The New 'Diversity'

The cover of this edition should strike a chord with anyone following the speculation over changes to media ownership anticipated in the second half of 2005. Over recent years, attempts to repeal the cross-media laws have been both controversial and unsuccessful. This time, with a new Senate after 1 July, the result could be different.

Also represented in the 'media mud map' on the cover is a renewed interest in regional media mergers. The investment of Macquarie Bank in regional radio and that company's reported interest in regional television have assisted in raising the profile of regional media. The Communications Law Centre is currently conducting a research project on the connections between ownership and local content in regional areas of Australia and the results of this research should be available in August.

In the meantime, Simon Curtis (below) offers some comments on the media scene in Canada, a jurisdiction that has received considerable attention this year. In March the Australian Writers' Guild (AWG) held a forum which explored "New Models for Australian Media" and featured Canadian guests including Andra Sheffer from the Bell Broadcast and New Media Fund, Claude Galipeau, Executive Director New Media CBC, and Dan Fill from Decode Entertainment Canada.

The forum explored some new mechanisms for funding local production, based on the Canadian precedents. Whether there is merit in the Canadian schemes remains to be seen (an issue Simon Curtis explores in a forthcoming article in *Communications Law Bulletin*). But perhaps the most interesting aspect is the way in which the commitment to local content is seen to rank above the importance of diversity in news and current affairs.

For the AWG, this doesn't quite amount to a full-scale abandonment of the cross-media rules. But for the Screen Producers Association of Australia (SPAA), the priorities are somewhat different. In SPAA's view, 'Diversity is the Foundation of our Democracy' but diversity is no longer an issue that relates primarily to news and current affairs, achieved through a sufficient number of different critical viewpoints on matters of public interest. Instead, media diversity is about 'cultural diversity' which in this context is pretty much 'Australian made'. In a flier promoting this new diversity, SPAA argues:

> ... if the Government relaxes the cross-media and foreign ownership rules, the only way to ensure diversity and plurality of television programming is via an Independent Production Quota on all free-to-air television services. This means that a percentage of all Australian programs must be developed and produced independent of broadcasters.

The AWG in particular has worked hard to prevent a future US-dominated new media landscape. But it is highly questionable whether legislation which leads to larger media companies will necessarily result in better representation of Australian drama or that the cross-media rules need to be abandoned in order to achieve that result. All that can be guaranteed is that such legislation will lead to a further concentration of ownership.

If the traditional view of diversity still has some relevance, then we might question the enthusiasm demonstrated by the production community for the removal of the cross-media rules. Such a strategy is likely to lead to a contest between Australian content and regional content. We would hope that there are opportunities for both sets of issues to be addressed in a complementary, rather an oppositional manner.

Derek Wilding

Media ownership in Canada: bigger is better?

Canada has high levels of cross-media ownership and ownership concentration, the effect of which has given rise to real community and sectorial concerns, especially from journalists (in relation to the editorial independence of individual media outlets under common ownership) and from people in non-metropolitan areas (in relation to a decline in local and regional programming). Debate over media ownership in Canada is, however, tempered by the presence of many of the world's largest media empires just south of the Canadian border. Canadian cultural policy has consistently had the primary objective of protecting Canada from near-overwhelming United States cultural influences while supporting Canadian cultural producers. This desire to maintain cultural identity through fostering Canadian content production has led to policy decisions that have generally seen consolidation of the Canadian media industry as an acceptable trade-off in order to finance substantial production funds and build media companies with the strength to compete against the American media giants. A combination of direct government investment, broadcast licence fees, and substantial 'transaction fees' for any mergers or acquisitions involving the transfer of broadcast licence control, fund a comprehensive system of Canadian content production subsidisation.

Mergers affecting broadcast licences are regulated by the Canadian communications regulator, the Canadian Radio-television and Telecommunications Commission (CRTC). With the exception of a short period in the early 1980s, there has been no direct legislative restriction on cross-media ownership or ownership concentration in Canada, with the CRTC enjoying a broad and flexible mandate in its regulation of Canadian broadcasting. The CRTC examines media merger applications on a case-by-case basis, examining the benefits likely to accrue from increased local content investment and other public policy undertakings such as editorial separation of individual newsrooms, and balancing those benefits against threats to news and content diversity from consolidated ownership. In all but a small number of merger applications, the CRTC has determined that the local content investment and editorial undertakings provided by applicants outweigh any concerns that may arise in relation to ownership diversity.

The general acceptance of media consolidation is reflected in the CRTC's Television Policy, which asserts that mergers result in:

> ... efficiencies and synergies which should provide increased investment in Canadian programming ... The Commission expects the consolidation of broadcasting, production and communication companies will continue, to the benefit of Canadian audiences, the Canadian broadcasting system and the public interest.

The CRTC approved a number of media mergers in 2000–2001 that radically altered Canada's media landscape. As a result of the mergers, two media organisations now control over half of Canada's commercial television stations, while 60% of the population get their local daily newspaper from the same company that owns one or more of their local television stations. As an example, CanWest Global (the major shareholder in Australia's TEN Network, though apparently not in a position to control it) has a potential audience reach of 97.6% of the English-speaking television market, and operates two television stations as well as three daily newspapers in the Vancouver/Victoria area.

While such outcomes of more relaxed and flexible regulation may be of concern as Australia contemplates its own media ownership rules, the contrasting media landscapes of Canada and Australia should also be noted. One-newspaper towns, especially in centres the size of Perth, Adelaide or Brisbane, are less common in Canada than in Australia. Approximately 85% of Canadian homes have at least a basic cable or satellite service, while pay television accounts for nearly half the audience share in English-speaking markets and up to 30% in French-speaking markets. Together with Canada's local content policies, the wider programming choice that comes with cable or satellite distribution may also help to explain a greater willingness on the part of Canadian regulators to permit highly concentrated media ownership. It is difficult to argue, however, that the Australian media landscape provides the same variety of media outlets to sufficiently deflect concerns over increasing ownership concentration in traditional media.

Simon Curtis