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Writing for *Inside Story* in July, I argued that the empire-shaking events involving News Corporation were already having some salutary effects on the way we think about the role of the contemporary news media. In the Australian context, calls for an inquiry into media regulation have been coming from the top down in the case of the Greens, and from the bottom up from groups like Newsstand and Avaaz. Lenore Taylor reported in *The Sydney Morning Herald* that "An Essential Research poll commissioned by a GetUp!-linked activist group, Newsstand, suggests majority voter support for another media inquiry. Sixty-one per cent of those surveyed "agreed" or "strongly agreed" with the proposition that "a public inquiry into the Australian media is necessary so the public can better understand the relationship between politicians, corporations and media outlets".

Then, in late August, the Greens renewed their call for an inquiry when Australian publishing identity Ita Buttrose revealed that as editor in chief of *The Sunday Telegraph* and *The Daily Telegraph*, News Ltd owner Rupert Murdoch asked her to have a citizen followed. Senator Brown made the point that such activities were symptomatic of a deeper cultural malaise within the dominant Australian media organisation.

My suggestion in the *Inside Story* article was that the *News of the World* scandal has triggered calls for a wider ethical reassessment of the connections between media plurality, ownership policies, accountability and responsibility in media and the standard of journalism itself. These events continue to unravel in the UK, with parliamentary, judicial and metropolitan police inquiries now underway. Watch this space to see whether any of the UK News Corporation investigations extend to these shores.

In the meantime, Fairfax Media has taken a positive step and appointed senior journalist Judy Prisk to the newly created position of Readers' Editor. It might even nip some complaints to the Press Council in the bud. The Press Council, for its part, is being forward thinking in its approach to standards in journalism. Mark Day reported in *The Australian* that the Council is planning to "increase its role to set standards and handle complaints about news and opinion material, irrespective of the platform on which it is published, and is expected to form part of its submission to the federal government's convergence review inquiry." Even in translation this means more independence and co-operation among existing regulators, then it's exactly the kind of thinking that's needed if the convergence review is to have any lasting impact (*The Australian*, Media, August 22, 2011).

On September 14, the government finally agreed to conduct an "independent inquiry into the Australian media" (http://www.minister.dbcde.gov.au/media/media_releases/2011/254). Senator Stephen Conroy announced: "The Media Inquiry I am announcing today will focus on print media regulation, including online publications, and the operation of the Press Council." Conroy also said: "The Government believes a separate and distinct examination of the pressures facing newspapers and their newsrooms, including online publications, will enhance our consideration of the policy and regulatory settings Australia needs to ensure that the news media continues to serve the public interest in the digital age." The government has appointed former Justice of the Federal court Ray Finkelstein QC, to be assisted by University of Canberra journalism professor, Matthew Ricketson. Senator Conroy emphasised that the findings of the independent inquiry into Australian media, due on February 28, 2012, would then be made available to the government's Convergence Review Inquiry, which is scheduled to report by the end of March 2012. The specific terms of reference of the latest Inquiry direct it to inquire and report on:

a) The effectiveness of the current media codes of practice in Australia, particularly in light of technological change that is leading to the migration of print media to digital and online platforms;

- b) The impact of this technological change on the business model that has supported the investment by traditional media organisations in quality journalism and the production of news, and how such activities can be supported, and diversity enhanced, in the changed media environment;
- c) Ways of substantially strengthening the independence and effectiveness of the Australian Press Council, including in relation to on-line publications, and with particular reference to the handling of complaints;
- d) Any related issues pertaining to the ability of the media to operate according to regulations and codes of practice, and in the public interest.

The Government, in arriving at a negotiated position with the Greens, has shied away from any explicit examination of media concentration, arguably the main reason behind the widespread calls to examine the structure of the media in Australia in the first place.

In response to the announcement of the Inquiry, the Australian Press Council said that it welcomed the inquiry, with the Chair, Professor Julian Disney stating in a media release: "The Press Council commenced last year a sustained program of reform to strengthen its effectiveness. It will advise the Inquiry about the progress made so far and the further improvements which are under way...It will identify other steps which are needed to achieve the level of performance which the Council believes is necessary and the community is entitled to expect. These will require supportive action by governments and other bodies." (APC, Media Release, September 14, 2011).

* **Convergence review**

Since the last edition of the AMM, the DBCDE Convergence Review has been beavering away at their processes, with the release of final terms of reference and discussion papers. The review released a "framing" paper in April, and an "emerging issues" paper in July (See all related documentation and submissions here).

The Convergence Review committee is chaired by Glen Boreham with Malcolm Long and Louise McElvogue as committee members. Between August 1 and August 17, 2011, the Committee travelled to metropolitan and regional centres around Australia to consult with stakeholders, gathering various views. The next steps in the consultation are for more specific issue discussion papers (e.g. on local content and media diversity) to be released for public comment, and at the same time the committee has announced an open call for submissions until October 28, 2011. The plan is to wrap up the inquiry by March 2012.

As with many of these kinds of policy review processes, one can have either a 'glass half full' or 'glass half empty' view of how well they are likely to deal with what are very fraught, complex and otherwise highly politicised issues of media policy, and that will inevitably have major long-term consequences for all Australian media audiences. To take two of the most pressing dilemmas: how can existing rules be reconstructed for Australian content in the context of broadband television distribution, and similarly, how can new rules for media ownership diversity, and specifically news and current affairs content, be crafted to take into account the burgeoning popularity of online news outlets?

Recent research reported by the Centre for Policy Development notes "of the Google top 100 websites visited by Australians in 2010 ... we regularly look at only 12 websites that could be classified as 'news based'... of these 12 websites, eight are owned by News Limited or Fairfax, with the rest owned by the ABC, BBC, PBL media and Microsoft (CPD Issues Brief, *Media Ownership and Regulation in Australia*, August 2011). The deliberative processes of the review can also be followed on Twitter: Convergence Review@converg_review

* **ACMA**

To feed into the convergence review, the ACMA have drawn on their extensive expertise in this area, providing an excellent overview of the laws they currently administer across the media and communications sector. This has been impressively packaged into a research paper *Broken Concepts: The Australian Communications Legislative Landscape*. Released on August 29 the paper argues that laws introduced before the wide scale take up of the Internet and impacts of convergence have "broken" or are "straining many of the constructs and concepts that form the building blocks of current communications and media regulation".

The paper is a terrific resource that documents the transitioning of the media and communications industries in Australia. Despite the fact that it does not offer any specific suggestions for remedying failures in regulation in a time of ongoing convergence, it has at least identified where the 'breakages' are, and to therefore allow for the convergence review team to develop solutions for these, with ACMA and other expert assistance.

The ACMA argue that

Of the 55 legislative concepts analysed in the paper, the majority are either 'broken' or under significant pressure from the effects of convergence. These "broken concepts" are symptoms of the deeper change of digitalisation breaking those now outdated propositions, including that content can be controlled by how it is delivered.

Much of its current regulatory activities arise from 26 statutes and "and more than five hundred pieces of subordinate legislation", developed before the internet became a popular medium. A sister occasional paper *Converged Legislative Frameworks: International Approaches* reviews existing convergent media regulators around the world.

The core purpose of the "broken concepts" paper is to describe the impact of convergence phenomena on particular legislative concepts, and identify the consequences of these impacts for regulatory practice. ACMA have produced a very useful empirical

tabulated survey of these concepts, the relevant convergence pressures, and their flow on impacts for regulation. Some of these concepts are further analysed in a more expository format – which is very useful in providing more contextual information than the tabulated versions do.

For ACMA, the five key sources of pressure point driving change, and therefore regulatory pressure arise from: technological developments, market developments and associated changes in industry structure, changing consumer/citizen expectations, globalisation of markets and regulation and national digital communications strategies.

In the context of the ACMA's review of their 2005 *Privacy Guidelines* the agency has commissioned research into contemporary Australian privacy values. The Guidelines were originally produced to help broadcasters across several sectors interpret their privacy obligations under relevant codes of practice. Typically this refers to more contentious content that is concerned with a person's personal life or content that intrudes into individual's private lives, or invades their privacy. Two very high profile transgressions by broadcast media in recent times include the Kyle and Jackie O commercial radio lie detector debacle, and the David Campbell "Ken's of Kensington" visit, broadcast on an evening news bulletin. It's these sorts of more serious cases which put pressure on privacy protections and their ongoing ability to balance public interest considerations.

The draft guidelines are available for comment, online, until 7 October. Two research papers were commissioned to accompany the review: a general paper examining privacy in the broad, "Community research into broadcasting and media privacy", and a more specific paper considering news and current affairs programming "Australians' views on privacy in broadcast news and current affairs".

On September 9, 2011, ACMA published the final report of its year long public inquiry into the customer service and complaints-handling practices of Australian telecommunications providers (ACMA Media Release 93/2011). In announcing the release of the "Reconnecting the Customer report", Chairman Chris Chapman, noted the report "proposes five substantive changes to make buying and using a mobile phone or internet service much simpler." It has recommended that the Telecommunications Consumer Protection Code, include, by January 2012:

- Clearer pricing information in advertisements allowing consumers to more easily compare services
- Improved and more consistent pre-sale information about plans
- Developing meaningful performance metrics which allow consumers to compare providers
- Tools for consumers to monitor usage and expenditure
- Better complaints-handling by providers

In terms of other specific recommendations the report recommends: using the standard cost of a two-minute call to another mobile to compare prices; disclosing how many of those call are not included in plans; and, sending alerts when consumers are approaching certain usage points in their plans.

Should the industry not make the changes, the ACMA claims it would consider imposing a strong regulatory standards framework, including fines of up to \$250,000. The Australian Communications Consumer Action Network (ACCAN), the peak consumer NGO, has previously warned that the voluntary TCP code "owned by" the Communications Alliance "cannot possibly provide the fixes the ACMA has demanded surrounding issues such as advertising, customer-nominated spend limits and clear unit pricing information" (July 26, 2011). In 2010 the Telecommunication Industry Ombudsman received 168,000 complaints.

* ACCAN

The Minister for Broadband, Communications and the Digital Economy, Senator Stephen Conroy, has announced a review of the peak telecommunications consumer body ACCAN. The Minister announced in a media release:

It was always our intention to conduct a review of ACCAN after two years of operation. This mid-term review is really an opportunity to reflect on ACCAN's achievements to date and so both the government and ACCAN can consider future directions" (Conroy, MR/249, September 7).

Established in 2009, ACCAN has more than 100 organisational members and 75 individuals representing diverse groups throughout Australia, including Brotherhood of St Laurence, CHOICE, Consumer Action, Deaf Australia, NSW Farmers Federation and the Indigenous Communications Action Network.

ACCAN receives ongoing funding (\$2 million funding per annum) under Section 593 of the Telecommunications Act 1997. This section of the Act provides an industry levy to fund consumer representation and research activities. In addition to being the peak body, ACCAN manages a \$250,000 Independent Grants Scheme for research into the social, economic and technological aspects of telecommunications.

The Minister noted that, in the context of the role of the rollout of the NBN in Australia, it was important to consider the contribution that "bodies like ACCAN will play a role in representing consumers in this transition." ACCAN has made a significant contribution to date in Government reviews of the ACMA's "Reconnecting the Customer Inquiry", the Telecommunications Consumer Protection Code and the Telecommunications Industry Ombudsman Scheme. Terms of the DBCDE review are available at <http://www.dbcde.gov.au/ACCANreview>.

* The NBN and other industry developments

The ACCC has formally rejected Telstra's plans to structurally separate its retail and wholesale arms. Telstra's Structural

Separation Undertaking, a document necessary for its \$11 billion deal with the NBN Co to proceed, "could not be accepted." The ACCC has asked Telstra to resubmit the document "so that it fully complies with legislative requirements" (Lee & Bingemann, *The Australian*, Business, "\$11 billion Telstra deal in doubt", August 31). ACCC approval of the Undertaking is a key element of the NBN deal, also needed, ideally before a shareholder meeting at the 18 October annual meeting.

A report in *The Weekend Australian* in late June noted that a "Scotched NBN deal 'could cost public \$3 billion'" in the event that the project was halted by a Coalition government (Hepworth & Lee June 25-26). The story reported that Finance Minister Penny Wong said that Telstra would receive a \$500 million break-off fee, should that event come to pass. It reports that JP Morgan estimates that if, after a change of government in 2013, the NBN were halted in 2014, NBN Co would already be committed to leased repayments for leased Telstra infrastructure of \$3.2 billion until 2035. This is part of the \$11 billion deal whereby Telstra allows the NBN Co to access its ducts, pits and manholes required for the massive fibre rollout. It is calculated that by June 2013, the NBN rollout will have passed about 1.3 million premises.

In other Telstra news, the largest telco has rebranded the three classified businesses, Sensis, Bigpond and Telstra Classified under a single banner, "Telstra Advertising Network". The move is intended to consolidate all digital advertising under the one brand. This is all part of the wider restructuring plans, with a view to leading the sector "across sport, mobile and IPTV" (Canning, *The Australian*, Business, August 31).

Pay TV company, Consolidated Media Holdings (controlled by James Packer), is expecting the ACCC to eventually approve Foxtel's merger with Austar to proceed. Consolidated Media is 50% owned by the Packer company, and Kerry Stokes' Seven Group Holdings owning 24%. Consolidated Media's other main assets are 50% of Fox Sport's holding company, Premier Media, and a 25% share of Foxtel itself (Dick, *SMH*, Business Day, August 24).

It appears that Fairfax Media is considering expanding their New Zealand "eBay rival", Trade Me, across the ditch, possibly as part of a post float strategy. In August Fairfax announced it would float 30-35% of Trade Me. According to Deutsche Bank analysts, this could raise up \$256 million for Fairfax Media. CEO Greg Hywood has said that the company is still deciding on whether or not to sell its radio assets, including 3AW in Melbourne and 2UE in Sydney (*SMH*, Williams, "Fairfax considers bringing eBay rival across the ditch", September 9, 2011). That Fairfax Media was expected to earn about \$40 million less in the 2010/11 financial year than in 2009/10 will undoubtedly play into these decisions (*SMH* Business Day/Media and Marketing, August 24).

* About the Author

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