

Democracy in Australia – Media concentration and media laws

Media ownership in Australia

Australians rely on the media to provide facts and interpretations of the world. The information we receive from TV, newspapers, radio and the internet provides the information we need to make social and political decisions. The increasing complexity of these decisions in the last decades has meant an increased reliance on media sources.

Democratic countries encourage and enforce diversity in media ownership because it minimises the risk that the information their citizens receive is adversely influenced by the interests of the media organisation which provides it. Australia requires media diversity by limiting concentration in media ownership and limiting foreign ownership of media sources.

However, in both areas, Australian media diversity is threatened, and Australia is doing badly by international comparisons. Australia is ranked 41st in the world for media diversity. Currently two newspaper groups (News Limited and John Fairfax Holdings) account for over 90 per cent of the circulation of daily newspapers in Australia and there are three commercial television networks.

Power and the media

There is the potential for media owners to misuse their power to unduly influence reporting. It has been claimed that they formed relationships with political candidates and Governments in Australia and other countries, and that those relationships have influenced election coverage and the legislation relating to media in Australia.

The Australian Government controls media law in two ways in two main areas.

- The Constitution gives the Commonwealth powers to control electronic broadcasters. The Commonwealth uses this to control licences to television and radio broadcast.
- The Constitution also gives the Commonwealth control over corporations and their trade, and this is used to regulate print media and foreign ownership of media. The control the Commonwealth has over non-electronic broadcasters is less complete but in combination these powers are effective.

New Media Laws

The Australian Parliament in October 2006 passed legislation for new media laws that commenced on 4 April 2007. The amendments reform the *Broadcasting Services Act 1992* which regulates ownership and control rules for commercial television and radio broadcasting, subscription television broadcasting, international broadcasting, data casting transmitters and newspapers. The purpose of the original Act is to encourage diversity and quality of media services, controlling access to the market and the services that are offered. The amendments, however, lift foreign and cross ownership restrictions on media markets. The 'two out of three' rule means that companies are allowed to own up to two media outlets - television, radio and newspaper - in a single area. Mergers are allowed if the transaction passes a media diversity test that ensures there are five remaining independent media groups in metropolitan markets and four in regional markets. Under the amended laws, media mergers are subject to the approval of the Australian Competition and Consumer Commission (ACCC).

It is likely that the amended media laws will lead to the further concentration of media ownership. This would reduce the number of media owners in Australia, enrich a cabal of present media moguls, and enable them to have two out of three ownership of a newspaper, television and radio station within a single area. This represents a serious potential

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threat to democracy. A healthy democracy requires diverse ownership of the mass media in order to ensure that the news is reported in a fair and open manner. According to a 2006 Roy Morgan poll, over 80 per cent of journalists opposed the new media laws on the grounds that it will lower the quality and diversity of news coverage. Seventy-one per cent thought that the changes would give media owners too much influence over the political agenda.

Cross-media concentration and foreign ownership

The concentration or diversity of ownership of Australian media has long been controlled in Australia. The Howard government in 2006 made changes to media law which allowed greater concentration of media ownership. This puts media quality at risk in Australia.

The increasing links between different media forms means that one story may be reported in radio, television, newspapers, and websites from the same journalist. In the case where the story is politically influenced or the result of an advertising deal, the reach of that story is far greater. If a journalist is pressured to withdraw a story for similar reasons, there is a much greater chance that story will never be published.

The Productivity Commission and the Australian Broadcasting Authority have investigated the influence of the interests of media owners into the editing of media. Both found that some editors and journalists were directly influenced by their publishers. Further, many editors and journalists felt an indirect pressure to take into account the interests (including commercial interests) of their publishers and owner, and this led to self-censorship. When publisher-owners of media are large and far reaching organisations the effect of these overt and covert influences are likely have greater impact on the reporting of news and development of opinion. Broad ownership across areas of Australia, and in forms of media reduces the chances that the integrity of the media will be damaged in these ways.

Media ownership is a “Prescribed sensitive sector” in the *Foreign Acquisitions and Takeovers Act 1975* (FATA), as are the development of military technology, supply of security systems and nuclear technologies. Like most other countries, Australia recognises that the media has such a significant influence on democracy that Australians must be majority owners of media outlets. As Neil Brown, former federal Minister for Communications, says, “We have always wanted to own our media in this country, as most other countries do, for it is the biggest single influence on forming our national identity and culture”. Ownership of Australian media is needs more consideration than importing breakfast cereals, to use Brown’s analogy, because media policy is in part, control of our national conversation.

New media and increased diversity

Some commentators have argued that the entry in recent years of subscription television has provided increased choice for Australians. However, Foxtel dominates the market and is owned by existing media organisations (Telstra, News Limited and PBL) which all have many other media holdings.

Sometimes it is also argued that the increasing availability of news on the internet mitigates the concentration of ownership in traditional publications. Again this does not substantially change the media landscape for Australians since, as the Productivity Commission points out, the majority of Australians who get their news from the Internet are accessing the sites of the established off-line media organisations. These established organisations can subsidise their websites with income earned from traditional media and provide professional journalism for free, unlike new players to the media marketplace.

Other commentators point out that diversity of ownership does not guarantee diversity of opinion and a limited pool of voices do not necessarily speak with the same voice. These arguments assume that the voices are heard with no editorial interference, and as the Productivity Commission and the Australian Broadcasting Authority found, there is risk of the interests of media owners influencing stories. A broad range of voices mitigates this risk.

Important principles for media law

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Australian media law must recognise the important role for the media in Australian democracy and society. Media policy treated media organisations as corporations like any other. This does a disservice to Australians. As Dawson and Lyons point out, media organisations are more than corporations with relationships with customers and obligations to shareholders. They are organisations with a special role in democratic practice. Media law in Australia must be crafted to secure this role.

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