congress calls upon the Federal Government to ensure that legislation for the regulation of broadcasting provides for:

### **AN INDEPENDENT REGULATORY BODY**

- 3.2.1 A regulatory body ("the regulator") with its independence established by statute should be free from Ministerial or Parliamentary control of outcomes and should have sufficient resources to effectively carry out the following functions:
- (i) Licensing and regular review of services in the public interest;
  - (ii) Development and enforcement of appropriate program and advertising standards;
  - (iii) Monitoring and analysis of broadcasting services to determine whether such services adequately and comprehensively meet the needs of the community;
  - (iv) Maintenance of authority over the content and quality of advertising, with re-introduction of controls over advertising;
  - (v) Monitoring and regulating changes in the ownership and control of broadcasting licences, including ensuring that once a share transaction inquiry has begun, companies controlling a broadcasting licence are prohibited from restructuring, other than with the prior approval of regulator; and
  - (vi) Application of a wider range of remedies and penalties and a strengthened provision for the application and enforcement of penalties for breaches.
- 3.2.2 Congress notes that the Australian Broadcasting Authority established in 1992 has been reluctant to exercise its powers to conduct open and public enquiries into matters of national importance. For example, we note the failure of the ABA to

conduct a public inquiry into the alleged breach of the foreign control rules by CANWEST in relation to TEN and into the alleged control exercised by Kerry Packer in relation to the Fairfax group.

### **LOCAL CONTENT REGULATION**

- 3.3 The regulator should set down appropriate local content rules designed to encourage the maximum level of quality Australian programming through the utilisation of Australian creative resources. Attention should be given to special program categories such as children and drama, where the cost differential between local and imported programming is significant.

### **CROSS MEDIA RESTRICTIONS**

- 3.4 The cross media rules currently contained in the Broadcasting Act (the Act) should be strengthened so as to prevent the owners of one medium firm controlling, directly or indirectly, any other medium which serves the same market - including prevention of control through associates or relevant interests.
- 3.5 Congress believes that the current cross media rules which grant the ABA significant discretion to determine whether control in fact exists have proved to be inadequate. They should be replaced with a control rule that provides that once an ownership level of 10% in a corporation has been reached that control be deemed to exist. Where ownership is less than 10% the ABA should have the discretion to investigate whether in fact control exists.

### **AUSTRALIAN OWNERSHIP AND CONTROL**

- 3.7 The intention of the current restrictions of foreign acquisition of shareholding in Australian broadcasting licences is to ensure that foreign interests cannot control either directly or indirectly the management or program content of a broadcasting station.
- 3.8 The restrictions on foreign ownership currently contained in the Act should be strengthened and replaced with a test which provides that foreign ownership in excess of 15% should be prohibited.
- 3.9 Should this provision in the Act prove to be inadequate, the Government should be prepared to legislate, retrospectively if necessary, to ensure that the intention of the Act is achieved.

### **PUBLIC PARTICIPATION**

- 3.10 The Act should ensure that the regulator takes account of the public interest and is required to encourage public participation at all levels. Where the regulator establishes advisory bodies to assist in its deliberations and determinations it should ensure that community and union groups, along with industry, are adequately represented.
- 3.11 The regulator should ensure that its hearings are not unduly legalistic and that the parties are not required to be legally represented.

### **ELIGIBILITY TO HOLD LICENSES**

- 3.12 Licensees should be required to meet minimum standards of "fitness and proprietary". This test is to be applied both at the time of a licence grant and for the duration of the licence.

#### **DIVERSITY IN CASTING AND DEVELOPMENT OF ROLE MODELS**

- 3.13 Licensees should eliminate sexism, racism and discrimination from programming and advertising content. Specifically the regulator should be required to:
- (i) Take into consideration efforts of licensees or applicants in this regard, when considering renewals of applications;
  - (ii) Ensure that television licensees portray the multicultural face of Australia in programming; and
  - (iii) Examine the representation and portrayal in programming of women, aboriginals, ethnic communities and people with disabilities, particularly in relation to advertising.

#### **4. PAY TELEVISION**

- 4.1 Congress considers that special regulation of Pay Television services is required to guarantee that such services operate in the public interest.

- 4.2 Pay services should be subject to the following:

**(i) Diversity of Ownership**

Diversity of ownership should be encouraged by the extension of the cross-media and Australian ownership rules to include all forms of Pay Television, including cable and other types of services, of the cross media and Australian ownership rules.

**(ii) Local Content**

- 4.3 Pay services should be regulated to provide audiences with a minimum level of Australian programming through the utilisation of Australian creative resources. The existing local content rules which require pay operators of movie channels to allocate 10% of their total program expenditure on Australian programs should be increased to 50%. The Australian broadcasting Authority should conduct an inquiry to consider appropriate Australian content rules for other types of pay channels.

- 4.4 Pay television operators should provide transmission facilities for industry training and skiing and other community programs.

**(iii) Independent Regulatory Body**

- 4.5 The ABA should continue to have jurisdiction together with the free to air sector over the pay sector.

**(iv) Anti-Siphoning Rules**

- 4.6 The ACTU Congress supports the continuation of anti siphoning rules to ensure that audiences continue to have access to programs of significant national or regional interest on the free to air services.

**(v) Industry Development Arrangements**

4.7 Measures should be implemented to encourage the meeting of the potential demand for pay television hardware and services by the Australian domestic electronic and communications industries.

**(vi) Means of Transmission**

4.8 The licensee of a pay television service should be required to maximise efficiencies available from utilisation of existing optical fibre and satellite networks.

**5. AUSTRALIAN BROADCASTING CORPORATION (ABC)**

5.1 The ACTU will support:

- (i) the ABC as an effective, dynamic and independent publicly owned national media and cultural institution;
- (ii) triennial indexed funding for the ABC at a level which will allow for an improved standard of programming and services - including improved levels of Australian content in drama, children's programming and music;
- (iii) adequate capital funds for the ABC's property and re-equipment needs;
- (iv) local ABC programming reflecting the needs of communities across Australia;
- (v) independent adequately funded ABC international, national and local news gathering and public affairs services without reliance on any commercial domestic news service;
- (vi) speciality ABC programs to meet demands not met by the commercial sector;
- (vii) legislative prohibition of corporate sponsoring and advertising on the ABC;
- (viii) community representation in decision making and advisory roles; and
- (ix) participation on the Board of people with union and consumer experience.

**6. SPECIAL BROADCASTING SERVICE**

6.1 The ACTU supports:

- (i) the Federal Government, in consultation with the ethnic communities, enhancing the SBS as an independent publicly owned broadcasting service through adequate operational and capital funding;
- (ii) union representation on the SPS Board; and
- (iii) the SPS presenting quality multicultural Australian programs, in addition to overseas programs.

## **7. PUBLIC BROADCASTING SERVICES**

7.1 The ACTU supports the development of public broadcasting services diverse in programming and control.

## **8. ETHNIC, MULTICULTURAL AND SPECIAL INTEREST BROADCASTING**

8.1 The ACTU supports:

- (i) the development and expansion of ethnic, multicultural and special interest broadcasting through publicly-owned broadcasting and other broadcasting sectors with participation of ethnic communities;
- (ii) the continued development of Aboriginal community-controlled radio and television broadcasting stations;
- (iii) encouragement of provision of educational programming by broadcasters and recognition of the special needs of, and responsibilities towards, children in programming; and
- (iv) obligations for licensees acquiring broadcasting rights to events of national significance to broadcast or to facilitate the broadcasting of these events to as many Australians as is technically feasible.

## **9. BROADCASTING FACILITIES**

9.1 The ACTU supports:

- (i) the development and implementation of a frequency spectrum management plan with a view to an equitable and efficient utilisation of the spectrum which recognises the importance of public interest and access to the frequency spectrum;
- (ii) public ownership of the means of electronic mass broadcasting transmission, used conjointly by the national, commercial and public broadcasting sectors; and
- (iii) improved access to broadcasting services throughout Australia and improved technical quality of transmission.

## **10. NEW BROADCASTING AND INFORMATION SERVICES**

10.1 Congress recognises the proliferation of new services in the broadcasting and information areas. The ACTU considers it essential that such services be appropriately regulated by the regulator to ensure that objectives set out in Section 2 of this policy are realised.

## **11. NON-BROADCASTING SERVICES**

11.1 Congress supports action to ensure that the broadcasting legislation covers the licensing of non-broadcasting services utilising radio communications technologies and providing video or audio entertainment to ensure that these services:

- (i) maintain adequate levels of Australian content appropriate to the nature of the respective service; and

- (ii) observe advertising restrictions.

## **12. FILM AND TELEVISION PRODUCTION**

- 12.1 Congress supports continued Government assistance to the Australian feature film and television production sector and calls upon the Government to increase levels of financial support to the two major film support bodies, ie. the Film Finance Corporation and the Australian Film Commission.

## **13. GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)**

- 13.1 Congress notes that the maintenance and encouragement of national film, television and radio industries throughout the world is dependent on the ability of national governments to regulate to encourage and protect such industries. Congress further notes that such industries are critical to the cultural identity of a nation.
- 13.2 Congress supports the Government's position in seeking to exclude the audio visual sector from the application of the "free trade" principle in the General Agreement on Tariffs and Trade negotiations.

## **14. PRINT**

- 14.1 Congress supports the objectives of maintenance and enhancement of the freedom of the press, which is a cornerstone of democracy.
- 14.2 The ACTU will promote the public's right to a full variety of views in printed media and increased diversity of ownership and control through support for:
  - (i) enforcement of strong cross-media ownership and control rules to prevent the owners of one medium from controlling, directly or indirectly, any other medium which serves the same market - including prevention of control through associates or relevant interests;
  - (ii) limitations on the capacity for dominance in particular markets by either distribution or advertising revenue of an individual or company and the use of all arms of government authority - including the Foreign Takeovers Act, the Corporations Act and the trade Practices Act - to ensure effective restrictions on further print media concentration;
  - (iii) ensuring that foreign interests cannot control either directly or indirectly the management of or program content of any newspaper, magazine or periodical - with restriction of any foreign individual or corporation ownership to a maximum of 15% of any newspaper, magazine or periodical and restriction of total foreign ownership to 20%;
  - (iv) establishment of publicly owned newspapers and/or magazines;
  - (v) the establishment of independent newspapers serving particular constituencies, including the labour movement;
  - (vi) staff ownership of newspapers or appropriate representation on management boards;

- (vii) discussions with Australia Post about the feasibility of Australia Post acting as an open access print media distribution system;
- (viii) the development of enforceable codes of editorial independence by ensuring that the articles of association of newspaper companies guarantee editors a proper degree of independence from the proprietor; and
- (ix) amendment to the Trade Practices Act to require the Trade Practices Commission, when examining print ownership issues, to take into account:
  - (a) the effect of vertical integration of activities associated with raw materials, production, content and distribution on market dominance;
  - (b) national market share and revenues; and
  - (c) the balance of advertising and content in respect to the market which a publication purports to represent.

14.3 The ACTU will support the establishment, in consultation with the media industry and unions, of a press council with a majority of public members appointed by an independent panel, responsible for advising and making recommendations to government and the media industry on ways of improving the quality and diversity of print media in Australia.

14.4 The ACTU will support measure to:

- (i) foster the publication, printing and distribution of newspapers, books, magazines and other printed material in Australia; and
- (ii) provide assistance to these publishers who provide a unique contribution to Australian literature.

## **15. MEDIA CONTENT**

15.1 Congress supports:

- (i) education programs to enhance union and community critical awareness of the media, including of balance in the media;
- (ii) encouragement and publication of independent studies of media performance and bias; and
- (iii) capacity to refute inaccurate or unbalanced media coverage through: rights of immediate reply, and approaches to media management seeking balance in reporting and interpreting of news.

## **16. PUBLIC INTEREST RESOURCES**

16.1 Congress notes that with the growth of new services and media concentration and with changes in Government policies the media sector is becoming increasingly complex. Congress supports increased public input into the policy direction of the media sector facilitated by public interest resources.