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**Submission to  
Australian Broadcasting Authority**

**Response to Allen Consulting Group report on 'Trading the Regulatory  
Obligations of Broadcasters'**

**November 2003**

## **Introduction to YMA**

Young Media Australia is a unique national community organisation whose members share a strong commitment to the promotion of the healthy development of Australian children. Their particular interest and expertise is in the role that media experiences play in that development.

YMA is committed to promoting better choices, and providing stronger voices in children's media.

What we do

YMA:

- collects and reviews research and information related to children and the media
- provides information and advice on the impact of print, electronic and screen based media on children and young people
- advocates for the needs and interests of children in relation to the media
- conducts and acts as a catalyst for relevant research.

How we do it in 2003

YMA:

- provides information to parents and caregivers via the Young Media Australia website *www.youngmedia.org.au* with over 60 topics relating to children and media use (including movie reviews) These topics are also available in hard copy format.
- provides advice and information via a 24 hour a day / seven days a week , national freecall Young Media Australia Helpline 1800 700 357. Helpline operators come from a strong child development and parenting perspective and can provide callers with research based information about the media. They can suggest strategies both for creating healthy media use and minimising harms.
- represents community concerns about the impact of print, electronic and screen based media on children and young adults to legislators, regulators and the media.

Who we are

YMA:

- is a national not-for-profit community organisation, structured as a company limited by guarantee
- is registered for the GST, has tax deductible status and is a Deductible Gift Recipient (DGR)
- has a national Board representative of all Australian states and its corporate members
- has a comprehensive organisational membership which includes ECA (Early Childhood Australia (formerly AECA Australian Early Childhood Association), ACSSO (Australian Council of State Schools Organisations), AHISA (Association of

Heads of Independent Schools of Australia), AEU (Australian Education Union), SAPPA (South Australian Primary Principals Association), Federation of NSW P&C (Parents & Citizens), Mothers' Union in Australia, Gowrie Child Centres.

## **Young Media Australia Response to Allen Consulting Group report on 'Trading the Regulatory Obligations of Broadcasters'**

### ***Introduction***

In practice, the Allen Consulting Group's recommendation is likely to mean the creation of one 'specialist' children's television station. The degree of specialisation remains to be seen, but it would have to be substantial to make it worth the licensees' while to negotiate and register an agreement. This is particularly so considering the low proportion of current programming occupied by children's material under the regime as we know it.

It appears that what has been driving the process leading up to and including the production of the Allen Consulting Group Report is not children's interests, but the broadcasters' perceived opportunity to increase their already large profit margins.

Therefore when we, as a community group representing the interests of children as media consumers, ask what benefit to Australian children is likely to come from this proposal, it is hardly surprising that we see no such benefit.

### ***Benefits for children?***

#### **Quality and diversity**

The only way that a scheme for the trading of obligations could work in favour of children's interests is if it led to higher quality and/or greater diversity in children's programming.

Australian children's C and P classified programming is already of a high quality. There is no need for changes such as those proposed, to improve it. Of course, even higher quality programmes would be welcome, but there is no warrant to introduce risky changes in the hope that an improvement might be achieved.

We take the view that both improvement in quality and increased diversity are far from assured under an obligation-trading scheme. Basic economic theory tells us that decreased competition tends to drive quality down; if children's television is an exception to this principle, the case needs to be made.

In our view, the best guarantee of quality is the supervision that already goes on in the ABA's administration of the C and P standards. Presumably this would not change. It is difficult to see what incentive the specialist station would have to improve quality beyond that already enforced in these categories.

As for diversity, we are not convinced that there is any greater likelihood of a specialist station presenting a range of different types of programming than of the existing 3 stations doing so between them. The Allen report has already conceded that, in the area of news and information, concentration is likely to lead to a lessening of diversity. Once again, if children's programming is different, the case needs to be made.

In the absence of evidence to the contrary, and noting the limited advertising revenues available from children's programming, the assumption must be that a specialist station, like all licensees, will take whatever measures are open to minimise its expenditure on children's programming. This means maximisation of homogeneity, not diversity.

### Scheduling and promotion

The one possible benefit to Australian children that YMA can see is, interestingly, not mentioned in the summary of the Allen report. It is that, in the event that one station takes over the bulk of children's programming obligations, there is some chance it would have sufficient incentive to promote and schedule those programmes in such a way as to facilitate access and the building of a following.

We refer here to the debate raised in the context of the last review of the Australian Content Standard, over the alleged ratings failure of children's drama which, the production industry pointed out, had been inconsistently scheduled and poorly promoted. YMA supports the production industry in its concerns over the scheduling and promotion as the licensee practices identified act against the interests of children, as well as those of the industry.

If obligation-trading were introduced, it would be the ideal opportunity to introduce regulatory measures to correct the licensee practices. However, this should happen irrespective of the introduction or otherwise of obligation-trading.

### ***Impact on other protections for children***

We find it difficult to support the idea of trading obligations without having a clear picture of exactly how it will work in practice. For example, we do not feel able to assume that the station which takes over the lion's share of children's programming will be happy to submit, for a more substantial portion of the broadcasting day, to the other restrictions that go with such programming.

Would the new specialist children's television station be willing to limit itself to 6 minutes' advertising per half hour for any greater a proportion of the day than it already does?

Would it be willing to accept the current restrictions on promotional material during children's programming for a greater proportion of the day?

Or would this station, as seems more likely, take advantage of the opportunity to press for a lowering of these restrictions? YMA would oppose any such changes most vigorously, but the specialist station would be perceived as having a degree of moral credit which could serve to strengthen its arguments in favour of the relaxation of restrictions.

Therefore, at a very minimum, any change to an obligation-trading system would have to be accompanied by iron-clad guarantees that existing protections of children in the CTV Code and the Children's Television Standards would not be relaxed. YMA recognises that it is not possible to provide such a firm guarantee, for that is not the nature of regulation in a democracy.

This is why we would prefer to avoid the situation that would open the door to pressures for relaxation, or in other words, not to introduce obligation-trading at all.

### ***Other points***

#### Reduction in total programming

The Allen Group excludes application of the trading obligations principle to adult drama as this could lead to a reduction in the total amount of programming. This argument is not limited to categories which are currently over-quota. The very same effect could restrict the likelihood of other types of programming *moving into* the above-quota category, as we would consider desirable for children's programming.

#### Reasons against allowing trade of whole quota

The recommendation against permitting a licensee to trade its whole quota is based on concerns about the exertion of market power and loss of diversity. We believe that the same argument applies to any trade at all, not just trade of a whole quota.

The report and discussion around it appear to be premised on an assumption that further concentration of children's television will lead to higher quality, greater innovation and/or greater diversity. As explained above, we question this assumption. It is at least as likely that the reduction in competition that would result from such a concentration would lead to lower quality, less innovation and less diversity. The Allen group has explicitly recognized this in relation to trading of a whole quota, but not explained why the same concerns do not apply to parts of quotas.

#### Comparison with news and information

Similarly, the Allen Group recognises the desirability of a diversity of voices in news and information. We submit that the same applies to children's television. The ABA needs to consider whether there are any meaningful differences between these two categories of

television from this point of view. If the desirability of diversity is a reason not to allow trading of quotas in one field, surely it is a reason not to allow it in any comparable field.

#### Amounts spent on local content

The report relies on figures as to amounts spent on local content (p 36) without disaggregating these to show what differences, if any, exist as to expenditure on children's programmes. We submit that these figures cannot support any argument at all about children's programming.

Moreover, failure to attend to this rather obvious point could cause an observer to wonder which other points in the report are supported by insufficient or inappropriate data.

In any event, the report should have considered the possibility – in our view the likelihood – that differing levels of expenditure reflect quality, bargaining power and investment rather than disposition towards such programming.

#### ***Conclusion: upsetting the broadcasters-community settlement***

The discussion on this proposal to date already represents an erosion of the settlement underlying the Australian co-regulatory system for broadcasting: licensees are given access to the profits from a valuable public resource subject to the provision of certain kinds of programming that the Australian community has judged to be necessary for its healthy growth and development.

Participants in the discussion on trading obligations seem to have been working on an inversion of this model, namely that community interests are served by licensees only to the extent it is compatible with their profits. Instead of profits being subject to community obligations, community obligations are subject to profits.

We are concerned at how much further this process could be taken if this first step were allowed.

We are particularly concerned at how the trading obligations proposal could work in concert with the currently proposed reductions in G time. This and numerous other proposed and actual developments all seem to be leading away from any notion that young children are entitled to access to programming suitable for their age and stage of development. If taken to their conclusion, these developments risk making a mockery of the settlement underlying the co-regulatory scheme. In short, we think we are witnessing 'death by a thousand cuts' to the representation of Australian children's interests in broadcasting regulation.

For these reasons, YMA opposes the introduction of obligation trading.

For further comment on this submission, please contact Associate Professor Elizabeth Handsley, Vice-President of YMA (08) 8201 5256, or Ms Barbara Biggins, Honorary Manager of YMA (08) 8234 9396.

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