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In the Culture of Service: Australian Content in TV Advertising

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Abstract

The role of advertising in the service of popular culture has been recognised, researched and debated in media and cultural studies for many decades. 'National flagship' advertising continues to evolve as an important space in which civic expectations about Australianness are represented, articulated and negotiated as part of the popular cultural life of the nation. It has been somewhat harder for this productive capacity of advertising to be captured in cultural policy settings and mobilised in the service of national culture. The Australian case is an important exception to this more general experience. But for how much longer? Recent developments in policy thinking about the Australian content requirement for TVCs suggest that the transnational culture of service is poised to claim another victory here.

Introduction

In many countries, including Australia, audiovisual industries have been historically mobilised in the service of national culture. The cultural role of TVCs intended for national markets hinges on the ways in which these TVCs often invite audiences to relate to the world in a variety of capacities, not just as potential consumers of the products, goods, services or brands that they promote. They can address audiences as citizens, not just as consumers. The cultural work of TVCs, performed in the processes of engaging audiences as citizen-consumers, is of particular interest in any assessment of the non-economic value of TVCs. Increasingly these industries and the policy frameworks that support them are being re-oriented in a corporate,

transnational culture of traded services. When conflicts arise between multilateral and bilateral trade agreements and domestic cultural policy initiatives the pressure to resolve these differences in favour of the economic interests in internationally traded services can be intense. Some national governments have indicated a willingness to maintain audiovisual spaces of national cultural expression in the face of this pressure, even if it means that the development of a rules-based multilateral trade framework is put in jeopardy.¹ Importantly though, the audiovisual spaces that national governments seek to defend are also threatened with technological bypass. For example, broadband telecommunications networks now deliver new forms of audiovisual service which may originate from anywhere in the world.² A number of Australian research efforts are now focussed on this problem.³ It is also the case that national cultural policy initiatives are at risk of being confined to a diminishing number of forms and genres, for example feature films, television drama and children's television. Rather than broadening the concept of 'audiovisual services', new audiovisual services are likely to be absorbed into other service categories such as e-commerce, and information and entertainment services in the current round of World Trade Organisation trade in services negotiations.⁴ This article looks at the particular case of the Australian content requirement for television commercials (TVCs), which is at risk of being conceptualised as an 'other business service' in these processes, to draw attention to this latter development.

Advertising as Culture – The Policy Debate

There is a healthy tendency within consumer, media law and policy contexts, as well as related academic disciplines, to treat advertising with caution. In the main though, advertising is actively supported as a productive social, cultural and economic influence in Australian society. The Australian Broadcasting Authority (ABA) Program Standard TPS 23, which requires licensees to ensure that 80% of all TVCs broadcast on commercial TV are sourced from Australia or New Zealand, is evidence of the way in which advertising, like programming, is valued in domestic

broadcasting law and policy as an important form of cultural expression, not exclusively as an economic activity. This requirement, like its history, is complicated and contested. A major point of contention has been whether a deregulated TVC market could be reasonably expected to deliver similar levels of Australian content to that of the regulated market. In 2000, when the Productivity Commission released its draft *Broadcasting Inquiry* report, it became clear that the state of current knowledge about the cultural impact and significance of TPS 23 was poor. This state of affairs was confirmed by the recommendation in the Commission's final report that TPS 23 be removed from the ABA's books. A government competition policy agency, the Productivity Commission had been directed by Treasurer Peter Costello to review the economic and social impacts of broadcasting regulation. Although it had not initiated research into the non-economic value of TPS 23, the Productivity Commission nevertheless formed the view that removal of TPS 23 was 'unlikely to have significant adverse social or cultural effects'.⁵

Up until the early 1990s the main cultural benefit of the Australian content in TVCs requirement (TPS 23) was thought to be the 'flow on effect' of this activity to other, more 'worthy' audiovisual forms such as TV drama and films for cinema release.⁶ This was because the use of Australian resources in big budget TVC production activity contributed to a 'critical mass' in these areas of cultural production capacity.⁷ Then, in his 1992 book, *Framing Culture*, Stuart Cunningham showed that this Australian content requirement had contributed to the development of national culture in a more direct way. Drawing upon the earlier work of Tim Rowse and Noel King, Cunningham identified important differences between TVCs produced for local and regional domestic markets, and those produced for the *national* market. King and Rowse had previously identified a genre of Australian TVCs they called 'the humanity ad'.⁸ 'Australianness' was principally what 'humanity' ads seemed to be selling. Furthermore, the great 'strength' of the 'humanity ad' genre was the extent to which it was 'inclusive of a wide variety of points of identification with a common interest'.⁹ Even

though many such TVCs were financed by commercial enterprises, those for products and services that were 'well-served as being represented as common property' (for example financial services, media and sporting events) often looked and functioned like other 'humanity' ads that were in fact community or public service announcements. King and Rowse concluded that 'humanity ads' were as culturally significant as most other popular television forms. Amongst other things, the TVC was shown to be a vehicle for representing subtle accounts of Australian social and political debates.¹⁰

Cunningham refined the King and Rowse analysis with an extensive review of advertising theory and the history of Australian content requirements for TVCs. He found that the 'humanity ad' genre had continued to evolve in the 1980s into a genre of 'national flagship advertising'. Cunningham attributed the development of this genre to the particular historical conjuncture of the 1980s and to the existence of the Australian content requirement for ads, which facilitated the development of the TVC as a significant vehicle of national cultural expression:

'Under the umbrella of the (Australian Broadcasting) Tribunal's foreign content regulation, an outstanding 'moment' of Australian television advertising developed from the mid-1970s to the present. It parallels the growth in styles and the significance of the nascent film and television drama industry during the same period, and it has been arguably of equal or even greater importance than the drama industry in delivering a popular and strong grammar of national imaging'.¹¹

So how has the 'national flagship' TVC genre developed since this assessment? In the same year that *Framing Culture* was published (1992), a major program of broadcasting law reform was implemented. The Australian Broadcasting Authority (ABA) replaced the Tribunal and a revised TPS 23 came into effect. The pre-1992 requirement set general Australian content level at 80 percent of all footage broadcast in any single TVC. Unless a non-Australian TVC was for goods or services in specific exempt categories, the pre-1992 requirement had the effect of

seriously obstructing market access for transnational advertisers (identified in the trade as national advertisers) to Australian commercial TV markets.¹² The 1992 changes significantly eased this effect by altering the Australian content threshold to an overall requirement of 80 percent of all ads broadcast. The new threshold was proposed as a point of compromise that would provide market access to transnational advertisers wanting to use non-Australian TVCs, while minimizing the risk that non-Australian TVCs might be used extensively to substitute for TVCs produced under Australian creative control for the national market. Problems of market access were also alleviated by significant changes to the test of 'Australianness'. A creative elements test was introduced, whereby a minimum of six out of ten key creative positions in the production process needed to be occupied by Australian or New Zealand¹³ personnel in order for a TVC to qualify as Australian for the purpose of TPS 23. So although the 80 percent threshold might sound high, the test for qualifying as Australian in the revised standard was not tough.¹⁴

In these changed circumstances the maintenance of exempt categories of TVCs appears at first to make little sense. Prior to 1992 exemptions aimed to accommodate TVCs for goods and services that could not be reasonably expected to be substantially Australian or New Zealand-made, for example TVCs for imported films and videos, and recordings by international artists. Since 1992 there has been no restriction on the transmission of wholly imported TVCs but these categories of TVCs remain exempt from TPS 23. The retention of this exemption seems to be out of administrative necessity as it is certainly not consistent with the cultural policy objectives of TPS 23. About 10% of all TVCs cleared for broadcast on Australian commercial TV are in exempt categories.¹⁵ An analysis of ABA data suggests that as a result there has been a tendency in reporting compliance to overstate *actual* levels of Australian TVC content, as well as the ease with which networks comply with TPS 23.¹⁶ It also seems that without this exemption there is a very real risk that individual stations might not in

fact comply with the standard, thus potentially throwing the complicated administration of TPS 23 into crisis.

The Productivity Commission was entirely correct when it observed in the *Broadcasting Inquiry* report that the market generally affords a high level of 'natural protection' for Australian content in advertising. However the Productivity Commission's analysis did not grasp the cultural policy intent behind TPS 23, which is to ensure that a majority of TVCs intended for the *national* advertising market (as distinct from, local or regional markets) are Australian. It is this market segment, where production values are high, that becomes vulnerable in a traded services context. As demonstrated by the Australian Film Commission, Australian representation and participation in this market segment cannot be assured by market forces alone.¹⁷ The Productivity Commission did not adequately respond to this evidence that it is TVC production for the *national* market that has been hardest hit by the 1992 liberalisation of the Australian content requirement TPS 23.

International Trade in Services and the Future of TPS 23

The importance of TVCs as sites of national signification and identification was hard to miss in the 1980s and early 1990s when Rowse, King and even Cunningham wrote about it. Throughout this period numerous corporate branding, public health and beer campaigns (to name only a few) foregrounded notions of 'Australianness' in their efforts to capture public attention and imagination, and Australian advertising agencies and creatives stole the lead from their transnational counterparts. Interstitial material, including TVCs, continues to play an important role in localising commercial television services for domestic consumption. TVCs also continue to contribute to contemporary social discourse about Australian identity in complex and interesting ways. However the number of 'Australian-made' national TVCs certainly seems to have diminished in the last decade. This is one finding of a content analysis of commercial TV schedules undertaken in the first part of 2001.¹⁸ Numerous factors contribute to this 'on screen' change, including the re-assertion of transnational agency domination

of national advertising¹⁹, the climate of fear, risk, and uncertainty that has dominated Australian politics since the mid-1990s²⁰, and the changes to TPS 23 already outlined.

A further contributing factor in the decline of national flagship advertising has been the increasing 'inter-legal' tension between the economic effects of domestic broadcasting policy and the cultural policy consequences of international trade in services norms and protocols.²¹ Local content quotas that address the cultural policy goals of domestic broadcasting laws, such as TPS 23, are regarded by non-Australian TVC producers as restrictions on access to the Australian TV advertising market. International trade agreements, such as the General Agreement on Trade in Services (GATS), overseen by the World Trade Organisation (WTO), provide a variety of means by which these sorts of inter-legal conflicts can be resolved, both at a supranational and national level, usually in favour of trade principles.

Despite assurances from Australian trade negotiators that Australian content requirements are not negotiable in the current GATS round, there remains a residual anxiety that these might be conceded in order to secure Australian access to international markets for other goods, most likely in agriculture. The source of this anxiety can be traced back to negotiations surrounding the Closer Economic Relations Trade Agreement with New Zealand, which came into force in 1989. Although Australia and New Zealand have, in effect, shared a common TVC market since the 1960s this has not always been the case with drama and other genres that benefit from local content requirements. Assurances given to Australian audiovisual industrial organisations that trade in broadcasting services would be excluded from the scope of the final CER agreement, were not subsequently honoured. Thus audiovisual industry stakeholder trust in international trade consultation and negotiation processes was seriously damaged as domestic broadcasting law then came into direct conflict with the CER treaty obligation. This conflict was eventually resolved by the High Court of Australia which ordered changes to local content requirements

for drama, children's, and overall targets such that New Zealand programs are now deemed to be Australian.²²

As momentum gathers in the current round of GATS it seems that another major confrontation in trade in audiovisual services will be avoided.²³ However the scope of the audiovisual services category is at risk of being emptied out by developments in other service categories. The example relevant to this discussion is a US proposal that, if successful, will see advertising treated explicitly as a traded business service.²⁴ This proposal seeks agreement amongst GATS signatories to full market access for advertising services across all media and delivery platforms. Perceived impediments to existing markets are explicitly identified and '(r)estrictions on the importation and broadcast of foreign-produced television commercials', is at the top of this list. Although the authors would probably reject any reading of this proposal as an expression of US cultural policy, it does in effect seek to capture the cultural capacity of advertising for the transnational spread of free trade doctrine. This inevitably conflicts with initiatives such as TPS 23 that enlist audiovisual spaces in the service of national culture.

Australian and New Zealand audiovisual producers now face the challenge of negotiating sustainable pathways between the trenches that defend this increasingly symbolic form of regulation to new, emergent spaces of imagining. And time is likely to run out in the medium term. In the short term, it was probably fortunate that TPS 23 was not included in the ABA review of Australian content standards, now drawing to an end. Otherwise, in view of the Productivity Commission's recommendation, it seems highly likely that this domestic cultural policy measure would have been re-calibrated in favour of the transnational culture of service, resulting in the demise of TPS 23 in this context. It now remains to be seen how TPS 23 will weather the outcomes of the current GATS round, due to conclude in 2003.

¹ B. Goldsmith, (2002). 'Cultural diversity, cultural networks and trade: International cultural policy debate', *Media International Australia*, No. 102 (February), pp.35-53.

² Jacka, M. (2001). *Broadband Media in Australia. Tales for the frontier*, AFC/CIRAC.

³ For example, Goldsmith, B., J. Thomas, T. O'Regan, and S. Cunningham (2001) *The Future for Local Content? Options for Emerging Technologies*. Australian Key Centre for Cultural and Media Policy/Australian Broadcasting Authority: Sydney.

⁴ Wheeler, M. (2000). 'Research Note: The "Undeclared War" Part II. The European Union's Consultation Process for the New Round of the General Agreement on Trading Services/World Trade Organization on Audiovisual Services', *European Journal of Communication*, Vol. 15, No. 2 (June): 253-262.

⁵ Productivity Commission (2000). Broadcasting Inquiry Report. Canberra: AusInfo, p. 411.

⁶ Stuart Cunningham, (1992). *Framing Culture. Criticism and Policy in Australia*. St. Leonards: Allen & Unwin, Chapter 3.

⁷ For example, Mervyn Smythe & Associates (1994). *TV and Cinema Advertising Production in Australia and New Zealand*, Australian Film Commission.

⁸ Noel King and Tim Rowse (1990). 'Typical Aussies': Television and Populism in Australia', in M. Alvarado and J. Thompson (eds) *The Media Reader*, London: British Film Institute (first published 1983) p. 38.

⁹ Ibid. p.39.

¹⁰ For Rowse and King this development also marked, 'the victory of an optimistic account of popular consumerism over the despair of socialist critics, and the displacement of an ideal of (national) homogeneity by one of diversity' (p.43).

¹¹ Cunningham, op.cit., p.83. Philip Bell as has since touched upon King, Rowse and Cunningham's general propositions as part of a broader critique and rejection of simplistic propositions that television is a conduit for the 'Americanisation' of society (1998). By this time, live events, infotainment and reality TV had replaced Australian drama as the most popular TV form. Bell linked this rise in the popularity of magazine-style TV to a shift in Australian consumerism, which occurred as a result of the Hawke-Labor period of deregulation, to services and information ('Television', in, P. Bell and R. Bell (eds) *Americanization and Australia*. Sydney: UNSW Press, p.198). Bell does not comment directly upon the cultural 'work' of high production value TVCs, or on the impact of the 1992 changes to TPS 23. Of advertising in general though, he observes, 'increasingly, many of the most watched programs conflate advertising and their infotainment content' (195). The overall conclusion reached by Bell is that, television now 'offers audiences points of *recognition* (rather than intense identification)' (206). This is not to say that television is less culturally significant in the lives of most Australians, but that the ways in which it is significant, have changed. Bell's analysis does not support the cultural policy case for maintenance of regulation that appears to privilege one TV genre over another, for example, elements of the Australian content program TPS 14 which specify Australian content requirements for drama and not other forms such as game shows, infotainment and reality TV. However, this line of thinking does support other elements of TPS 14, such as the transmission quota that requires 55% of all transmission time to be occupied by Australian programs. In any event Bell acknowledges that local conditions, including regulatory settings, are as influential as international supply pressures in shaping the forms of Australian television.

¹² John Sinclair, (2002). 'Advertising', in, S. Cunningham and G. Turner (eds) *The Media and Communications in Australia*, St. Leonards: Allen & Unwin.

¹³ New Zealand TVCs have been counted as Australian for the purpose of the Australian content in TVC requirements since the early 1960s, in recognition of the existence of a common trans-Tasman market in this type of audiovisual product. For this reason TPS 23 was not caught up in the various legal cases that ultimately saw the High Court of Australia decide that, pursuant to the Closer Economic Relationship (CER), New Zealand audiovisual product is deemed to be Australian for the purposes of broadcasting regulation.

¹⁴ See comments by Jock Given, Productivity Commission Broadcasting Inquiry hearings Transcript, 8/12/99 Broadcasting 1176J. GIVEN.

¹⁵ Australian Broadcasting Authority (2002) Australian Content in TV Advertising: Compliance Report. Available at: www.aba.gov.au/tv/content/advertising/compliance.htm (accessed 18/7/02).

¹⁶ Reported in Spurgeon (2001) 'Australian content in television advertising: challenges for broadcasting policy and regulation', Conference papers and proceedings Communications Research Forum, DCITA, Canberra.

¹⁷ Australian Film Commission (2001). *Australian Television Commercial (TVC) Production Companies Survey*. Available at: <http://www.afc.gov.au/resources/online/pdfs/tvc.pdf> (accessed 9/7/02).

¹⁸ Other findings of this study were reported in Spurgeon (2001) op. cit.

¹⁹ Sinclair, op. cit.

²⁰ Carol Johnson (2000) *Governing Change. Keating to Howard*, St.Lucia, UQP.

²¹ Christopher Arup, (2000). *New World Trade Organization Agreements*. Cambridge: Cambridge University Press.

²² Leiboff, M. (1998). 'Football, Meat pies, Kangaroos and Holden Cars? The Arts and Cultural Implications of Project Blue Sky v Australian Broadcasting Authority.' *Media and Arts Law Review* No. 3 (September): 135-145.

²³ B. Goldsmith, (2002). 'Cultural diversity, cultural networks and trade: International cultural policy debate', *Media International Australia*, No. 102 (February), pp.35-53.

²⁴ World Trade Organization (2001). 'Communication from the United States. Advertising and Related Services', 10 July, Council for Trade in Services Special Session.