# Fifield faces a hard road to bring Australia's media regulations into the 21st century

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With his feet barely under the desk, Communications Minister Mitch Fifield has flagged a renewed attempt to change Australia's media laws. Given his predecessor Malcolm Turnbull's long-standing interest in the field – dating all the way back to his work with Kerry Packer in the 1980s – Fifield can expect the new prime minister's backing. Fifield is set to meet with media bosses as early as next week.

Turnbull never seemed to enjoy such support when he brought proposals for change to cabinet during Tony Abbott's prime ministership. It is, however, no guarantee that any substantive change will follow.

The problem for Fifield will be, to a great extent, the same one that has dogged successive large-scale reform attempts in the past: the need to mollify all of Australia's very vocal and enormously influential media proprietors. It took John Howard until his fourth term – and fourth attempt – to manage what was then seen as long-overdue change in 2006.

The last major push for change fizzled out in 2013 under Julia Gillard. After two lengthy and extensive reviews – the Convergence Review and the Finkelstein Review – had recommended sweeping changes to print and electronic media laws, the minority government waited a year before introducing a small package of reforms. Most failed on the floor of parliament.

**What reform is needed and why?**

There is no question that reform is needed. As the Convergence Review made plain, Australia's media and communications laws are, by and large, no longer fit for purpose. Australia's media regulator, the Australian Communications and Media Authority (ACMA), produced two reports in 2011 that outlined "broken" and "enduring" concepts for media and communications regulation.

Technological change has bypassed many of the old protections. And evolving audience behaviours have called into question the grounds on which many existing rules are based.

As Fifield put it:

… it's a bit like when people were talking in years gone by about how we can change railway gauges to better improve long-distance transport at a time when planes are starting to fly overhead.

In the last couple of years there have been changes to the cast of media players. New entrants (Netflix) and partnerships (Presto, Stan), and changes in major shareholdings (Foxtel and Network Ten), have changed both the media landscape and the policy challenge.

And then there is the biggest transformer of all: high-speed broadband. Free-to-air broadcasters have been able to work around limits on their reach via catch-up services delivered online that are undermining advertising markets in regional licence areas. Regional broadcasters have launched a campaign for changes to ownership and control limits. They argue that their very survival is at stake.

High-speed broadband also enables viewers to access a multiplicity of new services and voices. In the process, however, a host of challenges are posed to concepts such as copyright rules, the future of (quality) journalism, and the availability of local news and current affairs. All of these have commercial and policy implications.

None of this is strictly new. Or, rather, little of this was not predictable or foreseen. The Convergence Review, and to a lesser extent the Finkelstein Review, canvassed these issues and possibilities at length.

These reviews mined a lode of submissions and reports before producing concrete and comprehensive proposals for technology-neutral reform undergirded by fundamental public policy principles including pluralism, diversity, and localism.

Fifield has all of this material available to him. And, at face value, there is little need for another lengthy and expensive review before change can be proposed.

The problem is that introducing changes that do not satisfy all of the leading players will take considerable political will, and risks a media backlash. Disgruntled proprietors have shown themselves many times not to be afraid to pursue their political interests through the various channels they control.

**The anti-siphoning question**

And then there is perhaps the most vexed issue of all: the rules around sports coverage on free-to-air and pay television, known as anti-siphoning.

The Grand Final weekend just past is the biggest couple of days on the television calendar. It produces two of the highest rating programs of the year, and some of the most expensive advertising slots on television. These are the reasons why, yet again, broadcasters paid record amounts earlier this year to secure NRL and AFL rights for many years to come.

These deals mean that major changes to the anti-siphoning rules are unlikely in the near future. Or, if there are any changes, they are unlikely to take effect until these deals expire. The deals' structures explicitly acknowledge the importance of online sports rights. This seems only set to grow over the term of the new arrangements.

For the moment, and into the foreseeable future, sports rights remain fundamental to the commercial viability of both free-to-air and pay television. Turnbull has affirmed in the past the view that the national significance of events like Grand Finals justifies their continuing protection and free availability. This, he has said, is:

… a very Australian arrangement.

If history is anything to go by, it is an arrangement that may endure for some time to come.