Media ownership reforms

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Abstract/Description: This guide provides a concise overview of the current state of cross-media ownership rules in Australia and the potential reforms that are on the Coalition’s agenda.

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Evolution of the media and how news is consumed in Australia has prompted reforms to media ownership laws. Current laws focus on traditional sources of news and fail to accommodate for the instantaneous and unregulated nature of the Internet. Reform has been encouraged to allow traditional media outlets to adapt to these changes and compete with unregulated sources, by enabling the creation of newer services and allowing business restructuring (Department of Communications and the Arts 2016).

Changing media landscape
Existing media laws are dictated by three separate sectors of media; radio, newspapers and television. This distinction was deemed effective in rule making, as each sector had unique strengths that enabled them to work collaboratively in the same market, however the Internet has since made these redundant (Papandrea 2013). In the digital age, the range of media ‘voices’ has grown considerably, offering new perspectives and avenues for consumers. News must now be accessible on all platforms and be suitable for any format (Watkins et al. 2015). A declining newspaper readership and an unwillingness to pay for news have contributed to an overall decline in news consumption via traditional platforms (Watkins et al. 2015). This generational shift in how news is consumed combined with the impact of social media warrants reform to adapt to the changing media landscape (Australian Communications and Media Authority 2011).

Framing the issue
Media ownership laws in Australia are informed by the theoretical role of the media in a democratic society. This includes:

- Ensuring access to diverse sources of information,
- Allowing all persons to participate in the democratic process by being informed of political debate,
- Providing accountability and scrutiny of government.

It must also be noted that the media is an influential institution and can therefore affect the political process (Finkelstein 2012).

Whilst the media does play a role in holding politicians and governing bodies accountable, there are reciprocating journalistic standards and regulatory practices for the news media. Australia currently has no all-encompassing regulatory body, however multiple recommendations have been made to establish such a body (Finkelstein 2012; Department of Broadband, Communications and the Digital Economy 2012). Online news is not explicitly regulated in Australia, thus a regulatory body defined by function rather than by medium is desired (Finkelstein 2012).

Background to current policies
Reforms to Australian media ownership laws have historically resulted in further concentration of ownership.

- **1981**: Restrictions lifted on foreign ownership.
- **1987**: Cross media ownership laws were first introduced.
- **1992**: The initial Broadcasting Services Act passed, defining what level of regulation different broadcasting services should have. Each level of
regulation was determined by the degree of influence that each service exerted on shaping community views.

- **1996**: The Howard government had initial thoughts of abolishing cross-media ownership laws, however the Senate rejected the bill in 2002.
- **2007**: Restrictions on foreign investment in television sectors were repealed, as well as some cross-media ownership rules, resulting in the creation of the ‘two out of three’ media types rule. This created greater foreign ownership and greater cross-media ownership within Australia.
- **2011**: The Gillard government completed the Digital Convergence Review, which proposed the replacement of cross-media ownership laws with a media-specific ‘public interest’ test. It also endorsed the replacement of the Australian Press Council with an imposed form of self-regulation. *(Harding-Smith 2011)*
- **2012**: The report of the independent inquiry into the media and media regulation by Raymond Finkelstein was published. It argued that existing mechanisms of regulation are not sufficient enough to ensure the degree of accountability necessary in a democracy, further advocating for the establishment of a new regulatory body to set journalistic standards in consultation with the industry. It also recommended the careful monitoring of news services in regional areas. *(Finkelstein 2012)*

Initially, cross-media ownership laws were introduced to create diversity by allowing dominance within one medium but not across all *(Phillips 2015)*. This idea has resulted in greater concentration of media ownership and has since defined media discourse in Australia.

**Policy developments:**
The reforms presented by the Turnbull government have explicitly proposed to support local organisations by allowing them to restructure their business models, thus enabling them to adapt to increasing global competition *(Department of Communications and the Arts 2016)*. The new reforms will *repeal*:

- The ‘75 per cent’ audience reach rule, which currently prohibits a person from controlling commercial television licences that collectively reach in excess of 75 percent of the Australian population,
- The ‘2 out of 3’ rule, which currently prevents a person from owning more than two of the three regulated forms of media in the one commercial radio licence area.

They will further *introduce*:

- Changes to ‘protect and enhance’ the amount of local television content in regional Australia. This will be achieved through an enhancement of the existing point system, whereby broadcasters have local content obligations and will be provided with incentives for producing such content. Similar obligations will also be introduced to small markets that currently do not have them.

The reforms will *maintain* other diversity rules:

- The ‘5/4’ rule, which imposes requirements for the number of media voices in metropolitan and regional radio licence areas,
- The ‘one-to-a-market’ rule, which prohibits an individual’s capability to control more than one commercial television licence in a licence area,
• The ‘two-to-a-market’ rule, which prohibits more than two commercial radio licences being controlled by one individual in the same licence area. ([Department of Communications and the Arts 2016](http://example.com))

**Comparisons: UK and US**

Plurality has been given significant attention during UK media law reforms, exemplified by the introduction of the Media Plurality Public Interest Test, which enables the Secretary of State to intervene in media mergers that threaten both the plurality of views and plurality of persons who control media enterprises ([Leveson 2012](http://example.com)). The Digital Convergence Review, commissioned by the Gillard government in 2011, recommended a similar, media-specific ‘public interest’ test, however this recommendation was not implemented. The UK is aligned with Australia on plurality rules concerning television, whereby it holds similar rules to our ‘one-to-a-market’ rule that prohibits competing television channels from holding cross-channel licences.

The Federal Communications Commission (FCC) in the US has progressively abolished laws preventing cross-media ownership, most notably in 2007, when the rule forbidding a company from owning both a newspaper and a television or radio station in the same city was repealed ([Obar 2009](http://example.com)). This is comparable to the proposed repeal of the ‘2 out of 3’ rule in Australia. Prohibiting localism was one argument produced by the FCC to warrant the modification of the newspaper and broadcast cross-ownership rule, stating that existing restrictions are preventing efficient combinations of organisations that could provide high quality local news ([Obar 2009](http://example.com)). This argument is also evident in the reforms proposed in Australia, illustrated by the emphasis on local content obligations and the restructuring of businesses to provide better quality service and competition.

**Debate**

Whilst the reforms intend to support local organisations, they do not address the lack of regulation that digital media is subjected to. The current framework of regulation is based on delivery platforms, however the push for a technology-neutral approach to facilitate and ensure equal competition has been disregarded ([Department of Broadband, Communications and the Digital Economy 2012](http://example.com)). Traditional media outlets must compete with digital sources for advertisers and audiences, however the reforms fail to acknowledge and address differing licencing fees and corporate taxes between these competitors ([Crowe & Mitchell 2016](http://example.com)). Regardless of measures to protect the amount of local television content, there are concerns that the removal of existing diversity rules could reduce the number of media voices in rural Australia, potentially resulting in a loss of diversity of information and thus endangering the ability of rural citizens to take part in political debate ([Barbour 2016](http://example.com)). However, there is consensus that the current audience reach rules are redundant, as avenues such as streaming services are able to bypass these rules by using online sources ([Barbour 2016](http://example.com)).

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Bibliography:


