ASTRA POLICY UPDATE – AUGUST/SEPTEMBER 2013

NEWS

Screen Australia appointments

In late July 2013 the Australian Government and Screen Australia announced a number of new board and management appointments:

- Deanne Weir has been appointed Deputy Chair, with Rosemary Blight and Joan Peters new members of the agency's Board;
- Graeme Mason has been appointed new Chief Executive Officer.

ASTRA Chair

On 29 July 2013 ASTRA announced that business leader Tony Shepherd will replace Steve Bracks as ASTRA Chair in November. Mr Shepherd is President of the Business Council of Australia, chairman of Transfield Services and the Greater Western Sydney Giants, a non-executive director of other organisations and well known supporter of sports and arts organisations. The full media release is available on the ASTRA website at: http://www.astra.org.au/ArticleDocuments/116/Media%20release%20-%20Business%20leader%20Tony%20Shepherd%20to%20chair%20ASTRA.doc.pdf.aspx

Australian Law Reform Commission inquiry into Serious Invasions of Privacy in the Digital Era

On 30 July 2013 Attorney-General Mark Dreyfus QC has appointed Professor Barbara McDonald to head the Australian Law Reform Commission (ALRC) inquiry into Serious Invasions of Privacy in the Digital Era. Professor McDonald is a Professor of Law at the University of Sydney and will look at whether there should be a right to sue for breach of privacy. Further information on the Inquiry on the ALRC website at: http://www.alrc.gov.au/inquiries/invasions-privacy

Sports betting advertisements and live odds promotions in sports broadcasts

On 31 July 2013, amendments to the ASTRA Codes to reduce and control sports betting advertising during live sports broadcasts came into effect after registration by the Australian Communications and Media Authority (ACMA). In general, the amendments:

- prohibit the promotion of betting odds
    - during play, during scheduled breaks in play, or during unscheduled breaks in play in a live sporting event, and
    - by a commentator during the periods 30 minutes before the event has commenced and 30 minutes after the event has concluded;
    - prohibit sports betting advertising during play;
- permit the promotion of betting odds other than by a commentator (including spot commercials and paid, clearly identified sponsorship segments) before play has commenced or after play has concluded;
- permit the broadcast of betting advertisements before play has commenced, during scheduled and unscheduled breaks in play, and after play has concluded;
- require representatives of gambling or betting organisations to be clearly identifiable as such and not appear as part, or as a guest, of the commentary team at any time.

The prohibitions do not apply to:

- broadcasts of horse racing, harness racing or greyhound racing;
- events viewed on a pay-per-view basis;
- betting services accessed through an active choice by the viewer (e.g. via 'red button');
- live odds promotions or betting advertisements in a broadcast of a live sporting event originating from outside Australia where the licensee receives no benefit from the promotion or advertisement and it is not reasonably practicable for the Licensee to remove the promotion or advertisement;
- a service provided exclusively to commercial premises licensed to serve alcohol, and that is not available for private or domestic use.

The new provisions of the ASTRA Codes in full are available on the ACMA website at: http://www.acma.gov.au/theACMA/About/The-ACMA-story/Regulating/broadcasting-codes-schemes-index-radio-content-regulation-i-acma

On 1 August 2013, variations to the South Australian betting advertising codes also came into effect. These codes apply to advertising by gambling providers and prohibit certain betting advertising. Compliance with the ASTRA Codes of Practice in relation to sports betting advertising during live sports broadcasts meets compliance with the revised South Australian betting codes (ie is exempt from these additional SA requirements). However, the scope of the South Australian codes extends to all gambling provider adverts.

The revised South Australian advertising codes are available on the SA Independent Gambling Authority website at: http://www.iga.sa.gov.au/reginstruments.aspx

Tobacco advertising: Federal Court decision

On 14 August 2013, the Federal Court found in favour of the ACMA in the matter of Channel Seven Adelaide Pty Ltd v ACMA. The Court upheld an ACMA finding that Channel Seven Adelaide Pty Ltd had breached a licence condition by broadcasting a news segment on 18 July 2010 called "Cheap Cigarette Imports". The news segment related to the sale of budget brands of cigarettes imported from Germany. The ACMA decided the segment involved the broadcast of a tobacco advertisement in contravention of section 13 of the *Tobacco Advertising Prohibition Act 1992*. Seven challenged the ACMA's decision on several grounds. Each was rejected by the Court. Further information is available on the ACMA website at: http://www.acma.gov.au/theACMA/Newsroom/Newsroom/Media-releases/federal-court-dismisses-channel-seven-challenge. Federal Court decision available in full at: http://www.austlii.edu.au/au/cases/cth/FCA/2013/812.html

Election 2013: broadcasting-related policy announcements

- ***Coalition: Gambling*** – The Coalition's gambling policy document includes the statement that a Coalition Government "will legislate to control gambling advertising if current self-imposed industry regulations prove ineffective". Full document: http://www.liberal.org.au/helping-problem-gamblers

- ***Greens: Advertising to Children*** – The Greens propose to ban 'junk food', alcohol and gambling ads on commercial TV between 6am and 9am, and 4pm and 9pm on weekdays; and between 6am and 12pm, and 4pm and 9pm on weekends and during school holidays. STV channels dedicated to children's programming would be banned

from showing 'junk food', alcohol or gambling ads at any time. Full document: http://greens.org.au/safer-kids-ads

- ***Greens: Sports Betting Advertising*** – The Greens propose to ban: ads for gambling services in children's viewing hours before 9pm including during sports broadcasts; the advertising of live odds at any time; sports commentators integrating promotion of betting companies into sports programs such as the Footy Show; and sponsorship of sporting teams by gambling companies. Full document: http://greens.org.au/ban-gambling-kids-tv

CONFERENCES & EVENTS

ACMA RadComms2013: 4G and beyond – 2-3 October 2013

Registrations are now open for the ACMA's RadComms2013: 4G and beyond conference, to be held on Wednesday 2 and Thursday 3 October 2013 at the Australian Maritime Museum, Darling Harbour, Sydney. Registrations close 23 September 2013. Further information is available on the ACMA website at:
http://www.acma.gov.au/theACMA/About/Events/Radcomms/register-now-radcomms2013-4g-and-beyond

ASTRA ACTIVITY

- **Therapeutic Goods Administration (TGA) Consultation Regulation Impact Statement (RIS) - Regulating the advertising of therapeutic goods to the general public – A**STRA made a submission to this consultation on 19 July 2013. The TGA sought public comment to help inform the Australian Government in decision making on proposed regulatory reforms to improve the management of public health risks in relation to the advertising of therapeutic goods to the general public. Further information on the TGA website at: http://www.tga.gov.au/newsroom/consult-advertising-ris-130531.htm

- **Sports betting advertisements and live odds promotions in sports broadcasts** – As discussed above, amendments to the ASTRA Codes to reduce and control sports betting advertising and live odds promotion during sports broadcasts came into effect on 31 July 2013, with related changes to betting advertising codes of practice in South Australia. ASTRA has been working with the Government and the ACMA to develop these amendments in response to the Council of the Council of Australian Governments (COAG) Select Council on Gambling Reform decision in May 2011 to take action to reduce and control the promotion of live odds during sports coverage, and subsequent policy decisions by the current Australian Government.

- **Australian Law Reform Commission Inquiry into Copyright and the Digital Economy** – On 5 August 2013, ASTRA made a submission to the ALRC Discussion Paper released in June. The discussion paper is available on the ALRC website at: http://www.alrc.gov.au/publications/copyright-and-digital-economy-dp-79

- **Long term spectrum arrangements for television outside broadcasts (TOB) in alternative bands to the 2.5 GHz band** – ASTRA continues to work with the Government, the ACMA and other stakeholders to ensure a sustainable long term solution for TOB spectrum arrangements. ASTRA's proposal for equitable TOB spectrum sharing was

submitted to the ACMA in June 2012 and is available on the Submissions page of the ASTRA website.

- **ASTRA Codes Review** – ASTRA continues to work with the ACMA on a small number of outstanding issues relating to the current draft Subscription Broadcast Television, Subscription Narrowcast Television and Subscription Narrowcast Radio Codes of Practice, and hopes to have the codes finalised for registration very shortly.

ASTRA submissions are available on the ASTRA website at:
http://www.astra.org.au/Menu/Policy/Overview/Submissions

DISCUSSION PAPERS/REQUESTS FOR COMMENT

Copyright Legislation Amendment (Fair Go for Fair Use) Bill 2013

On 27 June 2013 the Senate referred the Copyright Legislation Amendment (Fair Go for Fair Use) Bill 2013 to the Senate Committee on Environment and Communications for inquiry and report. The bill would amends the *Copyright Act 1968* to: provide that digital locks or technical protection measures that restrict accessibility for the visually impaired and disabled are removed; provide legal protection to universities, libraries, schools, cultural institutions, content service providers and internet service providers from being sued when other persons have accessed certain online content; remove geocodes from the use of overseas content; and provide for a fair use exception.

Submissions should be received by **31 August 2013**. The reporting date is 3 October 2013. (It should be noted that this bill will lapse once the Senate reconvenes after the election).

Further information is available on the Committee's website at:
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=ec_ctte/copyright_amend/index.htm