"Cultural Diversity and Broadcasting Regulation"

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(These views are not necessarily those of the Broadcasting Commission)

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This discussion is set against the background of a communication environment that is marked by an unprecedented audio-visual overrun.

There is mass adoption of technologies that offer new possibilities, in terms of interactivity, interoperability, selectivity of content and the ability to by-pass conventional networks, standard systems of delivery and many regulatory controls: the new twist being an empowerment of consumers and putting them firmly in the driving seat on the communication industry's future.

This technological revolution has sprung a new elitism, in which it matters not who you are, there are boundless opportunities to be heard, read and seen, sometimes even without mediation – particularly via the Internet.

In this type of environment, regulation, increasingly, has to be less about "inoculation" and more about "empowerment", the watchwords being critical awareness and "democratic participation".

In other words, regulation must be predicated on a public interest in social and cultural inclusion, over all platforms, old and new, territorial and extra-territorial.

Coupled with this must be the definition, scoping, protecting and balancing of the cultural rights of citizens in a domestic context, on the one hand, and citizenry in the information society, on the other.

The challenge is that whilst there is this explosion of media for accessing and distributing information, the flow is one directional and there is growing commercialization of spheres previously regarded as public goods, such as culture and information.

It is therefore not surprising that, the cultural industries, being among the fastest growing sectors in the world economy, are being shepherded into the WTO regime that currently applies to trade in goods.

In essence, the call is for free trade in culture, hinged on the fundamental principle of greater and almost unfettered reliance on market forces. The problem with that, especially in the field of broadcasting, is that unfettered markets inevitably lead to unchecked market consolidation, centralisation of content and a reduction of audience choice.

Moreover, there is resistance to treating the cultural industries as one would, ordinary goods and services. This is because culture is a key ingredient for the preservation of community and cohesiveness of the social fabric.

Tension therefore, must exist between the demands of global business competitiveness and domestic cultural imperatives. This tension arises, because although we belong to a global knowledge community, we are not homogenous – and market forces cannot relate to the ideal of cultural and identity preservation.

It is therefore imperative that underpinning the ideal of globalisation must be an acceptance that a mix of cultures is necessary to preserve the richness of

humanity. In other words, there can be no advancement if globalisation were to be about assimilation rather than multi-culturalism.

We are already accustomed to assimilation in the trade of goods – the backdrop being Coke, McDonalds, Burger King, and KFC. Gastronomical capture is one thing, but cultural capture is far more insidious, as we have seen in what has been described as "the CNN-isation of consciousness".

How then do we confront the challenge of preserving a national identity in the face of the current trend where cross border communication is consolidating and heavily skewed in favour of countries that are best resourced?

Firstly, we must accept that culture, commerce and technology are complementary. Regulation must be aimed at realizing market growth, integration and capital flow but without distorting national cultural imperatives, two of which must be plurality of ownership and diversity of content.

These, as we know are expensive, inefficient but important values. If we are to de-regulate these constructs, any efficiency should not be at the expense of cultural imperatives.

Given it is unrealistic to expect the global market to provide culture specific content, it would seem wise to counter the impact of a global converged market with positive regulation that incentives, production and distribution of culturally relevant content.

Finally, cultural exception must be enshrined in any trade regime that would apply to cultural industries. The objective being cultural protection, as distinct from cultural exclusion or exclusiveness/exclusivity

Alternatively, it is an attractive proposition that a *sui generis* instrument be negotiated that specifically addresses cultural diversity and the uniqueness of cultural goods.

Such an instrument would need to be more than merely declaratory- as is the case with the UNESCO Universal Declaration on Cultural Diversity. It would need to contain binding legal commitments that set out rules on the kinds of domestic regulatory and other measures that countries can and cannot use to enhance cultural and linguistic diversity; and establish how trade disciplines would apply or not apply to cultural measures that meet the agreed upon rules.

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