

that News will not answer

War of words

The pay TV piracy story as told by News Limited



All that News saw fit to print

The Australian newspaper has dismissed allegations about pay TV piracy raised by The Financial Review in a series of articles.

The Australian has quoted various executives involved in the pay TV industry in dismissing the allegations.

But The Australian has been, at best, selective in its use of those quotes:

News Ltd CEO Kim Williams
'I saw no evidence.'

What The Australian didn't say:
Mr Williams did not join Foxtel until December 2001, after the events reported by the AFR.



NDS executive chairman Abe Peled
'NDS was vindicated by 2009 trial of piracy claims brought by US satellite broadcaster EchoStar, describing \$19m payments (to NDS) as costs and damages awarded.'

What The Australian didn't say:
No damages were awarded; the jury



found for EchoStar on three of six charges; judge entered permanent injunction to prevent NDS pirating EchoStar. EchoStar failed to prove the extent of damages; forced to pay \$19m legal costs.

Telstra CEO (1999-2004) Ziggy Switkowski
'It never occurred as far as I was concerned.'

What Mr Switkowski told the AFR: Foxtel took up 5 per cent of my time. It was a rounding error. He also told the AFR, in the context of the relationship between the Foxtel partners (Telstra 50 per cent, News Ltd 25 per cent, Consolidated Media Holdings 25 per cent) that: "They [the allegations] are just another matter that would have coloured our judgment. Frankly, not too much would have surprised us."



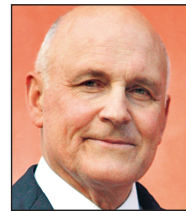
Optus head of Television (1998-2001) Mike Lattin
'It's fantasy, pure rubbish. It's just a beat-up. I was right at the forefront of it. I know Foxtel was the opposition but there was no evidence of it.'

What The Australian didn't say: The AFR has not suggested Foxtel was in any way involved in pay TV piracy.



Optus Vision CEO Geoff Cousins (1995-1996)
'Never heard of anything remotely like the allegations at the time I was at Optus.'

What The Australian didn't say: Mr Cousins left Optus Vision two years before the events alleged by the AFR.



'Anti-piracy expert' Michael Speck
Speaking to The Australian on April 12: 'It looks like a complete beat-up. It doesn't convince at many levels.'

But Mr Speck told the Sydney Morning Herald on March 29: 'There is [an] element of convenience in pirates focusing on your competitor rather than yourself... this appears to be very low-level activity by an isolated pocket of executives.' When questioned by the AFR about apparent inconsistency in his observations, Mr Speck said he has been speaking hypothetically when responding to the SMH.



to influence the sale to Foxtel of Austar 12 years later. This is to confuse the long-term effects of helping piracy get a foothold, with intent.

Michael Speck, described by The Australian as a piracy expert, explained the logic of NDS's reported operation in a taped interview with The Sydney Morning Herald's Lia Timson:

"I can't speak to the specific allegations, however, there is [an] element of convenience — element of convenience in pirates focusing on your competitors rather than yourself.

"... This appears to be very low-level activity by an isolated pocket of executives. Um, and to a large extent the minutiae of

their activity would have gone unnoticed by — by those around them."

Piracy operations were about trying to understand your criminal opponent: "In the past, clearly — clearly, that has presented an opportunity for some to overstep the mark." It was highly unlikely to occur now.

But a week later, when he spoke to The Australian, Speck gave a different account. There was no logic to the alleged operations, he said: "It looks like a complete beat-up."

Asked about his change of views, he said his earlier comments had been "hypothetical".

The obvious person to ask for comment would be Tom Mockridge, head of Foxtel at

the time, before he went on to head Sky Italia, which is also now embroiled in a criminal trial of a hacker and an anti-piracy expert, both of whom were on the NDS payroll.

There is no suggestion that Mockridge, now running News International in Britain, knew about these activities — that's the point of running a covert operation, and Foxtel and Sky Italia were the victims in these cases.

However, the new head of Foxtel, Richard Freudenstein, has waded in to dismiss the reports. He was in London at the time, but unlike Williams, he had met members of the Operational Security team. As well, the team was partly funded by BSKyB when

Freudenstein was its deputy chief executive.

Freudenstein makes a number of innocuous appearances in the emails from 1999 to 2002 in correspondence with OpSec UK chief Ray Adams.

BSkyB executive Sharon Southwell-Gray oversaw the relationship with OpSec. The money BSKyB provided to OpSec to fight piracy included half the budget for the fund for "payments to police informants".

But Freudenstein told the AFR this week: "I was not the executive responsible for the Sky/NDS relationship in relation to management of piracy and I have no knowledge of the payments referred to in your email."

plagues a former 'RSL club on steroids'

the stories was Peter Grimshaw, then the chief media adviser to NSW Premier Barry O'Farrell and a former media and government relations adviser at the casino for 16 years.

In different circumstances, those suspicions might never have been aired publicly. The casino regulator told the Gaming Minister George Souris on December 15 that it had found The Star should keep its licence.

It seemed a return to business as usual. But, unbeknown to the regulator, The Star was in the midst of a scandal. Two days earlier, Mullin had received a phone call in Hawaii informing him that two women had accused Vaikunta of sexual harassment.

The Star kept a lid on the controversy until a six-week internal investigation substantiated the claims, including an incident involving serious physical touching and a series of comments, all but one of which were found to be sexual in nature.

On February 2, Vaikunta was sacked. He fled overseas as the story broke. The gaming authority launched a fresh investigation on February 16 into the circumstances surrounding his departure.

James Packer chose February 25 to announce he wanted to build a \$1 billion hotel and casino complex at Sydney's Barangaroo development. As part of the plan, he needed to seize control of Echo, which has Sydney's exclusive casino licence until 2017.

O'Farrell was effusive about the proposal.

The controversy at The Star appeared to recede until, on March 2, Echo leaked texts and emails between Grimshaw, O'Farrell's chief media adviser, and his girlfriend, who, it transpired, was one of two women who had complained about Vaikunta. A former human resources executive at The Star, she was sacked days after Vaikunta.

O'Farrell accused the casino of waging a

smear campaign against a sexual harassment victim. The company, in turn, after initially denying it was the source of the leaks, said it was protecting its commercial interests in the face of a sustained negative media campaign.

It gave Packer a free kick at Echo's management, and he called for heads to roll.

The texts revealed Grimshaw and his girlfriend had plotted for months about how to remove Vaikunta from his position, although there is scant evidence the pair followed through with any of their plans.

Grimshaw texted his girlfriend on November 23, as the casino regulator neared the end of its licence review, that he was confident Vaikunta, whom he dubbed "Mr Nasty", would lose his job.

The casino regulator widened its review on March 26 to consider the revelations.

Grimshaw spent a damaging two days in the witness box at the regulator's five-day public

hearing, which concluded on Wednesday. Echo released texts in which Grimshaw told his girlfriend that O'Farrell, then NSW Opposition Leader, wanted to "smash" The Star. Grimshaw resigned after giving evidence.

Only then did the focus shift back to The Star. Mullin, who took the stand on Wednesday, appeared to smirk when asked about the change in culture at the casino under his management. One witness described it as "pussy, podium dancers... [and] sport stars", accusing Vaikunta of having a drug habit which led him to be nicknamed "Sniffing Sid". Vaikunta denies ever taking drugs.

Mullin said the changes had been misrepresented, adding outside the hearing that Echo was not "at war" with the O'Farrell government and he did not believe the brand was damaged irreparably.

Time will tell, and Packer will be reading intently when the regulator reports on April 30.