

Print media ownership

Grant Hattam examines a Victorian report into the concentration of magazine and newspaper ownership

In July of last year the Victorian Attorney General requested a working party to inquire into the concentration of ownership and control of the print media. The Report was recently released.

This is not the first time the issue has been looked at by the Government. In 1981, Sir John Norris delivered a report that recommended that the Victorian Government set up an independent tribunal to examine press takeovers. If it was not in public interest for a change in ownership or control to take place then the report argued that the tribunal should have the power to stop it.

At the time of the Norris recommendation the concentration of press ownership in Australia was amongst the heaviest in the world. Since that time ownership in this State has become even more concentrated particularly since the 1987 takeover of The Herald & Weekly Times by Rupert Murdoch's News Corp.

In 1981, the six biggest owners controlled approximately 90 percent of the total weekly circulation of all types of newspapers in Victoria. In 1990, four owners controlled approximately 85 percent of total circulation. The State's total number of newspapers has fallen from 169 in 1981 to 145 in 1990. The recent Report also pointed out that News Corp holds 61 per cent of all circulation against 20 per cent being held by the John Fairfax Group.

The Opposition claimed that the reason for the inquiry was the ALP's concern about the possibility of Rupert Murdoch's News Corp buying *The Age*, a Fairfax paper. Indeed the Report expresses concern that the concentration of ownership in the future may increase following the appointment of a receiver and manager to the John Fairfax Group. As the Report says the receiver's duty to creditors concerning a sale of *The Age* will not necessarily coincide with the public interest.

Recommendations

The basic recommendations of the working party are:

- The Victorian Government should immediately legislate to prevent further concentration in media ownership.
- There should be a Royal Commission into

all aspects of print media ownership concentration. This should take place federally, but if not, the Victorian Government should act alone.

What is of greater controversy is the Report's argument that existing concentration of ownership should be diluted. The Report says 'we emphasise that if Parliament legislates only to prevent further concentration it will be acting contrary to the public interest in that it might entrench existing interest'.

The legislation envisaged by the Report would amount to a prohibition on the transfer of holdings of more than a 10 per cent voting stake in a company publishing a paper unless it is authorised by a three member Press Diversity Tribunal. The Tribunal would need to be satisfied that the transaction was likely to be in the public interest.

The Tribunal would have wide powers and could summons individuals and company representatives to provide documents and give oral evidence.

The Tribunal could block the transaction or declare a transfer void if it is not satisfied that there would be 'a benefit to the public of Victoria'.

The proposed reforms are not just limited to major newspapers. They also apply to suburban, regional dailies, regional non-dailies and magazines. Magazine is defined to mean a 'publication a substantial portion of which is devoted to news or comment or political financial or economic matters.' Newspaper means 'a paper or magazine containing any public news, intelligence or occurrences...' Accordingly many publications would be covered by the proposed reforms.

Benefit to the public

It is important to note that the proposed test is not whether or not the proposed transaction, resulting in the change of ownership, would do any harm to the public interest. It is envisaged that there must be a benefit. One would have thought that a better test might have been that the Tribunal had power to block a transaction 'if it was not in the public interest' for the transaction to take place. There must surely be many transactions resulting in change of ownership that will neither result in any benefit or cause

any harm. Surely these transactions should be allowed if the parties involved wished.

It is also important to note that benefit is not defined. The proposed legislation allows the tribunal to look at a range of issues. Some of the issues mentioned are:

- the effect on other newspapers
- whether there were other offers
- the effect on employment
- the applicant's other media interests also are the applicants other commercial and financial interests, and
- the reason for the shares being transferred.

The Tribunal would therefore have enormous powers. Its members would be appointed by the Governor in Council.

The Report considers that there should be legislation immediately or over a period of time to dilute existing concentration which would bring it down to set limits.

Government response

The Victorian Attorney General, Mr Kennan's response has been placid. He has given no indication that the ALP plans any legislation in this regard at all. He has simply said that he supports the need for a national inquiry because he believes the issue cannot be confined to a single State.

The criticism of the Opposition and other interested parties can be summarised as follows:

- Not only is the capacity of Victoria to legislate on this issue in doubt it simply does not make sense for a State to legislate on what is a Federal issue.
- If there was State legislation, as recommended, it has the potential to give the State Government control of newspaper and magazine ownership. As one State Shadow Minister said 'newspapers and the Victorian people have more to fear from government intervention than from who owns our newspapers'. Another Federal Shadow Minister said that the Report's and the Attorney General's call for an enquiry was 'another useless and intrusive bureaucracy which would give labor a chance to create more jobs for the boys'.
- Professor David Flint, Chairman of the Press Council, was reported as saying

that the Royal Commission would mean paying lawyers millions of dollars to provide information which already existed. He said that the proposed legislation would block and discourage investors. Instead, he recommended that there should be moves to encourage new entrances into the market. He too warned that any legislation that placed the control of media ownership in the hands of politicians was dangerous.

If the reason for the Report was Labor's concern about *The Age* situation then it would appear that the Report's recommendations, if implemented, could frighten off potential buyers.

Justifications

Let us briefly look at the reasons for reform advanced in the Report concerning the effects of too much concentration in ownership. They are:

- Concentration of power is unacceptable in a democracy.
- There are insufficient channels for the expression of opinion.
- Economic forces create barriers to entry for others who might dilute that power and open new channels.
- Diminished localisation of content and accountability caused by agroup size in pursuit of economies of scale.
- Debilitated journalistic culture caused by reduced competition, self-censorship and lack of alternative employment.
- Conflict of interest for owners and non-media interests. The Report makes the point that newspapers do not knowingly choose editors who will be critical of corporation policies. It says that if newspapers are to properly fulfil their public interest function, they ought to be as free as possible of conflicts which might distort fair and accurate coverage of the given event or issue.

The Report concludes by quoting the Canadian Royal Commission which said "Freedom of the press is not a property right of the owners, it is the right of the people. It is part of their right to free expression inseparable from their right to inform themselves".

The quote from the Canadian Royal Commission sounds impressive but it does not take into account that news print organisations cost money. They are privately owned. It is the right of an individual in a democracy to express his or her opinion in any way they can. They too have the right to establish their own paper or endeavour to have their point of view published in some way. It is the right, however, of the owner of a newspaper to ultimately decide what is published because that owner has made the

financial investment which gives him or her the right to make that decision. That is simply a matter of economic reality. The only alternative to that is for the government to own and control all print media which of course would be disastrous and impractical.

The Report seems to call for a position of utopia. Nothing can be perfect in regard to the expression of opinion. The fact is, even in a democracy, some people have more say than others.

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If a media outlet is seen as being biased it will lose readers. The laws of supply and demand can and should provide an adequate balance because people's tastes should ensure that this will eventuate. The people are not paying for private organisations to bring out newspapers that they read. That is a profit and loss enterprise undertaken by a private organisation. That organisation is subject to the perils of the market. If it is seen as blatantly biased then more and more people will not buy the paper. Popular papers generally have to reflect community attitudes otherwise they will go out of business. If, for argument sake, *The Age* does not publish a story because it would offend the sensibilities of the owners then there must be a situation where its rival the *Herald-Sun* can point out to its readers the bias of *The Age*. If that happens, *The Age* runs the risk that it will lose credibility and therefore readers. What is to be feared is not so much who owns the papers but a lack of competition between them. Providing there is genuine competition between each newspaper or other media outlet exposing the weaknesses of the others then private organisations who are ultimately ruled by the dollar will have to ensure a coverage that should in the main be without fear or favour. What must be avoided are deals between rival organisations to limit competition between them. The *Trade Practices Act* is designed to deal with issues such as these. If an inquiry is needed at all, it should not concentrate on whether a particular person is suitable to be an owner but rather whether the existing laws under the Act ensure genuine competition between rival organisations.

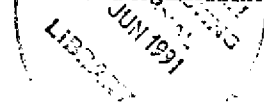
Entry into the market

The Report points out the difficulties for aspiring publishers to enter the market. If, however, you follow the Report's recommendations through to their logical conclusion then no newcomer should be allowed to publish a newspaper unless he or she or the company concerned is first of all approved by the Tribunal. That is, of course, unless 11 or so individuals join together to own 9 per cent or less each. It seems contradictory to talk about the need to encourage new publishers when the Report recommends that any new buyer of a share in an existing organisation needs to be vetted. Surely to follow the Report's logic through to its conclusion, any owner of a new publication should be vetted as well.

If 10 owners sold to each other each 10 per cent or less of the shareholding the legislation would not require such a transfer to be vetted. These people are likely to be of a similar mind otherwise they wouldn't have joined together. Is there any magic in percentages?

The fact is that Victorians at present receive news from TV stations (three commercial, two Government), radio stations and newspapers. The latter is mainly comprised of *The Age* and the *Herald-Sun*. They are at present diametrically opposed to each other in their attitude and philosophies. The *Herald-Sun* is accused of being anti-State Government whereas *The Age* is accused of being so pro-State Government that even the Federal ALP Treasurer said that it had played a role in Victoria's financial demise by its lack of criticism of the State Government.

While it is not in the public interest for the one person to own both papers, the legislation that the Report calls for seems to have the potential to concentrate on individuals and whether or not they are suitable to be owners of newspapers. It would be better to concentrate on laws that ensure genuine competition between existing organisations and that encourage new publishers. Proposals that ultimately put the government in charge of who will or will not own newspapers are not to be encouraged. The *Trade Practices Act* already exists. This Act is designed to ensure that genuine competition takes place between rival media organisations.



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