

# A Love Affair with Latham?

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"Wishful intelligence, the desire to please or reassure the recipient, was the most dangerous commodity in the whole realm of secret information."

James Bond in Ian Fleming's *Thunderball* (1961:112)

This critical interpretation of key issues and events in the Australian news media in the first half of 2004 analyses trends in four areas: the reporting of politics, changes in media policy and regulation, attempts to limit media freedom through restrictions on reporting, and movements in people, ownership, and broadcasting ratings. Of particular significance are the failure of the Australian Broadcasting Authority to adequately address cash for comment, a failure which had a considerable flow on effect; continuing challenges to the integrity of the ABC from within and without; mooted changes in defamation law; and a perception, again from within and without, that the Nine television network was losing its pre-eminence in commercial broadcasting. Much of the reporting and the policy debate were conditioned by the prospect of a closely contested federal election in the second half of the year.

## **POLITICS: Luvin' Latham**

The Australian media's love affair with Opposition Leader Mark Latham is the big political news story of the period under review. Pictures of Mark Latham reading to small children; and then Latham standing beside Bob Brown in the Tasmanian forests, Mark Latham putting out the garbage at his western Sydney home, Mark Latham's man boobs, and Mark and his son Ollie sharing a chip butty. The pic-facs have been endless.<sup>1</sup>



Elected on 2 December 2003 as a replacement for the hapless Simon Crean by the narrowest of margins (47 to 45), Latham's ascent was a surprise for many journalists and apparently the Liberal

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<sup>1</sup> (Photo: Sydney *Daily Telegraph* 24 April 2004).

Party's parliamentary leadership. Readers who caught the action live on Sky News that day will recall the audible gasp from the assembled media scrum as the Caucus Secretary Bob Sercombe made the announcement.

In his first six months Latham continued to confound both the government and many pundits with his refusal to engage his political opponents on the traditional ground. Many thought Latham was opting for the small target strategy that the Beasley roosters had pushed in the 2001 election campaign.



Slowly it dawned on the smarter scribes that Latham was adopting the triangulation strategy of former Clinton adviser, Dick Morris. Not a small target, but a different target. As is often the case, the cartoonists got it right sooner than the rest of the pack, as this Peter Nicholson in the *Australian* illustrated (Nicholson 2004: 32).

### Spooks and Spin

So as celebrity politics and the chip butty dominated the headlines, the government and the Defence Department have several serious bush fires to put out in the period under review. First, *The Bulletin* on 14 April, broke the story of a high ranking military intelligence officer, Lt Col Lance Collins, who had written to Prime Minister Howard urging a royal commission into the capability of nation's intelligence services, arguing intelligence services were telling the government what it wanted to hear. In the light of recent events it was an obvious point. Even that Cold War relic James Bond, quoted in the epigraph above, knew that, "Wishful intelligence, the desire to please or reassure the recipient, was the most dangerous commodity in the whole realm of secret information" (Fleming 1961: 112).

Collins' views had apparently made him *persona non grata* with the intelligence community, and the documentation of the subsequent mismanagement of his career by Defence made more chilling reading than his allegations of incompetence. Collins' list of intelligence failures included Iraqi

weapons of mass destruction, delay in the Willie Brigitte case, warning of the Bali bombing, the breakdown of order in the Solomon Islands, the independence of East Timor, death of an intelligence officer in Washington, resumption of Indian nuclear testing, fall of Suharto, the media-reported Indonesian capture of an ASIS officer, the Sandline affair and the testing of sarin nerve agent on an Australian farm by a Japanese religious sect. "I strongly urge you, Prime Minister," Collins wrote, "to appoint an impartial, open and wide-ranging Royal Commission into Intelligence... to do otherwise would merely cultivate an artificial scab over the putrefaction beneath" (Lyons 2004a, 2004b).

Collins was not easy to discredit; he had served as intelligence chief to Cosgrove in East Timor. Pictures in the press showed him to be a tall, tanned, rangy, slouch-hatted Digger; the very image of the iconic Aussie soldier Howard venerated. The government tactic was to discredit the military lawyer, Navy Captain Martin Toohey, who had investigated Collins' career management grievance and found in his favour. A subsequent report by Colonel Richard Tracey, which argued Toohey went beyond his brief, was released by Defence. Minister Robert Hill was ambushed by Tony Jones on *Lateline* with another report which backed Toohey's conclusions - which the government had not released. Hill looked duplicitous (ABC TV *Lateline* 14 March 2004). Howard wrote back to Collins: Thanks but no thanks (ABC Radio *The World Today* 30 April 2004).

Then in June 2004, before the Senate Estimates Committee, the Defence Department diarchs Secretary Ric Smith and ADF head General Peter Cosgrove once again demonstrated the inherent inability of the Defence Department to keep on top of its brief. The issue was the point at which the Department was aware of allegations that prisoners in Abu Ghraib prison were subject to inhumane treatment, given Australian military lawyers were on the ground in Baghdad. After several days of questioning, it turned out that Defence had misled Howard and Hill about what they knew and when they knew it (Kerin 2004: 1).

In a scene reminiscent of an A A Milne's story, with Labor Senator John Faulkner in the role of the benign but exasperated Christopher Robin, trying to get to the bottom of some mischief in the Hundred Acre Wood, Faulkner asked Departmental Secretary Ric "Winnie the Pooh" Smith: "Who was responsible?" "Me," said Smith. "Me too", chimed in Cosgrove, looking and sounding for all the world like Eeyore. Meanwhile, Defence Minister Hill, sat quietly to the side, trying like Piglet or Rabbit, to avoid collateral damage. Tigger, who had caused all the mischief, remained unidentified and well out of sight (ABC TV *7.30 Report* 1 June 2004).

The Defence Department refused to allow Major George O' Kane, the military lawyer who had been in Bagdad, to appear before the hearings, on the grounds that he was too junior to be exposed to such a venue. He could tell the Defence chiefs what he knew, and they could tell the Senate Committee.

According to the logic of Defence, Major O' Kane, not only a lawyer but also trained in the profession of arms, was capable enough to be sent to the most dangerous assignment in the Defence Force - a posting in Baghdad - but was not capable enough of handling a Senate Committee in unarmed, verbal combat. As far as the Defence chiefs were concerned, a Senate Hearing Room in Canberra was a much more dangerous assignment than occupied Baghdad. Certainly for it was for them. The echoes of children being thrown overboard splashed around the Parliamentary Press Gallery.

### **What comes after Alston?**

Senator Richard Alston, Federal Minister for Communications, IT and the Arts - and Minister responsible for the ABC - retired from politics in December 2003. In the subsequent re-shuffle, Darryl "Rowdy" Williams moved from being Attorney General to the portfolio. Williams' reign was short lived. On 5 April he announced his retirement from politics at the next federal election due before the end of 2004.

Alston's seven-year reign was characterised by policy failure on a number of significant fronts. First, he failed to sell the government's majority share of Telstra. He was frustrated by the government's want of numbers in the Senate, and not assisted at all by a wayward management at Telstra who failed to realise that running an effective and efficient telecommunications network was their primary responsibility, not doing dodgy deals offshore. The failure of Telstra to deliver the benefits of the telecommunications revolution to regional Australia remains the principal obstacle to full privatisation, and this failure occurred on Alston's watch.

Secondly, the key policy imperative of Alston's portfolio has been, and still is, to facilitate the rollout of a cost effective regime of broadband for Australian businesses and homes. It is only now beginning to happen. Australia lags behind our international trading partners like Singapore in the roll out of broadband. Allied to this, Alston failed to foster the establishment of an Australian IT industry. He did establish a regime for the regulation of online pornography, and managed to keep the scourge of e.gambling at bay, at least for the time being.

### **Unfinished business: Alston's ABC bias allegations**

Still unresolved at the time of his departure were Alston's allegations of bias against the ABC. Aided and abetted by Senator Santo Santoro, a Queensland Liberal whose ambition exceeds his acuity, Alston had complained about coverage of the Iraq war by the ABC program *AM* in 2003. The ABC's Complaints Review Executive, Murray Green, dismissed all but two of Alston's 68 complaints. One was deemed to be "speculative reporting", while another showed "a tendency towards sarcasm" (ABC 2003a). Review of the complaints then moved to the ABC Board-appointed Independent Complaints Review Panel, which in turn upheld 17 and rejected 49 of Alston's complaints,

(ABC 2003b). While the subsequent climate of scepticism about the weapons of mass destruction seems to have cooled the case against the ABC, Alston has persisted with his complaint, referring it to the ABA in January 2004, after his retirement from the Senate (ABC TV *Media Watch* 23 February 2004). At the time of writing the ABA, perhaps distracted by other events, has made no adjudication. Alston's persistence, however, has made the ABC Board nervous about allegations of bias, especially in an election year.

The ABC Board decided in March to contract media monitor Reham and pollster Newspoll to monitor ABC coverage of the federal election, beginning on 11 May, Budget Night, at a reported cost of \$200,000. The leaking of details of this contract to *Media Watch* by the ABC staff elected director, Romana Koval brought about the resignation of the proposal's key proponent, Maurice Newman from the ABC Board, in mid June. Newman's five-year term as an ABC director was to conclude in December 2004. In his resignation letter Newman wrote of "the recent gross breach of boardroom confidentiality on the issue of independent monitoring of ABC broadcasts" (Schulz 2004e: 1).

This incident reflects poorly on Koval. If the issue was a matter of principle, then Koval should have submitted her own resignation and made public the reason for it. This would have ensured a wide public debate about the issue. Paranoia, not entirely unjustified, that the Howard Government might take the opportunity to abolish the staff elected director's position is not sufficient justification for over riding the basics of corporate governance, principles which need to be drummed into the head of every corporate in the country. Newman, Chairman of the Australian Stock Exchange, understood the essentials of good corporate governance, and his subsequent resignation was on a matter of principle reflected this. He led by example, and should be applauded for that.

However, the other concerning aspect of this soap opera is the failure of the actors to understand the basic foundations of epistemology. The very idea that Reham can actually obtain a measure of "bias", that is valid and reliable, has social scientists all over the country scratching their heads. Quite clearly myths about journalist objectivity, and ignorance of the social construction of knowledge (Berger & Luckmann 1966; Goffman 1986) and of news (Tuchman 1978) persist among journalists, politicians, the ABC and its Board and even, as we will no doubt find out in due course, the ABA.

### **Unfinished business: Changes to media ownership laws**

From its election in 1996 the Coalition desired to "reform" the cross media and foreign ownership provisions of the Broadcasting Services Act. The rationale for these "reforms" was that the existing structures based on Paul Keating's "princes of print, queens of screen" philosophy, was "outdated" (Alston 2002). At its introduction in March 2002, Alston lauded the amending Bill saying, it would,

improve Australian media companies' access to capital, facilitate investment in new technologies, enable media companies to grow and expand in the new content-driven converging global media environment, and ensure that Australian consumers have access to high quality media offerings (Alston 2002).

However, the Bill contained unwieldy and unworkable provisions for the separation of editorial functions for owners of both broadcast and print media. It required them to have:

- separate and publicly available editorial policies;
- appropriate and publicly available organisational charts; and
- separate editorial news management, news compilation process and news gathering and interpretation capabilities (Alston 2002).

It would seem that such provisions would inhibit "the imperative of delivering readily adaptable content across multiple platforms", the Minister was seeking to foster (Alston 2002).

A Senate Committee recommended a number of changes, most designed to preserve services and standards in regional markets, as well as clumsy disclosure provisions of the type that had been so spectacularly unsuccessful in preventing cash for comment in commercial radio. Alston adopted the changes, but the Bill failed to secure support from the Opposition, minor parties or independents, in particular Brian Harradine, in the Senate, and failed to pass. For a Fairfax loyalist's account of these events read Chapter 7 of Margo Kingston's *Not Happy John* (Kingston 2004). It will be of interest to see if Howard pursues the issue if elected for a fourth term.

Alston would have done well to put his energy into new media rather than old; to delivering on telecommunications instead of pursuing a partisan agenda against the ABC.

### **Free Trade Agreement: Media content regulation and intellectual property**

The proposed "free" trade agreement with the United States has been the subject of widespread debate in the areas of media content regulation and intellectual property. It contains complex, and even unclear provisions, governing the further regulation of Australian content in new and old media. The Agreement has been examined by the Joint Standing Committee on Treaties (which reported on 23 June 2004) and a Senate Select Committee which is due to report on 12 August, and which tabled an *Interim Report* on 24 June.

This report concluded:

The key issue for media and broadcasting is whether the AUSFTA allows sufficient flexibility for the Australian government to pursue cultural objectives through local content regulations now and into the future. The government has made assurances that its right to ensure local content in Australian broadcasting and audiovisual services, including in new media formats, is retained under the deal. However, significant question marks remain.

As the AUSFTA appears to limit the government's ability to institute other forms of local content regulations, this Committee is concerned to know how the government can back up its assurances that it will be able to ensure local content on this form of media into the future. It is unclear to the Committee at this stage just how much flexibility these stipulations allow for a future government to regulate local content in new media to achieve cultural objectives. It would seem that much depends on the interpretation of this wording in future negotiations, and, potentially, in the dispute resolution process should this be invoked (Senate Select Committee 2004).

This is consistent with the view of Jock Given, Director of the Communications Law Centre 1995-2000, who says that the Agreement:

provides a fairly solid safeguard about quotas for services already in place like commercial TV and radio, but not much safeguard at all for emerging services including pay TV. The precise impact will depend on how 'new media' replaces, subsumes or supplements 'old media' and how quickly (Given 2004: 5).

Given recommends that Australia's Annex II reservations be changed,

to allow measures affecting subscription TV, interactive video and/or audio and other audiovisual services to ensure that Australian content or genres is reasonably accessible [instead of not unreasonably denied] to Australian audiences (Given 2004: 5).

The agreement also aligns Australian copyright law with US law; from 50 years after the death of the creator to 70 years. The DFAT Fact Sheet on intellectual property disingenuously does not mention this detail, merely puffing<sup>2</sup> that the agreement:

Harmonises our intellectual property laws more closely with the largest intellectual property market in the world, which is recognised as a global leader in innovation and creative products (DFAT 2004)

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<sup>2</sup> "Puffery" a term used in advertising ethics to describe material which is exaggerated almost to the point of being misleading and deceptive. Harrison, John (2001) *Ethics for Australian Business*, Sydney: Prentice Hall: 153.

The NSW Government submission to the Senate Committee reviewing the agreement nailed this canard:

The NSW Government is concerned, however, that the proposed extension of the period of copyright protection from 50 to 70 years from the death of the author, will have a significant financial impact on libraries, universities and schools. The proposed extension is inconsistent with the Review of Intellectual Property Legislation conducted under the Competition Principles Agreement (2000), which concluded that there was no economic benefit to copyright owners of extending the term of copyright protection (Cabinet Office NSW 2004).

We await further developments.

### **A rare moment of reality in "reality" television**

Just as the television medium abhors silence, so reality television abhors reality. Such an unscripted moment occurred on Ten's *Big Brother* on 13 June, when evictee Melvin Luck emerged from the house with black tape across his mouth, and a small sign saying **Free th(e) Refugees**. Luck remained mute despite threats and cajoling by an increasingly frantic host Gretel Killeen as the episode careered out of control (Breen and Stapleton 2004: 3). Luck was sent off for consultations with his father and the show's psychologist, as if his behaviour was somehow inappropriate, wrong or indicative of a disturbed state of mind. The next night Killeen accused Luck of being aggressive. She need not have worried; the whole event was a ratings bonanza, with Ten besting both Nine and Seven that night (Chalmers 2004: 5).

## **POLICY AND REGULATION**

### **More Cash for More Comment?**

Complaints made by the Communications Law Centre, and aired on *Media Watch* in October 2002 asked the ABA to investigate the compliance by Sydney commercial radio broadcasters Alan Jones and John Laws with the new disclosure regime imposed following the cash for comment investigations in 1999. Unlike 1999, when the investigation was public, the ABA determined this matter behind closed doors. Of particular interest was Jones' move from 2UE to 2GB, where he took up a shareholding in the Macquarie Radio Network, owners of the station. His breakfast program was sponsored by Telstra, who of course paid the station, and not Jones directly. In April 2004, the ABA found that this did not constitute cash for comment. Jones, it appears, has been able to circumvent the intent of the rules put in place to compel disclosure. This finding was not made without embarrassment to the ABA, whose draft report did find Jones more culpable (ABC News Online 2004a).

Macquarie Radio Network, owner of 2GB, attempted, but failed, to injunct revelations by *Media Watch* that in December 2003, a draft ABA report did find Jones in breach. The draft report found that Jones denied or undermined alternative viewpoints on Telstra put to his program, and that his salary increase when he went to 2GB was partly because of his ability to attract Telstra sponsorship (ABC News Online 2004a). ABA chair David Flint, defended the Authority, saying,

... the draft report was prepared by a relatively junior officer and not approved by senior ABA staff. "When experienced officers looked at all the evidence which we had and applied the standards and the codes, they came to the conclusion that you couldn't come to the sort of findings that had been made in the draft," he said (ABC News Online 2004a).

### **Laws unenforceable**

In Laws' case, in 2003 the ABA found that 2UE had breached the provisions of the Broadcasting Act on nineteen occasions, when Laws did not comply with the disclosure requirements. However, in June 2004 the ABA announced that the Commonwealth DPP found there would not be a reasonable prospect of a conviction if the case proceeded. According to then acting ABA chair Lynn Maddock, "The burden of proof in criminal cases is much higher than in civil cases and for a successful prosecution in this case it would have to be proven that radio 2UE engaged in the conduct with the requisite criminal intention."

"The ABA has imposed a stringent monitoring condition on radio 2UE but would always be extremely reluctant to deprive the public of a popular service by suspending or cancelling the broadcasters licence" (ABC News Online 2004b).

These are, of course, exactly the steps needed to make it very clear to broadcasters the seriousness with which the ABA views such contempt for the regulatory process. The original complainant, the Communications Law Centre, made the obvious point that the Act needed strengthening. The ABA needs a tough, fierce, Alan Fels-like boss to enforce its Act, standards and codes.

The second major conclusion to be drawn is not about the opinionated and egotistical Laws and Jones hiding how they make a buck in a trashy Sydney sort of way, but the waywardness of Telstra's corporate governance practices. The corporation is still majority owned by the Australian Government, in trust for the people of Australia. The purpose of the Jones and Laws escapades is to improve the public image of Telstra to the point where the government can continue to privatise the telco. Telstra is using shareholders funds - half of which belong to the Australian people - to engineer a change of ownership in the corporation which is arguably not in the best interest of those very people. Corporate governance and perceptions of conflicts of interest is not

something the former Telstra board chair, Bob Mansfield was overly sensitive to. Otherwise he would not have mooted the idea of taking over Fairfax, which would have left the Australian government as Telstra's majority shareholder in effective control of one of the country's major media companies. The government can hardly be surprised that corporate governance standards are so low when corporations it controls have such poor practices. So where is ASIC, the corporate watchdog, in all of this, to remind the directors of their duties? Still cleaning up the mess in the insurance industry left them by their mates in APRA?

### **The Parrot and the Peacock**

Determination of these important matters was accompanied by an extraordinary series of events which exposed an effusive and gushing correspondence from Flint to Jones dating back to 1997; allegations by Laws that Alan Jones claimed to have lobbied Prime Minister Howard to retain Flint at the ABA; allegations, denied by Howard, that Alston has been instructed to change a cabinet submission to appoint Flint for an additional term (Charlton 2004: 1-2) an agreement by Flint not to sit on the ABA inquiry into Alston's complaints against the ABC, and his eventual resignation as ABA chair. In short, monarchist and Liberal Party member, Flint was found to have engaged in correspondence with fellow conservative Jones, some of it on ABA letterhead, but not to have declared this matter at the time he was chairing ABA investigations into Jones. Flint, as may be recalled, was required to stand aside from the first cash for comment inquiry because of his inopportune interview with Laws, while wearing his Australians for a Constitutional Monarchy top hat. A legal academic, Flint apparently did not learn anything from that experience about the notion of conflict of interest.

The whole matter of the Flint-Jones friendship went one step further when Laws, at the time the DPP was considering whether to charge him, went on the offensive, announcing in late May that at a dinner party in November 2000 attended by both, Jones had bragged about intervening with Prime Minister Howard to secure Flint a second term as ABA chair. Laws took his argument to the country, pursuing the matter not only on his own program syndicated across 63 stations nationally, but also on the ABC's *7.30 Report* and on *Enough Rope* with Andrew Denton. The seven members of the Broadcasting Authority met later that week, and publicly affirmed the integrity of decisions on both Jones and Laws (ABA 2004b). Flint however, then announced that he had agreed not to sit on the inquiry into Alston's complaints against the ABC, raising the inevitable question of why he remained ABA chair when constantly having to disqualify himself from ABA hearings (Maiden & Bachelard 2004: 4).

Flint's languid appearance before a Senate Estimates Committee three weeks later hastened his end. Witness this exchange between Flint and Senatorial toreador, John Faulkner, on the now infamous correspondence with Jones:

**Senator FAULKNER**—You have used the terminology ‘a stream of letters’. I think you used that publicly, including on the *7.30 Report*. Do the four letters that you have identified correspond to the stream of letters that you have spoken of? Let us be clear at the start. I think ‘stream of letters’ or ‘stream of correspondence’ is your own terminology, isn’t it?

**Prof. Flint**—I did use that term. I did not say ‘flood of letters’.

**Senator FAULKNER**—No, and I did not say ‘flood of letters’ either. I said ‘stream’.

**Prof. Flint**—A stream is a very small trickle.

**Senator FAULKNER**—Sorry; you have redefined ‘stream’ to be ‘a very small trickle’?

**Prof. Flint**—That is how I would regard a stream, Senator. When you write a lot of letters, Senator, you do not recall every letter that you have ever written in your life. Some come as a surprise to you when you see them again. There were letters written before I came to the Broadcasting Authority which constitute part of that stream.

**Senator FAULKNER**—Yes. There is a definitional problem here  
(Senate ECITA Committee: 9)

The fastidious Flint was unwilling or unable to provide the Senate Committee with copies of his correspondence with Jones, resulting in further torrents of unfavourable publicity. He was unable to provide:

- a letter he wrote to Jones on 28 November 1997 which accompanied a copy of a speech he had given to a media law conference.
- a letter from himself and the ABA board to Jones on 19 April 2000. He told the Senate Committee it was being examined by the ABA's legal advisers to see if it could be made public.
- two letters written by Jones to him in 1997 and 1999, saying they were subject to a Freedom of Information Request and legal advice (Senate ECITA Committee: 9).

Flint was only able to table the June 1999 letter, already made public. In that letter, which precedes Flint's later truncated participation in the first cash for comment inquiry, Flint writes of Jones' "extraordinary ability of capturing and enunciating the opinions of the majority on so many issues". "Keep up your considerable contribution to the widening of our national debates," he told Jones. Flint did not disclose this correspondence at the time of the inquiry. Flint has subsequently argued that Jones' responses contain "personal information intended by the author for my eyes only" while Jones says the correspondence is "of no demonstrable relevance to the affairs of government". The ABA on the other hand argues that because they are on Radio 2UE letterhead, the Jones letters should become part of the public record. Flint and Jones have appealed the ABA decision to release the documents (Maiden & McKinnon 2004: 4).

In the same Senate hearing, Flint revealed his disdain for the term "cash for comment"; in fact telling the Senators it was a term he had tried to outlaw:

**Senator FAULKNER**—Can you explain why you did not disclose your correspondence with Mr Jones prior to the ABA October hearings into 2UE which you presided over? Before you answer that, I am not sure how best to refer to that set of hearings. What is the correct terminology?

**Prof. Flint**—They were hearings, yes.

**Senator FAULKNER**—But how do we best describe them?

**Prof. Flint**—The commercial radio inquiry—which I much prefer to 'cash for comment', which I have tried to outlaw.

**Senator FAULKNER**—That is why I was asking you, just so we know we are talking about the same issues. The commercial radio inquiry.

**Prof. Flint**—Yes; and it was about the issue of talkback presenters being funded separately by their own sponsors. That was the whole point of that.

**Senator FAULKNER**—People say 'cash for comment' as shorthand.

**Prof. Flint**—Yes. I think it assumes far too much and it is—

**Senator FAULKNER**—Anyway, we know what we are talking about...

(Senate ECITA Committee: 9).

On 7 June the epicurean yet enigmatic Flint (Cadzow 2004: 26-29) fell on his sword. His term expired in October 2004, but he told a packed press conference he had resigned ahead of the impending amalgamation of the ABA with the Australian Communications Authority, announced in the 2004 Budget. Flint's replacement, in an acting capacity, was full time Authority Member Lynn Maddock, a highly respected and competent administrator.

### **ABA ACA merger**

Consistent with its vision of a convergent media world, the federal government has sought to amalgamate the broadcasting licensing regulator, the ABA, with the broadcasting technology regulator, the Australian Communications Authority (the ACA) to bring spectrum management responsibilities under one authority. The Department of Communications, Information Technology and the Arts (DCITA) produced two discussion papers, one in August 2002 (DCITA 2002), the next in August 2003 (DCITA 2003). Merger of the two authorities was announced in the May Budget. While there has been little industry or community reaction to the decision, the risks are that the new Authority may be dominated by a philosophy of technological determinism - "we should do it, because we can" - and the enforcement weaknesses of the old ABA will be carried over into the new Authority.

### **Community Television Licences**

In 2002, after a decade long trial, the ABA called for applications for five-year renewable community television licenses in Perth, Brisbane, Adelaide, Melbourne and Sydney. In Perth, the existing operator, Access 31 was awarded the licence. Channel 31 Adelaide will continue to be run on a trial basis. Hobart has no community TV station. In Brisbane, the ABA simply extended the existing license, held by Bris 31 for a further three months. A decision is also pending on the Melbourne application.

In March, the ABA awarded the Sydney licence was awarded to a new consortium, Television Sydney (ABA 2004a), a non-profit company comprising two groups: Educational Training Community Television (ETC TV), an umbrella body for educational institutions established by the University of Western Sydney and Metro Screen; and Sydney Local Information Community Educational Television Inc (SLICE TV), an umbrella body for Sydney community organisations and independent program-makers (Jackson 2004b:20) The previous licence holders, a consortium of ethnic broadcasters who bid for the new license as Community Television Sydney, are challenging the decision in the Federal Court (ABC RN 2004a). Former ABC Managing Director David Hill was appointed as interim executive director of the new service (ABC News Online 2004c) which has twelve months to become operational.

### **Consumer Watchdog barks at advertorials**

The new chief of the Australian Competition and Consumer Commission (ACCC), Graeme Samuel, originally castigated as Peter Costello's poodle, has warned the media industries about the misleading and deceptive conduct provisions of the Trade Practices Act as they apply to product placement in television programming. Addressing a consumer law congress in Melbourne on National Consumers' Day, 15 March, Samuel said:

The Commission takes the view that as a media outlet's involvement in the production and scripting of advertising content increases and as advertising moves from being discrete from programming and becomes a promotion or endorsement that is integrated into programming, the media outlet's responsibility for the content of the advertising increases and it becomes less likely that the 'publisher's defence' will apply (ACCC 2004).

Samuel noted that of particular interest to the Commission were:

- advertorials where the media outlet or a particular employee/presenter endorses or appears to endorse a product
- 'Infomercials', which in the context of television broadcasts, is in the nature of programming the promotion of products in the guise of current affairs reportage or lifestyle programs, in particular where the program purports to be credible investigative journalism and the product is actually being promoted, including by linkage to program's website (ACCC 2004).

### **Not another network?**

The expiry of the current free to air television license regime on 31 December 31, 2006 has created speculation about the possibility of licensing a fourth free to air network which could raise between \$500 million and \$1 billion at auction. Opposition communications spokesman, Lindsay Tanner, was

reported to be in favour of a further FTA TV network (Schulze 2004d: 19). The current network operators, as could be expected, quickly banded together to oppose the suggestion (Lewis 2004: 9; Schulze 2004c: 21). Ad man John Singleton and a few of his mates, including former Nine Network and BSKyB heavyweight Sam Chisholm and *Croc Dundee* director Peter Faiman, indicated interest in bidding for a fourth FTA licence with all Australian programming. The idea generated some coverage in the quality media - Radio National's *Media Report* (ABC RN 2004b), the Fairfax broadsheets (Catalano 2004: 3; Marriner 2004: 3) and the *7.30 Report*. Singleton told Kerry O'Brien:

It occurred to me that if there was going to be a fourth free-to-air network that it would be politically palatable to the existing players and also serve a fantastic service to the community if we do an all-Australian channel (ABC TV *7.30 Report* 24 June 2004).

Subsequent suggestions were that the free trade deal with the US would rule out the idea of an all Aussie network (Schulze 2004g: 19). Sony also flagged interest in bidding for a fourth FTA licence (Schulze 2004f: 21). Submissions on whether another license should be offered closed in July 2004.

### **Australian Press Council**

The Press Council made fifteen adjudications in the period under review. Nine were dismissed; the remainder upheld, all but one in part only. The metropolitan dailies featured in eleven of the adjudications. The only complaint completely upheld was against the *Fraser Coast Chronicle*, and involved barking dogs (No 1230). One adjudication (No 1231) involved a Chinese language newspaper. While there was no overall pattern to the complaints, there were several complaints about the way in which matters of religion and ethnicity were reported. The Council subsequently released a statement on the issue, saying *inter alia*:

Currently, the use of the words "Islam", "Islamic" and "Muslim" in headlines on reports of terrorist attacks is causing problems both for the Muslim community in Australia and the Australian media. Even, the use of headlines of the style "Muslim terror" and "Islamic bomb attack" would be best avoided as they can be seen to link religious belief and its adherents to deliberate acts of terror (APC 2004).

There was also a complaint upheld about the reporting of a phone-in poll in *The West Australian* on the oath of allegiance. In its adjudication (No 1232), the Council issued a reminder that it had previously released guidelines on the reporting of polls.

### **Roger, Wilco and Out**

The ABC suffered further self-inflicted damage with a decision to include a nightly national sports wrap out of Sydney in the 7 pm News. Melbourne news and sports staff, in particular, were incensed, fearing AFL news in footy-mad Melbourne would be downgraded but Sydney-centricity is now an ABC state of mind. The real reason for the decision was to provide a reward for Wilco - ABC sports presenter Peter Wilkins - who had resisted the lure of following his mates from the popular sports chat show *The Fat Tony Squires* and Rebecca Wilson to the Seven Network, when ABC television management made life difficult for them with disruptive changes of time and format.

## RESTRICTIONS ON REPORTING

### Defamation law "reform"

No, this not a misprint. It's on again. In the same ministerial reshuffle that returned Richard Alston to private life, Philip Ruddock moved from the Immigration portfolio to become Attorney General. Soon after his arrival, Ruddock proclaimed the need for reform of the nation's defamation laws, insisting that if the states did not agree to a uniform code, he would impose one federally (DAG 2004).

The changes proposed by Ruddock fall into several categories. Some relate to the administration of the law, and to making the application of the law more speedy and simple. Others, particularly those changing the defences available, have serious import. One in particular, abolition of the defence of fair comment and creation of a defence of honest and reasonable opinion "could well have a chilling effect on free speech and freedom of the press", according to one legal authority (Thompson, Williams & Bacon 2004).

The proposals that simplify administration of the law, but do not necessarily improve the quality of justice, are:

- *Abolition of the concept of each defamatory 'imputation' constituting a separate cause of action.* In some jurisdictions each imputation is classified as a separate action. Consolidation of all imputations into one action has the potential to reduce the costs of defamation litigation.
- *Correction orders and swift right of reply.* Ruddock proposes to grant the court the power to make correction orders, including the power to determine the prominence to be given to any correction. This is an increasingly common provision in the area of trade practices law. Publication of corrections would be taken into account in determining damages. The new Act would also create a strong incentive for defendants swiftly to publish a reply that would reach the same general audience as the original defamatory material.
- *Abolition of juries.* The ACT and South Australia currently have jury free defamation hearings. The abolition of juries is problematic, both in

principle, and when determining what constitute an "honest and reasonable opinion", under the revised defences proposed.

The other innovation is that of a limited right of action on behalf of deceased persons. This proposal provides that a relative of a deceased person can sue for defamation for three years after death. Damages would not be available; the remedies would be a correction order, declaration and or injunction.

Changes to the defence:

- *Abolition of truth alone as a defence.* The "truth and public benefit" defence currently applies in Qld, NSW, and arguably in the ACT. All other jurisdictions rely on truth alone.
- *Abolition of the defence of fair comment and creation of a defence of "honest and reasonable opinion".* According to Ruddock's Discussion Paper "The defence is narrower than the common law defence of fair comment because it protects only opinions and comments that a reasonable person might have formed. Thus, prejudiced, biased and grossly exaggerated opinions will receive no protection" (DAG 2004). What impact might this have on irony, hyperbole and satire? According to lawyers Allens, Arthur Robinson:

Any proposal to narrow this defence has the potential to significantly impact on freedom of speech and the freedom of editorial comment, particularly given that under the Federal Government's model, it will be a judge rather than a jury who will decide whether an opinion is 'reasonable'. This could well have a chilling effect on free speech and freedom of the press (Thompson, Williams & Bacon 2004).

*Replacement of the common law defence of qualified privilege with a defence of 'reasonable publication'.* According to one legal authority, "While... the proposed reasonable publication defence appear to offer greater scope for protection of mass media defendants than the common law defence of qualified privilege, in practice, judges have rarely regarded the conduct of the media as 'reasonable' " (Thompson, Williams & Bacon 2004).

Indeed! The Standing Committee of State Attorneys General is scheduled to meet in July 2004 to progress the issue.

Overall, the changes are consistent with the philosophy of the Howard Government, which is committed to increased freedom in the exchange of goods and services, and increased restrictions on the free exchange of information and ideas. Witness the continuing attempts to intimidate the ABC; restricted media access to detention centres; denial of media access to asylum seekers landing in northern Australia; restriction on the photographing of Parliament; denial of FOI requests; changes to the Electoral Act closing the

rolls the day the election is called and restricting the rights of prisoners to vote (Cole 2004: 1); Defence Force restrictions on access to information during the Iraq war on the spurious grounds of national security, and the restrictions on Australian content in the US-Australia free trade agreement.

### **Freedom of Information**

Throughout 2003 Treasurer Peter Costello, waged a battle against the release of Treasury documents sought by *The Australian* newspaper the operation of the first homebuyers scheme, income tax bracket creep and baseline information used in the preparation of the report on population ageing. Costello used the device known a "conclusive certificate", a rarely used form of suppression, last used when Peter Reith refused to allow public access under FOI to documents on waterfront reform. This left the matter to be determined by the appeals process (McKinnon 2004a: 2; McKinnon & Walker 2003: 5; McKinnon 2004b: 27). *The Australian*, to its credit has not backed off, despite the arcane and expensive review process. The appeal was scheduled to be heard in mid July 2004.

In Brisbane, in an appalling misuse of the Cabinet secrecy provisions of the Queensland FOI Act, Premier Peter Beattie got himself tangled up by barrelling documents relating to the use and abuse of government cars used by ministers through State Cabinet, prior to the Queensland State Election on 7 February. Subsequently, some smart journalism by the *Sunday Mail* got Beattie on the back foot, and he quickly revealed the documents which showed that while driving government vehicles -permissible at the time - members of his own family had been involved in accidents (Giles 2004: 22).

### **Speaker's sanctions against snappers**

The House of Representatives Speaker Neil Andrew made an ass of himself by banning news photographers from the House for snapping and then publishing photographs of an intruder in the Chamber on 12 February 2004. When the photographs appeared the following day, Andrew banned all photographers from the offending papers for seven days. *The Australian* editorialised:

Inevitably such political censorship will be hamfisted... Parliamentary proceedings viewed by Australians sitting in the public gallery should be open to photography for the benefit of other Australians. Is that such a radical idea? "Keeping the voters in the darkroom" (2004: 12).



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Andrew, who is retiring at the end of this term, has not yet managed to find how a US TV crew managed to smuggle a camera into the chamber during George Bush's presidential visit in 2003. *Media Watch* has identified the crew as from Fox News, who gained access to the Parliament with White House assistance (ABC TV *Media Watch* 24 May 2004). Andrew then made an appearance on *Insiders* to be gently quizzed an obsequious SMH picture editor Michael Bowers, in an attempt to defend the indefensible (ABC TV 2004 *Insiders* 28 March). Andrew would be better employed putting a stop to the appalling Dorothy Dixers from the government backbench than taking out his wrath on the hapless snappers.

### **Victorian media cop it**

In late May reportage of the leaking of material provided to Victoria Police by an informant, who was subsequent shot dead in Melbourne's gangland wars, saw the police and the Victorian premier take aim at the journalists, not their corrupt police who has leaked the dossier.

Under pressure to end the slaughter in the streets, Premier Bracks huffed and puffed with moral indignation about the responsibility of the media to assist a force flatfooted by the entire affray (Evans, Silkstone, Petrie & Baker 2004: 3). His Ombudsman came to the rescue by suddenly producing former Queensland corruption commissioner Tony Fitzgerald to investigate the matter.



### **Media access to asylum seekers**

In one of the most bizarre communications ever to be issued by a government flak catcher, Kym Charlton, public affairs manager of the infamous People Smuggling Taskforce, the people who brought us children overboard in 2001, refused to provide information to *Media Watch* about the conditions under which journalists might be permitted to access "unauthorised

arrivals". The request follows some sleight of hand by federal officials when a number of people arrived at Melville Island, in the Northern Territory, and a number of other incidents in which authorities went to extraordinary lengths to keep journalists away from asylum seekers. The sleight of hand, incidentally, did not go unnoticed by the courts.

As *Media Watch* reported the exchange, Charlton wrote:

Before expending resources in supplying you with a response to your questions, I would appreciate it if you would provide written confirmation that our response will be used in full and in context.

*-Kym Charlton email to Media Watch, May 6 2004*

DIMIA's 'control issues' are no secret, but we're just journalists asking for an explanation of government policy. So we replied:

Media Watch always does its best to report responses fairly, accurately and in context...The relevant sections of your response will be incorporated into our television report and your written response will be published in full on our website.

*-Media Watch email to Kym Charlton, May 6 2004*

Ms Charlton was not mollified. She told us DIMIA would decide what was relevant - and refused to provide the material unless we accepted her conditions. We replied:

The content of Media Watch is determined ... in accord with the editorial policies of the ABC.

It is completely inappropriate for you or the Department of Immigration to attempt to dictate the content of Media Watch.

The government policy on media coverage of unauthorised arrivals is a matter of public interest and a legitimate subject for inquiry by Media Watch or any other media organisation.

*-Media Watch email to Kym Charlton, May 7 2004 (ABC TV Media Watch 10 May 2004).*

At the end of this imbroglio it is still unclear about what the policy might be. Or do they simply make it up as they go along? The entire exchange evoked memories of Tom Wolfe's classic essay, "Mau-Mauing the Flak Catchers" (Wolfe 1984).

## **MP seeks suppression in Adelaide**

Trish Draper, federal member for the now highly marginal government seat of Makin in Adelaide attempted on 16 May to have the courts suppress a Channel 7 story about how she travelled overseas on parliamentary entitlements (ie at taxpayer expense), with an Adelaide photographer who was then her boyfriend, but with whom she was not domiciled. Perhaps she had high hopes of the Adelaide judicial fraternity whose fondness for suppression orders on matters of public interest is unparalleled elsewhere in the nation. That Draper did not let the story air in the hope it would be a one-night wonder, but instead sought to cover it up, had the inevitable effect of making it not only a national story, but also a national issue. She was receiving advice, so it was reported, from the state Liberal Party branch on "strategy" (McIlveen & Starick 2004: 10).

The story, when it came out, was a tabloid editor's dream. Details of the trip, including an episode of food poisoning in Paris, which revived memories of the contribution of Sir Les Patterson to intercultural relations, were made known across the nation. It probably ended Draper's career, revealed the photographer to be a person of interest in a subsequent murder case, caused the barbie doll of Australian politics, Natasha Stott Despoja to throw a hissy fit, showed Tasmanian Liberal hard man and Special Minister of State, Eric Abetz, who approved the trip, to be a bumbling fool, and caused Prime Minister Howard to review the guidelines (ABC TV *7.30 Report* 25 May 2004).

### **Radio silence in Queensland**

Queensland's Crime and Misconduct Commission (CMC), which appears to currently have inordinate difficulty finding any crime or misconduct in a cleaned up Queensland, was commissioned by the Beattie Government in May to conduct an inquiry into continuing media access to the police radio network. The network was going digital, and thus secure from the ears of the fourth estate, some of whom argued that the very foundations of democracy would be undermined if they were not permitted continuing access to the coppers' chat channel. That they also derived a commercial benefit from such access, through diligent attendance at fires, cat rescues and car chases, seemed to have escaped mention. Moreover, it cannot be established that radio listening habits of the fourth estate assisted in the apprehension of crooked cops in the days of Jack Herbert's Joke.

By the closing date for public submissions, the CMC had received at least forty responses, and will conduct public hearings in July 2004 with a subsequent report to the Queensland Parliament. The CMC has chosen to make eight of these submissions public on its website - those of the *Courier-Mail*, the 7 and 10 networks, the police associations, the Queensland Law Society and the Queensland Integrity Commissioner. Observers have been perplexed as to why only the submissions from the big end of town were made public.

### **Northern Territory: More dark deeds in the desert?**

The trial of Bradley Murdoch for the alleged murder of British backpacker Peter Falconio on a lonely stretch of the Alice to Darwin highway brought out the best in the British tabloids, and their Australian imitators in print and television. Like the Chamberlain case, the case had a desert setting, no body had been found, and an unsmiling, outwardly unemotional woman.

Northern Territory authorities were anxious to avoid the trail by media that wrongly convicted Lindy Chamberlain. Before the trial, which has its own page on the NT DPP website (NT DPP 2004a) the NT DPP issued a *Fact Sheet* on media coverage of court cases (NT DPP 2004b).

On arrival in Darwin for the hearing, Murdoch's defence lawyer, Grant Algie launched into litigation PR, walking through the Darwin airport terminal delivering a homily on the presumption of innocence to the assembled media throng (Michelmore & Conway 2004).

The media-phobic Joanne Lees tried to cut a deal with the paparazzi, ostensibly because of her concern that injuries may result from the crush to photograph her on the way to and from the court. During the committal she offered limited photographic access in return for a donation to a charity, the Northern Territory Victims of Crime. Some members of the fourth estate declined, and counter offers were made, but rejected by Lees. Lees has only made two media appearances since Falconio's disappearance, a tightly controlled press conference in Alice Springs, and an exclusive interview on ITV in Britain in 2002 for which she was reportedly paid \$A85,000 (AAP 2004).

As the committal proceeded media lawyers found themselves arguing against the suppression of some evidence, which the magistrate ruled, should not be published in order to secure the accused a fair trial. They lost. Witness, however, this possibly prophetic statement from the Magistrate, as lawyers for the defence attempted to suppress the suppression submissions. "I will live in fear and trembling that I will be the basis of a journalism course, but I am not going to suppress them," Magistrate McGregor said (AAP 2004b).

## **MOVEMENTS**

### **News goes to NY**

The move by the Murdoch controlled News Corp to list on the NYSE as well as the ASX was hailed by the clique of News Ltd commentators as a stroke of genius by Rupert Murdoch. "It's GOOD NEWS week," ran the OZ Media section headline. "The Murdochs came to town this week to announce the biggest media news story in a decade" (Schulze 2004a: 17). Terry McCrann's column was headed "Murdoch follows a 21st century path. News's US listing should be a model not a problem" (McCrann 2004: 32). A contrary view was put by the acerbic Alan Kohler of Fairfax and the ABC, who wrote of News Corp:

It's not Australian, there's no dividend worth mentioning, it's a corporate governance disaster run as Rupert Murdoch's family company with his kids in key jobs and his mates on the board and it's giddily volatile. But they (super fund managers) couldn't afford not to own it because it has such a big influence on the index benchmarks. (Kohler 2004: 22).

The move means Standard and Poors will no longer count News in the ASX 200, although this has not been confirmed at the time of writing. For News, the NYSE listing means easier access to capital. Watch this space for the debate about the disposition of the Brisbane *Courier-Mail* in this brave new world.

### **Hilmer exits Fairfax**

Fairfax CEO Fred Hilmer announced on May 6, 2004, announced his intention to step down in 2005. Since Fred's performance began at Broadway in October 1998, the share price of Fairfax increased by around ten percent (Caldwell 2004). The two major events on Hilmer's watch were the losses from f2, the company's Internet tech boom adventure, and the purchase of the Independent Newspapers group in New Zealand from News Ltd. Hilmer, a business academic before his appointment, and architect of the national competition policy reforms, focused on getting the business basics right, perhaps taking the view that if the business was running smoothly, then the journalism would look after itself. He told *Media* columnist Mark Day:

In the past five years our team has brought stability, fixed the balance sheet, fixed the capital plant, got ourselves to a sustainable and profitable point on the Internet, and made two good acquisitions. I am proud of that (Day 2004: 17).

And, er, Fred, what about the widgets, er, newspapers? How are they going?

Chief widget maker for Fairfax in Victoria, *Age* Editor Michael Gawenda has announced he will step down in the second half of 2004 after seven years in the job. From January 2005 he will write from Washington for the Fairfax press (Gooch 2004).

Despite denials, there is no doubt that PBL would like to control Fairfax, and Hilmer's replacement needs to be a person who can not only manage the newspaper company well, but who at the same time can live with, and foster, the distinctive journalistic culture of the organisation, and well as keeping both the predators and the gamekeepers at bay. Sounds like a slot for Clark Kent.

### **Mansfield exits Telstra**

Telstra chair Bob Mansfield resigned on April 14 after losing the support of his fellow directors. Mansfield, a former CEO of McDonalds, Optus and Fairfax, had presided over a number of disasters at Telstra. His fatal move was to propose a takeover of the John Fairfax assets, and to run this idea past the Prime Minister before getting approval for the deal from his own board. Mansfield's political naiveté in proposing a deal which would effectively see the Federal Government, as the majority owner of Telstra, own one of the nation's premier media companies, and his stumbling, if not dissembling, performance in the wake of the revelations in *The Bulletin*, contributed to his demise.

Mansfield's resignation put CEO Ziggy Switkowski under increased pressure to perform. Nine Network and *Bulletin* finance commentator Ross Greenwood reporting on April 27, "Right now, Switkowski is a dead man walking" (Greenwood 2004: 11). Switkowski did however get the message, and eschewed the turn of the century off shore adventurism, which had cost the company, and more particularly its very unhappy banks, dearly, promising to shower shareholders with largesse. It would be fair to say that following Mansfield's departure, Ziggy had his wings clipped.



### **Anderson exits Optus**

Optus chief Chris Anderson announced on May 5, 2004 that he would step down in August 2004. In June, Anderson was appointed to the board of PBL.

### **Yeates exits PBL**

At Publishing and Broadcasting Ltd, Peter Yeates was replaced by John Alexander as CEO on June 9. Alexander is a former editor of the *Sydney Morning Herald* and the *Australian Financial Review*. Kerry Packer (whose family company owns 35% of PBL) was appointed as Deputy Chair. Packer resigned as chair in 1996 in favour of his son James. Alexander is the fifth PBL CEO in eight years. PBL shareholders can anticipate a record net profit of \$450 million for the current year (Schulze 2004b: 1-2).

### **Nine News without Rudder**

However PBL subsidiary, the Nine television network faced increasing challenges from Seven, led by former Nine news and current affairs guru Peter Meakin, in its key Sydney market. While Nine scored a record audience for its telecast of the Second State of Origin on June 16, that night Nine's 6

pm News was beaten nationally by Seven News (1.537 million viewers to 1.506 million). Seven's *Today Tonight* continued to trash *A Current Affair*, 1.54 million viewers to 1.36 million (Jackson 2004a). The early morning *Today* show now regularly trails Seven's *Sunrise*.

On June 30 Jim Rudder, head of news and current affairs at Nine, who replaced Peter Meakin in May 2003, was fired by Nine. Rudder, a former executive at B SkyB in Britain was highly regarded for his technical competence, but failed to get along with David Gyngell, now Nine CEO following the elevation of John Alexander to PBL CEO. All Nine news staff heads now report directly to Gyngell. Rudder was regarded as being out of touch with Australian television news and too technically oriented to mastermind the news ratings battle with Seven. Under Rudder producers on key programs, *Today* and *Sunday*, were changed ahead of this year's ratings battles, and long serving network news director Paul Fenn, a twenty-three year veteran of Nine, ten of them as network news head, retired to stud (Jackson & Meade 2004: 17).

### **Uechtritz exits ABC**

Fed up with having to expend energy of internal dogfights and bunfights at the ABC, Max Uechtritz resigned as head of ABC News and Current Affairs in April to go to Nine as head of News, with a brief to lift the performance of the ailing 6 pm News in Sydney, under increasing threat from Seven. Uechtritz is 18-year veteran of the ABC.

### **ABC finds a "right wing" Philip Adams?**

For those who like to think in binary terms, Philip Adams, (a leftie not a liberal, as his youthful membership of the Communist Party shows), has been given a counterpoint on the ABC in the form of publisher and columnist Michael Duffy who will front a weekly gig on Radio National (Simper 2004: 15).

### **News and Current Affairs Peer Assessed Logie Awards**

Most Outstanding News Coverage: *Marine's Fire*, an ABC TV News report by Geoff Thompson in Iraq. Other nominees: Canberra Bushfires (9), Waterfall (7).

Outstanding Public Affairs Report: The Big A (Hazel Hawke's battle with Alzheimer's disease, *Australian Story*, ABC TV. Other nominees: Aceh - in bed with TNI, and Inside Nauru (*Dateline*, SBS), The Jesuits (*7:30 Report*), Making a Killing (*60 Minutes*, 9).

Most Outstanding Documentary Series: *Dying To Leave*, SBS TV; a two-part series about people smuggling and human trafficking in a globalised world.

## Circulation and ratings: Still the One?

Despite the angst reported above about Nine's loss of dominance in the FTA television market, the network continues to dominate the list of most popular programs nationally, and maintain its share across the national television market.

### Share of the top 10 FTA television programs by network

TV Network	Week 50 7-13 Dec 2003	Week 25 13-19 June 2004
ABC	2	0
Seven	0	0
Nine	6	7
Ten	2	3
SBS	0	0

SOURCE: Crunching the Numbers (2003: 8).

### FTA Television Audience Share Dec 2003-June 2004.

TV Network	Week 50 7-13 Dec 2003	Week 25 13-19 June 2004
ABC	18.6	15.8
Seven	24.5	23.2
Nine	27.1	31.2*
Ten	24.5	25.1
SBS	5.2	4.7

\* Inflated by State of Origin II June 16. SOURCE: Crunching the Numbers (2004:20).

The ABC continues to its policy of not funding *Stateline*, the state based current affairs programs, while inflicting rubbish like *Mondo Thingo*, *The Einstein Factor*, and *The Glasshouse* on its long suffering and loyal audience.

## Margot mainstreams Online Media

The *enfant terrible* of Australian journalism, Margot Kingston warehoused (her word) at SMH Online as web dairy editor, barnstormed the country in late June to promote her new book *Not Happy, John: Defending Our Democracy* (Kingston 2004) based on the new civic journalism project that her webspace has become. Quoting fulsomely from Robert Menzies *Forgotten People* speeches, Kingston urged a vote against Howard in the forthcoming federal poll.

At the Melbourne launch, Tony Fitzgerald took time out from reprising his role as Eliot Ness in Melbourne to give politicians of all shades - including no doubt his latest employer, Steve Bracks - a thorough baking on ethics. Michelle Grattan reported in *The Age*:

Retired judge Tony Fitzgerald, QC, has launched a broadside at the main political parties, saying they have "largely abandoned the ethics of government", and practice "pervasive deception".

Accusing the mainstream parties of routinely shirking their duty to democracy, he said that in what passed for political debate, it was seen as not only legitimate but clever to mislead.

"Although effective democracy depends on the participation of informed citizens, modern political discourse is corrupted by pervasive deception," he said (Grattan 2004: 1).

Early indications are that the book has touched a nerve in the community. Moreover, it looks like being a best seller, coming in 4th on the Nielsen BookScan bestseller list for the last week in June 2004, behind Bill Clinton, Bill Bryson and Dr Phil's latest work on weight loss ("Crunching the numbers" 2004: 20).

### **Conclusion: The end is near?**

The second half of this year will bring a federal election campaign. It will be hard fought, with the six o'clock news the main battleground. At the time of writing the federal government is pouring millions of dollars into advertising its programs, in the now traditional election year spike in government advertising. Parliamentary Library research shows:

The 1993, 1996, 1998 and 2001 federal elections were preceded by sharp increases in government advertising outlays:

- the bulk of the Keating Government's \$3 million advertising campaign on Medicare Hospital Entitlements was spent the month before the 1993 poll.
- the Keating Government spent \$9 million in the three months prior to the 1996 Federal election campaign.
- the Howard Government spent \$29.5 million in the three months before the 1998 election campaign. Half this expenditure (\$14.9 million) was on the GST campaign. Still, pre-election spending on GST advertising accounted for only 13 per cent of total expenditure on the GST campaign, and
- in the four months before the 2001 election, the government spent roughly \$78 million (Grant 2004).

It concludes, "This trend of pre-election spikes in government advertising seems likely to continue" (Grant 2004).

The character analysis of Latham has also begun in earnest with the *Sunday* program and the Sunday tabloids opening fire on the fourth of July.

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