THE CONCENTRATION OF MEDIA OWNERSHIP IN AUSTRALIA — FROM THE MEDIA MOGULS TO THE MONEY MEN?

MICHAEL PUSEY

University of NSW
m.pusey@unsw.edu.au

MARION MCCUTCHEON

Swinburne University of Technology
mccutcheon@groupwise.swin.edu.au

It is well known that Australia has one of the highest concentrations of media ownership in the world. One is entitled to ask why this matters. The answers are several; some universal and others particular to the Australian setting.

It is generally thought that liberal, 'fourth estate' standards of journalistic independence and diversity of opinion are essential conditions for both informed citizenship and freedom of speech and hence for the proper functioning of liberal democracy. Judged by those standards Australia compares poorly with most other developed OECD nations; especially those nations that are normally assumed to characterise the Liberal model (Hallin and Mancini 2004).

The Australian media have 'traditionally' been dominated by the three media dynasties of Packer, Fairfax and Murdoch. All three houses have used proprietorial influence over news and current affairs to advance their respective commercial and political interests and to extract preferential treatment from successive Australian governments in ways that flout journalistic and editorial independence. By contrast the Australian public service broadcasters enjoy comparatively low public funding and a very low share of the television viewing audience: in both cases of approximately 20 per cent or less in 1999, compared with more than 60 per cent for most of the small western European democracies (Tiffen and Gittens 2009) — this did not, however, prevent the Howard government's attacks on both their critical independence and funding. Further, in Australia the professionalisation of journalism came relatively late (Hemmingham 1996) and commercial broadcast journalism functions with minimal regulation for accuracy and impartiality (Jones and Pusey 2010).

To the conservative neoliberal observer's objection that these concerns reflect only the self-serving or elitist views of a progressive middle class there is a resounding answer. Data from successive waves of the Australian Survey of Social Attitudes (AuSSA) show that a majority of Australians, 80 per cent in 2003 and 70 per cent in 2007, thought that commercial media ownership was too concentrated (Jones and Pusey 2010).[1] Although these results point to significant disquiet among survey respondents, they also suggest that some Australians have become less concerned about media concentration. During the period that the AuSSA survey was conducted, the Howard government was positioning to loosen the cross-media rules put in place in 1987 by the Hawke Government. After an abortive attempt in 2002, in October 2006 Parliament passed the first changes to the cross-media rules. Media owners needed no longer choose to be merely a queen of screen or prince of print, they could now rule the airwaves.[2] Surely such a move would lead to further concentration? Why was the AuSSA data showing lessening concern?

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1 The AuSSA survey also shows that television, radio and print media continue to be the most important sources of news and current affairs for the majority of Australians: in 2007, only about six per cent of respondents relied on the internet for news and information.

2 Or select any two of newspaper, radio or TV.

The focus of this paper is thus on the effect of the 2006 cross-media rule changes on the concentration of ownership of Australian commercial radio and commercial television services and newspapers. It considers what the changes have meant for media diversity and why we should be concerned.

Some background

It is important to note that different parts of the Australian media are subject to different regulatory approaches. The print, video and film industries are treated in a similar way to other Australian industries, with some sectors receiving government subsidies to encourage production and distribution of Australian stories. The broadcasting industry, on the other hand, is regulated more heavily, by virtue of its use of scarce public spectrum, its pervasiveness and its impact on society. The *Broadcasting Services Act 1992* (BSA) was one of the first pieces of legislation put in place under the Hawke Government's 1987 micro-economic reform agenda. Accordingly, the BSA aims to promote an efficient and competitive broadcasting sector. It also, however, allows for the ongoing development and refinement of regulations that take into account judgments about the influence of broadcasting in society (DOTAC 1993).

Australian media law assumes that a balance in programming and information can, to some extent, be achieved through balance in ownership. There are strong incentives for media businesses to expand their holdings and thus to exclude competitors and increase ownership concentration. Broadcasters can maximise economies of scale and scope by establishing networks across large regions and by running multiple services in the same and neighbouring geographic areas, thereby spreading production costs across product and geographic markets. Potential efficiency gains also drive media businesses to participate in other areas of the supply chain — for example, broadcasters produce their own content, and producers distribute their programs. Horizontal and vertical integration can both lead to concentration of ownership, limiting the number of available media sources. An overly-concentrated media can allow abuses of power, lack of diversity of opinion, conflicting interests, and suppression of journalistic freedom (Doyle 2000; Pearson and Brand 2001, pp. 7 and 28–9).

All of these issues represent, from an economic point of view, market failures and thus justify the unique regulatory framework for the broadcasting industry that Withers (2003, pp. 105–6) has usefully described thus:

> In broadcasting, such common features of its economic structure as limited frequency spectrum for product supply, product demand derived from advertisers, and economies of scale and scope, combined with an output which is uniquely persuasive and pervasive, have all given rise in the past to concern over major market failure and market adequacy under free market provision.
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> Monopolization has been seen as one likely problem arising from economies of scale and scope, spectrum access limitations and sometime low elasticity of substitution for alternative services and products. Asymmetric information has also commonly been seen as a likely source of further market failure, arising from advertiser-derived demand not reflecting program consumer demand intensity beyond the threshold decision to watch or listen.

To mitigate the market failures typical of broadcasting, government have developed unique sets of regulations. Regulations include rules about who can hold a licence and how that are required to use that licence. Ownership rules aim to ensure a diversity of ownership that is often assumed will yield a diversity of opinion and content. As well as being designed to underpin diversity, content rules ensure access to vulnerable programming and limit access to morally questionable content.

Clearly then, government intervention in broadcasting and, to a lesser extent, print media is integral to ensuring a balance between market forces and other paradigmatic perspectives.

Cross-media ownership

Ownership and control rules usually take the following forms:

- group ownership rules-limits upon the number of services that can be owned or controlled by any one entity,
- cross-media ownership rules-limits on ownership or control of media services by owners of other media, and
- foreign ownership rules-limits on the ownership or control of services by non-nationals (Brown and Cave 1992, p. 386).

Broadcasters in Australia have always been subject to group ownership and, until recently, foreign ownership rules, however, there are no Australian laws requiring diversity of press ownership (Armstrong et al. 1995). In 1987, the Hawke Government introduced the first cross-media rules, replacing group ownership restrictions with reach limits and limits on the number of commercial radio licences that could be held in any one licence area. The 1987 changes prevented cross-ownership between radio, television or newspaper services in any licence area (table 1). The then Treasurer, Paul Keating famously explained that that media owners would need to choose between being a prince of print or queen of screen. The changes triggered a series of takeovers, with all the commercial television networks changing hands, and then, in the case of Nine, back again. The 1987 rules carried over into the BSA.

More recently, the potential of new communications technologies to allow for a plethora of media voices has led to pressure to lift some elements of ownership regulation, in particular the cross-media ownership rules. By the late 1990s, John Howard was on record as saying that the cross-media rules were outdated (Cunningham 1997). Lindsay Tanner wrote in his book, *Open Australia*, that 'the information technology revolution' would end the 'media dominance of newspapers and television':

> Restrictions on cross-media ownership will no longer be important. The barriers to entry to the information industry are dropping at a staggering rate. Special arrangements to ensure limited diversity within the previously narrow range of media options are no longer essential. Diversity and competition can be promoted through the Australian Competition and Consumer Commission and government facilitation of innovation and skills development (Tanner 1999, pp. 175–6).

Tanner argued that diversity and competition in media should be promoted through competition law and subsidisation rather than direct regulation. 'Provided that the emergence of new media is fostered by government it no longer matters much whether or not Kerry Packer owns Fairfax.'

In 2000, the Productivity Commission criticised the restrictions on foreign ownership and control in particular as being anti-competitive. It considered that the rules were not consistent, and that commercial radio and television services should be treated equitably. Loosening the rules would improve access to capital, increase the pool of potential media proprietors and act as an safeguard against media concentration (Productivity Commission 2000, p. 340).

Accordingly, in 2002, the Howard Government moved to change the rules. Its bill-allowing companies to own two kinds of commercial television, commercial radio or print media service in any market-was, however, rejected by the Senate. The 2004 Federal election then resulted in the Howard Government controlling both the House of Representatives and the Senate, enabling it to secure the passage of legislation without minor party support (Given 2007). In 2005, DCITA stated publically that, 'the Government [is] committed to reform cross-media ownership and media specific foreign ownership restrictions in the BSA' (DCITA 2005).

Table 1: Media ownership rules affecting commercial radio and commercial television licensees in Australia

	Pre-1987	1987–2006	Post-2006
Number of licences	Commercial TV limited to two licences. Commercial radio limited to six licences.	Commercial TV limited to 75% national reach, one licence in any one licence area. Commercial radio limited to two licences in any one licence area and no national reach limit.	No change. Multi-channels allow three digital services per licence per licence area for commercial TV.
Reach		Audience reach limited by geography determined by transmitter power output. No obligation to serve licence area.	No change.
Foreign control	Up to 1981 — owners must be Aust residents After 1981 — owners must be Aust citizens	Foreign control limited to 15% for an individual and 20% cumulative for commercial TV licences. No limits for commercial radio.	No practical restriction. (General foreign ownership policies apply.)
Cross-media control	No restrictions on the ownership of a combination of newspapers, TV and radio in the same market.	No cross-media ownership between radio, television and newspapers in a licence area, beyond 15 per cent.	For commercial radio, there must be at least four different voices in regional licence areas and at least five in metro areas (the 4/5 rule). A person may not control more than 2 media out of radio, TV and newspapers in a licence area (the 2-out-of-3 rule).
Other	Owners must be fit and proper persons		

Sources: ACMA 2009a, MEAA 2002.

Note: Although commercial radio and television licences are associated with a defined licence area, newspapers are not, so the rules attribute a newspaper to a broadcasting area if 50 per cent of its circulation is within that area. National newspapers only have a small share of the market in each licence area, so they are not affected by the rules. Newspapers in languages other than English, papers published less than four days per week and magazines are also excluded from the rules (Armstrong et al. 1995).

In October 2006, parliament passed the Broadcasting Services Amendment (Media Ownership) Bill 2006, relaxing the cross-media laws and removing all limits on foreign ownership. It received royal asset on 4 November 2006, with different aspects coming into effect on 1 February and 4 April 2007. The new rules permit cross-media mergers in radio licence areas where sufficient diversity of media groups remains following the merger. At least five separate media groups will be required to remain after any merger activity in mainland state capitals and four groups in regional licence areas. Any media merger, including one that is not a cross-media merger, will not be permitted if it would reduce the number of media groups in a licence area below the minimum level (Senate 2006).

At the same time, the Federal Government directed the ACCC to provide guidance as to how future cross-media merger proposals might be assessed under the Trade Practices Act and how it would define media markets. The ACCC had previously recognised the media as four separate markets. Technological convergence had blurred these traditional boundaries and different media were now competing directly for their users' leisure time and discretionary expenditure:

> In the past, the ACCC has regarded the media as four distinct products — free-to-air television, pay television, radio and print. Those products have been thought of as having little overlap in content or advertising.
>
> Convergence of technology means we can no longer take that view. Some advertising and content is now being packaged across a number of delivery platforms such as newspapers, 3G mobile phones and internet news sites (ACCC 2006, p. 5).

In competing for audience share, the media was also increasingly competing for content. Given the structural and technological uncertainties in the media market, the ACCC envisaged availability of content would become one of the key issues in assessing a media merger:

> As traditional media boundaries blur, focus may shift from the way information is delivered to the actual products media companies offer. In this regard, there are three main categories the ACCC will consider as part of its assessment: the supply of advertising opportunities to advertisers; the supply of content to consumers; and the acquisition of content from content providers.
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> Other more specific products — such as premium content; classified and display advertising; and the delivery of news, information and opinion — may also be critical when considering particular mergers. (ACCC 2006).

Thus, competition policy was dominant in determining the shape and scope of these structural changes. Only the ACCC acknowledged that the supply of content to consumers and other within the media should be an important consideration in assessing the validity of a merger. Even then, changes that were originally proposed as an enhancement of the public interest were set within a frame that relegated the public interest as a secondary issue — as a market externality and a product of government assigned rents and corporate jostling for audience share and advertising revenues.

Anticipating the fallout

Debate about the 2006 media law changes clustered in two groups. Many academics were concerned that lifting the media ownership laws would inevitably result in a loss of diversity in Australia, predicting that Kerry Packer or Rupert Murdoch would be primed to take over Fairfax. The business press, on the other hand, considered that changes resulting from the new rules would be minimal.

Academics tended to see the cross-media rules as an important stop-gap, preventing the major players from building media monopolies. As early as 2000, in response to the Productivity Commission inquiry, Cunningham and Romano were pointing out that there was no evidence to support the argument that cross-media rules were irrelevant in a world of new media outlets. 'Most of the evidence points to powerful media players moving effectively to tie up new media' (Cunningham and Romano 2000). In 2005, as the debate surrounding the proposed new rules intensified, Julianne Schultz predicted that the proposed changes would entrench the old regimes, and protect them into the future. She saw the cross-media ownership restrictions as being 'about the division of power in this society'.

> The danger is that removing the cross media laws at this stage is likely to exacerbate the problem it is claimed it will solve — increasing media diversity at a time of great technological change … If [the big companies] do get bigger they stand to have a chilling effect on the whole sector, to kill many new ventures before they even start because the game looks too tough (Schultz 2005).

With great foresight, Schultz pointed to the likely winners from the rule changes:

> The main beneficiaries of the removal of cross media inhibitions will be the investment companies who are currently gearing up for an orgy of buying and selling, and a handful of owners and major shareholders who are anticipating windfall profits (Schultz 2005).

Among the submissions received in response to the department's discussion paper outlining the government proposed changes were more predictions that loosening the cross-media limits would fail to enhance diversity. For example:

> The proposed changes are a recipe for further concentration, not greater diversity in the Australian media. They will encourage media companies to think about acquisition rather than innovation, about consolidation of old media rather than creativity with new, about buying their way into a cross-platform future, rather than using the exciting technologies already available to them, which are untouched by cross-media restrictions — broadband and mobile (Given 2006).

Empirical data available at the time of the rule changes was also suggesting they would be unlikely to increase media diversity. Downie and Macintosh (2006) used Roy Morgan Research data to refute the assumption that Australia was 'at the dawn of the greatest era of pluralism in our history'. They found that only a small proportion of Australians relied on the Internet for new and current affairs and those that did used websites either controlled directly, or indirectly through supplied content, by traditional media owners. They concluded that new media add virtually nothing to media diversity, and that repealing the cross-media laws would result in further concentration of the Australian media.

Even the Government was predicting that the rules would lead to consolidation of ownership in the media market. In July 2005, before the release of the proposed rules, the Minister for Communications, Helen Coonan, suggested that new cross-media rules would limit the number of large companies that may operate in each market (Shoebridge and Crowe 2005). The Prime Minister was of the mind that the market required some concentration:

> The Government's new ownership laws are designed to restructure an industry that has struggled with cross-media constraints for almost two decades, and while the Government says diversity of voices is paramount, Prime Minister John Howard has also said this week that in a small media market such as Australia's, 'a certain concentration is needed' (Maiden and Ricketson 2006).

As the laws were put in place, some in the industry itself was predicting that consolidation was the most likely result:

> The media proprietors are the major driver behind the decision to reform the existing rules. They stand to benefit greatly from the changes and have been pushing for them for the better part of 15 years (*The Canberra Times* 2006a).

> A spokesman for News Limited, publisher of The Australian, said last night the package 'won't deliver the intended benefits to consumers and will simply lead to industry consolidation among entrenched players who won't have any incentive to drive digital take-up (Tabakoff 2007).

Not all media owners were of the same mind, however:

> … many Australians might be left feeling distinctly underwhelmed by [the changes'] relevance and usefulness. Certainly the industry itself has greeted the changes with some indifference — with the exception of News Ltd and the pay TV operator Foxtel (in which News has an interest), which have claimed the reforms entrench the power and profitability of the big free-to-air TV networks (*The Canberra Times* 2006b).

A second, albeit smaller, group of commentators, including many in the business press, thought that any drastic changes in media ownership resulting from the rule changes were unlikely. Although there was a flurry of takeover activity and financial reengineering as the rule changes passed parliament, none of these deals was dependent on the new laws. The Institute of Public Affairs' John

Roskam, for example, writing in The Age, thought that the 'practical changes produced by the laws would be minimal' (Roskam 2007). Some doubted whether new value could be found in traditional media, minimising any likely interest in acquisitions in media affected by the rules

> The market is looking for growth but is unlikely to find it in traditional media. Most media stocks are already fully priced thanks to talk of ownership changes, US markets show little evidence of worthwhile synergies between broadcasters and publishers, and medium-term revenue growth from established products is little better than bond rates (Burton and Murray 2006).

Two crucial points emerge from this debate. The first is that many thought that the new, loosened rules would lead to an increase in media ownership concentration albeit in a different pattern. Secondly, the debate seems to overlook that the purported priority of the ownership rules was ensuring the quality and range of broadcast and print contents offered to the Australian public. The debate abandoned or ignored the earlier working assumption of the reformers that diversity of ownership will work as an effective proxy for quality of output. It has changed key from an emphasis on what the public should get, to how the markets might work.

What happened?

To examine objectively how the 2006 rule changes affected ownership concentration, this study acquired ownership and control details for commercial radio and commercial television services and newspapers affected by the rules for 2003 and 2007, corresponding with the AuSSA survey months, and for 2010 to examine longer-term effects of the rule changes. The study is limited to commercial radio and television services and to 'associated newspapers', as these are the services affected by the cross-media rules.[3] The 2003 data was sourced from the Communications Law Centre's semi-regular Media Ownership Update, published as part of its now discontinued journal, *Communications Update* (CLC 2003). The 2007 data was extracted from ACMA's July 2007 current controllers report and the 2010 data from ACMA's media control database in April 2010, which is now available on its website.

The ownership data shows evidence of increased media concentration following the rule changes, with the number of media controllers falling over the study period (table 2).[4] Between 2003 and 2010, the number of controllers of commercial radio licences fell from 33 to 32, the number of controllers of commercial television licences fell from 9 to 7 and the number of controllers of associated newspapers fell from 13 to 8. These falls occurred despite the auction of new commercial radio and television licences during the same period: government released nine new commercial radio licences and two new commercial television licences between 2003 and 2007 (table 3).

Table 2: Number of controllers of media services, all of Australia, 2003–10

Number of controllers of media services	2003	2007	2010
Commercial radio	33	34	32
Commercial television	9	8	7
Associated newspapers	13	8	8

Sources: ACMA (2007, 2010a), Communications Law Centre (2003).

[3] A newspaper is an associated newspaper if at least 50 per cent of its circulation is within a commercial radio licence area or a commercial television licence area. It must be in English and published on at least four days in each week, and 50 per cent of its circulation must be by way of sale.

[4] Joint ventures are attributed proportionally to each partner organisation. That is, if two organisations own or control a media services, this study assumes that each partner controls half a service.

Table 3: Number of media services, all of Australia, 2003–10

Number of media services	2003	2007	2010
Commercial radio	253	262	262
Commercial television	53	55	55
Associated newspapers	47	47	47

Sources: ACMA (2007, 2010a), Communications Law Centre (2003).

The number of different media services owned by each business group also shows evidence of diversification as well as concentration (tables 4, 5 and 6). Larger groups have taken advantage of the rule changes to diversify their holdings, even though the rules may have forced them to shed existing assets. For example, Macquarie Media (now Macquarie Southern Cross) acquired commercial radio licences from DMG, which it then sold on after acquiring the commercial television licences previously held by Southern Cross Broadcasting (tables 4 and 5). Smaller media organisations, including Super Radio Network and Prime Radio, have in turn acquired these commercial radio licences, expanding their networks.

Paradoxically then, the changes to the cross-media rules have resulted in larger media organisations becoming smaller, with more diversified media holdings, and some smaller organisations becoming larger as they pick up licences under forced sales.

How did this happen?

Despite the many predictions that Kerry Packer or Rupert Murdoch would take over Fairfax, the most significant changes following the rule changes were unanticipated by most commentators. The death of Kerry Packer in December 2005 was quickly followed by the emergence of the private equity fund as a media financing vehicle, Fairfax merged with Rural Press and Kerry Stokes staged an effective takeover of West Australian Newspapers.

The new laws were a catalyst for a rush of strategic moves within days of Senate approval in October 2006. On the same day the laws were approved, James Packer announced that he sold half of his media business to the private equity group CVC Capital Partners. The following day, Kerry Stokes' Seven Network acquired a 14.9 per cent stake in West Australian Newspapers. Southern Cross Broadcasting admitted it was talking with other media companies, including Macquarie Media. By the end of the week, News had acquired a 'friendly' 7.5 per cent investment in Fairfax. In December, Seven shareholders approved a joint venture with private equity group Kohlberg Kravis Roberts, freeing $3.2 billion cash, with Seven then acquiring a three per cent stake in Fairfax Media. Macquarie Media took a 14.9 per cent holding in Southern Cross Broadcasting. All of these deals, however, were structured under the old rules and were not dependent on the new laws. Only Kerry Stokes' acquisitions appeared to be intended to take advantage of the imminent breakdown on the cross-media rules (Day 2006; Maiden et al. 2006; Maiden and Ricketson 2006; Murray 2006; Schultz and Maiden 2006).

> The departure of James Packer from most media and the growth of Fairfax Media could be seen as forward thinking government policy in action or as market forces at work. Or, given the Government's apparent framing of the media laws to suit Parker's interests and leave Fairfax vulnerable, it could be seen as a law of unintended consequences (Ricketson 2007).

Possibly the most significant change resulting from the new rules was the merger between Fairfax and Rural Press in May 2007. Most analysts had predicted that Fairfax 'would be swallowed by one of the predators in the media pit'. Instead, the merger created 'the largest print and online media company in Australasia' (Ricketson 2007). Along with Rural Press's nine newspaper titles, the merger brought seven commercial radio licences under the control of Fairfax Media. By mid 2007, Fairfax had acquired an additional three regional newspaper titles, removing five companies from ACMA's list of controllers of associated newspapers (see Appendix for data tables).

The next major change in the controller's register was triggered in July 2007 by `Fairfax and Macquarie Media's takeover of Southern Star, which owned Southern Cross Broadcasting. Macquarie Media had previously acquired DMG's regional radio network and RG Capital Radio. At the time, Macquarie controlled more commercial radio licences — 85 — than any other business in Australia. Its regional radio networks were ubiquitous in some areas of eastern Australia, with areas of Queensland, Tasmania and Victoria receiving blanket Macquarie-controlled radio services.

To comply with the new rules, the takeover of Southern Star forced Macquarie to divest some of its radio network. Similarly, Fairfax was also forced to sell a commercial radio licence. Beneficiaries of the Macquarie and Fairfax divestments included:

- Grant Broadcasters, which acquired nine commercial radio licences from Macquarie and one from Fairfax between 2007 and 2010.
- Smart Radio Group, which acquired three Macquarie licences in regional Queensland to add to its existing Charleville licences.
- Resonate Broadcasting, a new licensee, acquired three Macquarie licences, two in regional Queensland and one in regional Victoria.
- Coastal Broadcasters acquired a Macquarie commercial radio licence in regional Queensland. They already owned two regional Queensland licence.
- Super Radio Network acquired two Macquarie commercial radio licences in regional NSW to add to its significant regional NSW radio network.

The other significant ownership change during this period was Kerry Stoke's effective takeover of West Australian Newspapers, which owned the regional WA radio network Redwave Network and the *West Australian* newspaper. Stokes gained control of West Australian Newspapers by slowly acquiring shares under the 'creep' provisions of the *Corporations Act 2001* and applying pressure to obtain two seats on its board.[5] The takeover is not reflected in the controllers data, as the assets did not move between companies nor did it force any further licence sales to ensure compliance with the ownership rules. Stokes had effectively gained control over WAN without launching a formal takeover bid and paying a premium to buy out existing shareholders — an approach similar to that he used to take over Seven in the 1990s.

Conclusions

From 1987 to the present time the changing regulation of media has produced important outcomes. These changes were from the beginning prosecuted as an integral part of a top-down process of economic reform that started in earnest in 1985 and which continues to this day (Pusey 1991, 2003). Accordingly, to arrive at a balanced understanding of the significance of the effects of the 2006 cross-media rules, they need to be assessed both within their own terms as micro-economic reforms and, as changes that were also presented as a means of achieving larger social and public benefits.

Clearly there has been a shake-up. By 2010, three years after the laws came into effect, we may reasonably conclude that the industry has settled into a new ownership pattern and, further, that the 2006 cross-media rules have undoubtedly forced a degree of change within the ownership structures of the Australian media industry.

Our headline finding is that the ownership of commercial radio and commercial television services and associated newspapers has, as some commentators accurately predicted, become, *more concentrated* since the cross-media changes were set into law, with fewer companies holding mass-media assets. This is not, however, a simple finding of contracting media voices:

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[5] Under section 611 of the *Corporations Act 2001*, an existing shareholder may acquire three per cent of shares in a company in six months without being required to launch a takeover.

- Larger companies have diversified their holdings, investing across the media. As diversification under the new rules forced some companies to divest some media assets, larger media organisations now tend to control fewer media businesses than under the 1987 rules.
- Many smaller companies increased their holdings of commercial radio licences, as larger organisations shed their networks in favour of diversified media investments.

Who owns the traditional media and changing ownership patterns continue to matter. New media has not been nurtured to balance lifting the cross-media rules, as advocated by Lindsay Tanner. Although the growth of new media has dramatically increased the number of viewpoints presented to the public, they are of limited significance as a means of disseminating news and current affairs and remain heavily dependent on major established sources for their content. Big advertisers continue to favour the traditional media — in 2008, 83 per cent of advertising expenditure in Australia went to radio, television and newspapers (ACMA 2009b).

> … no new media platform has produced content that is remotely of interest to big-end advertisers. Nor do internet-based platforms look likely to challenge the influence that mass-audience broadcasters command. Rather, platforms on the internet, like YouTube and weblogs, are typically parasitic of the content of mass-audience media. It is the reach of mass-audience media that guarantees the steadiness of its advertising, making it much more cost-effective than buying time on a host of niche channels (Holmes 2007).

The new rules have allowed established players to position themselves across media for the first time since 1987. This reduces the diversity of voices within the Australian media by limiting the scope for competition from newer and smaller operators. Companies with cross-media interests and networked services benefit from economies of scale and scope to consolidate their holdings. Similarly the new rules create strong incentives for media businesses to centralise their news and information services.

Service to the *regions* was always an important consideration in the design of the new rules, with different rules applying to non-metropolitan areas. Despite ACMA local content rules requiring regional commercial radio and television licensees to broadcast local news and current affairs, evidence points to smaller networks struggling to meet minimum requirements. As networked services are homogenised across media and regions, the needs of specific communities are bleached out in generic offerings and lost in lowest common denominator programming. A example of this problem came to light, in May 2010, as the ABC's *Media Watch* reported that Southern Cross Media prepares news reports for 19 regional television services in its Canberra studio, and had, because it was 'too busy', missed a local news story about a siege that had resulted in the evacuation of 100 homes. In the same program, *Media Watch* reported that Prime News pre-recorded many of its regional news bulletins, including Monday morning news updates, which are recorded on the Friday before (ABC 2010). Such effects entrench new forms of market failure and work against the interests of both citizens and consumers.

As the AuSSA data shows, the concentration of media ownership resulting from the new cross-media rules runs counter to the wishes of most Australians. The new rules are a step in Australia's application of neo-liberal economic reform to nearly every aspect of the nation's affairs. As government pursued the deregulation and restructuring of the media as micro-economic reform, the design of the framework could have been turned over largely to economists, with consumers the primary concern. The new cross-media rules may have brought an end, or at least mitigated, the naked political arm-twisting of successive government by the older Fairfax/Packer/Murdoch dynasties. However, in this reshaped institutional environment the public interest is merely an externality of market forces and the main beneficiaries of the rule changes are media owners.

This discussion is timely. In June 2010, ACMA released two occasional papers, one exploring the citizen concepts in media regulation and the other optimal conditions for self- and co-regulation (ACMA 2010b and 2010c). ACMA's examination of the role of the citizen was driven not only by a

whole-of-government reform, but also by an increasing recognition by the regulator itself that consideration of the public or 'citizen interest is more about an individual or private interest or right, but relates to the public realm and requires a sense of commonality and plurality'. As the regulator further develops its frameworks for considering how self- and co-regulation of the media affect both citizens and consumers, the problems revealed by *Media Watch* provide a clear example of how a simple change to the cross-media rules can have unintended and adverse consequences.

This may be seen as part of a uniquely Australian story. We are very much a Benthamite society. We do not have strong charter myths and long established forms of civil society and grassroots democracy to underpin our moral vocabularies and to shape collective action. Our success as a nation has traditionally relied heavily upon the pragmatic problem-solving capabilities of state instrumentalities (commissions, royal commissions, statutory authorities, tribunals and expert public experts and senior public servants) to further our collective interests. Indeed we were 'born modern' in the belief that enlightened governments would often give better protection to the individual than the free play of private interests. From this perspective it could be that as the new media dispensation has shifted the burden of coordination from states and governments to market forces we may have cut ourselves off from what has been our own preferred course to advancement.

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Appendix

Table 4: Number of commercial radio services by controller, all of Australia, 2003–10

Organisation	2003	2007	2010
2KY	1	1	1
3UZ	2	2	2
ACE Radio	12	13	13
Alice Springs Commercial Broadcasters	2	2	2
Associated Media Investments	8	1	
Austereo Network	10	10	10
Australian Radio Network	8	8	8
Beecher Investments	2		
Camplin Group	2	2	2
Capital Radio Network	6	3	1
Coastal Broadcasters	2	2	3
DMG Radio	61	8	8
Fairfax Media		9	15
Flow FM	2	2	2
Geraldton Newspapers	2		
Grant Broadcasters	15	18	28
Hits Radio		2	2
JV Austereo Network; Australian Radio Network	2	2	2
JV Austereo Group; RG Capital Radio	2		
JV Australian Radio Network; DMG Radio	2	2	2
JV Camplin Broadcasters; Capital Radio Network	1	1	
JV Capital Radio Network/Grant Broadcasters	1	2	4
JV Macquarie Southern Cross/Austereo Network		2	2
Macquarie Radio Network	2	2	2
Macquarie Southern Cross		85	67
Media Corporation Australia	2	2	2
North East Broadcasters	4	4	4
Pacific Star Network	2	2	2
Prime Radio		8	10
Queensland Media Investment		1	
Radio Outback	4	4	2
Radio Snowy Mountains		2	3
Rebel Radio Network	2	2	2
RG Capital Radio	34		
Redwave Network (WAN)	6	9	9
Resonate Broadcasting			3
Robert Nettlefold	1		
Rural Press	7		
Smart Radio Group	2	2	5
Southern Cross Broadcasting	7	7	
Super Radio Network	30	32	36
The Hot Tomato Broadcasting Company	1	1	1
Tote Tasmania	1	1	1
Unitab	1	2	2
West Coast Radio	2	2	2
WIN Media	2	2	2

Sources: ACMA (2007, 2010a), Communications Law Centre (2003).

Table 5: Number of commercial television services by controller, all of Australia, 2003–10

Organisation	2003	2007	2010
Imparja TV	1	1	1
JV Nine Network/Southern Cross Broadcasting		1	
JV Southern Cross Broadcasting; WIN Corp	1	1	
JV WIN Media/Prime Television		1	3
JV Nine Network/Macquarie Southern Cross			1
JV WIN Media/Macquarie Southern Cross			1
Macquarie Southern Cross			12
Network Ten	5	5	5
Nine Network	4	5	5
Prime Television	8	8	7
Seven Network	6	6	6
Southern Cross Broadcasting (Australia)	14	14	
Sunraysia Television	1	1	
Washington H Soul Pattinson & Co	1		
WIN Media	12	12	14

Sources: ACMA (2007, 2010a), Communications Law Centre (2003).

Table 6: Number of associated newspapers by controller, all of Australia, 2003–10

Organisation	2003	2007	2010
APN News & Media	13	13	13
Barrier Trades and Labour Council	1	1	1
Carpentaria Newspapers	1		
Elliot Newspaper Group	1	1	1
Harris & Co	1		
Fairfax Media	5	18	18
McPherson Media	1	1	1
News Limited	10	10	10
Riverina Media Group	1		
Rural Press	9		
The Border Morning Mail	1		
The Border Watch	1	1	1
West Australian Newspapers	2	2	2

Sources: ACMA (2007, 2010a), Communications Law Centre (2003).