



The ABA has released its report on its investigation into the control of the Seven network

News is not in control of the Seven network

News Corporation Ltd is not in a position to exercise control of the Seven network, the ABA has announced.

The *Broadcasting Services Act 1992* says a foreign person must not be in a position to exercise control of a commercial television broadcasting licence. It also prevents a person from controlling a commercial television broadcasting licence and a major newspaper in the same area.

'Having considered the evidence, we have found News is not and has not been in a position to exercise control of Seven,' said Mr Peter Webb, ABA Chairman.

The ABA has investigated the major events that have taken place at Seven Network Limited since the beginning of last year, including events leading up to Seven's decision to join Optus Vision and the resignation of Mr Ivan Deveson as Chairman of Seven.

'New evidence was also brought to our attention at the end of last year concerning the acquisition and sale of sporting rights by Seven,' Mr Webb said.

'We have investigated this

matter and found that there is no present evidence of arrangements between News and Seven to act together in relation to sporting rights.'

The ABA has also looked closely at relationships between the major shareholders in Seven: News, Telstra and Mr Kerry Stokes.

The ABA examined the business relationships between Mr Stokes and News, as well as those between Mr Stokes and Mr Ken Cowley, the CEO of News. The ABA has found that there is no evidence that Mr Stokes acted in association with News or Mr Cowley in buying into Seven or seeking

Board representation on Seven.

In the view of the ABA, it was not necessary in the context of this investigation to reach a conclusion as to whether Telstra and News are associates in relation to control of Seven. This is because the ABA decided that, whatever view is taken of the relationship between Telstra and News, there is no evidence that News either alone, or together with Telstra, is in a position to exercise control of Seven.

However, in order to clarify the requirements of the Act for the ongoing relationship between News and Telstra in Seven, the ABA is considering the nature of the relationship between News and Telstra, and will publish its findings on this issue in a separate report shortly.

In the course of its investigation, the ABA examined 19 people under oath, including Mr Kerry Stokes, CEO Australian Capital Equity Ltd; Mr Ken Cowley, Chairman and CEO News; Mr Ivan Deveson, Chairman, Seven Network Ltd; Mr Geoff Cousins, CEO Optus Vision; Mr Neil Gamble, CEO, Australis; Mr Mark Booth, CEO, Foxtel; and Mr Frank Blount, CEO Telstra.

The ABA investigated:

- whether News Limited, either alone or together with an associate, is in a position to exercise control of Seven Network Limited and/or any commercial television broadcasting licence controlled by Seven Network Limited;
- whether News Limited, either alone or together with an associate, has breached paragraph 60(b) of the Act which prohibits a person from being in a position to exercise control of a commercial television broadcasting licence and a newspaper that is associated with the licence area of the licence and accordingly
- whether News Limited, either alone or together with an associate, has committed an offence pursuant to section 66 of the Act in respect of any such breach;
- whether News Limited, either alone or together with an associate, has breached subsection 57(1) of the Act which prohibits a foreign person from being in a position to exercise control of a commercial television broadcasting licence and accordingly whether News Limited, either alone or together with an associate, has committed an offence pursuant to section 66 of the Act in respect of any such breach;
- whether News Limited, or an associate of News Limited, has breached subsection 64(1) of the Act, which requires a person who becomes aware that he or she is in a position to exercise control of a licence to notify the ABA in writing of that position;
- whether News Limited has provided a commercial television broadcasting service without being licensed to do so in breach of section 131 of the Act.



The investigation ...

On 1 June 1995, the ABA decided to conduct an investigation into whether News Limited, either alone or together with an associate, had breached any provision of the Act since 1 January 1995.

Major findings

Associates

- Mr Stokes and News are not associates in relation to control of Seven.
- Mr Stokes and Mr Cowley are not associates in relation to control of Seven.

Agreement with pay TV operator

- News was not, either alone or together with an associate, in a position to exercise, whether directly or indirectly, direction or restraint over the decision on 28 April 1995 regarding competing proposals for agreements with pay TV operators.

Mr Deveson's resignation as Chairman of Seven

- The Board of Seven reached a consensus view that Mr Deveson should resign. Mr



Ritchie's views were strongly influential in the formation of the consensus. The attitudes of the major shareholders were considered by the Board. The consideration given by the Board to the attitudes of the major shareholders did not amount to direction or restraint by News.

- Mrs Boling's involvement in the Board's deliberations was not the major factor behind the Board's decision to request Mr Deveson to resign. • In view of this finding the ABA does not consider it is necessary to make a finding about whether Mrs Boling was an associate of News.

- The Board of Seven acted independently of News in its decision to ask Mr Deveson to resign as Chairman of Seven.

Sporting rights

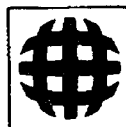
- There is no basis on which to conclude that any agreement existed between News and Seven which was designed to undermine the agreement between Tallglen Pty Ltd (Seven's pay TV joint venture vehicle) and SportsVision (a company which packages and supplies sports programming to Optus Vision).

- There is no basis on which to conclude that News either alone or together with an associate exercised, directly or indirectly, direction or restraint over:

- Seven's decision not to bid for the pay TV rights to the 1998 Winter Olympics;
- Seven's decision not to pursue its rights to seek damages against the ARFU. This decision was driven by bona fide commercial considerations; or
- Seven's decision making process in relation to any sale of pay TV rights to the Atlanta Olympics.

- There is no basis on which to conclude that Seven had an arrangement with News to buy the free-to-air rights to the South African cricket.

- The possibility of Seven extricating itself from the SportsVision Agreement was considered. Any intention by Seven or its officers to extricate itself from the SportsVision Agreement was not the result of direction by News or an associate of News.

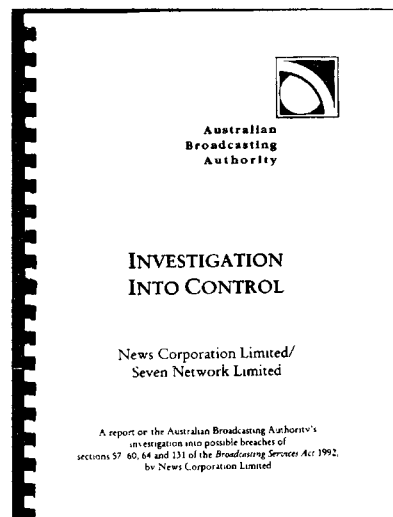


Company interests

- News does not have company interests in Seven exceeding 15 per cent.

Conclusions

- News was not, either alone or together with an associate, in a position to exercise, whether directly or indirectly, direction or restraint over a substantial issue affecting the management or affairs of Seven and its licensees.
- Seven did not act in accordance with the directions, instructions or wishes of, or in concert with, News or of News and an associate acting together, or the directors of News.
- More than 50 per cent of Seven's directors did not act in accordance with the directions, instructions or wishes of, or in concert with, News or of News and an associate acting together, or the directors of News.



For copies of the report:

Investigation into Control: News Corporation Ltd/Seven Network Ltd, is available from the ABA, price \$10. Please phone the ABA on (02) 334 7700 for your copy.