



Media ownership – where to from here?

First, we have to remind our selves where 'here' is. Here is Australia. It's a place with some of the most concentrated ownership and control of media on the planet. It's also a place where many media sectors are dominated by organisations controlled by overseas interests – newspapers, book publishing, advertising – or have no special limits on foreign involvement in the domestic industry – radio and soon telecommunications. And it's also a place, like others, where the debate about who controls key media assets, and what any new rules should be, is dominated by those with a direct commercial interest in the outcome. The extraordinary range of views put to the government's review provides little evidence of a unifying public, as opposed to private, policy goal.

It's a place that already needs to do better – way better – not one that should be searching for opportunities for more liberalisation, more concentration. It really does seem quite bizarre that a country that has produced arguably the most dominant figure in world media over the last decade – Rupert Murdoch – should think anyone is being unreasonably held back by the current rules. And, as Liz Fell said recently, it really does seem quite bizarre that a country in which 'competition' is the only policy game in town, should even be contemplating greater levels of concentration in a key industry. Bizarre.

The cross-media rules

Second, we have to remind ourselves of the achievements of the cross-media rules. As commercial radio demonstrates, if you believe in the goal of ensuring that major media in an area are not controlled by the same person, the rules are generally

working fairly well – not so well where, as in some small rural towns, the local paper is not a daily; not so well where, as in Ipswich and the west of Brisbane, the *Queensland Times* gets given away in large numbers outside the licence area of a jointly-owned radio station, to ensure the cross-media rules are not breached – but generally, fairly well. Other countries like the US and



the UK have kept cross-media rules – hardly a sign that they're dinosaurs. In other policy contexts, such as Telstra's privatisation, being out of step internationally was argued to be a national embarrassment.

Third, we have to acknowledge that ownership and control rules of this kind, while necessary, are insufficient to address all of the critical elements which potentially deliver power over information, entertainment and ideas. As Holly Raiche's paper demonstrates, the years leading up to the government's current review have seen a quiet revolution in the regulation of Australia's media. The ACCC's role has expanded significantly, because of the specific functions it has been given under the Broadcasting

Services Act; the interpretation of that Act, in the *Austereo* decision; the changing nature of media, which introduces issues like control of consumer 'gateways'; and because of a greater level of understanding of media industries, which has alerted the Commission to potential anti-competitive practices in the control of assets like program rights.

In this sense, we're not talking about the ABA or the ACCC as the broadcasting regulator – the ACCC is very much here already, and should be. Its role in access issues under the new telecommunications legislation will bring it even more directly into the media game. Making that access regime work effectively is arguably the most important single regulatory challenge of the post-1997 media and communications environment. It will affect crucial issues like the pricing of on-line services, the development of pay TV and the establishment of digital radio.

A specialist regulator?

As to whether the ACCC should take over media ownership regulation completely, I think there is continuing value in a specialist regulator. The whole basis of the Hilmer reforms has been consistency in the treatment of different industries. That basis is already being undermined by the introduction of a raft of industry specific rules about competition in the telecommunications industry. If you think the media demands special rules – and I and most other people do – then another set of specific rules for media ownership, administered by the ACCC, would seem to make the general regulator an increasingly special one.

Better, I think, to continue to acknowledge the special nature of deci-



sions about media mergers, and have special administration of the necessary special rules. The ACCC itself, in its submission to the government's review, stresses that if it were trusted with the responsibility of administering a media-specific public interest threshold, 'It is important that there be a bright line between the economic dimension of an acquisition to which the Commission will continue to apply well-tested principles of merger evaluation and authorisation, and the social dimension which is to be measured against broader public interest criteria'. I suspect the bright line is easier to see if a specialist agency has responsibility for it.

As to the details of any public interest threshold, we need to be wary of the fine words of editorial independence, free expression of opinion and the fair and accurate presentation of news. As Paul Chadwick's article in the April issue of *Communications Update* demonstrates, such words might be easy to say, but are much harder to administer. Easier, though still difficult, might be a test which focuses on the impact of any proposed acquisition on the diversity of sources of information, entertainment and ideas. The important feature is to concentrate on factors which can be assessed with some degree of precision, even though they may be serving as imperfect surrogates for less tangible concepts.

The work of searching for such factors will in practice bring us back to something like cross-media rules covering the major media, as a reasonable, certain and enforceable intervention. The conceptual touchstones can't help but be old questions like – 'Should the same person be able to control a major newspaper and a TV station in the same market?', as the UK's pathbreaking but ultimately circular work on 'share-of-voice' showed. Over time, the major media might change, and you can adapt rules to reflect that – the com-

plete overhaul of media ownership in Australia which followed the introduction of cross-media rules shows that you're not stuck forever with ownership patterns which have arisen around one set of rules and commercial possibilities.

Government priorities

And last, we have to remember that media ownership rules are only one part of a package of measures taken by governments to encourage a diversity of views, a diversity of sources of power over information, entertainment and ideas. If you believe markets are a useful way to organise social and economic activity, it's because you believe people's preparedness to spend money is a useful measure of the value they attach to something. If we apply the same assumption to governments, we should look very carefully, not just at legislation, but at the Commonwealth Budget for signs of commitment to diversity.

In 1996/97, we find some useful signs in new funds for community broadcasting, but we find some pretty awful signs both in relation to the ABC and in cutbacks to previously planned spending on access to new media. We find some puzzling signals on universal access to advanced telecommunications services and worrying signs about the pricing of data services. A further key test for 1997/98 is the government's response to David Gonski's review of Commonwealth assistance to the film industry.

The commitment to diversity and the possibilities of new media starts sounding more like a leap of faith in technologies and very imperfect markets, than a thoughtful response to the social and economic world that actually goes on out there. □

Jock Given

This article is based on a paper presented at the Centre's Media Ownership conference (see previous article).

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Competition, Diversity and Ownership in Broadcasting

Paper by Holly Raiche

This paper presents a thorough analysis of the present broadcasting regulatory regime, before examining whether broadcasting specific rules and a broadcasting specific regulator are still needed.

This examination is conducted in three contexts: the government's increasing reliance on competition policy over industry specific regulation; the changing nature of the communications industry; and the government's review of current cross-media rules.

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