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REGULATING FOR QUALITY FROM THE
COMMERCIAL SECTOR

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Regulating for Quality from the Commercial Sector

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Regulation is too important to be left to the regulators; all those concerned with the health of broadcasting ought to take an interest in regulatory questions. Regulation is not about regulations which stop people doing things; it is an instrument for positive action, to bring about range, diversity and quality in broadcasting

Right round the Commonwealth, there is a movement away from the allocation of frequencies by Ministries of Information, towards their allocation by autonomous regulators. The Commonwealth Broadcasting Association has had a consultant from the South African Regulatory body working in Lesotho on such changes, and sent another from the Radio Authority in Britain to work with the Kenya Government, advising on the criteria for allocating frequencies. Last year we nominated a consultant to work with the Zimbabwe Government to help draw up their Broadcasting Bill. The CBA has also had discussions with the Bangladesh National Commission for Autonomy of Radio and TV and had hoped to help with the implementation of their proposals. There seems, however, to be a major delay in introducing them.

The reason why it is important for organisations such as the CBA to support moves to set up autonomous regulatory bodies is that, without them, new frequencies tend to be given to "friends of the government"; and there is little attempt to tie in the allocation of the frequency with any quality requirements.

What are the mechanisms through which quality can be required from those who provide commercially-funded broadcasting? First we should define quality. One man's quality music, after all, is another man's raucous noise. I define broadcasting quality as:

range - appeal to different age groups, language groups, social class

diversity - types of programmes, from pop to education, including news, drama talk shows and all the other kinds of programme

reach - signals should not just be confined to the capital but reach out to populations in distant parts.

Having met the above criteria, quality is the best output achievable within each genre for the money available.

So, to encourage quality, the regulator can require that a licensee provides a certain percentage of news, or education or any other kind of desirable programming. If the

applicant is not prepared to provide the specified quantities of particular programming, the license can go to an applicant who will.

Having awarded the licence, the regulator can publish Codes that need to be met, i.e. codes for programme standards, for advertising and sponsorship, and for any other area thought necessary. The radio or tv station is then required to observe this code, and can be fined for breaches of it.

It is worth looking at some of the details in such codes. Let us take bad language, for example, usually one of the areas provoking the highest numbers of complaints from the public, at least in Britain. The UK's Radio Authority code states: *"The gratuitous use of offensive language including blasphemy must be avoided. Bad language and blasphemy must not be used in programmes specially designed for children or broadcast in circumstances such that children might be expected to be listening. There is no absolute ban on the use of bad language but its use must be defensible in terms of context and authenticity. It is one thing, for example, when such language occurs in a documentary programme, and quite another when introduced for its own sake in, for example, a music based entertainment programme. Many people who would not be unduly shocked by swearing are offended when it is used to excess and without justification"*.

Stations who do not abide by such guidelines are, in Britain, usually warned and then, for a subsequent offence, they are fined. The fines range from £1000 to £20,000. The outline of the transgressions are also published, which adds an element of public shame. In 1994, for example, Virgin Radio was fined £20,000 for the third offence of inappropriate comments by a presenter. In 1995, Talk Radio was fined £5,000, Piccadilly Radio £1,000, Scot FM £3,000 - all for offensive or blasphemous broadcasts. The following year, Piccadilly Radio was fined £10,000 for offensive programmes. These sums are big enough to hurt the stations and force them to discipline their errant employees.

And offence is by no means the only category for which Codes of Practice operate. Even more important are the Codes for News and Current Affairs, and for Advertising and Sponsorship. In these areas, the fines can be very large, especially in TV. In February this year, for example, the UK's Independent Television Commission imposed a £90,000 fine on the London-based Kurdish TV operator, Med TV, for three serious breaches of the impartiality requirements of its programme code. The fines took into account previous breaches of the code.

It is interesting that Med TV is not targeted specifically at the UK. The European Directive on TV without Frontiers, however, requires the ITC to license satellite tv services which are established in the UK, whether or not their services are targeting a UK audience. This is the agreement through which it should be possible to stop, say, a pornographic satellite channel beamed up from one country and viewed in another. If arrangements such as this are reached between countries, then it is possible for some control to be exercised by a neighbour's regulator, even if the operator is out of reach of the country's own regulator.

This is a reassurance for those who worry that satellite tv is uncontrollable. It is not. It is harder to control than domestic tv, but given co-operation between neighbours, it is possible. A satellite broadcaster may be dependent on advertising income from the country into which it is beamed. This offers an opportunity for the Government to cut off its funds by declaring it illegal to advertise on it. This was done in Britain when various pirate radio stations set up, broadcasting pop music from boats moored in the Thames estuary. They were put out of business by having their advertising income cut off.

It is interesting that this conference is taking place in Singapore, which is at the cutting edge of regulation. Singapore is ahead of the rest of the world in that the SBA regulates the Internet, through controlling the Singapore gateways. Britain's regulators have not seized such powers, except over Internet advertising. In 1995 the British Advertising Standards Authority ruled that Internet advertising would quickly become discredited as an advertising medium unless UK advertisers on it are seen to be legal, decent, honest and truthful, and they brought UK advertisers on Internet under their control.

This only regulates a small part of the Internet, but it is a contribution. The greatest worry over the regulation of the Internet is that the giant in this business, the USA, has a passionate and ideological commitment to freedom of speech which means that they currently resist all attempts to introduce even the lightest regulation. I myself find this approach goes too far; it should be possible to apply "light touch" regulation to the Internet, country by country, dealing with only the most blatant pornography, as well as offensive and dangerous content. I hope the world moves towards this in the years ahead, and that broadcasting regulators seize the powers which are there to be seized, and start applying them. Even if all those countries who are usually sensible about such things take action, there will still be rogue countries. All we can realistically expect is a decline in offensive and harmful material on the Internet, rather than its complete elimination.

There is an argument that the proliferation of tv and radio channels will make the regulation of broadcasting impossible. It will become like publishing books, it is said; there will be no need for "nanny state" bodies to interfere with what people want to put on screen or on air. I do not agree with this. Reading a book is a solo activity. TV and radio come into the living room in a family context. TV and radio must be appropriate for audiences which may include a Granny and a 12-year-old, at the times when these may reasonably be expected to be watching or listening. I see a continuing and growing future for the regulator. In Britain the intention is that the multiplex operator will be licensed, and he will need a licence for each of his services. The decision has been taken not to bow out, but to continue to regulate, even in the new digital world.

In some countries there are a multiplicity of regulators - Britain, for example, has a Radio Authority, an Independent Television Commission, a Broadcasting Standards Council, and an Advertising Standards Authority. And the biggest broadcaster of all, the BBC, is outside all of these. Inevitably, there will be pressures to reduce the number of regulatory bodies, and to bring the BBC, now regulated in the public interest by its Board of Governors, within the net.

The interesting thing is that, when the cost-cutters get going, they will find that this is a field which -- like parking meters -- can easily bear the costs of its administration. Financing the regulation of radio and tv - and in the years ahead, Internet as well - can be done by fees for frequencies and franchises, and by fines. For the regulator, if not for those who transgress the codes, this is a happy prospect. It ensures the regulator's survival, for the public good, in the years ahead.