

In April 2002, when the Communications Law Centre (CLC) issued its last *Media Ownership Update*, we outlined the proposed changes to the media ownership laws set out in the Broadcasting Services Amendment (Media Ownership) Bill 2002. While that Bill has changed substantially over the past year and a half, there is no indication that the Bill is any closer to being law.

The Communications Law Centre has commented publicly on the Bill and is on record as opposing the form of the proposed changes to the cross-media rules. In this debate, there are arguments relating to economic growth, diversity, new media opportunities, impediments to competition and much more. In the end the choice is between expansion that comes with relaxation of the current laws and the further consolidation of ownership that would result from that expansion. Some take the view that, on balance, the benefits of expansion outweigh the reduction in diversity; others (such as the CLC) take the opposite view – that further concentration negates any benefits that come from expansion.

This is a policy question that our elective representatives have grappled with over the past couple of years. In particular, we have seen the four 'independent Senators' (Brian Harradine, Meg Lees, Shayne Murphy and Len Harris) engage directly with the issue of media ownership. They and the Australian Democrats have made their own contributions to public debate and have put forward their own schemes and conditions for changing the current laws.

The state of play at the end of parliamentary sittings for 2003 is a Bill that has been rejected once by the Senate and passed a second time in the House of Representatives. It has yet to go to the Senate for a second time, but if this occurs in the new year it will join the list of double dissolution triggers held by the Government. The contentious issues all relate to the cross-media rules, the changes to foreign ownership having been passed in the Senate with the support of the independents and the ALP.

In the table below we outline the major amendments to the Bill resulting from a Senate Environment, Communications, Information Technology and the Arts Committee report in 2002 and debate in the Senate in June 2003. We also refer to the amendments that were proposed and rejected in the Senate or the House of Representatives.

## Amendments to the Media Ownership Bill

Major new provisions incorporated into the Bill since it was introduced in early 2002:

1. A prohibition on holdings in all three media forms in any one market (an 'unacceptable three-way control situation') (proposed by Government, following from Senate Committee), with additional limitations applicable in some circumstances where licensees control regional non-daily newspapers (Senator Harris);
2. A new points test that effectively introduces a 'Minimum Voices' requirement for some markets (Senator Lees);
3. A prohibition on control of more than one newspaper associated with the relevant market (the 'separately-controlled newspaper test') (Senator Lees);
4. A disclosures regime for comments by one media outlet on matters relating to other media companies controlled by the same organisation (Government, following from Senate Committee);
5. A requirement for a review of the new scheme to be completed and tabled by 30 June 2007 (Government with amendment by the Australian Greens).

Additional Senate amendments that were proposed but rejected either by the House or the Senate:

- A prohibition on co-ownership of television licences and newspapers in metropolitan markets (Senator Harradine);
- A carve-out for radio from the 'Minimum Voices' test, thereby further limiting the number of co-owned media holdings (Senator Cherry);
- A cap on media holdings to the extent that a company cannot control more than a 35% share of the advertising revenue in metropolitan markets (Senator Murphy);
- The establishment of editorial boards for television and daily newspapers and a mechanism for the Australian Broadcasting Authority (ABA) to require broadcasters to issue an apology or a retraction or a right of reply where the ABA upholds a complaint under a code of practice (Senator Cherry);
- A commitment regarding the further roll-out of the five ABC radio networks along with an ABA review of news and information supplied by radio in regional areas (Senator Cherry).

This list of changes does not include matters relating to regional local content. Where relevant, the name of the proposer or party is included in brackets. The Bill is now known as the Broadcasting Services Amendment (Media Ownership) Bill 2002 [No. 2].

Further information on the changes to the Bill can be found at ([www.aph.gov.au](http://www.aph.gov.au) – Australian Parliament House). Further comment on these issues by the CLC can be found in Issue 108 of Media International Australia incorporating Media and Policy, August 2003.

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