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Tim Dwyer

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* Media inquiry reports

A Government response to both the Convergence and Finkelstein Inquiry reports is expected around the end of August. Handed to the Government in April, the final report of the Convergence Review is a curious mixture of innovative and lower risk measures calculated to progress the Convergence Policy agenda up to a certain point. The review authors have pragmatically included the 15 largest Australian-owned media groups in the proposed arrangements, but left out the major offshore groups Apple, Google, Facebook and local titan Telstra, that would be more difficult to include in the proposed new content and ownership rules.

While there is clear evidence of dramatic changes underway in the distribution of traditional news and information through socially-networked media, including via Facebook, Twitter, and major online news aggregators (Fig.1.4 Final Report, http://www.dbcde.gov.au/digital_economy/convergence_review#report), the take away message from a range of research, including research informing the Convergence Review, is that these popular new media channels are redistributing a great deal of existing branded content. If implemented, on the face of it, the winners would appear to be the local production sector or in CR speak "Content Services Enterprises" (or CSEs), who would have ongoing obligations for producing Australian content. However, understandably, doubts have been expressed by commentators about the ability of the proposed measures for media ownership to provide the kind of certainty required, let alone the promised diversity of owners, in Australia's already highly concentrated media.

The main new mechanism being proposed for media ownership is a public interest test to be administered by either the ACCC or the ACMA (or its replacement). Clearly, the location of the test is very significant and would see either a competition or pluralism policy emphasis in the way any takeover test was applied. Communications Minister Senator Stephen Conroy has been careful to insist that the test would "focus on concentration in the media market rather than personalities". It's all about 'coverage' he says and "it's never been aimed at Gina Rinehart" (Claire Stewart and Katie Walsh, *AFR*, "Public Interest test for media opposed", July 27, 2012).

The response to the Finkelstein Inquiry recommendations is no less controversial, and the powerful industry lobby has intensified its protestations against the establishment of a "News Media Council" that would see statutory underpinnings, or god forbid, worse still, links, financial or otherwise to the government of the day. On July 16, 2012, the Prime Minister replied to a letter from the heads of channels Nine and Seven, Foxtel, News Ltd, Sky News, AAP and APN News and Media, saying that her government "was committed to ensuring that Australians have access to a diverse range of views and opinions" and that media companies are expected to "provide fair and accurate coverage of matters of public interest." Media commentators have noted the curious approach adopted in the letter of asking these media companies to make suggestions about "whether the current regulatory settings are sufficient to support an independent, diverse and sustainable media for this country." I think we all know how they would have answered that particular question. (Lenore Taylor, *SMH*, "PM urges media to offer a wide range of opinion", July 25, 2012). There must be an election around the corner.

* ACCC ruling

The Australian Competition and Consumer Commission (ACCC) has announced that it would not oppose News Corporation's takeover offer for Consolidated Media Holdings. "The ACCC's view is that this acquisition is unlikely to lead to a substantial lessening of competition in any relevant market," ACCC chairman Rod Sims said. ('ACCC not to oppose News Corporation's proposed acquisition of Consolidated Media Holdings Limited', Release # NR 162/12, 2 August). Offering almost \$2 billion for CMH, News would acquire key CMH assets including their 25% stake in the coveted Foxtel pay TV business. News would then

control 50% of Foxtel with Telstra owning the remaining 50%. Significantly, the takeover would give News a 100% stake in the lucrative Fox Sports content provider business (Malcolm Maiden, *SMH* "Murdoch eyes Foxtel as Packer exits Media", June 20, 2012). Kerry Stokes' Seven Group Holdings (owning a 24.44 per cent stake), has also been mentioned as a possible buyer, but commentators suggest that it's more likely that he will sell his stake to News at a premium, or leverage some other content deal.

While the acquisition does not dramatically alter the existing operation of Foxtel, it is yet another incremental step in the further concentration of Australia's media ownership. The irony is that pay TV has never been included in the cross media rules in Australia. When News Corporation bought the Austar regional Pay TV company last year, and thereby gaining a complete monopoly on the subscription TV sector, the idea was to make pay TV really pay. So no doubt it's toying with the idea of converging off into newer IPTV operations such as Fetchtv (and perhaps the ISPs like iiNet, Westnet, Netspace, TransACT, Adam Internet and Vodafone that bundle them) to maintain its dominant position into the future. The rollout of the NBN, and the promise of moving onto superfast broadband, is making that kind of investment look even more attractive. Following the sale of CMH, James Packer's only remaining media asset in Australia will be his 9% stake in the Ten free-to-air television network. (Adele Ferguson and Kirsty Simpson, *Canberra Times*, 'Murdoch offer delivers Packer a way out of media', June 21, 2012). But apparently gambling and building waterfront casinos is where the real dough is to be made.

* Private media

An interesting media industry development which counters the general trend of closure of magazine titles, is the announcement by Eric Beecher's Private Media that it has launched a new title, *Women's Agenda* (<http://www.womensagenda.com.au/>). Beecher has shrewdly developed specialist online titles for readers who are dissatisfied with mainstream media offerings in Australia. The company's most successful and well-known title is of course, *Crikey*, the gadfly news and current affairs operation for the cognoscenti. His company's other titles include *Business Spectator*, *Smart Company*, *Startup Smart*, *Property Observer* and *The Power Index*. It's reported that *Women's Agenda* is targeting at a readership of "between 100, 000 and 200,000" career-minded women (Julian Lee, *SMH*, Business, "Private Media launches career women's title, August 8, 2012).

* ASB ruling

Many were surprised to hear that the Advertising Standards Board, the self-regulatory body whose decisions can sometimes be up-ended by the ACCC, has found that user-generated comments made on corporate product Facebook pages constitute advertising. Although a complaint about sexism, under-age drinking and 'obscene' language on Smirnoff's Facebook page were dismissed by the Board, controversially it ruled industry codes applied not only to what a company was posting on its Facebook page but to the user-generated comments that followed (Julian Lee, *SMH*, "Watchdog Clamps down on Facebook", August 6, 2012). The ruling means that companies running branded social media pages, and Facebook in particular, could be found to be in breach of AANA codes of practice, and publicly shamed in the process. The key implication of the ruling is that companies are responsible for any misleading, deceptive, or untruthful comments made about a brand.

The practice of moderation of user-generated comments varies widely, but this ruling is saying that the onus is on companies to see that they provide sufficient resources are made available to prevent breaches of the AANA or equivalent codes of practice. This is the sentiment expressed in a piece by a high profile *Crikey* opinionista:

Much is made of the internet revolutionising society. But really, the fundamentals will always be the same. There are people. People run businesses. And businesses are responsible for the messages running under their brand" (Stilgherrian, August 7, 2012).

This suggests that the compliance costs associated with the decision may be quite far-reaching.

* New privacy laws

The Privacy Amendment Bill tabled in May by the Attorney-General Nicola Roxon would introduce uniform privacy principles applying to both the public and private sectors. Arguably an important step to introduce further uniformity to a patchwork of state and federal laws, the measures have been strongly opposed by an alliance of new media players: Facebook, Google and Yahoo!7 and the Interactive Advertising Bureau. The amendments are aimed at introducing stronger protections for personal information that may be disclosed by companies outside of Australia.

An additional important new measure would introduce a direct marketing privacy principle to more tightly regulate personal information, allowing people to opt out of such arrangements. The alliance is opposed to the new consumer measures because they claim: "it would undermine ad-supported business models", and because it includes a definition of direct marketing which "potentially covers all forms of communications between businesses and consumers". In their joint submission commenting on the draft Bill the alliance argues this list would include ads on free-to-air, and free online ad-supported services. In separate submissions the Australian Direct Marketing Association (ADMA) and the ANZ bank also express concerns about the impacts of the new legislation on their business operations. The ANZ argue that restrictions on disclosure of personal credit eligibility data to entities outside Australia would "effectively prohibit legitimate business practices", including cloud computing services (Karen Dearne, *The Australian*, IT "Privacy laws 'place digital economy in jeopardy'", July 24, 2012).

* Print industry job losses

The restructuring of the print media sector in Australia appears to be rapidly catching up to other comparable Western media markets: (see the next item for comparative OECD data). This reality hit home in June when both Fairfax Media and News Ltd announced job cuts and strategic restructuring of their businesses. In "Fairfax downsizes its future" (Stephen Brook and

Damon Kitney, *The Australian*, June 19, 2012) the story is that Fairfax Media has “foreshadowed the end of its printed mastheads with plans to turn its iconic broadsheet papers into tabloids, erect paywalls around its websites and axe 1900 jobs, including one in four journalists”. The same report noted that printing presses at Chullora in Sydney and Tullamarine in Melbourne would be closed by 2014 to allow savings of \$44 million. Its competitor, News Ltd, was quick to describe the announcement on paywalls as a ‘backflip’, no doubt feeling superior about their own much earlier decision to put premium content behind paywalls.

At the *Herald Sun* in Melbourne the organization is currently undertaking a much watched tabloid experiment in making audiences pay for general news and sports content. Subsequent to the *SMH* announcement News put out a media release that they were “planning a number of major businesses to grow its businesses” (MR, “News Limited announces new strategic actions for growth” June 20, 2012). This includes buying the financial publisher Australian Independent Business Media for over \$25 million, with Business Spectator’s *Eureka Report* title being the jewel in the crown (Adam Shand, *The Weekend Australian*, Inquirer, “The power of print”, June 23-24, 2012). News Ltd also announced the restructure of its Australian operations from 19 divisions to just 5 (adopting a “one city one newsroom” policy), and there is speculation they will cut between 1000 and 1500 jobs, including 400-500 editorial positions (Ben Holgate, *AFR*, “Murdoch’s digital shake-up”, June 21, 2012). News Ltd’s CEO Kim Williams was quoted as saying “At this stage we cannot say how many roles will be made redundant as full details will be resolved with the implementation.” And, in a video to staff he said “Although there will be retrenchments, many roles will be retired through natural attrition.” (Justin Norrie, *The Conversation*, “News Ltd to ‘centralise’ media business, axe jobs”, June 20, 2012 <http://theconversation.edu.au/news-ltd-to-centralise-media-business-axe-jobs-7796>). These domestic changes are occurring in the wider context of the News’ global restructuring plans in the wake of the *News of the World* scandal and Leveson inquiries, which will see it split into two major businesses: one focusing on publishing (including newspapers) and the other on entertainment.

*** New print media industry research**

A new study into the current state of the print media industry has been published by Dr. Penny O’Donnell (University of Sydney) and Dr. David McKnight (University of NSW). Their report is titled “Journalism at the Speed of Bytes: Australian newspapers in the 21st Century” and examines the crisis in the newspaper industry. The authors have investigated the future for professional journalism and its audiences in the digital world.

The comprehensive study was funded by the Australian Research Council (ARC) and the Walkley Foundation for Excellence in Journalism. Based on field interviews with senior members of the journalism profession in Australia, the study is about the impact of the internet on traditional newspaper journalism and explores:

1. What is known about quality journalism?
2. What does the transition to digital journalism mean for news quality? And
3. What can journalists do to renew and extend their standards in the transition period?

Among other findings, the authors argue that the journalism crisis has been misjudged on two counts:

... first, as a market failure arising from changing advertising trends which, it is assumed, will rectify itself in time, and second, as a moment of technological change that will produce more and better news and information content in the future.

The report is particularly important as a snapshot of the industry just as it enters a phase of experimentation in “digital-first” business models – and, specifically, the introduction of paywalls to make us pay for the expensive to research news ‘content’. The report is available as a PDF file at: <http://www.walkleys.com/news/7141/>

*** About the author**

Dr. Tim Dwyer is Senior Lecturer in Media and Communications at the University of Sydney. He is the author of *Media Convergence* (Maidenhead, Berkshire, McGraw Hill/Open University Press, UK, 2010) and *Legal and Ethical Issues in the Media* (2012, Basingstoke, Hampshire, Palgrave Macmillan, UK).

*** Contact details**

E: timothy.dwyer@sydney.edu.au