

Australian Media Monitor

*This article was originally published on The Conversation. Read the original article published September 14, 2017 11.06am and updated September 14, 2017 2.07pm.

Media reform deals will reduce diversity and amount to little more than window dressing

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The breakthrough in negotiations with the Senate crossbenchers that the government has been chipping away at over media reform has finally arrived.

The deregulatory legislation, the Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017, required 38 votes to pass the Senate, where the Coalition controls 29 votes. It had already secured the support of three crossbenchers and four One Nation senators, but was waiting for just two votes to get it over the line – until Nick Xenophon did the deal.

After protracted negotiations with Xenophon and his NXT party, the Coalition has arrived at a quid pro quo deal that sees the repeal of the remaining cross-media diversity rules, after the government agreed to NXT's proposal to introduce funding grants for small and regional publishers. Clearly, though, they are not the "substantial quid pro quo" for public interest journalism that Xenophon has trumpeted, which had previously included tax breaks.

The main features of the bill are:

- repeal of the "two-out-of-three" rule and the 75% reach rule;
- the creation of a one-off A\$50 million innovation fund for smaller and regional publishers, whose turnover is between A\$300,000 and A\$30 million. This is capped at \$1 million per publisher and available from mid-2018; and
- the creation of 200 cadetships and 60 scholarships.

The government will also direct the ACCC to conduct an inquiry into the advertising practices of Google and Facebook and their impact on journalism.

Funding for these publishers will require them to meet specific eligibility criteria, including membership of the Australian Press Council and having ethical guidelines in place. It will need to be for the purposes of news production, and civic and public interest journalism from a local perspective. The Australian Communications and Media Authority will oversee the distribution of the funds.

Recipients of the grants must be majority Australian-owned, pass an independence test, and not be affiliated with a political party, union, super fund or lobby group.

These eligibility criteria means some publishers will not have access to these meagre funds. For example, offshore controlled or owned online publications such as The Guardian and BuzzFeed, or a publisher like The New Daily, which is closely affiliated with super funds, would miss out.

Other horsetrading has led to amendments that assist community television, a welcome rescue measure for the sector. It includes a controversial measure such as the A\$30 million gift to Fox Sports for women's and niche sports – a commercial broadcaster that can be accessed by less than 30% of the Australian population.

A major A\$90 million gift to commercial free-to-air broadcasters in the form of licence fee removals raises the question of whether something was given in return.

The obvious quid pro quo here is an agreement secured to remove gambling advertising in prime time.

In the wider frame of high industry concentration and the dominance of US-based hegemony, Xenophon's measures are a minimalistic band-aid response, which will do nothing to prevent further concentration of Australia's media landscape.

The NXT “wins” are really only window dressing. The One Nation “wins” in relation to further scrutiny on the ABC are a ludicrous attempt at payback for critical coverage.

The more principled approach of Labor and the Greens, who did not support the repeal of the two-out-of-three diversity maintaining rule, is laudable – and may yet form the basis of real media reform in their next federal election campaigns.

The earlier proposed tax breaks for genuine public interest journalism reporting the news and informing the public had the potential to help keep some small players afloat. But one-off grants of A\$1 million are hardly going to save struggling publishers.

On the face of it since eligible beneficiaries will be News Corporation and Fairfax Media competitors, many would think this must be a step in the right direction. However, it really is a drop in the ocean compared with the resources of the majors. It will do nothing to remedy the major problem of longer term concentration which needs a complete redesign of the regulatory framework fit for the 21st century.

The opportunity for a root-and-branch analysis of media consumption by Australian audiences, an agency tasked to effectively do that and tracking the transitioning news industries, with commensurate resources and diversity mechanisms has, once again, been sidestepped.

These latest negotiations follow a decade of attempts by conservative governments to dismantle media ownership restrictions.

These minor funding measures do nothing to address the underlying problem of an increasingly concentrated media landscape (where the vast bulk of the eyeballs are anyway). The more serious mechanisms that have been ventilated in the Senate Select Committee Inquiry into the Future of Public Interest Journalism — such as direct financial subsidies — have not got a look in.

A 2014 study prepared for the London School of Economics looked at countries with direct financial support for their news industries (the Nordic countries, the Netherlands, Austria, France). The support was for up to 50 years, no matter the party in power. The report concluded that:

Policymakers can support private media organisations with mechanisms such as tax relief or even direct subsidies to specific media companies. Such support need not compromise media independence if safeguards such as statutory eligibility criteria are in place.

The authors’ view was that the reality of convergence meant support of private media should be extended to online media.

Serious diversity mechanisms such as indirect tax measures and direct measures like subsidies did not pass muster in the historically cosy relations between politicians and media proprietors.

Real alternatives with impact are possible. In the Swedish subsidy scheme, for example, eligible print or digital newspapers need to have less than 30% market share.

While subsidies contribute only 2-3% of total industry revenue, they amount to 15-20% of revenue for weaker titles that are their main beneficiaries. For a handful, the subsidy represents up to 33% of total earnings.

Of greater importance to the survival of smaller publishers, these minor funding measures do very little to address the fact that 90% of new online ad spending is controlled by Google and Facebook. So why doesn’t the government introduce a levy on these two players to fund public interest journalism as suggested by the Senate Select Committee on the Future of Public Interest Journalism?

While there are still some ownership controls (minimum of five media voices in metro and four in regional and rural markets), and local content requirements that remain in place, these will not stop further media concentration.

A single person cannot control more than two radio stations or more than one television station in a single market. In regional markets there is still a requirement of 21 minutes of local content a day – a fairly low bar most agree. However, News Corp Australia, for example, which already owns around two-thirds of the print media sector, would be allowed to buy up all the traditional categories of media (TV, radio, and print) in any single market.

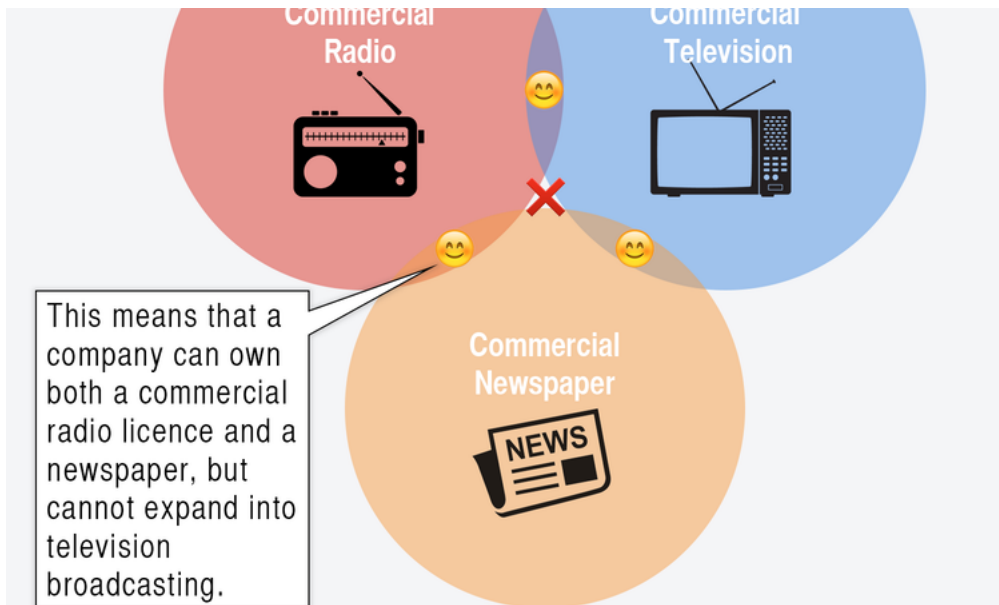
In cities such as Brisbane, Adelaide and Hobart, where there is already only one daily newspaper, the consequences of further concentration are stark.

Current media ownership laws

The “two out of three” rule

The “two out of three” rule means that no person or company can control more than two out of the three traditional media platforms — commercial television, radio or newspapers — within the same radio licence area.

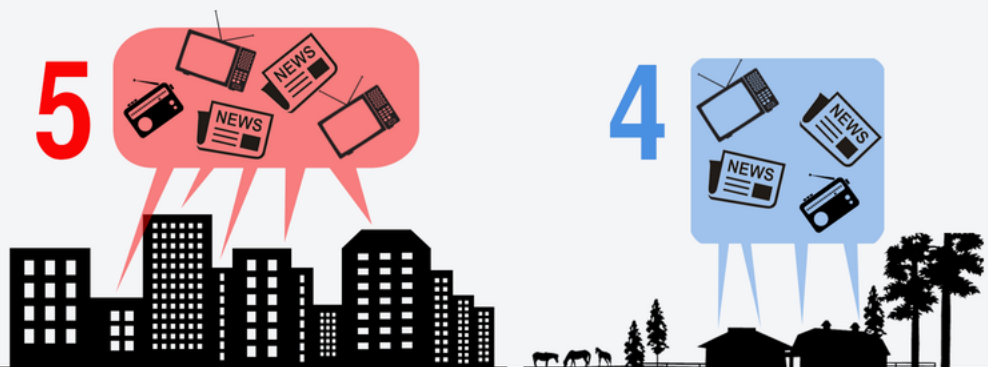




The goal of this rule is to maintain competition and prevent mergers between existing players across the media spectrum, which could lead to the dominance of any one (or a small handful of) media proprietor.

The 5/4 voices test

The 5/4 voices test mandates that there must be at least five independent and separately controlled media operators in a commercial metropolitan radio licence area, and at least four in any regional licence area.

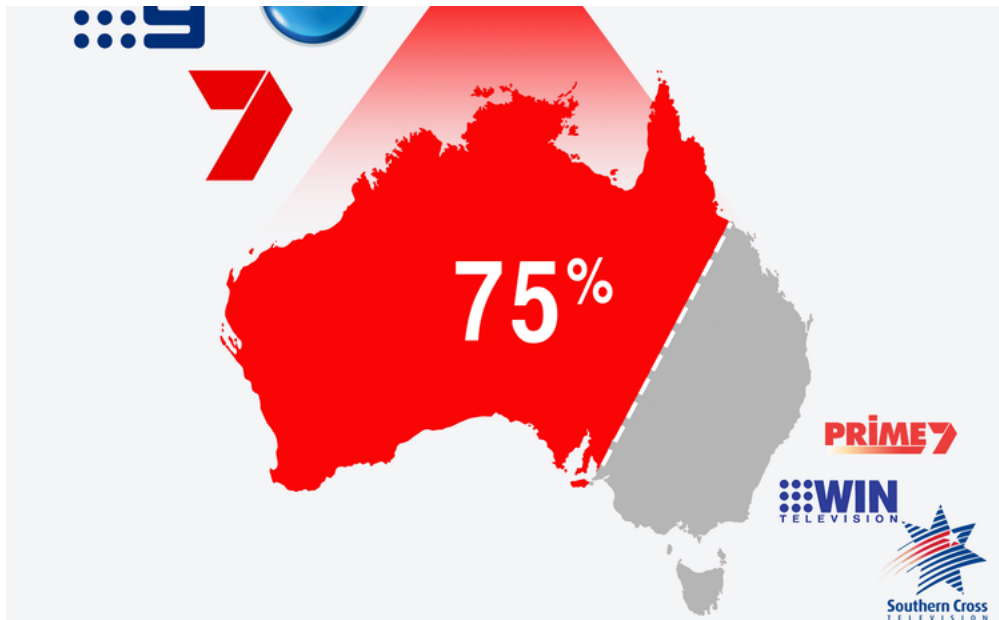


The objective of this rule is to ensure that there is a diversity of media voices in any one licence area, not just a diversity of media sources or channels.

The 75% reach rule

This rule specifies that a single person, or company, cannot be in control of commercial television broadcasting licences where the reach exceeds more than 75% of Australia's population.



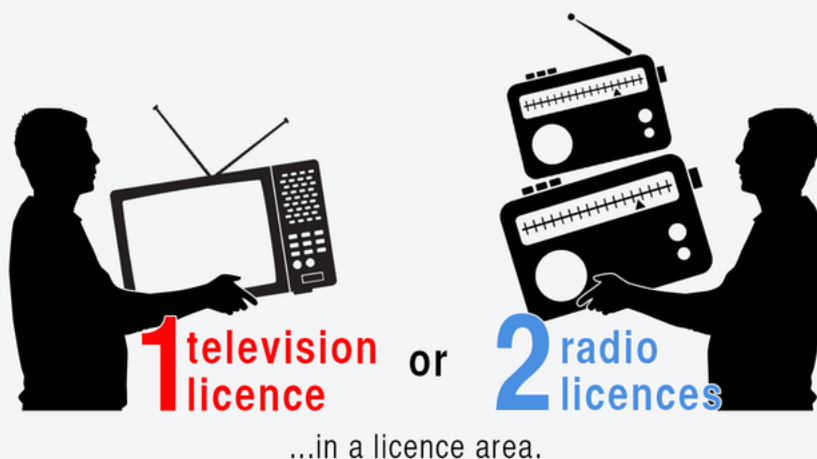


The effect of this is that television licences are broken up into metropolitan — Nine, Ten, Seven, etc — and regional television networks.

Most regional networks — like Prime or WIN — have agreements with metropolitan broadcasters for content, but are required by law to broadcast a minimum amount of local news and content.

One to a market/Two to a market rule

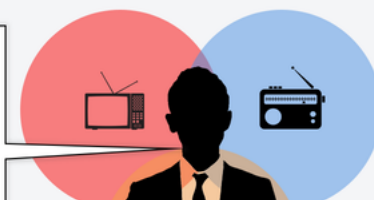
This rule specifies that no person or company can hold no more than:



The reforms

The Turnbull government's announced reforms will scrap both the "two out of three" rule and the 75% reach rule, which will allow:

A single proprietor or company to own a newspaper, television and radio licences within a



licences within a
radio licence area...



And allow a single
company or
proprietor to control
television
broadcast licences
that cover the
entire Australian
population.



This could lead to a considerable decline in the amount of content and news made for rural audiences, as well as a consolidation of existing media entities and a greater concentration of media ownership overall.

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About the author

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